

NEA, school districts sue ED over NCLB

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The National Education Association (NEA), eight school districts, and teacher organizations in 10 states on April 20 filed suit in federal district court accusing the Bush administration of failing to meet provisions of the No Child Left Behind Act (NCLB) that require federal funding sufficient to meet the demands of its landmark law.

The NEA, which represents more than 2.7 million educators nationwide, and the other plaintiffs allege the federal government has failed to live up to its promise to pay for the costs associated with implementing and achieving the goals set forth under the law and instead has saddled states and local school systems with what amounts to a myriad of unfunded mandates.

Even as the NEA and the other plaintiffs were headed toward the court house, President Bush defended the law at a White House ceremony. "I love the spirit of the No Child Left Behind Act," the president said. "I suspect the teachers love the spirit of challenging the soft bigotry of low expectations."

Dennis Pollard, an attorney representing schools in Pontiac, Mich., said the lawsuit was strictly about funding. "There is no intent to frustrate the purpose of No Child Left Behind," he said.

The lawsuit accuses the government of shortchanging schools by at least \$27 billion, the difference between the amount Congress authorized and what it has spent.

Education Secretary Margaret Spellings, as chief enforcer of the law, is the defendant. She is accused of violating the law and the spending clause of the U.S. Constitution.

Bush is facing NCLB battles on other fronts, too. The Republican-led Utah Legislature voted Tuesday to put its educational goals ahead of the federal law despite the possible loss of \$76 million, Connecticut is planning its own lawsuit, and other states are balking over money.

According to the NEA lawsuit, the rising costs associated with the sweeping federal law are forcing schools to divert important dollars from other endeavors, including class-size reduction, teacher retention and training, and the continued integration of technology in the nation's classrooms. Without adequate funding, the plaintiffs argue, the law's promise is unattainable--and

teachers are denied any chance of preparing students for the demands of the 21st century.

"Today we're standing up for children, whose parents are saying, 'No more' to costly federal regulations that drain money from classrooms and spend it on paperwork, bureaucracy, and big testing companies," said NEA President Reg Weaver in a statement. "The principle of the law is simple; if you regulate, you have to pay."

But the NEA says the White House is attempting to reduce the NCLB funding shortfall by taking money from other programs and putting it toward the testing and accountability requirements of NCLB.

The loss of certain programs, including such core technology initiatives as the \$500-million Enhancing Education Through Technology (EETT) block grant and the program for 21st Century Learning Centers, critics argue, would unjustly siphon money from the nation's classrooms and put it toward the creation of more high-stakes tests.

The plaintiffs say they filed the suit because the administration has not heeded the specific demands of NCLB, which states:

"Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local education agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act."

"What it means is just what it says--that you don't have to do anything this law requires unless you receive federal funds to do it," said NEA general counsel Bob Chanin. "We want the Department of Education to simply do what Congress told it to do. There's a promise in that law, it's unambiguous, and it's not being complied with."

The NEA says the lawsuit is not about stopping NCLB, but about forcing the "Bush administration to follow the requirements of its own law and pay for the regulations it is imposing on children's classrooms."

In defense of its actions, the U.S. Department of Education (ED) responded by calling the lawsuit "regrettable" and accused the NEA and the other plaintiffs of not looking at the whole picture.

At the White House, spokeswoman Dana Perino said Bush has overseen "historic levels of funding" and a commitment to holding schools to high standards. States are making strong achievement gains under the law, she said.

According to ED's Press Secretary Susan Aspey, "President Bush and Congress have provided historic funding increases for education, and yet we continue to hear the same weak arguments from the NEA." Added Aspey: "Four separate studies assert the law is appropriately funded and not a mandate."

But the plaintiffs cite studies of their own, outlining billions of dollars in extra expenses required to meet the law's mandates. They include the costs of adding testing, getting children up to grade level in reading and math, and ensuring teachers are highly qualified.

The plaintiffs want a judge to order that states and schools don't have to spend their own money to pay for the law's expenses--and to bar ED from yanking federal money from a state or school that refuses to comply based on those grounds.

"It is the cruelest illusion to give the children a promise that we never intended to keep," said Bill Mathis, superintendent of the Rutland Northeast Supervisory Union in Vermont, one district in the suit.

ED disagrees. "No Child Left Behind is, at its core, about fairness and educational opportunity for all students," said Aspey. "The preliminary results are in, and in just three short years, states across the nation are showing strong gains in student achievement. The achievement gap--decades in the making--is finally starting to narrow."

The suit, *Pontiac School District v. Spellings*, was filed in the United States District Court for the Eastern District of Michigan.

"The school district has to pay for this law, and it is taking away from my child's classroom subjects like music, art, foreign languages, social studies, and sports," said Jose Zuniga, a parent from Laredo, Texas. "Those activities are being replaced with high-stakes, high-stress tests that don't help my child learn."

Rather than fight the law, Aspey said, NEA and the other plaintiffs should work with federal officials to achieve a common goal.

"We intend to continue moving forward in partnership with national and state education leaders, and look forward to the day when the NEA will join us in helping children who need our help the most in classrooms, instead of spending its time and members' money in courtrooms," Aspey said.

Here are the school-district plaintiffs:

- ◆ School District of the City of Pontiac (Michigan)
- ◆ Laredo (Texas) Independent School District
- ◆ Leicester (Vermont) Town School District

- ◆ Neshobe (Brandon, Vt.) Elementary School District
- ◆ Otter Valley (Brandon, Vt.) Union High School District
- ◆ Rutland (Brandon, Vt.) Northeast Supervisory Union
- ◆ Pittsford (Vermont) Town School District
- ◆ Sudbury (Vermont) Town School District

Links:

National Education Association

<http://www.nea.org>

Lawsuit details

www.nea.org/lawsuit

U.S. Department of Education

<http://www.ed.gov>