



Written by [Joe Wolverton, II, J.D.](#) on June 19, 2015

# Public Funding of Education: “Civil Rights Issue of Our Day”

Of all the legitimate rights being abused by government, leave it to the Progressive lobby to create a new “right” for the sole purpose of limiting liberty by demanding that government guarantee protection of this new “right.”

Earlier this month, two companion reports were issued by the Pennsylvania-based Education Law Center and the Leadership Conference Education Fund claiming that inequity in funding of public education is “one of the sleeper civil rights issues of our time,” according to an article on the reports published in the *Washington Post*.



“The evidence from across the country is clear and compelling: Our nation must dramatically change the way that educational resources are distributed so that there is true equity in America’s classrooms,” stated Wade Henderson, president of the Leadership Conference on Civil Rights and Leadership Conference Education Fund, as quoted in the *Post*’s article.

Citing a 1973 Supreme Court ruling recognizing state authority to establish public-school funding formulas, Henderson called the decision a “triumph of states’ rights over human rights.”

Of course, Henderson doesn’t suggest that humans be charged with paying for this “human right”; rather predictably, he calls on the federal government to forcibly create “equitable” public school funding levels.

According to its website, the Leadership Conference Education Fund declares that it exists to “empower and mobilize advocates around the country to push for progressive change in the United States.”

A central plank of that platform — and that of the entire education lobby — is to encourage activists to put pressure on states to “funnel more resources to students in poor districts than those in affluent districts,” as reported in the Education Law Center’s report.

In its synopsis of this section of the findings, the *Washington Post* reports that 35 states:

either devote the same funding to the poorest and richest districts, or they send more to districts serving the most affluent students than they send to districts serving the poorest children. Many students in the poorest districts come to school hungry, are in need of health care or lack a stable home life. Such children generally are considered more expensive to educate.

The studies provide “fairness profiles” for the 50 states, using graphs to indicate where “poor” children are being denied their “fundamental right” to have their education paid for by funds forcibly expropriated from citizens by the government.

The authors of the report are unfazed by this pesky principle of personal liberty. As reported by the



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Post:

Most of the nation could afford to spend more on education, the report argues, pointing to the falling level of “effort” on education spending in most states. Effort is defined in the report as the ratio of state and local education spending to economic productivity — or the state’s gross domestic product.

It is curious that these leftists clamor so loudly (and so academically) for increased funding for public education — claiming that to not do so is a denial of a civil right — yet remain completely silent on the issue of the denial of the civil rights of those whose money is taken without their consent and funneled into areas (education, among others) where the federal government has absolutely no constitutional authority.

The question should be asked: Are public schools constitutional?

There is not a single syllable in the Constitution granting even implied power to the federal government over education. There is, however, a very explicit provision that points to where one should look for the authority over such areas.

The 10th Amendment instructs that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.”

In other words: *education is a state issue, not a federal one.*

Why, then, is there a federal Department of Education when the Constitution is so clear on the matter? In a word: power.

The Department of Education was created during the Jimmy Carter administration as a means of compensating the powerful teachers’ unions for their support during the campaign of 1976.

In his seminal work *The Law*, 19th-century French political economist Frédéric Bastiat addressed the same accusation that is being made today by the Education Law Center and the Leadership Conference Education Fund: that lack of government funding reveals a lack of care for children. Bastiat wrote:

You say: “There are persons who lack education,” and you turn to the law. But the law is not, in itself, a torch of learning which shines its light abroad. The law extends over a society where some persons have knowledge and others do not; where some citizens need to learn, and others can teach. In this matter of education, the law has only two alternatives: It can permit this transaction of teaching-and-learning to operate freely and without the use of force, or it can force human wills in this matter by taking from some of them enough to pay the teachers who are appointed by government to instruct others, without charge. But in this second case, the law commits legal plunder by violating liberty and property.

Later, Bastiat explains how such systems are socialist and contrary to the freedom of the individual:

Here I encounter the most popular fallacy of our times. It is not considered sufficient that the law should be just; it must be philanthropic. Nor is it sufficient that the law should guarantee to every citizen the free and inoffensive use of his faculties for physical, intellectual, and moral self-improvement. Instead, it is demanded that the law should directly extend welfare, education, and morality throughout the nation.

This is the seductive lure of socialism. And I repeat again: These two uses of the law are in direct contradiction to each other. We must choose between them. A citizen cannot at the same time be



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free and not free.

Finally, this quote from *The Law* should serve to educate those who fear the future of schooling should the Constitution be observed and the forced public funding of it be abolished:

Socialism, like the ancient ideas from which it springs, confuses the distinction between government and society. As a result of this, every time we object to a thing being done by government, the socialists conclude that we object to its being done at all.

We disapprove of state education. Then the socialists say that we are opposed to any education. We object to a state religion. Then the socialists say that we want no religion at all. We object to a state-enforced equality. Then they say that we are against equality. And so on, and so on. It is as if the socialists were to accuse us of not wanting persons to eat because we do not want the state to raise grain.

The progressive, unconstitutional, and socialist schemes advocated by organizations such as the Education Law Center and the Leadership Conference Education Fund must be opposed by those friends of liberty who not only cherish the Constitution, but understand that opposing forcible government funding of public education has nothing to do with one's commitment to improving the education of America's youth.

In fact, protecting the fundamental right of people to keep the fruits of their labors is the surest way to improve all aspects of human existence — relying on a rising tide to lift all boats.



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