



Written by [Joe Wolverton, II, J.D.](#) on February 15, 2015

Arizona Education Chief Nullifies Federal Food Fundraising Rules

A state-level bureaucrat is standing up to the the central government planners is a most unusual way.

Arizona's superintendent of public instruction, Diane Douglas, has informed all school districts in the Grand Canyon State that they have blanket authority to ignore all federal nutrition mandates regulating school fundraisers.



"Forcing parents and other supporters of schools to only offer federally approved food and snacks at fundraisers is a perfect example of the overreach of government and intrusion into local control," Douglas said in a statement. "I have ordered effective immediately, that the ADE Health and Nutrition Services division grant exemptions for all fundraisers for both traditional public schools and charter public schools."

Douglas made news during the campaign for superintendent for her vocal opposition to the Common Core educational scheme.

"The voters have rendered their decision and they have rejected Common Core in Arizona. We must now work on creating a new set of higher state standards that will prepare our students for a lifetime of success," Douglas said in November.

The regulations rejected by Douglas are part of the Smart Snacks in School program designed to make sure children being educated by the government only eat food the government approves, including any fare offered at a bake sale.

A post on the EdWeek blog describes the intended effect of the snack regulations:

The rules, administered by the U.S. Department of Agriculture allow each state to exempt a certain number of fundraisers from the rules each school year. But the federal policy does not appear to allow for a blanket exemption. Some states have responded by setting high exemption numbers, leading me to label the exemption allowance "a loophole big enough for an ice cream truck" in a previous post. Georgia and Tennessee, for example, allow 30 fundraisers a year.

While this type of "cupcake amnesty" is hardly the forceful pushback against federal tyranny that will restore the rightful balance of federalism, it is something.

The Founders were universally agreed that state governments have the power to take this tack with regard to unconstitutional acts of the federal government.



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In *The Federalist*, No. 78, Alexander Hamilton explained the philosophy behind the principle:

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

James Madison, also writing in the *Federalist Papers*, recommended that state legislators, in order to prevent federal abridgment of fundamental liberties, should refuse “to co-operate with the officers of the Union.”

Speaking during the War of 1812, Daniel Webster said:

The operation of measures thus unconstitutional and illegal ought to be prevented by a resort to other measures which are both constitutional and legal. It will be the solemn duty of the State governments to protect their own authority over their own militia, and to interpose between their citizens and arbitrary power. These are among the objects for which the State governments exist.

In the Kentucky Resolution of 1798, Thomas Jefferson wrote:

That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that, by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes — delegated to that government certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force.

Nullification is the “rightful remedy” and is a much more constitutionally sound method of checking federal usurpation and is quicker and less complicated than an attempt to have the law repealed by Congress or overturned by a future federal bench more respectful of the Constitution.

That said, there is no reason that concerned citizens should not use every weapon in the constitutional arsenal, including working to convince Congress to abolish every unconstitutional department of the federal government, including the Department of Agriculture (USDA), the agency that issued the school food regulations.

As of the writing of this article, the USDA has not responded to the Arizona superintendent of public instruction’s plenary permission to ignore federal snack food fascism.

Photo: Diane Douglas

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