

Confronting Opportunity Gaps

Throughout its history, the United States has largely depended on the public school system to solve its problems of social and economic inequality. While other industrialized countries built comprehensive social welfare systems—subsidizing income, health care, pensions, and housing to create more equality among their citizens—the United States has relied on education as the prime means of improving the lives of the poor and disadvantaged (Wells, 2006). However, the cruel irony of the American education system is that low-income and minority children who come to school with the greatest educational deficits generally have the fewest resources and least expertise devoted to their needs—and therefore the least opportunity to improve their futures. Current federal education policy, though ostensibly designed to remedy this, does not sufficiently confront the impediments to learning created by the conditions of poverty.

In this chapter, we examine of the conditions of poverty and racial inequality in America today. We explore how these conditions create barriers to learning both in and out of school that profoundly influence students' learning opportunities and their achievement. Finally, we begin to examine the extent to which NCLB responds to these conditions. If NCLB is ultimately to be effective, it must be revised with an eye toward closing the opportunity gaps that are at the root of our nation's achievement gaps and thus creating a law that appropriately balances opportunity and accountability.

THE SCOPE OF POVERTY IN THE UNITED STATES TODAY

Though the United States is one of the richest nations on Earth, many Americans still struggle with poverty. In 2005, at least 37 million people, constituting 12.6% of our population, lived in poverty by official

standards. Among Blacks and Latinos, the poverty rate was almost twice as high, amounting to 24.9% and 21.8%, respectively (Denavas-Walt, Proctor, & Lee, 2006, p. 13). The U.S. child poverty rate is the highest among affluent countries (Mishel, Bernstein, & Allegretto, 2005, cited in Berliner, 2005). The rate of childhood poverty in America is 21.9%, compared with less than 3% in Denmark and Finland, the countries with the lowest rates (UNICEF, 2005). Race also figures into the child poverty rate: in 2005, 14% of White children were living in poverty, as compared with 34% of Black children and 28% of Latino children (Child Trends Databank, 2006b).

As shocking as these figures are, they probably minimize the number of children affected by poverty in America (Anyon, 2005; Douglas-Hall & Koball, 2006). The official poverty rate is calculated according to a formula from the 1960s that establishes the threshold below which families or individuals are considered to be lacking the resources to meet basic needs (Fisher, 1992). This formula does not reflect changes in policies and practices since the 1960s and resulting cost increases in areas such as child care and health care (UNICEF, 2005). As a result, some researchers estimate that families actually need an income of twice the federal poverty level to make ends meet (see, e.g., Berstein, Brocht, & Spade-Aguilar, 2000). If calculated at this level, two out of every five American children would be considered poor.

The United States also leads all other developed nations in the percentage of people who are “permanently” poor (Mishel, Bernstein, & Allegretto, 2005, cited in Berliner, 2005). This statistic is particularly significant because the longer a child lives in poverty, the more extreme its effects, especially if a child is poor during the early childhood years (Brooks-Gunn & Duncan, 1997). And long-term child poverty is increasing. The percentage of young children who spent 6 or more years during the past decade in poverty rose from 7% in 1977 to 11% in 1997. Black children are more likely to experience long-term poverty. One third of Black children were poor for at least 6 years of the previous decade in 1997, though less than 5% of other children experienced this extreme. In 1997, only 31% of Black children experienced no poverty at all during the past decade, compared with 75% of other children (Child Trends Databank, 2006a).

Surprisingly, most poor families in this country are working families. More than half (56%) of American children living below the poverty threshold live in households where someone works full-time, year-round (U.S. Department of Labor, 2005). As Jean Anyon (2005) writes:

In 2000, at the height of a booming economy, almost a fifth of all men (19.5%) and almost a third of all women (33.1%) earned poverty level wages working full time, year round. . . . And in 1999, during the strong economy, almost half of people at work in the U.S. (41.3%) earned poverty zone (125% of the official poverty threshold needed to support a family) wages—in 1999 \$21,299/year or less—working full time, year round. (pp. 18–19)

The median income of working-age households has fallen each year since 2000, though the U.S. economy has expanded during this same period (Bernstein & Gould, 2006). This trend is not likely to reverse itself naturally. The current value of the national wealth available per person is more than twice what it was in 1967, yet there are more children living in poverty today (Children's Defense Fund, 2005). This is because during the past several decades, much of the gain from a strong U.S. economy has gone to the people at the top of the income ladder, creating large and growing disparities in income and wages. The growing gap between haves and have-nots in America is illustrated by the fact that from 1973 to 2000, the average real income of the bottom 90% of American taxpayers declined by 7%, while the income of the top 1% rose by 148% (Boushey & Weller, 2005). Another reflection of these ominous trends is the fact that whereas in 1965 the average U.S. corporate CEO's income was 24 times the average wage, in 2005 it was 262 times the average wage (Mishel, Bernstein, & Allegretto, 2007).

A troubling, related trend is that the "haves" and "have-nots" are moving farther apart physically as well as economically (Anyon, 2005; Wells, Holme, & Duran, 2006).

Increasingly, poor and nonpoor families live in separate neighborhoods and go to separate schools. As poverty is concentrated in certain areas, its effects on communities and individuals are multiplied. As neighborhoods become dominated by joblessness, racial segregation, and single parentage, they become isolated from middle class society and the private economy. Individuals, particularly children, are deprived of local role models and connections to opportunity outside of the neighborhood. A distinct society emerges with expectations and patterns of behavior that contrast heavily with middle class norms. (Orfield, 2002, p. 18)

Concentrated poverty is most pronounced in urban and "urbanized" suburban areas populated almost entirely by Black and Latino families (Anyon, 2005).

THE ACADEMIC ACHIEVEMENT OF CHILDREN WHO ARE POOR

The impact of poverty on children's learning is profound and multidimensional. Although other risk factors, such as being raised by a single parent, having parents with low educational attainment, or coming from a foreign-born, non-English-speaking family, can compound the risk of poverty, none is as predictive of poor academic performance as poverty (Allgood, 2006). Children who grow up in poverty are much more likely than other children to experience conditions, both in school and out of school, that make learning difficult and put them at risk for academic failure. Moreover, the longer a child is poor, the more extreme the poverty, the greater the concentration of poverty in a child's surroundings, and the younger the age of the child, the more serious the effects on the child's potential to succeed academically (Brooks-Gunn & Duncan, 1997).

Although research shows little difference in mental ability among very young children regardless of race or social class (Fryer & Levitt, 2006), achievement gaps for poor and minority children begin before they start school and widen throughout their school careers (Education Trust, 2003a, 2003b; Miller, 1995; Robelen, 2002). At the beginning of kindergarten, large achievement gaps can already be found between Black and Hispanic children and White children and between low socioeconomic status (SES) children and middle and high SES children in both math and reading (Lee & Burkam, 2002). On the National Assessment of Educational Progress (NAEP), children who are eligible for free or reduced-price lunch perform significantly worse on average than children who are not eligible at both 4th and 8th grades, in reading and in math (Weiner, 2006). In 2005, only 16% of poor children demonstrated proficiency on the NAEP reading test in 4th grade, while 42% of non-poor children performed at or above the proficient level (National Center for Education Statistics, 2006c). On the 8th grade math test, only 13% of students who were eligible for free or reduced-price lunch scored at or above the proficient level in 2005, but 39% of students who were not eligible demonstrated proficiency (National Center for Education Statistics, 2006b). Moreover, the greater the percentage of low-income children in a school, the further the average performance drops (National Center for Education Statistics, 2006a). High school students living in low-income families are four times more likely to drop out of school than their peers in non-poor families (Laird, DeBell, & Chapman, 2006).

Poverty is also a major contributor to racial achievement gaps. Black and Latino children are much more likely than White children to live in poverty or attend segregated schools in poor neighborhoods, where concentrated poverty compounds the barriers to learning experienced by students (Orfield & Lee, 2005; Ryan, 1999; Rumberger, 2007). Some 88% of high-minority schools (more than 90% minority) are also high-poverty schools (Orfield & Lee, 2005). Some 61% of students in the largest urban school districts come from low-income families, compared with 38% nationwide (Snipes, Williams, Horwitz, Soga, & Casserly, 2007). These socioeconomically and racially segregated urban districts house most of our “failing” public schools (Wells, Holmes, & Duran, 2006).

HOW POVERTY AFFECTS LEARNING

Attention was first drawn to the importance out-of-school factors on children’s academic achievement by the sociologist James Coleman and his colleagues in the 1960s. The government-commissioned “Coleman report” (1966) studied the effects of both school and family inputs on student achievement and concluded that family characteristics had an even greater influence on student achievement than school quality. In the decades since the Coleman report, many researchers have studied these family or out-of-school factors (see, e.g., Anyon, 2005; Barton, 2003; Brooks-Gunn & Duncan, 1997; Comer, 1997, 2004; Ferguson, 2005; Gordon, 1999, 2005; Leichter, 1975; Mercer, 1973; Rothstein, 2004; Varenne & McDermott, 1998; Wilkerson, 1979; Wolf, 1966) with the goal of reducing the educational disadvantages of children from poverty. Each argues that, although quality schooling is essential for closing achievement gaps, without the amelioration or elimination of these other effects of poverty, children from poor families will not be able to achieve their potential in school.

There are a number of “pathways” through which poverty exacts its toll on children’s academic achievement (Allgood, 2006; Brooks-Gunn & Duncan, 1997; Rothstein, 2004). These can be roughly divided into the categories of health-related, home- and family-related, and community- and environment-related barriers to learning.

Health-Related Barriers to Learning

Poor children are more likely than other children to lack adequate health care and, as a result, to suffer from health-related barriers to

learning. Without access to adequate health care, children from low-income households are less likely to receive routine medical check-ups and immunizations, and are more likely to suffer from serious diseases (Allgood, 2006; Rothstein, 2004). They miss more school as a result of illness than other children (Rothstein, 2004). They are more likely to have undetected vision impairments and hearing problems, as well as untreated cavities and toothaches, all of which can affect their performance in school (Rothstein, 2004). Poor children are more likely to have high blood-lead levels because of lead exposure, which is connected with lowered IQ scores (Brooks-Gunn & Duncan, 1997). They are more likely to have asthma (Barton, 2003; Brooks-Gunn & Duncan, 1997; Rothstein, 2004). Asthma is on the rise among all children, but poor children with asthma miss more school than other children with the disease (Allgood, 2006); children who do go to school are likely to be tired and inattentive as a result of interrupted sleep (Rothstein, 2004).

Poor families are more likely than other families to experience hunger or have inadequate access to a nutritionally sound diet. In 2002, 22% of families in poverty experienced “food insecurity”—the “lack of secure access to sufficient amounts of safe and nutritious food for normal development and an active and healthy life” (U.N. Food and Agriculture Organization, 2000)—and 13% of them experienced hunger (Barton, 2003). Hunger and malnutrition obviously affect children’s school performance. Children who are hungry are less able to concentrate in school. Malnutrition in young children can impede brain development; in older children it can lead to illness and missed school (Allgood, 2006).

Home- and Family-Related Barriers to Learning

Children who are poor are more likely than other children to live in single-parent households (Lee & Burkam, 2002). They are more likely to have a larger number of siblings (Lee & Burkam, 2002). Their parents are more likely not to have received a high school diploma and are more likely to suffer from serious physical or mental health problems (Allgood, 2006). All of these factors negatively affect parents’ ability to provide intellectual and academic support to their children. Each of these disparities is more pronounced in low-income African American and Latino families than in other families (Allgood, 2006; Lee & Burkam, 2002).

Children who are poor are less likely to be exposed to parenting practices that are associated with school readiness and achievement.

For example, low-income households are more likely to have lower-quality parent-child interactions, characterized by a smaller number of words spoken to children, fewer and less diverse exchanges, less complex interactions, and more punitive and directive statements (Brooks-Gunn & Duncan, 1997; Hart & Risley, 2003). In addition, the households of children who are poor have fewer of the material resources and at-home learning experiences that are positively associated with learning and readiness for school. They have fewer books in the home and are read to less frequently. They are less likely to have a computer and are likely to spend more time watching television (Ferguson, 2006; Lee & Burkam, 2002). They are less likely to have parents or other caring adults who are able to engage in what Lareau (2003) calls “concerted cultivation” (p. 2) and what Gordon (2005; Gordon & Bridglall, 2006) calls “affirmative development” of their children through “the demands, the routine provisions, the things that are done for fun, and even things that are forced under duress in the effort to ensure that optimal development and effective education are achieved” (p. 322).

Early childhood education programs have positive and lasting effects on children’s academic performance (Barnett, 1995; Karoly, Greenwood, Eveningham, Houber, Kilburn, Rydell, Sanders, & Chiesar, 1998; Ramey & Ramey, 2000). Quality pre-K programs have been shown to improve children’s cognitive and social development in the short term, and participation in model pre-K programs has been shown to reduce special education placement, improve high school completion, and reduce teen parenting rates, among other benefits (Belfield, 2005). However, children who are poor are still more likely than other children to lack access to high-quality early childhood programs (Kagan, 2006; Lee & Burkam, 2002). The same is true for one-on-one tutoring, before- and after-school programs, and summer programs, all of which have been shown to have benefits in raising achievement for low-income children (Allgood, 2006).

Poor families’ lack of access to adequate housing affects children’s academic achievement and contributes to the achievement gap. Low-income families are more likely to live in substandard housing or spend a larger share of their income on housing, leaving them fewer resources for other necessities (Allgood, 2006), such as food, health care, and child care. Children in substandard housing suffer disproportionately from asthma and lead poisoning, the effects of which have already been discussed. As a result of crowded living conditions, they often lack a quiet study space (Allgood, 2006).

Inadequate housing also contributes to frequent moves and a high school-mobility rate for children from low-income families. For example, a 1994 government report indicated that 30% of the poorest children had attended at least three different schools upon entering the 3rd grade (Rothstein, 2004). Obviously, students who move from school to school do not perform as well academically as students who move less; in addition, students who attend schools with higher rates of student mobility have lower achievement in general than students in schools with lower mobility rates (Rothstein, 2004).

Community/Neighborhood-Related Barriers to Learning

The neighborhoods in which poor children reside may be another “pathway” through which poverty depresses student achievement. Living in neighborhoods of concentrated poverty has been shown to have negative effects on student academic outcomes over and above family effects (Brooks-Gunn & Duncan, 1997). Unfortunately, housing policies and patterns leave low-income families few choices in where to live and where to send their children to school (Anyon, 2005). Poor Blacks are eight times as likely and poor Latinos six times as likely as poor Whites to live in high-poverty neighborhoods (Allgood, 2006).

Low-income neighborhoods often lack family supports and community resources that contribute in very important ways to children’s ability to succeed in school. Scarce resources include quality child care, health facilities, community centers, cultural activities, positive role models, and parks and playgrounds. In short, low-income Black and Latino students are less likely to have access to what Coleman (1990) and others have called “social capital”—“the norms, the social networks, and the relationships between adults and children that are of value for the children’s growing up” (p. 334) and achieving their full intellectual potential.

SCHOOL RESOURCE DEFICIENCIES EXACERBATE THE IMPACT OF POVERTY

Despite the enormity of the deprivations suffered by children in poverty and the magnitude of their learning needs, in the United States, schools by and large not only fail to provide the high-quality resources children need to overcome the burdens of poverty, but they actually provide these children with fewer resources and lower-quality services than they provide to more advantaged children:

Public education is brutally efficient at denying meaningful educational opportunities to children who are growing up in poverty. With relentless effectiveness, it shortchanges such children in everything from the qualifications of their teachers, to the quality of their school buildings, to the rigor of the daily assignments. (Weiner, 2006, p. 1)

The Education Trust (2006) has estimated that nationwide, on average, spending on children in high-poverty districts is \$825 less per student than spending on students in low-poverty districts. The situation is even worse in particular states and districts. For example, in 1999–2000, the school district of Cuyahoga Heights, a wealthy Cleveland suburb, received \$16,447 per student in state and local funds. Tri-Valley Local, a low-wealth rural school district in Ohio, received just \$4,532 per student (*DeRolph v. Ohio*, 2000).

The discrepancies between what our schools provide to poor children and affluent children in dollar terms, as well as in the quality of educational services, have been documented extensively in the state court cases brought to challenge these inequities. In California, many high schools in low-income and minority communities do not offer the curriculum students must take just to *apply* to the state's public universities (*Williams v. California*, ¶ 280). Passing an examination in a laboratory science course is required for high school graduation in New York State, but 31 New York City high schools have no science labs (*Campaign for Fiscal Equity v. State*, 2003, p. 334, n. 4). In South Carolina, annual teacher turnover rates exceed 20% in eight poor, rural, mostly minority school districts (*Abbeville v. South Carolina*, 2005), and in those districts graduation rates fall between 33% and 57% (Hunter, 2003).

Although defendants in these cases often claimed that “money doesn't matter” in rectifying educational inadequacies, the courts in 30 of the state cases considered this question, often after hearing extensive testimony from the national experts on both sides of the issue. In 29 of the 30 cases, the courts held that money does matter and that additional resources are needed to provide meaningful educational opportunities to poor and minority children (Rebell, 2007b).

The decisions of the state courts that have analyzed the specific resources that poor and minority students need to obtain an adequate education have tended to agree that schools must provide the following education essentials:

- Effective teachers, principals, and other personnel
- Appropriate class sizes

- A full platform of services, including guidance services, summer and weekend programming and tutoring, and additional time on task for students from backgrounds of poverty
- 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
- Adequate school facilities
- A safe, orderly learning environment (Rebell & Wolff, 2006)

This list of education essentials in effect restates the elements of good schooling that students in affluent districts obtain as a matter of course. The extensive evidence set forth in the adequacy cases established both the extent to which poor and minority children are widely denied these basic educational resources and the remarkable progress that disadvantaged students have made when, in particular instances, high-quality resources were provided. For example, extensive research undertaken by Ron Ferguson of Harvard University has demonstrated that high-quality teaching has a profound effect on student learning. Ferguson's most extensive study used a massive data set involving 2 million children and 200,000 teachers in 90% of Texas's 1,000 school districts during the 1980s. He compared student achievement in schools with similar student demographics but with significant variations in the level of teacher qualification as measured by TECAT, a literacy skills test administered to every public school teacher in Texas. By high school, students in districts with the high-scoring teachers scored remarkably higher—1.7 standard deviations—than their peers with low-scoring, less-qualified teachers (Ferguson, 1998; see also *Campaign for Fiscal Equity v. State*, 2003). Ferguson's results are consistent with similar findings from studies of teacher effectiveness in Tennessee (Sanders & Rivers, 1996) and Boston (Haycock, 1998). Another major study of Texas teachers found that "having five years of good teachers in a row would overcome the average achievement deficit between low income kids and others from higher income families" (Rivkin, Hanushek, & Kain, 2000, p. 35).

One of the factors that most directly correlates with teacher quality is experience in the classroom. Stanford University professor Linda Darling-Hammond testified in *Campaign for Fiscal Equity v. State of New York* (1999) that "teachers do become more effective during their initial years of experience" and that "teachers with less than three years of experience tend to be less effective than teachers who have somewhere

in the range of three to five years experience” (Wolff, 2001, p. 6). In a report submitted for *Williams v. State of California*, Darling-Hammond (2002) cites Goe (2002); Hanushek, Kain, and Rivkin (1999); and Kain and Singleton (1996) as evidence that “inexperienced teachers (those with less than two or three years of experience) are often found to be noticeably less effective than more senior teachers” (p. 30).

Overwhelmingly, poor and minority students are more likely to be taught by these less-experienced, less-qualified teachers. “As an example, in 2000, 28% of New York City teachers in the quartile of schools with the highest concentration of student-poverty were in their first two years of teaching, compared with 15% of teachers in the lowest-poverty group” (Loeb & Miller, 2006, p. 3). Similarly, 26% of non-White students had teachers who failed their general knowledge certification exam, compared with 16% of White students (Loeb & Miller, 2006, p. 5). An extreme example of the poor-quality teaching that is provided to low-income and minority students emerged from Arkansas litigation where the court found that Lake View, a poor rural school district, had one uncertified mathematics teacher covering all high school mathematics courses. The teacher was paid \$10,000 a year as a substitute teacher, which he supplemented with \$5,000 annually for school bus driving (*Lake View School District No. 25 v. Huckabee*, 2001).

Evidence in the cases also established that at-risk children are more likely to be taught by “out-of-field” teachers—in other words, teachers who do not possess specific qualifications (either certification or a major or minor) in the subject areas in which they teach. For example, the record in the *Hancock* litigation revealed that in Brockton, Massachusetts, in 2002, 50% of the middle school mathematics teachers were not appropriately certified in that field, and in Winchendon, Massachusetts, none of the 7th- and 8th-grade mathematics teachers were appropriately certified (*Hancock v. Driscoll*, 2005, p. 1166). These findings are consistent with national studies that indicate that in secondary schools, 34% of classes in high-poverty schools and 29% in high-minority schools are taught by out-of-field teachers, compared with 19% in low-poverty schools and 21% in low-minority schools (Jerald, 2002, p. 4). The problem is much worse in middle schools, where over half of classes in high-poverty schools are taught by teachers who lack at least a college minor in the subject area that they teach (Jerald, 2002).

Trials in the adequacy cases also focused on the class size issue. The New Jersey Supreme Court noted, for example, that children in the poor urban districts “must also contend with gross overcrowding.

Some class sizes hover around forty” (*Abbott v. Burke* , 1998, p. 470). In Texas, one third of the school districts did not meet the state-mandated standards for class size, and “the great majority of these are low-wealth districts” (*Edgewood Independent School District v. Kirby*, 1989, p. 393). The evidence strongly affirmed the commonsense perception that smaller classes, which allow for more personalized instruction, are directly correlated with improved student achievement—especially for poor and minority students. The most widely documented study in this regard was the landmark Tennessee STAR study, which was initiated in the late 1980s and whose results have been extensively analyzed from the early 1990s until the present day. For 4 years in the 1980s, the state of Tennessee placed 6,500 students in different-size classes in 80 schools and 330 K–3 classrooms, and tracked their educational progress over time—thus creating large-scale control groups of similar groups of students that allowed for precise comparisons of the results of the main variable, differences in the students’ class sizes. Jeremy Finn of the State University of New York at Buffalo and his colleagues concluded that several years’ exposure to small classes showed lasting benefits that are statistically significant and educationally meaningful (Finn, Gerber, Achilles, & Boyd-Zacharias, 2001). Improvements in test scores remained significant through grade 8—fully 5 years after the small classes were disbanded. Few educational interventions have demonstrated this degree of longevity.

Further analysis of Tennessee STAR data by Princeton professors Alan Krueger and Diane Whitmore found especially pronounced educational benefits of small class sizes on African American children. While the academic achievement rose for all students who were in the smaller classes, Krueger and Whitmore (2001) found that standardized test score increases for Black children, which averaged 7–10 percentile points, were double the gains of the White children in those same classes. Because of this pronounced effect on the achievement of Black students, they concluded that “assigning *all* students to a class of 15 students as opposed to 22 students for a couple of years in grammar school would lower the black-white [standardized test score] gap by about 38%” (p. 16). The reason that small classes matter more for African American students, hypothesized Krueger and Whitmore (2001), is that they are more likely to attend schools with a range of educational deficiencies and, thus, greater numbers of “weak students” that require students to “move very slowly through the curriculum” (pp. 34–35). With fewer students, teachers can “effectively teach more material,” an issue not faced in schools with less pervasive educational deficiencies (i.e., predominantly White or low-poverty schools) where

teachers “can move quickly through the material regardless of class size” (pp. 34–35). White students attending predominantly Black schools, they found, enjoyed the same large benefits.

Evaluation of the impact of extra time on task for students with low achievement scores has also demonstrated substantial gains. Evidence in the New Jersey litigation established that “if you start kids in preschool, take them through summer . . . you will have them achieving at levels no one ever predicted” (*Abbott v. Burke*, 1990, p. 398, n. 29). The *Campaign for Fiscal Equity* litigation revealed that “pre-kindergarten programs, summer programs, and increased hours at school via after school and Saturday programs” positively affected student performance (*Campaign for Fiscal Equity v. State of New York*, 2001, p. 525). The evidence in this case particularly focused on Reading Recovery, an expensive but highly effective one-to-one tutoring program. Reading Recovery selects students from the lowest performing 20% of 1st graders. According to studies completed by researchers at New York University who testified at the trial between 1989 and 1996, 83% of all New York students who received the full Reading Recovery program of 60 or more lessons successfully developed self-sustaining capacities for reading. The *CFE* court found this program to be “extremely effective” (*Campaign for Fiscal Equity v. State of New York*, 2001, p. 526).

Teachers and administrators who work daily with students from poverty backgrounds have testified at length about their schools’ and classrooms’ lack of basic supplies, up-to-date textbooks, computers, well-stocked libraries, and other learning materials. Summarizing the testimony of one of these teachers, the Arkansas court wrote in *Lake View*, “In his geometry class he does not have compasses. Only one of four chalkboards is usable. His computer lacks hard- and software . . . and the printer does not work. Paper is in short supply and the duplicating machine, an addressograph, is generally overworked so that frequently documents, including examinations, have to be handwritten on the chalkboard” (*Lake View School District No. 25 v. Huckabee*, 2001, ¶ 24).

The impact of inadequate facilities was described in testimony in the case of *DeRolph v. State of Ohio* as follows: At the intermediate and high schools in Coal Grove, Ohio, there were no art or music rooms. The intermediate school had no science labs, and one shower room served both boys and girls. One of the high school’s science labs had no running water or gas. In the town’s elementary school, temperatures often exceeded 100 degrees at the beginning and end of the school year; if more than three teachers ran fans at the same time, however, the school’s circuit breaker would fail (*DeRolph v. State of*

Ohio, 1994). In Mount Gilead, some students were being educated in former coalbins (*DeRolph v. State of Ohio*, 1997), and in Flushing, students as recently as the early 1990s had to use outhouses (*DeRolph v. State of Ohio*, 1994).

In Arizona, the perspective of the state court judges who heard testimony for weeks regarding the lack of basic tools of learning in schools that serve low-income and minority students was well summarized by the chief justice of the Arizona Supreme Court, who wrote:

Logic and experience tell us that children have a better opportunity to learn biology and chemistry, and are more likely to do so, if provided with the laboratory equipment for experiments and demonstrations; that children have a better opportunity to learn English literature if given access to books; that children have a better opportunity to learn computer science if they can use computers, and so on through the entire state prescribed curriculum. . . . It seems apparent to me, however, that these are inarguable principles. If they are not, then we are wasting an abundance of our taxpayers' money in school districts that maintain libraries and buy textbooks, laboratory equipment and computers. (*Roosevelt Elementary School District No. 66 v. Bishop*, 1994, p. 822)

NCLB FAILS TO RESPOND TO STUDENTS' MAJOR NEEDS

The preceding discussion has made clear that poor and minority students, whose readiness for learning is severely affected by conditions of poverty, are nevertheless more likely than their more affluent White peers to attend lower-quality schools—however school quality is measured—and to lack adequate educational resources to meet their learning needs. NCLB does not, however, speak directly to this central issue. Of the six broad areas of school-based education essentials emphasized by the state courts, NCLB addresses only one, the need for effective teachers, and this is inadequately addressed. The Goals 2000: Educate America Act, a predecessor to NCLB, emphasized that to meet the national goal that “All children will start school ready to learn,” all children should have access to high-quality preschools and “will receive the nutrition, physical activity experiences and health care needed to arrive at school with healthy minds and bodies” (Goals 2000, 1994, § 5812(1) (B) (iii)). However, NCLB contains no specific requirements for these critical out-of-school support services. The law has provided additional funding to states and school districts since 2002, but virtually all of these funds have been utilized for the development and administration of required tests, data collection, and data

reporting systems, and increased administrative support devoted to compliance with the law's many provisions, rather than to increasing and improving services provided to students (Sunderman, 2006).

Not coincidentally, the one area in which NCLB has mandated specific resource inputs, that of teacher qualification, has been the one area that has shown some concrete success. Over the past 5 years, the number of uncertified teachers and minimally qualified teachers has, at least in some places, dropped substantially. For example, the number of uncertified teachers in California was cut in half by 2005, and the percentage of new hires in New York City who had failed the basic state certification examination on the first attempt was reduced from 16% to 6% (Loeb & Miller, 2006). California and New York have now totally eliminated emergency certificate hiring routes, but the number of new teachers certified through alternative certification mechanisms whose quality may be questionable has risen dramatically (Loeb & Miller, 2006).

Although the reduction in the numbers of uncertified and grossly unqualified teachers entering urban and rural school systems is significant, many students, and especially large numbers of low-income and minority students, still are not being taught by teachers who are really "highly qualified" and who are effective in meeting their learning needs. As we will discuss in Chapter 5, NCLB essentially equates its definition of *highly qualified teacher* with minimal state teacher certification or minimal evaluation requirements, and the law has no means of ensuring that teachers in our schools today are capable of providing students with a meaningful opportunity to learn the challenging content contained in most states' academic standards. Moreover, little progress has been made toward implementing the law's stated requirement that by 2006, low-income and minority students not be taught by inexperienced, unqualified, or out-of-field teachers at higher rates than other children (Loeb & Miller, 2006).

Overall, despite the lofty aims, purposes, and mandates of NCLB, actual progress toward improving the achievement of low-income and minority students in the United States and reducing achievement gaps has been minimal since 2002. Although a number of states have reported significant learning gains, as we will discuss in Chapter 7, it is difficult to credit many of these pronouncements because of the wide-ranging variations in the quality of their content and performance standards.

A more objective measure of absolute and relative progress is provided by the biennial scores reported by the National Assessment of Educational Progress (NAEP). The NAEP statistics for 2002–2005, the

first 3 years that NCLB was in effect, show that nationwide, on average, reading scores were flat for grade 4 and decreased by three points at grade 8. In math, there was a three-point gain at grade 4 and a two-point gain at grade 8 (National Center for Education Statistics, 2006b, 2006c). The apparent trend of modest gains in the early grades being reduced as students advance through the middle grades is further substantiated by the fact that between 1992 and 2005, the percentage of students proficient in 12th-grade reading declined from 40% to 35% (Grigg, Donohue, & Dion, 2007).

The achievement gaps that NCLB seeks to eliminate also strongly persist. Looking at national performance averages at both the 4th- and 8th-grade levels as measured by the NAEP for 2005, the scores of White students are, on average, around the 60th percentile for both 4th and 8th grades in all subjects, while Black students' scores are, on average, in the 30th percentile (NAEP data cited in Rothstein & Wilder, 2005; see also Weiner, 2006).

Even with very basic content standards and, in the case of many states, low cut scores defining proficiency on achievement tests, no state is on track to close the achievement gaps in the foreseeable future. If current trends continue, the percentage of all students that would be at the proficient level or above in math in 2014 would be 50% at grade 4 and 39% at grade 8, and the percentage that would be proficient in reading would be less than 33% (Linn, 2006). Moreover, based on current 4th-grade rates of progress, it will take until 2034 to eliminate the achievement gaps, and, if the more worrisome 8th-grade trends continue, it will take 200 years to achieve this goal (Kingsbury, Olson, Cronin, Hauser, & Houser, 2003).

The predominant "theory of action" that permeates the current version of NCLB is that "strong, external pressure on school systems, focused on student achievement, will produce a political dynamic that leads to school improvement" (Hess & Petrilli, 2006, p. 23). Although accountability pressures can affect the motivation of school personnel and influence their performance to some degree, the critical goals of the act—elimination of the achievement gaps and sustained, high-level academic achievement by virtually all students—cannot be achieved unless mechanisms are also put into place that recognize and overcome the severe opportunity gaps created by the conditions of poverty described in this chapter.

The next chapter will describe the evolution of the federal government's involvement in education and the factors that led to Congress's passage of NCLB, and will summarize the key provisions of the act. Enactment of NCLB was a historic achievement that merged America's

egalitarian imperative with the drive for educational excellence of the state standards-based reform movement. The political compromises that led to passage of the act ignored the need to ensure that schools and students were equipped with the essential tools they require to meet the act's ambitious goals. The chapters that follow thereafter will focus on remedying this critical defect and will propose specific revisions to the law that will provide workable mechanisms for ensuring that all students receive meaningful educational opportunities.

NCLB and the Changing Federal Role in American Education

While the history of public schooling in the United States has been one of progress toward educational equity, the role of the federal government in the effort has, until recent times, been relatively minor. Consistent with the limited scope of government-sponsored education in the 18th century, the federal Constitution contains no mention of any specific role for the national government in public education. As systems of public education developed and expanded in the 19th and 20th centuries, the responsibility and rights for schooling came to be lodged largely with the states. This was in keeping with the Tenth Amendment to the U.S. Constitution, which provides that “The powers not delegated to the United States by the Constitution, are reserved to the States respectively, or to the people.”

Beginning with the enactment of the Elementary and Secondary Education Act of 1965 (ESEA), and culminating in the passage of the NCLB (which technically was a reauthorization of the ESEA), Washington’s involvement in educational policy has dramatically increased. Because of a broad national commitment to realize the equity vision of *Brown* a half century since that landmark decision, and the widely perceived importance of improving all of our schools in order to maintain the nation’s global economic competitiveness, this extensive federal involvement in education is likely to continue.

The strong legacy of state and local control of education continues to complicate the implementation of NCLB. As we will discuss in further detail in the chapters that follow, part of the reason that NCLB is not achieving its objectives is that it has not struck the proper balance between federal and state power. Washington wields too much authority in certain areas and not enough in others. This chapter provides a context for understanding the political compromises that led to the current structure of NCLB and sets the stage for our later discussion of