

The No Child Left Behind Hoax

The following talk by Rethinking Schools editor Stan Karp was given at meeting on “The No Child Left Behind Hoax” sponsored by Portland Area Rethinking Schools on Nov 7, 2003.

My name is Stan Karp and for the last 27 years I’ve been a high school teacher in Paterson, N.J., one of my state’s poorest urban districts. For 24 of those years, I taught English and journalism to high school kids. For the last three, I’ve been a team leader of a small school academy project inside my large dysfunctional comprehensive high school and also a facilitator for my high school’s whole school reform efforts. I’m also a self-confessed school reform addict, and I’ve spent a good part of my life in meetings about school reform, a significant portion of that with my friends at Rethinking Schools.

Now as a school reform addict, I know that I’m here today among friends. I know what Friday afternoon means to most teachers (and most other folks), and for so many of you to turn out on a Friday afternoon to talk about school reform—the good, the bad, and, in the case of the law we’re here to discuss today, the very ugly—you have be a little addicted too.

I bet you’re the kind of people who know what AYP stands for, and that some of you get a crazed look in your eyes when you hear the words “highly qualified teacher.” And some of you probably still have to grit your teeth to call the Elementary and Secondary Education Act of 2001 by the euphemistic Bush title: “No Child Left Behind.” (My current favorite variation is: No Child’s Behind Left.)

Unfortunately, the new federal education law, which is currently wreaking havoc in schools from Portland to Paterson, is not a laughing matter. This 1100-page bill was passed a few months after 9/11 when few people were paying close attention in Congress or elsewhere. It may well be the worst education bill ever passed by the federal government. There are so many things wrong with this law, so many things that are educationally inappropriate and hostile to the welfare of public education that we can only talk about some of them today.

Top Ten Reasons Why NCLB is a Fraud

Now I’m not a big David Letterman fan. I’m usually fast asleep long before he tells his first joke. But I want to borrow one of his gimmicks today and offer up my “Top Ten Reasons Why the New Federal Education Law is a Fraud,” why the NCLB Act will not deliver on its promises to close the academic achievement gaps among groups of students, or bring school improvement to low performing schools, or assure that every child has a high quality teacher.

Now let me say at the outset that these are all worthy goals. Who would oppose a federal pledge to “Leave No Child Behind”? Who opposes the idea that all kids should receive a high quality education from a well-prepared teacher and that schools should be accountable for serving all children?

One of the problems we have in responding to this law is that it comes couched in high-sounding rhetoric that appeals to everyone who cares about schools and kids. And if you raise your voice and say, wait a minute this sounds nice, but the real impact this law is going to have in schools will not achieve any of these wonderful goals but instead is going to seriously damage one of the most important democratic institutions we have, then you need to be prepared to do a lot of explaining...and I'm going to try to do some of that today.

And maybe we need to start these explanations by reminding people that this is not the first time we have heard high-sounding rhetoric from Washington that's used to cover up an agenda very different from the one we're hearing about:

Do you remember hearing that we were going to bring freedom to the Iraqi people who would welcome U.S. troops as liberators and help us find those weapons of mass destruction?

Do you remember hearing that all we needed to get the economy going was a few billion dollars in tax cuts for the wealthy and a few billion more for the corporations?

Do you remember hearing that Al Gore won Florida?

So it's not like we don't have a lot of experience to remind us that we need to look behind the rhetoric we hear from our political leaders and the information we get from the media to discover the real agendas at work in our country's public policy and political life.

If you do look behind the rhetoric, you'll find many reasons why NCLB is a fraud that will leave many children behind and may in fact leave no public school standing. I'm going to lay out all ten of my reasons first, just to give an indication of the many issues NCLB raises, most of them poorly, and then, focus on a couple of what I think are the most important issues and hopefully come back to others in later discussion or through questions and answers. I also want to save a little time to mention some ways people are responding to NCLB around the country and what the prospects are for transforming it into a law that can really help our schools and our kids or for getting rid of it.

Here's why I think NCLB is hoax:

1. The massive increase in testing that NCLB will impose on schools will hurt their educational performance, not improve it.
2. The funding for NCLB does not come anywhere near the levels that would be needed to reach even the narrow and dubious goal of producing 100% passing rates on state tests for all students by 2014.
3. The mandate that NCLB imposes on schools to eliminate inequality in test scores among all student groups within 12 years is a mandate that is placed on no other social institution, and reflects the hypocrisy at the heart of the law.
4. The sanctions that NCLB imposes on schools that don't meet its test score targets will hurt poor schools and poor communities most.
5. The transfer and choice provisions of NCLB will create chaos and produce greater inequality within the public system without increasing the capacity of receiving schools to deliver better

educational services.

6. These same transfer and choice provisions will not give low-income parents any more control over school bureaucracies than food stamps give them over the supermarkets.
7. The provisions about using scientifically-based instructional practices are neither scientifically valid nor educationally sound and will harmfully impact classrooms in what may be the single most important instructional area, the teaching of reading.
8. The supplemental tutorial provisions of NCLB will channel public funds to private companies for ideological and political reasons, not sound educational ones.
9. NCLB is part of a larger political and ideological effort to privatize social programs, reduce the public sector, and ultimately replace local control of institutions like schools with marketplace reforms that substitute commercial relations between customers for democratic relations between citizens.
10. NCLB moves control over curriculum and instructional issues away from teachers, classrooms, schools and local districts where it should be, and puts it in the hands of state and federal education bureaucracies and politicians. It represents the single biggest assault on local control of schools in the history of federal education policy.

OK, that's ten: But frankly this law is so bad, I needed 11, so here's #11 on my top ten list of reasons why NCLB is a fraud:

11. NCLB includes provisions that try to push prayer, military recruiters, and homophobia into schools while pushing multiculturalism, teacher innovation, and creative curriculum reform out.

Where did NCLB come From?

Now obviously we can only take up some of these issues today. But it's also important to ask where NCLB came from. This law is a key part of the Bush Administration's domestic policy, and will play a prominent role in its re-election campaign.

But we need to remember that NCLB is very much a bipartisan monstrosity. It passed 381-41 in the House and 87-10 in the Senate.¹ While there have been some disagreements, particularly over funding levels, the law's main Democratic architects, Sen. Edward Kennedy of Massachusetts and Rep. George Miller of California, continue to defend the law as an essentially positive program for schools.

The Bush Administration is trying to use NCLB to promote an aggressive agenda of privatization, including attempts to revive a voucher movement that has been defeated in every state referendum where people had a chance to vote. For Bush, education reform is an "outreach" issue. He came into office as a dubiously-elected President with historically low levels of support among African Americans and a well-deserved anti-poor, pro-business image. Education is one of the few areas that allows a Republican President to posture, however disingenuously, as an ally of poor communities of color, especially those that have been badly served by public education.

But the common ground that really gave birth to NCLB was the standards movement. And this traces back to the first education, President George Bush the elder, and to the Governor's Education Summits promoted by then-Arkansas Governor Bill Clinton. The standardize and test strategy now enshrined in NCLB, and raised to new and absurd heights by the adequate yearly progress formulas now being imposed on your local neighborhood school, was made possible by a decade of promoting standards and tests as the key to school improvement.

Over the past ten years, virtually every state has adopted new curriculum standards. These standards are of widely varying educational quality and relevance to what takes place in real schools. But NCLB puts states, districts and schools under federal mandate to enforce the standards above all other considerations through annual state testing or face losing federal funds.

One of the more amazing things about NCLB is how the most intrusive education law in the history of federal policy, which now has Washington mandating test score targets for every school in the country, could be passed by an Administration that regularly presents itself as a deregulating enemy of big government. NCLB represents a virtual nationalization of control over local schools, and its highly prescriptive and punitive sanctions are the kind of wrongheaded social engineering by Washington that political leaders like the President have supposedly railed against for years.

One of the biggest challenges we face in responding to this law is explaining to the public in general and to parents in particular what's wrong with the overuse and misuse of standards and tests, and that opposing standards and tests does not mean opposing accountability for schools or for ourselves, as teachers. We need to remember that defending public education from the kind of attacks that NCLB represents, does not mean defending what now exists. As Monty Neill of FairTest points out in an article in the current issue of Rethinking Schools, we need to recognize that a section of the civil rights lobby supported NCLB precisely because they saw it as "a powerful step toward ensuring that states and districts address long-ignored educational needs that have led to weak education for many students."²

We need to address these concerns and to develop new and credible processes for school accountability and improvement. But we also have to make clear why the standards and testing regime holds out no hope of solving the problems it pretends to document. Many of us know that standards and tests offer a kind of counterfeit accountability, one that sorts and labels kids on the basis of multiple choice questions as a substitute for educating them. Mandating standards and tests is also a substitute for the much more difficult and costly process of real school improvement. Externally imposed standards and tests do virtually nothing to increase the capacity of schools to deliver better educational services. They also generally impose high-stakes consequences on the victims of educational failure rather than on those responsible for it. For all the talk about "accountability," there is no accountability in this new law for the politicians who are imposing large measures of ill-conceived and counterproductive administrative and budgetary chaos on schools and local districts.

Still we do need to find more effective ways to show to parents and communities how the

narrow misuse of standards and test can make things worse instead of better for their kids and their schools. When tests are used to make high stakes decisions about whether kids get promoted or graduate, or whether schools lose funding, or teachers lose their jobs, they narrow the focus of what teachers do in classrooms and limit the ability of schools to serve the broader needs of children and their communities.

High-stakes tests push struggling students out of school; they promote tracking; they encourage schools to adopt inappropriate practices for young children, children with special needs and English language learners. Overuse of testing encourages cheating scandals, and makes schools and students vulnerable to inaccurate and, at times, corrupt practices by commercial testing firms. On top of all that, standardized tests are scientifically unreliable and provide little real useful information about the learning needs of students.

In the past two decades, most states and districts have already dramatically increased the use of standardized tests without solving the problems of poor schools. Quite the opposite, they have turned many schools into “dittolands” where dismal test prep drives the curriculum. Now some estimates are that the new federal law will require states to give more than 200 additional tests on top of what they’re already using.³

As many of you know, NCLB requires states to give annual tests in reading and math in grades 3-8 and at least once in high school. Additional annual tests are mandated in science beginning in 2007. (If you teach social studies, music or art, not to mention my own favorite, journalism, forget it. You are not on the test and your programs will receive less and less support or resources. Incidentally, Oregon is one of the states that gets low marks for not having enough tests. If you look at the compliance charts prepared by Education Commission of the States you’ll see that Oregon shows up in yellow a lot. Yellow is not good. Yellow is for “partial compliance,” or even red for “not on track.” Apparently you do terrible things here like allowing parents to decide when special education students should start taking the state tests and sometimes exempting students from taking tests in languages they don’t understand. NCLB wants to put an end to that kind of thing, and maybe already has.)

This obsessive over-reliance on standardized tests in the name of accountability is more than bad education policy. It is a political effort to push other more democratic approaches to school improvement, like multicultural curriculum reform, smaller schools & class size, alternative assessment practices and school-based, collaborative professional development, to the sidelines.

In the past two decades, the standards and testing movement has done even more than the privatization schemes of the voucher supporters to move school power away from teachers, classrooms, schools and local districts, and to put it in the hands of state and national politicians.

AYP and School Improvement

But, as I said before, the standards and testing regime holds out no hope of solving the problems it puts under the spotlight. The key to school improvement is not standards and tests, but

teachers and students. And while those teachers and students need a complicated mix of support, resources, motivation, pressure, leadership and professional skills to succeed, the idea that this mixture can be provided by standards and tests is simply wrong, and is not supported by any educational research or real world experience.

The AYP formulas in the new federal law are the latest example of just how damaging this approach can be. They simply set schools up to fail, including largely successful ones. They seem designed to demoralize educators and create a widespread public perception of systemic failure that will erode the common ground that a universal system of public education needs to survive. The AYP formulas also invest a ridiculous power in an extremely unreliable measure—year-to-year changes in standardized test scores. Under AYP each school is judged by a matrix of 40 indicators tied to state test scores. Maybe you've seen the charts. There are ten student groups: total population, special education students, English language learners, white, African-American, Asian/Pacific Islander, Native American, Hispanic, other ethnicities, and economically disadvantaged. (Interestingly, there is no gender break down.) In each category there are two mandates: 95% of kids in each group must take the state assessment, and each group must make its AYP target, which is the increment needed to bring all students in every group to 100% passing by 2014. Any school that misses even one of these targets for two consecutive years gets put on the needs improvement list and is supposed to start permitting student transfers. Three years brings corrective action and supplemental tutorial services; four years brings reconstitution, including replacement of school staff; five years brings restructuring, which can mean anything from state takeover to imposing private management on public schools.

There are a variety of interpretations of how these sanctions will be implemented, but they really represent a grab bag of random ideas that have been pulled out of thin air. A study by the conservative Fordham Foundation, an enthusiastic supporter of NCLB, noted that the “reform interventions” mandated by the new law have a success rate of well below 50%⁴, but they are codified in NCLB as if they were proven paths to school improvement. Since this is uncharted territory based on political agendas rather than educational experience or real knowledge of what it takes for schools to improve, the potential for chaos is enormous. In fact, creating chaos is actually one of the political agendas at work.

All of these sanctions are triggered by annual changes in the AYP numbers. Yet researchers have found that 70% of the change in year-to-year test scores can be caused by random fluctuation—things like variations in transient student population or statistical error in the tests themselves. They concluded, “The AYP system cannot tell the difference between a learning gain and random noise.”⁵ The smaller the group or sub-group, the greater the margin for error. As a matter of fact one of the key variables in state implementation of NCLB is the size that is set for the relevant subgroups. For example, Minnesota made a substantial revision in the number of schools on its needs improvement list when it changed the threshold for the number of special education students a school must have

from 20 to 40.⁶ Some research, however, suggests that any subgroup sample less than 170 is inherently unreliable and that the more diverse a school is the more unreliable the data.⁷

Another way states are responding to NCLB is by lowering their standards to avoid sanctions. For example, last year when the list of failing schools came out—excuse me, I should say the lists of schools in need of improvement but which are generally reported in the local paper as failing schools—Michigan had the most, over 1,500. Arkansas and Wyoming had none. So Michigan lowered the percentages of students who had to pass to get a school off the list, for example dropping the required passing rate on the high school English test from 75% to 42%. That reduced the number of schools needing improvement to 216.⁸

Colorado decided to lump students previously characterized as “partially proficient” with those called “proficient.”⁹

In Texas, the supposed model for the Bush education plan, the Texas State Board was so horrified at the poor performance on the new third grade reading test, they voted to reduce the number of correct answers students needed so fewer schools would miss their AYP targets.¹⁰

This is the kind of school improvement you can expect from AYP. First huge areas of schooling are excluded completely from what is tested, and then statistical game-playing manipulates what’s left.

Inequality and ‘information gaps’

Unfortunately so far the public has only a vague idea of any of this. A Gallup poll conducted this summer found that 76% of those surveyed knew “very little” or “nothing” about the new law. The poll director told Education Week that “It is an uninformed public on No Child Left Behind.”¹¹

Not surprisingly, a large majority of those polled agreed with the rhetorical goals of the legislation. Again, who would oppose a federal pledge to “Leave No Child Behind”? Over seventy percent also said it was very important to close achievement gaps between students from different racial, ethnic, and class backgrounds.

But according to Education Week, when they were told about the actual testing and accountability provisions of the law, “the public disagreed with some of the core elements...”

For example, under AYP the only thing that counts is the number of students who score above the passing level on the state test. So on a test like New Jersey’s High School Proficiency Assessment, where a passing score is 200, helping a bilingual, special education student from a low income household raise his/her test score from, say, a 50 to 199 counts for nothing, and in fact counts as a failure in four different subgroups. Moving a student from 199 to 200 is success.

According to the Gallup poll, when the public is given these kinds of details, people opposed such practices. Eight-four percent said “a better way to judge the job a public school is doing would be to determine whether students show ‘reasonable improvement from where they started.’ Sixty-six percent, also said a single statewide test would not provide a fair picture of whether a public school is in need of improvement.”¹²

In other words, the public broadly supports the idea that federal policy should help reduce inequality in education, but is largely uninformed about how NCLB purports to do this. We need to let them know.

But this “information gap” between public support for reducing educational inequality and widespread ignorance about the specific impact NCLB will have on schools is a reflection of a much deeper contradiction at the heart of the new law.

The new federal law imposes a mandate on schools that is imposed on no other institution in society. Imagine a federal law that declared that 100% of all citizens must have adequate health care in twelve years or sanctions will be imposed on doctors and hospitals. Or all crime must be eliminated in twelve years or the local police department will face privatization.

The political agenda that produced NCLB ignores—or even promotes—inequality in virtually every area of society. Politicians like President Bush posture about the “soft bigotry of low expectations.” But the real measure of their concern is what they propose to do about such inequality, not only in schools, but in society at large, and here the record leaves little room for doubt: inequality is as American as processed apple pie.

Take, for example, income inequality among some of the same groups NCLB says must reach 100% test score equality within 12 years. Lots of research has established a strong link between student performance on standardized tests and family income. And while income inequality in a community is no excuse for school failure, certainly any serious federal plan to close the achievement gap in schools needs to concern itself with trends in closely related areas like the resources that families and schools have to work with.

But a look at data on income inequality—especially through the prism of AYP—reveals the hypocrisy at the heart of the NCLB legislation. In 1991 the median household income for black families was about 58% of white income, Hispanic income was about 70%.¹³ If we applied the “logic” of AYP to this key measure of how our economy works, income gaps for blacks would need to narrow by 3.5% each year to pull even within twelve years, the same time frame schools have been given to equalize tests scores. Hispanics, starting with a smaller gap, would have had to close the gap by 2.5% annually.

If you compare this to how the economy actually performed between 1991 and 2002, a period of supposedly unprecedented economic boom and growth, you’ll find the U.S. economy would not have met its AYP targets for income inequality for any year for either group. At the end of twelve years, the gap between black and white income had narrowed only a pitiful 3.7%; for Hispanics the gap was just .4% less than it was in 1991.

If we lived in an alternate universe where income equality really was a goal of federal economic policy and an NCLB-like system of sanctions put pressure on the titans of industry and commerce to attain such a lofty goal, what do you think might be appropriate remedies for such a dismal performance: “corrective action” to borrow the language of NCLB sanctions? Economic “restructuring”? “Reconstitution” of our major corporations? How about “state takeover?”

The point, of course, is that there is no relevant area of social policy, from household income to child poverty rates to health care coverage to school spending, where federal policy currently mandates equality among all population groups within twelve years under threat of sanctions—except standardized test scores in public schools. If this sounds unfair and absurd, it's because it is. It's a plan to use achievement gaps to label schools as failures, without providing the support, resources and strategies needed to overcome them.

Funding implications

Let's look closer at the issue of funding. The media has been filled with complaints by Democrats who voted for NCLB that the Bush Administration has not provided full funding for the law. And it's true that the Administration's current budget calls for about \$12 billion in funding instead of the \$18 billion that Congress originally authorized.¹⁴

But both these figures are light years away from what it would take to realize the promises NCLB makes, even on its own narrow test score terms. William Mathis is a superintendent of schools in Vermont and a professor of education finance at the University of Vermont. He did a study of what it would cost to reach the NCLB mandates. He explained that there are a variety of methods school finance experts use to estimate such costs, like the "professional judgment" method which uses panels of experts to define the resources each child needs to meet a state's standards and then adds them up to arrive at a state figure. Or the "successful school" method that identifies a set of high-achieving schools, examines their spending levels, and generalizes to other schools. There are other formulas too.

Mathis did a study of ten states and what it would cost for every child to meet the state proficiency standards. And he came up with what he called a conservative figure of between \$85 billion and \$148 billion additional dollars each year above current school spending levels, an annual increase of between 20% and 35%. So far, the much touted increase in federal spending accompanying NCLB represents about a 1% increase over current school spending.¹⁵ This is one reason the National Education Association is trying to bring a court suit to force a suspension of NCLB sanctions as an unfunded mandate from Washington.

This is also why some states like New Hampshire are doing cost/benefit analyses to see if even makes sense to keep taking federal money. The New Hampshire School Administrators Association estimated that the state will receive about \$77 in new federal money for each student, while the obligations imposed by the law will cost at least \$575 per student.¹⁶ This in a law that actually includes a provision declaring that states do not have "to spend any funds or incur any costs not paid for under this Act."¹⁷

One possible strategy to educate the public about the yawning gap between the promises and resources associated with this law is to ask the school funding experts in each state to do a similar study, and to go further and calculate what the impact would be if money poured into the

development of standards and tests were instead used on things like class size reduction or school-based professional development.

Transfers and Teacher Quality

Let me touch briefly on just a few other issues. The privatization agenda in NCLB is reflected most clearly in the provisions for school transfers and supplemental services. A straightforward voucher program was taken out of the original proposal as part of the legislative compromise that got it passed. Instead we have provisions that require a district to spend up to 20% of its federal funds to support transfers from failing schools to schools that meet their AYP targets or that don't receive Title I funds. And each state is supposed to prepare a list of approved supplemental tutorial providers for students who remain in schools needing improvement. Both the transfer and the tutorial provisions have lots of complications, but there will be three overall effects:

1. The 20% figure will come nowhere near to covering the costs of providing transportation and tutorial services to all those eligible for them.
2. There are nowhere near enough alternative school placements for the growing numbers of students eligible to transfer.
3. The funds used to support individual tutorial services and transfers will reduce the funds available for whole school improvement in those same schools.

NCLB does not invest in building new schools in failing districts or in building new capacity in receiving schools. It doesn't provide any support for receiving schools to handle an influx of students, especially ones with a history of educational struggles. It doesn't make rich districts open their doors to students from poor districts. A relatively few parents may get additional school choices for their children in districts where open seats exist. But the main impact will be to artificially manufacture a demand for transfers that are not available and that instead can be channeled into new voucher schemes that will ultimately move funds and students to profit-making private school corporations.

This is clearly the intent of some NCLB sponsors. Jeanne Allen, president of the Center for Education Reform, predicted that the regulations would produce "constructive chaos" that could lead to "more supply."¹⁸ So far the "more supply" is another unfulfilled NCLB promise, but the chaos is already building.

This year Chicago identified 1,035 slots for the 240,000 students attending schools on the failing list.¹⁹ Last year in Washington, DC, 15,000 parents were notified of their right to transfer into 240 available spaces.²⁰ Baltimore had 83 failing schools with 30,000 students and 11 receiving schools with fewer than 200 open seats.²¹

On the other hand New York City, with a new Republican mayor supportive of vouchers, has gone further than many other school systems in following the transfer rules. Officials said no transfer requests were rejected. And although the 8,000 students who did choose to transfer were only a small part of the roughly 300,000 who were eligible, those 8,000 transfers have caused widespread chaos

in city schools this fall. One small school principal described how class size rose from the low 20s to over 30, adding, “We’ve had more fighting in one month than we did all last year. And there’s no extra resources. It destroys morale.”²²

I don’t know the exact situation here in Portland, but I understand that Portland has been promoting transfers and has been running into some of the predictable problems. This variation in how far local and state officials are willing to go in implementing some of the most potentially harmful NCLB mandates is another pressure point worth discussing when we get to considering resistance strategies.

Finally, a few words about the teacher quality provisions of NCLB. Just as with the academic achievement gap, NCLB offers dubious remedies for real problems. The fact that large numbers of teachers are under prepared or poorly prepared for their teaching assignments, and that this is disproportionately true of schools in the poorest areas, is a real problem. The quality of teaching and instruction is probably the single most important variable in student academic progress and, unlike some other factors, this is one variable that schools and districts can potentially have a large impact on.

But the “highly qualified teacher” provisions of NCLB don’t measure the quality of teaching, they track credentials, and the link between formal credentials and classroom effectiveness has always been a problematic one. NCLB substitutes new federal regulations for existing state rules and does so in an arbitrary fashion that is having an especially negative impact on middle school teachers, special education teachers, and teachers in small and rural districts. The new regulations usually measure college credits or the scores received on a content area test, and they require teachers to have separate subject area certifications, when previously more general credentials, like a K-8 certificate or a special education certificate, were acceptable. The new rules often don’t credit classroom experience or even consider classroom performance. And they don’t provide the resources districts need to attract more people to teaching careers or to hire teachers in shortage areas.

It’s all part of the bureaucratic, one-size-fits-all plan of NCLB schooling. And the letters that have started going home to parents saying certain teachers aren’t qualified seem primarily designed—as so much of this law is—to demoralize teachers and to increase antagonism between teachers and parents. States are required to notify parents about teachers who fall short of the new regulations and to create elaborate data systems for tracking teacher credentials, But they are not similarly mandated to help teachers meet the new credential requirements. It’s also ironic that the same law which purports to assure that every student has a “high quality teacher” is in fact imposing a testing regime that deskills teachers and degrades classroom practice in a variety of ways that contribute to educational failure instead of reversing it. There is nothing high quality about NCLB.

Prospects for NCLB Reform

Unfortunately there is no getting away from how bad this law is. NCLB is now a time bomb ticking at the heart of public education and threatening massive damage from multiple directions.

But for all its horrors, there are still lots of reasons to believe that it can be effectively opposed or modified before it's too late.

Tomorrow, I understand that there will be a strategy session about how we can respond to the attack on our schools that NCLB represents. I hope many of you will be able to participate in that where we can get into the possibilities of resistance and response more thoroughly.

But I want to close here with a few words about where there may be openings to start building the kind of political pressure that will be needed to force changes.

I think we need to start by acknowledging that there's a big difference between mobilizing people to press for changes in the NCLB legislation and mobilizing people to support a real alternative vision of school improvement that is ultimately tied to educational and social justice. It's a little like the difference between mobilizing opposition to U.S. policy in Iraq and pursuing the long term social changes need to fundamentally transform U.S. foreign policy. Both are important efforts that need to go forward, but they involve a different sets of tasks and strategies.

As uninformed as the public is on NCLB, the potential for getting its support to reform or repeal this law is substantial. The more the public knows about the details of this law, the more they will oppose it. Most people are not in favor of federal control of local schools, especially around issues of curriculum and instruction and especially when the feds only supply 7% of school funding. And while people hold this position for a lot of very different reasons, they can be tactically united against this particular version of bone-headed Washington interference in state and local affairs. And this can give a lot of cover for local, state, and Congressional politicians to oppose, in this case, the long reach of Washington into local schoolrooms.

We can also capitalize on variations in local and state implementation These may provide openings to modify the negative impact of NCLB. For example, many states are in various stages of non-compliance or passive resistance to key NCLB mandates. The superintendent of schools in Los Angeles has called the law's AYP standard a "bad system" and told his administration to ignore its "arbitrariness."²³ In Chicago, officials refused to implement some of the transfer provisions declaring, "If this law was going to cause overcrowding, we were not going to do it."²⁴ In Alabama, the State Board of Education passed a resolution to ignore the notification provisions for teacher quality for the upcoming year.²⁵

Some of this may be bureaucratic inertia, rather than principled resistance. But we need to monitor the decisions that states and districts make in implementing NCLB provisions and, wherever possible, put pressure on officials to consider options that minimize or avoid the damage.

We need to document publicly NCLB's unfunded costs and its counterproductive expenditures, while proposing alternative spending plans.

In Congress there are already ten bills that have been introduced to modify or repeal parts of NCLB. Summaries can be found at the FairTest web site (www.fairtest.org). They include a moratorium on NCLB's testing mandates, measures to suspend the sanctions in any year that full funding is not provided, proposals to change the testing rules to give schools credit for making

relative progress over time, and similar measures. We should determine the best of these bills and then publicly press state and national officials to support them.

Both large teacher unions will be working for NCLB reform, though there are significant differences between them. It's also useful to press state and local union affiliates to put some energy into educating the public about NCLB and lobbying local officials to support changes in it.

Over the next year, there will also begin regional and national conversations among education advocates, including groups like FairTest and Rethinking Schools, that will try to find common ground with those who are concerned about not just killing NCLB, but replacing it with a law that really can provide some desperately needed support for real school improvement strategies, strategies that are not test-driven, not one-size fits all, but that provide a credible basis for tackling the enormously complicated and difficult issues of educational inequality, school accountability, and school improvement. Ultimately it is not enough just to force NCLB off the tracks, because the coming train wreck is, in part, exactly what the free market school crusaders are hoping for. As one observer put it, "NCLB is not the answer to a crisis in public education. NCLB is a tool for creating crisis."²⁶ We need another tool kit.

And finally, as usual, the most important organizing will be local, done by teachers and education activists in schools and local communities, and especially in hard dialogues between teachers, parents, and community members who need to find ways to stand together in support of kids and schools as this law tries to pull us apart. We need NCLB truth squads, fact sheets, letters to the editor, radio call-in campaigns, public hearings about the impact the law is having, community-parent forums: the whole gamut of democratic activity. As usual it's the only thing that will save us, and I thank you for inviting me to be part of that today.

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Notes

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² *NCLB: Don't Mourn, Organize*, Monty Neill, Rethinking Schools, Fall, 2003

³ “*Multiple Choices: How Will States Fill in the Blanks in their Testing Systems?*” Matthew Gandal, Thomas B. Fordham Foundation, February, 2002

⁴ *Can Failing Schools be Fixed?* Ronald. C. Brady, published by Thomas B. Fordham Foundation, Washington, D.C. January 2003.

⁵ See *No Child Left Behind: Costs and Benefits*, William Mathis, Kappan, May, 2003

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¹³ U.S. Census Bureau, Historical Income Tables - Housholds

¹⁴ *On Front Lines, Casualties*, Michael Winerip, September 24, 2003, New York Times

¹⁵ Mathis, Kappan, May, 2003

¹⁶ Mathis, Kappan, May, 2003

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¹⁹ “*Only 1,035 spaces open for city school transfers,*” Lori Olszewski and Stephanie Banchemo, Chicago Tribune, August 16, 2003

²⁰ “*The accountability trap: How ‘No Child Left Behind’ creates crises in public schools,*” Danny Rose, www.onlinejournal.com, August 2, 2003

²¹ “*Slow starts, false starts abound across country,*” Alexander Russo, Catalyst, September, 2002

²² “*In ‘No Child Left Behind,’ a Problem With the Math,*” Michael Winerip, October 1, 2003

²³ Winerip, New York Times, October 1, 2003

²⁴ Winerip, Oct. 1, 2003

²⁵ “*In Need of Improvement: Ten Ways the U.S. Department of Education Has Failed to Live Up to Its Teacher Quality Commitments,*” Education Trust, Sept. 3, 2003

²⁶ Rose, www.onlinejournal.com, August 2, 2003