

## ELEMENTARY AND/OR SECONDARY EDUCATION NEGATIVE POSITIONS

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.

### Disadvantage Requirements

**Uniqueness:** Why will the disadvantage happen only with the adoption of the affirmative plan? If the disadvantage is inevitable, or is already happening, then it gives no reason to reject the plan.

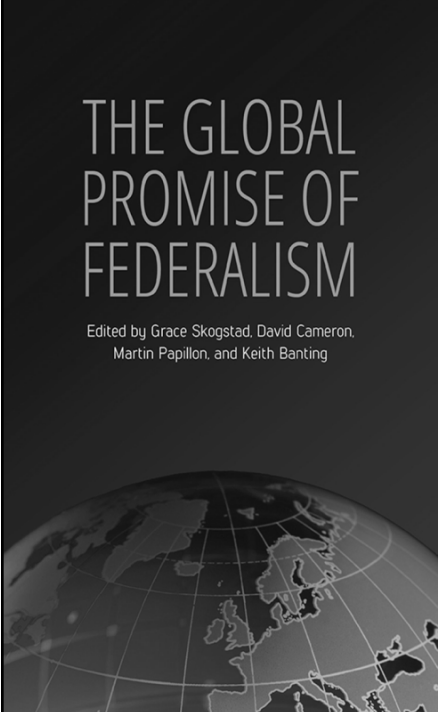
**Link:** What does the plan/case do that will cause the disadvantage?

**Impact:** Why and to what degree will the disadvantage be BAD?

Some disadvantages also have a **Brink:** This is a “straw that will break the camels back” kind of argument. A brink argument says that some of the disadvantage may already be happening, but that we are now on a dangerous precipice where any additional amount of the disadvantage could be catastrophic for some reason.



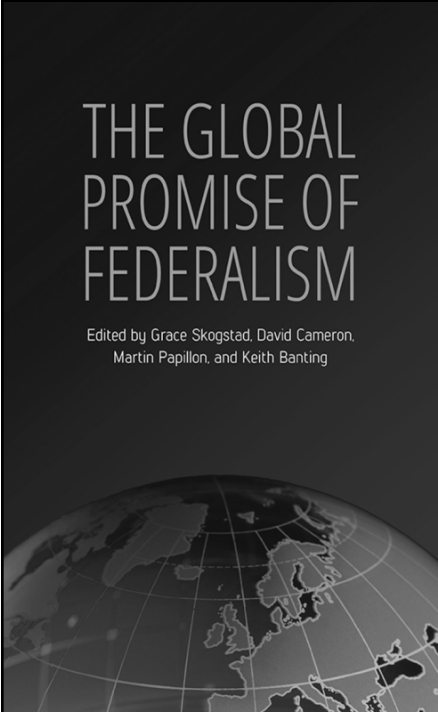
Steven Calabresi, (Prof., Law, Northwestern U.), MICHIGAN LAW REVIEW, DEC. 1995, 770. Small state federalism is a big part of what keeps the peace in countries like the United States and Switzerland. It is a big part of the reason why we do not have a Bosnia or a Northern Ireland or a Basque country or a Chechnya or a Corsica or a Quebec problem. American federalism in the end is not a trivial matter or a quaint historical anachronism. American-style federalism is a thriving and vital institutional arrangement - partly planned by the Framers, partly the accident of history - and it prevents violence and war. It prevents religious warfare, it prevents secessionist warfare, and it prevents racial warfare. It is part of the reason why democratic majoritarianism in the United States has not produced violence or secession for 130 years, unlike the situation for example, in England, France, Germany, Russia, Czechoslovakia, Yugoslavia, Cyprus, or Spain. There is nothing in the U.S. Constitution that is more important or that has done more to promote peace, prosperity, and freedom than the federal structure of that great document.



**THE GLOBAL  
PROMISE OF  
FEDERALISM**

Edited by Grace Skogstad, David Cameron,  
Martin Papillon, and Keith Banting

Marie-Joelle Zahar, (Prof., Political Science, U. Montreal), THE GLOBAL PROMISE OF FEDERALISM, 2013, 72-73. The power-sharing literature thus provides a potential explanation for the prevalence of federal solutions to the transition from war to peace, particularly as many of these solutions do not simply divide power between a center and units but include, as well, elements of power sharing at the center between the various political masters of the day (hence the contention, at the beginning of this contribution, that the definitions of federalism and power sharing that I am using are "pure" ideal types). Indeed, recent iterations of this literature have argued that, the more dimensions of power sharing (military, political, territorial, and economic) there are in a peace agreement, the more likely the agreement is to endure.



**THE GLOBAL  
PROMISE OF  
FEDERALISM**

Edited by Grace Skogstad, David Cameron,  
Martin Papillon, and Keith Banting

Grace Skogstad, (Prof., Political Science, U. Toronto), THE GLOBAL PROMISE OF FEDERALISM, 2013, 4. The political mobilization of these groups has generated a global search for mechanisms through which to manage diverse societies. Large numbers of countries with significant ethno-religious minorities — rich countries and poor countries alike — have asked whether federalism holds promise for them. Some countries suffering civil wars are doing so as well. In this context, federalism has emerged as a powerful idea about how to organize a divided society.

**Deseret News**  
 Y. returning to Vegas as Utes head to San Diego  
 'Tis the season to warm up the vocal chords  
 Former legislators are few on the list of supporters  
 'Friends' help addicts  
 Support group giving drug-court participants better chance at sobriety

**Certain lobbyists shun ethics initiative**  
 Former legislators are few on the list of supporters  
 By Bob Rowland Jr.

**'Friends' help addicts**  
 Support group giving drug-court participants better chance at sobriety  
 By Linda Thomson

Orrin Hatch, (U.S. Senator, Utah), DESERET MORNING NEWS, Dec. 29, 2015. Retrieved Jan. 20, 2017 from Nexis. This week, Congress passed the Every Student Succeeds Act (ESSA), a massive education overhaul that the conservative Wall Street Journal called "the largest devolution of federal control to the states in a quarter-century." Leaders and organizations across our state – including Gov. Gary Herbert, the Utah commissioner of higher education, the Utah Education Association and the Parent Teacher Association – agree that ESSA is an essential step towards effective state and local education policy.

Countdown to  
**2018 Midterm Elections**  
 Nov 6, 2018 at 12:00 noon



Chris Cillizza, (CNN Editor-at-Large),  
2018 IS BEGINNING TO LOOK LIKE A  
VERY GOOD YEAR FOR DEMOCRATS,  
May 24, 2017.

<http://www.cnn.com/2017/05/24/politics/democratic-wave-election-2018/index.html>.


Conditions are right for a major Democratic wave to sweep out the House Republican majority next fall, according to Nathan Gonzales, who runs the "Inside Elections" campaign tipsheet. "The midterm elections are still nearly a year and a half away, and the political dynamics could yet change, but we shouldn't ignore the fact that history and the current environment are merging together for a potentially great set of elections for Democrats in November 2018," writes Gonzales in a piece published Wednesday morning.



# EDUCATION TRADEOFFS

WHAT TRUMP'S BUDGET FUNDS

WHAT TRUMP'S BUDGET CUTS



**CHARTERS**  
SCHOOL VOUCHER RESEARCH  
CHOICE **vouchers**  
private schools  
religious schools

work-study  
teacher training  
**class-size reduction**  
after-school programs  
anti-bullying

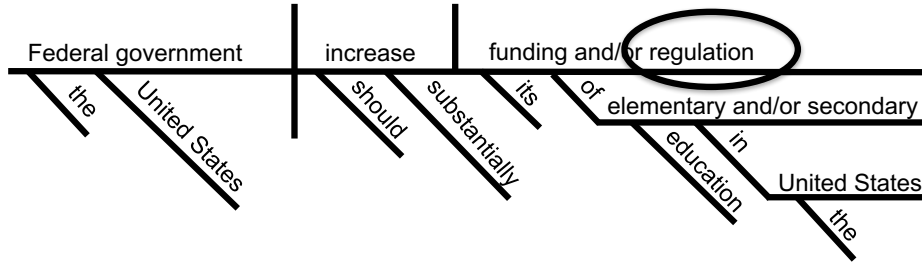
adult basic literacy  
MENTAL HEALTH  
science & engineering  
foreign language

arts education  
technical education  
career education  
physical education  
Special Olympics

# HEGEMONY BAD



## Topicality Challenges

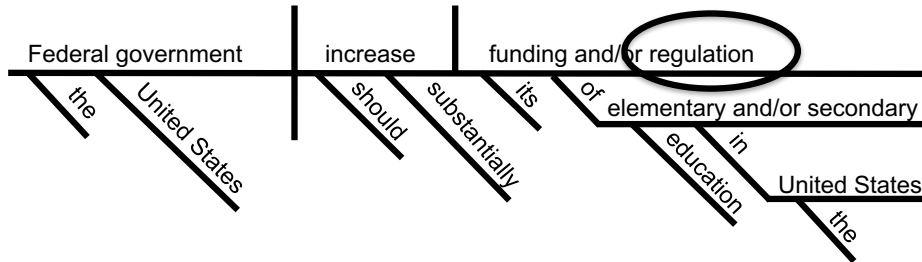


Regulation means to increase control over something; cases that decrease federal control are not topical. Regulation is the opposite of “de-regulation.”

Stephen Bullon, (Editor), LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH, 2005, 1382. Regulation: Control over something, especially by rules.

Erin McKean, (Editor), OXFORD AMERICAN DICTIONARY AND THESAURUS, 2003, 1266. Regulation: A prescribed rule; an authoritative direction.

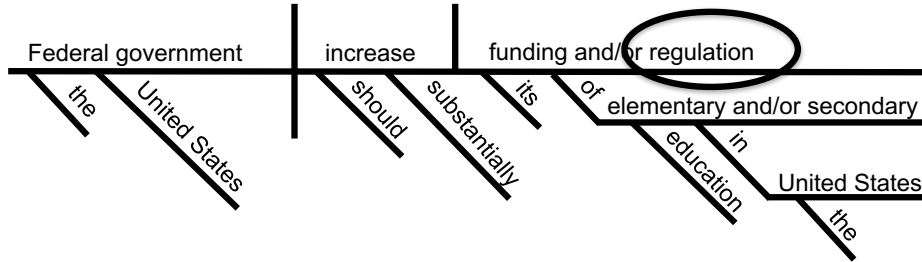
## Topicality Challenges



Regulations cannot completely prohibit; cases that ban an activity are not topical.

WORDS & PHRASES, Vol. 36B, 2002, 279. "Regulation" contemplates the continuance of the subject matter in existence or in activity. — City of Meadville v. Caselman, 227 S.W.2d 77, 240 Mo.App. 1220.

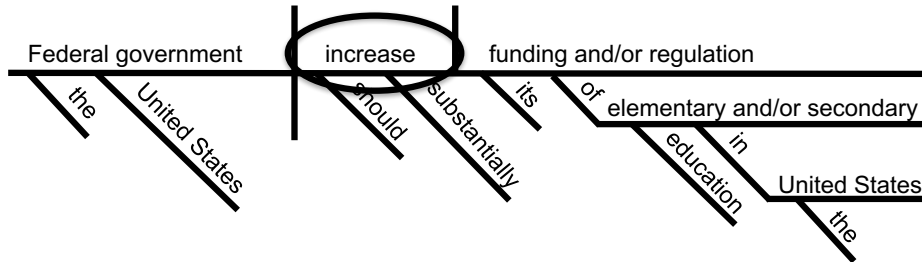
## Topicality Challenges



Regulation means administrative agency action. Cases that overturn Supreme Court decisions are not topical.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 927.  
 Regulation: The rules issued by agencies, or the rules governing any conduct. Regulation, in the United States, usually refers to the issuance of rules by the agencies of the executive branch, according to the legislative power delegated to those agencies by a legislature. In the federal government, such power is delegated by the Congress . . .

## Topicality Challenges

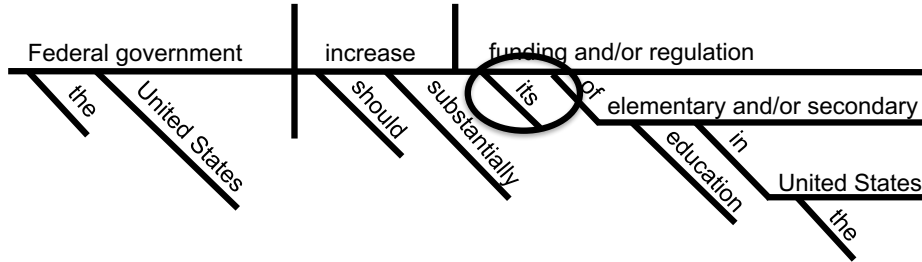


Increase means a “net increase.” Plans that improve funding and/or regulation are not topical.

Sidney Landau, (Sr. Editor), CAMBRIDGE DICTIONARY OF AMERICAN ENGLISH, 2<sup>nd</sup> ed., 2008, 440. Increase: To become or make something larger or greater.



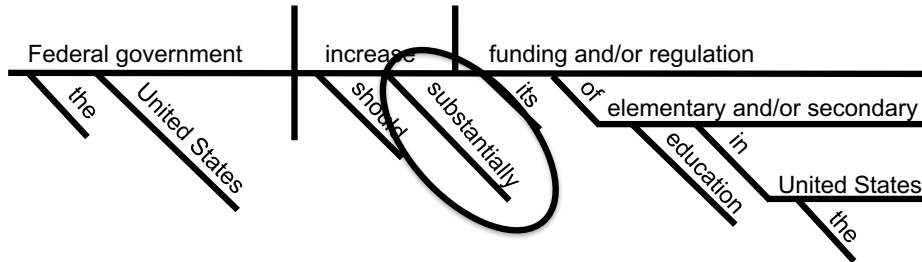
## Topicality Challenges



*Its* funding and/or regulation: Cases involving block grants are not topical.

Frederick Mish, (Editor-in-chief), WEBSTER'S COLLEGIATE DICTIONARY, 10th ed., 1993, 623. *Its*: Of or relating to it or itself, esp. as possessor.

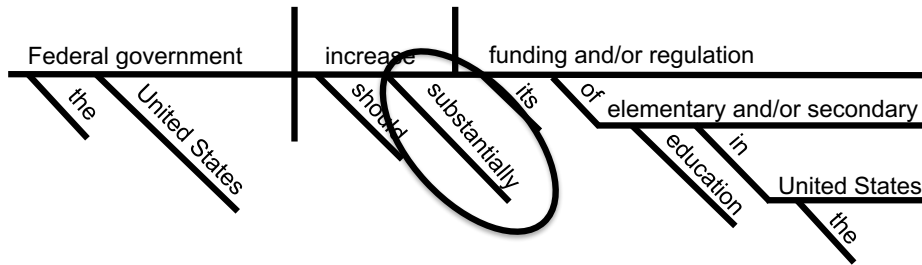
## Topicality Challenges



Substantially means to increase by at least six percent. Plans which increase funding by less than six percent are not topical.

Claire Walla, (Staff), SAG HARBOR EXPRESS, Jan. 27, 2011. Retrieved Apr. 21, 2017 from <http://sagharborexpress.com/school-news-1-27-11/>. According to budget figures presented last Monday, January 24 by Montgomery Granger, Sag Harbor School District Supervisor of Buildings and Grounds, taxpayers are looking at an increase of about five percent for the portion of the budget related to his department. Though this increase is not substantial — and the proposed budget increase to athletics is even skimpier — both price tags are higher than last year's budget.

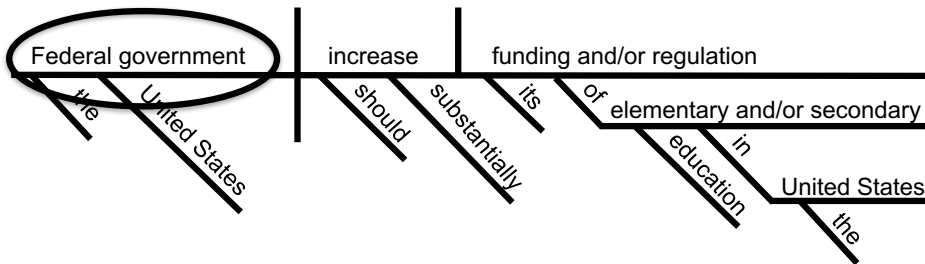
## Topicality Challenges



Substantially: Without material qualification—plans which condition the increase in funding and/or regulation of education are not topical.

BLACK'S LAW DICTIONARY, Feb. 5, 2014. Retrieved May 10, 2017 from <https://www.novoco.com/notes-from-novogradac/close-enough-how-measure-substantially-similar-under-fasbs-new-lihtc-investment-guidance>. Substantially: Essentially; without material qualification; in the main; in substance, materially; in a substantial manner

## Topicality Challenges



Federal government: The central government in Washington, not the state governments or interstate compacts.

Amy Blackwell, (J.D., Staff, U. Virginia Law Library), THE ESSENTIAL LAW DICTIONARY, 2008, 187. Federal: Relating to the central government of a union of states, such as the national government of the United States.

# NEGATIVE CASE RESPONSES

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.

EXAMINING THE FEDERAL  
GOVERNMENT'S MISMANAGEMENT  
OF NATIVE AMERICAN SCHOOLS

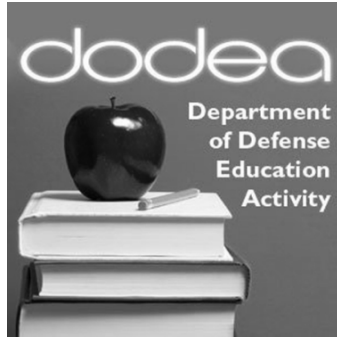
HEARING  
BEFORE THE  
COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION  
HEARING HELD IN WASHINGTON, DC, MAY 14, 2015  
Serial No. 114-14

## Native American Education

U.S. per-student funding of Native American schools exceeds that of regular public schools -- Funding is not the main issue.

Most Native American students attend regular public schools.

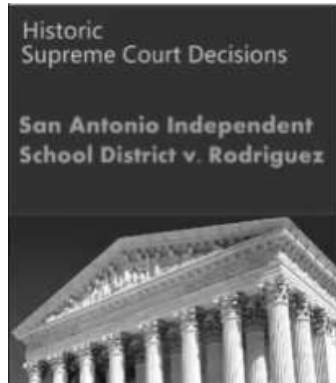
Government Accountability Office, US OFFICIAL NEWS, Nov. 14, 2014. Retrieved Apr. 5, 2017 from Nexis. GAO found that some BIE schools spend substantially more per pupil than public schools nationwide. Specifically, GAO estimates that the average per pupil expenditures for BIE-operated schools -- the only BIE schools for which detailed expenditure data are available -- were about 56 percent higher than for public schools nationally in school year 2009-10, the most recent year for which data were available at the time of GAO's review.



## DoDEA and Readiness

DoDEA schools are well-funded. U.S. military readiness exceeds the rest of world by orders of magnitude.

James Guthrie, (Prof., Education, Vanderbilt U.), MARCH TOWARD EXCELLENCE, 2001, 18. The DoDEA schools are funded at sufficient levels to implement instructional goals. The cost per pupil is higher than the national average. Teacher salaries are competitive and schools are well staffed. Instruction is enhanced by state-of-the-art equipment and well-maintained facilities.



## Funding Equalization

Establishing a federal right to education is not necessary; all state constitutions already do so. This is a state responsibility.

Francesca Bignami & Carla Spivack, (Professors of Law, George Washington U. & Oklahoma City U. School of Law), THE AMERICAN JOURNAL OF COMPARATIVE LAW, 2014, 571. Although the U.S. Supreme Court has held that education is not a fundamental (federal) right, all fifty states guarantee, to some extent, the right to education in their constitutions.



## Free Speech

Rights must be balanced; schools cannot protect students from bullying if student freedom of speech is absolute.

Phillip Lee, (Prof., Law, Clarke School of Law), UTAH LAW REVIEW, 2016, 861. The Supreme Court has acknowledged, "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem." For example, the Court has not protected or given less protection to "fighting words," certain types of defamation, incitement to imminent lawless action, "true threats," and obscenity.



## Student Search

Reasonable suspicion is the appropriate standard for searches of school students; Probable Cause would require court issuance of a warrant and be unworkable in the school environment.

Benjamin Tiller, (J.D.), SAINT LOUIS UNIVERSITY LAW JOURNAL, Winter 2014, 608. The reasonable suspicion standard is entirely consistent with the other constitutional rights that students enjoy. It will not produce a slippery-slope or erode student rights, just as limiting the right of students to use abusive language in school has not produced a slippery-slope of silencing student speech or of eroding student rights. Instead, just as limiting abusive language in schools protects minor students from such language, applying a reasonable suspicion standard in schools protects children from violence and drug use that, unfortunately, so often accompanies public school systems.

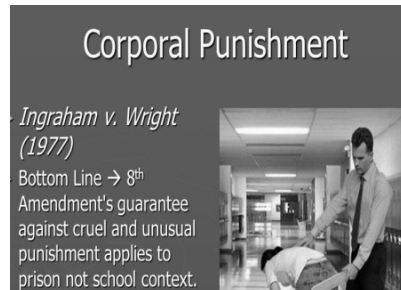


## Transgender Students

Transgender protection requires court action, not an administrative solution.

The Obama order was never implemented because of a court injunction.

Lauren Healy, (Staff, Insight), JUDGE BLOCKS FEDERAL ACTION ON TRANSGENDER STUDENT, 2016. Retrieved June 20, 2016 from <http://www.insightintodiversity.com/judge-blocks-federal-action-on-transgender-students-bathroom-access-appeal-expected/>. On Sunday, a federal judge prevented the Obama administration from imposing a mandate requiring all public schools to offer students the choice of which bathroom to use based on their gender identity. The order comes as schools begin the new academic year, indicating that they will likely not face federal sanctions if they do nothing to accommodate transgender students' restroom and locker room choices.



## Corporal Punishment

Most states have banned this practice, and it is rare even in those states allowing it because of the threat of lawsuits.

Karishma Mehrotra, (Staff), THE ATLANTA JOURNAL-CONSTITUTION, Oct. 27, 2013, 1A. Educators fear lawsuits over corporal punishment, and for good reason. Earlier this year, the parents of a Tennessee boy who was paddled eight times for throwing crayons and rocks filed a lawsuit seeking \$1.7 million. The parents of the boy, 5 at the time, say that the paddling was excessive and that he sustained bruises. Such lessons aren't lost on districts such as DeKalb County. The state discipline data show no incidents of paddling there in the last seven years, yet Ron Ramsey, the school district's chief legal officer, said the school board didn't ban corporal punishment until about a year ago.



## Homeless Students

Provisions in ESSA have already provided for the education of homeless students.

Joe Heim, (Staff), WASHINGTON POST, July 28, 2016, A17. With millions of students across the United States set to begin returning to school in coming weeks, the U.S. Department of Education issued guidance Wednesday for states and school districts on how to respond to the needs of homeless students. The guidelines, provided in response to new provisions in the federal Every Student Succeeds Act, emphasize practices aimed at providing stability and safety for the homeless public school population, which included more than 1.3 million students in the 2013-2014 school year.



## Inclusion Bad

Inclusion best meets the needs of students with disabilities as well as non-disabled students. Inclusion promotes social justice.

Mara Sapon-Shevin, (Prof., Education, Syracuse U.), TAKING SIDES: CLASHING VIEWS ON EDUCATIONAL ISSUES, 2014, 192. A powerful way to combat political apathy is by helping young people make connections between their lives and those of others and giving them opportunities to make a difference in whatever ways they can. Although it's certainly possible to teach a social-justice curriculum in a fairly homogeneous school, inclusive classrooms give us the opportunity to put social-justice principles into action. In inclusive classrooms, students can live a social-justice curriculum rather than just study it.



## Vouchers

Vouchers create a race-to-the-bottom, undermining public education and promoting for-profit education.

Kenneth Saltman, (Prof., Education, DePaul U.), *THE POLITICS OF EDUCATION: A CRITICAL INTRODUCTION*, 2014, 65-66. Vouchers provide individual students with public tax money to pay for private schooling. Vouchers have a troubling history of creating a race to the bottom in which public schools lose their public tax money and decline in quality as a result. The private schools receiving voucher money have a troubling history as well, as private operators of for-profit schools skim money out of operations and the educational process to maximize the difference between the public tax money and the expenditures on educational services.



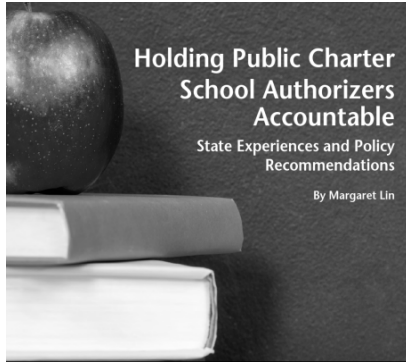
## Bilingual Education

Bilingual education produces no lasting academic benefit.

A bilingual education requirement would create an impossible situation for schools.

Jack Encarnacao, (Staff), *THE PATRIOT LEDGER*, Feb. 13, 2013, 8. In Quincy [Massachusetts], 65 percent of English language learners are from China, 12 percent are from Vietnam, and the remainder are from Spanish, Arabic and other countries. The most common language spoken among them is Mandarin, followed by Cantonese, Vietnamese, Spanish and Albanian.





## Charter Regulation

States are responsible for regulating charter schools. Charter schools are adequately regulated.

Josh Cunningham, (Sr. Education Policy Specialist, *National Conference of State Legislatures*), COMPREHENSIVE SCHOOL CHOICE POLICY, 2013, 2. State legislatures play a crucial role in ensuring that charter schools and charter authorizers are held accountable for their academic performance. Legislation often is required to give authorizers and the state education agencies the authority to carry out their accountability duties.



## Mental Health

Mental health problems among adolescents are already over-diagnosed.

Barbara Atwell, (Prof., Law, Pace Law School), ALBANY LAW JOURNAL OF SCIENCE & TECHNOLOGY, 2015, 12. There are a number of contributing factors to the growing abuse of ADHD medications. One cause of the problem is over-diagnosis. There has been a dramatic increase in the number of students diagnosed with ADHD. Instead of engaging in talk therapy as was once the norm, psychiatrists routinely write prescriptions for controlled substances and other psychotropic drugs with little doctor-patient interaction.



## School-Prison Pipeline

States and localities are acting to eliminate zero tolerance policies and to end the school-to-prison pipeline.

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, 3. In an effort to maintain the balance between school safety and addressing non-academic needs of students, local governments and school systems have begun adopting protocols and policies to end or limit the school-to-prison pipeline, particularly as they relate to the role of police and the judiciary in school discipline issues.



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

## STEM Education

There are already more STEM graduates than there are science and engineering jobs to absorb them.

Andrew Hacker, (Prof., Political Science, Queens College), THE MATH MYTH: AND OTHER STEM DELUSIONS, 2016, 32-33. The BLS estimates that in the decade ending in 2022, the United States will have created some 130,400 additional engineering positions. In 2013, the most recent year for figures at this writing, some 86,000 fledgling engineers graduated from American colleges and universities. At this rate, the decade will produce 860,000 new engineering graduates. But that number is over six times what the BLS is projecting for job openings.



## Teacher Salaries

The claim that declining teacher salaries are undermining U.S. educational quality is false; teachers are better prepared now than they have ever been.

Arlo Kempf, (Prof., Education, U. Toronto), *THE PEDAGOGY OF STANDARDIZED TESTING*, 2015, 1. New educators know much more about teaching and learning than their professional forebearers. For the most part, the past 50 years have seen students gain access to not only better information (more accurate and holistic content in our schools) but better teaching as well (more inclusive, student-centered, and pedagogically sound practice), thanks in large part to education research and increasingly comprehensive teacher training



## Athletic Safety

State governments are now taking action to deal with the concussion issue.

Jacob Key, (J.D.), *AMERICAN JOURNAL OF TRIAL ADVOCACY*, Fall 2014, 444. The astounding number of brain-related injuries and concussions in high school athletics has caused state legislatures to take notice. Since 2009, every state and the District of Columbia, with the exception of Hawaii, has passed some form of legislation in order to inform athletic trainers, coaches, student-athletes, and the parents of student-athletes of the risk, prevention, and management of concussions.



## Lead Poisoning

Federal action is not required; states and localities are more responsive to parental concerns and are already taking action.

Huntington School District, 2016. Retrieved Apr. 25, 2017 from <http://www.huntington.k12.or.us/environmental-testing>. The State of Oregon requires that all school districts perform certain environmental contamination tests each year. The districts must test drinking water for lead contamination and select classrooms for Radon Gas contamination.

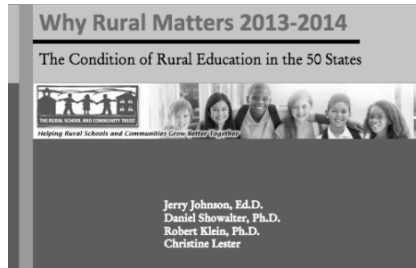
Howard Fischer, (Staff), ARIZONA CAPITAL TIMES, Mar. 3, 2017. Retrieved Apr. 25, 2017 from <http://azcapitoltimes.com/news/2017/03/03/state-testing-finds-lead-in-public-school-drinking-water/>. The Arizona Department of Environmental Quality is in the early stages of getting local education officials to test some 7,000 school buildings throughout the state for lead in the drinking water. DEQ is providing the test kits and will do the analysis.



## School Lunch Programs

Extreme nutrition standards are counterproductive: Kids opt out of school lunches and bring their own less healthy alternatives.

Kristi Noem, (U.S. Representative, South Dakota), MARION RECORD, Sept. 25, 2015. Retrieved May 8, 2017 from Nexis. Kids are leaving the table hungry or opting to bring their own lunch and **dropping out** of the school meal program completely. In fact, between the 2010-11 and 2012-13 school years 1.2 million kids **dropped out** of the federal school lunch program. That was the first decline we'd seen in over a decade.



## Rural Schools

ESSA adequately provides for the needs of rural schools.

Deena Dulgerian, (J.D., Georgetown U. Law Center), *GEORGETOWN JOURNAL ON POVERTY LAW & POLICY*, Fall 2016, 126. ESSA creates three rural-specific systems that have the potential to ease the administrative handicaps from which rural schools suffer: (1) a comprehensive review and report of rural schools' needs, (2) outreach and technical assistance to rural schools for competitive grants, and (3) an application consolidation plan that allows multiple schools to submit one application for an ESSA-funded program. These reflect a change in Congress' perspective that rural schools are no longer "an afterthought," but are instead a valuable aspect of American life that ESSA must protect.



## Smaller Classes

No evidence indicates that class size matters; larger classes allow students access to the best teachers.

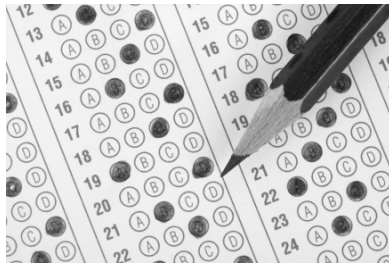
Matthew Chingos, (Sr. Fellow, Urban Institute), *JOURNAL OF POLICY ANALYSIS AND MANAGEMENT*, Jan. 30, 2013, 416. Randomized experiments aimed at measuring the effect of class size were fairly common in the first half of the 20th century. Rockoff summarizes 24 such experiments that were conducted between 1920 and 1940; he argues that these studies were carefully designed in general. Most of these studies examined high schools, and many were carried out on a fairly small scale. Only two of the 24 studies found increased achievement in smaller classes, and several found a large-class advantage.



## Sex Education

Current approaches to sex education are working: Teen pregnancy and risky sexual practices are on the decline among teens.

DUBUQUE TELEGRAPH HERALD, June 19, 2015, A4. The news in recent days and weeks related to unintended pregnancies can be considered positive, no matter where you stand on the abortion issue. Teen pregnancy is at the lowest rate ever recorded, according to federal data released Wednesday. The pregnancy rate across all age groups ticked up for 2014, the first time in seven years. But the rate among teenagers dropped 9 percent over the prior year. Take a look at the last quarter-century and the data is even more astounding: Among teens, the birth rate has dropped 61 percent. We're doing something right.



## Standardized Testing

Standardized testing better than teacher made tests

Amount of time taken in testing is exaggerated

Solvency: Abolishing testing will not bring back a wider curriculum

Jim Dueck, (Ed.D., Education Consultant), COMMON SENSE ABOUT COMMON CORE: OVERCOMING EDUCATION'S POLITICS, 2016, 115-116. Many tests are constructed wholly or in part by individual teachers who spend an hour or two on their local "standardized" test and seldom draw on best-practice principles. Professional test makers, by way of contrast, spend considerable time surveying classrooms for quality test items, which are then field-tested and the results carefully analyzed before the test is given in a process that takes up to a year to complete.