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Reckless Abandonment? Explaining Congressional Hispanic Caucus Support for the 2001 No Child Left Behind Act

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Reckless Abandonment?
Explaining Congressional Hispanic Caucus Support for
the 2001 No Child Left Behind Act

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Abstract:

When No Child Left Behind (NCLB) was signed into law in early 2002, many hoped the legislation would help reduce achievement gaps among traditionally underperforming populations. For Hispanic students specifically, however, NCLB has contributed to educational inequality, school segregation, and high drop-out rates in major ways. Given these outcomes and trends, it is surprising that members of the Congressional Hispanic Caucus (CHC) and other Hispanic American interest groups overwhelmingly supported NCLB despite potentially being able to anticipate how the law would hurt Hispanic students. The political environment of 2001 left members of the CHC with few options other than to vote for No Child Left Behind. Public opinion, electoral and inter-party politics, ideological weakening on education issues among conservatives, new coalitions, increased diversity among interest groups, and the advent of 9/11 all contributed to a political environment that facilitated the passage of NCLB. Furthermore, scholarship on Congressional decision-making leads one to believe that the CHC's support should be expected, within the context of conditional party government, given the CHC's ties with the Democratic Party. Finally, No Child Left Behind contained valuable provisions that the CHC wanted, and these members of Congress could only begin to anticipate the shortcomings in the legislation given the information known in 2001. Therefore, the Congressional Hispanic Caucus's support of No Child Left Behind can be understood given the political environment of the time, theories of Congressional decision-making, and rational calculations about the advantages for Hispanic students in the legislation.

Introduction

My interest in the No Child Left Behind Act of 2001 (NCLB) began in my own childhood. Throughout my 13 years in American public schools, the No Child Left Behind Act of 2001 seemed to impede many strong educational opportunities for me. While only nine years of age when NCLB became law, I always knew that my teachers certainly hated it. When my peers and I asked our teachers why we needed to be tested, "No Child Left Behind" was the disgruntled reply. "No Child Left Behind" was the reason for extra exam practice and the reason we had to stop taking interesting field trips. It was particularly difficult to understand why my schools were

labeled “failing” year after year even though I knew I was learning each day. Teachers felt threatened by “state take-overs” and warned their pupils that all-new instructors might replace the current ones. As I entered my middle and high schools, it became common knowledge among students that not all demographic groups were failing, but only certain populations. African American and Hispanic students did not improve their scores by enough percentage points one year; the next year, students with disabilities were to blame for the failure to meet “adequate yearly progress” (AYP). Regardless of my age or the schools, “No Child Left Behind” was an ominous cloud that hovered over my education and seemingly shaped every curricular and instructional action for the worse.

I began to understand as I grew older just how and why No Child Left Behind pervaded my school’s policies. The No Child Left Behind Act (NCLB) of 2001 (officially signed into law on January 8, 2002) is the most recent reauthorization of the 1965 Elementary and Secondary Education Act (ESEA). Departing substantially from the original 1965 ESEA, NCLB relied primarily on the premise that maintaining high standards, collecting assessment data annually, and holding schools accountable for student success would produce measurable gains in achievement. No Child Left Behind also sought to ensure that all teachers were “highly qualified” and to enhance school choice for families across the country.

These reforms have been highly controversial and unpopular, particularly because persistent achievement gaps diminished expectations that No Child Left Behind would have a lasting, positive impact. No Child Left Behind mandates that assessment data must be disaggregated based on race, ethnicity, disabilities, income,

and English proficiency. In these records, all underrepresented groups continue to illustrate low levels of performance and minimal gains from year to year.¹ A number of scholars and school administrators believe that No Child Left Behind has not only failed to make gains, but also increased the achievement gaps of the Latino/a² American population vis-à-vis their white, non-Hispanic³ peers.

Latino/a Americans have some of the lowest high school completion and college attendance rates of any racial or ethnic group in the United States. Hispanic students are also one of the most likely populations across the country to drop-out of high school and live in poverty.⁴ In the midst of these trends, Latino/a students have overall low passing rates on standardized exams, with limited English proficient (LEP) students⁵ having the lowest passing rates of all subgroups tested.⁶ States are responsible for administering these standardized tests and tracking disaggregated

¹ Frances Contreras, *Achieving Equity for Latino Students: Expanding the Pathway to Higher Education through Public Policy* (New York: Teachers College Press, 2011), 62.

² I choose to use Latino/a and Hispanic interchangeably in this paper to describe the same population, while recognizing that these terms can have slightly different meanings in some discourses and these terms homogenize diverse groups of individuals from a variety of ethnic, racial, national, and cultural backgrounds.

³ I choose to use “white, non-Hispanic” or “non-Hispanic white” throughout the paper as this is some of the standard language used by the United States Census to describe this population.

⁴ Luis R. Fraga, John A. Garcia, Rodney E. Hero, Michael Jones-Correa, and Valerie Martinez-Ebers, and Gary M. Segura, *Latinos in the New Millennium: An Almanac of Opinion, Behavior, and Policy Preferences*, (New York: Cambridge University Press, 2012), 387; Barbara Schneider, Sylvia Martinez, and Ann Ownes, “Barriers to Educational Opportunities for Hispanics in the United States,” National Academy of Sciences (2006): 1, Accessed June 22, 2013, <http://www.ncbi.nlm.nih.gov/book/NCK19909/>; Sáenz and Murga, *Latino Issues*, 52; Contreras, *Achieving Equity for Latino Students*, 61.

⁵ Conditions for English language acquisition in schools are particularly important for Latino/a American students. While many Latino/a students are native English speakers, a large percentage of the school-age population speak Spanish at home. English acquisition occurs over long periods of time and depends heavily on the resources available for language development. As these students are often low-income and attend highly-segregated schools, English language learners are not as successful as their more advantaged peers. Federal legislation can provide English language learners with important and consistent access to resources and services. As such a policy, No Child Left Behind is especially significant for English language learners as it had the potential to create conditions for access to resources for greater educational opportunity.

⁶ Contreras, *Achieving Equity for Latino Students*, 63.

data.⁷ For example, the Arizona’s Instrument to Measure Standards (AIMS) exams are administered to grades 3-12 in reading, writing, and math, in a state with a 40 percent Latino/a student population. There is a prominent gap between non-Hispanic white and Latino/a students at the elementary level; 82 percent of white students pass the math exam while 62 percent of Latino/as pass.⁸ Further, in 2009, only 34 percent of English language learners passed math at the elementary level, the lowest across all groups.⁹

According to the National Assessment of Educational Progress (NAEP) average test scores, Latino/a students did not improve their achievement levels from 2003 to 2009. In 2005 specifically, the NAEP reported that only 28% of English language learner (ELL) 4th graders “scored at or above the basic achievement level for reading, compared with 75% of white students.”¹⁰ On math exams, “only 55% of ELL 4th graders scored at or above proficient, compared to 89% of white students.”¹¹ Looking at the scores of 8th graders, only 29% of ELLs scored at or above the basic achievement in reading and only 29% of the like in math, compared to 75% and 71% of non-ELLs respectively.¹² The same NAEP reports show that gaps in math and

⁷ States and school districts often use these assessments as exit exams for student graduation to comply with federal corrective measures and maintain federal funding. These exams often are additional barriers to graduation for Latino/a students, especially English language learners.

⁸ Contreras, *Achieving Equity for Latino Students*, 62.

⁹ *Ibid.* 62.

¹⁰ Eugene E. Garcia, “Education Policy for Linguistically and Culturally Diverse Students: Foundation or Barrier?,” in *NCLB at the Crossroads: Reexamining the Federal Effort to Close the Achievement Gap*, ed. Michael A. Rebell and Jessica R. Wolff, (New York: Teachers College Press, 2007), 84.

¹¹ Garcia, “Education Policy for Linguistically and Culturally Diverse Students,” 84.

¹² *Ibid.* 84.

reading begin very early on in life, will likely to continue into later grades, and often inhibit exit exam completion and graduation from high school.¹³

Despite the lofty rhetoric and high expectations associated with No Child Left Behind, some may have been able to predict that NCLB would not produce measureable gains in achievement for English language learners in particular. In Title III, NCLB asserts that states must provide for “the inclusion of limited English proficient (LEP) students, who shall be assessed in a valid and reliable manner...including to the extent practicable, assessments in the language and form most likely to yield accurate data on what students know and can do in academic content areas, until such students have achieved English language proficiency.”¹⁴ While this provision aims to guarantee services for ELLs, NCLB expects students to reach English proficiency in three to five years, whereby schools are no longer required to test LEP students differently than students fluent in English.¹⁵ Social science research on English language learning suggests that English acquisition occurs over a long period of time and depends heavily on the context in which language skills are developed and the opportunities one has to practice the language.¹⁶ The ability to communicate in simple conversations, termed “basic interpersonal communicative skills,” can be acquired within a year, while “academic English” takes

¹³ Contreras, *Achieving Equity for Latino Students*, 61.

¹⁴ United States Congress. *No Child Left Behind Act*. Washington, DC. 110th. 2001.

¹⁵ Steven W. Bender, Raquel Aldana, Gilbert Paul Carrasco, and Joaquin G. Avila, *Everyday Law for Latino/as* (Boulder, CO: Paradigm Publishers, 2008), 78.

¹⁶ Carola Suárez-Orozco, Marcelo M Suárez-Orozco, and Irina Todorova, “The Challenge of Learning English,” *Learning in a New Land: Immigrant Students in American Society* (Cambridge, MA: Belknap Press of Harvard University Press, 2008): 151.

an average of seven to ten years of “systematic high-quality training and consistent exposure” to achieve.¹⁷

Quality English language instruction over an extended period of time is absolutely essential to English acquisition, but unfortunately, services and resources vary substantially from district to district and state to state. Research suggests that dual-language programs are most consistently the best service for students. These programs are most likely to help students achieve in districts that are already high-achieving, however; sporadic, low-quality, or poorly funded dual-language programs are not very successful.¹⁸ A National Education Association (NEA) report on the status of Hispanics in the public education system states English proficiency does not guarantee achievement in school, but “academic English must be mastered to gain academic success.”¹⁹ As No Child Left Behind could limit student access to English language acquisition programs, potential barriers to academic achievement for English language learners could have been anticipated before NCLB became law.

These trends are particularly alarming due to the impressive growth of the Latino/a population in recent years. The most recent wave of immigration, beginning in 1965 with the passage of some border-opening legislation, has been predominantly Latino/a (50%) and Asian (27%).²⁰ The Latino/a population grew 58 percent between 1990 and 2000 and 43 percent between 2000 and 2010.²¹ The 2010 U.S. Census reported that persons of Hispanic or Latino/a origin now comprise 16.3 percent of the

¹⁷ Suárez-Orozco et al., “The Challenge of Learning English,” 151.

¹⁸ Ibid. 161.

¹⁹ Verdugo, “A Report on the Status of Hispanics in Education,” 30.

²⁰ Pew Research Hispanic Center, “A Nation of Immigrants,” *Pew Research Center*, Washington, D.C., (2013), accessed June 8, 2013, <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants/>.

²¹ Fraga et al., *Latinos in the New Millennium*, 29.

population, growing from roughly 35.3 million to 50.5 million over ten years.²² With Hispanic Americans projected to comprise 30 percent of the population by 2050, it becomes increasingly problematic that the U.S. public school system fails to serve large numbers of Hispanic students.²³ Education is strongly linked to political participation (voting, contacting and lobbying elected officials, earning public office, etc.), reduced crime rates, increased tax revenues, and decreased demands for public services (social welfare and criminal justice).²⁴ Conversely, an undereducated populace with low incomes deteriorates revenues to fund schools, municipal services, and entitlement programs.²⁵ According to the National Center for Education Statistics (NCES), income increases significantly with educational level for Latino/as.²⁶ Higher income is linked to positive economic trends, such as more stable employment, healthier families, and greater investment.²⁷ In a nation that commits itself to liberalism and opportunity, individuals are entitled to a free and appropriate public education and the right tools to provide for their own well-being.

With a clear need to provide better educational opportunities for Hispanic Americans, the effects of the No Child Left Behind Act (or lack thereof) pose a significant problem for education reformers. Given an understanding of NCLB's ineffectiveness for Latino/a students and the frustrations of school district personnel, one might assume that a Republican president championed conservative (and maybe

²² Sharon R. Ennis, Merarys Rio-Vargas, and Nora G. Albert, "The Hispanic Population: 2010," U.S. Census Bureau (2010), accessed September 30, 2014, <http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf>.

²³ Rosemary C. Salomone, *True American: Language, Identity, and the Education of Immigrant Children*, Cambridge, MA: Harvard University Press, 2010: 50.

²⁴ Contreras, *Achieving Equity for Latino Students*, 24.

²⁵ *Ibid.* 4

²⁶ Sáenz and Murga, *Latino Issues*, 53.

²⁷ Contreras, *Achieving Equity for Latino Students*, 24.

even xenophobic) interests and ignored all social science on educational best practices to form No Child Left Behind. In reality, the picture is much more complicated. No Child Left Behind passed through Congress with overwhelming bipartisan support and a final vote of 384 to 45 in the House of Representatives and 91 to 8 in the Senate. In fact, not only did NCLB receive such remarkable bipartisan support, but every member of the Congressional Hispanic Caucus (CHC) voted for No Child Left Behind in January, 2002. The backing of the CHC was accompanied by the support of most civil rights groups and others representing the Latino/a community. Therefore, we must ask why Hispanic law-makers and community representatives supported No Child Left Behind and expected the law to reduce achievement gaps when they may have been able to predict that NCLB would not help Latino/a American students.

These legislators were not fooled by the legislation, but voted in favor of the bill for a variety of rational reasons. The formation of No Child Left Behind cannot be explained through a single narrative as recent accounts sometimes suggest. Rather, the formulation of NCLB involved a complex interplay between multiple ideologies and diverse interests. These interests and ideologies contributed to complicated social science research and studies on educational best practices. In the midst of this environment, the specific nature of the politics of 2000-2001 ultimately left the CHC with few other options than to support NCLB. These political circumstances can be further understood through John W. Kingdon's theories of Congressional agenda-setting and decision-making. Changes in the institutional nature of Congress, particularly in the House of Representatives, created conditions that directed the

members of the Congressional Hispanic Caucus to follow Democratic Party leadership. Finally, No Child Left Behind supplied the CHC with incentives to support the law through a number of provisions that they predicted would provide benefits for Hispanic students. With that said, the CHC did anticipate problems in NCLB, but these issues were just that: *anticipated*. The Congressional Hispanic Caucus was willing to vote for NCLB to ensure some victories for Latino/a students despite some potential shortfalls. The CHC could not have fully understood the extent and severity of the consequences of NCLB given the information available at the time of passage. Therefore, the Congressional Hispanic Caucus supported No Child Left Behind with hopes that the legislation would ignite incremental gains for Latino/a students and reduce achievement gaps over time.

A Brief History of Latino/a American Education since 1950

To fully understand the plight of Latino/a student vis-à-vis No Child Left Behind, it is important to understand how federal government actions affected Hispanic students over time. The achievement of Latino/a students only started to be a matter of federal government concern in the 1950s and 1960s. Before the Supreme Court deemed racial segregation in schools unconstitutional in the 1954 *Brown v. Board of Education* decision, many Hispanic students were denied access to formal education. Those that attended school were isolated in “separate-but-equal” facilities based on fabricated assumptions that Latino/a students were unable to attend non-Hispanic white schools due to “language deficiencies.”²⁸ In 1911, roughly 44 percent

²⁸ A. Reynaldo Contreras and Leonard A. Valverde, “The Impact of *Brown* of the Education of Latinos,” *Journal of Negro Education* 63, no. 3 (1994): 471, accessed November 10, 2014, <http://www.latinamericanstudies.org/latinos/brown.pdf>

of the non-English-speaking “race” was labeled “retarded” in schools.²⁹ Limited English-proficient students commonly were encouraged to drop out of school rather than pursue a diploma. In *Brown*, the Supreme Court intended not only to desegregate schools, but also to create a constitutional right to education. While this premise was ultimately rejected two decades later in the name of federalism, this thinking has powered a variety of legislation and court decisions promoting equal educational access for Latino/a students and ELLs.³⁰

In many ways, *Brown* laid the groundwork for President Lyndon Johnson’s Great Society and War on Poverty. The Economic Opportunity Act of 1964, Higher Education Act of 1965, Upward Bound, and the TRiO programs³¹ all assisted underrepresented students in gaining access to higher education and helped to expand the Latino/a American middle class.³² Simultaneously, a number of Civil Rights laws helped to ensure educational rights for Hispanic English language learners. The Civil Rights Act of 1964 provided in Title VI that “no person can be excluded from participation in, be denied the benefits of,” or “be subjected to discrimination under any program or activity receiving financial assistance” from the federal government on account of race, color, or national origin.³³ This antidiscrimination provision was formally applied to ELLs in 1974 after the *Lau v. Nichols* decision (see below) and the 1974 federal Equal Educational Opportunity Act (EEOA). The EEOA created an explicit link between national origin/ethnicity and language, stating that “No state

²⁹ Salomone, *True American*, 25.

³⁰ *Ibid.* 104.

³¹ TRiO is series of programs that aim to provide disadvantaged students with opportunities academic success, administered by the federal Department of Education and created by the Higher Education Act of 1965.

³² Contreras, *Achieving Equity for Latino Students*, 7.

³³ Salomone, *True American*, 106.

shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by the failure by an educational agency to take appropriate action to overcome language barriers that impeded equal participation by its students in its instructional programs.”³⁴ With new legal opportunities and rights, national organizations representing Latino/a Americans, such as the Mexican Legal Defense and Education Fund (MALDEF) and the National Council of La Raza (NCLR), started to have a presence in Washington.³⁵

These developments facilitated the passage of another component of President Johnson’s War on Poverty: the Elementary and Secondary Education Act. As education was historically controlled by states and local municipalities, the original passage of the Elementary and Secondary Education Act (ESEA) of 1965 revolutionized the relationship between the federal government and school systems.³⁶ The signature program of the legislation, Title I, would infuse an unprecedented sum of federal funding into remedial instruction for educationally and socioeconomically disadvantaged students.³⁷ Title I continues to provide nearly \$12 billion annually to schools across the country.³⁸

Title VI of the ESEA, a 1968 amendment entitled the Bilingual Education Act (BEA), sought to address the “special educational needs” of students age three to eighteen whose families fell within certain poverty guidelines and which were of “limited English-speaking ability” (LESA). These LESA students were defined as

³⁴ United States Congress. *Equal Education Opportunities Act*. Washington, DC. 93rd. 1974.

³⁵ Victoria MacDonald (Assistant Professor of Education) in discussion with the author, March, 2014.

³⁶ Contreras, *Achieving Equity for Latino Students*, 55.

³⁷ Salomone, *True American*, 107.

³⁸ Andrew Rudalevige, “The Politics of No Child Left Behind,” *Education Next* (Fall 2003): 63, accessed October 15, 2014, <http://educationnext.org/the-politics-of-no-child-left-behind/>.

“children who come from environments where the dominant language is other than English.”³⁹ This legislation neither defined nor mandated bilingual education, but rather provided short-term discretionary funds rewarded on a competitive basis for existing programs and experimental pedagogical approaches to English language instruction.⁴⁰ According to the BEA, this included instruction that imparts “knowledge of the history and culture associated with their languages,” home-school collaborations, and dropout prevention programs for “students having need of bilingual education.”⁴¹ In this way, for the first time in U.S. history, the national government recognized that non-English languages could contribute to closing the achievement gap for LEP students. The BEA was the first bilingual and bicultural education program passed at the federal government level.

The rights of English language learners were further recognized six years later in the Supreme Court decision in *Lau v. Nichols* in 1974. The Supreme Court concluded that failing to accommodate to English language learners violates Title VI of the Civil Rights Act of 1964 and school districts cannot deny linguistically appropriate accommodations or equal educational opportunities on the basis of ethnicity.⁴² After the decision, the *Lau* Remedies were released by the Office of Civil Rights to instruct states and school districts how to “eliminate past educational

³⁹ United States Congress. *Bilingual Education Act, Elementary and Secondary Education Act*. Washington, D.C. 90th. 1968.

⁴⁰ David Nieto, “A Brief History of Bilingual Education in the United States,” *Perspectives on Urban Education* 6, no. 1 (Spring 2009): 63, accessed July 15, 2013, http://www.urbanedjournal.org/review/sites/urbanedjournal.org/files/pdf_archive/PUE-v6i1.pdf#page=61.

⁴¹ Wayne E. Wright, “Bilingual Education Act 1968: Evolution of Federal Policy and Implications of No Child Left Behind For Language Minority Students,” *Education Policy Studies Laboratory: Language Policy Research Unit* (2005): 3-4, accessed July 5, 2013. <http://epsl.asu.edu/epru/documents/EPSSL-0501-101-LPRU.pdf>.

⁴² Garcia, “Education Policy for Linguistically and Culturally Diverse Students,” 86.

practices ruled unlawful” in the decision.⁴³ Bilingual education programs were mentioned as ways to provide a meaningful education to these children with limited English proficiency.⁴⁴ Furthermore, the Office of Civil rights implemented guidelines to implement bilingual education programs in hundreds of school districts who did not serve LEP students.⁴⁵ In 1981, *Castaneda v. Pickard* reinforced the *Lau* ruling. Castaneda charged the Raymondville Independent School District in Texas with discrimination based on race and ethnicity because his Mexican American children were in segregated and low-quality bilingual education programs.⁴⁶ Federal courts ruled with Castaneda and extended Title VI of the Civil Rights Act of 1964 to all educational institutions, whether they receive federal funding or not, via the Equal Educational Opportunities Act on 1974.⁴⁷ In these ways, Latino/a American students gained increased rights through federal courts in the wake of the Civil Rights Act of 1964.⁴⁸

While Hispanic students enjoyed legislative and judicial victories in the 1960s and 1970s, new quota-reducing immigration legislation allowed more immigrants to

⁴³ Office of Civil Rights, “Task-Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful under *Lau v. Nichols*,” *Office of Civil Rights*, 1975, accessed July, 12, 2013, <http://www.stanford.edu/~hakuta/www/LAU/IAPolicy/IA3ExecLauRemedies.htm>.

⁴⁴ Bender et al., *Everyday Law for Latino/as*, 93

⁴⁵ *Ibid.* 93.

⁴⁶ “Casteñeda vs. Pickard,” *Stanford LAU project*, accessed November 13, 2014, <http://web.stanford.edu/~hakuta/www/LAU/IAPolicy/IA1bCastaneda.htm>.

⁴⁷ Garcia, “Education Policy for Linguistically and Culturally Diverse Students,” 86.

⁴⁸ Some court cases undermined guarantees to Latino/as in some significant ways from the *Lau* and *Castaneda* decisions. The central achievement of *Lau* remains intact today: providing no meaningful instruction for ELLs is discriminatory regardless of the intention of the school. However, three important cases, *Guardian Association v. Civil Service Commission* (1983), *Alexander v. Choate* (1985), and *Alexander v. Sandoval* (2001) have made it such that one can only sue if there is a discriminatory intention, rather than an unintentional discriminatory impact.⁴⁷ Making it more difficult to prove discrimination in schools, Latino/a students and their families have less power to challenge ineffectual resources and programs for English language learning developments are generally viewed as steps backward for Latino/a students.

enter the United States in the same era and for decades thereafter.⁴⁹ Immigrants began arriving from new countries in Central and South America. These nations had recent experience with U.S. influence and with political instability and violence.⁵⁰ Many new refugee students suffered in schools from socio-psychological turmoil, separation from families back in their home countries, alienation due to growing xenophobic attitudes, fear of deportation, and difficulty communicating with teachers and administrators.⁵¹ With a growing Latino/a population, some Americans felt that immigrants were disrupting economic patterns. Hispanic populations increased during a period of economic stagnation in the 1970s and early 1980s.

Deindustrialization and globalization of the economy contributed to these attitudes, as traditional working class occupations were increasingly no longer available to many individuals in the United States. At the same time, Hispanic populations also started to settle in new areas of the U.S., such as southern states like Georgia and the Carolinas. With these changing demographic patterns, support for expanding federal services for Latino/a American students diminished.⁵²

In the 1980s, new demographic characteristics called for more attention for Hispanic students. Simultaneously, education policy significantly shifted objectives toward greater accountability measures. In 1980, the National Center for Education Statistics' published the first major report on Latino/as and schools; *The Condition of Education of Hispanic Americans* highlighted high drop-out rates, low college

⁴⁹ MacDonald, in discussion with author, March 2014.

⁵⁰ Victoria-María MacDonald, "Un paso hacia adelante, y otro hacia atrás (One step forward, one step back): Latinos and Schooling in the 1980s and 1990s," *Latino Education in the United States: A Narrated History from 1513-2000*, New York: Palgrave Macmillan, 1994: 279.

⁵¹ Victoria-María MacDonald, "Un paso hacia adelante," 279.

⁵² *Ibid.* 279.

participation, underrepresentation in math and science, and lower scores on standardized tests than non-Hispanic white peers.⁵³ This publication was relatively ineffective at gaining enough support for major legislative action or increased funding at the time, however.⁵⁴ In contrast to the original ESEA, federal policy sought to address these concerns through accountability measures and higher standards rather than through funding.⁵⁵ Beginning with the Reagan Administration's publication of *A Nation at Risk* in 1983, the education narrative emphasized that Americans were settling for "mediocrity" in schools, causing the U.S. to fall behind economically in the global marketplace.⁵⁶ *A Nation at Risk* also placed a greater emphasis on meeting standards and learning the "new basics" in English, mathematics, science, social studies, and computer science curricula.⁵⁷

These sentiments were reiterated again in 1991 with President George H.W. Bush's "America 2000" and in 1994 with President Bill Clinton's Improving America's Schools Act (IASA). The IASA was a revamped reauthorization of ESEA, which also focused on accountability and meeting academic standards.⁵⁸ Bilingual education lost professional and public support as accountability through high-stakes testing became common-place. In 1994, President Clinton signed an executive order "Educational Excellence for Hispanic Americans," which created a task force that researched and produced an extensive report entitled, *Our Nation on the Fault Line: Hispanic American Education*. The report concluded that Hispanic education was in a

⁵³ MacDonald, "Un paso hacia adelante," 279.

⁵⁴ Ibid.

⁵⁵ Rudalevige, "The Politics of No Child Left Behind," 65.

⁵⁶ Contreras, *Achieving Equity for Latino Students*, 56.

⁵⁷ Ibid. 56.

⁵⁸ Ibid. 57.

state of crisis and the achievement gap between Latinos and non-Hispanic white Americans was “intolerable.” *Our Nation on the Fault Line* also considered how schools were “re-segregating” in the 1990s as few non-Hispanic white peers attended predominately African American and Latino/a-isolated urban schools.⁵⁹ While this report highlighted the challenges facing Latino/a American students, the Clinton Administration did not pass legislation specifically addressing the needs of these pupils nor renewed a commitment to bilingual education funding. In the 1990s, the education narrative centered on the growing “standards movement” which culminated in *No Child Left Behind*.⁶⁰

During the same decade, numerous English-only government and school policies deemed the use of Spanish illegal. In 1998, California housed the most famous example, Proposition 227, which banned bilingual education in public schools. This initiative was part of a series of campaigns conducted across the United States by Ron Unz, former Republican gubernatorial candidate in California and famous supporter of English-immersion education.⁶¹ Unz aimed to replace bilingual programs with English immersion curricula because he argued that bilingual programs were a “failed experiment” that prompted students to drop-out of school and never learn English.⁶² Viewed by many Latino/a communities as discriminatory, these policies shaped Hispanic American education in new ways and encouraged a more staunchly assimilationist approach to the education of a growing Latino/a population.

⁵⁹ MacDonald, “Un paso hacia adelante.”

⁶⁰ Rudalevige, “The Politics of No Child Left Behind,” 64.

⁶¹ Bender et al., *Everyday Law for Latino/as*, 84.

⁶² *Ibid.* 94.

This brief history leads us to the formation of No Child Left Behind. With achievement gaps pervading across the country, the standards movement culminated in the omnibus NLCB in 2001 and began to define a new trajectory for Hispanic American students.

The Perfect Storm: The Politics of Formation

The passage of No Child Left Behind is often chalked up to the power of Senator Ted Kennedy to reach across the aisle and gain large coalitions. In the *New York Times*' commemorative tribute to Kennedy's life, written only days after he passed, the *Times* wrote, "When President George W. Bush's No Child Left Behind bill was floundering in 2001, it was Mr. Kennedy he turned to and who saw it into law."⁶³ Indeed, Senator Kennedy was deeply concerned with achievement gaps among students and sought to solve inequities in education.⁶⁴ As such, Ted Kennedy did have a prominent role in building consensus for NCLB. However, the stage was already set for the passage of education reform before and despite Kennedy's efforts. The political environment in 2001 was much more complex with many more actors than accounts that center on Kennedy acknowledge. Ideological weakening on education issues among conservatives, public opinion, electoral politics, inter-party competition, increased diversity among interest groups, and new coalitions all contributed to a political environment that facilitated the passage of NCLB. Given this advantageous environment, the specific nature of the politics of 2000-2001

⁶³ "Edward M. Kennedy," *The New York Times*, accessed November 13, 2014, http://topics.nytimes.com/top/reference/timestopics/people/k/edward_m_kennedy/index.html

⁶⁴ Eugene Garcia (Professor Emeritis at Arizona State University) in discussion with author, March 2014.

ultimately left the Congressional Hispanic Caucus with few options when voting for NCLB.

The Process of Ideological Weakening

While his father tried to make a name for himself as “the education president,” George W. Bush charted new territory for a Republican by successfully passing comprehensive legislative reform on a traditionally Democratic policy issue. Bush’s centrism on education policy, in particular, was a relatively new phenomenon within the Republican Party. It may appear odd that a major increase of federal influence would occur under a conservative president and with broad support from conservative legislators.⁶⁵ While resistance to Bush’s proposals remained, a process of “ideological weakening” within the Republican Party on the specific issue of education provoked many Republicans to compete with Democrats for relevance on education policy.⁶⁶ Lee Anderson, author of *Congress and the Classroom: From the Cold War to “No Child Left Behind,”* proposes that, in fact, this process of ideological weakening in education policy over time is the determining factor to explain the passage of NCLB.⁶⁷ While liberals and conservatives continued to emphasize traditional partisan values (such as equality of opportunity for liberals and fiscal responsibility for conservatives), the gap between liberals and conservatives on the role of the federal government in education policy had narrowed since the 1950s.⁶⁸

⁶⁵ Lee W. Anderson, *Congress and the Classroom: From the Cold War to “No Child Left Behind,”* University Park, PA: State University Press, 2007: 22.

⁶⁶ Anderson, *Congress and the Classroom*, 22

⁶⁷ *Ibid.* 2

⁶⁸ *Ibid.* 2

Anderson defines “federal role” as any action taken by the federal government to influence state and local education practices.⁶⁹ Until the 1950s, education policy was largely determined by states and therefore, the period from 1785 to 1950 was characterized by a “limited federal role.”⁷⁰ In the 1950s and 1960s, many education policy debates revolved around two issues: religion in schools and segregation. On both of these issues, conservatives wanted education policy to be determined strictly by states to allow more conservative areas of the country to retain their practices vis-à-vis religion and segregation. To pass legislation, proponents of federal education reform needed to provide concessions to conservatives. For example, advocates of the Elementary and Secondary Education Act of 1965 used categorical grants for parochial schools and disproportionately large payments to the South to mollify conservative opponents of federal education intervention. As the Democratic and Republican Parties were very different in the 1960s than they are today, NCLB would not have passed if there was such aid to parochial schools.⁷¹

In turn, Anderson describes a “federal-control” conundrum whereby small increases in federal education funding inevitably led to an additional increase in federal supervision and involvement to ensure the funds are well spent. Anderson notes the remarks of Senator Absalom W. Robertson (D-VA) during the Senate floor debate on passing ESEA in 1965: “Not only does Federal control follow Federal funds, but it is the constitutional duty of a Congress which appropriates Federal money to supervise its expenditure.”⁷² In this regard, conservatives recognized that

⁶⁹ Anderson, *Congress and the Classroom*, 6.

⁷⁰ Ibid.

⁷¹ Ibid. 22

⁷² Ibid. 23

federal control was the logical consequence of an increase in federal funding; this recognition produced fears in 1965 that were no longer present during the debate over NCLB.

The ideological weakening process was facilitated by a number of factors. First of all, after the early to mid-1960s, some of the most partisan issues ceased to be agenda priorities. After *Brown v. Board of Education* in 1954, segregated schools were no longer constitutional, forcing districts across the country to integrate. While de jure segregation did not dissolve in all parts of the country for some years, the *Brown v. Board* decision (and subsequently the Civil Rights Act of 1964) severely limited efforts within Congress to preserve segregation. At the same time, the Supreme Court ruled in *Engel v. Vitale* in 1962 that schools could not authorize a voluntary prayer at the start of the school day.⁷³ President Kennedy also helped relieve tensions among liberals about the influence of religion on government, as he proved that a Catholic president could act independently from the Vatican.⁷⁴ While these issues remained partisan and contentious, religion and segregation in schools were slowly brushed off of the table and conservatives had less incentive to maintain limited federal control over school districts.

Second, a series of education policies were extremely difficult to vote against leading up to NCLB. Anderson charts ideological weakening through analyzing key pieces of legislation and how policy-makers revised their debates over time. These laws include the National Defense Education Act of 1958, the Elementary and

⁷³ “Engel v. Vitale,” *Oyez: U.S. Supreme Court Media*, IIT Chicago-Kent College of Law, 2014, accessed November 6, 2014, http://www.oyez.org/cases/1960-1969/1961/1961_468/.

⁷⁴ Carl F. Kaestle, “Federal Education Policy and the Changing National Polity for Education, 1957-2007,” in *To Educate a Nation: Federal and National Strategies of School Reform*. ed. Carl F. Kaestle and Alyssa E. Lodewick, (Lawrence, Kansas: University of Kansas Press, 2007), 27.

Secondary Education Act of 1965, the Education for All Handicapped Children Act of 1975, the Department of Education Organization Act of 1979, the Goals 2000: Education America Act of 1994, and the Improving America's Schools Act of 1994.⁷⁵ The Education for All Handicapped Children Act (the original version of the Individuals with Disabilities Education Improvement Act as it is known today) illustrates one cause that helped to change the ideological status quo. It became increasingly more politically difficult for members of Congress to oppose legislation that aimed to assist innocent and underserved populations, such as students with disabilities.

Anderson argues that the Education for All Handicapped Children Act has some important similarities to NCLB: 1) the level of federal government involvement departs from past practices and 2) there was overwhelming support in Congress at the time of enactment.⁷⁶ In this example, Anderson highlights how the ideological shift among conservatives began slowly with individual pieces of legislation. As opposed to other areas of public policy, education reform in particular was consistent with conservative ideologies. In theory, educational opportunities allowed individuals to earn success and wealth without government assistance or reliance on "entitlement programs." Conservatives could support federal involvement in education policy as the public education system provided individuals with opportunities to achieve the American Dream based on merit. While there was a larger gap between liberal and conservative ideologies at the passage of the Education for All Handicapped Children

⁷⁵ Anderson, *Congress and the Classroom*, 21.

⁷⁶ *Ibid.* 24.

Act than at NCLB, these pieces of legislation enacted change in the same direction toward greater acceptance of a more prominent federal role in education.

The gap between liberal and conservative ideologies continued to shrink when the Department of Education (DOE) consolidated all of the different educational services in the federal government. The Department of Education's existence solidified the role of the federal government in education policy. Many conservatives opposed the establishment of the DOE and have wanted to abolish the Department ever since, despite the DOE's official non-partisanship. While this cohort of the Republican Party remained vocal, more conservatives dissented from this position and supported an increased role of the federal government than in the 1950s and 1960s. Like the Education for All Handicapped Children Act, the creation of the Department of Education had similarities with the passage of No Child Left Behind; both pieces of legislation had bipartisan support and were characterized by unconventional behavior of liberals and conservatives.⁷⁷ The establishment of the DOE was both a consequence and a cause of the "federal control" conundrum described above: as the federal government began to invest more in education, there needed to be more government oversight and involvement to ensure these funds were spent efficiently and effectively.

Anderson argues that No Child Left Behind was the culmination of five decades of ideological weakening and the end of conservative resistance to federal intervention into education policy. As past involvement encouraged more future involvement, the federal government needed to become increasingly involved to hold schools accountable for effective use of federal dollars. While tension between

⁷⁷ Anderson, *Congress and the Classroom*, 25.

conservative and liberal ideologues remains on some areas of education policy (such as the appropriate role of Washington via “unfunded mandates” or the influence of state departments of education), this process of ideological weakening, that occurred over a number of decades, certainly set the stage for a major bipartisan education reform.⁷⁸ The ideological weakening process created new electoral dynamics and contests for control. Democrats no longer dominated the education policy arena, which increased tension between the different parties.

Public Opinion and the Years before NCLB

Compared to earlier decades when foreign affairs and economic troubles dominated national headlines, education was a particularly important issue for the public at large and a major priority on the public policy agenda in the 1990s and at the turn of the 20th century. Education was a defining issue in the 1996 presidential election and gave Bill Clinton an advantage with swing voters against Bob Dole. As education reform was traditionally associated with the Democratic Party (only recently did some Republicans start to take a stake on the issue with *A Nation at Risk*), those interested in education reform were attracted to Bill Clinton and the Democrats. Education was a particularly salient issue for women and “soccer moms,” who were identified as vital swing voters. While Clinton won the men’s vote 49 percent to 39 percent, Clinton received 59 percent of women’s votes in 1996, compared to the 35 percent that Dole received. In post-election analyses by the Republican Party, pundits and policy-makers identified education as one of the key issues contributing to the electoral “gender gap.” While 24 percent of men believed that “improving education” should be a top priority when choosing candidates and 44

⁷⁸ Anderson, *Congress and the Classroom*, 27.

percent believed education was “extremely important,” women held these beliefs at the tune of 29 percent and 52 percent, respectively.⁷⁹ With a prospering economy and relatively little armed conflict, domestic matters became a priority. The importance of education to the public at this time significantly increased the likelihood of legislation on the issue. All policy-makers would have had constituents that cared about (and more importantly, made voting decisions based on) education priorities.

As education issues gave Democrats a significant electoral advantage in 1996, Republicans understood the importance of remaining salient on reform. Major leaders in the Republican Party learned from the 1996 election and changed how they framed their view on education. Serving as governor of Texas at the time, George W. Bush stated in the *Washington Post* in 1996 that “the Republican Party must put a compassionate face on a conservative philosophy...The message to women...is we care about people...There is no question that from a political perspective, he [Clinton] stole the education issue and it affected the women’s vote...Republicans must say that we are for education.”⁸⁰ In 1997, Lamar Alexander, former Secretary of Education and current Senator of Tennessee, suggested similar policy recalculations for the Republican Party: “we conservatives...must learn to say what we are for in plain words...Eliminating the Department of Education and encouraging home schooling alone do not answer the education question for 90 percent of American families. We must paint a vivid picture of how we will help create the best schools in the world.”⁸¹ These notable conservative voices highlighted a deliberate effort to shift

⁷⁹ Patrick J. McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy, 1965-2005* (Lawrence, KS: University of Kansas Press, 2006), 129.

⁸⁰ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 129.

⁸¹ *Ibid.* 130

the Party's public image on education and respond to an issue of high national importance. With this understanding, Republicans continued to become more supportive of a national stance on education.

President Clinton and Congressional Republicans engaged in a contest for control in the mid-to-late 1990s that continued during the formation of No Child Left Behind. President Clinton won in 1996 with an understanding of substantial 1994 Republican gains, and generally repositioned Democratic policy to emphasize opportunity rather than redistribution. During his second term, Clinton expanded his efforts to revitalize the public school system through a staunchly centrist agenda: high academic standards, college tuition benefits, and school modernization.⁸² New Democrats also began to embrace a more centrist agenda, as a lack of improvement in urban schools encouraged more liberals to embrace accountability and standards as innovative strategies.⁸³ In his second inaugural address, Clinton stated:

In this new land, education will be every citizen's most prized possession. Our schools will have the highest standards in the world, igniting the spark of possibility in the eyes of every girl and every boy. And the doors of higher education will be open to all. The knowledge and power of the information age will be within reach not just of the few but of every classroom, every library, and every child.⁸⁴

In his agenda, Clinton made sure to appeal to swing voters on conservative issues by embracing charter schools, character education, and school choice initiatives.⁸⁵

Therefore, Republicans supported many of Clinton's proposals in an attempt to take credit for education reform and close the education gap with voters.⁸⁶ Instead

⁸² McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 131.

⁸³ *Ibid.* 141

⁸⁴ *Ibid.* 131

⁸⁵ *Ibid.* 131

⁸⁶ *Ibid.* 132

of voting to cut education funding or dismember the Department of Education, many Republicans ignored religious and states' rights conservatives to counter President Clinton and develop "a favorable public perception of the Party on the issue."⁸⁷ In fact, Republicans not only agreed to fund Clinton's proposals, but they also added additional spending to support their own initiatives.⁸⁸ While one can further analyze how the political dynamics in Clinton's era led to a stalemate on education, the contest between Democrats and Republicans over control of centrist education reform illustrates the influence of public opinion on electoral politics and how the stage was set for major legislation.

The Electoral Politics of 2000

After a decade of peace and economic prosperity under Clinton, public opinion polls leading up to the 2000 election showed that domestic issues, such as education, Social Security, the environment, and health care, continued to have an unusually high significance to the general population. While foreign relations, civil rights, Vietnam, the economy, and drugs were major issues to voters in the 40 years prior, education was at the top of voters' agendas in 1999 and 2000.⁸⁹ Budget surpluses in the late 1990s (with more surpluses anticipated) reduced criticism of expanding domestic program expenses; candidates could campaign on ambitious education proposals while avoiding ridicule about deficit reduction or national debt.⁹⁰ In August, 2000, 91 percent of respondents reported that K-12 education was either extremely or very important when determining how they would cast their ballot in the

⁸⁷ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 132.

⁸⁸ *Ibid.* 144

⁸⁹ *Ibid.* 149

⁹⁰ *Ibid.* 148

presidential election. In another poll, 63 percent of individuals revealed that they believed that education was a more important issue to the candidates than in past presidential elections. These polls suggested that a majority of people focused their attention on their dissatisfaction with public education systems and the integral need to address this problem.⁹¹

With this alarmed public opinion, both George W. Bush and Al Gore understood the broad support for federal leadership and sought to emphasize their strength on education issues.⁹² Both candidates understood that education was traditionally associated with the Democratic Party. A 1999 Pew Research Center poll found that 52 percent of voters trusted Democrats “to do a better job on education” compared to 29 percent for Republicans.⁹³ With these perceptions in mind and a close election anticipated, both candidates aimed to appear moderate to attract centrist voters and align with Clinton’s popular education positions. Swing voters prompted both Al Gore and George W. Bush to “race to the center” on all policy issues, especially education. While there were divisions within the Republican party over education issues, Bush did not mind ignoring the more extreme wings of his party, as they were largely unpopular and did not support the moderate views that gave Democrats an advantage in the 1996.⁹⁴

George W. Bush boasted about his experiences with developing and implementing education reform in Texas to champion a moderate “compassionate

⁹¹ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 148.

⁹² *Ibid.* 148

⁹³ Rudalevige, “The Politics of No Child Left Behind,” 65.

⁹⁴ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 151.

conservative” strategy on education and other domestic policy issues.⁹⁵ The Bush campaign gained advantages vis-à-vis Al Gore “by putting forward a comprehensive education reform plan before Gore had done so” and “by co-opting the leading centrist reform ideas on education,” forcing Gore “to either say ‘me too’ or try to differentiate his plan by moving left.”⁹⁶ With an understanding of these electoral politics, Congressional conservatives were willing to support Bush’s efforts to win back the White House.⁹⁷ Republicans now supported federal funding for education under new programs in the form of block grants; these grants effectively would reduce federal control, but deliberately shifted away from previous conservative initiatives on vouchers and privatization. Republicans only spoke broadly about public and private school choice under Bush’s leadership.⁹⁸ In effect, Bush gained significant ground in the “education gap” of 1996 to be seen as a leader in education reform.

In attempt to counter Bush’s proactive campaign, Al Gore needed to take strong and popular positions on education reform. President Clinton successfully appealed to voters of both parties through his centrist agenda and maintained relatively high public approval despite his marital scandals. For this reason, Al Gore remained largely centrist in his campaign as well and followed many of Clinton’s proposals.⁹⁹ While Democrats had traditionally supported teachers unions’ and rallied against school choice measures, public opinion suggested that unions’ were ineffective and vouchers were potentially a reasonable choice for minority students in

⁹⁵ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 150.

⁹⁶ *Ibid.* 155

⁹⁷ *Ibid.* 153

⁹⁸ *Ibid.* 131

⁹⁹ *Ibid.* 147

urban schools.¹⁰⁰ Bush took advantage of these issues as “civil rights priorities.” Gore felt increased pressure to embrace standards-based reform and accountability measures in his campaign platform, but also had to cater to teachers and minorities, two of his key constituencies.¹⁰¹ Teachers unions, in particular, were a major source of donations for Al Gore and Democratic candidates. Therefore, Gore could not aggressively counter Bush’s education agenda and still cater to the interests in education reform of the public at large. While Gore and Bush campaigned on similar accountability plans, as well as promises to increase education spending, Gore’s campaign efforts on education were defined in response to George Bush’s platform in an effort to maintain power over the issues.¹⁰²

In these ways, the education conversation continued to become a battle for control. As this battle was a centerpiece of the 2000 election, voters expected action from either president in their inaugural year in office. The education issue was unusually important in this 2000 election and prompted both candidates to unleash ambitious proposals. When George Bush won the election, the Democrats did not want to cede the issue (particularly successes on the issue) to the President and the Republican Party. Upon the proposal of No Child Left Behind by the Bush Administration, Democrats needed to support the legislation to appear ready and willing to address an issue of high-importance to the public. There were renewed battles within Congress for influence over education reform in the name of No Child Left Behind.

¹⁰⁰ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 159.

¹⁰¹ *Ibid.* 160

¹⁰² *Ibid.* 160

The Congressional Politics in 2001

In contrast to stalemates between President Clinton and Republicans in the late 1990s, No Child Left Behind succeeded with immense bipartisan support in Congress. Republican initiative on a traditionally Democrat-controlled issue provoked actors of both parties to remain salient on the issue. As president-elect, George Bush invited 20 members of Congress, including Representative John Boehner (Ohio-R), Senator Judd Gregg (New Hampshire-R), Representative George Miller (California-D), and Senator Jim Jeffords (Vermont-R), to Texas to discuss his moderate education reforms. Bush intentionally excluded Senator Ted Kennedy from this meeting, signaling his desire to form a coalition of Republicans and centrist Democrats without the status quo education reformers.¹⁰³ The original No Child Left Behind proposal was released in the form of a “30-page legislative blueprint” only three days after Inauguration Day in January 2001. This blueprint contained many of the major provisions in the final bill, including block grant programs, annual standardized testing, disaggregated data collection of socioeconomic and ethnic subgroups, adequate yearly progress requirements, and renewed commitments to Title I funding.¹⁰⁴ Bush found support for his “broad statement of principle” rather than a specific legislative draft. Such statements proved to be a promising political strategy for Bush, who could garner support for a bill before details altered legislative coalitions.¹⁰⁵

These components were very similar to many of Clinton’s proposed reforms. Echoing the sentiments of Congressional Democrats, a Joseph Lieberman aide told

¹⁰³ Rudalevige, “The Politics of No Child Left Behind,” 66.

¹⁰⁴ Ibid. 66

¹⁰⁵ Ibid. 66

the *Washington Post* that Bush “essentially plagiarized our plan.”¹⁰⁶ The electoral advantages of these maneuvers attracted conservatives that previously opposed strong federal intrusions in education. For example, John Boehner, the new chair of the House Education and Workforce committee, fundamentally opposed increased involvement in education, but became dedicated to exploiting Bush’s presidential victory. He understood that education reform could be a major legislative success and wanted to be on the right side of that triumph.¹⁰⁷ As the Bush Administration received political points with a coopted Democratic agenda, Democrats fought to keep their voices heard. This desire for influence and credit facilitated the Bush Administration’s efforts for bipartisan support of the law. President Bush and his education advisor, Alexander “Sandy” Kress, worked closely with Gregg to lure Ted Kennedy to the policy-making discussions. Kennedy was broadly considered a policy expert and absolutely imperative for the success of NCLB as a major leader in Congress. As the Republicans “wooded” Kennedy, he agreed to incorporate key components of Bush’s blueprint into the Senate bill.¹⁰⁸ Kennedy subsequently became one fourth of the “Big Four” Congressional leaders on NCLB, along with Boehner, Miller, and Gregg.¹⁰⁹

Debate over provisions continued throughout the spring and summer of 2001, particularly on the definition of adequate yearly progress; requirements to disaggregate data based on race, ethnicity, and other categories; and funding levels. In the midst of this debate, evolving over the course of seven weeks and 150

¹⁰⁶ Rudalevige, “The Politics of No Child Left Behind,” 66.

¹⁰⁷ *Ibid.* 67

¹⁰⁸ *Ibid.* 66.

¹⁰⁹ *Ibid.* 68

amendments, the major leaders on the bill agreed to suppress any amendments that altered the original principles of the legislation. Ultimately, the bill passed the Senate on June 14, 91-8.¹¹⁰ The Bush Administration and major Congressional leadership understood that the bill would not pass the House without substantial Democratic support. Boehner was a key factor in hashing out a compromise over state and district autonomy and provisions on accountability and school choice.

The Bush Administration and the “Big Four” achieved bipartisanship in part due to a shared, dynamic vocabulary of “accountability,” even though everyone did not necessarily hold the same definitions. Andrew Rudalevige, professor of political science at Dickinson College, emphasizes the political viability of this idea, stating, “How one defines accountability matters greatly in practice, but it proved to matter far less in politics- in other words, to the term’s usefulness in providing a unifying theme for the No Child Left Behind debate that could garner broad agreement in principle even when the policy specifics proved elusive.”¹¹¹ The conference stage also required a fair deal of tinkering, revision, and negotiation. In this process, the conference sought to keep major provisions under the radar of teachers unions and groups representing educators to avoid the pressure of these special interests.¹¹² The bill ultimately passed the committee stage, 41-7, followed by a 384 to 45 vote in the House of Representatives. Republicans constituted 75% of “nay” votes.¹¹³

Additionally, leaders in Congress expedited the passage of No Child Left Behind after September 11, 2001. With both popular and bipartisan support in

¹¹⁰ Rudalevige, “The Politics of No Child Left Behind,” 67.

¹¹¹ Ibid. 68

¹¹² Ibid. 67

¹¹³ Ibid. 67

Congress, the 9/11 terrorist attacks made the importance of NCLB even more apparent. Congressional leadership both wanted to provide the nation with evidence of successful leadership and felt terrorism further necessitated an improved education system.¹¹⁴ Recalling anthrax fears that also dominated headlines in 2001, Representative Major R. Owens (New York-D) stated in his floor comments from December 2001:

We are going to need a well-educated populace. We should not ever be in a situation again where the anthrax cleanup is so slow because there are not enough specialists around to do, especially since anthrax has been a concern of ours since the Gulf War.¹¹⁵

This accelerated advancement of the bill motivated members of Congress to limit interest group contributions to the final draft.¹¹⁶ Under these conditions, the Bush Administration and key members of Congress passed No Child Left Behind with overwhelming bipartisan support.

The above political dynamics offer part of the explanation for the Congressional Hispanic Caucus's support for No Child Left Behind. The political environment had all of the necessary momentum for new education reforms. The Congressional Hispanic Caucus had little choice but to throw in support and join their Democratic colleagues. Outside of the branches of the federal government, other political actors in Washington added to the advantageous conditions for education reform in 2001. Increased interest group diversity and new coalitions among these

¹¹⁴ Avoice: African American Voices in Congress, "Education Policy: History and Debate," *Congressional Black Caucus Foundation, Inc.*, accessed October 30, 2014, <http://www.avoiceonline.org/edpol/history.html>.

¹¹⁵ Avoice, "Education Policy: History and Debate."

¹¹⁶ Elizabeth Debray-Pelot, "Dismantling Education's 'Iron Triangle,'" in *To Educate a Nation: Federal and National Strategies of School Reform*, ed. Carl F. Kaestle and Alyssa E. Lodewick, (Lawrence, Kansas: University of Kansas Press, 2007): 80.

interests contributed to a political environment in 2001 that left the CHC with few options but to support NCLB.

Interest Group Diversity

President Bush and members of Congress were able to pass NCLB so easily due to specific changes in the nature and diversity of interest groups. Political scientists have historically understood the policy-making relationship among committees in Congress, the executive bureaucracy, and interest groups as “an iron triangle.” Political scientists also refer to such relationships as a “policy subsystem” or a “policy network” when there are more than three actors involved in policy-making.¹¹⁷ These policy subsystems are stable relationships among three sets of actors that mutually accommodate access to and control of the distribution of policy benefits. Hence, these networks attempt to exclude groups that would disrupt this control.¹¹⁸ In *No Child Left Behind*, these stable, exclusionary practices of an iron triangle/policy subsystem broke down. With unstable relationships among more than three sets actors, the policy-making process can be better understood as an “education polity,” described by Carl F. Kaestle as “the institutions and procedures that define who will participate in education policy decisions and how.”¹¹⁹

As conservatives moved toward the center on education policy issues, more conservative interest groups began to take a stake in education. These interests were added to a slew of other interests that had been influencing education policy since as early as the 1950s. So, there was a large diversity of interest groups vying to be heard

¹¹⁷ Randall Ripley and Grace Franklin, *Congress, The Bureaucracy, and Public Policy*, (Independence, KT: Brooks/Cole Pub Co, 1990)

¹¹⁸ Ripley and Franklin, *Congress, The Bureaucracy, and Public Policy*

¹¹⁹ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 17.

during the formation of NCLB. The interest groups that influenced the original passage of the Elementary and Secondary Education Act in 1965 did not have the same power in 2001. Many traditional education interest groups and researchers (teachers' unions, state departments of education, district-level administrators) were framed as the status quo and shut out from the formation of the law. A greater diversity and abundance of interest groups also gave each individual group less power, preventing any interest from seeking an independent or autonomous course of action without risk of being excluded from the entire process. In this new environment, the Bush Administration and key members of Congress championed their agenda without interference from key lobbyists.¹²⁰

By highlighting the policy-making dynamics from the 1950s to 2007, Carl F. Kaestle, professor at Brown University, describes the evolution of the "education polity."¹²¹ Kaestle defines the education polity in the 1950s as structurally simple and dominated by debate about the federal role in education. It was generally clear which sides were opposed in this debate. Many wanted to keep the list of federal education programs quite short, limited to sparse funding for vocational education, lunches, and American Indians.¹²² As noted above in the section on ideological weakening, segregation and religion in schools were the two most divisive issues of the time. The polity consisted of one strong interest group (the National Education Association) with a few other notable ones (such as the National Association for the Advancement of Colored People (NAACP) and the National Catholic Welfare Council (NCWC)), one weak executive component (the very small and impotent Office of Education),

¹²⁰ Debray-Pelot, "Dismantling Education's 'Iron Triangle.'"

¹²¹ Kaestle, "Federal Education Policy and the Changing National Polity for Education," 17.

¹²² Ibid. 20

and one even weaker Congressional role (no friendly congressional committees).¹²³ Within this easily understood framework, the National Education Association (NEA) was the primary champion of an increase federal aid for schools. The NAACP also supported greater federal influence, but suffered from strategic complications when considering how federal funds might flow to segregated schools.¹²⁴ On the other side of the aisle, Republicans, Southern Democrats, and Catholics represented by the NCWC adamantly opposed more federal involvement in education. Southern Democrats were a particularly strong resistance block, as many committee chairmen were Representatives from the South. In addition, there was strong resistance to federal spending on education in the midst of fears of centralized power and Communism.¹²⁵ Therefore, political pressures thwarted federal aid in the 1950s, as most politicians believed in local control or did not want to jump into contentious religious and racial issues.¹²⁶ There are sharp ideological differences at this time with a few major actors in the polity.

The role of interest groups changed in the period from 1957 to 1979 as members of Congress and the public as a whole began to expect larger involvement from the federal government. Several overarching trends in the middle of the 20th century helped legitimize greater federal government influence, including major leadership in World War II and subsequent peace accords, the growing connections among states, and key Supreme Court decisions.¹²⁷ Both the Civil Rights Movement and the Cold War increased the responsibilities of the federal government in the

¹²³ Kaestle, "Federal Education Policy and the Changing National Polity for Education," 21.

¹²⁴ Ibid. 22

¹²⁵ Ibid. 20

¹²⁶ Ibid. 24

¹²⁷ Ibid. 24

classroom. With the *Brown v. Board of Education* decision, the federal government needed to enforce desegregation and integration in Southern states, such as the controversy with the “Little Rock Nine.”¹²⁸ Washington could no longer resist intervention on racial segregation issues after the *Brown* decision as they had earlier in the 1950s. Furthermore, President Kennedy’s assassination, Martin Luther King’s leadership, and the Civil Rights Act of 1964 all increased support for racial justice throughout the United States and validated federal action to counteract discrimination.¹²⁹ Simultaneously, fears about *Sputnik* and losing ground to the USSR provoked the passage of the National Defense Education Act (NDEA) of 1958, which aimed to bolster math, science, and foreign language education.¹³⁰ Furthermore, as mentioned above, John F. Kennedy helped reduce anti-Catholic sentiments and resistance to compromise on aid to parochial schools.¹³¹

The Kennedy Administration also paved the way for major federal government involvement by establishing the lasting precedent of the omnibus education bill that synthesized both categorical and general aid into one piece of legislation and capitalized on particularly popular sections for passage. While Kennedy faced resistance on racial, religious, and local-state control issues, the omnibus bill manifested itself under President Johnson via the ESEA in 1965.¹³² The ESEA redefined federal priorities on education as part of Johnson’s larger War on Poverty (and Kennedy’s vision for education). In turn, the Office of Education expanded its duties and its budget and began to take responsibility for students with

¹²⁸ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 25.

¹²⁹ *Ibid.* 27

¹³⁰ *Ibid.* 25

¹³¹ *Ibid.* 27

¹³² *Ibid.* 27

historical disadvantages: women, Latino/as, African Americans, English Language Learners, children with disabilities, and Native Americans.¹³³ Kaestle argues that something “approximating an iron triangle” emerged at this point in time, with education interest groups, the Office of Education, and education-related congressional committees.¹³⁴ In this way, the polity shifted from the 1950s with a greatly expanded role of the federal government in education policy and more acceptance of this role on both sides of the aisle. As more individuals accepted this new federal role, a greater number of actors and interests vied for a voice on education policy.¹³⁵

Finally, Kaestle describes a modern era from 1980-2007 where the federal role in education stopped expanding linearly. Presidents during this time both expanded and contracted the federal influence over education in an uneven trajectory. In addition, federal actions transcended issues of religion and race and began to intervene into curricula. President Reagan cut education spending, championed block grants with more choices for local school districts, and discussed abolishing the Department of Education. Despite these efforts to contract the federal influence on education, Reagan’s Secretary of Education, Terrell Bell, appointed a commission that published *A Nation at Risk*, which reported deficits in academic achievement across the country and stimulated a perceived national crisis in education.¹³⁶ Even after this apparent call to action, President Reagan’s next Secretary of Education, William Bennett, understood federal influence as “criticism and advice” rather than

¹³³ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 27.

¹³⁴ *Ibid.* 28

¹³⁵ *Ibid.* 30

¹³⁶ *Ibid.* 28

Johnson-era increases in funding.¹³⁷ Bennett made a famous trip to Chicago in 1987, during which he declared that the city had the worst schools in the country, and then simply returned to Washington after implying that the Chicago schools should do something about it.¹³⁸

In these ways, the Reagan Administration created ambiguities about the role of the federal government in education. On one hand, *A Nation at Risk* highlighted that the United States faced a crisis in education, but on the other hand, Reagan asserted that the federal government should not intervene in state and local policy arena.¹³⁹ The result was a “zig-zag” trajectory between federal activism and contracted government influence defined by a number of new actors that were not part of the polity during the 1950s or from 1957-1979. Interest groups found an opportunity to address voids in education policy that the Reagan Administration did not fill. Education became increasingly important to all political actors, and each group had their own variation on how best to solve the “crisis.” Therefore, the education polity became less of an “iron triangle” and more of a “policy network.”¹⁴⁰ In this era from 1980 to 2007, there were an ever-increasing number of interest groups with a wide-array of goals. Coupling the increase of interest groups with wide public emphasis on the importance of education, education reform grew more likely as citizens believed legislative action to be essential to the future success of the United States.¹⁴¹

¹³⁷ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 28.

¹³⁸ Ibid. 28

¹³⁹ Ibid. 32

¹⁴⁰ Ibid. 32

¹⁴¹ McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 150.

Jesse Rhodes, professor of political science at the University of Massachusetts, classifies this modern system of influential actors and “institutional entrepreneurs” into five different groups: business, civil rights, educational liberals, educational conservatives, and organizations reflecting state-elected officials.¹⁴² With each of these groups, Rhodes dissects where they stood in 2001 on federal government involvement in education, standards and accountability, federal education spending, school choice, and block grants and other decentralizing policies. Kaestle asserts that these different entrepreneurs and policy positions characterized groups representing public school constituents, issue-focused groups, standards-based reform groups, school-based reform groups, quasi-governmental groups, multi-issue groups, foundations, think tanks, intermediary organizations, and for-profit firms.¹⁴³ While this list of actors and policies is by no means exhaustive, Rhodes and Kaestle both highlight the complex relationships and ideologies present in the polity in 2001.

Unlike the interests of the 1950s and 1960s, these groups were no longer grassroots organizations. Rather, they were professional, ideologically diverse, Washington-based, heavily dependent on financial contributions, and no longer needed to target participation to remain in existence. Citizens were not interested in membership; individuals no longer received important sources of information from these organizations.¹⁴⁴ Technology allowed interest groups to minimize the distance between the government and people, but also allowed for more polarization, insulation, and divisions into subgroups based on “topical, religious, or political

¹⁴² Jesse Rhodes, *An Education in Politics: The Origins and Evolution of No Child Left Behind*, (Ithaca, NY: Cornell University Press, 2012): 18-19

¹⁴³ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 31-32.

¹⁴⁴ *Ibid.* 33

leanings.”¹⁴⁵ Given the inclusivity of this environment, the education policy subsystem strayed from an exclusive network of policy experts; in effect, the new field of interests created challenges for constructive policy-making. With increased polarization, research and knowledge were at-risk for bias and inaccuracy. With increased ideologically-charged interests, congressional subcommittees could be more easily insulated from important perspectives. Kaestle describes this risk: “Today, the field of education is more ideologically balanced [than the 1980s and 1990s], but if we wish to enact policies based on evidence, we should be concerned about an environment that fosters the politicization of education issues, and we should resist this trend.”¹⁴⁶ In this way, the interest group structure during the formation of No Child Left Behind can both explain some of the content of the legislation and why it was passed when it did.

As a consequence of this trend, more diverse interests crowded out traditional education interest groups and researchers in NCLB.¹⁴⁷ These traditional groups included anyone who worked inside a school and the bureaucracy that represented them (the state departments of education, teachers, teachers’ unions, superintendents, principals, other administrators, etc.) These interest groups generally advocate for more funding due to an understanding that 1) they cannot single-handedly change the lives of students with just good teaching and 2) they cannot compensate for gaps in achievement without increased funding. These groups are also the strongest

¹⁴⁵ Kaestle, “Federal Education Policy and the Changing National Polity for Education,” 35.

¹⁴⁶ Ibid. 36

¹⁴⁷ Ibid. 17

proponents for Title I funding for traditionally socioeconomically and educationally disadvantaged students and their schools.¹⁴⁸

Elizabeth Debray-Pelot argues that groups representing professional educators and researchers saw their role diminish and replaced by conservative coalitions outside of Congress in the legislative process.¹⁴⁹ Republicans framed traditional educational lobbyists as the “status quo” and intentionally excluded them from the policy formation process.¹⁵⁰ While the National Education Association (NEA) was very powerful in the 1950s and 1960s, as noted above, Congress viewed teachers’ unions as barriers to progress and legislation.¹⁵¹ Teachers unions’ opposed requirements that teachers be tested to prove their worth as “highly qualified;” the unions feared that too many teachers would lose their jobs or be fired with such tests. In effect, the teachers unions hurt themselves by not welcoming a “highly qualified” standard, championed by Representative George Miller.¹⁵² This stance helped Republicans frame education interests as an ineffectual “status quo.” After 40 years of education interests influencing policy, achievement gaps and educational inequities still persisted throughout the United States. Democrats, who traditionally aligned with teachers unions in particular, were willing to injure their relationship with education interests to appease civil rights leaders and further the passage of the bill. Using this rationale, members of Congress could strip education lobbies of their power and rely on more conservative think tanks and coalitions.¹⁵³ For example, the Progressive

¹⁴⁸ Spencer, “Updating ‘No Child Left Behind.’”

¹⁴⁹ Debray-Pelot, “Dismantling Education’s ‘Iron Triangle,’” 64.

¹⁵⁰ *Ibid.* 85

¹⁵¹ *Ibid.* 83

¹⁵² *Ibid.* 84

¹⁵³ *Ibid.*

Policy Institute, a centrist Washington-based think tank, was particularly influential as a legislative agenda setter in both the Clinton and Bush Administrations.¹⁵⁴

In addition to the crowding out process due to abundance and diversity of lobbyists described above, members of the 107th Congress made education interest groups relatively impotent in two major ways. First, the Bush Administration and its Domestic Policy Council set the agenda in Congress.¹⁵⁵ The Secretary of Education, Roderick L. Paige, played a limited role in the formation of the law. Instead, the Domestic Policy Council worked closely with Sandy Kress, President Bush's education policy advisor, to develop the agenda. Sarah Youssef, education specialist on this Council, recalled minimal interference from education interests when she stated that she could not "ever remember really hitting snags with interest groups... We weren't persuaded or pressured by them, and I think that's partly because they were already on board with what we wanted to do or they were willing to go along with."¹⁵⁶ As greater accountability and standards were important and popular parts of this agenda (inside and outside of Congress) and supported by many education interests, these lobbyists were reluctant to mobilize against the Bush Administration's expedited agenda in these formative stages.¹⁵⁷ This early monopoly over the formulation of the bill almost ensured that many interest groups would be excluded from policy conversations.

¹⁵⁴ Debray-Pelot, "Dismantling Education's 'Iron Triangle,'" 68; Rudalevige, "The Politics of No Child Left Behind," 64; McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy*, 135, 154.

¹⁵⁵ Debray-Pelot, "Dismantling Education's 'Iron Triangle,'" 79.

¹⁵⁶ *Ibid.* 80

¹⁵⁷ *Ibid.* 80

Second, if there was still an opportunity for education interests to have a word on NCLB, many education interests continued to delay any protests until objectionable provisions (such as testing mandates) were already part of the final legislation.¹⁵⁸ Members of *both* parties contributed to this delay by supporting congressional committee's efforts to intentionally deny interest groups information about accountability models and the formation process.¹⁵⁹ Debray-Pelot notes that "an education aide to a House committee Democrat on the conference committee" recalled being told directly by both Democrats and Republicans, "Don't talk to groups. Don't tell them what's going on."¹⁶⁰ Realizing he would not meet the demands of these interests, Senator Kennedy helped champion efforts to shut out education groups, as lobbyists recall being "read the riot act." While the NEA was the most powerful professional union in the United States, a Republican aide reported that Kennedy "personally called the NEA and demanded that it not oppose the bill; ultimately, the union took no position on it."¹⁶¹

In this environment, the interest group structure on the education issue was so elaborate and diverse that groups could not seek their own independent or autonomous course of action without running a serious risk of being left out of the final agreement. This would be particularly true for a group whose size or resources did not provide sufficient clout to turn negotiations in their favor. Rudalevige recognizes this trend, noting that the conference for the agreement on the final version of NCLB included "an astounding 25 conferees" from the Senate "to represent its

¹⁵⁸ Debray-Pelot, "Dismantling Education's 'Iron Triangle,'" 80.

¹⁵⁹ *Ibid.* 81

¹⁶⁰ *Ibid.* 82

¹⁶¹ *Ibid.* 82

coalitions various blocs.”¹⁶² With both African Americans and Latino/as, political leverage is closely identified with the Democratic Party. As the majority of the Democratic Party committed its support to the bill, there was less incentive to dissent from their own coalition. The Democratic Party could take Hispanic interests for granted to a certain extent, knowing that there was little risk of losing Latino/a support if they did not deliver on every CHC policy priority. With only 16 voting members (and two members represented Puerto Rico and Guam), the CHC was also not in position to garner significant support for an alternative course of action.

Civil Rights and Business Interests: The “Strange Bedfellows Effect”

In the midst of this complex network of interests, civil rights leadership supported No Child Left Behind and the Congressional Hispanic Caucus allied itself with these groups. Civil rights interests wanted to close achievement gaps, rid schools of racist and segregationist policies, and hold schools accountable for decades of inadequate education of minority students. Business interest groups rallied behind the legislation to hold the government accountable for the development of the next generation of productive workers. With support from both of these coalitions on both sides of the aisle, the Bush Administration and leadership in Congress gained additional momentum to successfully pass NCLB.

The civil rights interest groups promoted accountability to declare a “no more nonsense” and “no more excuses” attitude. Deep-seated frustrated drove this “ethos of accountability;” a strong sense that people were being denied fundamental human rights propelled the early accountability agenda. During the 1960s and 1970s, civil rights leaders sought to hold schools and teachers more accountable for their

¹⁶² Rudalevige, “The Politics of No Child Left Behind,” 68.

treatment of African American students. These activists attributed the achievement gap to racist teachers and schools with low expectations of their students. This accountability mentality was a reaction to claims made by teachers and school administrators that African American students were not succeeding solely due to poverty and the lack of resources in their communities. Viewing this sentiment as an attack on black culture, civil rights leaders wanted these groups to stop “blaming the victim for their failure.” In effect, African American civil rights leaders rallied behind the accountability agenda to improve schools.¹⁶³ While, in reality, prejudice in schools and socioeconomic conditions in neighborhoods were not mutually exclusive and both shaped disadvantages for minority students, these two sides served as particular sources of conflict between civil rights leaders and school representatives.

Further, civil rights interest groups wanted to document achievement gaps to systematically hold these schools and teachers accountable. In the decades leading up to NCLB, the achievement gap was discussed as either an afterthought or as a “dirty little secret” about the American public education system. Civil rights leaders wanted to prove that the achievement gap existed and *publicize* it. This documentation and publication of the data is a relatively recent phenomenon. Civil rights interests promoted this transparency to draw urgent attention to achievement gaps. These efforts for documentation and greater transparency produced standards-based reform and accountability frameworks.

The civil rights interests also did not necessarily favor the influence of traditional education interests and helped to shut these groups out from the policy-making process. While reformers and scholars, like Horace Mann and W.E.B.

¹⁶³ Spencer, “Updating ‘No Child Left Behind.’”

DuBois, had viewed the public school system since its conception as a “great equalizer,” divisions between those who work in schools and civil rights leaders outside of schools had existed for quite some time.¹⁶⁴ Those who work in schools (teachers, administrators, school boards, departments of education, etc.) have historically sought to reduce inequality through aiming at larger questions of socioeconomic disparities. Social science research in the 1960s supported these ideas by illuminating how educational success is a product of social and economic conditions beyond the control of schools.¹⁶⁵

On the other hand, civil rights groups tended to believe that those who work in schools caused the problems in education rather than poverty and resource discrepancies produced outside of school.¹⁶⁶ The civil rights accountability framework developed in the 1960s as black educators, parents, and activists aimed to hold schools responsible to improve opportunities for African American students who were often seen by teachers as “uneducable.”¹⁶⁷ During the Civil Rights Movement with efforts to desegregate schools, create compensatory education programs, and close achievement gaps, the struggle for control and influence in Washington was very much about who was responsible for educational inequality. While social scientists and policy-makers highlighted social and cultural causes, black educators and activists blamed white-run schools rather than the students and surrounding communities.¹⁶⁸

¹⁶⁴ Spencer, “Updating ‘No Child Left Behind,’” 3.

¹⁶⁵ *Ibid.* 2

¹⁶⁶ *Ibid.* 2

¹⁶⁷ *Ibid.* 2

¹⁶⁸ *Ibid.* 5

Within the context of this historical tension, divisions between civil rights leaders and those who worked in (and represented) schools were still pervasive during the formation of No Child Left Behind. While education reform is often described as shifting from “equity to excellence” under President Reagan, the civil rights emphasis on accountability is an essential component of NCLB as teachers, unions, and administrators were framed as “excuse-making traditionalists.”¹⁶⁹ The name “No Child Left Behind” itself is borrowed from civil rights rhetoric.¹⁷⁰ Therefore, it is not surprising that civil rights interests sought to shut out education interests when forming NCLB. Civil rights groups believe education interests were the problem, and many Democrats agreed.

From the other side of the aisle, business leaders also did not support education interests. These groups also blamed schools and teachers for educational deficits as they did not see any improvements in student performance or any “return on investment” after decades of federal funding. These perspectives on ineffectiveness augmented the business community’s interest in education. Business leaders generally have a stake in education to create a new workforce of highly-trained and well-educated youth. Business leaders were interested in outcomes and hard data of performance, too. They wanted to determine where the government spent its revenue and determine the effectiveness of federal government involvement in education.

Further, the accountability framework in No Child Left Behind was a manifestation of market-based ideologies. By identifying which schools are

¹⁶⁹ Spencer, “Updating ‘No Child Left Behind,’” 7.

¹⁷⁰ Ibid. 6

succeeding and failing, there would theoretically be a higher *demand* for the “good” schools and “good” programs and reduced *demand* for poor-performing schools. Low-achieving schools would be punished based on their failure to make adequate yearly progress (AYP) and money would be rewarded to schools that innovate. NCLB gives students the option to leave schools that are failing and in effect, aimed to drive poor schools “out of business.” Test scores are the functional equivalent of profit in this analogy. As such, the competition between schools theoretically would spur innovation as advanced performers would rise and failures would be eliminated.

Business leaders pushed the accountability narrative throughout the 1990s, but found themselves frustrated with President Clinton and anti-intervention Republicans in Washington. State governments were often uninterested as well, but business leaders found success with rising Republican George W. Bush to adopt their agenda in Texas. This connection was deeply rooted in Texas politics.¹⁷¹ Bush used his experiences in Texas to augment his presidential campaign and shared both ideologies and personnel with the Texas business community while President.¹⁷² Without much focus on relatively impotent educational conservatives who resisted a greater role of federal government, Bush could focus on the accountability and testing that lay at the heart of the business interests’ agenda.

During the same time, civil rights groups (under the leadership of individuals like Kati Haycock, Phyllis McClure, David Hornbeck, William Taylor, and Dianne Piché) also tried to revamp support for federal initiatives on standards and accountability. Following the “Republican Revolution” of 1994, Education Trust in

¹⁷¹ Rhodes, *An Education in Politics*, 138.

¹⁷² *Ibid.* 139

particular worked to garner strong support beyond traditional reformers in the Democratic Party. Republicans, especially those susceptible to business interests, could support the civil rights' accountability models which were closely connected to the models used in Texas.¹⁷³ At the same time, civil rights leadership sponsored significant research projects; in some cases, this research aimed to provoke policy-makers in Washington, "charging that their unwillingness to support federal standards-based reform was directly responsible for the low achievement of disadvantaged students."¹⁷⁴

Civil rights entrepreneurs wanted to provide concrete evidence that standards-based reforms would reduce achievement gaps, improve overall student achievement, and should be a priority in Congress.¹⁷⁵ For example, the Citizens Commission for Civil Rights' Report *Title I in Mainstream* argued that public education has failed since the conception of Title I because reform did not accompany an increase in funding. In another example, Education Trust conducted a survey of 1200 high-performing schools serving concentrations of poor and minority students in 1998. This research was used to validate accountability and standards-based reform.¹⁷⁶ While there were other reports released by a number of other organizations, this evidence helped convince some educators and more importantly, Democratic members of Congress, to support such reform. Democrats believed that alliances with the civil rights leaders could provide electoral and political advantages. Jesse Rhodes notes that for these reasons, "Even Bush's close advisor Sandy Kress has called civil

¹⁷³ Rhodes, *An Education in Politics*, 141.

¹⁷⁴ Ibid. 141

¹⁷⁵ Ibid. 142

¹⁷⁶ Ibid.

rights entrepreneurs the ‘intellectual fathers of NCLB’ for their advocacy of policy provisions.”¹⁷⁷

Rhodes highlights the significance of the “strange bedfellows effect” by describing the ways in which civil rights and business coalition could accomplish progress that others could not:

Whereas educational liberals and educational conservatives again pursued divisive reform strategies, featuring, on the one hand, expanded spending, and on the other, various measures to promote private school choice and regulatory reform, business entrepreneurs and civil rights entrepreneurs attracted both Republicans and Democrats to their cause by crafting appeals that resonated across the partisan divide.¹⁷⁸

The joint efforts of civil rights leaders and business leaders brought different groups together across the ideological spectrum. With such a strong coalition, including those which represented their own interests, the Congressional Hispanic Caucus supported No Child Left Behind. These interest group dynamics worked together with the electoral and Congressional politics of 2001 to create advantageous conditions for the passage of NCLB.

Rational Calculations: Theories of Congressional Decision-making

Carl F. Kaestle, Lee Anderson, and Andrew Rudalevige all argue that ideological weakening among conservatives and increased diversity of interest groups produce “unpredictable behavior” among legislators. While these authors accurately recognize that members of Congress did not necessarily vote in a manner that appears consistent with historical party positions or traditional party ideologies, the voting behavior of the Congressional Hispanic Caucus was predictable based on standard

¹⁷⁷ Rhodes, *An Education in Politics*, 144.

¹⁷⁸ *Ibid.* 128

theories of Congressional decision-making and the role of party in these theories. To understand this possibility, it is useful to note that there is a paradoxical element in the relationship between party and ideology in the analysis of NCLB. While an “ideological weakening” among Republicans made the passage of NCLB possible, President Bush and Congressional Republicans still embraced policy positions that were motivated by party allegiance with an eye towards a longer-term ideological agenda.

The movement towards a federal role in the national educational system –one that emphasized accountability in the expenditure of federal funds rather than simply expanding funding – has already been described as an opportunity to seek partisan advantage and attract voters on a popular policy issue that historically favored the Democrats. Yet, while the more favorable Republican position on a federal role in education might be seen as a moment of “ideological weakening,” the emphasis on accountability allowed the Republicans to maintain a position that was ideologically compatible with an emphasis on fiscal responsibility. At the same time, Republicans and President Bush could exploit this initiative for partisan advantage in pursuit of the conservative agenda. Indeed, it is the contention of this analysis that the Democrats’ willingness to work with the Bush Administration on NCLB was partially in recognition that partisan advantage was at stake. As such, the “process of ideological weakening” discussed above should be understood as an element of the education policy debate specifically, but should not be misperceived as a signal that partisan/ideological divisions between the parties had been significantly diminished overall.

With this in mind, John W. Kingdon's framework for Congressional agenda setting and voting decisions can be applied to the formation of No Child Left Behind as a mechanism to explain how the law passed. This framework illuminates that No Child Left Behind emerged on the agenda in 2001 due to a specific convergence of factors that persuaded the Congressional Hispanic Caucus to vote in favor of the law. When put in the context of institutional changes in Congress (particularly in the House of Representatives), Kingdon's work further helps explain the importance of party influence in 2001 and how party leadership directed the Congressional Hispanic Caucus to support NCLB.

In his 1984 book *Agendas, Alternatives, and Public Policies*, John W. Kingdon presents a framework to analyze and comprehend public policy agenda-setting. His work primarily aims to explain the decision-making processes of the "political branches" (Congress and the Presidency) of the federal government.¹⁷⁹ The expansion of the federal government in the 20th century structured contemporary public policy in such a way that Congress and the President have substantial authority and liberty to set the agenda. These branches of the federal government are far more influential over the public policy agenda than the "nonpolitical branches" (the federal judiciary and the executive bureaucracy).¹⁸⁰ Even given these power dynamics, members of Congress and their staffs, the White House, lobbyists, the media, executive bureaucrats, and state-level representatives propose thousands of issues and respective solutions in public policy debates each year. Amid of this network of interests, problems, and new alternatives, only a few issues (or less) come into the

¹⁷⁹ Paul J. Larkin, "John Kingdon's 'Three Streams' Theory and the Antiterrorism and Effective Death Penalty Act of 1996," *Journal of Law and Politics* XXVIII, no. 25 (2012): 26.

¹⁸⁰ Larkin, "John Kingdon's 'Three Streams' Theory," 27.

spotlight in each session of Congress. Even further, it is much more likely that Congress will slightly revise existing legislation than endeavor to shift to entirely new policies.¹⁸¹

Kingdon argues that a public policy issue becomes part of an agenda on rare occasions when there is a confluence of “three streams:” the problem stream, the policy stream, and the political stream.¹⁸² The problem stream is defined as “matters of concern that a critical mass of people want to change or affect.”¹⁸³ These problems can arise from a variety of factors, such as disasters or tragic events, the culmination of small concerns that reach a critical mass, or on-going outcry from the public and media about an issue. The policy stream consists of the ideas floating around, “bumping into one another, encountering new ideas, and forming combinations and re-combinations” of policy alternatives.¹⁸⁴ Information on policy problems and proposals on how to fix them can originate from academics, policy experts, single-issue interests, think tanks, and others. The number and diversity of proposals are vast and are often only limited by interest, time, and energy.¹⁸⁵ The political stream comprises “electoral, partisan, and pressure group factors” and is primarily defined by changes in the national mood (public opinion), presidential administrations, or majority parities in Congress.¹⁸⁶ The defeat/victory or retirement/rise of influential and charismatic legislators can also contribute to a redefined political stream. The actors in each of these streams could theoretically be involved in all of the streams

¹⁸¹ Larkin, “John Kingdon’s ‘Three Streams’ Theory,” 27.

¹⁸² John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston, MA: Little, Brown and Company, 1984).

¹⁸³ Larkin, “John Kingdon’s ‘Three Streams’ Theory,” 28.

¹⁸⁴ Kingdon, *Agendas, Alternatives, and Public Policies*, 209.

¹⁸⁵ Larkin, “John Kingdon’s ‘Three Streams’ Theory,” 29.

¹⁸⁶ Kingdon, *Agendas, Alternatives, and Public Policies*, 152.

simultaneously, but it is more common for actors to be part in one or two of the streams.¹⁸⁷ When these three streams converge, a public policy issue gains enough momentum to be prioritized on the agenda, discussed with action in mind, and addressed by the government in the form of new public policies.¹⁸⁸ This model has been applied to a variety of federal policy fields, both by Kingdon himself and other scholars.

Kingdon's framework can be applied to NCLB to further understand why and how education reform became an agenda priority in 2001. The problem stream, the policy stream, and the political stream all converged to allow for passage. The public at large created and reinforced the problem stream: almost all Americans wanted to address education issues at the turn of the century. The interest group activity described above represents the policy stream. Education reformers were abundant and diverse, each with slightly different strategies to address achievement gaps. The late 1990s and early 2000s were crowded with policy proposals. Finally, these interest groups, President Bush, and the "Big Four" in Congress satisfied the political stream in the formation of NCLB. The political stream was also cultivated by the perception of public salience on the issue. As all of Kingdon's streams are satisfied in the above analysis, No Child Left Behind passed due to the confluence of an important problem, valid and abundant policy alternatives, and the political actors ready to accomplish reform.

Furthermore, Kingdon's scholarship illuminates the rationale behind Congressional voting decisions on No Child Left Behind. Kingdon's Integrative

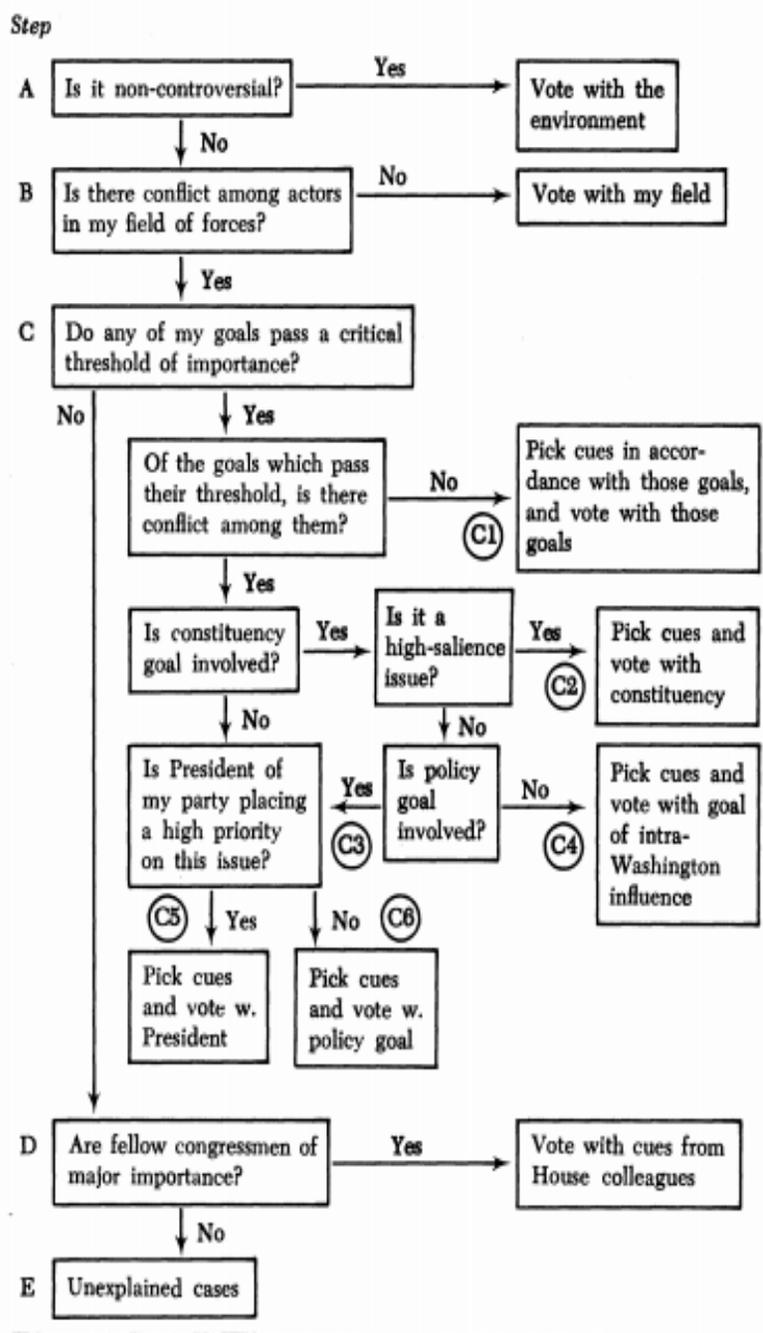
¹⁸⁷ Kingdon, *Agendas, Alternatives, and Public Policies*, 29.

¹⁸⁸ *Ibid.* 26

Model of Legislative Voting Decisions (Figure 1 below) reveals that members of Congress assess a variety of forces when determining how to vote. An inventory of these forces can be seen in Figure 1 below. When considering this list of forces, Kingdon asserts that members of Congress will evaluate where their forces coincide and where they conflict. If there is no conflict, the member will vote with the consensus of their forces (noncontroversial decisions). If there is a conflict, the Congressperson must weigh the varying forces against each other to determine his or her vote. At any point in this calculation, a particular answer to any of the questions on Kingdon's Figure 1 may be controlling and direct a Congressperson to vote based on that variable. Kingdon argues that members of Congress generally prioritize variables in the order he features in his flow chart.

FIGURE 1

AN INTEGRATIVE MODEL OF LEGISLATIVE VOTING DECISIONS



¹⁸⁹ Kingdon, "Models of Legislative Voting," 575.

Kingdon's Integrative Model of Legislative Voting Decisions is informative in two primary ways. First, Kingdon provides an inventory of variables that one needs to consider when evaluating why members of Congress vote on the floor as they do. Second, Kingdon's framework allows non-policy experts to understand that there is a standard voting calculus where the weight of different variables depends on the particular circumstances. Within the above framework, the Congressional Hispanic Caucus did not have a conflict in their field of forces due to the particular political environment in 2001, as described in the previous section. Particularly, the Congressional Hispanic Caucus's political party and powerful lobbies supported the legislation. Therefore, the decision of the CHC can be understood in the following way:

A: Is it non-controversial? → No



B: Is there a conflict among actors in my field of forces? → NO → Vote with my field.

As all of the major actors in the CHC's field were in favor of the legislation, the CHC would logically vote with their field of forces.¹⁹⁰

While Kingdon's model helps explain the CHC's voting decisions on NCLB, it is important to consider a few factors that supplement the above analysis. First, Kingdon's work was first published in 1977 (with the most recent edition in 1989) and Congress has changed in numerous ways since this time. Kingdon's work was heavily influenced by David Mayhew's *Congress: The Electoral Connection*. In this

¹⁹⁰ John W. Kingdon, "Models of Legislative Voting," *The Journal of Politics* 39, no. 3 (1977): 575, accessed September 15, 2014, <http://faculty.washington.edu/jwilker/353/kingdon.pdf>.

1974 canonical text, Mayhew argued that the desire for reelection was the principle variable explaining Congressional voting behavior.¹⁹¹ Hence, constituencies were the most important influence on these decisions and members of Congress needed to focus most on constituent services and policy preferences. As Mayhew's theories dominated analysis on Congressional decision-making, Kingdon's model reflects the importance of reelection as a motivating variable.

Second, Kingdon wrote in the context of a long-standing Democratically-controlled Congress (1932-1992) which included a number of "solid South" conservative Democrats. In this environment, political party determined Congressional member behavior to a lesser extent, particularly in the House of Representatives, than in 2001. Instead, power was much more decentralized with significant control in committees with committee chairs setting the agenda. In this environment, logrolling and bargaining were the norm, as manifest in Kingdon's model above at step "D." Steven S. Smith and Gerald Gamm, writing on *The Dynamics of Party Government in Congress*, describe a decentralized pattern as "the central party leader defers to committee chairs, performs the ministerial duty of scheduling, and, as circumstances require, bargains with influential members."¹⁹²

These dynamics in Congress have changed significantly since the 1970s. The party variable is not explicitly included in Kingdon's Integrative Model of Legislative Voting Decisions. In the contemporary political environment, the party variable can be found in a number of steps. Step "D" is particularly important as the positions of

¹⁹¹ David Mayhew, *Congress: The Electoral Connection* (New Haven, CT: Yale University Press, 2004).

¹⁹² Steven S. Smith and Gerald Gamm, "Part III: Parties and Committees: The Dynamics of Party Government in Congress," in *Congress Reconsidered*, ed. Lawrence C. Dodd and Bruce I. Oppenheimer (Washington, DC: Congressional Quarterly Press, 2005), 182.

“fellow” members of Congress “of major importance” have come to be defined as the positions of the Democratic and Republican parties. In the same vein, party allegiances often define the components of step C that focus on Presidential behavior. While the CHC found little conflict in their “field of forces” (step B) and did not reach steps C or D, the party variable was still a large component of a Congress person’s “field of forces.” Therefore, by placing Kingdon in a contemporary context, party allegiances and inter-party conflicts augment an understanding of the Congressional Hispanic Caucus’s support for No Child Left Behind.¹⁹³

The realignment of the South after President Richard Nixon’s election substantially altered Congressional politics and partisanship. After overwhelming support for the Democratic Party since the Civil War, conservative Southerners began to move away from the Democratic Party in response to the Republicans’ “Southern strategy” for electoral advantages. Increasingly facing fewer constraints from Southern conservatives who were defecting to the Republican Party, liberal Democrats strengthened the powers of party leadership to promote more partisan politics in the early 1970s.¹⁹⁴ These changes were further advanced by Reagan’s elections and the rise of Newt Gingrich and his cohort in the 1980s. This shift was institutionally solidified through the “Republican Revolution” of 1994. By the formation of No Child Left Behind in 2001, conservative Southern Democrats were not a factor in the same way as they had been in the middle of the 20th century.¹⁹⁵

¹⁹³ John W. Kingdon, “Models of Legislative Voting,” *The Journal of Politics* 39, no. 3 (1977): 575. Accessed September 15, 2014. <http://faculty.washington.edu/jwilker/353/kingdon.pdf>.

¹⁹⁴ Thomas Mann and Norman J. Ornstein, *The Broken Branch: How Congress Is Failing America and How to Get it Back on Track*, (New York: Oxford University Press, 2006).

¹⁹⁵ Mann and Ornstein, *The Broken Branch*.

Therefore, there was more “intra-party cohesion” and homogeneity as well as more “inter-party conflict” than seen from 1932 to 1972.

Political scientists now associate these conditions with the term “conditional party government” (CPG), which suggests that the American political system might move toward something more closely resembling the operations of a parliamentary system such as those in Europe. Coined by David W. Rhode, the conditional party government thesis argues that Congress can be organized around strong party leadership and cohesion. These conditions arise when parties are highly polarized and led by assertive and powerful party leaders. Party polarization is a product of polarized elections, where the electorate supports candidates with strong partisan views.¹⁹⁶ Further, charismatic leaders can contribute to intra-party cohesion, as they can independently play a role in shaping and reinforcing party behavior. Proponents of CPG theories argue that members of Congress are more likely to concede power to party leaders in these contexts. Consequently, conditional party government is associated with the declining power of committee chairs, increased party control over committee assignments (as opposed to norms of seniority), and enhanced power of the Speaker of the House over the House Rules Committee chair.¹⁹⁷

Smith and Gamm recognize the years just before 2000 as one of the “eras of high party polarization” in which the conditional party government thesis can be used to understand Congressional behavior.¹⁹⁸ While strong majority party leadership did not develop in the Senate, both parties in the House were characterized by influential central leadership. This CPG structure emerged with the success of the “Republican

¹⁹⁶ Smith and Gamm, “The Dynamics of Party Government in Congress,” 183.

¹⁹⁷ Ibid.

¹⁹⁸ Ibid. 184

Revolution” in 1994. Part of this success was the nationalization of congressional races with the Republicans’ ten-point policy platform, the “Contract with America.”¹⁹⁹ Republicans had a strong consciousness of a national agenda. For the first time in at least 40 years, the Republican Party had renewed urgency and momentum to further conservative policy priorities.

To secure this agenda, Republicans allocated additional powers to party leadership (as Democrats had done in the early 1970s) in two major ways. First, Republicans authorized the Speaker of the House to appoint all of the majority party members of the powerful Rules Committee; this committee determines the length of floor debates and can effectively freeze out the minority party from offering any amendments. These actions suggest great intraparty cohesion, as rank-and-file Republicans were willing to allow the Rules committee to become an arm of the party leadership. As members of Congress saw their electoral fortunes closely tied to their party’s success, each member of Congress was more likely to try to control any outliers that deviated from the party position and could undermine the ability of that position to prevail. Hence, members of Congress supported the party leaders rather than defecting and risking less electoral support.²⁰⁰

Second, Republican leadership discontinued the standard of seniority as the sole means of appointing committee chairs. With Newt Gingrich as Speaker of the House, Republicans “handpicked full committee chairs, who were later endorsed by the party conference, and picked several subcommittee chairs, who were then

¹⁹⁹ Smith and Gamm, “The Dynamics of Party Government in Congress,” 196.

²⁰⁰ Ibid.

appointed by committee chairs.”²⁰¹ In most cases, the most senior Republican occupied these chairs, but the message was established that party was more important than seniority. As with the Rules Committee dynamics, the rank-and-file Republican members acquiesced to the leadership. In this way, the Republicans worked to establish intraparty homogeneity to secure their agenda.

With this intraparty cohesion characterizing Republicans, the Democrats followed suit in escalating their partisan behavior. The impeachment of Bill Clinton accelerated a sense of interparty conflict. The Congressional Quarterly Weekly Report charts “party unity scores” in both the House of Representatives and the Senate. According to these scores, both Republican and Democratic “party unity scores” in both Chambers were at an all-time high somewhere between 1995 and 2008. In the House specifically, Republicans were most unified in 1995, 2001, and 2003, while Democratic unity steadily increased throughout the 1990s and early 2000s to peak in 2007-2008.²⁰² Democratic homogeneity may not have reached the levels of cohesion of the Republican Party in the 1990s and early 2000s due to President Bill Clinton’s “triangularization” strategy. President Clinton gained electoral advantages by positing himself as a centrist voice in between conservative Republicans and liberal Democrats. With two sides of this “triangle” in the Democratic Party, the Democrats were not as unified as Republicans and

²⁰¹ Smith and Gamm, “The Dynamics of Party Government in Congress,” 196.

²⁰² Colby College, “The Congress,” (presentation), Waterville, ME, accessed November 15, 2014, http://www.colby.edu/govt/gcm/gov111/GO111_Congress.pdf.

Congressional Democrats had slightly different policy priorities than President Clinton.²⁰³

Anticipating a close election in 2000, both parties recognized a need to discipline potential defectors within their parties and ensure party unity. Conditional party government in this era reached its pinnacle with the election of George W. Bush in 2000. The federal government became increasingly “unified” with a Republican president; this cohesion augmented the Republican agenda and mediated against one of the constitutional sources of potential institutional conflict – the separation of powers. Hence, the conditions in 2000 were favorable for conditional party government and party leadership was an exceptionally strong determinant of Congressional behavior during the formation of No Child Left Behind. In effect, voters had a high-degree of confidence that a party label was indicative of a voting cue.

Conditional party government theories have partially fallen out of favor with political science communities and are not necessarily the mainstream in 2014 due to more recent factors. The conditions that favored CPG could not be maintained for two primary reasons. First, the unpopularity of the war in Iraq reintroduced divided government in 2006 with the rise of Democrats in Congress. At the same time, the Iraq war turned public opinion against the Bush Administration. In effect, the national conservative agenda grew less homogeneous as the priorities of a Republican president did not lead to re-election for many Congressional Republicans. Second, the financial crisis, bank bailouts, the election of Barack Obama, the stimulus package,

²⁰³ John Reynolds (Professor at Moravian College) in discussion with the author, November, 2014.

and the Affordable Health Care Act mobilized more ideologically extreme conservative voters. These positions became manifest in the Tea Party's success in Congressional elections. The Occupy Wall Street Movement had a similar, but less electorally successful, impact on the Left. These more polarized positions proved to be a source of conflict with established leaders within both parties. The level of intraparty homogeneity dropped even as the level of interparty conflict remained high. Therefore, the CPG thesis became less dominant in the years after 2001, but adequately explains the political environment during the formation of NCLB.

To bring these ideas of conditional party government and party control back to Kingdon, his "Integrative Model" only includes party implicitly in a number of steps. By NCLB in 2001, the importance of party leadership suggests that party variables fundamentally characterized the "field of forces" section (in ways unseen in 1977 when Kingdon first developed his framework). The "field of forces" can be found in step B of Kingdon's model (B: Is there a conflict among actors in my field of forces?). The behavior of party leadership had become more frequently and more stridently controlling, presenting individual members with a strong indicator of the convergence of different decision-making variables. This was particularly true of the Republicans under Newt Gingrich, and generally continued under Dennis Hastert, making party a controlling factor in defining the field of forces.²⁰⁴ Following suit, new, strong Democratic leadership held close ranks to counter this rising Republican unity. Given that the Republicans were still ascendant in 2001 and that the Democrats feared losing control of the education issue, Kingdon's model would lead one to expect the CHC to vote with their "field of forces" on NCLB. In this way, the

²⁰⁴ Smith and Gamm, "The Dynamics of Party Government in Congress."

Congressional Hispanic Caucus's support for NCLB can be further understood within the context of mainstream theories of Congressional decision-making.

A Matter of Pros and Cons: Recognizing Progress and Shortcomings

Apart from the advantageous political context and the theories of Congressional decision-making, the Congressional Hispanic Caucus's support of No Child Left Behind can be understood through the statements of members of the CHC itself. There is little scholarship on the role of the Congressional Hispanic Caucus or Latino/a interests in the formation of No Child Left Behind, so I explored the role of Latino/as through a variety of resources: the text of the No Child Left Behind legislation; publications by the two most often cited Hispanic interest groups, the National Council of La Raza and the Mexican American Legal Defense and Education Fund; a series of conversations with interest group representatives, scholars, former policy-makers, and school district representatives; and the Congressional Record, including speeches of members of the Congressional Hispanic Caucus. Through this research, it became evident that the members of the CHC recognized the shortfalls in the legislation, but voted for the bill anyway due to certain gains for Latino/a students. Furthermore, the problems raised by the CHC in the formation process were only anticipated. Legislators could not have been able to predict the ways in which NCLB would fail Latino/a students with the information available at the time of passage.

The text of No Child Left Behind includes a variety of elements that the CHC found desirable, and hence, provided incentives to vote for the law. While speeches from members of the CHC in the Congressional Record about No Child Left Behind

are sparse, limited archives inform us about the evolution of the CHC's support. To best represent the views of the Congressional Hispanic Caucus, we can look how the chair of the CHC, Silvestre Reyes (Texas-D), showed his support for No Child Left Behind in the Congressional Record on December 13, 2001. Reyes highlights significant elements of the law that he genuinely believed would reduce disparities in performance between Latino/a students and their non-Hispanic White peers.²⁰⁵ As many Hispanic students depend on quality English language learning programs for success, Reyes primarily focuses on provisions within Title III of NCLB, "Language Instruction for Limited English Proficient and Immigrant Students." While a definitive departure from the Bilingual Education Act of 1968, this 35-page section of the legislation provides means to improve English language instruction for LEP students and illuminates the primary reasons for the CHC's support of NCLB.

First of all, Reyes backs formula-based bilingual education funding rather than a grant-based system, stating "This new formula, accompanied by a significant increase in appropriations, will extend bilingual education to millions of eligible students who currently do not receive bilingual education services."²⁰⁶ Reyes echoes concerns about appropriate funding made by his colleague, Representative Ciro D. Rodriguez (Texas-D), on the floor of Congress on June 19, 2001. Rodriguez highlighted his support of the formula to which Reyes refers, as school districts would receive funds directly rather than through the state bureaucracies. Rodriguez also applauded No Child Behind's increased financial commitment to education, specifically through Title I funding. Furthermore, Rodriguez was pleased that

²⁰⁵ Silvestre Reyes, "Conference Report on H.R. 1 on No Child Left Behind Act of 2001," (Congressional Record, Washington, DC, December 13, 2001).

²⁰⁶ Reyes, "Conference Report on H.R. 1," (December 13, 2001).

provisions for vouchers and school privatization were left out of NCLB.²⁰⁷ In these ways, with special attention paid to bilingual education funding, the CHC supported No Child Left Behind's efforts to allot revenue to serve Latino/a students in meaningful ways.

Following the theme of bilingual education services, Reyes also supported the ability of families to “opt-out” of bilingual education programs if parents preferred to place their child in an English-only curriculum.²⁰⁸ Supporting an ability to “opt-out” of bilingual programs may appear unusual, but this sentiment was consistent with civil rights priorities and fears of historical discrimination. Victoria MacDonald of the University of Maryland noted in conversation with the author that before NCLB, many students never graduated from English as a Second Language programs and never advanced to more academically challenging classes. Stuck in segregated classrooms, Latino/a students often received inadequate resources to grow academically. This trend was part of the motivation for Proposition 227 in California that banned bilingual education in 1998. There was, and remains, a perception that bilingual programs were “ghetto-ized,” never prompted improvement, and removed students from ambitious peers. Indeed, the departure from support for bilingual education was partially in recognition of poorly executed and underfunded programs.²⁰⁹ In effect, efforts to allow students the choice to leave bilingual programs

²⁰⁷ Ciro Rodriguez, “Ensuring that No Child Left Behind Requires More,” (Congressional Record, Washington, DC, June 19, 2001).

²⁰⁸ Reyes, “Conference Report on H.R. 1,” (December 13, 2001).

²⁰⁹ Joe Leaf (ESL coordinator, Norristown Area School District) in discussion with the author, March, 2014

were a consequence of inadequate services and rare graduation from these services in the years prior to NCLB.²¹⁰

These same concerns need to be considered to understand why the Congressional Hispanic Caucus objected to NCLB's three-year maximum limit on enrollment in English learning programs "regardless of what level of English proficiency [students] reach."²¹¹ The CHC recognized that students enter the educational system at different stages in the process of acquiring language and students should be able to stay in bilingual education as long as appropriate.²¹² However, the CHC conceded on this issue for much the same reasons that they supported the "opt-out" provision. Given the trends described above, a three-year maximum was a manifestation of the fear that LEP students were segregated into bilingual or ESL programs too long. Students continued to be caught in between needing English learning classes and more academically challenging integrated courses. In this vein, there was a civil rights imperative to accelerate English language learners into more advanced college preparation, honors, and Advanced Placement classes. Finally, with a dramatic increase in the Latino/a population, many schools grappled with capacity issues; space, funding, and other resources were limited in English language learning programs. As such, schools felt pressure to "move students in and move students out" as quickly as possible.²¹³ Therefore, while the CHC rationally opposed the three-year maximum, this provision was created to address concerns that the CHC considered valid.

²¹⁰ MacDonald (Assistant Professor of Education) in discussion with the author, March, 2014.

²¹¹ Reyes, "Conference Report on H.R. 1," (December 13, 2001).

²¹² Ibid.

²¹³ MacDonald (Assistant Professor of Education) in discussion with the author, March, 2014.

Reyes's arguments about accountability aligned the Congressional Hispanic Caucus with civil rights leaders and African American interests in support of similar measures. The CHC agreed with civil rights leaders at the time about the effects of discriminatory practices within schools on student achievement. Reyes highlighted that No Child Left Behind tests English language learners after three years to reflect *school* performance, but not the achievement of individual students. The National Council of La Raza also recognized the testing agreements in NCLB as a positive for Hispanic students because students could be tested "in the language and form most likely to yield accurate results for ELLs."²¹⁴ School-wide accountability measures aimed to ensure that bilingual programs remained effective. Therefore, Reyes supported NCLB's efforts to ensure that schools were doing their part to close achievement gaps.²¹⁵

Attached to the issue of accountability and civil rights interests, the CHC wanted the federal government to recognize that Hispanic students were underperforming and make closing the achievement gap a national priority. Melissa Lazarín, Managing Director of Education Policy at the Center for American Progress and former staffer at the National Council of La Raza, specified that NCLB supported No Child Left Behind because it radically changed how Latino/a students would be considered in schools and held schools accountable for student progress.²¹⁶ Lazarín also noted that no one expected NCLB to solve all problems in the U.S. education system, but rather, it was important to know how best to respond after the

²¹⁴ National Council of La Raza, "The National Council of La Raza's Position on the No Child Left Behind Act and English Language Learners."

²¹⁵ Reyes, "Conference Report on H.R. 1," (December 13, 2001).

²¹⁶ Melissa Lazarin (Managing Director of Education Policy, Center for American Progress) in discussion with the author, March, 2014.

achievement gap was documented.²¹⁷ While standardized testing was not a perfect measure of intelligence or acquisition of knowledge, measuring the achievement gap allowed the CHC to highlight achievement discrepancies, attract alarm, and provoke action. MacDonald noted that some schools would encourage Latino/a students to stay home during important tests to avoid low scores and ignore discrepancies in achievement. Through email correspondence, Patricia Gandara of the Civil Rights Project at UCLA, too, emphasized the significance of the federal government tracking data on how English learners were faring rather than ignoring or hiding these statistics.²¹⁸ With this as the alternative, the CHC viewed testing in No Child Left Behind as a positive development, as schools and governments of all levels could more confidently measure achievement of all students.²¹⁹

Reyes championed NCLB's inclusion of professional development provisions to improve the caliber of existing teachers and train new ones qualified to teach English language learners.²²⁰ These efforts for highly-qualified instructors were coupled with efforts to improve second language acquisition pedagogy in general. Research on the best way to serve ELL students was inconclusive, with programs highly dependent on the priorities of each district and the resources available to schools.²²¹ Title III of NCLB contained provisions to improve language instruction through evidence-based research. The legislation required that this research apply for teachers that were unfamiliar with the language of the LEP student. Research was

²¹⁷ Lazarin, in discussion with the author, March, 2014.

²¹⁸ Patricia Gandara (Research Professor, University of California, Los Angeles), email message to author, March, 2014.

²¹⁹ MacDonald (Assistant Professor of Education) in discussion with the author, March, 2014.

²²⁰ Reyes, "Conference Report on H.R. 1," (December 13, 2001).

²²¹ Suárez-Orozco et al., "The Challenge of Learning English," 160.

also to be “administered by individuals with expertise in second language acquisition” and should include considerations of “the needs of limited English proficient children and their families.”²²² Language in the legislation recognized that research on English language acquisition was inadequate and inconclusive and supported further investigation on how to teach LEP students, giving the CHC incentive to support NCLB.

Further, Title III prescribed developing a common definition of “limited English proficient” child for purposes of national data collection. Joe Leaf, ESL coordinator at the highly-Latino/a populated Norristown School District in Norristown, Pennsylvania, recognized the importance of a standard definition for “English language proficient.” While the definition of LEP varies slightly from state to state, districts must now test yearly to judge English proficiency and use listening, speaking, reading, and writing in both social and academic contexts to adequately measure the true proficiency of a student.²²³ Before creating a standard definition, too many LEP students would perform below grade level without teachers realizing it or teachers would permit substandard work due to language challenges. No Child Left Behind wanted to ensure that students were challenged academically in age appropriate ways regardless of a student’s first language. In many cases, teachers would arbitrarily judge when students were ready to progress into more demanding classes or grade levels. While NCLB could not guarantee that teachers would be adequately prepared to judge sufficient language development, refined definitions of “limited English proficient” helped create a standard to track language acquisition.

²²² United States Congress. *No Child Left Behind Act*. Washington, DC. 110th. 2001: 294

²²³ Leaf (ESL coordinator, Norristown Area School District) in discussion with the author, March, 2014.

Furthermore, new standardized tests and progress reports would allow for national consistency. The “WIDA” (World-class Instructional Design and Assessment) exam is particularly popular, as these scores can follow students from district to district.²²⁴ Reyes emphasized the importance of migrant education services, particularly efforts to transfer education and health records, because many Latino/a American families (especially recent immigrants) moved to multiple locations across the U.S.²²⁵ For this reason, standardized tests and definitions allowed for districts to judge capacity and progress and find adequate placements for LEP students.

With all of these considerations, members of the Congressional Hispanic Caucus supported No Child Left Behind for a series of victories (small and large) while understanding that the bill had high aspirations that might not be achieved as expected. While Reyes’s comments above suggest a resolute conviction, his colleague in the CHC, *Ciro D. Rodriguez*, draws attention to a less definitive stance only months earlier. In a speech mentioned above on June 19, 2001, *Rodriguez* referred to a March letter to President Bush from Congressman Reyes and Congressman *Ruben Hinojosa*, as Chair of the CHC and Chair of the CHC Education Task Force respectively, voicing the CHC's opposition to a series of NCLB provisions.²²⁶ Members of the CHC definitively predicted shortcomings in No Child Left Behind, but decided to support the legislation anyway.

Representative *Ciro D. Rodriguez* (Texas-D) gave his speech on the House floor, entitled “Ensuring that No Child Left Behind Requires More,” in which he both

²²⁴ Leaf (ESL coordinator, Norristown Area School District) in discussion with the author, March, 2014

²²⁵ Reyes, “Conference Report on H.R. 1,” (December 13, 2001).

²²⁶ *Rodriguez*, “Ensuring that No Child Left Behind Requires More,” (June 19, 2001).

applauded NCLB for the reasons listed above and anticipated substantial problems for Latino/a Americans. Rodriguez was alarmed by failures to address class size reduction, school construction and renovation, and sufficient financial support for testing. The reliance on tests was a particular cause for alarm. Rodriguez noted that the National Assessment of Education Progress, the so-called “nation’s report card,” did not administer tests in Spanish. While LEP students could complete tests in the language which would produce the most accurate results for their first three years of assessment, LEP students would continue to struggle with English after this time period and tests in English would produce inaccurate results. Furthermore, he worried about NCLB’s consolidation of bilingual, immigrant, and foreign language education into one single formula grant. Like Reyes, Rodriguez was concerned by an “arbitrary” three-year limit on bilingual education programs. In contrast to Reyes’s sentiments only months later, however, Rodriguez feared that families would need to “opt-in” to receive bilingual education services rather than receiving automatic placements, creating cumbersome burdens on families and school districts.²²⁷ Overall, Rodriguez highlighted the diversity and skills of Latino/as that could not fit into a “one-size-fits-all” piece of legislation.²²⁸

Moreover, members of Congress, specifically members of the Congressional Black Caucus, generally supported the bill with reservations about its effectiveness as a piece of civil rights legislation. On December 11, 2001, Representative Major R. Owens (New York-D) foreshadowed debates over funding, stating:

We trivialize education. We do not make it a high priority except in terms of rhetoric. The highest priority items receive the greatest portion of the budget.

²²⁷ Rodriguez, “Ensuring that No Child Left Behind Requires More,” (June 19, 2001)

²²⁸ Ibid.

There is a correlation between appropriations and priorities in Congress, and we are not in the same place that American people are. They would like to have us do far more.²²⁹

On the same day, Representative Carolyn C. Kilpatrick (Michigan-D) echoed these concerns about funding with her comments:

However, as I do rise in support of this bill, it is not without reservation. In a year where the President and Congress have pledged to “leave no child behind,” we unfortunately do not fulfill this commitment to those children with special education needs. Congress needs to make funding for special education mandatory, so that schools, teachers, and students with special education needs will have the tools they need to perform successfully. Congress also needs to provide more funding in the years ahead, to ensure that our nation’s public schools are able to meet the requirements laid out in this bill and face the challenges ahead of them.²³⁰

Despite such anticipated funding shortfalls for traditionally underserved students, members of Congress representing both the Congressional Hispanic Caucus and the Congressional Black Caucus decided to vote for NLCB.

These shortcomings illuminate complex calculations made by members of the Congressional Hispanic Caucus in 2001. While anticipating inadequacies early in the formation process, the CHC supported NCLB and its potential victories for Hispanic students in the final vote. This decision was partially a product of the fact that the anticipated problems were just that- *anticipated*. These problems had not come to fruition yet. Even if critics of No Child Left Behind proved to be correct about the legislation’s failure to deliver on promises, members of the CHC could reasonably return home to their districts with some benefits to distribute to constituents. With these benefits, the CHC could blame the failure to substantially improve conditions

²²⁹ Avoice, “Education Policy: History and Debate.”

²³⁰ Ibid.

on others in Congress and in Washington. Additionally, if members of the CHC failed to be involved at all, they would risk losing the victories that they did gain and conditions might have been even worse for constituents. Therefore, the CHC voted for NCLB with the expectations that the law would help their constituencies and augment their own electoral advantages.

There are a number of major ways in which members of the CHC could not have anticipated the extent or severity of No Child Left Behind's ineffectiveness. The CHC and many other supporters of the law underestimated the potential for implementation failures. Issues during the formation of NCLB that could not be resolved were postponed to the implementation process. As such, NCLB did not contain sufficient enforcement provisions to ensure all of the reforms it contained would be executed in practice. Furthermore, federal funding for NCLB mandates was projected to be substantially higher. Finally, Texas-style accountability measures appeared to be an effective reform at the times of passage, but in fact, the Bush Administration exaggerated their successes in Texas to gain political support. Texas-style accountability has subsequently proven to be deeply flawed for Latino/a students.²³¹ The confusion about the quality of Texas-style accountability reflects a void in research on best practices in education generally. Regardless of the severity of these deficiencies, the Congressional Hispanic Caucus could not have predicted the stalemate in Congress in recent years that would make it virtually impossible to pass further revisions and reauthorizations. While the CHC could anticipate some

²³¹ Angela Valenzuela, "The Accountability Debate in Texas: Continuing the Conversation," in *Leaving Children Behind: How "Texas-Style" Accountability Fails Latino Youth* (Albany: State University of New York Press, 2005).

problems in NCLB, these members of Congress would not have been able to predict a number of major deficiencies with the information they possessed at the time.

Linda Darling-Hammond, Diane Ravitch, John Chubb, and many other leading voices in the education field have explored the implementation process through extensive scholarship. The successes and failures of implementation are the beyond the purview of my analysis, but a brief description of this process can partly illuminate why the CHC expected No Child Left Behind to be more effective at reducing achievement gaps. No Child Left Behind failed to be implemented successfully for two major reasons: a lack of enforcement provisions and insufficient funding. First, for political reasons no doubt, many specific directives and enforcement provisions were written out of the law to facilitate passage. Andrew Rudalevige notes the exceptional compromise in 2001; Democrats and Republicans came together in support of provisions in No Child Left Behind that they fundamentally disagreed about one session of Congress earlier. To resolve these disputes, key issues were often postponed until implementation. As is often the case with such omnibus bills, specifics were compromised and deferred from “campaign to committee to floor to conference to implementation.”²³² After NCLB passed, it remained to be seen how the Department of Education and its enforcement practices would consider the requirements of state and local actors.²³³

Rudalevige describes the final bill as “at once numbingly detailed and comfortably vague.”²³⁴ To reduce objections and ease passage, NCLB was written with just enough ambiguity to satisfy members of Congress. This ambiguity proved to

²³² Rudalevige, “The Politics of No Child Left Behind,” 68.

²³³ Ibid. 68

²³⁴ Ibid. 68

be problematic during implementation. For example, states and local districts were ultimately given wide discretion on accountability provisions. Republicans in Congress resisted efforts to define accountability measures for the states. Instead, the text of the law left states to determine their own standards, definitions of proficiency, and assessment measures. This flexibility permitted states the opportunity to lower expectations to receive increased funding or avoid pressure from the federal government.²³⁵ Vague provisions made the Department of Education's role in implementation a determinative factor in the success of the policy. While the DOE and Secretary of Education could hold firm to NCLB's commitments, the text of the bill and the narrow powers of the federal bureaucracy in general limited the ability to enforce NCLB's mandates.²³⁶ This ambiguity reduced the effectiveness of NCLB, as overarching reforms became eroded in practice.

The lack of enforcement provisions became particularly important for the testing of Latino/a and ELL students. While NCLB allowed for testing in native languages for up to three years, there was little in the legislation to enforce this clause. Many states did not want to create tests in the languages of all the children within their jurisdiction due to high costs and administrative demands.²³⁷ According to Bender et al., only fourteen states made accommodations for LEP students in their state assessment systems.²³⁸ In a number of key court cases, state and federal courts have ruled that NCLB does not require accommodations for English language learners. In *Reading School District v. Pennsylvania Department of Education*

²³⁵ Rudalevige, "The Politics of No Child Left Behind," 68.

²³⁶ Ibid. 69

²³⁷ Gandara (Research Professor, University of California, Los Angeles), email message to author, March, 2014.

²³⁸ Bender et al., *Everyday Law for Latino/as*, 79.

(2004), the Pennsylvania Supreme Court ruled that NCLB does not mandate that states must provide testing accommodations for LEP students. Rather, the legislation only requires accommodations be provided “to the extent practicable.”²³⁹ While states are increasing alternative tests for LEP students, this case specified that accommodations are neither mandated by NCLB nor a necessary part of state legislation.²⁴⁰

Subsequently, *Horne v. Flores* in 2009 undermined the potential political clout of NCLB. In contrast to the *Lau* decision, the Supreme Court reversed the decisions of lower courts in *Horne v. Flores* and found minimal resources and standards permissible for the education of English language learners. This decision was viewed as a huge setback for Latino/as nationally, as the largest population of ELLs is Latino/a.²⁴¹ As the CHC could not have predicted this setback, these members of Congress may have anticipated that NCLB could produce more change in the years after its implementation.

Second, the implementation process failed to be effective primarily due to insufficient funding. President Bush simultaneously cut taxes while waging war in the Middle East in his first term. These expenditures diverted funds way from NLCB’s implementation and execution. Eugene Garcia noted in a phone conversation with the author that the federal government only provided 40 dollars per student with the formula changes for English language learner resources.²⁴²

²³⁹ Bender et al., *Everyday Law for Latino/as*, 79.

²⁴⁰ *Ibid.* 79.

²⁴¹ Contreras, *Achieving Equity for Latino Students*, 66.

²⁴² Garcia (Professor Emeritis at Arizona State University) in discussion with author, March 2014.

After passing with overwhelming bipartisan support only six months earlier, prominent members of Congress started to shift their support for NCLB due to inadequate funding. On June 18th, 2002, Senator Harry Reid (Nevada-D) spoke directly about education for Hispanic and limited English proficient youth and No Child Left Behind. Reid drew attention to NCLB's "catchy name," but reprimanded President Bush for not backing up "his rhetoric with the resources our children need."²⁴³ Reid continued, "Just 1 month after signing educational reform into law, the so-called No Child Left Behind Act, [President Bush] proposed a budget to cut almost \$100 million in funding for the No Child Left Behind Act."²⁴⁴ Reid expressed satisfaction with the President's Commission on Education Excellence for Hispanic Americans, led by Secretary of Education Rod Paige, but remained disillusioned by the Bush Administration's efforts to freeze funding for English Language learning, bilingual education, and drop-out prevention programs. Reid concluded his remarks with a call to devote more revenue to support these programs, stating, "The No Child Left Behind Act provides a blueprint for educational reform. Real reform cannot occur without real resources. Without adequate funding, it is reform in name only. That is not enough. We can do better. We must do better."²⁴⁵

Only a few days later, Senator Ted Kennedy, a fourth of "The Big Four" and a well-known champion of No Child Left Behind, spoke on Hispanic Education and declared that "Reform without resources is no reform at all."²⁴⁶ Here, Kennedy

²⁴³ Harry Reid, "Hispanic Education," (Congressional Record, Washington, DC, June 18, 2002).

²⁴⁴ Reid, "Hispanic Education," (June 18, 2002).

²⁴⁵ Ibid.

²⁴⁶ Ted Kennedy, "Hispanic Education," (Congressional Record, Washington, DC, June 26, 2002).

referred to his Committee on Health, Education, Labor, and Pensions' report, "Keeping the Promise: Hispanic Education and America's Future," co-authored by the Congressional Hispanic Caucus. Kennedy continued to describe the irresponsible and toothless commitment to help Hispanic students who were actually being "left behind" without investment in districts serving high numbers of Latino/as, cultivating qualified teachers, and preventing drop-outs.²⁴⁷ Kennedy claimed specific discrepancies between the funding promised in NCLB and the funding present in 2002: an increase in \$742 million to enhance teacher quality, a \$219 million increase to help immigrant youth transition into the school system, and \$10 million devoted to dropout prevention programs all proved to be zero in 2002.²⁴⁸ While difficult to know the precise funding discrepancies, Reid and Kennedy revealed that key supporters of No Child Left Behind turned their back on the legislation quickly due to inadequate funding during implementation.

Finally, the particular accountability model used in No Child Left Behind, originating in Texas, did not prove to be as successful as promised for Hispanic students. While noting many supporters of these accountability measures, Angela Valenzuela devotes an entire book to this argument, entitled *Leaving Children Behind: How "Texas-Style" Accountability Fails Latino Youth*. A number of studies suggest that Texas-style accountability can be effective in schools (such as well-known research by James Scheurich and Linda Skrla) but Valenzuela argues that this model is not universally applicable to all settings.²⁴⁹ Furthermore, Rudalevige

²⁴⁷ Kennedy, "Hispanic Education," (June 26, 2002).

²⁴⁸ Ibid.

²⁴⁹ James Joseph Scheurich, Linda Skrla, and Joseph F. Johnson, "Thinking Carefully about Equity and Accountability," *Phi Delta Kappan* 82, no. 4 (December 2000).

recognizes that a lot of accountability research was inconclusive in this era, stating, “While accountability was unproved as a reform tool, there was also no conclusive evidence that it did not work.”²⁵⁰ Responses to studies on Texas-style accountability are quite varied and “in many instances accountability actually widens the achievement gap.”²⁵¹ Valenzuela further asserts that one will not produce results by simply making the achievement gap “visible, obvious, and public;” real progress needs to focus on both inputs and outputs.²⁵²

In this text, Valenzuela describes the alleged Texas “miracle” of accountability as a deeply flawed “mirage” for three primary reasons: 1) For attaching high-stakes consequences to “a single measure of students’ academic abilities” in the areas of retention, promotion, and graduation; 2) For encouraging reductionist curricula by attaching “high-stakes consequences to schools and districts;” and 3) “For promoting a uniform and objectivist way of knowing, to the detriment of other cultures, languages, and approaches to knowledge.”²⁵³ While Valenzuela believes that accountability is indisputably necessary in schools, the Texas model of accountability poorly assesses student understanding and progress and does not promote success in districts.

During the formation of No Child Left Behind, the Bush Administration gained validity by flaunting successes with Texas’s accountability model. The same model, constructed by shared personnel, constituted the blue print for NCLB. As governor of Texas, George W. Bush implemented a program that assessed schools

²⁵⁰ Rudalevige, “The Politics of No Child Left Behind,” 68

²⁵¹ Valenzuela, “The Accountability Debate in Texas.”

²⁵² Ibid. 16

²⁵³ Ibid. 1-2

based on student performance on the Texas Assessment of Academic Skills (TAAS) exams. All students were tested annually in grades 3-8. During his presidential campaign and lobbying in Congress, Bush boasted about the improvement in TAAS scores among black and Latino/a students.²⁵⁴ Bush also used the support of Democrat, education policy advisor, and fellow Texan, Sandy Kress, to convince key actors in Congress of the legitimacy of Texas-style accountability.²⁵⁵ This evidence helped persuade Congress and interest groups of the credibility of President Bush's plan. While some civil rights leaders, academics, and groups representing Hispanic interests were skeptical about the powers of Texas accountability, the Bush Administration's evidence about minority student gains helped garner enough support throughout Congress to pass the legislation.

Despite these shortcomings, Valenzuela suggests other methods of accountability that might more accurately assess student achievement and needs while still holding teachers and schools accountable for progress. Valenzuela highlights systems designed in Maine and Rhode Island as models for accountability frameworks that were more consistent with the needs of Latino/as.²⁵⁶ While these systems of accountability would not comply with No Child Left Behind, they can serve as alternatives for future reform. These states' testing systems allowed teachers and schools to test using multiple criteria and different media for assessment. In this design, criteria for assessment were common, but the ways in which students were assessed could be determined locally. Valenzuela describes this relationship by stating, "By definition, although the model of assessment and accountability that a

²⁵⁴ Rudalevige, "The Politics of No Child Left Behind," 66.

²⁵⁵ Ibid. 66

²⁵⁶ Valenzuela, "The Accountability Debate in Texas."

particular state takes would differ, the principle of multiple assessment criteria (not multiple tests) on which to evaluate students' work would be a common denominator."²⁵⁷ These alternative measures of accountability illustrate that No Child Left Behind's Texas-style accountability was not necessarily a magic bullet, but one alternative for reform. As there is general consensus that accountability is important, the Bush Administration's pseudo-evidence and rhetoric convinced the CHC to accept this evidence as valid support for Texas-style accountability and support vote for NCLB with the expectation that these measures would be effective for Hispanic students.

Conclusion

It should not necessarily come as a surprise that the Congressional Hispanic Caucus supported the No Child Left Behind Act. The particular politics of the 2000 presidential election and subsequent battles for control over education policy produced a "perfect storm" for major new reform. These particular circumstances can be understood within the context of John W. Kingdon's standard theories of Congressional decision-making and the arguments made by members of the CHC in the Congressional Record. The Congressional Hispanic Caucus believed that No Child Left Behind could reduce achievement gaps over time for Latino/a students.

There is no shortage of scholarship on the implementation and effects of No Child Left Behind. Researchers have analyzed each provision, each subgroup of disaggregated data, each state's measures to comply with the law, and each potential reform in new policy endeavors. In all of this analysis, it is important for scholars to consider the nature of public policy itself and the historical disadvantages of Latino/a

²⁵⁷ Valenzuela, "The Accountability Debate in Texas."

students when assessing expectations for progress. While an average observer may have trusted that the 2001 ESEA reauthorization would indeed “leave no child behind,” public policy incrementally builds on existing laws and conditions. The historical difficulties for Latino/a students provide significant obstacles to overcome which cannot be diminished in 12 short years. The Congressional Hispanic Caucus showed support for NCLB because it was the best alternative at the time while having reserved aspirations for the extent of accelerated advances for Latino/a students.

While recognizing that public policies change slowly and incrementally does not alleviate the plight of Latino/a students in the United States, understanding public policy in this way can alter the expectations and attributions of those closest to the classroom. The No Child Left Behind Act is by no means free from criticism and ridicule, but the political rhetoric associated with the law prompted teachers, students, and their families to change how they viewed what was possible in the classroom. While NCLB may impose unwarranted limitations on instruction and certainly not ease the challenges of school districts, each of my teachers that used No Child Left Behind as a scapegoat was at least momentarily distracted from the greater objective at hand: quality education for all students. As the federal, state, and local governments aim to address educational inequality in decades to come, it is important to consider that public policies are designed to resist change. This slow progress should not paralyze, but rather empower, those in the classroom to address achievement gaps whenever possible.

Appendix: List of Abbreviations

AIMS: Arizona's Instrument to Measure Standards
AYP: Adequate Yearly Progress
BEA: Bilingual Education Act of 1968
CHC: Congressional Hispanic Caucus
CPG: Conditional Party Government
DOE: Department of Education
EEOA: Equal Education Opportunity Act
ELL: English language learner/learning
ESEA: Elementary and Secondary Education Act
ESL: English as a Second Language
IASA: Improving America's Schools Act of 1994
LEP: Limited English proficient
LESA: Limited English speaking ability
MALDEF: Mexican Legal Defense and Education Fund
NAACP: National Association for the Advancement of Colored People
NAEP: National Assessment of Educational Progress
NCES: National Center for Education Statistics
NCLB: No Child Left Behind
NCLR: National Council of La Raza
NCWC: National Catholic Welfare Council
NDEA: National Defense Education Act
NEA: National Education Association
TAAS: Texas Assessment of Academic Skills
WIDA: World-class Instructional Design and Assessment

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