# On Case

## Notes/Explanation

Thanks to Allie, Alanna, Malachi, and Royden for working on the file.

## Discrimination Advantage

### 1NC — Frontline

#### 1. The status quo solves — Justice Department cases prove.

**Childress 15** — Sarah Childress, Senior Reporter for Frontline, B.A. in English and Journalism at the University of Notre Dame, 2015 (“Justice Department Probes Another ‘School-to-Prison Pipeline,’” *PBS Frontline*, April 1st, Available Online at <http://www.pbs.org/wgbh/frontline/article/justice-department-probes-another-school-to-prison-pipeline/>, Accessed 07/09/2017, Lenny)

The Justice Department is investigating how a Texas county punishes kids for missing school, targeting what civil-rights advocates call the school-to-prison pipeline: policies that disproportionately rout certain children — primarily blacks and Latinos — out of class and into the juvenile justice system.

In Texas, failure to attend school, or truancy, is a criminal offense punishable by fines up to $500, plus court costs. Judges also have wide discretion in levying additional penalties. They can order children to attend counseling or perform community service, or even wear an ankle monitor or drop out of school entirely.

That policy, and the way it is applied, disproportionately harms low-income children, blacks and Latinos and those with disabilities, according to a report released in 2013 by Texas Appleseed, a nonprofit advocacy group that has sought federal intervention in the state. Kids who miss too much school aren’t always just playing hooky, though. They may have other reasons for not being in class, such as homelessness or having to care for other family members.

Research suggests that incarcerating young people is often ineffective, and can actually make them more likely to commit another crime. Those findings, and a desire to cut high incarceration costs, have led several states to rethink the way they handle juvenile offenders.

The Justice Department investigation of Dallas County, announced this week, will focus on whether the truancy court and the juvenile district courts there provide due process for all children in the system. The county prosecuted approximately 20,000 cases of truancy last year, according to the Justice Department.

“Ensuring that children’s rights under the Constitution and federal law are protected during the court process is a key step to dismantling the school-to-prison pipeline,” said Vanita Gupta, acting assistant attorney general of the DOJ’s Civil Rights Division. “We hope to work cooperatively with the county in determining whether it has taken steps to ensure that its juvenile and criminal courts fully respect the rights of the children who come before them.”

The county is already working to implement some reforms, and will cooperate with the investigation, Clay Jenkins, the Dallas County judge, told the Dallas Morning News in a statement.

“We remain committed to giving every student their best chance at staying in school and graduating,” he said. “My office is working collaboratively with reformers to improve the state laws that control the system, provide new protections for disabled students, make expunction of truancy records automatic, and lower fines and penalties.”

The DOJ has concluded two other investigations into how young people are treated in other jurisdictions. In April 2012, the department found that the juvenile court of Memphis and Shelby County, Tenn., and Shelby County’s detention center failed to provide due process for children swept up in its system, and that it regularly discriminates against black children.

Four months later, federal officials uncovered a system in Meridian, Miss. in Lauderdale County, that regularly violates the constitutional rights of children, almost all of them African-American. The investigation found that the Meridian Police Department regularly arrests youths without probable cause who have been referred by the school — even for minor offenses like using profanity or disrespecting a teacher. The Lauderdale County Youth Court and the state Division of Youth Services then, eschewing due process, rout them to juvenile detention facilities. In this system, children are expelled and suspended at disproportionately high rates.

In December 2012, federal officials reached a settlement agreement with the Tennessee court to implement reforms, including establishing a public defender unit for juveniles, and policies that prohibit the use of restraints for children, and adopted a plan to prevent suicide and encourage juvenile development while in detention. The court also agreed to study why minorities are disproportionately represented at key stages in the juvenile justice system.

#### 2. DeVos circumvents the plan — OCR rollbacks, Sessions, and Jackson nomination reinstate the pipeline.

**LeTourneau 17** — Nancy LeTourneau, Writer for the Washington Monthly, B.A. in Secondary Education and a M.A. in Theology, 2017 (“DeVos Is Set to Reinvigorate the School-to-Prison Pipeline,” *Washington Monthly*, April 19th, Available Online at <http://washingtonmonthly.com/2017/04/19/devos-is-set-to-reinvigorate-the-school-to-prison-pipeline/>, Accessed 07/09/2017, Lenny)

Perhaps you remember the stories. But in case you’ve forgotten, Carimah Townes offers a reminder.

An eighth grader was locked up for throwing skittles on a schoolbus. A 6-year-old girl was handcuffed for taking candy from a teacher’s desk. An officer slammed and dragged a high school girl, because she wouldn’t put her phone down. A Texas cop choked a 14-year-old boy over a shoving match in school. A middle school student was suspended and charged for allegedly stealing a carton of milk from a cafeteria — even though he didn’t do it.

There was a time when we were hearing these stories on a regular basis. The problem wasn’t that students were being disciplined for bad behavior — it was that teachers and other school personnel were increasingly turning that job over to law enforcement rather than handling it themselves. The problem was particularly acute for students of color — especially black boys who are criminalized from a very early age. That is what led to the creation of the school-to-prison pipeline.

Demonstrating how oblivious she is to what some have called the civil rights issue of our time, Secretary of Education Betsy DeVos said that she couldn’t think of any civil rights issues in education that would necessitate federal intervention. Then DeVos hired Candice Jackson to be the acting head of the U.S. Department of Education’s Office for Civil Rights — someone who once claimed that she had experienced discrimination because she is white.

The pivotal role played by the person in that position was demonstrated by the change that occurred from the George W. Bush administration to the Obama years. The Office for Civil Rights quit the long-standing practice of requiring school districts to report data on achievement and disciplinary measures by race under Bush. Obama reinstated the requirement.

As a result of that reversal, the Departments of Education and Justice set out to do something about the overwhelming disparities in the data on school discipline and suspension, even for students in pre-school. For example, DOE’s Civil Rights Division began investigating school districts with significant disparities in their school discipline practices. And DOJ filed suit against the school district in Meridian, MS for some of the most egregious practices in the country, leading to a consent decree. That was followed by guidelines released to school districts from the Departments of Education and Justice on ending the school-to-prison pipeline. The result of highlighting the issue was that even the Senate held a hearing on the topic.

During her confirmation hearing, DeVos refused to commit to collecting data on civil rights matters and it is clear that AG Sessions will have no problem with police officers criminalizing the behavior of students in school. As we’ve seen in the past, this will disproportionately impact students of color, and will be another way that the Trump administration criminalizes black and brown bodies, starting at a very early age.

#### 3. The plan doesn’t resolve school discrimination — teacher access & preschools.

**Resmovits 14** — Joy Resmovits, Senior Education Reporter, The Huffington Post, B.A. in Political Science & English, 2014 (“American Schools Are STILL Racist, Government Report Finds,” *Huffington Post*, March 21st, Available Online at <http://www.huffingtonpost.com/2014/03/21/schools-discrimination_n_5002954.html>, Accessed 07/10/2017, Lenny)

Public school students of color get more punishment and less access to veteran teachers than their white peers, according to surveys released Friday by the U.S. Education Department that include data from every U.S. school district.

Black students are suspended or expelled at triple the rate of their white peers, according to the U.S. Education Department’s 2011-2012 Civil Rights Data Collection, a survey conducted every two years. Five percent of white students were suspended annually, compared with 16 percent of black students, according to the report. Black girls were suspended at a rate of 12 percent — far greater than girls of other ethnicities and most categories of boys.

At the same time, minority students have less access to experienced teachers. Most minority students and English language learners are stuck in schools with the most new teachers. Seven percent of black students attend schools where as many as 20 percent of teachers fail to meet license and certification requirements. And one in four school districts pay teachers in less-diverse high schools $5,000 more than teachers in schools with higher black and Latino student enrollment.

Such discrimination lowers academic performance for minority students and puts them at greater risk of dropping out of school, according to previous research. The new research also shows the shortcomings of decades of legal and political moves to ensure equal rights to education. The Supreme Court’s landmark 1954 Brown v. Board of Education ruling banned school segregation and affirmed the right to quality education for all children. The 1964 Civil Rights Act guaranteed equal access to education.

“This data collection shines a clear, unbiased light on places that are delivering on the promise of an equal education for every child and places where the largest gaps remain,” U.S. Secretary of Education Arne Duncan said in a statement. “In all, it is clear that the United States has a great distance to go to meet our goal of providing opportunities for every student to succeed.”

Duncan and Attorney General Eric Holder plan to announce the survey results on Friday. The information, part of an ongoing survey by the Education Department’s Office of Civil Rights, highlights longstanding inequities in how schools leave minority students and students with disabilities at a disadvantage. For the first time since 2000, the new version of the survey includes results from all 16,500 American school districts, representing 49 million students.

“Unfortunately, too many children don’t have equitable access to experienced and fully licensed teachers, as has again been proven by the data in this report,” said Dennis Van Roekel, president of the National Education Association, the nation’s largest teachers union. “This is a problem that can and must be addressed.”

Daria Hall, K-12 policy director at the Education Trust, an advocacy group, also called for action. “The report shines a new light on something that research and experience have long told us — that students of color get less than their fair share of access to the in-school factors that matter for achievement,” she said. “Students of color get less access to high level courses. Black students in particular get less instructional time because they’re far more likely to receive out of school suspensions or expulsions. And students of color get less access to teachers who’ve had at least a year on the job and who have at least basic certification. Of course, it’s not enough to just shine a light on the problem. We have to fix it.”

Though 16 percent of America’s public school students are black, they represent 27 percent of students referred by schools to law enforcement, and 31 percent of students arrested for an offense committed in school, according to the survey.

Students with disabilities make up one-fourth of students referred to law enforcement or arrested, although they represent 13 percent of the student population. Students with disabilities are twice as likely to be suspended out of school than peers, with 13 percent of such students being sent home for misbehaving. One of four boy students of color who have disabilities and one in five girl students of color who have disabilities were suspended. Students of color include all non-white ethnic groups except Latino and Asian-American.

These numbers will likely add pressure to dismantle the so-called school-to-prison pipeline, which feeds troubled students into the justice system. The push to ease discipline sometimes causes tension with schools’ efforts to beef up security after school mass shootings, like the one in Newtown, Conn. Last week, a set of reports 26 academics pointed to a few local studies that found that disparate discipline outcomes did not happen as a result of certain ethnic groups acting out more than others.

According to the new data, disparities begin as early as preschool. Black students make up 18 percent of preschool enrollment, but they comprise 48 percent of preschool students receiving more than one suspension out of school. White students, representing 43 percent of preschool students, only receive 26 percent of out-of-school suspensions more than once.

Randi Weingarten, who heads the American Federation of Teachers union, noted that despite a recent Education Department Equity and Excellence Commission report calling for measures to remedy discrimination, little has been done. “It is shameful that not a single recommendation has been implemented,” Weingarten said. “We don’t need more data to tell us we need action.”

## OFFENSE

### NB – politics link turns case

#### Politics link turns solvency---even if the initial policy is sound, it won’t achieve lasting change because of entrenched resistance

Chopin 13 – JD, associate in the Labor & Employment Law Department and a member of the Employee Benefits & Executive Compensation Group, focusing on complex employee benefits litigation (Lindsey, “COMMENT: UNTANGLING PUBLIC SCHOOL GOVERNANCE: A PROPOSAL TO END MEANINGLESS FEDERAL REFORM AND STREAMLINE CONTROL IN STATE EDUCATION AGENCIES,” *59* *Loyola Law Review 399*, Lexis)//BB

1. The Exoskeleton of Policy

On a broad level, one that is much broader than education policy alone, ambitious federal policies are often difficult to implement because there is a large gap between the theory of the policy and the actual ability to put the theory into practice. 196 There are many reasons for this gap, one being that the policy put forth by the federal government must pay the "political price of passage." 197 This price consists of two components - attractiveness and flexibility - and ultimately weakens the strength of the policy. Policy may be considered attractive for many reasons, such as the perceived level of impact it will have and the speed at which it is enacted. 198 Therefore, once the public perceives a "crisis," politicians have to react quickly for their actions to have high appeal. The result is that their policy often rests more on rhetoric and hope, than on actual research itself. 199 Moreover, their proposed solution must generally be wide-reaching and hard-hitting, even if common sense indicates that it will be too difficult to enact or that failure is likely. 200 Economic research has shown that the further a policy stretches from standard procedure, the more likely it is to fail or have perverse side effects; thus, these types of reforms, although attractive, will likely have a high failure rate. 201 When failure occurs, the policy must be reformed, which creates a vicious cycle of policy after policy. 202 Section III(B)(1)(a) explores this method of "rapid fire reform" and why it is not suited to govern educational policy. Second, because legislation must pass through a Congress composed of members with vastly different viewpoints and agendas, policies must be flexible enough to please representatives of all fifty states. As seen in the recent [\*434] congressional impasses, this type of agreement is not easily reached, and the policies suffer as a result. 203 With every concession of flexibility comes a chance for failure, and the result is a set of regulations with no substance or enforcement potential. 204 Even if the initial policies or goals were sound, the policies will likely never make any real, widespread change. 205 Section III(B)(1)(b) will explore the difficulty in implementing these innovations.

### NB – circumvention – social capital

#### Federalizing education strips social capital from education enforcers---makes follow-through at the school-level less likely

Mills 12 – Professor of Law @ NYU (Robert, “EDUCATIONAL INNOVATION AND THE LAW: THE CASE FOR EDUCATIONAL FEDERALISM: PROTECTING EDUCATIONAL POLICY FROM THE NATIONAL GOVERNMENT'S DISECONOMIES OF SCALE,” *87 Notre Dame L. Rev. 1941*, Lexis)//BB

A. Three Advantages of Subnational Democracy For Mobilizing Support for Education

Consider three advantages of subnational democracy in mobilizing support for education - bonding social capital, home-value capitalization, and ideological sorting. Each of these advantages suggests that subnational government ought to play a lead (although not an exclusive) role in raising revenue for, and regulating the content of, education.

1. Bonding Social Capital and Subnational Democracy

Increasing the size of a community tends to increase its demographic and ideological heterogeneity, and there are reasons to believe that heterogeneity can impede cooperation by reducing what Robert Putnam has termed "bonding social capital." 37 "Bonding social capital" refers to the capacity of like-minded persons to cooperate with each other in collective action tasks requiring high degrees of trust and reciprocity. 38 Putnam has defended the claim that social [\*1957] heterogeneity decreases the capacity of citizens to cooperate, because people who think alike will tend to trust each other more than people who have ideological, religious, or cultural differences, 39 a contention that, despite being hotly controverted, has found support from other researchers measuring the capacity of citizens to unite for civic projects or interact with each other in political activities. 40 Despite the controversy that Putnam's claim has generated, the claim that ideological diversity impedes political cooperation is hardly novel, dating at least from James Madison's Federalist No. 10.

Regarding education in particular, there is some historical support for the claim that communities with lower levels of ethnocultural, ideological, and income diversity have found it easier to raise revenue for educational investments. Claudia Goldin and Laurence Katz found that school districts' voters were more likely to embrace the massive investment in high schools during the early twentieth century if they were more economically and ethnoculturally homogenous. 41 Likewise Marion Orr found that inter-racial distrust distracted Baltimore schools from their educational mission. 42

Households with children tend to have many opportunities for social and political interaction, simply because children draw parents into social networks of sports leagues, parent-teacher associations, and more informal school activities. As William Fischel notes, these networks can be used to participate in public life, as households with children [\*1958] come to know and trust each other as a result of their other interactions in school-based networks. 43 But Fischel also notes that the social capital created by these networks is "community-specific": it is most effective within the local jurisdictions in which the network of "social capitalists" is concentrated. 44 Learning how to divide up time and talking points with one's neighbors helps a lot at the school board's microphone, because the neighbors are all physically concentrated within the jurisdiction of the school board. Those skills will not, however, help a lot with coordinating a campaign to influence a congressional committee chair residing in another state. 45

Elevating educational policymaking to the federal level, therefore, strips households with children of their most valuable political asset - their social capital derived from their local networks. As the relevant constituency increases in size, those personal networks become less politically useful: they are replaced by media that create connections between strangers - mass mail alerts, email blasts, blog posts, newsletters, television advertisements, etc. Because these mass-mobilizing devices cost money and require expertise in mass communication, groups with expertise in fundraising will have a comparative advantage over households with children. In effect, the change in level of government also changes relative to political power, placing households with children on turf where their skills and in-person networks are least relevant and where fundraising skills are most relevant. 46

By suggesting that households with children will do better subnationally rather than nationally, I do not mean to suggest that smaller jurisdictions are always "closer to the people." On issues where the costs of acquiring information are very high, there might be scale economies in communication that outweigh the advantages of cheap access to local political networks. For constituencies that are unaware or uninterested in the relevant policies, the advantages of a large and heterogeneous political ecology - a diverse national media with dozens of websites, high levels of television coverage, nationally competitive political parties, a plethora of competing interest groups, etc. - may promote political participation far more effectively than the ease of showing up at a hearing in person. Because national political [\*1959] processes tend to be more salient than subnational processes, the former might actually be "closer to the people" than the latter whenever public consciousness of or interest in political issues is low. 47

But the peculiar characteristic of stably governed households with children is that their high stakes in educational policymaking already tend to make them well-informed about educational policy disputes, without the aid of a dense and heterogeneous interest group and media environment. The marginal gains in issue-salience from elevating educational issues to the national level will, therefore, likely be small, while the loss of access to the relevant decision-makers is large. If one accepts the argument in Part I that these households deserve special deference on their educational decisions, then it also follows that subnational politics ought to receive special primacy on educational policy-making, because subnational politics tend to give more weight to the political strengths of stably governed households.

#### Social capital is the key determinant of education policy success

O’Day and Smith 16 - \* Institute Fellow of American Institutes for Research and is the Founder and Chair of the California Collaborative on District Reform. Her research has focused on system change, improvement in high-poverty districts and schools, and policies affecting English language learners, \*\* Senior Scholar at the Carnegie Foundation for the Advancement of Teaching, a former Dean and Professor at Stanford, and a former Under Secretary and Acting Deputy Secretary at the U.S. Department of Education in the Clinton administration. He is a Fellow of the American Academy of Arts and Sciences and the National Academy of Education (Jennifer and Marshall, “Equality and Quality in U.S. Education,” *American Institute for Research*, http://www.air.org/sites/default/files/downloads/report/Equality-Quality-Education-EPC-September-2016.pdf)//BB

Implementation is a social process. Effective implementation requires activating relationships among people, groups, and organizations (social capital)—not just once but repeatedly and continually. In high-poverty contexts, staff turnover and a lack of trust often impede the development of the strong relationships needed to make evidence-based practices work and to foster individual and organizational learning. Attempts to ensure implementation and the spread of effective practices through administrative mandates do little to solve the problem as they too often lead to superficial compliance without deep understanding or committed action. Lesson Two: Piecemeal Reforms Leave Systemic Contributors Untouched Many of these implementation challenges persist because isolated and piecemeal reforms seldom address the underlying systemic contributors to the targeted situation or inequity. Moreover, incoherence and instability in the policy environment make it difficult to identify and change these contributing conditions. Superintendents, school boards, and legislators come and go—often with great frequency—whereas disparities in resources and practices go on, bolstered by institutionalized structures and beliefs. On the ground, schools in high-poverty neighborhoods lack the information, trust, and capacity they need to examine their practices and results over time and are pulled in multiple and conflicting directions by the mixed messages they receive. High-stakes testing and rigid accountability measures can compound these issues and have the effect of drawing attention to avoiding consequences for adults rather than ensuring progress for students.

#### Federal mandates makes parents believe they have less choice--depletes parent buy-in---lowers educational outcomes

Pinder 10 - Associate Professor, John Marshall Law School, Atlanta, Georgia; former program attorney, Office of the General Counsel, U.S. Department of Education. B.A., Smith College; J.D., New York University School of Law; LL.M., Georgetown University Law Center (Kamina, “Federal Demand and Local Choice: Safeguarding the Notion of Federalism in Education Law and Policy, *39 J.L. & Educ. 1*, Lexis)//BB

Professor Heise suggests control of educational policy should be given to the level of government that pays the associated costs and asserts that by decoupling funding and policy, NCLB dilutes voting citizens' influence. 182 Connecting policy to funding may serve to protect federalist interests in most instances, but as states and the federal government increasingly fund education, they are presented with a danger in connecting funding to control. Although poor districts do not have the fiscal resources necessary to provide basic educational needs, much less innovative educational programs, 183 there is value in allowing the local voter to have input in local education policy rather than imposing it from the federal level. Evidence supports the claim that the less input parents have on their children's educational choices, the less successful the educational experience. 184 Interestingly, at least part of that parental input may be attributable to spending; parents who are disconnected from school spending are less likely to be interested in assessing schools' educational value. 185

#### Fiat doesn’t solve---feds can’t force compliance at state, local and school level

Lips 10 - senior fellow at the Goldwater Institute and the Maryland Public Policy Institute, former Education Analyst in the Domestic Policy Studies Department at The Heritage Foundation (Dan, “A Smarter Path to a "Race to the Top" in Education Reform,” Heritage Foundation, http://www.heritage.org/education/report/smarter-path-race-the-top-education-reform)//BB

First, the federal government has a limited ability to force states and school districts to comply with reforms. In reality, the struggle to implement real school reforms at the state and local level is a political one. For school reforms to work, state and local leaders and education officials must embrace reform strategies and commit to seeing through their implementation. Federal incentives and punishments will have a limited ability to convince state and local politicians to take on the political challenge of education reform.

# Federalism DA

## 1NC

#### Trump XO creates a review process that is shifting power over education back to the states

By S.A. Miller - The Washington Times - Wednesday, April 26, 2017 Trump to pull feds out of K-12 education http://www.washingtontimes.com/news/2017/apr/26/donald-trump-pull-feds-out-k-12-education/ IB

President Trump signed an executive order Wednesday to start pulling the federal government out of K-12 education, following through on a campaign promise to return school control to state and local officials.¶ The order, dubbed the “Education Federalism Executive Order,” will launch a 300-day review of Obama-era regulations and guidance for school districts and directs Education Secretary Betsy DeVos to modify or repeal measures she deems an overreach by the federal government.¶ “For too long the government has imposed its will on state and local governments. The result has been education that spends more and achieves far, far, far less,” Mr. Trump said. “My administration has been working to reverse this federal power grab and give power back to families, cities [and] states — give power back to localities.”¶ He said that previous administrations had increasingly forced schools to comply with “whims and dictates” from Washington, but his administration would break the trend.¶ “We know local communities know it best and do it best,” said Mr. Trump, who was joined by several Republican governors for the signing. “The time has come to empower teachers and parents to make the decisions that help their students achieve success.”¶ Ms. DeVos and Vice President Mike Pence were on hand for the ceremony, which was attended by about 25 people, including teachers, lawmakers and the governors.¶ The executive order is not expected to have an immediate impact on school districts. Policy changes will follow a report on the findings of the review.¶ The review will be spearheaded by the Department of Education’s Regulatory Review Task Force, according to the order.¶ Ms. DeVos already has authority to modify or repeal regulations that are deemed a violation of federal law. The order, however, creates a review for identifying those areas and makes clear her mandate from the president to take action.¶ Reducing the federal government’s role in K-12 is part of Mr. Trump’s reform agenda, which also includes the expansion of school choice programs.¶ Among those at the signing ceremony were Govs. Kay Ivey of Alabama, Gary Herbert of Utah, Paul LePage of Maine, Brian Sandoval of Nevada and Terry Branstad of Iowa, who also is Mr. Trump’s nominee for ambassador to China.¶ Also in attendance were Sen. Lamar Alexander of Tennessee and Rep. Virginia Foxx of North Carolina, the Republican chairs of the two chambers’ education committees.

#### Federalism is rebalancing on education now – establishing federal guidelines on education spills over to all other issues

By Kevin D. Roberts Ph.D., is a longtime educator who is Executive Vice President of the Texas Public Policy Foundation in Austin February 07, 2017 “States, Not the Feds, Should Lead Education Reform” http://www.realcleareducation.com/articles/2017/02/07/states\_not\_the\_feds\_should\_lead\_education\_reform\_\_110115.html IB

The era of Donald Trump offers conservative reformers opportunities they have not seen since the 1980s. The most significant are in education, where the federal government has aggrandized its power, rendering states impotent. This overreach comes at the expense of two things very dear to the nation—our schoolchildren and our understanding of shared power.¶ Though the Trump administration will no doubt address the former problem, its means of doing so may very well exacerbate the latter. Too often, well-intentioned, conservative executives end up using federal power to heal the wounds caused by the very same bludgeon—federal power.¶ If President Trump is correct in his inaugural exhortation that “now is the hour of action,” then states—not federal bureaucrats—need to lead the charge on education policy.¶ Among the many problems facing American education, the most significant may be our schools’ and colleges’ utter failure to teach civic education. Two generations of American students have been taught precious little about the American Founding or the Constitution, let alone the philosophical foundation of the American system of government—federalism. That notion of shared power between the federal government and states has, as a result, withered.¶ How fitting, then, that Texas—where the American spirit of independence, work ethic, freedom and a vibrant notion of state power is palpable—take the lead in renewing federalism. And how fitting that it do so in the policy area where revitalized state power is most needed: education.¶ During the otherwise-bleak years of the previous administration, the Lone Star State has shined as a beacon of liberty, deregulation and restrained government authority. Harkening to Justice Louis Brandeis's early-20th-century comment that “states are the laboratories of democracy,” Texas-based initiatives have sprouted across the nation. It's no Texan braggadocio to observe that nationwide, efforts in tort reform, deregulation, tax reduction and criminal justice reform originated in Texas. The resulting “Texas Model” has become the blueprint for leaders in dozens of states.¶ And that is precisely how our system should work. Though we are all familiar with the legitimate claims based on state sovereignty and the Tenth Amendment, our Founders viewed those as mere baseline expectations. In the realm of public policy, they saw the states as taking the initiative, being so bold and innovative that the federal government would have to serve as a check on them—not the other way around, as the case has been in recent years.¶ As the Obama administration would be the first to say, Texas has led those efforts to check federal power. That defensive posture was necessary—and, for the Republic, crucial. But now Texas and other states must seize the field of education policy, exercising their own power with bold policy initiatives.¶ The timing for Texas policymakers is perfect. The state's biennial legislative session has just begun, and the momentum for an education overhaul has never been stronger. At the National School Choice Week rally earlier this week, both Gov. Greg Abbott and Lt. Gov. Dan Patrick gave rousing, full-throated endorsements of school choice reforms.¶ There are obstacles, to be sure, but even the defenders of the status quo recognize that it's hard to defend the mediocrity of the status quo.¶ Among the many school choice vehicles, the most far-reaching—for Texas and the United States—is an Education Savings Account (ESA). Built on the successes of early choice vehicles such as tax-credit scholarships, ESAs offer wider and easier usage, removing the barriers to access that have been foisted on choice programs by opponents. Parents may use an ESA to pay for a host of education-related expenses, including private school tuition, tutoring, special needs programs and books.¶ In sum, an ESA gives parents an unprecedented means for customizing their child’s education—the exact opposite of the conveyor-belt, cookie-cutter approach that has become modern American education.¶ Though some reformers have advocated for federal ESAs, the inefficiency inherent in the large federal bureaucracy begs for states to take the lead. Texas, the most populous state with a bent toward conservative, free-market reforms, has a unique opportunity to show that states, as our Founders expected, can be at the forefront of policy innovation.¶ There could not be more at stake. Our children deserve an end to zip-code discrimination, which dramatically limits their access to decent educational options. Furthermore, the civic health of our American Republic—in particular, the long-standing view that states, not the feds, would lead—hangs in the balance.

#### Federalism is key to solve warming

Ibbitson 6/2 (John, Writer for the Globe and Mail, June 2, 2017, “Federalism might be our best hope in fighting climate change,” The Globe and Mail, Accessed June 27, 2017, https://www.theglobeandmail.com/news/politics/federalism-might-be-our-best-hope-in-fighting-climate-change/article35197342/) BA

But then Mr. Harper was replaced by Justin Trudeau, and Mr. Obama by Donald Trump. The White House is now even more of a climate-change-denier than the House of Representatives or Senate, while the Liberal government is as enthusiastic about fighting climate change as any province. In Canada’s case, federalism worked to provide in advance what Ottawa now seeks: a national (if piecemeal) strategy to reduce carbon emissions through provincial cap-and-trade or carbon tax schemes, with only Saskatchewan’s Brad Wall seriously offside. In America’s case, federalism and the entrepreneurial energy of the private sector have combined to limit the damage inflicted by Washington. About 30 states have green-energy strategies in place. Elon Musk resigned Thursday from two of Mr. Trump’s advisory councils in protest over the President’s decision to withdraw the United States from the Paris accord on climate change. Of course he resigned: His Tesla Model 3 electric car will soon hit the streets in an increasingly competitive electric vehicle market, going head-to-head with, among other competitors, the Chevy Bolt and the Volkswagen eGolf. The battle in North America against global warming will be most successfully fought in dealer show rooms. Mr. Trump, with his Luddite refusal to recognize the transformation under way in his own country’s economy, is making that battle harder to win, which is why dozens of mayors and CEOs vowed to continue efforts to reduce carbon dioxide emissions in the wake of the President’s announcement.

#### Warming causes extinction and the threshold is soon

Roberts 13– citing the World Bank Review’s compilation of climate studies - 4 degree projected warming, can’t adapt - heat wave related deaths, forest fires, crop production, water wars, ocean acidity, sea level rise, climate migrants, biodiversity loss. ("If you aren’t alarmed about climate, you aren’t paying attention", January 10, 2013, [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal](http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/~~))

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent [World Bank review of the science](http://climatechange.worldbank.org/) reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

## Uniqueness

#### Trump is pushing power back to the states now

Dustin Hornbeck, Ph.D. Student in Educational Leadership and Policy, Miami University 2017 May 10th Federal Role in Education Has a Long History https://www.higheredjobs.com/Articles/articleDisplay.cfm?ID=1285

President Donald Trump has directed the United States Department of Education to evaluate whether the federal government has "overstepped its legal authority" in the field of education. This is not a new issue in American politics.¶Ever since the Department of Education became a Cabinet-level agency in 1979, opposition to federalized education has been a popular rallying cry among conservatives. Ronald Reagan advocated to dismantle the department while campaigning for his presidency, and many others since then have called for more power to be put back into the states' hands when it comes to educational policy. In February of this year, legislation was introduced to eliminate the Department of Education entirely.¶ So, what is the role of the state versus the federal government in the world of K-12 education?¶ As a researcher of education policy and politics, I have seen that people are divided on the role that the federal government should play in K-12 education -- a role that has changed over the course of history.¶ Growth of Public Education in States¶ The 10th Amendment to the United States Constitution states:¶ "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."¶ This leaves the power to create schools and a system for education in the hands of individual states, rather than the central national government. Today, all 50 states provide public schooling to their young people -- with 50 approaches to education within the borders of one nation.¶ Public schooling on a state level began in 1790, when Pennsylvania became the first state to require free education. This service was extended only to poor families, assuming that wealthy people could afford to pay for their own education. New York followed suit in 1805. In 1820, Massachusetts was the first state to have a tuition-free high school for all, and also the first to require compulsory education.

## Impacts

### Federalism Spills Over

#### Federal action on education upsets the balance of federalism.

Lawson 13 – Aaron Lawson, Associate at Edelson PC where his practice focuses on appeals and complex motion practice, J.D. from UMich, Educational Federalism: A New Case for Reduced Federal Involvement in K-12 Education, Brigham Young University Education and Law Journal, Article 5, Volume 2013, Issue 2, Published in the summer of 2013, http://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=1333&context=elj

Every state constitution, in contrast with the Federal Constitution, contains some guarantee of education.18 State courts split into two groups on how to give effect to these guarantees: (1) by evaluating education policy under Equal Protection by declaring education a fundamental right or by treating wealth as a suspect classification,19 or (2) by evaluating education policies under a framework of educational adequacy.20 In either case, these clauses establish substantive educational guarantees on the state level that do not exist at the federal level and provide the courts with a role in ensuring the fulfillment of these guarantees.21 These clauses also help to create a valuable political dynamic, which has inured to the benefit of children. As part of this political dynamic, courts define the contours of these affirmative guarantees, and the legislature fulfills its own constitutional duty by legislating between those boundaries.2

However, when the federal government legislates or regulates in a given field, it necessarily constrains the ability of states to legislate in that same field.23 In the field of education, the ability of courts to protect the rights of children is dependent on the ability of legislatures freely to react to courts. As such, anything that constrains state legislatures also constrains state courts and upsets this valuable political dynamic created by the interaction of state legislatures and state courts. An expansive federal role in educational policymaking is normatively undesirable when it threatens to interfere with this political dynamic. This dynamic receives scant attention in the literature described above. However, mindfulness of this dynamic is crucial to the proper placement of the educational policymaking and regulatory epicenter.

Constraints on state legislatures would not be as problematic if the federal government had proven itself adept at guaranteeing adequate educational opportunity for all students. However, RTTT and NCLB have, in some cases, proven remarkably unhelpful for poor and minority students.24 These negative outcomes, of course, are not guaranteed. However, the fact that federal involvement in education has produced undesirable outcomes for poor and minority students should cause policymakers to reexamine whether it is most desirable for the federal government to play such a significant role in education. This Comment argues that it is not.

### Federalism Solves Warming

#### Action at the state level essential for climate post-Paris

Muro 17

(Senior fellow and policy director, Metropolitan Policy Program at Brookings,1 June 17, Trump’s Paris Agreement withdrawal: What it means and what comes next, June 30 2017, https://www.brookings.edu/blog/planetpolicy/2017/06/01/trumps-paris-agreement-withdrawal-what-it-means-and-what-comes-next/) jbb

Without doubt Trump’s withdrawal of the United States from the Paris Agreement represents a tragic, rash error in judgment. In diplomatic and moral terms, the withdrawal represents a willful abdication of America’s leadership role in the world. And as a business mistake, the decision means the U.S. will miss out on some the [$1.4 trillion](http://blog.aee.net/market-report-shows-record-1.4-trillion-global-200-billion-u.s.-revenue-for-advanced-energy-and-highlights-five-trends-shaping-the-future) global business opportunity that the global low-carbon economy represents. That the limited binding force of the agreement is nil makes the whole drama unnecessary and therefore even more distressing. With that said, I believe that progress will continue. Internationally, other leaders—maybe India, maybe China—will assert themselves to fill the vacuum created by U.S. retreat. Domestically, the problem isn’t so much the withdrawal from Paris as the more general problem of Trump’s efforts to actively dismantle U.S. climate policy at the federal level. And here, while there is much to worry about, including draconian cuts to the entire suite of clean energy innovation and deployment programs, there are real grounds for compensatory optimism. Ambitious [state-level policies](https://www.brookings.edu/research/growth-carbon-and-trump-state-progress-and-drift-on-economic-growth-and-emissions-decoupling/) will continue to support the transition to a cleaner energy system. And for that matter, so will the increasingly impressive [efforts of municipalities and businesses](https://www.brookings.edu/blog/the-avenue/2016/11/15/climate-energy-and-trump-progress-is-still-possible/). Beyond that, there are signs that state and local actions may ratchet up as federalism allows states and cities to push back against federal irresponsibility and fill some gaps, even if their efforts are no substitute for a cohesive national stance.

# States CP

## 1NC Shells

### 1NC

#### The fifty states and relevant sub-national territories should (INSERT MANDATES OF PLAN)

#### The counterplan solves better than the plan. States alone promote innovation and accountability---the perm’s overlapping mandates fail.

Chopin, Labor & Employment Law Department Associate, 13

[Lindsey H., Loyola Law Review, “Untangling Public School Governance: A Proposal To End Meaningless Federal Reform And Streamline Control In State Education Agencies”, <http://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/loyolr59&type=Image&id=421>, p. 442-447, 7/10/17, KW]

In abandoning the current system of fad reforms, it must be accepted that "large-scale educational reform is unlikely in the absence of an institutional center to shape policy, aggregate interests, and control and channel conflict." 245 This realization begs the question: Where should this institutional center be placed? Three options exist: (1) the federal government, (2) local schools, or (3) states. This Comment proposes that the states become centers of education reform that work directly with the local schools to propel constructive change. History has taught us that extensive local control was fragmented and unreliable, and the modern failure of increased federal intervention should make us wary of complete federal control. 246 Furthermore, it has become clear that overlapping governance by multiple bodies creates a confusing and unaccountable system. 247 With a cooperative of state and local control, led by strong state institutional centers, this proposal has the potential to create a balanced system in which real reform can occur. Section IV(A) will outline the proposed changes and why those changes will create a better chance for useful reform. Section IV(B) will then address and rebut possible challenges to this proposal, including why the federal government and local schools should not be centers of reform, and how the federal government will be removed from reform. A. The Case for the States In 1973, the Supreme Court of the United States noted that Education, perhaps even more than welfare assistance, presents a myriad of "intractable economic, social, and even [\*443] philosophical problems." The very complexity of the problems of financing and managing a statewide public school system suggests that "there will be more than one constitutionally permissible method of solving them,' and that, within the limits of rationality, "the [State] legislature's efforts to tackle the problems" should be entitled to respect. 248 Despite this sage advice, the federal government persisted in trying to control education. It is time for the power struggle to come to an end, and for states to take control of the complex endeavor of regulating public education. Section IV(A)(1) will discuss this Comment's proposed changes to state education agencies, and Section IV(A)(2) will analyze why this proposal would succeed. 1. Proposed Changes to State Education Agencies This Section does not suggest another bureaucratic structure, but rather suggests learning-centric bodies that facilitate the education process. Under this proposal, systemic changes to the current system would be necessary. State education agencies would not be mere paper-pushers who dole out funds; they would be involved in the learning and reform process. This would require a massive expansion of state education boards to include enough experts to cover all schools. State education agencies would serve a proactive and reactive regulatory function. Their regulation will be proactive in terms of funding. All funds raised for education should be deposited into the state agency. The state will then adequately and equitably disburse these funds to ensure that poorer districts are not short-changed. 249 The reactive regulatory function of the proposed agency would be charged with monitoring the progress of local schools. As is currently the case, data would be kept on all schools concerning test scores, dropout rates, suspension rates, etc. However, rather than using the data to enforce an arbitrary scheme of winners and losers, the proposed state agency would [\*444] simply be there to ensure upward movement and provide support to those schools that stagnate or decline. This regulation may be achieved, in part, by an overhauled system of professional development. For many, the notion of professional development conjures images of overworked teachers, excited to have an afternoon off from teaching, eating Danishes and discussing new methods of instruction in the school library. 250 The professional development espoused by this proposal differs in that it does not flatly present new strategies for the curious teacher to try on her own, but consists of "mutual education for teachers [that serves as] a lever for reorganizing schools and districts in response to (ever more refined) diagnoses of their shortcomings." 251 This type of professional development consists of master teachers working with other teachers to determine what needs to be fixed and how to fix it. 252 Data would be used to inform change instead of to determine who wins or loses. This proposal maintains that this type of gradual, flexible, and informed change that is a result of ground-level educators and state-level experts working together is the best method by which to improve achievement in all schools. 253 For example, imagine the following: in the ABC Local School District, achievement across schools varies. The lowest performing school has a passing rate of only thirteen percent on the state exam; the highest performing school enjoys a ninety percent rate. Two years after working with master teachers to improve both schools, the thirteen percent school has climbed to fifty percent and the ninety percent school has climbed to ninety-four percent. Under the restrictive programs with arbitrary cut-offs for "success," both schools could be in trouble. The fifty percent school would likely still be considered to be failing because only half of its students passed the state exam. The other school could be in trouble for only gaining four percent on [\*445] the exams. Under this Comment's proposal, neither school would face sanctions. Although it would be ideal to see a school with a thirteen percent proficiency rate move to 100 percent in two years, it is unlikely. Under this proposal, so long as the thirteen percent school was moving upwards, towards a goal of 100 percent, its doors would stay open and it would continue to receive funding, perhaps more funding than other schools. Conversely, the school with the ninety percent proficiency rate would need to progress differently. Obviously, such a school will not be able to jump five percent a year like a lower achieving school could because the school will only be doing fine-tuning. As part of their reactive function, the state education agency would be responsible for tracking this data and making adjustments and interventions where necessary by collaborating with the school and its teachers. Because upward movement will be the focus rather than timelines and thresholds for success, the pressure on local schools can be alleviated and real progress can be made. 2. Why This Structure Will Work Centering education governance in the states will create a balance that local and federal governance has yet to find. States are small enough to respond to local needs, yet large enough to have the resources to respond to those needs. They can respond through a continuation of their current programs, the innovation of new programs, or by looking to other states for guidance. Further, states are small enough to oversee their classrooms, and to partner with the teachers in order to get to the root of their local problems. This Section explores these attributes. Section IV(A)(2)(a) will discuss local solutions for local problems; Section IV(A)(2)(b) will detail the continuation of successful solutions; Section IV(A)(2)(c) will introduce the innovation of new solutions; and Section IV(A)(2)(d) will present a combination of Top and Bottom Down Reform. a. Local Solutions for Local Problems This proposal calls for people to end their reliance on a "Big Idea." 254 As noted earlier, the same reform that fails on a large [\*446] scale may prove successful on a small scale. Under this proposal, all reforms would be imposed on a fairly small scale with close monitoring and tailoring. For example, despite the general finding that charter schools are not the cure-all that many claim them to be, charter schools do have positive effects in some locales. 255 Most notably, in Louisiana, a state whose failures in public education were highlighted nationally after Hurricane Katrina, charter schools actually showed statistically significant growth in both reading and math scores. 256 The growth shown by these charters was significantly more promising than in other states. 257 Thus, Louisiana may want to continue researching this option for reform in some areas. Conversely, Ohio, which showed statistically significant declines in achievement in charter schools, may want to consider other avenues. 258 Regardless of the reform, this proposal allows local solutions. b. Continuation of Successful Solutions As noted earlier, expansive federal oversight can force states to replace successful programs with non-specialized and un-researched federal reforms. This would not happen under the proposed system because the federal government is out of the equation. Rather than scrambling to meet new mandates, states can continue the programs they have and use funds that would be spent on innovating completely new reforms to tweak current systems that are doing well or show promise of future success. Such attention to detail and persistence in implementation is not possible under the federal timeline for reform. c. Innovation of New Solutions As noted earlier, the federal government does not have the resources to enforce and monitor its reforms in a meaningful way. 259 Under federal reform, situations like Jane's useless Smartboard in the hypothetical in the Introduction often arise. The federal government provides money for a certain purpose, like innovation through technology, and the school must find a way to use that technology within the confines of the mandate and can make decisions that are forced and illogical, such as [\*447] purchasing Smartboards. Because implementation is lacking and funding is insufficient, the forced innovations fail, as did the Smartboard innovation, where the boards were purchased but not integrated. It seems more effective to spend resources on developing successful innovations that are needed rather than prescribed. Before the federal reforms tied state education agencies up in red tape, states had begun to innovate their own solutions. 260 Under the most recent federal mandates, this innovation has been both stifled (in the case of NCLB) and rushed (in the case of RTF). The hallmarks of federal reform are limited funding and implementation by the carrot and stick approach. 261 Thus, under the federal system there must be winners and losers, those who pass and those who fail. The lines that divide these categories are completely arbitrary, and in the case of NCLB, have led schools to take drastic measures to meet arbitrary goals. 262 Under the proposed system, arbitrary federal goals would be removed, thus freeing states to innovate at a calm, thoughtful pace. For years, the federal government has assumed that states have the capacity to innovate, as evidenced by their skeletal reforms. This proposal allows states the chance to do exactly that.

## States Good/Fed Bad

### Social Capital/Parent Buy In

#### Federalizing education strips social capital from education enforcers---makes follow-through at the school-level less likely

Mills, NYU law professor, 2012

(Robert, “Educational Innovation And The Law: The Case For Educational Federalism: Protecting Educational Policy From The National Government's Diseconomies Of Scale,” *87 Notre Dame L. Rev. 1941*, Lexis)

A. Three Advantages of Subnational Democracy For Mobilizing Support for Education

Consider three advantages of subnational democracy in mobilizing support for education - bonding social capital, home-value capitalization, and ideological sorting. Each of these advantages suggests that subnational government ought to play a lead (although not an exclusive) role in raising revenue for, and regulating the content of, education.

1. Bonding Social Capital and Subnational Democracy

Increasing the size of a community tends to increase its demographic and ideological heterogeneity, and there are reasons to believe that heterogeneity can impede cooperation by reducing what Robert Putnam has termed "bonding social capital." 37 "Bonding social capital" refers to the capacity of like-minded persons to cooperate with each other in collective action tasks requiring high degrees of trust and reciprocity. 38 Putnam has defended the claim that social [\*1957] heterogeneity decreases the capacity of citizens to cooperate, because people who think alike will tend to trust each other more than people who have ideological, religious, or cultural differences, 39 a contention that, despite being hotly controverted, has found support from other researchers measuring the capacity of citizens to unite for civic projects or interact with each other in political activities. 40 Despite the controversy that Putnam's claim has generated, the claim that ideological diversity impedes political cooperation is hardly novel, dating at least from James Madison's Federalist No. 10.

Regarding education in particular, there is some historical support for the claim that communities with lower levels of ethnocultural, ideological, and income diversity have found it easier to raise revenue for educational investments. Claudia Goldin and Laurence Katz found that school districts' voters were more likely to embrace the massive investment in high schools during the early twentieth century if they were more economically and ethnoculturally homogenous. 41 Likewise Marion Orr found that inter-racial distrust distracted Baltimore schools from their educational mission. 42

Households with children tend to have many opportunities for social and political interaction, simply because children draw parents into social networks of sports leagues, parent-teacher associations, and more informal school activities. As William Fischel notes, these networks can be used to participate in public life, as households with children [\*1958] come to know and trust each other as a result of their other interactions in school-based networks. 43 But Fischel also notes that the social capital created by these networks is "community-specific": it is most effective within the local jurisdictions in which the network of "social capitalists" is concentrated. 44 Learning how to divide up time and talking points with one's neighbors helps a lot at the school board's microphone, because the neighbors are all physically concentrated within the jurisdiction of the school board. Those skills will not, however, help a lot with coordinating a campaign to influence a congressional committee chair residing in another state. 45

Elevating educational policymaking to the federal level, therefore, strips households with children of their most valuable political asset - their social capital derived from their local networks. As the relevant constituency increases in size, those personal networks become less politically useful: they are replaced by media that create connections between strangers - mass mail alerts, email blasts, blog posts, newsletters, television advertisements, etc. Because these mass-mobilizing devices cost money and require expertise in mass communication, groups with expertise in fundraising will have a comparative advantage over households with children. In effect, the change in level of government also changes relative to political power, placing households with children on turf where their skills and in-person networks are least relevant and where fundraising skills are most relevant. 46

By suggesting that households with children will do better subnationally rather than nationally, I do not mean to suggest that smaller jurisdictions are always "closer to the people." On issues where the costs of acquiring information are very high, there might be scale economies in communication that outweigh the advantages of cheap access to local political networks. For constituencies that are unaware or uninterested in the relevant policies, the advantages of a large and heterogeneous political ecology - a diverse national media with dozens of websites, high levels of television coverage, nationally competitive political parties, a plethora of competing interest groups, etc. - may promote political participation far more effectively than the ease of showing up at a hearing in person. Because national political [\*1959] processes tend to be more salient than subnational processes, the former might actually be "closer to the people" than the latter whenever public consciousness of or interest in political issues is low. 47

But the peculiar characteristic of stably governed households with children is that their high stakes in educational policymaking already tend to make them well-informed about educational policy disputes, without the aid of a dense and heterogeneous interest group and media environment. The marginal gains in issue-salience from elevating educational issues to the national level will, therefore, likely be small, while the loss of access to the relevant decision-makers is large. If one accepts the argument in Part I that these households deserve special deference on their educational decisions, then it also follows that subnational politics ought to receive special primacy on educational policy-making, because subnational politics tend to give more weight to the political strengths of stably governed households.