# Title I

## 1AC

### Inherency

#### Federal regulations fail in the status quo – the Every Student Succeeds Act does not ensure equal educational opportunities for students

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

Equality concepts have remained embedded in the Elementary and Secondary Education Act since its inception. The ESSA retains some of those concepts, but its current regulatory scheme drastically narrows the ways in which equality principles apply. The result is a regulatory regime that promotes, at best, random equality that really cannot be properly deemed equality at all.

The ESSA’s random equality manifests itself in several respects: the states’ weighting of tests, accountability standards, and consequences for failure. These facets will vary from state to state, and even from district to district within a state. The resources that students have to meet testing, graduation, and other expectations will also vary considerably, with almost no limit on gross inequalities. The ESSA, similarly, will do almost nothing to ensure that students have access to adequate resources. By not demanding broad equality or adequacy (in outputs or inputs), the ESSA leaves the students’ education and states’ expectations for what students do with that education to random chance.

1. The Random Weight of Tests

On its face, the ESSA retains the NCLB’s theory of standardized testing as a means to further equality.242 However, the NCLB’s theory of furthering equity and closing achievement gaps proved false, if not counterproductive.243 Ironically, the ESSA maintains a high-level symbolic commitment to NCLB-style testing, but puts forth an accountability scheme that makes the testing regime unpredictable. In other words, rather than tackle the flaws in the NCLB’s premises, the ESSA obscures them through randomness.

As discussed above, under the ESSA, states have enormous flexibility in the amount of weight they assign to particular tests and to student achievement factors overall. Not only does this flexibility permit an individual state to minimize the weight it assigns, but it also allows every state to do something different.244 One state might make student proficiency tests the dominant measure of student achievement while another state uses student growth.245

 And regardless of the approach a state takes, states can assign significantly different weights to tests and other student achievement measures. A state might, for instance, assign test results 95 percent in their accountability metric and any number of non-test factors 5 percent or less collectively.246 Another state might assign test results 60 percent in its accountability metric while assigning 40 percent to softer factors, such as student engagement, teacher engagement, and school climate.247 With a number of options, states will have the ability to manipulate their accountability systems so as to produce desired outcomes.248

None of the foregoing means to suggest that testing is an effective means to promote equal education opportunity or that some optimum weight should be afforded to test results. The point here is that the ESSA maintains the NCLB’s notion that there is merit to testing and accountability, but undermines its own premise. If testing and accountability are plausible tools for achieving equality, leaving states’ testing regimes to random variability undermines equality. Rather than tracking a single proficiency standard as in the NCLB, the ESSA affords disadvantaged students educational opportunities that more closely track the approach of their home state rather than any mandate in statute. In this respect, the ESSA does little to continue the Elementary and Secondary Education Act’s historic mission to promote improvements in academic achievement for disadvantaged students.

2. Limited Accountability

The ESSA compounds this testing flexibility problem with its permissive approach to states’ obligation to assist struggling schools and students. The vast majority of lowperforming schools and students will fly well under the ESSA’s regulatory radar, and those who do not may believe they have been randomly targeted. State intervention pursuant to the ESSA will be more akin to a lightning strike than a predictable consequence of a well-designed accountability scheme.249

The complex and multifactor achievement weighing systems that states adopt will make it hard to predict where any given school falls in the system from year to year. More importantly, only a very small fraction of schools—those in the bottom 5 percent in achievement or with graduations rates below 66 percent—will actually be subject to sanctions.250 Consistently poor performance in the bottom 25 percent of schools in the state would not make the odds of sanctions predictable or likely. Even a school that was in the bottom 5 percent one year could easily fall outside of it the next.

Some would argue that minimizing sanctions is the very point, as the NCLB foolishly punished too many schools.251 That point has merit. The majority of our schools and students perform at levels as high as any others in the world.252 The NCLB incorrectly labeled many of them as failures and targeted them for reform. The ESSA wildly overcorrects this problem, replacing a regulatory system that treated nearly all schools as failures with a system that treats almost all as de facto successes. In effect, the ESSA holds almost no schools accountable. Herein lies the problem.

Regardless of which schools ultimately fall into the group that receives intervention and support, the hard truth is that schools outside that group can continue their current practices, even if that means doing a poor job educating their students.253 Whether a student in a given state or school receives ESSA intervention and support depends not on whether the school is offering adequate or equal education, but on whether the student attends a school randomly identified by the state’s performance weighting system. Moreover, a school randomly slated for improvement in one state’s weighting system could just as easily receive no support if another state’s system applied.

3. Unchecked Resource Inequality

The randomized guarantee of output equality might be mitigated or cured if instead the ESSA’s goal was to ensure equal inputs and resources. Equal inputs are easier to achieve than equal outputs. Equal inputs, if implemented properly, may also be a better indicator of equal educational opportunity than raw outcomes.254 An initial premise of the Elementary and Secondary Education Act was exactly that—to provide supplemental resources to disadvantaged students to bring their educational outcomes closer to that of their peers.255 The ESSA drifts further away from this focus on inputs. In conjunction with the prior Section, this means that the ESSA assures equality in neither inputs nor outputs.

Some of the fault lies with historical holdovers. The Elementary and Secondary Education Act has long contained a provision requiring comparable resources between Title I and non-Title I schools. In practice, however, nothing of the sort has been required in recent decades. During the early 1970s, the Elementary and Secondary Education Act and its implementing regulations required that expenditures at Title I schools be within 5 percent of the expenditures at other schools within their district.256 That number was later changed to 10 percent and eventually abandoned altogether.257

In place of numerical measures of equality, recent versions of the Elementary and Secondary Education Act have required that Title I schools merely be “substantially comparable” to other schools in the district, based on school services “as a whole.”258 This vague and forgiving standard has not required meaningful equity between schools for some time. In addition, the comparability requirement does not apply across district lines, even though the largest funding inequalities exist between school districts. The Elementary and Secondary Education Act has never purported to address interdistrict inequality and the ESSA does nothing to change this or any other significant equity demand. Instead, the ESSA retains the blunt statutory provision that “[n]othing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.”259

Embedded in these weak equity standards is an even bigger and more troubling loophole for teacher salaries. Teacher salaries regularly comprise 80 to 90 percent of school budgets.260 In the past few iterations of the Elementary and Secondary Education Act, schools’ total expenditures for teacher salaries have been exempted from analysis. Rather than examine salary expenditures, the Elementary and Secondary Education Act has asked two questions: (1) whether there is a uniform salary schedule across the district, and (2) whether staffing ratios are roughly similar. In other words, so long as schools have similar student-teacher ratios and all first-year teachers, for instance, are equally compensated, the Elementary and Secondary Education Act treats the schools as substantially comparable.

This standard completely ignores the fact that the teaching staffs at schools often look entirely different in terms of quality. Under the Elementary and Secondary Education Act, a district could assign all first-year teachers to a high-poverty school and all teachers with advanced degrees, national certifications, and several years of experience to a school serving predominantly middle-income students. This alone would likely create not only a huge quality gap between schools but also a huge funding gap. A uniform salary schedule that dictates much higher salaries for highly credentialed teachers would net hundreds of thousands of dollars in additional expenditures at the middle-income school. Yet, under the Elementary and Secondary Education Act’s weak equity standards and teacher loophole, this quality and funding gap is entirely permissible.

Data reveals that districts regularly exploit this loophole. Schools serving large percentages of low-income and minority students are wildly unequal in their ability to attract, compensate, and retain quality teachers.261 On average, poor and minority students are exposed to inexperienced, uncredentialed, and unqualified teachers at twice the rate as other students.262 The financial consequences of this unequal distribution follow automatically. The Department of Education indicates that in districts with twenty or more schools, 72 percent of school districts spend less on teacher salaries in Title I schools less than in non-Title I schools in the district, with an average gap of over $2,500 per teacher.263 A separate study found that states and local districts would need to allocate $6.83 billion nationally to close the funding gap created by teacher salaries.264

That the ESSA continues these lax equity standards and loopholes is remarkable. Scholars, policy reports, the media, the U.S. Government Accountability Office, and even the Department of Education itself have emphasized how ineffectual the Elementary and Secondary Education Act has been in ensuring equal treatment in school expenditures in recent years.265 Secretary John King recently remarked, “The current system is not fair. . . . ‘What we see, as we look around the country, is districts where they’re actually spending significantly more in their non-Title I schools than they’re spending in their Title I schools.’”266 A host of studies also demonstrate that access to quality teachers may have the largest impact on student achievement of any factor.267 For that reason, the Department of Education recently emphasized that unequal access to teachers may violate Title VI’s prohibition on racial discrimination.268 Yet, the ESSA ignored both issues of funding and teacher inequalities.

In some respects, the ESSA asks even less than the NCLB in regard to equity. The ESSA relaxes both the maintenance of effort standard and the prohibition on supplanting local funds.269 Weakening these standards makes it easier for districts to mask their unequal funding practices. With fewer limits on how federal dollars are spent, districts can use federal dollars to fill the local funding deficits that districts create through their own fiscal policies.270 Districts might even expand funding inequalities and deficits in local expenditures because they have more flexibility with federal funds. As Part III.B will detail, Secretary King sought to block this eventuality through regulation but faced congressional rebuke for doing so.271

The one potential exception to the ESSA’s disregard for equity is its set of requirements for schools in the bottom 5 percent of a state’s performance metric. The ESSA requires that districts examine resource inequities in those schools to determine whether they contribute to the school’s poor performance.272 While an improvement upon the NCLB, this measure is extremely limited. The provision only applies to inequities between schools in an individual district even though the most significant resource inequities exist between districts.273 For instance, a 2015 study found that half of the nation’s states funded education at a lower level in districts serving predominantly lowincome students than in other districts—and the gap was often shocking.274 In Nevada, for example, expenditures in high-need districts were only 48 percent of those in lowneed districts.275 The ESSA ignores this inequality, notwithstanding its well-documented prevalence.

Even if resource inequality were only a problem within districts, this new ESSA provision would do little to address it because it applies to such a small subset of schools. Equally problematic, the provision does not actually require that districts close the inequities they find; it only requires they assess them.276 Thus, the ESSA does not mandate a remedy for serious resource inequalities, even when districts find them. In short, this new provision ignores the most glaring problem of inter-district resource inequity and focuses instead on the smaller problem of intra-district inequity. But even then, it does no more than occasionally ask that a few districts consider the problem.

4. Unaddressed Student Needs

Certain levels of inequity might be tolerable if states guaranteed minimum resource levels that ensured all students still received a quality education. Arguably, the important question is whether districts serving predominantly low-income students have the resources they need, not whether suburban schools outspend them. Data suggests, however, that states’ funding practices are just as problematic in terms of adequacy as they are in terms of equity. Yet, the ESSA neither prohibits these practices, nor supplies the federal resources necessary to meet student needs when states cannot or will not. All relevant data points indicate that student need has risen and is not being met.

The number and percentage of poor students and other special-need populations attending public school have increased in recent years.277 But over the past decade, states’ ability or willingness to meet student need has declined. As detailed above, states are funding education at significantly lower levels than just a few years ago, and the districts hurt the most are often those with high concentrations of student poverty.278 Cuts were so deep and sustained over the past decade that social science suggests the result will be longterm achievement deficits for students who attended school during this period.279

NCLB waivers cut short any check the NCLB testing regime might have placed on this academic outcome,280 and no other aspect of the Elementary and Secondary Education Act placed any meaningful limit on resource adequacy concerns.281 Against this backdrop, Congress had every reason to include adequacy metrics in the ESSA, but it did nothing.282 The other—and politically easier—option would have been for the ESSA to fund more basic resources. In fact, as part of the economic stimulus package, the federal government had done just that during the first years of the recession, giving the states funds to prevent massive teacher layoffs and budget shortfalls.283

The ESSA, however, did almost nothing to ensure adequacy moving forward. First, whereas the NCLB substantially increased federal funding for low-income students, the ESSA leaves funding flat. Second, the ESSA does nothing to improve the way existing funds target student need. Instead, the ESSA continues a pattern of distributing federal funds by happenstance. This happenstance distribution is a product of ill-conceived weights in the funding formula for district size, states with small student populations, and poverty concentrations.284 Some of these factors counteract one another and others are simply based on false assumptions.285 The overly broad distribution of federal funds is a product of the fact that a district only needs 2 percent poverty to receive Title I funds, a threshold that nearly every district in the nation meets. 286

As a result of the formulas, federal funds that might otherwise meet the need of high-poverty districts go to predominantly middle-income and wealthy districts. A recent study found that “20 percent of all Title I money for poor students—$2.6 billion—ends up in school districts with a higher proportion of wealthy families.”287 For instance, the “Montgomery County Schools in Maryland, an[] elite suburb outside Washington, get nearly $26 million [in Title I funding], despite a child poverty rate of 8.4 percent.”288 Moreover, the average per-pupil Title I allotment for wealthier districts is larger than that of schools with the highest poverty levels.289 A similar phenomenon occurs across state lines, with the wealthiest states receiving the largest per-pupil grants.290

5. Incoherence of Retreating on Both Inputs and Outputs

Underlying the ESSA’s flat and random funding, on the one hand, and its permissive accountability standards, on the other, is a deeply conflicted set of premises that reveal how unpredictable equality will be under the ESSA. The ESSA’s highest-level premise is that outcome equality can be achieved without input equality, which is problematic in itself. The ESSA pushes that premise to the extreme in several respects. First, the ESSA offers no clear definition of outcome equality.291 Thus, if output equality is the goal, it is a goal without meaningful parameters. A more forgiving reading of the Act suggests that the ESSA offers a rough outline for states to define equal outcomes themselves, but such an outline would still be of little import given the next point.

Second, regardless of how the ESSA defines equality, it lacks mechanisms to achieve equality on a broad scale. The Act requires states to set academic standards and goals, but the Act’s accountability system reveals that most schools need not meet them. Save the exceptional few, schools that fail to meet these goals will not suffer any consequences and will not be expected to take any corrective action. Even among those that must act, the ESSA takes few positions on what that action should be.292 In these respects, the ESSA’s accountability system is more akin to a monitoring system that, at best, picks out a small subset of schools for further scrutiny and assumes that monitoring outcomes alone will further equality. But given that the NCLB demonstrated that even strict accountability for all schools was insufficient to achieve equal outcomes,293 the ESSA’s premise of monitoring outcomes to further equality is wishful thinking.

Third, the ESSA’s willingness to largely ignore input equality and adequacy assumes that inputs are of limited relevance to student outcomes. The precise connection between inputs and outcomes is surely complex and subject to disagreement, but courts and scholars consistently agree that spending money wisely matters to education outcomes. 294 A 1996 review of all relevant school funding studies found that per-pupil expenditures “show strong and consistent relations with achievement. . . . In addition, resource variables that attempt to describe the quality of teachers (teacher ability, teacher education, and teacher experience) show very strong relations with student achievement.”295 The precise effect of funding may differ based on how funds are allocated, but “a broad range of resources [are] positively related to student outcomes, with effect sizes large enough to suggest that moderate increases in spending may be associated with significant increases in achievement.”296 Recent studies have confirmed these findings.297 Most notably, based on three decades of data, a 2016 study found that a 20 percent increase in per-pupil funding, if maintained over time, results in low-income students completing almost a full additional year of education.298 That additional learning eliminates two-thirds of the gap in outcomes between low- and middle-income students.299

At worst, the ESSA’s failure to address resource inequity is a rejection of this body of research. At best, the ESSA concedes the importance of resources but unrealistically hopes that states will voluntarily address adequacy and equity problems. If the NCLB’s rigid accountability did not prompt states to address funding problems, there is little reason to believe the ESSA’s minimal accountability system will prompt a better result. In effect, leaving resource equity and adequacy to voluntary state action is to abandon resource equity and adequacy, even if the ESSA does not explicitly state as much.

The abandonment of federal leadership on both inputs and outputs turns the Elementary and Secondary Education Act on its historical head. The Elementary and Secondary Education Act was originally enacted and, for decades, maintained on the notion that certain communities and states would not do what is necessary to provide appropriate educational opportunities for disadvantaged students.300 The ESSA contradicts this mission and premise by placing near-complete responsibility for equitable and adequate inputs and outputs in the hands of state and local actors. Either the initial premise or the ESSA’s current implementation is incorrect. If the former, one must question whether a justification for continuing the Elementary and Secondary Education Act exists. If the latter, one must question whether the ESSA is a legitimate extension of the Elementary and Secondary Education Act and, if not, what independent justifications exist for the ESSA.

### Inequality Advantage

#### Lack of equality impairs access to an adequate education for poor and minority students

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education,” 130 Harv. L. Rev. 185, November, l/n)ww

Racial minorities more often experience a wide range of disadvantages within schools. These disadvantages are evident in the teacher quality that many minority students receive. Latino and African American students are approximately twice as likely as their white or Asian peers to attend schools with over twenty percent of the teachers in their first year of teaching, n144 and students attending schools with high concentrations of minority students are twice as likely to be assigned to new teachers. n145 Indeed, "[b]y every measure of qualifications -- certification, subject-matter background, pedagogical training, selectivity of college attended, test scores, or experience -- less-qualified teachers are found in schools serving greater numbers of [\*207] low-income and minority students." n146 These disparities in teacher quality adversely affect the achievement of minority and low-income students. n147

Minority students also typically experience greater access to vocational and remedial courses and less access to challenging academic classes, rigorous curricula, and courses that prepare students for college. n148 Remedial courses often are geared toward lower-level cognitive skills and prepare students for low-status jobs, while more rigorous curricula yield higher-order skills and prepare students with the skills that the "global knowledge economy" n149 demands. n150 Although there has been a significant increase in the number of African American and Hispanic students taking at least one AP exam, n151 African American and American Indian students are more likely to attend high schools without a complete AP program, with complete defined as offering at least one AP class in science, mathematics, social science, and English. n152 In addition, the College Board, which administers AP Exams, found that African American students who graduated in 2013 were "the most underrepresented group in AP classrooms and in the population of successful AP Exam takers." n153 Only 57% of African American students and 67% of Hispanic students enjoy access to the complete range of science and math courses offered, while 81% of Asian students and 71% of white students enjoy such access. n154 More college counseling is provided to students in rigorous courses, such as [\*208] students in honors, AP, or college preparatory courses. n155 Given the weighting of advanced courses and the complexities of the college application process, these disparities hinder the application and entrance of minority students into colleges and universities.

Minority students also experience higher rates of suspension and expulsion, as well as more exposure to safety concerns in their schools, such as gangs and weapons. Although 42.8% of African American students and 21.9% of Hispanic students have been suspended, only 15.6% of white students have been suspended. n156 Even though only 1% of white students have been expelled, 12.8% of African American students have been expelled. n157 African American and Hispanic students are more than twice as likely to attend a school where gangs are present, with 37.6% of African American and 36.1% of Hispanic students attending such schools compared to 16% of white students. n158 African American and Hispanic students are more likely to be threatened or injured with a weapon in school than white students are. n159 These discipline and safety factors create more difficult learning environments for many African American and Hispanic students in ways that can adversely influence their focus on academic achievement.

Nationally, districts that educate the most minority students receive approximately $ 2000 less per pupil than districts that serve the fewest minority students. n160 However, funding disparities vary significantly between states, with eighteen states providing significantly less funding to districts that serve the most minority students while fourteen states provide more money to districts that serve the most minority students. n161 A research consensus has emerged that money matters for education because of the influential resources that it can purchase, n162 and the longstanding debate over whether money matters has shifted to how money should be spent most efficiently to improve student achievement. n163 In addition, research by Professors C. Kirabo [\*209] Jackson, Rucker C. Johnson, and Claudia Persico reveals that increases in funding can result in significant increases in education and earnings as well as reductions in adult poverty. n164 Furthermore, minority students make up a disproportionate share of many large school districts that experience limited access to textbooks, overcrowding, and poorly maintained facilities. n165

High-poverty learning environments also provide additional disadvantages for a disproportionate number of minority students. Only 7.64% of white students attended high-poverty schools in 2014, while 42.62% of minority students attended such schools. n166 High-poverty learning environments consistently perform worse than other schools and often lack effective teachers, adequate resources, appropriate class sizes, and motivated and engaged parents, as well as other factors that improve student achievement. n167 Such environments also are affected by a host of out-of-school challenges such as higher crime rates, inadequate healthcare, greater mobility, and more instability within the home. n168 High-poverty schools exert a negative influence on student achievement independent of a student's socioeconomic status. n169 These educational opportunity gaps play a substantial role in creating and sustaining the racial achievement gap. n170 While some students are educated in schools that far surpass state learning standards, others are relegated to opportunities that emphasize the basics and teaching to the test. n171 These disparities in opportunity will lead many white and affluent students to higher-order thinking skills while many poor and minority students are left to basic, rote thinking and test preparation. n172 Leading education scholar Professor Linda Darling-Hammond summarizes the connection well, noting that "when the evidence is examined, it is clear that educational outcomes for these [minority] students are at least as much a function of their unequal access to key educational [\*210] resources, both inside and outside of school, as they are a function of race, class, or culture." n173

Most selective institutions continue to rely on the standardized SAT or ACT. n174 On the SAT, a substantial racial gap exists in all three subject areas. n175 More importantly, the size of the SAT achievement gap has remained relatively stable from 1986-1987 to 2013-2014. n176 On the ACT, a far lower percentage of African American and Hispanic students met the ACT college readiness benchmark, as compared to white or Asian students on math, science, English, and reading. n177 The test score gap on the ACT also has remained relatively stable for the last decade. n178 College entrance exam disparities are unsurprising given the persistence of the gap in elementary and secondary achievement scores. n179 Overall, African American and Latino applicants face [\*211] many more hurdles to successful entrance to higher education than whites. n180

#### Rigorous studies confirm that inequality kills via structural violence

BEZRUCHKA ’14 (Stephen; Faculty in the Departments of Health Services and Global Health – University of Washington, “Inequality Kills,” from Divided: The Perils of our Growing Inequality, edited by Johnston, D., https://depts.washington.edu/eqhlth/pages/BezruchkaInequalityKillsBkPubInfo14.pdf)ww

Differences in mortality rates are not just a statistical concern— they reflect suffering and pain for very real individuals and families. The higher mortality in the United States is an example of what Paul Farmer, the noted physician and anthropologist, calls structural violence. The forty-seven infant deaths occur every day because of the way society in the United States is structured, resulting in our health status being that of a middle-income country, not a rich country.

There is growing evidence that the factor most responsible for the relatively poor health in the United States is the vast and rising inequality in wealth and income that we not only tolerate, but resist changing. Inequality is the central element, the upstream cause of the social disadvantage described in the IOM report. A political system that fosters inequality limits the attainment of health.

The claim that economic inequality is a major reason for our poor health requires that several standard criteria for claiming causality are satisfied: the results are confirmed by many different studies by different investigators over different time periods; there is a dose-response relationship, meaning more inequality leads to worse health; no other contending explanation is posited; and the relationship is biologically plausible, with likely mechanisms through which inequality works. The field of study called stress biology of social comparisons is one such way inequality acts. Those studies confirm that all the criteria for linking inequality to poorer health are met, concluding that the extent of inequality in society reflects the range of caring and sharing, with more unequal populations sharing less. Those who are poorer struggle to be accepted in society and the rich also suffer its effects.

A recent Harvard study estimated that about one death in three in this country results from our very high income inequality. Inequality kills through structural violence. There is no smoking gun with this form of violence, which simply produces a lethally large social and economic gap between rich and poor.

If we face the grim reality of our failure to support the health of the public in the United States, it’s critical to identify approaches to change the system that isn’t working. The last part of the IOM report lays out ideas for what to do, saying that we know enough to act without requiring more research. Their call to action is the need to alert the public to our alarmingly low relative health status and stimulate a national discussion about it.

#### Allowing structural violence to continue is unethical

ANSELL ’17 (David A., MD, MPH; Associate Provost – Rush University, Michael E. Kelly, MD Presidential Professor – Department of Internal Medicine – Rush Medical College and Senior Vice President – System Integration – Rush University Medical Center, The Death Gap: How Inequality Kills, p. 7-10)ww

Structural Violence

It is easy to look at Windora’s brain attack through the lens of biology. Her diet, her lifestyle, and her innate biology all led to this moment when her brain is being suffocated by a blood clot in a cerebral artery. But what if it was not just biology that caused her stroke?

There are many different kinds of violence. Some are obvious: punches, attacks, gunshots, explosions. These are the kinds of interpersonal violence that we tend to hear about in the news. Other kinds of violence are intimate and emotional.

But the deadliest and most thoroughgoing kind of violence is woven into the fabric of American society. It exists when some groups have more access to goods, resources, and opportunities than other groups, including health and life itself. This violence delivers specific blows against particular bodies in particular neighborhoods. This unequal advantage and violence is built into the very rules that govern our society. In the absence of this violence, large numbers of Americans would be able to live fuller and longer lives.

This kind of violence is called structural violence, because it is embedded in the very laws, policies, and rules that govern day-to-day life.8 It is the cumulative impact of laws and social and economic policies and practices that render some Americans less able to access resources and opportunities than others. This inequity of advantage is not a result of the individual’s personal abilities but is built into the systems that govern society. Often it is a product of racism, gender, and income inequality. The diseases and premature mortality that Windora and many of my patients experienced were, in the words of Dr. Paul Farmer, “biological reflections of social fault lines.”9 As a result of these fault lines, a disproportional burden of illness, suffering, and premature mortality falls on certain neighborhoods, like Windora’s. Structural violence can overwhelm an individual’s ability to live a free, unfettered, healthy life.

As I ran to evaluate Windora, I knew that her stroke was caused in part by lifelong exposure to suffering, racism, and economic deprivation. Worse, the poverty of West Humboldt Park that contributed to her illness is directly and inextricably related to the massive concentration of wealth and power in other neighborhoods just miles away in Chicago’s Gold Coast and suburbs. That concentration of wealth could not have occurred without laws, policies, and practices that favored some at the expense of others. Those laws, policies, and practices could not have been passed or enforced if access to political and economic power had not been concentrated in the hands of a few. Yet these political and economic structures have become so firmly entrenched (in habits, social relations, economic arrangements, institutional practices, law, and policy) that they have become part of the matrix of American society. The rules that govern day-to-day life were written to benefit a small elite at the expense of people like Windora and her family. These rules and structures are powerful destructive forces. The same structures that render life predictable, secure, comfortable, and pleasant for many destroy the lives of others like Windora through suffering, poverty, ill health, and violence. These structures are neither natural nor neutral.

The results of structural violence can be very specific. In Windora’s case, stroke precursors like chronic stress, poverty, and uncontrolled hypertension run rampant in neighborhoods like hers. Windora’s illness was caused by neither her cultural traits nor the failure of her will. Her stroke was caused in part by inequity. She is one of the lucky ones, though, because even while structural violence ravages her neighborhood, it also abets the concentration of expensive stroke- intervention services in certain wealthy teaching hospitals like mine. If I can get to her in time, we can still help her.

Income Inequality and Life Inequality

Of course, Windora is not the only person struggling on account of structural violence. Countless neighborhoods nationwide are suffering from it, and people are dying needlessly young as a result. The magnitude of this excess mortality is mind-boggling. In 2009 my friend Dr. Steve Whitman asked a simple question, “How many extra black people died in Chicago each year, just because they do not have the same health outcomes as white Chicagoans?” When the Chicago Sun-Times got wind of his results, it ran them on the front page in bold white letters on a black background: “HEALTH CARE GAP KILLS 3200 Black Chicagoans and the Gap is Growing.” The paper styled the headline to look like the declaration of war that it should have been.

In fact, we did find ourselves at war not long ago, when almost 3,000 Americans were killed. That was September 11, 2001. That tragedy propelled the country to war. Yet when it comes to the premature deaths of urban Americans, no disaster area has been declared. No federal troops have been called up. No acts of Congress have been passed. Yet this disaster is even worse: those 3,200 black people were in Chicago alone, in just one year. Nationwide each year, more than 60,000 black people die prematurely because of inequality.10

While blacks suffer the most from this, it is not just an issue of racism, though racism has been a unique and powerful transmitter of violence in America for over four hundred years.11 Beyond racism, poverty and income inequality perpetuated by exploitative market capitalism are singular agents of transmission of disease and early death. As a result, there is a new and alarming pattern of declining life expectancy among white Americans as well. Deaths from drug overdoses in young white Americans ages 25 to 34 have exploded to levels not seen since the AIDS epidemic. This generation is the first since the Vietnam War era to experience higher death rates than the prior generation.12 White Americans ages 45 to 54 have experienced skyrocketing premature death rates as well, something not seen in any other developed nation.13 White men in some Appalachian towns live on average twenty years less than white men a half-day’s drive away in the suburbs of Washington, DC. Men in McDowell County, West Virginia, can look forward to a life expectancy only slightly better than that of Haitians.14

But those statistics reflect averages, and every death from structural violence is a person. When these illnesses and deaths are occurring one at a time in neighborhoods that society has decided not to care about—neighborhoods populated by poor, black, or brown people—they seem easy to overlook, especially if you are among the fortunate few who are doing incredibly well. The tide of prosperity in America has lifted some boats while others have swamped. Paul Farmer, the physician-anthropologist who founded Partners in Health, an international human rights agency, reflects on the juxtaposition of “unprecedented bounty and untold penury”: “It stands to reason that as beneficiaries of growing inequality, we do not like to be reminded of misery of squalor and failure. Our popular culture provides us with no shortage of anesthesia.”15

That people suffer and die prematurely because of inequality is wrong. It is wrong from an ethical perspective. It is wrong from a fairness perspective. And it is wrong because we have the means to fix it.

#### The cumulative effects of structural violence are comparatively greater than and a motivating factor for global conflict

GILLIGAN ‘97 (James; Director of the Center for the Study of Violence – Harvard Medical School, Violence: Reflections on a National Epidemic p. 195-6)ww

The 14 to 18 million deaths a year caused by structural violence compare with about 100,000 deaths per year from armed conflict. Comparing this frequency of deaths from structural violence to the frequency of those caused by major military and political violence, such as World War II (an estimated 49 million military and civilian deaths, including those caused by genocide – or about eight million per year, 1939-1945), the Indonesian massacre of 1965-66 (perhaps 575,000 deaths), the Vietnam war (possibly two million, 1954-1973), and even a hypothetical nuclear exchange between the U.S. and the U.S.S.R. (232 million), it was clear that even war cannot begin to compare with structural violence, which continues year after year. In other words, every fifteen years, on the average, as many people die because of relative poverty as would be killed in a nuclear war that caused 232 million deaths; and every single year, two to three times as many people die from poverty throughout the world as were killed by the Nazi genocide of the Jews over a six-year period. This is, in effect, the equivalent of an ongoing, unending, in fact accelerating, thermonuclear war, or genocide, perpetrated on the weak and poor every year of every decade, throughout the world. Structural violence is also the main cause of behavioral violence on a socially and epidemiologically significant scale (from homicide and suicide to war and genocide). The question as to which of the two forms of violence – structural or behavioral – is more important, dangerous, or lethal is moot, for they are inextricably related to each other, as cause to effect.

### Competitiveness Advantage

#### The social costs of an inequitable education system contribute extensively to the national debt

ROBINSON ’12 (Kimberly Jenkins; Professor of Law – University of Richmond, “The Past, Present, and Future of Equal Educational Opportunity: A Call for a New Theory of Education Federalism,” 79 U. Chi. L. Rev. 427, Winter, l/n)ww

Equal educational opportunity remains elusive within the United States. The nation's education landscape reveals that too often students' backgrounds and where they live determine the quality of educational opportunities that they receive. n1 Although most within the United States profess a strong commitment to equal opportunity and to providing everyone access to an excellent education, substantial and influential disparities in school quality are commonplace. n2 Our nation is home to many substandard schools attended disproportionately by poor and minority schoolchildren and these schools offer students inferior educational, career, and postsecondary opportunities when compared to the opportunities [\*428] provided to students in many affluent and majority white schools. n3 Many schoolchildren receive educational opportunities that do not prepare them to succeed in postsecondary education or work. n4 Many students also are more likely to attend school with those who look like themselves than with those from different racial or ethnic backgrounds and thus leave school without the tools that they will need to engage effectively in the diverse world in which they will live. n5 For example, the average white student attends a school in which approximately 83 percent of the students are white, while the average minority student attends a majority-minority school, and approximately one-third of black and Latino students attend schools that are 90 to 100 percent minority. n6

Our nation also obtains poor outcomes from our education system. Approximately 30 percent of high school students fail to graduate from high school on time, and blacks and Hispanics fail to finish high school and fail to finish on time at higher rates than whites. n7 Furthermore, graduation rates for high school are falling rather than rising. n8 In 2009, approximately 25 percent of twelfth graders that were tested n9 did not read at a basic level on the National Assessment of Educational Progress (NAEP). n10 NAEP reading scores for twelfth graders have declined overall since 1992, and the racial achievement gap in reading has not improved since 1992. n11 Similarly, approximately 36 percent of the tested twelfth graders scored below basic on the NAEP mathematics assessment. n12 [\*429] Although twelfth grade math scores have improved since 2005, the racial achievement gap in math has remained the same. n13

Schoolchildren in substandard schools and their families are not the only ones that experience and live with the harmful effects of the current inequities in our nation's schools. Research establishes that the nation pays a high price tag for substandard schools. n14 For instance, the nation loses $ 156 billion in tax and income revenues over the lifetime of each annual cohort of eighteen-year-old high school students who fail to graduate from high school. n15 Similarly, the nation experiences higher health care costs for its substantial high school dropout rate because "each and every annual cohort of high school dropouts represents a cost of $ 23 billion in public funds and $ 110 billion in forfeited health and longevity." n16 The nation would save $ 1.4 billion annually from reduced criminal activity by raising the high school completion rate by 1 percent for males between ages twenty and sixty. n17 Improving educational attainment for high school graduates also could save between $ 7.9 and $ 10.8 billion in welfare assistance, food stamps, and housing assistance. n18 Therefore, investments in reducing educational inequities and increasing educational attainment would not only create a more just and equitable society and enhance the ability of individuals to reach their full potential, it also would yield substantial benefits and revenue savings to the nation at a time when it is struggling to reduce the national debt. Improving educational opportunities and outcomes also would increase participation in the political process and civic involvement. n19

#### Expansion of the national debt slows economic growth and undermines US influence in the world – it undermines structural resiliency and creates crises

HAASS ’17 (Richard; President – Council on Foreign Relations, “A Country in Disarray,” in Part III, Section 12 of A World in Disarray: American Foreign Policy and the Crisis of the Old Order)ww

All of which brings me to the debt problem. What makes this issue particularly difficult is that it is part of a class of what I would describe as slow-motion crises. Climate change is another. Slow-motion crises are just that: phenomena or processes that are under way and have potentially substantial or even devastating consequences that will kick in gradually or, even if suddenly at some point, only after the passage of considerable time. They are thus unlike an infectious disease outbreak or a financial collapse. 5

There is both good and bad news in this. The good news is that to a large degree we know where things are heading. We also have time to do something about it. We can see the iceberg in our path, and there is ample time to turn the ship around. The bad news is that slow-motion crises generate little or no sense of priority but rather tend to promote complacency. The temptation is to put them aside, to focus on today’s crisis, and to allow the urgent to take precedence over the important. The problem with this is that not only will we forfeit the opportunity to prevent a crisis from materializing, but we will also deny ourselves those remedies that are not severe. The medical equivalent would be to ignore the symptoms in a patient when the sickness was relatively easy to treat and to do something only when it became life-threatening.

The problem is fairly straightforward. According to The 2016 Long-Term Budget Outlook of the Congressional Budget Office and the CBO’s January 2016 ten-year Budget and Economic Outlook: 2016 to 2026, the public debt of the United States is fast approaching $14 trillion. 6 It now is equal to roughly 75 percent of GDP and in a decade will rise to between 80 and 90 percent of GDP. Depending upon spending and revenue assumptions, it is a question of when and not if the amount of debt comes to exceed or far exceed GDP. This could well happen by 2030. The cost of servicing the debt will begin to rise rapidly, consuming an ever-larger percentage of GDP and federal spending.

Some contend that this analysis of U.S. debt is too negative. 7 They tend to predict higher revenues, continued low interest rates, and larger than expected cost savings in the medical domain. Such a future is of course possible, but so too is a worse than expected future based on slower growth, higher rates, higher than expected medical costs owing to a larger aging population, and much higher than imagined costs associated with adapting to the many effects of climate change.

The causes of the debt problem are somewhat more controversial but still fairly straightforward. Although the federal deficit is considerably lower than it was five years ago, it is once again increasing, due to greatly increased spending (in particular on entitlements) and low rates of economic growth. Some would say that taxes, or rather the lack of them, are to blame as well, but U.S. corporate rates are high by global standards and individual rates are not conspicuously low.

All things being equal, the problem will not only not fix itself but will grow worse. There are two reasons. First, the principal driver of spending increases, spending on entitlements such as Medicare, Medicaid, and Social Security, will likely become more and not less of a factor as Americans retire in large numbers and live longer lives. Second, interest rates are near historic lows and are far more likely to rise than fall over future decades. Specific projections as to the size of the debt and what it will cost to finance necessarily vary depending on assumptions regarding economic growth, spending, taxation, inflation, and interest rates, but the trend is clear, and the trend is not our friend. Nor is time.

The strategic consequences of growing indebtedness are many and worrisome. The need to finance the debt will absorb an ever-increasing number of dollars and an ever-increasing share of the U.S. budget. This will mean that proportionately fewer resources will be available for national security, including defense, intelligence, homeland security, and foreign assistance. There will as well be fewer dollars available for discretionary domestic programs ranging from education and infrastructure modernization to scientific research and law enforcement. What this portends is an increasingly sharp and destructive debate over guns versus butter while the two fastest-growing parts of the budget, debt service and entitlements, remain largely off-limits.

Mounting debt will raise questions around the world about the United States. U.S. inability to deal with its debt challenge will detract from the appeal of the American political and economic model. It will make others less likely to want to emulate the United States and more wary of depending on it as it will raise questions about this country’s ability to come together and take difficult decisions. The result will be a world less democratic and increasingly less deferential to U.S. concerns in matters of security. To some extent this is already happening; U.S. failure to deal with its debt promises to accelerate a worrisome evolution.

Mounting debt will leave the United States more vulnerable than it should be to the whims of markets and the machinations of governments. Already nearly half of U.S. public debt is held by foreigners, with China one of the two largest lenders. It is of course possible that China will be constrained by its stake in not seeing its own huge pool of dollars lose its value and by its need for the United States to continue to buy its exports. The result, according to this line of thinking, is the financial equivalent of nuclear deterrence. This may be true, but I for one am not sanguine that China would not decide to slow or stop accumulating U.S. debt as a signal of displeasure or even to sell debt amid, say, a crisis over Taiwan or one involving its claims in the South or East China seas. In such circumstances, Chinese leaders might well judge it to be worth paying a financial price to protect what they viewed as their vital national interests. Interestingly, it was American threats aimed at the pound sterling that more than anything else persuaded a British government that was fearful of the need to devalue its currency to back off its ill-fated venture to regain control of the Suez Canal in 1956.

Mounting debt could absorb funds that could otherwise be usefully invested at home or abroad. This will in turn depress already modest levels of economic growth. Making matters worse is that high levels of debt and debt financing will increase concerns about the government’s willingness to maintain the dollar’s value or, worse yet, meet its obligations. This will cause foreigners in particular to demand high returns on their loans, something that will increase the cost of debt financing and further crowd out other spending and depress growth. This is a vicious, not a virtuous, cycle. Mounting debt limits American flexibility and resilience. There is no way of stating in the abstract what constitutes the right level of debt for the country or knowing with precision what level is sustainable. But the United States does not want to make high levels of debt the new normal, if only because it removes flexibility if, for example, there were to be another financial crisis that required largescale fiscal stimulus or a major national security challenge that demanded a costly response. Keeping debt levels low enough to allow for a surge without triggering a debt crisis seems to be a prudent hedge and, as is the case with preventive medicine or insurance, worth paying a reasonable premium for.

Let me just add one more prediction. Mounting debt will hasten the demise of the dollar as the world’s reserve currency. This will happen due to loss of confidence in U.S. financial management and the related concern that what the United States will need to do to finance its debt will be at odds with what it should be doing to manage the domestic and, indirectly, world economy. It is possible that such a move away from the dollar would have happened were it not for the EU’s problems and China not being prepared to free up the yuan. Granted, there is no alternative to the dollar on the immediate horizon, but the United States cannot depend forever on the weaknesses and errors of others, and a postdollar world will be both more costly (as it will require the United States to move in and out of other currencies) and one of less leverage when it comes to imposing dollar-related sanctions. 8

#### That will result in military retrenchment and global great power conflict

KHALILZAD ’11 (Zalmay; Former US ambassador to Afghanistan, Iraq, and the UN and director of policy planning at the Defense Department from 1990 to 1992, “The Economy and National Security,” National Review, 2/8, http://www.nationalreview.com/article/259024/economy-and-national-security-zalmay-khalilzad)ww

Without faster economic growth and actions to reduce deficits, publicly held national debt is projected to reach dangerous proportions. If interest rates were to rise significantly, annual interest payments — which already are larger than the defense budget — would crowd out other spending or require substantial tax increases that would undercut economic growth. Even worse, if unanticipated events trigger what economists call a “sudden stop” in credit markets for U.S. debt, the United States would be unable to roll over its outstanding obligations, precipitating a sovereign-debt crisis that would almost certainly compel a radical retrenchment of the United States internationally.

Such scenarios would reshape the international order. It was the economic devastation of Britain and France during World War II, as well as the rise of other powers, that led both countries to relinquish their empires. In the late 1960s, British leaders concluded that they lacked the economic capacity to maintain a presence “east of Suez.” Soviet economic weakness, which crystallized under Gorbachev, contributed to their decisions to withdraw from Afghanistan, abandon Communist regimes in Eastern Europe, and allow the Soviet Union to fragment. If the U.S. debt problem goes critical, the United States would be compelled to retrench, reducing its military spending and shedding international commitments.

We face this domestic challenge while other major powers are experiencing rapid economic growth. Even though countries such as China, India, and Brazil have profound political, social, demographic, and economic problems, their economies are growing faster than ours, and this could alter the global distribution of power. These trends could in the long term produce a multi-polar world. If U.S. policymakers fail to act and other powers continue to grow, it is not a question of whether but when a new international order will emerge. The closing of the gap between the United States and its rivals could intensify geopolitical competition among major powers, increase incentives for local powers to play major powers against one another, and undercut our will to preclude or respond to international crises because of the higher risk of escalation.

The stakes are high. In modern history, the longest period of peace among the great powers has been the era of U.S. leadership. By contrast, multi-polar systems have been unstable, with their competitive dynamics resulting in frequent crises and major wars among the great powers. Failures of multi-polar international systems produced both world wars.

American retrenchment could have devastating consequences. Without an American security blanket, regional powers could rearm in an attempt to balance against emerging threats. Under this scenario, there would be a heightened possibility of arms races, miscalculation, or other crises spiraling into all-out conflict. Alternatively, in seeking to accommodate the stronger powers, weaker powers may shift their geopolitical posture away from the United States. Either way, hostile states would be emboldened to make aggressive moves in their regions.

#### Resolving inequality of education would solve for the nation’s debt

EDLEY and CUÉLLAR ’13 (Christopher, Jr. and Mariano-Florentino; Co-Chairs – The Equity and Excellence Commission, “Fore Each and Every Child,” https://www2.ed.gov/about/bdscomm/list/eec/equity-excellence-commission-report.pdf)ww

Today, far too many U.S. students—the future labor force—are no longer competitive with students across the developed world. In the OECD’s Programme for International Student Assessment (PISA) rankings for 2009, the United States was 27th in math (not counting states or provinces that were ranked separately from their country).6

In terms of “advanced” performance on math, 16 countries produced twice as many high-achievers per capita as the United States. Indeed, in mathematics, only one in four of America’s 52 million K-12 students is performing on par today with the average student in the highest-performing school systems in the world—which are now in Singapore, Hong Kong, Finland, Taiwan and South Korea.7

If we accept this level of performance, we will find our economy on a low-growth path, because over the past half-century, the economies of countries with higher math and science skills have grown faster than those with lower-skilled populations.8 We will also erode our country’s ability to deliver on its promise of equal opportunity for all its people.

Imagine what we could achieve if we made American public schools competitive with those of a higher-performing country such as Canada in mathematics (which means scoring approximately 40 points higher on PISA tests) over the next 20 years. As our higher-skill-level students entered the labor force, they would produce a faster-growing economy. How much faster? The potential is stunning. The improvement in our GDP over the next 80 years would exceed a present value of $70 trillion.9

That’s equivalent to an average 20 percent boost in income for every U.S. worker each year over his or her entire career. This would generate enough revenue to solve the U.S. debt problem that is the object of so much current debate.

While the exact level of U.S. performance as compared to other countries may vary somewhat across international assessments,11 what remains clear is the nation continues to face a significant problem of inequality. We face this challenge as our public schools undertake to educate an enormously diverse student population in a country with rapidly changing demographics. In 2009, more than 39 percent of our public school students were African American or Hispanic—up from 33 percent just a decade earlier. In 11 states, non-Hispanic white students were already a minority, a trend that is likely to continue as the Hispanic populations in a number of states continue to rise.12

Yet when it comes to our country’s ability to close the achievement gap between students from different demographic groups, our record is dismal. In math, the average African American eighth-grader is performing at the 19th percentile of white students.13 The average Hispanic student is at the 26th percentile. In this age in which skills are dominant in the labor market, we are relegating a large and growing portion of our population to bleak economic futures. Concerns about disparities in income distribution will, with these basic realities, be an everpresent element of the U.S. future. The opposite side of the same coin is the huge loss to the American economy and to our future economic well-being from failing to develop fully the human potential of our population.

Consider, for example, the consequences of addressing the achievement gap between white students, on the one hand, and African American and Hispanic students, on the other. If, on average, African American and Hispanic students performed academically at the level currently achieved by white students, overall student performance for the United States would rise from below the developed-country average to a respectable position ahead, for example, of Australia and Germany. If Hispanic and African American student performance grew to be comparable to white performance and remained there over the next 80 years, the historical evidence indicates that the impact would be staggering—adding some $50 trillion (in present value terms) to our economy.18 This amount constitutes more than three times the size of our current GDP and represents the income that we forgo by not ensuring equity for all of our students. In fact, simply achieving a 90 percent graduation rate for students of color would add as much as $6.6 billion in annual earnings to the American economy.19

Our education system, legally desegregated more than a half century ago, is ever more segregated by wealth and income, and often again by race. Ten million students in America’s poorest communities20—and millions more African American, Latino, Asian American, Pacific Islander, American Indian and Alaska Native students who are not poor—are having their lives unjustly and irredeemably blighted by a system that consigns them to the lowest-performing teachers, the most run-down facilities, and academic expectations and opportunities considerably lower than what we expect of other students. These vestiges of segregation, discrimination and inequality are unfinished business for our nation.

Admittedly, many of these disadvantaged students enter school far behind their more advantaged peers. But instead of getting deadly serious about remedying that fact—by making sure such students are in high-quality early childhood and pre-K programs, attend schools staffed with teachers and leaders who have the skills and knowledge to help each student reach high standards, get after-school counseling or tutorial assistance or the eyeglasses they need to see the smart board—the current American system exacerbates the problem by giving these children less of everything that makes a difference in education. As a result, we take the extraordinary diversity—including linguistic backgrounds and familial relationships—that should be our strategic advantage in the international economy and squander it.

Given that low-income students, English-language learners and students of color together form a majority of our young people and the fastest-growing population in the nation—and that America’s future economic and civic vitality depends on their success in an age of global competition—this practice is not only unjust but also unwise.

### Plan Text

#### The United States federal government should phase in regulations requiring states to provide proportionally larger resources to low-income schools and substantially increase funding to assist states in meeting these goals.

### Solvency

#### Federal regulation of educational equality motivates states to act by creating ‘race to the top’ incentives

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

B. Adopt a Multi-Prong Approach to Achieving Equity

The Elementary and Secondary Education Act should set strict equity requirements but offer states the ability to transition to full equity and the progressive funding outlined above over time. To immediately require absolute resource equality in the context of widespread and deep inequality would create circumstances like those that produced the NCLB waivers. The NCLB set unrealistic student achievement requirements and included no contingency plan to keep schools on track when they failed to meet them.354 Restructuring school funding is more realistic than moving all students to full proficiency, but as school finance litigation has shown, restructuring funding is far more politically challenging at the state and local levels. 355

Title IX of the Education Amendments of 1974 offers a compelling alternate model through which the federal government could consistently and progressively phase states toward equity. When Congress passed Title IX, females were formally excluded from certain educational institutions and systematically discriminated against in others.356 Over the past four decades, Title IX has eliminated most forms of sex-segregated education and has drastically closed opportunity gaps elsewhere.357 For example, in 1971, only 7 percent of females participated in high school athletics.358 By 2007, more than 40 percent were participating.359 This represents a 940 percent increase in the number of female athletes.360

Title IX did not achieve these results by simply demanding absolute equality at the outset. Instead, Title IX has prompted progress in athletics through an interesting three-part standard. A school can demonstrate compliance with Title IX’s equal opportunity mandate by making one of three showings: (1) athletic opportunities for males and females are substantially proportionate to their enrollment numbers; (2) the school has a history and continuing practice of expanding opportunities for the underrepresented group, even though opportunities are not currently proportionate; or (3) “the interests and abilities of the members of [the underrepresented] sex have been fully and effectively accommodated by the present program.”361 The first prong is obviously demanding and almost no institutions can meet it, but the second and third prongs provide realistic standards to continually move schools toward the ultimate goal of equality.362

The Elementary and Secondary Education Act could adopt an analogous multi-prong standard that sets fixed requirements of varying difficulty. The first prong would set an absolute requirement that states provide schools serving higher percentages of low-income students with the proportionately larger supplemental resources they require. This standard would apply both within and between school districts. Based on current data, not a single state in the nation would have consistently met this standard in recent years. Since 2010, only three states—Minnesota, Utah, and Ohio—have hit this mark more than once.363 At the other end of the spectrum, roughly half of the states fund high-need districts at lower levels than districts that are predominantly middle income and wealthy.364 A requirement that states fund schools serving larger percentages of low-income students at proportionately higher levels would set a goal that is within the immediate reach of only a few states.

The second equality prong could provide the remaining states interim relief while still pushing them to make progress. Like Title IX’s progress standard, states and districts with a history and continuing practice of closing funding gaps and moving toward the required supplemental funding for high-need schools would be exempted from the absolute equality requirement. The exact amount of progress necessary to comply each year could be set at any number of levels but, at the very least, should demand that states currently funding low-income districts at levels lower than other districts eliminate those gaps within five years.365 Once a state eliminates this raw funding gap, prong two might require that states demonstrate at least a 2 percent increase in funding for high-need districts relative to other districts each year. Under this standard, a state doing the bare minimum would still have twenty years to meet the absolute requirement of prong one but like under Title IX, the state would have a clear and realistic path to reaching the equality goal.

The concept of resource equality, like that of proportional athletic participation by gender, will prove controversial. Some states, districts, and policymakers will contest money’s relevance to educational opportunity and the precise goal of prong one.366 To address these concerns, a third prong could provide an entirely distinct metric of equality: one based on academic achievement. States and districts would be allowed to demonstrate that, regardless of the resources low-income students receive, their low-income students achieve at levels reasonably representative of equal educational opportunity. A state or district could make this showing if their low-income students meet one of two benchmarks: (1) achieve at a level equal to or above the national average for low-income students, or (2) make one year’s worth of academic progress during the past school year. Both of these showings would be based on the National Assessment of Educational Progress (NAEP), the national benchmark for academic achievement.367

This third prong would serve several important ends without repeating the past mistakes of the NCLB and prior versions of the Elementary and Secondary Education Act. First, it concedes that while resources are the primary criterion of educational opportunity, resources are not an infallible measure. In some circumstances, other measures may be more valid. Local variations and the numerous soft and hard variables that interact with resources may make resources less important than they otherwise would be.368 When states and districts can point to another relatively reliable indicator of equal educational opportunity, the Elementary and Secondary Education Act will respect it. This is analogous to Title IX’s “accommodation of interest standard,” which concedes that some women may be less interested than men in sports and that meeting students’ interests can be sufficient.369

A prong directed at student achievement provides some level of continuity with prior federal policy but would work far differently than the NCLB’s or the ESSA’s. On the one hand, this third prong would maintain the relevance of tests, their potentially conclusive effect, and the important role the play in research and data analysis. On the other hand, relying on NAEP scores would eliminate the possibility of local variation and the incentive to manipulate state tests, both of which can render test results meaningless.370 Similarly, benchmarking low-income students’ performance against a national average or a year’s worth of progress would eliminate unrealistic achievement goals like those found in the NCLB. Instead, these benchmarks would take into account the fact that low-income students are not similarly situated to other students.371

However, a standard that compares low-income students to each other could be construed as setting low expectations for low-income students.372 In practice, it would be quite the opposite. With the first two equality prongs driving up educational opportunity for low-income students nationally, those students’ achievement should increase as well.373 Thus, states and districts that seek to demonstrate compliance through student achievement will be comparing their students’ test scores with those of low-income students whom we would expect to achieve at higher levels. Comparative analysis of this sort eliminates subjective judgments about proficiency374 and instead uses a real-world measure of the achievement that results when low-income students are afforded appropriate supplemental resources.

More concerning is the possibility that too many states and districts would opt for third-prong compliance, thereby minimizing the aforementioned upward effects of comparative analysis across states. However, the states and districts that would find this prong most attractive are those whose low-income students are already performing above average.375 Those with below-average achievement would still be forced to improve either their achievement or their resource equity, and improvement on either metric would presumably drive up average national achievement. In turn, this would incentivize states to “race to the top” in student achievement or, when unsuccessful, strive toward resource equity under the first two prongs.

While aggressive, this three-prong approach would also minimize the perception that the federal government is treating states and local authorities unfairly. States and districts that fail to meet any of the prongs would not be sympathetic victims of federal intrusion.376 To the contrary, they would be prime examples of states and districts that warrant reprimand. They would have continued to underfinance their schools and produce poor student outcomes despite receiving significant federal funding. They could not claim that they distributed federal funds fairly and it simply did not work. Nor could they claim that their students were performing well notwithstanding resources.

In sum, this three-pronged approach to equity manages a careful balance among competing views and practical limitations. It keeps absolute resource equality at the forefront, but recognizes that achieving it requires a mutually reinforcing set of interim progress measures. Equally important, it labels states and districts—not the federal government—as the villain upon failure to comply with its standards.

#### Federal funding ensures state compliance – it generates the necessary leverage and capacity to induce change

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

A. Increase the Federal Investment in Education

The federal financial stake in education should substantially increase and move states toward delivering low-income students the full supplemental funding necessary to provide adequate educational opportunities. Estimates suggest that for low-income students to achieve at levels comparable to their peers, they require 30 to 60 percent more resources than those necessary for middle-income students.. 333 The federal government has officially pegged 40 percent as the appropriate supplement.334 States are far from meeting this standard and, as Part III.A. demonstrates, are regressing in many locations.

Skeptics primarily ask why the federal government should take on a larger financial commitment in an area traditionally of state concern and control. And relatedly, why not simply demand that states meet appropriate resource goals themselves? The answer to these concerns is threefold. First, some states appear to lack the resources to fund education adequately and equitably.335 Ironically, a few states fund education roughly equally across districts, but the actual funding level itself is relatively low.336 These states lag far behind the national average in terms of fiscal capacity.337 They devote a greater percentage of their states’ overall wealth to education, but because they are poor states, their extra effort still generates relatively low levels of education funding. 338 As one study found, the greatest funding inequities are between poor and rich states, not within individual states. 339

Second, many states with relatively high fiscal capacity have taken very little initiative in equalizing education.340 These states may fund education at relatively high levels, but funding can be wildly unequal across districts. In other words, many states fall into two different camps: one with a commitment to equity but no capacity for adequacy, and another with the capacity for adequacy but no commitment to equity. As Josh Weishart explained, adequacy and equity are interconnected, and one cannot realistically be achieved without the other.341

Third, helping low-capacity states necessarily requires federal assistance and motivating high-capacity states necessarily requires federal leverage. The federal government cannot get either for nothing. Both involve substantial additional money— enough to make the deal enticing for states. While Congress plausibly could demand more equity and adequacy from states pursuant to its congressional powers under the Fourteenth Amendment, 342 such authority has not been substantiated by courts or even remotely recognized by politicians. This leaves Congress’s power under the Elementary and Secondary Education Act. As spending legislation, Congress can only secure states’ consent to conditions in exchange for money.343 Congress and President Bush clearly understood this relationship in passing the NCLB, as the NCLB drastically expanded the federal role in education but only in exchange for a major increase in federal funding.344 If Congress is to further equity and adequacy through the Elementary and Secondary Education Act in the future, it must do the same again.

The federal government has the capacity to make this investment with relatively little effort. The current outlays for the Elementary and Secondary Education Act hover around $25 billion a year345—a miniscule number compared to the $938 billion in annual spending on health care.346 Federal spending on education altogether, which includes far more than just the Elementary and Secondary Education Act, is about 3 percent of the federal budget and is roughly equivalent to transportation or scientific research spending.347 In recent years, Congress has demonstrated the willingness to inject new funds into education to address short-term agendas. During the recession, Congress appropriated $4.3 billion to fund education innovation grants to states.348 Congress made an even bigger appropriation of $53.6 billion to cover the states’ budget shortfalls during the recession and to prevent massive teacher layoffs.349 Toward that end, Congress appropriated $53.6 billion with almost no strings attached.350

An annual federal investment of $45 billion, rather than the current $15 billion, would be enough to ensure that low-income students, particularly those attending schools with concentrated poverty, receive the additional funds they need.351 These federal funds alone, if properly targeted, would amount to a 20 percent supplement for low-income students and would put states halfway to the goal of a 40 percent supplement.352 This $12.5 billion investment would afford the federal government the leverage to demand that states appropriately weight their funding formulas to meet the needs of disadvantaged students.353 At that point, existing and new Title I funds and state remediation could combine to provide a 40 percent supplement for low-income students. Equally important, these federal funds would create the leverage and capacity the federal government needs for states to comply with the equity provisions outlined in the following sections.

## Inherency Ext

#### Current regulations create a patchwork system that fails to achieve equality

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

This Article is the first to offer a comprehensive analysis and critique of the ESSA. It demonstrates that although the ESSA commits to equality on its face, it does the opposite in practice. First, the ESSA affords states wide latitude on student performance, accountability, and school reform. Broad state discretion opens the door to fifty disparate state systems, none of which ensure equality. Second, the ESSA directly weakens two existing equity standards and ignores a loophole that exempts 80 percent of school expenditures from equity analysis. Third, the ESSA leaves federal funding flat, eliminating the possibility that additional resources will offset the inequalities that the foregoing provisions permit. These changes to federal education law are so out of character that they beg the question of why the federal government is even involved in education.

#### ESSA allows states to develop disparate systems with no accountability

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

The ESSA reverses the federal role in education and returns nearly full discretion to the states.8 Although state discretion in some contexts can ensure an appropriate balance of state and federal power,9 state discretion on issues of educational equality for disadvantaged students has proven particularly corrosive in the past. Most prominently, states and local districts vigorously resisted school integration for at least two decades following Brown v. Board of Education. In fact, this very resistance made the Elementary and Secondary Education Act of 1965 necessary.11 State resistance to equality, however, extends well beyond desegregation. Over the last decade, states have significantly cut education funding and have refused to reinstate funding even as their economies improved.12 The effects of these cuts often have hit low-income and minority school districts hardest.13 This regression marks a troubling new era in which states are willing to actively disregard their duty under state constitutions to deliver equal educational opportunities.14

Although complete discretion allows states to adapt solutions to local needs, it also allows states to ignore the Elementary and Secondary Education Act’s historical mission of equal opportunity and supplemental resources for low-income students. The ESSA’s framework will, in effect, make equal educational opportunity a random occurrence rather than a legal guarantee. First, the ESSA grants states nearly unfettered discretion to create school performance systems and set goals. States are largely free to weight test results and soft variables however they see fit.

With this discretion, as many as fifty disparate state systems could follow. Second, even assuming states adopt reasonable performance systems, the ESSA does not specify the remedies or interventions that states must implement when schools underperform.16 Third, the ESSA undermines principles that have long stood at the center of the Elementary and Secondary Education Act’s mission to ensure equal access to resources.17 In particular, the ESSA weakens two equity standards18 and leaves a significant loophole in a third one that, in effect, exempts 80 percent of school expenditures from equity analyses. 19 To make matters worse, Congress did not include any significant increases in federal funding and instead afforded states more discretion in spending existing funds.20

This random and uncertain approach to equality ultimately will render the ESSA an incoherent extension of the Elementary and Secondary Education Act. During the past half century, the Elementary and Secondary Education Act has embraced differing theories of how best to achieve equal educational opportunity. The early decades focused most heavily on educational inputs, whereas recent decades focused more on educational outcomes.21 But no reauthorization of the Elementary and Secondary Education Act has ever fundamentally abandoned both inputs and outputs as levers for equality—until the ESSA. Without one of those commitments, the ESSA undermines its own raison d’être: improving education for low-income students by providing federal resources where states fall short.22 In place of this historical premise, the ESSA provides that states should decide the level of resources students receive and the standards to which they aspire. It removes the federal government from education at the cost of equal education for lowincome students.

## Inequality Ext

### Yes Inequality

#### Educational inequality is increasing

COHEN ’17 (David; Politico, “Global report sees rise in inequality in U.S.” 1/15, http://www.politico.com/story/2017/01/inequality-economy-united-states-233642)

Economic inequality is increasing across the globe, including in the United States, according to a report by the World Economic Forum.

The Inclusive Growth and Development Report 2017, released early Monday in Europe in anticipation of this week's meeting of the World Economic Forum, also said median per capita income fell by 2.4 percent among people in the world's richest nations and that growth in those nations slowed to a crawl.

The figures reflected the years 2008-13, roughly equal to President Barack Obama's first term in office.

The report ranked nations with an Inclusive Development Index designed to determine whether economic gains largely benefited the country's wealthiest people or whether the growth was spread among the larger population. The United States ranked 23rd out of the nation's most advanced economies in that regard, one spot above Japan.

According to the report, the United States ranked 29th out of 30 in net income inequality, 29th in wealth inequality and 28th in poverty rate. The U.S. did, however, rank No. 4 in median income.

Other countries that were cited as faring poorly when it came to inclusiveness included Brazil, Ireland, Mexico, Nigeria and South Africa.

The top five advanced nations in the Inclusive Development Index were Norway, Luxembourg, Switzerland, Iceland and Denmark — European nations all considerably more homogenous than the United States. Top-ranked Norway, according to the report, "saw living standards rise by 10.6% over 2008-13 while the economy grew only 0.5%."

In the report, the World Economic Forum said it was "proposing a shift in economic policy priorities to respond more effectively to the insecurity and inequality accompanying technological change and globalization."

The wide-ranging report graded countries on an assortment of social and economic indicators.

Among the world's 30 most-advanced economies, the United States ranked first overall in a handful of categories including small business ownership. America was No. 4 in labor productivity, 12th in employment percentage, 20th in education and skills, and 28th in life expectancy.

A separate analysis by Oxfam released Monday in Davos contended that eight men own as much as wealth as half the people on Earth combined. Their list: Bill Gates, Warren Buffett, Jeff Bezos, Mark Zuckerberg, Larry Ellison, Michael Bloomberg, Carlos Slim and Amancio Ortega.

The annual meeting of the World Economic Forum in Davos, Switzerland, starts Tuesday.

#### Education inequality is rampant

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education,” 130 Harv. L. Rev. 185, November, l/n)ww

Educational opportunities within the United States are not distributed equally, rationally, or fairly. Instead, zip codes, socioeconomic status, race, and geography often define whether a child receives a world-class education or a substandard one. n139 Opportunity gaps leave many students behind as the economy moves away from low-skill jobs and toward jobs that require higher-order thinking. n140 In addition, the United States pays a high cost for the low-quality education that it provides to many children. These costs often take the form of higher health care spending, lost income and tax revenues, increased housing and welfare assistance, greater crime, and less civic participation, n141 as [\*206] well as a failure to prepare students adequately for military service n142 and to protect our security interests. n143

#### Unequal access to education is pervasive and systematic

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education,” 130 Harv. L. Rev. 185, November, l/n)ww

Racial minorities more often experience a wide range of disadvantages within schools. These disadvantages are evident in the teacher quality that many minority students receive. Latino and African American students are approximately twice as likely as their white or Asian peers to attend schools with over twenty percent of the teachers in their first year of teaching, n144 and students attending schools with high concentrations of minority students are twice as likely to be assigned to new teachers. n145 Indeed, "[b]y every measure of qualifications -- certification, subject-matter background, pedagogical training, selectivity of college attended, test scores, or experience -- less-qualified teachers are found in schools serving greater numbers of [\*207] low-income and minority students." n146 These disparities in teacher quality adversely affect the achievement of minority and low-income students. n147

Minority students also typically experience greater access to vocational and remedial courses and less access to challenging academic classes, rigorous curricula, and courses that prepare students for college. n148 Remedial courses often are geared toward lower-level cognitive skills and prepare students for low-status jobs, while more rigorous curricula yield higher-order skills and prepare students with the skills that the "global knowledge economy" n149 demands. n150 Although there has been a significant increase in the number of African American and Hispanic students taking at least one AP exam, n151 African American and American Indian students are more likely to attend high schools without a complete AP program, with complete defined as offering at least one AP class in science, mathematics, social science, and English. n152 In addition, the College Board, which administers AP Exams, found that African American students who graduated in 2013 were "the most underrepresented group in AP classrooms and in the population of successful AP Exam takers." n153 Only 57% of African American students and 67% of Hispanic students enjoy access to the complete range of science and math courses offered, while 81% of Asian students and 71% of white students enjoy such access. n154 More college counseling is provided to students in rigorous courses, such as [\*208] students in honors, AP, or college preparatory courses. n155 Given the weighting of advanced courses and the complexities of the college application process, these disparities hinder the application and entrance of minority students into colleges and universities.

Minority students also experience higher rates of suspension and expulsion, as well as more exposure to safety concerns in their schools, such as gangs and weapons. Although 42.8% of African American students and 21.9% of Hispanic students have been suspended, only 15.6% of white students have been suspended. n156 Even though only 1% of white students have been expelled, 12.8% of African American students have been expelled. n157 African American and Hispanic students are more than twice as likely to attend a school where gangs are present, with 37.6% of African American and 36.1% of Hispanic students attending such schools compared to 16% of white students. n158 African American and Hispanic students are more likely to be threatened or injured with a weapon in school than white students are. n159 These discipline and safety factors create more difficult learning environments for many African American and Hispanic students in ways that can adversely influence their focus on academic achievement.

Nationally, districts that educate the most minority students receive approximately $ 2000 less per pupil than districts that serve the fewest minority students. n160 However, funding disparities vary significantly between states, with eighteen states providing significantly less funding to districts that serve the most minority students while fourteen states provide more money to districts that serve the most minority students. n161 A research consensus has emerged that money matters for education because of the influential resources that it can purchase, n162 and the longstanding debate over whether money matters has shifted to how money should be spent most efficiently to improve student achievement. n163 In addition, research by Professors C. Kirabo [\*209] Jackson, Rucker C. Johnson, and Claudia Persico reveals that increases in funding can result in significant increases in education and earnings as well as reductions in adult poverty. n164 Furthermore, minority students make up a disproportionate share of many large school districts that experience limited access to textbooks, overcrowding, and poorly maintained facilities. n165

High-poverty learning environments also provide additional disadvantages for a disproportionate number of minority students. Only 7.64% of white students attended high-poverty schools in 2014, while 42.62% of minority students attended such schools. n166 High-poverty learning environments consistently perform worse than other schools and often lack effective teachers, adequate resources, appropriate class sizes, and motivated and engaged parents, as well as other factors that improve student achievement. n167 Such environments also are affected by a host of out-of-school challenges such as higher crime rates, inadequate healthcare, greater mobility, and more instability within the home. n168 High-poverty schools exert a negative influence on student achievement independent of a student's socioeconomic status. n169 These educational opportunity gaps play a substantial role in creating and sustaining the racial achievement gap. n170 While some students are educated in schools that far surpass state learning standards, others are relegated to opportunities that emphasize the basics and teaching to the test. n171 These disparities in opportunity will lead many white and affluent students to higher-order thinking skills while many poor and minority students are left to basic, rote thinking and test preparation. n172 Leading education scholar Professor Linda Darling-Hammond summarizes the connection well, noting that "when the evidence is examined, it is clear that educational outcomes for these [minority] students are at least as much a function of their unequal access to key educational [\*210] resources, both inside and outside of school, as they are a function of race, class, or culture." n173

Most selective institutions continue to rely on the standardized SAT or ACT. n174 On the SAT, a substantial racial gap exists in all three subject areas. n175 More importantly, the size of the SAT achievement gap has remained relatively stable from 1986-1987 to 2013-2014. n176 On the ACT, a far lower percentage of African American and Hispanic students met the ACT college readiness benchmark, as compared to white or Asian students on math, science, English, and reading. n177 The test score gap on the ACT also has remained relatively stable for the last decade. n178 College entrance exam disparities are unsurprising given the persistence of the gap in elementary and secondary achievement scores. n179 Overall, African American and Latino applicants face [\*211] many more hurdles to successful entrance to higher education than whites. n180

### Funding Solves

#### Extensive research shows that funding improves education

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “No Quick Fix for Equity and Excellence: The Virtues of Incremental Shifts in Education Federalism,” 27 Stan. L. & Pol'y Rev 201, l/n)ww

Before turning to this analysis, it is worth noting that in focusing on the need for reforming school funding systems, I build upon the research that finds that money spent well matters for student outcomes. n40 In my recent book co-edited with Professor Charles J. Ogletree, Jr. we note that the school finance debate has largely moved beyond questioning whether money matters to a consensus that money spent well does, in fact, matter. n41 Further evidence that money matters is presented in a 2016 study finding that when children from low-income families are provided with lower pupil-to-teacher ratios and a more equitable distribution of staffing, they experience better academic outcomes and exhibit a smaller gap in achievement with their more affluent peers. n42 This study also found that greater spending leads to smaller class sizes. n43 Other research indicating that money spent well matters can be found in a study by C. Kirabo Jackson and his associates published by the National Bureau of Economic Research. The study found that

although we find small effects for children from affluent families, for low-income children, a 10% increase in per pupil spending each year for all 12 years of public school is associated with 0.46 additional years of completed education, 9.6% higher earnings, and a 6.1 percentage point reduction in the annual incidence of adult poverty. The results imply that a 25% increase in per pupil spending throughout one's school years could eliminate the average attainment gaps between children from low-income ... and nonpoor families... n44

[\*209] Further research also confirms the positive effect of increased funding for obtaining particular resources and student outcomes. n45 In addition, a compelling body of research indicates that states that have implemented substantial changes to the distribution and/or level of education funding typically observe significant improvements in student achievement. n46

### A/T: States Acting Now

#### Not all states will act

GROSS and HILL ’16 (Bethany; Research Director at the Center on Reinventing Public Education at the University of Washington Bothell and Paul T.; Research Professor of Public Affairs, University of Washington Bothell and Founder of the Center on Reinventing Public Education, “The State Role in K--12 Education: From Issuing Mandates to Experimentation,” Summer, 10 Harv. L. & Pol'y Rev. 299, l/n)ww

It is safe to say that not all states will seize the opportunity that ESSA provides. Some will charge ahead, learning, adapting, and improving. The aggregation and sharing of knowledge via democratic experimentalism may accelerate their progress. But, as has been the case in every reform movement before, other states will not move. Just as states varied tremendously in their response to the more prescriptive requirements of NCLB, some will undoubtedly change as little as they can under ESSA.

### A/T: Alt Causes

#### Education is an important determinant of inequality even if other causes exist

ROBINSON ’13 (Kimberly Jenkins; Professor of Law – University of Richmond, “The High Cost of Education Federalism,” 48 Wake Forest L. Rev. 287, Spring, l/n)ww

This Article will show the consistent ways that the current understanding of education federalism within the United States has hindered three of the major reform efforts to promote a more equitable distribution of educational opportunity: school desegregation, school finance litigation, and, most recently, NCLB. In exploring how education federalism has undermined these efforts, this Article adds to the understanding of other scholars who have critiqued these reforms n16 and examined why the nation has [\*291] failed to guarantee equal educational opportunity. n17 For example, scholars have argued that the failure to undertake earnest efforts to achieve equal educational opportunity is caused by a variety of factors, including the lack of political will to accomplish this goal, [\*292] the domination of suburban influences over education politics, and the failure of the United States to create a social welfare system that addresses the social and economic barriers that impede the achievement of many poor and minority students. n18 In a past work, I also explored some of the reasons that these efforts have failed to ensure equal educational opportunity. n19 In light of this literature, education federalism undoubtedly is not the only factor that has influenced the nation's inability to ensure equal educational opportunity. Nevertheless, it is important to understand the consistent ways in which education federalism has contributed to the ineffectiveness of efforts to ensure equal educational opportunity as scholars propose new avenues to achieve this paramount goal. In addition, in both past and future work, I argue that the nation should consider embracing a new framework for education federalism that would enable the nation to more effectively achieve its goals for public schools. n20 Understanding how education federalism has hindered past reforms is an essential part of exploring how education federalism should be reshaped.

#### Even if funding isn’t the only problem, it’s still important

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “No Quick Fix for Equity and Excellence: The Virtues of Incremental Shifts in Education Federalism,” 27 Stan. L. & Pol'y Rev 201, l/n)ww

In focusing on how the federal government could lead states to maintain funding systems that promote equity and excellence, I am under no illusion that financial disparities are the sole cause of disparities in educational opportunity and mediocre educational outcomes. n47 A variety of resources exist that money simply cannot buy. n48 For instance, there is strong research evidence that middle-income peers can exert a positive influence on achievement, while lower expectations and motivation are often found in schools where a majority of the children come from low-income households. n49 School cultures that yield productive outcomes for children also are essential, as are out-of-school supports that address impactful disadvantages in health care, nutrition, and early childhood education. n50 Therefore, while a path toward equitable school funding that supports excellent schools is being developed, greater and more consistent socioeconomic integration of students, n51 reforms that encourage positive school cultures, increasing supports for disadvantaged children, n52 as well as an array of additional reforms, n53 must remain on the reform agenda. [\*210] With these caveats, I turn to a discussion of the principal funding deficiencies that contribute to inequitable and substandard educational outcomes.

#### The plan is important even if other factors exist

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

The nation's approach to education federalism - which I define as a balance of power between the federal, state and local governments that emphasizes substantial state autonomy over education - has played a significant and influential role in undermining federal reforms that have attempted to address disparities in educational opportunity. n11 In a recent article, I examined how the nation's approach to education federalism served as one of the principal obstacles to three of the most comprehensive federal attempts to advance equal educational opportunity: school desegregation, federal school finance litigation, and the No Child Left [\*963] Behind Act. n12 Although some contend that these decisions and results are driven more by a lack of political will rather than education federalism, n13 the consistency with which federalism has arisen as a real or imagined obstacle to reforms aimed at ensuring equal educational opportunity suggests that it is a significant contributing factor even if other factors also adversely influenced these reforms.

### A/T: Race Trumps

#### Access to school resources is as likely to affect a student’s academic outcome as other factors

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education,” 130 Harv. L. Rev. 185, November, l/n)ww

High-poverty learning environments also provide additional disadvantages for a disproportionate number of minority students. Only 7.64% of white students attended high-poverty schools in 2014, while 42.62% of minority students attended such schools. n166 High-poverty learning environments consistently perform worse than other schools and often lack effective teachers, adequate resources, appropriate class sizes, and motivated and engaged parents, as well as other factors that improve student achievement. n167 Such environments also are affected by a host of out-of-school challenges such as higher crime rates, inadequate healthcare, greater mobility, and more instability within the home. n168 High-poverty schools exert a negative influence on student achievement independent of a student's socioeconomic status. n169 These educational opportunity gaps play a substantial role in creating and sustaining the racial achievement gap. n170 While some students are educated in schools that far surpass state learning standards, others are relegated to opportunities that emphasize the basics and teaching to the test. n171 These disparities in opportunity will lead many white and affluent students to higher-order thinking skills while many poor and minority students are left to basic, rote thinking and test preparation. n172 Leading education scholar Professor Linda Darling-Hammond summarizes the connection well, noting that "when the evidence is examined, it is clear that educational outcomes for these [minority] students are at least as much a function of their unequal access to key educational [\*210] resources, both inside and outside of school, as they are a function of race, class, or culture." n173

#### Low income schools are more determinant of outcome than race

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

This Article proposes three steps to cure the ESSA’s flaws and further the Elementary and Secondary Education Act’s original mission. First, the Elementary and Secondary Education Act must, in the short term, mandate that states fund schools serving predominantly low-income students at a level equal to or higher than other schools and, in the long term, that they fund such schools at proportionately higher levels. One of the most consistent findings of the past fifty years is that attending a school serving high concentrations of low-income students negatively affects educational outcomes—regardless of a student’s individual race or socioeconomic status.30 An equity mandate would also incentivize states to deconcentrate poverty and thereby minimize the number of instances they would need to afford schools proportionately more funds. Curing funding inequalities between schools, however, may be out of immediate reach for most states. Therefore, Congress should afford states a transition period to incrementally progress toward those goals or, in the alternative, allow states to demonstrate that their low-income students are achieving at appropriate levels notwithstanding unequal resource allocations.

### A/T: Can’t Solve All Inequality

#### Solving all inequality isn’t what’s important – merely creating the space for upward mobility is key

HAASS ’17 (Richard; President – Council on Foreign Relations, “A Country in Disarray,” in Part III, Section 12 of A World in Disarray: American Foreign Policy and the Crisis of the Old Order)ww

Education is a recurring theme when it comes to what the United States must focus on to put its domestic house in order. It is critical for economic growth, for assisting those workers hurt by trade and technological changes, and for attacking inequality. Much is being said and written about the danger of inequality. Yes, inequality is growing, but the real problem is not that a few are extraordinarily wealthy, but that many are poor and not seeing their living standards or prospects improve. The policy prescription is not to try to reduce inequality per se through massive subsidies and new taxes intended to redistribute wealth. This will surely fail, and any transfer of wealth will not increase the capacity of recipients to be productive but will decrease the productivity of those who are. Rather, the aim must be to make upward mobility a reality. This will come about only if there is more access to quality education, not just for young people but for all citizens as they go through their lives. The alternative, a country increasingly defined by class, would lead to lower economic growth and higher social friction, in turn producing more populism in American politics and less support for the sort of foreign policy that is required if this era is to be one of more stability than not.

## Competitiveness Ext

### Heg Good

#### Hegemony prevents great power war

BROOKA et al. ‘13 (Stephen G. Brooks, John Ikenberry, William Wohlforth, Brooks is Associate Professor of Government at Dartmouth College, Ikenberry is Albert G. Milbank Professor of Politics and International Affairs at Princeton University and Global Eminence Scholar at Kyung Hee University in Seoul. Wohlforth is Daniel Webster Professor of Government at Dartmouth College., February 2013, "Lean Forward: In Defense of American Engagement," Foreign Affairs, https://www.foreignaffairs.com/articles/united-states/2012-11-30/lean-forward)

Since the end of World War II, the United States has pursued a single grand strategy: deep engagement. In an effort to protect its security and prosperity, the country has promoted a liberal economic order and established close defense ties with partners in Europe, East Asia, and the Middle East. Its military bases cover the map, its ships patrol transit routes across the globe, and tens of thousands of its troops stand guard in allied countries such as Germany, Japan, and South Korea.¶ The details of U.S. foreign policy have differed from administration to administration, including the emphasis placed on democracy promotion and humanitarian goals, but for over 60 years, every president has agreed on the fundamental decision to remain deeply engaged in the world, even as the rationale for that strategy has shifted. During the Cold War, the United States' security commitments to Europe, East Asia, and the Middle East served primarily to prevent Soviet encroachment into the world's wealthiest and most resource-rich regions. Since the fall of the Soviet Union, the aim has become to make these same regions more secure, and thus less threatening to the United States, and to use these security partnerships to foster the cooperation necessary for a stable and open international order.¶ Now, more than ever, Washington might be tempted to abandon this grand strategy and pull back from the world. The rise of China is chipping away at the United States' preponderance of power, a budget crisis has put defense spending on the chopping block, and two long wars have left the U.S. military and public exhausted. Indeed, even as most politicians continue to assert their commitment to global leadership, a very different view has taken hold among scholars of international relations over the past decade: that the United States should minimize its overseas military presence, shed its security ties, and give up its efforts to lead the liberal international order.¶ Proponents of retrenchment argue that a globally engaged grand strategy wastes money by subsidizing the defense of well-off allies and generates resentment among foreign populations and governments. A more modest posture, they contend, would put an end to allies' free-riding and defuse anti-American sentiment. Even if allies did not take over every mission the United States now performs, most of these roles have nothing to do with U.S. security and only risk entrapping the United States in unnecessary wars. In short, those in this camp maintain that pulling back would not only save blood and treasure but also make the United States more secure.¶ They are wrong. In making their case, advocates of retrenchment overstate the costs of the current grand strategy and understate its benefits. In fact, the budgetary savings of lowering the United States' international profile are debatable, and there is little evidence to suggest that an internationally engaged America provokes other countries to balance against it, becomes overextended, or gets dragged into unnecessary wars.¶ The benefits of deep engagement, on the other hand, are legion. U.S. security commitments reduce competition in key regions and act as a check against potential rivals. They help maintain an open world economy and give Washington leverage in economic negotiations. And they make it easier for the United States to secure cooperation for combating a wide range of global threats. Were the United States to cede its global leadership role, it would forgo these proven upsides while exposing itself to the unprecedented downsides of a world in which the country was less secure, prosperous, and influential.¶ AN AFFORDABLE STRATEGY¶ Many advocates of retrenchment consider the United States' assertive global posture simply too expensive. The international relations scholar Christopher Layne, for example, has warned of the country's "ballooning budget deficits" and argued that "its strategic commitments exceed the resources available to support them." Calculating the savings of switching grand strategies, however, is not so simple, because it depends on the expenditures the current strategy demands and the amount required for its replacement -- numbers that are hard to pin down.¶ If the United States revoked all its security guarantees, brought home all its troops, shrank every branch of the military, and slashed its nuclear arsenal, it would save around $900 billion over ten years, according to Benjamin Friedman and Justin Logan of the Cato Institute. But few advocates of retrenchment endorse such a radical reduction; instead, most call for "restraint," an "offshore balancing" strategy, or an "over the horizon" military posture. The savings these approaches would yield are less clear, since they depend on which security commitments Washington would abandon outright and how much it would cost to keep the remaining ones. If retrenchment simply meant shipping foreign-based U.S. forces back to the United States, then the savings would be modest at best, since the countries hosting U.S. forces usually cover a large portion of the basing costs. And if it meant maintaining a major expeditionary capacity, then any savings would again be small, since the Pentagon would still have to pay for the expensive weaponry and equipment required for projecting power abroad.¶ The other side of the cost equation, the price of continued engagement, is also in flux. Although the fat defense budgets of the past decade make an easy target for advocates of retrenchment, such high levels of spending aren't needed to maintain an engaged global posture. Spending skyrocketed after 9/11, but it has already begun to fall back to earth as the United States winds down its two costly wars and trims its base level of nonwar spending. As of the fall of 2012, the Defense Department was planning for cuts of just under $500 billion over the next five years, which it maintains will not compromise national security. These reductions would lower military spending to a little less than three percent of GDP by 2017, from its current level of 4.5 percent. The Pentagon could save even more with no ill effects by reforming its procurement practices and compensation policies.¶ Even without major budget cuts, however, the country can afford the costs of its ambitious grand strategy. The significant increases in military spending proposed by Mitt Romney, the Republican candidate, during the 2012 presidential campaign would still have kept military spending below its current share of GDP, since spending on the wars in Afghanistan and Iraq would still have gone down and Romney's proposed nonwar spending levels would not have kept pace with economic growth. Small wonder, then, that the case for pulling back rests more on the nonmonetary costs that the current strategy supposedly incurs.¶ UNBALANCED¶ One such alleged cost of the current grand strategy is that, in the words of the political scientist Barry Posen, it "prompts states to balance against U.S. power however they can." Yet there is no evidence that countries have banded together in anti-American alliances or tried to match the United States' military capacity on their own -- or that they will do so in the future.¶ Indeed, it's hard to see how the current grand strategy could generate true counterbalancing. Unlike past hegemons, the United States is geographically isolated, which means that it is far less threatening to other major states and that it faces no contiguous great-power rivals that could step up to the task of balancing against it. Moreover, any competitor would have a hard time matching the U.S. military. Not only is the United States so far ahead militarily in both quantitative and qualitative terms, but its security guarantees also give it the leverage to prevent allies from giving military technology to potential U.S. rivals. Because the United States dominates the high-end defense industry, it can trade access to its defense market for allies' agreement not to transfer key military technologies to its competitors. The embargo that the United States has convinced the EU to maintain on military sales to China since 1989 is a case in point.¶ If U.S. global leadership were prompting balancing, then one would expect actual examples of pushback -- especially during the administration of George W. Bush, who pursued a foreign policy that seemed particularly unilateral. Yet since the Soviet Union collapsed, no major powers have tried to balance against the United States by seeking to match its military might or by assembling a formidable alliance; the prospect is simply too daunting. Instead, they have resorted to what scholars call "soft balancing," using international institutions and norms to constrain Washington. Setting aside the fact that soft balancing is a slippery concept and difficult to distinguish from everyday diplomatic competition, it is wrong to say that the practice only harms the United States. Arguably, as the global leader, the United States benefits from employing soft-balancing-style leverage more than any other country. After all, today's rules and institutions came about under its auspices and largely reflect its interests, and so they are in fact tailor-made for soft balancing by the United States itself. In 2011, for example, Washington coordinated action with several Southeast Asian states to oppose Beijing's claims in the South China Sea by pointing to established international law and norms.¶ Another argument for retrenchment holds that the United States will fall prey to the same fate as past hegemons and accelerate its own decline. In order to keep its ambitious strategy in place, the logic goes, the country will have to divert resources away from more productive purposes -- infrastructure, education, scientific research, and so on -- that are necessary to keep its economy competitive. Allies, meanwhile, can get away with lower military expenditures and grow faster than they otherwise would.¶ The historical evidence for this phenomenon is thin; for the most part, past superpowers lost their leadership not because they pursued hegemony but because other major powers balanced against them -- a prospect that is not in the cards today. (If anything, leading states can use their position to stave off their decline.) A bigger problem with the warnings against "imperial overstretch" is that there is no reason to believe that the pursuit of global leadership saps economic growth. Instead, most studies by economists find no clear relationship between military expenditures and economic decline.¶ To be sure, if the United States were a dramatic outlier and spent around a quarter of its GDP on defense, as the Soviet Union did in its last decades, its growth and competitiveness would suffer. But in 2012, even as it fought a war in Afghanistan and conducted counterterrorism operations around the globe, Washington spent just 4.5 percent of GDP on defense -- a relatively small fraction, historically speaking. (From 1950 to 1990, that figure averaged 7.6 percent.) Recent economic difficulties might prompt Washington to reevaluate its defense budgets and international commitments, but that does not mean that those policies caused the downturn. And any money freed up from dropping global commitments would not necessarily be spent in ways that would help the U.S. economy.¶ Likewise, U.S. allies' economic growth rates have nothing to do with any security subsidies they receive from Washington. The contention that lower military expenditures facilitated the rise of Japan, West Germany, and other countries dependent on U.S. defense guarantees may have seemed plausible during the last bout of declinist anxiety, in the 1980s. But these states eventually stopped climbing up the global economic ranks as their per capita wealth approached U.S. levels -- just as standard models of economic growth would predict. Over the past 20 years, the United States has maintained its lead in per capita GDP over its European allies and Japan, even as those countries' defense efforts have fallen further behind. Their failure to modernize their militaries has only served to entrench the United States' dominance. The costs of U.S. foreign policy that matter most, of course, are human lives, and critics of an expansive grand strategy worry that the United States might get dragged into unnecessary wars. Securing smaller allies, they argue, emboldens those states to take risks they would not otherwise accept, pulling the superpower sponsor into costly conflicts -- a classic moral hazard problem. Concerned about the reputational costs of failing to honor the country's alliance commitments, U.S. leaders might go to war even when no national interests are at stake.¶ History shows, however, that great powers anticipate the danger of entrapment and structure their agreements to protect themselves from it. It is nearly impossible to find a clear case of a smaller power luring a reluctant great power into war. For decades, World War I served as the canonical example of entangling alliances supposedly drawing great powers into a fight, but an outpouring of new historical research has overturned the conventional wisdom, revealing that the war was more the result of a conscious decision on Germany's part to try to dominate Europe than a case of alliance entrapment.¶ If anything, alliances reduce the risk of getting pulled into a conflict. In East Asia, the regional security agreements that Washington struck after World War II were designed, in the words of the political scientist Victor Cha, to "constrain anticommunist allies in the region that might engage in aggressive behavior against adversaries that could entrap the United States in an unwanted larger war." The same logic is now at play in the U.S.-Taiwanese relationship. After cross-strait tensions flared in the 1990s and the first decade of this century, U.S. officials grew concerned that their ambiguous support for Taiwan might expose them to the risk of entrapment. So the Bush administration adjusted its policy, clarifying that its goal was to not only deter China from an unprovoked attack but also deter Taiwan from unilateral moves toward independence.¶ For many advocates of retrenchment, the problem is that the mere possession of globe-girdling military capabilities supposedly inflates policymakers' conception of the national interest, so much so that every foreign problem begins to look like America's to solve. Critics also argue that the country's military superiority causes it to seek total solutions to security problems, as in Afghanistan and Iraq, that could be dealt with in less costly ways. Only a country that possessed such awesome military power and faced no serious geopolitical rival would fail to be satisfied with partial fixes, such as containment, and instead embark on wild schemes of democracy building, the argument goes.¶ Furthermore, they contend, the United States' outsized military creates a sense of obligation to do something with it even when no U.S. interests are at stake. As Madeleine Albright, then the U.S. ambassador to the un, famously asked Colin Powell, then chairman of the Joint Chiefs of Staff, when debating intervention in Bosnia in 1993, "What's the point of having this superb military you're always talking about if we can't use it?"¶ If the U.S. military scrapped its forces and shuttered its bases, then the country would no doubt eliminate the risk of entering needless wars, having tied itself to the mast like Ulysses. But if it instead merely moved its forces over the horizon, as is more commonly proposed by advocates of retrenchment, whatever temptations there were to intervene would not disappear. The bigger problem with the idea that a forward posture distorts conceptions of the national interest, however, is that it rests on just one case: Iraq. That war is an outlier in terms of both its high costs (it accounts for some two-thirds of the casualties and budget costs of all U.S. wars since 1990) and the degree to which the United States shouldered them alone. In the Persian Gulf War and the interventions in Bosnia, Kosovo, Afghanistan, and Libya, U.S. allies bore more of the burden, controlling for the size of their economies and populations.¶ Besides, the Iraq war was not an inevitable consequence of pursuing the United States' existing grand strategy; many scholars and policymakers who prefer an engaged America strongly opposed the war. Likewise, continuing the current grand strategy in no way condemns the United States to more wars like it. Consider how the country, after it lost in Vietnam, waged the rest of the Cold War with proxies and highly limited interventions. Iraq has generated a similar reluctance to undertake large expeditionary operations -- what the political scientist John Mueller has dubbed "the Iraq syndrome." Those contending that the United States' grand strategy ineluctably leads the country into temptation need to present much more evidence before their case can be convincing.¶ KEEPING THE PEACE¶ Of course, even if it is true that the costs of deep engagement fall far below what advocates of retrenchment claim, they would not be worth bearing unless they yielded greater benefits. In fact, they do. The most obvious benefit of the current strategy is that it reduces the risk of a dangerous conflict. The United States' security commitments deter states with aspirations to regional hegemony from contemplating expansion and dissuade U.S. partners from trying to solve security problems on their own in ways that would end up threatening other states.¶ Skeptics discount this benefit by arguing that U.S. security guarantees aren't necessary to prevent dangerous rivalries from erupting. They maintain that the high costs of territorial conquest and the many tools countries can use to signal their benign intentions are enough to prevent conflict. In other words, major powers could peacefully manage regional multipolarity without the American pacifier.¶ But that outlook is too sanguine. If Washington got out of East Asia, Japan and South Korea would likely expand their military capabilities and go nuclear, which could provoke a destabilizing reaction from China. It's worth noting that during the Cold War, both South Korea and Taiwan tried to obtain nuclear weapons; the only thing that stopped them was the United States, which used its security commitments to restrain their nuclear temptations. Similarly, were the United States to leave the Middle East, the countries currently backed by Washington -- notably, Israel, Egypt, and Saudi Arabia -- might act in ways that would intensify the region's security dilemmas.¶ There would even be reason to worry about Europe. Although it's hard to imagine the return of great-power military competition in a post-American Europe, it's not difficult to foresee governments there refusing to pay the budgetary costs of higher military outlays and the political costs of increasing EU defense cooperation. The result might be a continent incapable of securing itself from threats on its periphery, unable to join foreign interventions on which U.S. leaders might want European help, and vulnerable to the influence of outside rising powers.¶ Given how easily a U.S. withdrawal from key regions could lead to dangerous competition, advocates of retrenchment tend to put forth another argument: that such rivalries wouldn't actually hurt the United States. To be sure, few doubt that the United States could survive the return of conflict among powers in Asia or the Middle East -- but at what cost? Were states in one or both of these regions to start competing against one another, they would likely boost their military budgets, arm client states, and perhaps even start regional proxy wars, all of which should concern the United States, in part because its lead in military capabilities would narrow.¶ Greater regional insecurity could also produce cascades of nuclear proliferation as powers such as Egypt, Saudi Arabia, Japan, South Korea, and Taiwan built nuclear forces of their own. Those countries' regional competitors might then also seek nuclear arsenals. Although nuclear deterrence can promote stability between two states with the kinds of nuclear forces that the Soviet Union and the United States possessed, things get shakier when there are multiple nuclear rivals with less robust arsenals. As the number of nuclear powers increases, the probability of illicit transfers, irrational decisions, accidents, and unforeseen crises goes up.¶ The case for abandoning the United States' global role misses the underlying security logic of the current approach. By reassuring allies and actively managing regional relations, Washington dampens competition in the world's key areas, thereby preventing the emergence of a hothouse in which countries would grow new military capabilities. For proof that this strategy is working, one need look no further than the defense budgets of the current great powers: on average, since 1991 they have kept their military expenditures as a percentage of GDP to historic lows, and they have not attempted to match the United States' top-end military capabilities. Moreover, all of the world's most modern militaries are U.S. allies, and the United States' military lead over its potential rivals is by many measures growing.¶ On top of all this, the current grand strategy acts as a hedge against the emergence regional hegemons. Some supporters of retrenchment argue that the U.S. military should keep its forces over the horizon and pass the buck to local powers to do the dangerous work of counterbalancing rising regional powers. Washington, they contend, should deploy forces abroad only when a truly credible contender for regional hegemony arises, as in the cases of Germany and Japan during World War II and the Soviet Union during the Cold War. Yet there is already a potential contender for regional hegemony -- China -- and to balance it, the United States will need to maintain its key alliances in Asia and the military capacity to intervene there. The implication is that the United States should get out of Afghanistan and Iraq, reduce its military presence in Europe, and pivot to Asia. Yet that is exactly what the Obama administration is doing.¶

#### Mulitpolarity risks global conflict – institutions won’t check

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During the 20th century multi-polar international systems resulted in instability and led to two world wars in less than 50 years. The balance of power and the system of alliances of the early 20th century was swept away by the assassination of Franz Ferdinand of Austria in 1914. That event triggered World War I, a global conflict that caused the death of more than 15 million people in less than five years. After few decades, the multi-polar world emerged by World War I with a new system of alliances and the multilateral body of the League of Nations was not able to tame the totalitarian aspirations of Hitler. The German invasion of Poland in 1939 triggered World War II, the deadliest conflict of the history which resulted in millions of deaths and in the holocaust. Since the end of the World War II the world has never been multi-polar again, nevertheless these historical accounts seem to indicate how multi-polarity often created an unstable and unpredictable world, characterized by shifting alliances and by the aspiration of the rising powers to change the balance of power and create a new order.¶ These historical features of multi-polarity will likely distinguish also the future multi-polar world, in spite of its strong economic interconnection and institutionalization. History indeed has also shown how the effects on stability of a global economy and of multilateral institutions have been sometimes overestimated. The multi-polar world at the beginning of the 20th century was highly economically interconnected and characterized by a large cross-border flows of goods, capital and people, at the point that the ratio of trade to output indicates that “Britain and France are only slightly more open to trade today than they were in 1913, while Japan is less open now than then” (The Economist, 99; Van den Bossche, 4). Nevertheless, this high interconnection was swept away by World War I. Furthermore, the presence of the League of Nations did not prevent World War II; likewise, the multilateral organization of the UN has not always been effective in promoting peace and security, and membership in the European Union did not prevent European countries from having different positions and antithetic behaviors in the wake of US war in Iraq in 2003. A shifting from a well defined hierarchy of power to a great power rivalry will therefore result in a less stable world order.¶ Towards a Multi-Polar, Nuclear International System: Which Prospects for Global Peace?¶ The prospects of a great power rivalry are particularly strong in East Asia, a region characterized by weak regional alliances and institutions, in which the economic rise of some actors could indeed represent a serious source of instability in the near future. The decline of the US and the rise of China could for example undermine the Asian balance of power and bring to light the old rivalry between China and Japan (Shambaugh). A strong rising China armed with middle range missiles could be perceived as threatening by Japan, worried that its historical American ally could not defend it because of US high involvement in other corners of the globe. The stability of the region appears even more difficult to achieve considering that the concept of balance of power requires shared common values and similar cultural understanding, requisites that are not present between the two major powers of the Asia Pacific region, China and Japan (Friedberg).¶ India has been portrayed as the third pole of the multi-polar world in 2050 (Virmani; Gupta). Yet its constant rise could undermine Asian stability and, for example, worsen Indian relations with its neighbor Pakistan. Moreover, the scarcity of natural resources in a world that is consuming and demanding a high quantity of them could have several implications on global security and stability (Dannreuther; Kenny; Laverett and Bader).¶ In this framework, the rise of Russia, a country which exports large quantities of oil and gas, controls the European provisions of energy and has had high increases in military expenditure in the last decade could represent another potential source of instability for the future world order. Russia has increased military spending by 16 per cent in real terms since 2008, including a 9.3 per cent increase in 2011 (Background Paper on Military Expenditures 5). Before 2008, it had increased its military expenditure by 160 per cent in a decade, (SIPRI, SIPRI Yearbook 2008 199), accounting for 86 per cent of the total increase of 162 per cent in military expenditure of Eastern Europe, the region of the world with the highest increment in military expenditure from 1998 to 2007 (SIPRI, SIPRI Yearbook 2008 177). Moreover, the control of the gas prices in Europe and the enlargement of the North Atlantic Treaty Organization in Central and Western Europe have already been causes of tension between Russia and the West. The possibility to exploit and supply a large amount of natural resources, the growth of its military power and divergences with the US in some foreign policy issues, such as the Iranian nuclear program or the status of Kosovo, indicate that the stability of the future multi-polar world could be seriously undermined by a resurgent Russia (Arbatov; Goldman; Trenin; Wallander).¶ A return to multi-polarity will therefore imply more instability among great powers. But great power rivalry will not be the only source of possible instability for the future multi-polar world. The current distribution of power allows not only great powers but also middle, small powers and non-state actors to have military capabilities that could threaten the global security. In particular, the presence of nuclear weapons constitutes a further reason of concern and implies that the future world could carry not only the potential instability of multi-polarity and great powers rivalry, but also the dangers entailed in nuclear proliferation. The future multi-polar world will thus be potentially more unstable than all the other multi-polar periods history has experienced until nowadays: for the first time in history, the world could become both multi-polar and nuclear.¶ While some scholars argue that nuclear deterrence “could reduce the war-proneness of the coming multi-polar system” (Layne, 44-45), the majority of them consider the presence of nuclear weapons as a source of instability (McNamara; Rosen; Allison). In particular, regional powers and states that are not great powers armed with nuclear capabilities could represent a cause of concern for global security. A nuclear Iran could for example attack – or be attacked – by Israel and easily involve in this war the rest of the world (Sultan; Huntley). A war between Pakistan and India, both nuclear states, could result in an Armageddon for the whole Asia. An attack from the Democratic Peoples’ Republic of Korea (DPRK) on Japan or South Korea will trigger an immediate reaction from the US and “a nuclear proliferation ‘domino effect’ in East Asia” (Huntley, 725). Terrorists armed with nuclear weapons could wreak havoc and target the heart of the most powerful countries of the world (Bunn and Wier).¶ Iran, Pakistan, DPRK, terrorist groups will rarely be great powers or poles in a future multi-polar world. Nevertheless, the effects of their actions could easily reverberate all over the globe and represent another cause of potential instability. For the first time in history, the stability of the future world will therefore depend not only on the unpredictable effects of the rivalry among great powers, but also on the dangerous potential of middle and small powers and non-state actors armed with nuclear weapons.¶ Conclusion¶ On the morning of the 5th April 2009 the DPRK sent a communication satellite into space using a Taepodong-2 ballistic missile. Suspicious neighbouring countries and the US considered the rocket launch as a cover for testing ballistic long-range missile technology and a threat for their national security: South Korea and Japan feared that their unpredictable neighbour could target their population, the US was afraid that DPRK missiles could in the future reach its western shores.¶ The result of the launch is debated: while Pyongyang asserted that the satellite reached the orbit, US experts considered it as a failure and remarked that the missile travelled 3,200 km before landing in the Pacific Ocean (Broad). Surely DPRK actions achieved the goal to deeply divide the international community: the UN Secretary General regretted the launch and urged Security Council Resolutions (Statement SG/SM/12171), the then Chinese Ambassador to the UN Yesui Zhang stressed “cautious and proportionate” (Richter and Baum) responses to avoid “increased tensions” (Richter and Baum), the then Japanese Prime Minister Taro Aso considered it an “extremely provocative act” (Ricther and Baum), while US President Obama declared that, “North Korea’s development and proliferation of ballistic missile technology pose a threat to the northeast Asian region and to international peace and security” (Obama, Statement from Prague).¶ This essay has explained why a clumsy launch of a communication satellite, or a military exercitation of the nation with the 197th Gross Domestic Product pro capita of the world (Central Intelligence Agency) can become a threat “to international peace and security” (Obama, Statement from Prague) and could represent a serious source of instability for the world in the near future. It has been argued that the current decline of the hegemon of the international system, together with a rise of new actors could create the conditions for a shifting to multi-polarity and great powers rivalry. The future multi-polar order will not be different from the other multi-polar moments history has witnessed and will result in more instability and unpredictability than in the current unipolar world. However, for the first time in the history multi-polarity will not only carry the risks entailed in the research of balance of power among great powers. The availability of the nuclear weapons will indeed represent another potential source of instability. Middle powers, small powers and non-state actors with nuclear capabilities could become a serious threat for the global security; they could trigger and reinforce the rivalry among great powers which usually characterizes multi-polarity, and eventually undermine the peace and stability of the future world.

### Inequality Hurts Competition

#### Inequality undermines competitiveness

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

The harms from persistent and pervasive disparities in educational opportunity are not limited to schoolchildren, their families, and their communities. These disparities also harm nationwide interests in a strong economy and a just society. The United States needs to maintain international academic competitiveness to attract businesses and prevent the loss of jobs to other more educated nations. n130 Yet, international assessments reveal that the performance of U.S. students is often average or below average when compared to other countries, n131 which will make it difficult for U.S. students to compete successfully against students from many other nations. The Program for International Student Assessment (PISA), an international assessment of performance in math, reading and [\*981] science, was administered in 2012 to students in sixty-five education systems. n132 The results showed that the average U.S. student who participated scored average in reading and science literacy and below average in math literacy when compared to other countries in the Organisation for Economic Co-operation and Development. n133 Doctors Eric A. Hanushek, Paul E. Peterson and Ludger Woessman, professors of education at Stanford University, Harvard University and the University of Munich respectively, summarized the lackluster performance of U.S. students on international assessments in a 2013 book by noting that:

The evidence of international comparison is now clear. American students lag badly and pervasively. Our students lag behind students not just in Asia, but in Europe and other parts of the Americas. It is not just disadvantaged students or a group of weak students who lag, but also American students from advantaged backgrounds. Americans are badly underrepresented among the world's highest achievers. n134

Although some challenge such conclusions from international assessments as overblown and simplistic, n135 others conclude that these less than stellar outcomes indicate that the U.S.education system is failing to prepare many of its students to compete successfully for jobs with other students from around the world. n136

Research reveals that the long-term vigor of the U.S. economy will depend on the advanced skills that are typically provided in higher education and that are needed for upper-level technical occupations. n137 Although the U.S. higher education system historically has been considered world-class, the United States is facing substantial competition from other countries with their fast-growing higher education systems. n138 [\*982] As Thomas Bailey, Teachers College professor of economics and education, has summarized in his research:

Occupational forecasts, analyses of job content, trends in wages, and changes in international competition all point to an increasing need in the United States for workers with high-level skills. Achieving increases in skill levels will be difficult as long as current gaps in educational attainment based on income, race, and ethnicity remain. n139

In this environment, the U.S. economy and its competitiveness will be increasingly hindered by low college enrollment and completion rates for Hispanic and African American students who increasingly will make up a larger share of the workforce. n140 Many U.S. students cannot compete successfully with students from other developed countries, and the lower achievement of U.S. students could cause comparatively slow growth for the U.S. economy in the years to come. n141

### Inequality Hurts Econ

#### Lack of equal education costs the government billions every year

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Education federalism also is supposed to yield an efficient and effective education system. However, the education system regularly falls [\*974] short of achieving these goals. n80 The substantial percentage of poorly educated students inflicts substantial costs upon the United States, resulting in numerous inefficiencies. n81 For example, as I have noted in prior scholarship, n82 increasing the high school graduation rate could save the nation between $ 7.9 and $ 10.8 billion annually in food stamps, housing assistance and welfare assistance. n83 The nation forfeits $ 156 billion in income and tax revenues during the life span of each annual cohort of students who do not graduate from high school. n84 This cohort also costs the public $ 23 billion in health care costs and $ 110 billion in diminished health quality and longevity. n85 By increasing the high school graduation rate by one percent for men aged twenty to sixty, the nation could save $ 1.4 billion each year from reduced criminal behavior. n86 Given this research, ineffective schools inflict high costs upon the nation - costs that it cannot afford as it wrestles with predicted long-term growth in the deficit and significant, yet declining, unemployment. n87

#### Inequality in education costs the nation billions each year

ROBINSON ’13 (Kimberly Jenkins; Professor of Law – University of Richmond, “The High Cost of Education Federalism,” 48 Wake Forest L. Rev. 287, Spring, l/n)ww

Education federalism in the United States traditionally embraces state and local authority over education and a restricted federal role. n1 Even as the No Child Left Behind Act of 2001 ("NCLB") n2 expanded and transformed the federal role in education, the tradition of state and local control over education influenced key provisions within the statute. n3 Some praise the nation's long-standing approach to education federalism - which this Article defines as an emphasis on state and local control over education and a limited federal role - for its ability to foster local control of education, encourage experimentation, and promote a robust competition for excellence in education. n4 This approach to education [\*288] federalism also is praised for how it enables local communities to respond to local needs and promotes accountability. n5 The current structure of education federalism resembles the relationship between the national and state governments, and like that relationship, it seeks to capitalize on an array of viewpoints and methods regarding the most effective approaches to education. n6

Although the nation's current approach to education federalism undoubtedly generates some benefits, it also tolerates substantial inequitable disparities in educational opportunity both within and between states. n7 The reality of local control of education for many communities means the ability to control inadequate resources that provide many students substandard educational opportunities. n8 The [\*289] opportunity divide in American education continues to relegate far too many poor and minority schoolchildren to substandard educational opportunities. n9 These communities are left behind in the competition for educational excellence. n10 In addition, high-poverty schools, particularly those within urban school districts, regularly yield the worst academic outcomes. n11

[\*290] These disparities in educational opportunity hinder schools from fulfilling some of their essential national and institutional goals. Schools serve indispensable public functions within a democratic society: they prepare students to engage in the nation's political system in an intelligent and effective manner and transmit the fundamental societal values that a democratic government requires. n12 The nation also relies on its public schools as the principal institutional guarantor of equal opportunity within American society by serving as a mechanism to ensure that children are not hindered in attaining their dreams by their life circumstances. n13 Americans depend on schools to address the societal challenges created by social and economic inequality rather than creating the extensive social welfare networks that many industrialized countries have implemented. n14 The disparities in educational opportunity that relegate many poor and minority students to substandard schooling have hindered the ability of schools to serve these functions. Indeed, rather than solve these challenges, low graduation rates and substandard schools cost the United States billions of dollars each year in lost tax and income revenues, higher health care costs, food stamps, and welfare and housing assistance, to name a few of the costs. n15

### Federal Action Key

#### Federal control insures internationalized standards – key to competitiveness

McGOVERN ’11 (Shannon K.; JD – New York University School of Law, “A New Model for States as Laboratories for Reform: How Federalism Informs Education Policy,” 86 N.Y.U.L. Rev. 1519, November, l/n)ww

The validity of the educational quality rationale for local control thus depends on whether schools require flexibility to respond to unique local conditions. Regional differences are often exaggerated in an era of unprecedentedly nationalized politics, policy, and culture. n73 Nonetheless, undeniable differences in demographics and tax policy, among other things, remain between and within states. Concentrated populations of English-language learners or low-income students in particular localities or states may require specialized local educational policy. n74 On the other hand, local differences may jeopardize rather than promote quality education if not for federal intervention. For instance, a state or locality's limited fiscal capacity or tax effort can drastically reduce per-pupil expenditures, n75 or educational content [\*1533] may vary with local political ideology n76 in an era in which state and federal policy makers agree that the use of internationalized standards are necessary for post-secondary success as well as national competiveness. n77 Recognition of the necessity of local/state solutions to some uniquely local/state problems is not inconsistent with federal oversight of education. It simply requires a sensitive application of the federalism model described in Part I. The fact that local governments can solve some problems better should not preclude the federal government from making supplementary, or even overlapping, efforts.

#### Federal action is key to solve competitiveness

McGOVERN ’11 (Shannon K.; JD – New York University School of Law, “A New Model for States as Laboratories for Reform: How Federalism Informs Education Policy,” 86 N.Y.U.L. Rev. 1519, November, l/n)ww

A. The National Interest in Education Necessitates Federal Leadership

As true local control is supplanted in part by state regulation, n132 the relevant stakeholders in education outcomes also must change. Local control capitalizes on the value of small government political accountability as well as parental and community involvement in policy making. The nationalization of education reform engenders a new value particularly, though not exclusively, salient to national stakeholders: global competitiveness. While states have a mutual interest in the economic prospects of their denizens in a globalized society, n133 interstate inequalities in education inputs and outputs call for federal involvement. n134

1. Competitiveness in the International Sphere

How American education measures up on the global stage has been a central concern since the National Commission on Excellence in Education sounded the alarm in A Nation at Risk in 1983. n135 Nearly thirty years later, however, American students continue to lag behind their peers. Disparities are particularly apparent at the secondary school level. Consider the recent performance of fifteen-year-olds on PISA, a test administered by the Organisation for Economic Cooperation and Development (OECD), an organization of thirty-four North American, South American, European, and Asian nations. The exam, which is given every three years, tests knowledge in reading, mathematics, and science in nine-year cycles; one of these three subjects is the major assessment area in any given exam administration. n136 Despite modest gains in science, recent PISA results for U.S. students otherwise show little change from earlier exam administrations, n137 notwithstanding the intervening passage of NCLB. In [\*1544] 2009, a "reading year" and the most recent exam administration for which data are available, the United States scored fourteenth in reading, seventeenth in science, and twenty-fifth in mathematics out of thirty-four OECD participants. n138 American mean reading and science scores are each at or near the OECD average, but the United States' mathematics performance was deemed below average by a statistically significant margin. n139

PISA results have proven to be a useful diagnostic for participating countries, providing sound evidence both of international standing and domestic performance over time. n140 While preoccupation with rankings can exaggerate deficiencies, the OECD has estimated that the differences in scores between the highest-and lowest-performing OECD countries represent more than two grade levels, n141 a serious discrepancy. On average, U.S. students are at the middle of the pack but still significantly behind their peers in Korea, Finland, and Canada, the top-ranked OECD test-takers. Unfortunately, these deficits are only more pronounced for the nation's lowest-performing students. n142

2. Interstate Inequalities in Education Inputs and Outputs

The federal government is better poised to improve the international standing of the country's students to the extent that it can remedy or mitigate substantial inequalities in education inputs and outputs. Then-professor Goodwin Liu has shown that inequality of educational opportunity - measured in terms of per-pupil expenditures, academic standards under NCLB, and student performance - is more pronounced between states than within states, due largely to [\*1545] states' variable fundraising ability. n143 Unfortunately, states with low fiscal capacity have greater concentrations of low-income students, minority students, and English language learners, n144 subgroups which lag far behind their domestic and international peers. Although PISA results are not available on a state-by-state basis, demographic differences in performance are substantial. When the most recent reading scores of racial groups are isolated, Asian Americans lead all OECD countries, White Americans come in third, and Blacks and Hispanics appear near the bottom, behind students from most developed Asian and Western democracies. n145 Any discussion of U.S. educational excellence must therefore consider inequality. Substantial differences in the degree of social, racial, and economic diversity of the school-age population exacerbate the substantial funding discrepancies between states that are troubling in their own right. The problems of fiscal capacity and equality are mutually reinforcing because disadvantaged students require more funds - in the form of English-language teachers, reduced-price lunches, tutoring, and other special services - than revenue-poor states can provide. The need for wealth redistribution and protection of civil rights, functions better served by the national government, n146 provides a strong case for federal intervention.

### Education Key to Heg

#### Education is vital to the US military

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “No Quick Fix for Equity and Excellence: The Virtues of Incremental Shifts in Education Federalism,” 27 Stan. L. & Pol'y Rev 201, l/n)ww

Another important cost of a gradual approach to federal influence over funding systems is that it will allow the current inequities in funding to continue to harm children. Tomorrow's jobs increasingly demand high-level skills. Higher skills and educational outcomes will be needed for employment and to maintain a good quality of life. n240 Yet, many disadvantaged students attend schools that employ less qualified and less effective teachers. n241 Such schools also educate students with greater mobility and more behavior and learning challenges. n242 Excellent schools are essential for those students to successfully enter college or the workforce and disadvantaged students also need the out-of-school supports that can address the challenges associated with poverty. n243

The harms of inadequate and inequitable funding for schools extend beyond individual students and families. The interests of the United States also are harmed by these challenges. National security is threatened by our inadequate education system, as documented by a task force report from the Council of Foreign Relations:

The Task Force members believe America's educational failures pose five distinct threats to national security: threats to economic growth and competitiveness, U.S. physical safety, intellectual property, U.S. global awareness, and U.S. unity and cohesion. The Task Force does not deny America's military might, but military might is no longer sufficient to guarantee security. Rather, national security today is closely linked with human capital, and the human capital of a nation is as strong or as weak as its public schools. n244

[\*240] The U.S. education system also is proving inadequate to prepare many individuals for military service, given that one in five students who seeks to enter the military is not academically prepared to do so. n245

#### Education ensures responsible global stewardship

HAASS ’17 (Richard; President – Council on Foreign Relations, “A Country in Disarray,” in Part III, Section 12 of A World in Disarray: American Foreign Policy and the Crisis of the Old Order)ww

Education is a recurring theme when it comes to what the United States must focus on to put its domestic house in order. It is critical for economic growth, for assisting those workers hurt by trade and technological changes, and for attacking inequality. Much is being said and written about the danger of inequality. Yes, inequality is growing, but the real problem is not that a few are extraordinarily wealthy, but that many are poor and not seeing their living standards or prospects improve. The policy prescription is not to try to reduce inequality per se through massive subsidies and new taxes intended to redistribute wealth. This will surely fail, and any transfer of wealth will not increase the capacity of recipients to be productive but will decrease the productivity of those who are. Rather, the aim must be to make upward mobility a reality. This will come about only if there is more access to quality education, not just for young people but for all citizens as they go through their lives. The alternative, a country increasingly defined by class, would lead to lower economic growth and higher social friction, in turn producing more populism in American politics and less support for the sort of foreign policy that is required if this era is to be one of more stability than not.

Education also merits mention in another sense. This book has argued that the world matters to Americans and the United States, and that what the United States chooses to do (and not to do) in the world matters in return. Understanding these realities and judging the policies being put forward requires a citizenry that is globally literate and that appreciates the potential benefits of global involvement and the potential risks that come from globalization as well as from either too much or too little involvement in the world—or, more accurately, from too much of the wrong kind of involvement and too little of the right kind. Including global civics as a matter of course in high school and college, offerings that made clear why the world matters and the choices that face the United States, would be a good investment in the country’s future.

### A/T: Drezner

#### The impact will be comparatively longer and more severe than short term economic downturns like the mortgage crisis

NAP ’10 (National Academies Press, Members of the 2005 “Rising Above the Gathering Storm” Committee, “Rising Above the Gathering Storm, Revisited: Rapidly Approaching Category 5,” ISBN 978-0-309-16097-1 | DOI 10.17226/12999)ww

While the Gathering Storm report warned of an impending financial crisis, it was not addressing the type of crisis that subsequently occurred. It appears that the latter was unique—triggered by government policy that encouraged excessive mortgage borrowing; poor judgment in assessing risk on the parts of both borrowers and lenders; overly aggressive practices by investment banks when creating new financial instruments; and a lack of diligence on the part of regulators. This produced what has been a severe downturn. But it is not the long-term crisis of which the Gathering Storm committee sought to warn and avert. The Gathering Storm report sought to call attention to the likelihood of a far more serious and much more enduring financial reversal attributable to fundamental flaws in the nation’s process of generating quality jobs for which its citizens can be competitive. This failure includes such practices as tolerating a K-12 educational system that functions poorly in many areas, prolonged underinvestment in basic research, and discouraging talented individuals from other parts of the world, particularly, in science and technology, from remaining in America after having successfully completed their education here.

## Solvency Ext

#### The plan is an effective way to solve for inequality

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

This Article proposes three steps to cure the ESSA’s flaws and further the Elementary and Secondary Education Act’s original mission. First, the Elementary and Secondary Education Act must, in the short term, mandate that states fund schools serving predominantly low-income students at a level equal to or higher than other schools and, in the long term, that they fund such schools at proportionately higher levels. One of the most consistent findings of the past fifty years is that attending a school serving high concentrations of low-income students negatively affects educational outcomes—regardless of a student’s individual race or socioeconomic status.30 An equity mandate would also incentivize states to deconcentrate poverty and thereby minimize the number of instances they would need to afford schools proportionately more funds. Curing funding inequalities between schools, however, may be out of immediate reach for most states. Therefore, Congress should afford states a transition period to incrementally progress toward those goals or, in the alternative, allow states to demonstrate that their low-income students are achieving at appropriate levels notwithstanding unequal resource allocations.

Because states are unlikely to accept ambitious equity standards in exchange for the currently low federal funding, the second step is for the federal government to substantially increase its own funding for low-income students. A substantial additional investment would strongly incentivize states to accept the first proposal and allow the federal government to directly ensure that low-income students receive the additional resources necessary to close achievement gaps. Researchers and the federal government indicate that low-income students require 40 percent more resources than other students.31 By increasing annual federal funding for low-income students from the current $15 billion to $45 billion, the federal government could cover half of the cost of low-income students’ additional needs (although a lesser number could still create the leverage necessary for states to act). 32 Compared to other expenditures, including recent temporary federal funds for education, this increase would still be a modest expenditure.

# States CP Answers

### Solvency Deficit – Progressive Funding

#### Federal funding is superior – it relies on a progressive tax system

ROBINSON ’12 (Kimberly Jenkins; Professor of Law – University of Richmond, “The Past, Present, and Future of Equal Educational Opportunity: A Call for a New Theory of Education Federalism,” 79 U. Chi. L. Rev. 427, Winter, l/n)ww

A prominent federal role also will be needed to remedy the current disparities in educational opportunity because effective intervention will require a substantial redistribution of educational opportunity that decouples the link between low-income, typically minority families and substandard educational opportunities. Several education scholars have noted that the federal government would most effectively accomplish the redistribution of educational opportunity that equal educational opportunity would require. For [\*457] example, one education scholar has explained that the federal government is the most appropriate level of government to undertake redistribution

for two reasons: first, the progressivity of the federal tax system, as against the regressivity of the sales and property taxes on which states and localities heavily rely; and, second, the ability of the well-off and of business interests to thwart redistribution more persuasively by threatening to leave a state than to depart the country. n88

Another has noted that the federal government may be the only level of government that would engage in the redistribution that educational equity requires. n89 Similarly, Ryan acknowledged in an earlier work that research shows that redistribution is a task that the federal government performs far better than the states. n90 Thus, charging the federal government with this task enlists the involvement of the level of government that is the most efficient and effective at accomplishing it. n91

#### Regressive state taxation fuels inequality

KADES ’16 (Eric; Thomas Jefferson Professor of Law at William & Mary, “Giving Credit Where Credit is Due: Reducing Inequality with a Progressive State Tax Credit,” Louisiana Law Review, v. 77 n. 2, Winter)ww

Anyone not living in a cave knows that since about 1980, income inequality in America has exploded. Top incomes have soared while middle and lower class paychecks have stagnated.1 Just as income inequality has exploded, so too has the scholarly literature surrounding inequality.2 Commentators have proposed a number of stock policy measures to deal with inequality, from increasing the minimum wage to reinvigorating unions to imposing a global tax on capital.3 This Article, by contrast, takes a new tack. First, it identifies a key driver of today’s income inequality entirely within the control of governments: unfair, regressive state taxation. Second, it proposes a novel means of ameliorating that inequality through the use of a federal income tax credit.

Simply put, the tax regimes of all 50 states4 are unfair. From the perspective of fairness and equity, tax systems come in three flavors. If the percent of income paid in taxes—the “average” or “effective” tax rate— increases with income, the tax is progressive; if this percent is equal across all incomes, it is a “flat” tax; and if percent tax burdens fall as income rises, the tax is regressive. The federal income tax is and always has been progressive—the percent of total income paid in federal taxes rises with income.5

Although the flat tax rate structure has advocates,6 it is hard to find friends of regressive taxation. Yet, despite the almost complete absence of express support for regressive taxation, it turns out that every single state in the United States taxes regressively.7 This regression occurs primarily because widely used, highly regressive sales taxes and potentially regressive property taxes outweigh slightly progressive state income taxes—for those states that tax income. States that lack income taxes and rely almost exclusively on sales and property taxes have the most regressive overall tax systems.8 One of the most egregious examples is the state of Washington, where the lowest-income households must devote 16.8% of their income to state taxes while those at the top pay less than 2.8%.9 This is an astounding level of regressivity, and many states have only modestly less regressive tax systems.10

Regressive state tax schemes gratuitously contribute to inequality. Some of the market forces driving the divergence between the top 1% and everyone else are so elemental that governments can do little to counteract them.11 Taxation, however, is an animal entirely of government creation and entirely under government control. It is disturbing and perverse that state tax codes are “piling on” to inequality instead of offsetting it, as the federal income tax does.

### Solvency Deficit – Capacity

#### States lack the capacity to act

McGOVERN ’11 (Shannon K.; JD – New York University School of Law, “A New Model for States as Laboratories for Reform: How Federalism Informs Education Policy,” 86 N.Y.U.L. Rev. 1519, November, l/n)ww

The second principal justification for federal involvement is, unlike the first, structural and process oriented. In the education field, [\*1547] state bureaucratic capacity is, like its federal counterpart, fairly new. On the eve of the enactment of NCLB's antecedent, the ESEA, the Johnson Administration was concerned that state education departments were too weak to implement its provisions. n154 While state departments have been charged with implementation of an increasing number of federal education statutes in the intervening forty years, they have built up their compliance capacity at the expense of true policy expertise. n155 Limited state funds, the "sheer magnitude of the reforms states have initiated since the early 1980s," and a poor research base from which to assess policy have further limited their capacity. n156 This lack of capacity means that states do not, on average, possess sufficient resources and expertise to implement education reform unilaterally.

#### State action is susceptible to various problems

KURZWEIL ’15 (Martin A.; Lecturer in Law – Columbia Law School and Director – Educational Transformation Program, “Disciplined Devolution and the New Education Federalism,” June, 103 Calif. L. Rev. 565, l/n)ww

The proliferation of these devolutionary approaches to progressive policy making also bears risks, however. Most notably, devolving policy-making authority to states without sufficient accountability for their adherence to federal goals may result in inadequate implementation of the federal policy. That risk is particularly salient when the federal government seeks to provide a benefit or protect vulnerable populations that lack political power in the states. For instance, resistance by Republican-led states to the ACA's Medicaid expansion came at the expense of providing medical coverage to uninsured individuals. n87 Further, without strong federal involvement, states may end up regulating in a way that is in their narrow self-interest but contrary to the broader national interest. For example, devolution raises the classic concern of a "race to the bottom" in the provision of social services or regulation of corporate or environmental practices. n88

Moreover, although the aforementioned examples of creative policy making serve as an important counterpoint, many state and local government agencies are themselves organized as hidebound bureaucracies. n89 Transferring policy-making responsibility from the federal bureaucracy to a state or local bureaucracy may result in the same rule-based, compliance-focused governance. Although disaggregating policy making may result in more differentiation by jurisdiction, the same problems of uniformity, inflexibility, and street-level arbitrariness may persist within each jurisdiction. Relatedly, national political disputes are increasingly replicated at the state or even local levels, further rendering the devolutionary strategy simply a microcosm of the traditional federal structure's dysfunction. n90

Furthermore, state and local officials may lack the resources, perspective, or expertise to address particularly challenging problems. Resource constraints may result from limited appropriations, an overly broad or burdensome portfolio of responsibilities, or both. Moreover, state and local officials are likely to be focused on the design and effects of policy in their jurisdictions, but what makes sense locally may not make sense nationally, because of either [\*582] externalities or aggregation problems. In addition to concerns about conflicting local and national incentives, state and local officials may have little awareness of successes or failures outside their jurisdiction and therefore be unable to learn from those experiences. And while policy expertise can be built through experience, the distribution of talent is such that there are undoubtedly state and local offices struggling with policy problems for which they lack expertise.

### Solvency Deficit – Data Collection

#### States lack the capacity and expertise to solve – Federal research and technical assistance is key to achieving educational equality

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

For the federal government to lead a comprehensive national effort to ensure equal access to an excellent education, the federal government must provide generous support for the rigorous, objective research and effective technical assistance state and local governments will need to reach this goal. Substantial variations exist in the educational, economic, and administrative capabilities of states. n203 One of the principal hindrances to NCLB's success was insufficient capacity at the state and local level to implement the required changes. n204 Comprehensive reforms to ensure equal access to an excellent education will demand even more from states than NCLB. Therefore, federally supported research and technical assistance must help state and local governments develop the capacity to implement effective reforms. n205

Fortunately, Congress already has begun to recognize the need for rigorous educational research through its passage of the Education Sciences Reform Act (ESRA). n206 Congress passed ESRA in 2002 to provide research that would assist the states in complying with NCLB. n207 ESRA created the Institute of Education Sciences (IES) and authorized IES to engage only in research based on science. n208 This congressional requirement represents a substantial shift in how the federal government is [\*995] conducting and funding education research. n209 This change has been noted as a promising development in congressional support for education research and some believe that IES has helped emphasize evidence-based approaches for education research that could focus attention on reforms that could be replicated. n210 The passage of ESRA indicates that Congress recognizes the need for federal support for high-quality education research to enable the United States to reach its essential educational goals.

Rigorous, objective research that supports a national effort to ensure equal access to an excellent education should build on this success while also establishing an agenda that identifies the critical research states need as they enact reforms to achieve this goal. This research would examine the most cost-effective and efficient state funding methods that ensure equal access to an excellent education. n211 It also could propose and test funding models that states have not yet adopted. In addition, federal research could assess school governance and funding models from other countries that provide a more equitable distribution of educational resources.

Additionally, federally supported research could help identify and disseminate research regarding the essential characteristics of high-quality educational offerings. For example, scientifically based research on such topics as the essential characteristics of a high-quality prekindergarten program should serve as the foundation for identifying how to close opportunity gaps in prekindergarten education. n212 Harvard scholar Hirokazu Yoshikawa has found that these characteristics include involving children in planning activities and creating low student-teacher ratios. n213 In [\*996] addition, the federal government should ensure that existing rigorous research on this topic is disseminated to states so that states can avoid costly duplication of research as they develop new programs.

A federal research agenda also should identify the primary impediments to ensuring equal access to an excellent education. For instance, research indicates that challenging work environments in urban schools discourage highly qualified teachers from teaching in such schools. n214 Once common impediments are identified, research should examine the costs and benefits of potential reforms to address these impediments. The federal government could assist states and localities as they undertake and support research that responds to regional, state, and local conditions that present unique challenges. n215

Establishing a federal research agenda to ensure equal access to an excellent education would capitalize on the federal government's substantial comparative advantage over states and localities in conducting and supporting research. n216 It would eliminate the inefficiencies caused by each state conducting its own research. This research also would reduce the cost of state efforts to achieve this goal by offering research that supplies the possible reforms for achieving this goal. n217 Once this research is disseminated, it would provide state and local governments sufficient models to consider as they develop state-and district-specific plans of action.

In addition to research assistance, the federal government should offer technical assistance that supports state efforts to ensure equal access to an excellent education. This component would strengthen the existing federal-state relationship because the federal government offers technical assistance on a wide variety of issues, including assistance on how to achieve the core goals of RTTT, n218 early childhood education, n219 and [\*997] special education. n220 To achieve this goal, the states may need federal technical assistance on the most effective and efficient funding mechanisms and other reforms and the common barriers to successful reforms. In addition, state and local governments may need federal technical assistance regarding how to develop data collection systems that enable states and localities to document the scope of opportunity gaps and the effectiveness of efforts to reduce those gaps. Although NCLB provided a strong impetus for states to develop new data systems in order to comply with the law's standards for teacher quality, this issue received less attention from states once it became clear that those requirements would not consistently be enforced. n221 Federal technical assistance should help preclude any unnecessary diversion of resources and duplication of effort that would occur if each state had to develop such technical expertise on its own. n222

Additional federal technical assistance is essential to supplement the limited capacity of some state education agencies to implement comprehensive reform. n223 As education scholar Paul Manna insightfully noted in his comprehensive analysis of NCLB implementation:

Despite being charged with implementing education policy in a state, these agencies have tended to possess little expertise in actually working on substantively important education initiatives, such as the development of standards, curriculum, and tests. Instead, their main purpose has been to distribute state and federal money to local communities and then monitor to ensure that those dollars have been spent appropriately. n224

Although the capacity and expertise of state education agencies has grown as they have implemented NCLB, these agencies, along with state legislatures, may still lack the capacity and expertise to implement a comprehensive reform agenda to ensure equal access to an excellent education. The federal government could address this capacity gap by providing essential expertise on effective reforms as its understanding of these issues deepens through the implementation of the research agenda.

#### Federal data collection is necessary to solve for experimentation

GROSS and HILL ’16 (Bethany; Research Director at the Center on Reinventing Public Education at the University of Washington Bothell and Paul T.; Research Professor of Public Affairs, University of Washington Bothell and Founder of the Center on Reinventing Public Education, “The State Role in K--12 Education: From Issuing Mandates to Experimentation,” Summer, 10 Harv. L. & Pol'y Rev. 299, l/n)ww

To make real progress in the common search for instructional improvements and greater equity, states need to adopt a collaborative, evidence-based project like democratic experimentalism, an idea pioneered by Columbia University law professor Charles Sabel and used by the European Community. n98 As explained by Sabel and colleagues, democratic experimentalism is appropriate for situations in which independent entities like U.S. states can collaborate and benefit from one another's experience without giving up their freedom of action to some higher level of government. Proponents do not claim that it is always more efficient than centralized decision-making, but rather that it is a way to make progress when, as is the case with state governments, the entities involved will not or cannot give up their independence.

Under democratic experimentalism, independent communities (e.g., states) engage in four related activities: (a) they work together to test out alternative approaches to reach a goal that none has yet attained, (b) they rigorously assess the results and evidence about conditions leading to success and failure, (c) they create a mechanism by which these results are fully [\*320] shared, and (d) they commit to using past results as the starting point for further experimentation. n99

Charles Sabel and his colleague Michael Dorf have shown how democratic experimentalism has been used in the European Community and suggest how it can work in the United States. As they argue, it is ideal for a federal system in which all units are struggling with a problem that none has solved. n100 As Sabel writes:

The more uncertain the world--the harder it is to know what it can become--the riskier and potentially more costly it is to rely on familiar strategies (and associated conceptions of self-interest) resting on complex assumptions about the way the world must be; the more prudent it becomes to the contrary to entertain the possibility of elaborating next steps with others similarly at sea, on condition that they share what they learn and bear a share of the costs of exploration. n101

In the United States, this approach has been used in environmental resource management, n102 environmental regulation, treatment of substance abusers, provision of child-protective and other services to at-risk families, and reform of sentencing and police practices. n103 Sabel also cites the 1989 devolution of governance of Chicago city schools to local site councils as an example of democratic experimentalism. In the European Union, democratic experimentalism has been used in refinement of social service delivery and, in Britain, a broad devolution of governing power from Whitehall to Scotland. n104

The established United States tradition of cooperative federalism, with its independent action and lack of disciplined analysis, "falls short of creating an experimentalist regime. What is missing is the continuous pooling, at the national level, of local experience and ongoing revision of norms [e.g., of what can be accomplished] at various levels in the light of it." n105

Democratic experimentalism goes beyond mutual imitation and sharing of fads in two ways. n106 First, entities (e.g., states) have to create internal conditions under which diverse experimental initiatives can be fully implemented [\*321] and tested. In K-12 education, states need to make it possible for localities, and even individual schools, to experiment with factors that in the past have been standardized by law and regulation. In many respects, this approach is a departure from the inputs-driven policy of the first part of the twentieth century, but potentially consistent with the more recent performance orientation sparked in part by NCLB.

Second, states must commit to serious analysis of results and sharing them through an objective mechanism that no single set of states or policy advocates controls. Professors Dorf and Sabel suggest that federal entities like the European Union or the United States national government can perform this function. n107 Again, many states are currently well positioned to participate in this function, given the data and analytic capacity they have developed through NCLB and RTTT.

#### Federal data collection is effective

GROSS and HILL ’16 (Bethany; Research Director at the Center on Reinventing Public Education at the University of Washington Bothell and Paul T.; Research Professor of Public Affairs, University of Washington Bothell and Founder of the Center on Reinventing Public Education, “The State Role in K--12 Education: From Issuing Mandates to Experimentation,” Summer, 10 Harv. L. & Pol'y Rev. 299, l/n)ww

Despite unending controversy over its role and warrant for existence, USDOE seems equipped to manage and fund the aggregation and use of data from state and local experiments. The USDOE's Institute for Educational Sciences (IES), for example, is a comprehensive center that provides funding for research on a wide range of educational priorities. IES also funds Regional Education Labs that provide research and analysis capacity to multi-state geographic regions. These labs operate with a mandate to evaluate state and district policies and to aggregate and disseminate this research throughout the region. In addition, the USDOE has funded a system of Comprehensive Centers, including five special content centers and fifteen geographically-organized regional centers. The USDOE charges Content Centers with synthesizing the latest research and policy thinking in their respective domains, including Capacity and Productivity, College and Career Readiness, Early Learning, Teachers and Leaders, Innovations in Learning, School Turnaround, and Standards and Assessments. These Content Centers then funnel what they learn to states via the Regional Centers, which work directly with state agency staff to design and implement educational policy. n114

### Solvency Deficit – Interstate Disparities

#### Interstate disparities prevent solvency

ROBINSON ’12 (Kimberly Jenkins; Professor of Law – University of Richmond, “The Past, Present, and Future of Equal Educational Opportunity: A Call for a New Theory of Education Federalism,” 79 U. Chi. L. Rev. 427, Winter, l/n)ww

States lack the capacity and resources to remedy the full range of inequalities in educational opportunities in this country. Ryan's book focuses on intrastate disparities and the reforms that have attempted to address such disparities. However, as noted in Part II.B, the intrastate disparities that Ryan examines in his book are not the greatest source of educational inequality in the United States. Instead, education law scholar Goodwin Liu has documented that "the most significant component of educational inequality across the nation is not inequality within states but inequality between states" and that "the burden of such disparities tends to fall most heavily on disadvantaged children with the greatest educational need." n86 His research also shows that states differ substantially in their capacity to fund education, and thus significant federal intervention is needed to remedy interstate educational inequality. n87 Given the prevalence of intrastate and interstate inequality and the disparate capacities of states to fund education, the capacity and resources of the federal government must be enlisted to remedy the full scope and depth of inequality in educational opportunity in this nation.

#### Counterplan doesn’t solve for interstate disparities

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Throughout this nation's history - even acknowledging state reforms of education and school finance - the states have not taken sustained and comprehensive action to ensure that all students receive equal access to an excellent education. n115 Redistributive goals and equity concerns are simply not consistent state priorities for education. n116 Indeed, the 2013 report from the Equity and Excellence Commission found that: Any honest assessment must acknowledge that our efforts to date to confront the vast gaps in educational outcomes separating different groups of young Americans have yet to include a serious and sustained commitment to ending the appalling inequities - in school funding, in early education, in teacher quality, in resources for teachers and students and in governance - that contribute so mightily to these gaps. n117 [\*979] Furthermore, intrastate reforms cannot address significant and harmful interstate disparities in funding. n118

### A/T: Sufficiency Framing

#### Disregard sufficiency framing – adequacy can’t be determined independent of equality – resolving disparities in education is necessary to solve

LIU ’06 (Goodwin; Assistant Professor of Law – University of California-Berkeley, “Education, Equality, and National Citizenship,” November, 116 Yale L.J. 330, l/n)ww

In its broad outlines, the content of educational adequacy follows directly from citizenship's several facets. Citizenship requires a threshold level of knowledge and competence for public duties such as voting, serving on a jury, and participating in community affairs, and for the meaningful exercise of civil liberties like freedom of speech. It also requires sufficient education for productive work and the self-reliance, respect, and autonomy that work entails. [\*346] Beyond these thresholds, the concept of citizenship admits variation and inequality in educational opportunity. Not all citizens of a society will enjoy the same advantages as the relatively well-off. As a practical reality, some will have greater influence over public decision-making than others, some will have greater access to economic opportunity than others, and the field will be tilted in favor of those with better education. But these inequalities need not threaten equal dignity and full membership so long as they occur above a sufficiently high threshold. n60

Importantly, educational adequacy, as I understand it here, is a relational concept whose content is contingent upon social norms. The essential substance of citizenship cannot be specified by a fixed or objective minimum that is independent of the range of human welfare and capabilities existing in a particular society. Because citizenship marks full participation and belonging "according to the standards prevailing in the society," n61 the level of educational opportunity, civic competence, and material well-being necessary for equal dignity and mutual respect depends on what other members of the society have. Children in Mississippi, for example, have far better educational opportunities than children in Mozambique. n62 But the social meaning of a particular level of education - what it means to an individual's ability to enjoy full membership in her society - must take into account the society's circumstances and norms. Thus, adequacy is not distinct from, but rather informed by, the conditions of inequality in a given social context. n63 This relationship between adequacy and equality is what I have in mind when I say that the Fourteenth Amendment guarantees educational adequacy for equal citizenship.

 [\*347] In defining adequacy this way, I reject the sharp dichotomy between equality and adequacy that is often drawn in the education law and policy literature. The conventional view is that "equality is necessarily comparative or relational while sufficiency is not." n64 Adequacy is thought to require only "a static, non-relational, non-comparative, definition of "proficiency'" in educational standards. n65 So conceived, adequacy is criticized for setting too low a standard for distributive justice and for failing to ensure fairness in competitive fora, such as university admissions and employment, that reward educational advantage. n66 But this criticism rests on a conception of adequacy that is artificially thin and unduly divorced from notions of equality. For in defining educational adequacy, it is impossible to avoid the question "adequate for what?" The answer necessarily vests adequacy with a relational quality.

If equal citizenship is the object, then several implications follow. First, the floor of educational opportunity must be sufficiently high to ensure not bare subsistence, but the achievement of the full range of human capabilities that constitute the societal norm. Second, the notion of educational adequacy must be dynamic, evolving as societal norms evolve. And third, adequacy must entail a limit to inequality, a point at which the maldistribution of educational opportunity puts too much distance between the bottom and the rest of society. Adequacy is thus a function of the range and contours of the overall distribution. It is a principle of bounded inequality. n67

 [\*348] Thus, in calling attention to educational disparities between states, my purpose is not to suggest a rigid requirement of national leveling, but instead to situate the concept of educational adequacy within a framework of national norms. The fact of interstate variation in educational opportunity does not itself offend the notion of equal citizenship. But the sheer magnitude of current disparities is at least strong evidence that an average education in many states does not adequately prepare students for equal citizenship in the national community.

#### The magnitude of the problem demands a federal response

ROBINSON ’12 (Kimberly Jenkins; Professor of Law – University of Richmond, “The Past, Present, and Future of Equal Educational Opportunity: A Call for a New Theory of Education Federalism,” 79 U. Chi. L. Rev. 427, Winter, l/n)ww

The federal government will also need to shoulder a significant burden to accomplish equal educational opportunity because the problem of inequality is a deeply entrenched and vast problem that a state or district would have difficulty tackling alone. The disparities in educational opportunity exist at the intersection of numerous inequalities that reinforce each other. n82 Inequality is extremely difficult to eradicate because different types of inequality combine to create "the additive nature of inequity - that poor kids live in poor neighborhoods with poor schools that produce poor academic [\*456] outcomes that lead to poor job prospects." n83 Indeed, these inequalities have been apparent since the early twentieth century and have remained in place ever since. n84 The research of critical race theorist and comparative law scholar Daria Roithmayr explains how inequalities reinforce each other and then become "locked in" and thus extremely difficult to remedy. n85

### A/T: Accountability

#### Plan doesn’t bypass accountability – it adds an additional layer

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Federal reform consistent with my theory for disrupting education federalism might diminish some state and local accountability for education. Once the federal government takes responsibility as the final guarantor of equal access to an excellent education and thereafter monitors state progress toward achieving this goal, the public will begin to hold the federal government accountable for educational disparities. This accountability is more diffuse and less effective than state and local accountability because federal officials are more removed from state and local electorates and are held accountable for a wider range of decisions. n336

However, it is important to note two responses to this concern. First, the public has not effectively held state and local officials accountable for closing opportunity gaps. For that reason, adding an additional layer of accountability - even a diffuse layer - could facilitate achievement of this objective. Second, as noted above, this proposed theory would not remove state and local accountability for ensuring equal access to an excellent education. Instead, state and local officials would be charged with designing and implementing plans to achieve this goal and thus critical aspects of state and local accountability would be preserved. n337 Federal officials would be responsible for offering some of the incentives, research, expertise, and financial support that is needed to accomplish this objective. In these ways, my proposed theory ultimately would increase total government accountability for achieving this goal. For these reasons, it would more effectively reap some of the benefits that education federalism is designed to achieve.

### A/T: History of Failure

#### Past failures aren’t indicative of the plan – we’ve learned from the mistakes of flawed policies

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Others may contend that the United States should rein in the growing federal role in education. In some ways, this criticism points to the failures of past federal initiatives as evidence that the federal government's role in education should be curtailed. Most recently, some scholars condemn the shortcomings and implementation of NCLB and RTTT. n265 Undeniably, the federal government has undertaken a variety of unsuccessful education reforms. n266 Yet, an established track record in education over the last fifty years has given us ample evidence to identify the strengths and weaknesses of federal education policymaking. My theory intentionally builds upon identified federal strengths in innovative and progressive ways. In particular, the theory builds on the foundational premise that in the face of inconsistent and overwhelmingly ineffective state reform, the [\*1005] federal government enjoys a superior and more consistent reform record on issues of educational equity. n267 Education scholars Charles Barone and Elizabeth DeBray confirmed this superior track record in stating that:

Over the past half century, Congress has most frequently sought, and in most cases successfully enacted, sweeping changes to federal law when (1) a segment of U.S. Society was judged as having been denied equal educational opportunity and (2) states and municipalities were unable or unwilling to remedy those inequities. In education, as in other areas, like voting rights or retirement security for seniors, this has unquestionably been its most important and powerful role. n268

My theory builds upon this superior record in proposing a theory for disrupting education federalism that can guide the United States toward equal access to an excellent education.

#### Responsibility and Empirical Success mean federal action is key

ROBINSON ’12 (Kimberly Jenkins; Professor of Law – University of Richmond, “The Past, Present, and Future of Equal Educational Opportunity: A Call for a New Theory of Education Federalism,” 79 U. Chi. L. Rev. 427, Winter, l/n)ww

A primary reason that the federal government would need to play a central role in ensuring equal educational opportunity in the future is because the overwhelming majority of states have steadfastly refused to take consistent and meaningful action to minimize disparities in educational opportunity. Ryan's discussion of school finance litigation reveals that even when plaintiffs have been successful, increases in funding have been minimal and the basic structure of educational opportunity and finance has remained unchanged (pp 153, 178). Other research similarly concludes that numerous states successfully resisted school finance reform even in the face of court mandates. n72 Similarly, Ryan chronicles how localities have placed limits on school choice that hamper its ability to have a substantial impact on student achievement and racial isolation (pp 209, 215). Given past resistance to reform at the state and local level, it seems unlikely, at best, that states and localities would suddenly have a change of heart and champion equal educational opportunity.

Before examining why the federal government should lead the nation's efforts to achieve equal educational opportunity, it is important to recognize that the federal government also bears substantial responsibility for the current disparities in educational opportunity. For instance, the Supreme Court's decisions on desegregation ultimately sanctioned a return to segregated schools and thus eviscerated the ability of desegregation litigation to ensure educational equity. n73 President Nixon also directed executive branch officials charged with enforcing desegregation to slow down their actions and to challenge the National Association for the Advancement of Colored People in litigation (pp 59-60). NCLB also encouraged states to set low academic standards and thus hindered the ability of the standards movement to raise the bar for academic achievement in low-achieving schools (p 250).

Nevertheless, the federal government enjoys a far superior track record in promoting educational equity than states and localities. The federal government has a solid - but not unblemished - [\*455] historical record in promoting equal educational opportunity. n74 In fact, a primary impetus for federal involvement in education has been ensuring the equitable provision of educational opportunity since the 1950s. n75 Federal legislation prohibits recipients of federal funds from discriminating on the basis of race, color, or national origin. n76 Federal legislation requires that students with disabilities receive a free, appropriate public education. n77 Indeed, some view guaranteeing equal educational opportunity as the central federal role in education. n78 Most importantly, the nation's historical reliance on federal intervention to promote equal educational opportunity also indicates that the federal political process is more amenable to embracing such efforts than state political processes. n79 This may be the case because it is easier for the wealthy and others invested in the current system to threaten that they will depart from a state than from the entire country. n80 As a result, "the federal government is uniquely positioned to mobilize a national effort and encourage state and local action whenever a critical educational need arises." n81

### Perm Solvency – Data

#### State data collection fails – the permutation is best

GROSS and HILL ’16 (Bethany; Research Director at the Center on Reinventing Public Education at the University of Washington Bothell and Paul T.; Research Professor of Public Affairs, University of Washington Bothell and Founder of the Center on Reinventing Public Education, “The State Role in K--12 Education: From Issuing Mandates to Experimentation,” Summer, 10 Harv. L. & Pol'y Rev. 299, l/n)ww

Of course, the analytic capacity to support democratic experimentalism can come from the federal government, interstate consortia, or both. Indeed, both approaches offer complementary advantages and disadvantages. The USDOE is highly resourced and has historically allocated significant resources to its research arm, IES. For fiscal year 2016, the federal government appropriated $ 68 billion of discretionary funding to the USDOE with almost $ 620 million to IES. n119 Department leadership and management, however, are often distant from the day-to-day issues in public school systems, making it difficult for them to judge the most pressing priorities facing states, districts, and schools. n120 Likewise, USDOE has a history of operating prescriptive grant programs and enforcement processes, and has been staffed largely with those purposes in mind, rather than supporting democratic experimentalism. n121 Still, if the enactment of ESSA moves the USDOE away from centralized program administration, it could play an important role in promoting and sustaining democratic experimentalism.

A cross-state consortium might more credibly claim a commitment to evidence-based improvement. Unlike the USDOE, current state leaders are often active participants in these networks, providing the consortium with a direct connection to those who are sorting through the challenges of educational policy in their local context. CCSSO, for example, regularly convenes state leaders to engage in dialogue on salient policy issues from across the country. The Innovation Lab Network provides a forum for self-selected states committed to piloting innovative policy solutions to share and learn from others' experiences. n122

At the same time, these organizations often do not have ready access to government funds and would either have to gain stable foundation support or depend on states' contributions. These sources of support could prove too [\*324] small and unstable to be the sole source of analytic capacity for the nation. They could, however, provide early proving grounds for small-scale experiments and a forum for state leaders to share new knowledge and innovation.

# Federalism Answers

### Non-Unique – Empirically Denied

#### Many federal laws concerning education have been passed over the last 50 years

DYSON ’16 (Maurice R.; Harlan Fiske Stone Scholar, J.D. Columbia University School of Law; Scholars Fellow, Teachers College, Columbia University, “Rethinking Rodriguez After Citizens United: The Poor as a Suspect Class in High-Poverty Schools,” 24 Geo. J. Poverty Law & Pol'y 1, Fall, l/n)ww

Within the field of education, one can also argue that the deference that once characterized the Rodriguez Court's concern with federal intermeddling in complex state educational affairs has now been eclipsed by the expansion of the role the federal courts and government have since played in education. n31 Indeed, one need only look at the No Child Left Behind Act, n32 The Race to the Top [\*10] Initiative n33 and the Every Student Succeeds Act n34 enacted over the past decade or more to see that federal oversight into complex educational affairs is now largely a foregone conclusion.

#### Local control of education hasn’t existed for decades

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Some may critique my proposed theory for reducing state and local control of and accountability for education. As analyzed in Part I.B.1, it is important to remember that state and local control of education has greatly diminished over the last few decades and that scholars have noted that local control has not characterized the nation's schools for quite some time. n328 In addition, local control is not typically considered an end in itself. As political scientist Douglas Reed insightfully noted, "Local control is a good thing to the extent that it improves educational performance and builds strong communities; to the extent that it isolates, excludes, and homogenizes our schools, rendering them grossly unequal, localism is a problem." n329 Therefore, my theory seeks to reduce harmful aspects of state and local control of education while simultaneously empowering beneficial and collaborative aspects.

### Non-Unique – A/T: ESSA

#### ESSA doesn’t eliminate federal involvement in education

BULMAN-POZEN ’16 (Jessica; Associate Professor of Law – Columbia, “Executive Federalism Comes to America,” 102 Va. L. Rev. 953, June, l/n)ww

Education policy for the past decade has been set by a series of executive agreements - among the states, between groups of states and the federal executive branch, and between individual states and the federal executive branch. Recent federal legislation challenges such executive federalism in both form and substance. The area in which state and federal executive policymaking has been most aggressive thus now offers a test for the practice. It is too soon to say whether the Every Student Succeeds Act ("ESSA") reveals executive federalism's limits or, instead, demonstrates its durability, but there is reason to suspect the latter.

Between 2007, when the No Child Left Behind Act ("NCLB") was due to be reauthorized, and December 2015, when the ESSA was passed, state and federal executives assumed control of national education policy in Congress's absence. n137 States collaborated with one another, and the Department of Education, together with the White House, embraced, further incentivized, and remolded interstate agreements. Although NCLB imposed a set of requirements for states to receive federal funding, it left the content of educational standards and assessment to [\*988] states. n138 In April 2009, governors and commissioners of education from 48 states launched an effort to develop common proficiency standards for English language and mathematics, resulting in the Common Core State Standards. n139 The adoption of these standards largely occurred through state executive branches n140 and prodded additional interstate collaboration around implementation. n141

As state executives were collaborating on the Common Core, the federal executive branch was grappling with the nonamendment of NCLB and concerns about enforcing federal statutory requirements that no state would be able to satisfy. n142 Relying first on Recovery Act funds and then on its broad waiver authority under NCLB itself, n143 the federal executive incentivized states to adopt the Common Core standards. n144 The Department of Education did not simply bless interstate governance, but effectively required it as an aspect of participation in a federal scheme. Although the federal executive was not responsible for the establishment of the Common Core, then, it was largely responsible for its rapid diffusion. n145 The Department further stimulated state collaboration through funding to "consortia of states" that would develop assessment systems for the Common Core standards. n146 The resulting consortia - the Partnership [\*989] for Assessment of Readiness for College and Careers ("PARCC") and the Smarter Balanced Assessment Consortium - received funding by entering into "cooperative agreements" that provided for "communication, coordination and involvement" with Department of Education officials. n147

The federal executive branch also engaged in ongoing negotiations with individual states around the NCLB waivers in particular. n148 For instance, Oklahoma lost its NCLB waiver after the Governor repudiated her support for the Common Core and state membership in the PARCC consortium. State officials then entered into discussions with the Department of Education, and the waiver was ultimately reinstated, leading one critic to cite "an interesting mix of federal influence and state persistence in resolving the intergovernmental tension over decisions on state standards." n149

Insofar as interstate action facilitated federal executive action and was then altered by it - with Congress sitting on the sidelines all the while - education policymaking has exemplified executive federalism over the past decade. It may now reveal the practice's limits. In December 2015, Congress passed and President Obama signed into law the ESSA, a lengthy statute that reauthorizes the Elementary and Secondary Education Act on new terms, replacing NCLB. The ESSA stands out as substantial federal legislation enacted during a period of divided government, with a thoroughly bipartisan vote in Congress. n150 In addition to complicating (though by no means undermining) claims of polarization-induced congressional dysfunction, the ESSA also raises questions about the robustness of executive federalism. In form, the very fact of such federal legislation is a challenge to strong variants of executive federalism. In substance, the ESSA renders "null and void" the waivers granted in recent years by the Department of Education to states and consortia, [\*990] and it curbs federal executive supervision of state education policy going forward. n151

Even as the ESSA curtails federal involvement in education policy, however, it also blesses certain arrangements that arose from the Department of Education's negotiations with the states. For instance, while the ESSA has been celebrated for authorizing states to design their own academic standards and intervention approaches for low-performing schools, this is what states have been doing pursuant to waivers from NCLB's requirements. The White House's suggestion that the ESSA codifies "many of the key reforms the Administration has ... encouraged states and districts to adopt in exchange for waivers" is no more exaggerated than claims that the ESSA offers a thorough "rebuke" to the federal executive branch. n152 The Act also does not affect horizontal interstate collaboration, such as that which produced the Common Core. n153 Indeed, although the ESSA expressly provides that it does not prohibit states from withdrawing from the Common Core, neither does it invalidate that initiative. n154

More notably, the ESSA creates some fertile new conditions for executive federalism. For one thing, it expands the federal role in discrete areas, providing annual funding for preschool education, for example. Because the ESSA entrusts these portions of the Act to HHS, the need for interagency coordination may spur not only federal executive, but also [\*991] more centralized, White House involvement. n155 Even as the ESSA expressly restricts the Secretary of Education's authority, n156 moreover, it retains federal executive oversight, with few parameters set by Congress. Although states will now devise their own accountability goals for schools, for example, they must submit their plans to the Department of Education. n157 Instead of a congressional judgment about metrics by which to hold schools accountable, the ESSA provides for state decision making with federal executive superintendence. Further, although the ESSA narrows the Department's waiver authority, it does not eliminate it; as under NCLB, the federal executive branch may free states from particular statutory or regulatory requirements. n158 And in crafting a more state-centric law, the ESSA codifies a framework for back-and-forths between state and federal executives around state plans and waivers. n159

The ESSA thus diminishes federal involvement in education principally in the form of congressional decisions. It is not clear that it will appreciably reduce state-federal executive collaboration, and contestation, around education policy. As one early critic summarized the federalism implications of the ESSA, "States would be stuck in a dance with whoever happens to be running the Department [of Education] at any given moment." n160

### Non-Unique – A/T: Trump

#### Trump has merely eliminated certain Obama sponsored regulations. He hasn’t undone the federal role in education.

WONG 3/27 (Kenneth K.; Walter and Leonore Annenberg Professor of Education Policy – Brown University, “Redefining the federal role in public education: The 1st quarter of the Trump “insurgent” presidency,” https://www.brookings.edu/blog/brown-center-chalkboard/2017/03/27/redefining-the-federal-role-in-public-education-the-1st-quarter-of-the-trump-insurgent-presidency/)ww

Trump’s White House aims to significantly repurpose the federal role in K-12 education. The administration has dismantled key initiatives that were associated with the Obama administration. At this point, Trump’s proposed initiatives constitute a critical reassessment, but do not yet amount to an all-out dismantling of the federal role in K-12 as embedded in the long-established “marble cake” federalism. In the FY18 budget proposal, for example, the Trump administration maintains federal funding for major categorical programs for high-needs students, such as Title I and the Individuals with Disabilities Education Act. The Every Student Succeeds Act (ESSA) reporting requirement on performance among student subgroups remains a central federal focus.

It is too early to tell whether the Trump administration plans to fundamentally reconstruct the terms of federal engagement in public education, which have been largely framed since the Great Society era of the Lyndon Johnson administration. But the administration could be headed in that direction, considering that the first quarter of the Trump presidency has included the following education policy initiatives:

Scaling back federal direction and shifting substantial decisionmaking to state and local government;

Proposing substantial budgetary reduction of the U.S. Department of Education, such as programs in college and career access, arts, health, after-school programs, teacher education, and technology;

Expanding federal support for a broad portfolio of school choice, including charter schools, vouchers for parents to enroll their children in public and private schools, federal tax credit scholarship program, and magnet programs;

Easing possible entry of for-profit providers in K-12 education;

Placing limits on federal capacity to promote equal education access, such as limiting the scope of Title IX enforcement; and

Reducing investment in data and research infrastructure.

### No Link

#### The plan is relatively small and still leaves many aspects of control to the states.

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Under my proposed theory, states admittedly would lose some control over education because they would be accountable to the federal government for ending longstanding disparities in educational opportunity. A hallmark of the American education system has been the freedom that mostly affluent parents enjoy: to provide their children a better education than the one given to less privileged children. n330 In addition, some states and localities also may contend that they should retain the ability to focus their resources on some children rather than spreading them more equitably to all children. n331 I contend that the loss of this type of state and local control would benefit the nation's education system.

At the same time, other aspects of state and local control of education would remain if my theory was adopted. Under this theory, states would [\*1015] retain authority to control education policymaking through education governance, the nature and content of a school finance system, state assessments and graduation standards, and a wide variety of teaching and curricular decisions. n332 Localities would continue to administer education, manage the daily operation of schools, hire teachers and staff, build and maintain schools, and transport students. n333 Issues such as class size and governance would remain within the purview of state and local government. Furthermore, maintaining these functions under state and local authority fosters continuance of most of the existing levels of state and local accountability for education.

### Link Turn

#### Increasing equality would enhance state control of education

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

Most importantly, my proposed theory would foster new types of state and local control over education. Currently, substantial disparities exist in each state's capacity to offer high-quality educational opportunities. n334 The absence of federal intervention to address these disparate capacities leaves many states without the ability to offer their citizens an excellent education. Placing primary responsibility on the federal government for leading a national effort to close opportunity and achievement gaps will expand state and local control of education because it will provide state and local governments both a greater and more equal capacity to offer all children an excellent education. n335 This enhanced capacity will empower states and localities to engage in innovative reforms that were previously hindered by capacity limitations. In this way, greater equity in the distribution of state and local control and equal access to an excellent education can co-exist as complementary rather than competing goals.

Once each state has a more uniform ability to offer equal access to an excellent education, the states will decide how they want to achieve this goal. By leaving the methods for achieving this goal to the states, my theory will preserve the states and localities as laboratories of reform. Moreover, these laboratories would have new federal research, technical expertise, and financial assistance to support the identification and implementation of effective reforms. Therefore, those who believe that excellence is best fostered through state and local control may find comfort in the fact that under my proposed theory, the states ultimately would decide how to ensure equal access to an excellent education.

#### No link and turn – plan preserves and enhances state control

ROBINSON ’16 (Kimberly Jenkins; Professor of Law – University of Richmond, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education,” 130 Harv. L. Rev. 185, November, l/n)ww

Despite federalism-based concerns over this increase in federal influence over education as too great a reduction in state and local control, my approach would retain a number of features that recognize [\*230] federalism's potential benefits. My proposal retains most of the existing forms of state and local control of education. It does not embrace a national schoolhouse or federalize our education system. Instead, it insists that states equitably distribute educational opportunities and provide all children an excellent education. In addition, my theory for disrupting education federalism would empower new forms of state and local control for those communities who have lacked the influence to demand an excellent and equitable education for their children. n294 This theory admittedly and intentionally ends a state's ability to distribute resources in an inequitable and irrational manner that harms both disadvantaged children and the nation's interest in an educated citizenry and workforce. However, states would retain primary control of education as each state would select the best path for it to ensure equal access to an excellent education.

#### The plan would foster cooperative federalism

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

In making the federal government the final guarantor of equal access to an excellent education, my proposed theory would strengthen the relationship between growing federal influence in education and greater federal responsibility for accomplishing national objectives. This transformation would greatly improve upon the nation's current cooperative federalism framework for education. n269 Today, although the federal government invests in education, this investment is quite limited relative to state and local investments. n270 By increasing its demands while limiting its contributions, the federal government has been able to avoid shouldering a substantial portion of the costs and burdens associated with accomplishing the nation's education goals while still enjoying the ability to set the nation's education agenda and demand results. n271 In contrast, my proposal would establish a much closer and more effective marriage between federal influence and responsibility.

### A/T: Constitution Link

#### Federal action on education doesn’t violate the constitution

PORTZ ’11 (John; Fulbright Scholar – Department of Political Science – Northeastern University, “Federalism and Education Policy in the United States: Allocating Authority and Responsibility Among Levels of Government,” November, http://www.puc-rio.br/catedrafulbright/downloads/federalism\_and\_education\_policy.pdf)ww

The structures and practices of American federalism are grounded in the U.S. Constitution, which is one of the oldest national constitutions in the world. Approved in 1789, the Constitution is based upon a broad ´framework´ approach to constitutional design. It is relatively short and provides general parameters for government structures and responsibilities, but few details. In contrast, the 1988 Brazilian Constitution is much longer and provides considerably more details on the structures and responsibilities of government. The U.S. Constitution, including its 27 amendments, is only 18 pages in length, whereas the Brazilian Constitution is over 110 pages.

The U.S. Constitution focuses primarily on the structure and authority of the national government, along with some description of the powers and authority of state governments. With respect to the national government, specific powers are listed, such as supporting an army and providing for a national currency. Importantly, however, there is no reference to education; this word is not in the Constitution. Unlike the Brazilian Constitution that describes education as a right of all citizens and obligation of the government, the U.S. Constitution makes no reference to education. Furthermore, the U.S. Constitution makes no reference to municipalities or other local governments that could deliver educational services. Again, the Brazilian Constitution outlines an important role for municipalities in education policy, but the U.S. Constitution is silent on a local role in education and, in fact, makes no mention of local governments at all.

What does this mean for education policy? From a constitutional perspective, it is not clear what role the national government might play in the development and delivery of educational services. Indeed, in the 1973 court case of San Antonio School District v. Rodriguez, which involved claims of inequitable financing for public schools, the U.S. Supreme Court declared that since there is no right to education in the U.S. Constitution, the national government is not responsible to address inequities in funding for public schools. The Court suggested that state government would be the more appropriate venue for such cases.

The 50 states, then, are central actors in education policy. Each state has a constitution that includes a reference to the state’s responsibility to provide educational services for the citizens of the state. The Illinois Constitution, for example, declares that Illinois state government is responsible “to provide for an efficient system of high quality public educational institutions and services.” The New York Constitution states that “the legislature shall provide for the maintenance and support of free common schools, wherein all the children of this state may be educated.” Pursuant to these constitutional provisions, every state has created a system to provide educational services in that state.

Furthermore, it is up to each state to establish local governments that can assist in the delivery of educational services. States have done this, although in different ways. Most states have created local school districts in which a school board, elected or appointed locally, hires a superintendent who is responsible for then hiring principals and teachers to work in individual schools. A school district might have the same boundaries as a municipality, but many do not. In Maryland, for example, school districts are much bigger and cover an entire county, which is a larger unit of government established by the Maryland state government.

Does this leave the national government without a role in education policy? No, but from a constitutional perspective, the national government must turn to other, less specific, parts of the Constitution for its bases of action. For example, there are several important clauses or sections of the Constitution that create opportunities for a more expansive national role, if the national government should pursue such a path. These clauses include:

• The “necessary and proper” clause empowers the national government to engage in activities needed – “necessary and proper” – to carry out existing powers.

• The “general welfare” clause empowers the national government to engage in activities that support the general welfare of the country.

• The “interstate commerce” clause allows the national government to regulate activities between the states.

• The “equal protection of the laws” clause in the 14th Amendment empowers the national government to remedy discriminatory actions that might exist in states, such as racial discrimination in the assignment of children to schools.

These clauses raise the possibility that the national government might engage in activities beyond the ones specifically mentioned in the Constitution. If aspects of education policy, for example, are considered to be part of the “general welfare” or subject to “equal protection of the laws,” the national government might use this as a basis for direct involvement in education policy.

Furthermore, Article VI of the Constitution states that the Constitution, and all laws passed by the national government, shall be the “supreme law of the land.” This statement appears to make clear that national laws are supreme over laws passed by state governments, should there be a conflict.

These parts of the Constitution give the national government potential authority, but the Tenth Amendment, approved in 1790, is viewed by many as an important limitation on the national government. This amendment states that powers not “delegated” to the national government or prohibited to the states are “reserved to the states or to the people.” Since education is not specifically delegated to the national government, the argument is often made that the national role in education policy should be very limited.

From a constitutional perspective, then, the primary relationship in education policy is between the states and local units of government, principally school districts and municipalities, which are themselves created by the states (see figure 1). The national government plays a more ambiguous role and when it does act, it acts primarily through the states rather than directly with local school districts.

#### Federal education policies are consistent with the constitution

BLACK ’17 (Derek W.; Professor of Law – University of South Carolina, “Abandoning the Federal Role in Education: The Every Student Succeeds Act,” California Law Review, vol. 105:101)ww

The ESSA thus raises a fundamental question: What role should the federal government play in education? Traditionally, the federal government is involved in education because education is in our national interest, the Constitution commits the nation to equality, and educational shortfalls by states remain rampant.23 According to national assessments of student achievement, only one-third of students are proficient in math and reading, and low-income and minority students’ achievement lags three years behind their peers by the eighth grade.24 Substantial portions of this gap owe in no small part to the poor educational opportunities that states provide to many students.25 In real dollar terms, thirty-one states funded education at a lower level in 2014 than they did in 2008. Likewise, recent data show that half of the states fund districts serving predominantly poor students at lower levels than they do districts serving predominantly middle-income and wealthy students.27 To achieve their potential, low-income students require more resources than their peers—not less.28

### No Spillover

#### No federalism spillover

ROBINSON ’15 (Kimberly Jenkins; Professor of Law – University of Richmond, “Disrupting Education Federalism,” 92 Wash. U. L. Rev. 959, l/n)ww

In offering a theory for how education federalism should be restructured to strengthen the federal role over education, and thus reduce reliance on states to ensure equal access to an excellent education, I build upon Yale Law Professor Heather Gerken's argument that federalism theory should eschew advancing a single theory for all occasions because "both in theory and practice ... there are many federalisms, not one." n39 She astutely contends that scholars developing and critiquing federalism theory should consider the appropriate balance of institutional arrangements for a specific context. n40 Therefore, my theory for how [\*968] education federalism should be restructured does not attempt to propose a federalism theory for other policymaking arenas such as environmental law or healthcare policy. Instead, it solely proposes a shift in the balance of federal, state, and local authority in order to strengthen the federal role in ensuring equal access to an excellent education while preserving the aspects of state and local autonomy over education that do not undermine equal access to an excellent education.

#### Federalism isn’t zero sum

RYAN ’12 (Erin; Professor of Law – Lewis & Clark Law School, “Spending power bargaining after Obamacare,” 7/3, https://blog.oup.com/2012/07/spending-power-bargaining-after-obamacare/)ww

It’s important to get these things right because an awful lot of American governance really is negotiated between state and federal actors this way. Federalism champions often mistakenly assume a “zero-sum” model of American federalism that emphasizes winner-takes-all competition between state and federal actors for power. But countless real-world examples show that the boundary between state and federal authority is really a project of ongoing negotiation, one that effectively harnesses the regulatory innovation and interjurisdictional synergy that is the hallmark of our federal system. Understanding state-federal relations as heavily mediated by negotiation betrays the growing gap between the rhetoric and reality of American federalism—and it offers hope for moving beyond the paralyzing features of the zero-sum discourse. Still, a core feature making the overall system work is that intergovernmental bargaining must be fairly secured by genuine consent.

### States Can’t Solve

#### States can’t solve warming alone

KRANE ’17 (Jim; Wallace S. Wilson Fellow for Energy Studies at Rice University’s Baker Institute for Public Policy, “Can America Comply With The Paris Accords Without Trump?” 6/7, https://www.forbes.com/sites/thebakersinstitute/2017/06/07/can-america-comply-with-the-paris-accords-without-trump-only-if-red-states-join-in/)ww

Hours after President Trump ejected America from the Paris climate agreement, a group of US state, local and corporate leaders vowed to pursue America’s abandoned pledge – without the help of the federal government.

Heartening as it was to see Americans reject Trump’s plan to free-ride on the backs of the rest of the world, there are serious questions about any climate plan that sidelines the federal government.

Can an insurgent group of CEOs, governors and mayors cut a quarter of America’s greenhouse gas emissions by 2025?

The goal is a noble one, but difficult.

First of all, the Trump administration is not just withdrawing from Paris. The administration is actively working at cross-purposes to the treaty’s goals.

Trump and his appointees have gone out of their way to favor coal over natural gas and renewables. They’d like to see coal companies return to past dumping practices, while freeing petroleum producers from fixing methane leaks, and encouraging Detroit to walk away from fuel efficiency standards. Each of these moves takes America further from its pledge.

In other words, the new United States Climate Alliance won’t be starting its anti-GHG drive from the 20-yard line. They’ll be starting deep in their own end zone.

Even then, making an end-run around the White House is the easy part. The federal government has only modest influence over US energy policy. More control is devolved to statehouses, two-thirds of which sit in Republican hands. With few exceptions, Republican Party leaders publicly claim that global warming is either a hoax or caused by natural phenomena. As Fig. 1 shows, this stance is unusual outside the United States.

Denial is a big problem because, when it comes to cutting emissions, the low-hanging fruit lies in Republican states, where political leaders are least likely to act. In fact, a state’s carbon intensity is a strong predictor of the way its residents voted.

Each of the top 13 per capita emitting states – led by Wyoming, with 110 metric tons per person per year – went for Trump. In Wyoming, nearly 90% of voters backed the New York tycoon. Wyoming also happens to produce 40% of America’s coal that emits about 13% of US CO2. Unsurprisingly, Wyoming’s state and federal leaders are still grappling with science.

Following Wyoming in the carbon intensity rankings are West Virginia, North Dakota, Louisiana and Montana. Attorneys general from two of those states, West Virginia and Louisiana, went so far as to send Trump a letter backing the Paris pullout. (So did AGs from Alabama, Arkansas, Kansas, Missouri, Nebraska, South Carolina, Texas and Wisconsin.)

By contrast, Hillary Clinton won states with the lowest carbon intensity, including the bottom five: New York, Massachusetts, Connecticut, California and Maryland.

The highest per capita emissions from a Hillary state flowed from New Mexico, which ranks at No. 14, with 24 metric tons/resident/year.

This red-blue carbon dichotomy begs the question whether can blue states cut 25% of US emissions by themselves.

### No Extinction

#### No Extinction – warming will take centuries, mitigation and adaptation will moderate any impacts

MENDELSOHN ’15 (Robert; Edwin Weyerhaeuser Davis Professor at the Yale School of Forestry and Environmental Studies, “Climate Change Demands We Change. Why Aren't We?” Social Research, Fall)ww

The popular literature on climate change is rife with claims that climate change is equivalent to an apocalypse. Whether climate change leads to an apocalypse depends on many factors, including no mitigation, no adaptation, and unlucky uncertain events. Probably the three most frightening images of climate change are tropical cyclones, floods, and droughts. Although all these events are likely to occur in a future climate, they are also an integral component of the current climate. We already have droughts, floods, and tropical cyclones. The question is, how will these things change?

According to economic models of fossil fuel consumption, emissions of greenhouse gases are expected to double the concentrations of greenhouse gases from preindustrial levels of 275 part per million equivalent (ppme) to 550 ppme by 2040–2050. It will take more than another 100 years to double concentrations again to 1,100 ppme in the absence of mitigation. So despite the fact that fossil fuel consumption is causing a vast quantity of annual emissions, it takes a very long time for the concentrations of greenhouse gases in the atmosphere to double.

According to climate models, a doubling of concentrations is expected to increase long-run average global temperature by 3°C, with a range between 1.5 and 4.5 degrees (IPCC 2014a). However, there is a long lag between an increase in concentrations and the resulting temperature increase. One must warm the ocean to warm the climate. It takes several decades just to warm the upper layers of the ocean. It takes centuries for the long-run temperature to be reached.

The rising temperature is expected to increase the speed of the hydrological cycle. This will lead to an increase in evaporation, an increase in precipitation, and an increase in the amount of water in the atmosphere. Water vapor itself is a greenhouse gas. It represents a positive feedback mechanism and it contributes significantly to the prediction of a 3°C increase from doubling greenhouse gases. So the expectation of increased rainfall is part of the explanation why there is such a large temperature increase. That does not mean there will be increased rainfall everywhere. It simply means that average global rainfall will increase.

The level of CO2 has a direct effect on ecosystems. All plants respond to higher CO2 levels in a positive fashion. Grasses respond only slightly to CO2 fertilization, whereas the yields of most crops respond vigorously. Hundreds of laboratory studies reveal an average increase in crop yields of 30 percent as CO2 concentrations double (Kimball 2007).

Climate change is expected to melt ice formations. Many glaciers on land have already shrunk in response to warming, increasing flows in nearby rivers. The Arctic ice covering the sea in the North Pole is shrinking rapidly, exposing the Arctic air to the warm sea underneath and causing the most rapid warming on the planet (IPCC 2014a). Large remaining glaciers in Greenland and Antarctica might melt over the next thousand years (IPCC 2014a). The melting of the large ice deposits in Greenland and Antarctica would cause the oceans to rise to new levels never before experienced by mankind.

Climate change is expected to have one final impact. In addition to the mean temperature and precipitation levels rising, there may be a change in the distribution of weather. Seasonal patterns may change with more warming in winter than summer. Interannual variance might change. Diurnal variance may drop as nights become warmer relative to days. Tropical cyclones may become more powerful. The pattern of global winds may change, shifting moisture from one place to another. More is known about global mean changes than these other changes in the distribution. It is more difficult to study variance and even more difficult to study extreme events. But it is likely that the distribution of weather events will change.

What then is the consequence of climate change if greenhouse gases cause all these changes? What sectors of the economy are vulnerable? What nonmarket goods and services are at risk?

The literature on impacts has long identified most of the sectors likely to be affected by climate change (Pearce et al. 1996). The vulnerable economic sectors include agriculture, coasts, forests, water, and energy. Important sectors outside the economy that would be affected include recreation, ecosystem change, human health, and aesthetics. The controversy about impacts does not concern what will be affected. The controversy is measuring the magnitude of the impact. Some studies report damages to mankind equal to 20 percent of total income (Stern 2007). Other studies suggest more modest effects of less than 2 percent of income (Pearce et al. 1996; Nordhaus 1991). Yet other studies suggest impacts may be closer to 0.2 percent of income (Mendelsohn et al. 2006). What explains estimates that vary by orders of magnitude?

Although some authors speculate about exponentially increasing damage (Stern 2007), empirical analysis suggests that most sectors respond to temperature in a hill-shaped fashion (Mendelsohn and Schlesinger 1999; Tol 2002a). For each sector, there is an ideal temperature where the net value of that sector is highest. If temperatures are either colder or warmer than this ideal, warming will be either beneficial or harmful, respectively.

Three important insights follow from this result. First, warming will be beneficial to relatively cool countries and harmful to relatively warm countries. Warming will not have the same universal effect on everybody. Low-latitude countries may well suffer 60 to 80 percent of the global damage (Mendelsohn et al. 2006). This is problematic because these low-latitude countries collectively contribute only a small fraction of global emissions. A large fraction of the damage from climate change is not suffered by the countries causing the emissions. There is an inherent inequity in the distribution of the costs and benefits of greenhouse gas emissions.

Second, the warmer the planet gets, the more damage that warming will cause. More and more countries will be pushed beyond the ideal temperature range, and the more local temperatures exceed that range, the greater the damage will be. Third, because the most serious damage requires relatively high temperatures, a large fraction of the damage will not occur until far into the future. The present value of damage is consequently quite small.

The literature also contains one other important insight. Adaptation is very effective at lowering climate damage (Mendelsohn and Neumann 1999; Mendelsohn and Dinar 2009). Firms, farms, and people will all change their behavior as climate changes. They will subtly adjust their timing, their choices, and their management to take into account the climate that they actually live in. One can see this today by comparing the behavior of people who happen to live in different climates. Farmers in warmer places plant crops suitable for that climate. People wear clothing appropriate to their climate and season. Buildings have heating and cooling systems appropriate for each climate. People and firms adapt to climate because it is in their interest to do so. Adaptation makes them better off. That does not imply there are no damages. It simply points out that assuming zero adaptation is not realistic. The damage is much lower when people adjust. It may be more difficult to predict what will happen with adaptation, but simply assuming it away leads to overly pessimistic predictions of damage. Predictions of impacts from climate change must take private adaptation into account in order to provide accurate measures of future damages (Mendelsohn 2000).

### A/T: Methane

#### Methane won’t cause run-away warming

MEYER ’17 (Robinson; The Atlantic, “Are We as Doomed as That New York Magazine Article Says?” 7/10, https://www.theatlantic.com/science/archive/2017/07/is-the-earth-really-that-doomed/533112/)ww

It’s a scary vision—which is okay, because climate change is scary. It is also an unusually specific and severe depiction of what global warming will do to the planet. And though Wallace-Wells makes it clear that he’s not predicting the future, only trying to spin out the consequences of the best available science today, it’s fair to ask: Is it realistic? Will this heat-wracked doomsday come to pass?

Many climate scientists and professional science communicators say no. Wallace-Wells’s article, they say, often flies beyond the realm of what researchers think is likely. I have to agree with them.

At key points in his piece, Wallace-Wells posits facts that mainstream climate science cannot support. In the introduction, he suggests that the world’s permafrost will belch all of its methane into the atmosphere as it melts, accelerating the planet’s warming in the decades to come. We don’t know everything about methane yet, but the picture does not seem this bleak. Melting permafrost will emit methane, and methane is an ultra-potent greenhouse gas, but scientists do not think so much it will escape in the coming century.

“The science on this is much more nuanced and doesn’t support the notion of a game-changing, planet-melting methane bomb,” writes Michael Mann, a climate scientist at Penn State, in a Facebook post. “It is unclear that much of this frozen methane can be readily mobilized by projected warming.”

### Federalism Bad – Inequality

#### Education Federalism causes segregation and inequality

ROBINSON ’13 (Kimberly Jenkins; Professor of Law – University of Richmond, “The High Cost of Education Federalism,” 48 Wake Forest L. Rev. 287, Spring, l/n)ww

The emphasis on local control of education in the Court's decisions in Milliken, Dowell, Freeman, and Jenkins harkened back to dual federalism's insistence that the federal government and the [\*304] state governments divide authority based on subject matter. n97 However, consistent with the demise of dual federalism and the rise of cooperative federalism, n98 education law and policy at the time of these decisions had evolved such that, at a minimum, federal authority had been sanctioned and deemed essential to ensuring equal educational opportunity. This occurred not only through the landmark Brown decisions and other desegregation decisions that used federal power to ensure integrated schools but also through the Elementary and Secondary Education Act of 1965 ("ESEA") and its reauthorizations that marshaled federal authority to assist low-income students; n99 numerous additional federal education laws on issues of equal opportunity for girls and women, n100 disabled students, n101 and English language learners; n102 and federal enforcement of these laws by the U.S. Department of Education. In the Milliken, Dowell, Freeman, and Jenkins decisions, this insistence on a dualist understanding of education failed to protect the right to attend a nondiscriminatory school system, just as it has failed to protect individual rights in other areas. n103

These decisions - along with several other factors, such as the retreat of many white and middle class families to the suburbs and the intermittent support for federal action by the executive and legislative branches - have led to resegregation of many of the nation's schools. n104 Despite growing diversity in the public school population, school segregation has been increasing in recent decades [\*305] and has led to increasingly racially isolated schools. n105 For instance, the percentage of Latino and African American students who attend schools composed of 90%-100% minority students has consistently grown since the 1991-92 school year. n106 In the 2009-10 school year, 43.1% of Latino students and 38.1% of African American students attended schools in which 90%-100% of the students are minorities, up from 33.9% and 32.7% respectively in 1991-92. n107 In addition, the percentage of poor students has grown significantly in the last three decades, with the average African American and Hispanic student attending a school that was one-third poor students in the early 1990s while today these students typically attend a school with two-thirds poor students. n108 These trends are made even more troubling when one considers research that consistently documents the harms of racial isolation and the benefits of diverse schools. n109 Furthermore, research reveals that concentrated poverty has a stronger relationship to inequality in education than racial segregation. n110 Education federalism contributed to these troubling trends by serving as one of the impediments to school desegregation.

### Federalism Bad – Racism

#### Justifications for state power are historically rooted in racism

SUNDQUIST ’17 (Christian B.; Professor of Law and Director of Faculty Research and Scholarship – Albany Law School, “Positive Education Federalism: The Promise of Equality after the Every Student Succeeds Act,” 68 Mercer L. Rev. 351, Winter, l/n)ww

The divining of the appropriate federal role in public education has historically been rooted in a procedural vision of the negative limits of federal action. The discussion of education federalism, therefore, has largely focused on the degree to which federal law should influence or supersede traditional state "police powers." n168 While negative branches of federalism often purport to balance federal and state interests in an ideologically neutral fashion, it is clear that the federalism debate is also imbued with particular substantive conceptions of the content and preferred outcomes of permissible federal actions.

The original allocation of "police powers" to states - which established local responsibility for the health, education, and safety of residents - has long been derided as a constitutional compromise to allow states to preserve slavery and prevent racial progress. n169 The invocation of "states' rights" following the Brown desegregation decree is just one example of negative federalism being utilized as a tool to resist social progress. n170 Indeed, as Professor Lisa Miller notes, "federalism in the United States was forged in part as a mechanism for accommodating slavery, and it facilitated resistance to racial progress for blacks long after the Civil [\*382] War." n171 Pre-war education federalism thus often strove to forestall federal intervention in state systems of racial control in an effort to preserve educational segregation and inequality. n172