

# ELEMENTARY AND/OR SECONDARY EDUCATION TOPIC BACKGROUND

Rich Edwards  
Baylor University  
2017-18 National Policy Topic

Resolved: The United States federal government should substantially increase its funding and/or regulation of elementary and/or secondary education in the United States.

## ESEA, NCLB, and ESSA

Almost all federal education legislation is contained in the periodic renewal of the Elementary and Secondary Education Act (ESEA), first adopted in the Johnson administration (1965)

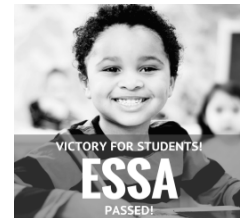


Improving America's Schools Act (1994) – created the Federal Charter School Program (CSP)



No Child Left Behind (NCLB) – the brain child of president George W. Bush and Edward Kennedy (2002) – A high-stakes testing regime was created.

Every Student Succeeds Act (ESSA) – pushed by a Republican Congress and somewhat reluctantly signed by Barack Obama (Dec. 2015). Sent lots of decision making back to the states.



## ESSA's Titles

- Title I: Improving programs operated by state and local education agencies
- Title II: Preparing high quality teachers & leaders
- Title III: Language Instruction for English Language Learners
- Title IV: 21<sup>st</sup> Century Schools (Drug & violence prevention)
- Title V: State Innovation and Local Flexibility
- Title VI: Indian, Native Hawaiian and Alaska Native Education
- Title VII: Impact Aid
- Title IX: Education for the Homeless

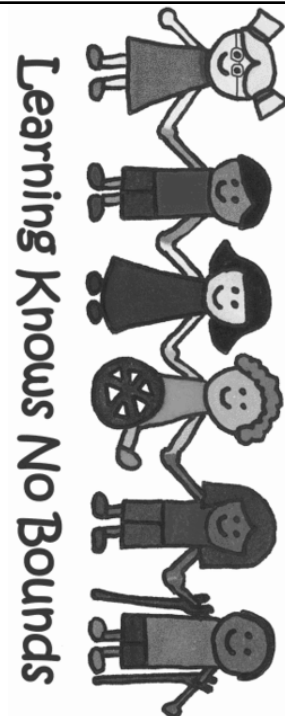
**ESSA**  
Every Student Succeeds Act

## Individuals With Disabilities Education Act (IDEA)

Signed into law in 1990 by President George H.W. Bush as a companion to the Americans With Disabilities Act (ADA)

Six Pillars:

- Individualized Education Program (IEP)
- Free Appropriate Public Education (FAPE)
- Least Restrictive Environment (LRE)
- Appropriate Evaluation
- Parent and Teacher Participation
- Procedural Safeguards



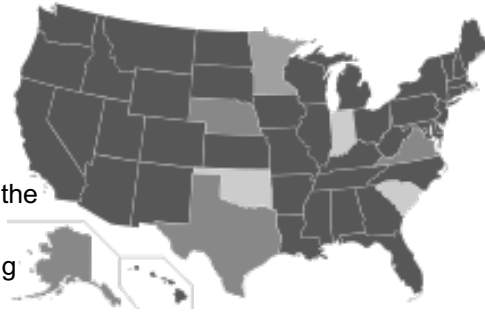
## COMMON CORE STATE STANDARDS (CCSS)

The Common Core is sponsored by the National Governors Association and the Council of Chief State School Officers and largely funded by the Gates Foundation.

The Common Core establishes English and Mathematics standards for grades K-12.

All but a few states have adopted the Common Core.

ESSA contains a provision banning the federal government from doing anything to require, promote, or incentivize the Common Core.



## AFFIRMATIVE CASE POSSIBILITIES

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## Regulation: Is it bi-directional?

For example, would it be topical to scale back some existing federal regulations on education, such as the current requirements on standardized testing?

WORDS & PHRASES, Vol. 36B, 2002, 278. "Regulation" is not confined to the imposition of restrictions, but includes all directions by rule of the subject matter. — Orme v. Atlas Gas & Oil Co., 13 N.W.2d 757, 217 Minn. 27.

## Strategy: Avoiding Federalism & the States Counterplan

1. Federal government is exclusively responsible for (Native Americans & DoDEA)
2. Federal Constitutional rights are being ignored: Only the US Supreme Court can fix: (Rodriguez v San Antonio Independent School District, etc.)
3. Feds created the problem; feds will have to fix (ESSA Testing Requirements)

EXAMINING THE FEDERAL  
GOVERNMENT'S MISMANAGEMENT  
OF NATIVE AMERICAN SCHOOLS

HEARING  
BEFORE THE  
COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION  
HEARING HELD IN WASHINGTON, DC, MAY 14, 2015  
Serial No. 114-14

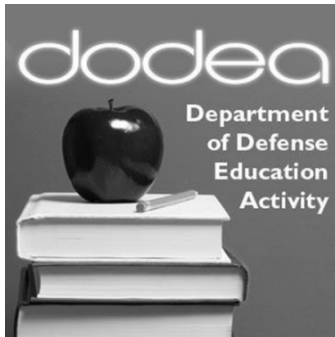
## Native American Education

Indigenous cultures at risk

U.S. government not meeting its  
treaty obligations

Justice demands increased funding  
for Native American education.

Carri Jones, (Chairwoman, Leech Lake Band of Ojibwe), *Examining Organizational Challenges In Transforming Educational Opportunities For Indian Children*, May 13, 2015, 34. After the formation of the United States, Indian tribes ceded hundreds of millions of acres of our homelands to the Federal Government to help build this nation. In return, the U.S. made promises to make the resulting reservations permanent livable homes, including providing for the education, health, and general welfare of reservation residents. These treaty promises were made in perpetuity, remain the supreme law of the land, and do not have an expiration date. However, as you know and as tribal leaders are stating in these hearings today, these promises have not been kept, and our children suffer because of it.



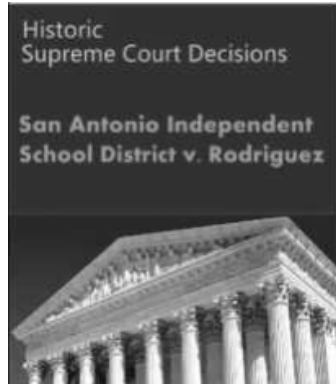
## DoDEA and Readiness

U.S. military readiness is  
inadequate at present.

Concerns about DoDEA schools  
undermines readiness.

Increased funding improves  
DoDEA schools.

Jim Cowen, (Dir., Collaborative for Student Success), WASHINGTON POST, Feb. 2, 2017. Retrieved May 2, 2017 from <https://www.washingtonpost.com/posteverything/wp/2017/02/02/when-troops-worry-about-their-kids-schools-our-military-suffers>. For service members, a major component of readiness is knowing that as they move from base to base with family in tow, the quality of their children's education doesn't suffer. Currently, though, readiness is being negatively impacted because many military families are making decisions about whether to leave the armed forces or to accept a move to a particular duty station based in part on the quality of the surrounding schools.



## Funding Equalization

Funding inequality is a major problem.

Rodriguez decision ensures continued inequality.

Overturing Rodriguez solves.

Jack Jennings, (Founder & CEO, Center on Education Policy), *PRESIDENTS, CONGRESS, AND THE PUBLIC SCHOOLS: THE POLITICS OF EDUCATION REFORM*, 2015, 208. How would this reversal be achieved? A lawsuit must be filed to overturn the 1973 Supreme Court decision in *San Antonio Independent School District v. Rodriguez*, which held that education was not a protected interest under the Constitution. This decision is an obstacle that can and should be removed.



## Free Speech

Free speech is now denied in schools – for students and teachers.

The Supreme Court has restricted free speech in schools (*Morse v Frederick*)

Free speech should be restored in schools.

Amanda Cooley, (Prof., Law, South Texas College of Law), *BAYLOR LAW REVIEW*, Spr. 2014, 238. Yet, students are not the only individuals on school grounds who are being affected by this sweeping display of governmental control. Teachers have also become subject to equivalent policies that curtail their own constitutional rights. Essentially, public school teachers now find themselves increasingly being subject to similar restrictions on their abilities to speak inside and outside of the classroom and to be free of invasive searches.



## Student Search

Student Fourth Amendment rights are ignored.

Supreme Court in *New Jersey v. T.L.O.* replaced probable cause with reasonable suspicion.

Probable cause standard should be restored.

Brian Fahey, (J.D.), *Nebraska Law Review*, 2015, 1031. The schoolroom is where most Americans are taught the basic lessons of their civil rights and civic duties under the Constitution. Yet modern jurisprudence has immunized public school officials from respecting virtually any Fourth Amendment rights of their students. Often overlooked by adjudicating courts is the fact that, regardless of the school's needs, searches by officials remain intrusive and unpleasant for students, no matter the context surrounding the search.



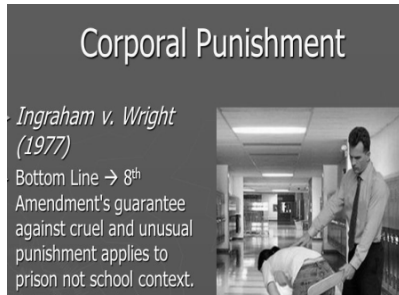
## Transgender Students

Bullying is a problem for transgender students.

Trump administration rolled back protections.

Justice requires federal protection of trans students.

Samantha Allen, (Staff, *The Daily Beast*), *NEW TRUMP ADMINISTRATION ORDER LETS STATES BULLY TRANSGENDER STUDENTS*, Feb. 22, 2017. Retrieved June 2, 2017 from <http://www.thedailybeast.com/new-trump-administration-order-lets-states-bully-transgender-students>. The federal government has effectively declared open season on transgender kids—and the many states that sued the Obama administration over the 2016 guidance could follow suit. “On the bright side, [Trump] can now just shut up about being supportive of LGBT people,” an incensed Mara Keisling, executive director of the National Center for Transgender Equality, told *The Daily Beast*. “He is going after our kids. It doesn’t get any clearer than that.”



## Corporal Punishment

Corporal punishment harms students.

The Supreme Court's decision in *Ingraham v. Wright* upholds corporal punishment.

Federal government should ban.

Nicole Mortorano, (J.D.), *GEORGETOWN LAW JOURNAL*, Jan. 2014, 518. As schools prepare children for democratic citizenship, these institutions must protect children's safety, guarantee students' rights, and teach nonviolence by employing nonviolent behavioral interventions. Corporal punishment in schools assaults our nation's commitment to guaranteeing human rights and protecting vulnerable populations. Our society has already recognized that corporal punishment is inhumane against federal prisoners and other populations. It is time to afford these same protections to schoolchildren, by prohibiting physical punishment inside of the schoolhouse gates.



## Homeless Students

School attendance is problematic for the homeless.

Federal funding is inadequate.

Full federal funding solves.

Jason Nevel, (Staff), *SPRINGFIELD STATE JOURNAL-REGISTER*, Jan. 26, 2014, 1. Since the recession began, the number of K-12 homeless students in the United States has climbed nearly 75 percent, with the most recent U.S. Department of Education report stating that there are now more than 1.2 million homeless students nationwide. Meanwhile, as the numbers climb, funding to deal with the situation has declined, putting more burden on cash-strapped local school districts and social service agencies. Sequestration cut federal funding 5 percent across-the-board, including for homeless education programs.





## Inclusion Bad

Federal standards require inclusion.

Funding is inadequate:  
Unfunded mandate

Increased funding solves.

Jack Jennings, (Founder & CEO, Center on Education Policy), PRESIDENTS, CONGRESS, AND THE PUBLIC SCHOOLS: THE POLITICS OF EDUCATION REFORM, 2015, 148. IDEA is an example of a federal program that violates the first rule. The federal government has never paid for the full 40 percent of the extra costs of educating students with disabilities that it pledged to cover when the law was passed. Since IDEA requires school districts to provide all of the necessary services to help a child with a disability, this violation of the federal government's pledge has meant that state and local governments have had to pay proportionately more for those extra costs of educating children with disabilities, which leaves less state and local funding for educating other children.



## Vouchers

Income inequality results from unequal education opportunity

School choice is denied at present

Vouchers for low-income families will equalize educational opportunity

Justin Haskins, (Analyst, The Heartland Institute), SCHOOL CHOICE WORKS; WHY AREN'T MORE AVAILABLE?, June 23, 2016. Retrieved Apr. 25, 2017 from <http://thehill.com/blogs/pundits-blog/education/284447-school-vouchers-work-why-arent-more-available>. School choice works, as the research analyzed by the University of Arkansas team and the Friedman Foundation for Educational Choice show. It works for Democrats, Republicans, liberals, conservatives, independents, and everyone else in society. The principles behind why choice works are as universal as the Newton's Three Laws of Motion; when people have the freedom to choose, quality, efficiency, and costs improve. When people are forced to stick with the status quo, innovation dies.



National Association  
for Bilingual Education

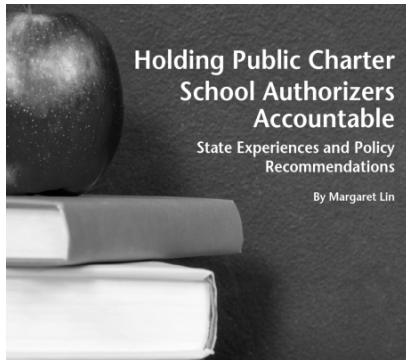
## Bilingual Education

English-only instruction  
undermines cultural pluralism

Current policy promotes English-  
only instruction

Bilingual education promotes  
cultural pluralism.

David Berliner, (Prof., Education, Arizona State U.), 50 MYTHS AND LIES THAT THREATEN AMERICA'S PUBLIC SCHOOLS, 2014, 108. A student's first language should be preserved and valued rather than destroyed in an effort to teach the English language and U.S. culture. It is a curious thing that at many high schools, ELL students in one classroom will be actively encouraged to abandon their heritage language, while native English speakers across the hall will struggle to learn French, German, Italian, or Spanish.



## Charter Regulation

Unregulated charter schools  
undermine opportunity.

At present, charter schools are  
poorly regulated.

Proper regulation will promote  
equality of educational  
opportunity.

Myron Orfield, (Dir., Institute on Race & Poverty, U. Minnesota Law School), EDUCATIONAL DELUSIONS? WHY CHOICE CAN DEEPEN INEQUALITY AND HOW TO MAKE SCHOOLS FAIR, 2013, 152. At a bare minimum, charter schools, which are much more segregated than the region's traditional public schools, should be equally subject to the same desegregation and integration standards as traditional public schools. They are, after all, public schools and receive taxpayer funding, so should be equally subject to civil rights law and policy.



## Mental Health

- Mental health problems in schools are significant.
- Mental health programs are poorly funded.
- Screening in schools best addresses mental health problems.

Brian P. Daly, (Prof., Psychology, Drexel U.), HANDBOOK OF SCHOOL MENTAL HEALTH, 2014, 132. Evidence supports the positive impact of universal and selective school mental health prevention programs in addressing a range of emotional and behavior problems. For example, results from a meta-analysis of 177 universal prevention programs reveal that program participants evidenced significantly better outcomes on measures of academic achievement and social, emotional, and behavioral competencies as compared to control group participants.



## School-Prison Pipeline

- Zero tolerance policies promote prison crowding.
- Current school discipline policies support zero tolerance.
- Proper discipline policies solve.

Lori McClung, (Pres., Advocacy and Communication Solutions), BETTER THAN ZERO: HOW ALTERNATIVE DISCIPLINE IS REPLACING ZERO TOLERANCE TO BREAK THE SCHOOL-TO-PRISON PIPELINE, Oct. 2015, 15. By successfully limiting zero-tolerance policies to extreme cases and using alternative discipline policies, schools have seen out-of-school suspensions drop, graduation rates increase, and increased positive relationships within the school. By focusing on improved engagement in school and more positive perceptions of and interactions with the justice system, schools can help the most at-risk students prepare to lead positive, productive lives, while simultaneously ensuring safety and improved experiences for all students.



**STEM** Science, Technology,  
Engineering, Mathematics

## STEM Education

Inadequate STEM education undermines competitiveness.

STEM education is improperly supported at present.

STEM emphasis promotes competitiveness.

Herbert Walberg, (Distinguished Fellow, Hoover Institution), WHAT LIES AHEAD FOR AMERICA'S CHILDREN AND THEIR SCHOOLS, 2014, 72. Former US Secretary of State George Shultz and fellow Koret Task Force member Eric Hanushek estimate that if American school mathematics scores were comparable to Canada's over the next twenty years, the GNP would improve by \$70 billion over the next eighty years, equivalent to an income boost of 20 percent for each American worker.



## Teacher Salaries

Quality teaching is the key to educational success.

Inadequate pay levels undermines recruitment and retention.

Increasing teacher salaries will solve.

Dana Goldstein, (Analyst, The Marshall Project), THE TEACHER WARS: A HISTORY OF AMERICA'S MOST EMBATTLED PROFESSION, 2014, 263. Education finance expert Bruce Baker has demonstrated that one particular type of spending—higher teacher pay—is absolutely associated with better student outcomes. We must take this evidence seriously, because we are not paying teachers the upper-middle-class salary that would align with our sky-high expectations for their work.



## Athletic Safety

Concussions from athletics cause injuries and death.

Current protections are inadequate.

A federal standard for concussion safety is vital.

Samuel Hodge, (Prof., Legal Studies, Temple U.), JOURNAL OF HEALTH CARE LAW & POLICY, 2014, 164. Concussions in scholastic sports are also on the rise, after an eleven-year study ascertained that the number of concussions in scholastic sports increased 16.5% since 1997. This issue is one of great concern, particularly because it involves the brain, which is incapable of regeneration. Brain injuries are also one of the leading causes of death in athletes and a source of catastrophic injury.



## Lead Poisoning

Lead in school drinking water threatens health of students.

Current standards inadequate

Federal action will promote safety in water quality

Jackie Speier, (U.S. Representative, California), US OFFICIAL NEWS, Sept. 20, 2016. Retrieved Mar. 30, 2017 from Nexis. Bruce Lesley, president of First Focus Campaign for Children, said, "Children in every state face the danger of elevated lead levels in their schools and their communities. The devastating and irreversible effects of lead poisoning must be addressed in our schools if we want our children to grow up healthy and succeed later in life.



## School Lunch Programs

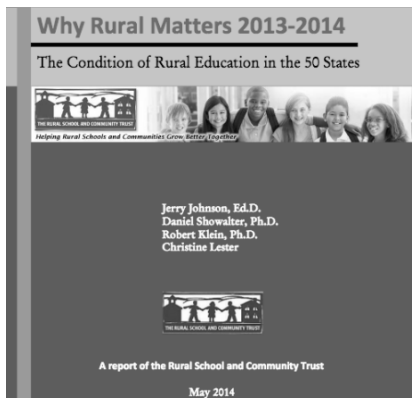
Poor quality school lunches promote youth obesity.

Trump administration policies abandon health initiatives.

Nutrition standards in school lunches will solve.

Michelle Obama, (Former First Lady), MICHELL OBAMA BLAST TRUMP, May 12, 2017. Retrieved June 2, 2017 from <http://www.mediaite.com/online/michelle-obama-blasts-trump-over-weakening-her-unpopular-school-lunch-initiative/>.

Take me out of the equation—like me, don't like me. But think about why someone is okay with your kids eating crap. Why would you celebrate that? Why would you sit idly and be okay with that? Because here's the secret: If someone is doing that, they don't care about your kid.



## Rural Schools

Rural schools have unique problems.

Present policy poorly serves rural schools.

Increased federal funding solves.

Deena Dulgerian, (J.D., Georgetown U. Law Center), GEORGETOWN JOURNAL ON POVERTY LAW & POLICY, Fall 2016, 115. The viability of rural communities impacts our nation's viability because rural students comprise a significant portion of this country's workforce. If rural students leave their communities without the proper education to participate in a modern economy, the United States could remain at a national and global disadvantage.



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**RESEARCH-BASED OPTIONS  
FOR EDUCATION POLICYMAKING**

**The Effectiveness of Class Size Reduction**

*William J. Mathis, University of Colorado Boulder  
June 2016*

## Smaller Classes

Inner city students lack equal educational opportunity.

Large class size undermines achievement.

Smaller class size solves.

Nancy Bailey, (Ph.D., Education, Florida State U.), MISGUIDED EDUCATION REFORM, 2013, 32. When it comes to good teaching, the research appears especially strong that lowering class sizes in K-3 is beneficial and has long-term results. Dr. Frederick Mosteller, Harvard Professor Emeritus and statistician, considered the Tennessee STAR study to be one of the most important U.S. public education experiments ever conducted. Over 6,000 students in kindergarten through third grade participated. The study found smaller classes led to the highest test scores, with inner-city schools making great gains.



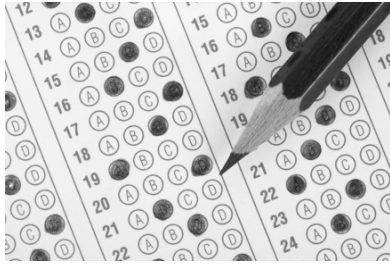
## Sex Education

Inadequate sex education leads to teen pregnancy and STD epidemic.

Sex education inadequate now.

Federal government should promote comprehensive sex education.

Kelly Mannion, (Attorney, Simpson, Thacher & Bartlett, LLP), CARDOZO JOURNAL OF LAW & GENDER, Winter 2014, 312. Given the dearth of adequate educative forces accessible to young persons for sexual health issues, formal sex education programs in schools serve an essential function. These programs, however, are far from mandatory in our nation's classrooms. In light of this fact, this Article argues that teenagers have an affirmative constitutional right to adequate sex education within the public school system.



## Standardized Testing

Testing hollows out the curriculum

ESSA retains the testing mandate

Eliminating the federal testing mandate solves

Kathy Boccella, (Staff), PHILADELPHIA INQUIRER, Feb. 28, 2016, A1. In a video posted on Facebook last year, President Obama said too much testing "takes the joy out of teaching and learning." In December, he signed the Every Student Succeeds Act (ESSA), replacing the contentious No Child Left Behind law. ESSA gives states more leeway in how test results are used to evaluate students and teachers – although, like No Child, it allows for federal funds to be withheld from schools where participation falls under 95 percent.