

California State University, San Bernardino

**CSUSB ScholarWorks**

---

Theses Digitization Project

John M. Pfau Library

---

2004

## The policy implications of the No Child Left Behind Act for English language learners

Jacqueline Elena Arroyo de Romano

Follow this and additional works at: <https://scholarworks.lib.csusb.edu/etd-project>



Part of the [Bilingual, Multilingual, and Multicultural Education Commons](#)

---

### Recommended Citation

Arroyo de Romano, Jacqueline Elena, "The policy implications of the No Child Left Behind Act for English language learners" (2004). *Theses Digitization Project*. 2589.

<https://scholarworks.lib.csusb.edu/etd-project/2589>

This Thesis is brought to you for free and open access by the John M. Pfau Library at CSUSB ScholarWorks. It has been accepted for inclusion in Theses Digitization Project by an authorized administrator of CSUSB ScholarWorks. For more information, please contact [scholarworks@csusb.edu](mailto:scholarworks@csusb.edu).

THE POLICY IMPLICATIONS OF THE NO CHILD LEFT  
BEHIND ACT FOR ENGLISH LANGUAGE LEARNERS

---

A Thesis  
Presented to the  
Faculty of  
California State University,  
San Bernardino

---

In Partial Fulfillment  
of the Requirements for the Degree  
Master of Arts  
in  
Education:  
Bilingual/Cross-Cultural

---

by  
Jacqueline Elena Arroyo de Romano  
September 2004

THE POLICY IMPLICATIONS OF THE NO CHILD LEFT  
BEHIND ACT FOR ENGLISH LANGUAGE LEARNERS

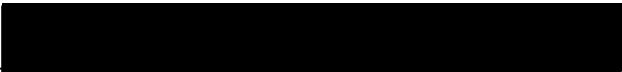
---

A Thesis  
Presented to the  
Faculty of  
California State University,  
San Bernardino

---

by  
Jacqueline Elena Arroyo de Romano  
September 2004

Approved by:

  
Dr. Barbara Flores, First Reader

6-29-04  
Date

  
Dr. Enrique Murillo, Jr., Second Reader

## ABSTRACT

The purpose of this study was to present and analyze the political implications and the effects of the No Child Left Behind Act and its effects on English language learners.

The NCLB Act has several major aspects of importance:

1. Federal funding and Title I funds,
2. Federal interventions for schools  
accountability,
3. Standardization of curriculum (math and reading)  
and high-stake testing,
4. School choice and supportive educational  
services for students.

Findings present the NCLB as faulty, with intent to damage public education instead of supporting, promoting academic achievement, and enhancing the educational environments of the most needy schools. Many policymakers, scholars, researchers, local and state educational agencies, teachers, principals, superintendents, and parents strongly agree that NCLB is a law with many flaws, destructive to the most needy schools.

First, lack of federal funding, cutting Title I funds, and increasing the student's expenditure have created a deficit to the already weak economy of the

states. Therefore, many schools have cut back educational services that harshly impact the academic development of students from low-socioeconomic status, minorities, and English language learners attending low performing schools.

## ACKNOWLEDGMENTS

I would like to give my most sincere and deepest thanks to the most amazing husband Gabriel M. Romano and to the greatest and beautiful daughter Belinda Sabrina Romano Arroyo. You always have supported me. You have always believed in me. You are my admiration, my heroes and idols. Thank you for your unconditional love and support to help me continue my education. Thank you for giving me the time to write without interrupting me. Thank you for taking care of the house and yourselves during the long hours I was away from you without cooking or cleaning. You made my job easier. Without you I would not have made it so far. Thank you for being there during the most difficult moments while I was studying and working with my students." I love you for ever, I like you for always, as long as I am living mi familia serán!" Los ADORO.

Thank you to all my professors, my role models, that have provided me with immense knowledge, for showing me the path to excellence, and for giving me the confidence to continue with my education. To Dr. Barbara Flores, my most sincere thanks and admiration. Tu me enseñaste que yo puedo hacer alguien muy grande. Gracias por tu amistad, cariño y tiempo. Tu eres una persona magnifica en todos los

aspectos. Al Dr. Enrique Murillo, gracias por tus conocimientos y por creer en mi. Gracias por darme la oportunidad de alcanzar metas mas altas. Dr. Esteban Diaz, gracias por todo su apoyo desde que estaba en RCC y por introducirme a Vygotsky. Lo voy a extrañar. A la Dr. Balderrama que me inspiro a continuar con un doctorado. Tu fuiste la primera maestra Latina que tuve en el colegio. You are a great role model.

Lastly, to kindergarten teachers Linda King and Delores Morgan for taking me into their hands. I am a second language learner. It has taken me over ten years to be able to express my ideas in written formal English. I want to say thank you once again for allowing me to be your parent volunteer and for teaching me English at the same time. "All I know, I learned in Kindergarten," when I was 27 years old. To Laverne Manns for all your love, help and support. You are like a second mother to me, and Carole Mattera for being an awesome elementary teacher and friend. All of you have been my inspiration. To Jackie Espinoza, Thank you for believe in me and for allowing me to teach in Indian Hills. You are a great friend. To all my students that have crossed through my life; you were my encouragement to be better and to learn more in order to help you.

DEDICATION

Este trabajo se lo dedico a mis creadores:

A María Elena Picón Colunga

Y

José de Jesus Arroyo Larrainzar.

Gracias por su incondicionable amor y por enseñarme  
a ser fuerte y valiente.

Gracias a Dios por mis padres y por todo lo que me ha  
ofrecido.



## TABLE OF CONTENTS

ABSTRACT .....	iii
ACKNOWLEDGMENTS .....	v
LIST OF TABLES .....	xi
LIST OF FIGURES .....	xii
CHAPTER ONE: BEHIND THE NO CHILD LEFT BEHIND DRAMA	
Introduction .....	1
First Act: George W. Bush .....	4
George Bush in Politics .....	5
President George W. Bush Series .....	7
The No Child Left Behind Episodes .....	9
Components of the No Child Left Behind Act of 2001 .....	10
Statement of the Problem .....	15
Purpose of the Study .....	16
CHAPTER TWO: REVIEW OF RELATED LITERATURE	
The Civil Right Project Study .....	17
Krashen's Study .....	24
Hakuta's Studies .....	25
Garan's Studies .....	27
Allington's Critical Policy Analysis .....	29
Guadalupe Valdez Arguments .....	33
CHAPTER THREE: HISTORICAL BACKGROUND AND ANALYSIS OF POLICIES AND LEGISLATION PRIOR TO NO CHILD LEFT BEHIND ACT	
Historical Background of the Elementary and Secondary Education Act, Title I .....	36

Behind the Scenes of Title I Programs .....	40
The Drama of Sharing .....	42
Funding English Language Learners: Title III National Defense Education Act .....	44
Providing Funds to Implement the Law .....	46
CHAPTER FOUR: IMPLICATIONS OF FINDINGS FOR CALIFORNIA SCHOOL DISTRICTS	
How Are English Language Learners Affected by The No Child Left Behind Act? .....	48
The No Child Left Behind has Placed our English Language Learners in Disadvantage with their White Peers .....	49
No Child Left Behind Places Much Emphasis in Labeling Students as "Failures" .....	49
Using a Dual System for Assessment and Accountability is Ambiguous and it has Created Chaos .....	50
Disadvantages among States to Reach 100% Proficiency Level in the Time Required will be Inconsistent .....	50
A Great Concern for California is its Demographic Characteristics .....	51
Segregation of English Language Learners .....	52
Unfair Testing for English Language Learners .....	54
English Language Learners are Over Tested .....	55
Funding is Limited .....	58
Educational Funding and Title I Funds are Disproportionate and Underfunded .....	59

Title I Funding is being Divided .....	61
Funding Promised for Remedial Education for Disadvantaged Children Failed .....	62
Educational Supplemental Services for English Language Learners .....	63
School Choice is Not an Option for Parents in Low-income Areas .....	64
Teaching English Language Learners has Become Hectic and Stressful .....	66
Teaching is No Longer Teaching .....	67
English Language Learners are Restricted from a Rigorous Academic Curriculum .....	68
Research has been Ignored .....	69
Teaching is becoming a Blue-Collar Job .....	69
To Reduce the Achievement Gap is Not Reflected in the Application of the Law .....	70
English Language Learners Will Be Left Behind .....	70
CHAPTER FIVE: CREATING A NEW ENDING TO THE NO CHILD LEFT BEHIND SERIES	
Summary .....	73
Recommendations for Not Leaving Behind English Language Learners .....	79
Conclusions .....	85
APPENDIX A: POWER POINT PRESENTATION FOR THE THIRD ANNUAL COLLEGE OF EDUCATION RESEARCH AND SCHOLARSHIP SYMPOSIUM CALIFORNIA STATE UNIVERSITY, SAN BERNARDINO MAY 20, 2004 FIRST PLACE AWARD .....	
	95

APPENDIX B: NO CHILD LEFT BEHIND ACT OF 2001 TITLE III: LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS (107 <sup>TH</sup> CONGRESS, 1 <sup>ST</sup> SESSION) DECEMBER 13, 2001 ABSTRACT .....	100
REFERENCES .....	105

## LIST OF TABLES

Table 1. Education and Defense Budgets for the Past Five Years .....	60
---	----

## LIST OF FIGURES

Figure 1. 2004 Budget for Education .....	61
Figure 2. Funding for Various Programs Fiscal Year 1999-2002 .....	63

## CHAPTER ONE

### BEHIND THE NO CHILD LEFT BEHIND DRAMA

#### Introduction

Mass media influences our daily lives. We live in a world filled with newspapers, Internet, television and radio programs. Wherever we go, we are up to date with the latest news, commercials, music videos, soap operas, reality shows, etc. Mass media is the main corridor that reaches our attention. The masterminds, "the producers" of the media, work to maintain us informed with media that has been delivered and constructed to keep us under control. These gatekeepers (Adler, 2003) determine what information will be conveyed to us, the audience, and how it will be presented. We think of singers and politicians as popular figures and themes of violence and sex as hot issues. Media portrays the way American families should live, act or think.

If I ask someone in the audience what is the media showing tonight, I will have several answers that will go from terrorism, the war in Iraq, the presidential campaign, the Lakers and Michael Jackson. These types of news divert our thinking from the real issues that hurt many Americans: children and education. For educators, the

hot news and topic fall on the "war" against a new law: No Child Left Behind Act of 2001.

I have not heard either CNN or C-SPAN talk with such interest and enthusiasm about education, much less in the USA Today or the Times.

Education seems not to be worth enough to be in the front page of a newspaper or on prime time news. Our schools are being deliberately attacked by the "terrorist" interest of policymakers and corporate business and placing our children in a dangerous game that sets them at risk of losing fame and recognition.

Education is not being treated with respect and honor. Education has been placed last in a long "to do-later" list. But even when the news are not so prolific about NCLB, many teachers, principals, district administrators, parents and public are still concerned with their children's education. They passively wait every day for the next episode and news in education.

Media can create magnificent stories engulfed with excessive coverage of a topic. We are a generation of TV watchers that do not like to miss the latest episode of our favorite show or newscast. But we tend to be passive, and allow "the producers" to manipulate the news. I have chosen to use the word 'drama' to make reference to the



educational reform that has been established under the Bush administration, The No Child Left Behind Act of 2001. In the New Webster (1976) dictionary "drama" is defined as:

A composition in verse or prose intended to portray life or character or to tell a story usually involving conflicts and emotions through action and dialogue and typically designed for theatrical performance. 2: dramatic art, literature, or affairs 3: a state, situation, or series of events involving interesting or intense conflict of forces. (p. 345)

NCLB was composed as literature with more than 1000 pages to read and to be performed by many actors. NCLB is a very costly production but does not have a great plot. It is filled with events of intense conflict among forces (educators and the federal government); teachers and students take the main roles. The settings are the schools, districts and states. The plot is complicated and difficult to follow with excessive fill-in actors without experience in education. At this moment the climax is being developed while following the controversial and unrealistic events and goals of the law. NCLB's saga is not finished and will take a while to figure out how it's ending. We have to be sure not to miss any episode in this soap opera in order to see or create its end.

## First Act: George W. Bush

In order to follow and understand this "reality show," it is important to look at the history behind the man who is in charge of our country. By looking back in time and at his background, it will give us a clearer view of his ideas, philosophies and intentions. For the remainder of this chapter, a recapitulation of events in this drama is presented with background information pertaining to the "man behind the law," his philosophy of education, and how No Child Left Behind won the interest and became a controversy for many citizens of the U.S.

George W. Bush was born on July 6, 1946 in New Haven, Connecticut. He is the first son of former President George Bush Sr. and Barbara Bush. His family background in business and the world of Wall Street has been instilled in his lineage. The Bush family has financial interests in the oil industry that provided him with a view of the White upper-socio-economic class, and he has had the opportunity to mingle among a circle of millionaires, businessmen and politicians. He attended Yale University and received a B. A. Degree in History, and a few years later, he received a Master's degree in Business Administration from Harvard. Throughout his life, he has been involved in politics helping his father in various

governmental endeavors such as Congressman, Director of the CIA, Vice-president and later the 41<sup>st</sup> President of the U.S.A. (Minutaglio, 2004).

### George Bush in Politics

George Bush Jr. started his career in politics in 1977 when he announced his intentions to gain a seat in the U.S. House of Representatives. Over the years, as previously stated he has been around the oil industry, owning or managing a baseball team and other corporations that have served to line his pockets and his experience in the politics of business and government.

As Governor of Texas, Bush searched for allies on the democrats' side. In order to gain votes and sympathizers, Bush appealed to the interests of many Texans. He considers himself a "compassionate conservative" and this idea has made many people in the Democratic and Independent parties accept some of his ideas. Bush has shown interest in social problems like poverty or homelessness and expressed a federal commitment to improve and finance public education when delivering the address to the State of Texas, and later as President of the U.S. (Minutaglio, 2004).

His administration during the first term as Governor of Texas displayed an interest in the areas of welfare

reform, tort reform, crime reduction and the improvement of the schools. His personal agenda allowed him to touch areas that have been reserved for democrats only. In order to continue as governor in a second term, Bush looked again for democratic partnerships in order to accomplish his goals. His strategic campaign allowed him to win the validation of his adversaries and push forward with his plans. He was the first governor to be reelected for two consecutive terms in Texas. His plans dealt with social issues in welfare; in lawsuits, he lowered punitive damages, and provided for local municipalities to control schools. All through this time, he continued describing himself as a "compassionate conservative" and looked for doors that would allow him to gain terrain in democratic issues such as education and the advocacy for raising teachers' salaries (p. 4).

In addition to his compassionate conservative philosophy, in the course of his 2<sup>nd</sup> term, he revealed a philosophy that would impact the way his domestic affairs would be handled. He encouraged the need for:

more freedom for churches, synagogues, and mosques to provide social services and to perform work that states and federal agencies had previously done. (Minutaglio, 2004, ¶ 23)

As we can perceive, since the beginning, his interests have overlooked the government's potential to deal with social issues. He believes in "using faith-based and private organizations to do the work traditionally done by government" in which social problems will improve.

Even though he preached to help the causes of the most needy social problems in Texas, he did not provide or lessen child hunger, children's health or environmental issues. In spite of this, during his administration, he raised teachers' salaries, and studies indicate that in education, students' scores improved (§ 24).

While campaigning for governor and later for president, he stressed that his primary goal was to ensure that every child would know how to read by the end of his term. Education and defense would be at the center of his government. Speeches about morality, providing tax cuts and improving education, as well as, a desire to change Social Security continued to be his most frequented themes. Once again, his philosophies appealed to the interests of many Democrats and Independent voters.

#### President George W. Bush Series

As soon as he became president, he tried to incorporate his ideas into the White House. He created the Office for Faith-Based and Community Initiatives,

providing federal funds "so these organizations could assume more responsibility for addressing the nation's social problems" (Bush Proud, 2001). On a press briefing by Mayor Steve Goldsmith announced:

Faith-based charities work daily miracles because they have idealistic volunteers. They're guided by moral principles. They know the problems of their own communities, and above all, they recognize the dignity of every citizen and the possibilities of every life. These groups and many good charities that are specifically religious have the heart to serve others. Yet many lack the resources they need to meet the needs around them. (Press Briefing, 2002)

President Bush made remarks about this comment and responded favorably:

They deserve the support of the rest of us. They deserve the support of foundations. They deserve the support of corporate America...They deserve the support of individual donors, of church congregations, of synagogues and mosques. And then deserve, when appropriate, the support of the federal government. (Remarks By, 2002)

Next, his most important act was to increase federal aid for the military,

My budget includes the largest increase in defense spending in two decades -- because while the price of freedom and security is high, it is never too high. Whatever it costs to defend our country, we will pay. We have spent more than a billion dollars a month -- over \$30 million a day -- and we must be prepared for future operations. (President Delivers, 2002)

And proposed to cut taxes. He continued,

Congress listened to the people and responded by reducing tax rates, doubling the child credit, and ending the death tax. For the sake of long-term growth and to help Americans plan for the future, let's make these tax cuts permanent. (State of the Union, 2002)

In the area of education, the most visible and controversial issue was the ratification of the Elementary and Secondary Education Act of 1969. President Bush, in a press release, celebrates what would be his major triumph: the enactment of the No Child Left Behind:

This is an important moment for my administration because I spent such amount of -- a long amount of time campaigning on education reform. It's been the hallmark of my time as governor of Texas. My focus will be on making sure every child is educated, as the president of the United States as well.

Both parties have been talking about education reform for quite a while. It's time to come together to get it done so that we can truthfully say in America, "No child will be left behind -- not one single child." (Press Conference, 2001)

#### The No Child Left Behind Episodes

The No Child Left Behind (NCLB) legislation has caught the attention of the national public, since it was one of Bush's first priorities in his agenda and one of the most noticeable events in his administration of domestic affairs. He commented that under his

administration, each child in the U.S. would be proficient in reading and math:

The No Child Left Behind Act is a great piece of legislation, which is making a difference around our country...The national objective is to challenge the soft bigotry of low expectations and to raise the standards for every single child. (President Discusses, 2004)

The No Child Left Behind Act turned out to be very controversial. Federal commitment to improve and finance public education has expanded. Some experts agree that the increase of centralized control to schools may be a great idea, and the principle behind the law of improving the academic performance of all our students including poor, minorities and with disabilities is accepted (Minutaglio, 2004). Many have applauded the interest for increasing students' graduation rates at the end of high school and to being competent in the areas of math, reading and science.

#### Components of the No Child Left Behind Act of 2001

The No Child Left Behind Act of 2001 is designed to identify poor-performing public schools and requires states to test students annually in grades 3-8 in the subjects of math and reading. Schools will be measured by making "adequate yearly progress" (AYP), and those schools



who fail to make AYP in state standardized testing must allow students to transfer to better-performing public or private schools.

The problem with making progress is ambiguous since each state has its own standards and benchmarks to achieve it. Additionally, the law requires hiring teachers "highly qualified" to teach in the subjects they perform. Highly qualified will have several meanings in different states which make it hard to comply adequately to NCLB expectations.

Even though each state has its own criteria for what students in grades K-12 should be learning each year in reading, writing and math, there still exists differences nationwide in standards and requirements. Schools will be tagged as "low performing schools" after receiving a report from the results of high-stake testing. Moreover, the law contains strict provisions for schools that are "failing" at the national level. These schools are punished by shortening the use of Title I funds of ESEA (Elementary and Secondary Education Act) that were designed to support and enhance education to the students attending schools in the most need around the nation.

Schools face severe sanctions if a school after the second year continues showing "needs improvement." The

next step under the law is to take corrective actions such as the replacement of teachers and principals; changing the curriculum; restructuring the school; or the state taking over control of the school. If a school does not make the adequate progress for two consecutive years, the school must provide supplemental educational services (SES) such as private tutoring or school choice to parents.

A strong discontent among educators and school administrators in the public sector is presented when knowing that students transferring to private or Faith-based schools are not subject to the same restrictions and conditions that NCLB requires for public schools. It is obvious that the Bush's administration provides support to private and faith-based organizations. These organizations receive huge tax breaks, [75 million of dollars in tax cuts for the next nine years] (Press Briefing, 2001), and for the next 6 years, they will be receiving several billions for funding opportunity faith-based communities (White House, 2001).

While this administration transfers financial support from public education to these organizations with false arguments that public schools do not work, reduction of public services in many public schools can be seen. Public

education funding is being reduced in many areas such as class size reduction, bilingual education, full time in-class tutors, librarians, nurses, counselors and many other areas like arts and humanities.

Even though President Bush "increased" the federal funds to support public education, these funds are not enough to accomplish his goals. The majority of the states are under a financial crisis and deficits are making many schools close or reduce services. Yet, States and local agencies have to figure out how to implement the law and to continue to function properly. Local agencies are trying to implement the law without the appropriate funding allocations. The financial and bureaucratic burden that this law has created at the state and local levels is not acceptable. It is difficult to plan and to comply with the law when the states depend on the federal budget allocations.

Policymakers, local agencies, schools, principals, teachers, students, and parents argument that the federal government do not consider the individual progress made by schools at the local and state levels. Education in the U.S. is at the hands of local government and each state designs its own curriculum according to its population and its own culture and customs. Education in the U.S. is not

uniform which makes it difficult to compare students' achievement all along the nation. There is no common base at which to start, so many schools are "failing" because there are states that are already achieving high performance.

A strong debate in this legislation is the creation of subgroups such as English Language Learners (ELL), poor, minorities, and handicapped students. These subgroups are also required to take the standardized tests, and are expected to perform as well as their regular education White peers attending high achievement schools. For this reason, many professionals and experts in education believe that this law has its flaws and, that it is unjust to ask these subgroups to make substantial improvements in a short period of time.

The law is drawing attention to the achievement gap and using standardized testing to confirm if schools are doing their jobs at closing the achievement gap among low-achievement students from low-income and affluent and racial minorities and Whites. Standardization of curriculum and high-stakes testing, according to the law, will ensure the monitoring and tracking of academic progress of all students in the minority groups including

limited-English learners, low-income and special education students.

There exists a strong relationship between ELLs and Title I. That is, NCLB affects ELL attending public schools that receive Title I funds. Since Title I funds are key under the new law, I believed it was important to look at the historical framework of the Elementary and Secondary Education Act of 1965 in order to understand how and to whom federal funds help in education and minority students. In brief, Title I funds provide assistance to poor children attending schools in low-socio economic areas. These funds have provided English Language Learners, minorities and low socio, economic students with extra funds for educational services and projects to enhance their education.

#### Statement of the Problem

Asking minorities and especially English Language Learners (ELLs) to make the same progress as the rest of the population, is an important factor affecting all schools. NCLB affects ELLs in many ways. The effects of NCLB to ELLs will be the focus of this study.

### Purpose of the Study

The purpose of this study is to understand the background and intent of the NCLB legislation: how it is interpreted; how it is implemented at the state and local levels; and ultimately, how it affects English language learners.

## CHAPTER TWO

### REVIEW OF RELATED LITERATURE

The most current review of the NCLB focuses on three major studies: 1) The Harvard Civil Rights Project; 2) Allington's critical policy analysis; and 3) Garan's criticism of the reading curriculum and testing mandates of NCLB. These studies maybe visible; the behind the scenes maneuvering, and the detrimental effects on the children. Other researcher researchers have criticized NCLB's shortcomings.

#### The Civil Right Project Study

Harvard University Civil Rights Project (CRP) presented on February 9, 2004 a report of its findings on the first year of implementation of the NCLB 2001. The four parts study involves research at the federal, state, and district levels; focus on the relationship among the state and federal government, and the effects on school choice and supplemental educational services. This is the first scholarly project to assume such endeavor. This project is one of the most interesting episodes in the NCLB drama. I will be using these studies to set the frame for my analysis since this information is the only one that has been formally analyzed and presented by scholars.

The reports take a unique approach and examine, at every level, the status of NCLB, as well as the intended and unintended consequences of the laws, how the various levels of government work together to implement it, and how it worked for low-income and minority students. (Ohanian, 2004)

The Civil Right's Project (CRP) organization, at Harvard University, was organized in 1996 to provide "needed intellectual capital to academics, policy makers and civil rights advocates." CRP has presented reports on Title I programs, desegregation, student diversity among others and providing assistance on Capitol Hill and state capitals. Most of its work has served or been incorporated into federal legislation, cited litigation, and imposed Congressional Hearings (CRP, 2002).

CRP took the opportunity to follow the new federal law and the main purpose of these studies were to present the effects of the NCLB at the state and local levels after one year of implementation (2002-2003). The studies were conducted in 6 states and 11 school districts creating a representative national sample. The main researchers were Jimmy Kim and Gail L. Sunderman under the direction of Gary Orfield and CRP. The studies derived from interviews (one-on-one), visits to schools districts, exhaustive analysis of state and local statistics, as well as analysis of government reports and documents. From



October 2002 and June 2003, data was collected and summarized. On February of 2004, the results were published.

The reports demonstrate that federal accountability rules have derailed state reforms and assessment strategies, that the requirements have no common meaning across state lines, and that the sanctions fall especially hard on minority and integrated schools, asking for much less progress from affluent suburban schools (CRP, 2004).

"Expansion of Federal Power in American Education" is one of the four reports presented by Gail L. Sunderman and Jimmy Kim. Their findings conclude that during the first year of NCLB, several conditions were not present to achieve the full implementation of the federal law. Only 11 states had accountability systems. Most of the states lacked reliable and valid testing for all students and there is no support to assist states to meet administrative cost for implementing other requirements (2004). In addition, NCLB is extremely expensive and with no further funding it is provided to implement adequately the accountability system. Even though the federal funds are provided to meet testing requirements, it shortens these funds in order to implement and cover administrative costs. As the years come, the costs to continue

implementing the law, it is likely that will strain the "capacity of most state education departments" (p. 9).

Under the Bush administration, the new testing requirements do not dictate what is taught or how it is taught for ELLs (Godwin & Sheard, 2001, as cited in Kim & Sunderman, 2004, p. 19). The federal government has taken a leadership role and assertively advanced its own political and policy goals while ignoring the role of states and local governments in the policy process. The administration has taken an activist role in education policy because NCLB is meeting the administration's political goals (Kim & Sunderman, 2004).

The second study Large Mandates and Limited Resources: State Response to the No Child Left Behind Act and Implications for Accountability, presented states' accountability conflicting with the new federal system. Many schools were meeting the state target standards, but under NCLB were not. As a consequence, many schools under the federal accountability were labeled as "low performing," "performing" or "highly performing" according to the AYP scores. Many schools in the low-socio economic areas failed to make adequate yearly progress unlike upper class schools. Labeling schools started to be publicized

and schools districts prepared to make changes to those students who wished a transfer to a "better" school.

Schools with high enrollment of minorities and low-income populations were identified immediately. In the case of California, schools labeled as in need of improvement were more likely to contain Black, Latino, socio-economic disadvantaged, and limited English proficient that schools making AYP. Jimmy Kim (2004), CRP main researcher comments: "While we embrace the overall objective of the federal law—to narrow the achievement gap among different subgroups of students—NCLB's test-based accountability policies fail to reward schools for making progress and unfairly punish schools serving large numbers of low-income and minority students. Researchers need to examine both the intended and unintended consequences of NCLB's accountability policies on minority students and the schools they attend" (p. 4).

These studies make us see that implementing NCLB the way it is now will carry many problems in the future. The study at the federal level indicates that English Language Learners are affected by arbitrary demonstration of adequate yearly progress and unfair testing. While the NCLB provisions set the "goal of having every child making the grade on state-defined educational standards by the

end of the 2013-2014 school years" (U.S.D.O.E, 2001), every child includes ELLs. NCLB provisions expect to show adequate progress at the same rate of their White peers, and their progress will be assessed with standardized testing.

The third project presented by Kim and Sunderman: Does NCLB Provide Choices for Students in Low-Performing Schools? (2004) focuses on school choices, inter-district and intra district school transfers, also, providing supplemental education services (SES) as mandated under the law. The findings resulted in lack of school transfers with fewer than 3% of the eligible students (p. 6). Districts failed to provide economically disadvantaged students with opportunities to move to a "better" school with high achievement levels and in less poverty areas (p. 6).

In schools designated as Title I, transfer options to high achievement schools were limited for students in the lower poverty areas. Instead, many schools developed or started to provide supplemental educational services. According to Sunderman and Kim (2004) Supplemental Educational Services (SES) are not being promoted in low performing schools either. SES can be provided by private organizations or public school. Providing options to

transfer or to pay for private tutoring is not common grounds among minority groups especially Latinos and ELLs. Parents that know about the provisions of the law are the only ones requesting these services.

To the general population supplemental educational services are being offered as after school programs that focus in math and reading tutoring. SES do not to help improve poorly performing schools in general. SES focus on improving student academic achievement. Title I schools are being affected when funding is being diverted to target school choice or SES.

Opportunities available for minority and low-income students wishing to transfer to another school were not granted. Only those schools with minimal requests approved the transfer: "eligible receiving schools with the lowest poverty schools were not chosen to accept student transfers" (CRP, 2004). The schools receiving transfers had average poverty rates that were higher than 40%, which is the criterion, used to determine eligibility for Title I funding. Therefore, school transfer to a higher performing school was not implemented. Minority and ELLs students especially had very limited opportunities to transfer to better schools located in middle or upper class areas.

### Krashen's Study

Krashen (1981, 1982) a distinguished researcher in language acquisition, tells us that an important part of language acquisition is that children be given time to internalize language before they are expected to respond; partial comprehension and incomplete utterance are acceptable, and learning the structure of language from which students can acquire rules is through language generated by inquiry and problems-solving. Unfortunately, the federal government would not consider "partial comprehension" as part of the accountability system. ELLs will be considered as "failures" of the system, when indeed time and mistakes in the language are part of the learning process.

It is inconceivable to make ELLs take a test when they do not understand the language. It is obvious that this group is going to show lack of improvement since academic language does not start developing after 4-6 years of being at a school for that period of time. Social language is not tested on standardized test, and the federal government has ignored research in second language acquisition.

## Hakuta's Studies

In the case of research done by Hakuta (2000) gives us an example of the politics of policymakers:

Local schools districts and states have an obligation to provide appropriate services to limited-English-proficient students, but policy makers have long debated setting time limits for students to receive such services. (p. 2)

In order to argue against unfair testing for ELLs, Hakuta provide us with the latest evidence on language acquisition. His findings explain that oral language and academic language are different and take different times to acquire. In his study he found that "for most of the students in [a] school district who enter as EL [English Learner], it takes between 2 to 5 years to acquire oral language" (p. 9). For students entering later to school for example 5<sup>th</sup>, 9<sup>th</sup> or 11<sup>th</sup> grade, it takes up to 5 years (p. 12) [to acquire oral language]. Hakuta (2000) also describes a "slight drop" in the 5<sup>th</sup> year when students come closer to native English speaker performance in listening comprehension than in complex vocabulary or oral expression, listening comprehension, and oral expression remain about .75 deviation units below native speaker performance even after 5 years" (p. 10).

Students acquiring academic English proficiency, demonstrated longer time to develop academic language than

oral English proficiency, and that the range for academic English proficiency development, takes between 4 to 7 years (p. 10).

This study presents the gap between the performance and the age-equivalent performance. It considerably widens in the 5<sup>th</sup> grade (considering ELL entering kinder until 5<sup>th</sup>). First and third graders are just one year behind native English speakers in basic reading, reading comprehension and broad reading, but at 5<sup>th</sup> grade they are about 2 full years behind (p. 13).

It is understandable to wish the same qualitative and equalitarian principles for minority's students including English learners that NCLB requires, but there should be more flexibility for testing. As a teacher myself, I would like English language learners to improve not just in acquiring language: listening, speaking, reading and writing, but also gaining knowledge in all academic areas. In one year, an ELL may not show, in many cases, signs of language acquisition or improvement.

There should be more flexibility to test and use school reports to show improvement of English language learners as part of the accountability system and hold standardized testing until a student attending a school develops academic language. There will be a gap always



between ELL and native English speakers according to Hakuta (2000):

Since native English speakers continue to learn and develop their academic English skills as well, ELL students not only have to learn the fundamentals of English, but also catch up with a student group that continues to develop.  
(p. 12)

#### Garan's Studies

Elaine Garan, (2004) addresses several issues of the NCLB Act in her book In Defense of Our Children: When Politics Profit and Education Collide. She finds several provisions of the NCLB to be of concern. Her main concern is the overemphasis on standardized testing and standardized curriculum. She declares that the federal government has created a crisis in education. The "crisis" is caused by bad teachers in sick environments (my emphasis, public schools). "Testing profits the test preparation company. We make the stakes high, kids depend on it. The Reading First Panel sells the product and the National Panel on Reading (NPR) supports the methods (the cure)."

She comments on high stakes-testing as being used to compare children with one another, teachers and schools "so we have a system of education based on 'winners and losers'...and the standardized testing system requires

that many children will be left behind" (p. 34). In addition, testing serves as a way to control curriculum and many teachers are being punished if the scores on standardized testing do not show high achievements.

Furthermore, she questions the validity of testing reading. Testing does not measure students' reading ability or reading growth. These kinds of test (any kind of standardized test) make trivial questions. There is no coherence between what is taught and what is tested. She suggests portfolio assessments, "authentic" assessments, such as running records, writing samples, books read and the answers, to be more appropriate to evaluate and "measure" students academic improvement. Gathering students' work over the school year is more valid and the best way to see students' progress and academic growth. "The assessment is done with the student rather than on the student" (p. 31).

Standardized testing inhibits the teacher to modify or redirect instruction. Testing takes away from the students the right to apply knowledge in real life situations. Essential knowledge mandates schools and teachers the way our kids are trained to think-and what they think-are controlled by the government and the publishers (p. 40). Moreover, she finds inappropriate (and

many of us will agree too) that private and faith-based schools do not abide by the accountability system and students attending these schools are not required to be tested by them.

As early as Head Start, children are being tested. At very early stages of schooling, children between ages of 3-4 are being tested on phonics. Garan defines this term as

Phonic awareness is the ability to hear or say a word and break it into its individual components and/or blend the sounds together. It does not involve seeing a word or actual reading-only listening and speaking-so there is not reading involved. (p. 48)

Thus, our pre-school and kindergarten students are being labeled as failures at very early stages. Garan (2004) strongly disputes labeling students at risk based on phonic awareness skills and on standardized testing scores. She concludes: "[children] develop differently along a different time line than other children. No better, not worse just different" (p. 47).

#### Allington's Critical Policy Analysis

In Big Brother and the National Reading Curriculum: How Ideology Trumped Evidence, researcher and reading specialist Richard Allington (2002) poses concerns about the politics behind the research on phonics instruction

and the research base made by the National Panel Report; the standardization of curriculum and high-stakes testing. NCLB dictates the type of curriculum that will solve the problem of reading achievement. Scores from fourth graders were taken into accountability to decide that more testing and more phonics will increase the basic level of reading performance to proficient. According to Allington (2001), many school districts have purchased reading series thinking that having a reading curriculum that is attractive, modern and with instructions for the classroom teacher to follow is the cure. Scripted curriculum is being implemented in many states in order to comply with the provisions of the NCLB Act. Many school administrators believe that by using this material, there is no need to worry about teachers who are not very expert in the teaching of reading, because they think teachers can just follow the instructions that accompany the series (p. 6). This type of thinking lowers the intellectual capacity and professionalism of the teacher. It deskills the teacher. It assumes that a program teaches not the teacher. And, we all know that teachers teach, not programs.

He emphasizes the politics behind the business of curriculum. "Politicians are enamored with research that supports their political agendas (Allington, 1999, 2001)

but ignore scientific research that violates their political ideologies." Instruction and implementation of reading instruction under the No Child Left Behind Act is not based on scientific evidence. He adds: "the reliable evidence on the importance of expertise in reading instruction is being routinely ignored, distorted or misrepresented in policy talk and in the popular press" (Shaker & Heilman, 2002; as cited in Allington, 2002, p. 6). Allington's main concern is that the National Reading Panel (NRP) research involved a small number of students and did not include students with limited English proficiency, "normal achieving student and high achieving students." The NRP presented their study under the name "Report of the National Reading Panel: Teaching Children to Read, An Evidence-Based Assessment of the Scientific Research Literature on Reading and Its Implementations for Reading Instruction." This study consisted of a list of 75 studies in reading and out of those, 37 studies were eliminated. The study did not include reading comprehension or the applications of phonics skills in authentic literacy events defeating the purpose of the literacy outcome. Instead, the study focused on decoding, pseudo words, word identification, spelling, oral reading

and one sentence passage for comprehension. These were not experimental studies of child language acquisition.

He notes that ESEA and NCLB work with the same principle: to close the rich/poor academic achievement gap and adding to the new law is the decision of implementing instruction and curriculum that is not research-based. In the area of testing, Allington explains that since the 70s, testing has increased especially in those schools receiving federal aid. In 1966 enacting the ESEA, federal funded educational programs were required to meet specified targets in the most needy schools or funding support would be retracted (p. 236). NCLB functions in a similar style by reducing federal funding to schools that show no progress. Another problem is labeling schools and making them accountable for the low socioeconomic status of students attending poor schools. Schools cannot fix poverty.

On the other hand, standardized testing is simple and not a very reliable measure of individual students achievement (Allington, 2002; Garan 2003; Kim & Sunderman, 2004). These assessment systems that are useful monitors lose much of dependability and credibility for that purpose when high stakes are attached to them (Linn, 2000; as cited in Allington, 2002, p. 247). The United States

lacks psychometric expertise to create reliable, valid and standard error of measurement testing. The increment on diverse population cannot be measured with one single test aimed to the White upper class student population.

Criticizing the ideas of standardized testing and scripted curriculum, Allington expresses that teachers are the ones that teach and not programs in order to produce readers. Thus, when scores are low, the culprits are the staff and the fault of school administrators that lack capacity for solving an educational problem. It is the teachers and their effective teaching that helps students' achievement, not testing, nor scripted curriculum.

#### Guadalupe Valdez Arguments

Guadalupe Valdez (2002) responds to the implementation of NCLB and the assessment and testing of ELLs, in her book Learning and Not Learning English. She comments on educational policy and migrant education:

It is not very clear what the public understands by the terms *to teach* and *to learn English*. Part of the difficulty is that most policy makers and members of the public have little information about what actually happens in schools....Among policy makers and administrators, debates center around the English language and its place in educational institutions. There are many things, however, that these legislators do not know. They do not know, for example, that even when programs are conducted entirely in English, children have very access to English. Because

members of the public are not aware that in many schools English-language learners are segregated from their English-speaking peers,...Policy makers do not know that the English newly arrived student hear often consists exclusively of bits and pieces of artificial-sounding language used in drill in their ESL [English as a second language] classes or of the somewhat distorted language of subject-matter teachers who use "simplified" English in order to give students access to the curriculum. (p. 13)

Vygotsky (1978) may agree with Valdez that our English languages Learners are isolated from English. ELLs need the interaction from other peers (native English speakers). Children learn from playing and socializing with others in order to develop abstract thought (p. 103).

It is unfair to test students who are not proficient in English. This carries a huge burden for teachers and principals. It is unfair also that schools with high enrollment of English Language Learners quickly will be labeled as "in need of improvement" creating major gaps in higher achievement. Trying to make the same yearly progress as those schools with larger populations of White students or high achievement creates undue confusion and stress for teachers and principals.

There is a common consensus among teachers and researchers that see no change in closing the academic gap when the US educational system is structured so such that wealthy communities have well supported schools and poor



communities have poorly supported schools (p. 13). In accordance with Allington, "I do not want politicians and policy makers making decisions about what I will teach or how I will be allowed to teach" (p. 248).

All of the research presented critically demonstrate the built in inequalities of the NCLB Act toward the children it is supposed to serve, provide assistance, and support. Instead its policies, in the guise of supporting children in need, places children, teachers, and administrators in jeopardy and at risk of undoubting failure, especially ELLs.

CHAPTER THREE

HISTORICAL BACKGROUND AND ANALYSIS OF POLICIES

AND LEGISLATION PRIOR TO NO CHILD

LEFT BEHIND ACT

Historical Background of the Elementary and  
Secondary Education Act, Title I

For many years, social problems like poverty, unemployment, delinquency, dropouts, and illiteracy have been a main concern for the Federal government throughout the United States. It is for that reason that the government had to create a way to alleviate and diminish the problem of poverty affecting children in the ages of schooling.

Since the nineteenth-century, the federal government has been concerned on how to eliminate poverty. Poverty has been the cause for many of our students who are not able to excel academically and socially. Many presidents have shown interest in educational policies to help low-income families. For years, educators have been dealing with the redundant problem of academic achievement and low performance students. Comparisons between rich schools and poor schools indicate fame or failure based on economic levels.

President John F. Kennedy in the 1960's launched an enormous program supported with federal funds to help reduce poverty and unemployment. "The culture of poverty became a central focus of the Kennedy administration" (Spring, 2001). While tailoring the details of the new educational policy, Walter Heller, chairman of the Council of Economic Advisers, gathered statistical information on poverty. While the study was in process, President Kennedy was assassinated. Vice-president Lyndon Johnson took over the office and continued with Kennedy's idea. Johnson asked the social scientists: Heller, Myrdal and Michael Harrington to submit their findings and "The Problem of Poverty in America" report was presented in The Annual Report of the Council of Economic Advisers. It was found that education was the uprooting in the circle of poverty.

The report advocated the use of education to end poverty (Spring, 2001). Heller (1963), placed education as the central role:

Equality of opportunity is the American Dream, and universal education our noblest pledge to realize it. But, for the children of the poor, education is a handicap race; many are too ill motivated at home to learn at school. (Heller, 1963; as cited in Spring, 2001, p. 373)

The report also indicated that young students are condemned to inadequate schools and instruction, and many

school systems concentrated their efforts on children from higher-income groups. Effective education for children at the bottom of the economic ladder requires special methods and greater expenses (Spring, 2001). President Johnson accepted the Heller report and on January 8, 1964, President Johnson declared war on poverty by passing the Economic Opportunity Act (EOA). Thanks to Heller, we have programs such as Job Corps and Head Start, the main components of Title I and II.

In April 11, 1965, the Elementary and Secondary Education Act was signed. ESEA Title I provided funds to enhance educational programs for children designated as educationally deprived (p. 373). The most important fund provided was Title I whose funds provide instructional programs such as Head Start for preschoolers and programs for students considered "educationally deprived" in remedial reading and math. The Act is constituted by five titles. In 1966, the ESEA, Elementary and Secondary Education Act, provided federal funding (\$959 million for Title I) for programs and services beyond the regular school offerings. These programs targeted children attending preschool and elementary schools as part of early intervention to compensate poor and minority

families for their disadvantaged background (Bennett & LeCompte 273, 1999)

"In January of 1968, Congress officially redesigned the enabling legislation as Title I, ESEA" (Bayley & Mosher, 1968) to provide programs all around the nation and determine funding allocation for eligible districts or counties, State agencies, the Bureau of Indian Affairs of the U.S. Department of Interior" (p. 2), and was directed to minorities and poor children. Title II was intended to support school library resources, textbooks, and other instructional materials. Title II, provided federal aid to private schools too. Title III provided funds to establish educational centers. Title IV provided funds for educational research, establishing research and developmental centers. Title V purpose was to reinforce state departments of education, and as a consequence state departments of education have more control over local school districts.

Spring's (2001) analysis on the "War on Poverty" expresses that poverty was not solved. Instead a shift in ideas emerged with the ESEA:

The economic interest of the poor was to enter the middle class, not to change the economic and social system, and the interest of the middle class was not to repress the poor, but to solve such problems as crime, delinquency, and

unemployment by brining the poor into the mainstream of society. Education plays a major role in this particular analysis of socio-class differences because it would supposedly provide the bridge for the poor to enter the opportunity structure of society. (p. 376)

The No Child Left Behind Act has manipulated the interest of various groups specially those that are in the private sector. Funding programs to enhance education are part of the political agenda in each presidential administration. There has been a great concern to eradicate or alleviate poverty and to help student that are in most need under the Bush administration, but it seems that the main interest for providing financial aid to local public schools is to share a large part of the funds with private and Faith-based schools that not necessarily educate the most needy students.

#### Behind the Scenes of Title I Programs

The Bush administration has over emphasized his effort to provide enough funds to ensure quality education. Supposedly, ESEA concentrates in the equalization of educational programs and funding to serve the population of students in the disadvantaged, minority and low socio-economical areas. The No Child Left Behind Act (NCLB) follows similar scripts. NCLB is not unique since the idea was stolen from the Democrats' side and

former Presidents Kennedy and Johnson. They used research to create a model that provided recommendations to enhance the life of low-income families. President Bush has taken Title I funds to brag about helping the most needy students but with much pressure and punishment.

Bush's NCLB mandate has not helped students; instead, he has created a crisis with the federal funds. This legislative act has created a massive gap of inequalities among districts, schools and students. The intent of Title I to serve the most needy students in public schools is being taken over by private organizations and Faith-base schools that serve the middle and upper class. Public schools are losing their funds to feed the rich. Instead, these restrictions and reduction of Title I funds have hurt the most vulnerable students.

It is important to mention that federal funds at the beginning of their establishment were intended to serve minorities and the poor. The U.S Department of Health, Education, and Welfare (1969) defined Title I as to...

conduct programs at the national level and determines funding allocations for eligible district or as to provide assistance to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs...[to meet] the special educational needs of educationally deprived children. (1969)

Title I of ESEA: Improving the Academic Achievement of the Disadvantaged (IAAD) are

funds that the federal government "awards" to states and local school district and schools with the highest concentrations of economically disadvantaged students (minority, migrant students, English language learners, poor, handicapped) to help them improve the education of disadvantaged students. (U.S.D.O.E, 2003)

Under NCLB, Title I funds have a new twist: federal funds provide assistance to private school and private educational organizations such as Sylvan Learning Centers, Edison, Advantage, eK-12, Dream catchers and 21st Century Schools (all privately owned). Public schools are sharing the funds with the middle and upper class population. Theoretically, Title I serve children in need. In order to be eligible to receive Title I funds a school must serve students classified as low income (40% of the student's population must be coming from a low income family). I do not believe that private and Faith-based schools and the high-income families need the money for their children.

#### The Drama of Sharing

All school districts receiving Title I funds must set aside 20% of the total allocation to pay for after-school programs, school choice and private tutoring after school providing new options for those parents whose children are not making the grade in public schools labeled "in need of



improvement." Since part of the Title I funds will be allocated to pay for private educational services, it reduces the expenditure for students attending public schools, hurting the rest of the student population.

In order to receive Title I funding, the local educational agencies, and districts identify the needs in their districts basically by obtaining data of the population to be served. A district can be identified as Title I provider of services for educationally...

deprived children in areas where there are high concentrations of children from low-income families, determines their special needs, design program to carry out the purpose of the legislation with regard to such children, and submits applications to the appropriate State education agency for grants to fund proposed projects. (USDOE, 2003)

Implementing Title I funds, local educational agencies must be sure that the programs have sufficient size, scope, and quality to give reasonable promise of meeting special educational need...

[And] the program will provide opportunities for the participation of educationally deprived children enrolled in private schools, effective procedures for evaluation will be adopted, including the use of appropriate objective measurements. (p. 11)

Funding English Language Learners: Title III  
National Defense Education Act

The National Defense Education Act is important under NCLB because the funds under this section emphasize economical help to English language learners. Enacted on 1958 to provide aid to education in the United States at all levels, public and private, it offers federal funding to stimulate the advancement of education in a wide array of subjects including English as a second language, counseling and guidance, school libraries and librarianship, and educational media centers. The act provides institutions of higher education with 90% of capital funds for low-interest loans to students.

NDEA also gives federal support for improvement and change in elementary and secondary education. The act contains statutory prohibitions of federal direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution. It is important to mention that NCLB contradicts this federal law. Federal direction to control the curriculum is not part of Title III. Indirectly and directly through NCLB, the Federal government is imposing scripted curriculum.

Also, Title III provides federal funds to the elementary and secondary schools to improve instruction in the subjects of mathematics, reading, science, English, modern foreign languages, history, economics, geography, industrial arts (music, painting dance, drama, photography, graphic, crafts, etc.), and civics. It also can pay up to half of the cost for minor remodeling for specified learning places, materials and certain equipment. Unfortunately, the only areas that NCLB stresses are math and reading "leaving the rest behind." Many schools lack sufficient materials and the buildings are in the least workable conditions. Thus, the funds are not being used properly.

The main purpose of this federal act is to motivate "public schools to strengthen or improve instruction in the designated critical subjects through the development of new projects in addition to the normal efforts of the schools" (NDEA, Title III, 1969, p. 1)

There are three main goals for Title III. According to the NDEA (National Defense Education Act) they are: first, to develop to the fullest the mental and technical skills of children and adults that will lead them to better educational opportunities. Second, to increase the opportunities for learning in the critical subject and to

prepare for further study those with special abilities in these subjects. Lastly, to improve teaching in the critical subjects through the use of laboratory and other special equipment, including audio-visual material and equipment, and printed materials other than textbooks as well as, to encourage experimentation and research to bring better ways of teaching the critical subjects with the use of laboratory and other special equipment.

#### Providing Funds to Implement the Law

NCLB is not providing the funds to implement these provisions and is cutting programs and classes each year that are needed to enhance the education and well being of the students:

"The humanities and arts comprise all those subjects in the elementary and secondary school program which involve the student in the consideration of aesthetics, social, and ethical values" (NDEA, 1969, p. 1). Excessive emphasis in the teaching of reading (phonics) and math does not help to create fully developed individuals capable of thinking critically. The No Child Left Behind Act is not taking into consideration the diverse and various ways of learning. If a child's learning modality is musical or kinesthetic, this child is left behind since there is no emphasis or the time to teach music or dance

at a very young age. NCLB is creating a simple mold of students that will just "know their math and their phonics, but will lack the knowledge to make wise choices, educated decisions due to their limited exposure to the world.

As one can see, the historical intent of the federal legislation preceding the NCLB Act had been violated. In other words, the integrity of "helping" those student most in need had been hijacked. Instead of state autonomy for selection of curriculum, assessments, and teacher certification policies, the federal act mandates the use of "scripted" curriculum, high-stake testing with punishments and the withholding and diversion of funding based on impossible goals, and rigid criteria for "highly qualified" teachers.

In short, it is the beginning of the end, i.e., the systematic dismantling of public education in this country. Last, the most vulnerable (the children of the poor) are the targets of inequality, of greed and deceptive policies.

CHAPTER FOUR  
IMPLICATIONS OF FINDINGS FOR CALIFORNIA  
SCHOOL DISTRICTS

Norms and rules regulate our lives at any moment. Without rules and norms there would be no order, only chaos. Sometimes even with all the norms and rules to follow, chaos exists. For more than 3 years, the NCLB rules imposed by the federal government over all 50 U.S. states have turned public education into chaos. Since that time, governors, local educational agencies, school districts, superintendent, principals, teachers, parents and students and the public have become sad and angry, outraged and frustrated by the authoritarians in charge of making "the big decisions."

How Are English Language Learners Affected by  
The No Child Left Behind Act?

English Language Learners (ELL) are among one of the main groups that concern teachers, principals, superintendents, parents and the public in general. They are frustrated with the new educational reform of the No Child Left Behind Act, and its accountability provisions that harshly affect the minority and low-socioeconomic populations of most schools.

The No Child Left Behind has Placed our English  
Language Learners in Disadvantage with their  
White Peers

Richard Valencia (2002) finds that "Mexican American and other Latino ELLs are greatly neglected and underserved, especially immigrant students." He considers it inadequate having ELLs being placed in English only classes:

These pedagogically unsound ill-informed English-only mandates are having profound, negative impact on hundreds of thousands of ELLs. Legal challenges to these oppressive and regressive propositions must continue, as bilingual education has found empirically to foster school success for the Mexican American ELL. (Valencia, 2002, p. 367)

No Child Left Behind Places Much Emphasis in  
Labeling Students as "Failures"

Schools are now being classified as "school failing or making progress," creating wider gaps among the low-income and the upper class families. Kim and Sunderman's (2004) findings point out a strong emphasis on systems of accountability and that states are aware of the punitive sanctions if local educational agencies do not act according to the law. It is known that each state has their own standards and their goals for achieving AYP. No one deserves to be labeled as a failure when great efforts to provide a great education to all students is taking place even in the poorest communities.

Using a Dual System for Assessment and  
Accountability is Ambiguous and it has Created  
Chaos

Kim and Sunderman's (2004) findings state that policymakers have designed accountability systems that are tied to Title I accountability requirements. Many states continue to use their own testing systems as part of their accountability plans for meeting NCLB expectations. Some schools may be "recognized as needing improvement under NCLB, but these same schools meet the state's performance targets and earned either a "performing or highly performing label" (p. 6).

Disadvantages among States to Reach 100%  
Proficiency Level in the Time Required will be  
Inconsistent

What would be considered for improvement in California has a different meaning in Georgia. Many states start at different points giving more advantage to those schools that have high achieving goals. And, many schools will not reach the 100% proficiency target within the time frame imposed by the federal act. This causes a lowering of standards to master in order to show improvement and to try to gain notorious achievement towards the expectations of the federal law. Otherwise these schools would be labeled as "in need of improvement" creating more stress than relief for showing a little improvement. The



definition for proficient according to the NCLB "describes a stable and meaningful concept, but has no consistent definition across states" (Kim & Sunderman, 2004, p. 7). This research has presented a significant variable in this definition. Reading, for example, in schools that need improvement in California are at the 34% of meeting proficiency against 75% meeting proficiency in Georgia causing a problem for California. Georgia's schools have higher proficiency rates than high performing schools in California (p. 7).

#### A Great Concern for California is its Demographic Characteristics

Race, ethnicity, economic disadvantage, and limited English proficiency are subgroup categories in which Latino and Black students will be included leaving White populations to fit in another target. The focus is on proficiency rather than academic growth. This disproportionate division places our minorities in a disadvantage to achieve the AYP creating a larger gap and pressure for achieving better targets. "The imprecise nature of average scores based on a limited number of students suggest that some schools will be incorrectly identified as failing AYP while others will be incorrectly classified as making AYP" (Kim & Sunderman, 2004, p. 13).

Most of the schools labeled as needing improvement enrolls low-income, minority students and English language learners than schools without these groups. On standardized testing, these groups tend to score lower than their white middle-class peers. Los Angeles and Fresno (have the majority of migrant students and immigrant population) are at a disadvantage with other California's cities since meeting the AYP relies only on average test scores. Kim and Sunderman (2004) make an important point about the scoring of these groups. Schools needing improvement enrolled over twice as many minority and low-income students, on average, than schools meeting AYP. This reliance on average test scores usually reflects differences in student background characteristics more than differences in school quality.

#### Segregation of English Language Learners

Gary Orfield's (1997) findings express a somber sentiment for our ELLs. "Latino students now experience more isolation from whites and more concentration in high poverty schools than any other group of students" (Orfield, 1997 as cited in Valencia, 2002, p. 7).

English language learners do not seem to fit the expectations of the federal government in obtaining equal educational opportunity. ELLs are more likely to be

labeled as in need of improvement, and they may benefit from transferring to a higher achievement school. Unfortunately, they are also the least likely to participate in school choice or to receive supplemental services under NCLB (free tutoring from private or public organizations). School districts will not make the effort to publicize or provide these services. In case that a parent of an ELL requests the service, the school district chooses and makes decisions on how and where the student can transfer out.

Having the schools districts deciding where these students go represents another problem. The schools identified as "receiving schools" (Kim & Sunderman, 2004), are not much better than the "sending schools." But the "eligible receiving schools" were not required to accept student transfers (p. 22).

In addition, Cholo and Rado (2004) found that racial inequality education continues. ELLs are entering an education system often ill equipped to deal with their needs.

Many of the ELLs are directed and placed only into English classrooms without the appropriate support or necessary materials to enhance their education. Many states have banned Bilingual Education like California.

California is one of the largest states that provides assistance to minority and limited English proficient students and proper educational support to educate immigrants is available at a very minimum level.

Therefore for California, the mechanisms to achieve the federal requirements are far more complicated. The accountability system policies include sanctions and add strict regulations for subgroups. Under the law, each district in California has to show improvement. The improvement has to be yearly until reaching the federal mark of 100% proficiency for all students (including English language Learners) in the math and reading.

#### Unfair Testing for English Language Learners

English Language Learners newly arrived to the U.S. not fluent in English have to take standardized tests in English. The Extra Credit mentions accommodations for ELLs such as native-language assessments, extra time, small group administration, flexible scheduling, simplification of instructions and the allowance of dictionaries, among others (December 15, 2003). However, during the 2003-2004 school year many school districts and schools designated as Title I discouraged the use of testing accommodations for ELLs, setting the stage for failure. ELLs tended to "just bubble in" a test that did not make any sense and

without any idea of the repercussions their innocent actions will bring them.

On the other side, the publishers of standardized testing such as the CAT6 or STAR in the teacher's instructions there is not word of modification that can be effective to help our students. Dictionaries are banned from these tests, and reading instructions for our ELLs are not allowed. NCLB, testing corporations contradict each other. Unfortunately, not many educators read the updates on NCLB. On a personal note, when I found out that I could provide my ELLs with a dictionary and give extra time for them to take their test, I was rudely discouraged to do it and threatened with sanctions if I tried to implement the modifications mentioned in the NCLB Extra Credit. For more information on modifications for ELLs them go to: <http://www.edd.gov/policy/elsec/guid/saaguidance03.doc>

#### English Language Learners are Over Tested

High-stake testing is taking valuable time from instruction. ELLs are mandated to take a wide array of tests. They are part of the accountability system at the federal, state and local levels. Unfortunately, standardized testing does not show what a child really knows. It is unfair that only one score is used to

determine AYP. The assumption that a single test measures competence is unfounded.

Time is being wasted on testing and unduly testing takes away from quality instruction. For example, testing and assessments at each state and local levels varies. It can take up to three months for testing preparation, accommodation and the testing it self. ELL students have to take several tests or assessments during the year. First students entering any US school are tested to assess their language ability in the English language. These tests take approximately 2-3 hours. Afterwards, students are directed to the ELL classes. Next, they have to be tested officially by the state. In California we have the CELDT (California English Language Development Test). This test measures English acquisition in the areas of reading, writing, listening and speaking. This test takes about 5 to 6 hours, and is done twice a year. Districts assessments are also part of the testing saga. This test is performed quarterly and takes about 2 hours for each area (math, reading and vocabulary and writing). The next test is the minimal standards assessment to ensure our students are learning between testing. These tests "test" specific standards in reading, writing and math. Each test takes about an hour. In May ELLs take the federal testing

mandated: CAT6, SAT9. Each test requires 2-3 hours per area. These tests take away about 2-3 full weeks of instruction. Lastly, the students have to take a language assessment that is done on a one-to-one basis. The ELD (English Language Development) test takes about one day per child. In a personal note, it took me 17 school days to test these students.

By the end of the year our children are well trained in how to bubble in circles and writing their last and first name accordingly to the norms. The waste of time mentioned does not consider the preparation for sharpening pencils, gathering and collecting material, filling each students information in the answer page, or filling missing demographic information, clearing up or covering the bulleting board, and walls so that students "won't cheat."

The repercussions in California are devastating. Schools in California were identified as needing improvement based on the scores of English language learners and students with disabilities.

Their scores reflected under NCLB complicate the implementation of the law by dividing the groups into subgroups. "Subgroups accountability rules put disadvantaged schools segregated by race and poverty and

multiracial schools at a higher risk of failing AYP than white and middle-class schools" (Kim & Sunderman, 2004, p. 8). Schools that have a high level of migrant, English language learners, academically disadvantaged and socio-economical disadvantaged will be at higher risk of not meeting the standards and AYP.

Each district is accountable for all subgroups which seems unfair to punish the slowly but steady advancements of minority and disadvantaged students. Schools needing improvement had a large group of minorities and socio-economical disadvantaged populations. Within this group, subgroups with student limited in English proficiency can be part of different subgroups. It may be the case of a student being of low income, Mexican with limited English proficiency attending a Title I school. The scoring does not benefit the student, the school and the district.

#### Funding is Limited

The proposed funding by the Bush's administration does not compensate for the bureaucratic burden of implementing the law as well as compensating for the excessive payment to buy standardized tests and scripted materials.



NCLB's idea focuses only on schools making adequate yearly progress and reaching record achievements in math and reading. But without monetary and technical support and a clear direction on how these can be achieved, we have failed our students. President Bush mentioned NCLB would be completely funded. Regrettably, that is not the case.

According to the No Child Left Behind Extra Credit during the Fiscal Year (FY) 2001, 17.4 billion was provided under Clinton's Administration. FY 2002, the year of NCLB was funded with \$22 billion; FY 2003, \$23.6 billion; FY 2004, \$24.3 billion; and for the FY 2005, President Bush proposed \$24.8 billion. According to the source, it has been an increase of 42.5 percent in the budget (Extra Credit, April 03, 2004). Increasing the budget has not been problem; the real problem consists of receiving the money on time and without cuts.

Educational Funding and Title I Funds are  
Disproportionate and Underfunded

The money received is not the same as budgeted. But, the Defense Department has taken more money than ever.

My findings demonstrate a different amount of federal funds. The following chart presents the budget and the outlay of amounts given to the area of Education. The

amount is presented in million of dollars. As can be noted, the outlay does not match the appropriation.

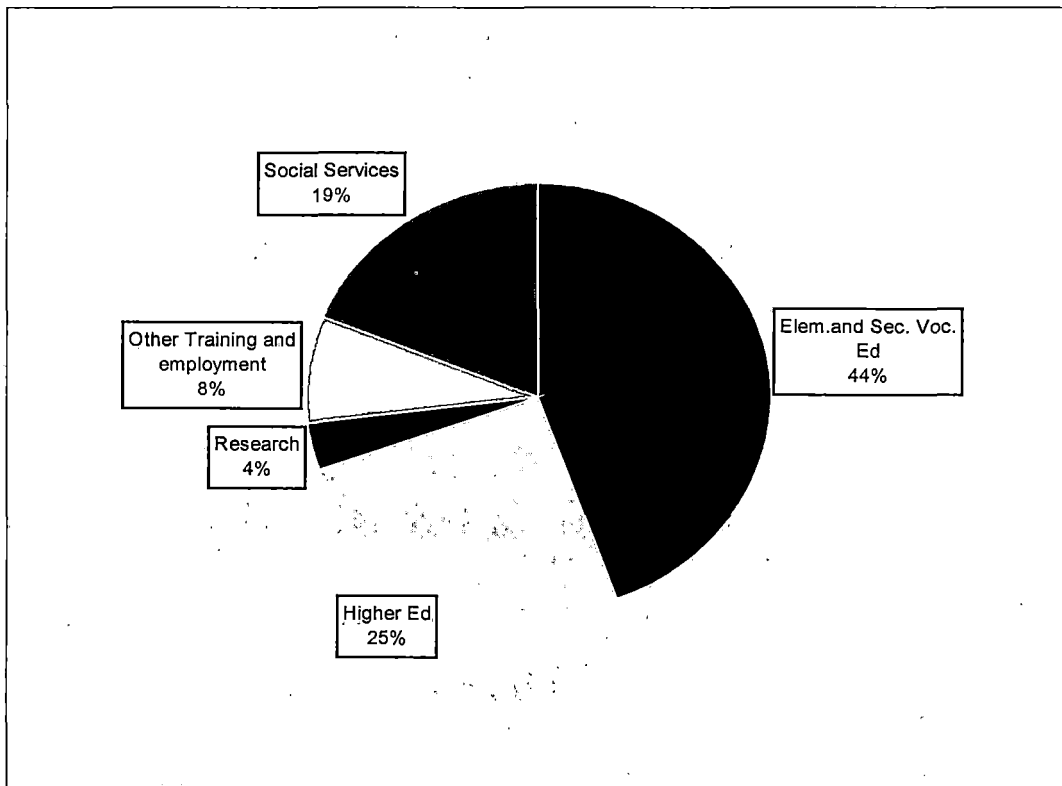
Table 1. Education and Defense Budgets for the Past Five Years

EAR	BUDGETED	OUTLAY
1999	55,478	31,326
2000	49,469	33,900
2001	63,554	35,721
2003	79,861	46,286
2004	87,629	57,400

The amounts presented are in million of dollars.

From: <http://www.gpoaccess.gov/usbudget/fy04/other.html>

It is important to mention that the total amount in the outlay is divided among five different entities. Elementary and Secondary Education and Vocational Education receive only 44% of that amount (\$25,256 million).



(In million of dollars)

From: <http://www.gpoaccess.gov/usbudget/fy04/other.html>

Figure 1. 2004 Budget for Education

#### Title I Funding is being Divided

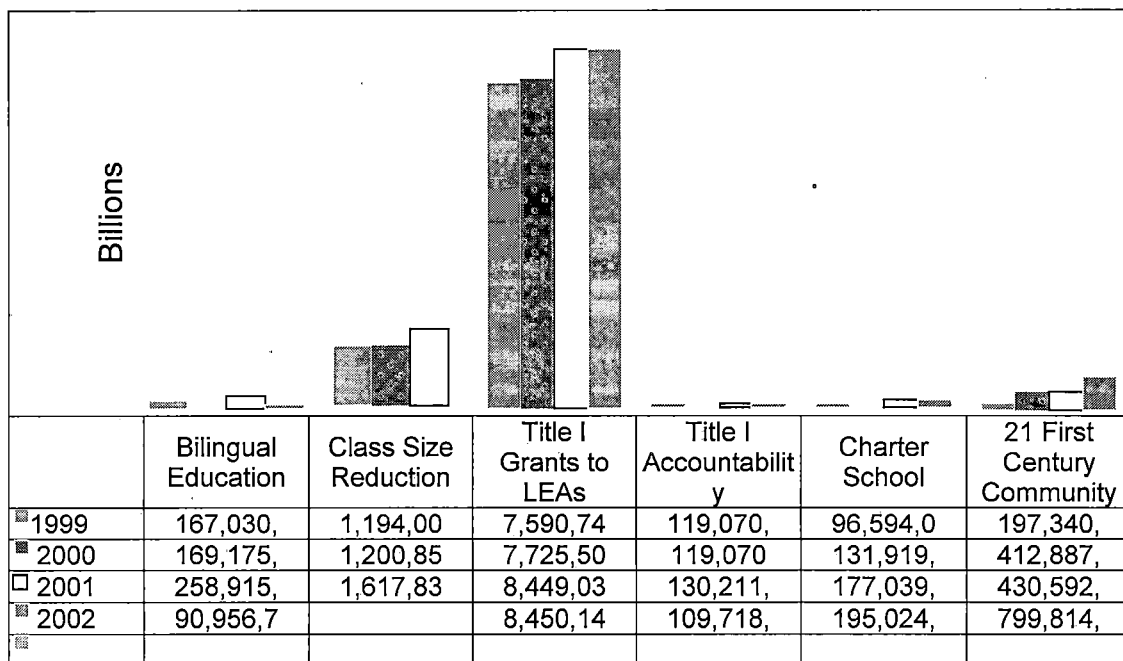
According to Lawrence Hardy, editor of American School Board Journal, \$18.5 billion for the 2004 FY was authorized, but President Bush only requested \$12.3 billion. In the fiscal years 2002 through 2004 a total of \$48 billion was authorized for Title I but only \$34.4 billion has been appropriated. The shortage of \$13 billion is equivalent to approximately a year's worth of funding (2004). The problem of underfunding is that the expenditure per-pupil has been increased for all 50

states. For example, in Indiana educating a student before NCLB was \$5,468. With the NCLB the same student costs \$7,142. This increase is due to the "commendable" level on state tests. This amount does not take into account students in special education who require \$8,300 and students "at risk" or ELLs that would require another \$4,400 to \$5,300 each.

Funding Promised for Remedial Education for  
Disadvantaged Children Failed

Many programs have been cut or funds have been shorten, e.g., Bilingual Education and class size reduction, while others have surged benefiting from federal funding such as 21<sup>st</sup> Century Community Learning Centers or Sylvan Learning Centers that are privately owned. Unfortunately, ELLs are not benefiting from quality education without Bilingual Education. ELLs cannot be taught in a classroom filled with 34 students. Instruction for ELLs requires small settings and primary language instructional support in order to academically succeed.

The following figure shows the decrease in public funding and increase in federal funding to private entities.



Source: Consolidated Federal Funds Report, U.S. Census Report, Fiscal Years 1999-2002. U.S. Census Bureau

Figure 2. Funding for Various Programs Fiscal Year 1999-2002

### Educational Supplemental Services for English Language Learners

English language learners are more likely to receive SES at their home school. In order to save federal funds from Title I, some school districts have created plans to keep supplemental educational services within the school's premises instead of paying for private services. The 20% of Title I funds that the NCLB requires would be redirected to better educational programs and provide after school tutoring to those students that qualify.

### School Choice is Not an Option for Parents in Low-income Areas

NCLB emphasizes the option for parents to take their children to another school anywhere with the intent to receive a better "education" if the original school or the student shows no improvement. NCLB has demanded school choice to those schools failing. Parents will receive a "voucher" to shop freely for another schools of their choice. The term voucher as defined in Kolbert and Mettger (2001) "is a tuition payment that enable public school students to attend private schools, including religious schools. Publicly funded vouchers are those financed with state education dollars" (p. 5). The idea of parental choice or vouchers (Kolbert & Mettger, 2001) was enacted 1989 and started in the City of Milwaukee. The program provides tuition to attend private schools to those students in grades K-12 free of charge.

Under NCLB, schools districts must provide choice service to those parents requesting the service. Unfortunately, ELLs do not participate in the program for several reasons:

1. ELLs' parents are unaware of the culture and the laws.

2. New comers are struggling to "fit in" within the community. They relay on friends or neighbors to translate or communicate any information send by the schools. Even though the information may be in Spanish, the translations do not make sense or parents may not be completely literate.
3. The majority of parents do not know what the No Child Left Behind Act is. The new immigrant is not familiarized with the U.S. school system. Many Latino parents bring with them their knowledge and understand the school system of their original countries; thus they have similar expectations from U.S. schools. Parents listen and respect the teacher's authority. Whatever the teacher says, goes.
4. The language barrier is another reason for not receiving services.

Sunderman's (2004) findings mention that school choice is provided only to those parents who request them. If services are not offered, the parent needs to ask for them. But, what if parents cannot communicate with the teacher or the school? Or perhaps, they are ignorant of the situation and are disable to communicate or understand what type of services are available to their children. In

addition, a newly arrived immigrant parent may be afraid to ask questions, make comments or participate in schools PTA meetings, School Site Councils, or Parent-teachers conferences due to a unfounded belief that their status as immigrants may cause them problems. So in many cases they do not talk, comment or fight for their children's rights.

### Teaching English Language Learners has Become Hectic and Stressful

Teachers carry a heavy burden on their shoulders. Teachers need to make miracles in order to meet the standards. Unfortunately, teachers are not being supported by principals or colleagues. Teachers of ELLs have one of the most difficult job assignments. They end up in segregated classes. Being a teacher of ELLs does not mean that I have "all kinds" of students at the same time. ELLs require intense planning and an environment that is safe to make mistakes, that is supportive and that has students that can model English properly. Instead, the ELLs teachers receive the "trouble makers," the "laziest" students, the "low performing" and "low achievers" in a class that no one wants to teach: "the rejects." ELLs always end up with the "rejects" and low learners. This philosophy is unfounded. Just because students require more time to learn, does not mean he/or she is stupid.



Vygotsky would be very disappointed in seeing that learning is not taking place in the classroom because there are no English models to interact with the ELLs. Children create their knowledge based on their observations and interactions with their more capable peers. ELLs do not need to be placed with the "low performing" students.

#### Teaching is No Longer Teaching

For many teachers teaching has become dull. It is not longer interesting and engaging. The classroom environment is constrained and restricted. Teachers of ELLs cannot teach freely. They have become the babysitters and the disciplinarians of the grade level. ELLs' teachers have all the students that no one wants to teach and the expectations are the same as the others; we also want all of our students to be successful. The ELLs students do not feel safe and valued. Teachers have a difficult time implementing NCLB when there is no support or help from the administrators or district officials.

Under NCLB all teacher and students have become robots. We are dictated as to how teach and what needs to be left out. We no longer teach the arts and humanities, the main base for making well-rounded individuals. There is more teaching to the test than teaching to what is

needed it to be well rounded. We tend to teach to the test because we do not want to be blamed if a student does not make a grade

More improvements would be necessary for those schools with low-performing scores since all schools are required to meet the same goals (Linn, 2003b, as cited in Kim, 2004, p. 10). Several studies on high-stake testing point to the disadvantage suffered by minority and English language learners. Schools with high-minority and high poverty levels are often subjected to the strongest performance pressures (Madams & Clark, 2001; Reardon, 1996; as cited in Kim, 2004, p. 12).

#### English Language Learners are Restricted from a Rigorous Academic Curriculum

Learning gains will not be reflected with rapid test score gains (Kim & Sunderman, 2004) placing in greater statistical disadvantage schools with large minority enrollment and rationally integrated schools. These types of schools will have to meet more achievement targets that predominantly upper-White schools. In order to achieve, the schools have new curriculum materials that have scripted instruction. ELLs cannot successfully learn and be taught at the same level of their native speaker peers

when the scripted material does not provide freedom of instruction.

Teaching ELLs requires time and planning, modification of lessons and a slower pace. Scripted curriculum does not provide the teacher with flexibility. Under the law ELLs are left behind.

#### Research has been Ignored

Allington's (2001) findings present scripted materials as a quick fix for education. "Effective teaching is not standardized and cannot be scripted" (p. 28). A belief exists that the use of scripted materials can help the inexperienced teacher to present a lesson; all students will be learning at the same time, the same thing on the same day. The creators of these materials have publicized that using them is so easy that anyone with high school or Jr. College can teach. This is an insult to the teaching profession.

#### Teaching is becoming a Blue-Collar Job

Allington's findings suggest that teaching has been lowered in status, and that business and educational products are profiting from education. These corporate businesses are making teachers feel and look "dumb." Teacher discontent is presented by the exodus of teachers leaving the teaching profession. Teachers do not accept

that politicians, policymakers and businessmen have to tell them that are not highly qualified and they need to follow a script (scripted curriculum). Teachers need to teach according to their students needs.

#### To Reduce the Achievement Gap is Not Reflected in the Application of the Law

The intent of President Kennedy and Johnson to alleviate poverty is not being followed by the Bush Administration. Instead, NCLB addresses the differences of the rich and the poor through achievement gaps. It punishes many of our US population who rest at the bottom of poverty.

#### English Language Learners Will Be Left Behind

According to Hakuta's (2000) findings, NCLB will not have the expected results from all students; therefore, the schools serving minority, poor and ELL populations always will be behind. It does not matter how much time we use to teach ESL, or what kind of material and methods we use to help the teachers of minorities and English learners teach these students, or how much testing we place upon these students, the federal accountability system will have to modify the way a school is classified for making improvement.

In summary, the downfall of NCLB and its accountability is more likely to affect all states especially those schools enrolling disadvantaged minority students and schools with racially diverse enrollment (Kim, 2004, p. 32). These subgroups rules place schools segregated by race and poverty and integrated schools at greater risk of being identified as needing improvement (p. 32). In most schools, the performance of Latino, White, socio-economically disadvantage, and limited English proficient students will determine whether a school makes AYP. Close to 90% of schools needing improvement contain a Latino, socio-economically disadvantaged, or limited English proficiency subgroup (p. 36).

It is unfair to take away resources from schools. It is unfair that private and faith-based organizations are not held under the same strict and punishing accountability system. They do not have to take the standardized test as required by law in public education. It is unfair that education receives only 10% of what the Department of Defense is receiving. It not fair that President Bush and his philosophy of a "compassionate conservationist" is being used to enhance his political campaign and to line the pockets of corporate business and

publishing companies profiting from students and teachers. It is not fair that President Bush is "fighting" terrorism when our schools are fighting to keep out of trouble and fighting the terrors of testing.

I wonder if with time, labeling individuals will set the stage for frictions among cultures due to their differences and "failure." These manufactured "failures" create false statements that stereotype minorities. And may cause people to look at minorities as trash and unworthy, thus adding to the already negative perceptions of immigration and legal residency of our ELLs.

CHAPTER FIVE  
CREATING A NEW ENDING TO THE NO CHILD  
LEFT BEHIND SERIES

Summary

The objectives of this study were: 1) to understand the background and intent of the NCLB legislation; 2) to document how it is interpreted; 3) to show how it is implemented at the state and local levels, and ultimately; 4) to demonstrated and how it affects English language learners. During my study it was difficult to find precise evidence on the effects of NCLB on ELLs. I found no directions on how conduct instruction specifically targeting English language learners and the use of scripted material, nor how the testing of language acquisition was to affect the ELLs.

In order to understand the background and the legislation of the NCLB, we need to look at who the actors of this law are. The creation of the No Child Left Behind was a Bipartisan Agreement with a Reform Initiative. It is also important to look at the historical background behind NCLB. President George Bush promised to change public schooling while campaigning first as governor of Texas and later as President. Education was one of his first

priorities on his agenda; therefore, it caught the attention of the national public. Education has been an area reserved mostly for the democratic wing and this act was one of the most noticeable events in domestic affairs. President Bush signed the law in January 2001. He commented that under his administration, each child in the U.S. would be proficient in reading and math by the 2013-2014 school year. With that intention, we have the main aspects of the law:

- Federal Law requires accountability systems and standardization of curriculum.
- The federal government is in command over instructional methods and decides what kind of educational materials schools should have.
- NCLB monitors what teachers do and what they can do in the classroom.
- NCLB affects every single child in the school system.
- It most notoriously impacts students attending schools with high concentrations of poverty.  
(Those schools with old and dilapidated books, buildings or schools lacking materials and less qualified professionals to teach our students).



NCLB has created accountability systems that label our schools. Schools are designated as "low performing," "performing," or "high performing schools" after receiving the results from standardized testing scores. It is like receiving a report card from the government. If the school does not raise its tests scores in its first years, several actions will be taken into consideration. These may go from hiring new school personnel or closing a school.

At the same time, parents have the option to transfer their children and send them either to a private or charter school elsewhere by using "vouchers." Under the law, transfers to a private school have to be free of charge to parents. The tab will be paid by the school district. On the other hand, a school has to provide supplemental educational services free of charge to parents if a school does not make any progress in two consecutive years. These services include after school tutoring. These services are provided by private, faith-based organizations or by the same school district at the home school.

In California it will be harder to comply with the law and make AYP. NCLB unfairly punishes schools serving larger number of low-income and minority students.

California has a larger population of Black, Latinos, socio-economically disadvantaged and limited English proficient students than other states in the nation.

Publishing companies are profiting from NCLB. These companies sell their products under false statements. All of the materials are not research based and promise extraordinary accomplishments in student achievement. For example, this is the case of scripted curriculum (such as Open Court that stress the use of phonics to enhance student academic achievement). These programs are regimentally implemented and teachers are closely monitored. Students are being taught the same lesson, same page, on the same day as their peers in other classrooms. Such programs advocate a "one-size-fits all" curriculum.

So in order to comply with the law, districts have bought instructional materials that endorse the "based on scientific research" instructional methods and materials to teach our children. It is assumed that standardized materials and curriculum will "equalize" instruction. Strong emphasis on the implementation of these educational programs and practices is placed on the teaching of reading and math, leaving the rest behind.

Since the year 2000, states have used standardized testing to serve as gatekeepers (Valencia, 2002). With

NCLB, high-stakes testing is mandatory to all students from grades K-12. The test is administered yearly and students are tested in the area of math, reading and writing. This yearly testing presents a problem for all students including ELLs. One test determines if a student will be able to obtain a high school diploma. If a child does not show improvement during his/her academic years, the results serve as indicators of success or failure to graduate. In addition, English language learners have to take the test without exception to their language acquisition levels or if the test makes sense or not to the ELLs.

Even though the intent of NCLB is to ensure that students from low-income and minority population receive a good education, closing the achievement gap is not the intent of the Bush administration. Behind the law are hidden aspects that bring business interest into his personal hidden agenda. Education is big business. I strongly agree that each government has its hidden agenda and it is not necessarily to enhance the quality of life and the education of the poor and the minorities. Poor and minority individuals are big business for the upper-white social class. It is easier to profit from the more

vulnerable. President Bush's business background has set up more openly support for educational privatization.

He considers himself as a "compassionate conservative," and strongly believes that private organizations will assume more responsibility for addressing the nations social problems (poverty, hunger, homeless and adding to this list poor quality education). He supports vouchers, and faith based organizations. Federal funds such as Title I are tied to accountability and test scores. Even though President Bush has provided funds for education, they are not enough. School districts have to share their funds with private schools reducing the expenditure to educate a child properly.

By examining the history of education, how the school system works, their policies, laws, the relationship between the local and federal government, we can trace these notorious educational changes over the years. The NCLB Act proposed to equalize and provide high quality education for all the students in the United States in grade K-12. It may seem fair and with good intentions; however, the proponents of this law did not look at the consequences of this law on students, teachers, administrators and local and state governments. The saga of the NCLB still continues. I hope for reason to finally

take hold. This legislation needs to be rescinded and overhauled to support children, not harm them.

### Recommendations for Not Leaving Behind English Language Learners

The following recommendations resulted from my literature review. These suggestions are directed to educators, administrators, policy makers and anyone who is interested in following and supporting changes to the script in the series of the NCLB.

The literature reviewed presented a general scope of the problems that NCLB has created in the schools. Many of the studies were too broad and generalized. The term "minority students" was used in most of the studies. Minority is an umbrella term for many subgroups: Immigrants, Latinos, Mexican-American, English language learners, low-socio economical disadvantaged or special education students. It is a great opportunity for all interested in these subgroups to pursue investigations in different areas with more detail. Among my recommendations I found a need to pursue further studies:

- Longitudinal, Qualitative and Quantitative research on ELLs and the Effects of scripted curriculum after grades 3-12; the measure of

language acquisition and academic advancement using scripted materials.

- Follow up studies in the areas of school choice and supplemental educational services for ELLs.
- According to Ramirez, Yuen, and Ramsey (1991), limited-English proficient students may need prolonged assistance if they are to succeed in an English-only mainstream classroom.

Limited-English-proficient students in [...] instructional programs improved their skills in mathematics, English language, and reading as fast as or faster than students in the general population. Providing substantial instruction in the child's primary language does not impede the learning of English language or reading skills (p. 19).

- Allington's (2002) suggestions include support to teacher development.
- Teachers need to be "on vogue" with the educational research and academic advancement. Professional developmental activities must be planned and provided by the district or create

liaisons with the local universities to train and enhance teacher's quality.

- Schools could create "expert teachers" that can serve as the resource teacher in a school. These experts can function as mentor teachers and provide professional support to all the teachers in need.
- Allington (2002) recommends that ELLs need a full time tutor. Providing tutoring has helped raise the academic achievement in reading from the poor reader to average (50% levels). One or two tutors or teacher's aide per class to help in the classroom instead of one tutor for 20 minutes assisting 20 ELLs students.
- Federal funds must support and make mandatory class size reduction in schools serving poverty neighborhoods, as well as, to help pay for higher salaries for fully credentialed teachers, and to provide bonuses to teachers teaching in the most needy schools.
- The federal administration needs to modify the accountability systems for our English language learners. ELLs should not be put under pressure

with standardized testing when they are not acquainted with the academic language.

- Standardized testing to assess academic knowledge should be put on hold until an ELL student achieves the academic language in the second language in order to be compared with a native speaker. It is necessary to understand and remember that academic language takes more than 5 years to be learned.
- Holistic assessment to measure their progress must be used instead of standardized testing. Teacher's observations, teacher made test materials and portfolios should be part of their continuous assessment.
- All teachers should be trained and qualified to teach all students, including ELLs. US school populations are constantly changing and US demographics too.
- English language learners should not be placed in segregated classrooms with students with learning disabilities. ELLs should be placed in a heterogeneous setting that promotes and encourage learning.



- A mainstream class, English Only class or Structured English Immersion class must not host more than ten English language learners during the school year. Teachers of ELLs need time to "teach" all the students. More than ten students create a difficult learning environment for all students.
- Teachers should not be refrained from explaining to parents their parental rights about testing waivers and options for educational services.
- Teachers should not be the only ones responsible for students' academic achievement. Principals are responsible for hiring qualified teachers. Friendship and favoritism over one teacher that is "not highly qualified" should not be the sole criterion for putting him/her in charge of the ELL department.
- Principals are responsible for a school to function properly. If a school is not making progress, the principal should be the first to be removed. Often, teachers do not perform their duties well due to lack of support and understanding from the principals.

- Parents should be more responsible for their child's academic achievement. Many parents just blame the teachers for the failures of their children. Many parents do not provide any support to their children.
- When standardized testing is given to ELLs, ELLs should receive accommodations for the use of dictionaries, tape recordings of instructions, translations of standardized tests, use of the native language to answer, flexible time and breaks, clarification of idiomatic expressions and instructions throughout testing is recommended.
- Policymakers, businessmen and people in general should listen to the teachers' expertise and their knowledge of language acquisition to create materials or use methods that are appropriate for teaching ELLs, as well as follow respectable research and studies that suggest better ways to enhance students academic achievement and success.

In order to close the academic achievement gap, NCLB needs to modify how to evaluate a "low performing school." Title I funds should be used in the implementation of

programs within the schools and not have to hold 20% of their funds to pay educational services for private schools or for outside educational services. It would be beneficial if the federal government provided suggestions and technical assistance to low- performing schools in order to better their academic achievement.

Children, especially those limited in English, economically disadvantaged and with learning challenges are the most vulnerable and the ones I believe concern us the most.

### Conclusions

The research saga became more like a soap opera, waiting for the next episode without the commercials. From observing the multiple scenarios, it was analogous to how the public watches their favorite show wishing for the latest episode to continue. With this perspective in mind, I started placing the actors in their roles and looked at them in the same way I would while reading a literary piece. After each episode an analysis of the characters and the plot was concluded. I do not apologize for this analogy, but policy in education and NCLB is like watching a satire of our society on TV.

The NCLB has detrimentally impacted children throughout this nation. The No Child Left Behind Act enacted by President George Bush has affected many people. Individuals have undergone similar tribulations, stresses and problems dealing with NCLB. The most popular media in which commentaries and the latest news on NCLB I found was on the Internet, e-mails and list servers. This medium serves as open forum to comment on anything that relates to our drama. Many articles talk about budgets, allocation of funds, agreements and disagreement of one or various provisions of the law, teachers' complaints, injustices at local and school levels, complaints or positive comments from parents, teachers, researchers and policymakers.

NCLB does not believe in the natural learning process of students learning English as a second language nor the individual's learning modalities. Support also must come from home in order to be successful. If a school does not achieve accordingly, a sanction is applied and further decisions for restructuring a school fall under the overwhelmed teacher and students. Motivation to excel and a strong desire for our children to learn and be proficient in all areas is the main concern of all teachers. I cannot conceive of a single teacher, parent or local government that does not wish them the same.

If NCLB continues to concentrate on the failure of schools serving the most disadvantaged students with lower test scores, it will take away support for public schools that are trying to do a good job educating the needy students (Kim & Sunderman, 2004).

Carol Ann Tomlinson (2002) comments against the negative punitive and careless effects of NCLB:

Perhaps most regrettable is that this new legislation repeats a past pattern of approaching a group of largely poor and minority students with minimal expectations for achievement. That these students are often poorly served in school (and in society) is both evident and tragic. The question is whether they will be better served by an educational initiative that emphasizes baseline performance or one that is directed at ensuring their growth well beyond proficiency. (Education Week Commentary, 11/6/02, p. 36, Proficiency is not Enough)

It is too early to provide concrete evidence of the effects of the NCLB law on English language learners. It is up to the teachers, principals and local educational agencies to stop the episodes in these series and modify their scripts to make the law successful.

In brief, I believe that NCLB is not helping students. NCLB has changed to MCLB: "Many are being left behind." It is creating a new generation of students, our future, limited in their education. The NCLB emphasizes high achievement in reading and math, but it is not

forming individuals that are capable to think, reason and be creative. In a democracy we need citizens that have these character traits and qualities. Limited curriculum does not help an individual to be complete.

We are creating a community of learners that lack culture and it seems that we are just creating individuals that will compete for a job only at factories or menial jobs. NCLB will make sure that each child knows how to read, a job application and to know enough math to count the money received for payment of his/her underpaid job. Perhaps, the present government does not want thinking citizens.

If we want students to succeed in their future lives, let's provide them with more funds without being limited to its use. Let the experts in education decide what is best for their students and what works well in their classrooms. Let's stop the unfair classification of poor performers on all students and local and state educational systems that have high concentrations of poverty and high concentrations of minorities attending schools in dilapidated barrios (ghettos). Let us not become the punisher withholding funds that are necessary for a school district to function.

NCLB is creating classroom that show no enthusiasm for learning. We need variety in teaching, use of multiple intelligences, and a variety of techniques to teach lessons, that suit the needs of our students. It is in the teacher's role to use spontaneity and creativity to make the students learn in various ways.

I am saddened that the next generation of students will no longer learn about history, geography or science because there is too much emphasis in reading and math. There is pressure to make students learn their sounds and the numbers. We have become the educational generation of "drill and kill" with copies of extra dittos with hundreds of skills to practice.

NCLB should encourage and look at the gains of students. Students are learning. I do not believe they are receiving quality education under NCLB. If we continue on this path, our students will become the robots of the future. We will make possible for them to follow instructions well, but not think. We will instruct them well enough to just read and fill out employment applications. They will not be the mathematicians of the future corporate businesses. They will only be able to count the products under the roof in an assembly line if they are lucky enough to get a job. They will not be able

to think and decide critically since we have killed the interest for learning.

Getting rid of poverty and providing students with a warm and secure home, food and extra money to spend on books would alleviate the problems of low achieving students. Testing or holding funds from our most delicate and vulnerable students won't help them at all. Children need a nurturing and safe environment in which mistakes are acceptable in order to learn from them, instead of making them believe mistakes are wrong. There is no such thing as perfection. Trying to be the best is different than being perfect.

Not even moving our best-experienced teachers and principals to the poorest communities is going to make our children perfect. To make better choices and decisions about how to teach our students should be the main key with sufficient financial resources and technical support.

Even though the intent of NCLB is to ensure that students from low-income and minority population receive a good education, closing the achievement gap will be not achieved. I strongly agree that this administration has its hidden agenda and it is not necessarily to enhance the quality of life and the education of poor and minority and ELLs.



Garan (2004) states: Education is a big business. Poor and minority individuals are big business for the upper-white social class. It is easier to profit with the more vulnerable. In California it will be harder to comply with the law and make AYP. NCLB unfairly punishes schools and California has one of the largest populations of Black, Latinos; socio-economically disadvantaged and limited English proficient students in the nation. All students including ELLs need to be evaluated in a more holistic way.

In addition, NCLB is making teachers run away from their professions due to the hard constraints of teaching. ELLs are not making my teaching easier and interesting. Using the words of Garan, (2004), Our president has created "crisis to sell cures" to Students attending "sick environments." They will have their medicine by attending schools of their choice: private and faith based schools and by providing remedies with supplemental educational services. I believe that it is in our hands (teachers) to make the decisions to choose our own scripts. If we let others decide for us, we will become objects of the oppressor, the director of the play; in other words, the federal government. We cannot let the manipulators control how we teach and provide education to our most vulnerable

students in order to suit the economical interests of politicians, policymakers and corporate businesses that profit from education. When teachers are not free, we become the actors, the puppets that others' hands make us move. The way to play a role, or how to act in this play, is each teacher's decision, the key players in education. Inevitably, NCLB will change the way it has been cast. Without proper directions and a lack of appropriate funding, the magnum production will result in a fiasco. It is up to us to create the change, and again take the role of directors and modify the law to make it work.

I believe that putting too much pressure on our teachers and students to hit AYP's will not help at all. English language learners will show improvement but slowly. We need to use multiple measures and not underestimate English language learners are capable of.

Paulo Freire firmly believed that educational change must be accompanied by significant transformations in the social and political structure in which education takes place" (McLaren, 2000). I am part of the educational change and it is in my hands to make decisions on how to write the history and the story of education. I see a government that wants totalitarian control over the masses, but does not take into consideration the

population to be educated. A government oppressor does not involve teachers and their expertise in the education of the masses. Teachers are the bridges that connect two different worlds: the rich and the poor, the educated and illiterate. Freire (1970) would agree that by taking control of teachers, the government (what he would call the oppressors) shut off the basic right of individuals to express one's own intentions. American public education is a democratic right.

By taking control of the main characters of "the play," the teachers, Freire would see the government as a manipulator of the masses. Being critical or subversive of NCLB, in this case, would be "a position that threatens the interest of those who are already served well by the dominant culture" (p. 148).

To be subversive, thus, is the only recourse and response to the negative effects and intentions of the NCLB on education.

Si la humanización de los oprimidos es subversión, también lo es su libertad. De ahí la necesidad de controlarlos constantemente. Y cuando más se los controle más se los transforma en "objetos," en algo que aparece como esencia inanimado. (Freire, 1970)

With Garan (2004) words I wish to end: "The Federal government must keep essential knowledge so only a

privileged few can succeed" (p. 42). We cannot allow this to happen or we will collude in the dismantling of public education and the loss of our democratic rights.

APPENDIX A

POWER POINT PRESENTATION FOR THE THIRD ANNUAL  
COLLEGE OF EDUCATION RESEARCH AND SCHOLARSHIP  
SYMPOSIUM CALIFORNIA STATE UNIVERSITY,  
SAN BERNARDINO MAY 20, 2004  
FIRST PLACE AWARD

## THE POLICY IMPLICATIONS OF THE NO CHILD LEFT BEHIND ACT FOR ENGLISH LANGUAGE LEARNERS.

✦ Jacqueline E. Arroyo de Romano

Scholarly Project for a Master's Degree in  
Education, June 2004  
California State University, San Bernardino

## 3<sup>RD</sup> ANNUAL COLLEGE OF EDUCATION RESEARCH AND SCHOLARSHIP SYMPOSIUM

### OBJECTIVES

- A) Understand the background and intent of the legislation
- B) How it is interpreted
- C) How it is implemented at the state and local levels
- D) Ultimately, how it affects English language learners

### Methods/Literature Review

- ❑ Collection of Information
- ❑ Document Analysis of NCLB
  - Harvard Civil Rights Project
  - Garan's Critical Analysis of NCLB
  - Allington's Big Brother's Imposition
  - NCLB official web sites and US ED Literature
- ❑ Impact of NCLB Policies on teachers and children
- ❑ Everyday testimonies of own lived experiences
  - Position as public school teacher of English language learners

### Understand the Background and Intent of the Legislation

- ❑ Bipartisan Agreement with Reform Initiative
- ❑ Accountability and Standards
- ❑ Controls Instructional Methods and Materials
- ❑ Monitors What Teachers Do and What They Can Do in the Classroom.

### Hidden Intent

- ✦ Privatization of Education
- ✦ Systematic Dismantling of Public Education
- ✦ Vouchers
- ✦ Faith-based Organizations
- ✦ Corporate and Big Business Profits
  - Testing/ Required Reading Curriculum

## The NCLB Act's Major Aspects :

1. Federal Interventions for Schools Accountability
  - a) Federal Funding and Title I
  - b) Highly Qualified Teachers
2. Scientifically-Based Research
  - a) Standardization of Curriculum (math and reading)
  - b) High-stakes Testing
3. School Choice and Supplemental Educational Services
4. Flexibility

## NCLB Affects Every Single Child in the School System

- ✦ Be proficient in reading and math
- ✦ Most notorious impacts are upon:
  - Minorities
  - Low Socio-economic and Disadvantaged Students
  - Students Attending Schools with High Concentrations of Poverty
    - Old and dilapidated schools, lack of materials, and highly qualified professionals to teach.

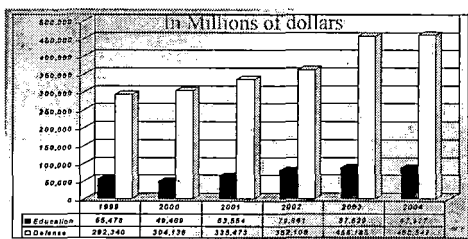
## Federal Interventions for School Accountability: Impacts

- Schools Need to Make AYP in Order to Comply
  - Students labeled as "in need of improvement"
- Schools in Need of Improvement/Reduction of Title I (80% ) Set aside 20% of total fund allocation
- School Districts Use 20% to Pay for Private Educational Services and Provide School Choice
- Creation of Subgroups
- 95% Participation

## Federal Funding and Title I Funds

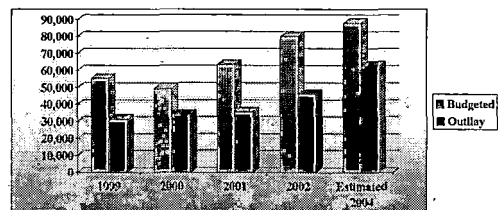
- ✦ Comparison of Federal Budget for Education and Defense Department for the last 5 years
- Disproportionate Distribution of Funds
- Gross Under Funding of NCLB

## Federal Budget



## Education Budgets and Outlays

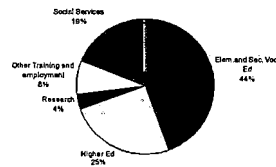
In millions of dollars



## Education Budget for 2004

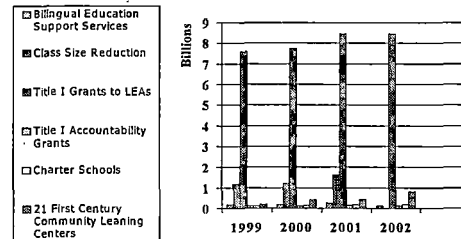
87,927 millions of \$

❖ Divided into 50 states



## Title I Funding

❖ Source: Consolidated Federal Funds Report, U.S. Census Report, Fiscal Years 1999-2002



## Critical Analysis and Findings

Harvard Civil Rights Project

1. Federal-State Relationships
2. States Response to NCLB
3. Choices for Students in Low Performance Schools
4. Schools Districts and Supplemental Ed. Services

Garan, Elaine, Ph. D.

*In Defense of Our Children*

Allington, Richard

*Big Brother and the National Reading Curriculum*

My personal experiences

## Standardization of Curriculum

- ❖ Scripted Curriculum: "Teacher Stupidification" (Allington, 2003)
- ❖ Reading First, Early Reading First
  - Coaching and Policed
  - Same Lesson, Same Page, Same Day for All Children no Matter their Learning Needs and Development
- ❖ No Flexibility for Teachers Teaching Ells
  - No Research Based for Ells

## HIGH-STAKE TESTING

- ➔ Federal, State and Local Testing Mandatory
  - ➔ Only One Score Used to Determine AYP
  - ➔ "Failing or not making progress" labels
  - ➔ Non-English Proficient Students Mandated to Take Test in English
  - ➔ Parents not Informed of their Rights to Waive Test
  - ➔ Assumption that One Test Measures Competence
  - ➔ Unfair Assessment Practices
  - ➔ Testing Takes Quality Time Away from Instruction
- e.g., At least one to three months spent on year long testing

## School Choice and Supplemental Educational Services

- ❖ School District Chooses and Makes Decisions
- ❖ Transfer of students to another public school with transportation provided
- ❖ Reading readiness, writing readiness, and mathematics readiness as appropriate
- ❖ Tutoring Services provided by private or public organizations



## How it Affects English Language Learners

- Undue Punishment for High Poverty Schools not Meeting AYP
- Unfair Use of School Resources
  - ✦ Policing Teachers
  - ✦ Mistrust of Teachers Professionalism
- Limited Access to Curriculum
- Unfair Testing/Labels

## Conclusions

- ✦ NCLB is a punitive system
- ✦ Unfair Labeling and Testing
- ✦ Educational services impact harshly upon the academic development of students from low, socio-economical status, minority and English language learners attending low performing schools.

## Recommendations Longitudinal, Qualitative and Quantitative Research on Ells and the Effects of:

- ✦ Scripted curriculum after grades 3-12
- ✦ Measure of Ells -English Language Development
- ✦ Follow Up Studies of School Choice and Supplemental Educational Services

APPENDIX B

NO CHILD LEFT BEHIND ACT OF 2001 TITLE III:

LANGUAGE INSTRUCTION FOR LIMITED ENGLISH

PROFICIENT AND IMMIGRANT STUDENTS

(107<sup>TH</sup> CONGRESS, 1<sup>ST</sup> SESSION)

DECEMBER 13, 2001 ABSTRACT

### **TITLE III - LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS**

Sec. 3001. Authorizations of appropriations; condition on effectiveness of parts.

#### ***PART A - ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT***

Sec. 3101. Short title.

Sec. 3102. Purposes.

##### **Subpart 1 - Grants and Subgrants for English Language Acquisition and Language Enhancement**

Sec. 3111. Formula grants to States.

Sec. 3112. Native American and Alaska Native children in school.

Sec. 3113. State and specially qualified agency plans.

Sec. 3114. Within-State allocations.

Sec. 3115. Subgrants to eligible entities.

Sec. 3116. Local plans.

##### **Subpart 2 - Accountability and Administration**

Sec. 3121. Evaluations.

Sec. 3122. Achievement objectives and accountability.

Sec. 3123. Reporting requirements.

Sec. 3124. Coordination with related programs.

Sec. 3125. Rules of construction.

Sec. 3126. Legal authority under State law.

Sec. 3127. Civil rights.

Sec. 3128. Programs for Native Americans and Puerto Rico.

Sec. 3129. Prohibition.

##### **Subpart 3 - National Activities**

Sec. 3131. National professional development project.

##### **Subpart 4 - Definitions**

Sec. 3141. Eligible entity:

#### ***PART B - IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS***

Sec. 3201. Short title.

Sec. 3202. Purpose.

Sec. 3203. Native American children in school.

Sec. 3204. Residents of the territories and freely associated states.

## ***TITLE III-LANGUAGE I INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS***

*SEC. 301. LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT CHILDREN AND IMMIGRANT CHILDREN AND YOUTH.*

*Title III (20 U.S.C. 6801 et seq.) is amended to read as follows:*

## ***"TITLE III-LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS***

*"SEC. 3001. AUTHORIZATIONS OF APPROPRIATIONS; CONDITION ON EFFECTIVENESS OF PARTS.*

*"(a) AUTHORIZATIONS OF APPROPRIATIONS.*

*"(1) IN GENERAL.-Subject to subsection (b), there are authorized to be appropriated to carry out this title, except for subpart 4 of part B, \$750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.*

*"(2) EMERGENCY IMMIGRANT EDUCATION PROGRAM.-There are authorized to be appropriated to carry out subpart 4 of part B (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.*

*"(b) CONDITIONS ON EFFECTIVENESS OF PARTS A AND B.*

*"(1) PART A.-Part A shall be in effect for any fiscal year for which the amount appropriated under paragraphs (1) and (2) of subsection (a) equals or exceeds \$650,000,000.*

*"(2) PART B.-Part B shall be in effect only for a fiscal year for which part A is not in effect.*

*"(c) REFERENCES.-In any fiscal year for which part A is in effect, references in Federal law (other than this title) to part B shall be considered to be references to part A. In any fiscal year for which part B is in effect, references in Federal law (other than this title) to part A shall be considered to be references to part B.*

## ***"PART A-ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT***

*"SEC. 3101. SHORT TITLE.*

*"This part may be cited as the 'English Language Acquisition, Language Enhancement, and Academic Achievement Act'.*

*"SEC. 3102. PURPOSES.*

*"The purposes of this part are"*

*(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;*

*"(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children*

can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b)(1);

"(3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

"(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

"(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

"(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

"(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

"(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring"

(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal

"(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 1111(b)(2)(B); and

"(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

*"Subpart 1-Grants and Subgrants for English Language Acquisition and Language Enhancement*

*"SEC. 3111. FORMULA GRANTS TO STATES.*

"(a) IN GENERAL.-In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 3113, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

"(b) USE OF FUNDS."

(1) SUBGRANTS TO ELIGIBLE ENTITIES.-The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at

least 95 percent of the State educational agency's allotment under subsection (c) for a fiscal year--

"(A) to award subgrants, from allocations under section 3114, to eligible entities to carry out the activities described in section 3115 (other than subsection (e)); and "

(B) to award subgrants under section 3114(d)(1) to eligible entities that are described in that section to carry out the activities described in section 3115(e).

"(2) STATE ACTIVITIES.-Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency's allotment under subsection (c) to carry out one or more of the following activities:

"(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing, requirements for teaching limited English proficient children.

"(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in"

(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

"(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

## REFERENCES

- Adler, R. B., & Rodman, G. (2003). Understanding human communication (8th ed.). New York: Oxford University Press Inc.
- Allington, R. L. (2002). Big brother and the national reading curriculum: How ideology trumped evidence. Porstmouth, NH: Heinemann.
- Altweger, B., & Strauss, S. L. (2002.) The business behind testing. National Council of Teachers of English, 79(3), 256-261
- Bailey, S., & Mosher, E. K. (1968). ESEA: The office of education administers a law. New York: Syracuse University Press.
- Berlak, H. (2003). The "No Child Left Behind Act" and Teaching Reading: Policy Brief. Retrieved May 21, 2004 from: <http://www.asu.edu/educ/epsl/EPRU/documents/EPRU-0304-20-RW.doc>
- Budget of the United States Government: Fiscal Year 2005. (2004). Retrieved on February 10, 2004 from <http://www.gpoaccess.gov/usbudget/fy05>
- California State Department of Education. (1969). History of Title I ESEA. Sacramento, CA: Author.
- California State Department of Education. (1969). NDEA III., manual of instructions and information. Sacramento, CA: Author
- Cary, E. (1975). What every teacher should know about Students rights. Washington, DC: National Education Association of the United States.
- Cholo, A. B., & Rado, D. (2004, May 10). Latino students often trapped in lagging school. Retrieved on May 10, 2004 from [http://www.susanohanian.org/show\\_atrocities.html?id=2360](http://www.susanohanian.org/show_atrocities.html?id=2360)
- Consolidated Federal Funds Report Fiscal Years 1999-2002. (2004). Retrieved on May 6, 2004, from <http://harvester.census.gov/cffr/asp/Agency.asp>

- Cotton, D. (2003). Why education is useless. Philadelphia: University of Pennsylvania.
- Cummins, J. (1999). Research, Ethics, and Public Discourse: The Debate on Bilingual Education. Presentation at the National Conference of the American Association of Higher Education. Washington, D.C: University of Toronto.
- ESEA, Title IVB., Manual of Information: Fiscal Years 1979-1980, 1982-83. (1979). Sacramento, CA: Author.
- Faith-based and community initiative. (2001). Retrieved April 1, 2004, from <http://www.whitehouse.gov/government/fbci/grants-catalog.atrisk.html>
- Garan, E. M. (2004). In defense of our children: What every parent, teacher, and taxpayer needs to know. When politics, profits, and education collide. Porstmouth, NH: Heinemann.
- Hakuta, K., Butler, Y.G., & Witt, D. (2000). How Long Does It Take English Learners to Attain Proficiency? Retrieve February 17, 2004, from <http://www.stanford.edu/~hakuta/Docs/HowLong.pdf>
- Hardy, L. (2004). The high cost of NCLB. Retrieved on February 17, 2004 from: [http://susanohanian.org/show\\_nclb\\_stories.html?id=104](http://susanohanian.org/show_nclb_stories.html?id=104)
- Irvine, J. (2003). Assessment and equity in a cultural diverse society. from: Educating teachers for diversity: Seeing with a cultural eye. New York: Teacher College Press.
- Kim, J., & Sunderman. G. L. (2004). Does NCLB Provide Good Choices for Students in Low-Performing Schools? Retrieved February 28, 2004, from [http://www.civilrightsproject.harvard.edu/research/esea/good\\_choices.pdf](http://www.civilrightsproject.harvard.edu/research/esea/good_choices.pdf)
- Kim, J., & Sunderman. G. L. (2004). Large Mandates and Limited Resources: State Response to the No Child Left Behind Act and Implications for Accountability. Retrieved February 28, 04, from [http://www.civilrightsproject.harvard.edu/research/esea/state\\_report.pdf](http://www.civilrightsproject.harvard.edu/research/esea/state_report.pdf)



MARY (*to Policeman (2)*)  
Asshole. (*pause—paces*) ... Ruined my stockings.

*Nick lays down on the bench using his coat as a pillow.*

MARY (*To Nick*)  
You're pathetic.....

*He ignores her.*

MARY  
Do you even care how many people are killed each week with hand guns?

*He continues to ignore her.*

MARY  
How many *kids* have to die so you can have your little gun to play with?! (*pause – stares at Nick*)

*He continues to ignore her.*

MARY  
How many kids waste their lives in prison so you can have your little gun to play with? Guns are like the black plague. They don't care who they kill.

NICK  
Unlike the plague, guns don't kill...people do.

MARY  
Yeah! Because they have guns to kill with.

NICK  
Oh, gees, lady...leave me alone, you're beating a dead horse.

MARY  
Truth too much for you.

Orfield, G. (2004) Inspiring vision, disappointing results: Four studies on implementing the no child left behind: Introduction. Retrieved February 28, 2004, from <http://www.civilrightsproject.harvard.edu/research/esea/introduction.pdf>

President Bush implements key elements of his faith-based initiative. (2002, December 12). Retrieved March 12, 2004, from <http://www.whitehouse.gov/news/releases/2002/12/20021212-3.html>

President delivers state of the union address. (2002, January 29). Retrieved May 6, 2004 from <http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>

President discusses no child left behind act. (2004, January 8). Retrieved March 12, 2004, from <http://www.whitehouse.gov/news/releases/2004/01/20040108-3.htm>

President proud of bipartisan approach to education reform. (2002, January 8). Retrieved March 12, 2004, from <http://www.whitehouse.gov/news/releases/2002/01/20020108-2.html>

Press briefing by mayor Steve Goldsmith, reverend Mark Scott and a white house official on the faith-base initiatives. (2002, December, 12). Retrieved May 6, 2004, from: <http://www.whitehouse.gov/news/releases/2002/12/20021212-3.html>

Press conference with President George W. Bush and education secretary Rod Paige to introduce the President's education program. (2001, January 23). Retrieved March 12, 2004, from <http://www.whitehouse.gov/news/releases/2001/01/20010123-2.html>

Remarks by the President in submission of faith-based proposal. (2001, January 30). Retrieved May 5, 2004, from <http://www.whitehouse.gov/news/releases/20010130-3.html>

Rist, R. C., & Anson, R. J. (Eds.). (1997). Education, Social Science and the Judicial Process. New York: Teachers College Press.

- Spring, J. (2001) The American school: 1642-2000 (5<sup>th</sup> ed.). Boston: McGraw Hill.
- Sunderman, G. L., & Kim, J. (2004). Expansion of federal power in America education: Federal-state relationships under the no child left behind act, year one. Retrieved April 21, 2004, from [http://www.civilrightsproject.harvard.edu/research/esea/Federal\\_report.pdf](http://www.civilrightsproject.harvard.edu/research/esea/Federal_report.pdf)
- Sunderman, G. L., & Kim, J. (2004) Increasing bureaucracy or increasing opportunities? School district experience with supplemental educational services. Retrieved April 20, 2004, from [http://www.civilrightsproject.harvard.edu/research/esea/increasing\\_bureaucracy.pdf](http://www.civilrightsproject.harvard.edu/research/esea/increasing_bureaucracy.pdf)
- The Columbia Electronic Encyclopedia. (2003). National defense education act. Retrieved February 26, 2004, from: <http://www.infoplease.com/ce6/societt/A0834940.html>
- Tomlinson, C. A. (2002, November 6). Proficiency is not Enough. Education Week, 36.
- U.S. Department of Education. (2003). Education in the United States: A brief Overview. Washington: D.C: Author.
- Valdez, G. (2001). Learning and not learning English: Latino students in American schools. New York: Teachers' College Press.
- Valencia, R. R. (2002). Chicano school failure and success: Past, present and future (2<sup>nd</sup> ed.). London: Routledge/Falmer.
- Vygotsky, L. S. (1978). Mind in society: The development of higher psychological processes. Cambridge, MA: Harvard University Press.
- Wink, J., & Putney, L. (2002). A vision of Vygotsky. Boston: Allyn & Bacon.