5. The Role of the Federal Government

Against this background, what has been the role of the federal government in the school finance movement? The last 40 years have seen a sizeable increase in federal education spending targeted to disadvantaged groups. In 1965, Congress passed the Elementary and Secondary Education Act, which provided the first general federal aid to education; Title I, Part A of that Act focused, as it still does, on children at risk of educational failure by directing funds to poor children. In 1975, the act now known as the Individuals with Disabilities Education Act came into being, providing federal funding for special education services and guaranteeing a free and appropriate public education to all children with disabilities, a group that had previously been generally ill-served by the public school system.

The federal government has also been increasingly concerned about equity issues in school finance arrangements. Starting in 1974, Congress has permitted states with “equalized” school finance systems to treat federal impact aid as local revenue for the purposes of calculating how much state funding should be distributed, as an incentive to equalize spending. (Impact aid is a program that provides payment to localities with federal lands to make up for the loss of property taxes on those lands.) In 1994, Congress added a type of grant to Title I, the education finance incentive grant program, designed to reward states for demonstrating greater state effort and within-state equalization of school financing – although it was not until 2002 that this provision was funded. Also in 1994, Congress called for the National Academy of Sciences to conduct an independent study of education finance, a
mandate that the Department of Education clarified should include particular attention to equity issues.\textsuperscript{156} This mandate led to the creation of the Committee on Education Finance, which published a major report in 1999, some of whose conclusions and recommendations are discussed below.\textsuperscript{157}

Adequacy concerns, too, have become a subject of congressional focus. Starting in 1988, Title I required states to set standards for educational achievement, a focus strengthened in the 1994 reauthorization.\textsuperscript{158} Indeed, standards and accountability are at the center of NCLB.\textsuperscript{159} The Committee on Education Finance, guided by the Department of Education, also focused on the importance of adequacy.

Yet despite this attention to equity and adequacy, and despite improvement on both fronts around the country, there is much more the federal government can do to break the links between student and district background and educational success. The next section of this paper sets forth five recommendations on this front. Before turning to these recommendations, however, a word about the immediate political landscape is in order, for the policy questions about federal education funding are intimately intertwined with political controversy about the implementation, and thus the reauthorization, of NCLB. While some of the controversy has related to NCLB’s substantive requirements – such as definitions of adequate yearly progress, procedures for accountability mechanisms, and the like – a large part of the debate has focused on the extent to which the new obligations imposed by NCLB are adequately funded. Any discussion of federal education funding in 2007 takes place against the backdrop of this debate.

At the state level, there is much bipartisan support for the argument that NCLB has been severely underfunded. As of April 2004, twenty-four states as politically diverse as Vermont, Virginia, Connecticut, and Utah had taken some formal action against inadequate funding, from calling NCLB an “unwarranted intrusion” to voting to opt out of the law.\textsuperscript{160} Lawsuits in Connecticut, Pennsylvania, and Michigan challenged the law’s funding.\textsuperscript{161} The National Conference of State Legislatures criticized the president and Congress for imposing tens of billions of dollars of obligations on the states through NCLB without sufficient federal funding.\textsuperscript{162}

At the federal level, however, the funding dispute has been quite partisan, despite bipartisan support for NCLB when it was originally passed. The Republican leadership in Congress and the administration have pointed to large increases in K-12 education funding under NCLB, particularly in Title I – the largest program under NCLB – as evidence that NCLB is not underfunded.\textsuperscript{163} For example, a comparison is often made between President Bush’s increase of $4.6 billion for Title I in four years to President Clinton’s increase of only $2.6 billion in eight years.\textsuperscript{164} Additionally, the Republican leadership has also referred to statistics compiled by the Education Department indicating that by 2004, the average state had left unspent close to 12 percent of its 2002 appropriated education spending: how, the leadership asks, can states claim a lack of funding when they are not spending all that has been made available to them?\textsuperscript{165} Finally, the Republican leadership asserts that states can always opt out of participating in NCLB; there is no mandate to take part.\textsuperscript{166} For all of these reasons, the argument goes, NCLB is not an unfunded mandate.

In the meantime, the Democratic leadership in Congress points to the much higher levels of funding authorization in NCLB than has ever been appropriated, resulting in a cumulative gap between authorization and appropriation of $56.8 billion since 2001.\textsuperscript{167} In the appropriations bill for fiscal year 2007, the gap between Title I authorization and Title I appropriation is approximately $12 billion, close to 50 percent of the authorization amount.\textsuperscript{168} The Democrats say that the authorization levels were promises of federal funding that are now being broken.

Analysis of the adequacy of federal funding thus requires wading through political rhetoric for a more measured assessment, after which several points become clear. First, federal funding for K-12 education in general and Title I in particular has increased greatly since 2001. Title I funding has grown from $8.7 billion in 2001 to $12.7
billion in 2006, an increase of 45 percent. However, Title I funding has remained essentially flat since 2005, and the continuing resolution for fiscal year 2007 calls for no increase, despite an increase in the numbers of eligible children nationwide. While the administration's proposal for 2008 requests a $1.2 billion increase for Title I, most of that increase is intended to expand federal funding for high schools, which currently receive very little; even assuming the increase is funded, then, it will not do much for the younger children whom Title I has traditionally served. And the increase in proposed Title I funding comes at the expense of other Education Department programs, including special education and career and technical education, so the Education Department budget overall shows no increase. Moreover, a large increase in funds says nothing about whether that increase is sufficient to cover all eligible children.

Second, the claim that states are not spending all their money does not hold up on review. Strict spending rules result in small balances being left at certain times, and the amount left over at the end of the relevant spending period is only $155 million, less than three percent of one percent of education spending. Moreover, all federal agencies are in the same position of not spending down to zero. Indeed, the former Secretary of Education, who once voiced this assertion, subsequently publicly stepped away from it.

Third, while NCLB is not a mandate in the sense that states need not comply with its strictures if they do not accept funds, the Education Department has taken the position that refusing Title I money would jeopardize almost all federal education funds, making the cost of noncompliance incredibly high. While it is unclear whether the Education Department's position could withstand a constitutional challenge – one could reasonably argue that this position is unconstitutionally coercive under Congress's Spending Clause authority – such a position lends credence to the states' assertion that NCLB effectively constitutes an under-funded mandate towards which the federal government ought to contribute more.

Fourth, it is true that there is a large gap between the authorization levels and appropriation levels of NCLB. However, this gap is not new to NCLB; the Elementary and Secondary Education Act (ESEA) has historically only been funded at about a third of its authorization level. On the flip side, even the relatively high authorization levels are not directly tied to the numbers of children living in poverty. From this perspective, one study found that the definition of full funding for Title I as embedded in the law – 40 percent of the average per pupil expenditure in the state for each school-age child living in poverty – would have required $28.2 billion in 2003, as compared with $16.0 billion authorized by NCLB, $11.4 billion requested by the administration, and $11.7 actually appropriated. Using this definition of full funding for Title I, only about 41 percent of the Title I funding that the law itself suggests is needed has been appropriated each year. While it is debatable whether Congress actually ever intended this definition of full funding, the 40 percent figure does not come out of thin air; as described above, it is actually on the low range of estimates of the additional cost of educating children in poverty. School districts thus receive much less from the federal government than what the federal government calculates they need to teach poor children adequately.

Overall, then, the half-dozen years since the passage of NCLB have seen an impressive increase in federal funding for K-12 education – alongside a large increase in states' obligations and a growing gap between what is appropriated and what is needed. In this context, more federal funding is appropriate. Moreover, regardless of whether additional federal funding is forthcoming, any federal funding should reduce, instead of contribute to, educational inequity and should be allocated most sensibly among states, districts, and schools. The five recommendations that follow are based on these two principles.