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Implementing the No Child Left Behind Act

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Like every state, Arkansas has been tussling with the many challenges posed by the federal No Child Left Behind Act (NCLB), which puts additional pressure on states (as well as districts and schools) to boost student achievement, interacts in complex and sometimes vexing ways with pre-existing accountability systems, and introduces new timetables and additional reform mandates (notably “highly qualified teachers” in every classroom) that cause further disruption in state practices.

To its credit, Arkansas has not balked at these challenges. Unlike, say, Utah and Connecticut, it has not protested, fought back, declared its independence or filed suit. Nor has it sought whopping exemptions or special treatment. Arkansas education leaders and policymakers have, for the most part, accepted NCLB’s mandates and obligations as things that need to be done. Sure, there is grumbling; one reform-minded superintendent lamented to me that, “NCLB is building a nation of mediocrity” (his point being that any standard of proficiency that everyone reaches will be a low standard). In talking with Arkansas educa-

tors, however, the only feature of NCLB that elicited frequent complaint is the expectation that almost all of a school's disabled students will attain "proficiency"—and will do so on the same schedule as everyone else. (The U.S. Department of Education has enlarged the fraction of disabled pupils who may be exempted from Adequate Yearly Progress [AYP], but most are still covered.)

Arkansas' relatively uncomplaining acceptance of NCLB was made easier by the fact that unlike, say, Florida and Texas, the state did not have a highly developed pre-existing accountability system of its own. Indeed, Arkansas was getting serious about standards-based reform on roughly the same timetable as NCLB, which meant it did not have to make major mid-course corrections nor did big conflicts arise between state-devised and federally-mandated approaches.

The unconflicted nature of Arkansas' acceptance of NCLB is symbolized by the fact that the federal government's current Deputy Secretary of Education is former Arkansas chief state school officer Ray Simon, who left Little Rock for Washington in 2003, and whose first position at the U.S. Department of Education placed him in charge of NCLB implementation.

That there has not been heavy-duty friction between Arkansas and Uncle Sam does not, however, mean that NCLB implementation is a slam dunk for the Natural State or that everything is going well.

In reviewing Arkansas' experience to date on this front, it's helpful to examine six interconnected issues.

Standards

NCLB is all about "standards-based" reform and thus the crucial parts of it that pertain to student performance and school

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accountability hinge on the quality and value of the underlying academic standards, which states set for themselves.

The federally-mandated subjects are reading, math and science. Arkansas has “frameworks” for those three subjects as well as four others, all on a six-year review-and-revision cycle that is intended to keep them up to date and steadily improving.

The state originally created these frameworks in “grade clusters” (K–4, 5–8, 9–12) but NCLB requires grade-specific standards and testing. That pushed Arkansas to revise its English, math, and science frameworks to make them grade-by-grade. This was done in English in 2003, in math in 2004, and is scheduled for science in 2005.

Having standards, however, does not mean they’re necessarily good ones, and this report from the Koret Task Force includes separate appraisals of Arkansas’ current standards (i.e. “frameworks”) for language-arts, math, and social studies. I would add that the Thomas B. Fordham Foundation’s most recent reviews of state academic standards assigned Arkansas grades of F in U.S. history (2003), C in English (2005), and F in math (2005). (As I write, Fordham’s appraisals of state standards for science and world history are forthcoming.)

Tests

The core of NCLB is annual testing of all students in grades 3–8, and this requirement, too, prodded Arkansas to amend its testing cycle. Because Arkansas previously skipped statewide standards-based testing in grades 3, 5 and 7, those tests had to be created in response to NCLB and were administered for the first time in March 2005 in both reading and math.

The “Arkansas Comprehensive Testing Program” is multi-faceted. One can get a sense of it by inspecting the spring 2005 testing schedule on the state education department’s website at

<http://arkedu.state.ar.us/commemos/static/fy0304/2005.html> and a general description of its major elements can be found at http://arkedu.state.ar.us/actaap/student_assessment/student_assessment_p1.htm. The key portions pertaining to NCLB are the criterion-referenced “Benchmark Exams,” administered in March in grades 3–8. But because these tests were given for the first time in three grades in 2005, the state received permission from Washington for its AYP calculation for schools for 2004–5, as for previous years, to be based only on scores in grades 4, 6 and 8. That means, among other things, that each school’s performance incorporates fewer data points and student sub-groups than would be the case if every grade counted. It also means that after 2005–6, when scores *will* be counted in every grade, and when the number of test-takers in each school will rise accordingly (thus also boosting the number of student sub-groups that “count” in determining AYP), Arkansas could find itself with a great many more schools “in need of improvement.”

A further wrinkle that complicates Arkansas’ testing program in general, and NCLB testing in particular, is a general state-contracting rule that test contracts must be recompeted every five years. With both the NCLB-linked criterion-referenced tests *and* the state’s parallel norm-referenced test having acquired new vendors in the past couple of years, it’s difficult to sustain continuity and assure timely reporting of test results. Naturally, it’s hard to gauge improvement or decline when the scales keep changing.

Adequate Yearly Progress

How Arkansas defines the progress that its students and schools need to make for purposes of NCLB compliance, and how it gauges and tracks that progress, is not notably more arcane than most other states, and in some key respects is more honest. In particular, Arkansas has not tried to “back-load” the lion’s share

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of progress toward universal proficiency into the closing years of the NCLB timetable. It seeks to make gains in twelve equal increments.

A key variable in determining whether a school makes AYP is how many student sub-groups “count” under NCLB’s requirements for disaggregation. This depends in part on demographics, of course, but also on the minimum size that a population of students must attain before being separately reported on (a number that states set for themselves). Arkansas began NCLB with a minimum sub-group size of twenty-five students, then amended its accountability plan upward to forty. Particularly in a rural state with many small schools, so large a sub-group requirement has the effect of exempting a number of students (and their schools) from results-based accountability. Though forty is not excessive (some states use as many as fifty), when combined with the many children whose scores have not been part of the AYP calculation because there were no tests (until 2005) for their grades, it is fair to say that a nontrivial fraction of Arkansas pupils have not yet really “counted” under NCLB nor, in many cases, is anything known about the progress of their sub-groups. This also means some schools that might have been deemed “in need of improvement” (had they tested all grades or used smaller sub-groups) have been spared that status.

Complicating Arkansas AYP calculations further has been the change in English standards, the reformatting of the “literacy” test for 2005, and the debut of statewide math and literacy testing in three grades. The upshot is that Arkansas (which, to its credit, has sought advice in these matters from expert psychometricians) decided in 2005 to set new “cut scores” (i.e. passing levels) in both math and literacy, which had the effect of creating a new baseline against which to gauge future improvement. (It also meant that comparisons with previous years’ proficiency rates are meaningless.) An explanation for this decision, as well as the

2004–5 statewide student proficiency rates based on the new cut scores, can be found at http://arkedu.state.ar.us/whats_new/benchmark_exams.html. Because these complicated decisions were not finalized until early October, however, schools could not find out until well after the 2005–6 year had begun whether or not they “made AYP” for 2004–5. Indeed, as I write, they still do not know. (This list is now expected in early November.) Hence for many schools “in need of improvement” the various sanctions, options, and interventions meant to be triggered by not making AYP last year will not even kick in until several months into the new year.

This timeline has not met with universal approbation within the state. Wrote the editor of the *Arkansas Democrat-Gazette* on July 10:

Now we won't know, at least not for another year, how many more schools belong on that list and so merit special attention. Instead, schools will be evaluated on the basis of the state's still largely meaningless Benchmark exams in the fourth, sixth, and eighth grades—just as in the past. And on the basis of the End-of-Course exams in algebra, geometry and 11th grade literacy—just as in the past. Nothing seems to have changed, especially the schools' administrative inertia. This state's Benchmark test is of little real use to students or teachers because last school year's results [i.e. 2004–5] won't be available until after the schools open [in August]. So the schools won't have a benchmark established by then to judge their students' progress. . . . There's no excuse for the kind of dawdling Arkansas has seen. Precious time is being lost, and few things are so precious as a whole school year in a child's life. . . . Even the new tests given in March in the third, fifth and seventh grades won't be as useful as they could be because, as of now, no one seems to know what the scores mean. Only now are committees meeting to decide which scores reflect advanced, proficient, basic, or below-basic performance. What a system: First the test is given and only later, after the fact, does the state decide what scores are

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acceptable. How convenient. It's as if, out on the rifle range in ROTC, we'd fire first and then get to draw the target around the bullet hole. Hesto, presto! A bull's eye every time.

Arkansas officials insist that results for 2005–6 and subsequent years will be available sooner.

Schools in Need of Improvement

At the end of the 2003–4 school year, Arkansas had 309 schools “in need of improvement” as defined by NCLB—and that remains the official number in mid-October 2005. However, 137 of these had already been in that status for at least two years, which meant they won't be “off the list” in 2005–6 regardless of how they fared in 2004–5. (A single year of making AYP does not take a multi-year “improvement” school off the list. Two such consecutive years are needed.)

Arkansans say the state would have many more schools “in need of improvement” but for two low-visibility features of NCLB. One is the “safe harbor” provision, which says that a state, district or school may be deemed to reach AYP so long as each unit and sub-group that fails to attain its proficiency performance targets reduces its percentage of students not meeting standards by 10 percent of the previous year's percentage.

Another obscure provision that has kept the number of schools failing to make AYP from burgeoning is a relatively generous statistical “confidence interval” around student proficiency scores. This technical feature of the state accountability plan has the effect of giving “the benefit of the doubt” to schools whose percentage of proficient students falls below the AYP cut-off line but within a band of statistical uncertainty. The Arkansas Department of Education explains that it obtained Washington's blessing for an amendment allowing it “to establish statistical confidence intervals around the starting points and yearly-progress table val-

ues as approved in the original Accountability Plan. A confidence interval establishes a lower bound (computed at 0.5 of one standard deviation) for each of the table values. If a school's percent proficient falls within the lower bound of the confidence interval, the school will be identified as having met the starting point for adequate yearly progress as defined in the table."

Still, the great challenge facing Arkansas on the NCLB front is not how to determine which schools need improvement but what to do about them. The federal law's operating assumption is that districts bear chief responsibility for intervening in, and turning around, such schools, but Arkansas officials lack confidence that many of their districts are up to this challenge. At present, however, the state itself has only limited capacity to intervene directly. It has developed a program (run through the Arkansas Leadership Academy, located at the University of Arkansas) for providing "intensive school support services" to a handful of schools that have lingered in "improvement" status for four (or more) years. (Partial information can be found at http://www.arkansasleadershipacademy.org/intensive_school_support.htm.) So far as I can determine, however, there are no other state-level intervention strategies for low-performing schools under NCLB, which means their fate depends on the interest, initiative, and capacity of their districts. Under the 2003 "Omnibus Act," the state board of education has the authority to "take over" severely distressed districts, but to date that has only been done once and had more to do with fiscal mismanagement than educational failure.

Public-school Choice and Supplemental Services

Arkansas school districts are not doing much to comply with NCLB's public-school choice mandates. School choice is a touchy topic in the Natural State, partly because of the history of seg-

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regation, partly because of wariness regarding charter schools, vouchers, and suchlike. Several of the state's larger districts have few high-performing schools with empty slots that youngsters can transfer into, and its many small and rural districts tend to have few schools and thus little capacity to offer options, at least of the conventional sort.

In principle, however, Arkansas families have the right to enroll their children in public school systems other than those where they live. This provision of state law antedates NCLB and, on paper, goes farther than NCLB's choice provision, but it does not appear to be widely understood or much used in Arkansas today.

As for Supplemental Education Services, dozens of private vendors can be found on the state's approved list (see <http://www.arkansas.gov/search/gsearch.php?profile=arkedu.state.ar.us&words=%22Supplemental+Education+Services%22>) but state officials say few of them have shown much enthusiasm for working in so rural a state. Of course, it's also the case that few Arkansas schools were in their third year of "improvement" status during 2004–5, meaning the market awaiting such providers was scanty. This will, however, change in a big way as more schools fall into this status.

State officials say no Arkansas school systems have sought approval to function as direct providers of supplemental services.

The upshot is that the SES option does not amount to much for Arkansas youngsters today. The question is whether this will change tomorrow.

Highly Qualified Teachers

Arkansas faces teacher shortages, particularly in selected subjects and regions, so it was not strongly motivated to be tough in enforcing NCLB's "highly qualified teacher" requirements. The

National Council on Teacher Quality assigned Arkansas a C– in December 2004 for its compliance with this part of NCLB. With respect to the law’s provisions for ensuring subject-matter mastery among veteran teachers in particular, NCTQ president Kate Walsh wrote: “It’s possible to accumulate all the needed points for highly qualified status without ever earning a single course credit in the content area.” In states’ first baseline reports to the U.S. Department of Education on what fraction of their teachers were “highly qualified” as of September 1, 2003, Arkansas claimed that 97 percent of its classrooms already contained such teachers, including its high-poverty schools. This compares with reports of, say, 35 percent in Alabama, 81 percent in Mississippi, and 64 percent in Oklahoma, suggesting either that Arkansas’ teachers are fabulously better qualified than almost anyone in the state seems to think or else that the state’s criteria (and/or data systems) are lax.

The fact is that Arkansas’ handling of these so-called “HOUSSE” requirements for veteran teachers provides no real assurance of universal subject matter mastery.

In sum, while Arkansas’ approach to NCLB compliance is smooth enough on the surface, to date the state is doing a better job of identifying troubled schools than at devising ways to set them right or to provide their pupils with better alternatives. Nor is it clear that Arkansas has the human capital or the will to make great strides on that front. As a veteran reform leader in Little Rock said to me, “NCLB really is great. The federal pressure is creating building-level accountability. Principals are feeling the pressure. But they may not have the tools to hold teachers accountable. I have concerns about what’s happening out there between superintendents and principals and between principals and teachers.”

Which is not to say that NCLB is catalyzing no changes in schools. As one astute principal put it, “The plus of NCLB is that

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teachers are doing more and better. The minus is that they hate it.”

With the number of schools deemed “in need of improvement” likely to rise as more grade-level test results are included in the AYP calculation, Arkansas must eventually grapple with new ways either of intervening in these schools and/or of creating sound options for their beleaguered students. Today, it’s my impression, the untroubled surface of NCLB implementation is matched by a paucity of needed changes underneath.

Recommendations

1. Arkansas should revamp its testing programs such that definitive information about every school’s AYP during the previous year is made public not later than July. (Accomplishing this urgent objective will require changes in many places.)
2. Arkansas should get serious about the public-school choice and “supplemental educational services” provisions of NCLB, which calls for state leadership and proactive effort. Providing all eligible Arkansas families with credible, accessible versions of these options will be challenging—but less challenging than turning around the low-performing schools in which they are presently stuck. Indeed, Arkansas should strive to develop model programs of school choice and SES that other rural states might emulate.
3. With respect to schools identified by NCLB as “needing improvement,” the state must ensure that districts actually implement, in timely and competent fashion, every level of the cascade of interventions mandated by NCLB—and where districts are unable to do this, the state should do so directly.
4. Arkansas should design new HOUSSSE standards that require all veteran teachers to demonstrate their substantive compe-

tence in one of three ways: (a) by having a university degree in the field being taught; (b) by passing rigorous tests of their subject matter knowledge in that field; or (c) by demonstrating through value-added measures of student performance that their pupils are satisfactorily learning the material they are supposed to be learning. Teachers who cannot meet one of these requirements should not be allowed in the classroom.