

NCLB—A Threat or a Challenge to Public Education? A Reply to Edmondson and Shannon

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“They’re setting us up.”

The authors are correct with their opening statement. However, it is the authors who are setting up the readers by suggesting that Shelley’s experience with the Pennsylvania Reading First Initiative is proof that the “Bush Administration’s” *No Child Left Behind Act* (NCLB, 2002) is a vast right wing conspiracy to privatize the public schools and to usurp the authority of local schools and school boards.

NCLB is truly a dramatic shift in federal education policy developed as a bipartisan initiative of Congress to improve education for all students, including students who have been traditionally ignored or marginalized within the standards-based education reform movement. Accountability for results and transparency are the new coins of the realm. NCLB requires public reporting of progress toward meeting state-defined proficiency standards in both aggregated and disaggregated forms. The aggregated format is a typical report of average student performance by district and school. The disaggregated format requires state departments of education, school districts, and individual schools to look deeper at the data and report performance of a number of subgroups (disability, minority status, limited English proficiency, migrant, and gender). No longer may states, districts, individual schools, or the public ignore the progress, or lack thereof, of these vulnerable populations by hiding their performance within the “tyranny of the majority” or what perhaps might better be described as the “tyranny of the mean.”

The Reading First Initiative

The Reading First Initiative is a competitive grant under NCLB. States must compete for the federal grant money by submitting applications specifying how the state will use scientifically proven methods of reading instruction to improve children’s reading achievement. Not all states have submitted applications, nor has the independent review

panel yet approved all applications (U.S. Department of Education, 2003b). The State of Pennsylvania receives over 399 million dollars under the basic ESEA Title 1 grants to Local Educational Agencies. The state’s Reading First Grant is a little over 28 million dollars (U.S. Department of Education ESEA Title 1 Grants, 2003a). The authors are again correct—NCLB “represents a dramatic shift in federal education legislation.” No longer are competitive grant monies simply doled out in a perverse permutation of the welfare state—certain funds such as the Reading First grants are awarded based upon the recommendations of an expert panel’s review of the state’s implementation plan. These grant applications and implementation plans are to reflect the best available knowledge of successful interventions and are not intended to maintain the status quo or to supplant existing local initiatives.

The Pennsylvania Department of Education (PDE) application for Reading First grants notes that the grants are competitive and that only those LEAs whose applications meet the rigorous selection criteria detailed within the application and appendix will receive funding within the first round (Commonwealth of Pennsylvania, 2003c). The application instructions state that LEAs “. . . will have the opportunity to revise and enhance their plans to meet the standard (within the review criteria.) The review panel will provide a summary report to identify areas of the plan that must be addressed” (p. 5; emphasis added).

Shelley claims that the state “set her up” in its application process. A review of the timelines for the Pennsylvania Reading First Initiative and the award announcements is informative:

- September 24, 2002—Announcement of the award of \$28.1 million in Reading First grant to Pennsylvania
- November 8, 2002—Due date for applications for first funding cycle
- November 22, 2002—Announcement of Reading First awards to seven districts
- December 9-11, 2002—Leadership Team training for award recipients
- March 11, 2003—Announcement of Reading First awards to 21 additional districts

It is unclear how the application process was a “set up.” It is impressive that the PDE was able, within a 2-month period, to implement a grant competition with a detailed application process; a 20-page review criteria including “exemplary,” “meets the standard,” and “does not meet the standard” rubrics; and an expert review panel. While Shelley did not meet the first round of award announcements (only 7 of the 43 eligible school districts received an award), it is unclear whether she applied for the second round after amending the application to address the “15 recommended revisions.” Nor is it clear why she submitted her application in “September 2002” when the award was announced on September 25th and the application was due November 8th. Likewise, it is unclear if Shelley’s application was even competitive—the authors note that Shelley’s district “was concluding a state funded 5-year project to improve reading instruction based on the Ohio State Literacy Framework” and “(t)he latest third grade scores were two points below the state average” (p. 31). Given that the Reading First grants are competitive and that a priority was placed on low performing schools, it is possible that Shelley’s district did not make the cut and that other districts with lower third grade scores and without the recent benefit of a 5-year project to improve reading were deemed to have a higher need.

It seems somewhat disingenuous to argue that the failure of a single applicant to receive a competitive grant is proof that the state and federal governments have set public schools up for failure. A competing argument might be that Shelley needs to work collaboratively with the PDE to revise the application and to secure the much needed funding for her school district.

The Golden Rule

The authors have apparently forgotten the “golden rule” of cooperative federalism—“It’s their gold and they rule.” Yes, it is true that the federal government has been using grants to leverage certain policy agendas in education since the “Johnson administration” (although I believe the Land Ordinance of 1785 & 1787 might be a precedent). One wonders if states and local schools would have been as willing to support the education of students of color, students with disabilities, homeless students, English language learners, and a host of other marginalized children without such financial leverage and federal mandates. In the best of the democratic tradition, our elected representatives in Congress have decided that schools no longer need to squander limited federal resources searching for “local solutions to the challenges of reading instruction” but schools should utilize “scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3.” [20 U.S.C. 1201(1)].

Likewise, while the U.S. Department of Education “has not developed or endorsed any list of instructional programs as appropriate . . .” for the Reading First program; it is within the scope of the authority of the PDE to designate “a competitive preference for particular materials, programs, strategies and approaches” (U.S. Department of Education, 2002).

While the authors may disagree with the state’s preference for certain methodologies or with the U.S. Department of Education’s use of federal funds to leverage certain changes in school practices—this is not a basis for an indictment of the entire NCLB Act. Nor is it a basis for an argument that the Act has imposed the will of a “small group of insiders” on “what happens in every primary grade classroom.” The Reading First grants are competitive. Not all states or all eligible school districts have applied for or been awarded a grant. States and districts have free choice—they are free to choose to apply or not to apply for the grants.

Local Control and Local Priorities

Based upon the description of Shelley’s school district, it seems clear that there are numerous challenges to ensure that all students learn and become productive citizens. A declining economy, unemployment, poverty, limited tax base and inequities in the state funding system are challenges that are faced in every state. NCLB and its predecessor, the *Elementary and Secondary Education Act*, provide some, albeit limited, relief to these challenges by targeting funds to meet “. . . the educational needs of low-achieving children in our Nation’s highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance” [20 U.S.C. 6301(2)].

It is unclear how NCLB has forced the students in Shelley’s district to “cover more information in shorter periods of time than their peers in more affluent school districts” (p. 33). Content standards and achievement standards are state determined and state developed [20 U.S.C. 6311 (b) (1)] [34 C.F.R. 200.1]. All students within a state are expected to achieve proficiency on the same state content standards – it is not clear how Shelley’s district is expected to “cover more” unless the district’s curriculum was significantly deficient compared with the state content standards. Likewise, the number of school days and the hours of school operation are locally determined— it is unclear how Shelley’s students have a “shorter period of time” unless the district has fewer instructional days and shorter hours than their more affluent peers.

Similarly, the budget in Shelley’s district has been challenged by “state advice and policies” resulting in “a charter school, full-day kindergarten, and private tutoring

for special needs students (who must travel great distances to meet with tutors)” (p. 33).

These challenges to the local budget are all locally determined policies. A charter school is an “independent public school established and operated under a charter from the local board of school directors” according to the PDE Charter School website (Commonwealth of Pennsylvania, 2003b). Full-day kindergarten is at local discretion and is not required within Pennsylvania. It is encouraged by the PDE and legislature through additional state funding for schools in need of improvement. “Private tutoring for special needs students (who must travel great distances to meet with tutors)” is an individualized decision made by the student’s special education team (p. 33). Private tutoring is certainly not the most effective or most efficient way to ensure students with disabilities receive an appropriate program and would appear to be inconsistent with the “least restrictive environment” requirements of the *Individuals with Disabilities Education Act* [U.S.C. §1412(a)(5) and 34 C.F.R. §300.550-556].

Perhaps a reason for some of the economic problems of Shelley’s district rests not with federal mandates but with a school board and administration that has failed the community by failing to have high expectations for student and teacher performance, more engaged time, an inclusive education system and an open and collaborative process to identify students who need additional assistance to master challenging academic standards.

Privatization or Local Empowerment?

While the authors “see evidence of the movement to privatize public schools in the NCLB policy,” I see evidence of community empowerment to improve low-performing schools (p. 33). While the authors focus on the sanctions of school choice and supplemental services, they turn a blind eye to the school improvement process and gloss over the process for determining adequate yearly progress and the determination of schools in need of improvement.

The accountability provisions of NCLB require, in brief, that each state establish rigorous content standards in reading, math, and science and to define proficiency in reading, math, and science. States are then required to set annual goals for ensuring that all students attain proficiency by 2013. Adequate yearly progress (AYP) is the determination of whether a school and the subgroups within the school have reached the annual goal. When a subgroup or a school fails to demonstrate AYP, they may still be able to achieve the “safe harbor” provisions of NCLB if they can demonstrate that there has been a 10% decrease in the number of students at the lowest level in the state assessment and other goals have been met.

If a school has failed to make AYP for the same subject and the same subgroup for 2 years in a row, the school is designated as a school in need of improvement, or, in Pennsylvania, a “school not meeting federal academic requirements.” Such schools are required to develop a school improvement plan with input from the LEA, school staff, parents and outside experts.

The improvement plan must:

- cover a 2-year period;
- specify the responsibilities of the school, the LEA, and the SEA;
- identify the technical assistance that the state, Institutes of Higher Education, LEA and other providers will be providing to the school to improve the school and/or subgroups performance;
- incorporate “scientifically based” strategies “that will strengthen instruction in the core academic subjects at the school and address the specific academic issues that caused the LEA to identify the school for improvement”;
- specify the “high-quality professional development to the school’s teachers, principal, and, as appropriate, other instructional staff” that directly addresses the academic achievement problem that caused the school to be identified for improvement;
- include strategies to promote effective parental involvement at the school; and
- may “as appropriate” incorporate activities before school, after school, and during the summer. [34 C.F.R. § 200.40-41]

If a school is identified for school improvement, the LEA must promptly notify parents of each child enrolled in the school of that designation. This notice must explain what the identification means and how the school compares with other schools. It must also explain the reasons for the identification, and how parents can get involved. The LEA must also publish information about the action it is being taken to address the problems that lead to the designation for school improvement. It must also explain the parents’ options (known as “school choice”) to enroll their child in another public school within the district that is not in school improvement status [34 C.F.R. § 200.38]

While there have been concerns raised about the parent choice option under school improvement, insufficient attention has been paid to the community empowerment of the school improvement plan. A process that requires the community of learners—parents, school staff, central office personnel and others to work together to identify the needs of the local school, plan strategies and interventions to meet these needs, and demonstrate the effectiveness of

their efforts. Far from being punitive, this process recognizes that the involvement of the community to develop local solutions for local problems is most likely to produce positive results.

This school improvement plan and process does not occur in a vacuum. Most states have designated significant additional monies to assist schools and LEAs with implementing improvement plans and improving student achievement. Pennsylvania has designated over 490 million dollars (Commonwealth of Pennsylvania, 2003a) for school improvement initiatives.

Certainly there are sanctions inherent in the NCLB for schools that have failed to demonstrate adequate yearly progress. School choice is an option available to parents whose children attend a school in need of improvement, but it is an empirical question how many parents will actually avail themselves of this option. Last year, New York City notified some 240,000 eligible parents of their choice option. Only 3,500 applications were received and 1,507 were actually transferred. One rationale for the low participation is the "parents are familiar with their home schools and want their children close to home" (Council of the Great City Schools, 2003, p. 4). Perhaps the demand will change over time as more parents become familiar with the choice option of the NCLB. Interestingly, the choice provision permits transfer to another public school or charter school within the district. It is unclear how this can be interpreted as the privatization of education.

Lastly, it is perplexing how or why a state which sets the content standards for the curriculum, develops the statewide assessment that determines the performance standards and sets the cut scores for the determination of proficiency would adopt such high content and performance standards, and define proficiency at such a level as to cause a significant number of the state's schools to fail. The claim that NCLB is a set up for school failure demonstrates a lack of understanding of the underlying principles of the Act and the role of the state in setting performance standards.

Sunshine is the best disinfectant

NCLB is a bipartisan effort of Congress to ensure that "all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments" [20 U.S.C. 6301 § 1001]. The Act requires that states and schools close the achievement gap between high- and low-performing schools and subgroups and that the public be informed of the progress of schools toward meeting the state standards.

Yes, accountability is threatening; and yes, no teacher, administrator, or parent wants their school to be identified as a low-performing school. Rather than painting NCLB as a set up, I would rather view the Act as an opportunity to demonstrate to the naysayers that public education works and a challenge to educators everywhere to demonstrate that caring, committed communities can fulfill the Jeffersonian tradition of ensuring an educated populace for the preservation of democracy and a strong economy.

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