How the Feds Became the 800lb Gorilla in K-12 Policy: A 50 Year Synopsis

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Fifty years (1964–2014) in the life of an educational institution is a relatively short period especially for a post-secondary institution. That same time frame represents over one-fifth of the life of this nation and a little less than 30% of the time that Michigan has been a state in the union. And just as that same time period could not have passed without America’s social structure evolving, so too have there been important developments in America’s schools resulting from changes in educational legislation, policy, curriculum and instruction. In fact, the period from 1964–2014 was witness to significant changes in education. This mirrored the profound changes in American society. In honor of the 50th anniversary of Grand Valley State University’s College of Education, this article will review some of the key educational legislation and policies at the federal level during that same time period. The reader will see how the federal government has successfully managed its presence in a state policy area and become an “800 lb.” gorilla in K-12 education. Readers will also appreciate that a significant part of what is occurring in Michigan schools today has its roots in many of those same federal initiatives.

Key Federal Legislative Moments
One of the most important pieces of social legislation in American history transpired during the summer prior to the first year that teacher training became available at Grand Valley. In the aftermath of President Kennedy’s assassination the Civil Rights Act (CRA, 1964) was signed into law in July, 1964 by President Lyndon Johnson. The impact of this legislation would be felt for decades to come.

Elementary and Secondary Education Act
The CRA was followed in 1965 by the Elementary and Secondary Education Act (ESEA). The ESEA was part of Johnson’s “War on Poverty,” which, in turn, was part of his “Great Society” vision. It was intended to narrow the skills gap in reading, writing, and math between low income, inner city and rural students, and their middle class suburban counterparts. That gap is an issue that persists. The negative influences of poverty on children in our society remain an obstacle to greater social equity and cohesion and thus, further development of the democratic experiment that is America.

The ESEA was also the beginning of one of the most far-reaching incursions by the federal government into a policy domain over which it has no constitutional authority—K-12 public education is the responsibility of the states under the Tenth Amendment. Yet, over the decades, through fiscal incentives combined with targeted or categorical funding in return for voluntary state and district compliance, the federal government has successfully leveraged legislation such as Title I of ESEA into a powerful tool for achieving regulatory compliance in numerous K-12 policy areas. That leverage has continued into the 21st century through No Child Left Behind (NCLB), and its more recent companion, Race to The Top (RTT). Under successive presidents of both political stripes in a post-Brown v. Board of Education society, the desire to have all of the nation’s children gain access to quality K-12 opportunities has seen increasingly assertive policy measures on the part of the federal government accompanied...
by substantial fiscal incentives that the states have found difficult to refuse.

**Project Head Start**

Continuing with a focus upon poverty, a recurring theme that grew out of President Johnson’s 1964 State of the Union address, 1965 also witnessed the federal government’s initiation of Project Head Start, a preschool education program that began as an 8-week summer program directed at low-income families—“a comprehensive child development program that would help communities meet the needs of disadvantaged preschool children” (US Dept. of HHS, n.d.). The importance of this program over the last 50 years has been demonstrated by its expansion, fiscal expenditure and placement within federal government bureaucracies.

“[I]n 1977, under the Carter administration, Head Start began bilingual and bicultural programs in about 21 states. Seven years later, … under the Reagan administration, Head Start’s grant budget exceeded $1 billion … [Later] under the Clinton administration, … Head Start was reauthorized to expand to full-day and full-year services, [and] in 2009, under the Obama administration, … more than 64,000 slots for Early Head Start and Head Start programs [were added]” (US Dept. of HHS, n.d.). With that growth and expansion have come increased expectations and academic standards. Society has come to appreciate the value of preschool education for all, not merely the children of low-income parents. To this end, Michigan’s last two governors also embraced the need for preschool education.
Bilingual Education Act
Early in 1968, President Johnson also signed into law the Bilingual Education Act (BEA) as Title VII of the ESEA. California and Texas already had state and district statutes that addressed the issue of instruction in a student’s native tongue, but the federal government intended to broaden the scope of that exposure. The BEA ceased in 2002, and bilingual education changed its focus to English acquisition under NCLB, but that was not the primary focus of the original legislation. The change reflected the political shift in control of the U.S. House from the mid-1990s through the new millennium, and along with it, an increased concern over the impact of immigration and the influx of non-English speakers, their increased demands upon social institutions such as schools, and the claims by some of conflicting research about the effectiveness of traditional bilingual education. That change in attitude originated, in part, under President Reagan in the 1980s, resulting in the federal government shrinking financial support for traditional bilingual education in favor of immersion or English-only programs (NYSED, 2009, p. 63). The implications of the subsequent passage of the Immigration and Nationality Act in 1990, addressed below, hastened this change.

Title IX
Familiar to most readers will be Title IX of the Education Amendments of 1972 signed by President Nixon. But that familiarity is often associated with sports, and here in Michigan, perhaps most recently, with the court decision in 2006 that declared that the women’s high school sports schedule set forth by the Michigan High School Athletic Association was in violation of Title IX because many of its seasons were set in what was deemed the “off season.” But, the original legislation possessed a much broader scope. It declared that no one “on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance”. Thus, the legislation has had a far greater impact on academics for females whose post-K-12 educational aspirations prior to 1972 were often stifled not only by societal expectations, but also college admittance restrictions. However, by 1994, 63 percent of female high school graduates aged 16-24 were enrolled in college, up 20 percentage points from 43 percent in 1973. And from 1971-72 to 2009-10, the percentage of Bachelor degrees awarded to women increased from 44 to 57.4 percent (NCWGE, 2002; USDoE, 2012). At GVSU, 58 percent of Bachelor degrees in 2013-14 went to women, data that is in keeping with the national trend. Furthermore, women were awarded 66.6 percent of GVSU graduate degrees (GVSU Institutional Analysis, 2014). The influence of the federal Title IX legislation upon American women cannot be understated. Its impact has been far more than mere athletics and has afforded many the opportunity to explore economic avenues previously unavailable.

The Rehabilitation Act
In 1973, following the initial signing of Title IX, the Rehabilitation Act ascended to law. It guaranteed the civil rights of those with disabilities in the context of federally funded institutions. Consequently, for districts and K-12 schools receiving federal funds, there were requirements for accommodations for the disabled in their programs and activities as well as structural accommodations for physical access. Most readers who are special educators are familiar with section 504 of this Act which has become the vehicle through which accommodations can be made for K-12 students who do not necessarily qualify for special education services or an Individualized Education Plan.

Equal Educational Opportunities Act
A year later in 1974, the Equal Educational Opportunities Act (EEOA) passed, Grounded in the Civil Rights Acts of 1964, the EEOA also derived from a 1970 memo from the Department of Health, Education and Welfare (HEW). That memo published a requirement on the part of school districts stipulating that they had to take action to overcome any language barriers for English-Language Learner (ELL) students that were perceived as an impediment to their equal participation in instructional programs. “Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language
deficiency in order to open its instructional program to these students” (35 Fed. Reg. 11595, 1970).

**Education of All Handicapped Children Act & FAPE**

The prior legislation all built toward the passage in 1975 of the well-known Education of All Handicapped Children Act (EHA, PL94-142) with its assurance of “a free appropriate public education (FAPE) to all children with disabilities ages 5-21.” An expansion of Title VI that was set out in the original Elementary and Secondary Education Act, EHA mandated that, in addition to complying with FAPE requirements, states receiving federal funds also had to comply with the following criteria familiar to K-12 special educators: (a) nondiscriminatory identification and evaluation that included essential safeguards for the student’s cultural and linguistic diversity; (b) an individualized education program (IEP); (c) a least restrictive environment (LRE); (d) the right to parental participation throughout; and (e) due process to ensure parental rights of appeal (Cengage Learning, n.d.). A decade later, an amendment extended the purpose of EHA to include children ages 0-5 and at the same time, to develop early intervention programs for infants aged 0-2. Four years after that in 1990, the Act was reauthorized and renamed to the more familiar IDEA (Individuals with Disabilities Education Act, PL 101-476). The original terminology was updated, eligibility was expanded, assistive technology was incorporated into IEPs, and the notion of LRE was also extended to include the requirement that “the child, to the maximum extent appropriate, be educated with children without disabilities” (ATTO, 2005). The initial passage and subsequent reauthorization and upgrading of federal educational requirements for special needs students has had a profound effect for that population. Whether this would have occurred on such a scale had it been left to the initiatives of the respective states remains a point of debate.

**Creation of the U.S. Department of Education**

The federal Department of Education was made a cabinet level agency in 1980 under the Carter administration. Since 1953, it had been the Office of Education as part of the Department of Health, Education, and Welfare (HEW). That separation and elevation was an act that formalized the importance of education to the ongoing social and economic development of American society as well as an acknowledgment of the continuing role that the federal government needed to play in assisting with that progress, much to the chagrin of those who support smaller government. In 1965, the Office of Education had a budget of $1.5B and 2100 employees. By 2000, that budget had grown to $33B. Under President Bush, NCLB legislation triggered a huge expansion in the department’s K-12 spending: from $20 billion in 2000 to $37 billion by 2005” (Edwards, n.d.). For FY2014, the department’s total budget rose to $71B (USDoE, 2013).

**Goals 2000—Educate America Act**

The election of Democratic President Bill Clinton marked the beginning of a more concerted effort by the federal government to influence state standards and testing. That effect commenced in 1994 with his Goals 2000—Educate America Act (PL 103-227). The core of that program involved grants to the states to assist in the development of standards-based curricula. Some readers may recall Michigan’s Curriculum Framework document (MDE, 1996) nearly 20 years ago—the precursor to the Grade Level Content Expectations (GLCEs). The increased focus on testing over the years has been a bi-partisan effort. Then Texas governor, George W. Bush, used funding from Clinton’s Goals 2000 to develop his own state’s standards and testing regime which, in turn, lead to one of the major pillars of his 2000 campaign for the presidency, and eventually informed his thinking about his 2002 legislation, No Child Left Behind. In that sense, he followed in President Clinton’s footsteps, who as governor of Arkansas in the 1980s, embraced the standards and testing movement. Both of these governors-cum-president brought their state educational initiatives to Washington, and through the federal department of education, saw portions of them realized nationally.

**Improving America’s Schools Act**

Goals 2000 was just the first educational step for President Clinton’s administration. Improving America’s Schools Act (IASA, PL 103-382) was advanced shortly afterwards. IASA was a reauthorization of ESEA. Prior to it, economically
disadvantaged students covered under Title I were permitted to satisfy standards different. Invariably, those standards were less challenging. IASA required Title I students to satisfy the same standards as everyone else. “By requiring that standards and accountability be the same for all children, it made Title I funding, the largest single federal funding stream for elementary and secondary education, contingent on state and local decisions around standards, testing, teacher training, curriculum, and accountability” (NYSED, 2009, p. 67). Further to this, the passage by Congress of the reauthorization of the Higher Education Act in 1998 (PL 105-244) included a provision under its Title II that institutions and states receiving “teacher quality enhancement grants” produce annual reports on their efforts to improve teacher preparation (USDoE, 2006). For decades, K-12 students, schools and programs had been the focus of federal government initiatives. The US Department of Education was now turning its gaze to teachers and teacher quality in K-12.

No Child Left Behind (NCLB)
The election of President George W. Bush in 2000 saw major changes in American education. NCLB was the congressional reauthorization of Clinton’s 1994 IASA. What began as a 25-page concept paper inviting Congress to “help write the bill,” eventually resulted in a 1100-page piece of legislation (NYSED, 2009, p. 73). Readers will be familiar with the most frequently cited requirements and terminology: (a) students were to have reached some declared “proficiency” level by 2014; (b) adequate yearly progress (AYP) was to increase so that 100 percent proficiency was achieved by 2014; and (c) AYP was not only to apply cumulatively (the average of all students), but the data was also to be disaggregated to reflect each student subgroup comprising the totality of the student population (hence the legislation’s title “no child left behind”). Furthermore, any one subgroup failing to achieve AYP meant that the entire school was deemed “failing” and punitive sanctions were outlined as “encouragement” for corrective action.

While NCLB has come to dominate the educational scene in all states, it is important to remember that states were never obligated to sign on to the legislation. However, as with all categorical or targeted funding, if they wanted federal dollars, then compliance was required. That is how the federal government has so successfully inserted itself into a state policy domain under the U.S. Constitution, and in many ways, become the dominant partner.

Race to The Top
As part of the American Recovery and Reinvestment Act of 2009, one of President Obama’s responses to the economic crisis confronting the nation, was funding for his Race to The Top (RTT) education initiative. “The ARRA [laid] the foundation for education reform by supporting investments in innovative strategies that are most likely to lead to improved results for students, long-term gains in school and school system capacity, and increased productivity and effectiveness”. Unlike other federal initiatives for K12, this one was a competitive grant program. Once more, states...
have been required to embrace federal objectives in order to receive funds. But rather than receive funding and then comply, applicants had to “submit a plan addressing four education reform goals, including the use of internationally-benchmarked standards and assessments, the recruitment and retention of effective teachers and principals, the adoption of data systems to track student progress, and the improvement of low-performing schools” (NYSED, 2009, p. 81). The U.S. Department of Education would then determine which states would be funded. In this process, the federal government has been able to exert even greater influence than with past initiatives. In the case of Michigan, when its initial proposals were unsuccessful, the state then enacted policies to satisfy perceived federal expectations in anticipation of success in future applications. Under the Obama administration, the federal government has achieved its ultimate policy goal—voluntary state compliance in a state policy domain in accordance with federal requirements.

Closing Remarks

The federal government has clearly demonstrated its willingness, over the decades, to take charge of an important area of policy, one that not only impacts the economic future of the country, but also speaks to the compelling issues of social equity, social cohesion, and the furtherance of democracy in America. Education is that policy area. While constitutionally, K-12 education remains the right of the states, what the last 50 years have shown us is that the federal government is more than willing to insert itself into that domain, especially given the significance of education in modern society. The tension between the federal government and the states resulting from such “ intrusion” is to be expected as is the pushback. But what some states will eventually do if left to their own devices, all will do sooner if they sign on to federal funding. The importance for the common good of educating all the nation’s citizenry is not necessarily something best left to the whim of local politicians. The federal government clearly believes it has a role to play.

References

ofalo.edu.registered/ATBasics/Foundation/Laws/specialized.php


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