The Neg Side disagrees with the Aff Plan, **The United States federal government should rule that zero tolerance policies and harsh disciplinary procedures in elementary and secondary education are a violation of Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment through an application of the rational basis test.**

Off: Federalism

**Trump has revitalized federalism — state control of education policy is key.**

Roberts 17 — (Kevin D. Roberts, Ph.D., a longtime educator who is Executive Vice President of the Texas Public Policy Foundation in Austin, 2017 (“States, Not the Feds, Should Lead Education Reform,” *Real Clear Education*, February 7th, Available Online at [http://www.realcleareducation.com/articles/2017/02/07/states\_not\_the\_feds\_should\_lead\_ education\_reform\_\_110115.html](http://www.realcleareducation.com/articles/2017/02/07/states_not_the_feds_should_lead_%20education_reform__110115.html), Accessed 06-22-2017))

The era of Donald Trump offers conservative reformers opportunities they have not seen since the 1980s. The most significant are in education, where the federal government has aggrandized its power, rendering states impotent. This overreach comes at the *expense* of two things very dear to the nation—our schoolchildren and our understanding of *shared power.*

Though the Trump administration will no doubt address the former problem, *its means of doing so may* very well *exacerbate the latter*. Too often, well-intentioned, conservative executives end up using federal power to heal the wounds caused by the *very same bludgeon—federal power.*

If President Trump is correct in his inaugural exhortation that “now is the hour of action,” then states—*not federal bureaucrats*—need to lead the charge on education policy.

Among the many problems facing American education, the most significant may be our schools’ and colleges’ utter failure to teach civic education. Two generations of American students have been taught precious little about the American Founding or the Constitution, let alone the philosophical foundation of the American system of government—federalism. That notion of shared power between the federal government and states has, as a result, withered.

How fitting, then, that Texas—where the American spirit of independence, work ethic, freedom and a vibrant notion of state power is palpable—take the lead in renewing federalism. And how fitting that it do so in the policy area where *revitalized state power is most needed: education.*

During the otherwise-bleak years of the previous administration, the Lone Star State has shined as a beacon of liberty, deregulation and restrained government authority. Harkening to Justice Louis Brandeis's early-20th-century comment that “states are the laboratories of democracy,” Texas-based initiatives have sprouted across the nation. It's no Texan braggadocio to observe that nationwide, efforts in tort reform, deregulation, tax reduction and criminal justice reform originated in Texas. The resulting “Texas Model” has become the blueprint for leaders in dozens of states.

And that is precisely how our system should work. Though we are all familiar with the legitimate claims based on state sovereignty and the Tenth Amendment, our Founders viewed those as mere baseline expectations. In the realm of public policy, they saw the states as taking the *initiative*, being so bold and innovative that the federal government would have to serve as a check on them—not the other way around, as the case has been in recent years.

As the Obama administration would be the first to say, Texas has led those efforts to check federal power. That defensive posture was necessary—and, for the Republic, crucial. But now Texas and other states must seize the field of education policy, exercising their own power with bold policy initiatives.

The timing for Texas policymakers is *perfect*. The state's biennial legislative session has just begun, and the momentum for an education overhaul has never been stronger. At the National School Choice Week rally earlier this week, both Gov. Greg Abbott and Lt. Gov. Dan Patrick gave rousing, full-throated endorsements of school choice reforms.

There are obstacles, to be sure, but even the defenders of the status quo recognize that it's *hard to defend the mediocrity of the status quo.*

Among the many school choice vehicles, the most far-reaching—for Texas and the United States—is an Education Savings Account (ESA). Built on the successes of early choice vehicles such as tax-credit scholarships, ESAs offer wider and easier usage, removing the barriers to access that have been foisted on choice programs by opponents. Parents may use an ESA to pay for a host of education-related expenses, including private school tuition, tutoring, special needs programs and books.

In sum, an ESA gives parents an unprecedented means for customizing their child’s education—the exact opposite of the conveyor-belt, cookie-cutter approach that has become modern American education.

Though some reformers have advocated for federal ESAs, the inefficiency inherent in the large federal bureaucracy begs for states to take the lead. Texas, the most populous state with a bent toward conservative, free-market reforms, has a unique opportunity to show that states, as our Founders expected, can be at the *forefront of policy innovation.*

There could not be more at stake. Our children deserve an end to zip-code discrimination, which dramatically limits their access to decent educational options. Furthermore, the civic health of our *American Republic*—in particular, the *long-standing view that states, not the feds, would lead—hangs in the balance.*

**1NC**

**Point 1: Zero Tolerance policy enforcement is necessary**

First, Zero Tolerance prevents future suicides from occurring

CBS NEWS ‘16**, no author given in article, CBS Houston**

**https://www.cbsnews.com/news/cyberbullying-pushed-texas-teen-commit-suicide-family/**

Zero tolerance policies do not include all forms of bullying. In fact, this has led dangerously to many students committing suicide and/or worse. In one example: “Family members of a Houston-area high school student, Brandy Vela, who killed herself are rallying for tighter laws against cyberbullying. Her father, Raul Vela, said she had been receiving abusive text messages for months from bullies using an untraceable smartphone application. Her father said Someone made a fake Facebook page of her(.), creating another cyberbullying medium.The family said they reported the bullying to the Texas City school district and several law enforcement agencies. “We have lots of incident reports, and they always say the same thing: They can’t do anything about it,” Jacqueline Vela said. The father said that he hopes for stricter laws against cyberbullying and greater awareness of the problem to give some meaning to his daughter’s death. If action was taken by the Texas school district, this suicide could’ve been prevented.”

According to KHOU Houston News, there is even more to the story. “Family, Friends of cyberbullying victim want justice”

<http://www.khou.com/news/local/family-friends-of-cyber-bullying-victim-want-justice/361200500>

Russell ‘16 (Rucks Russell was a reporter and substitute anchor for KHOU-TV, Houston, Texas, from 2006-2017).

“According to Vela, the harassment began more than a year ago when someone began using her picture online.

“And continually posting nasty things about her,” added Vela. “Set up an account saying she was actually soliciting sex.” Then came the harassing calls. “Sometimes she wouldn’t sleep. She’d call me at night. She’d say 'Dad, I can’t sleep. My phone keeps ringing.'” The bogus pages would be taken down only to re-emerge days later. Brandy and her family complained to the authorities and to anyone who would listen. On Tuesday, Brandy sent out an email to her family members telling them she was going to kill herself. They rushed home and found her alive. “And we tried to persuade her to put the gun down but she was determined. She said she’d come too far to turn back. It was very unfortunate that I had to see that. It’s hard when your daughter tells you to turn around. You feel helpless.” Brandy shot herself in front of her family moments later.

Under Texas Penal Code 42.07, it is illegal to send repeated electronic communications to harass, annoy, torment or embarrass someone.  The crime is a class B misdemeanor.  But a state lawmaker has introduced a bill that if passed, would dramatically toughen the penalties for cyberbullying.”

As these two articles show, bullying is not something to just treat easily and leave to state governments. The evidence from KHOU shows that cyberbullying was a state law, and what these bullies were doing was illegal. Yet, no action was taken against them, leading to a suicide that could’ve been prevented if a zero tolerance policy was in place.

Second, many bullies even admit that strictly-enforced zero tolerance policies would’ve stopped them

Dubreuil, Andreadis, Martinez-Ramundo ‘10

<http://abcnews.go.com/2020/TheLaw/reformed-bullies-tolerance-stop/story?id=11873884>

A common counterclaim to zero tolerance policies is that they don’t seem to stop bullying. However, many former bullies admit that if zero tolerance policies would’ve been in place throughout their school years, they would’ve stopped bullying.

"If that would have happened, zero tolerance, I would think, I would get sent ... home, get everything taken away from me," said Alex Whirledge of Anaheim, California, who was an eighth-grade [bully](http://abcnews.go.com/Health/video?id=8926480). "It would have stopped." Alisha Mendez, now a high school senior in Middletown, Pa., said her thirst for attention, which turned her into a middle school [bully](http://dadomatic.com/protecting-our-precious-angels/), would have been quenched faster if her school had had a tough [anti-bullying policy](http://abcnews.go.com/WN/MindMoodNews/story?id=7088059&page=1) and enforced it. "The school needs to be clear about what the ramifications will be for [bullying](http://abcnews.go.com/Health/video?id=8926480), which most schools are not," said Dr. Gail Saltz, a psychiatrist and author of books about adolescents' thinking. "There's going to be a price to pay. It's going to be suspension, it's going to be detention, it's going to be something that not only you don't want but your parent [too]."

Third, instead of completely removing zero tolerance policies, they should be modified

Snyder 11

<http://www.philly.com/philly/news/special_packages/inquirer/school-violence/20110916_Philly_schools_modify__quot_zero_tolerance_quot__policy.html>

Instead of removing zero tolerance policies, which incurs numerous nuisances in terms of cost, time, effectiveness, etc, zero tolerance policies should be modified to keep all the positive effects of zero tolerance policies, such as its communications to students and their parents that certain behaviors are not acceptable. Zero tolerance policies also tell students that they are accountable for their actions. Additionally, it puts parent’s worries at ease because they know that procedures are in place for students that have committed major offenses. All together, zero tolerance policies send a clear message to students, parents, administrators, and teachers, removing major offenders from school to keep the environment safe and allowing administrators to act quickly.  Sasser  <http://classroom.synonym.com/positive-effects-zero-tolerance-policy-used-schools-17208.html>

So instead of removing zero tolerance policies, they should be made based on the severity of each situation. Totally reducing or killing off zero tolerance policies would just result in more crime, bullying, and deaths. One school district that has taken a step in modifying their zero tolerance policy instead of removing it is the Philadelphia School District.

Buffeted by criticism that its expulsion process takes too long and unfairly tosses out students for minor offenses, the Philadelphia School District has modified its "zero tolerance" policy by creating a committee to review cases. Meeting once a week, the committee early on will flag cases where students should not be expelled, thereby limiting the time they may have to spend in a disciplinary school. Other cases will be sent to formal hearings. The move, which introduces more discretion to the discipline process, is likely to will result in fewer expulsions in the 151,000-student district, officials said. Last year, 181 students were expelled. "There's been an outcry from the community in all areas . . . for evaluation of the process overall," said Nicky Charles, deputy chief of staff for the School Reform Commission, the district's governing body, which ultimately rules on whether to expel students. "There are contradicting camps, and it's our responsibility to take all of it into consideration." Some argue that the district should be stricter with disruptive students to keep schools safe. Others decry what they see as a heavy-handed disciplinary approach that can criminalize students at a young age. The new approach, being rolled out this month, represents a middle ground between how expulsions were handled under former CEO Paul Vallas, who left in 2007, and former Superintendent Arlene C. Ackerman, who left last month.  Under Vallas, the district discontinued expulsions and sent problem students directly to disciplinary schools, which is where most end up after expulsion. By law, the district is required to provide education to expelled students if parents do not enroll their child elsewhere. The law does not spell out how much education must be provided. Philadelphia has decided to offer a full education in one of its roughly half-dozen disciplinary schools, which have specialized curriculum, counseling, and tight security. Ackerman reinstituted expulsions in 2008 as called for by former Safe Schools Advocate Jack Stollsteimer, resulting in a couple of hundred cases each year. Stollsteimer had argued that federal and state law require a one-year expulsion in weapons cases, but conceded that the superintendent can make exceptions. With zero tolerance in effect, SRC commissioners regularly heard complaints that discretion was needed in cases where students inadvertently brought scissors into school or had a weapon for protection or were caught with a small amount of marijuana. A report last January by local and national groups on discipline asserted that the district overused expulsions, as well as suspensions and transfers to disciplinary school. The report, researched and written by Youth United for Change, a local student advocacy group; the Education Law Center in Philadelphia; and the Advancement Project, a Washington civil rights organization, also said the discipline policy too often targeted black and Latino students. This month, a draft report by a 100-member blue-ribbon commission convened by Mayor Nutter and Ackerman called for modifications in zero tolerance. Last year, 237 students who had hearings were recommended to the commission for expulsion. The commission voted to expel 181 - 26 permanently and 155 temporarily - and denied 56 cases. The students were expelled for a variety of infractions, including weapons, drugs, and assaults. Other cases from last year were rolled into this year.  The new committee already has reviewed 90 of new cases, recommending fewer than 10 for expulsion, said Rachel Holzman, assistant general counsel. Stollsteimer, the former safety advocate, cautioned that the district must uphold the law. He said that as a rule, expulsions can't be avoided in weapons cases. "That certainly makes me nervous, every time they back away from a policy that was intended to make the schools safer," Stollsteimer said.

The district ran expulsion hearings three days a week last year, paying outside counsel and hearing officers to oversee them. By reducing the number of hearings, the new process is likely to result in savings for the cash-strapped district.

**Point 2: Federal control of education**

First, federal control of education is an explicit violation of the tenth amendment

HSLDA (Home School Legal Defense Association) 00

<https://www.hslda.org/docs/nche/000000/00000063.asp>

Having the federal government take control of zero tolerance policies is an explicit violation of the tenth amendment The federal role in education is a violation of the 10th amendment of the United States Constitution which states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Nowhere in the Constitution is the federal government delegated the power to regulate or fund elementary or secondary education. We have seen that not only is federal involvement in education unconstitutional, but extremely impractical. The Department of Education refuses to acknowledge this and continues to throw money at problems it cannot fix. Since 1979, it has spent hundreds of billions of dollars on education resulting in the following: Since 1970, per pupil spending has risen from about $3,000 to almost $5,600, adjusted for inflation. SAT scores have dropped from a total average of 937 in 1972 to 902 in 1994. 30% of college freshmen must take remedial education classes. 17-year olds scored 11 points worse in science than in 1970. 66 percent of 17-year olds do not read at a proficient level and reading scores have fallen since 1992. U.S. Students scored worse in math than all other large countries except Spain. There has been no significant improvement in scores since 1973.

Second, the federal government is currently proving itself to be wholly useless because of it’s inability to come to an agreement with Trump

Paletta ‘17

Our opponents want zero tolerance policies to be ruled out through the power of the federal government. However, it’s been almost a year since Trump’s election, and the federal government still hasn’t done anything. Trump has promised America multiple large changes, none of which he has yet committed to, proving that he and the federal government are extremely unreliable to make a huge change such as removing zero tolerance policies because they will never agree on the same terms. For example, Trump, the federal government, and  are currently arguing about building a wall. In fact, Trump has even threatened to shut down the government if needed, which wastes billions of dollars from the federal government.

Third, about 96% of bills introduced in Congress are killed almost immediately.

SF (Sunlight Foundation) 11

<https://www.huffingtonpost.com/wires/2009/08/25/the-vast-majority-of-bill_ws_268630.html>

The vast majority of bills are essentially dead upon arrival. In any given two-year session of Congress, ten-thousand or more bills are introduced. But only about 4 percent of them become law. Take away bills that do things like naming post offices and designating days of the year as commemorative holidays and it’s probably more like one percent.

[Sunlight Labs](http://assets.sunlightlabs.com/billvisualization/index.html) has done an analysis of what happened to all the bills that were introduced in the previous session of Congress (110th session). Of the 11,056 bills that were introduced, 9,904, were referred to a committee by default, never saw any action, and died there.