



## Clinton's anti-bullying proposal: Feel-good federal policy at its worst

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No decent person goes around saying, "I really hope those big, popular kids push around those little, different kids." No one is in favor of bullying. But that's what makes Hillary Clinton's new anti-bullying proposal dangerous. There are numerous, significant reasons to oppose it, but there's a huge risk those reasons will be ignored at best, or those who raise them smeared as bullying enablers — or even pro-bullying — at worst.

Clinton has proposed, among other things, spending \$500 million — with states required to pitch in one dollar for every four federal dollars — to "develop comprehensive anti-bullying plans." Those plans must:

1. Clearly describe prohibited behaviors, including verbal abuse and cyberbullying;
2. Include grievance procedures for students, parents and educators to address incidents; and
3. Explicitly prohibit bullying on the basis of race, color, national origin, sex, disability, sexual orientation, gender identity and religion.

The first problem is defining what "bullying" is. Just about everyone would agree that physical assault should be prohibited — and is already illegal. But what about "verbal abuse," or messages on social media? Deeming these "bullying" can easily clash with a fundamental right: freedom of speech, not to mention expanding the scope of school officials' surveillance to include expression totally outside of school.

Should a student be punished for saying he thinks homosexuality is sinful, even if it makes some classmates uncomfortable? Does he not have a right to express his religious beliefs free of government (which is what a public school is) punishment? If a school bans anti-gay speech, must it prohibit pro-gay expression? It seems so, lest it unjustly choose one group to silence and one to let speak. What about a student's right to critique religious views he finds bigoted?

Suddenly, what seemed clear-cut is not.

That Clinton envisions federal coercion to take on bullying — something states are capable of doing on their own — makes the danger especially acute because it threatens the rights of every public school student in the country, and forces everyone into conflict over basic rights and values. Indeed, Clinton would double down on President Obama's regulatory guidance threatening public schools with sanctions for failing to open their bathrooms and other single-sex facilities to transgender students. This has already caused a national firestorm, and numerous states to raise their defenses. Indeed, the United States Supreme Court just agreed to hear a Virginia bathroom case likely in part because the topic has become so heated, so fast.

Importantly, the federal government has authority under the 14th Amendment to prohibit discrimination in state and local provision of education. But that should be exercised in clear cases of discrimination.

Requiring students to use facilities aligning with their sex at birth, which has long been the seemingly unchallenged norm, does not appear to fall under that. Meanwhile, suddenly imposing a national "solution" seems to have sparked counterproductive resentment that might have been avoided had society been given a chance to evolve on its own. And, as with speech, there are contending rights involved, especially the right to privacy, to which many believe they are entitled.

That said, most of what Clinton has proposed is not grounded in the 14th amendment, but money: Washington takes tax dollars from people who live in states, then turns to states and says, "You want some of this back? You take our rules."

That may not be bullying, but it sure sounds like coercion. And no matter what you call it, it's illegal: The Constitution gives Washington no authority to govern education, including by spending money on it.

Finally, it is hard to conclude that Clinton's decision-making wasn't influenced by political strategy. It was almost certainly not a coincidence that the same day Clinton released her plan, she also released a campaign ad labelling Donald Trump a bully. She was able to portray herself as both a victim of, and the solution for, bullying. But should American children and their basic rights be pawns in a political chess match?

No decent person can defend bullying. Neither, however, should they support proposals that threaten basic rights and drive nationwide social conflict in the simplistic, politicized name of bullying prevention.

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