

No Child Left Behind and the End of Public Schooling

by John K. Smith

For most people, the reauthorization of the Elementary and Secondary Education Act (ESEA) known as No Child Left Behind (NCLB) is seen as another attempt in a long-standing pattern of reforming the public schools. This understanding is incorrect because NCLB is not about reforming the public schools—it is about seriously diminishing and, very likely even eliminating, the role of public schooling in American society.

The NCLB legislation is the centerpiece for those people, generally of a politically conservative disposition, who want to introduce what is called “market oriented educational reform.” The idea is to think of schooling as something people consume and thereby make it subject to the same corrective mechanisms that supposedly apply to the consumption of all other goods and services. And, as is the case in the market place in general, if consumers do not like the price and/or quality of a good/service offered by one supplier, they simply take their business elsewhere. Because the consumer is able to do this, the original supplier must either lower the price and/or improve the quality of whatever good/service he/she supplies or go out of business. For supporters of NCLB, this is the way it should be with the consumption of schooling.

To get a better sense of why I am concerned about the ultimate effects of NCLB, I need to engage in a brief historical comment about the nature of schooling in America. By at least the mid 19th century there was a growing agreement that a common public school system – one that was publicly financed by all and free for all – was essential for social progress and the strength of our democracy. The intention was to develop a public school system of such high quality that even the more wealthy parents would back away from private schools and send their children to public schools.

Schooling became part of what is referred to as the “common good.” That is, schooling came to be included among those things in our society that we will all pay for in common because we all benefit from them in common. The military is a prime example of something that is considered part of the common good. At other governmental levels the same can be said for police and fire protection, for state park systems, and so on. We all pay for fire departments and state parks even though we may never avail ourselves of the services. (Health care in the United States, in contrast to the situation in European countries, has never been seen as part of the common good.) Either way, whether we have children, whether our children are of school age or not, or whether some people choose private schools over public ones, all of us still pay for the common public schools because we all benefit in common from having an educated populace.

From the time of the establishment of common public schools, the intent of all school reform movements has been to leave this system intact but make it function more effectively. For example, all of the reforms sponsored by the original ESEA legislation in the 1960s and its subsequent reauthorizations up to NCLB – e.g., Head Start, remedial programs of all kinds, and school busing – were reforms of this “preserve the public schools as part of the common good but make them more effective” nature.

For many people, as I noted, NCLB is seen as part of this “preserve – make them work better” approach to school reform. To think of NCLB in this way is incorrect. There is one thing about NCLB and at least one associated event that lead me to conclude that this market oriented approach to reform is directed, in the end, at replacing our common public school system with a privatized system of schools.

A crucial provision in the very complicated and extensive NCLB reauthorization goes under the label of Adequate Yearly Progress (AYP). Based on test scores in mathematics and reading every year for children in grades 3 through 8, a determination is made as to whether a particular school is achieving AYP. Moreover, the scores are broken into four subgroups—children with disabilities, limited English proficiency children, racial minorities, and children from low-income families. The test scores for all of these groups must show progress. Finally, this testing involves a “sliding scale” in the sense that scores must go up and up every year until 2013-2014 when all children must be performing at average grade level.

Two questions arise. What happens if a school fails to make AYP? If this happens for two consecutive years for children in general or for the subgroups in that school, parents may choose to send their children to a non-failing school in the district with the district paying transportation costs. After three years, the school must supply summer school, tutoring services, and after-school programs; and after five years, the district can replace the staff, open as a charter school, or the school can be turned over to a private company. If none of these options is successful, the state will take over management of the school.

The second question is: How many schools are likely not to make AYP over the next few years? While there is no exact answer to this question, early indications from Florida and a few other states, as examples, indicate the numbers will be very high indeed. In fact, even in Iowa with our generally excellent schools with high Iowa Test of Basic Skills scores, the number of failing schools will likely be much higher than most of us could dare to imagine. This certainly is the impression I have been given in my talks with school administrators.

The second associated factor is the recent *Zelman vs. Simmons-Harris* case (2002). In this case the majority of the Supreme Court (a 5-4 decision) held that the First Amendment Establishment Clause does not prohibit Ohio's payment of tuition (in the form of a voucher) to private religious elementary and middle schools as an alternative for poor children who are in failing public schools. Ohio provided up to a \$2,250 voucher for poor parents of children in failing public schools in Cleveland to be used in seeking an adequate educational alternative. Without going into the details, 96% of the 3,700 participating students were enrolled in private religious, overwhelmingly Catholic, schools. The Court found no problem with this use of public money by holding that the money was directed at children and not directed at supporting religion. The case met the test of what is called the neutrality doctrine with respect to religion.

This case is important because it removes any Federal Constitutional objection to offering parents, whose children are in schools designated as failing by whatever measure, public funds to pay for tuition at private religious schools. Any state can now pass voucher-type legislation (assuming of course that such does not violate that state's constitution) directed at allowing children to leave failing schools in favor of not only other public schools, but now in favor of private schools, both nonsectarian and sectarian.

Will state legislatures pass such legislation? Some have already done so, and others are contemplating doing so. I can think of no reason why this movement should not spread to many other states. One might object at this point by noting that until now these voucher-type programs have been restricted to poor families with children in failing schools and thereby have limited impact or application. While this is so at present, I strongly doubt that this will be the case in the future. As this movement of using public money with a private school option for parents expands, state legislatures will very likely come under intense, and ultimately successful, political pressure to develop voucher-type programs which will include all parents regardless of economic circumstances. After all, as the argument will go, if some parents are given schooling choices, why not all parents.

In short then, it is important to understand what is going on with NCLB. This attempt is not like our school reform efforts of the past. The intent of the NCLB legislation is not to improve the common public schools but rather to diminish, if not completely undermine, them. NCLB is a market oriented reform that has put us on the path to a fundamental change in how we school our children. The diminution, if not elimination, of public schooling as part of the common good lies at the end of the NCLB agenda. Any choice a person makes about whether or not to embrace NCLB must be seen in this light.

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