

**Testimony Before  
Commission on No Child Left Behind**

**September 25, 2006**

**John E. Chubb**

**Chief Education Officer, Edison Schools Inc.<sup>1</sup>**

**Distinguished Visiting Fellow, Hoover Institution, Stanford University**

Thank you for this opportunity to testify before the Commission on No Child Left Behind. As this keystone of federal education policy approaches reauthorization, it is important that the law be revised as thoughtfully as possible. The law has engendered more heated debate than any education law in the nation's history and stirred the passions of every group with a stake in the future of public education and the nation's youth. Amidst this maelstrom of voices it is vital that facts about the law—what is working and what is not—be clearly understood, for there are facts that can be indeed be established.

My testimony is offered on behalf of the Koret Task Force on K-12 Education, a group of many of the nation's most distinguished education scholars, based at the Hoover Institution at Stanford University.<sup>2</sup> In 2005 the Task Force completed and published a comprehensive analysis of how NCLB was working to that point. Entitled *Within Our Reach: How America Can Educate Every Child*, and edited by me, the volume presented

---

<sup>1</sup> Edison Schools, Inc. 521 Fifth Avenue, 11<sup>th</sup> Floor, New York, New York 10175. (212) 419 1600. jchubb@edisonschools.com.

<sup>2</sup> Members of the Task Force who contributed to the volume and endorsed its conclusions are John E. Chubb, Edison Schools, Inc.; Williamson Evers, Stanford University; Eric Hanushek, Stanford University; Caroline Hoxby, Harvard University; Terry Moe, Stanford University; Paul Peterson, Harvard University; Diane Ravitch, New York University; and Herbert Walberg, University of Illinois-Chicago. Other members of the Task Force include Checker E. Finn, The Fordham Foundation; Paul Hill, University of Washington and E.D. Hirsch, University of Virginia, all of whom endorsed the findings and recommendations of the study.

empirical analyses of every major element of NCLB and recommendations for how NCLB can be improved. The volume is included with this testimony, which summarizes very briefly the key findings and recommendations.

**Findings:**

1. *NCLB* has both the potential to drive historic improvement in the *quality* of America's schools, and the potential, similar to *Brown v. Board of Education*, to advance the *equality* of America's schools.
2. Early evidence suggests that *NCLB* has already spurred significant achievement gains, including a doubling of the rate of improvement in the nation's largest school systems.
3. The potential of *NCLB* derives from the basic principles that it employs to catalyze change—**accountability, transparency, and choice**—principles that are fundamentally different from the traditional guidelines of public education.
4. There is strong evidence that the kinds of tough accountability measures adopted by *NCLB* have been raising achievement in states since 1994, and there is reason to believe that the transparency and choice provisions of *NCLB* can do the same: the law has dramatically increased the visibility of student achievement nationwide while stimulating the entry of many new providers into public education.
5. The major goal of *NCLB* is audacious: to have all public school students proficient in reading and math by 2014. But this goal is morally right and, we find, attainable: the standards of proficiency adopted by many states, as required by *NCLB*, reflect levels of performance that are both important for all students to reach and within the grasp of all students, if properly instructed—a judgment that is supported by comparisons

of state and national academic standards. The law also provides ample allowance for students in exceptional circumstances—for example, students with serious special education needs or non-English speaking students newly arrived in the country—to satisfy alternative standards or proceed at a slower pace.

6. Although it is often asserted in the political arena that *NCLB* is under-funded, therefore incapable of reaching its goals, and hence unreasonable to be expected to, funding should not be at issue. It is a red herring. The direct costs of implementing *NCLB*'s requirements are more than covered by the substantial funding increases that have followed its enactment. The indirect costs are highly debatable, for they are nothing more nor less than the costs of public education that states and districts are otherwise expected to provide.
7. The goals of *NCLB* are nevertheless in serious jeopardy. They will not be reached without modifications to the law and its administration **to reinforce the principles on which the law is based** and to strengthen its key processes. *NCLB*'s framers had to accept many compromises to obtain passage in Congress in 2001. Experience now makes clear that those compromises jeopardize the law's major ambition.
8. Our recommendations are unambiguously aimed at helping the law meet its goals according to its demanding timetable. They must not be confused with all-too-frequent calls for "mid-course corrections" by interest groups and policy analysts that would effectively gut *NCLB* in the name of "feasibility" and "fairness."
9. Despite its promising evidence of progress, *NCLB* suffers several major weaknesses that threaten its success:
  - a. States have used the discretion provided them by *NCLB* to set proficiency standards that vary widely in difficulty (and worthiness), that in some cases have begun to decline, and that are likely to foster a "race to the bottom,"

driving academic standards further downward as 2014 approaches rather than establishing and sustaining the high standards intended by the law.

- b.** Some states have used the discretion provided by *NCLB* to set intermediate proficiency targets (what the law calls Annual Measurable Objectives, or AMOs) that spare most schools from any improvement efforts for several years, delay the need for major achievement gains by all schools for many years, yet promise to cause most schools to be labeled failures later in the decade—an untenable outcome. If this prospective “train wreck” is allowed to happen, the nation will have little alternative but to ignore *NCLB* or indefinitely delay its implementation.
- c.** *NCLB*’s mandate that (by 2005-06) all public school students must be taught by “highly qualified teachers” who are proficient in their subject areas is being satisfied in disingenuous ways that do not in fact ensure that teachers know their content areas. Some states have used their discretion under *NCLB* to adopt tests for new teachers and alternative requirements for veteran teachers (HOUSSE provisions) that are far too easy. Unless this portion of *NCLB* is modified, the law will not significantly improve the quality of teachers.
- d.** The major new engine in *NCLB* for raising student achievement is choice—the right of students in faltering schools to choose a new school or private tutoring (known as Supplementary Education Services, or SES). These promising strategies for getting students better education are being resisted by the school districts responsible for implementing them. Unless this situation changes, these powerful forces for improvement, equality and opportunity will fall well short of their potential, leaving *NCLB* far less chance of succeeding.

## Recommendations

- 1. We recommend that all state proficiency standards be calibrated using the *National Assessment of Educational Progress* as a common yardstick.** The point is to give states that set high standards an incentive to keep them while giving states with low standards an incentive to raise them. We recommend specifically that *NAEP* be used to rank all states by the rigor of their standards, and that these rankings be made public. We further recommend that states above the median be given extra time, proportional to their distance from the median, to reach the goal of 100 percent proficiency. States below the median would be encouraged by the public exposure of their low standards to lift theirs.
- 2. We recommend that the system of state AMOs, created to evaluate whether schools are making adequate yearly progress toward 100 percent proficiency, be replaced by straightforward statistical forecasts of whether individual schools are making adequate progress.** The purpose of this reform is multiple: to give all schools immediate incentive to raise student achievement, to avoid drawing misleading conclusions that schools are making adequate yearly progress when they are not, and to resolve issues of how large subgroups must be to be evaluated for making progress. The recommended method would use each school's recent and current test scores to project its total and subgroup achievement forward to 2014. Schools that fall significantly below the trajectory needed to reach 100 percent by 2014 would not make AYP and would become subject to NCLB's accountability provisions.
- 3. We recommend that the definition of highly qualified teacher be revised to include any teacher who possesses a bachelor's degree and one of these three**

**additional attributes: (1) a college major in the subject being taught, (2) passage of a subject competency test provided or approved by an independent national agency on teacher certification, or (3) demonstration through a statistically sound value-added methodology that one's teaching has significantly raised pupil scores on state proficiency tests—thereby eliminating the ineffective HOUSSE provisions of NCLB.** There is a dual purpose here: first, to attract more promising candidates to teaching by concentrating on skills directly related to student performance and providing alternatives to time-consuming and often ineffective traditional certification; second, to retain effective veteran teachers by focusing directly on their subject matter knowledge and teaching effectiveness, and to weed out ineffective ones who are holding down positions better given to new highly qualified teachers.

- 4. We recommend that NCLB take away from school districts and put in the hands of a state education agency primary responsibility for the law's choice provisions. We further recommend that eligible parents and students be able to choose any regular or charter public school in *any* school district—provided the family handles transportation out of the district—as well as any *private* school that accepts public per capita funding as full tuition. We also recommend that SES services (as well as choice) be available to students whose schools fail to make adequate yearly progress for two consecutive years.** The purpose of these proposals is multifold: transparency, to ensure that the parents know the status of their schools and the alternatives open to them; choice, to increase the probability that students have ample alternatives to select among, should they wish to change schools; and effectiveness, guaranteeing that direct help to students in the form of tutoring from a competent provider is available as soon as possible. This

recommendation would also end an unacceptable conflict of interest built into NCLB today whereby a school district is expected to foster alternatives to its own services.

## **National Goals and Local Control**

The key impediment to achieving the bold objectives of the No Child Left Behind Act, objectives that both political parties enthusiastically embraced, is the law's reluctance to interfere with traditional state and local powers and prerogatives. We believe that America's tradition of decentralized primary-secondary education has many virtues. We also believe that important national goals, such as ensuring that every U.S. student reach proficiency, can and should be accomplished through a system that respects state and local control. We would be a poorer nation were this not possible. We strive here to recommend modifications to *NCLB* that will enable the policy to accomplish what it intended while respecting and maintaining vital state and local roles. The balance between state and nation needs to be altered, yes. But every level of government retains a crucial responsibility in achieving universal proficiency for every young American.