# Topicality Generic (DDI 2017)

## Resolution

#### The United States Federal Government should substantially increase it’s funding and/or regulation of elementary and/or secondary education in the United States.

\*\*\*\*There will be another T shell put out that creates a floor for regulation

## 1NC Shells

### 1NC – ‘Regulation’ Excludes Courts

#### Interpretation: Regulation can only be done by the executive or Congress

Ellig, 10 (Dr. Jerry Ellig, Senior Research Fellow at the Mercatus Center at George Mason University and a former assistant professor of economics at George Mason University, specializes in the federal regulatory process, economic regulation, and telecommunications regulation, “The Future of Regulation,” 2010, http://digitalcommons.pepperdine.edu/ppr/vol3/iss1/7/,” AG)

Many times in casual conversation the term ‘regulation’ is used to refer to any restriction imposed by the government that defines certain actions as legal or illegal, but **the definition is actually more specific.** Regulation occurs when a legislature delegates some of its lawmaking power to a regulatory agency, which then issues detailed rules, the purpose of which is to carry out the intention of the legislature. Regulations are issued by a regulatory agency, with the intention of filling in the gaps in legislation. In the case of federal regulation, it fills in the gaps left by the U.S. Congress. **Two kinds of regulatory agencies exist at the federal level in the United States.** Many regulatory agencies are actually part of the executive branch and their top officials are hired and can be fired by the President. These include agencies, such as the Environmental Protection Agency, the various agencies that regulate transportation within the Department of Transportation, and any position within a Cabinet department. All these regulatory agencies are directly responsible to the President. There are also independent regulatory agencies, that is, agencies that are independent of the President, but not independent of Congress. These agencies usually have the word “commission” in their title. The President usually appoints the commissioners, who run these agencies for a fixed term, with the consent of the Senate. The President cannot fire them, and as a result, these agencies tend to function relatively independently of the executive branch. They do not necessarily act independently of Congress, since Congress ultimately approves the budget and writes the laws that the agencies are supposed to implement. Examples of this type of agency are the FCC, Consumer Product Safety Commission, Security and Exchange Commission, and Commodity Futures Trading Commission. The Federal Reserve is also considered an independent regulatory agency.

#### Violation: courts are not regulatory agencies

#### Standards:

#### Predictable Limits – including courts affs explodes the limit on the topic – there are an unlimited number of regulations in any subset of education that can go through the Cabinet agencies, the executive, and Congress - that creates an unfair research burden on the negative and kills negative flexibility

#### depth over breadth— going in depth on fewer topics is uniquely more valuable because we actually have specific knowledge about the topic as opposed to generalized assumptions

#### Ground –questions of precedent setting is about setting paradigms, regulations are the actual policy implementations which are really questions of state vs. federal, which is core of the topic

#### forces us into horrible ground: contrived courts DA, makes our counterplans have to be more abusive (i.e. 50 State Courts CP)

#### Competing interpretations good—reasonability is completely arbitrary

### 1NC – ‘Regulation’ Is Not Prohibition

**A) Interpretation – The Affirmative team must be regulating. Regulation means rules that are used for government.**

#### Regulation is only for Congress and it is the ability to create rules that manage/govern – Black’s Law Dictionary ‘11

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary: First Edition”, World Free Man Society, November 3, 2011, http://blacks.worldfreemansociety.org/1/)

REGULATE. The power to regulate commerce, vested in congress, is the power to prescribe the rules by which it shall be governed, that is, the conditions upon which it shall he conducted, to determine when it shall be free. and when subject to duties or other exactions. The power also embraces within its control all the instru mentalities by which that commerce may be carried on. and the means by which it may be aided and en- couraged. 114 U. S. 203, 5 Sup. Ct. Rep. 826.

REGULATION. The act of regulating; ' a rule or order prescribed for management or government; a regulating principle; a ‘ precept. Webster.

**B) Violation – The Affirmative only bans rather than regulating.**

Koop 17 – Christel Koop, Department of Political Economy, King’s College London, and Martin Lodge, Department of Government & Centre for Analysis of Risk and Regulation, London School of Economics and Political Science, “What is Regulation? An Interdisciplinary Concept Analysis”, Regulation & Governance, Volume 11, Issue 1, Wiley Online Library

2 Searching for Platonic essences

As noted, scholars have stated that the diversity of properties that are associated with regulation make it impossible to come to a single definition of the concept we refer to as regulation. As Baldwin et al. put it, there are “a variety of definitions in usage which are not reducible to some Platonic essence or single concept” (1998, p. 2).5 In addition, Black points out that the definition used often strongly depends on the problem that the author is interested in (2002, p. 13). As a consequence, Levi-Faur argues, “we should recognize the many meanings of regulation and devote our attention to understanding each others' terms” (2011, p. 5).

Nonetheless, two main observations can be made. First, at an abstract level, authors agree that regulation is about intervention in the behavior or activities of individual and/or corporate actors. As Mitnick puts it, “the central element of the class of behaviors that might be termed ‘regulation’ is an interference of some sort in the activity subject to regulation – it is to be governed, altered, controlled, guided, regulated in some way” (1980, p. 2; emphasis in original). Similarly, Moran indicates, “its core meaning is mechanical and immediately invokes the act of steering” (Moran 2003, p. 13). Mitnick adds that this implies that regulated activities are not to be replaced or banned; they are only to be regulated. This is reflected in Selznick's definition, which refers to “activities that are valued by a community” and, thus, excludes most areas of criminal law enforcement (Selznick 1985, p. 363; cf. Ogus 1994, p. 1; Baldwin et al. 1998, p. 3). In Mitnick's view, “[t]here should be public recognition that the regulated activity is worthwhile in itself and therefore needs protection as well as control” (1985, p. 363). Hence, we find some agreement on regulation being about intervention in activities, and there are various attempts to establish boundaries around the realm of regulation. For Mitnick (1980) and Selznick (1985), this is largely about separating regulatory intervention from the realm of forbiddance.

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#### C) Standards:

#### Limits - The Affirmative team's definition is too broad and does not provide an adequate limit on what is and is not topical

#### Fairness – The Affirmative team's interpretation of regulation is unfair to the negative team because the broad definition makes it impossible for the Neg to be prepared for this debate

#### D) Topicality – Topicality is a voting issue for fairness, proper limits, and the educational aspect of debate.

## Resolved

#### Resolved means to make a firm decision

American Heritage Dictionary, 9 (The American Heritage Dictionary, “https://ahdictionary.com/word/search.html?q=resolved,” AG)

v. re·solved, re·solv·ing, re·solves v.tr. 1. a. To make a firm decision about: resolved that I would do better next time. See Synonyms at decide. b. To decide or express by formal vote: The legislature resolved that the official should be impeached. c. To cause (a person) to reach a decision: "He was resolved to enjoy the success he had earned" (F. Scott Fitzgerald).

#### Resolved means definite decision

Dictionary.com, 13 (Dictionary, Random House, 2013, “http://dictionary.reference.com/browse/resolved,” AG)

re·solve [ri-zolv] Show IPA verb, re·solved, re·solv·ing, noun verb (used with object) to come to a definite or earnest decision about; determine (to do something): I have resolved that I shall live to the full.

#### **Resolved implies a policy**

Louisiana House, 5 (Lousiana House, 3/8/5, “<http://house.louisiana.gov/house-glossary.htm>,”AG)

Resolution A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4)

## :

#### The Colon in the definition means the following will explain the resolution – Oxford ‘10

(Oxford, one of the leading universities in the world, “Colon (:)”, Oxford Living Dictionary, July 8, 2010, https://en.oxforddictionaries.com/punctuation/colon)

between two main clauses in cases where the second clause explains or follows from the first:

#### Everything after the Colon is what is important – Merriam Webster ‘09

(Merriam Webster, publishes reference books including dictionaries, “colon”, Merriam Webster, April 25, 2009, https://www.merriam-webster.com/dictionary/colon)

a punctuation mark : used mostly to call attention to what follows (as a list, explanation, or quotation)

## The

#### Definite article

**Dictionary.com 2012**(<http://www.dictionary.com/browse/the>)

definite article 1. (used, especially before a noun, with a specifying or particularizing effect, as opposed to the indefinite or generalizing force of the indefinite article a or an): the book you gave me; Come into the house.

**Dictionary.com 2012**(<http://www.dictionary.com/browse/the>)

2. (used to mark a proper noun, natural phenomenon, ship, building, time, point of the compass, branch of endeavor, or field of study as something well-known or unique): the sun; the Alps; theQueen Elizabeth; the past; the West.

**Dictionary.com 2012**(<http://www.dictionary.com/browse/the>)

4. (used to mark a noun as indicating the best-known, most approved, most important, most satisfying, etc.): the skiing center of the U.S.; If you're going to work hard, now is the time.

**Dictionary.com 2012**(<http://www.dictionary.com/browse/the>)

7. (used before adjectives that are used substantively, to note an individual, a class or number of individuals, or an abstract idea): to visit the sick; from the sublime to the ridiculous.

## United States Federal Government

#### United States Federal Government is the three branches of government – US Legal ‘08

(US Legal, provides legal definitions, “United States Federal Government Law and Legal Definition”, US Legal, October 8, 2009, https://definitions.uslegal.com/u/united-states-federal-government/)

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

### Federal Government

#### Federal Government is defined as the governmental system within a union formed state – Black’s Law Dictionary – ‘68

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary”, Moorish Directory, 1968, http://moorishdirectory.com/wp-content/uploads/2015/01/Blacks-Law-4th-edition-1891.pdf)

FEDERAL GOVERNMENT. The system of government administered in a state formed by the union or confederation of several independent or quasi, independent states; also the composite state so formed.

#### Federal Government is when states in alliance form and the results are felt by the people as a whole and not just by the states – Black’s Law Dictionary ‘90

(Black’s Law Dictionary, Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern, “Black’s Law Dictionary”, Republics G, 1990, http://www.republicsg.info/dictionaries/1990\_black's-law-dictionary-edition-6.pdf)

Federal government. The system of government administered in a nation formed by the union or confederation of several independent states. In strict usage, there is a distinction between a confederation and a federal government. The former term denotes a league or permanent alliance between several states, each of which is fully sovereign and independent, and each of which retains its full dignity, organization, and sovereignty, though yielding to the central authority a controlling power for a few limited purposes, such as external and diplomatic relations. In this case, the component states are the units, with respect to the confederation, and the central government acts upon them, not upon the individual citizens. In a federal government, on the other hand, the allied states form a union (e.g. United States),-not, indeed, to such an extent as to destroy their separate organization or deprive them of quasi sovereignty with respect to the administration of their purely local concerns, but so that the central power is erected into a true national government, possessing sovereignty both external and internal, -while the administration of national affairs is directed, and its effects felt, not by the separate states deliberating as units, but by the people of all, in their collective capacity, as citizens of the nation. The distinction is expressed, by the German writers, by the use of the two words "Staatenbund" and "Bundesstaat;" the former denoting a league or confederation of states, and the latter a federal government, or state formed by means of a league or confederation.

### United States

#### United States is defined as the collection of the states that form the United States – Black’s Law Dictionary – ‘68

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary”, Moorish Directory, 1968, http://moorishdirectory.com/wp-content/uploads/2015/01/Blacks-Law-4th-edition-1891.pdf)

UNITED STATES. This term has several meanings. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in family of nations, it may designate territory over which sovereignty of United States extends, or it may be collective name of the states which are united by and under the Constitution. Hooven & Allison Co. v. Evatt, U. S. Ohio, 65 S.Ct. 870, 880, 324 U.S. 652, 89 L.Ed. 1252.

#### United States is when states form a union/nation within a certain boundaries – Merriam Webster ‘09

(Merriam Webster, publishes reference books including dictionaries, “Definition of United States”, Merriam Webster, April 23, 2009, https://www.merriam-webster.com/dictionary/United%20States)

a federation of states especially when forming a nation in a usually specified territory

## Substantially

#### substantially is to ample greatly in size

Dictionary.com ‘14 (http://www.dictionary.com/browse/substantialhttp://www.dictionary.com/browse/substantial)

adjective 1. of ample or considerable amount, quantity, size, etc.: a substantial sum of money.

Dictionary.com ‘14 (http://www.dictionary.com/browse/substantialhttp://www.dictionary.com/browse/substantial)

2. of a corporeal or material nature; tangible; real.

Dictionary.com ‘14 (http://www.dictionary.com/browse/substantialhttp://www.dictionary.com/browse/substantial)

4. basic or essential; fundamental: two stories in substantial agreement.

Dictionary.com ‘14 (http://www.dictionary.com/browse/substantialhttp://www.dictionary.com/browse/substantial)

6. of real worth, value, or effect: substantial reasons.

Dictionary.com ‘14 (http://www.dictionary.com/browse/substantialhttp://www.dictionary.com/browse/substantial)

7. relating to the substance, matter, or material of a thing.

### Funding – 20% increase

#### a “substantial increase” requires at least a 20% increase in funding

Carolyn Bourdeaux 14, Ph.D. in Public Administration from Syracuse University, Associate Professor of Public Management and Policy at the Andrew Young School of Policy Studies at Georgia State University, 8-26-14, “Sustaining the States: The Fiscal Viability of American State Governments (ASPA Series in Public Administration and Public Policy) 1st Edition”, Chapter 8, pg. 139-142

K—12 Education ¶ K—12 education funding in most states is a shared state—local responsibility with a modest federal contribution thrown in for good measure. The bulk of state funding takes the form of some type of formula-driven grant-in-aid to local school districts. This service area dominates the state-funded portion of state budgets, making up 35 percent of total expenditures, and has been a major area of investment for states in the last 10 years. ¶ For the past decade, education policy has been dominated by the issues surrounding the federal No Child Left behind (NCLB) Act of 2002. This legislation expanded the scope of federal influence over education, requiring that States adopt a host of new school testing and accountability provisions. The legislation also authorized a substantial increase in federal funding for education. Although the federal share increased by 43 percent between 2000 and 2008, these funds only accounted for around 60 percent of the authorized increase, and there was national debate as to whether the federal government was honoring its commitment to fully fund the legislation: Based on the calculations in Table 8.2, the federal increase was equivalent to around $300 per student between 2000 and 2008 for the average State (in 2010 dollars). ¶ While the federal percentage change looks large, the federal increase is dwarfed by the overall magnitude of the state and local increase. Over the same time period, States, on average, increased funding by over $1,100 per student, an annual real rate of growth of 2.6 percent; local governments matched this dollar increase. Further, unlike growth in federal funds, the state investment trend does not begin with the NCLB Act. That is, states' rate of growth actually slowed relative to the late 1990s, when state real per FTE funding grew by an average of 5 percent a year (between 1996 and 2000). Since the mid-1990s, states have been making a substantial real investment in education that is reflected in per student numbers as well as aggregate funding levels. Between 2000 and 2008, the vast majority made double-digit real per FTE investments in K—12 education. ¶ The impact of the Great Recession is visible in the 2010 numbers with local funding flatlining on a per student basis, state funding dropping, and federal funding actually making up slightly more than the difference. "The federal funding includes the ARRA funds. ¶ Outlook for K—12 Education ¶ The funds provided from NCLB ended in 2007 and reauthorization legislation has failed to pass Congress. The original act was supposed to ensure that all students met student achievement standards by 2014; however, there is little evidence that most states reached close to the mark. For example, a 2007 assessment of the funding increases required to meet standards in Missouri and Kansas by 2011 ranged between 46 and 10 percent, respectively, over 2007 amounts for the average district. The relatively small 10 percent increase in Kansas reflects the state setting a IOW threshold for student achievement (Duncombe et al. 2006). ¶ The projections or plausible scenario are shown in Table 8.2 and Figure 8.1. trends are built off of National Center for Education Statistics (NCES) expenditure and enrollment projections adjusted based on more recent surveys reflecting the impact of the Great Recession on state and local spending. Layoffs in the local education sector suggest that as federal stimulus funding has vanished, states and localities have not been able to fill the gap (Oliff et al. 2012). This could permanently lower the base for education spending going forward. This projection assumes that should funding stabilize in 2014, state commitment will resume the 2000—2008 investment pattern, which may be aggressive given the likely pressures from Medicaid, pensions, and other retirement obligations. Additionally, the scenario accounts for the impact of federal retrenchment on funding for education given proposed education cuts as part of the more recent federal American Taxpayer Relief Act (ATRA) of 2013. The ATRA would reduce federal education funding by 7.3 percent reduction in 2014, declining to 5.5 percent by 2021 (Kogan 2012). ¶ In this scenario, the results show that the average state might reach an 8 percent per student increase over 2008 by 2020, close to the NCLB "low bar" suggested in the research on Kansas referenced earlier. Federal education funding appears slated to drop to a level that predates the legislation. ¶ Perhaps in tacit recognition of overly ambitious goals of the NCLB as well as the fiscally strapped circumstances of governments at all levels, policy makers appear to be scaling back the original NCLB criteria. The Obama administration has been changing the program through waivers, allowing states increased flexibility to revise their accountability standards in return for setting up programs that better track and evaluate student progress and reward teachers for student improvement. While the education community may bemoan the slowing investment in education, it is worth noting that this policy area has realized substantial public investment. Even if the 2012 and 2013 projected declines in government spending are correct, the 2013 per student spending still represents a more than 20 percent increase from 2000 for the average state.

### Excludes Curriculum

#### curricular modifications are not substantial

**Oliver 99** Ranko Shiraki Oliver, Professor of Law BA, 1983, JD, 1987, University of Arkansas at Little Rock. Protecting Students with Disabilities in Colleges and Universities Project PACE Faculty Resources for Teaching Students with Disabilities Overview of Federal Laws Reprinted by Project PACE, University of Arkansas at Little Rock, for educational purposes, with permission from the Arkansas Bar Association. Original source: The Arkansas Lawyer, Volume 34 (2), Spring, 1999, pp. 20 – 27. https://cms.hutchcc.edu/uploadedFiles/StudentServices/DisabilityServices/overview.pdf

3. **What accommodations** does the student need?

Determining the nature of the accommodations and modifications the student needs will be a **critical component** in the analysis to determine whether the student is “otherwise qualified” to participate in the program. Southeastern Community College v. Davis66 and subsequent decisions interpreting it essentially require colleges considering an applicant to determine what modifications and adjustments would be required for admission, and if a modification is **substantial** or a programmatic change fundamental, the applicant will be considered to not be “otherwise qualified.” Stated differently, if the accommodations and modifications the student needs will result in altering the fundamental nature of the program and/or creating an undue hardship on the college or university, the student will not be “otherwise qualified.” When students are found to not be “otherwise qualified,” courts generally base their decisions on the fact that the student is not able to satisfy one or more essential components of the program. Courts are customarily highly deferential to the college’s determination of what is an “**essential component**” of the program.67 Sometimes, courts will find students, not “otherwise qualified” because, their disability is determined to pose a direct threat to the safety of the student and society at large. This is particularly so when the student is applying for admission to a program in a health-related profession.68

Generally speaking, however, the accommodations or adjustments students will need will be considered “reasonable.” These accommodations are divided in two broad categories: architectural modifications to allow physical access, and program modifications. Architectural modifications are not as difficult to address, and are not an issue as often, as program modifications. This is so because § 504 has required barrier removal since 1973, because Title II of the ADA required entities falling under its mandates to undergo and finish a process of selfevaluation by 1993 to determine which structural changes were needed, and because Title III of the ADA requires entities falling under its mandate to architecturally modify their facilities to permit easy access to students with physical disabilities. Moreover, the cost of such modifications is purely economic, and relatively easy to assess.

Program modifications, by contrast, are frequently problematic. They must be determined on a case by case basis, special technological equipment is often needed, and individual faculty members may oppose the adjustments requested by the student. Program modifications are divided into two categories: curricular modifications and auxiliary aids and services. Examples of curricular modifications are light course loads; reduction, substitution, waiver or adaptation of some courses; exam modifications (extra time, different format, separate room or extra rest time); extension of time to complete assignments; extension of time allowed for degree completion; and permission to tape record classes. Generally, these curricular modifications do not involve out of-pocket expenses, but may involve some administrative and operational costs.

The curricular modifications needed by each student are determined based on the documentation received from the professional(s) who tested the student and determined the existence of a disability. The implementation of these curricular modifications is coordinated by the office in the college responsible for providing services to students with disabilities. The modifications are made in consultation with faculty whose courses may be affected, school administrators, and the student.

The expense in providing **auxiliary aids and services** to students with disabilities, **unlike curricular modifications, can be substantial**. Regulations implementing § 504 require colleges to “take such steps as are necessary to ensure that no disabled student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination... because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.”69 Examples of auxiliary aids and services include providing help in ordering books; taping lectures, texts, and/or tests; giving tests orally; providing tests in Braille; providing tests in large print; providing a distraction-free room for tests; helping find notetakers; and providing assistive listening devices, sign language interpreters, readers, and classroom equipment.

In terms of financial responsibility for the significant expenditures that may be required in making reasonable accommodation, it is clear that the student is not required to bear the expense, even if financially able to do so. The expenses will be borne either by the state Rehabilitation Services **Administration** (if the student is eligible for state-provided services) or by the college.70

## Should

#### Should means a possible situation/ event or a request

**Oxford dictionary 2003**(<https://en.oxforddictionaries.com/definition/should>)

formal (expressing the conditional mood) referring to a possible event or situation. ‘if you should change your mind, I'll be at the hotel’ ‘should anyone arrive late, admission is likely to be refused’.

**Oxford dictionary 2003**(<https://en.oxforddictionaries.com/definition/should>)

expressing a polite request or acceptance.

**Oxford dictionary 2003**(<https://en.oxforddictionaries.com/definition/should>)

indicating the consequence of an imagined event. ‘if I were to obey my first impulse, I should spend my days writing letters’

### Should implies Courts

#### Should means the judgement of the District Court.

San Antonio idep. school dist. V. Rodriguez 1973(The panel held the Texas school-finance system unconstitutional under the "equal protection" clause of the Fourteenth Amendment. The state appealed, and the case went to the United States Supreme Court as San Antonio Independent School District v. Rodríguez.)

Texas virtually concedes that its historically rooted dual system of financing education could not withstand the strict judicial scrutiny that this Court has found appropriate in reviewing legislative judgments that interfere with fundamental constitutional rights[39] or that involve suspect classifications.[40] If, as previous decisions have indicated, strict scrutiny means that the State's system is not entitled to the usual presumption of validity, that the State rather than the complainants must carry a "heavy burden of justification," that the State must 17\*17 demonstrate that its educational system has been structured with "precision," and is "tailored" narrowly to serve legitimate objectives and that it has selected the "less drastic means" for effectuating its objectives,[41] the Texas financing system and its counterpart in virtually every other State will not pass muster. The State candidly admits that "[n]o one familiar with the Texas system would contend that it has yet achieved perfection."[42] Apart from its concession that educational financing in Texas has "defects"[43] and "imperfections,"[44] the State defends the system's rationality with vigor and disputes the District Court's finding that it lacks a "reasonable basis." This, then, establishes the framework for our analysis. We must decide, first, whether the Texas system of financing public education operates to the disadvantage of some suspect class or impinges upon a fundamental right explicitly or implicitly protected by the Constitution, thereby requiring strict judicial scrutiny. If so, the judgment of the District Court should be affirmed. If not, the Texas scheme must still be examined to determine whether it rationally furthers some legitimate, articulated state purpose and therefore does not constitute an invidious discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment.

## Increase

### To Make Greater

#### increase is to make greater

**Dictionary.com 12**(<http://www.dictionary.com/browse/increase>)

verb (used with object), increased, increasing. 1. to make greater, as in number, size, strength, or quality; augment; add to: to increase taxes. verb (used without object), increased, increasing. 2. to become greater, as in number, size, strength, or quality noun 5. growth or augmentation in numbers, size, strength, quality, etc.: the increase of crime

### Not Create

#### Increase means expanding current regulations or funding

**Bowen v. Kendrick 1988** (The Adolescent Family Life Act did not violate the Establishment Clause of the First Amendment. Bowen v. Kendrick, 487 U.S. 589 (1988), was a United States Supreme Court case in which the Court upheld the constitutionality of the Adolescent Family Life Act.)

The District Court rejected this argument, however, reasoning that even if it is assumed that the AFLA was motivated in part by improper concerns, the parts of the statute to which appelles object were also motivated by other, entirely legitimate secular concerns. We agree with this conclusion. As the District Court correctly pointed out, Congress amended Title VI in a number of ways, most importantly for present purposes by attempting to enlist the aid of not only "religious organizations," but also "family members. . . , charitable organizations, voluntary associations, and other groups in the private sector," in addressing the problems associated with adolescent sexuality. § 300z(a)(8)(B); see also §§ 300z-5(a)(21)(A), (B). Cf. Title VI, § 601(a) (5) ("[T]he problems of adolescent [sexuality] . . . are best approached through a variety of integrated and essential services"). Congress' decision to amend the statute in this way reflects the entirely appropriate aim of increasing broad-based community involvement "in helping adolescent boys and girls understand the implications of premarital sexual relations, pregnancy, and parenthood." See Senate Report, at 2, 15-16. In adopting the AFLA, Congress expressly intended to expand the services already authorized by Title VI, to insure the increased participation of parents in education 604\*604 and support services, to increase the flexibility of the programs, and to spark the development of new, innovative services. Id., at 7-9. These are all legitimate secular goals that are furthered by the AFLA's additions to Title VI, including the challenged provisions that refer to religious organizations. There simply is no evidence that Congress' "actual purpose" in passing the AFLA was one of "endorsing religion." See Edwards v. Aguillard, 482 U. S., at 589-594. Nor are we in a position to doubt that Congress' expressed purposes are "sincere and not a sham." Id., at 587.[8]

## Its

#### Its indicates possession

The Free Dictionary, 11 (http://www.thefreedictionary.com/its)

its (its) adj. The **possessive** form of it. Used as a modifier before a noun: The airline canceled its early flight to New York.

#### Its means belonging to

Oxford English Dictionary, 2013 (Oxford English Dictionary, “its,” “ [http://www.oed.com/view/Entry/100354?redirectedFrom=its#eid](http://www.oed.com/view/Entry/100354?redirectedFrom=its" \l "eid),” AG)

its, adj. and pron. Pronunciation: /ɪts/ A. adj. As genitive of the pronoun, now possessive adjective. Of or belonging to it, or that thing (Latin ejus); also refl., Of or belonging to itself, its own (Latin suus).The reflexive is often more fully its own, for which in earlier times the own, it own, were used: see own adj. and pron. B. pron. As possessive pronoun. [Compare his pron.2] The absolute form of prec., used when no n. follows: Its one, its ones. rare.

## Funding

#### Funding for Education has been increased but the states need to implement a long term solution in order to see benefits within our schools – Anderson ‘15

(A. Scott Anderson, Deseret News, “It's time for comprehensive, long-term education reform and funding”, Deseret Morning News (Salt Lake City), November 13, 2015, http://www.lexisnexis.com/hottopics/lnacademic/)

Over many years, lawmakers have increased education spending significantly, devoting much surplus money to education and paying for specific reform initiatives and programs. Even during the recession, when state revenues plummeted, lawmakers funded education at the highest levels possible. But despite those heroic efforts, education funding, and education reform, have been hit-and-miss for a number of years, reacting to specific needs and concerns. Today it's time for a comprehensive, unified, long-term approach to education funding and reform that will make Utah a top 10 state in education performance. With a legislative session coming up in January, it's a good time for policymakers to be reminded that education is the No. 1 issue in Utah, and additional funding and reform are needed to prepare our children for the high-tech, globally competitive world that awaits them. Thankfully, a number of education reform groups and individuals, inside and outside of government, have been working collaboratively with legislators and the entire education community for a number of years to develop a unified plan for comprehensive education reform and funding. This blueprint, embodied in the Prosperity Through Education plan, looks at Utah's current education status, establishes five-year goals and objectives for education excellence, outlines how those goals will be achieved, projects costs and funding needs, and promises specific results and outcomes if the plan is executed.

#### Funding can come directly or through students and people that want to promote higher education – Barr ‘93

(Nicholas Barr, professor of public economics, “Alternative Funding Resources for Higher Education”, The Economic Journal, 1993, http://www.jstor.org/stable/pdf/2234544.pdf?refreqid=excelsior%3A3b25c4ae3bb2d20f0d8a5c9bb9e8bf5a)

Funding institutions. The major source of transfers to institutions are block recurrent grants (e.g. funding from the former UGC in the United Kingdom), capital grants, and tax expenditures (e.g. universities' charitable status). The major sources of earnings are tuition fees, which can be paid by students, by sponsoring firms, by government (e.g. the Higher Education Funding Councils in the United Kingdom), or by other outside bodies; from research contracts from industry or government, or from abroad; and from other commercial activities (e.g. the use of university property for conferences). A third, though typically smaller, source of income is through loans.

In policy terms, institutions can be funded in either or both of two generic ways: directly (e.g. via a block grant); or through students and other demanders of higher education services, e.g. via fees and user charges.

Model i: directfunding of institutions. This is the common model in mainland Europe, where resources, by and large, are channelled to institutions in the form of transfers (line I), usually tax funded (column C), with low or no fees for students. In Britain also, until recently, tax funding with low fees for home students was the norm.

Model 2: funding institutions via students and other demanders of higher education services. With substantial private funding, as with private universities in the United States, universities receive much of their income from fees, research grants and contracts, and commercial activities, i.e. line 2, columns A and B. A variant of model 2 is the vouchers model, the utility of which depends on the extent to which student choices are regarded as superior to those of planners. In the simplest model, the state gives students tax-funded vouchers which they spend at the institution of their choice, thus combining taxpayer support (column C) with funding mainly through institutional earnings (line 2), hence without the need for the apparatus of central planning. The model is very flexible. It is both possible and desirable to give larger vouchers to students from poorer backgrounds. If it is thought that some subjects (classics, perhaps) are less suitable to competitive behaviour by institutions than others (economics, accounting) it is possible to issue vouchers tied to subjects (or institutions) which one wishes to protect. Vouchers can also be issued by private firms, for instance tenable at a local institution. With vouchers, in short, the system can be given any desired redistributive tilt; and appropriately designed constraints can make the degree of competition a policy variable which, moreover; can be varied by subject and by region (Barnes and Barr (I988, ch. 6); Glennerster (i99i); Le Grand (I989)).

### Funding - Money

#### Fund is to supply with money for a specific purpose

**Dictionary.com** **13** (http://www.dictionary.com/browse/fund)

verb 1. provide with money for a particular purpose. "the World Bank refused to fund the project" synonyms: finance, pay for, back, capitalize, sponsor, put up the money for, subsidize, underwrite, endow, support, maintain;

#### Education Funding is the main responsibility of state, local, and private sources – DOE ‘03

(Department of Education, establishes policy for, administers, and coordinates most federal assistance to education, “The Federal Role in Education”, U.S. Department of Education, October 12, 2003, https://www2.ed.gov/about/overview/fed/role.html)

Education is primarily a State and local responsibility in the United States. It is States and communities, as well as public and private organizations of all kinds, that establish schools and colleges, develop curricula, and determine requirements for enrollment and graduation. The structure of education finance in America reflects this predominant State and local role. Of an estimated $1.15 trillion being spent nationwide on education at all levels for school year 2012-2013, a substantial majority will come from State, local, and private sources. This is especially true at the elementary and secondary level, where about 92 percent of the funds will come from non-Federal sources.

That means the Federal contribution to elementary and secondary education is about 8 percent, which includes funds not only from the Department of Education (ED) but also from other Federal agencies, such as the Department of Health and Human Services' Head Start program and the Department of Agriculture's School Lunch program.

Although ED's share of total education funding in the U.S. is relatively small, ED works hard to get a big bang for its taxpayer-provided bucks by targeting its funds where they can do the most good. This targeting reflects the historical development of the Federal role in education as a kind of "emergency response system," a means of filling gaps in State and local support for education when critical national needs arise.

### Funding – Congress Only

#### Funding is a Congressional-only task

Saturno, 16 – (James V. Saturno, education specifliast and researcher, “The Congressional Appropriations Process: An Introduction”, CRS, 11/30/16, <https://www.senate.gov/CRSpubs/8013e37d-4a09-46f0-b1e2-c14915d498a6.pdf>” AG)

The annual appropriations cycle is initiated with the President’s budget submission, which is due on the first Monday in February. This is followed by congressional consideration of a budget resolution that, in part, sets spending ceilings for the upcoming fiscal year. The target date for completion of the budget resolution is April 15. Committee and floor consideration of the annual appropriations bills occurs during the spring and summer months and may continue through the fall and winter until annual appropriations are enacted. Floor consideration of appropriations measures is subject to procedural rules that may limit the content of those measures and any amendments thereto. **Congress** annually considers several appropriations measures, which **provide discretionary funding fo**r numerous activities—for example, national defense, education, and homeland security—as well as general government operations. **Congress has developed** certain **rules and practices for the consideration of appropriations measures**, referred to as the congressional appropriations process. The purpose of this report is to provide an overview of this process. Appropriations measures are under the jurisdiction of the House and Senate Appropriations Committees. In recent years these measures have provided approximately 35% to 39% of total federal spending. The remainder of federal spending comprises direct (or mandatory) spending, controlled by House and Senate legislative committees, and net interest on the public debt.

### Funding and Regulation are Linked

CPJ No Date, The Center for Public Justice is independent, nonpartisan organization devoted to policy research and civic education, “How Are the Local, State and Federal Governments Involved in Education? Is This Involvement Just?” https://www.cpjustice.org/public/page/content/cie\_faq\_levels\_of\_government

Most of the day-to-day operation of schools takes place at the state and local level. However, when Congress passes a federal budget each year, it sets aside enough money to fund about ten percent of government-run schools’ operating costs. However, this funding nearly always comes with rules and regulations. In order to receive the funding, schools must comply with various requirements from all three branches of government, because Federal educational funding comes from taxation. In 2013, the Federal government spent $72 billion on education, making it the third largest area of discretionary spending.¶ For example, in 2001, Congress passed the No Child Left Behind Act, which requires government schools to test students annually in core subjects. This legislation, which was the most recent version (or reauthorization) of the law that has provided K-12 funding to schools since 1965, introduced a fundamental change to the existing law – it required accountability. Students in schools that perform below their state’s established standards for more than two years must be offered free tutoring, after school programs, or the opportunity to continue their education at a higher-performing government school.¶ In addition, schools that fall below standards for more than two years in a row may be required to replace underperforming teachers, rework their curriculum, or restructure the internal organization of the school, among other measures. Constitutionally, the federal government cannot force states to comply with No Child Left Behind, but all 50 states cooperate in order to continue receiving federal education funds.¶ The educational reforms passed by Congress are regulated and enforced by the federal Department of Education. The U.S. Department of Education collects data on government-run schools, evaluates their performance, suggests policy changes, and measures outcomes.

## And/Or

#### ‘And/or’ indicates both or either

Free Dictionary, 3 (The Free Dictionary, “and/or,” Farlex, “http://www.thefreedictionary.com/and%2For,” AG)

and/or (ănd ôr) conj. Used to indicate that **either** or **both** of the items connected by it are involved. (coordinating) used to join terms when either one or the other or both is indicated, used to imply that either or both of the things mentioned may be affected or involved

#### ‘And/or’ indicates either one of the two options or both of them

Merriam-Webster, 9 (Merriam-Webster Dictionary, “and/or,” “https://www.merriam-webster.com/dictionary/and/or,” AG)

—used as a function word to indicate that two words or expressions are to be **taken together** or **individually**. The combination and/or is used primarily in business and legal writing: All dwellings and/or other structures on the property are included in the contract. Because of these business and legal associations, some object to the use of this combination in general writing, where it occasionally occurs: She spends much of her leisure time entertaining and/or traveling. In such writing, either and or or is usually adequate. If a greater distinction is needed, another phrasing is available: Would you like cream or sugar, or both?

## Regulation

### Congress and Executive

#### Regulation cannot be done by courts

Ellig, 10 (Dr. Jerry Ellig, Senior Research Fellow at the Mercatus Center at George Mason University and a former assistant professor of economics at George Mason University, specializes in the federal regulatory process, economic regulation, and telecommunications regulation, “The Future of Regulation,” 2010, http://digitalcommons.pepperdine.edu/ppr/vol3/iss1/7/,” AG)

Many times in casual conversation the term ‘regulation’ is used to refer to any restriction imposed by the government that defines certain actions as legal or illegal, but **the definition is actually more specific.** Regulation occurs when a legislature delegates some of its lawmaking power to a regulatory agency, which then issues detailed rules, the purpose of which is to carry out the intention of the legislature. Regulations are issued by a regulatory agency, with the intention of filling in the gaps in legislation. In the case of federal regulation, it fills in the gaps left by the U.S. Congress. **Two kinds of regulatory agencies exist at the federal level in the United States.** Many regulatory agencies are actually part of the executive branch and their top officials are hired and can be fired by the President. These include agencies, such as the Environmental Protection Agency, the various agencies that regulate transportation within the Department of Transportation, and any position within a Cabinet department. All these regulatory agencies are directly responsible to the President. There are also independent regulatory agencies, that is, agencies that are independent of the President, but not independent of Congress. These agencies usually have the word “commission” in their title. The President usually appoints the commissioners, who run these agencies for a fixed term, with the consent of the Senate. The President cannot fire them, and as a result, these agencies tend to function relatively independently of the executive branch. They do not necessarily act independently of Congress, since Congress ultimately approves the budget and writes the laws that the agencies are supposed to implement. Examples of this type of agency are the FCC, Consumer Product Safety Commission, Security and Exchange Commission, and Commodity Futures Trading Commission. The Federal Reserve is also considered an independent regulatory agency.

### Congress

#### Regulation is only for Congress and it is the ability to create rules that manage/govern – Black’s Law Dictionary ‘11

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary: First Edition”, World Free Man Society, November 3, 2011, http://blacks.worldfreemansociety.org/1/)

REGULATE. The power to regulate commerce, vested in congress, is the power to prescribe the rules by which it shall be governed, that is, the conditions upon which it shall he conducted, to determine when it shall be free. and when subject to duties or other exactions. The power also embraces within its control all the instru mentalities by which that commerce may be carried on. and the means by which it may be aided and en- couraged. 114 U. S. 203, 5 Sup. Ct. Rep. 826.

REGULATION. The act of regulating; ' a rule or order prescribed for management or government; a regulating principle; a ‘ precept. Webster.

#### Regulation of an executive department is made under the Congress which gives the department power – Black’s Law Dictionary ‘68

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary”, Moorish Directory, 1968, http://moorishdirectory.com/wp-content/uploads/2015/01/Blacks-Law-4th-edition-1891.pdf)

REGULATION OF AN EXECUTIVE DEPARTMENT. The general rules relating to the subject on which a department acts, made by the head of the department under some act of Congress conferring power to make such regulations, and thereby give to them the force of law. State ex rel. Kaser v. Leonard, 164 Or. 579, 102 P.2d 197, 202, 129 A.L.R. 1125.

#### Regulation is legislative

American, 2k (The American University Law Review, 49 Am. U.L. Rev. 1167, “ONCE MORE UNTO THE BREACH,” August, 2000, “http://www-lexisnexis-com.dartmouth.idm.oclc.org/hottopics/lnacademic/,” AG)

Because the Customs Service's interpretation in Haggar was embodied in a legislative regulation, n29 the Supreme Court's decision may well have been predictable even from existing customs jurisprudence. The Administrative Procedure Act defines "regulation" or "rule" as "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy ... ." Administrative Procedure Act, 5 U.S.C. 551(4) (1994). Regulations or rules are typically divided into legislative or substantive rules, procedural rules, and interpretive rules. See Bernard Schwartz, Administrative Law 180 (3d ed. 1991) (noting the three main types of agency rules). A legislative rule is one that "affects individual rights and obligations." Chrysler Corp. v. Brown, 441 U.S. 281, 302 (1979) (quoting Morton v. Ruiz, 415 U.S. 199, 232 (1974)). "[A] legislative rule has the same binding effect as a statute." 1 Davis & Pierce, supra note 2, at 233.

### executive branch

#### Regulation means executive branch action

**Committee on Education, No Child Left Behind Act, 01** No Child Left Behind Act of 2001, House of Representatives session part 1. ftp://ftp.loc.gov/pub/thomas/cp107/hr063p1.txt

SEC. 1123. **REGULATIONS**.

(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the executive branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless--

(1) the regulation has been published as a proposed regulation in the Federal Register,

(2) an opportunity of not less than 90 days has been afforded the public to comment on the published proposed regulation, and

(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

(d) For purposes of this section, the term ``regulation'' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the **executive branch**.

#### Must be executive

**Committee on Education, No Child Left Behind Act, 01** No Child Left Behind Act of 2001, House of Representatives session part 1. ftp://ftp.loc.gov/pub/thomas/cp107/hr063p1.txt

SEC. 1123. **CODIFICATION OF REGULATIONS**.

(a) Part 32 of Title 25 of Code of Federal Regulations.--The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

(b) Regulation Defined.--For purposes of this part, the term ``regulation'' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the **executive branch**.

#### Only the executive

**H.R. 6, 94** [Congressional Bills 103th Congress] [From the U.S. Government Printing Office] [H.R. 6 Engrossed in House (EH)] 103d CONGRESS 2d Session H. R. 6 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ AN ACT To extend for five years the authorizations of appropriations for the programs under the **Elementary and Secondary Education** Act of 1965, and for certain other purposes.

``SEC. 1123. REGULATIONS.

``(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

``(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

``(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless--

``(1) the regulation has been published as a proposed regulation in the Federal Register,

``(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

``(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

``(d) For purposes of this section, the term `regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the **Executive Branch**.

### Must Include Enforcement

N.C.L.B. ’02 PUBLIC LAW 107–110—JAN. 8, 2002 115 STAT. 1425 Public Law 107–110 107th Congress . No Child Left Behind Act of 2001. Education. Intergovernmental Relations. 20 USC 6301 Note https://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf

Education Programs within the Bureau. ‘‘(16) REGULATION.— ‘‘(A) IN GENERAL.—The term ‘regulation’ means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this Act.

Augusto, 12 (Maria Helena Oliveira Gonçalves Augusto, researcher and policy analyst, “Educational regulation and teaching work in Minas Gerais: the obligation of results,” Sept 2012, “http://www.scielo.br/scielo.php?pid=S1517-97022012000300011&script=sci\_arttext&tlng=en,” AG)

**In the education area,** according to Barroso (2006**), the term regulation is related to the state's role in conducting public policies**, the set of proposed interventions aimed at better, more effective results. The regulation of educations systems is a unique, automatic, predictable process. The control of a rule application does not guarantee the action of social actors as defined in the intervening measures. The coordination of actions or the transformation of the system results more from the interaction of several regulative devices than from applying linear and hierarchical rules. Therefore, under the stigma of tension and confrontation, there are two forms of regulation in action in education systems: the institutional and control one, concerned with the results and with the improvement in the system's performance indicators, and a local micro regulation one, characterized by actions and interactions of different local actors in function of the interventions. According to Demailly (2004), the obligation of results in education arises in France in the 1980s, linked to the New Public Management, and can be found under other names, such as accountability. It represents a set of global strategies of educational services in view of the need to adjust them to the requirements of international financial organizations of more effectiveness and suitability to the economic demands of capitalism. It is part of a context of change in education systems and in the rhetoric of management administration, predicting its success and effectiveness. In this case, the educational regulation for results is more flexible as to the processes and enhances autonomy in action execution, but it is rigid as to control through outcome evaluation. It comprises a set of compulsory measures aiming to produce goals and it relies on evaluation systems and indicators established to measure performance, as well as ranking lists of schools as Lessard (2009) points out. This is a common policy in the **United States** (government-based-accountability), **with standardized programs and external certification exams** putting pressure on the performance of students and schools.

#### regulations must legally limit – they are “life or death” for regulated activities

**Harley and Lawrence 06** Diane Harley, Ph.D. Principal Investigator and Senior Researcher, Center for Studies in Higher Education Shannon Lawrence Researcher, Center for Studies in Higher Education The Regulation of E-learning New National and International Policy Perspectives Summary report on the proceedings of a meeting With support from the Ford Foundation and the Andrew W. Mellon Foundation September 2006 Revised 02/07 http://files.eric.ed.gov/fulltext/ED502876.pdf

Though no single definition of regulation was agreed upon during our meetings, various opinions emerged. Regulation was described as an edict that limits the free market, sometimes in efficiencyenhancing ways, sometimes in ways that are adverse to efficiency. In the context of e-learning, regulation can refer to internal and/or external forces of **constraint** that deal with systems, institutions, faculty, students, and so forth. Constraint can have a positive affect on a new area of development, but it can also hinder innovation. It was agreed that regulation cannot be treated as a binary issue. Higher education is reorganizing itself globally in a number of ways, and that reorganization will involve some external regulation and self-regulation in varying combinations.

Regulation vs. accreditation. As a further refinement of terminology, it was noted that there should be distinctions made between accreditation and regulation. First, accreditation is a U.S. phenomenon and it is often viewed as a very large and complex public-private system of federal, state, and private regulators. Judith Eaton and others argued that accreditation goes beyond regulation to address specific issues of quality. While accreditation is, by some accounts, regulatory, accreditation is about certain core academic values that can be expressed in a variety of ways. Accreditation addresses issues around institutional autonomy, carried out in a responsible manner, and issues around the role of faculty and academic freedom. Ralph Wolff pointed out that accreditors in the U.S. need to meet a whole set of expectations from various entities, including the concerns of Congress and the Department of Education. The claim that accreditation is not a form of regulation was countered, however. Every institution that is accredited views the accreditor as exercising regulatory authority. “If you say, ‘**You may live or you may die,**’ that’s probably a **regulatory activity**.” International participants pointed out that non-U.S. countries do not have accreditation at all, at least not defined as quality assurance or quality improvement, and the term “accreditation” is often not welcome internationally.

#### **Regulation is a government act that is directed to affect behavior**

Grafton et al 15 (Quentin Grafton, Katherine A. Daniell, Céline Nauges, Jean-Daniel Rinaudo, Noel Wai Wah Chan Springer, prominent authors and policy analysts/researchers, “Understanding and Managing Urban Water in Transition,” 5/6/15, “https://books.google.com/books?id=UMAlCQAAQBAJ&dq=%22we+define+regulation+as%22&source=gbs\_navlinks\_s,” AG)

Part of the evolution of influence is a re-conceptualization of regulation in theory and practice. The cleaving of policy making, service provision, and regulation was a feature of New Public Management, an effort to make public service and monopoly provision more accountable and transparent. It has been pithily described as the separation of ‘steering’ from ‘rowing.’ In legal terms, regulation has been defined as “a government activity that is intended to affect directly the behavior of private sector agents in order to align them with the ‘public interest’” (Chang 1997). However, as shown in subsequent sections, the recipient of regulation may be a state-owned entity incorporate in the private sector or at a lower level of government. Thus we define regulation as a government activity that is intended to **directly affect the behavior of public and private sector agents** in order to align them with the public interest.

#### Regulations define things as being legal or illegal – EPA ‘13

(Environmental Protection Agency, created for the purpose of protecting human health and the environment by writing and enforcing regulations based on laws passed by Congress, “The Basics of the Regulatory Process: Putting the law to work”, United States Environmental Protection Agency, February 22, 2013, <https://www.epa.gov/laws-regulations/basics-regulatory-process> )

Regulations set specific requirements about what is legal and what isn't. For example, a regulation issued by EPA to implement the Clean Air Act might explain what levels of a pollutant - such as sulfur dioxide - adequately protect human health and the environment. It would tell industries how much sulfur dioxide they can legally emit into the air, and what the penalty will be if they emit too much. Once the regulation is in effect, EPA then works to help Americans comply with the law and to enforce it.

#### Federal regulation must have a mechanism for punishment in case of state non-compliance

Babacan and Tahiri, 11 (Alperhan Babacan and Hussein Tahiri, Professor of Criminology and Justice and Associate Dean with many published books, public commentator on international affairs and relations, “Counter Terrorism and Social Cohesion,” Cambridge Scholars Publishing, 2011, “http://www.cambridgescholars.com/download/sample/58361,” AG)

The term “regulation” has many different meanings. In an abstract sense, a regulation is a rule or norm that is designed to influence a change in an actor’s behaviour. More technically, a regulation is often defined as a form of subordinate legislation. However, more recently, regulation has become synonymous with a phenomenon known as the delegation of governance powers to specialised institutional bodies, both within and beyond the nation state, that administer specialised bodies of rules. In this chapter, the term “regulation” is used to describe a discrete “system of law” (Feaver 2006). Several criteria define what constitutes a specialised law system with regulatory characteristics. These criteria include: • a specific or specialised body of substantive and procedural rules; • an organisational framework and construct that is given the responsibility and delegated governance powers to administer those rules; • some form of in-built mechanism to **compel compliance with the rules**; • **provision for enforcement and penalty in the case of non-compliance**.

#### Regulation is a legal mandate

Koop and Lodge, 15 (Christel Koop and Martin Lodge, Lecturer in Political Economy and Director of the BA International Politics Programme at King’s College in London, professor of political science and public policy at the London School of Economics, “What is regulation? An interdisciplinary concept analysis,” Wiley Online Library, 7/14/15, “http://onlinelibrary.wiley.com/doi/10.1111/ rego.v11.1/issuetoc” AG)

**Narrow** conceptions often characterize regulation as constituting a legal mandate **backed by the possibility of sanctions**. Some authors have further specified the nature of this legal or **official mandate.** For Hood et al. (Hood et al. 1999, p. 8; Hood et al. 2004), regulation involves a “control system” that requires the existence (and functioning) of three components, namely **standard-setting** (the statement of the desired state of the world), **information-gathering** (the tools used to detect how the actual state of the world differs from the desired one), **and behavior-modification** (the tools used to align actual with desired states of the world).10 These three components are also explicitly included in Black's aforementioned definition (2002, p. 26), and in texts that build on that definition, including Parker and Braithwaite (2005, p. 120), Morgan and Yeung (2007, p. 3), and Lodge and Wegrich (2012, pp. 12–16). Similarly, Levi-Faur defines regulation as “ex-ante bureaucratic legalisation of prescriptive rules and the monitoring and enforcement of these rules by social, business, and political actors on other social, business, and political actors (2011, p. 6).

### Deregulation is Distinct

#### Regulation is distinct from deregulation

Davoren, 13 (Julie Davoren, writer, “What Is Regulation & Deregulation?” Our Everyday Life, 3/18/13, “http://oureverydaylife.com/regulation-deregulation-6089.html,” AG)

Regulation refers to controlling business through laws passed by the government. To protect the interests of consumers, government institutes regulatory laws. Conversely, **deregulation** deals with the **elimination** of government laws and rules. These laws, or removal of them, impact consumer and business activities such as obtaining loans, importing supplies and selling products. So, **understanding the meaning of regulation and deregulation is crucial.** About Regulation: Regulation can be distinguished as economic and social. Economic regulation deals with quality of service, energy and entry conditions in specific sectors, such as transportation or communications. Social regulations deal with issues associated with risks to health, safety, and the environment. Some regulations promote safety and quality standards while others restrict commodity supplies and set tariffs to control or limit competition.

#### Regulation is the opposite of deregulation

Robinson, 10 (Abraham Robinson, writer, “What Is Regulation and Deregulation?” Legal Beagle, 2/24/10, “http://legalbeagle.com/6016665-regulation-deregulation.html,” AG)

Regulation is the process of governments passing laws to control certain activities, often restricting some business activities. Deregulation is **the opposite process** of governments removing these restrictions. PURPOSE OF REGULATION Regulation laws may be passed to protect the public from what is viewed as unethical or dangerous business activities. EXAMPLE OF REGULATION For example, New Zealand regulates research on biotechnology to protect public health and safety and to ensure ethical research practices. PURPOSE OF DEREGULATION Deregulation may be enacted because regulations may be seen as harmful to businesses or competition. EXAMPLE OF DEREGULATION An example of deregulation is the U.S. Energy Policy Act of 1992, which removed restrictions on American electricity companies in an attempt to increase competition. PROBLEMS OF DEREGULATION Deregulation can create disruption in the market and harm consumers. For example, Tom Allison, a counsel to the U.S. Senate Commerce Committee, argued that deregulation of the American airline industry led to disruptions and increased costs.

### related to education; not institutions

#### Regulations must be directly related to education

**FRHE 15** the Task Force on Federal Regulation of Higher Education RECALIBRATING REGULATION OF COLLEGES AND UNIVERSITIES http://www.acenet.edu/news-room/Documents/Higher-Education-Regulations-Task-Force-Report.pdf

Some Regulations Are **Unrelated to Education**, Student Safety, or Stewardship of Federal Funds

As leaders of institutions of higher education, we expect to be regulated in relation to the expenditure of financial aid funds and for the health and safety of our students. However, an increasing amount of federal oversight has **little to do with these responsibilities** and has more to do with pursuing broader governmental goals.

To cite several obvious examples, Selective Service registration, detailed voter registration requirements, peerto-peer file sharing, and foreign gift reporting are **unrelated to** the central areas of federal concern in higher **education**. While the policy objectives are worthwhile, the responsibility for pursuing them should not fall to institutions. We believe, for example, that individuals should be held accountable for whether they register with the Selective Service, not the college or university where they happen to be enrolled. Further, while some rules may be tangentially related to higher education, such as disclosing institutional policies on candles in dormitories and student vaccinations, they are not of sufficiently widespread interest to warrant a federal mandate.

#### Longer card

**FRHE 15** the Task Force on Federal Regulation of Higher Education RECALIBRATING REGULATION OF COLLEGES AND UNIVERSITIES http://www.acenet.edu/news-room/Documents/Higher-Education-Regulations-Task-Force-Report.pdf

Regulations **Unrelated to Education**, Safety, or Stewardship

Summary: Many federal regulations have little or nothing to do with educating students, protecting them on campus, or ensuring proper stewardship of federal funds. These requirements should be reviewed with an eye to determine whether they should be struck so that limited resources can be focused on more important efforts.

Background: Policy makers have increasingly relied on colleges and universities and, in particular, eligibility for federal student aid, as a way to pursue policy goals that are entirely outside of higher education’s purview. While these goals may be desirable, the question remains whether it is appropriate to use colleges as the means to achieve them and whether the purported benefits outweigh the costs imposed on institutions and ultimately students. Although the demands of any one requirement may be modest, as a collection they divert attention and resources. Among many other examples that we could cite, the following list is representative:

• Selective Service. In order to be eligible for federal financial aid, male applicants must have registered with the Selective Service before the age of 26. If there is a discrepancy in terms of whether an applicant has met the registration requirements, the burden falls on institutions to reconcile the difference. Student financial aid officers should not be tasked with enforcing this requirement. • Link between drug convictions and Title IV eligibility. Under the HEA, a student convicted of some drug offenses while receiving federal student aid can lose eligibility to receive aid.40At its core, this provision represents an inappropriate attempt to address an unrelated broader social issue through the student financial aid process. Moreover, while drastically increasing the complexity of the application process for those individuals involved, the provision has very little impact and affects only a handful of students every year.

• Voter registration. Institutions are required to distribute a voter registration form, in a federally specified timeframe and format, to each student enrolled and physically in attendance at the institution. We strongly support civic participation, especially voting. However, this is an overly prescriptive requirement with a modest benefit at best.

• Foreign gift reporting. Under a provision added to the HEA in 1986, institutions are required to report gifts or contracts from a foreign source (government, company, or individual) that total more than $250,000 or that are conditional gifts of any amount.41 While there may be some who take a keen interest in such donations, this information is not of widespread interest. In many cases, there are other ways to locate this information, such as through public information and open records laws.

• Peer-to-peer file sharing. Colleges and universities are required to have institutional policies concerning illegal file sharing, educate students on the laws and the penalties of such actions, and have explicit plans to combat unauthorized distribution of copyrighted material.42 Advances in technology, such as the prevalence of legal and low-cost options for downloading music and movies, have made this requirement obsolete.

• Vaccination policies. Institutions must disclose their vaccination policies in order to be eligible for Title IV funding.43 While arguably related to student health, information about an institution’s policy does not make students any safer, and is unlikely to be a consideration for any prospective students or parents when they select a college.

### four mechanisms

#### “Regulation of education” means increasing contrived randomness, oversight, rivalry, or mutuality.

**Lodge 15** Martin Lodge, Professor of Political Science and Public Policy @ the London School of Economics and Political Science Regulating higher education A comparative perspective DISCUSSION PAPER NO: 77 DATE: May 2015 http://www.lse.ac.uk/accounting/CARR/pdf/DPs/DP-77%20The-regulation-of-higher-education.pdf

Different modes of regulation

The **regulation of** higher **education** involves different objectives and is, traditionally, associated with a number of different regulatory modes or styles (Hood et al. 2004). For example, conventionally universities are seen as places of considerable competition or rivalry when it comes to access for students, as they present gateways to social mobility. Similarly, they are also places of rivalry in that academics seek recognition and status through findings, publications and research grants. At the same time, there have been dominant themes regarding ‘academic freedom’ (granting academics the right not be muzzled and autonomy in their work) as well as institutional autonomy from government, even where appointments and curricula may require ex ante vetting by ministries. This limited hierarchical oversight is matched by a strong emphasis on mutuality, be it in collegiate decision making at the university level or the wide-ranging peer review convention that guides the worlds of research in particular. Finally, there have also been elements of unpredictability in the allocation of peer reviewers and in opportunities for job openings and promotion. These different modes of regulating higher education are summarised in the table 1 below which builds on Christopher Hood and colleagues’ comparative studies of regulatory regimes (Hood et al 1999; 2004).

Table 1: Different ways of organising regulation in higher education

|  |  |
| --- | --- |
| **Contrived randomness**  Anonymity of reviewing process, circulation of staff, changing evaluation/assessment criteria | **Oversight**  Reporting to ministries/agencies; growing inspection and evaluation systems; **curriculum setting**; appointment by ministries |
| **Rivalry**  League tables, competition over grant funding and student recruitment. | **Mutuality**  Academic peer-review, collegiate decision-making, emphasis on decision making by committee |

These four ways of regulating have their **benefits** – mutuality with its stress on professionalism, rivalry with its stress on ‘competitive spirits’, contrived randomness with its stress on gaming-avoidance, and oversight with its emphasis on rules and consistency. All four modes also come with their **disadvantages**: mutuality with its potential for unaccountable ‘clubbiness’, oversight with its tendency to juridify and centralise, rivalry with its tendency to reduce solidarity, and contrived randomness with its tendency to destroy trust. Whether it is helpful to advocate ‘hybrid’ solutions consisting of one or more combinations of these has been a matter for **considerable controversy**. Some, such as Hood (1998) and Verweij and colleagues (2006) suggest that hybrids or ‘clumsy solutions’ may offer a way of reducing potential side effects; others note the inherent **contradictions and conflicts** that such attempts involve (Lodge and Wegrich 2005).

### Broad Definitions Bad

#### **Broad definitions of regulation suck – we need precise definitions**

Koop and Lodge, 15 (Christel Koop and Martin Lodge, Lecturer in Political Economy and Director of the BA International Politics Programme at King’s College in London, professor of political science and public policy at the London School of Economics, “What is regulation? An interdisciplinary concept analysis,” Wiley Online Library, 7/14/15, “http://onlinelibrary.wiley.com/doi/10.1111/ rego.v11.1/issuetoc” AG)

Non-intentional regulation may be associated with the presence of norms or the emergence of systems of accounting and population statistics that, in turn, restructure social relationships and, subsequently, non-targeted behavior. Thus, **if the definition is too broad, “anything producing effects on behavior is capable of being considered as regulatory”** (Baldwin et al. 1998, p. 4). Separately, Majone argues that, in the period up to the rise of the regulatory state in Europe, “European scholars tend[ed] to identify regulation with the whole realm of legislation, governance, and social control” (Majone 1994, p. 78).7 In his view, “[s]uch a broad use of the term makes the **study of regulation almost coextensive** with the study of law, economics, political science, and sociology” (Majone 1994, p. 78). These broad conceptions also include intervention by culture or social norms (see Hall et al. 1999). More generally, they are associated with studies dealing with “governmentality.” Here regulation involves all types of power-relations that require individuals to “auto-correct” themselves in light of the dominant logic of governing (Dean 1999; Power 2007; Miller & Rose 2008). Various authors have pointed to the limits of such broad conceptions. Advocating the inclusion of intentionality, Black suggests that including social norms and culture “provides no boundaries as to where regulation might end, and some other influencing factors take effect, and so provides very little analytical purchase” (2002, p. 11; p. 25). Others point out that the inclusion of non-intentional processes is not in line with common usage of the concept. Mitnick indicates that regulation refers only to those types of interference that are intentional: “intuitively, regulation implies governed, guided, controlled interference – in the broadest sense, deliberate or intentional interference” (1980, p. 3). Finally, Selznick observes that “[t]here is a strong temptation to identify regulation with the whole realm of law, governance, and social control” (1985, p. 363). Yet in the field of public policy and administration, he argues, **regulation has a more specific meaning**: it is about sustained and focused – and, thus, intentional – control. Such a broad conception makes scholars, government officials, and business people uncomfortable (Noll 1980, p. 14). Emphasizing the importance of conceptual familiarity, Noll conceives regulation as only one of the methods that governments use to control private-sector economic activities (1985, p. 9). As “regulation is not just what regulators do, it is also how they do it,” regulation is characterized by the role of administrative law and procedural rules (Noll 1980, pp. 16–17). Hence, regulation is a method of control where a government agency is assigned the task of “writing rules constraining certain kinds of private economic decisions, using a quasi-judicial administrative process to develop these rules” (Noll 1985, p. 9).

## Of

#### Of means to belong to or apart of

**Oxford dictionary 2002** (<https://en.oxforddictionaries.com/definition/of>)

Indicating an association between two entities, typically one of belonging, in which the first is the head of the phrase and the second is something associated with it. ‘the son of a friend’ ‘the government of India’ ‘a photograph of the bride’ with a possessive ‘a former colleague of John's. Expressing the relationship between a part and a whole. 1.1 With the word denoting the part functioning as the head of the phrase. ‘the sleeve of his coat’ ‘in the back of the car’ ‘the days of the week’ Expressing the relationship between a part and a whole. 1.1 With the word denoting the part functioning as the head of the phrase. ‘the sleeve of his coat’ ‘in the back of the car’ ‘the days of the week’

**“Of” means of specified origin**

**Random House 10** (Unabridged Dictionary, “Of”, http://dictionary.reference.com/browse/of)

1 /ʌv, ɒv; unstressed əv or, especially before consonants, ə/ [dictionary_questionbutton_default](http://dictionary.reference.com/help/luna/IPA_pron_key.html)Show Spelled[uhv, ov; unstressed uhthinspv or, especially before consonants, uh] Show IPA

–preposition

1. (used to indicate distance or direction from, separation, deprivation, etc.): within a mile of the church; south of Omaha; to be robbed of one's money.

2. (used to indicate derivation, origin, or source): a man of good family; the plays of Shakespeare; a piece of cake.

**“Of” is a term of limitation**

**Ellis 53** (Judge Advocate – United States Army, “United States. v. Private Frank Taylor, Jr.”, United States Army Board of Review, 11 C.M.R. 428; 1953 CMR LEXIS 1428, 7-31, Lexis)

Appellate defense counsel argued orally that many facts indicated the United States was not at war, for example: there has been no declaration of war; the Coast Guard is still under the supervision of the Treasury Department instead of the Navy Department as it usually is during war; here in the United States, Armed Forces personnel are allowed to wear civilian clothes during off-duty hours; it is not the policy to try Department of the Army civilians serving with the Army in the field in the United States by courts-martial; the various Army posts throughout the United States are still open to public visitation; many reservists and National Guard units are not on active service; and the Table of Maximum Punishments had not been suspended for offenses committed in the United States. He contended that the ratio of the cases cited in support of the war status of the United States was limited to the locale of the hostilities, Korea and its adjacent [\*\*6]  waters, and was inoperative on offenses committed in the United States. Finally, he anchored his argument on the interpretation to be given the language in Article 43f(1) (post) of the Code. He conceded arguendo that the offense at bar fell within the purview of this language, being a fraud against a United States agency, the Army, but reasoned that the subject language contemplated and embraced only "hostilities as proclaimed by the President or by a Joint Resolution of Congress." With this interpretation the board of review cannot agree. The preposition "of" before the word "hostilities" shows plainly that the phrase "of hostilities" is **adjectival**, **qualifying and limiting** the word "termination". The phrase "termination of hostilities" is in turn modified by the participial phrase "as proclaimed." In our interpretation it is the "termination of hostilities" that must be proclaimed, and such proclamation provides the initial date of a three-year period in which the suspension of the statute of limitations continues to operate rather than determines the date of the beginning of the original suspension (emphasis supplied).

#### “Of” is exclusive

**Words and Phrases 74** (v. 29)

Word of Exclusion

A deed describing a line as running within four rods of a brook excludes the stread, and means from the side of the stream, and not from the center of it. The word “of”, as well as the word “from”, is used as a **term of exclusion**. Haight v. Hamor, 22 A. 369, 372, 83 Me. 453.

## Elementary/Secondary Education

#### ESEA gives the best definition on what elementary and secondary education is – it’s K-12

AEE, 13 (Alliance for Excellent Education, DC–based national policy, practice, and advocacy organization, “Every Student Succeeds Act/Elementary and Secondary Education Act,” 9/19/13, “http://all4ed.org/issues/no-child-left-behind-actelementary-and-secondary-education-act/,” AG)

Originally signed into law by President Lyndon B. Johnson in 1965, the **Elementary and Secondary Education Act** (ESEA) is the **primary federal K–12 education law**. Since 1965, the U.S. Congress has periodically “reauthorized” ESEA, a process in which Congress rewrites and renews the law. The most recent reauthorization was in 2015 when Congress passed the Every Student Succeeds Act (ESSA). ESSA provides support to high schools where one-third or more of students do not graduate. It also provides support to schools with groups of traditionally underserved students who consistently demonstrate low performance. The law requires data on student achievement and graduation rates to be reported as well as action in response to that data. However, unlike the No Child Left Behind Act, states, districts, and schools will determine what support and interventions are implemented.

### Elementary = K - 6

#### Elementary education is K-5/6

Flavin, 16 (Brianna Flavin, freelance writer and journalist, “Early Childhood Education vs. Elementary Education: Which Environment is Right for You?” 5/23/16, Rasmussen College, “http://www.rasmussen.edu/degrees/education/blog/early-childhood-education-vs-elementary-education/,” AG)

Early childhood education (ECE) focuses on the academic, social and cognitive skills that develop in children from birth through preschool. Elementary education refers to the primary education **that comes after preschool but before middle school, typically kindergarten through fifth or sixth grade.** There are definite distinctions between the two sectors that are important to understand. We’re here to help you make an informed decision about early childhood education versus elementary education. We combined government information, real-time job market data and expert insight to provide you a side-by-side comparison below. Earning a bachelor’s degree along with state licensure is the most typical route for aspiring elementary educators. But if you’re looking to teach at a private school, you don’t necessarily need state licensure. If you hold a degree other than education, such as math or science, you can become an elementary teacher after passing an alternative teacher certification exam. You will also likely need references. The BLS projects kindergarten and elementary school jobs to grow at a steady rate of six percent through 2024. Since education is often intertwined with districts and state governance, certain states have better employment opportunities than others. To see where your state falls, see Employment for Elementary School Teachers by State. The BLS predicts more opportunities for elementary teachers with degrees and certifications. Job prospects also increase in urban and rural school districts compared to suburban school districts. The median salary for an elementary school teacher in 2014 was $54,120, as reported by the BLS.3 Once again, this figure varies widely by state and should be balanced against other factors (such as cost of living or relocating.) The difference in salaries between ECE and elementary education career paths is likely due to the additional experience and licensure required to be an elementary teacher, along with the lack of national standardization in preschools. However, if the push for Universal Pre-K becomes a reality, the outlook and salary for preschool teachers could change dramatically.

### Secondary Education

N.C.L.B. ’02 PUBLIC LAW 107–110—JAN. 8, 2002 115 STAT. 1425 Public Law 107–110 107th Congress . No Child Left Behind Act of 2001. Education. Intergovernmental Relations. 20 USC 6301 Note https://www2.ed.gov/policy/elsec/leg/esea02/107-110.pdf

‘‘(38) SECONDARY SCHOOL.—The term ‘secondary school’ means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

### Excludes Private

CARVER MIDDLE SCHOOL GAY-STRAIGHT ALLIANCE, an unincorporated as-sociation; and H. F., a minor by and through parent Janine Faughnan, Plaintiffs, -vs- SCHOOL BOARD OF LAKE COUNTY, FLORIDA, Defendant. Case No. 5:13-cv-623-Oc-10PRL UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORI-DA, OCALA DIVISION 2 F. Supp. 3d 1277; 2014 U.S. Dist. LEXIS 28907 March 6, 2014, Decided March 6, 2014, Filed SUBSEQUENT HISTORY: Dismissed by Carver Middle Sch. Gay-Straight Alliance v. Sch. Bd. of Lake Cnty., 2015 U.S. Dist. LEXIS 109489 (M.D. Fla., Aug. 19, 2015)

Education Law > Civil Liability > General Overview

[HN6] The Equal Access Act, 20 U.S.C.S. §§ 4071 - 4074, expressly applies only to secondary schools, § 4071(a), and a secondary school means a public school which provides secondary education as defined by state law. 20 U.S.C.S. § 4072(1).

### Excludes Private & Home Schools

IN THE INTEREST OF J.H., A CHILD No. 05-07-01176-CV COURT OF APPEALS OF TEXAS, FIFTH DISTRICT, DALLAS 264 S.W.3d 919; 2008 Tex. App. LEXIS 9787 September 10, 2008, Opinion Issued PRIOR HISTORY: [\*\*1] On Appeal from the 330th District Court, Dallas County, Texas. Trial Court Cause No. 05-17018-Y.

[HN9] Tex. Fam. Code Ann. § 154.002 does not define private secondary school. See However, the other provisions of the statute do refer to the Texas Education Code in determining the child's enrollment status. Tex. Fam. Code ann. § 154.002(a)(1)(A), (B). While "private secondary school" is not defined in the education code either, the legislature has indicated in revisions to the Texas Education Code that home schools are included within the purview of private or parochial schools.

### Includes Middle School

#### Secondary education is high school grades 9 through 12, but can include 7-8 as well

Learn.org, 9 (Learn.org, education-specialized website, providing information on educational degrees, free education, scholarships, etc. “What Is the Definition of Secondary School?” Learn.org, 7/24/9, “http://learn.org/articles/What\_is\_the\_Definition\_of\_Secondary\_School. html,” AG)

What Is the Definition of Secondary School? A secondary school in the United States might also be known as a high school or as an academy. It usually provides educational instruction for students during the period from ages 11 to 18. Read on to learn more about secondary schools. Secondary School Grade Levels **A secondary school in the U.S. commonly consists of grades 9 through 12**, with grade levels known as freshman, sophomore, junior and senior, respectively. Some larger school districts fund secondary schools that teach only grades 10, 11 and 12. **Some secondary schools include students in grades seven and eight, along with the higher grade levels.** Secondary schools represent the final stage of compulsory schooling in most U.S. states. State law proscribes school attendance until graduation or until a specific age, whichever comes earlier. General Academic Secondary Schools Most high schools offer a range of general academic courses. The curriculum usually includes courses such as English, mathematics, science, history and a foreign language. Other common subjects offered during high school include industrial arts, homemaking, health, physical education and music. Students may distribute curriculum selections between required classes and electives. Other Types of Secondary Schools Other high schools are classified as comprehensive secondary schools. Comprehensive schools may provide specialized training so that students can transition into vocational or technical professions after graduation. College preparatory schools focus on students who plan to enter colleges or universities after graduation. Special or alternative high schools may enroll students who seek intensive fine arts instruction or those who may need child care while attending classes. Funding for Secondary Schools U.S. high schools are typically supported by local, state and some federal funds. The proportion of funding from each funding source varies from state to state, according to the Digest of Education Statistics from the U.S. Department of Education (www.ed.gov). Privately funded high schools may be supported by religious institutions or by other contributions.

#### Secondary Education includes middle school – Study USA ‘13

(Study USA, guide for international students showing them how American schools operate, “Understanding the American Education System”, Study in the USA, April 29, 2013 (published), June 21, 2017 (updated), https://www.studyusa.com/en/a/58/understanding-the-american-education-system)

Prior to higher education, American students attend primary and secondary school for a combined total of 12 years. These years are referred to as the first through twelfth grades. Around age six, U.S. children begin primary school, which is most commonly called “elementary school.” They attend five or six years and then go onto secondary school. Secondary school consists of two programs: the first is “middle school” or “junior high school” and the second program is “high school.” A diploma or certificate is awarded upon graduation from high school. After graduating high school (12th grade), U.S. students may go on to college or university. College or university study is known as “higher education.”

## Education

### Excludes Private

**The glossary of education reform 13**(<http://edglossary.org/education-system/http://edglossary.org/education-system/>)

The term education system generally refers to public schooling, not private schooling, and more commonly to kindergarten through high school programs. Schools or school districts are typically the smallest recognized form of “education system” and countries are the largest. States are also considered to have education systems. Simply put, an education system comprises everything that goes into educating public-school students at the federal, state, or community levels: Laws, policies, and regulations Public funding, resource allocations, and procedures for determining funding levels State and district administrative offices, school facilities, and transportation vehicles Human resources, staffing, contracts, compensation, and employee benefits Books, computers, teaching resources, and other learning materials And, of course, countless other contributing elements. While the term education system is widely and frequently used in news media and public discourse, it may be difficult to determine precisely what the term is referring to when it is used without qualification, specific examples, or additional explanation. Like the teaching profession, education systems are, by nature, extremely complex and multifaceted, and the challenges entailed in reforming or improving them can be similarly complex and multifaceted. Even reforms that appear to be straightforward, simple, or easily achieved may, in practice, require complicated state-policy changes, union-contract negotiations, school-schedule modifications, or countless other conditions. For a related discussion, see systemic reform.

#### Substantially means equals to or same amount of

Edgewood v. Kirby, 89 (In Edgewood Independent School District et al. v. Kirby et al., a landmark case concerning public school finance, the Mexican American Legal Defense and Educational Fund filed suit against commissioner of education William Kirby on May 23, 1984, in Travis County on behalf of the Edgewood Independent School District, In Edgewood Independent School District et al. v. Kirby et al., a landmark case concerning public school finance, the Mexican American Legal Defense and Educational Fund filed suit against commissioner of education William Kirby on May 23, 1984, in Travis County on behalf of the Edgewood Independent School District)

The legislature's recent efforts have focused primarily on increasing the state's contributions. More money allocated under the present system would reduce some of the existing disparities between districts but would at best only postpone the reform that is necessary to make the system efficient. A band-aid will not suffice; the system itself must be changed. We hold that the state's school financing system is neither financially efficient nor efficient in the sense of providing for a "general diffusion of knowledge" statewide, and therefore that it violates article VII, section 1 of the Texas Constitution. Efficiency does not require a per capita distribution, but it also does not allow concentrations of resources in property-rich school districts that are taxing low when property-poor districts that are taxing high cannot generate sufficient revenues to meet even minimum standards. There must be a direct and close correlation between a district's tax effort and the educational resources available to it; in other words, districts must have substantially equal access to similar revenues per pupil at similar levels of tax effort. Children who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds. Certainly, this much is required if the state is to educate its populace efficiently and provide for a general diffusion of knowledge statewide.

### Excludes Informal Education

#### The topic should be limited to *formal* education; including informal education explodes the limit on the topic

Maheshwari, 12 (Dr. V.K. Maheshwari, former principal of KLD college, author and writer, “Concept of Education,” 10/2/12, “http://www.vkmaheshwari.com/WP/?p=558,” AG)

There are two types of education: formal and informal. Formal education is what a person receives from the age of five in structured classrooms, be it public or private, through college. the quality of this formal education solely depends on where one may live, or how much money one’s parents may have. Public educations are a hit or miss. The school system may be well reputed, but there will be classrooms in these systems that aren’t up to par. This could be for a person’s reasons; inexperienced teachers, teacher burnout, very disruptive students, and the list could go on. There is not a national standard, so schools across our country are completely different. A child, therefore, gets a formal education, through schools, but not necessarily ne of excellence. The second type of education is informal. People of all ages receive thids type of education throughout their lives. Let’s begin from birth. Babies are taught from birth, first how to suckle. They are taught how to eat, talk, and walk usually by family. Each year of life brings about different types of informal education. Don’t doubt there aren’t things being learned on the playground in play groups. In every sports arena coaches are dispersing wisdom. Sunday school classes across the nation are guiding children through the doctrine of their particular faith.

#### The ED defines educators as teachers and mentors in *formal learning spaces* and schools – sets the best limit on what education is

Department of Education, 11 (US Department of Education, Cabinet-level Department in the United States handling education affairs from the federal government, “Definitions,” 7/11/11, “https://www.ed.gov/race-top/district-competition/definitions,” AG)

Educators: All education professionals and paraprofessionals working in participating schools (as defined in this document), including principals or other heads of a school, teachers, other professional instructional staff (e.g. staff involved in curriculum development, staff development, or operating library, media and computer centers), pupil support services staff (e.g. guidance counselors, nurses, speech pathologists, etc.), other administrators (e.g. assistant principals, discipline specialists.), and paraprofessionals (e.g. assistant teachers, instructional aides).

#### Broad definitions of education are counterproductive – education is schooling

Maheshwari, 12 (Dr. V.K. Maheshwari, former principal of KLD college, author and writer, “Concept of Education,” 10/2/12, “http://www.vkmaheshwari.com/WP/?p=558,” AG)

Education is very essential in everyday to be able to cope and survive whatever the difficulties and complication may experience. Without education, life can be so hard and frustrating in every aspect. The instances of education can be from school, society or home Internet, or anywhere. It is necessary that everyone needs to go to school, to learn academically and socially. If help build up confidence in every person, if gives a high self-esteem as well. Also, we need to educate oneself in the society, so that we are aware in catastrophic situation. To know what’s going on around us, it is an advantage to be one of the biggest technologies that revolve around the word, from researching or communicating. It is a big help to explore and educate our self to the word of technology. It is a big help discipline, patient, time hard-work and effort. With these important behavioral qualities, it will be easier ot deal with life. Education doesn’t require a perfect physical appearance but it requires attention and focus. Having the knowledge in everything, it refers to a high intellect power, a power that ready for anything. The skills to educate our self is something that we couldn’t share to anyone but we could extend if is some ways. Technically, education is really important and it is a necessity for us, to have a better life and a better future. We need to get the best of education that we want to, it is worth it to have the knowledge, and intellect the capacity to participate in the word and it can change our life tremendously. Mostly **education is accepted as a learning and training process which is applied in school.** In the past few years, another sense of education has come to be applied, according to which education is looked at as an or a science of guidance and teacher-training departments. The above point of view is clear to a great extent, but **there is an element of ambiguity in it**. When the meaning of education is analyzed in the context of the **time spent in school**, refined form for behavior and other points of view**, a need for developing a clearer meaning of education is felt**. Thus, the environment in which education is imparted, and the form of for giving a distinct meaning of education, on the above basis, it become essential in the context of its meaning, nature and scope.

### Includes Instruction

#### Education is limited to formal schooling

Kumar and Ahmad, no date (Satish Kumar and Sajjad Ahmad, activist and editor, professor at the University of Nevada and scholar, “MEANING, AIMS AND PROCESS OF EDUCATION” School of Open Learning, no date, “https://sol.du.ac.in/mod/book/view.php?id=1448&chapterid=1321,” AG)

In its **narrow sense, school instruction** is called education. In this process, the elders of society strive to attain predetermined aims during a specified time by providing pre-structured knowledge to children through set methods of teaching. The purpose is to achieve mental development of children entering school. To make of narrow meaning of education more clear, the following opinions of some other educationists are being given- · The culture which each generation purposefully gives to those who are to be its successors, in order to qualify them for at least keeping up, and if possible for raising the level of improvement which has been attained. John Stuart Mill · In narrow sense, education may be taken to mean any consciously directed effort to develop and cultivate our powers. S. S. Mackenzie · Education is a process in which and by which knowledge, character and behaviour of the young are shaped and moulded. Prof. Drever · The influence of the environment of the individual with a view to producing a permanent change in his habits of behaviour, or thought and attitude. G. H. Thompson Education, in the narrower sense, is regarded as equivalent to instruction. It consists of the “specific influences” consciously designed in a school or in a college or in an institution to bring in the development and growth of the child. The word school includes the whole machinery of education from Kindergarten to the University. The education of the child begins with his admission in the school and ends with his departure from the University. The amount of education received by the child is measured in terms of degrees and diplomas awarded to him. The school represents formal education as it imparts education directly and systematically. There is deliberate effort on the part of the educator to inculcate certain habits, skills, attitudes or influences in the learner, which are considered to be essential and useful to him. According to John Dewey: “The school exists to provide a special environment for the formative period of human life. School is a consciously designed institution, the sole concern of which is to educate the child. This special environment is essential to explain our complex society and civilization”. The influences or modes of influences in the school are deliberately planned, chosen and employed by the community for the welfare of the members of the rising generation. The purpose of these influences is to modify the behaviour of the child in such a way that he may become different from what he would have been without education. It makes possible a better adjustment of human nature to surroundings. According to Mackenzie, education, in the narrower sense, is conscious effort to develop and cultivate our innate powers. Education, in the narrow sense, is also regarded as acquisition of knowledge. According to it education is a process by which knowledge or information on a subject is acquired. **But many sensible educationists have criticized this view**. They argue that emphasis on the knowledge is likely to reduce all schools to mere knowledge-shops. The acquisition of knowledge is not the only or supreme aim of education, yet it is one of the important aims of education.

Kumar and Ahmad ‘ (Satish Kumar, both the founder and Director of Programmes of the Schumacher College, Saijad Ahmad, ADD QUALIFICATIONS HERE, “Meaning, Aims and Process of Educations”, Meaning of Education PDF, ADD DATE HERE, <https://sol.du.ac.in/solsite/Courses/UG/StudyMaterial/16/Part1/ED/English/SM-1.pdf> )

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#### Education is defined as obtaining knowledge – Kumar and Ahmad ‘

(Satish Kumar, both the founder and Director of Programmes of the Schumacher College, Saijad Ahmad, ADD QUALIFICATIONS HERE, “Meaning, Aims and Process of Educations”, Meaning of Education PDF, ADD DATE HERE, <https://sol.du.ac.in/solsite/Courses/UG/StudyMaterial/16/Part1/ED/English/SM-1.pdf> )

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### Includes Extra-Curricular

#### Education includes extra-curricular activities

Maheshwari, 12 (Dr. V.K. Maheshwari, former principal of KLD college, author and writer, “Concept of Education,” 10/2/12, “http://www.vkmaheshwari.com/WP/?p=558,” AG)

Thus, the significance of the meaning of the education of differs from person to person. It is also a continuous process, which being at a particular point of life and ends at another point. This point of beginning the point of end of education fifers in narrower and broader sense. The common sense of education is very narrow. It includes only school. The community makes it still narrower when only intellectual knowledge experiences are included in it, and all those experiences which are imparted at school other than falling under intellectual aspect, are called co-curricular activities. Thus, in common sense, education means only school instruction. However, in the past few years, a change has become perceptible in educational thought. As a result of which, co-curricular activities have been attached importance, and they are not considered extra-curricular activities. They are accepted as those activities which are run concurrently with education are educational curriculum.

### Must be School Focused

#### Education regulation policies must be adopted by education associations and individual schools or institutions

ED, 17(<https://www2.ed.gov/about/offices/list/ous/international/usnei/us/generalinfo.doc>)

The U.S. education system is not based on one, or even a few, framework laws. Instead, there are a wide variety of federal, state and local laws, plus court decisions and regulations that define various aspects of our decentralized system. In addition, there are rules and policies adopted by educational associations and individual schools and institutions that often have legal status with respect to matters within their competence. Findlaw Library: Education provides links to court decisions and other materials organized by issue topic. Findlaw State Resources Directory provides links to state constitutions, law codes, regulations, courts, and legislatures. Municipal Codes on the Internet provides searchable links to city and county legal codes that have been mounted on the Internet. The Cornell Legal Information Institute's Education Law Page provides easily used links to all federal and state statutes, regulations, and court decisions respecting education. Federal Education Legislation provides an overview of the development of federal legal statutes pertaining to education and links to current legislative resources. Federal Education Regulations provides links to current compilations of the regulations developed to implement federal education laws. Federal Statutory and Regulatory Guidance provides information on policy letters issued by the U.S. Department of Education to clarify laws and regulations.

### Education – Federal Role

#### Federal education policy IS NOT day-to-day operations. Plan can ONLY offer funding with conditions like NCLB.

**The center for public justice 17** (<https://www.cpjustice.org/public/page/content/cie_faq_levels_of_government>)

Most of the day-to-day operation of schools takes place at the state and local level. However, when Congress passes a federal budget each year, it sets aside enough money to fund about ten percent of government-run schools’ operating costs. However, this funding nearly always comes with rules and regulations. In order to receive the funding, schools must comply with various requirements from all three branches of government, because Federal educational funding comes from taxation. In 2013, the Federal government spent $72 billion on education, making it the third largest area of discretionary spending. For example, in 2001, Congress passed the No Child Left Behind Act, which requires government schools to test students annually in core subjects. This legislation, which was the most recent version (or reauthorization) of the law that has provided K-12 funding to schools since 1965, introduced a fundamental change to the existing law – it required accountability. Students in schools that perform below their state’s established standards for more than two years must be offered free tutoring, after school programs, or the opportunity to continue their education at a higher-performing government school. In addition, schools that fall below standards for more than two years in a row may be required to replace underperforming teachers, rework their curriculum, or restructure the internal organization of the school, among other measures. Constitutionally, the federal government cannot force states to comply with No Child Left Behind, but all 50 states cooperate in order to continue receiving federal education funds. The educational reforms passed by Congress are regulated and enforced by the federal Department of Education. The U.S. Department of Education collects data on government-run schools, evaluates their performance, suggests policy changes, and measures outcomes.

#### The state’s role is to provide grants, curricula, and requirements for schools

The Center for Public Justice, 17(https://www.cpjustice.org/public/page/content/cie\_faq\_levels\_of\_government)

State governments exercise primary accountability and oversight for government-run schools. Most state constitutions include basic provisions for education, giving state governments the authority to establish their own departments of education and to pass laws governing school practices. State governments often choose to delegate much of their authority to local school districts, but they can reclaim that authority. A recent development in state educational oversight is the emergence of the Common Core State Standards. The Common Core Initiative was developed by state governors in conjunction with state-level education departments and outside experts. Its adoption by states is one of several ways that states can qualify to receive Race to the Top competitive grants from the federal government. In states that choose to adopt the Common Core State Standards, the state’s department of education must generate a set of benchmarks for student achievement in reading and math. Most state departments of education choose to establish additional educational standards for other subjects including science, social studies, art, and foreign languages. Each state creates, implements, and enforces its standards differently, but standards generally provide a framework for states and districts to evaluate which schools are performing well, which would benefit from additional support, and which require disciplinary intervention. At present, 44 states and the District of Columbia have chosen to implement Common Core State Standards. State-level funding for government schools varies widely, but on average, states provide for slightly less than half of schools’ operating costs. Most states draw this funding largely from income and sales taxes. 42 states and the District of Columbia also derive a portion of their education funding from state-run lotteries. This amount varies significantly from state to state and year to year. However, funds from state lotteries replace taxpayer money rather than supplementing it, meaning that school budgets do not grow as a result of lotteries. Rather, taxpayer money that would have been used to fulfill the state’s education budget is redirected to other areas. Georgia and Tennessee use revenues from state-run lotteries to fund scholarships for high-achieving graduates who stay in-state for college, but they are rare exceptions to the rule.

### Education Funding – Title I

#### Education funding must go through Title I

ED, 16(<https://www2.ed.gov/programs/titleiparta/index.html>)

Title I, Part A (Title I) of the Elementary and Secondary Education Act, as amended (ESEA) provides financial assistance to local educational agencies (LEAs)and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state**.** Basic Grants provide funds to LEAs in which the number of children counted in the formula is at least 10 and exceeds 2 percent of an LEA's school-age population. Concentration Grants flow to LEAs where the number of formula children exceeds 6,500 or 15 percent of the total school-age population. Targeted Grants are based on the same data used for Basic and Concentration Grants except that the data are weighted so that LEAs with higher numbers or higher percentages of children from low-income families receive more funds. Targeted Grants flow to LEAs where the number of schoolchildren counted in the formula (without application of the formula weights) is at least 10 and at least 5 percent of the LEA's school-age population**.** Education Finance Incentive Grants (EFIG) distribute funds to states based on factors that measure: a state's effort to provide financial support for education compared to its relative wealth as measured by its per capita income; and the degree to which education expenditures among LEAs within the state are equalized. Once a state's EFIG allocation is determined, funds are allocated (using a weighted count formula that is similar to Targeted Grants) to LEAs in which the number of children from low-income families is at least 10 and at least 5 percent of the LEA's school-age population. LEAs target the Title I funds they receive to schools with the highest percentages of children from low-income families. Unless a participating school is operating a schoolwide program, the school must focus Title I services on children who are failing, or most at risk of failing, to meet state academic standards. Schools in which children from low-income families make up at least 40 percent of enrollment are eligible to use Title I funds for schoolwide programs that serve all children in the school. LEAs also must use Title I funds to provide academic enrichment services to eligible children enrolled in private schools.

### Education Funding - Percentage

#### Education funding must be atleast 8%

ED, 17 (<https://www2.ed.gov/about/overview/fed/role.htmlhttps://www2.ed.gov/about/overview/fed/role.html>)

The structure of education finance in America reflects this predominant State and local role. Of an estimated $1.15 trillion being spent nationwide on education at all levels for school year 2012-2013, a substantial majority will come from State, local, and private sources**.** This is especially true at the elementary and secondary level, where about 92 percent of the funds will come from non-Federal sources. That means the Federal contribution to elementary and secondary education is about 8 percent, which includes funds not only from the Department of Education (ED) but also from other Federal agencies, such as the Department of Health and Human Services' Head Start program and the Department of Agriculture's School Lunch program. Although ED's share of total education funding in the U.S. is relatively small, ED works hard to get a big bang for its taxpayer-provided bucks by targeting its funds where they can do the most good. This targeting reflectsthe historical development of the Federal role in education as a kind of "emergency response system," a means of filling gaps in State and local support for education when critical national needs arise.

### Education – Common Definitions Matter

#### Common Education data Standards is defined as standards of education data elements in schools – DOE ‘11

(Department of Education, establishes policy for, administers, and coordinates most federal assistance to education, “Definitions”, U.S. Department of Education, July 11, 2011, <https://www.ed.gov/early-learning/elc-draft-summary/definitions>)

Common Education Data Standards (CEDS) means voluntary, common standards for a key set of education data elements (e.g., demographics, program participation, transition, and course information) at the early learning, K-12, and postsecondary levels developed through a national collaborative effort being led by the National Center for Education Statistics. CEDS focus on standard definitions, code sets, and technical specifications of a subset of key data elements and are designed to increase data interoperability, portability, and comparability across early learning programs and agencies, States, districts, and postsecondary institutions.

### Education – Broad Definitions

#### Education is defined as instruction received along with training – Black’s Law Dictionary ‘15

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary”, Moorish Directory, January 31, 2015, http://moorishdirectory.com/wp-content/uploads/2015/01/Blacks-Law-4th-edition-1891.pdf)

EDUCATE. To give proper moral, as well as intellectual and physical, instruction. See Williams v. MacDougall, 39 Cal. 80; Peck v. Claflin, 105 Mass. 420. To prepare and fit oneself for any calling or business, or for activity and usefulness in life. In re Wolfe's Estate, 299 N.Y.S. 99, 102, 164 Misc. 504. EDUCATION. Comprehends not merely the instruction received at school or college, but the whole course of training, moral, intellectual, and physical. Education may be particularly directed to either the mental, moral, or physical powers and faculties, but in its broadest and best sense it relates to them all. Barbers' Commission of Mobile County v. Hardeman, 21 So.2d 118, 120, 31 Ala.App. 626. Acquisition of all knowledge tending to train and develop the individual. Mifchell v. Reeves, 123 Conn. 549, 196 A. 785, 788, 15 A.L.R. 1114. "Education" is not confined to the improvement and cultivation of the mind, but may consist of the cultivation of one's religious or moral sentiments, and likewise may consist in the development of one's physical faculties. Commissioners of District of Columbia v. Shannon & Luchs Const. Co., 57 App.D.C. 67, 17 F.2d 219, 220; Jones v. Better Business Bureau of Oklahoma City, C.C.A.Okla., 123 F.2d 767, 769.

#### Education is not the same thing as schooling. It is the when time is given to promote possibility and discovery - Smith ‘15

(Mark K. Smith, Ph.D. in Engineering and also holds an MBA, “What is education? A definition and discussion” , The encyclopaedia of informal education, April 6, 2015, <http://infed.org/mobi/what-is-education-a-definition-and-discussion/> )

When talking about education people often confuse it with schooling. Many think of places like schools or colleges when seeing or hearing the word. They might also look to particular jobs like teacher or tutor. The problem with this is that while looking to help people learn, the way a lot of schools and teachers operate is not necessarily something we can properly call education. They have chosen or fallen or been pushed into ‘schooling’ – trying to drill learning into people according to some plan often drawn up by others. Paulo Freire (1973) famously called this banking – making deposits of knowledge. Such ‘schooling’ quickly descends into treating learners like objects, things to be acted upon rather than people to be related to. Education, as we understand it here, is a process of inviting truth and possibility, of encouraging and giving time to discovery. It is, as John Dewey (1916) put it, a social process – ‘a process of living and not a preparation for future living’. In this view educators look to act with people rather on them. Their task is to educe (related to the Greek notion of educere), to bring out or develop potential. Such education is: Deliberate and hopeful. It is learning we set out to make happen in the belief that people can ‘be more’; Informed, respectful and wise. A process of inviting truth and possibility. Grounded in a desire that at all may flourish and share in life. It is a cooperative and inclusive activity that looks to help people to live their lives as well as they can.

#### Education is a process of maturation into adulthood

Ravi, 97 (V Ravi, political analyst and author, “COMPARATIVE EDUCATION,” Google Books, Chapter 1, 1997, “https://books.google.com/books?isbn=1329714326,” AG)

While relating education to culture, Nduka (1982) sees the concept as the process of cultural transmission of the people at least part of such culture from one generation to the next. Education, according to Lester Smith cited by Osokoya (1987), is the culture which each generation purposely gives to those who are to be its successors in order to qualify them for at least keeping, and if possible for **raising the level of improvement** which has been attained. Horton, cited by Akinpelu (1984) sees education as an enabling agency by which the Africans could restore their self confidence, and make those who doubted the humanity of Africans begin to revise their views and learn to respect Africans. Education according to Nyerere (1982) is the **transmission of accumulated wisdom** and knowledge of the society from one generation to the next and also to prepare the young people for their future membership of the society in which they find themselves. At this juncture, we can define education as a process through which an individual becomes **integrated into his society**, becomes a promoter of his societal culture, contributor to the development of his society and becomes an adult who will be able to stand on his own.

#### Education is a process of self-learning and integration

Ravi, 97 (V Ravi, political analyst and author, “COMPARATIVE EDUCATION,” Google Books, Chapter 1, 1997, “https://books.google.com/books?isbn=1329714326,” AG)

Education is very difficult to pin to a particular definition, because the concept may be perceived from different angles. The concept has been traced to two Latin words. The Latin words are (a) educere and (b) educare. While educere can be interpreted as "to draw out" or "to lead out", Educare on the other hand means "to nourish" "to bring up or "to raise". The interpretations of two Latin words no doubt, are more than what can be offered by the school alone. Adesina (1985) noted that education is always related to variable such as purpose of the learner, the aim of the teacher as well as the technological problems of the society. He, therefore, defines education as: The tool for the **integration of the individual effectively into a society** so that the individual can achieve **self-realization**, develop national consciousness, promote unity and strive for social, economic, political, scientific cultural and technological process.

#### Must allow for education standards to constantly evolve

**Abbot v. Burke 1990** (This litigation has launched one of our nation’s most ambitious and far-reaching efforts to improve public education for poor children and children of color. In fact, the Abbott decisions have been called the most important equal education rulings since Brown v. Board of Education.)

In order to pass on plaintiffs' contention, we must once again, in the context of this case, define the scope and content of the constitutional provision. That definition is critical to our determination of a remedy. While precision in such definition is desirable, certain considerations suggest caution against constitutional absolutism in this area. First, what a thorough and efficient education consists of is a continually changing concept. As the Legislature stated: Because the sufficiency of education is a growing and evolving concept, the definition of a thorough and efficient system of education and the delineation of all the factors necessary to be included therein, depend upon the economic, historical, social and cultural context in which that education is delivered. The Legislature must, nevertheless, make explicit provision for the design of State and local systems by which such education is delivered, and should, therefore, explicitly provide after 4 years from the effective date of this act for a major and comprehensive evaluation of both the State and local systems, and the sufficiency of education provided thereby.... [N.J.S.A. 18A:7A-2a(4).]

## In

#### In is defined as the inclusion within a set of limits – Black’s Law Dictionary ‘68

(Black’s Law Dictionary, most widely used law dictionary in the United States, “Black’s Law Dictionary”, Moorish Directory, 1968, http://moorishdirectory.com/wp-content/uploads/2015/01/Blacks-Law-4th-edition-1891.pdf)

IN. In the law of real estate, this preposition has always been used to denote the fact of seisin, title, or possession, and apparently serves as an elliptical expression for some such phrase as "in possession," or as an abbreviation for "intitled" or "invested with title." Thus, in the old books, a tenant is said to be "in by lease of his lessor." Litt. § 82.

An elastic preposition in other cases, expressing relation of presence, existence, situation, inclusion, action, etc.; inclosed or surrounded by limits, as in a room; also meaning for, in and about, on, within, etc., according to context. Ex parte Perry, 71 Fla. 250, 71 So. 174, 176. Rester v. Moody & Stewart, 172 La. 510, 134 So. 690, 692.

#### In is defined as an object being within a specific set of boundaries – Merriam Webster ‘05

(Merriam Webster, publishes reference books including dictionaries, “Definition of In”, Merriam Webster, December 26, 2005, <https://www.merriam-webster.com/dictionary/in>)

used as a function word to indicate inclusion, location, or position within limits

#### In is defined as through something – Webster’s Dictionary ‘28

(Webster’s Dictionary, American Dictionary OF THE English Language, “In”, Webster’s Dictionary 1828-Online Edition, 1828, http://webstersdictionary1828.com/Dictionary/in)

IN signifies by or through. in thee shall all nations be blessed. I am glorified in them.

## Spec

#### Devil is in the details

**CSBA 11** California School Boards Association, U.S. education provisions: The devil’s in the details, News awaited on NCLB, federal funding PUBLISHED: SEPTEMBER 1, 2011 https://www.csba.org/Newsroom/CSBANewsletters/2011/September/InPrint/2011\_SeptCSN\_NCLB.aspx

Because the **devil is in the details** and those details **have yet to be worked out**, it’s too early to say whether the Obama administration’s pending plans to waive some provisions of the No Child Left Behind Act are anything to celebrate, or what the recent federal debt ceiling agreement **means for K-12 education**.

U.S. Secretary of Education Arne Duncan announced Aug. 5—coincidentally, just days after administration and congressional leaders narrowly averted a possible federal credit default by raising the nation’s debt ceiling—that he will unveil plans in September to grant conditional waivers from some provisions of NCLB, including the requirement that all public school students reach proficiency in reading and math by 2014.

“We have concerns about what this [waiver] process will look like,” CSBA Principal Legislative Advocate Erika Hoffman said. “Will Secretary Duncan impose a lot of new and unfunded mandates in exchange for flexibility?”