



## **Here's How To Solve Bitter School Board Battles Without Sending In The FBI**

Merrick Garland answered the National School Board Association's plea for broad federal intervention, which only stands to keep parents out of meetings while escalating political warfare.

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From Day One, public schooling has been a political and social battleground. From conflicts over whose religion would be taught in Horace Mann's "common schools," to the 1925 Scopes Monkey Trial, to critical race theory, public schooling has forced Americans to fight one another. It is inevitable in a system that requires all, diverse people to fund politically controlled schools.

Last week, the National School Boards Association (NSBA) escalated the combat to the highest level, calling on the federal government to investigate, and quite possibly criminalize, dissent. On Monday U.S. Attorney General Merrick Garland let them know they had been heard, announcing plans to create a strategy for the FBI to take on "harassment, intimidation and threats of violence against school board members, teachers."

A small handful of school board members may have some reason to worry about their safety. School board meetings have seen increasing acrimony ranging from public commenters refusing to stop speaking when their allotted time has ended, to protesters shouting at school board witnesses as they have tried to go home, to a school board member throwing a brick through another member's window. No doubt, some have received letters that have clearly threatened their physical safety.

That said, the NSBA's plea for broad federal intervention escalates the political warfare far beyond what is justifiable by the sometimes ugly actions we have seen. The association, in calling on President Biden to unleash seemingly every federal weapon outside of the military, greatly exceeds what is reasonable to deal with what has typically been heated rhetoric, less often unruliness, and almost never physical attacks. Indeed, the request threatens to treat outspoken parents and citizens as terrorists.

Think this is an overstatement? Consider the list of agencies NSBA's letter called on to dive into district brouhahas:

*NSBA specifically solicits the expertise and resources of the U.S. Department of Justice, Federal Bureau of Investigation (FBI), U.S. Department of Homeland Security, U.S. Secret Service, and its National Threat Assessment Center regarding the level of risk to public school children, educators, board members, and facilities/campuses. We also request the assistance of the U.S. Postal Inspection Service to intervene against threatening letters and cyberbullying attacks that have been transmitted to students, school board members, district administrators, and other educators.*

Here are the laws they want brought to bear:

*[T]he Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, the Violent Interference with Federally Protected Rights statute, the Conspiracy Against Rights statute, an Executive Order to enforce all applicable federal laws for the protection of students and public school district personnel, and any related measure.*

Several of the examples of supposedly outrageous behavior the NSBA cites highlight how far from clearly threatening the behavior is that the group wants to quash.

Cyberbullying – really, any non-physical bullying – can be very difficult to distinguish from legally protected speech. For instance, does repeatedly saying you are “coming after” a politician bully him or her, or engage in political accountability: a threat to remove them from office?

NSBA's request, and possibly the Justice Department's upcoming strategy, would open such core, political speech to federal investigation and punishment.

Or consider the "School Board Watchlist" kept by conservative Turning Point USA. NSBA inveighs against it for "spreading misinformation," and implies that the watchlist concept itself is a threat that needs federal surveillance. But the watchlist makes no apparent threat other than political, highlighting school boards that have taken actions TPUSA dislikes and listing board members. It also does not appear to include any information that is not already publicly available.

Another incident included in the recitation of danger was the response of audience members to school board testimony in favor of mask mandates by a student whose grandmother died of COVID-19. NSBA itself writes that the student was only "mocked," but nonetheless included it in a list of "threats and acts of violence ... affecting our nation's democracy at the very foundational levels." Mockery (which the video suggests was actually little more than a few seconds of guffaws and grumbling) is not criminal behavior.

The NSBA's call for federal force, rather than being a last-ditch effort to combat an onslaught of violence, is a threat to basic liberty, even as some people have incontestably broken civility, and a smaller handful may have engaged in serious threats. But incivility is not criminality, and local law enforcement – not the FBI or U.S. Secret Service – exists to deal with local disturbances of the peace and threatening behavior.

Alas, turning disagreement into bitter warfare is not an aberration, but an inevitable outcome of public schooling. Single, government-run districts and schools force people with diverse backgrounds and beliefs into zero-sum political combat to determine whose children will get what their families think they need, and whose will *not*. Public schooling forces neighbor to battle neighbor, with nothing less than their children's minds at stake.

The solution is to embrace *the* foundational American value: liberty. Instead of requiring people to fund government institutions, let money follow children to schools or other educational

arrangements their families choose. Instead of forcing a war of all against all, let those who want critical race theory select schools that teach it, others pick schools that do not. Let those who want schools with mask mandates choose them, others select schools where parents decide if their children wear masks. Let people peacefully coexist.

The NSBA, unfortunately, opposes school choice programs such as vouchers and scholarship tax credits, which threaten public schools' monopoly on your wallets and kids. But now, not only will they not let you leave, they also seem bent on chilling your speech. The Biden administration appears committed to the same.

The good news is that this year 18 states have either created new choice programs or expanded existing ones. It is, no doubt, largely a consequence of many Americans' intense frustrations last year as their public schools refused to open to in-person education. A rough estimate suggests that this leap in choice could increase students enrolled in private schools via choice programs from roughly 600,000 this year to nearly 2.4 million – a four-fold increase.

That said, there are roughly 55 million school-aged Americans, so this is still a relative drop in the bucket. But it is progress, and the NSBA and Biden administration are proving why much more is desperately needed. The absence of freedom threatens us all with endless conflict, and trampling of basic rights.

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