

The Road to a National Curriculum

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by **Robert S. Eitel** served as Deputy General Counsel and **Kent D. Talbert** as General Counsel [the chief legal adviser to the Secretary] of the U.S. Department of Education (2006-2009); and **Williamson M. Evers** served as the U.S. Assistant Secretary of Education (2007-2009), and in 2003 in Iraq as a senior education adviser to the Administrator of the Coalition Provisional Authority.



**Center for
School Reform**

Executive Summary

- Despite three (3) federal laws that prohibit the federal government from directing, supervising or controlling elementary and secondary school curricula, programs of instruction and instructional materials, the U.S. Department of Education (USDOE) has placed the nation on the road to a national curriculum.
- With only minor exceptions, the General Education Provisions Act (GEPA), the Department of Education Organization Act (DEOA), and the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), ban federal departments and agencies from directing, supervising, or controlling elementary and secondary school curriculum, programs of instruction, and instructional materials.
- By using their adoption as a condition for states to receive grants under its Race to the Top Fund and the Race to the Top (RttT) Assessment Program, the USDOE has accelerated the implementation of so-called Common Core State Standards (CCSS) in English language arts and mathematics and the development of common assessments based on the standards.
- There are two consortia of states developing Common Core assessments, funded by the USDOE (over \$350 million). One of the two consortia of states developing Common Core assessments has stated directly that it intends to use these federal funds to support curriculum materials and to create a “model curriculum” and instructional materials “aligned with the CCSS.” These assessments are critical, as they are designed to link the Common Core standards to a common (that is, national) content for curricula and instructional materials.
- The USDOE used conditions attached to waivers from the accountability provisions in the No Child Left Behind law to cement state adoption of Common Core and membership in one of the two assessment consortia. The Education Secretary has the power to grant waivers, but not to attach conditions contrary to federal law. States accepting the conditions are indefinitely bound to the Common Core standards and assessments. The result is a de facto national curriculum and instructional materials effectively supervised, directed, or controlled by the USDOE.

Recommendations

1. **Congress** should (A) pass legislation clarifying that the USDOE cannot impose conditions on waivers requested by states under the ESEA; (B) conduct hearings on the USDOE’s implementation of the RttT Fund, the RttT Assessment Program, and the Conditional NCLB Waiver Plan to ascertain the Department’s compliance with GEPA, the DEOA, and the ESEA; (C) review the curriculum and related prohibitions in GEPA, the DEOA, and the ESEA to determine whether legislation strengthening the ban on federal involvement in elementary and secondary curriculum, programs of instruction, and instructional materials should be introduced; (D) request that the U.S. Government Accountability Office (GAO) conduct a comprehensive review of the USDOE’s elementary and secondary education programs to identify programs failing to comply with GEPA, the DEOA, and the ESEA prohibitions; (E) require that the Secretary review USDOE regulations appearing at Title 34 of the Code of Federal Regulations, and guidance relating to elementary and secondary programs, to identify regulations and guidance failing to comply with GEPA, the DEOA, and the ESEA.
2. **Governors, State Superintendents of Education, State Boards of Education, and State Legislators** should reconsider their respective states’ decisions to participate in the CCSSI, the Race to the Top Fund, and the Race to the Top Assessment Program.
3. **States that have applied for waivers** under the USDOE’s Conditional NCLB Waiver Plan should amend their waiver applications to delete the Department’s four non-statutory conditions; states that apply in round two should omit the four conditions from their applications.



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