

POLITICO

Bobby Jindal sues federal government over the Common Core

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August 27, 2014

Louisiana Gov. Bobby Jindal on Wednesday sued the Obama administration over the Common Core academic standards and tests.

The move builds on legal action roiling in the Bayou State over the standards, and it isn't entirely surprising considering the rhetoric that 2016 presidential hopeful Jindal has used about the standards in recent months.

“Gov. Jindal has made his point 10 times over that he is no fan of Common Core, but at this point, he isn't breaking any new ground,” said Anne Hyslop, a senior policy analyst for Bellwether Education Partners, upon hearing of Jindal's lawsuit. “And it's unlikely he'll get anything out of this suit other than padding his conservative credentials — which may be the whole point.”

The latest suit also marks the second time in a year that Jindal has locked horns with the federal government over education: He and the Justice Department each claimed partial victory in a dispute over a private school voucher program that the feds said affected desegregation efforts in Louisiana public schools.

In the latest skirmish, Jindal alleges that the Education Department violated federal law and the 10th Amendment to the Constitution by essentially forcing states to adopt Common Core. Through federal Race to the Top, states had to “enter binding agreements to adopt and fully implement a single set of federally defined content standards and to utilize assessment products created by a federally sponsored ‘consortia.’”

Race to the Top rewarded states with hundreds of millions of dollars in exchange for the adoption of new college- and career-ready assessments aligned to higher standards, among other requirements, but the Education Department didn't define those standards or tests.

Jindal also alleges that Common Core-aligned testing groups called PARCC and Smarter Balanced are part of an effort to nationalize curriculum, which is illegal, and that waivers from the No Child Left Behind law have allowed states to “unlawfully” waive accountability requirements in exchange for adopting the Common Core.

“Furthermore, the U.S. Department of Education has made changes to the Elementary and Secondary Education Act state test review and approval process that will coerce states to adopt the federal government’s preferred tests or risk billions in federal funding,” his office added in a statement.

PARCC declined to comment on Wednesday. The Education Department did not immediately respond to a request for comment.

The Common Core is a set of standards in math and English language arts developed by state chiefs and governors across the country, among others. The testing groups Partnership for Assessment of Readiness for College and Careers and Smarter Balanced Assessment Consortia are developing exams for students’ mastery of those standards using Race to the Top money. Adoption of the standards and aligned tests are voluntary for states. Forty states and D.C. are forging ahead with the Common Core. That’s only a slight shift from Common Core adoption at its peak — when all but four states embraced the standards.

Many say Jindal’s anti-Common Core campaign has grown along with his presidential aspirations, and his stance doesn’t sit well with everyone in his state. Parents, teachers and a charter group sued him when he renounced the Common Core and aligned tests earlier this year. His own school board voted to join the lawsuit. And it put him at odds with a once-solid partner in education: Louisiana Superintendent John White.

“My first thought was, ‘Enough already,’” said Hyslop, of Bellwether. “Haven’t schools, teachers, and kids in the state been through enough chaos? It’s time to let it go.”

Jindal once supported the standards and tests, and his state has participated in a number of Obama administration education policy initiatives. Louisiana received more than \$17 million through Race to the Top, and it has a waiver from No Child Left Behind, allowing the state to avoid some of the more onerous provisions of the law.

A Louisiana court recently blocked Jindal from repealing the standards, with the judge ruling that his plan would cause “irreparable harm” to students. The judge also invalidated Jindal’s argument that the state education department violated procurement law with its plan to deliver PARCC tests to students.

The Republican governor fired right back, appealing the injunction against the standards.

“We think this judge is wrong on the facts and the law,” said Jindal’s chief of staff, Kyle Plotkin, at the time.

Fordham Institute President Michael Petrilli said Jindal’s lawsuit against the federal government doesn’t have a chance.

“Bobby Jindal will lose this court case just as he’s lost the others,” he said. “But that doesn’t matter, because he wins politically just by staging the fight. This is not about the Common Core. It’s about Jindal’s political ambitions.”

Neal McCluskey, associate director of the Cato Institute’s Center for Educational Freedom, agreed that Jindal’s case has little chance of success and people will most likely pin him down for playing politics.

Still, the case deserves careful consideration, McCluskey said.

“We should look at the merits of the lawsuit, which requires an honest assessment of both the Constitution and federal education statutes, just as we should look at the research on national standards, the content of the Core and the reality of how so many states adopted standards that are now heavily disliked.”

Jindal has previously argued that PARCC is trying to drive curriculum. And outside counsel hired by Jindal has said that the Obama administration’s involvement with the Common Core is part of a “carefully orchestrated scheme to control curriculum in the states.”

The Obama administration is “trying to accomplish very indirectly what Congress has told them they can’t do,” attorney Jimmy Faircloth said recently.

Earlier this week, Jindal’s office took a paragraph from a PARCC news release and blasted out its own statement, calling the release evidence that PARCC’s ultimate goal is to drive curriculum.

In PARCC’s news release, the testing group said it plans to change its English/language arts exams because the group feels a high-quality assessment can be administered with fewer questions and reading passages.

“High quality assessments go hand-in-hand with high quality instruction based on high quality standards,” said Laura Slover, CEO of the PARCC nonprofit, in the press release. “You cannot have one without the other. The PARCC states see quality assessments as a part of instruction, not a break from instruction.”

Jindal seized on that quote.

“The proponents of Common Core and PARCC continue to insist that tests and standards are not about curriculum, but that’s a ruse,” Jindal’s administration said in a statement. “Teachers already know that what is tested at the end of the year is what is taught in classrooms throughout the year. PARCC may not mandate one textbook or one pacing guide, but the CEO of the federally funded PARCC has admitted one thing: PARCC controls instruction and instruction is curriculum.”

PARCC brushed it off. Spokesman David Connerty-Marin said, “Any teacher knows that the role of quality assessments is to provide information — based on student mastery of

the standards — to inform instruction and ensure students succeed. In Louisiana, as in most states, local school systems make decisions about curriculum. Instruction is not the same as curriculum, and curriculum is not the same as standards.”

Now Jindal is making the same argument on a national scale.

“The proponents of Common Core will tell you that it’s simply about one test and about standards, but that’s a ruse,” he said Wednesday. “Common Core is about controlling curriculum. Educators know that what’s tested is what’s taught. Make no mistake — Common Core tests will drive curriculum. Common Core supporters should own up to this fact and finally admit they want to control curriculum. These are big government elitists that believe they know better than parents and local school boards.”