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Becoming an Educational Superpower: Obama's Overhaul of No Child Left Behind and Its Potential For Success

Although considered to be an economic and political superpower, the United States consistently is outperformed in the area of education. In Pearson's 2012 report comparing the educational performance of thirty-nine countries and one region, the United States ranked 17th overall.¹ Further, a different report from Harvard shows that students in "Latvia, Chile and Brazil are making gains in academics three times faster than American students, while those in Portugal, Hong Kong, Germany, Poland, Liechtenstein, Slovenia, Colombia and Lithuania are improving at twice the rate."² Overall, these gains equate to two full years of education.³

In recent years, the United States has attempted to improve the country's educational system, passing several reforms and setting laudable, yet unrealistic, goals for the nation's students. Among these goals have been a first place ranking in math and science and requiring all students to be proficient in math, science, and reading by 2014.⁴

¹ Pearson, *The Learning Curve* (2012), <http://thelearningcurve.pearson.com/reports/the-learning-curve-report-2014>.

² Hanushek, Eric A., Peterson, Paul E., Woessman, Ludger, *Achievement Growth: International and U.S. State Trends in Student Performance*, Harvard's Program on Education Policy and Governance & Education Next, PEPG Report No. 12-03 (July 2012), http://www.hks.harvard.edu/pepg/PDF/Papers/PEPG12-03_CatchingUp.pdf.
See also Best Education In The World: Finland, South Korea Top Country Rankings, U.S. Rated Average, THE HUFFINGTON POST (November 27, 2012), http://www.huffingtonpost.com/2012/11/27/best-education-in-the-wor_n_2199795.html.

³ *Id.*

⁴ *Id.*

As the country begins to realize its inability to meet these goals, major academic overhauls have begun. These academic reforms include the American Recovery and Reinvestment Act of 2009, which established the Race to the Top Fund, and Obama's 2010 demand to begin a major overhaul of the No Child Left Behind Act ("NCLBA").

Although the effects of these reforms are not yet apparent, exploring the biggest criticisms of the NCLBA and the characteristics of the educational systems of the top-performing countries can help predict the success of Obama's changes. Although the Blueprint is an important advance in education because it addresses critically issues with the NCLBA, these changes are not enough to make the United States a true educational superpower.

The first section of this paper will outline the results of the Pearson Report, looking specifically at the characteristics determined to be influential on a country's educational programs. This section will also examine the education systems of the two top-performing countries, Finland and South Korea. The second section will provide a short synopsis of the history of the NCLBA, as well as its effects and the various criticisms it has received. Section three will explain the changes Obama has made in recent years. The final section will take to the information from the previous section to analyze the effectiveness of these changes and determine other areas for improvement.

I. The Pearson Report

The Pearson Report aggregates a wide range of data sets to "enable researchers and policymakers to correlate education outcomes with wider social and economic outcomes."⁵ Although the report acknowledges that correlation does not always indicate causation,

⁵ Pearson, *supra* note 1.

some common characteristics of the highest ranked education systems have been identified. These commonalities include economic background, respect for teachers, culture, and school choice and accountability.⁶

The most common correlation is economic background. Both a country's economy and an individual child's economic background have a significant influence upon education. At a statewide level, countries with higher gross domestic products generally tend to have better PISA scores.⁷ This trend reflects the individual correlation between socio-economic status and academic results. Generally, students from higher income families perform better on standardized tests and have a higher rate of school completion.⁸ For example, between 1978 and 2008, "the gap between the average mathematics test scores of children from high- and low-income families grew by a third."⁹

These observations demonstrate the effect that a commitment to equity can have on an educational system. A recent OECD report showed that the "highest performing education systems across OECD countries are those that combine quality with equity."¹⁰ In these countries, such as Finland, Canada, and South Korea, the government has worked to

⁶ *Id.*

⁷ *Id.* The Pearson Report also takes care to note that "it doesn't look like faster growth leads to higher PISA scores, but there is substantial evidence to suggest that if you can find a way to get higher PISA scores you will get higher growth."

⁸ *Id.* citing *infra* note 9.

⁹ Duncan, Greg J., Murnane, Richard, *Whither Opportunity? Rising Inequality, Schools, and Children's Life Chances*, Russell Sage Foundation (2011)(Executive Summary), https://www.russellsage.org/sites/all/files/Whither%20Opportunity_Executive%20Summary.pdf.

¹⁰ *Equity and Quality in Education: Supporting Disadvantaged Students and Schools*, OECD (Executive Summary), <http://www.oecd.org/edu/school/49478474.pdf>.

ensure that personal and social circumstances are not obstacles to achieving educational potential.¹¹

The report suggests two parallel approaches to increase equity. First, eliminating school level practices that hinder equity, and second, specifically targeting low performing, disadvantaged schools. The report takes care to acknowledge, however, that these policies “need to be aligned with other government policies, such as housing or welfare, to ensure student success.”¹²

Another common characteristic the Pearson Report showed is the respect each country demonstrates towards teachers. A 2010 report indicated “systems currently marked by “fair” levels of performance should focus on teacher accountability, while “good” systems are likely to benefit more from enhancing the status of the teaching profession.”¹³ In highly ranked countries, the governments do everything possible to ensure they find teachers who add value. Most of these high ranked countries, particularly Finland and South Korea, “obtain their annual teacher intake from the top 10% and 5% of graduating students” because teaching is considered a signal of status.¹⁴ Additionally, teachers who are given a high level of independence to achieve clearly established goals also contribute to the success of an educational system.¹⁵

The final observation of the Pearson Report is the effect of school choice and accountability. Here, choice and accountability must go hand-in-hand. Although the issue is far more complex, the Report draws the conclusion that “giving parents, and through

¹¹ Pearson, *supra* note 1.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

them, students, the ability to choose better performing schools should lead to better outcomes.”¹⁶ When low-income parents are given clear, accurate information on local schools, they are more likely to take advantage of school choice and those students are more likely to perform better.¹⁷

II. No Child Left Behind

George Bush signed the NCLBA on January 8, 2002. The NCLBA was a reauthorization of the Elementary and Secondary Education Act of 1965. The goal of the NCLBA was to decrease achievement gaps by improving the educational system’s quality and effectiveness.¹⁸

The Act had four main pillars. The first pillar was accountability. The second was flexibility in funding use, and the third was research proven effectiveness in instructional methods and materials. Finally, the last pillar was to influence information and choice for parents.¹⁹

The two primary objectives of the NCLBA were to ensure all students are held to the same academic expectations and to use state assessments to ensure accountability for students’ failure to meet proficiency goals.²⁰ The NCLBA sought to meet the needs of students in high poverty areas and to afford parents substantial and meaningful

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Ratner, Gershon M., *Why the No Child Left behind Act Needs to be Restructured to Accomplish its Goals and How to Do It* 9 UDC/DCSL L. Rev. 1 (2007).

¹⁹ Fitzgerald, Stephanie S., *No Child Left behind and Special Education: The Need for Change in Legislation That Is Still Leaving Some Students Behind* 16 Rich. J. L. & Pub. Int. 553, 554 (2012-2013), see also Viggiano, Dawn M., *No Child Gets Ahead: The Irony of the No Child Left Behind Act*, 34 Cap. U. L. Rev. 493 (2005-2006), discussing the requirement that each state publish an annual report card. This requirement is “intended to inform both parents and the community about the quality of their school systems and to allow them to make informed decisions about their child’s education.”

²⁰ *Id.* at 555.

opportunities to participate in their child's education.²¹

Under the NCLBA, states have several new requirements. States must develop academic proficiency goals for all students, which requires testing for assurances these goals are being met. Reading and math tests must occur annually for all students in the third through eighth grade, and students must be tested in science at least once in elementary, middle, and high school.²² These assessments must take into account poverty levels, race, ethnicity, disability and the English proficiency of each student.²³

A school's federal funding is contingent upon a school performing these assessments. The assessments will determine the adequate yearly progress ("AYP") for each school.²⁴ A state may develop its own standard for defining AYP. However, this definition must still align with the federal government's specifications. A school must meet the goals as a whole to make AYP.²⁵

The NCLBA also requires that core subject teachers be highly qualified in his or her subject. A highly qualified teacher means "that a teacher must have a bachelor's degree certification, and must demonstrate competency."²⁶

The NCLBA has several consequences for schools that do not meet the standards. Schools may be subject to corrective action and restructuring, as well as

²¹ Strong, Joseph, *Grass is Always Greener: A Look at Educational Reform in the United States and Japan*, *The*, 21 *Transnat'l L. & Contemp. Probs.* 277, 292 (2012-2013).

²² Fitzgerald, *supra* Note 19 at 555, *see also* Viggiano, Dawn M., *No Child Gets Ahead: The Irony of the No Child Left Behind Act*, 34 *Cap. U. L. Rev.* 493 (2005-2006).

²³ Strong, *supra* Note 21.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Viggiano, Dawn M., *No Child Gets Ahead: The Irony of the No Child Left Behind Act*, 34 *Cap. U. L. Rev.* 493 (2005-2006).

supplemental education services.²⁷ When a school is failing, parents may use a portion of the school's funds to obtain public or private supplemental education services. A school must have failed to meet standards three out of the past four years for supplemental education services to be offered.²⁸

Although the NCLBA was praised for recognizing achievement gaps between students from high- and low-income families, several flaws have prevented the Act from achieving the goals it set forth. The biggest criticism with the Act is its emphasis on standardized testing and its belief that proficiency is synonymous with quality.²⁹ A high quality education is not simply proficiency on a test. A quality education involves “opportunities for individual creativity and discovery, not memorization of isolated material.”³⁰ It allows students to “apply their knowledge to real world experiences and make connections between subjects.”³¹

Instead, however, a focus on standardized testing emphasizes the importance of proficiency, rather than quality. Most experts agree that “a single quantitative measure cannot reflect the quality of what occurs in exceptional schools.”³² Further, some even believe that an emphasis on standardized testing will actually decrease the quality of education because the pressure to produce high test scores will cause teachers to take time away from other areas of learning. This will result in a “very limited school experience and very little room for creativity and creative thinking.”³³

²⁷ Strong, *supra* Note 21.

²⁸ *Id.*

²⁹ Viggiano, *supra* Note 26.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

Another criticism of NCLBA is irregularities between states. Because states establish their own standards, “certain states enhance their students' achievements to portray the particular state in a more positive light.”³⁴ States accomplish this by “dumbing down” their standards.³⁵ Other criticisms include uneven measures of quality, which results from differences between states in accountability and quality standards.³⁶

III. Obama’s Call For Reform

With the failures of the NCLBA evident, the Obama administration introduced the Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act in March 2010. This Blueprint sought to build upon the American Recovery and Reinvestment Act of 2009.

The American Recovery Act sought education reform in four key areas: “(1) improving teacher and principal effectiveness to ensure that every classroom has a great teacher and every school has a great leader; (2) providing information to families to help them evaluate and improve their children’s schools, and to educators to help them improve their students’ learning; (3) implementing college- and career-ready standards and developing improved assessments aligned with those standards; and (4) improving student learning and achievement in America’s lowest-performing schools by providing intensive support and effective interventions.”³⁷

The Recovery Act also created the “Race to the Top” Fund. This fund rewards schools that are comprehensively reforming their educational system within these four

³⁴ Strong, *supra* Note 21.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *A Blueprint For Reform: The Reauthorization of the Elementary and Secondary Education Act*, United States Department of Education (March 2010), <http://www2.ed.gov/policy/elsec/leg/blueprint/blueprint.pdf>.

areas.³⁸ In 2010, the states that received part of this fund had implemented "rigorous common, college- and career-ready standards in reading and math, [and] created pipelines and incentives to put the most effective teachers in high- need schools"³⁹ This fund, as well as the other reform funds created by the Department of Education, such as the Investing in Innovation Fund and the Teacher Incentive Fund, is indicative of Obama's goal to create a rewards-based system for productive schools, while helping struggling ones.⁴⁰

The biggest challenge in Obama's Blueprint is for schools to focus on making students college and career ready, instead of focusing on proficiency. In this way, schools will be graded based on "individual students' academic growth and assess schools based not only on test scores but also on indicators such as student attendance, graduation rates, and learning environment."⁴¹ From these assessments, schools are measured by individual student growth and school wide progress, instead of focusing on AYP. The most productive will receive funds as a reward for their productivity.⁴²

The lowest performing schools will be required to implement turnaround models. These "challenge" districts will have to choose from one of four turnaround models: "closing a school and enrolling its students elsewhere; adopting a turnaround model that entails firing the principal and rehiring no more than half the staff; reopening the school as

³⁸ Strong, *supra* Note 21 at 297.

³⁹ *Id.* at 298.

⁴⁰ *Id.*

⁴¹ Barnett, Ashley N., *Blueprint for Reform - The Proposed Overhaul of the No Child Left Behind Act* 30 Child. Legal Rts. J. 65 (2010).

⁴² *Id.*

a charter school or under new management; or making wholesale changes by revamping curricula, adding alternative pay systems, and introducing extended learning time.”⁴³

Obama’s Blueprint also shifts the focus from highly qualified teachers to effective teachers. Under this reform, states must define teacher effectiveness primarily upon student growth.⁴⁴ Districts must also develop a new evaluation system that reflects “state standards for effectiveness and differentiate[s] teachers and principals across at least three performance levels.”⁴⁵

IV. Obama’s Blueprint For Success: Will It Be Successful?

One of the biggest differences between Obama’s Blueprint and the NCLBA is its change in focus from proficiency and qualified to quality and effectiveness. Obama’s blueprint recognizes that a quality school is more than just proficiency on a test. The blueprint aims to judge a school’s success based upon individual student’s progress, which involves looking at more than just student test scores.

In this way, Obama’s blueprint has a good potential for success. It has redefined the ways that we measure success by focusing on individual student growth. However, one of the biggest challenges for the blueprint will be equating quality with equity, which the Pearson Report acknowledged as being a common characteristic of high performing countries.

The Pearson Report identified specifically targeting low-performing schools as a way to increase equity. Although the blueprint outlines procedures for identifying low-performing schools, it is unclear whether the remedies available to these schools will be

⁴³ *No Child Left Behind vs. Blueprint For Reform*, National Federation of Republican Women, <http://www.nfrw.net/documents/literacy/nclb.pdf>.

⁴⁴ *Id.*

⁴⁵ *Id.*

beneficial. The turnaround process can be risky for schools, and is often considered ineffective. Under the NCLBA, schools that were required to replace staff or contract with an outside agency as turnaround procedures still showed no promise of improving.⁴⁶ This may be one of the biggest flaws with the blueprint. Instead of requiring low-performing schools to choose a turnaround method, these schools should be allowed to use “multiple coordinated strategies [that are] tailored to their particular circumstances and continually [revise] their practices.”⁴⁷

Further, neither the blueprint nor turnaround models address eliminating school policies that hinder equity, which the Pearson Report recognized as another way to increase equity amongst schools. If anything, one of the biggest critiques of the blueprint is that it’s financing structure leaves school districts in the middle to fend for themselves, which may actually increase the equity gap.⁴⁸

Another issue with the blueprint is that it does not enhance the status of the teaching profession. Although the blueprint recognizes the difference between a quality teacher and an effective teacher, it does not do anything to increase the social status of the teaching profession. One of the most common characteristics of high performing countries was their ability to attract effective teachers because the teaching profession is highly

⁴⁶ David, Jane L., *Research Says... / Drastic School Turnaround Strategies Are Risky*, Educational Leadership, Vol. 68 (October 2010)
<http://www.ascd.org/publications/educational-leadership/oct10/vol68/num02/Drastic-School-Turnaround-Strategies-Are-Risky.aspx>.

⁴⁷ *Id.*

⁴⁸ *Supra* note 43. See also Dyson, Maurice R., *Are We Really Racing to the Top or Leaving behind the Bottom: Challenging Convention Wisdom and Dismantling Institutional Repression* 40 Wash. U. J. L. & Pol’y 243 (2012).

respected. For American schools to get truly effective teachers, the profession must be raised to higher status than it is currently.⁴⁹

In the end, Obama's blueprint is an improvement over the NCLBA. It makes critical changes from the previous act by modifying the aspects that were not working. However, many people are worried that the blueprint lacks substance and that it is just political rhetoric.⁵⁰ Ultimately, although it is an improvement, more changes need to occur, including the elimination of the turnaround models, before the United States can join the ranks of the other educational superpowers.

⁴⁹ One of the most prominent examples of the low respect for teachers can be found in many of the comment sections of news articles covering the Chicago Teachers Union strike.

⁵⁰ *Supra* note 43.