



## Those who wanted federal power over schools now fear Betsy DeVos might use it to foster choice and voucher plans

*An argument for letting school choice expand, under individual state scenarios*

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To those on the left, Betsy DeVos' endorsement of school choice is a hazard that looms large, a point proven in the contentious debates before her confirmation. But to those on the other side of the political spectrum, this platform might be the latest example of what happens when federal government intervenes in education.

In the 1950s and early 1960s, when major federal involvement in education was just an idea, some people, this time generally on the right, warned about the dangers of federal meddling. Even just funding, they cautioned, would lead to federal control.

It was not hard to see that once Washington started spending on education, it would eventually exert control — he who pays the piper calls the tune. So there was nothing alarmist when Sen. Barry Goldwater (R-AZ) warned, during debate over the Sputnik-induced National Defense Education Act, that “the legislation will mark the inception of aid, supervision, and ultimately control of education in this country by federal authorities.”

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For about the first 20 years of broad involvement Washington mainly supplied money for low-income districts. But as evidence mounted that the funding was not helping academically, control ramped up, evolving into the [No Child Left Behind Act](#) (NCLB) regime of uniform state standards, tests and punishments for schools whose students failed to make “adequate yearly progress.”

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Control was goosed further with [Race to the Top](#) in 2009, which not only continued federal dictates about the structure of public schooling, but also attempted to coerce what was taught. To

get maximum Race points, states essentially had to adopt the Common Core, and the Education Department picked the tests to go with it.

In 2011, President Obama's offer of waivers out of many NCLB provisions, coupled with administration-chosen conditions, increased control even further. Perhaps the most controversial condition was that student standardized test scores had to be a substantial part of teacher evaluations.

Many on the left had chafed under NCLB, and their exasperation peaked with the Common Core and teacher evaluations, setting the stage for the bipartisan Every Student Succeeds Act (ESSA) in 2015. For the first time in decades, federal power shrank. Among other things, ESSA ends adequate yearly progress and forbids the secretary from specifying what standards or tests states use.

Which brings us to DeVos. The new secretary is best known for her fervent support of private school choice via mechanisms such as vouchers and scholarship tax credits. This is perhaps what most motivated her opponents in her ugly confirmation battle: Secretary DeVos is, in a sense, the left's Frankenstein's monster. They pushed for more and more federal involvement — though certainly with help from some conservatives such as President George W. Bush — and now their creation may be poised to turn on them. They fear Washington might impose school choice everywhere.

But DeVos individually is in no position to do that, especially with the clear message of the ESSA: no one wants the secretary making law. She also said in her confirmation hearing that she would not try to impose choice, though she hoped to convince Congress to pass a choice program.

Still, there's reason to worry. In absolute dollar terms the feds spend a lot on K-12 education—about \$76 billion in 2015 — and hence have considerable leverage. And Trump has promised to devote \$20 billion to promulgating choice.

The administration could propose voucherizing federal funds, and turning federal bucks into “Pell Grants for Kids” is an idea long championed by Senate Health, Education, Labor and Pensions Committee chair Lamar Alexander (R-TN). But that would be tough politically: The idea failed during the ESSA debate, and hitting the \$20 billion mark (as President Trump proposed) would require either repurposing a bunch of existing education funding — which would likely spark huge political battles — or spending new money Washington does not have.

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More likely is a proposal to provide federal tax credits to people or corporations that donate to organizations that supply private school scholarships, maybe coupled with credits for families that pay private school tuition. Similar credits exist in 20 states, and have the benefit of not spending government dough.

Now, whatever form it takes, there's much to recommend choice. Free people should be able to select schools that teach what they want rather than having to engage in political combat to control a system—public schooling—in which the most powerful decide what all will learn. And

while test scores are a narrow measure of education, the large majority of “gold-standard” studies find that voucher students do as well as, or better than, students at public schools, often at a fraction of the cost.

But federalism — restricting the national government to the specific powers given to it by the Constitution, and leaving all others to the state or people — is also good, and constitutionally prohibits broad federal choice.

Federalism creates what Justice Louis Brandeis famously called “laboratories of democracy”: States can try new and different policies without endangering everyone if they fail, and other states can try to replicate what works. So let it be with school choice.

The good news is that despite decades of growing federal power, Betsy DeVos cannot impose choice herself, and it is hardly a slam-dunk proposition that Congress will pass broad choice legislation.

Of course, it was probably not legal for the Obama administration to attach its own conditions to NCLB waivers, but it did so anyway. Perhaps the Trump administration will be equally brazen. It’s the chance we took when, decades ago, we abandoned the Constitution to get federal education “help.”

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