

Graduation Rates and Federal Policy: The Changing Landscape of Reporting and Accountability Since 2001

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This paper corresponds to a power point presentation made on October 23, 2008. The presentation covered three areas: The need for graduation rate reporting and accountability; The evolution of federal policy around graduation rates and issues needing resolution; Recommendations. Please see the posted power point where references are made to the slides presented. Note: The recommendations and opinions presented in this presentation belong solely to the author and should not be attributed to organizations with which he is affiliated.

The Civil Rights Project's (CRP) efforts to highlight what we consider to be a graduation rate crisis evolved out of a joint convening held at the Harvard Graduate School of Education with Achieve Inc., on January 13, 2000 (when CRP was affiliated with Harvard University). One of the more profound understandings to come from that conference was how little we knew about who was graduating high school and who was dropping out. (Kaufman). The research also revealed that the prevalent methods for estimating dropout and school completion rates were not very accurate, and likely underestimated the outcomes for minority dropout levels (Kaufman). A third revelation was that hundreds of schools, concentrated in the 35 largest cities in the U.S. graduated less than 50% of their freshman class. (Balfanz and Legters).

Soon after, in February of 2001, working closely with scholars and advocates from across the nation, The Civil Rights Project brought the findings from this conference to the attention of members of Congress. The culmination of these initial efforts was that language requiring reporting of graduation rates and making schools and districts accountable for low rates, was added to the No Child Left Behind Act.

While the graduation rate is a critically important measure of the health of our public system of education from K-12 in its own right, another significant reason graduation rates were added to NCLB was to diminish the reliance on test scores to evaluate school and district performance and to understand the efficacy of school reform efforts. In addition, papers presented at the conference had revealed that alternative measures of school completion that were in wide use, such as the GED or any one of several measures

of dropout rates were masking over what were estimated to be extraordinarily low graduation rates. This concern informed the decision by Congress to use the term “graduation rate” rather than “dropout rate” or “school completion rate” in the Act.

At the time these initial efforts took place, there were no scholars issuing competing formulas on how best to calculate graduation rates. Meanwhile advocates were bringing to the fore anecdotes about principals and others encouraging struggling children to quit school rather than provide with more intensive educational supports or remedial help.

The NCLB measures passed by congress concerning graduation rate reporting and accountability provided a critically important platform for continuing to raise the issue, but it was soon evident that the provisions were not clear or robust enough to remedy the crisis we were concerned about. The Civil Rights Project decided it was important to continue to collaborate with researchers to further reveal this crisis, especially as it affected youth of color.

At the initial conference, Bob Balfanz and Nettie Legters had presented data on the “Promotion Power” measure of high schools, an attendance based indicator using data that schools had reported to the CCD data base. Their research demonstrated quite clearly that very low numbers of youth entering grade 9 stayed in school until grade 12. Their findings provided a stark contrast to very low officially reported dropout rates which apparently failed to account for large percentages of minority youth who were not finishing school on time, if at all.

Shortly after the conference Chris Swanson shared a method he had developed to use CCD enrollment and diploma data to estimate graduation rates, disaggregated by race and gender. Swanson was able to produce estimates based on enrollment that could be calculated for most states and districts in the United States and was soon to publish these estimates in an Urban Institute Report.

Russell Rumberger’s work presented at the conference, on “Why Students Dropout of School” clearly demonstrating that factors controlled by educators could contribute to dropout rates. His analysis also highlighted the hidden economic costs of dropping out.

The work of these scholars and others were essential to CRP’s continued efforts raise awareness about the crisis. As you can see from the data in the slides (attached), further disaggregation using Swanson’s estimates by race with gender revealed that fewer than 50% of Black, Latino and American Indian minority males graduated high school in 2001, nationally. Even more disturbing was that for these minority groups there were states with rates far below the national average where only about one third of minority students graduated high school on time.

Chris Swanson’s estimated graduation rates, which we used in our reports, also fit the definition for a graduation rate as provided for in NCLB. The relatively greater accuracy of Swanson’s estimates was also supported by several other researchers in the field using similar but not identical methods. The definition Congress supplied did call for a cohort analysis and the use of entering enrollments in the calculation. Specifically, in the version

signed into law, the No Child Left Behind Act says that graduation rates are to be, “*defined as*” the percentage of students who graduate from secondary school with a regular diploma in the standard number of years.”ⁱ In guidance issued in May, 2002 soon after the law was passed, the Department of Education highlighted graduation as a performance goal, and one that should be “disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged. However, the DOE also suggested that states calculate this percentage “in the same manner as used in the National Center for Education Statistics’ reports on Common Core of Data.” One major problem the DOE failed to mention was that the NCES had no definition of “graduation rate” at the time.

The administration erred a second time when they sent draft regulations that conflicted with the statute to the states. They told states that for defining graduation rates they could use the statutory definition, “or, another definition...” Several groups pointed out that there was no such leeway in the statute. In the final regulations the DOE acknowledged the problem but only partially corrected it when they issued final regulations in December, 2002. The corrected regulations told states that “another definition” could only be one that was more accurate and measured graduation rates based on the number of students who entered high school.ⁱⁱ

These final 2002 regulations were especially confusing because the U.S. DOE had given preliminary approval to several methods for calculating graduation rates, including methods that relied on combining annual dropouts with 4 year graduates, and did not use entering enrollment data at all. Instead, most states adopted a version of the NCES school completion rate that was built on dropout data, not enrollment data. This was highly disconcerting considering that research suggested that large numbers of students that left school for GED programs, for disciplinary reasons, or without giving any reason, were often not counted as “dropouts.” The most common practice was to label such students as “leavers” and remove them from both the numerator and denominator of the calculation.

The final regulations issued in December of 2002, had also watered down the requirement that annual progress be made in improving graduation rates. The law had added graduation rates to the test based measures of Adequate Yearly Progress required of each school and district, but the administration's regulations made it so that yearly progress was required only on test scores. According to the administration, schools and districts need only to set a fixed goal for graduation rates, and that goal, it turned out, could be whatever a state wanted it to be—50 percent to 90 percent—all were approved by the DOE. The low water mark for the final regulations was that the department announced that, in its interpretation, the law did not require subgroup accountability for graduation rates.

When then U.S. Secretary of Education Ronald Paige issued final regulations, he stated for the record, that graduation rates did not have to be disaggregated by minority subgroups for accountability purposes, except for the “safe harbor” provision.ⁱⁱⁱ Secretary Paige, in defending this reading, cited other regulations that he had authorized, and not the statute, to insist that:

As indicated in Sec. 200.19(d)(2)(ii), however, the State need not disaggregate its other academic indicators for determining AYP. The Secretary is confident that publicly reporting disaggregated data on the other academic indicators will ensure that schools, LEAs, and the State are held accountable for subgroup performance.^{iv}

This decision represented a substantive departure from the law's disaggregation requirement for accountability purposes in testing. It also meant that each state was only required to set a graduation rate goal for students *in the aggregate*.

In May of 2003 administration officials added to the confusion with their public explanations. For example, in reference to a question about how to count graduates, Christine Wolfe, director of policy for the Undersecretary of Education, told one reporter, "There are many folks who would have liked a national definition in the statute."^v However, congressional lawmakers didn't believe such a definition was appropriate.^y This statement official was not only inaccurate, it suggested that the DOE placed a low priority on graduation rate reporting and accountability.

In June 2003 the administration gave final approval to nearly all the state plans even though few had any information on graduation rate accountability. Unfortunately, the Secretary was not convinced that measuring "yearly progress" on graduation rates was required. The DOE's comments to the final regulations stated, "The regulations do not require states to proffer graduation rate goals or hinge accountability success on making yearly progress." 34 C.F.R. § 200.19(b)(2) (2002). For the Secretary's comments, see also Final Rule; Federal Register: December 2, 2002 (Volume 67, Number 231) at 71743 at <http://www.ed.gov/legislation/FedRegister/finrule/2002-4/120202a.html>

Beginning in the Fall of 2003, CRP surveyed each state to find out what kind of graduation rate reporting and accountability was actually being implemented. Our survey, completed in February of 2004, showed that no meaningful graduation rate accountability was in place.^{vi} In fact, only ten states set a true floor for adequacy in graduation rates, whereby schools and districts that do not meet the stated goals for two consecutive years are designated as having failed to make AYP.^{vii} In 39 others, falling short of the goal could be remedied by "any improvement" the following year.

For example, when I spoke with an administrator in California, about California's rate of required improvement, which was 1/10th of 1 percent over the prior year. I suggested that if a district was currently only at 50% it would take the district 500 years to reach 100% (the stated goal at that time for graduation rates). The administrator paused, and then said, "In California...we're patient."

Some states, such as Illinois, had more rigorous goals on paper, and even stated they would apply the goals to minority groups, even if not required to do so. In fact Illinois stated that all groups below 65% would be deemed to not have met the goal, and the goal would be raised to 85% by 2014. However, Illinois, like most states, calculated their rates

based on dropout, not enrollment data. Moreover, as Donald Moore, researcher and Director of Designs for Change in Illinois pointed out, there was no monitoring or enforcement to assure the validity of any calculations and evidence suggested that school districts were creating all sorts of exceptions such that many students who left school without a diploma were not included in the calculus.

These survey results suggested that DOE's guidance, regulation and monitoring contributed to the creation of weak state graduation rate accountability systems in nearly every state.

In 2004, CRP used updated studies produced by leading scholars, and our survey, and joined with Advocates for Children of New York City to publish a report that focused on the misleading nature of most state reports of High School Graduation rates especially as they pertained to minority youth. The report used both the Balfanz/Legers promotion power index, Rumberger's estimates of hidden costs, and co-author Chris Swanson's CPI estimate of graduation rates to report on the rates for minority students in the nation, as well as in every state, the 100 largest school districts in the nation, and the ten largest school district in each of twelve states. During this period, many advocacy groups and other researchers had also been producing revealing studies on graduation rates.

Stemming from the efforts of researchers and advocates alike, since NCLB's passage there has been growing bipartisan support for improving accuracy for graduation rate reporting, but less agreement about how to improve accountability. The agreement on the need for more accurate reporting is demonstrated by the National Governors' Association (NGA) Compact, signed by all 50 governors. This agreement stimulated even greater awareness of the problem and paved the way for legislative change. Specifically, Maryland State Representative Ana Sol Guitierrez introduced and shepherded through the passage of a Bill encompassing the recommendations of the NGA and CRP by Maryland's legislature. Similar to the Maryland legislation, this Spring, U.S. Department of Education Secretary, Margaret Spellings proposed regulations (since finalized) that would require uniform collection and reporting of graduation rates in a manner that is also consistent with the NGA's Compact.

These developments are significant and promising as the federal government is uniquely positioned to provide the technical and financial support for every state to use longitudinal individual student data, and to ensure greater accuracy through federal oversight. However, as CRP's 2006 report, "Confronting the Graduation Rate Crisis in Texas," reveals, even states that use longitudinal data can artificially inflate graduation rates if their policies around counting students are not strict. (Losen, Balfanz, & Orfield, 2006).

In Texas, inflationary practices included removing students from the cohort used to calculate graduation rates when they left school to enroll in GED programs, failed to pass the state's exit exam, were expelled from school, or when districts or schools otherwise lost track of students. There are 12 slides in my power point that detail how the use of

error and leaver codes significantly inflated the graduation rates for Blacks and Hispanics, statewide. (There is a link to the full Texas study at the end of this paper).

Other states, such as Florida, routinely include GED recipients in reported graduation rates. But as James Heckman and Paul LaFontaine (2008) point out, “the GED program does not benefit most participants....GEDs perform at the level of dropouts in the U.S. labour market.”

Recommendations:

Just days after I made the power point presentation to which this article corresponds, Secretary Spellings’ issued new final regulations. The new regulations were very similar to the draft regulations that informed my comments. The final regulations stick very close to the NGA ’s recommendations for calculating graduation rates.

In addition the new final regulations call for states to have sub-group accountability for graduation rates, as well as for progress benchmarks, as part of determining Adequate Yearly Progress. The details of that accountability system are still left up to each state, except that the progress required must be “substantial and continuous.” This is a major step in the right direction. On the other hand, the highly problematic test-driven system was left basically intact. Changing the accountability structure would take legislation rather than administrative regulatory action, as the Act itself spells out many of the testing provisions and only Congress can change them.

Once individual student tracking systems, required by the new regulations, are in place, transparency in how the rates are calculated and reported to the public will be critical. The obligation to disaggregate the data by subgroups which now exists on paper, will need to be monitored carefully to ensure that it is fulfilled in implementation. While states should receive full funding to develop and maintain such tracking systems, there should also be consequences for states that routinely fail to follow reporting requirements or feed misleading information to the public.

As emphasized above, improving the accuracy of reporting, while vital, is no remedy. Ironically, more attention has been paid to *reporting* than to *accountability for improving rates of graduation*. The Department of Education does deserve credit for reversing their prior policy on sub-group accountability for graduation rates, but a meaningful remedy must add far more rigorous accountability for graduation rates as an integral part of a major overhaul of the current accountability system.

The current NCLB system is broken, in part because it labels so many schools as failures without appropriately supplying or targeting the resources necessary to achieve substantial reform. Ratcheting-up accountability for graduation rates should be integral to the creation of a far more reasonable and balanced accountability system. This degree of change will need to be legislative, not regulatory. The new system will need to reward progress, reserve sanctions for schools as a measure of last resort, and help states to

remedy their anemic education funding and inequitable resource distribution mechanisms to generate higher rates of graduation for disadvantaged children.

Evidence analyzed by The Civil Rights Project at UCLA and other researchers suggests that test-driven accountability inadvertently creates incentives for low-scoring students to drop out, or for administrators to encourage them to leave in subtle and not so subtle ways (Orfield, 2004; Orfield & Kornhaber 2001). The combination of pressures (i.e. high rates of grade retention, high school exit exams, the disenrollment of truant youth, harsh disciplinary codes, and pressuring students to enter GED programs) are referred to as the “push-out” phenomenon. If low scoring students leave school, their school’s average test score rises. As the impact of the rising NCLB standards is intensifying, the incentive to push-out low achievers will likely grow. The new regulations lack the level of specificity to correct this problem.

Discussions about increasing graduation rate accountability for all students often become mired in passionate arguments about how much the current test-driven accountability system would first need to change. The reluctance to consider accountability for low graduation rates is expressed in several ways.

Many argue that we cannot have graduation rate accountability until accurate reporting is fully in place. For example, the biggest threat to accuracy of estimates is where there is large in or out-migration of students. This is a serious problem that will not disappear altogether when individual tracking systems are in place. To the extent that accountability is a concern, the issue can be addressed through policy waivers and other procedural safeguards that could be included in future legislation. Other issues with accountability for specialized schools can also be addressed with legislative waivers and safeguards that would allow for legitimate exceptions without weakening the rule.

Other common arguments are that graduation rate accountability would work against students with disabilities or students who legitimately need more than four years to graduate. Many also complain that we are already identifying too many schools as failures and hindering meaningful reform efforts with lock-step accountability systems. Another issue is that the data are less accurate at the school level.

These arguments raise valid points, but none are insurmountable. Given the importance of graduation rates for understanding the condition of education and the need for educational resources, I have urged that the discussion on graduation rates remain central to, rather than secondary to, resolving questions about how to revise the ESEA.

To fully address the crisis, Congress should go further than the latest regulations. Congress should instead seize the power of positive incentives in reauthorizing accountability in the next ESEA, and provide meaningful supports for struggling schools that do meet graduation rate improvement goals. One solution to concerns about invalid judgments of schools, for example, might be to have accountability for graduation rates, be strongest as applied to the district and state levels.

Reasonable improvement benchmarks should be based on research on what is achievable and contingent on having technical assistance and support funding provided. Improvement benchmarks should reflect research on what annual progress could be reasonably expected over time, rather than that which is tied to an arbitrarily set end date. Moreover, schools and districts that make good progress with the highest percentages of Title I eligible students could be offered additional funding to sustain and replicate their successful programs.

Likewise, moving forward, efforts to strengthen accountability can be paired with carefully constructed requirements for programs or alternative schools that reinstate dropouts, so that effective programs could improve the district's performance profile rather than having new accountability requirements introduced that put them, or other interventions, at risk. Ultimately graduation rate accountability should be put on equal footing with test scores and other achievement measures. This will entail a full reconstruction of the accountability system, not merely adding another "gotcha" point to the system in place.

The new regulations did introduce new technical twist, an extended years graduation rate for reporting and accountability, that could contain a technical challenge and potential loophole that would erode meaningful accountability. The concept and goal of the extended years rate is laudable and worth pursuing. Namely, it allows states to give credit to students who need more than the standard number of years to graduate. The particular formulation of this extended years rate, however, introduces problems.

The largest problem is that extended years rate described in the regulations would allow students who "leave" school after 5, 6 or even more years in high school to be removed from the cohort. For example, a student who attends a high school for 4 or 5 years and then leaves for another state or country would NOT be regarded as a non-graduate, but erased from the cohort altogether.

Under the regulations, each state could have a different extended years rate, or none at all, and this could confound tracking students. For example, Florida could introduce a 6 year rate, while New York might opt for a 5 year rate. If a receiving school district was located in a state that did not use an extended years rate the school could confirm the receipt of the student, yet would not need to track the student further. Meanwhile, the district in the sending state would not be held accountable even though the student spent more than the standard number of years in its high school and never graduated.

A simpler way to allow for an "extended years" rate would be to give credit toward making AYP to schools and districts for students who earned diplomas in more than four years, without the continuation of the cohort calculation. This kind of extended year rate would encourage school districts to keep students who need more time in school for as long as they needed, and to invest in dropout programs to bring all dropouts back into the mainstream even if they had been absent more than a year.

Moreover, the regulations do not make it clear how the extended years method could be factored in for accountability purposes. This lack of clarity leaves room for misunderstanding and could potentially undermine graduation rate accountability.

The new regulations issued by Secretary Spellings on October 28, 2008 should inform the work of Academy and Council as they prepare their own recommendations for policy makers on this topic. The new regulations leaves to the next administration critical details around extended years graduation rates, accountability, incremental progress requirements, resources for high school reform and dropout interventions, funding for technical assistance to implement tracking systems, state accountability, and positive incentives, all necessary for meaningful progress in this area. These are all areas that should be well informed by scholarly input when the ESEA is reauthorized, lest we repeat the mistakes of the past administration.

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Some portions of this article were taken from:

Daniel Losen, *Graduation Rate Accountability under the No Child Left Behind Act and the Disparate Impact on Students of Color*, in *DROPOUTS IN AMERICA: CONFRONTING THE GRADUATION RATE CRISIS*, Gary Orfield, ed., Harvard Education Press (2004).

And from:

Daniel Losen, *Teachers College Record*, Date Published: May 16, 2008
<http://www.tcrecord.org> ID Number: 15258, Date Accessed: 5/16/2008 4:53:53 PM

ⁱ 20 U.S.C. § 6311((b)(2)(C)(vi); 115 STAT.1447.(*Emphasis Added*)ⁱⁱ See 34 C.F.R. § 200.19
ⁱⁱⁱ See 34 C.F.R. § 200.19 (d)(2); Title I--Improving the Academic Achievement of the Disadvantaged; Final Rule; Federal Register: December 2, 2002 (Volume 67, Number 231) [Rules and Regulations] Further, the fact that graduation rates were added to the definition of “adequate yearly progress” in the statute did not seem to convince the secretary that any method of measuring “yearly progress” on graduation rates was required for “making adequate yearly progress.” “The regulations do not require states to proffer graduation rate goals or hinge accountability success on making yearly progress.” 34 C.F.R. § 200.19(b)(2) (2002). For the Secretary’s comments, see also Final Rule; Federal Register: December 2, 2002 (Volume 67, Number 231) at 71743.

^{iv} *Id.* at 71741. available at <http://www.ed.gov/legislation/FedRegister/finrule/2002-4/120202a.html>.

^v *Education Week*, May 2003.

^{vi} In June 2003 the administration approved the plans of all 50 states even though most had not met NCLB’s requirements and few had any information on graduation rate accountability. The information in this report is based on a combination of reviewing state websites and interviewing a designated employee for each state. The interviews and website reviews were conducted between October 1, 2003 and January 25, 2004. Each state was given an opportunity to confirm the information reported about them.

^{vii} In some cases state officials insisted they had set a clear floor for AYP determinations. Further questions, however, often revealed the loophole that any increase in rates would permit the school or district to avoid AYP any time the rate improved over the prior years rate. When asked hypothetically whether AYP would be granted if a district slipped 20 points one year and improved 1/10th of one percent the next, many said yes.