

The Liberal Roots of the Punitive Education State

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Abstract

This paper argues that understanding the particular educational ideology underpinning the federal role in public education is key to understanding the rise of the modern punitive education state. The U.S. education system has become increasingly punitive in the last decade, most notably in the rise in the use of a variety of harsh sanctions for schools and teachers as a tool to hold these groups accountable for student performance. Seeking an explanation for this trend, several political scientists have become increasingly interested in the institutionalization and expansion of federal control of education in the post-War era, particularly beginning with the 1965 Elementary and Secondary Education Act (ESEA). Recent scholarship has portrayed the ESEA as the pinnacle of the Great Society's attempt to attack inequality and poverty, with initial success rolled back by conservative mobilization around the school choice and standards movement, and a renewed focus on 'excellence' rather than 'equity' in education. However, little attention has been paid to the ideological terms which the first federal expansion into education policy occurred. This paper pushes against the current rollback framework, arguing that federal power in education was premised from the start on a conservative ideology that laid the groundwork for future punitive developments. This paper argues that moment when political liberals succeeded in institutionalizing the federal role in education policy coincided with the moment of consolidation of conservative economic policy that successfully redefined the purpose of education. This meant much of the programmatic structure that emerged from the ESEA incorporated a conservative understanding of public education's purpose, an understanding that is the basis for much of the punitive policies of the modern education state. By ignoring the ideological underpinnings of the ESEA and the fundamental ideological continuity of the education state after its passage, scholars have failed to grasp the role of the ESEA and Great Society liberals in setting the education state on a path towards punitiveness.

Introduction

Much of the recent literature on the elementary and secondary public education system attempts to grapple with the apparent shift towards education focused on using standardized test scores as an evaluative tool with which to hold schools, teachers, and students accountable, increasingly though punitive means. Reforms to the 1965 Elementary and Secondary Education Act (ESEA) in the 1980s expanded its reach to all children in Title I schools, not just the disadvantaged. Reforms of the 1990s and early 2000s brought new regulations that required states to drastically increase compliance and sanction activities if they wished to continue receiving federal aid. The most recent reauthorization of the ESEA, the No Child Left Behind (NCLB) Act, requires that every state come up with its own system of standards and system of measuring achievement of these standards. As a means of holding schools accountable, the law requires that schools that fail to meet benchmarks of achievement be subject to punitive sanctions. A bipartisan coalition of federal policymakers has increasingly turned towards punitive measures, ranging from forced firing of staff to reconstitution as privately run charter schools, to hold schools accountable for their perceived performance failures.¹ Several researchers have commented on the inequitable distribution of negative effects of such practices such as a narrowed curriculum, harsh academic and behavioral punishment for students, increased segregation, and the limited focus on the test scores of a small population of ‘borderline’ students.² Others have praised the punitive accountability approach, claiming it is the best approach for ensuring excellence and equality in a troubled public schooling sector.³

¹ Public Law 107-110 2002

² Kozol 2005; Brown 2007; Smith 2004

³ See McGuinn 2013 for a good account of the scholars and political coalition in favor of punitive accountability policies in education.

While significant disagreement exists on the appropriateness of a turn towards sanctions, there appears to be little disagreement that this represents a significant departure from past practices. The current understanding of the rise of punitive accountability education policies points to an origin in the 1980s. Several scholars have pointed to the ESEA as the pinnacle of the Great Society's attempt to attack inequality and poverty, with initial success rolled back by conservative mobilization around the school choice and standards movement, and a renewed focus on 'excellence' rather than 'equity' in education.⁴ Although identifying powerful truths about the current trends in education policy, much of this literature fails to account for the extent to which the current regime of punitive sanctions is consistent with the vision of many liberal supporters of the original ESEA. Situating the ESEA in broader debates about unemployment and poverty clarifies that as liberals achieved a victory in institutionalizing a federal role in education, they did so on largely conservative ideological terms.

The ideological commitments that the coalition of liberals relied on to justify the expansion of federal authority in the realm of education ultimately contributed to a deeply problematic interpretation of the purpose and problems of public education. The ESEA institutionalized a federal role in education and laid the foundation for the rise of punitive policies and the obsession with test scores and achievement gaps by positioning education as poverty and unemployment policy. Despite the long standing educational findings of limited ability of schools or teachers to effect test scores, and a surge in recent scholarship that has

⁴ See Rhodes 2012; Henig 2009; Manna 2006; McGuinn 2006, McGuinn 2009, Debray 2006; Fabricant and Fine 2012; Saltman 2007; Saltman 2012; Buras 2004, Kohn 2004, Apple 2006

questioned the connection between education and pay and employment,⁵ this dynamic continues to dominate federal education policy.

The origins of these current trends trace back to the educational politics and policies of the 1960s. Although Great Society Liberals succeeded in institutionalizing a federal role in elementary and secondary education policy, they did so on terms that quickly led to punitive policies of sanctions and test-based accountability. By the 1960s, liberals had adopted a conservative economic philosophy that precluded direct government programs aimed at job creation or income supplements. This conservative move reinterpreted the problems of unemployment and poverty as of individual deficiencies rather than of broader problems with the market economy. With this shift, education became the main policy by which Great Society liberals would try attack unemployment and poverty. The entrance of the federal government into the elementary and secondary education policy realm was premised on a conservative shift in the economic policies of liberals.

The conservative economic turn that justified federal investment in education was crucial in shaping the policies that emerged. The emphasis on reporting and evaluation and the concern about holding schools accountable for results was driven by the belief that equitable distribution of education and achievement would go a substantial way towards eliminating unemployment and poverty. The federal education state was engineered on a fundamentally conservative economic foundation that assumed education could solve the problem of poverty and unemployment through increasing the achievement scores of individuals and closing the achievement gap between targeted populations. Federal investment in education was coupled

⁵ See Lafer 2002 and Wolff 2006 for some of the most striking critiques

with an emphasis on reporting and evaluation and the concern about holding schools accountable for results.

The argument of this paper proceeds in three parts. The first section examines the debates over the problem of unemployment between the New Deal and Johnson Presidency and traces a conservative shift among liberal policymakers. The next portion examines the War On Poverty strategy, and notes the interpretation of poverty as primarily a problem of individual deficiency led to a focus on education. The final section looks at how these drove Congressional debates and crafting of early education policy to focus on evaluation, accountability, and sanctions.

The Problem of Unemployment: From Full Employment to ESEA

The year 1965 saw not only the passage of the (ESEA) but also the implementation of the first tax cuts as a form of Keynesian economic management policy. Although the significance of the connection between these two policies may not be immediately apparent, a brief account of the changing federal employment policy illuminates the importance of the connection. The implementation of the 1965 tax cut represented the consolidation of a form of commercial Keynesianism that cast unemployment as a problem primarily of individual deficiencies in skills and education. The victory of this brand of Keynesianism had important consequences not only for employment policy, but helps explain the newfound interest at the federal level in a sweeping education bill. An account of the rise of commercial Keynesianism and the interpretation of unemployment that accompanied it is crucial in understanding the federal turn

toward education, the populations targeted, the types of programs pursued, and the results expected from the ESEA.

The staggering events of the Great Depression opened the door to a reconsideration of the strict balanced budget approach to economic management that presidents of both political parties had largely pursued. The closing of nearly 40% of the nation's banks as well as the unemployment of one out of every four workers ushered in fevered period of legislative activity, including the expansion of social insurance with the Social Security Act and a host of programs aimed at the problem of unemployment.⁶ However, this increased activity did not initially represent a commitment by President Roosevelt to use government spending as a means of economic recovery. Rather, he remained committed to a balanced budget and viewed the increased expenditures as temporarily necessary to ease the worst effects of the Depression for the unemployed and vulnerable.⁷ However the return of economic recession at the end of 1937 ultimately convinced Roosevelt to pursue spending as a tool of stabilization. The 1938 announcement of a plan to expand expenditures by \$7 billion represented a decisive step towards the use of fiscal policy as a means of economic recovery.⁸

The turn toward this type of economic management found an intellectual basis in John Maynard Keynes's 1936 book, *The General Theory of Employment, Interest and Money*. Keynes provided guidelines for how aggressive fiscal policy could help prevent economic recessions that radically differed from the conventional belief that general wage reduction was the best means of

⁶ These programs included the Public Works Administration, the Federal Emergency Relief Act, the Farm Security Administration, the Civilian Conservation Corps, the Civil Works Administration, the Works Progress Administration, and the National Youth Administration.

⁷ Mucciaroni 1990, 21. Mucciaroni notes that in the early part of his second term, with decreasing unemployment rates President Roosevelt immediately took steps aimed at balancing the budget. See also, Collins 1981, 5.

⁸ Mucciaroni 1990, 22; Collins 1981, Chapter 1

combatting economic depressions.⁹ However, within Keynes's broad commitment to the maintenance of a market economy, his theory "offered policy formulations which differed significantly in their ideological, political, and economic potentials."¹⁰ These varied policy recommendations, ranging from the conservative maintenance of low interest rates through central control to the more progressive option of active use of government spending to augment private investment, meant that the 'Keynesian' label was potentially attractive to a broad swath of the ideological spectrum.

The Keynesian policies initially pursued by the federal government in the wake of the recession of 1937 and 1938 stemmed from a progressive brand of Keynesianism known as 'secular stagnation'. According to the stagnationists, the slowing of population growth and technological innovation coupled with the end of territorial expansion meant that the United States had reached a stage of economic maturity in which stagnation was a natural condition of a capitalist economy. The appropriate response to this fundamental disability of the market economy was continued government investment to regenerate growth.¹¹ On the policy side this meant large programs of social spending and public works funded by highly redistributive taxation that would decrease unemployment and inject money into the economy when required.¹² This was the course advocated by the leading stagnationist, Harvard economist Alvin Hansen, one of many stagnationists who served in an advisory capacity to the Roosevelt administration in

⁹ Collins 1981, 6-7

¹⁰ *Ibid.* 10

¹¹ Mucciaroni 1990, 22-26

¹² Weir 1992, 40-41. Indeed, Collins notes Alvin Hansen and other stagnationists appeared to envision a "state dedicated to continuously high spending for education, social welfare, public works, regional development, public health, and urban renewal." (Collins 1981, 97)

the 1940s.¹³ Hansen served as an advisor on the National Resources Planning Board, a site of institutional strength for the stagnationists, which helped craft the administration's 1944 endorsement of an economic bill of rights, including the right to work.¹⁴ The introduction of the Full Employment Bill of 1945 by liberal Senator James Murray (D-MT) was the high point of stagnationist influence over economic and employment policy.

The Full Employment Bill of 1945 was based on the assumption that private business would be unable to fulfill the required investment to stimulate full employment, thus necessitating federal expenditure to bridge the gap. The bill sought to create a permanent role for the federal government in regulating the economy, committing the government to expenditures necessary to secure the right to work for all Americans seeking employment. Importantly, the bill was based on the belief that unemployment largely represented a fundamental weakness in the market economy rather than in unemployed individuals. The attempt to build powerful planning agencies capable of injecting large sums into the economy was seen as the most appropriate means of ensuring that these individuals were not unfairly unemployed by forces beyond their control.

Despite passing by an overwhelming margin in the Senate, the Full Employment Bill of 1945 was ultimately defeated in Congress by a coalition of business groups, Southern Democrats, and Republicans. Margaret Weir notes that the Southern politicians were afraid that the Full Employment Bill would mean an increase in federal oversight over local farm labor and wage rates and ultimately threaten the racial caste system that depended on the economic

¹³ Weir notes that by 1940, many of Hansen's students served in important positions in the executive branch, a result of the active recruitment by those in the administration that favored increased spending as well as the specifically orientation towards policy by Hansen and his students. (Weir 1992, 41)

¹⁴ Mucciaroni 1990, 23

subordination of African Americans. The one-party nature of Southern politics meant Southern Congressmen occupied disproportionately powerful positions, particularly within the powerful committees of each chamber.

Congressman Carter Manasco (D-AL), the chair of the House Expenditures Committee that handled the Full Employment Bill in the House of Representatives, was pivotal in the bill's defeat.¹⁵ Additionally, after passage in the Senate, various business groups led by the Chamber of Commerce mobilized opposition to the Bill by charging it as a form of socialism that threatened free enterprise and "the American way of life."¹⁶ The opposition by business groups was also grounded in a broader strategy to curb organized labor's political power.¹⁷ This opposition resulted in the abandonment of the Senate bill, and the passage of the alternative Employment Act of 1946. Written by conservative Mississippi Democrat Will Whittington, the new act abandoned the idea of employment as a government guaranteed right as well as a centralized planning agency committed to federal spending as a means of achieving full employment. In place of the national planning agency the bill established the Council of Economic Advisors (CEA), which would prove to be an important avenue for the advancement of a more conservative, business friendly version of Keynesianism in the executive branch. Criticized by Alvin Hansen as little more than "window dressing," the 1946 Employment Act was endorsed by the Chamber of Commerce and passed by an overwhelming margin in the House and was unanimously approved in the Senate.¹⁸

¹⁵ Weir 1992, 48-49

¹⁶ Mucciaroni 1990, 24; See also Weir, 49

¹⁷ Weir 1992, 50

¹⁸ Collins 1981, 108

The defeat of the Full Employment Bill marked a turning point in the battle over employment policy and over the direction of which style of Keynesian economic management policies would be pursued. Robert Collins argues that facing the broad acceptance and influence of Keynesianism among economists in wake of World War II provision of “striking evidence of the effectiveness of government expenditure on a huge scale,” many in the business community sought to work within the new consensus to promote more business friendly Keynesian policies.¹⁹ The defeat of the Full Employment Bill marked a fortuitous moment for this move, as a rising number of economists began to question the tenets of secular stagnationists in the wake of strong demand for goods and labor in the postwar years.

Abandoning previous advocacy of a strictly balanced budget approach, the business community coalesced around a conservative version of Keynesianism that offered a strikingly different interpretation of unemployment and policy prescriptions than the secular stagnationists. Rejecting the view that unemployment represented a fundamental weakness of the market economy, the advocates of “commercial Keynesianism” instead argued that, “the demand for labor periodically fluctuates, being sometimes excessive and inflationary and at other times deficient.”²⁰ Explaining changes in economic growth and joblessness as the result of economic fluctuations, commercial Keynesians argued that the fiscal role of government should be limited to temporarily moderating these business fluctuations. Commercial Keynesians advocated tax cuts and automatic stabilizers rather than direct spending as the policy mechanisms of choice for dealing with these economic fluctuations. Although nominally committed to pursuing high

¹⁹ *Ibid.* 12

²⁰ Mucciaroni 1990, 26

levels of employment, this goal competed with concerns about inflation and the desire to restrain the growth of the federal budget.²¹

With the abandonment of the notion of the market economy as fundamentally flawed, conservatives turned towards explanations for unemployment that focused on the individual. Although normal business fluctuations would lead to some unemployment, it would not affect all workers equally. Commercial Keynesians argued that those affected would largely be the most marginal workers, those with little skill or ability to adapt to the changing demands of the labor market, a view largely borrowed from the increasingly popular human capital theory. Human capital theory, which posits that resources such as education, specific skills or personality traits possessed by the individual determine the worth of labor that an individual brings to the marketplace, quickly gained acceptance across the political spectrum as an explanation for why individuals were poor or jobless.²² Human capital theory offered an interpretation of wage earning not as the result of work performed, or as the result of political struggle between labor and management, or of structural conditions imposed by the broader economic system, but rather as a result of the yield on investment in an individual's human capital.²³ As economist Gary Becker argued, "because observed earnings are gross of the return on human capital, some persons earn more than others simply because they invest more of themselves."²⁴

²¹ *Ibid.* Robert Collins, Guy Mucciaroni, and Margaret Weir all point the importance of the the Committee for Economic Development in crafting the central tenets of commercial Keynesianism and creating support for this economic vision within the larger business community.

²² Although the theory of human capital had been around for centuries, political scientist Jennifer Breen notes that it was not understood as resources within the individual worker until the late 1930s, and this view did not gain widespread political popularity until the 1960s. And while human capital theory quickly gained broad popularity, the majority of scholars responsible for crafting and popularizing the theory were conservative academics. Scholars like Theodore Schultz, Jacob Mincer, Gary Becker, and Milton Freidman were early advocates and were either part of or closely aligned with the conservative 'Chicago' school of economics. (Breen 2011)

²³ *Ibid.* 92

²⁴ Becker 1964, 152

As human capital theory gained credibility with policymakers, the solution to unemployment and poverty was increasingly phrased in how best to increase the human capital of certain individuals rather than the direct provision of jobs or income supplements.²⁵ The growing critiques of the stagnationists and the rehabilitated image of business in the postwar years provided an opening for the emergence of a version of Keynesianism that envisioned a drastically limited role for federal government that was much more appealing to the business community.

The victory of the “commercial Keynesian” viewpoint was evident by 1964 in both President Johnson’s State of the Union Address announcing the War on Poverty as well as his Economic Report to Congress, which was delivered along with the annual report of the CEA. Arguing that, “a lack of jobs and money is not the cause of poverty, but the symptom,”²⁶ President Johnson noted that “far too long, our economy has labored under the handicap of a Federal income tax rates born of war and inflation,”²⁷ and identified the “release of \$11 billion of tax reduction into the private spending stream to create new jobs,” as the most immediate solution to the problem of unemployment.²⁸ The CEA praised the Johnson tax bill in its annual report to Congress, echoing the call for “a large reduction in corporate taxes, a cutback of risk-inhibiting top bracket individual tax rates, and a further broadening of the investment credit” as

²⁵ As Gary Mucciaroni notes, by the early 1960s human capital theory had so permeated the policymaking circles in Washington that everyone ‘knew’ that giving the poor the basic education and skills necessary to be competitive in the labor market would end the problem of poverty. (Mucciaroni 1990, 58)

²⁶ Lyndon B. Johnson 1964 State of the Union Address

²⁷ Economic Report of the President 1964

²⁸ Lyndon B. Johnson. 1964 State of the Union Address. Often overlooked in this address is the fact that President Johnson’s advocacy of tax cut takes up nearly half of the speech identified as the launch of the War on Poverty.

President Kennedy, with the backing of the CEA and business community, had proposed tax cuts as the solution to the economic downturn of 1962, but Congressional concern about the effect of tax cuts on the budget deficit stymied passage until President Johnson proposed a similar tax cut with smaller budgetary requests. (Weir 1992, 59-60)

these would “insure the increase in demand necessary to provide markets for our growing productive potential” and “encourage investment.”²⁹ But the CEA report, in a move that would be repeated by President Johnson and other Great Society liberals, coupled the emphasis on tax cuts with policies aimed at easing what it knew would be the increased job insecurity for millions of Americans by advocating increased focus on vocational education, unemployment insurance, and finally noted that “In our concern with the problems of today’s unemployed, it should not be forgotten that a strengthened system of basic education will be the best guarantee against significant problems of displacement and dislocation in tomorrow’s full-employment economy.”³⁰ These policies were based on the assumption that jobs were available for all who were qualified, turning the focus squarely on the deficiencies of the individual.

The adoption of the more conservative version of Keynesian management policy and the broad acceptance of human capital theory brought education into the spotlight as a crucial piece of the policy solution to the problem of unemployment. This shift was evident in 1963 hearings before the Subcommittee on Employment and Manpower, which heard seven days of testimony relating on the importance of education as an important part of the Manpower needs of the nation. Francis Keppel, the Commissioner of Education, described unemployment as in part a problem of “the fit between the educational arrangements in the United States and the nature of the labor market ... the gears are not joining successfully”³¹ and argued that, “Manpower development is education. Education is manpower development ... the only way we can develop

²⁹ Economic Report of the President 1964, 104

³⁰ *Ibid.* 111

³¹ U.S. Congress, Senate Subcommittee on Employment and Manpower, Hearings Relating to the Training and Utilization of the Manpower Resources of the Nation. 88th Congress, 1st sess., pg. 1871.

our manpower resources fully and effectively is to develop our whole educational system.”³²

This sentiment was echoed repeatedly throughout the days of testimony, perhaps most forcefully by Dr. Grant Venn, a representative from the American Council on Education. Claiming that an individual’s “job is more than ever a function of his education,” Dr. Venn argued for a renewed focus on the relationship between the labor market and education since “without a job a man is lost and without educational preparation few jobs are available.”³³ This testimony helped shape the 1963 Manpower Development and Training Act, which was premised on the belief “that an individual is unemployed because he lacks a marketable skill.”³⁴

In 1964 attention shifted more directly to education and the appropriate role for the federal government. President Johnson pledged to “put education at the head of our work agenda,” and soon followed through by submitting the Elementary and Secondary Education Act (ESEA) to Congress in 1965.³⁵ In his statement accompanying the bill, Johnson stated;

The purpose of this legislation is to meet a national problem. This national problem is reflected in draft rejection rates because of basic educational deficiencies. It is evidenced by the employment and manpower retraining problems aggravated by the fact that there are over 8 million adults who have completed less than 5 years of school. It is seen in the 20-percent unemployment rate of our 18- to 24-year-olds ... The solution to these problems lies in the ability of our local elementary and secondary school systems to provide full opportunity for a high quality program of instruction in the basic educational skills because of the strong correlation between educational underachievement and poverty.”³⁶

³² *Ibid.* pg. 1865.

³³ *Ibid.* pg. 1938

³⁴ *Ibid.* pg. 1968

³⁵ Lyndon B. Johnson, Presidential Policy Paper No. 1: Education. November 1, 1964.

³⁶ U.S. Congress, Senate Committee on Labor and Public Welfare, *Report on Elementary and Secondary Education Act of 1965*. 89th Congress, 1st sess., pg. 4

President Johnson's reasoning reflected that of the CEA, which had argued that, "the chief reason for low rates of pay is low productivity, which in turn can reflect lack of education or training, physical and mental disability, or poor motivation," and suggested a renewed focus on primary and secondary education by noting, "if children of poor families can be given skills and motivation, they will not become poor adults."³⁷ The increased federal interest in education by Great Society liberals was driven by the reinterpretation of unemployment and underemployment as a problem of individual deficiencies in human capital rather than as an indication of a fundamental weakness of the market economy.

Understanding that the interest in federal investment in education was premised on a conservative economic turn is critical for comprehending why federal education policies took the form they did. In fact, it is much less likely that the federal government would have been able to establish any authority in this realm had the stagnationist version of Keynesianism been guiding public policy. As Harvey Kantor and Robert Lowe have noted, during the New Deal "education typically was not a conscious tool of federal policy and was of secondary importance compared to other federal measures to revive the economy and alleviate immediate economic sufferings," and those educational measures that were present were geared toward directly providing work for the unemployed, such as school construction.³⁸ By the time that President Johnson proposed the ESEA, the conservative economic shift repositioned education as an alternative to the more direct government intervention pursued during the New Deal Era. Although there was still a significant voice within the executive branch centered in the Department of Labor that called for

³⁷ Economic Report of the President 1964; 66, 75

³⁸ Kantor and Lowe 1995, 4-5

public job creation as the solution to unemployment,³⁹ the turn by Presidents Kennedy and Johnson towards tax cuts and human capital investment through education signified that the conservative vision of the ‘commercial Keynesians’ was the guiding doctrine of Great Society.

Education and the War on Poverty

As the Kennedy administration began to solidify a conservative Keynesian economic policy, it also turned its focus to poverty, an issue that was receiving increasing attention in the popular press. In part driven by a concern about having a policy program for those that would not benefit directly from the proposed tax cuts, President Kennedy asked Walter Heller, the chairman of the CEA, to investigate what could be done about the problem of poverty.⁴⁰ The programmatic approach that would develop was dominated by cultural understandings of poverty, which reinforced the notion from human capital theory that the proper focus of policy attention was addressing deficiencies within the individual. Much like the unemployment policy emerging from the era, the War on Poverty placed a renewed focus on education as essential to solving the problem of poverty.

Although the Federal Government had not focused on the issue of poverty prior to President Kennedy’s directive to Walter Heller, it did have an institutional source that provided an intellectual understanding of poverty, as well as strategies to address it. In 1961, Attorney General Robert Kennedy announced the formation of the President’s Commission on Juvenile Delinquency (PCJD). Created by executive order, this cabinet-level body was composed of the secretaries of the Labor and Health, Education, and Welfare departments, and chaired by the

³⁹ Weir 1992, Muciarroni 1990, Katz 2013

⁴⁰ Weir 1992, 68; Muciarroni 1990, 53

Attorney General. Charged with investigating and tackling the then salient problem of juvenile delinquency, the PCJD reached out to academics early on for guidance on what kind of programs might best address the issue. Chicago sociologist Lloyd Ohlin was a major influence on the Committee's interpretation of juvenile delinquency and the programs it proposed, signing on as the committee's chief research consultant and personally advising the Attorney General.⁴¹ Ohlin and fellow sociologist Richard Cloward had argued in their book, *Delinquency and Opportunity*, that delinquency was primarily the result of a deviant subculture that arose among the lower class frustrated over their inability to realize their aspiration because of blocked opportunities.⁴² This "opportunity theory" was fundamentally a cultural explanation of delinquency, and the notion of differential access to opportunity gained widespread traction as the explanation for delinquent behavior by the early 1960s.⁴³

Cloward and Ohlin's book did not offer specific policy suggestions, however the clear implication was that expansion of opportunities for would "close the gap between aspiration and achievement," and thus attack the aberrant culture at its source.⁴⁴ The authors did suggest that the local community would be the most effective level at which to address the differential opportunity structures. Cloward and Ohlin also singled out access to education as an important source of, and solution to, the origins of delinquent cultures. According to Cloward and Ohlin, the lower-classes placed a lesser value on education because they had fewer educational opportunities than their better off peers.⁴⁵ This fact was damaging, as "the lower-class boy who

⁴¹ Schmitt 2010, 69-72; O'Connor 2001, 128

⁴² Cloward & Ohlin 1960

⁴³ O'Connor 2001, 128

⁴⁴ Katz 2013, 121

⁴⁵ Cloward and Ohlin 1960, 103

fails to secure an education is likely to discover that he has little chance of improving his circumstances,” at which point “discontent may be generated, leading in turn to aberrant behavior.”⁴⁶ The clear implication was that a concerted focus on increasing the educational opportunities of the lower-class could attack the problem of deviant subcultures at the source. The close association of Ohlin with the PCJD, the limited scholarly literature, and the active movement of members of the PCJD into other executive departments resulted in the ‘opportunity theory,’ and the important position it ascribed to education, guiding the policy approach of the broader War on Poverty.⁴⁷

Despite the fact that Cloward and Ohlin claimed their theory applied to the society within which individuals existed, it meshed well with other culture of poverty explanations which tended to take the focus off of the broader economic structures and concentrate the focus on the individual. Culture of poverty theories claimed deviant cultures among some groups had resulted in warped values and family structures leading to widespread poverty and other social problems within these groups. Children raised in these deviant households were mostly doomed to perpetuate the failings of the culture, resulting in the passage of poverty from one generation to the next. The 1965 report by Assistant Secretary of Labor Daniel Patrick Moynihan entitled, *The Negro Family: The Case for National Action*, best exemplifies the modified version of the culture of poverty theory that ultimately held sway with policymakers. Moynihan argued that the source of poverty among blacks was a vicious cycle in which “[l]ow education levels in turn produce low income levels, which deprive children of many opportunities, and so the cycle

⁴⁶ *Ibid.* 98

⁴⁷ Community action programs of the 1964 Economic Opportunity Act were modeled programs that the PCJD had developed to address delinquency. See Katz 2013 and Weir 1992 for accounts of the importance of the PCJD and ‘opportunity theory’ to the policies of the War on Poverty.

repeats itself.”⁴⁸ Like most other culture of poverty theorists, Moynihan argued that addressing poverty meant breaking this cycle, and argued that the lack of education was a critical component of the cycle.

This understanding of the relationship between education and the economic success of the individual is completely consistent with that of human capital theory, which was frequently formulated as “the belief that a good education would lead to individual financial success, higher personal status, and the benefits of a flourishing economy.”⁴⁹ With human capital theory and the culture of poverty theory both pushing similar interpretations of poverty, policymakers increasingly turned towards “youth, who human capital theorists argued were in the best position to reap the rewards of greater investment in themselves ...in the hopes that doing so would break the ‘cycle of poverty.’”⁵⁰ President Johnson clearly drew on this understanding of education in justifying the need for a federal role in education targeted at the disadvantaged. His message accompanying the delivery of the ESEA to Congress indicated, “with education, instead of being condemned to poverty and idleness, young Americans can learn the skills to find a job and provide for a family.”⁵¹ Johnson also mentioned the “cost in other terms” of failing to invest in education, noting “we spend \$1,800 a year to keep a delinquent youth in a detention home - \$2,500 for a family on relief - \$3,500 a year for a criminal in a State prison.”⁵² Senator Robert Kennedy agreed on the need for an early educational focus in breaking the cycle of

⁴⁸ Moynihan 1965

⁴⁹ Cuban 2004, 10

⁵⁰ Breen 2011, 107

⁵¹ U.S. Congress, Senate Committee on Labor and Public Welfare, *Report on Elementary and Secondary Education Act of 1965*. 89th Congress, 1st sess., pg. 3

⁵² *Ibid.* 3-4

poverty, noting, “by the time you start to focus the attention on them at the age of 12, they are already lost to society.”⁵³

The CEA enthusiastically supported education as a poverty program, in part because it was a substantially cheaper approach that was compatible with its primary policy proposal of tax cuts,⁵⁴ but it also fit well with its broader political goals. In a particularly revealing statement of the degree to which education had come to replace more direct programs aimed at the poor, the 1964 CEA report asserted that “tax reduction is the first requisite in 1964 of a concerted attack on poverty,” and praised the focus on education as an attack on the root cause of poverty:

Conquest of poverty is well within our power. About \$11 billion a year would bring poor families up to the \$3,000 income level we have taken to be the minimum for a decent life. The majority of the Nation could simply tax themselves enough to provide the necessary income supplements to their less fortunate citizens. The burden ... would certainly not be intolerable. But this ‘solution’ would leave untouched most of the roots of poverty. Americans want to *earn* the American standard of living by their own efforts and contributions ... We can surely afford greater generosity in relief of distress. But the major thrust of our campaign must be against causes rather than symptoms.⁵⁵

The use of the cultural understanding of poverty served as powerful weapon for the CEA. This understanding positioned the individual as the proper policy focus, and further allowed the CEA to claim that policies of direct redistribution and job creation advocated by the Labor Department would not only degrade recipient, but would likely only perpetuate the poverty problem. In its place, the CEA advocated attacking the ‘roots’ of the problem through educational investment aimed at breaking the intergenerational cycle poverty.

⁵³ U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 901

⁵⁴ Muciarroni 1990, 55

⁵⁵ Economic Report of the President 1964, 77-78

The theoretical understanding of poverty that drove the programmatic approach of the War on Poverty echoed the conservative understanding of unemployment as a problem of individual failing. Furthermore, like the unemployment dilemma, Great Society liberals looked toward education as the best curative policy measure. Even as these understandings diverted attention from more redistributionary policies, they did create a powerful argument for a federal presence in public elementary and secondary education policy. The successful passage of ESEA after years of failed attempts to pass general aid legislation represented a significant achievement for the Johnson administration. Although liberals had succeeded in their long-sought goal of institutionalizing a federal role in education, the conservative economic shift that paved the way for their success would significantly shape the policies that would emerge.

Early Federal Policy Development: The Origins of Punitive Accountability Policies

The consensus that education was the most effective means of addressing the issue of unemployment and poverty created a powerful coalition in Congress to push for compensatory education. In an important shift, rather than the general aid bills that had been proposed and defeated since the late 1800s, this bill would focus on the disadvantaged. This focus was driven by the understanding that emerged from the unemployment and poverty debates. In his 1964 Economic Report to Congress, President Johnson outlined education as his first priority in the War on Poverty. Arguing that education was key to earning power through the acquisition of marketable skills, he implored Congress to “upgrade the education of the children of the poor, so

that they need not follow their parents in poverty.”⁵⁶ This view was echoed in the Department of Labor after the 1963 Manpower hearings, as assistant Labor Secretary Stanley Ruttenberg noted:

“It became increasingly evident that it was not the skilled workers, the family men with long-time work experience, who were left behind ... it was already evident that we were working with the wrong woodpile ... It was the disadvantaged who filled the ranks of the unemployed -- those who were discriminated against or were never equipped in the first place to function successfully in the free labor market. The problem was the bottom of the labor barrel, not the top.”⁵⁷

The interpretation of poverty and unemployment as largely attributable to individual deficiencies in skill or culture drove the compensatory approach of ESEA, in which funds were targeted towards the disadvantaged poor.

The centerpiece of the compensatory strategy was Title I, which accounted for between 75 to 85 percent of total ESEA funding.⁵⁸ Title I was a categorical grant that provided schools funding based on the concentration of low-income families, defined as families earning less than \$2,000 annually. This design ensured that although Title I funds would be targeted towards the poor, funding would also be widely distributed with over 94 percent of school districts ultimately receiving Title I money.⁵⁹ The formula grant enabled substantial discretion for local educational agencies to pursue a variety of approaches aimed at increasing the educational opportunity of the disadvantaged. The school, with the help of federal funding, would help ensure that no individual was arbitrarily relegated to economic squalor due to discrimination, cultural deprivation or technological displacement.

⁵⁶ *Ibid.* 15-16

⁵⁷ Ruttenberg 1970

⁵⁸ Urban & Waggoner 2009, 373

⁵⁹ McGuinn 2006, 31

In addition to inspiring hope, the understanding of education as the central mechanism for overcoming poverty and unemployment also drove many Great Society liberals to criticize schools and teachers as responsible for these problems in the first place, and demand accountability for any federal funds distributed by the ESEA. No member of Congress represented this tendency more than New York Senator Robert Kennedy. Reflecting the concerns of many of his constituents, particularly his minority constituents,⁶⁰ Senator Kennedy repeatedly expressed his belief that the schools and teachers themselves bore a substantial portion of the blame for the state of education for the poor.⁶¹ In questioning Commissioner of Education Francis Keppel, Senator Kennedy charged, “would you agree ... that from your experience of studying the school systems around the United States, that the school system itself has created an educationally deprived system?”⁶² After Commissioner Keppel agreed, Kennedy questioned the wisdom of giving these schools more money, saying, “if you are placing or putting money into a school system which itself creates this problem or helps to create it ... are we not just in fact wasting the money of the Federal Government and of the taxpayer?”⁶³ Kennedy was concerned not that education could not help the disadvantaged, but that absent a

⁶⁰ For Example, see the 1964 Harlem Youth Opportunities Unlimited (HARYOU) report, *Youth in the Ghetto: A Study of the Consequences of Powerlessness and a Blueprint for Change*.

⁶¹ Indeed, Kennedy argued that, “If you are going to judge [the school system] on whether the children are keeping up with their reading, reading ability, whether they are dropouts, whether they are involved in juvenile delinquency, all of these matters in these various communities at the present time, including my own city of New York, you would have to say that the school system is flunking.”(U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 2729-2730. See also p. 3086)

⁶² U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 511. See Also pg. 2663

⁶³ *Ibid.* 511; see also pg. 2840, 3084

mechanism of accountability schools would continue to contribute to the “economic educational deprivation of the child,” a concern shared by Commissioner Keppel.⁶⁴

Senator Kennedy desired that funds distributed by Title I of ESEA be accompanied by “some standardized test that could be given in these areas where the money has been invested to determine whether, in fact, the child is making the kind of progress that we hope.”⁶⁵ Kennedy had made clear to Commissioner Keppel and Assistant Secretary of Department of Health, Education and Welfare (DHEW) Wilbur Cohen that his support for ESEA was dependent upon some sort of addition to the bill that “hold educators responsive to their constituencies and to make educational achievement the touchstone of success in judging ESEA.”⁶⁶ Telling Keppel, “Look, I want to change this bill because it doesn’t have any way of measuring those damned educators like you, Frank,” Kennedy’s refusal to support the legislation absent an evaluation amendment came close to derailing the legislation.⁶⁷ Keppel agreed with Kennedy on the need for some sort of evaluation provision, and helped draft an amendment that required any local educational authority wishing to receive federal grant to prove, “That effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children,” as well as make these results public.⁶⁸

⁶⁴ *Ibid.* 511. Later on in the hearings, noting poor reading ability test scores, dropout numbers, and juvenile delinquency Kennedy argued that, “the school system must have something to do with it, and if the program they have had in effect over the period of the last decade has produced such poor results and *destroyed the lives of these children, then I think that whoever is responsible for that should be held responsible.*”(3086, emphasis added).

⁶⁵ *Ibid.* 512; See also pg. 1298, 2663, 2727, 2875, 3085

⁶⁶ Halperin 1970

⁶⁷ Graham 1984, 78-79; See also, McLaughlin 1975, 3

⁶⁸ U.S. Congress, Senate Report No. 146, *Report together with Minority and Individual Views*, 89th Congress., 1st sess. p. 40. See also, Halperin 1975, pg. 8, and McLaughlin 1975.

Realizing that this type of evaluation provision would likely provoke strong backlash from conservatives and professional education like the American Federation of Teachers, Commissioner Keppel asked Samuel Halperin, the Director of the Office of Legislation of the United States Office of Education (USOE), to quietly insert the new provision into the bill. According to Halperin, he did this by giving the new evaluation provision to Representative John Brademas while not divulging what it was and therefore allowing him believe that it was simply a perfecting amendment that did not substantively change the bill and therefore did not require a House debate and vote. The tactic worked, and the evaluation requirement attracted no attention and received no substantive debate.⁶⁹

In the Senate Hearing, Senator Kennedy made sure to emphasize to Commissioner Keppel that he expected the USOE to follow through on holding schools accountable, telling him, “unless there is a meaningful program developed at the local level, which is really tested and checked by you, I don’t think this program is going to be effective.”⁷⁰ The Commissioner assured Kennedy that the evaluation amendment, and the requirement that the results be shared and disseminated, would mean that “we can really depend on the competitive instinct, the competition of American school systems,” to assure accountability for raising educational achievement. If this did not work, Keppel argued, “I think we have some instruments here frankly to needle a lot of the schools.”⁷¹ Secretary Celebrezze of the DHEW told Kennedy that

⁶⁹ McLaughlin 1975, 23

⁷⁰ U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 903

⁷¹ *Ibid.* 901

local educational agencies would have to submit plans that complied with the evaluation provisions, “or they get no funds.”⁷²

Although Kennedy was primarily responsible for the inclusion of the evaluation provision and the raised achievement test score standard of success in the ESEA, his view was shared by several of his fellow liberal Senators and several important members of the executive branch that would be responsible for implementing the bill. Senator Wayne Morse (D-OR), the Chairman of the Subcommittee on Education, repeatedly expressed his endorsement of Kennedy’s line of questioning.⁷³ Both Secretary Celebrezze and his assistant Wilbur Cohen supported the strong evaluation requirements, as did Celebrezze’s replacement, John Gardner. Secretary Gardner also created the position of Assistant Secretary of Program Evaluation filled by William Gorham, who became a powerful advocate for evaluation based on achievement scores within the DHEW.⁷⁴ There were also those outside of government who were similarly critical of the schools and teachers, most notably prominent African American social psychologist Kenneth Clark. Clark argued that any reform needed to address the fact that the low expectation of schools and teachers for “culturally deprived” students contributed to their poor performance.⁷⁵ These voices represented a powerful coalition of liberal voices that were confident that schools could help address the problem of joblessness and poverty, but only if schools were held accountable for the

⁷² *Ibid.* 515

⁷³ For example see U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., pg. 528

⁷⁴ McLaughlin 1975, 5-6

⁷⁵ Clark, 1989. Also see Cohen and Moffitt 2009, pg. 71 and Kantor 1989, pg. 66. For another example of a voice outside of government that agreed with Kennedy’s analysis, see the testimony of Lindley J. Stiles, Dean of the University of Wisconsin’s School of Education before the Senate Subcommittee on Education (U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 3076-3091). In his statement, the Dean Stiles presciently called for a “program of evaluation ... designed to measure the increments of educational gain achieved by individual pupils, school systems, and States that have support under Title I,” and argued “Federal assistance without educational accountability ... is sheer educational and fiscal irresponsibility.”(3090-3091).

achievement scores of their students. The result of the active maneuvering of this likeminded group was evaluation and reporting requirements that were unprecedented for a piece of social legislation.

However, without the secretive strategy of including evaluation in the final bill, it is unlikely that the ESEA would have included such a provision. Professional education groups were broadly against evaluation of the type mentioned in the Kennedy amendment arguing that such evaluations would undermine the professionalism of teachers by removing the evaluation from their responsibilities, would lead to destructive comparisons among teachers, schools, and school districts, and the narrowing of educational focus to only tested subjects.⁷⁶ These concerns meant that “educators were in almost complete agreement that standardized tests were insensitive and inappropriate measures of the effectiveness of a Title I program.”⁷⁷ Republicans, some Southern Democrats, and religious organizations were also suspicious of the type of evaluation proposed by Kennedy, as the use of such standardized measures could eventually lead to national standards and curriculums, ultimately threatening local autonomy.⁷⁸ Furthermore, the educational research community was largely in agreement that changes in education strategies had little affect academic achievement, prompting some members of the American Educational Research Association to ask that the Association officially go on record as opposed to the Kennedy evaluation requirement of Title I at their 1966 annual meeting.⁷⁹ Had the amendment

⁷⁶ See “National Education Assessment: Pro and Con.” National Education Association, Washington, D.C., 1966. As McLaughlin points out, the type of damaging comparison between teachers, schools, districts and states feared by teachers appeared to be exactly what Commissioner Keppel had in mind when praising the stimulation of “competitive instinct” that would be encouraged by the evaluation and public distribution requirements of the ‘Kennedy Amendments.’ (McLuaghlin, 9)

⁷⁷ McLaughlin 1975, 10. See also, Schmitt 2010, 117

⁷⁸ See U.S. Congress, House Subcommittee on Education, *Hearing on Aid to Elementary and Secondary Education*, 89th Congress., 1st sess., p. 825. Also see U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess., p. 3091 for the outlining and critique of this view.

⁷⁹ McLaughlin 1975, 10, 38. See also, Cohen and Moffitt 2009, 69; and Jeffrey 1978.

received open debate, it is probable that these groups would have prevented its inclusion in the final bill.

After passage, mandated evaluations of the ESEA and compensatory education began to shift the focus of the legislation towards the goal of increasing achievement scores of disadvantaged students on standardized tests. The 1966 Equality of Educational Opportunity Survey (EEOS), popularly known as the Coleman Report after its lead author, cast doubt on whether compensatory funding would raise achievement of poor and minority students. Commissioned as part of the 1964 Civil Rights Act, the EEOS reported “it appears that differences between schools account for only a small fraction of the differences in pupil achievement.”⁸⁰ The conclusion that inequalities in school resources, variations in curriculums, and teacher experience and education had little effect on student achievement scores measured by standardized tests, and that 80 percent of variation in student achievement occurred within schools rather than between them seemed to directly rebut the intellectual foundations of compensatory funding.⁸¹ The negative findings of the Coleman Report were soon confirmed by a study conducted by E.J. Mosbaek of the General Electric Company, commissioned by the DHEW. Known as the G.E. Tempo report, it was authorized by the ‘Kennedy Amendments,’⁸² and drew its data from the of achievement test evaluations mandated by the same amendments. The G.E. Tempo report looked at the effect on standardized test scores of Title I funds on five school districts, finding that scores increased in one district, remained the same in three districts,

⁸⁰ Coleman Report 1966, 22

⁸¹ Coleman later noted that he thought that the use of achievement test scores could be a useful means of evaluating programs targeted towards disadvantaged children, but that the current system schools was unlikely to succeed in this since “the school is trapped by its own organizational weight.” He suggested that private contractors could be compensated and incentivized through their ability to raise the test scores of poor children. (U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Amendments of 1969*, 91st Congress., 1st sess., p. 1255)

⁸² Cohen and Moffitt 2009, 252 n13.

and decreased in the final district despite the increased funding.⁸³ The high profile reports shocked Congressional liberals, and quickly put them on the defensive.

These findings should not have been surprising given that such negative and null findings had long been the norm in education research. However, these reports had the effect of enshrining the raising of standardized test scores and the closing of achievement gaps as the primary purpose of the ESEA, and the standard by which it would be judged. This development was not a forgone conclusion, as Title I had never specified that improvement on standardized tests of achievement was the legislation's objective. Indeed, this topic had been intentionally avoided because of the likely backlash such an objective would have provoked. Furthermore, as Milbrey McLaughlin notes, there were many other metrics by which Title I could have been judged. Researchers easily "could have looked at the efficiency of the delivery of Title I services, or examined the effects of Title I on the redistribution of educational services between socioeconomic groups," and in fact, "such study designs [were] more typical of evaluations conducted in other areas of DHEW."⁸⁴ Congressional liberals did not raise any of these issues, instead, they largely adopted the view that improvement in achievement test scores and the narrowing achievement gap should be the standard of success for Title I.

As several reports focused on the limited effect of compensatory education on achievement scores, others focused on where the ESEA funds were actually being spent. A particularly influential report sponsored by the NAACP's Legal Defense and Education Fund and the Washington Research Project, questioned whether Title I funds were being used for their

⁸³ Moesbaek et. al. 1969, 2-3.

⁸⁴ McLaughlin 1975, 36. For example, at the time health programs were largely assessed on terms of distribution and delivery rather than impact. (*Ibid.* 46 n.28)

intended purposes. The 1969 report, entitled *Title I of ESEA: Is It Helping Poor Children?*, argued that although “the central purpose of Title I is to raise academic achievement ... Title I in some school systems is not being used at all, or only in a limited way, for academic programs for the special educational needs of children from poor and minority communities.”⁸⁵ The report noted several instances in which Title I funds were being used for programs that had existed before ESEA, not targeted specifically at the disadvantaged, or diverted into programs that were not specifically education related. Claiming that many states were treating Title I funds as if it were general aid rather than compensatory, the authors urged Congress, the Department of Justice and the USOE to crack down on schools systems that had misused funds. Their suggestions included the “immediate action” of demanding “restitution of misused funds” against local education authorities not in compliance, a Congressional oversight hearing, additional staff members within the USOE devoted to enforcing that States and local authorities were in compliance as well as additional audits and evaluation of Title I programs.⁸⁶ The report positively cited the recent action taken by the USOE against the state of Mississippi. In response to several complaints, the USOE conducted a review in the summer of 1969 of the State’s administration of Title I funds and found that it had violated several Federal policies. Then Commissioner of Education James Allen ordered that no Title I projects be approved for 1970 until remedial action had been taken, and froze Title I expenditures for several broad areas such as construction, supplies and equipment, and custodial services.⁸⁷ The report endorsed a more

⁸⁵ Martin & McClure 1969, 29.

⁸⁶ *Ibid.* iii-iv.

⁸⁷ *Ibid.* 54

muscular federal enforcement of ESEA provisions, and sanctions for those who violated them, as the best means of “fulfilling a long-needed promise to our Nation’s poor children.”⁸⁸

The reports finding limited effects on achievement of compensatory funding and misspent funds resulted in quick Congressional action. Through the 1969 Amendments to the ESEA, Congress increased the focus on standardized tests and sought to strengthen and encourage the USOE to sanction states and localities that did not comply with Title I provisions. Despite testimony by academics and policy specialists expressing concern over the extent to which the ESEA had come to be judged by standardized tests,⁸⁹ Congress passed amendments that provided funding for states and the USOE to help localities develop and implement these tests,⁹⁰ required local educational agencies to set objectives and report annually on their progress,⁹¹ and extended the “objective measurement of education achievement” requirements to sections of the bill targeting handicapped children⁹² and districts receiving additional funds for the having the highest concentration of disadvantaged students.⁹³ By 1974, Congress moved decisively to orient the ESEA around improving academic performance, requiring DHEW to “develop and publish standards for evaluation of program effectiveness,” including “goals and

⁸⁸ *Ibid.* 58

⁸⁹ U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Amendments of 1969*, 91st Congress., 1st sess., p. 1250-1251.

⁹⁰ U.S. Congress, Senate Committee on Labor and Public Welfare, *Report on Elementary and Secondary Education Amendments of 1969*, 91st Congress., 2nd sess., p. 8-9.

⁹¹ *Ibid.* 15

⁹² U.S. Congress, House of Representatives, *Conference Report on the Elementary and Secondary Education Amendments of 1969*, 91st Congress., 2nd sess., 88.

⁹³ *Ibid.* 65

specific objectives in qualitative and quantitative terms,” and required annual reports on the “effectiveness” of compensatory programs.⁹⁴

Along with increasing the focus on objective educational achievement measures originally desired by Senator Kennedy, the 1969 Amendments also encouraged more aggressive oversight, including sanctions on noncompliant states, by the USOE. Citing the NAACP Legal Defense Education Fund Report, the Senate Committee on Labor and Public Welfare expressed its “deep concern about the necessity for stronger enforcement of Title I requirements by both Federal and State agencies in monitoring the legitimate and effective use of Title I funds by local educational agencies.”⁹⁵ Praising the action the USOE had taken in the case of Mississippi, the committee pushed for “vigorous action” and increased prioritization and staff devoted to compliance, and a greater focus on auditing and state program reviews within the USOE.⁹⁶ The USOE appeared to get the message from Congress when the next year the Commissioner of Education sent out letters to states indicating violations from the previous three years, and expected to request a total repayment as high as \$30 million from the nearly thirty states that were not in compliance.⁹⁷ By 1977, the total amount of repayment of Title I funds sought by the USOE had reached \$240 million.⁹⁸ Although much of the compliance action had been geared towards misspent funds, the 1974 ESEA extension required that the USOE report on plans for “implementing corrective action” for those programs that had not met their specific qualitative or

⁹⁴ Halperin 1975, 8

⁹⁵ U.S. Congress, Senate Committee on Labor and Public Welfare, *Report on Elementary and Secondary Education Amendments of 1969*, 91st Congress., 2nd sess., p. 9.

⁹⁶ *Ibid.* 10. See also, Cohen and Moffitt 2009, 60-61.

⁹⁷ Phi Delta Kappan 1971, 199

⁹⁸ National Institute of Education 1978

quantitative effectiveness objectives.⁹⁹ As Samuel Halperin, the former Director of the Office of Legislation of the USOE who helped slip the ‘Kennedy Amendments’ into the original ESEA, pointed out, this clearly oriented the federal education state around “ensur[ing] that public funds result in gains in learning, particularly in reading and mathematics.”¹⁰⁰

The quick alignment of the ESEA around the goal of increasing achievement as measured by standardized test scores, and the emerging strategy of sanctions as a means of insuring progress towards this goal, was the result of understanding education as an unemployment and poverty program. The reason that Senator Kennedy, Commissioner Keppel and others liberals supported the extensive evaluation requirements and the standardized test score standard was due to a belief that education could eliminate these problems if educational opportunity was equalized. Moreover, as this belief triggered widespread liberal support for investment in education, it also triggered suspicions of the role the existing educational structures had played in perpetuating disadvantage and demands for accountability. As Senator Kennedy noted in the Senate ESEA hearings;

“Most of us, 95 percent of us, are doing well, but there are 5, 8, or 10 percent of our young people who, through no fault of their own, are never going to be able to live decent lives... I just do not believe that we can meet our responsibilities here as Members of Congress or others, or as American citizens, and let that kind of situation exist. I think it is the fault of the school system that has been permitted to exist as long as it has.”¹⁰¹

The disappointing results of the initial reports on the effectiveness of ESEA programs at raising the test scores of low-income children did not result in a questioning of the appropriateness of

⁹⁹ Halperin 1975, 8

¹⁰⁰ *Ibid.*

¹⁰¹ U.S. Congress, Senate Subcommittee on Education, *Hearing on Elementary and Secondary Education Act of 1965*, 89th Congress., 1st sess. pg. 3014

test scores as measure of success or a reexamination of the ability of compensatory education to raise achievement scores.¹⁰² Instead, the early results strengthened the use of achievement scores as a yardstick, increased evaluation of ESEA programs, and the led to increased enforcement of stricter sanctions on states who failed to deliver.

Conclusion

The conservative economic shift that paved the way for a liberal victory in enacting the first major federal involvement in public elementary and secondary education policy also set the federal education state down a path of punitive policies aimed at increasing standardized test scores. The design of the ESEA reflected the conservative “commercial Keynesianism” interpretation of the problem of poverty and joblessness, which meshed well with the prominent academic diagnoses of these problems as fundamentally the result of individual failings of culture or human capital. A federal education program aimed at the disadvantaged was a way to implement a poverty and unemployment program without tackling these issues more directly, and more expensively, through direct job creation or redistribution. As the faith in the education solution provided tremendous political capital in getting an education bill through Congress, it also led some Great Society liberals to demand an unprecedented level of evaluation and insist that standardized achievement scores be the metric by which teachers, schools, and educational programs ultimately be judged. Failing to raise scores became grounds for punitive sanctions, as schools and teachers became the front line of the nation’s unemployment and poverty program.

¹⁰² As a Democratic staffer on House Subcommittee on Education noted, the effect of the first round of reports was that “success came to be measured by achievement. Democrats who in 1964-1965 had looked at Title I as a poverty program had to try to find achievement data with which to defend it.” (as quoted in Cohen and Moffitt 2009, 73)

Most current accounts of punitive accountability policies suggest that they emerged largely in response to the excesses and failed promises of the federal education state and the Great Society more broadly. Present explanations describe the 1965 ESEA as the high point of the Great Society attack on poverty and inequality which was later reined in by conservatives committed to an agenda of expanded use of standardized tests, school choice, and a renewed focus on excellence over equity.¹⁰³ However, this narrative overlooks the extent to which accountability, evaluation and sanctions were first supported and institutionalized in the ESEA by liberal lawmakers. Placing the passage of the 1965 ESEA within the larger debates about unemployment and poverty clarifies that as liberals successfully institutionalized a federal role in public education, they also institutionalized a conservative educational vision that quickly led to increasingly punitive policies.

The problematic interpretation of the purpose of education as a poverty and unemployment panacea has led to a fixation on the best way to hold schools, teachers and students accountable for standardized test scores and achievement gaps. This orientation shows little sign of changing despite a long history of evidence of the inability of schools or teachers to change test scores, and more recent research that has called into question the assumed connection between education, wages and employment.¹⁰⁴

President Obama has called for the development of new standardized tests, increased achievement requirements, and the tying of teacher pay and retention to student performance on these tests, and justified these punitive accountability policies by noting;

¹⁰³ See Rhodes 2012; Henig 2009; Manna 2006; McGuinn 2006, McGuinn 2009, Debray 2006; Fabricant and Fine 2012; Saltman 2007; Saltman 2012; Buras 2004, Kohn 2004, Apple 2006

¹⁰⁴ McLaughlin 1975; Jeffrey 1978; Lafer 2002; Wolff 2006

Education is an economic issue -- if not 'the' economic issue of our time ... For years, we've recognized that education is a prerequisite for prosperity. And yet, we've tolerated a status quo where America lags behind other nations... Meanwhile, when it comes to black students, African American students trail not only almost every other developed nation abroad, but they badly trail their white classmates here at home -- an achievement gap that is widening the income gap between black and white, between rich and poor.¹⁰⁵

Much like Great Society liberals, President Obama positioned the ability of education to attack the problems of poverty and unemployment as pretext for pursuing harsh accountability policies. As long as federal education policy is premised on the understanding of education as a poverty and employment program, it is likely that the immense expectations and responsibility placed on the primary and secondary public education system of the United States will continue to push federal policy in a punitive direction.

¹⁰⁵ Obama 2010

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