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Rural Schools in America: Will No Child Be Left Behind? The Elusive Quest for Equal Educational Opportunities

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I. INTRODUCTION

Six hundred square miles of gently rolling fields and pasture and woodland, mostly in gum trees and pine . . . . It is a good place to grow things . . . . In Clarendon County, [South Carolina] for the school year 1949-50, they spent $179 per white child in the public schools; for each black child, they spent $43. Schools there were and are, of course, the largest, costliest and most important public enterprise, as they were in most American municipalities. [Sixty-five hundred students attended the 61 black schools the value of which was listed as $194,575.] The value of the [twelve] white schools, attended by 2,375 youngsters, was put at $673,850.1

1. RICHARD KLUGER, SIMPLE JUSTICE 4, 8 (1976). The segregated public schools of Clarendon County, South Carolina were the targets of one of the five lawsuits

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Judith A. Winston* 

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1. RICHARD KLUGER, SIMPLE JUSTICE 4, 8 (1976). The segregated public schools of Clarendon County, South Carolina were the targets of one of the five lawsuits
This passage is from Richard Kluger's award winning book, *Simple Justice: A History of Brown v. Board of Education*, perhaps the most significant and well-known Supreme Court decision about equal educational opportunity in the history of American jurisprudence. The passage describes Clarendon County, South Carolina which was a very rural place in 1950. In many ways it still is. The quest for educational opportunity for black American children spanned the countryside of rural America as well as big city school districts in the North, South, West, and East. However, it was the South that institutionalized in law the segregation and unequal treatment of white and black children. Even so, discrimination and segregation were widely practiced as a matter of policy and custom across the country wherever children of color resided.

Today, that practice seems as alive and well as it ever was. Segregated and unequal schooling is a fact of life not only for children of color but also for poor children, regardless of their race or ethnic origins. We often hear of these inequalities in the context of urban school districts. As far as most policy makers and the education media are concerned, the fight for equal educational opportunity is still very much centered in the big city school district.

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2. "Clarendon County is situated in the east central portion of South Carolina. Its land surface covers 599 square miles with Lake Marion covering an additional 95 square miles of the county. There are approximately 383,000 land acres in the county. Most of the county topography is nearly level to gently sloping and is predominately sand and loamy soils. About 1/3 of the county land base is used for cultivated agricultural crops, and about 59% is woodland," with a growing season of 225 days. In 2002, the population was 32,500. See [http://www.clarendoncounty.com](http://www.clarendoncounty.com).


5. Black and Latino students are more isolated today from their white counterparts than they were three decades ago. African American students typically go to schools where fewer than 31% of their classmates are white. Latino students attend schools where white students constitute fewer than 29% of all students. Three decades ago, that figure was 45%. White students are still the most segregated group of students. They constitute 61% of all public school students nationwide, but go to schools where 80% of the students are white. See Greg Winter, *Schools Resegregate, Study Finds*, N.Y. Times, Jan. 21, 2003, at A14.
However, as the organization, Save the Children, has dramatically pointed out in its 2002 publication, America’s Forgotten Children:

There is less money per student spent on education in rural America. . . . In 1995-96, public school districts that serve metropolitan areas spent a total of $7,010 per year per student. In rural public school districts, this expenditure was $5,302 [almost $2,000 less than what was spent in metropolitan areas]. . . . In 1998-99, 40 percent of US public schools were in rural and small towns and enrolled 26 percent of [all] public school students.6

Racial segregation is a strong force in many rural school districts, . . . [and in] the rural South . . . [it is common to find public schools that are 98 percent black and private schools that are 100 percent white.7

These two statements about school funding in 1950 Clarendon County and contemporary rural schools span half a century of struggle in rural America. The struggle has as its objective racial and educational equality in small and frequently neglected communities. In 1950, the black citizens of Clarendon County, South Carolina believed their participation in the historic litigation that culminated in the 1954 Supreme Court decision in Brown v. Board of Education would provide their children with the education resources they deserved and needed to maximize their potential to become fully productive citizens.8 The parents of poor children in today’s rural South, like similarly situated parents in other rural areas of America, have long held the same hope. However, the statistics suggest the 50-year wait will likely continue long into the 21st century.9

This article focuses on how the struggle for educational quality and equality in rural public education is faring today and the degree to which the new federal law, the No Child Left Behind Act, promises a better future for rural schools. Part II provides a composite portrait of the lives of rural students and the communities in which they live. Part III establishes a legal context and brief history of the as yet elusive quest for equality in these communities. Part IV outlines the components of the federal effort to reform education nationally and addresses whether the reform effort is congruent with the realities of rural education and the lives of children, families, and communities in rural America. Part IV concludes with a mildly optimistic, though

7. Id.
8. The plaintiffs in Briggs v. Elliot, 98 F. Supp. 529 (1951), the South Carolina companion case to Brown v. Board of Education, 347 U.S. 483 (1954), Harry and Liza Briggs, were the black parents of five children in Clarendon County suing to have the racially segregated schools equalized. The Briggs suffered financially and emotionally for their participation in the lawsuit including losing their jobs and having the loan on their farm called. In spite of this, Harry Briggs said, “We figured anything to better the children’s condition was worthwhile. . . . [What I’m doing is] for the benefit of my children.” KLUGER, supra note 1, at 23.
9. See Winter, supra note 5.
perhaps not overly realistic, assessment of the federal education reform effort over the long-term if the reform is supported properly with financial and human resources.

II. A COMPOSITE PORTRAIT OF RURAL COMMUNITIES AND THE CHILDREN WHO RESIDE IN THEM

A. Children of Rural America

What are the life and educational experiences of school age children enrolled in rural and small town schools? The cold statistics, while stark, fail to tell the whole story of rural children and the education available in their communities. To do justice to their circumstances, one needs to take the statistics and put human faces on them.

If one were to speculate using the data we have available, we might imagine Sara Jones, a twelve-year-old black girl living in poverty in rural Mississippi. We might also imagine Skip Begay, a 14-year-old boy living on the reservation in the Navajo nation in Arizona, or Juan Rodriguez, a 16-year old growing up in a border town just off the Rio Grande in Texas.10

Sara lives with Rainey, her 83-year-old grandmother. Sara is one of seven children. Her father is in jail for both selling and using drugs. He became addicted to alcohol in the 8th grade and started using crack-cocaine the next year when he dropped out of school. Like almost 48 percent of all rural Mississippians, neither Sara's mother nor father have a high school diploma.11 Her mother works as a live-in babysitter/housekeeper in the city over 100 miles away.12 She feels

10. These children are fictitious. As far as I know, they do not exist in real life, although many people may recognize their description and life experiences as quite similar to the lives of children who are real and whose names are familiar. The lives of Sara, Skip, and Juan are imagined from the data taken from studies of life in rural America. The circumstances described are real to rural and small town America.

11. Rural youngsters in the 8th grade are 29% more likely to have used alcohol in the past month than their urban counterparts. They are 50% more likely to have used cocaine in the previous year than their urban children in metro areas. See Rural School and Community Trust, Why Rural Matters: A Report of the Rural School and Community Trust Policy Program 82 (2000).

12. In 1989, thirty-five percent of poor single mothers in rural America were working. With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, 110 Stat. 2105, and the conversion of the Aid for Dependent Children (AFDC) program to the Temporary Assistance to Needy Families program (TANF) in 1996, that figure rose to 55 percent – a dramatic increase. Poverty among the poorest families headed by single-mothers declined over the years between 1989 and 1999. Even so, the poverty rate among rural children living with single mothers is 46 percent compared with 39 percent of urban children. To escape poverty, single mothers would have to double the amount of money they earn or receive from government programs. Id. at 26.
lucky to have a job even if it meant having to leave her children with her ailing mother. She visits infrequently because of the cost of transport and has little money to send back to Sara and the others, but it helps supplement her 83-year old mother’s social security check.

Sara had loved school before her mother left. She was doing well academically, but the extra responsibility of taking care of the younger children took its toll on her enthusiasm and her grades. She now attends school infrequently because she is ashamed of her shabby clothes and the school bus comes very early and she often oversleeps (public transportation is not available). When she does manage to get to school, she is often so tired from her many chores and having too little to eat that she falls asleep in class. She has fallen behind many of her classmates in academic performance. She is embarrassed by her poor grades and her teacher’s haranguing and lack of understanding of her situation. Sara believes her white teacher has little sympathy for poor, black students. She also believes her teacher resents having to teach in such a ramshackle school building. In fact, her teacher is devoted to her class, but often expresses out loud her exasperation about her students’ inability to stay focused, the quality of the textbooks, and other materials available to them.

Skip Begay lives in Arizona which is one of the least rural states in America with only 12.5 percent of its population living in rural places. He lives on the Navajo reservation in a very isolated community. He stopped attending school when he was 13 years old. He just could not take the two hour bus ride each way. He had to get up before dawn and he could not play sports at school because he had no way of getting back home after practices.

In addition, Skip’s father died when he was only 32. He had become an alcoholic, developed severe health problems, and could neither afford nor find adequate rehabilitation and health care. Skip’s mother dropped out of high school too. She receives some assistance from the local governing unit because she has been unable to find a job in the remote location where she and Skip live. She is disappointed Skip has dropped out of school. She has little hope that he will be able to escape the cycle of poverty that the family has been in for several generations. She had hoped his teachers would encourage him more, but without a car or a telephone, she has been unable to communicate with the school.

14. In the U.S., as a whole, 24.8 percent of the population lives in rural areas. Vermont has the highest percentage, which is 67.8 percent. Mississippi, Sara’s home state has 52.9 percent of its population living in rural areas. Juan Rodriguez lives in Texas where only 19.7 percent of the population resides in rural areas. RURAL SCHOOL AND COMMUNITY TRUST, supra note 12, at 17, 67.
15. Many children in rural areas have to be on a school bus for 1-2 hours each way. Some children living on the Navajo reservation have to travel up to 3 hours each way to attend school. SAVE THE CHILDREN, supra note 6, at 35.
Skip complained that the school was boring and the teachers were indifferent. They were always complaining about their pay and wishing they were in schools where the students were smarter and less disruptive.¹⁶ Skip spends his days with like-minded friends who have organized themselves into a “gang” that seems intent in both looking for trouble and finding it.¹⁷ Skip’s response to his mother’s entreaties to do something with his life and make something of himself is that he doesn’t see anybody else making it even if they are trying hard to do so. He does not know anybody with a high school diploma except his teachers and they are all white. He does not believe that members of the Navajo tribe (or other tribal people for that matter) get a break regardless of how hard they try. He is not going to put himself out just to be met with disappointment at every level.

Juan Rodriquez is defying the odds in his small colonia on the border of Mexico and Texas, divided only by the Rio Grande.¹⁸ He lives with his father, mother, and three younger sisters. He has two older brothers who live on their own, neither of whom completed high school, but Juan is on his way to not only completing high school but also doing so with honors. He may even secure a scholarship to college. He considers himself lucky, but he often wonders whether he will be able to compete successfully in college. His rural high school was consolidated from a number of much smaller schools. The state hoped to achieve a certain economy of scale, but some of Juan’s classes are overcrowded—except for the AP class. Approximately 30 percent of his Latino classmates are from families whose incomes are below the poverty line; his family is also quite poor.¹⁹ He and his sisters are second-generation immigrants. When Juan was eight his father secured a job in a local food processing plant and was able to quit the life of a migrant agricultural laborer. His father wants Juan to forget about college and think about finding a job. Because of the declining economy, his father’s job is not secure. He believes that the “Anglo”

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¹⁶. In Arizona, the average rural teacher's salary is $28,693, which is $2,717 less than teachers' salaries in the rest of the state. Rural School and Community Trust, supra note 12, at 17.

¹⁷. In 1997, seventy-five gangs were active in the Navajo Nation. Save the Children, supra note 6, at 18.

¹⁸. Colonias are defined as poor neighborhoods built as temporary housing for migrant workers during the 1950s. Fifteen-hundred colonias are concentrated along the Mexican borders of Texas, Mexico, Arizona and California. Similar to the urban “ghetto,” colonias have concentrated minority populations who are poor, mostly unemployed or underemployed with highly mobile unstable neighborhoods. High crime is endemic as is illiteracy and out-of-wedlock and teen pregnancies. Id. at 22.

¹⁹. Latino families are concentrated in poor rural counties along the border of Texas and in Central California. Most come from, or are the children of families from, Mexico. About 45 percent of the children in these rural colonias are second-gener-ation immigrants and almost 30 percent are poor. Id. at 24.
workers will continue to have work and Latinos will be the first workers laid off.

The food processing job has provided the family stability that was not available to Juan’s older brothers. They never stayed in any school very long because of the family’s migration patterns and because they were never encouraged to pursue their education. Nor did they become proficient in English in the one or two schools that provided bilingual education or effective English-language classes.

Juan has been able to complete most of his elementary and secondary school years in the community where his parents now live. He was fortunate to have a teacher in the fourth grade who took a special interest in him. She was the first and only teacher he had who speaks Spanish well and is a Mexican-American. She grew up in his community. She chose to return to teach in this school—unlike most young adults who have the opportunity to pursue and receive a college degree. Few who achieve educational or professional success ever return to rural America. Juan’s fourth grade teacher convinced him he could pursue a college degree if he learned English well and worked hard on his studies. She has become his role model and keeps up with his progress. He has yet to meet a man who is Latino with a college degree.

Based on the descriptions of their lives and circumstances, Sara, Skip, and Juan might be mistaken for similarly poor students in urban settings. They confront the same challenges in their communities: drugs, alcohol, weapons, gangs, broken families, lack of positive role models and more. However, in many significant ways, the challenges of rural life and education are even starker. Far fewer accessible community resources are available. Rural communities have fewer after-school programs and safe places for children to go to find caring adults and constructive activities. Smaller schools have been consolidated to achieve cost efficiencies. The much larger consolidated schools are often far from the homes of their students making extended days, after school sports, and other school based activities rare. The absence of significant non-profit organizations providing services to children and adults also means there are fewer role models to emulate, fewer opportunities to see and be leaders in the community, and fewer learning through service opportunities.

B. The Demographic Realities of Rural Schools

Sara, Skip, and Juan provide us with the faces and the flesh and blood of real circumstances of children in rural places. However, one

20. Id. at 76 (speaking of the “brain drain” in rural communities).
21. Id. at 30.
22. Id.
must be careful not to conclude that these composite portraits are merely a set of stereotyped views of rural children. The cold statistics that define rural America and its schools should serve to dispel the view that these children are mere stereotypes and rather are truly representative of their peers in rural America.

Unfortunately, a clear definition of what is meant by Rural America is not easily ascertained. The Rural School and Community Trust has made a substantial contribution in defining rural education, rural school communities, and providing the demographic data supporting the definitions. Rural America is responsible for the education of a little more than 25 percent of all United States schoolchildren. However, these communities of 25,000 or less are practically invisible as part of the national education debate. Yet, they are as diverse racially and ethnically as urban America.

People of color constitute 17 percent of the population of rural America. Moreover, children under the age of 18 are one-third of the entire rural population of color. In comparison, only one-fourth of the rural white population is under the age of 18. Although the face of African-American poverty in the United States is seen most often in urban settings, African-American children have a greater chance of living in poverty in rural communities than in inner city neighborhoods. This fact is particularly relevant for Southern rural communities where the struggle to overcome a history of educational discrimination based on race continues and where children of color on average constitute almost 30 percent of the students in rural schools.

Thirty-seven percent of African-American children in rural areas are poor. Approximately 33 percent of Hispanic rural children are also poor as are 44 percent of American Indian children. Rural children of color are more likely therefore, to have greater educational

23. RURAL SCHOOL AND COMMUNITY TRUST, supra note 12, at 1-12.
24. Id. at 1.
25. Id.
26. Id. at 2.
27. Id.
28. Id.
29. Id.
30. RURAL SCHOOL AND COMMUNITY TRUST, supra note 12, at 3.
31. Id. at 71. Among the former de jure segregated states, Arkansas has the highest percentage of minority students in its rural schools: 69.3 percent. The percentage of minority students in rural schools in Mississippi is 50 percent. Missouri rural schools have the lowest percentage of minority students among the former de jure states, 2.3 percent. Id.
32. SAVE THE CHILDREN, supra note 6, at 24.
needs and the fewest resources by which to obtain an equal and effective education.\textsuperscript{33}

Overall, 2.5 million children in poverty live in rural America.\textsuperscript{34} A majority of their families do not own a car or vehicle of any type.\textsuperscript{35} Forty percent of the rural areas they live in have no public transportation system.\textsuperscript{36} Twenty-five percent of rural children live in a home without a telephone.\textsuperscript{37}

These data are often hidden because they are reported at county levels by the U.S. Census and fail to pinpoint within each county significant rural “pockets of poverty.”\textsuperscript{38} Fifteen states are home to the top 100 poorest rural counties in the U.S.\textsuperscript{39} The poorest 100 counties range from a child poverty rate of 38.9 percent to 61.8 percent. Of these 100 counties, 77 of them are located in former \textit{de jure} segregated Southern and border states. Mississippi with sixteen has the highest number and is followed closely by Kentucky with fifteen.\textsuperscript{40}

Six regions in the country account for the most pervasive and concentrated rural poverty.\textsuperscript{41} In addition to the Deep South, Central Appalachia, the Rio Grande border, the Southwest, the Central Valley of California and the American Indian reservations in the Northern plain states have large percentages of poor people in rural areas.\textsuperscript{42}

III. THE QUEST FOR EQUAL EDUCATIONAL OPPORTUNITY IN RURAL AMERICA

This article started with a description of Clarendon County, South Carolina and the efforts of black parents in this rural community to seek educational equality through litigation for their children at great personal risk to themselves and their families. The resulting United States Supreme Court decision, \textit{Brown v. Board of Education}, was a resounding victory—on paper. Over fifty years later, many rural chil-

\textsuperscript{33} See \textsc{Orfield & Eaton}, \textit{supra} note 4, at 54. Children in families whose income falls below the poverty line are more likely to require educational support and resources than children from more affluent families. Poor families tend to move more frequently because of the families’ inability to make the monthly rent payments. This disrupts a child’s education, while academic performance and progress are often negatively affected. Because poor families lack access to health care, poor children frequently come to school sick, have serious long-term health problems, and have difficulty functioning in the classroom. These problems may require costly special education and related services.

\textsuperscript{34} \textsc{Save the Children}, \textit{supra} note 6, at 15.

\textsuperscript{35} \textit{Id.} at 15.

\textsuperscript{36} \textit{Id.}

\textsuperscript{37} \textit{Id.}

\textsuperscript{38} See \textit{id.} at 20-27.

\textsuperscript{39} \textit{Id.} at 21.

\textsuperscript{40} \textsc{Save the Children}, \textit{supra} note 6, at .

\textsuperscript{41} \textit{Id.} at 24.

\textsuperscript{42} \textit{Id.} at 12.
dren are still waiting to see the promise of Brown realized in their community.

What has happened since the Court commanded desegregation as the remedy to unequal educational opportunity? What went wrong? Clearly, what we find today in schools highly populated with poor children and children of color does not reflect the promise of Brown. This is especially true in rural communities. The South actively resisted desegregation and the resistance was grounded in racial attitudes about superiority, stereotypes, and superstitions as well as social custom and states rights ideology. The highest court declared the practice of segregation unconstitutional, yet a country founded on the rule of law and equality violently resisted the Court's command.

The resistance to desegregation was as much a rural phenomenon as an urban one. The desegregation decisions by the Supreme Court following Brown grew out of small towns and rural school districts with little residential segregation and very few schools. In these rural areas, the maintenance of two segregated school systems was clearly infeasible in economic terms. Yet the resistance and evasion of the Court's order was just as intense in rural areas, if not more so, as in urban areas.

When efforts to desegregate moved to school systems in the North and West, even the minimal progress that had been made between 1955 and 1974 began to recede. The increasingly conservative Supreme Court began to defer to the politics of "local control" when desegregation advocates sought a desegregation remedy that would require inter-district remedies and more comprehensive court supervision of desegregation plans. The Court made it clear that a constitutional remedy to local discriminatory policies would not extend beyond a school district's boundary, unless the local discrimination also caused racial segregation in another district. There is no constitutional violation if there is no inter-district effect. In addition, the Court began to permit the dismantling of effective desegregation orders that had been hard fought victories through litigation.

44. Id. at 86-117.
46. Id.
47. During the decade between 1954 and 1964 little progress was made in desegregating schools in the South. In 1964, in seven of the eleven mostly rural Southern states, fewer than three percent of African-American students attended desegregated schools. HAROLD W. HOROWITZ & KENNETH L. KARST, LAW, LAWYERS AND SOCIAL CHANGE 239 (1969).
49. Id.
Middle class white families grew comfortable in the belief that they had found a safe haven and quality schools for their children just on the other side of urban school districts and far from the challenges presented in rural districts.\textsuperscript{51}

In the 1990s, the school desegregation effort seemed very much outdated. Southern public schools were more racially segregated than they had been in the mid-to-late sixties.\textsuperscript{52} By 2001, black and Latino children across the country attended public schools that were more segregated than in the early 1970s. Unequal educational opportunity achievement gaps between poor children of color and white students grew and as far as most of the country understood, all of this was a phenomenon peculiar to urban school districts with concentrated black and Latino poverty.

This retreat from equal educational opportunity through integration is significant to rural schools in America because the failure to desegregate schools along racial lines also ensured that the economic inequities continued. National data show that most segregated black and Latino schools are dominated by poor children.\textsuperscript{53} According to education expert and researcher, Gary Orfield, one of the most consistent findings in research on education is the powerful relationship that exists between concentrated poverty and virtually every measure of school-level academic results.\textsuperscript{54} Schools enrolling large concentrations of poor children have lower test scores, higher dropout rates, fewer students in demanding classes, less prepared teachers, and fewer students going on to and completing post-secondary education.\textsuperscript{55} The result is that most of these students are bound to continue in the cycle of poverty. These sad facts are as true for poor children attending rural schools as for poor children in the rest of the nation.

Advocates of equal educational opportunity, in recognition of the failure of the desegregation remedy, turned to litigation challenging unequal spending on schools in which poor children were concentrated. However, the first wave of school finance cases was short-lived. The attempt to use the United States Constitution's Fourteenth Amendment Equal Protection Clause to challenge spending inequities

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\textsuperscript{51} See the discussion in \textit{School Desegregation} 187, 196-97 (Walter G. Stephan & Joe R. Feagin eds., 1980) in which Professor David Armor's article \textit{White Flight and the Future of School Desegregation}, is quoted and suggests that white flight from desegregating school districts to adjacent suburban areas is "strongest for central-city districts surrounded by accessible White suburbs (\textit{e.g.} Boston) and weakest for large metropolitan school districts surrounded by minimally developed rural areas (\textit{e.g.} Charlotte, North Carolina)." \textit{Id.}

\textsuperscript{52} See \textit{Orfield \& Eaton, supra} note 4, at 53.

\textsuperscript{53} \textit{Id.}

\textsuperscript{54} \textit{Id.}

\textsuperscript{55} \textit{Id.}
\end{flushleft}
was soundly rejected by the Supreme Court. The Court in *San Antonio Independent School District v. Rodriguez* declared that education is not a fundamental right nor is poverty a suspect classification warranting a strict scrutiny analysis – the most rigorous standard of review applicable to state action and, thus, the most difficult for any state to sustain. To many, the Court’s pronouncement in *San Antonio* was indeed ironic in the light of the Court’s assertions in *Brown*. In *Brown*, the court had stated that “it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education” and that “where the state has undertaken to provide it, is a right which must be made available to all on equal terms” found no basis in the Constitution for eliminating the inequities of resources and educational quality in public schools educating poor children.

In recent years, attempts have been made to vindicate the right of poor children to an equal education through state constitutions, many of which recognize an adequate, thorough, or efficient education as a fundamental state right. Education clauses in state constitutions, rather than the broad language of the federal Constitution’s equal protection clause, are now providing the basis for challenging the inherent inequities that tie the quality of a child’s education to the value of property in a school district. This second wave of school finance litigation proved more successful.

Even so, only half of the state courts that have heard these cases have decided in favor of poor children. However, where decisions have been favorable, powerful political forces—often entrenched in state houses and governors’ offices—have resisted implementing the court’s order to fix the inequities in school financing. Recalcitrant state legislatures are supported by affluent and politically sophisticated constituents who oppose both increased taxes and seeing their tax dollars spent on educational resources outside of their own communities.

Even with complete success—that is the allocation of equal dollars per capita in each school district—rural school districts, like urban school districts, continue to face enormous obstacles to providing quality education for its poorest students. It costs more to educate poor children, especially when they are highly concentrated in a single

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56. U.S. Const. amend. XIV, § 1.
school and when they are widely dispersed geographically within a
district that has a weak economic infrastructure.

IV. THE FEDERAL GOVERNMENT'S ROLE IN IMPROVING
THE EDUCATION OF POOR CHILDREN:
WILL NO CHILD BE LEFT BEHIND?

Opportunities for achieving equal educational opportunities for poor children through the courts are diminishing. Many optimists are pinning their hopes for poor children's futures on the increasingly active role the federal government is taking in public education. This optimism bears examination in light of the many political difficulties the federal government has confronted in sustaining a viable and effective role in education. Moreover, even in the face of seeming bipartisan support at the federal level for education reform, the likelihood of success is small given the inability of the federal government to adequately fund and sustain over time any concentrated effort at school reform.

In 1965, President Lyndon Baines Johnson expanded his War on Poverty when he succeeded in persuading Congress to enact the Elementary and Secondary Education Act (ESEA)- a comprehensive program focused on improved learning for the nation's poorest and most educationally disadvantaged children. For the last 35 years, Title I of ESEA has been the largest federal education program supporting K-12 public school systems. As originally devised, Title I was a limited program of compensatory education in reading and mathematics for educationally disadvantaged poor students. Educationally disadvantaged students were pulled out of the regular classroom for short periods of remedial reading and mathematics instruction. Title I has evolved into a more targeted assistance program emphasizing high standards of academic performance for all children with a curriculum aligned to statewide performance and content standards applicable to all students not just poor students. Title I now incorporates a comprehensive system of accountability with significant sanctions imposed if the academic performance of Title I students fail to improve over time. Whole school reform is sought, rather than targeting individual children for pull-out and remedial assistance for just a few hours every week.

The framework for the new and improved Title I program grew out of an initiative started by President George H.W. Bush (the elder) and the nation’s governors – the Goals 2000 program – and a growing fear about this nation’s ability to compete in a global economy. In 1994, the national goals were codified as the Goals 2000: Educate America Act after one of the many participating governors advocating for a Goals 2000 program, William Jefferson Clinton, became President. The eight ambitious goals set academic achievement standards for United States students in several areas – and provided funds to help states and public schools develop content and performance standards and strategies for achieving the goals. Title I of ESEA was reauthorized in the same year as Title I of the Improving America’s Schools Act and provided the strategic framework for what has become Title I of the No Child Left Behind Act of 2001 (NCLB) – the most recent reauthorization of ESEA and the signature domestic program of President George W. Bush.

Like its predecessors, the Improving America’s Schools Act and the NCLB have at their centers improving the academic performance of poor children. NCLB is at the end of a long string of federal government efforts to guarantee an equal education for all children—an effort with the objective to produce results in the form of high-test scores, increased high school graduation rates, and expanded college attendance. Is it reasonable to believe that this law is designed with any more congruence with the realities of rural schools and poor children and, therefore, more likely to achieve results than earlier enactments?

The answer is “yes” and “no.” Educators, as well as many parents and laypersons, know what it takes for children to become effective learners. Scientifically based research suggests that children learn better in smaller classrooms especially children enrolled in the lower grades. Learning takes place when children are taught by experienced teachers certified in the subject matter they teach. Academic achievement happens when students are in classroom environments that are conducive to learning—well-ventilated, bright settings that are well-equipped with appropriate instructional materials, where what is expected is clear, what is taught is relevant to what is tested and the tests accurately measure achievement. Early student success in one or more subjects or activities, frequently translates into success in other areas and the enthusiasm of caring teachers and communities.

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are often enough to sustain the effort over time. Principals and teachers who are well prepared seem to be the key ingredient. Effective teaching and learning are no longer the equivalent of rocket science. However, even though effective teaching and learning strategies are known and accessible, the effort to implement them in rural classrooms is no less challenging or important than rocket science.

Forty-nine states (all except Iowa) have developed and implemented high standards of academic achievement. With standards, parents and students can understand what students are expected to learn in each core subject area and what level of performance and achievement they are expected to reach at each grade level. In 1992, only fourteen states had standards in core subjects.

Under the reformed Title I criteria, states must ensure that poor children meet the same level of performance and achievement as more affluent students. Schools must provide a level of instructional quality that will close the gap in achievement between poor children and children from wealthier families. When Title I was reauthorized in 1994, the federal government sent a message to public school communities that poor children should no longer be treated as second-class citizens in the classroom and subjected to the tyranny of low-expectations and a watered down curriculum. Title I requires states to develop scientifically validated tests to measure what students actually know and are taught by teachers trained to teach a curriculum aligned with the test.

So, as to the “yes” response to the question of greater congruence in the law to the needs of rural children, between 1994 and the beginning of the 21st century, the federal government established—at least on paper—the essential framework for improving the educational quality of public schools in rural America. It provided a cohesive, research-based framework in place of a confused set of categorical programs that seemed to have no relationship one to the other. However, the framework and its objectives are not self-executing. Here we are getting to the “no” part of the answer regarding congruence.

68. In 1994, Iowa state school officials declined to adopt and impose on local school districts statewide standards of achievement and performance citing the state’s commitment to local control. Telephone interview, Michael Cohen, President, Achieve, Inc. and former Senior Adviser (1993-99) and Assistant Secretary of Elementary and Secondary Education (1999-2001) U.S. Department of Education (April 17, 2003). Iowa has subsequently adopted a set of teaching standards and model criteria designed to assist teachers in enhancing student academic performance and support the implementation of the local school district’s student achievement goals. See IOWA BOARD OF EDUCATION, IOWA TEACHING STANDARDS AND MODEL CRITERIA (2002), available at http://www.state.ia.us/educate/ecese/tqtttc/doc/itsmc030l22.html.

69. Winston, supra note 64, at 1010.

The *No Child Left Behind Act* (NCLB II) was signed into law on January 8, 2002. This 2002 reauthorization of Title I added a strong, some would say draconian, accountability component to the law.\textsuperscript{71} NCLB II adopts a "no excuses" philosophy. In fact, the President has stated: "When it comes to the education of our children failure is not an option."\textsuperscript{72} The key accountability provisions of NCLB II require states and school districts to identify the schools that fail to raise test scores and require improvement through state and local Title I school improvement assistance. Schools are required to provide "annual report cards" to parents and to the public comparing the qualifications of teachers and the standardized test scores of students in a single school with those of teachers and students in other schools in the district and in the state. Schools whose students or any sub-population of students, continue to miss annual yearly performance goals trigger other accountability measures.\textsuperscript{73} If a school fails to meet annual performance goals for two years, Title I funds must be used to offer students transportation to better schools in the district—this is the "school choice" or "transfer" provision.\textsuperscript{74} If a school fails to meet annual performance goals for three years, after-school and weekend tutoring assistance must be offered to students in that school and Title I funds must be used to pay private "supplemental education services providers".\textsuperscript{75} In extreme cases, a school might be required to replace its entire staff.\textsuperscript{76} Every school district must have 100 percent of its students at the state established level of proficiency by school year 2013-14.\textsuperscript{77}

A key factor in meeting the annual goals on standardized tests is the requirement that all Title I schools must have highly qualified teachers and paraprofessionals on staff.\textsuperscript{78} Beginning with the 2001-2002 school year, a school district may not hire a teacher who is not certified, who has not passed a rigorous state teacher examination and


\textsuperscript{73} NCLB II requires school districts and schools to account for the performance of the entire student body of a school and the performance of four sub-groups of students by race and ethnicity, economically disadvantaged, limited-English proficiency, and disability. The failure of any one of these sub-groups to raise test scores over a two-year period could result in the entire school being designated as a school "needing improvement" and triggering sanctions. Pub. L. No. 107-110, 115 Stat. 1425, at § 1111(b)(2)(C)(v)(II)y (2002).

\textsuperscript{74} Id. at § 1116(b)(1)(E).

\textsuperscript{75} Id. at § 1116(e).

\textsuperscript{76} Id. at § 1116(b)(8)(B)(ii).

\textsuperscript{77} Id. at § 1111(b)(2)(F).

\textsuperscript{78} Id. at § 1119.
who is not qualified to teach in his or her subject area.\textsuperscript{79} Teachers hired before January have four years to meet the requirement.\textsuperscript{80} No paraprofessional assisting in the instructional program can be hired or retained unless they possess a high school diploma or its equivalent, two years of post-secondary education or passed a rigorous examination measuring their ability to assist in teaching reading and mathematics.\textsuperscript{81}

NCLB II is a tough, no-nonsense formula for leaving no child behind and by its measure equal educational opportunity and quality education will be in place in every Title I school in one school generation (–twelve years).

Looking at these tough accountability standards through the prism of what we now know about rural education and poor children in rural America, the incongruence of the Act’s design and expectations with the realities on the ground is palpable. To the extent that the accountability features are central to achieving educational quality and equality, it is difficult to be optimistic about the future of rural education.\textsuperscript{82}

The requirement for high quality teachers in every Title I classroom by school year 2005-2006 provides an excellent example of the substantial difficulties rural schools will face in coming into compliance with the accountability provisions of NCLB II. The United States Department of Education has predicted that we will need an additional two million teachers in all of our schools by the end of the next decade.\textsuperscript{83} Traditionally, rural schools have been unable to both recruit and retain well-trained experienced teachers for many reasons, but chief among them is poor pay as compared to other school systems, lack of dependable transportation systems, and the lack of other economic, social and civic infrastructures available in the city and suburbs. The extreme poverty in many of these communities of uneducated and undereducated parents makes teaching a challenge under the best of circumstances. Tying student achievement to teacher retention is not likely to be a sound recruiting tool in rural communities. Moreover, the credentials required of teachers combined with existing teacher shortages will mean every highly qualified teacher will be aggressively recruited by the school districts with the most to offer.

\begin{itemize}
  \item \textsuperscript{79} NCLB II § 9101(23).
  \item \textsuperscript{80} Id. at § 1119(a)(2)(A).
  \item \textsuperscript{81} Id. at § 1119(c)(1)(A)-(C).
  \item \textsuperscript{82} One state association of school administrators estimates that while the law adds $77 per student in federal funds, it imposes $575 per student in obligations. Dillon, supra note 71, at A27.
  \item \textsuperscript{83} See Julie Blair, Lawmakers Plunge Into Teacher Pay, EDUC. WEEK, Feb. 21, 2001, at 1.
\end{itemize}
The "school choice" or "transfer" provision is not a realistic option for children in rural schools because there are so few schools to choose from and the complications of distances and transportation systems make transfer unrealistic. Similarly, although the providers of the tutoring or supplemental education services are not themselves required to be highly qualified, unlike teachers and paraprofessionals, few such services are available in rural communities and the ability of children to stay late or be transported to such services after school or on weekends is extremely limited.

Perhaps the most substantial incongruity between the accountability framework is the continued resistance of the Congress and the Bush Administration to increasing the amount of funding needed to support teaching and learning in rural America. Republican-dominated Congresses, until recently, fought any significant involvement of the federal government in state and local education issues. Most educators recognize, however, that increasing the quality of public education will require a significant and long-term financial investment—an investment that is substantially higher than federal, state, and local governments have been able or prepared to make. Federal, state, and local governments must both provide and sustain the level of funding necessary to pay teachers an attractive salary—one that is commensurate with the professionalism and training required of them. The notion underlying the accountability provisions of NCLB II is that a system that has been broken for many decades can be repaired in only one twelve year cycle. The history of education reform suggests that this is an extraordinarily naïve view. The increasing complexity of designing and teaching a curriculum that meets the rigorous standards and expectations that all children must meet is daunting even in the best functioning school districts. There is the presumption that teachers are readily available and able to teach this new curriculum, that teacher colleges are already instructing their students to meet these challenges, that students who have been turned off by overcrowded and underfunded schools will suddenly be turned on by inspiring teachers, and that an infrastructure will be created to provide access to new teaching and learning technology.

The United States Department of Education has touted the fact that the Bush Administration's FY2004 budget request together with the FY2003 education budget represents a growth of 117 percent in the federal investment in education during the last six years.⁸⁴ Before concluding that the federal government is beginning to align its rhetoric with its pocketbook to create the necessary infrastructure for effective school reform, it is important to know that even with that substantial increase, the federal government has moved its share of

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the entire budget of the nation's national public elementary and secondary school systems from 6.1 percent in 1997 to 7.9 percent in 2002.\(^\text{85}\) Currently, states across the country are grappling with the need to substantially cut education budgets to deal with new economic realities.\(^\text{86}\)

V. CONCLUSION - WILL NCLB II ACCOUNTABILITY PROVISIONS GUARANTEE THAT NO CHILD IS LEFT BEHIND IN RURAL AMERICA? OR, WILL RURAL CHILDREN CONTINUE TO BE AMERICA'S FORGOTTEN CHILDREN?

The facts on the ground suggest that it is highly unlikely that the accountability provisions of NCLB II will have a major, positive impact on the education quality of poor children in rural schools. Yet, while the immediate future for improving educational opportunities for poor children in rural schools is quite bleak, in the long-term there may be some room for optimism.

For the first time, the federal government is requiring as a condition for receiving federal Title I funds that school districts disaggregate the achievement scores of elementary and secondary school children by race, ethnicity, disability, English language proficiency status, migrant status, gender, and poverty levels.\(^\text{87}\) Schools and school districts through this reporting requirement alone will no longer be able to mask the discrepancies in educational achievement among poor children and poor children of color in comparison to more affluent white children. In turn, this data, along with school funding levels and teacher qualifications, will provide a more profound demonstration of the often vast differences in human and capital resources among the schools and school districts responsible for educating poor children and substantial numbers of children of color compared with more affluent and white communities. The data have the potential to empower parents and community activists to advocate more effectively on behalf of poor children in the nation’s poorest and most rural areas.

The data will also provide powerful information to shore up challenges in court and in legislative bodies for greater equity and adequacy in school funding at the state and local levels. The disaggregated data should also provide a basis and incentive to rally business and community leaders concerned about demographic changes and future workforce capacity to devise more effective approaches to school funding and education quality. Everyone will be


working from a base of knowledge, rather than speculation about the impact of resources—financial and human—on student performance and academic achievement.

The accountability provisions of NCLB II, when divorced from the draconian effect of unrealistic timelines for compliance have the potential of expanding opportunities for children in rural America. These provisions and the data that school districts are required to provide and take account of should be utilized to reinforce the importance of, and need to improve education of the nation’s fastest growing segment: the children of racial and ethnic minorities. They should be used to develop an understanding of the strong connection that exists between providing effective educational opportunities and achieving a sound system of national and economic security.

Without the disaggregated data, it is too easy for members of Congress and other policy makers to sit in their offices and merely dream big dreams about what they would like American public education to become. Without understanding the facts on the ground and the real and substantial barriers that exist to implementation of those dreams, they will remain dreams for too many poor students in rural and urban communities alike. The seeds for success over the long term are present in the federal reform effort that has evolved over the last two decades. However, the series of congressional and presidential commitments to reform, as well as the necessary capital to implement reform, are still being circumscribed by the politics of four, six, and eight-year electoral terms of office. The practice of casting aside or discounting effective reform efforts for something new and different and for political gain when the party in charge and elected personnel change, rather than building on past and proven successes and good practices, must stop. Rural schools and the poor children in them are served the least by politically motivated fits and starts of education reform and funding at the federal level. These children and their families are those least likely to have access to strong political advocacy vehicles. Unlike suburban, educationally sophisticated, and affluent voters and interest groups, rural families and communities are geographically isolated, lack access to technology that makes long-distance and effective communication possible, and the financial contributions needed to gain the attention of key policymakers.

In conclusion, this article started with the Brown decision, the gently rolling fields of Clarendon County, South Carolina and the struggle of black parents to secure a better education for their children. Almost 50 years later that struggle continues in Appalachia, the Deep South, the Southwest and other rural areas in the United States. The struggle is not the exclusive province of African-American families or other families of color. Indeed, poor white children in rural America outnumber those of color.
The continuing struggle for educational opportunity, however, is not the central point in closing. It is that many poor children over the 50-year period since Brown have succeeded in spite of the odds and barriers to opportunity. Examples of this success are everywhere—in the highest places in government and business, in colleges, universities, law schools, and in all professions. Those successes can be increased tenfold and more if we focus more on poor children who are succeeding and the rural schools that have been successful in spite of the odds and impediments. We need to know more about success, rather than focusing on school “failure” and imposing sanctions that offer little hope in the short-term of improving the education in rural America. In spite of the lack of adequate funding and the unfortunate incongruence in the challenges and the resources necessary to meet them, some schools and some children are succeeding at and achieving high standards. We should spend as much time studying this phenomenon of success as we spend studying failure. Why do children flourish even in difficult and highly impoverished circumstances, while similarly situated children languish? The disaggregated data that school systems must produce to comply with NCLB II and more scientifically based research may put the answer to this question within our grasp in a powerful way. The answer may hold the key for making the next fifty years different for poor children in rural schools and other schools as well. With such information, the centennial celebration of Brown v. Board of Education in 2054 may have our grandchildren telling a different story about rural education in America.