

**Does No Child Left Behind Leave Parents Behind?**

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### **Abstract**

"It takes a village to raise a child". This village begins first and foremost with parents. Parental Involvement in a child's education has often been seen as the "fix all. Although there are some scholars who doubt the effectiveness of Parental involvement, our nation as a whole has embraced the importance of Parental involvement. This wide acceptance is evident by the passage of No Child Left Behind (NCLB). This paper examines how NCLB addresses parental involvement, examines the NLCB deficiencies in addressing parental involvement, suggests fixes to these deficiencies and the legal implications that these suggestions may have.

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## **Introduction**

In the wake of this ever-changing nation, the U.S. is playing a game of catch up. Historically this has been a nation leading the pack but now in this highly competitive global economy the U.S. is falling short. The rest of the world knows this, and is “gathering strength,” particularly in the scientific and technological fields.<sup>1</sup> In 1970, the U.S. produced more than half of the world’s science and engineering doctorates; by 2010, our share is projected to fall to about 15 percent.<sup>2</sup> A primary reason for the lag, is the failure of the education system. High schools are failing to prepare too many of our students for work and higher education.<sup>3</sup> Fewer than half of our high school graduates are ready for college-level math and science.<sup>4</sup> High school test scores in math have barely moved since the 1970s.<sup>5</sup> Among all ninth-graders, approximately three in ten do not graduate on time; for African American and Hispanic students the figure is about five in 10.<sup>6</sup>

In an effort to increase our competitiveness in the global market this country has begun to re-focus on the education of its citizenry. With the recent enactment of the No Child Left Behind Act of 2001 (NCLB) this country is beginning to once again focus on the importance of educating its children. However, as the age old adage says, “it takes a village to raise a child”. This village begins first and foremost within the home. NCLB recognizes this by including parental involvement as one of its four tenets. This paper offers perspectives on the definition and importance of parental involvement in education; provides examples how the NCLB embraces and speaks to the support system that is needed to increase the educational potential our children by mandating parental involvement; provides examples of implementation of these mandates; suggests modifications that are needed in the law; and explores the legal ramifications of NCLB and the suggested changes.

## I. Parental Involvement Defined

Parental involvement is defined in a variety of ways. Scholars have defined parental involvement as a partnership among home, school and community members;<sup>7</sup> and the active participation of a child's parent or guardian in his/her life.<sup>8</sup> In their analysis of middle school achievement, for example, Esther Ho Sui-Chu and Douglas Willms identified four basic types of involvement.<sup>9</sup> Two are based at home, discussing school activities and monitoring out-of-school activities, and two at school, contacts with school staff and volunteering and attending parent-teacher conferences and other school events.<sup>10</sup> The conception of parental involvement that many scholars use as a framework which shall be the basis for this paper is Epstein's six-construct of parental involvement;<sup>11</sup> parenting<sup>12</sup>, communicating<sup>13</sup>, volunteering<sup>14</sup>, learning at home<sup>15</sup>, decision making<sup>16</sup> and collaborating with community.<sup>17</sup> This definition is the most comprehensive allowing for a deeper understanding of what parental involvement truly entails.

An additional layer under which parental involvement must be viewed is through the eyes of the parents. Whether Epstein's conceptions are addressed is dependent on what the parents themselves believe *they* should be doing.

Hoover-Dempsey and Sandler<sup>18</sup> suggest that a parent's decision to become involved in the child's education is influenced by parent's construction of the parental role, parent's sense of efficacy for helping his/her children in school<sup>19</sup>, and a general invitation and demand for involvement from the child and school.<sup>20</sup> For purposes of this paper, the nuances surrounding the first and the third characteristics bear the most weight in a parent's decision to become involved in their child's education.

First, a parent's ideas about child development, child-rearing and appropriate roles in supporting children's education and at home constitute important specific components of the parental role construct and influences a parent's decision to become involved in the child's education.<sup>21</sup> These ideas however are not universal for every parent, but are based on other factors such as a parent's education, socioeconomic status and culture. For example, in Lareau's

study of social class difference in family-school relationships, predominately working-class parents had a “separated” view of home and school.<sup>22</sup> They tended to believe that their roles involved getting children ready for school, ensuring that children have good manners and getting them to school on time; but, they did not believe their roles in children’s education extended far beyond these basic preparations. These parents had a strong tendency to accept the school’s decisions (e.g. regarding classroom placement or retention) because, as she argued, they believed that the schools were primarily responsible for decision about educational progress. Upper-Middle class parents, on the other hand, were characterized as having an “interconnected” view of home and school. These parents tended to see themselves as having an integral role together with the school in educating the children, they also saw themselves as responsible for intervening in the school’s decisions as necessary. These differences also appear across cultural lines. For example, in Daniel-White’s case study of a Costa Rican immigrant family that lived in a large northeastern city, she examined the difference between the parents’ view of parental involvement and what was the norm in U.S. culture.<sup>23</sup> The mother would often note that in Costa Rica teachers would get mad if a parent taught their child out of class, whereas in the U.S., parents are expected to be the teachers of the home.<sup>24</sup> These cross-cultural differences should be viewed when addressing and creating effective parental involvement programs.

Second, a parent’s perceptions of the general opportunities and demands for involvement emerge from demands placed on them by their children; from teacher’s general involvement practices and from school wide efforts to create a generally inviting climate for involvement.<sup>25</sup>

Looking exclusively at the opportunities and demand for involvement originating from the school, when school staff engage in caring and trustful relationships with parents that recognize parents as partners in the educational development of children, these relationships enhance parent’s desire to be involved and influence how they participate in their children’s educational development.<sup>26</sup> For example, this process has been operationalized by the O’Hearn elementary school in Boston, whereby the school community welcomes parents into the school, honors their participation, and connects with parents through a focus on the children and their learning.<sup>27</sup>

*Welcoming*; O'Hearn hosts a breakfast, which they have annually, for new parents; also some parents believed that the actual physical environment of the school (colorful walls and children's artwork) contributed to the welcoming feeling that the school provided.<sup>28</sup> *Honoring*; Parents stated that school staff asked for and gave information about the children's' learning in a respectful and caring manner, and that their comments about their children were always listened to and heard by teachers. Many parents said that they felt respected and validated when their ideas and concerns were heard and taken seriously.<sup>29</sup> *Connection*; Parents at O'Hearn reported feeling connected to the school community through the school's emphasis on improved teaching and learning for all children.<sup>30</sup> Also when schools create a standard of high parent involvement it increases pressure on parents to participate.<sup>31</sup> When parents are involved and know each other, children more closely identify with the school.<sup>32</sup> Further, the network of parents that develops creates cohesion.<sup>33</sup> Downey gives an example of a norm for homework: "If most parents strictly enforce homework rules, then it becomes more difficult for any single child to resist"<sup>34</sup>. This type of cohesion may be able to work in other areas of parental involvement not just homework help.<sup>35</sup>

To completely assess parental involvement one must examine all constructs of parental involvement and examine the reasons parents become involved specifically, the varied concept of what their parental role must be, and the general opportunities and demands for involvement that the school promulgates. However, defining parental involvement is not instructive by itself without speaking about its effect on student achievement.

## **II. Significance of Parental Involvement**

It is commonly held that in terms of a child's achievement parental involvement is the silver bullet. Parental involvement is seen as a fix all to a child's behavioral problems, educational shortcomings and a necessary supplement to a child's education. There are numerous studies to this end. For example, a three-year study of 1,200 urban students in a New England district by Charles Izzo and his colleagues found that parent involvement, both at home and at school, was related positively to student gains on math and reading.<sup>36</sup> Rebecca Marcon looked at 700

African-American preschoolers in Washington, D.C. using teacher reports of parent involvement; she compared students' grades and skill ratings.<sup>37</sup> Parents with high involvement ratings, compared to those with low or median ratings, tended to have children with higher grades and scores. This finding held across all family income levels and backgrounds.<sup>38</sup> Further, in a study using the National Educational Longitudinal Study (NELS)<sup>39</sup>, Keith and Keith found that their research suggested that parent involvement has a powerful effect on eighth grade achievement in all areas but slightly stronger in math and social studies<sup>40</sup>. Meidel and Reynolds interviewed 704 low-income parents of eighth grades about their involvement when their children were in preschool and kindergarten;<sup>41</sup> Seventy-Six percent of these parents had taken part in the Chicago Parent Centers Based in Title I Schools.<sup>42</sup> They found that between the first and eighth grades, students whose parents were frequently involved were 38 percent less likely to be held back.<sup>43</sup> Further, participation in five parent activities was related to a three-month increase in kindergarten reading achievement and a seven-month increase in eighth-grade reading achievement. Students with parents involved in many activities were also 39 percent less likely to be held back.<sup>44</sup>

Although these findings were promising, there have also been studies showing that parental involvement produced insignificant or in some instances negative results. Gutman and Midgley found that parent involvement alone will not make a significant achievement in school without other factors.<sup>45</sup> In another study, using data from the National Educational Longitudinal study (NELS) that tracked the behavior of 13,580 parents, Sophia Catsambis measured the impact on Epstein's six types of parental involvement.<sup>46</sup> She found that only some types of parental involvement had a significant positive effect and that actually in families where parents were making contact with the school, encouraging their teens to graduate from high school, and supervising behavior, student achievement was lower.<sup>47</sup>

In a more recent study, Domina, suggested that some but not the entire faith invested in parental involvement had been misplaced.<sup>48</sup> He first found that attendance at parent-teacher conferences, PTA membership, volunteering at school, homework checking, and homework help

are indeed associated with high scores on achievement test; however, *after* family background and the child's prior academic achievement are controlled the effect of each of these involvement activities on children's academic achievement is negative or insignificant and rather than advance children's cognitive development, some forms of parental involvement may actually hurt a child's cognitive development.<sup>49</sup>

Although there are studies that have a negative or inconclusive slant it is important to note most do support parental involvement in some form; none are a complete condemnation of it. Based upon this fact, this paper subscribes to the belief that parental involvement is essential to a child's education.

The principle that parental involvement is significant to the academic achievement of a child has also been adopted as a mainstream view in our nation. This is evident by the fact that this nation's prime legislation and new academic thrust includes parental involvement as one of its main focuses. NCLB's view/position on parental involvement will be addressed in the next section.

### **III. No Child Left Behind Act of 2001 (NCLB)**

#### **A. Brief history/overview of NCLB**

In August of 1981, the National Commission on Excellence in Education was chartered to, among other purposes and functions "review and synthesize the data and scholarly literature on the quality of leading and teaching the nations schools, colleges, and universities both public and private with special concern for the educational experience of teen-age youth".<sup>50</sup> Their report, *A Nation at Risk* was issued in April 1983 and stated:

part of what is at risk is the promise first made on this continent: All regardless of race or class or economic status are entitled to a fair chance and to the tools for developing their individual powers of mind and spirit to the utmost. This promise means that all children by virtue of their own efforts, competently guided, can attain the mature and informed judgment needed to secure gainful employment and to manage their own lives, thereby serving not only their own interests but also the progress of society itself.

The report included data which were seen as specific indicators of risk such as: About 13 percent of all 17 year olds in the U.S. can be considered functionally illiterate and functional illiteracy among minority youth maybe have run as high as 40 percent.<sup>51</sup> These startling results were the foundation for the progression into achievement testing and standards based education reform.<sup>52</sup>

The movement towards standards-based education and assessment that began with *A Nation at Risk* “went national” with the passage of the *Improving American Schools Act of 1994*(IASA).<sup>53</sup> IASA reauthorized the *Elementary and Secondary Education Act of 1965* (ESEA), first enacted as part of Lyndon Johnson’s War on Poverty, and designed to focus federal funds toward poor schools with low achieving students.<sup>54</sup> In 1994, President Clinton secured the passage of *Goals 2000: Educate America Act* which was intended to work in concert with the IASA. Both laws encouraged states to establish academic standards, develop aligned assessments and disaggregate test results by racial and ethnic group.<sup>55</sup> Clinton’s efforts were significant because these were the first major federal laws in recent history aimed at improving elementary and secondary education for all children.<sup>56</sup> They also gave federal endorsement to standards-based reform.<sup>57</sup>

On January 8, 2002, President George W. Bush signed into law the *No Child Left Behind Act of 2001*, which reauthorized ESEA in dramatic ways. NCLB not only requires standards and assessments and to disaggregate test data but it also requires states to ensure that migrant students, disabled students and students from all major racial, ethnic, and income groups reach state determined benchmarks for academic proficiency within the next twelve years.<sup>58</sup> In a fundamental way, NCLB was the next obvious step for a nation already committed to excelling and fairness in education<sup>59</sup>. According to Rod Paige, U.S. Secretary of Education, the stated focus of NCLB “is to see every child in America – regardless of ethnicity, income or background - achieve high standards.<sup>60</sup> NCLB is based on four principles that provide a framework through which families educators and communities can work together to improve teaching and learning.<sup>61</sup> These principles are stronger accountability for results, more freedom for states and communities, proven education methods, and more choices for parents.<sup>62</sup>

NCLB is divided into ten “titles”. Each title has a different educational focus. Although there are many programs under NCLB not part of Title I that require parent consultation, this paper focuses exclusively on Title I funded schools. The focus of Title I is on improving the academic achievement of children who attend schools with high numbers of low-income families and who need extra help to meet challenging academic performance standards.<sup>63</sup> Title I funds go to nearly all of the nation’s school districts and to 55 percent of all public schools, but are more strongly targeted to high-poverty districts and schools than are state and local education funds.<sup>64</sup> Most Title I funds go to elementary schools. Three-fourths of Title I participants are in pre-kindergarten through grade 6.<sup>65</sup>

## **B. NCLB on Parental Involvement**

Parental involvement is addressed in Title I, Part A of the NCLB. This section is purportedly designed not only to help close the achievement gap between disadvantaged and minority students and their peers, but also to change the culture of America’s schools so that success is defined in terms of student achievement and schools invest in every child.<sup>66</sup> As indicated by its parental involvement provisions, NCLB dictates that the involvement of parents in their children’s education and schools is critical to that process.<sup>67</sup>

Title I defines parent involvement as the participation of parents in regular two-way and meaningful communication involving student academic learning and other school activities including ensuring that parents play an integral role in assisting their child’s learning; that parents are encouraged to be actively involved in their child’s education at school; that the parents are full partners in their child’s education and are included, as appropriate, in decision-making and present on advisory committees to assist in the education of their child; and that other activities are carried out, such as those described in Section 1118 of the ESEA.<sup>68</sup>

Title I, Part A provides for substantive parental involvement at every level.<sup>69</sup> For example, on the national level, Title I requires before publishing proposed Title I regulations in the

federal register, the secretary shall obtain the advice and recommendations of among others, *representatives of parents*, teachers, paraprofessionals, local school boards and other organizations involved with the implementation of Title I programs.<sup>70</sup> On the state level, the state must establish a state wide system of school support teams focusing on Title I schools. The teams shall be comprised of, among others, representatives of highly qualified principals and teachers, *parents*, and outside consultant groups.<sup>71</sup> Each support team is responsible for reviewing and analyzing all facets of the Title I school's operation, assisting in developing an improvement plan that will increase student achievement in that school, and other facets of monitoring the school's Title I plan.<sup>72</sup> On both the national and state level it is clear that Title I views the inclusion of parents into integral decisions as a primary focus. However, the scope of mandated parental involvement is far greater on the local level.

Section 1118 of the ESEA is the only section of the Act devoted solely to local implementation of parental involvement and is the core around which all other parental involvement provisions is based.<sup>73</sup> More specifically, Section 1118 requires that every school district and every school receiving Title I dollars must have a written parent involvement policy, as well as build school capacity to effectively implement the parent policy provisions.<sup>74</sup> This policy must be developed jointly with, approved by, and distributed to parents of participating children and the local community.<sup>75</sup> It must ensure that strong plans for parental involvement are in place in every Title I school, and should be designed to encourage and sustain active parental involvement.<sup>76</sup> Section 1118 is an expansive provision; some examples of the requirements of Section 1118 are as follows<sup>77</sup>:

Every school District receiving Title I funds is required to:

- Develop, for the school district at large, a written parent involvement policy jointly with parents, agreed on with parents, and distributed to parents and incorporated in the school district's Title I plan that it must submit to the state in order to qualify for Title I funding under section 1112.
- Submit to the state at the time that the school district forwards it Title I plan, any comments of parents who find that in their view, the school district's Title I plan is not satisfactory.
- Include parents in the development of the school district and individual school improvement plans.

- Conduct an annual evaluation and review of its parent involvement programs that involves parents in an organized, ongoing and timely way.
- Provide coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities.
- Assist individual schools in building greater capacity and expertise in developing strong parent involvement programs.
- Reserve no less than 1% of its Title I allocation for the implementation of parent involvement programming, which includes the promotion of family literacy and parenting skills. However, if 1% of the agency allocation under the written policy for the fiscal year will be \$5,000 or less, then no money is required to be reserved.

Title I School Districts and Title I Schools are jointly REQUIRED to Ensure Effective Involvement of Parents by:

- Supporting partnerships among each Title I school, parents, and the community to improve student academic achievement.
- Providing opportunities for full participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including information and school reports, to the extent practicable, that parents can understand.
- Providing materials and training to help parents to work with their children at home to improve their children's achievement.
- Educating teachers, personnel, principals, and others, with the assistance of parents, on the value and utility of parental contributions, and how to reach out and communicate with parents as equal partners, implementing and coordinating parent programs, and building ties between the home and school;
- Conducting other activities, such as parent resource centers, that encourages and support parents in participating more fully in the education of their children<sup>78</sup>.

Because the requirement of NCLB are so extensive and not immediately comprehensible by all, the Department of Education (ED) issued a Non-Regulatory guidance manual on April 23, 2004 to further assist states in administering the parental involvement provisions.<sup>79</sup> The manual was intended to answer questions about and clarify aspects of the law that had been brought to the attention of the ED.<sup>80</sup>

#### **IV. Parental Involvement Implemented**

Schools have been issued an immense challenge to raise student achievement with No Child Left Behind and part of this call has been to implement ways to involve parents to increase student achievement. Below are some best practice models of school and district implementation of the parental involvement provisions of NCLB.

In Illinois, a number of schools have effectively implemented parental involvement into their lexicon. Using Epstein's earlier framework for parental involvement, schools have addressed each of the six concepts.<sup>81</sup> Type I-Parenting; At the Chicago Child-Parent Centers, parent activities like health and nutrition instruction and life skills development accompany the preschool classes<sup>82</sup>. Type II-Communicating; In Lake County, Stevenson High School redesigned its grading notification to provide more timely information to parents and facilitate a more efficient system for busy teachers. Parents now stay informed by receiving progress reports for their children every three weeks. Due in large part to the change in school policy facilitating more parent communication, the school has seen A's and B's increase by 50 percent and D's and F's have decreased by almost two-thirds.<sup>83</sup> Type III-Volunteering; In South Chicago, At Woodson South Elementary school grant funding allowed the school to begin a Read-to-Me program that provides an opportunity for parents to tutor students in reading.<sup>84</sup> Type IV-Learning at Home; As part of a partnership between the Academic Development Institute (ADI), the Illinois State Board of Education and the U.S. Department of Education, visits to families of children entering third grade were organized.<sup>85</sup> The child receives a free book appropriate to his or her reading level, while the family receives a packet of information about school activities, parent programs and tips to help the child with reading and study habits.<sup>86</sup> Families who received visits indicated increased reading rates, and more timely and effective communication with teachers and administrators in their children's schools.<sup>87</sup> Type V-Decision Making; The Illinois Family Partnership Network (IFPN) was established in 1997 with the mission of increasing the number of parents who are active in decision-making. IFPN launched a special effort to strengthen school-family partnerships to improve children's success in school and life, based on an understanding that parent involvement in children's education is one of the strongest indicators for school success.<sup>88</sup> Type VI-Collaborating with the Community; Fulston elementary school obtained funds to develop a community center in the school.<sup>89</sup> The center provides adult literacy programs, child care, support services and recreational programs. This collaboration with the community has helped to improve

student outcomes at Fulston, with increases in test scores and attendance rates and a falling rate of mobility among students<sup>90</sup>.

In Pennsylvania, the Daniel Boone Area School District has successfully offered the following programs: Learning Partners: Parent and child attend an after-school program together to gain skills in working at home<sup>91</sup>; Family Nights: Planned craft, sport, and/or recreational activities for families<sup>92</sup>; Book Buddy Packets: Packets that include a book, activity sheets and a list of suggested extension activities for a parent to become engaged in their child's learning<sup>93</sup>. In Massachusetts, the 2005-2006 Parent and Community Education and Involvement Advisory Council to the Massachusetts Board of Education in an effort to make helpful strategies and practices across the state more accessible, recommended that the Commissioner request information from districts regarding promising practices of parental involvement.<sup>94</sup> Somerville School District implemented Friday Night Parent Clubs, which were aimed at parents and family members or caregivers of students in grades K-8.<sup>95</sup> Clubs are designed to provide a supportive environment for parents to discuss any issues that they identify as important to the children's achievement in school. Also Worcester public school's Guiding Good Choices program beginning in May 2004, encourages involvement of parents from diverse backgrounds.<sup>96</sup> During five two-hour sessions parents increase their ability to provide their adolescent with appropriate opportunities for family involvement, recognize competencies and skills, teach them how to keep their friends while using drug refusal skills, and set and communicate healthy beliefs and clearer standards for behavior.<sup>97</sup> The program has helped parents become familiar with the resources in the school and the community. At one middle school, participants continue to meet weekly even though they have completed the program curriculum<sup>98</sup>.

Although some states and districts have implemented parent involvement programs that work as shown by the examples given above. In a majority of states, the elements of NCLB designed to give parents more of a role in their children's education have not been fully implemented.<sup>99</sup> A more robust focus on parental involvement as a core accountability strategy has been impeded by a combination of factors, including absence of a clear understanding

regarding effective ways to engage parents to promote better student achievement; the uncertainty regarding the ways to best measure success with respect to parental involvement; and a preoccupation with other elements of accountability that actually lend themselves to clearer criteria for evaluation.<sup>100</sup>

## **V. NCLB Leaves Parents Behind**

### **A. Deficiencies in NCLB**

Although Title I, Part A and the guidance manual seem to be detailed and comprehensive the major problem with parental involvement and NLCB provisions is that in many places it is ambiguous and yet in others its requirements are detailed.

Many schools retain old customs of placing one person in charge of parental involvement rather than a team of educators and parents who share responsibilities for planning and implementing activities that will involve all families in their children's education and meet the schools' goals for learning.<sup>101</sup>

Further, clearer guidelines are needed on "school-parent compacts".<sup>102</sup> Section 1118 clearly states that a compact should be a detailed plan that identifies "the means by which the school and parents will build and develop a partnership to help children achieve the states high standards".<sup>103</sup> However, the Non-regulatory guidelines are ambiguous, at one point stating the importance of detailed plans then providing sample pledges which do not reflect the legislative intent.<sup>104</sup> Because it is easier to collect forms than to develop and implement detailed plans, most schools continue their habit of collecting pledges that are signed by parents as the "compact".<sup>105</sup> Pledges are valid symbolic communications if the students and teachers also sign promises for good partnerships, but pledges do not fulfill the requirement for annual plans with scheduled activities to involve all parents in productive ways at school and at home.<sup>106</sup>

Other modifications that are needed for better implementation of NCLB by all schools, districts and states include: providing clearer guidelines for using targeted funds for involvement to support the kinds of programs that are outlined in Section 1118; giving more attention to and

providing better examples for middle and high schools' programs of family involvement; extending the definition of shared responsibilities to include community partnerships; lengthening the short term period allotted for giving parents in low-performing schools information on their schools' status and finally allowing for the option of changing their children's schools and conducting more-consistent federal monitoring of action to meet the requirement for family involvement.<sup>107</sup> Also NCLB does not provide a clear indication of how parent involvement is supposed to be measured and the sanction for insufficient parental involvement. Further, although within NCLB there has been a shift from measuring success of parent involvement activities by the number of parents involved in school-level activities to measuring how an activity is correlated with improving achievement, this subjective evaluation is left up to the teacher and NCLB does not provide guidelines or examples of how to measure the outcomes of these activities.<sup>108</sup>

In addition, the focus of parental involvement on the NCLB is mostly a one-way street instead of a true partnership. Based in part on the reporting requirements of NCLB, state and its districts amass vast amounts of detailed information that are not easily understood.<sup>109</sup> In the end a good deal of information gathered about student and school performance is not provided in a way that helps parents decide what actions they should take in response.<sup>110</sup> Relying on reports produced by test publishers that merely provide data driven results without more, will in most cases accomplish little in effectively educating parents about student and school performance.<sup>111</sup> Also, although there are various ways that a parent can seemingly control their children's education, NCLB makes the assumption that parents have a certain level of understanding about the school system and how NCLB affects the school system.

Similarly, the growing number of language-minority students and parents calls for new and different strategies for effective parent outreach, and the challenges in reaching low-income parents remains.<sup>112</sup> Many of these parents lack basic knowledge about the avenues within schools that they can pursue to become better informed about the children's education.<sup>113</sup> As findings also reflect, many economically disadvantaged or non English-speaking parents also lack the skills or resources to effectively engage with schools or serve as their child's advocate, in

short they need assistance.<sup>114</sup> Moreover, school officials, teachers and counselors frequently have workloads that limit their ability to effectively connect with parents, requiring the support of organizations that can supplement their effort.<sup>115</sup>

### **B. Suggested Corrective Approach**

A suggested approach would be to first begin with requiring schools/districts to survey the parents to figure out what the make up of parents is in their area if they have not done so already. After identifying their demographic the district/school should outline a plan tailored specifically for these types of parents. This plan can be synonymously described as Title I's requirement for a detailed school "compact" that identifies "the means by which the school and parents will build and develop a partnership to help children achieve the states high standards".<sup>116</sup> However, unlike the current deficient examples of a "compact", examples of detailed compacts for various types of parents should be provided.

Further, although NCLB has a clear definition of what parental involvement means, the most effective way to create comprehensive guidelines for these compacts, would be to center them on the six-construct definition of parental involvement that Epstein provides.

Also, in order for parental involvement to succeed, there needs to be not only a systematic and thoughtful system of accounting for the different types of parental involvement but also for holding the states accountable when they fail to meet these requirements. For example, even if a school makes adequate yearly progress (AYP) standards in regards to testing,<sup>117</sup> they should still be considered a failing school if the parental involvement goal is not met; and, a set of progressive consequences for schools that fail including supplemental educational services, school restructuring, decentralization of the school, reassigning staff, state takeover, and contracting out services should still be applied.

Also, unlike the academic standards, parental involvement standards should be uniform throughout the nation. The threshold would be low to account for the variance in parental involvement that already exists within districts. At or around 25% of all parents in a school must

be considered involved. A possible definition of involved would be that they attend or participate in at least one of every level of Epstein's six factors. Also the reservation of at least 1% of Title I funds should be universal.

It should be noted however that adding a more stringent implementation of a requirement, or as some may see it, a new mandate, could give more weight to the current debate about the illegality of NCLB. Many view the state as the exclusive sovereign over the school system and NCLB as encroaching. Also these suggestions may be considered as encroaching on a parent's fundamental right to direct their child's education. The constitutionality of NCLB and the suggested changes will be discussed in the subsequent sections.

## **VI. The Constitution and NCLB**

Before the No Child Left Behind Act, the federal government's role in education was limited. Generally it provided supplemental resources to targeted groups of disadvantaged students, such as high poverty, special education or homeless students.<sup>118</sup> While funding was limited so was the federal role, it was restricted to specific categorical activities or programs. Furthermore, the "strings" attached to the receipt of federal education funds were finite and applied only to specific programs and were not considered unfunded mandates by the U.S. Supreme Court.<sup>119</sup> For example, the IASA,<sup>120</sup> required states to develop standards and impose testing requirements for Title I students which at that time was only about 35 percent of all public school students, far less than the current 55 percent.<sup>121</sup> A limited intrusion was and is still required by the U.S. Constitution.<sup>122</sup>

The Constitution reflects a careful balance between the powers of the federal government and those of the states.<sup>123</sup> The 10th Amendment states, "The powers not delegated to the U.S. by the constitution, nor prohibited by it to its states are reserved respectively, or to the people".<sup>124</sup> For many reasons, including absence of any reference to public education in the Constitution, authority over education historically has been the purview of state governments.<sup>125</sup>

As the Supreme Court said in *Brown v. Board of Education*, “education is perhaps the most important function of state and local governments”.<sup>126</sup>

In order for NCLB to create such sweeping mandates, it relies on Congress’s “Spending Power”. The Spending Clause, Article I Sec. 8 Cl. I, states, “The congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide the common defence and general welfare of the United States. ..”<sup>127</sup>. The spending clause has been the basis for other laws such as the Individuals with Disabilities Education (IDEA) Act, Title VI, Title IX, Section 504 of the Rehabilitation Act, and those like the Family Education Rights and Privacy Act.<sup>128</sup> Also any future federal education reforms, including a national curriculum, national tests, or national licensure standards will almost certainly have to be crafted as spending clause legislation.<sup>129</sup> The power to use the spending clause however is not infinite.

In *South Dakota v. Dole*, the Supreme Court set out the requirements that congress must meet in order to satisfy the spending clause.<sup>130</sup> To be constitutionally valid, legislation that relies on the spending clause must be in pursuit of the “general welfare”, related to the federal interest in particular national projects or programs not prohibited by other constitutional provisions, unambiguous in describing the conditions for the states’ receipt of funds, and cast as a financial inducement, not coercion.<sup>131</sup> Although NCLB has yet to be found unconstitutional there are very valid arguments for its constitutionality to be challenged under *South Dakota v. Dole*.

First, the NCLB crosses the threshold from inducement to coercion. Federal officials note that pursuant to federal policy, failure to participate in No Child Left Behind would jeopardize not only the additional money available to states for NCLB, but also the tens of millions of dollars they were receiving before NCLB.<sup>132</sup> The fact that the federal government has increased the stakes for not participating in Title I programs while expanding its scope without commensurate funding creates a coercive relationship between states and the federal government.<sup>133</sup> In *South Dakota v. Dole*, the state of South Dakota challenged spending clause legislation that authorized the federal government to withhold 5 percent of a state’s federal highway funds if the state in question did not meet the condition of establishing a minimum drinking age of 21.<sup>134</sup> The Supreme Court held that

this was merely inducement not coercion, because a 5 percent reduction in funds was not great enough to force a state to meet the condition.<sup>135</sup> In contrast, the Fourth Circuit suggested in *Virginia Dept. of Educ. v. Riley* that ED's decision to withhold all of Virginia's federal special education funds because of failure to meet a requirement that affected only a small number of children served by these funds could be considered coercion.<sup>136</sup> Somewhere between the two lies a land of unconstitutionality. For most states federal funds account for approximately 7 to 10 percent of their total funding for public education, the largest source of federal funds is Title I. States have been receiving these funds since 1965 when the ESEA was passed. As stated earlier, almost all states receive Title I funds and because of the forgoing there is a level coercion and not just inducement.

Second, *Dole* requires that if Congress desires to condition the states receipt of federal funds it must do so unambiguously, enabling states to exercise their choice knowingly, cognizant of the consequences of their participation.<sup>137</sup> NCLB is *ambiguous* in its terms. Since its inception the ED has extensively attempted to clarify NCLB and provide guidance on its provisions. By the end of February 2004, ED reported that it had issued 29 guidance documents, 20 letters to chief state school officers and state officials, and over 500 letters to various state and local offices.<sup>138</sup> In addition, ED has issued formal regulations on at least three occasions in order to clarify key issues, including public school choice requirements, standards and assessments, the definition of a highly qualified teacher, the including of students with significant cognitive disabilities, and several aspects of the accountability mode.<sup>139</sup> In *Riley*, ED asserted that it could withhold funds from Virginia on the basis that it had clarified ambiguities in IDEA through an interpretive rule and that Virginia had failed to comply.<sup>140</sup> The Fourth Circuit rejected this argument, responding that it is "axiomatic that statutory ambiguities defeats altogether a claim by the federal government that Congress has unambiguously conditioned the states receipt of federal monies in the matter asserted."<sup>141</sup> In other words it goes without saying that when there are statutory ambiguities Congress cannot claim that it is comporting with the unambiguous standard of the spending clause. This appears to be the case with NCLB.

Finally, in the hypothetical, if the above suggestions concerning mandating parental involvement are implemented it is likely that there would be no constitutional objection under the two tenets of the Spending Clause mentioned above. In fact, the suggested fix to the parental involvement provisions would clear the ambiguities that currently exist in the law and would actually provide for further constitutional support. On the other hand however, the suggestions may cross another constitutional line which under the Spending Clause will provide an independent bar to the conditional grant of federal funds.<sup>142</sup>

## **VII. NCLB and Fundamental Parental Rights**

### **A. Defining the Right**

A parent's constitutional right to direct the education of his or her children, of course, is not explicitly mentioned anywhere in the U.S. Constitution. However in 1923, it was first identified in *Meyer v. Nebraska*.<sup>143</sup> Although this case involved a criminal conviction of a teacher, the U.S. Supreme Court focuses not just on the teacher's rights but also on those of the parents of the child.<sup>144</sup> The court found that the statute in question attempted to materially interfere with the power of parents to control the education of its own children. It held that the teachers right "to teach and the right of the parents to engage him to so instruct their children are within the liberty of the [Fourteenth] amendment".<sup>145</sup> In 1925, the U.S. Supreme Court firmly entrenched the constitutional right in *Pierce v. Society of Sisters*.<sup>146</sup> The Court considered an Oregon Law that required parents to send all children between the ages of 8 and 16 to "a public school".<sup>147</sup> The constitutionality of the law was challenged by two private schools which would have been forced out of business under the new law.<sup>148</sup> The Court struck down the Oregon statute because it interfered with the previously identified constitutional right "of parents and guardians to direct the upbringing and education of children under their control".<sup>149</sup>

In *Wisconsin v. Yoder*, the Court required the government to demonstrate "a compelling interest in a literate and productive citizenry before it could overcome the parents' interest".<sup>150</sup> In *Yoder*, the Supreme Court addressed the application of a state's compulsory attendance law to

the Amish, who because of their unique religious beliefs and community wanted their children to attend school only through the eighth grade.<sup>151</sup> Although the Court recognized the parents' right to direct the education of their children, *Yoder* however might suggest that this protection only applied to groups that "assert ....an article of faith and their religious beliefs [and whose] lifestyle has not altered in fundamental ways for centuries."<sup>152</sup>

Although there is certainly a parental right to control the upbringing of their child, the source and status of the parental right remains unclear today. Further, the judicial scrutiny to be applied to a governmental action that interferes with the privacy interests recognized is not clear to the Court. That status is important because governmental interference with a fundamental constitutional right must be justified by a compelling reason, must be "narrowly tailored" and interference with the right is subject to strict scrutiny by the courts.<sup>153</sup> On the other hand, even if a right in question is constitutionally based, but is not fundamental, then typically the government only must have a rational basis for this interference.<sup>154</sup>

### **B. Suggested Changes and a Parents Fundamental Right**

An argument can be made that the proposed changes above may impose on a parent's fundamental right to direct their child's education. The more prescriptive requirement of having parents comply with at least one program in the six Epstein parental involvement constructs, the increased nexus between parental involvement provisions, and the sanctions of NCLB may be viewed by some parents as forcing them to interact with their children in a specific way. Conceivably, because a parent has the right to control their upbringing of their child, they should also have the right to relinquish control of education to the schools and not be forced into proscribed roles.

If this argument is in fact seen as valid, whether this right has been abridged will depend on the standard that the court chooses to use. If this right is seen as fundamental and strict scrutiny applied, the suggested NCLB parental involvement provision would need to be narrowly tailored to justify a compelling governmental interest. If the right is not viewed as fundamental

then there need only be a rational basis for interference with the right that is legitimately related to a governmental interest. However, in both instances it is likely that the government interest of educating the children of the nation, would justify an encroachment of the parental right to “not” direct their child’s education. Parents’ claims of a violation of their constitutional right to direct the education of their children typically fail in the school setting. The courts are unwilling to grant parents any general power to select the educational requirements with which they will or will not comply, under the rubric of the constitutional right of parents to direct the education of their children. For this reason the proposed suggestion would likely not be found unconstitutional.

### **Conclusion**

Although the U.S. has been losing ground in the globalized world due in part to our failing education system, the implementation of No Child Left Behind is a step in the correct direction. The step however is not without its pitfalls. The parental involvement tenet of NCLB is not sufficiently detailed or tailored to the outcome it chooses to create. Lending its ambiguities to the argument that NCLB in its entirety is unconstitutional. The suggested changes would hopefully clear ambiguities, improve the implementation, bolster the constitutionality and above all make sure no parent is left behind in the battle to educate the children of our nation.

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<sup>1</sup> U.S. Dep’t of Educ., *Higher Education for a Highly Competitive World* 1,1 (2006)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Michael Frazier Trotman, *Involving the African American Parent*, Vol. 70, No.4 J. NEGRO EDUC. 275, 275 (2001).

<sup>8</sup> *Id* at 276.

<sup>9</sup> Esther Ho- Sui-C, J. Douglas Willms, *Effects of Parental Involvement on Eighth Grade Achievement*, 69 Soc. Educ. 126, 127 (1996)

<sup>10</sup> *Id.*

<sup>11</sup> Joyce L. Epstein, *School Family Community Partnerships*, 79 Phi Delta Kappan 701 ( 1995).

<sup>12</sup> *Id.* "Parenting" consists of providing general support for ones child, ie. providing for health and a home environment that supports the child.

<sup>13</sup> *Id.* "Communication" refers to keeping the lines of communication open between the parent and the school.

<sup>14</sup> *Id.* Examples given of "Volunteering" was a parent volunteering to chaperone a school trip or to help the teacher in the classroom.

<sup>15</sup> *Id.* An example would be helping a parent the child with their homework or speaking to the child at home about school related activities.

<sup>16</sup> *Id.* Epstein is referring to decisions that affect the school structure; like being involved with PTA /PTO.

<sup>17</sup> *Id.* An example would be a parent's interaction with other families at the local community center.

<sup>18</sup> Katherine V. Hoover-Dempsey, Howard M. Sandler. *Why Do parents become involved in their children's education?*, 67 Rev. of Educ. Res. 3, 4 (1997).

<sup>19</sup> *Id.* at 8. As applied to the issue of parent involvement this construct raises the question, do parents believe that through their involvement exert a positive influence on children's education outcomes? Parents' sense of efficacy for helping children succeed in school is drawn from the general foundation of Hoover-Dempsey personal efficacy theory and it suggests that parents will guide their actions (i.e make involvement choices) by thinking through, in advance of their behavior, what outcomes are likely to follow the actions might take. They will develop goals for their behavior based on this anticipation and will place actions designed to achieve these goals.

<sup>20</sup> *Id.* at 8.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> *Id* at 15.( citing A. Lareau, *Social Class Differences in Family-School Relationships*, 60 Soc. Educ., pp 73-855 (1987)).

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<sup>23</sup> Kimberly Daniel-White, *Reassessing Parent Involvement*, Working Papers Educ. Linguistics 29,29 ( 2002).

<sup>24</sup> *Id.* at 46.

<sup>25</sup> Hoover-Dempsey, Howard M. Sandler, *supra* note 18, at 31.

<sup>26</sup> Karen L. Mapp, *Having their say: Parents' Describe How and Why they are Involved in Their Children's Education*, Presented at Am. Educ. Res. Ass'n 8 ( 2002).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 9.

<sup>29</sup> *Id.* at 10.

<sup>30</sup> *Id.* at 12.

<sup>31</sup> Anne T. Henderson, Karen L. Mapp, *A New Wave of Evidence: The impact on School, Family and Community Connections on student achievement*, Annual Synthesis, Nat'l Center for Fam. and Community Connections with Sch. 101 (2002). (*citing* Douglass Downey Parental and Family Involvement in Education In Molnar, Alex (Ed.), et al., *School Reform Proposals: The Research Evidence*. Tempe, AZ: Education Policy Research Unit (EPRU), College of Education, Arizona State University).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Supra* note 31, at 126. (*citing* Charles V. Izzo, et al, A Longitudinal Assessment of Teacher Perceptions of Parent Involvement in Children's Education and School Performance, 27 Am. J. Community Psychol. pp 817–839 (1999)).

<sup>37</sup> *Id.* at 142. (*citing* Rebecca A. Marcon , *Positive Relationships between Parent School Involvement and Public School Inner-City Preschoolers' Development and Academic Performance* , 28 *Sch. Psychol. Rev.*, pp. 395–412 (1999)).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 133. *citing* Timothy Z. Keith and Patricia B. Keith, *Does Parental Involvement Affect Eighth-Grade Student Achievement?* 22 *Sch. Psychol. Rev.* pp. 474–96 (1993)

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 151. (*citing* Wendy T. Miedel, and Arthur J. Reynolds *Parent Involvement in Early Intervention for Disadvantaged Children: Does It Matter?* 37 *J. Sch. Psychol.* pp 379–402 (1999)).

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 166.

<sup>46</sup> *Id.* at 93.

<sup>47</sup> *Id.*

<sup>48</sup> Thurston Domina, *Leveling the Home Advantage*, 78 Soc. Educ. 233 (2005).

<sup>49</sup> *Id.* at 240.

<sup>50</sup> Harcourt Assessment Report, *History of the No Child Behind Act of 2001* pp 2-3 (2003).

<sup>51</sup> *Id.* Other indicia of risk were: scores consistently declined in verbal mathematics, physics and English subject as measured by the college boards' scholastic aptitude tests( SAT); nearly 40 percent of 17 year olds cannot draw inferences from written material; only one-fifth can write a persuasive essay and only one-third can solve a mathematics problem requiring several steps; remedial mathematics courses in public 4-year colleges increased by 73 percent and now constitute one-quarter of all mathematics course taught in those institutions.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 4.

<sup>54</sup> *Id.* at 2.

<sup>55</sup> Jack Jennings, *What to Expect from the No Child Left Behind Act*, National Association of State Boards of Education 26, 26 (2002).

<sup>56</sup> *Id.* at 26.

<sup>57</sup> *Id.* at 26.

<sup>58</sup> *Id.* at 26.

<sup>59</sup> Harcourt Assessment Report, *supra* note 50, at 6.

<sup>60</sup> *Id.* at 6.

<sup>61</sup> U.S. Dep't of Educ., Four Pillars of NCLB, <http://www.ed.gov/print/nclb/overview/intro/4pillars.html>.

<sup>62</sup> *Id.*

<sup>63</sup> N.Y. City Dep't of Educ., *Memorandum*, <http://schools.nyc.gov/NR/rdonlyres/B41FDB12-11BA-4D13-B281-A8250E4F4D0D/14286/TitleIParentInvolvementGuidelines20062007FINALVERS.pdf>.

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<sup>64</sup> U.S. Dep't of Educ., *National assessment of Title I : Interim Report*, <http://www.ed.gov/rschstat/eval/disadv/title1interimreport/vol1.pdf>.

<sup>65</sup> *Id.* at v.

<sup>66</sup> U.S. Dep't of Educ., *Parental Involvement Title I, Part A Non-regulatory Guidance* 1,1 ( 2004).

<sup>67</sup> *Id.* at 1.

<sup>68</sup> *Id.* at 3.

<sup>69</sup> *Id.* at 4.

<sup>70</sup> Public Educ. Network and Nat'l Coalition for Parent Involvement in Educ., *Community and Parent Decision-Making: A Review*, <http://www.publiceducation.org/portals/nclb/CandP/index.asp>.

<sup>71</sup> *Id.* at 2.

<sup>72</sup> *Id.* at 3.

<sup>73</sup> Educ. Network and Nat'l Coalition for Parent Involvement in Educ., *Parental Involvement*, [http://www.ncpie.org/nclbaction/parent\\_involvement.html](http://www.ncpie.org/nclbaction/parent_involvement.html).

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> U.S. Dep't of Educ., *Parental Involvement Title I, Part A Non-regulatory Guidance* 1, 2 ( 2004).

<sup>80</sup> *Id.*

<sup>81</sup> Lindsay Warner, *Family Involvement: A Key Component of Student and School Success* 5 ( 2002).

<sup>82</sup> *Id.* at 6

<sup>83</sup> *Id.* at 6

<sup>84</sup> *Id.* at 6. Overwhelming participation in the reading program prompted the principal and colleagues to propose a new program in which parents could receive a stipend for coming to "work" at the school. This program meets work requirements for Temporary Assistance to Needy Families while supporting the parent's professional development through seminars and workshops. N.Y. City Dep't of Educ., *supra* note 63.

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<sup>85</sup> *Id.* at 6.

<sup>86</sup> *Id.* at 7.

<sup>87</sup> *Id.* at 7.

<sup>88</sup> *Id.* at 7.

<sup>89</sup> *Id.* at 7. The Logan Square Neighborhood Association became involved in public schools in the Logan Square and Avondale communities of Chicago when members realized that parents are crucial to healthy schools. In partnership with community organizing and family issues, the association launched a parent leadership program that led to Funston elementary school council obtaining funds to develop the community center in the school.

<sup>90</sup> *Id.* at 7.

<sup>91</sup> Pa. Dep't of Educ., *Parental Involvement Strategies: Daniel Boone Area School District*, (2006), <http://www.centerschool.org/mentoring/downloads/ParentInvolvementStrategieshandout.pdf>.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Mass. Dep't of Educ., *Examples of Massachusetts District Efforts to increase Family Involvement*, 1 (2005), <http://www.doe.mass.edu/boe/sac/parent/faminvolve.doc>.

<sup>95</sup> *Id.* at 19.

<sup>96</sup> *Id.* at 24.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Joyce Epstein, *Attainable Goal? The Spirit and Letter of the No Child Left Behind Act on Parental Involvement*, 78 Soc. of Educ. 179, 181 (2005).

<sup>100</sup> Appleseed Network, *It Takes a Parent: Transforming Education in the Wake of the No Child Left Behind Act*, 9 (2005) <http://www.appleseednetwork.org/servlet/GetArticleFile?articleFileId=2529>.

<sup>101</sup> Joyce Epstein, *supra* note 99, at 181.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

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<sup>107</sup> *Id.*

<sup>108</sup> *See supra* note 63.

<sup>109</sup> Appleseed Network, *supra* note at 4.

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id* at 5.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> Joyce Epstein, *supra* note 101.

<sup>117</sup> Adequate Yearly Progress: AYP is a system to measure whether a district and/or school is making satisfactory progress toward meeting the NCLB goal of all students achieving a proficiency in English, language arts, mathematics, and science by the 2013-2014 school year. N.Y. City Dep't of Educ., *supra* note 63.

<sup>118</sup> National Conference of State Legislatures, *Task Force on No Child Left Behind Final Report*, 1, 5 (2005).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.*

<sup>123</sup> Ann Mccoll, *Tough Call: Is No Child Left Behind Unconstitutional?*, Phi Delta Kappan 86 604, 605 (2005).

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *Id.*

<sup>130</sup> *South Dakota v. Dole*, 483 U.S. 203, 207 (1987).

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<sup>131</sup> *Id.*

<sup>132</sup> National Conference of state Legislatures, *supra* note 118 at 7.

<sup>133</sup> *Id.*

<sup>134</sup> *Dole*, 483 U.S. at 211.

<sup>135</sup> *Id.*

<sup>136</sup> Ann Mccoll, *supra* note 122 at 608.

<sup>137</sup> *Dole*, 483 U.S. at 207.

<sup>138</sup> Ann Mccoll, *supra* note 122 at 606.

<sup>139</sup> *Id.* at 607.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Dole*, 483 U.S. at 207.

<sup>143</sup> Ralph D. Mawdsley, The Changing Face of Parent's Rights, 165 *BYU. Educ. & L.J.* 165, 166 (2003).

<sup>144</sup> Eric W. Schulz, The Constitutional Right of Parents to Direct the Education of Their Children, 138 *Ed. Law. Rep.* 583, 584 (1999).

<sup>145</sup> *Id.* ( *citing* *Meyer v. Nebraska*, 262 U.S. 390 (1923)).

<sup>146</sup> *Id.* ( *citing* *Pierce v. Society of sisters*, 268 U.S. 510, 530 (1925)).

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

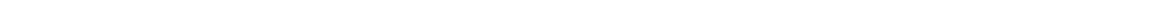
<sup>150</sup> Ralph D. Mawdsley, *supra* note 142 at 172.

<sup>151</sup> *Id.* at 170.

<sup>152</sup> *Id.* at 172.

<sup>153</sup> Eric W. Schulz, *supra* note 143 at 588-89.

<sup>154</sup> *Id.*



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