

Victims or Victimizers?

The Effects of No Child Left Behind on Special Educators in North Carolina

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"Meeting the qualifications [of highly qualified] has become an exercise in bureaucratic compliance," said Andrew J. Rotherham, a member of the Virginia Board of Education and a former education adviser in the Clinton administration. "It's not a process that gets at the fundamental issues of quality or effectiveness." (Chandler, 2007).

Principles are often lost or severely compromised by efforts to operationalize them, particularly when those principles are simplistic or idealized. Nowhere is the failure to realize the espoused principles of educational equity and opportunity for all more evident than in passage and implementation of the *No Child Left Behind Act (NCLB)*. While it is difficult to argue with NCLB's assertion that all students deserve to be taught by highly qualified teachers (Yell & Drasgow, 2005), there is much to challenge in the underlying assumptions and characterization of the "highly qualified" teacher, as well as in NCLB's approach to achieving this goal, particularly for those students most in need -- students with significant disabilities.

Since its advent in 1975, the Individuals with Disabilities Education Act (IDEA) has required statements of educational needs and goals in an annually reviewed *individualized education plan (IEP)* in which a plan for addressing each individual student's needs is outlined using: (1) the child's present level of educational performance; (2) the annual goals for the child, including short-term instructional objectives; (3) the specific educational services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs; (4) the transition services needed for a child as he or she begins to leave a school setting; (5) the projected initiation date and duration for proposed services; and (6) objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved. See 20 U.S.C. § 14 01(a)(20). Although access to the general education curriculum and accompanying assessments is recommended, when it is appropriate, students with disabilities may participate in an altered curriculum or set of assessments, according to their needs, as determined individually by the IEP team. Students may access the general education curriculum with accommodations (the same assignments or tests, but with a change in the timing, formatting, setting, scheduling, response and/or presentation); or modifications

(assignment or a test modification changes the standard or what the test or assignment is supposed to measure).

While IDEA does not require that students with disabilities receive the “best” possible education, it does require that what they receive is "sufficient to confer some educational benefit upon the child . . . (including) specialized instruction and related services which are individually designed to provide educational benefit to the child." (Rowley, 458 U.S. at 200-01; Walczak v. Florida Union Free School District (2nd Cir. 1998). According to IDEA, the determination of whether a school district is providing a free, appropriate public education centers on procedural and substantive requirements. The use of the IEP is examined to determine: (a) Did a district comply with the procedural requirements and provisions in developing the child's IEP? and (b) Was the district's IEP "reasonably calculated to confer educational benefit?"

No Child Left Behind requirements are in direct opposition to principles operationalized by IDEA, which has long recognized the need to individualize teaching, learning and accountability measures for students with significant disabilities, using accommodations or modifications, as needed. Under IDEA, needed modifications and accommodations are determined by a team, and written into a student’s Individualized Education Program or Section 504 Plan, *according to the student’s individual needs*. This is at odds with NCLB’s determination to measure all students in the same way, using the same instruments, and comparing them against the same standards. In this way, NCLB mischaracterizes the concept of equal treatment in education as being equivalent to “same” treatment. Modifications to accountability measures are allowed for only an arbitrarily predetermined percentage of the school population, rather than according to individual student needs. Special educators work to reconcile requirements of NCLB and IDEA requirements, with varied levels of success. At the same time, a misguided attempt to assure that all teachers are “highly qualified”, brings these same educators’ professional skills and knowledge into question. In its simplistic conceptualization of equitable educational opportunities and access to highly qualified teachers, NCLB in effect, victimizes teachers, then blames them for the failure of their students to meet mandated communal standards.

A recent statement on NCLB by the Council for Exceptional Children (CEC) called for changes in the law, as follows: “NCLB states a noble ambition: to ensure all children--including those with disabilities and those from diverse cultures—meet high academic standards. However, through our work with special educators across the nation, as well as parents of children with exceptionalities, CEC recognizes that as the law is currently written, its goals are difficult to achieve” (Kuren, 2007, p.1). Among other changes, CEC calls for a major overhaul to NCLB in the areas of more accurate and meaningful school progress reporting, more appropriate highly qualified teacher requirements and support

and assessment requirements for children with disabilities. These sentiments are echoed in the recent *Joint Organizational Statement on No Child Left Behind (NCLB) Act*, undersigned by a group of over 100 national civil rights, education, disability advocacy, and religious groups calling for major changes in federal education legislation. This far-reaching number of professional associations and individual citizens includes the American Counseling Association, the Association for Supervision and Curriculum Development, the Children's Defense Fund, the Council of Administrators of Special Education, Inc., the Council for Learning Disabilities, the Forum for Education and Democracy, the International Reading Association National Association for the Education of African American Children with Learning Disabilities (NAEAACLD), the National Association of Pupil Service Administrators, the National Association of School Psychologists, the National Association of Social Workers National Parent Teacher Association (PTA), the National Reading Conference, the National Rural Education Association and the National School Boards Association (among many others). Clearly the inadequacies of NCLB Act have touched a far-reaching national group of schools and students.

The Teacher Shortage

The shortage of teachers is one of the most compelling barriers to assuring that all students, including those with significant challenges, have access to highly qualified educators. This chronic problem is not only ignored, it is exacerbated by NCLB. The 26th Annual Report to Congress on the implementation of IDEA estimates a need for over 2 million new special education teachers during the next decade. This includes a projected annual need to fill 23,000 vacancies and an additional 20,000 for positions currently filled by uncertified teachers. The estimated 12,000 graduates/year of the nation's special education teacher preparation programs will not meet this need (US Department of Education, 2005).

Increased diversity in the newly trained work force to match the increasing diversity in public schools is also necessary. Currently, 44% of the school-age population receiving special education services is *non-white*. This does not account for the students identified as white who are English Language Learners (ELL). However, of trainees who received Office of Special Education (OSEP) stipends in 2002-2003, only 31% were of "non-white" background, and only 8% had disabilities (OSEP Personnel Preparation Program Database, 2004). Additionally, because the 44% figure does not include the significant number of students *misidentified* as disabled, predominantly students of color and English language learners, we must prepare all teachers to be culturally competent and skilled at assessment, collaboration and consultation with other professionals to address the unique challenges posed by diverse learners. While NCLB addresses providing teachers with training in instructional strategies that have increased the achievement in particular

content areas of students of color, it does not acknowledge the context of schools and education, nor does it recognize many of the complex issues that contribute to their lack of success. Nor, despite the wealth of research, does it include cultural competence or collaboration between general and special education in its requirements for “highly qualified.”

North Carolina as a Microcosm for NCLB Failure

North Carolina is a state that includes an area with the highest concentration of Ph.D.s and wealth in the nation, three of the poorest counties in the country, and an increasingly diverse population. The state provides a microcosm in which to analyze the effectiveness of NCLB and its goal of providing every child with a “highly qualified” teacher.

In North Carolina (NC), 18% of special educators lack certification (Comprehensive System of Personnel Development, 2004). While there has been a 71% increase in special education students since 1988, the number of fully licensed teachers has actually *declined*. One month into the 2006-7 school year, 35 districts in eastern NC posted 87 special education position vacancies. This number does *not* include districts that closed classes, employed alternative licensure teachers, or filled vacancies with unqualified personnel. Schools in NC cannot recruit sufficient qualified special educators (NC-DPI, 2004).

Until 2006, NC used several alternate routes to fill teaching vacancies: (1) emergency permits; (2) provisional licenses (out-of-field teachers); (3) temporary licenses (until they can pass PRAXIS II); or (4) endorsements (out of field under 50% of the time) (NC-DPI, 2006). While the increase in the total number of public school teachers increased less than a 6% between 2001 and 2004, there was a 34% increase in the same time period of teachers employed with no teacher training (NC-DPI, 2004). This shows NC’s growing dependence on “lateral entry” teachers. For many years, these “lateral entry” teachers could begin teaching immediately, and work on certification simultaneously. As of 2006, lateral entry teachers are required to pass the *PRAXIS II* prior to placement in the classroom. Because few can do so with no teacher preparation, many potential teachers will not pursue a teaching career through lateral entry, choosing instead to pursue other entry-level careers, increasing the teacher shortage (NC-DPI, 2006). A recent Association of Supervision and Curriculum Development poll demonstrates that NCLB has not alleviated this shortage at the national level, as fewer than 4.6% of surveyed members thought that NCLB had brought in more highly qualified teachers (ASCD, 2006). Further, morale deteriorates for existing teachers, as explained by Sandra Nichols (2006):

“With all the finger pointing and name calling, it's a wonder teachers can push this negativism out of their minds while they turn their full attention on their students...

Veteran teachers often speak of their own retirements. They can't wait! *Others express incredulity regarding how anyone can enter the teaching profession in these days of No Child Left Behind.* [emphasis added] Even administrators are not immune, with many abandoning the public schools. One, a departing superintendent in New York, summed it up saying today's school reform is really regression. He has grown intolerant of 'the naysayers and chuckleheads who look at numbers and throw mud.'" (p. 1).

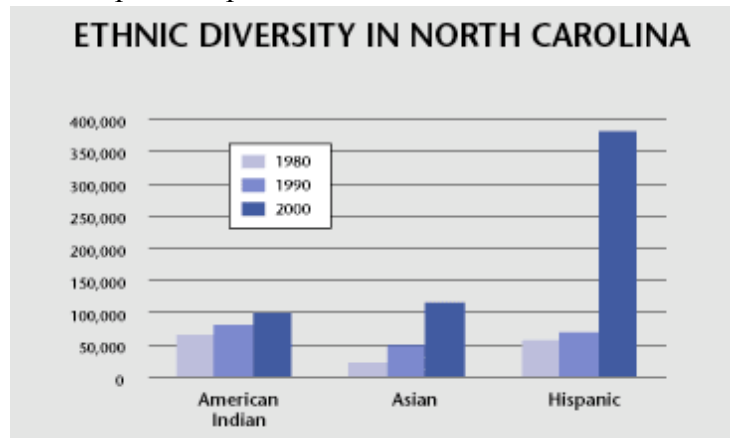
Shortages of Teachers for Populations with Significant Disabilities. From 2003 to 2005, 73 of 112 districts identified "finding [licensed] teachers to serve students ... [significant] disabilities" as one of their *most difficult* challenges (NC-DPI System Level Teacher Turnover, 2005). A closer look at CSPD reporting methods reveals that the shortage is even more critical than represented in the reports. *First*, reported numbers represent categories of students served rather than full-time personnel. For example, one person may serve several children who are reported in different disability categories such as "multiple impairments," "deaf-blindness," and "severe/profound mental retardation". The 3 separate teachers reported in the data in each of these categories are actually one person. *Second*, the person serving students in several categories may not be certified at all or not in their students' classification (e.g. may have training in general curriculum, or learning disabilities, but be serving students with significant disabilities). The 22% with "provisional" certification could mean anything from those with no training to those who are close to completing full certification. In NC, the number of provisional licensed teachers is unacceptably high and increasing annually. Growth in the number of students with low-incidence disabilities, an inability to hire licensed teachers and high attrition rates all contribute to the increasing number of inadequately trained special education teachers (USDOE, 2004; NC-DPI, 2004). Accountability requirements imposed by NCLB, added to the already difficult task of keeping up with IDEA, 2007 requirements contribute to attrition rates (Schrag, 2003).

Segregation. Ensuring that all students are educated in the least restrictive environment (LRE) is still a major challenge in the US, where 32 states have consistently failed to ensure LRE compliance (National Council on Disability, 2000; US-DOE, 2004). Segregated students have limited access to the general education curriculum and population, and as a result, students with disabilities have difficulty meeting NC student performance system standards. Graduation rates of students with disabilities in NC are lower than the national average (USDOE, 2004). These results further underscore the fact that separate services are inherently unequal. The need to "cover curriculum" in general education at a pace linked to testing schedules imposed in response to NCLB further reinforces separate placement of students who learn differently or at different rates.

The Effect of NCLB on Immigration and Poverty Issues. Education programs in eastern

NC struggle to effectively serve the dramatically increasing (442% from 1990 to 2000) numbers of Latino children (NC Center for Health Statistics, 2002). Figure 1 shows the continued unprecedented rise in the Latino population. In 2004, migration accounted for *over 70% of rural population growth in NC*, as opposed to 38% in the 1980s.

Figure 1. Increase in Hispanic Population in NC



The most recent NC-CSPD report noted that *17% of all students receiving special education in NC were Latino* (2004). By 2020, NC’s Latino population is predicted to increase from 9% to 16% of the total population (NC-Rural Economic Development Commission, 2006). The unacceptably high overrepresentation in special education of children who are low-income, non-white, and/or English language learners continues to be well documented (26th Annual Report to Congress, 2005).

U.S. Census figures reveal poverty rates for children to be as high as 40.8% in some NC counties. Poverty and unemployment rates are highest in eastern NC and there are more high school dropouts and fewer college graduates (NC Census, 2006). High-need districts experience great difficulty attracting and retaining qualified teachers. High-poverty schools are more likely to have more out-of-field teachers, and to perform poorly on measures of student achievement (Orfield & Lee, 2005). This is certainly reflected in eastern NC, where 35 out of 38 (92%) schools did not meet Adequate Yearly Progress (AYP) goals for 2005-6. In their attempts to meet adequate yearly progress (AYP) targets, schools are more likely to continue to over-identify students for special education who are most vulnerable to school failure due to ethnicity or poverty - factors other than a disability.

What is a Highly Qualified Special Educator?

Determining what constitutes “highly qualified” in special education is a tremendous challenge. *No Child Left Behind* uses the rhetoric of “highly qualified”, but what that

'looks like' – explicitly or implicitly – is narrowly and simplistically defined. While NCLB repeatedly emphasizes evidence-based practices, there is little evidence of research-based decision-making in the definition of teacher quality. The rhetoric of NCLB focuses on teachers' possession of a bachelor's degree (not necessarily in education), their ability to pass a subject matter knowledge test and familiarity with "evidence-based" teaching strategies indicated by state certification standards (Yell & Drasgow, 2005). The National Board for Professional Teaching Standards (NBPTS) identifies accomplished teachers as those who "know their students" and "how they learn". Yet, NCLB requires that special educators pass elementary teacher tests of subject knowledge and teaching skills, or subject area tests in every content area they teach at the middle and high school level. Nowhere is their knowledge and understanding of students with special needs, or the impact of special needs on teaching, learning and accountability addressed in the designation of "highly qualified" under NCLB.

While at first glance, NCLB seems to echo recommendations from researchers, policy makers, and professional organizations for high quality special education teacher competence, in fact there is a fundamental difference in emphasis and approach. Professional development activities listed in NCLB focus on deepening content knowledge and teaching instructional and classroom management strategies. In contrast, research recommendations focus on knowing and understanding learners and how to meet their needs.

Current "best practice" research recommendations for special educator excellence include: (a) assessment to inform instruction; (b) technology; (c) communication and collaboration; (d) understanding of the learning needs of students from diverse backgrounds; (e) knowledge of and skill in applying research-based practices to address student needs; (f) ongoing professional development; (g) "disability-specific" information; and (h) positive behavior intervention and support (Carlson, et. al. [SPeNSE], 2002; NCTAF, 2003; American Association of Colleges for Teacher Education, 2002; Interstate New Teacher Assessment and Support Consortium [INTASC], 2001; and the National Board for Professional Teaching Standards [NBPTS], 2001).

Interestingly, teachers with state certification (those deemed "highly qualified") most frequently identify as their areas of weakness those standards repeatedly cited as *most* important by researchers. Furthermore, *fewer than half* of principals recently surveyed believe that schools of education adequately prepared graduates in most of these competency areas (Levine, 2006). This absence of confidence in these abilities is not likely to improve under current NCLB professional development requirements.

Accountability. Although special education teachers are not strangers to the need for

detailed records that demonstrate accountability of services to students, recent increases in assessment and reporting requirements is one reason frequently given for high attrition rates (Mezzacappa & Langlan, 2005). Helping teachers make the *assessment and accountability measures* work for them in a positive way (Quenemoen, Lehr, Thurlow, & Massanari, 2001) so that they can *align* assessment to identify individualized needs, Individualized Education Programs (IEPs), learning and progress monitoring, curriculum and instruction, and NCLB alternative assessment accountability requirements (Browder, Flower, Alhgrim-Delzell, Karvonen, Spooner & Algozzine, 2004) continues to be a challenge, despite – or perhaps because of -- NCLB's emphasis on accountability.

No Child Left Behind accountability requirements further burden special educators with increased testing, without providing results that inform teaching. Under NCLB, data is inconsistent, and does not adequately track progress because few states currently assess students in all grades and subject areas. Furthermore, while results are often used in the aggregate to gauge a school system's effectiveness, teachers rarely have access to disaggregated results to inform instruction (Committee for Economic Development, 2000). Consideration of all these issues does not even take into account whether the accountability instruments are effective measures, which is questionable, particularly for students with significant special needs.

Technology. New technologies are often heralded as 'great equalizers' for students with special needs, providing avenues of access to general education classrooms and curriculum (Jackson, 2005; Peck & Scarpati, 2006). While a majority of educators consider technology a vehicle for transforming education, research reveals the discrepancy in available technology between high and low poverty schools. *No Child Left Behind* includes the *Enhancing Education through Technology Program* grant program, but it has consistently been under-funded and emphasizes technology competence for general education students and technology for academic gain, with no attention to adaptive technology for students with significant challenges and limited emphasis on increasing teacher competence. Both special and general education teachers report being unskilled in the area of assistive technology (Carlson, et.al., SPeNSE, 2002). Principals' reports corroborate their weakness (Levine, 2006). This de-emphasis of access to assistive technology directly contradicts IDEA, 2007. Currently proposed funding levels for NCLB will not ameliorate this oversight in the law.

Communication and Collaboration. The most recent reauthorization of IDEA (P.L. 105-17) reiterates the need to limit the time students with disabilities spend away from same-age, typically developing peers. While 93% of special educators work in 'regular' education schools, they spend 80% of their instructional time in the special education classroom (Carlson et al., 2002). In a self-assessment conducted by The Center for Improving Teacher Quality (2006), collaboration between general and special educators

regarding the needs of students with significant disabilities was one of the most frequently cited concerns. While general and special education preparation programs are beginning to recognize the importance of working as partners (Blanton & Pugach, 2005), NCLB accountability requirements are a disincentive to principals and teachers to include students with disabilities in general education environments, or to attempt research-based collaboration methods (Schrag, 2003).

Specialized Skills. There are several areas of fundamental knowledge that teachers serving students with low incidence disabilities must also have. These include setting high expectations; ensuring access to a blend of functional and general education curriculum content; promoting communication, self-determination and self-direction; and using effective instructional strategies and supports (Thompson, Lazarus, Clapper, & Thurlow, 2004; Ryndak, 2003). Because NCLB focuses on a narrow set of academic curriculum and skills, it further negates the need for functional as well as academic curricula.

Positive Behavior Intervention and Support. Inadequate preparation in classroom and behavior management continues to be widely recognized as a significant problem (Levine, 2006). Inappropriate behaviors can be barriers to teaching and learning as well as full participation in schools and communities (George, Harrower, & Knoster, 2003). Teachers serving individuals with low incidence disabilities must be skilled in positive behavior interventions and supports to address challenging behaviors, particularly those related to limitations in communication and social skill development. *No Child Left Behind's* emphasis on classroom management rather than the individual student prevents adequate attention of professional development activities to this empirically valid approach.

Using Research-Based Literature in Classroom Decision-Making. Effective practices are not only mandated by IDEA and NCLB, teachers must be able to employ these approaches in ways that are logical for their students (Giangreco 2002). *No Child Left Behind's* emphasis on teachers using evidence-based strategies does not extend to decision-making about if, how and when to use specific practices for individual students. Furthermore, as noted above, the requirements for “highly qualified” special educators outlined in NCLB devalue knowledge about disabilities and their impact on teaching, learning and accountability measures, further undermining meaningful application of validated practices.

While there is much still to be examined in the limits posed by NCLB in assuring that all students, including those with significant challenges, have access to “highly qualified” teachers, this statement in a letter received by one of the authors during the preparation of this manuscript represents the way in which the principle of equity and access to a quality

education has been compromised by NCLB:

“Dear Parent or Guardian:

This letter is to notify you that your County is entering Title I District Improvement under No Child Left Behind. This means that the school system missed Adequate Yearly Progress (AYP) targets in the same subject area [READING] for at least two years in a row...This means several things for the school district...In revising its Title I plan, this district is *required to focus on the professional development needs of its instructional staff. This must be done by directly addressing the academic achievement problem(s) that caused the school district to be identified for improvement...*”[emphasis added]

This statement, emblematic of the policies and procedures of NCLB, oversimplifies the issues affecting student and school success. Furthermore, it blames the teacher, one of the victims of school failure, and demonizes them as the root of student failure. Teachers are not only victims, but also characterized as victimizers of their students. This propensity to ‘blame the victim’ (Ryan, 1971) extends to those students with special needs, as well. This is apparent in the lack of appreciation for what constitutes a highly qualified special educator as well as the lack of attention to the importance of individualized instruction, access to adaptive technology, and cultural competence. Increased funding proposed by the Bush administration for NCLB promises to continue these harmful trends, with increased funds for an expansion of testing, while reducing special education funds distributed to states (Paley, 2007). Laying the focus of blame on perceived teacher inadequacies thus continues to effectively circumvent any need for providing more adequate resources for this group of students and their educators.

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