



Written by [Joe Wolverton, II, J.D.](#) on July 2, 2015

Educrats: For the Sake of the Children, Take Away State Power Over Education

Education activists are warning Congress that unless they take the Supreme Court's recent same-sex "marriage" ruling as a model for taking away power over education from the states, the children will suffer irreparable harm.

In a note to the U.S. Congress, Chicago-based organization Education Post points to a paragraph in the majority opinion in *Obergefell v. Hodges* as a guide for federal lawmakers in their efforts to renew the Every Child Achieves Act (formerly known as the Elementary and Secondary Education Act).

Basically, the group believes that what would be best for American families would be the "equal protection of all students, regardless of state of residence."

The letter goes on to point to the parallels between the "struggle" of schoolchildren and that of homosexuals and just how Congress should consider those similarities in its construction of the new version of the education bill:

Consider the parallels. Justice Kennedy, writing for the majority, notes that same-sex couples have been "consigned to an instability many opposite-sex couples would find intolerable." Just like children in chronically underperforming schools, particularly those from impoverished families, are consigned to an instability that many wealthier families would find intolerable.

Same-sex couples and their children, posits Justice Kennedy, have been "denied the constellation of benefits that the States have linked to marriage." Just like children, mostly minority ones, are denied the constellation of benefits that many non-minority children have access to through high-performing schools.

The inequality and lack of access to the institution of marriage, says Justice Kennedy, has subjected the LGBTQ community to "a grave and continuing harm." Just like the grave and continuing harm endured by students consigned to failing schools.

Then, the missive goes on to echo the "we can't wait" tune hummed by the president while he uses his infamous phone and pen to pass new "laws" while simultaneously praising and pillorying the "democracy" established in the Constitution:

And, while the Constitution contemplates that "democracy is the appropriate process for change," individuals who are harmed need not await legislative action before asserting a fundamental right.

Education, then, is now a "fundamental right." Assuming that such is a fundamental right, it does not follow that the federal government has any authority to regulate that right.



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better conversation, better education



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As any child who studied government before the Common Core era could explain, the federal government has no powers beyond those explicitly enumerated in the Constitution. Not only may it not act in those areas, but the 10th Amendment specifically restates that those powers not delegated to the government of the United States “are reserved to the states respectively, or to the people.”

Notwithstanding this very clear prohibition on passing any education bill, Education Post pushes Congress to act to lest “States and districts would be free to ignore achievement gaps and low graduation rates while still receiving federal funds.”

Basically, the federal government must, the group insists, step in to protect this “fundamental” and “civil right” of kids from the states who have shown, as in the case of homosexuals, that they will obstinately deny “access to the institution of marriage, even when certain state laws rendered to them grave and continuing harm.”

Just how heartless are the states when it comes to caring for the children living within their borders? The letter states,

It’s no accident that some of the [primary advocates for a stronger federal role in education are civil rights leaders](#). Under the current draft of ESEA, states have to identify subgroups of children underserved by schools but they don’t actually have to do anything about it. Here they are, a state could confess: low-income children in this school district or this school demonstrate unequivocal achievement gaps. Lah di dah.

Lah di dah? LOL!

The letter goes on to insist that if in order to protect the right of children to be educated, the Congress must effect a “denial of states’ rights to proscribe specific forms of remediation,” and, in fact, the kids should not have to “wait for state legislative action before the federal government steps in.”

Do the right thing, Education Post says, and follow the Supreme Court’s example and ignore the Constitution, create fundamental rights out of thin air, ignore “federal overreach,” and expand the power of the federal government into another formerly protected precinct. If Congress doesn’t do this, the kids will never recover.

And to all those who will oppose these proposals to perpetuate federal control over education, Education Post has a message for them, as well:

To some — the Rand Pauls of the world — the federal government and the secretary should have no role at all, beyond dispensing funds. This makes a great sound bite for Tea Party aficionados and, oddly, some teachers union leaders.

But parents of special needs kids (full disclosure: I’m one) know that it’s just too easy for state departments of education and individual school districts to profess love, ask for trust and then blithely go straight ahead and do wrong.

It is because of the lack of “trustworthiness” of state legislatures that the organization maintains that the new education bill “must contain some degree of federal oversight.”

If, on the other hand, Congress passes a bill that moves “towards state autonomy,” it “will do great harm to children.”

Parents, the group declares, “don’t need D.C.’s help to love our kids,” but they do need “federal oversight authority” over the educational standards in schools in every state in the union and every



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district in those states.

However, Education Post's assertions that federal oversight, control, and money will mean better education results for underperforming, often minority, students is patently false, as Kurt Williamsen explained for *The New American* in his article "[Do Progressive Policies Hurt Black Americans?](#)":

Though a couple of progressive notions about education have shown signs of success — i.e., smaller class sizes in elementary school — most have been dismal failures. Not one of 114 tests administered to first graders showed a statistically significant positive effect of child enrollment in Head Start. All told, 35 percent of U.S. adults either cannot read or read below a fifth-grade level. College affirmative action programs have led to high college dropout rates for blacks in many colleges (see "[Affirmative Action Assumptions](#)"). Homeschooled kids and private-school kids do better than public-school kids on SATs, meaning the argument that more public-school spending is the solution to education problems is nonsense, as both groups generally spend far less on education than public schools. (Also, Detroit's public schools — the land of "progressive" policies for over 50 years — have some of the highest paid teachers and worst-performing students, along with those in Washington, D.C.) And so on.

In all of its recommendations, Education Post has mistaken the creature for the creator.

The states created the federal government and reserve the right to resist the exercise by Congress of any powers not specifically granted to it by the states in the Constitution. For too long, Congresses, presidents, judges, and bureaucrats have "worshipped and served the creature [the government] more than the creator [the states and the people]." (Romans 1:25)

Presidents, courts, congressmen, and education activists must remember that the Constitution is a creature of the states and that the federal government was given very few and very limited powers over objects of national importance. Any act of Congress, the courts, or the president that exceeds that small scope is null, void, and of no legal effect. No exceptions.

Therefore, despite the emotional appeals of Education Post to argue for an enlarged "role of the federal government in state public education systems," no such role exists and none can be asserted without setting on its ear the principle of federalism and accelerating the agenda that would see the federal government usurp absolute control over how, when, and what our children learn.



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