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Women, Education and The Law

Patricia F. First, J.D., Ed.D.

The Children “Left Behind”

Many readers of this new journal will already be deeply involved in administration of the provisions of the No Child Left Behind Act of 2001. As this column is being written we are approaching the one-year anniversary of its legislative passing with overwhelming bipartisan support. The reality of this massive federal intervention in education, for good or for ill as yet to be determined, is beginning to be felt by educators and the public. In my state, Arizona, the first designations of “failing schools” raised cries of outrage and even despair.

I tend to be hopeful about what laws can do to improve our society, including the federal laws that affect education, though I am well aware how many would debate this premise. But “...legal decisions and institutions have varied faces and effects. Law can help and law can fail...” (Minow, 1997, p. 82). Let’s consider in this column some of the areas touched by the 2001 Act where women administrators might reach out to ensure the help rather than the failure.

The No Child Left Behind Act is the newest revised version of the Elementary and Secondary Education Act, first enacted in 1965 and last reauthorized in 1994. The Act further expands the federal role in education and provides the largest dollar increase ever in federal education aid. The provisions getting the most attention concern the testing of all students in grades 3 to 8 in reading and math, participation in the National Assessment of Educational Progress, accountability systems for progression toward academically “proficient” status for all students, changes in Title I state share and use of funds and local targeting formulas, state report cards and goals for higher teacher quality. But in the flurry of activity to respond to the regulations released in August and to meet the first round of the timelines, the underlying purpose of the Act seems to be getting lost. The Act seeks, in its own language, “to ensure that all children have a fair, equal, and significant opportunity to obtain a high quality education.” But the very children who may benefit most from this goal are the children who are still likely to be overlooked, that is, to be “left behind.”

These children include the homeless, the poorest, children of color, the undocumented, children who can achieve far beyond proficiency, and children designated as needing special education. Some children fall in several of these categories, as do African-American boys, a group showing up again and again in our research as not receiving an education from which they and society can benefit. Other authorizations of the ESEA and other acts have addressed the needs of these children, but the laws will only help

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if caring educators fulfill the spirit, as well as the letter, of the law. Let us consider homeless children as the example.

The No Child Left Behind Act included reauthorization of the McKinney Homeless Assistance Act of 1987, which provides grants to states for services to homeless students. (For a review of this law and of the barriers facing homeless children see Stronge, 1992.) Many districts have worked hard to help homeless children but too many others have ignored these children despite the McKinney Act. Transportation costs and concern over lowered school and district testing results have continued to be major excuses of school leaders for not meeting the needs of these neediest of needy children. The No Child Left Behind Act tries again to have law help. All districts must now have a liaison for homeless children and youth. Among the responsibilities of the liaison are requirements to cooperate with the state homeless director and to refer homeless families to other aid in addition to education for the children. Districts can no longer segregate homeless children, except for the short periods of time that they may need special services such as a place to shower and dress for school. And districts are now required to transport homeless children to the school they attended before they were homeless if this is requested by a parent or guardian. The definition of homeless children has been clarified to include children living in motels, cars or campgrounds, or in families forced to move in with other families in apartments because nothing else is available.

It is a failure of parts of our educational leadership that in 2001 the law again had to address these needs of homeless children. We have had legal direction and publicity of their needs since at least 1987. It is my fear that in the publicity surrounding the testing provisions of the No Child Left Behind Act, homeless children and the provisions of the law directed to them will again be forgotten. The Secretary of Education sends the next major report on the condition of education for homeless children to the Congress in 2006. We have four years to make a difference for these children, to show legislators and policymakers that the money they provide can be used wisely by educators to make a difference for our neediest children, and to convince the public that educators care about the nation's children beyond just test scores.

Many believe that attending to the needs of the neediest will help with test scores as well. In commenting upon a recent international report from his organization, Barry McGaw, Deputy Director of Education of the Organization for Economic Cooperation and Development, said "The reason the U.S. is average, on average, is that many people do badly. What the U.S. needs to do

is to pull up the bottom. You don't have to sacrifice quality to get equality." (NEGP Weekly, 2001) In its report OECD (2001) identified a constellation of factors that influence student success. They are all items that diligent educators have heard and practiced before but it is fascinating to see them laid out in multiple categories and realize that taking the time for these factors has been shown to raise student success across nations. What might be of particular interest to readers of this journal is the category of "School Policy and Practice," in which we find three factors that many writers have declared to be affected positively by women's collaborative style of leadership. The three factors are: (a) Teacher-related factors affecting school climate, such as teacher expectations of student performance; (b) teacher morale and commitment; and (c) school autonomy.

Helen Regan (1995) writes from experience of women's collaborative and caring leadership:

As a high school principal with a doctorate in school administration I was trained to operate successfully in the competitive either/or world. I could and did act decisively, making tough choices between this possibility and that... I also had lived a life deeply rooted in the collaborative... I used gifts of compassion and empathy daily to soothe students, encourage teachers, and console parents. (p. 408)

Margaret Grogan (1996) writes that a leader informed by feminist scholarship has a "very different relationship with those in the organization... he or she leads *through* and *along with* those categorized as followers." (p. 167, italics in the original).

Calls for collaboration and compassion in school leadership speak to all levels of the organization, though at first thought we may think of the principal as bearing the primary responsibility for this emphasis. Moral leadership, however, must come from those at the top of our traditional pyramid structures. In introducing her book, *The New Superintendency*, Cryss Brunner writes, "As moral leaders, superintendents are expected to articulate and affirm the purpose of schooling, reflect on how well or how poorly students are served..., and create meaning in the work of students and teachers." (Brunner & Bjork, 2001, xi). These are just a few examples of the writings on collaborative and compassionate ways of leading our schools. Though much of it comes from feminist scholarship and studies of women, caring leadership is not practiced by women alone.

We have a crucially important new law in the "No Child Left Behind Act of 2001." The law is now in the hands of educational leaders. How they interpret it and implement it will determine whether or not the spirit of the law helps those in our society who need it the most. Women's knowledge is relevant to this interpretation. As Carrie Menkel-Meadow (1996) has written, "Women's knowledge is thus relevant to the law... legal 'truth,' then, can be learned from many sources, not just law books and rules, but different human experiences" (p. 69). I believe that the educational leaders reading this journal have the knowledge

and experience and spirit to ensure the success for all children envisioned in this law. At the end of the day, let us lead to ensure that this time the law will help. This time let us leave no child behind.

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