The Evolving Role of the Federal Government in Education

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Any discussion of assessment and alignment in U.S. education today inevitably involves an examination of the No Child Left Behind Act (NCLB) of 2001. NCLB is, legislatively, the most recent iteration of the Elementary and Secondary Education Act (ESEA), first passed in 1965 during the administration of Lyndon Johnson and then amended and reauthorized at least five times: in 1967, 1973, 1981, 1988, and 1994. But NCLB also needs to be looked at in the wider context of U.S. social and political history and the history of education since World War II. NCLB exists as the latest development in a process by which the federal government has vastly increased its role in K–12 education in the past half-century, from that of a passive actor mostly providing research, resources, and some guidance to the states, to the major factor driving policy and practice in almost every state and in most of the nation’s 15,000 school districts. A look at the historical background to NCLB is an extremely useful exercise in helping us understand the position in which we educators find ourselves today, how we have arrived at this point, and where we want to see ourselves in the future.

As I explain in my recently published book, Political Education: National Policy Comes of Age (Teachers College Press, 2003), we have never really had a coherent federal policy in education. What we have is a federal role that has evolved over 50 to 60 years, partly because of, and in response to, a failure of the states to act decisively, but also because of larger political

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and social developments that have called for a nationwide response. In the most general terms, national education policy has been shaped by a series of events and factors that can be grouped into several general categories, particularly (1) national security and defense, (2) international economic competitiveness, (3) civil rights, (4) religion, and (5) the War on Poverty.

National Security and Defense

Although the most significant growth of the federal involvement in education has taken place since World War II, one very important earlier piece of legislation was the Smith-Hughes Act of 1917, which has metamorphosed several times and today is called the Perkins Act. The Smith-Hughes Act was passed in the shadow of World War I and was the result of the discovery that a quarter of the people who were called by the draft were illiterate and did not have even the most basic skills. This led to the realization that we had to reform our educational system, particularly our high school curriculum, which at the turn of the last century was still the classic curriculum—literally the study of Greek and Latin and the classics. The Smith-Hughes Act was meant to introduce more relevant subject matter as well as vocational programs to the schools. It established the Federal Board for Vocational Education and provided federal funding to promote teaching in the areas of agriculture, the trades, industry, commerce, and home economics. In practice, this legislation expanded education to a larger segment of the population, but in terms of intention, the act was spurred by national defense needs rather than any specific commitment to widen the scope of public education.

The next important federal legislation in the area of education is still with us today. The Impact Aid Act of 1950, passed just after the end of World War II, made permanent and expanded the provisions of the Landham Act of 1941, which provided support for schools heavily affected by the war effort. Impact Aid was passed at a time of great Cold War military expansion; the original act was amended and enhanced during the Korean War. Impact Aid was intended to address the problem that federal appropriation of land for military bases placed an enormous financial burden on local communities,
which of course were responsible for educating children living on those bases but did not have the right to levy a property tax on federal property. Impact Aid, therefore, provided assistance to school districts that were suffering financially because of the federal presence. In this sense it can be viewed as one step in the process by which the federal government has gradually increased its presence at the local level, though at this point the step was a modest one, directed specifically at financial compensation.

**International Competitiveness**

The launching of the Sputnik satellite by the Soviet Union on October 4, 1957, at the height of the Cold War, marked the beginning of an enormous reform effort in U.S. education and a significant change, from that point forward, in the role of the federal government. In the immediate postwar period before Sputnik, various congressional funding and general construction bills intended to address the baby boom phenomenon and the resulting overcrowding of the nation’s schools had died, partly as a result of the thorny issue of public monies going to private schools—which we will look at later. But the launching of Sputnik galvanized the entire nation, spurring in particular an enormous amount of concern about the need for more qualified scientists and engineers in the United States and about the quality of our education system, particularly in the areas of mathematics, science, and foreign language instruction. The response was the National Defense Education Act (NDEA) of 1958. The title of this legislation is somewhat misleading, since the goals of “catching up with the Russians” and winning the “Space Race” extended far beyond national defense to more general realms of intellectual and economic competitiveness. In fact, the act is probably most significant because it represented the first time since 1917 that a major education bill was enacted that was not strictly for the support of military bases, even though it took the aura of a national defense crisis to get it passed. International competitiveness has been a factor in U.S. educational policy ever since. It certainly was the spur for the National Education Summit in 1989, where George H. W. Bush spoke pointedly about the significance of education to our economic future, and for his National Education Goals of 1990, at least one of which, the
determination that U.S. students would be first in the world in mathematics and science, had emerged from the underperformance of U.S. students in the Second International Math and Science Study against many nations considered to be our economic competitors. The Goals 2000 legislation under Bill Clinton in 1994 was announced, similarly, as a “comprehensive education and training agenda crucial to achieving an economy that can compete effectively in world markets…” (Statement by the President, October 14, 1993).

Civil Rights
We just celebrated the fiftieth anniversary of the 1954 Supreme Court decision in Brown v. Board of Education declaring school segregation unconstitutional and in direct violation of the Fourteenth Amendment. The Brown decision was, of course, a monumental event in the history of the civil rights movement and in the history of U.S. education, the first step in desegregating both the de jure southern white school system and the de facto segregated schools in the North. But it is also true that nothing much happened to desegregate the schools until the passing of the Civil Rights Act in 1964, during Lyndon Johnson’s administration. In fact, in many ways the moral and legal imperative of school desegregation articulated in Brown actively impeded the passage of education legislation.

For ten years after the Brown decision, Adam Clayton Powell, an African American Congressman from Harlem who was a senior member and later the Chair of the House Education Committee, added to every bill an amendment—which became known as the Powell amendment—saying that no federal aid could go to any segregated school district. This amendment then became one basis for the defeat of literally every education bill up until 1965. At this point both the House and the Senate were controlled by southern Congressmen and Senators, who killed every bill, either in the House Rules Committee, by filibuster, on the Senate floor, or in conference committee. There is a small but interesting historical footnote to this stalemate: In 1956 all of the national education organizations—from the school administrators to the school boards, to the National Education Association—along with
other interested groups such as the AFL-CIO banded together to defeat the Powell amendment and try to get a general construction spending bill through Congress. In the end they were unsuccessful, and the bill never passed. But this episode needs to be remembered as a time when national associations were willing to sacrifice civil rights for money.

In 1964, at any rate, we had as president a former senator from the state of Texas whose background and personal history had led no one to expect that he would become an advocate for and champion of civil rights and racial equality. And yet Lyndon Johnson's administration changed the course of the nation. Until the passage of the Civil Rights Act, the provision in *Brown v. Board of Education* for school desegregation to proceed “with all deliberate speed” had meant that school desegregation would proceed with almost no speed at all. It was the Civil Rights Act that initiated the enormous positive changes in education that came about from the late 1960s to the late 1970s—although along with these developments, of course, came the difficult issue of busing and all the upheaval that resulted from this policy. Nevertheless, the Civil Rights Act settled once and for all the legal issue of school desegregation.

Perhaps not as momentous a piece of legislation, but far-reaching in terms of its effects, was the Emergency School Aid Act (ESAA) passed in 1972 during the Nixon administration as part of the Higher Education Act. First proposed in 1970 and again in 1971 as the Emergency School Assistance Act, the ESAA was intended to provide money to the formerly dual school systems in the South to reward districts that had desegregated and to provide aid to others to stimulate voluntary desegregation. These earlier versions of the bill were blocked, interestingly enough, by civil rights organizations because political necessity had required the placement of anti-busing provisions in each one; once again the race issue that had blocked federal aid in the fifties and sixties caused a stalemate. This time, the Nixon administration responded with a brilliant maneuver. To get the effort started while awaiting congressional action, the administration in 1970 used the Economic Opportunity Act to create a temporary program under HEW called the Emergency School Aid Program (ESAP). This
program cleared the way for communities claiming that they “could not afford” to desegregate to receive the funds to do so. The ESAP established a remarkably speedy cycle of grant making: school districts submitted applications to the federal government, and the federal government turned these around within an almost unimaginable 36 hours!

Eventually ESAA was passed in 1972 as part of the 1972 Higher Education Act, which created what are now called Pell grants for higher education. Notably, this act also contained an amendment, Title IX, modeled on the language of the 1964 Civil Rights Act and barring gender discrimination in educational programs paid for by federal funds. Title IX, of course, has been responsible for some important measures that have gone far toward eliminating gender discrimination in education, particularly in school athletics, but also more broadly.

Finally, under the rubric of civil rights it is important to note the Education of All Handicapped Children Act of 1975, now called the Individuals with Disabilities Education Improvement Act (IDEA). Like the legislation discussed above, it was passed out of a perceived need, although, unlike virtually all of that legislation, it was passed with little presidential involvement. In 1975 Gerald Ford had no mandate whatsoever. He had become vice president when Spiro Agnew was removed from office and then became president when the Watergate scandal forced Nixon to resign. Neither Ford nor the executive branch played any official part in the enactment of this law, although the legislation might have been vetoed if not for the intercession of some members of Congress.

To a large extent its passage can be credited to the ordinary citizens who came to Washington to testify before Congress. It may be worth mentioning here, as a slight digression, that one of the perennial weaknesses of our otherwise admirable system of congressional committees and hearings is that witnesses’ personal experience and moving testimony sometimes influence legislators unduly, even to the point of overriding more objective research and conclusions. But in the case of IDEA, an effective and necessary piece of legislation resulted in large part from the heart-rending stories legislators heard about schools’ exclusion of children with disabilities.
Religion

Since World War II, the issue of religion has played as great a role in federal education legislation as the issue of race. The tortured history of the unsuccessful general aid bill in the 1950s is one example of the role of religion, and by the end of the fifties it appeared that enactment of general aid or even major program support was not possible as long as the twin issues of race and religion remained unsolved. The only two federal actions of any significance that came about were tied to national defense and international competition: Impact Aid and the NDEA. Then, by the mid-sixties, the Civil Rights Act had settled the desegregation issue, at least constitutionally. But the issue of separation of church and state remained a major obstacle.

In 1950, a House bill intended to provide general construction aid to school districts suffering from the vast increase in population occasioned by the postwar baby boom contained a provision denying federal aid to any children attending private schools. It so happens that one of the members of the House Education Committee at the time was Rep. John Kennedy, who tried to offer an amendment to the bill stating that general aid would be available to children in all schools, public or nonpublic. The bill never moved out of committee, however, because an enormous controversy involving Cardinal Francis Spellman of New York, on the one hand, and Eleanor Roosevelt, on the other, made it too hot to handle. Interestingly enough, exactly ten years later, in 1960, John Kennedy, now the first Catholic president, and aware that he was being scrutinized closely by those who feared he would be at the beck and call of the Pope, changed his position entirely on aid to nonpublic and parochial schools.

The situation remained the same until the passage of the 1965 Elementary and Secondary Education Act (ESEA). The ESEA was one of the hallmarks of Lyndon Johnson’s Great Society after his election in 1964. To this day it has remained, in its various incarnations, one of the most important vehicles for federal education legislation. In many ways this act marked a watershed in federal education policy in that it represented a switch,
which we will examine in a moment, from the notion of general federal aid to categorical aid with a specific purpose—the War on Poverty—and explicitly tied to national policy concerns. It was also significant insofar as it was the legislation that broke the logjam over the issue of federal support to nonpublic education.

The success of the 1965 ESEA was due, in part, to an idea known as the “child-benefit theory” that had developed in education and political circles as early as 1930 but was rediscovered and invoked in the debate over this legislation. In 1930, a court case in Louisiana (Cochran v. Louisiana State Board of Education) had questioned the constitutionality of the state’s providing textbooks to children attending parochial schools. The child-benefit theory articulated then holds, in essence, that government aid is provided for the benefit of the child, not for the benefit of whatever school the child may be attending, and therefore that public money and resources can legitimately be used to serve the needs of children attending non-public schools. In 1965 the child-benefit theory led to a compromise between the National Education Association and the National Catholic Welfare Association and made possible the passage of what was at the time the most comprehensive and far-reaching public school bill in the history of the country.

Nevertheless, the issue of religion in the schools is still with us today, mostly in the form of controversy over school vouchers. A particularly notable event was the 2002 Supreme Court ruling in the case of Zelman v. Simmons-Harris (the “Ohio Voucher Case”) that a Cleveland program providing low-income children with money to pay for private and parochial school tuition was constitutional. The controversy over church and state is likely to be with us for a while. A significant factor in the voucher question is that in many cities a large part of the school-age population attends non-public schools. The voucher controversy is bound to surface during the debate over the 2007 reauthorization of ESEA, especially since public services to non-public school children through the Title I program of ESEA are more extensive than ever. Eventually it is possible that non-public schools, in order to gain financial support, will be required to offer a curriculum that resembles the one taught in public schools and will have to agree to the
testing and accountability systems that have become a firm component of federal policy. Many schools may choose to remain independent, but it is likely that the Catholic schools will concede.

**The War on Poverty**

The Elementary and Secondary Education Act of 1965 was, along with the Economic Opportunity Act—which included the Head Start Program—the major plank in the War on Poverty platform on which Lyndon Johnson ran in the 1964 election. The ESEA passed with few alterations and was signed by Johnson a mere 87 days after he proposed it.

Johnson had been elected in a landslide with his defeat of Barry Goldwater; he had the momentum to accomplish a great deal, and he was an adroit politician who knew how to work Congress like a skilled pianist. The passage of the Civil Rights Act of 1964, along with the successful appeal to the child-benefit theory and the passage of ESEA, had now mitigated the issues of race and religion. Both issues would re-emerge in future decades, but for now it was possible to declare a victory. And for the first time, federal education legislation was explicitly designed to ameliorate large social problems.

Unfortunately, the drawback of the accelerated pace of the legislation was that Congress pushed through a bill without giving a great deal of thought to the money’s future allocation or who would be accountable for it. Notably, Robert Kennedy, then a senator from New York, objected that the bill did not provide “any way of measuring . . . whether any good is happening” from the investment (F. Keppel, oral history interview, cited in *Political Education*, 29). Kennedy was not successful in the Senate in his attempt to attach an oversight amendment to the original bill, although some vague language on evaluation was inserted by the House. When the ESEA was reauthorized in 1967, another provision for which Kennedy advocated unsuccessfully was that schools test children every year in order to identify who was and who was not making progress. This historical fact is not unconnected to Edward Kennedy’s support for No Child Left Behind in 2001. Indeed, by the end of the century there was such dissatisfaction with
what had been achieved with the federal investment in Title I that a very
different approach relative to educational policy and school improvement
began to emerge. It became evident in 1988, was enhanced in 1994, and
became NCLB in 2001.

**Recent Developments**

The ways in which changes in the ESEA have reflected and also have
contributed to changing educational policy in the most recent decades can
be summarized here briefly. The 1988 reauthorization of ESEA required
for the first time that schools, school districts, and states define the levels
of academic achievement expected of students receiving federal support.
The concept of substantial progress entered the picture, as well as that of
content standards and an aligned system. Clinton’s Goals 2000 bill and
the Educate America Act required competency standards for all students
leaving grades 4, 8, and 12 and encouraged states to develop voluntary
plans to adopt goals, as well as standards and assessments, by offering
extensive grants to local districts based on their improvement plans.

The significance of the 1994 reauthorization of the ESEA, called the
Improving America’s Schools Act (IASA), would be hard to overstate. The
federal government was now firmly involved in the education program
of almost every district in the nation through the Goals 2000 and ESEA
requirements for standards and measurement. A new framework had
emerged linking standards, testing, teacher training, curriculum, and
accountability in systemic reform. Whereas the 1965 passage of the ESEA in
the Johnson administration had broken the logjam that had prevented the
enactment of any truly significant programs for elementary and secondary
education, the 1994 law placed the federal government firmly in the
position of setting the agenda for the nation. Whereas the Great Society of
the Johnson era had understood equity in education in terms of civil rights
and financial resources, by the end of the twentieth century it had become
clear that resources alone were not enough to ensure equity in education.
By 1994 the federal government had moved from being a passive actor
providing funds, research, and some guidance to the schools, to being the
partner that provided the intellectual framework for school reform and education improvement. This development would be magnified in NCLB in 2001. It came about because federal policymakers had been observing for decades constant erosion in student performance, especially from students who were poor or racial minorities.

It must be said, too, that the failure of the states to act in an expeditious manner contributed to the federal government’s stepping in. Most of the bills mentioned above—from vocational education to NCLB—probably would not have been enacted, and certainly not in the way that they were, if the states had acted. This is not to say that all states have been negligent; for almost every piece of legislation a state or states provided the model for what the federal government eventually did. In the case of IDEA, for example, the model was Massachusetts. In the case of Title I, the models were California, Michigan, and some other states that had special programs for disadvantaged students. But in general there has been a great reluctance on the part of many states to reform the schools, and as a result the federal government has moved in to fill the vacuum.

**Concluding Remarks**

The federal policy toward education clearly is still a work in progress, and many problems remain. One of these is that the federal system is very cumbersome. Probably the word *system* is a misnomer, in fact. We have 80,000 individual public schools in this country, 15,000 school districts, 50 states plus D.C. and the territories, and 2.5 million teachers. It is a wonder that any teacher ever gets a straight story about what is going on anywhere. We have a federal Department of Education that at last count had eight different units relating to elementary and secondary schools, from the Office of Elementary and Secondary Education to Voc Ed, Special Ed, Innovation, the Statistics and Research Office—one could go on and on. The result is not only confusion but also the tendency of states and school districts to mirror that organization, or disorganization. On the one hand, the level of flexibility implied by such decentralization is probably not a bad thing. On the other hand, it is difficult to get any clarity on such
a cumbersome system. It is also true that flexibility is not always well used. In some states, for example, cohort sizes for reporting purposes range in size from 5 to 200. What kind of comparison can be made with that kind of variability? And yet we are trying to get a coherent national policy. In the end such complexity is probably detrimental to children, because children do not always fall into the bureaucratic categories in which the federal programs have placed them.

The federal government also deserves an F for student motivation and parental involvement. And it deserves a D in the matter of capacity and timing. Since the passing of ESEA in 1965, when there was an attempt, which lasted two years, to build up the capacity of state education departments, the federal government has mostly avoided the question of the capacity of large states or large districts to manage a school system of great size and complexity. The federal government also is prone to unrealistic expectations in terms of timing. We constantly expect reforms that should require months or years to be carried out tomorrow. We are constantly in the position of putting into law requirements that are unrealistic and then having to waive them.

On a more positive note, it is safe to say that dire warnings from those who believe that the new accountability and assessment systems of education reform threaten what is best in our nation’s education system are surely unfounded. The system that prevails in many other countries, whereby children are directed from an early age into one or another educational track from which they cannot deviate, is unlikely to develop here. We are a nation of second chances. Virtually all of our ancestors came here because of the better opportunities this country offered. In education, that has meant that we are very flexible; we allow adults to go back to school to get a high school diploma or certificate; we allow people to go to college at any time. We always provide the opportunity for people to change jobs and careers. I think this is something we are proud of, and our second-chance heritage is part of who we are. In the future there is likely to be more debate on the possible conflict between new accountability systems and the offering of second-chance options. But these options are likely to remain.
With these criticisms and caveats in mind, it also must be said that the expanded role of the federal government in education is likely to remain. Let me conclude with an analogy I developed in *Political Education*:

The No Child Left Behind Act of 2001 transformed the federal government’s role in education, moving it, in a musical sense, from second-chair status in the orchestra to the conductor’s podium. The government is now almost literally in the position of setting the stage for all the other players. The conductor can call in the string section (highly qualified teachers), cue the wind section (supplementary-service providers), maintain the drama through the percussionists (adequate yearly progress), and conclude with a stunning finish that brings everyone to their feet (accountability).... [And] state superintendents of education, along with the state boards, legislatures, and governors, must now follow the score. (p. 158)