

Meaningful Educational Opportunity: A Vital and Viable Mission for NCLB

by Michael A. Rebell and Jessica R. Wolff

In the landmark 1954 *Brown v. Board of Education* decision outlawing racial segregation in education, the U.S. Supreme Court emphasized the central importance of education in modern times: “In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education” (p. 493). The Court then held that all children are constitutionally entitled to an “equal educational opportunity.”

Providing an equal educational opportunity is, however, easier said than done. As President Lyndon Johnson (1971) put it:

You do not take a person who, for years has been hobbled by chains and liberate him, bring him to the starting line of a race, and then say, “you are free to compete with all the others,” and still justly believe you have been completely fair. Thus, it is not enough just to open the gates of opportunity. All of our citizens must have the ability to walk through those gates. (p. 166)

To help children from low-income families to walk through the gates of opportunity, Congress, therefore, enacted Title I of the Elementary and Secondary Education Act of 1965, which provided federal funds to school districts to assist them in meeting these children’s needs.

Examining the Contribution of No Child Left Behind

The federal No Child Left Behind Act (NCLB), signed into law in 2002, expands the equity imperatives of Title I and combines them with educational reforms emerging from the state standards movement into a potent package that promises, a half-century after *Brown v. Board of Education*, that equal educational opportunity and universal student proficiency actually will be achieved. In spite of this historic commitment, however, five years after enactment, NCLB is failing to achieve its own objectives. Critiques of NCLB and calls for major overhaul or repeal

of the act have increasingly been heard from educators, policymakers, advocates, and academics (see, e.g., American Federation of Teachers 2006; Commission on No Child Left Behind 2007; the Joint Organizational Statement on the No Child Left Behind Act 2004; National Conference of State Legislatures 2005; National Educational Association 2006; Noddings 2005; Ryan 2004). The nature of many of their concerns can be illustrated by using President Johnson's race metaphor. It is as if, to motivate the states and local districts to train their students to run to their full potential, the federal government had decreed that, within twelve years (of which only six now remain), all children must run a mile at a challenging pace or schools will suffer penalties.

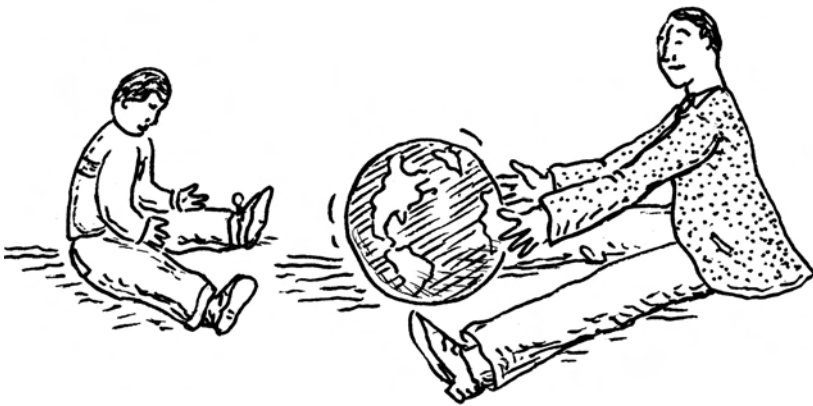
This requirement is unfair, many argue, because the law doesn't define a "challenging" pace, and, though some states have taken the directive seriously and determined that all their children should run an eight-minute mile, others have set their requirement at ten or twelve minutes, without any objection from the federal authorities. In those states with a challenging eight-minute standard, even if their schools succeed with many of their students, when some fall short and run the mile in ten or twelve minutes, the schools will be penalized. States that established a twelve-minute requirement will be praised even if most of their students actually run at a much slower pace.

Further, NCLB's mandate that all students—100 percent—be proficient in challenging state standards by 2014 requires rates of progress that no school system worldwide has ever achieved and the feasibility of which has never been demonstrated. Calibrating the adequate yearly progress requirements against an impossible standard is perverting the implementation of the act, and the number of schools and districts that will be on the "failure" list will expand rapidly as we get closer to 2014. Although the mandate of proficiency for all by 2014 is clearly unattainable as currently constructed, it does, nevertheless, serve an important inspirational and motivational purpose. It expresses a firm national promise and public compact to further the education of all students—and especially of blacks, Latinos, students with disabilities, and low-income students whose needs have been neglected in the past. This worthy goal should not be eliminated, but the emphasis and timing of the act's implementation must be reconsidered.

Furthermore, in considering the extent of resources necessary to overcome achievement gaps, Congress has largely ignored the reality of the inequities related to poverty and race and the enormous impact they have on children, families, and schools. These inequities produce disadvantages and hardships that profoundly influence children's opportunities and ability to learn. There are a number of "pathways" through which these inequities exact their toll on children's academic achievement.

Many children lack adequate health care and, as a result, suffer from health-related barriers to learning. Many lack the early experiences of linguistic enrichment and cultural stimulation, “the scaffolds for learning” (Gordon, Bridglall, and Meroe 2005, p. 322) that are the norm for most children, and these deficits account for a substantial amount of the achievement gaps among children entering kindergarten. The insecurity created by severe economic deprivation and housing instability also substantially affects children’s readiness to learn.

At the end of the 2006–2007 term, the U.S. Supreme Court ruled in *Parents Involved in Community Schools v. Seattle School District* (2007) that although the equal educational opportunity mandate of *Brown v. Board of Education* is still the law of the land, most of the affirmative action and school-assignment plans school districts have used to promote racial balancing—the primary means used by many districts to undo the impact of concentrated poverty—would henceforth be prohibited. This latest decision culminates a general trend in recent decades of the federal courts and of American society away from serious pursuit of racial integration as a primary means of providing equal educational opportunity. However, the nation’s strong emphasis on eliminating achievement gaps, as reflected in the enactment of NCLB, as well as plaintiffs’ successes in dozens of fiscal-equity and education adequacy litigations around the country, indicates that despite the lessening ardor for taking affirmative actions to promote racial integration, our country is still committed to achieving equal educational opportunity through other means.



We believe that the “other means” that can substantially advance equal educational opportunity are to provide “meaningful educational opportunities” for all children in each of the schools that they attend. To provide such opportunities, policymakers and educators must directly confront the inequities of race and poverty and the vast barriers to learning they create. Although we believe that our increasingly diverse nation must ultimately find new ways to promote racial and economic integration in its schools, this task will be infinitely more feasible when the scandalous deficiencies in human and material resources that now exist in many of our inner-city and rural schools have been remedied.

Meaningful Educational Opportunity

The roots of America’s achievement gaps are significant opportunity gaps endured by millions of low-income and minority students. NCLB is falling far short of achieving its ambitious goals because it mainly concentrates on accountability for results but largely neglects the resources and supports that students need to achieve those results.

The drafters of the law were not unmindful of the importance of providing meaningful opportunities for students. The law begins with a clear statement of two primary purposes: 1) to ensure that all children have a “fair, equal and significant opportunity to obtain a high quality education” and 2) to ensure that all children reach, at a minimum, “proficiency on challenging State academic achievement standards” by the 2013–2014 school year (NCLB 2002, sec. 6301). Although the drafters initially recognized the importance of both of these objectives, the law’s actual provisions largely ignore the first goal—opportunity—and skew heavily toward carrying out the second goal—accountability.

In the compromises that led to the law’s enactment, heavy emphasis was put on the mandate that all children must be proficient in challenging state standards by 2014, and on achieving adequate yearly progress (AYP) toward that goal. Although extensive sanctions are set forth for schools and districts that fail to achieve AYP targets for any or all of the subgroups covered by the law, little is said about the actual capacity of the schools to reach these goals. Our common-sense position is that to overcome achievement gaps we need to restore vital balance to the act: The nation needs to close its opportunity gaps in order to attain its achievement goals.

Over the past few years, NCLB has, in effect, tried to achieve universal proficiency without giving proper emphasis and attention to this critical corresponding requirement to provide all students with the tools they need to reach this goal. Mandates and motivation will not result in significant reductions in the achievement gaps, let alone in full proficiency, if meaningful educational opportunities are not first provided,

especially to children living in poverty. To bring new effectiveness, feasibility, and credibility to NCLB, it is critical to flesh out the law's now-neglected requirement that all children be provided with a "fair, equal and significant opportunity to obtain a high quality education." Specifically, we recommend that to rectify the imbalance in its implementation of the two major purpose clauses of the act, Congress should revise NCLB to set aside, at least until the next reauthorization date, its timetable for achieving high proficiency levels and require instead that by 2014 the states provide meaningful educational opportunity for all children in their public schools.

It is important to note that NCLB requires opportunities that are not only "fair" and "equal" but that also are "significant." Although the predecessor statutes had called for "fair" and "equal" opportunities, the inclusion of the word significant was an innovation that was added to the NCLB in the last phase of the congressional negotiations. *Significant* is a synonym for *meaningful* (*American Heritage Dictionary* 1997). Given the basic equivalence of these terms, we prefer to use the latter. Many state legislatures and state courts have given substance to the term *meaningful educational opportunity* by using it in connection with requirements for concrete resources, programs, and practices that will provide tangible benefits for children.



The courts, the Congress, and the state legislatures have made their greatest strides toward implementing equal educational opportunity when they have defined exactly what such an opportunity entails in particular contexts. The Supreme Court was most effective in implementing equal educational opportunity when it adopted as a clear goal the dismantling of *de jure* segregation in Southern schools and insisted on immediate, concrete desegregation plans (*Green v. County School Board* 1968). Similarly, equal educational opportunity for English language learners got its greatest boost when the Supreme Court insisted that educational services provided to them be “meaningful” (*Lau v. Nichols* 1974) and when Congress, the lower federal courts, and the U.S. Department of Education then articulated in very precise terms the types of services that would meet that requirement. The long history of neglect of children with disabilities ended when Congress specified in clear terms the types of special education and related services that would be provided to meet the individual needs of each of these children through the IDEA and its predecessor statute.

In recent years, the most significant progress in specifying the concrete educational opportunities students require and to which they are entitled has been made in state court litigations that have challenged the constitutionality of state systems for financing public education. The focus of these litigations for the past two decades has been on gaining basic quality educational services for all children. Despite the vagueness of the overarching term *education adequacy* that has come to describe these cases, they have been able to equalize education financing substantially in many states and to promote educational reforms that have raised student achievement significantly because they focus on providing the specific resources needed for a decent education. The New York Court of Appeals understood this point when it specifically held in *Campaign for Fiscal Equity v. State of New York* (2003) that the state constitution requires providing each child the opportunity for a “meaningful” high school education that included certain “essential” resources such as qualified teachers, small class sizes, and books and other “instrumentalities of learning,” and that children must be taught the specific skills that will prepare them to function productively as civic participants capable of voting and serving on juries.

To implement NCLB effectively and to realize the *Brown* vision require us to identify the key elements of meaningful educational opportunity substantiated by educational research and articulated in legal and legislative terms by the courts, Congress, and state legislatures in the past, and to shape them into statutory concepts that can give substance, direction, and coherence to the act. In what follows, we draw on these

resources to define meaningful educational opportunity and to develop a statutory framework that encompasses the concept.

Defining Meaningful Educational Opportunity

Recognition of the need to delineate and ensure requisite resources and opportunities for all children is not new. Historically, most state educational-finance schemes included as the starting point for their allocation formulas “foundation” levels that purported to guarantee schools sufficient funds to provide all their students with a basic education. Few states, however, actually carried through on that abstract commitment, a failing that the education adequacy litigation in state courts has sought to rectify. In the 1980s, partly in reaction to *A Nation at Risk* and other reports that claimed America was losing its competitive edge because of the mediocrity of our schools, states began to press for greater “excellence” in education. They attempted to do this by beefing up teacher certification and curriculum requirements and by adopting stricter requirements for high school diplomas (Rebell 2002). Although there was little argument against improving the quality of our nation’s schools, concerns arose within the civil rights community that “excellence” might be pursued at the expense of equity and that this new emphasis on making the nation economically competitive might displace the national commitment to implementing *Brown’s* equal educational opportunity mandate. Many worried that raising the bar for success would leave those who were already struggling even further behind.

This issue was brought to a head by a legal challenge that a class of minority students lodged against Florida’s newly strengthened graduation requirements. The plaintiffs claimed that in order to graduate from high school, they were being required to pass a literacy examination that tested them on material they had never been taught in their schools. The U.S. Court of Appeals for the Fifth Circuit held that as a matter of constitutional due process of law, the students did have a right to be tested only on material that they actually had been taught (*Debra P. v. Turlington* 1981). The Court specifically held that “the test was probably a good test of what the students should know but not necessarily of what they had an *opportunity to learn*” (p. 405, n. 11, emphasis added).

President George H. W. Bush and all fifty governors, meeting at the 1989 National Education Summit in Charlottesville, Virginia, sought to provide coherence and sustainability to the excellence movement by emphasizing the need for specific outcomes toward which the educational improvements should aim. They also stressed the importance of preparing *all* the nation’s children to meet these educational outcomes. The drive for excellence was now combined with a commitment to equity and transformed into a comprehensive reform centered on the

development of challenging academic content standards that all students would be expected to master and around which teacher training, curriculum development, and student assessments would be oriented.

Learning from “Opportunity to Learn”

The original proponents of standards-based reform also assumed that a commitment to provide the resources and supports necessary to give all students an opportunity to learn the challenging new content would be an integral part of the standards-based reforms. Requirements for students to meet new outcome standards were, therefore, balanced with “school delivery” or “opportunity to learn” standards designed to ensure that each school has the capacity to bring its students to high levels of achievement (O’Day and Smith 1993). A federal task force, established to propose mechanisms for implementing the “Goals 2000” that emerged from the national summit, explained why “opportunity to learn” (OTL) standards should be considered a necessary part of any standards-based reform approach:

If not accompanied by measures to ensure equal opportunity to learn, national content and performance standards could help widen the achievement gap between the advantaged and the disadvantaged in our society. If national content and performance standards and assessments are not accompanied by clear school delivery standards and policy measures designed to afford all students an equal opportunity to learn, the concerns about diminished equity could easily be realized. Standards and assessments must be accompanied by policies that provide access for all students to high quality resources, including appropriate instructional materials and well-prepared teachers. (National Council on Education Standards and Testing 1992, quoted in Darling-Hammond 1993, p. 38)

The Clinton administration’s original Goals 2000 legislative proposal included provisions for national opportunity to learn standards that would be developed by a National Education and Standards Council (NESIC). This proposal met substantial opposition. Critics, including legislators and governors, were concerned that federal oversight of states’ efforts to provide opportunities to learn would limit state flexibility and impose excessive costs. The concept was included as part of the Goals 2000 legislation enacted in 1994, but in a watered-down form that omitted any federal compulsion and instead called for 1) “voluntary” national school delivery standards that states could choose to adopt or 2) state opportunity to learn standards that states could voluntarily develop in conjunction with their own content and student performance standards.

Even this minimal, voluntary form of opportunity to learn standards engendered strong opposition. In addition to fears that the voluntary standards might someday become mandatory (McDonnell 1995), controversy developed over the meaning of the vaguely defined opportunity to learn concept and whether enough was known about which resources and which practices and conditions were necessary to provide meaningful opportunities, especially to children from disadvantaged backgrounds (McDonnell 1995; Porter 1995). Questions were also raised about the capacity of state education departments and school districts to implement these standards (Elmore and Fuhrman 1995). Whether or not feasible opportunity to learn standards could have been developed and implemented through the NESIC mechanism remains unknown, since the opportunity to learn requirements were promptly revoked by Congress after the Republicans took control later in 1994, and these requirements never took effect (McGuinn 2006).

Since Congress rejected the opportunity to learn standards in the mid-1990s, there has been no systematic effort to develop national policies to provide young Americans with the meaningful educational opportunities necessary for real progress toward closing achievement gaps. States have felt no federal pressure or incentive to deliver any particular level of resources or school quality, and the enormous inequities between schools in affluent communities and schools in low-income communities have persisted. NCLB's lack of emphasis on necessary resources and learning opportunities for students has, as the NCEST Task Force predicted, significantly limited the ability of disadvantaged students to meet the challenging new state standards and has perpetuated the achievement gaps. It is time, therefore, to revive the discussion about resources and opportunities for students to learn and to rectify the perilous imbalance between accountability and opportunity in the current NCLB design.

A focus on meaningful educational opportunity today need not and should not, however, revive the contentious debate over the opportunity to learn standards of the 1990s. The question of what resources and opportunities students would need to meet challenging state standards was an abstraction in 1993. Now, fifteen years later, these needs have become concrete realities: the national experience with NCLB over the past five years has demonstrated the importance of facing this issue, and advances in research, the emergence of sophisticated cost study methodologies, and the vast experience of the state courts in grappling with this issue in thirty fiscal-equity and education adequacy cases around the country now provide an experience base for defining and providing the resources and opportunities that children actually need.

The Components of Meaningful Educational Opportunity

State by state, courts in adequacy cases are specifying the necessary components of a meaningful educational opportunity and are identifying the resources necessary to provide it. It is time that federal education policy apply similar concepts and rights to *all* students nationally. Meaningful educational opportunity, as the concept has been developed in the state courts, includes the opportunity not only to be taught in accordance with a challenging set of academic standards that reflect the knowledge and skills students need to function productively in the twenty-first century, but also to be provided with the essential resources required to develop the necessary knowledge and skills. It also requires policymakers to ensure adequate funding so that these essentials are available to all students and to ensure a strong system of accountability to make certain that these dollars translate into demonstrable improvements in student learning. We deal with the funding and accountability issues elsewhere (Rebell and Wolff 2008, chapters 6 and 8). Here we will discuss in detail the broad-based knowledge and skills that students need to learn and the essential resources that must be in place to give them a reasonable chance to do so.

Necessary Knowledge and Skills

A meaningful educational opportunity must be defined in relation to the full range of knowledge and skills that America's students need to function successfully as citizens and workers in the twenty-first century. NCLB, however, puts forth a very limited definition of schooling outcomes: the law requires each state to adopt "challenging academic content standards and challenging student academic achievement standards" (NCLB 2002, sec. 6311[b][1]), but the subject areas covered by the testing requirements are limited to mathematics, reading or language arts, and science. The original Goals 2000 had made clear that if American schools were to meet the global challenge, students would need to be competent not only in reading, math, and science but also in foreign languages, civics and government, economics, arts, history, and geography (McGuinn 2006).

NCLB's demanding AYP requirements and the sanctions that are tied to them, however, apply only to test results in mathematics and reading. (Students must now be tested in science, but those results are not counted for AYP purposes.) This narrow focus on a very few subject areas has begun to restrict the time and attention that schools are giving to subjects other than math and reading, particularly in schools serving low-income and minority students. Thus, even if students attain proficiency in the few core areas emphasized by NCLB, it is far from clear that they will, in fact, be receiving a meaningful educational opportunity

or that the full scope of the achievement gaps between advantaged and disadvantaged students will have been addressed.

Defining the broad range of skills that students need to function effectively has, however, been a major concern of the state courts that have considered constitutional challenges to state education-finance systems in recent years. In order to determine whether students are receiving a “sound basic education,” a “thorough and efficient education,” or a “high-quality” education, as required by clauses in the various state constitutions, the courts have had to define these terms, and in doing so, the starting point for their analyses has often been a thorough consideration of the basic purposes of a public education.

The state courts that have focused in depth on these issues have, in fact, arrived at a consensus regarding the goals and expected outcome of public education. This state court consensus holds that a basic quality education is one that provides students with the essential skills they need to function productively as civic participants in a democratic society and to compete effectively in the twenty-first-century global economy (Rebell and Wolff 2006). The types of knowledge and skills that students need to be effective citizens and workers, as articulated in the state court adequacy cases, are:

- Sufficient ability to read, write, and speak the English language and sufficient knowledge of fundamental mathematics and physical science to enable them to function in a complex and rapidly changing society
- Sufficient fundamental knowledge of social studies—that is, geography, history, and basic economic and political systems—to enable them to make informed choices regarding issues that affect them personally or affect their communities, states, and nation
- Sufficient intellectual tools to evaluate complex issues and sufficient social and communication skills to work well with others and communicate ideas to a group
- Sufficient academic and vocational skills to enable them to compete on an equal basis with others in further formal education or gainful employment in contemporary society (Rebell and Wolff 2006)

These court findings are largely consistent with the types of educational outcomes that American schools have historically been expected to generate. Rothstein, Wilder, and Jacobsen (2007) recently identified the historic goals of education in America and confirmed their continuing significance by polling representative groups of educators and the general public on their current expectations of the skills and knowledge that an educated person needs for the twenty-first century. Based on

their historical analysis and polling data, Rothstein and colleagues assert that schooling must continue to ensure successful outcomes in *all* of the following categories:

- Basic academic skills in core subjects
- Critical thinking and problem solving
- Social skills and work ethic
- Citizenship and community responsibility
- Physical health
- Emotional health
- The arts and literature
- Preparation for skilled work (Rothstein, Wilder, and Jacobsen 2007)

To serve our students and our country fully, the national goals and expectations expressed in federal education policy should similarly be grounded in the context of real twenty-first-century needs and identified in these broad terms. Proficiency must be defined in accordance with this full range of knowledge and skills; resources need to be provided in amounts that will allow students to meet expectations in all of these areas; and states and schools should be held accountable for this range of expectations, rather than just for core reading and math skills.

Comprehensive Educational Essentials

The state courts have also considered in detail the specific resources that students need for a meaningful opportunity to obtain a basic quality education. The state court consensus identifies the following school-based resources as essential for acquiring the basic knowledge and skills described in the previous section:

- Effective teachers, principals, and other personnel
- Appropriate class sizes
- Adequate school facilities
- A full platform of services, including guidance services, summer and weekend programming, tutoring, and additional time on task for students from poverty backgrounds
- Appropriate programs and services for English language learners and students with disabilities
- Instrumentalities of learning, including but not limited to up-to-date textbooks, libraries, laboratories, and computers
- A safe, orderly learning environment (Rebell and Wolff 2006)

This list of constitutional education essentials is, of course, based on the services students need during the years and the times they are in school; constitutional requirements relate only to student needs during their compulsory-schooling years, typically from ages six to sixteen. To

reach our national goal of improving proficiency for all children and closing the achievement gaps, however, we must broaden our conception of educational essentials. Depending on their circumstances, children will require different levels and types of resources, programs, and services in order to make their educational opportunity meaningful. As we have pointed out, children who come from poverty, who are English language learners, and/or have disabilities have additional requirements both in and out of school.

For some children, health, home, and family- and community/neighborhood-related factors create substantial barriers to learning. Further, as the psychologist Edmund W. Gordon (2005; Gordon and Bridgall 2006), among others, has emphasized, students who lack access to other institutions, such as libraries, museums, faith-based institutions, media outlets, offices, factories, and farms, miss out-of-school learning experiences that are also vital for academic achievement. The state defendants in many of the education adequacy cases agreed that, because of these factors, students from backgrounds of concentrated poverty cannot achieve at the challenging levels required by the state's academic standards. However, they used these truths not to announce that they, therefore, would make intensive efforts to remedy these problems. Rather, they argued that because state constitutional clauses do not cover out-of-school needs, states should be exempted from providing adequate *school-based* resources that the constitutional clauses do cover (Schrag 2003).

NCLB is not subject to such constraints, and accordingly, in order to achieve its stated proficiency- and achievement-gap reduction aims, the act must focus on providing not only basic in-school resources but also an important complement of out-of-school services, experiences, and opportunities. Specifically, we believe that in order to provide a meaningful educational opportunity to at-risk children from communities of concentrated poverty, students must be provided, as needed, with specific out-of-school educational essentials, including:

- High-quality early childhood education
- Necessary levels of nutrition and physical activity
- Physical and mental health care
- Home, family, and community support for student academic achievement
- Access to arts, cultural, employment, community service, and civic experiences

Congress has already accepted the basic concept that, in order to benefit from educational opportunities, certain children need special supports and services geared to their individual needs. In the Individuals

with Disabilities Education Act, Congress has set forth an extensive—and expensive—panoply of procedural and substantive rights that require school districts to assess the full range of physical, psychological, and emotional issues that may be impeding a child's readiness to learn and to provide whatever special education and related services the child may require in order to benefit from education. Approximately 13 percent of the nation's public school students are students with disabilities who are covered by these provisions (Hochschild and Scovronick 2003), and school districts throughout the country expend billions of dollars each year to meet the needs of these children.

Logic and fairness would dictate that children with educational disadvantages stemming from poverty or English language learner status should similarly be entitled to have the schools prepare an individualized educational plan (IEP) for them, as it currently does for every child with a disability, that would diagnose their learning difficulties and then prescribe the specific educational supports and related services needed to deal with them. We do not make such a recommendation, however, because we believe that extending the IDEA's rigorous regulatory structure to these larger student cohorts would be unreasonable and unworkable.

Nevertheless, the logic that has impelled Congress to take affirmative steps to overcome the impediments to meaningful educational opportunities for millions of students with disabilities should apply equally to the analogous needs of millions of students from backgrounds of concentrated poverty. Accordingly, NCLB should be revised to require states to demonstrate in their plans that adequate and appropriate resources and opportunities in all the above-stated school-based and out-of-school resource areas are being provided to these students. This approach would allow the states broad discretion to devise methods for identifying the most significant issues and the most cost-effective ways of meeting them. The provision of these services will also necessarily involve a variety of collaborative arrangements with community and governmental agencies, and clearly in this area broad discretion to devise and experiment with effective ways to meet children's needs is necessary.

Over the past few decades, numerous initiatives have been implemented to provide out-of-school educational essentials and to coordinate them with in-school services. In Portland, Oregon, for instance, the Schools Uniting Neighborhoods (SUN) initiative joins a range of libraries, neighborhood health clinics, community organizations, and area churches and businesses in an extensive collaboration with more than fifty schools in six districts to develop community schools that extend the school day and serve as "community hubs" in their neighborhoods (Blank 2004). A major goal is to provide enrichment and recreational opportunities that will connect the curriculum of the in-school and

after-school activities for the students. Programs are also provided for parents and other adults in the community. Initial evaluations have indicated a range of positive results, including improved academic performance in reading and math at both the elementary and middle school levels (Iverson 2005), and improvement in attendance, classroom behavior, homework completion, and class participation (Nave et al. 2006). Similarly, the Harlem Children's Zone (HCZ) project seeks to enhance the quality of life for children and families in one of New York City's neighborhoods most devastated by poverty, unemployment, and a paucity of public resources. HCZ runs fifteen community centers that provide a comprehensive range of education, health, nutrition, parent education, and early childhood support services to more than 12,500 children and adults, including more than 8,600 at-risk children in a sixty-block area in central Harlem.

The need now is to understand how the best of coordinated, comprehensive approaches like these can be made to work in a cost-effective manner to ensure the systematic delivery to public school students of the resources that are most vital for meaningful educational opportunity. This approach to educational policy and practice recognizes the complex relationship between education, class, and poverty and, while not attempting the total elimination of poverty or the righting of all social and political wrongs, does not ignore their profound effects on children's ability to learn.

A Statutory Framework for Implementing Meaningful Educational Opportunity

One of the important predecessors of NCLB was the Goals 2000 legislation, which codified the understandings reached by President George H. W. Bush and the governors who attended the National Education Summit in Charlottesville in 1989. The first of these goals was that "All children in America will start school ready to learn." The bipartisan drafting committee that produced the original version of Goals 2000 had agreed that school readiness had to be the number-one goal; that this goal could not be achieved without a national commitment to provide specific school readiness inputs, such as "all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school" (Goals 2000 1994, sec. 5812[1][B][i]); and that

[c]hildren will receive the nutrition, physical activity experiences and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birth

weight babies will be significantly reduced through enhanced prenatal health systems. (Goals 2000 1994, sec. 5812[1][B][iii])

The statute that reauthorized Title I later that year, known as the Improving America's Schools Act, reiterated the importance of addressing the need to provide the range of resources required for school readiness, stressed the need for "a fair and equal opportunity [for a] high-quality education for all individuals," and also noted that developments since 1988 had shown, among other things, that "equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high school achievement" (Improving America's Schools Act 1994, sec. 1001).

With the exception of the requirement for "highly qualified" teachers, however, NCLB did not further develop these concepts. Instead, the statute put its major emphasis on the accountability and sanction provisions. This reorientation is reflected in the fact that the opening purposes clause of the law, which in previous versions had exclusively stressed "fair and equal opportunity," now added (as a second and, arguably, dominant provision) the emphasis on measurable achievement of proficiency.

The legislative history of the purposes clause further indicates that the original Senate version had included a list of programs and strategies that would have expanded on the opportunity-oriented specifications of purposes of Goals 2000 and the IASA. Specifically, they included items such as:

(2) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time . . .

(3) promoting schoolwide reform and ensuring access of children . . . to effective instructional strategies and challenging academic content . . .

(5) coordinating services under all parts of this title with each other, with other educational services, and to the extent feasible, with other agencies providing services to youth, children, and families . . .

(6) affording parents substantial and meaningful opportunities to participate in the education of their children. (U.S. House of Representatives 2001, p. 691, n. 10)

This delineation was omitted from the final version of the NCLB, although at the same time, the term *significant*, modifying *opportunity to obtain a high quality education*, was added to the overall statement of purpose. Presumably, adding this term affirmed a continuing congressional

understanding of the importance of “significant” or “meaningful” opportunities if all children were to meet high standards, but unfortunately, this statement of purpose was not accompanied by specific references to mechanisms that would promote or ensure that such opportunities actually are provided.

That omission must be corrected. To do so, Congress should revise the NCLB purposes clause so that it again articulates the need for the coordinated provision of a range of in-school and out-of-school services for students from communities of concentrated poverty and gives substantive content to the concept of “significant” or “meaningful” opportunity. More important, specific “meaningful educational opportunity” requirements should be added to the law, covering the seven categories of in-school educational essentials and the four categories of out-of-school educational essentials discussed here.

Education adequacy cases in more than half the states have made clear that the constitutional right to a basic quality education requires the states to provide essential educational resources to every American child. Federal education policy must ensure that these educational essentials are in place for all children nationwide if we are to eliminate achievement gaps and meet NCLB’s ambitious proficiency goals. The requirement that the states provide all students with core educational essentials should, however, be done in a way that does not lead to federal micro-management of the states’ implementation of this requirement. Given the complexity of school-based programs and practices, extensive top-down regulation is not likely to be effective (Elmore 2006).

NCLB should, therefore, require the states to ensure that every local school district provide sufficient resources in each basic category of essential resources to all its students. Currently, NCLB specifically requires states to ensure only one specific resource category, namely “highly qualified” teachers. We would extend that input mandate to include all the essential areas. The statute should define the category in general terms such as *highly effective teachers* (a term we would substitute for highly qualified teachers; see Rebell and Wolff 2008, chapter 5), *additional time on task*, and *adequate facilities*. The determination of which specific services will be provided in these areas and the manner in which they will be put into place should, however, be left to the discretion of the individual states. The states should be responsible for determining specifically who are “effective” teachers, what programs would meet requirements for “additional time on task,” specific definitions of “adequate” facilities, and so on. Examples of exemplary practices that have been developed by successful states and models of practices should also be disseminated and recommended, but not required, by the U.S. Department of Education.

This general federal requirement would place opportunity needs at the top of the policy agenda and induce each state to engage professional organizations, school boards, community groups, and the public at large in important debates and ongoing research and evaluation about the level and combination of services needed to provide a meaningful educational opportunity (Elmore and Fuhrman 1995). Each state would, in essence, develop the basket of goods, services, and practices most consistent with its particular needs, local culture, and perspectives. The aim should be to “encourage practices that focus more on effectiveness than compliance . . . [and to] identify the areas in which schools . . . might create ongoing processes for inquiry, self-evaluation, learning, consultation and problem-solving” (Darling-Hammond 1993, p. 41).

As with the essential in-school services, a general federal requirement for coordinated comprehensive services for students from communities of concentrated poverty would allow extensive state and local discretion in determining which out-of-school and community-based services are most critical for meeting students’ educational needs, which methods for providing these services would best promote productive interagency coordination, and which approaches would be most cost-effective (Schuck and Zeckhauser 2006). The anticipated public dialogue on the specific components of a “meaningful educational opportunity” and how they can best be provided by schools in collaboration with other agencies would be particularly useful in this critical, newly developing area. Extensive state-based consideration of these issues may also motivate policymakers to implement other social and economic policies that might mitigate the effects of poverty on children in areas such as housing, health insurance, and income maintenance.

The resource requirements we recommend would, like the opportunity to learn standards proposed in the 1990s, ensure that states provide all students with the tools they need to meet high standards, but they would do so in a way that would maximize the policymaking discretion of the states and avoid much of the political controversy that accompanied the OTL proposals. In the first place, the types of resource needs we have delineated emerged from the “laboratory of the states” (*New State Ice Co. v. Liebmann* 1932, p. 311) and represent a consensus of what state courts, based on evidence of local needs, determined to be essential elements of a basic quality education. Second, our recommendation is that NCLB require each state to provide the basic categories of resources that emerged from the consensus of state court decisions, while leaving the determination of the precise types and levels of resources to the discretion of states and localities.

The opportunity to learn standards that were the subject of political controversy in the 1990s were, as defined in the Goals 2000 legislation,

“the criteria for, and the basis of, assessing the sufficiency or quality of the *resources, practices, and conditions* necessary at each level of the education system . . . to provide all students with the opportunity to learn the material in voluntary national content standards or State content standards” (Goals 2000 1994, sec. 5802[7], emphasis added). At the time, the major concerns about federal intervention centered on the “practices and conditions” about which there was little understanding and certainly no national consensus. We are not recommending that the federal government develop a menu of preferred educational practices and mandate them for the states. Effective practices and conditions, although of critical importance to meaningful educational opportunity, by their nature are context-specific, and they should be developed by the states and local school districts. What the federal authorities can do effectively is to provide comparative information on resource allocations and effective practices developed in successful states and models or “visions” of “practices and conditions” recommended by researchers for the states to consider (Porter 1993).

The development and dissemination of cost-study methodologies through the education adequacy litigations provide an example of the way the different states can experiment with new ways of responding to a problem, develop a variety of mechanisms for dealing with it, and then offer their colleagues a range of models that they may decide to adopt or modify. The notion of developing formal methods for determining the amount of money needed to provide all students with a basic quality education originated with remedial orders in the Ohio and Wyoming litigations of the mid-1990s. The two core methodologies devised in those cases inspired the development of additional methodologies, and cost studies based on this range of methodologies have now been undertaken in more than thirty-five states, in most instances without a court order (Rebell 2007). These cost studies will undoubtedly continue to be a major mechanism that many states will use to respond to a federal statutory requirement for ensuring meaningful educational opportunities in the designated essential categories, and further improvement and refinement of the techniques now in existence will undoubtedly be made. But states will also develop other approaches to resource identification and allocation, and will continue to experiment with a variety of instructional practices and organizational reforms. This laboratory of the states, and not fixed methods and specific practices developed by a federal review board, would determine the way that meaningful opportunities for learning would be guaranteed for all children.

Federal oversight of this process should have two main dimensions. First, the current requirement that all students must be proficient by 2014 should be revised to charge the states with the responsibility to

provide the full range of meaningful educational essentials, as each state defines these concepts, by 2014. Each state should then be required to revise its state plan to describe how this responsibility will be met. The U.S. Department of Education, in reviewing the state plans, should ensure that substantive steps are being taken to provide all students with significant opportunities in each comprehensive education essential area, in accordance with their needs. This should essentially be a process review—but a probing process review that will ensure good-faith action to meet children’s needs; in other words, the department should not have authority to second-guess the mechanisms the state has chosen to use or the amounts it chooses to spend in each category.

States would also be required to demonstrate that they have put into place reasonable methods and data systems for assessing their resource-allocation schemes and major program initiatives on state, district, and school levels. Interdistrict and interschool variations in the availability of resources should also be tracked (Elmore and Fuhrman 1995). Each state should further be required to show that its state education department itself has the capacity to oversee an effective process for ensuring the availability of comprehensive educational essentials for all students (Elmore and Fuhrman 1995).

Second, the states should also be required to include in their annual report cards descriptions of the steps being taken to provide each of the educational essentials, including the equity of the distribution of these essentials, as well as disaggregated data on the progress that students in the state are making toward greater proficiency. Currently, NCLB requires that each state issue an annual report card that sets forth detailed information on the state’s adequate yearly progress and on the professional qualifications of its teachers (NCLB 2002, sec. 1111[h][1][C]). The act also states that the annual report card may optionally include information such as average class size in each grade, the incidence of school violence and drug abuse, the extent and type of parental involvement in the school, the percentage of students completing advanced placement courses, and a “clear and concise description of the state’s accountability system, including a description of the criteria by which the State evaluates school performance . . .” (NCLB 2002, sec. 1111[h][1][D]). Our proposal would expand these reporting categories by requiring information in all the categories of essential services and would also make those requirements mandatory.

The department should issue an annual report of its own that provides comparative data from the state plans and state report cards on methods that the various states are using and the progress they are achieving. These reports, together with the state’s AYP information, will allow parents, civic and business leaders, and the interested public in

each state to evaluate the opportunities that the state is providing and the annual progress it is achieving and to compare their state's efforts and achievements with those of other states. The AYP indicators would be calibrated in terms of challenging but realistic annual growth targets and not in terms of an unattainable full proficiency by 2014 mandate. With that information, concerned citizens in states not making adequate progress will be able to press policymakers and elected officials to improve their efforts and to consider adopting policies and practices that have proved successful in other states.

If a state's educational outcomes are unsatisfactory for an extended time, it may, however, be appropriate for the Department of Education to require that state to adopt one of the model approaches that have been utilized by successful states. Probably the appropriate time for the department to invoke this ultimate authority would be at the next reauthorization of the law (likely to be in or about 2014). We have argued throughout that states be given maximum discretion to develop the means of meeting their obligation to provide meaningful educational opportunities for all their students; ultimately, however, if some states prove unwilling or unable to accomplish this task, federal intervention will be unavoidable if student and national interests are to be upheld.

Even this highly limited invocation of federal coercive authority, undertaken only after the states have been afforded a maximum opportunity to pursue their own paths to compliance, raises serious issues of federal versus state power, and some will see it as inconsistent with important traditions of local control. These concerns must be taken seriously, even though the imperatives of equity, democracy, and the nation's economic competitiveness ultimately override them.

References

- American Federation of Teachers. 2006. *NCLB: Let's Get It Right: AFT's Recommendations for No Child Left Behind*. Washington, D.C.: Author.
- American Heritage Dictionary*. 1997. Boston, Mass.: Houghton Mifflin.
- Blank, M. J. 2004. "How Community Schools Make a Difference." *Educational Leadership* 61 (8): 62-64.
- Brown v. Board of Education*, 347 U.S. 483 (1954).
- Campaign for Fiscal Equity v. State of New York* (CFE II), 801 N.E.2d 326 (N.Y. 2003).
- Commission on No Child Left Behind. 2007. *Beyond NCLB: Fulfilling the Promise to Our Nation's Children*. Washington, D.C.: Aspen Institute.
- Darling-Hammond, L. 1993. "Creating Standards of Practice and Delivery for Learner-Centered Schools." *Stanford Law and Policy Review* 4: 37-52.
- Darling-Hammond, L., and P. Youngs. 2002. "Defining 'Highly Qualified Teachers': What Does 'Scientifically-Based Research' Actually Tell Us?" *Educational Researcher* 31 (9): 13-25.
- Debra P. v. Turlington*, 633 F.2d 397 (5th Cir. 1981).

- Elmore, R. 2006. The problem of capacity in the (re)design of educational accountability systems. Paper presented at the second annual Equity Symposium, "Examining America's Commitment to Closing Achievement Gaps—NCLB and Its Alternatives," November 13–14, Teachers College, Columbia University, New York.
- Elmore, R., and S. H. Fuhrman. 1995. *Opportunity to Learn and the State Role in Education*. New Brunswick, N.J.: Consortium for Policy Research in Education (CPRE).
- Goals 2000: Educate America Act. 1994. 20 U.S.C.A. § 5801 et seq.
- Gordon, E. W. 2005. "The Idea of Supplementary Education." In *Supplementary Education: The Hidden Curriculum of High Academic Achievement*, ed. E. Gordon, B. L. Bridglall, and A. S. Meroe. Lanham, Md.: Rowman & Littlefield.
- Gordon, E. W., and B. L. Bridglall, eds. 2006. *Affirmative Development: Cultivating Academic Ability*. Lanham, Md.: Rowman & Littlefield.
- Gordon, E. W., B. L. Bridglall, and A. S. Meroe, eds. 2005. *Supplementary Education: The Hidden Curriculum of High Academic Achievement*. Lanham, Md.: Rowman & Littlefield.
- Green v. County School Board*, 391 U.S. 430, 439 (1968).
- Hochschild, J. L., and N. Scovronick. 2003. *The American Dream and the Public Schools*. New York: Oxford University Press.
- Improving America's Schools Act of 1994, Pub. L. No. 103-382 § 1001 et seq.
- Individuals with Disabilities Education Act of 1997, 20 U.S.C.A § 1401 et seq.
- Iverson, D. 2005. "Schools Uniting Neighborhoods: The SUN Initiative in Portland, Oregon." In *Community Schools: A Strategy for Integrating Youth Development and School Reform*, ed. J. Dryfoos and J. Quinn. San Francisco: Jossey-Bass.
- Johnson, L. 1971. *The Vantage Point: Perspectives of the Presidency, 1963–1969*. New York: Holt, Rinehart and Winston.
- Joint Organizational Statement on the No Child Left Behind (NCLB) Act. 2004. Retrieved June 28, 2007, from <<http://www.fairtest.org/joint%20statement%20civil%20rights%20grps%2010-21-04.html>>.
- Lau v. Nichols*, 414 U.S. 563, 566 (1974).
- McDonnell, L. M. 1995. "Opportunity to Learn as a Research Concept and a Policy Instrument." *Educational Evaluation and Policy Analysis* 17 (3): 305–322.
- McGuinn, P. J. 2006. *No Child Left Behind and the Transformation of Federal Education Policy, 1965–2005*. Lawrence: Kansas University Press.
- National Conference of State Legislatures. 2005. *Delivering the Promise: State Recommendations for Improving No Child Left Behind*. Denver, Co.: Author.
- National Council on Education Standards and Testing. 1992. *Raising Standards for American Education. A Report to Congress, the Secretary of Education, the National Education Goals Panel, and the American People*. Washington, D.C.: U.S. Government Printing Office.
- National Education Association. 2006. *ESEA: It's Time for a Change! NEA's Positive Agenda for the ESEA Reauthorization*. Washington, D.C.: Author.
- Nave, G., A. Woo, R. Kruger, and K. O. Yap. 2006. *Multnomah County Department of Schools and Communities SUN Service System 2004–05 Evaluation Report*. Portland, Ore.: Northwest Regional Educational Laboratory.
- New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).
- No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. § 6301 et seq. (2002).
- Noddings, N. 2005. "What Does It Mean to Educate the Whole Child?" *Educational Leadership* 63 (1): 8–13.

- O'Day, J. A., and M. S. Smith. 1993. "Systemic School Reform and Educational Opportunity." In *Designing Coherent Education Policy: Improving the System*, ed. S. H. Fuhrman. San Francisco: Jossey-Bass
- Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. (2007).
- Porter, A. 1993. "School Delivery Standards." *Education Researcher* 22 (5): 24–30.
- . 1995. "The Uses and Misuses of Opportunity-to-Learn Standards." *Educational Researcher* 24 (1): 21–27.
- Porter, A. C., M. S. Garet, L. Desimone, K. S. Yoon, and B. F. Birman. 2000. *Does Professional Development Change Teaching Practice? Results from a Three-Year Study*. Washington, D.C.: U.S. Department of Education.
- Rebell, M. A. 2002. "Education Adequacy, Democracy, and the Courts." In *Achieving High Educational Standards for All*, ed. T. Reading, C. Eley, Jr., and C. E. Snow. Washington, D.C.: National Academy Press.
- . 2007. "Professional Rigor, Public Engagement and Judicial Review: A Proposal for Enhancing the Validity of Education Adequacy Studies." *Teachers College Record* 109 (6): 1303–1373.
- Rebell, M. A., and J. R. Wolff. 2006. *Opportunity Knocks: Applying Lessons from the Education Adequacy Movement to Reform the No Child Left Behind Act* (Policy Paper No. 1). New York: Campaign for Educational Equity.
- . 2008. *Moving Every Child Ahead: From NCLB Hype to Meaningful Educational Opportunity*. New York: Teachers College Press.
- Rothstein, R., T. Wilder, and R. Jacobsen. 2007. "Balance in the Balance." *Educational Leadership* 64 (8): 8–14.
- Ryan, J. E. 2004. "The Perverse Incentives of the No Child Left Behind Act." *New York University Law Review* 79 (3): 932–989.
- Schrag, P. 2003. *The Final Test: The Battle for Adequacy in America's Schools*. New York: The New Press.
- Schuck, P. H., and R. J. Zeckhauser. 2006. *Targeting in Social Programs: Avoiding Bad Bets, Removing Bad Apples*. Washington, D.C.: Brookings Institution Press.
- U.S. House of Representatives, 1st Session, 107th Cong. 2001. *No Child Left Behind of 2001 Conference Report*. Report 107-334, December 13. Washington, D.C.: U.S. Government Printing Office.

This article is adapted from Michael A. Rebell and Jessica R. Wolff, Moving Every Child Ahead: From NCLB Hype to Meaningful Educational Opportunity. New York: Teachers College Press, © 2008 by Teachers College, Columbia University. Used with permission from the publisher. All rights reserved.

Michael A. Rebell is executive director and Jessica R. Wolff is policy director of the Campaign for Educational Equity at Teachers College, Columbia University.