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**From:** Cheryl Boise [ceb@ceopa.org]  
**Sent:** Friday, October 26, 2012 4:18 PM  
**To:** IRRC  
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**Attachments:** Controlling Education From the Top PRINT.pdf

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Comments pertaining to IRRC 2976.

I would strongly suggest you read the attached document related to the standards and testing changes to Chapter 4. Do not tell me that the State Board of Education and the Dept of Education has been transparent about what they have been doing. First of all these are not PA Standards they are drafted from the Common Core ( National) Standards, and Pennsylvania took Race to the Top money from the federal government. How does Pennsylvania anticipate getting the projected \$650 million to implement the national standards, and how are they going to protect local control? Why is it that members of the legislature, who will be asked to fund this mess, are clueless about what the Chapter 4 changes mean if they are aware of them at all? Why is it that other states have refused to be part of these national standards while other states like Utah. South Carolina are putting the brakes on this movement, so they can further investigate the ramifications of this initiative? Why is it that local school boards are just now being told about these changes since they will be the ones being asked to scrounge for the funding?

Anyone that knows anything about children knows that a one size fits all set of standards, or related testing ( which the federal government is working on through 2 testing consortia) will not work. This white paper is one of a series of publications that highlights the problems with what a state like Pennsylvania wants to do, and there are multiple organizations across the country that have come out against these standards. There needs to be HIGHLY transparent legislative hearings on both the Keystone Exams, and the Pa/National Education Standards prior to anything further happening. I am strongly advising these changes be placed on hold until there is real and total transparency, and actual public input from legislators, school board members, taxpayers, and parents.

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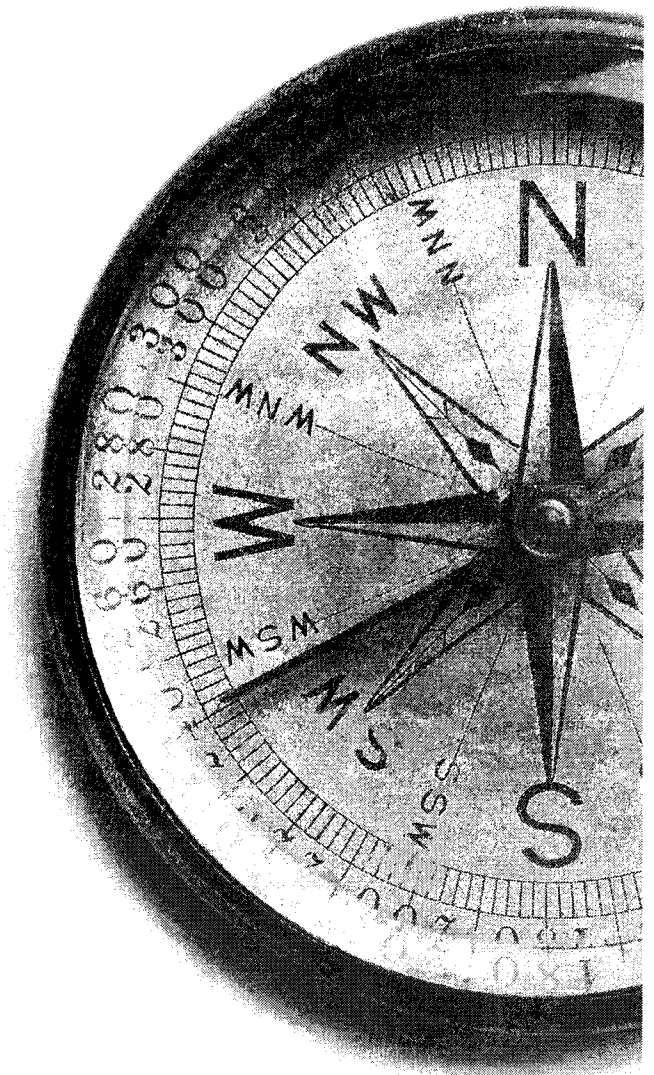
# Controlling Education From the Top

## Why Common Core Is Bad for America

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*A Pioneer Institute and American Principles Project White Paper*

*by Emmett McGroarty and Jane Robbins*



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## American Principles Project's Mission

At the American Principles Project, we seek to preserve and propagate the fundamental principles on which our country was founded - to preserve those unalienable rights, set forth from the dawn of our republic, to life, liberty, and the pursuit of happiness. We seek to return our nation to these timeless principles - not because we long for an idyllic past but because we see them as critical to a successful future.





APP focuses on four core projects. Our Preserve Innocence Initiative is a multi-tiered effort to examine how government affects the upbringing of children, particularly through education and health policy. Our Latino Partnership for Conservative Principles works to promote conservative values within the Latino community and to integrate Latinos into fuller participation in the conservative movement. Our Economics Program is divided into two initiatives - the Fair Public Pensions Initiative, which works to educate Americans about the coming crisis in funding for public-employee pensions and to urge cutbacks that reflect fairness and economic reality; and our Gold Standard Initiative, which works to make a return to the gold standard a front-burner issue in 2012 and beyond.

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## Pioneer's Mission

Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to improve the quality of life in Massachusetts through civic discourse and intellectually rigorous, data-driven public policy solutions based on free market principles, individual liberty and responsibility, and the ideal of effective, limited and accountable government.

## Pioneer's Centers

-  **This paper is a publication of the Center for School Reform**, which seeks to increase the education options available to parents and students, drive system-wide reform, and ensure accountability in public education. The Center's work builds on Pioneer's legacy as a recognized leader in the charter public school movement, and as a champion of greater academic rigor in Massachusetts' elementary and secondary schools. Current initiatives promote *choice and competition, school-based management, and enhanced academic performance in public schools.*
  
-  **The Center for Better Government** seeks limited, accountable government by promoting competitive delivery of public services, elimination of unnecessary regulation, and a focus on core government functions. Current initiatives promote *reform of how the state builds, manages, repairs and finances its transportation assets as well as public employee benefit reform.*
  
-  **The Center for Economic Opportunity** seeks to keep Massachusetts competitive by promoting a healthy business climate, transparent regulation, small business creation in urban areas and sound environmental and development policy. Current initiatives promote market reforms to *increase the supply of affordable housing, reduce the cost of doing business, and revitalize urban areas.*
  
-  **The Center for Health Care Solutions** seeks to refocus the Massachusetts conversation about health care costs away from government-imposed interventions, toward market-based reforms. Current initiatives include *driving public discourse on Medicaid; presenting a strong consumer perspective as the state considers a dramatic overhaul of the health care payment process; and supporting thoughtful tort reforms.*

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# **Controlling Education From the Top**

## **Why Common Core Is Bad for America**

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Emmett McGroarty

Jane Robbins

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## ■ **Controlling Education From the Top**

### **I. Issue Before the Board**

The American Legislative Exchange Council's Public Sector Board of Directors must decide whether to uphold the Education Task Force's approval of the Comprehensive Legislative Package Opposing the Common Core State Standards Initiative. The Task Force's public-sector members approved the package on a 14-6 vote, and its private-sector members approved the package on an 8-4 vote. This legislation provides a model for legislatures to reclaim state responsibility for education decision-making –which has been gravely impaired as a result of the Common Core.

### **II. Executive Summary**

The Common Core State Standards Initiative presents the following problems:

1. **Manner of creation and propagation** – The national Common Core State Standards (the “Standards”) were not created by the states, but rather by private organizations in Washington, DC, with lavish funding from private entities such as the Gates Foundation. The federal Department of Education then used legally suspect means – the *Race to the Top* competition and the promise of waivers from No Child Left Behind – to impose the Standards on the states. This effort has been accompanied by a misleading campaign to present the Standards as “state-led” and “voluntary.”
2. **Mediocre quality** – The Standards, which are intended to prepare students for nonselective community colleges rather than four-year universities, are inferior to those of some states and no better than those of many others. Common Core's English language arts standards

consist of empty skill sets that, once implemented, might not require reading skills any higher than middle-school level. Furthermore, their de-emphasis of the study of classic literature in favor of “informational texts” would abandon the goal of truly educating students, focusing instead on training them for static jobs. Among the many deficiencies of the mathematics standards is their placement of algebra I in grade 9 rather than grade 8, thus ensuring that most students will not reach calculus in high school, and their mandate to teach geometry according to an experimental method never used successfully anywhere in the world. Contrary to previous claims by their creators, the Standards are not “internationally benchmarked.”

3. **Illegal direction of curriculum and usurpation of state autonomy** – The point of standards and assessments is to drive curriculum. By imposing the Standards on the states, and by funding their aligned assessments and imposing those on the states as well, the U.S. Department of Education is violating three federal statutes prohibiting its direction, supervision, or control of curriculum. In addition, because states that adopt the Standards must accept them word for word and will have little opportunity to add content, the states must relinquish their autonomy over public education, all to the denigration of parents' rights.
4. **Vague and unaccountable governance** – It is not clear what governance structure will be created in the future to address issues related to the Standards. What *is* clear is that the Standards are owned

and copyrighted by nongovernmental entities unaccountable to parents and students in individual states.

5. **Costs** – The only national study done of the potential costs of implementing the Standards and assessments estimates nationwide costs of almost \$16 billion over seven years. Continuing costs will be substantial, especially with respect to professional development and technology maintenance and upgrades.
6. **Threats to student and family privacy** – The federal Department of Education (the “Department”) is using the Standards and the assessments as vehicles to mandate the construction of massive state student databases. The Department has also gutted federal student-privacy law to allow greater sharing of student data with other government agencies and private entities. Partnering with the Department of Labor, the Department seeks to build a data system that allows tracking of individual students from preschool through the workforce. This vision not only creates substantial risks of privacy breach, but it also encompasses a worldview of the proper role of government that is greatly at odds with American founding principles.

For these reasons, the Public Sector Board of Directors should uphold the Education Task Force’s approval of the Comprehensive Legislative Package Opposing the Common Core State Standards Initiative.

### **III. Introduction**

The issue before the ALEC Public Sector Board is whether to affirm the ALEC Task Force’s decision to pass the Comprehensive

Legislative Package Opposing the Common Core State Standards Initiative (the “Resolution”). The ALEC Board bears a heavy responsibility in considering this issue. The Common Core State Standards (the “Standards”) and the initiative for their nationwide adoption raise profound questions of federalism, education content, parental rights, governance, fiscal responsibility, and student and family privacy. As set forth below, this responsibility is of even greater consequence given that the people and their elected legislators had no opportunity to deliberate on the Standards and assessments before their adoption, and given that the Common Core system removes significant education policy decisions from the people and their elected representatives.

This matter involves two systemic dynamics. The first is that standards drive curriculum, programs of instruction, and the selection of instructional materials, and they do so even more powerfully when, as is the case with Common Core, they are tied to high-stakes assessments (standardized tests). The second is that the federal government and private organizations have pushed their Common Core agenda on the states by impairing state autonomy, and they plan to retain their stranglehold on the states.

Recognizing the gravity of this matter, Texas Governor Rick Perry warned that it would be “foolish and irresponsible to place our children’s future in the hands of unelected bureaucrats and special interest groups thousands of miles away in Washington, virtually eliminating parents’ participation in their children’s education.”<sup>1</sup> And in that regard, former Attorney General Ed Meese, former Assistant Secretary of Education Bill

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Evers, and hundreds of other professors and experts from a wide range of disciplines signed the *Closing the Door on Innovation* statement, arguing that:

[T]here is no constitutional or statutory basis for national standards, national assessments, or national curricula. . . . Even if the development of national curriculum models, frameworks, or guidelines were judged lawful, we do not believe Congress or the public supports having them developed by a self-selected group behind closed doors and with no public accountability.<sup>2</sup>

The Education Task Force first reviewed this matter at ALEC's 2011 summer meeting. At that time, several Task Force members noted their relative unfamiliarity with the issue (which is unsurprising given the unusual process, discussed below, by which the Standards were propagated); thus, the sponsors agreed to table the Resolution for further study at the winter meeting. At the winter meeting, the Education Task Force spent three days considering two panel discussions and a debate among national experts on the Standards. The Task Force's public-sector and private-sector members both passed the Resolution easily.

Since that meeting, the issue is increasingly attracting grassroots and media interest. The Common Core Initiative and the manner in which the Standards were imposed on the American people undermine our federalist system of divided powers. The Initiative reduces states, and the elected officials within the states, to administrative agents. And it denigrates parents' rights to direct the education of their children. This issue will not fade away.

## **IV. Background**

Within a few short months in 2010, the vast majority of states committed to the Common Core and its attendant system of policy changes. As set forth below, the rapidity with which those commitments were made is not a reflection of high-quality standards, nor of fidelity to our founding principles. Rather, it was the product of the heavy hands of the federal government and private organizations.

If implemented, the Common Core Initiative will have a far-ranging impact on American education and state autonomy. A brief history will illuminate the breadth of that impact – and the reality that the Common Core idea arose not from the states, but from private organizations pursuing their own agenda. It will also shed light on why this matter is only now being addressed in the public square.

The story dates back decades, but its current phase can be traced to 2007. That year the Bill and Melinda Gates Foundation and the Eli Broad Foundation pledged \$60 million to inject their education vision, including uniform “American standards,” into the 2008 campaigns.<sup>3</sup> In May 2008, the Gates Foundation awarded the Hunt Institute for Educational Leadership and Policy a \$2.2 million grant “to work with governors and other key stakeholders” to promote the adoption of national standards. The following month the Hunt Institute and the National Governors Association (NGA) hosted a symposium to explore education strategies.

That same year, NGA and the Council of Chief State School Officers (CCSSO), two Washington, DC-based trade organizations, began accepting foundation grants for purposes of starting the Common Core Initiative and propagating the Standards.<sup>4</sup> In December 2008, to provide guidance to the

Obama Administration during its transition to the presidency, NGA, CCSSO, and their Washington, DC-based contractor, Achieve, Inc., set out their vision for the Common Core Standards in a document entitled *Benchmarking for Success*.<sup>5</sup> This report, funded yet again by the Gates Foundation, outlines five reform steps:

1. Upgrade state standards by adopting a common core of internationally benchmarked standards in math and language arts.... To upgrade state standards, leaders will be able to leverage the Common Core State Standards Initiative, an upcoming joint project of NGA, CCSSO, Achieve, the Alliance for Excellent Education, and the James B. Hunt Institute for Educational Leadership and Policy.<sup>6</sup>
2. Leverage states' collective influence to ensure that textbooks, digital media, curricula, and assessments are aligned to internationally benchmarked standards and draw on lessons from high-performing nations and states.<sup>7</sup>
3. Revise state policies for recruiting, preparing, developing and supporting teachers and school leaders....<sup>8</sup>
4. Hold schools and systems accountable through monitoring, interventions, and support....<sup>9</sup>
5. Measure state-level education performance globally....<sup>10</sup>

Because NGA and CCSSO led its creation, the Common Core State Standards Initiative claims that it is a state-led effort, implying that it had legislative grants of authority from individual states. In fact, through 2008, the Common Core Initiative was a plan of private groups being implemented through trade

associations, albeit trade associations that had "official"-sounding names. Since 2007, NGA, CCSSO, and Achieve<sup>11</sup> accepted more than \$27 million from the Gates Foundation alone to advance the Standards and the connected data-collection and assessments.<sup>12</sup>

Throughout 2008-2009, the Standards had not been drafted. Yet the Common Core proponents wanted to quickly lock the states into the Standards and thus avoid, from their viewpoint, the difficulties inherent in the democratic process. Subjecting the Initiative to deliberation in all fifty states would take years; the people and their elected representatives would, for example, want to thoroughly review the Standards.

The American Recovery and Reinvestment Act, PL 111-5, enacted on February 17, 2009 (the "Stimulus Bill"), provided the breakthrough. It created a \$4.35 billion earmark for states "that have made significant progress" in meeting four education-reform objectives, including taking steps to improve state standards and enhancing the quality of academic assessments.<sup>13</sup>

The week following the Stimulus Bill's passage, in a C-Span interview, U.S. Secretary of Education Arne Duncan announced that the Department of Education (the "Department") would be distributing this Stimulus earmark to the states through a competitive grant program called *Race to the Top*. Through that process, the Department would identify a "set number of states" that would want to commit to very high common standards, "great assessments," and building "a great data system so that you can track those students throughout their academic career." When asked whether he envisioned "national standards for every kid across all subjects



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and national tests,” the Secretary replied, “We want to get into this game....There are great outside partners – Achieve, the Gates Foundation, others – who are providing great leadership....I want to be the one to help it come to fruition.”<sup>14</sup>

In March 7, 2009, one month after passage of the Stimulus Bill, the Department announced the *Race to the Top* “national competition” to distribute the Stimulus money through two rounds of grant awards.<sup>15</sup>

On June 1, 2009, NGA and CCSSO formally launched their Common Core Standards Initiative to develop and implement the Common Core – an effort implicitly referred to by Secretary Duncan several months before. They planned to “leverage states’ collective influence to ensure that textbooks, digital media, curricula, and assessments are aligned” with the Standards. At the time, CCSSO President-elect Sue Gendron, who is now policy adviser and coordinator for the SMARTER Balanced Assessment Consortium, described the initiative as “transforming education for every child.”<sup>16</sup>

However, in its *Race to the Top* request for applications, the Department **changed** Congress’s Stimulus Bill objectives from general improvement of state standards and assessments to acquiescence to specific federal dictates.<sup>17</sup> These dictates included the following:

- (1) adopting internationally benchmarked standards and assessments that prepare students for success in college and the workplace;
- (2) building data systems that measure student success and inform teachers and principals about how they can improve their practices;

- (3) increasing teacher and principal effectiveness and achieving equity in their distribution; and
- (4) turning around the lowest-achieving schools.<sup>18</sup>

Notably, with respect to the “standards and assessments” objective, the *Race to the Top* restatement tracked the language of the NGA-CCSSO-Achieve *Benchmarking for Success* plan issued in December 2008.<sup>19</sup> Furthermore, it designated the four reform objectives as “absolute priorities,” meaning that an applicant state had to address them to be considered for funding.<sup>20</sup>

It is beyond dispute that the Department wanted all the states to adopt the Common Core Standards. Its *Race to the Top* request for state applications defined “internationally benchmarked standards” as a “common set of K-12 standards” that are “substantially identical across all States in a consortium.”<sup>21</sup> It directed the competition judges to award a state “high” points “if the consortium includes a majority of the States in the country,” but “medium or low” points if the consortium includes one-half the states or fewer.<sup>22</sup> The Department admitted that the “goal of common K-12 standards is to replace the existing patchwork of State standards” and that its view was “that the larger the number of States within a consortium, the greater the benefits and potential impact.”<sup>23</sup>

In 2009, the Common Core State Standards Initiative was the only effort of its kind underway. By tracking the Common Core State Standards terminology in its grant requests for applications and by stating its intent to have one set of standards and one consortium, the Department discouraged other states from forming competing consortia.

The assessments (standardized tests) are an integral part of the Common Core system. Because assessments are meant, among other things, to measure what a student has learned, the Department wanted assessments that are aligned with the Common Core Standards. The assessments would serve not only as an evaluative tool, but also as an enforcement tool to ensure that a state is actually implementing standards. Here, the *Race to the Top* request for applications required that states, as one of the competition's "absolute priorities," participate "in a consortium of States that ...[i]s working toward jointly developing and implementing common, high-quality assessments (as defined in this notice) aligned with the consortium's common set of K-12 standards (as defined in this notice)...."<sup>24</sup>

To this end, the Stimulus Bill also authorized \$362 million in funding "to consortia of states to develop assessments . . . and measure student achievement against standards."<sup>25</sup> The Department used that money to award a grant of \$169,990,272 (with a subsequent supplemental award of \$15,872,560) to the Partnership for Assessment of Readiness of College and Careers ("PARCC") consortium and a grant of \$159,976,843 (with a subsequent supplemental award of \$15,872,696) to the SMARTER Balanced Assessment Consortium ("SBAC").<sup>26</sup> Other funding for these consortia came from the Gates Foundation.<sup>27</sup>

In addition to developing the assessments, both consortia, as Secretary Duncan has said, "will help their member states provide the tools and professional development needed to assist teachers' transitions to the new assessments." For PARCC, this includes "curriculum frameworks"<sup>28</sup> and "model instructional units."<sup>29</sup> Similarly, SBAC

is using the federal funding "to develop curriculum materials" and to create "a model curriculum" and "instructional materials" aligned with the Standards.<sup>30</sup> In *The Road to a National Curriculum*, Robert Eitel and Kent Talbert, the former deputy general counsel and general counsel, respectively, of the federal Department of Education, concluded that, "The assessment systems that PARCC and SBAC develop and leverage with federal funds, together with their hands-on assistance in implementing the [Standards] will direct large swaths of state K-12 curricula, programs of instruction and instructional materials, as well as heavily influence the remainder."<sup>31</sup> Moreover, as discussed below in Section V(E), the Department clearly intends to maintain its involvement given that (1) it has required the consortia "to make student-level data that result from the assessment system available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies" and (2) it has changed federal family and student privacy protections in order to do so.

But that is not all the Department did to impose its education policies on the states. The *Race to the Top* request for applications called on states, in competing against each other for a share of the \$4.35 billion, to demonstrate their commitment to the Department's system of policies **regardless of the competition outcome**. With respect to the Phase I competition, the request for applications required states to submit a plan "demonstrating [the state's] commitment to and **progress toward** adopting a common set of K-12 standards (as defined in this notice) by August 2, 2010. . . and to implementing the standards in a well-planned way." With respect to the Phase II competition, the request for applications required states to have

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adopted “a common set of K-12 standards (as defined in this notice) by August 2, 2010” and to demonstrate their “commitment to implementing the standards thereafter in a meaningful way.”<sup>32</sup> Because of the *Race to the Top* grant scoring rules, states could not win unless they committed to the Common Core Standards, which were the only ones in existence that met the description in the grant application.<sup>33</sup> States were thus in a competition to see which ones could firmly adopt the Department’s agenda before the two grant application due dates. The race was on.

But the Department wanted *carte blanche* commitments. To be competitive in the *Race to the Top* competition, states had to not only adopt the Standards and related assessments regardless of the competition outcome, but they had to do so without having an opportunity to evaluate the Standards and assessments. The federal timeline is revealing:

- The Department invited applications for Phase I on November 18, 2009, with a due date of **January 19, 2010**. Under this timeline, applicant states were required to demonstrate their commitment to the Common Core *without* having seen even a draft of the Standards.
- In a February 22, 2010 speech to NGA, President Obama made clear his intention that states would ultimately have to adopt Common Core to receive federal Title I education funding:

I also want to commend all of you for acting collectively through the National Governors’ Association to develop common academic standards that will better position

our students for success.... we’re calling for a redesigned Elementary and Secondary Education Act that better aligns the federal approach to your state-led efforts while offering you the support you need.... First, **as a condition of receiving access to Title I funds**, we will ask all states to put in place a plan to adopt and certify standards that are college and career-ready in reading and math.<sup>34</sup>

- In its March 2010 *A Blueprint for Reform*, the Department stated, “Beginning in 2015, **formula funds will be available only** to states that are implementing assessments based on college and career ready standards that are common to a significant number of states.”<sup>35</sup>
- Also in March 2010, two months after states had submitted their Phase I *Race to the Top* applications – including their required commitments to the Standards – for the grants, NGA and CCSSO issued the draft Common Core Standards.
- On March 29, 2010, the Department announced the winners of Phase I (Delaware and Tennessee).
- The Department invited applications for Phase II on April 14, 2010 with a due date of **June 1, 2010**.
- Not until the day after that deadline, on June 2, 2010, did NGA issue the final K-12 Common Core Standards.
- The Department gave the Phase II applicants until **August 2, 2010** to amend their *Race to the Top* submissions in order to submit “evidence of having adopted common standards after June 1, 2010.”

- On August 24, 2010, the Department announced the Phase II winners (DC, FL, GA, HI, MD, MA, NY, NC, OH, and RI).

Thus, to be competitive for a share of the \$4.35 billion *Race to the Top* fund, Phase I applicants had to demonstrate a commitment to Common Core before even seeing a draft of the Standards. Phase II applicants had to adopt Common Core with, at most, two summer months to evaluate the Standards, compare them to their current standards, discuss the matter with their citizens, and commit to replace their standards with Common Core. It should be noted that the assessments – to which the states have been forced to commit – still have not been prepared.

The pressure exerted by the Department for the states to fall in line on Common Core was enormous. The Department dangled *Race to the Top* funding during a time of economic crisis, when forecasters were warning of impending economic cataclysm. And the Department demanded action immediately. Within days after passage of the Stimulus Bill, the Department outlined its *Race to the Top* plan, signaled its desire for national standards, and identified NGA as a “partner” in the project. It rushed into place a grants program (which exceeded congressional authorization) that (1) demanded immediate action by the states to enact the Administration’s policy changes; (2) required the states to commit to standards and assessments without an opportunity to study them, pilot them, or even discuss them with their legislators and citizens; and (3) deprived the states of the opportunity to study the fiscal impact. Regarding New Jersey’s June 16 adoption, Rutgers professor Joseph Rosenstein remarked to *Education Week*,

“Deciding so quickly, to me, is irresponsible. It was like it was a done deal, a foregone conclusion.”<sup>36</sup>

But recession-racked states were desperate for cash, and the Department and the NGA-CCSSO public-relations operation employed appealing phrases such as a “state-led” effort and “internationally benchmarked standards and assessments.” Initially only Governor Palin of Alaska and Governor Perry of Texas refused to join the stampede. Governor Perry argued that it “smacks of a federal takeover of our public schools.” In May 2010, Virginia joined Texas and Alaska in opposing the takeover, with Virginia’s Governor McDonnell arguing that his state’s “standards are much superior” and the Common Core Standards had not been “validated.” Now, as more evidence has come to light and as citizens have an opportunity to delve into the matter, other states have begun to question the Common Core commitment decision.

## **V. Discussion**

From the beginning, the Common Core State Standards Initiative has described the Standards in glowing terms. They are “state-led” and “voluntary.” They are “internationally benchmarked,” “robust,” “aligned with college and work expectations,” “rigorous,” and “evidence-based.”<sup>37</sup> They will enable meaningful comparisons of student performance across states.<sup>38</sup> We have already seen that the claims of state involvement and voluntariness are misleading at best. The discussion below demonstrates that the other claims are doubtful as well, and that any state evaluating the Standards in the cold light of day should consider the following problems: (1) quality and content of the Standards; (2) legality of the federal promotion of the Standards and assessments, and the

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usurpation of state autonomy; (3) governance of the Standards; (4) fiscal cost to the states; and (5) student and family privacy rights.

### **A. The Common Core Standards Are of Mediocre Quality and Rest on Questionable Philosophies**

The Common Core Standards are of mediocre academic quality. Even Common Core proponents have conceded that the Standards are clearly inferior to those of several states and no better than those of about a dozen states.<sup>39</sup> More objective analysts have concluded that in both English language arts (ELA) and mathematics, the Common Core Standards are deficient. Moreover, both the ELA and the math standards rest on questionable philosophies.

i. *The Common Core English language arts standards are defective and would radically change literature instruction.*

Dr. Sandra Stotsky of the University of Arkansas, a member of Common Core's Validation Committee who refused to sign off on the Standards, criticizes the ELA standards as "empty skill sets . . . [that] weaken the basis of literary and cultural knowledge needed for authentic college coursework."<sup>40</sup> Common Core's focus on skill sets rather than true content is unlikely to genuinely educate students in English, reading, rhetoric, or composition.<sup>41</sup>

Nor do the ELA standards validate Common Core's boast of "college-readiness." Dr. Stotsky analyzed the high-school examples of "complexity" in Common Core and concluded that "the average reading level of the passages on the common tests now being developed to determine 'college-readiness' may be at about the grade 7 level."<sup>42</sup>

Common Core's ELA standards (as well as the math standards) are designed to prepare students only for nonselective community colleges – which was in fact admitted by one of the Standards-writers when questioned by skeptical Standards-evaluators.<sup>43</sup> Because of this misleading definition of "college-readiness," Dr. Stotsky warns, colleges "will likely be under pressure from the [Department of Education] to retain these students so as to increase college graduation rates even if they are reading at only middle school level."<sup>44</sup>

In addition to their technical deficiencies, the ELA Standards radically change the focus of instruction. They de-emphasize the study of classic literature in favor of reading so-called "informational texts," such as government documents, court opinions, and technical manuals.<sup>45</sup> In fact, the Standards dictate that well over half the reading curriculum, at least in grades 6 through 12, should consist of informational texts rather than classic literature. This will present difficulties for English teachers, the vast majority of whom have not been trained to teach such material (nor would most want to). And it is likely to diminish the communications skills students need to succeed in college and career.

Not only does Common Core limit the amount of literature that can be taught, but there are indications that it promotes the most intellectually disengaging techniques for presenting even the informational texts. One alarmed high-school English teacher, reporting on a Common Core training session that used the Gettysburg Address as an example, noted that teachers were instructed to adhere to a script, asking certain specific questions and avoiding others; to present the speech with no historical context but rather as "cold reading," as if Lincoln had delivered

the speech in a vacuum; and to read the speech aloud to the class not as Lincoln would have spoken it, with power and emotion, but rather without inflection. A past president of the National Council of Teachers of English declared herself “aghast at the vision of the dreariness and harshness of the classrooms [the standards-writers] attempt to create.”<sup>47</sup> Is this what our students and teachers have to look forward to in Common Core English classes?

But even more disturbing is that Common Core would deprive students of the intangible benefits of studying classic literature. A student who learns to love great books learns to understand great principles that endure throughout human history; to imagine himself in other times and other worlds; to understand different perspectives and points of view; to appreciate the history of his nation and others; and to love, and perhaps emulate, the well-crafted phrase, sentence, and paragraph. Most of these benefits cannot be obtained from reading informational texts. Common Core’s embrace of the latter at the expense of the former is a surrender to the idea that most students should be trained for static jobs, not developed as creative human beings who can fulfill their own potential and take their place in society as citizen leaders. Teaching students informational documents rather than classic literature may train them to be adequate entry-level workers for existing factory jobs, but it will not educate them to be thoughtful citizens and empower them in the exercise of their liberty.

University English professors are beginning to recognize and express concern about the educational philosophy represented by the Common Core ELA standards.<sup>48</sup> Dr. Anthony Esolen of Providence College, for example,

has urged one state legislature to reject Common Core’s attempts to diminish our children’s literary heritage:

[W]hat appalls me most about the [Common Core] standards . . . is the cavalier contempt for great works of human art and thought, in literary form. It is a sheer ignorance of the life of the imagination. We are not programming machines. We are teaching children. We are not producing functionaries, factory-like. We are to be forming the minds and hearts of men and women. . . . Frankly, I do not wish to be governed by people whose minds and hearts have been stunted by a strictly utilitarian miseducation. . . . Do not train them to become apparatchiks in a vast political and economic system, but raise them to be human beings, honoring what is good and right, cherishing what is beautiful, and pledging themselves to their families, their communities, their churches, and their country.<sup>49</sup>

Sadly, the Common Core was pushed into the states without affording the people, or their elected representatives, an opportunity to discuss these issues.

ii. *The Common Core math standards are defective and in part rely on an unproven method of instruction.*

Common Core’s mathematics standards also fall short of the best we should offer our students. Mathematics Professor R. James Milgram of Stanford University, the only mathematician on the Validation Committee, concluded that the mathematics standards would put students two years behind those of many high-achieving countries, such as those in East Asia.<sup>50</sup> Dr. Milgram thus refused to sign off on the math standards. Curriculum

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expert Grant Wiggins described the math standards as “a bitter disappointment.”<sup>51</sup>

Dr. Milgram has identified several specific problems with the math standards. A significant concern is that Common Core places algebra I in grade 9 rather than grade 8. This means that the large majority of students will not reach calculus in high school, as expected by elite colleges.<sup>52</sup>

Another problem is that geometry teachers will be instructed to teach their subject with an experimental method never used successfully anywhere in the world.<sup>53</sup> This method failed with math prodigies in the Soviet Union fifty years ago; what is the likelihood it will succeed with the average American student today?

The Common Core math standards contain other deficiencies: failure to teach prime factorization, and therefore failure to teach common denominators; postponing fluency with division from grade 5 to grade 6 (in contrast to high-performing countries such as Singapore and South Korea); failure to teach conversions between fractions, decimals, and percents; redefinition of algebra as “functional algebra” that de-emphasizes algebraic manipulation; and excluding some algebra II and geometry content that is a prerequisite at almost every four-year state college.<sup>54</sup> These deficiencies further demonstrate that the “college” referred to in Common Core’s boast of “college readiness” is a nonselective community college, not a four-year university.

iii. *Contrary to the claims of their creators, the Common Core Standards are not internationally benchmarked.*

The creators of Common Core have long touted the Standards as “internationally benchmarked.” But Dr. Stotsky has noted that “[n]o material was ever provided to the Validation Committee or to the public on the specific college readiness expectations of other leading nations in mathematics or language and literature.”<sup>55</sup> Dr. Stotsky’s own research revealed that Finland and countries in the British Commonwealth have “far more demanding” requirements in language and literature.<sup>56</sup> Professor Milgram concluded that the Standards simply do not qualify as “comparable to the expectations of other leading nations.”<sup>57</sup> He explained: “In most high-performing countries, calculus is a high school graduation requirement. It’s almost a joke to think students [who master the common standards] would be ready for math at a university.” He added that at Stanford, calculus – largely precluded by the Common Core – is “considered remedial.”

Professor Jonathan Goodman of New York University criticized Common Core’s “significantly lower expectations with respect to algebra and geometry than the published standards of other countries.”<sup>58</sup> Professor Andrew Porter, dean of the University of Pennsylvania Graduate School of Education, found “surprising” results about the lack of international competitiveness of both the ELA and the math standards.<sup>59</sup>

In light of these findings, the Common Core State Standards Initiative changed its description of the Standards from being “benchmarked” to the standards of high-performing countries (used in early press releases) to being “informed by” those of high-performing countries (in current form on the Common Core website).<sup>60</sup> Dr. Stotsky explained the need for the change:

“Benchmarking” means you use a set of agreed-upon criteria for judging something. To be “informed” by other countries’ standards means simply that they were read. Some other countries are light years ahead of what the common standards require for college readiness.<sup>61</sup>

*iv. Contrary to the claims of its creators, the Common Core likely will not lead to genuine comparisons of academic achievement.*

Although it is too early to evaluate the Common Core-aligned assessments currently being drafted by the two federally funded consortia, one point needs to be emphasized: The SBAC assessments, if implemented as planned, will **not** allow for genuine comparisons of academic achievement across states. This is because the assessments will be “computer-adaptive” – a student’s answers to the questions at the beginning of the test will determine what questions he is given later in the test.<sup>62</sup> Thus, the test performance of Mary the fifth-grader in Baltimore cannot be meaningfully compared to that of Joey the fifth-grader in Topeka, because their test questions were probably different. This fact eliminates one of the primary arguments of the Common Core proponents – that we must be able to compare students across states.

If the states are going to lock themselves into a rigid scheme of standards and assessments that they cannot change, at least that scheme should be of exceptional quality and allow for genuine comparisons of achievement. That is not true of Common Core and the aligned assessments. States that wish to improve their own standards and assessments would be better advised to adopt those from the highest-achieving states, not problematic standards and assessments imposed on the

states by private organizations and the federal government.

### **B. The Common Core Standards/Race to the Top Effort Violates Three Federal Statutes and Eliminates State Autonomy**

In imposing the Common Core Standards and aligned assessments on the States, the federal government is violating three statutes and has put America on the road to a national curriculum. With respect to the *Race to the Top/Common Core* scheme, Robert S. Eitel and Kent D. Talbert, former deputy general counsel and general counsel, respectively, of the U.S. Department of Education, concluded that “these standards and assessments will ultimately direct the course of elementary and secondary study in most states across the nation, running the risk that states will become little more than administrative agents for a nationalized K-12 program of instruction and raising a fundamental question about whether the Department is exceeding its statutory boundaries.”<sup>63</sup>

Federal law lays down broad prohibitions on Department involvement in curricula decisions. The General Education Provisions Act prohibits the Department from “exercis[ing] any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel” of any school, or “the selection of . . . textbooks, or other . . . instructional materials” used in any school.<sup>64</sup> Similar prohibitions exist in the Department of Education Organization Act<sup>65</sup> and the Elementary and Secondary Education Act of 1965 (ESEA).<sup>66</sup>

Common Core is the vehicle by which the federal government is evading these prohibitions. As described above, the Department has herded the states into



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adopting Common Core by dangling before them *Race to the Top* funding while denying them the opportunity to review the Standards before signing on. As the Pioneer report notes:

Standards drive curriculum, programs of instruction, and the selection of instructional materials. A change to common K-12 standards will inevitably result in changes in curriculum, programs of instruction, and instructional materials to align with the standards. This is critical to understanding the importance of the road the Department has taken.<sup>67</sup>

School districts understand that their curricula will have to change to align with Common Core; when polled, large majorities of districts in Common Core states agreed that the standards would require “new or substantially revised curriculum materials” in both math and English.<sup>68</sup> And even the Department acknowledges that the Standards will drive curriculum. In its *Notice of Final Priorities for the Race to the Top Fund*, the Department stated that “[s]ome of the major benefits of common standards will be . . . the coordination of information that could inform the development and implementation of curriculum, instructional resources, and professional development.”<sup>69</sup> By nationalizing the standards, the Department is nationalizing the curriculum. As Eitel and Talbert noted, the Department “has simply paid others to do that which it is forbidden to do.”<sup>70</sup>

The assessments (standardized tests) that will be aligned with Common Core will also facilitate federal control over curricula. Again through *Race to the Top*, the Department has poured \$362 million into two consortia of states (PARCC and SBAC) that

are developing such assessments. Secretary Duncan is candid about what the consortia will do with that money: “PARCC . . . will be developing curriculum frameworks and ways to share great lesson plans. [SBAC] will develop instructional modules . . . to support teachers in understanding and using assessment results.”<sup>71</sup> The consortia themselves agree that developing curricula and instructional modules is part of their mission.<sup>72</sup> “The language used by both consortia in their supplemental funding materials,” Eitel and Talbert report, “leaves no question about their intentions to use federal funds to develop curricular and instructional materials” based on Common Core.<sup>73</sup> It is impossible to view this process as anything other than federal direction, supervision, or control of curricula – and therefore illegal under three federal statutes.

Another heavy-handed and legally suspect means by which the federal government is imposing the Common Core scheme on the states is the No Child Left Behind waivers. In September 2011, taking advantage of Congress’s delay in reauthorizing ESEA, the Department announced the Conditional NCLB Waiver Plan to exempt certain states from NCLB accountability requirements.<sup>74</sup> But in doing so, the Department went well beyond the congressionally authorized waiver provisions of ESEA,<sup>75</sup> and mandated additional requirements for states seeking a waiver. To qualify, a state had to agree to adopt “college- and career-ready standards” (either Common Core, or a set of standards certified by the state’s colleges and universities that is consistent with Common Core). The state also had to declare its membership in either PARCC or SBAC, or its intention to adopt those, or similar, assessments. In sum, to obtain an NCLB waiver, a state had to agree to

adopt common standards and assessments.<sup>76</sup> The waiver plan thus operates as another tool by which the Department coerces the states into accepting Common Core and the aligned assessments – and the curricula and programs of instruction being developed by the assessment consortia with federal money.

It is clear that the Department does not consider the statutory prohibitions on federal direction, supervision, or control of curriculum to be insurmountable obstacles to its goal of national control of public schools. The obstacles can be overcome by simply paying others to do what it cannot do, and by coercing the states into climbing on board. The best way to stop this scheme is for the individual states to refuse to participate. The more states that take this course, the less the federal leverage and control will be.

Even if the Department were acting within its legal authority in promoting Common Core, states should realize that, by acquiescing to the Department's desires, they are signing away their constitutional autonomy over the education of their children. And if the states no longer have control over education, neither can the parents in those states. Control will be centralized in the federal government and private organizations in Washington, DC.

The progressive view of education is that the education of children is too important to be left, as the Founders intended, to parents, localities, and the states. This view calls for sweeping national control of education, with the important decisions made by experts for the good of the citizenry. Common Core is the critical first step in accomplishing this vision.

The point of Common Core is to standardize K-12 education across the nation. This will

be accomplished by standardized courses, standardized textbooks and instructional materials, and standardized assessments. Such standardization, of course, cannot be accomplished if states are allowed to exercise autonomy in public-school education – to delete what they do not like from the Standards and substitute something they do. The Common Core initiative makes it clear that they cannot do so.

The *Race to the Top* application, the initial vehicle through which Common Core was imposed on the states, requires the applicants to adopt “a set of content standards . . . that are substantially identical across all States in a consortium.”<sup>77</sup> This means that states must adopt Common Core word for word. They may supplement the Standards, but only if the additional standards “do not exceed 15 percent of the State’s total standards for that content area.”<sup>78</sup> There is no provision allowing a state to subtract anything from the Common Core Standards.

Achieve warned that “states who adopt [the Common Core Standards] are expected to adopt them in their entirety.”<sup>79</sup> Achieve further discouraged the states from adding even the paltry 15 percent allowed under *Race to the Top*, noting that excessive state independence “would dilute the overall focus of the standards” and would threaten “the use of common assessments and instructional materials.”<sup>80</sup>

The practical effect of this rigid standardization is that the Common Core states – and the parents and educators in those states – will lose all control over what the children are taught. If parents or math teachers find, for example, that Common Core’s experimental approach to the subject is no more successful here than it was with

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Soviet math prodigies, they will have no recourse to drive change through their state elected officials. In fact, no one in the state – not the state superintendent of education, not the governor, not the legislators – will have any power to change any objectionable Standard. All power will reside with the private organizations in Washington that control the Standards.

At best, a dissatisfied state would have to persuade anywhere from 23 to 44 other jurisdictions – and probably the federal Department of Education– to agree to revise the problematic Standards. The political obstacles alone would be daunting. It is utterly nonsensical for a state to trap itself in such a vise when, if it were free of Common Core, it could alter its own standards in whatever way best responds to the concerns of parents and educators. As South Carolina Governor Nikki Haley wrote, in support of Senator Mike Fair’s Common Core-withdrawal bill, “Just as we should not relinquish control of education to the Federal government, neither should we cede it to the consensus of other states.”<sup>81</sup>

### **C. The Common Core Standards Scheme Requires a Governance System that Will Further Impair State and Parental Rights**

Looking ahead, the states face a difficult battle to prevent further erosion of their sovereignty and their abilities to guard the interests of their citizens. The Common Core Initiative, coupled with the federal effort to drive its adoption, has brought about national content standards owned by the private interests that created them – not by any state and not by the federal government.<sup>82</sup> The result is that significant portions of the states’ educational systems now rest in the hands

of private organizations that an individual state cannot control. And, having stripped the people of effective political power and put it in the hands of private interests, the owners of the Standards attempt to insulate themselves from legal liability to the people with broad disclaimers for any damage the Standards might cause.<sup>83</sup>

One particularly troubling aspect of the Initiative is that so much of its funding has come from private entities that are unaccountable to the taxpayers. The Gates Foundation, for example, has poured tens of millions of dollars into organizations that have an interest, financial or otherwise, in the implementation of Common Core. In particular, since 1999, the Gates Foundation has donated over \$30,000,000 to NGA<sup>84</sup> and \$70,000,000 to CCSSO.<sup>85</sup> In addition, it has financed a host of other organizations that work to influence education policy, including the National Education Association,<sup>86</sup> the American Federation of Teachers,<sup>87</sup> the American Association of School Administrators,<sup>88</sup> and WestEd (a federally created organization that serves as project manager for SBAC).<sup>89</sup> It has donated to organizations on both sides of the ideological spectrum, with significant funding to advance its education agenda going to conservative entities such as Fordham Institute<sup>90</sup>; the American Enterprise Institute (over \$3 million since 2007, including a timely \$2 million grant in March 2009<sup>91</sup> near the kick-offs of the Common Core Standards Initiative and *Race to the Top*); Jeb Bush’s Excellence in Education, a leading supporter of the Standards among Republicans<sup>92</sup>; and in November of last year, a \$376,000 grant to ALEC while the Education Task Force was studying the Resolution before its December

2011 vote (as noted above, the Task Force resoundingly voted to pass the Resolution anyway).<sup>93</sup>

This beneficence raises serious questions about who, exactly, is controlling education policy – elected officials answerable to the taxpayers, or unaccountable private groups? Commentators across the political spectrum have already expressed concern about whether elected officials are abdicating their responsibilities and letting wealthy donors run the show.<sup>94</sup> Nor can the nonprofit interests and for-profit interests be readily separated; for example, Microsoft recently invested in a division of Barnes and Noble that deals with curriculum,<sup>95</sup> and the Gates Foundation is working with the Pearson Foundation (connected to British educational mega-publisher Pearson PLC) to provide online courses.<sup>96</sup> The Gates Foundation has even paid NBC \$500,000 for the National Education Summit (broadcast on NBC and MSNBC).<sup>97</sup>

All of this raises questions about how decisions will be made, who will make them, and how – if at all – states will be able to protect the interests of their citizens. Moving forward, decisions will have to be made regarding:

1. Researching, evaluating, and validating the Standards and the assessments. What entity will do this and determine, for example, whether a given set of results is a fair assessment of a particular state?
2. Updating and revising the Standards.
3. Ensuring that from state to state – states within a particular consortium and across both consortia – assessments are given within the same time frame so that no one state has the advantage of having

administered its assessments after other states.

4. Coordinating state academic calendars so that states do not suffer for having had less instructional time under their belts at the time of the assessments.
5. Coordinating and enforcing instructional time so that states do not “game the system” by de-emphasizing other subjects in order to out-perform on English language arts and math.
6. Coordinating and enforcing test preparations, in contrast to academic instruction, to ensure that students in all states are on equal footing.
7. Responding to parental concerns and complaints, especially with respect to issues of bias and testing philosophies.
8. Adding new subjects.

To begin the discussion of governance issues, the Fordham Institute set forth three possible models representing various levels of centralization: a “powerful” centralized entity (which it honestly calls “Let’s Become More Like France”); a small entity charged with updating the Standards but otherwise leaving issues to be addressed as they arise; and a middle ground that “features creation of an interim ‘coordinating council’ that might evolve into something more permanent (and ambitious) [note: parenthetical comment in the original text] over time.”<sup>98</sup>

Regardless of the level of centralization, the fundamental problem remains that the extra-governmental existence of the Standards and the assessment consortia eviscerates a state’s ability to protect its interests and the interests of its citizens. For example, Fordham noted that even the most centralized governance structure would not clarify many federal

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policy issues, such as the intersection of ESEA funding-and-accountability expectations with Common Core standards and tests. Under such a system, Fordham further noted, "Standards, content, curriculum, teacher quality, instruction, and accountability are in danger of getting lost under controversial structural and political changes, interest group agonies, and the fresh risks of stasis, bureaucracy, and conventional thinking that accompany any new quasi-monopoly."<sup>99</sup>

But even a minimalist governance structure raises problems. Considerable amounts of money would still be needed for evaluation and validation of the Standards and assessments. Will that money come from the federal government, and if so, at what price of further federal domination? As Fordham noted, even private financing would be problematic:

The major foundations are so large and so powerful in using grants to pursue their strong policy agendas that independence, as a practical matter, may not be complete, even without government funding.<sup>100</sup>

Nor does there appear to be a solution for internal governance within such a structure. Fordham suggests a ten- or twelve- member executive council that includes representatives from a variety of interests including NGA, CCSSO, the National Conference of State Legislators, the testing consortia, and the federal Department of Education. However, the proposal fails to provide for a single representative from any state.

The questions will continue. If a governance structure does include state representation, how will it balance the issues of the small and large states? By what margin will decisions have to pass? And how is it possible for any

governance structure to protect the interests of parents and students in individual states?

### **D. States and Their Taxpayers Will Incur Substantial Costs to Implement the Common Core**

The novelty of the Common Core system is not in dispute, with its progenitors having proclaimed that the Standards are, as SBAC's Policy Adviser and then-CCSSO President-elect Sue Gendron described them, "transforming education for every child." Because the Standards will introduce pedagogical philosophies unfamiliar to most teachers, these teachers will have to be re-trained. Moreover, the Common Core assessment consortia will usher in novel tests that require substantial investments in technology infrastructure. The states and their taxpayers face significant increased costs in four areas: textbooks and instructional materials, professional development, assessments, and technology and infrastructure for the computerized assessments.

In a commissioned study, AccountabilityWorks estimated that the total additional costs (one-time costs plus seven-year implementation costs) to state taxpayers will amount to \$15.8 billion.<sup>101</sup> That estimate includes the following new expenses for the states: \$1.2 billion for participation in the new assessments, \$5.3 billion for professional development, \$2.5 billion for textbooks and instructional materials, and \$6.9 billion for technology infrastructure and support. AccountabilityWorks further notes that the two testing consortia, especially SBAC, also face considerable technical challenges to accomplishing their goals and that, if those challenges are not overcome,

the costs will rise.<sup>102</sup> Furthermore, states will incur additional costs if they exercise their right to add up to 15 percent to the Common Core Standards and want to test their students on that content.<sup>103</sup>

Other than the due diligence attendant to the *Race to the Top* competition, few states have conducted a thorough analysis of what **all** their additional costs would be. However, a sense of the magnitude of the problem is evident by considering the limited state studies. For example, with respect to professional development, California has estimated the initial cost at \$2,000 per teacher.<sup>105</sup> It estimated its textbooks costs to be \$483 million, which AccountabilityWorks calculates to be \$77.19 per student.<sup>106</sup> And with respect to technological costs, as of January 2012, none of the states had conducted a rigorous feasibility study.<sup>107</sup>

By their own admission, the states face fiscal strain from the implementation of Common Core. In a survey released in January 2012, the Center on Education Policy – a pro-Common Core group – reported that 30 states (all but two of those responding) admitted to difficulty in garnering adequate implementation resources. A substantial majority of the states admitted to major challenges with respect to implementing the online assessments and providing professional development. Such costs are not surprising given that an overwhelming number of the states admit that implementation will require new or substantially revised curriculum materials, fundamental changes in instruction, and more computers and enhanced technologies.

### **E. The Common Core Standards System Intrudes on Student and Family Privacy**

A particularly troubling component of the Common Core Initiative is its connection to the collection and dissemination of personal student data. Analysis of this issue reveals how Common Core is merely one part of a much broader plan by the federal government to track individuals from birth through their participation in the workforce.

Progressive educators and bureaucrats, such as those currently in control in the Department of Education, have long advocated sweeping national control over education as a means of matching the citizenry to the workforce needs of industry. One prominent progressive reformist, Marc Tucker of the National Center on Education and the Economy, described this view in a now-famous letter to Hillary Clinton shortly after the 1992 election. Tucker promoted what is, to conservatives, a dystopia of authoritarian control: “remold[ing] of the entire American system for human resource development . . . – a seamless system of unending skill development that begins in the home with the very young and continues through school, postsecondary education and the workplace.”<sup>108</sup>

An essential component of creating this “seamless system of unending skill development” is the construction of massive data systems, so that individuals can be tracked through school and beyond. But a federal statute prohibits the Department of Education from maintaining a national student database.<sup>109</sup> The Administration has discovered a way to evade this prohibition: Coerce the states into building the databases, and then change the law so the data can be shared.

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The Administration's 2009 Stimulus Bill created a State Fiscal Stabilization Fund, accessible only by states that agreed to build broad state longitudinal data systems (SLDS) to collect data on public-school students.<sup>110</sup> To be eligible for Stimulus money, all fifty states agreed to build an SLDS. The *Race to the Top* competition then reinforced the SLDS requirement by granting extra points to states based on their SLDS commitments.<sup>111</sup> The Department intends these SLDS to "capture, analyze, and use student data from preschool to high school, college, and the workforce."<sup>112</sup>

What kinds of data might be included in the SLDS? According to the National Education Data Model,<sup>113</sup> a myriad of information such as health-care history, disciplinary record, family income range, family voting status, and religious affiliation – over 400 data points in all.

Until recently, federal student-privacy law protected personally identifiable information (PII) from disclosure to outside entities. That changed, however, in January 2012, when the Department issued new regulations eviscerating the protections contained in the Family Educational Rights and Privacy Act (FERPA).<sup>114</sup> The new regulations allow transmission of students' PII – without parental consent – to any governmental or private entity designated by the Department and others as an "authorized representative," for the purpose of evaluating an education program. Any PII the Department (or any other educational entity) acquires can now be shared with, for example, labor and public-health agencies. The student's parents would have no right to object; indeed, they would probably never know the disclosure had been made. These other agencies would then have access to a wealth of personal data.

The Department suggests there is nothing to worry about, at least with respect to the federal government, because the data it acquires from the state and local educational authorities are **aggregate, not personally identifiable**. But the assessment scheme aligned with Common Core is designed to change that. In exchange for federal funding of the PARCC and SBAC assessments, the cooperative agreements between the Department and those consortia explicitly require PARCC and SBAC to "develop a strategy to make **student-level data** that results from the assessment system available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies; [*sic*] subject to applicable privacy laws."<sup>115</sup>

Many state education officials have noticed already a greater aggressiveness on the part of the Department in demanding personally identifiable student data, in conjunction with federal education grants. These demands go beyond assessing the effectiveness of funded programs; in fact, the Department claims the right to use the data – without parental permission – in future research projects. This is in keeping with various initiatives such as the recently announced joint venture between the Departments of Education and Labor, the stated purpose of which is to conduct more effective research and to better evaluate education and workforce training programs.<sup>116</sup> The Department of Labor makes no bones about what these agencies are doing: "developing or improving state workforce longitudinal data systems with individual-level information [and] enabling workforce data to be matched with education data to create longitudinal data systems . . . ."<sup>117</sup> With access to PII through the Common Core assessments, and with the new regulations

that gut FERPA, the primary “challenges”<sup>118</sup> to this effort have been swept away.<sup>119</sup>

Common Core, then, is an essential component of a broader economic and workforce plan to track and analyze students. It is bad enough that all states are now building SLDS in return for Stimulus money; it will be far worse if they adopt national standards and assessments that open up their students’ private information to public and private entities throughout the nation.

## **VI. Conclusion**

The story of the Common Core Standards has been one of disdain for the American people. The federal government and private organizations have imposed the Standards on the states. They have done so in a manner that denied the people and their elected legislators a meaningful chance to review the Standards and to consider the implications of participation in the Common Core Standards system, including assessments and data collection.

The federal constitutional structure – a compound republic with a separation of powers – serves to protect our liberties and governance by the people. The Common Core Standards Initiative and *Race to the Top* misused that structure by taking the people’s money and forcing their elected representatives to decide whether to compete for a chance to get that money back, and did so without respecting the states’ responsibility to put the issue to their people.

We are now coming to terms with some of the consequences of evading the constitutional structure. Those consequences include national Standards that – contrary to the creators’ claims of academic rigor – are

of inferior academic quality, that rest on a philosophy of education contrary to our founding, that undermine state autonomy and parental involvement, that intrude on student and family privacy, and that will impose enormous costs on state taxpayers.

The final chapter of this story, we believe, will be a rededication to the principle of government by the people. The American people are now awakening to the reality that their states have surrendered control to “experts,” who are delivering a product that falls profoundly short of its billing. State elected bodies now have the chance to reverse this. They have the chance to reassert the people’s right to self-determination. For the sake of our founding principles, they should do so.



**EXHIBIT A**  
**COMMON CORE ENGLISH**  
**LANGUAGE ARTS STANDARDS**  
**STATEMENT OF**  
**DR. SANDRA STOTSKY**

May 1, 2012

My professional background: I currently serve as Professor of Education Reform, 21st Century Chair in Teacher Quality, at the University of Arkansas. I draw on much state and national experience with K-12 standards, curricula, and assessments. I was the senior associate commissioner in the Massachusetts Department of Education from 1999-2003 where, among other duties, I was in charge of developing or revising all the state's K-12 standards. I reviewed all states' English language arts and reading standards for the Thomas B. Fordham Institute in 1997, 2000, and 2005. I co-authored Achieve's American Diploma Project high school exit test standards for English in 2004. I served on Common Core's Validation Committee from 2009-2010. Finally, I am the author of *The Death and Resurrection of a Coherent Literature Curriculum: What Secondary English Teachers Can Do*, to be published by Rowman & Littlefield in June 2012.

The Common Core English language arts (ELA) standards exhibit the following deficiencies:

- Common Core's "college-readiness" standards for ELA and reading are simply empty skill sets. They do not necessarily point to readiness for a high school diploma because we do not yet know the reading level of the passages to be used on tests based on these standards, or

where the cut scores will be set. To judge by the reading levels of the high school examples of "complexity" in Common Core's Appendix B, the average reading level of the passages on the common tests now being developed to determine "college-readiness" may be at about the grade 7 level.

- As empty skill sets, Common Core's college-readiness standards for ELA and reading cannot strengthen the high school curriculum, and they cannot reduce post-secondary remedial coursework in a legitimate way. Instead, they weaken the base of literary and cultural knowledge needed for authentic college coursework.
- As admitted by one of the creators of Common Core, Dr. Jason Zimba, at a meeting of the Massachusetts Board of Elementary and Secondary Education in March 2010, Common Core defines "college-readiness" as ready for a nonselective community college, not a four-year university.
- Because of this misleading definition of "college-readiness," colleges will likely be under pressure from the U.S. Department of Education to retain these students so as to increase college graduation rates, even if they are reading at only middle-school level.
- Common Core expects English teachers to spend over 50 percent of their reading instructional time on nonfiction and informational texts such as seminal U. S. political documents, court decisions, and scientific and technical manuals. This is not what English teachers are trained to do in any college English department or teacher-preparation program. They

take academic coursework in literary study (and in composition and rhetoric) and are trained to teach students how to read literary works (including speeches, biographies, and literary essays), not computer manuals or science textbooks.

- Common Core makes it impossible for English teachers to construct a coherent literature curriculum in grades 6-12, since most of the reading curriculum in those grades must address nonfiction and informational topics. Information about what? Will test developers select informational texts from science, history/social studies, and mathematics that English teachers have never been expected to teach?
- Because of these new expectations of English teachers, Common Core will entail drastic costs to change academic, preparation, and professional-development programs for prospective or current English teachers.
- Common Core's ELA standards badly misinform reading and English teachers on a number of disciplinary matters. Two examples of disciplinary ignorance:
  1. Informational reading standards do not clearly distinguish the modes of organizing an expository text (*e.g.*, order of time, cause and effect) from structural elements (*e.g.*, purpose, introduction, body, and conclusion).
  2. The strand on "argument" does not distinguish argument from expression of opinion, which is not a type of writing. Nor does Common Core distinguish academic argument from advocacy or persuasive writing or clarify key concepts at the root of

persuasive writing: purpose and audience.

- Because the organization of the reading standards is confusing, and a logical sequence difficult to discern, the Fordham Institute in its own review of Common Core's ELA standards concluded that "the standards do not ultimately provide sufficient clarity and detail to guide teachers and curriculum and assessment developers effectively."
- As Fordham concluded, "The reading standards for both literature and informational text fail to address the specific text types, genres, and sub-genres in a systematic intersection with the skills they target. . . . What's more, while some genres are mentioned occasionally in the standards, others, such as speeches, essays, and many forms of poetry, are rarely if ever mentioned by name. Similarly, many sub-genres, such as satires or epic poems, are never addressed. Many defining characteristics of the various genres are also rarely, if ever, mentioned . . . . Where literary elements are mentioned, their treatment is spotty. . . ."
- Common Core's writing standards fail to adequately scaffold skills from grade to grade or clearly delineate what students should be able to do without guidance or support from adults.

**EXHIBIT B**  
**STATEMENT OF**  
**ZE'EV WURMAN**  
**REGARDING COMMON CORE**  
**MATHEMATICS STANDARDS**

April 18, 2012

I, Ze'ev Wurman, summarize my professional and academic background as follows:

- A. I hold B.Sc. and M.Sc. degrees in Electrical Engineering from Technion, Israel Institute of Technology, in Haifa, Israel.
- B. I am currently Chief Software Architect for MonolithIC3D and have 30 years of experience in developing algorithms, CAD software, and hardware and software architectures. I have published technical papers in professional and trade journals, and I hold seven U.S. patents.
- C. Between 2007 and 2009 I served as Senior Policy Adviser in the Office of Planning, Evaluation, and Policy Development in the U.S. Department of Education, during which time I supervised the Policy and Program Studies Services (PPSS) and advised the Assistant Secretary on K-12 education focusing on such issues as: assessment and accountability; English language learners; educational technology; student data systems; math and science instruction; and Asia-Pacific Economic Cooperation (APEC) Human Resource Development (Education) activities focused on math and science.
- D. I served on the 1997 California Mathematics Framework Committee,

the California STAR Mathematics Assessment Review Panel from 1998 to present, as a member of the California Instructional Material Adoption Panel in Mathematics in 1999 and 2005, and as a member of the Los Angeles Unified Mathematics Textbooks Adoption Committee in 2000.

- E. I was a member of the 2010 California Academic Content Standards Commission that evaluated the suitability of Common Core's standards for California, as well as a member of the Teaching Mathematics Advisory Panel to the California Commission on Teacher Credentialing.
- F. I organized the first US-China bilateral mathematics education experts meeting in 2008, and was a U.S. delegate to the 2008 APEC education symposium in Xi'an, China.
- G. I have published professional and opinion articles about education and about the Common Core in *Education Next*, *Education Week*, *Sacramento Bee*, *Boston Globe*, *San Francisco Chronicle*, and other publications.

I have thoroughly reviewed the Common Core Standards and have found that they fail to achieve their stated goal of improving U.S. K-12 mathematic achievement. Using sound mathematics teaching principles and comparison with strong, proven standards used by the highest performing states and by our international competitors as benchmarks, I have set forth below a description of the major Common Core deficiencies in mathematics:

1. Its abandonment of the expectation that students take Algebra I in grade 8. This expectation, based on the standard of

the high-achieving countries (and our international competitors), has currently pushed about half of American students to take Algebra I by grade 8, more than double that of a decade ago. The Common Core will reverse this trend by firmly relocating Algebra I back to a grade 9 high-school course. This change means that, as a practical matter, the great majority of American students will not be able to reach calculus in high school. Among other consequences, far fewer students will be able to take and excel in Advanced Placement (AP) math courses if the Common Core is implemented.

2. Related to the above-deficiency, a course of study aligned with the Common Core would provide students with poor preparation for taking Algebra in grade 8. Only private and elite schools will continue to provide sufficient preparation and, consequently, one should expect the proportion of students from challenging backgrounds taking Algebra by grade 8, or advanced mathematics in high school, to drop precipitously.
3. Common Core replaces the traditional foundations of Euclidean geometry with an experimental approach. This approach has never been successfully used in any sizable system; in fact, it failed even in the school for gifted and talented students in Moscow, where it was originally invented. Yet Common Core effectively imposes this experimental approach on the entire country, without any piloting.
4. Common Core excludes certain Algebra II and Geometry content that is currently a prerequisite at almost every four-year state college (see point 9 below). This effectively redefines “college-readiness”

to mean readiness for a nonselective community college, as a member of the Common Core writing team acknowledged in his testimony before the Massachusetts Board of Elementary and Secondary Education.

5. Common Core fails to teach prime factorization and consequently does not include teaching about least common denominators or greatest common factors.
6. Common Core fails to include conversions among fractions, decimals, and percents, identified as a key skill by the National Research Council, the National Council of Teachers of Mathematics, and the presidential National Advisory Mathematics Panel.
7. Common Core de-emphasizes algebraic manipulation, which is a prerequisite for advanced mathematics, and instead effectively redefines algebra as “functional algebra,” which does not prepare students for STEM careers.
8. More specifically, at the K-8 grade span:
  - 8.1 Common Core does not require proficiency with addition and subtraction until grade 4, a grade behind the expectations of the high-performing states and our international competitors.
  - 8.2 Common Core does not require proficiency with multiplication using the standard algorithm (step-by-step procedure for calculations) until grade 5, a grade behind the expectations of the high-performing states and our international competitors.
  - 8.3 Common Core does not require proficiency with division using the

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standard algorithm until grade 6, a grade behind the expectations of the high-performing states and our international competitors.

8.4 Common Core starts teaching decimals only in grade 4, about two years behind the more rigorous state standards, and fails to use money as a natural introduction to this concept.

8.5 Common Core fails to teach in K-8 about key geometrical concepts such as the area of a triangle, sum of angles in a triangle, isosceles and equilateral triangles, or constructions with a straightedge and compass that good state standards include.

### 9. At the high school grades:

9.1 Common Core barely touches on logarithms, of great importance for chemistry, physics, and STEM in general.

9.2 Common Core fails to address mathematical induction.

9.3 Common Core fails to address parametric equations, and infinite geometric series (progressions with common ratio), and incompletely addresses conic sections.

9.4 Common Core omits in trigonometry the phase of periodic functions, half-angle formulas, and polar forms and functions.

Common Core suffers from a number of systemic defects. It groups mathematics standards into “conceptual categories,” which provide a vague structure for high school courses and makes for difficult use by teachers and textbook publishers. It provides

verbose and imprecise guidance as to the level of fluency needed, omits basic skills such as factorization (reducing problems to the basic “building blocks” of the equation), and deemphasizes algebraic manipulation, leading to under-preparation for STEM disciplines. In terms of college readiness, its content is far below what is presently expected for college eligibility, which will create unreasonable expectations by parents and pressure on state universities to admit under-prepared students, with concomitant growth in remedial enrollment in college.

In this statement, I have endeavored to set forth a concise list of deficiencies in the Common Core math standards. Certainly, the issue requires more detailed discussion, and in that respect I draw your attention to the following study: Sandra Stotsky and Ze’ev Wurman, *Common Core’s Standards Still Don’t Make the Grade*, Pioneer Institute, No. 65 (July 2010).

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Ze’ev Wurman

***About the Authors:***

**Emmett McGroarty** is the Executive Director of the *Preserve Innocence Project* at the American Principles Project (APP). Mr. McGroarty is a frequent media guest, and his written works have appeared in publications such as *Townhall Magazine*, *The New York Post*, *The Washington Times*, and *Public Discourse*. He is a graduate of Fordham School of Law and Georgetown University.

**Jane Robbins** is a Senior Fellow at the American Principles Project. On behalf of APP, Ms. Robbins's work includes education policy, student privacy, and parental rights issues. She has drafted state legislation on educational transparency and sovereignty that has led to a parallel resolution by the South Carolina Southern Baptist Convention, model ALEC legislation, and emulated legislation in several states. She is a graduate of the Harvard Law School and Clemson University.

***About American Principles Project:***

The American Principles Project was founded to reinvigorate and restore the principles that made America great. APP takes pride in leading the conversation, defending and promoting the universal truths that all are "created equal, endowed by our Creator with certain unalienable rights, and among these are life, liberty, and the pursuit of happiness."

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Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to change the intellectual climate in the Commonwealth by supporting scholarship that challenges the "conventional wisdom" on Massachusetts public policy issues.

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*Regulating Virtual Schools: A New Policy Challenge*, White Paper, March 2012

*National Cost of Aligning States and Localities to the Common Core Standards*, White Paper, February 2012

*The Road to a National Curriculum: The Legal Aspects of the Common Core Standards, Race to the Top, and Conditional Waivers*, White Paper, February 2012

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### Endnotes

1. Gov. Rick Perry, Office of Gov., Press Release (Jan. 13, 2010).
2. *Closing the Door on Innovation: Why One National Curriculum Is Bad for America, A Critical Response to the Shanker Institute Manifesto and the U.S. Department of Education's Initiative to Develop a National Curriculum and National Assessments Based on National Standards*, May 6, 2011, available at [http://www.k12innovation.com/Manifesto/\\_V2\\_Home.html](http://www.k12innovation.com/Manifesto/_V2_Home.html).
3. <http://www.gatesfoundation.org/press-releases/pages/2008-presidential-campaign-education-070425-2.aspx>;  
<http://query.nytimes.com/gst/fullpage.html?res=9C03E2DA143EF936A15757C0A9619C8B63&pagewanted=all>;  
<http://www.educationnews.org/articles/new-report-details-one-of-the-most-successful-independent-advocacy-initiatives-of-2008.html>
4. See “Bias Seen in Push to New Ed Standards,” *The Lowell Sun*, 7/18/2010. The Gates Foundation has forthrightly admitted that it “actively supported the Common Core Standards Initiative.” See *Fewer, Clearer, Higher: Moving Forward with Consistent, Rigorous Standards for All Students*, Bill & Melinda Gates Foundation, p.1 (2010).
5. *Benchmarking for Success*, by NGA, CCSSO, and Achieve, Inc., at p. 24, <http://www.achieve.org/files/BenchmarkingforSuccess.pdf> (last accessed 4/20/12). (Dec. 2008).
6. *Id.* at p. 24 (Dec. 2008).
7. *Id.* at p. 26.
8. *Id.* at 27.
9. *Id.* at 30.
10. *Id.* at 31.
11. Achieve attributes its founding to a “a bipartisan group of governors and corporate leaders” at the 1996 National Education Summit who decided to create and lead an organization dedicated to supporting standards-based education -reform efforts across the states. See <http://www.achieve.org/about-achieve>.  
Achieve is led by a board of directors consisting of three sitting governors (Bill Haslam of Tennessee, Dave Heineman of Nebraska, and Deval Patrick of Massachusetts) and three corporate executives (Mark Grier, the vice chairman of Prudential Financial; Edward Rust, chairman & CEO of State Farm Insurance; and Jeff Wadsworth, the President & CEO of Battelle). Its board chair is Craig Barrett, the former CEO & Chairman of the Board of Intel, and its chairman emeritus is Louis V. Gerstner, Jr., the former Chairman & CEO of IBM Corporation. Achieve’s president is Michael Cohen, and its treasurer is Peter Sayre, the Controller of Prudential Financial, Inc. See <http://www.achieve.org/Board>.

12. <http://www.gatesfoundation.org/Grants-2011/Pages/Achieve-Inc-OPP1049781.aspx>;  
<http://www.gatesfoundation.org/Grants-2011/Pages/Council-of-Chief-State-School-Officers-OPP1033998.aspx>;  
<http://www.gatesfoundation.org/Grants-2011/Pages/Council-of-Chief-State-School-Officers-OPP1035090.aspx>;  
<http://www.gatesfoundation.org/Grants-2009/Pages/Council-of-Chief-State-School-Officers-OPP50935.aspx>;  
<http://www.gatesfoundation.org/Grants-2009/Pages/Council-of-Chief-State-School-Officers-OPPad12.aspx>;  
<http://www.gatesfoundation.org/Grants-2011/Pages/National-Governors-Association-Center-For-Best-Practices-OPP1031294.aspx>;  
<http://www.gatesfoundation.org/Grants-2008/Pages/National-Governors-Association-Center-for-Best-Practices-OPP50433.aspx>

Assuming, *arguendo*, that NGA and CCSSO had actual grants of authority from the states, then ethical questions would certainly arise from the private-sector funding.

13. American Recovery and Reinvestment Act, PL 111-5, Sec. 14005-06.

14. *News Makers*, C-SPAN, Feb. 22, 2009,  
<http://38.105.88.161/Events/Education-Sec-Arne-Duncan-interviewed-by-Libby-Quaid-AP-and-Michele-McNeil-Education-Week/12961/>

15. See U.S. Dep't of Educ., Press Release (March 7, 2009).

16. See NGA press release (June 1, 2009).  
[http://www.nga.org/cms/home/news-room/news-releases/page\\_2009/col2-content/main-content-list/title\\_forty-nine-states-and-territories-join-common-core-standards-initiative.html](http://www.nga.org/cms/home/news-room/news-releases/page_2009/col2-content/main-content-list/title_forty-nine-states-and-territories-join-common-core-standards-initiative.html) (last accessed on April 23, 2012).

17. Grover Whitehurst of the Brookings Institution flagged the illegality of this change, noting that the combination of the Stimulus Bill and the America COMPETES Act allows funding only of state-standards development, not of national-standards development. See Grover J. Whitehurst, "Did Congress Authorize Race to the Top?", *Education Week*, April 27, 2010, available at [http://www.edweek.org/ew/articles/2010/04/28/30whitehurst\\_ep.h29.html](http://www.edweek.org/ew/articles/2010/04/28/30whitehurst_ep.h29.html).

18. 74 Fed. Reg. 59,688 (Nov. 18, 2009) and 75 Fed. Reg. 19,496 (April 14, 2010). Compare with *Benchmarking for Success*, by NGA, CCSSO, and Achieve, Inc., at p. 24 (Dec. 2008).

19. 74 Fed. Reg. 59,688 (Nov. 18, 2009) and 75 Fed. Reg. 19,496, 19,498-99 (April 14, 2010). Compare with *Benchmarking for Success*, by NGA, CCSSO, and Achieve, Inc., at p. 24 (Dec. 2008).

20. See 74 Fed. Reg. 59,688, 59,838 (Nov. 18, 2009). See also 75 Fed. Reg. 19,496; *The Road to a National Curriculum*, *supra*, at n.53.

21. 74 Fed. Reg. 59,688, at 59,843. See Robert S. Eitel & Kent D. Talbert, *The Road to a National Curriculum*, Pioneer Institute, no. 81 at p. 8 and n.64 (Feb. 2012).



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22. 75 Fed. Reg. at 19,516 (April 14, 2010). See *The Road to a National Curriculum*, *supra*, at p. 8 and n.66.
23. 74 Fed. Reg. 59,688, at 59,733. See *The Road to a National Curriculum*, *supra*, at p. 10 and n.76.
24. 75 Fed. Reg. at 19,503.
25. 75 Fed. Reg. at 18,171 (Apr. 9, 2010).
26. See Cooperative Agreement Between the U.S. Department of Education and the Partnership for Assessment of Readiness of College and Careers (2011), available at <http://www2.ed.gov/programs/racetothetop-assessment/parcc-cooperative-agreement.pdf> and Cooperative Agreement Between the U.S. Department of Education and the SMARTER Balanced Assessment Consortium and the State of Washington (fiscal agent) (2011) available at <http://www2.ed.gov/programs/racetothetop-assessment/sbac-cooperative-agreement.pdf>. Illustrating the interconnectedness of all the interests that created Common Core, PARCC selected Achieve to “manage the consortia’s [sic] efforts to develop common assessments . . .,” and hired three new directors who will actually work at Achieve rather than PARCC. To add to the confusion, one of these new directors hired by PARCC to work at Achieve already worked at Achieve. See Partnership for Assessment of Readiness for College and Careers, “Achieve Names Jeff Nellhaus, Director of PARCC Assessment, Doug Sovde, Director of PARCC Instructional Supports and Educator Engagement, & Karen Rosenthal, Director of Finance and Federal Reporting” (February 16, 2011), available at <http://www.achieve.org/achieve-names-three-directors>. The Gates Foundation has provided funding for Achieve, see <http://www.achieve.org/Contributors>; for PARCC and SBAC, see McGraw Hill Education, “Education Brief: The Common Core State Standards Initiative,” at p. 11 (February 2011), available at [http://www.commoncoresolutions.com/PDF/education\\_brief.pdf](http://www.commoncoresolutions.com/PDF/education_brief.pdf); and for WestEd, a federally created (though no longer federally run) and federally funded group that serves as project manager for SBAC. See <http://www.wested.org/cs/we/print/docs/we/fund.htm>.
27. See *supra* n.26.
28. See Remarks of Secretary of Education Arne Duncan, *Beyond the Bubble Tests: The Next Generation of Assessments 4* (Sept. 2, 2010), <http://www.ed.gov/news/speeches/beyond-bubble-tests-next-generation-assessments-secretary-arne-duncans-remarks-state-1>.
29. PARCC Proposal for Supplemental *Race to the Top* Assessment Award (2010), <http://www.edweek.org/media/parccsupplementalproposal12-23achiefinal.pdf>.
30. See SMARTER Balanced Assessment Consortium, Supplemental Funding, Scope Overview Table 2-4 (2011), [http://www.k12.wa.us/SMARTER/pubdocs/SBAC\\_Supplemental\\_Funds.pdf](http://www.k12.wa.us/SMARTER/pubdocs/SBAC_Supplemental_Funds.pdf).
31. Robert S. Eitel & Kent D. Talbert, *The Road to a National Curriculum*, Pioneer Institute, no. 81, p. 15 (Feb. 2012).
32. 74 Fed. Reg. 59,688 (Nov. 18, 2009) and 75 Fed. Reg. 19,496, at 19,516 (April 14, 2010).

33. With respect to the *Race to the Top* competition, the Department designated the reform agenda as “absolute priorities,” meaning that a state had to address them in order to be considered for funding. See Discussion, *supra*. That aside, even assuming an applicant state received perfect scores in all other categories, a state could not have scored higher than 415 if it rejected Common Core and related assessments – below the lowest-scoring *Race to the Top* winner, Ohio, which scored a 440.8.

34. <http://tpmlivewire.talkingpointsmemo.com/2010/02/obama-to-nga-americas-students-cannot-accept-second-place.php>

35. *ESEA Blueprint for Reform*, at pp. 11-12, U.S. Dep’t of Educ., Offc. of Planning, Evaluation and Policy Development, Washington, DC, 2010, available at <http://www2.ed.gov/policy/elsec/leg/blueprint>

36. Catherine Gewertz, *State Adoptions of Common Standards Steam Ahead*, *Education Week*, July 9, 2010 (online) and July 14, 2010 (print).

37. See <http://www.corestandards.org/about-the-standards>.

38. See <http://corestandards.org/in-the-states/georgia-adopts-common-core-state-standards/>.

39. Sheila Byrd Carmichael, W. Stephen Wilson, Kathleen Porter-Magee, & Gabrielle Martino, *The State of State Standards – and the Common Core – in 2010*, Thomas B. Fordham Institute, at pp. 6-8 (July 2010).

40. Statement of Dr. Sandra Stotsky Regarding Common Core English Language Arts Standards (“Stotsky Statement”), attached hereto as Exhibit A.

41. *Id.*

42. *Id.*

43. *Id.* See also Sandra Stotsky & Ze’ev Wurman, *Common Core’s Standards Still Don’t Make the Grade*, Pioneer Institute, no. 65, at p. 22 (July 2010); See Statement of Ze’ev Wurman Regarding Common Core Mathematics Standards (“Wurman Statement”), attached hereto as Exhibit B.

44. Stotsky Statement, attached hereto as Exhibit A.

45. *Id.* at p. 2; *Common Core Standards Still Don’t Make the Grade*, at p. 26.

46. Valerie Strauss, “One (Maddening) Day Working with the Common Core,” *The Washington Post* online (March 23, 2012), available at [http://www.washingtonpost.com/blogs/answer-sheet/post/teacher-one-maddening-day-working-with-the-common-core/2012/03/15/gIQA8J4WUS\\_blog.html](http://www.washingtonpost.com/blogs/answer-sheet/post/teacher-one-maddening-day-working-with-the-common-core/2012/03/15/gIQA8J4WUS_blog.html).

47. Joanne Yatvin, “A Flawed Approach to Reading in the Common-Core Standards,” *Education Week* online (February 27, 2012), available at <http://www.edweek.org/ew/articles/2012/02/29/22yatvin.h31.html>.

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48. See Mary Grabar, “The Gradgrinds of the Common Core,” *Roll Call* online (April 9, 2012), available at [http://www.rollcall.com/issues/57\\_120/mary-grabar-gradgrinds-of-common-core-213672-1.html](http://www.rollcall.com/issues/57_120/mary-grabar-gradgrinds-of-common-core-213672-1.html); Steven Lynn, *Top Ten Reasons Why Students Need More Literature (Not Less)*, Caffeinated Thoughts, Mar. 27, 2012, available at <http://caffeinatedthoughts.com/2012/03/top-ten-reasons-why-students-need-more-literature-not-less/>.
49. Letter from Anthony Michael Esolen to South Carolina House Committee on Education and Public Works (April 2012).
50. R. James Milgram’s email to Chris Minnich of CCSSO and the Validation Committee, May 30, 2010.
51. Grant Wiggins, *The Common Core Math Standards: They Don’t Add Up*, *Education Week*, Vol. 31, Issue 5, pp. 22–23 (Sept. 28, 2011).
52. Testimony of R. James Milgram to Texas Legislature on the CCSSI Core Standards and the New Draft Texas Math Standards (May 2011). See also *Common Core’s Standards Still Don’t Make the Grade*, at p. 20; Wurman Statement, attached hereto as Exhibit B, at ¶2. Common Core creator Achieve, Inc., has sought to deflect criticism on this point by producing an “appendix” suggesting an “accelerated path” for some students. But the “accelerated path” requires either tackling a bloated math curriculum in grade 7, or attending summer school – neither of which is a realistic alternative for most students. See Testimony of Ze’ev Wurman to South Carolina Senate K-12 Education Subcommittee (February 22, 2012).
53. Wurman Statement, attached hereto as Exhibit B, at ¶3. See also *Common Core’s Standards Still Don’t Make the Grade*, at p. 20; R. James Milgram & Sandra Stotsky, *Fair to Middling: A National Standards Progress Report*, Pioneer Institute, no. 56, at p. 20.
54. Wurman Statement, attached hereto as Exhibit B.
55. B.A. Birch, “Does Common Core Provide an International Benchmark?” *Education News* online (November 22, 2011), available at <http://www.educationnews.org/education-policy-and-politics/does-common-core-provide-an-international-benchmark/>. See also James Stergios, “Myths About National Standards: Myth # 1,” *The Boston Globe* online (November 16, 2011), available at [http://boston.com/community/blogs/rock\\_the\\_schoolhouse/2011/11/myths\\_about\\_national\\_standards.html](http://boston.com/community/blogs/rock_the_schoolhouse/2011/11/myths_about_national_standards.html)
56. Birch, *supra*. See also *Fair to Middling*, at p. 21.
57. Gewertz, Catherine: “Common-Core Standards Drew On Ideas From Abroad: Other Nations’ Curricula and Academic Standards Were Important Sources for Those Who Put Together the Learning Goals That Have Won Approval From Nearly All States,” *Edweek*, Jan. 12, 2012, available at <http://www.edweek.org/ew/articles/2012/01/12/16curriculum.h31.html?print=1> (last Accessed: April 24, 2012).

58. Stergios, *supra*.

59. *Id.*

60. Craig D. Jerald, *Benchmarking for Success: Ensuring U.S. Students Receive a World Class Education*, National Governors Association, the Council of Chief State School Officers, and Achieve, Inc., Dec. 19, 2008), available at

<http://www.achieve.org/files/BenchmarkingforSuccess.pdf> (last accessed Apr. 24, 2012).

This report originally set the goal of “benchmarking” national standards and assessments with the best-performing international competitors. The Common Core Initiative describes the project mission as creating standards “benchmarked to international standards.”

See <http://www.corestandards.org/frequently-asked-questions> (last accessed Apr. 24, 2012).

But the Initiative has now downgraded expectations by describing the final set of Standards as having been “informed by other top-performing countries.”

See <http://www.corestandards.org/articles/8-national-governors-association-and-state-education-chiefs-launch-common-state-academic-standards> (last accessed Apr. 24, 2012).

Apparently attempting to rationalize the change, the Initiative asserts that “[i]nternational benchmarking played a significant role in both sets of national standards.”

See <http://www.corestandards.org/about-the-standards/myths-vs-facts> (last accessed Apr. 24, 2012).

It does not elaborate on the meaning of “significant role.”

61. “Common-Core Standards Drew On Ideas From Abroad,” *supra* n. 57.

62. <http://www.smarterbalanced.org/smarter-balanced-assessments/computer-adaptive-testing/>.

63. *The Road to a National Curriculum*, at p. 1.

64. 20 U.S.C. § 1232a.

65. 20 U.S.C § 3403(b).

66. 20 U.S.C § 7907(a).

67. *The Road to a National Curriculum*, at p. 9.

68. *Id.*

69. 74 Fed. Reg. 59,733 (November 18, 2009).

70. *The Road to a National Curriculum*, at p. 18.

71. See Remarks of Secretary of Education Arne Duncan delivered to State Leaders at Achieve’s American Diploma Project Leadership Team: *Beyond the Bubble Tests: The Next Generation of Assessments*, at p. 7 (Sept. 2, 2010), available at

<http://www.achieve.org/keynote-address-us-secretary-education-arne-duncan>.

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72. See, e.g., PARCC Proposal for Supplemental *Race to the Top* Assessment Award, at pp. 1-5 (2010), available at <http://www.edweek.org/media/parccsupplementalproposal12-23achievehfinal.pdf>; SMARTER Balanced Assessment Consortium, Supplemental Funding, Scope Overview Table, at pp. 2-4 (2011), available at [http://www.smarterbalanced.org/wordpress/wp-content/uploads/2011/12/SBAC\\_Supplemental\\_Funds.pdf](http://www.smarterbalanced.org/wordpress/wp-content/uploads/2011/12/SBAC_Supplemental_Funds.pdf)

73. *The Road to a National Curriculum*, at p. 15.

74. Dear Colleague Letter from Arne Duncan, Secretary, U.S. Department of Education, to the Chief State School Officers (September 23, 2011), available at <http://www2.ed.gov/policy/gen/guid/secletter/110923.html>.

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119. An indication of what the future may hold with regard to student-data sharing is evident in a new effort called the “Shared Learning Collaborative” (SLC), a multi-state alliance funded by, of course, the Gates Foundation. SLC’s stated purpose is to help implement the Common Core Standards by “allow[ing] states and districts to integrate student data that currently exist in different source systems . . . and make it available to content and applications from many providers . . . .” SLC envisions “a multitenant data store designed to allow state [sic] and districts to upload a student’s full history of achievement, enrollment and other data . . . .” SLC also plans to create “learning maps” connected to Common Core so that individual students’ progress will be “dynamically tracked through the maps.” Shared Learning Collaborative, “Fact Sheet” at p.1 (April 5, 2012), available at <http://www.slcedu.org/sites/default/files/downloads/SLC-Fact-Sheet.pdf>.

It is not clear from SLC’s vague self-descriptions who will have access to this student data. But given that SLC-generated technology will track students as they transfer from school to school, and link to the perhaps less-secure websites of online courses the students may take, see Brian Proffitt, *Open Source Maps A New Education Future* ( Mar. 7, 2012), available at <http://www.itworld.com/it-managementstrategy/256562/open-source-maps-new-education-future>, the warning signs for data privacy are ominous.



