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Major Court Ruling on No Child Left Behind: States and School Districts Not Required To Spend Own Funds To Comply With Law

Victory announced on the eve of the controversial law's sixth anniversary

WASHINGTON—On the same day President George W. Bush held a press conference in Chicago to defend the failing No Child Left Behind, and on the eve of NCLB's sixth anniversary, a federal appeals court delivered yet another major blow to the controversial law. The United States Court of Appeals for the Sixth Circuit ruled today that Secretary Spellings is violating the Spending Clause of the Constitution by requiring states and school districts to spend their own funds to comply with the law.

“The court’s message couldn’t be more clear: If the president is sincere about continuing No Child Left Behind, he needs to put his money where his mouth is,” said NEA President Reg Weaver. “The president refuses to budge on NCLB, his flagship domestic policy, but unless he takes action it is clearly a sinking ship.”

Six years ago, President Bush promised to fully fund NCLB. But the president has consistently refused to make good on his promises. Due to Bush’s recent veto of the FY 2008 education appropriations bill, there will be a \$14.8 billion gap in funding for NCLB programs. That is on top of the previous cumulative gap of \$56.1 billion.

The ruling is a major victory for the National Education Association and the other plaintiffs – including nine school districts and nine NEA state affiliates – which brought the lawsuit in April 2005 to oppose costly federal regulations that divert money from children and classrooms to paperwork and bureaucracy. Today’s ruling by the appeals court reverses the lower court’s November 2005 summary judgment dismissing the lawsuit.

At issue is Section 9527(a) of the law that says, “Nothing in this Act shall be construed to mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.”

NEA and the other plaintiffs had argued in their complaint that this section of the law prevents the federal government from requiring states and school districts to spend their own funds to comply with the law’s mandates.

The lawsuit does not challenge the laudable goals of the law or call for its dismantling. Instead, it simply argues that any federal mandates in this law must come with tools and resources to get the job done. Otherwise, educators can’t be expected to do more with less. The court agreed, holding that the Education Department’s interpretations of NCLB, requiring that states and school districts devote their own funds to NCLB compliance, “violate the Spending Clause.”

“It’s time for the Secretary to comply with the law and the Constitution,” Weaver said. “If the administration won’t ensure that states and schools have the federal funds needed to implement the law, then they must cease with threats to punish states and districts who cannot comply due to lack of federal funds.”

The lack of funding at issue in the lawsuit is just one aspect of NCLB that has come under increased fire recently. Parents, teachers and lawmakers have called for reform because of the law’s obsessive focus on standardized testing, heavy-handed punishments and bureaucratic protocols.

*For more information, please visit: www.nea.org/esea
The decision is available at: www.ca6.uscourts.gov/opinions.pdf/08a0006p-06.pdf*