



## **Get the Federal Government Out of Education? That Wasn't the Founding Fathers' Vision**

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### **Introduction and Summary<sup>1</sup>**

During the 2010 election campaign, Senator Rand Paul from Kentucky demanded the dismantling of the U.S. Department of Education. "I am against any federal funding or control of education," he said. "Historically, education was funded and controlled locally" (Strauss, 2010).

Another new Republican senator, Mike Lee from Utah, asserted that "Congress has no business regulating our nation's public education system, and has created problems whenever it has attempted to do so" (Lee, 2010).

Blake Farenthold, a Texas Republican who in 2010 won a seat in the U.S. House of Representatives, also picked up on this refrain: "First, I believe the federal government needs to get out of the education business. It's not a power granted the government in the Constitution" (Brownsville Area Tea Party Association, 2010).

With the triumph of Tea Party candidates and other conservatives in the November 2010 election, many in the new Congress are pressing to get the federal government out of education. Will they succeed? And wouldn't that be a good thing?

In a word—no. As this paper by the Center on Education Policy (CEP) makes clear, eliminating or curtailing federal involvement in education would be a wrong-headed, simplistic move for several reasons:

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<sup>1</sup>A shorter version of this paper first appeared as a blog by Jack Jennings in *The Huffington Post* on February 7, 2011 ([http://www.huffingtonpost.com/jack-jennings/federal-government-education\\_b\\_819814.html](http://www.huffingtonpost.com/jack-jennings/federal-government-education_b_819814.html)).

- ***It ignores our nation's history.*** Federal involvement in education took shape 225 years ago at the same time the United States was becoming a nation. Ordinances enacted in 1785 and 1787 granted federal lands to states to create and support public schools—an institution that the nation's founders viewed as essential to democracy and national unification. This policy of land grants for education was reaffirmed through the 1950s in federal acts admitting new states, and it continues to provide school revenues today.
- ***It would erode the state and local funding base for public schools.*** Key provisions in the federal tax code—most notably, federal deductions for state and local taxes—provide indirect subsidies to public education. This indirect aid to all levels of public education was worth an estimated \$42 billion or more in 2009. Without these tax subsidies, people would be less able to bear state and local taxes, school districts would struggle to finance themselves, and college costs would be even greater.
- ***It would make it harder for people to go college.*** About three-fourths of all college student aid comes from federal direct and indirect supports. Without these federal contributions, college would become even less affordable and young people would be less well-prepared for good jobs.
- ***It would endanger the national commitment to equity.*** Federal policies have broadened educational opportunities for African Americans, women and girls, immigrants, children with disabilities, and other underserved groups. The federal government continues to press for equity through efforts to close achievement gaps for minority, low-income, limited-English-proficient and other students.
- ***It would slow momentum for raising achievement to internationally competitive levels.*** Two decades of federal advocacy by four U.S. presidents, along with federal funding, have helped encourage states and school districts to develop and implement academic standards and related reforms. Without federal leadership, the U.S. would likely fall farther behind other nations in achievement.

The remainder of this paper explores these points in more detail.

## **A Federal Role Before George Washington Was President<sup>2</sup>**

Two-hundred and twenty-five years ago, the Continental Congress passed two Acts—the Land Ordinance of 1785 and the Northwest Ordinance of 1787—that supported the creation and maintenance of public education in the expanding United States. These Acts granted federal lands in trust to each new state and reserved a portion of these lands for the use or benefit of public schools. This occurred even before George Washington was elected as the first president and before the states ratified the Constitution in 1789. Like other Acts of the Continental Congress, these ordinances remained the law of the land in the new United States after the Constitution was adopted.

The Land and Northwest Ordinances were a response to the “hit or miss” approach to education that characterized colonial America. Education was provided by a hodgepodge of church schools, charity schools, tuition and boarding schools, local town schools, home schools run by women, and paid tutors. Children’s opportunities were circumscribed by family income, gender, and race (Center on Education Policy, 2007). Faced with that situation, the nation’s founders saw the need for a more educated citizenry, which they viewed as essential to maintaining democracy, unifying the states being created from the territories west of the original colonies, and ensuring the prosperity of the new nation (Culp, Conradi & Tuell, 2005; Kaestle & Foner, 1983).

The Land and Northwest Ordinances were a tangible expression of this belief in the vital role of education. In the new states created from the territories west of the original colonies, these ordinances set aside one section of federal trust land in each township to be used to support public schools. States could establish public schools on these lands or use the revenues from the lands’ lease or sale to finance public education.

An example of this support can be found in the land on which Chicago’s Midway Airport now sits. The Northwest Ordinance of 1787, which led to Illinois being admitted first as a territory and then as a state, set aside that parcel for the support of public schools. When the airport was built, the airport authority sent payments to the Chicago Board of Education. Eventually, the Board of Education sold the land to the city of Chicago (Lynch, 2003; Brown, 2008).

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<sup>2</sup>More details about the Land and Northwest Ordinances and land grants for public schools can be found in the background paper, *Public Schools and the Original Federal Land Grant Program* (CEP, 2011a), issued as a companion to this paper.

The land grant policies established in the original ordinances continued to be endorsed for the next 170 years—from the Jefferson through the Eisenhower Administrations—in a series of federal Enabling Acts that spelled out the conditions of statehood and specific requirements for land grants for new states entering the Union (Culp et al., 2005). Altogether, 30 states received land grants over a period of 170 years.<sup>3</sup> These lands continue to generate revenues for education, through proceeds from agriculture, mining, commercial development, and other land uses.

Federal land grants not only encouraged the creation of elementary and secondary schools, but they also laid the foundation for the current system of state higher education institutions. Beginning in 1816 with Indiana, many new states sought and received federal land grants to establish postsecondary “seminaries of learning.” In 1862, in the midst of the Civil War, President Lincoln signed the first Morrill Act, which made land grants for colleges. This legislation led to the establishment of the University of Illinois, the University of California, and 74 other institutions of higher education (Association of Public and Land-Grant Universities, 2010). It was followed by a second Morrill Act of 1890.

Thus, the call to “get the feds out of education” runs counter to 225 years of American history. It would seek to uproot a federal role in education that originated in the earliest years of our republic and was instrumental in creating and maintaining the system of public schools and universities that exists today.

## **Encouraging Basic Support for Education through the Tax Code<sup>4</sup>**

In the United States, about 44% of the revenues for public elementary and secondary education comes from property tax and other local sources, about 48% comes from state taxes, and roughly 8% comes from direct federal aid (U.S. Department of Education, 2010a). Federal support for education is much greater, however, when various indirect aids to are considered.

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<sup>3</sup>The original 13 colonies joined the union without their lands ever being held in the public domain and were not subject to these laws. This was also true of Vermont, Kentucky, Tennessee, Maine, and West Virginia, which were carved out of lands ceded by another state but never held in the public domain. Texas and Hawaii, which were independent republics prior to statehood, set aside land for schools under a different process. See *Public Schools and the Original Federal Land Grant Program*, CEP, 2011a).

<sup>4</sup>More details about provisions of the federal tax code that subsidize education can found in the background paper, *How Public Education Benefits from the Federal Income Tax Deduction for State and Local Taxes and Other Special Tax Provisions* (CEP, 2011b), issued as a companion to this paper.

The most notable source of indirect federal aid for public schools is the provision in the federal tax code that allows individuals to deduct from their taxable income some or all of the amounts they paid for state and local property, sales, and income taxes. This provision indirectly subsidizes education by making state and local taxation more bearable. Individuals may be more willing to pay state and local taxes if they know their contributions will be offset by a reduction in their federal taxes. Because a sizeable share of state and local tax revenue is used for education, the deductibility provision has led to financial benefits for public education. This provision alone brought benefits to elementary and secondary schools worth roughly \$17 billion in 2009 (CEP, 2011b).

Another tax provision that indirectly aids education is the exclusion of federal taxation of interest earned on bonds. Local school districts use these tax-free bonds to finance construction and remodeling of school buildings. The exclusion of federal taxes on this interest makes these bonds a more attractive investment for individuals and makes construction-related work more affordable for school districts.

Colleges and universities and, to a lesser extent, elementary and secondary schools also benefit from the tax provision that allows individuals to exclude charitable donations from federal taxation. The federal tax code contains an array of other special provisions that benefit postsecondary education, including a deduction for interest on student loans, the exclusion of scholarship income, and tax credits for tuition paid.

Together, the indirect subsidies for education in the federal tax code were worth an estimated \$42 billion to \$48 billion for all levels of education in 2009 (CEP, 2011b). These amounts are almost as significant as the direct grants made by the federal government to support education. If the federal government were to get out of education, local taxpayers would pay more in total taxes, school districts would struggle to finance themselves, and the costs of college would be greater.

## **Making College More Affordable**

Expanding opportunities for postsecondary education is widely assumed to be good both for individuals and the nation as a whole. But parents are rightfully concerned that the costs of sending their children to college are increasing, thereby threatening the chances of a college degree for their kids. Adults facing job cuts are also concerned about rising college costs because many pursue postsecondary education and training as a path to a good job.

In addition to providing the tax breaks mentioned above, the federal government seeks to make postsecondary education more affordable through an array of student aid programs. Pell grants, work-study grants, programs for students from disadvantaged backgrounds, and other such direct aids—all federal creations—are a major source of college aid for families. The Ford Direct Loan program, the Stafford loans, the Perkins loans, and other types of loans are also subsidized by the federal government.

In fact, nearly three-fourths of all postsecondary student aid comes from federal sources, whether through the tax code, direct grants, or subsidized loans (Baum, Payea, & Cardenas-Elliott, 2010). If the feds got out of education, many students would be unable to attend college or postsecondary training.

For those concerned about the costs to the federal government of providing this student aid, a look at the GI Bill (formally known as the Servicemen's Readjustment Act) is instructive. After World War II, Congress enacted this legislation with bipartisan support, thereby enabling 7.2 million returning servicemen and women to go to college or participate in vocational or on-the-job training. Many of these people were the first in their families to earn a college degree or get advanced training. This major investment in the future of individuals who served their country not only allowed them to improve their own lot in life, but also was a major boost to the nation's economic strength (Greenberg, 2003). A cost-benefit analysis found that the increased wages of the beneficiaries more than paid for the costs of the GI Bill and returned a minimum of five dollars to the economy for every dollar spent (U.S. Congress, 1988).

### **“Give me your tired, your poor . . .”**

Engraved on the pedestal of the Statue of Liberty is an 1883 poem by Emma Lazarus with these famous lines: “Give me your tired, your poor, Your huddled masses yearning to breathe free . . .” These words embody the belief that everyone should have a chance to succeed in the United States, especially immigrants who had limited or no opportunities in their native lands.

In that spirit, the United States over the centuries has sought to broaden educational opportunities for the less fortunate. After the Civil War, the federal government helped create public schools for the freed slaves (Morris, 2010). After the great waves of immigration of the early 20<sup>th</sup> century, Congress passed the Smith-Hughes Act of 1917, which broadened the high school curriculum to include vocational training for newcomers and others who were poorly educated. This legislation helped to serve a

rapidly expanding student population and maintain economic competitiveness (Urban & Wagoner, 2008). Support for vocational education continues to this day.

After physical exams during World War II revealed that many military recruits were poorly nourished, the federal government began subsidizing school lunches to improve children's well-being—and, incidentally, to strengthen the health of future troops (Levine, 2008).

The federal government also acted through the courts to expand educational opportunity. In *Brown vs. Board of Education of Topeka* (1954), the U.S. Supreme Court declared racially segregated schools to be unconstitutional because separate schools are inherently unequal. Other federal court decisions have addressed inequities involving English language learners, students with disabilities, and other groups.

Congress also advanced the civil rights movement by passing laws to broaden voters' rights, economic opportunities, and improvements in schooling. African American adults and children were the initial beneficiaries. Eventually women and girls also reaped benefits from Title IX of the Education Amendments of 1972, which broadened their educational and athletic opportunities and provided a means of redress for gender-based discrimination in educational settings.

Beginning in the 1960s, Congress supported a gradual revolution in educational opportunities for students with disabilities. Various federal laws—most notably, the Education for All Handicapped Children Act of 1975 (later renamed the Individuals with Disabilities Education Act)—created special programs and services for students with disabilities and articulated their right to a free and appropriate public education. As a result, the percentage of children with disabilities attending public elementary and secondary school rose from a mere 20% in 1970 to 95% in 2007, while the percentage of people with disabilities attending higher education institutions doubled from 16% in 1987 to 32% in 2003 (U.S. Department of Education, 2010c; U.S. Department of Education, 2005).

A noteworthy result of all this federal action was the narrowing of the achievement gap between adolescent white and African American students. Between 1975 and 1990, the black-white test score gap on the National Assessment of Educational Progress narrowed by approximately 40% in both reading and mathematics. Researchers have pointed to three explanations for this encouraging development: federal anti-poverty programs, changes in enrollment and instructional quality due to desegregation laws, and a shift in the public attitude towards minorities (Grissmer et al., 1994; Grissmer, Flanagan & Williamson, 1998).

The need for federal attention to equity issues remains, however. In recent years, progress in narrowing achievement gaps has been inconsistent. Gaps by race, ethnicity, and income remain large enough that it would take many years to close them at the current rate of progress (CEP, 2010b). In addition, the U.S. is undergoing major demographic changes. The number of Latino students, who historically have a much higher dropout rate than their white counterparts, has grown. So has the number of immigrant students, many of whom have little or no proficiency in English and some of whom had little or no formal schooling in their native countries (U.S. Department of Education, 2010b; U.S. Department of Education, 2010d). Some 460 different native languages are spoken by English language learners in the nation's public schools (Kindler, 2002).

Closing achievement gaps and helping students with special needs is not only a matter of fairness; it is also a matter of national economic necessity. These students will be tomorrow's citizens, workers, and troops. The federal role in ensuring equity in education is just as necessary today as in times past. Getting the federal government out of education would endanger the progress made by African American students, girls, and children with disabilities, among others. Such a rash action would also limit the ability of educators to deal with the changing demographics of American schools.

## **We're (NOT) Number 1!**

Evidence that other countries are outperforming the U.S. academically has raised concerns among political leaders, business people, and others. President Barack Obama summed up the challenge in this way (2010):

*In the race for the future, America is in danger of falling behind . . . [I]f you hear a politician say it's not, they're not paying attention. In a generation we have fallen from 1st place to 9th place in the proportion of young people with college degrees. When it comes to high school graduation rates, we're ranked 18th out of 24 industrialized nations—18th. We're 27th in the proportion of science and engineering degrees we hand out. We lag behind other nations in the quality of our math and science education.*

Research from the business community has found that the achievement gap between U.S. students and their international peers deprived the U.S. economy of as much as \$2.3 trillion in economic output in 2008 (Auguste, Hancock & Laboissière, 2009).

How can the U.S. raise its level of academic achievement when there are 14,000 local school districts, each making its own decisions on most key aspects of education? Local control of education is a cherished tradition in the United States and has many benefits, but times have changed and broad improvement in the schools is needed. To bring about this reform, four Presidents, numerous state governors of both parties, business leaders, and others have advocated for states to establish rigorous standards outlining what students should know and be able to do.

Beginning with President George H. W. Bush, the federal government proposed standards-based reform. President Bill Clinton signed legislation that provided federal aid to the states to finance the development of standards. With this federal encouragement, states developed academic standards during the 1990s.

President George W. Bush proposed the No Child Left Behind Act (NCLB) and signed it in January 2002. This legislation established accountability timelines and consequences for schools that did not make adequate progress in reaching their states' standards. Nearly a decade of experience under NCLB has revealed its flaws and the need for change. For instance, schools with sometimes marginal problems of lagging achievement are put on the same plane as those with multiple, serious failings. Furthermore, NCLB has highlighted the wide variations among states in the content and rigor of their standards, so that the percentage of students deemed to be proficient in reading and mathematics ranges from around 40% in some states to more than 90% in others (CEP, 2010a).

Presidential attention to academic standards has continued under President Obama. In 2009, the President signed the American Recovery and Reinvestment Act, the so-called economic stimulus package. This bill contained provisions developed by the Administration to encourage states to increase the rigor of their academic standards and undertake other education reforms. In addition, President Obama, congressional leaders, and others have proposed legislation to address the defects of NCLB while maintaining the concept of high academic standards. House and Senate leaders have signaled that they want to move on that legislation.

In the meantime, the states, led by the governors and state education superintendents, have sought to address the problem of widely varying state standards by developing common standards in core academic subjects that states can adopt voluntarily. As of January 2011, 42 states and the District of Columbia have adopted the common core standards and are now collaborating to develop assessments that measure students' mastery of the standards (Common Core State Standards Initiative, 2011).

Getting the federal government out of education would undercut these two decades of efforts to raise academic standards and reform education. While states have been major actors in the standards movement, the federal government has played a critical role through Presidential advocacy, legislative encouragement, and funding. As policymakers from both parties acknowledge, there are problems with NCLB, and solutions are being considered. Eliminating the federal role in education would halt the national momentum for bringing about broad improvement in the schools.

## **Conclusion**

“Getting the feds out of education” may play well with some voters, but it ignores 225 years of history. It would make state and local taxes harder to bear, thereby imperiling financial support for public schools. The costs of attending college would increase. The national focus on equity and academic achievement for students of all races, ethnicities, language groups, and genders would dissipate, as would progress in serving children with disabilities, who were kept out of school in “the good old days.” The American economy would be damaged by the low education levels of its workers.

Throughout our history, the national government has aimed to better educate the citizenry as a basis for democracy and economic prosperity. Although changes are undoubtedly needed to improve federal education programs and policies, federal involvement has been crucial in expanding educational access and quality and rallying the nation behind important educational goals. The nation must act with greater unity, not less, to make our educational system the best it can be.

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Based in Washington, D.C., and founded in January 1995 by Jack Jennings, the Center on Education Policy is a national independent advocate for public education and for

more effective public schools. The Center works to help Americans better understand the role of public education in a democracy and the need to improve the academic quality of public schools. We do not represent any special interests. Instead, we help citizens make sense of the conflicting opinions and perceptions about public education and create the conditions that will lead to better public schools.

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