

University of Virginia Center for Politics



Talking Turkey: Education

What is education policy?

Education policy includes a set of ideas or values for what education should look like — this includes what is taught, how it is taught and how these practices are governed. (INEE; <https://inee.org/eie-glossary/education-policy>)

General Facts:

Overview of education policy at the national level:

1) **No Child Left Behind (NCLB) and Every Student Succeeds Act (ESSA):**

NCLB passed in early 2002 and later replaced by ESSA in 2015; major piece of federal legislation regarding elementary and secondary education. NCLB has four main components or goals that were extended by ESSA:

- a) Increase school accountability by having standardized measurements of school and student performance available to the public (State Report Cards) with subsequent follow up to consistent school failure through increased tutoring programs and/or educational restructuring
- b) Increase freedom for states and localities to spend federal funding as they please to increase teacher quality and student performance
- c) Using scientifically proven educational methods, such as the comprehensive reading programs and better trained teachers, to create optimum performance
- d) Allow parents and students more flexibility by letting students transfer to a different public school in the same district of the original schools that fail to meet national standards for two consecutive years or provide an unsafe/violent environment; increases transparency in schools by requiring them to provide information like per pupil expenditures ([Dept. of Education, OESE; https://www2.ed.gov/nclb/landing.jhtml](https://www2.ed.gov/nclb/landing.jhtml) , <https://oese.ed.gov/families/essa/>)

Opposition to NCLB: comes in many forms, often has something to do with NCLB being considered an **unfunded federal mandate**.

An unfunded federal mandate is a certain set of rules or standards a state must abide by, for fear of consequences such as losing any federal funding, but that the state is largely left with the burden to pay for and enforce.

Another common complaint regarding NCLB is the **restriction placed on teachers** as they are forced to focus their teaching on passing standardized testing, often meaning less creativity in the classrooms and less emphasis on non-core subjects (i.e. art, social studies music, drama).

2) **Family Educational Rights and Privacy Act (FERPA):** federal law passed in 1974; protects the privacy of student education records, and applies to all schools that receive funding under an applicable program of the Dept. of Education; specific rights of FERPA transfer right from parent to student when eligible student reaches age of 18 or attends school beyond grade 12 ([Dept. of Education, https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html](https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html)):

- a) Parents/eligible students have right to review student records maintained by school
- b) Parents/eligible students have right to request that a school correct records they believe are incorrect/misleading, and can bring the school to a hearing if this request is ignored
- c) Allows schools to disclose records without consent of parent/eligible student under following conditions:
 - i) "School officials with legitimate educational interest;
 - ii) Other schools to which a student is transferring;
 - iii) Specified officials for audit or evaluation purposes;
 - iv) Appropriate parties in connection with financial aid to a student;
 - v) Organizations conducting certain studies for or on behalf of the school;
 - vi) Accrediting organizations;
 - vii) To comply with a judicial order or lawfully issued subpoena;
 - viii) Appropriate officials in cases of health and safety emergencies; and
 - ix) State and local authorities, within a juvenile justice system, pursuant to specific State law"

3) **Individuals with Disabilities Education Act (IDEA):** reauthorized by Congress in 2004, amended by ESSA in 2015; makes free public education available to eligible children with disabilities ([IDEA, https://sites.ed.gov/idea/about-idea/](https://sites.ed.gov/idea/about-idea/)):

- a) Governs how states + public agencies provide early intervention, special education + related services to eligible youth with disabilities
- b) Authorizes formula + discretionary grants to support special education, early intervention services, state educational agencies, high education institutions and other nonprofit organizations

4) **Education Sciences Reform Act (ESRA):** passed in 2002, authorities in this act expired in 2008; authorizes federal government's efforts to collect information and research on the US education system; funding for it has remained - in 2023, \$734 million was appropriated to support IES' activities; ESRA authorized ([ESRA Primer, https://sgp.fas.org/crs/misc/R47481.pdf](https://sgp.fas.org/crs/misc/R47481.pdf)):

- a) Established **Institute of Education Sciences (IES):** independent research institute in the ED (Dept. of Education) composed of 4 National Education Centers; conducts research to provide parents, educators, students, researchers, policymakers + general public with information on progress of education, how to improve academic achievement + the effectiveness of federal education
- b) Established **National Board of Education Sciences (NBES):** technical panel of researchers that advise/approve IES's research priorities

Questions people might ask about the topic:

- 1. Why does federal education policy matter?** [The Federal Role in Education](https://www2.ed.gov/about/overview/fed/role.html) <https://www2.ed.gov/about/overview/fed/role.html>
- 2. Why hasn't the Biden Administration given more guidelines on its education agenda?** [The Biden Administration Still Hasn't Defined Its K-12 Agenda. Why?](https://www.edweek.org/policy-politics/the-biden-administration-still-hasnt-defined-its-k-12-agenda-why/2023/10) ; <https://www.edweek.org/policy-politics/the-biden-administration-still-hasnt-defined-its-k-12-agenda-why/2023/10>
- 3. What does the end of affirmative action mean for higher education?** [Ending affirmative action is watershed moment for higher education](https://www.axios.com/2023/06/29/affirmative-action-explained-students-diversity) ; <https://www.axios.com/2023/06/29/affirmative-action-explained-students-diversity>
- 4. What has gotten in the way of reauthorizing the Education Sciences Reform Act?** [Lawmakers Want to Reauthorize a Major Education Research Law. What Stands in the Way?](https://www.edweek.org/policy-politics/lawmakers-want-to-reauthorize-a-major-education-research-law-what-stands-in-the-way/2023/12) ; <https://www.edweek.org/policy-politics/lawmakers-want-to-reauthorize-a-major-education-research-law-what-stands-in-the-way/2023/12>
- 5. What are the legal challenges to charter schools?** [3 Decades In, Charter Schools Continue to Face Legal Challenges](https://www.edweek.org/policy-politics/3-decades-in-charter-schools-continue-to-face-legal-challenges/2023/12) ; <https://www.edweek.org/policy-politics/3-decades-in-charter-schools-continue-to-face-legal-challenges/2023/12>
- 6. What would a government shutdown mean for educators?** [Will the Government Actually Shut Down This Time? What Educators Should Know](https://www.edweek.org/policy-politics/will-the-government-actually-shut-down-this-time-what-educators-should-know/2023/11) ; <https://www.edweek.org/policy-politics/will-the-government-actually-shut-down-this-time-what-educators-should-know/2023/11>
- 7. Is there a federal right to education?** [America's Children Don't Have a Federal Right to Education. Will That Ever Change?](https://www.edweek.org/policy-politics/americas-children-dont-have-a-federal-right-to-education-will-that-ever-change/2023/10) ; <https://www.edweek.org/policy-politics/americas-children-dont-have-a-federal-right-to-education-will-that-ever-change/2023/10>
- 8. How will Artificial Intelligence affect education?** [AI in Education](https://www.educationnext.org/a-i-in-education-leap-into-new-era-machine-intelligence-carries-risks-challenges-promises/) ; <https://www.educationnext.org/a-i-in-education-leap-into-new-era-machine-intelligence-carries-risks-challenges-promises/>
- 9. Is the parents' rights movement changing the school choice debate?** [The Great Unbundling](https://www.educationnext.org/great-unbundling-is-parents-rights-movement-opening-new-frontier-school-choice/) ; <https://www.educationnext.org/great-unbundling-is-parents-rights-movement-opening-new-frontier-school-choice/>
- 10. How would federal education policy change if Donald Trump is reelected?** [What Would Another Trump Term Mean for Education?](https://www.educationnext.org/what-would-another-trump-term-mean-for-education/) ; <https://www.educationnext.org/what-would-another-trump-term-mean-for-education/>
- 11. What is the student debt crisis?** [FAQ: Student Loan Cancellation Edition](https://www.educationnext.org/faq-student-loan-cancellation-edition/) ; <https://www.educationnext.org/faq-student-loan-cancellation-edition/>

Resources:

Education Next - Federal Policy

<https://www.educationnext.org/ednext-blog/federal-policy-blog/>

Education Next is a nonpartisan news and research journal that focuses on American K-12 education. Its federal policy section provides news and insights on national-level issues.

Education Week - Federal Policy <https://www.edweek.org/federal-policy>

Education Week provides national coverage for K-12 education issues and can be used as a resource for administrators, teachers and parents.

US Department of Education

<https://www2.ed.gov/policy/landing.jhtml?src=ft>

The USDoE website is a central resource that provides an overview of the laws and guidance of federal education policy.

The Constitution and Beyond

As it stands, education is [not a right explicitly afforded](#) to the people under the federal Constitution. However, there are important Supreme Court precedents ([National Constitution Center](#); <https://constitutioncenter.org/blog/10-important-supreme-court-cases-about-education>):

1. Students for Fair Admissions (SFFA) v. Harvard (2023) and SFFA v. UNC (2023)

These landmark rulings found that Harvard and UNC's race-based admissions systems fail to meet the strict scrutiny, non-stereotyping and termination criteria established in *Regents of the University of California v. Bakke* and *Grutter v. Bollinger*, meaning that the Equal Protection Clause of the 14th Amendment was violated. While applicants can discuss how race affects their life, affirmative action programs are no longer legal.

2. Brown v. Board of Education (1954)

This decision overruled *Plessy v. Ferguson*'s 'separate but equal' doctrine. It found that this idea violated the Equal Protection Clause of the 14th Amendment, which meant that race-segregation in schools was therefore unconstitutional.

3. Engel v. Vitale (1962) and Abington School District v. Schempp (1963)

This pair of rulings found state-allowed prayer in public schools to be unconstitutional, as it insinuated government endorsement of a particular religion, under the Establishment Clause of the First Amendment.

4. Lemon v. Kurtzman (1971)

This ruling found that statutes providing state funding for non-public, non-secular schools violate the Establishment Clause. As a result, the *Lemon* test was created as a 3-pronged method of determining if statutes violate the Establishment Clause. The statute must have 1) a secular legislative purpose, 2) its principal or primary effect must be one that neither promotes nor inhibits religion and 3) it must not foster "excessive government entanglement with religion." ([Oyez](#) ; <https://www.oyez.org/cases/1970/89>)

5. Wisconsin v. Yoder (1972)

This ruling found under the Free Exercise Clause of the First Amendment, parents do not have to send their children to school until age 16 if their religion is in conflict with it.

6. San Antonio Independent School District v. Rodriguez (1972)

This ruling found that since there is no fundamental right to education guaranteed by the Constitution, the Equal Protection Clause of the 14th Amendment does not guarantee equal funding among school districts.

7. Tinker v. Des Moines (1969)

This ruling expanded students' right to free speech in the form of protest clothing, finding

that unless conduct or speech “materially and substantially interferes” with a school’s operations, it is legal.

8. New Jersey v. TLO (1985)

This ruling found that students have protections against unreasonable searches at school as found in the Fourth Amendment, however, ‘reasonable’ searches are still legal.

9. United States v. Lopez (1995)

This decision comes after the 1990 Gun-Free School Zones Act was signed into law, which forbids individuals from possessing a firearm in a school zone. The plaintiff was thereafter charged with possession of a firearm in a school zone, to which he challenged. The government argued that the law was legal under the Commerce Clause, which states Congress can regulate activities like the buying and selling of guns which affect interstate commerce. The Court found the law to be unconstitutional under the Commerce Clause because the possession of a gun does not affect interstate commerce and this law overstepped the power of Congress. ([Thirteen](#);

https://www.thirteen.org/wnet/supremecourt/future/print/landmark_us.html#:~:text=The%20Court%20ruled%20that%20the,regulate%20under%20the%20Commerce%20Clause
)

Political Parties and their views on Education Policy

Current partisan debates in education policy:

1. **School vouchers:** most often reserved for low-income students, children with disabilities or for families zoned to a failing public school; this coincides with the ‘school choice’ debate ([NPR](#) ; <https://www.npr.org/sections/ed/2016/12/07/504451460/school-choice-101-what-it-is-how-it-works-and-does-it-work>)

a. **Republican view:** typically in favor of voucher programs, see vouchers as a way to allow the free market to correct failing public schools.

b. **Democrat view:** are more likely to view vouchers as abandonment of the public school systems, take scarce funding from public schools and cite patterns of discrimination with vouchers today ([NEA](#) ; <https://www.nea.org/advocating-for-change/action-center/our-issues/vouchers#:~:text=School%20districts%20used%20vouchers%20to,black%20students%20remained%20chronically%20underfunded.>)

2. **School choice:** The goal of school choice is to give parents the opportunity to select the school they want their child to attend; This framework would change the way our current public school system operates, providing state grants (vouchers) to a parent who would then enroll their child in any school in the state instead of the traditional, state-funded public education system ([Teach Democracy](#) ; <https://www.crf-usa.org/bill-of-rights-in-action/bria-8-2-b-the-debate-over-school-choice>)

a. **Republican view:** pro-school choice; parents should be able to take their tax dollars ordinarily used to educate their children out of public schools and into their child’s education; funding students instead of systems

b. **Democrat view:** against school choice; concerns for weakening or privatization of public school systems ([Vox](#) ; <https://www.vox.com/politics/23689496/school-choice->

[education-savings-accounts-american-federation-children](#))

3. **Financial aid:** Students who want grants or loans from the federal government fill out FASFA forms and, depending on their income level, receive access to low-interest loans, grants, and work study programs; The financial aid structure tends to be difficult to navigate and is sometimes cited as not doing enough to help low-income students go to college

a. **Republican view:** about 63% of Republicans oppose making tuition at public colleges and universities free for all American students

b. **Democrat view:** about 85% of Democrats favor making tuition at public colleges and universities free for all American students ([Pew Research](#) ; <https://www.pewresearch.org/short-reads/2021/08/11/democrats-overwhelmingly-favor-free-college-tuition-while-republicans-are-divided-by-age-education/>)

4. **Critical race theory:** “Critical race theory is a method that takes the lived experience of racism seriously, using history and social reality to explain how racism operates in American law and culture, toward the end of eliminating the harmful effects of racism” ([NYT](#) ; <https://www.nytimes.com/article/what-is-critical-race-theory.html>); in education this looks at how policies and practices in K-12 education contribute to persistent racial inequalities in education ([EdWeek](#) ; <https://www.edweek.org/leadership/what-is-critical-race-theory-and-why-is-it-under-attack/2021/05>)

a. **Republican view:** CRT has been denounced as a method for inflicting racism and aggression against white students, argue it doesn’t fit into education curriculum, instead is indoctrination ([NYT](#) ; <https://www.nytimes.com/article/what-is-critical-race-theory.html>)

b. **Democrat view:** mostly in favor of CRT, but there is still contention within the party due to the voting public’s general uneasiness and consensus on the topic ([Politico](#) ; <https://www.politico.com/news/2021/07/26/democrats-school-critical-race-theory-500729>)

5. **AI + ChatGPT:** the use of this new artificial intelligence is being navigated, citing concerns of students using it to complete assignments; K-12 teachers have also begun using these tools to create lessons and translate information ([The Hill](#), [NEA](#) ; <https://thehill.com/homenews/education/4131603-here-are-the-top-education-issues-to-watch-going-into-the-new-school-year/> , <https://www.nea.org/nea-today/all-news-articles/chatgpt-enters-classroom-teachers-weigh-pros-and-cons>)

a. **Republican view + Democrat view:** both Republicans (59%) and Democrats (75%) are concerned about insufficient government regulation of chatbots ([Pew Research](#) ; <https://www.pewresearch.org/short-reads/2023/08/28/most-americans-havent-used-chatgpt-few-think-it-will-have-a-major-impact-on-their-job/>)

6. **Affirmative Action:** set of legal procedures designed to eliminate unlawful discrimination among applicants on the basis of race, in this case for high education institutions ([LII](#) ; https://www.law.cornell.edu/wex/affirmative_action)

a. **Republican view:** A majority (74%) of Republicans disapprove of selective colleges and universities taking race and ethnicity into account in admissions decisions in order to increase the racial and ethnic diversity at the school

b. **Democrat view:** Less certain than Republicans, but still a majority (67%) of Democrats approve of selective colleges taking race and ethnicity into account of

admissions decisions ([Pew Research](https://www.pewresearch.org/politics/2023/06/08/demographic-and-partisan-views-about-race-and-ethnicity-in-college-admissions/) ; <https://www.pewresearch.org/politics/2023/06/08/demographic-and-partisan-views-about-race-and-ethnicity-in-college-admissions/>)

Citizen groups active in Education Policy

1. Center for American Progress K-12 Education Policy

<https://www.americanprogress.org/team/k-12-education-policy/>

“The K-12 Education Policy team is committed to developing policies for a new education agenda rooted in principles of opportunity for all and equity in access.” CAP is a non-partisan, independent advocacy organization.

2. National Education Association

<https://www.nea.org/advocating-for-change/action-center/our-issues>

The NEA is a professional employee organization advocating for public education issues around the country like fully-funded public schools and gun violence prevention.

3. The Network for Public Education’s Grassroots Education Network

<https://networkforpubliceducation.org/grassroots-education-network/>

The NPE is an advocacy group geared at preserving, promoting and strengthening public schools. Its goal is to connect information about education issues with the public and promote its Grassroots Education Network – which provides a network of education advocacy organizations.

4. The Education Trust - Federal Advocacy

<https://edtrust.org/federal-advocacy/>

The Education Trust evaluates education policy and advocates for federal policy by lobbying against Congressional staff and relevant education stakeholders. Their research ranges from P-12 as well as for Higher Education, and their advocacy work takes place at both the federal and state levels.

5. GLSEN

<https://www.glsen.org/policy>

<https://www.glsen.org/resources>

“GLSEN is a multi-racial, intergenerational LGBTQ+ organization working nationally and locally to transform K-12 educational systems in the United States.” GLSEN is not only an advocacy organization itself, but it provides numerous resources to aid others in advocating for LGBTQ+ education policy.

Talking Points with your Child- Get the discussion started!

Education policy is an important and unique topic to discuss because there are no explicit rights for it guaranteed by the Constitution. Currently, there are many polarizing, partisan debates taking place on the national level:

- The role of parents in education policy
- If school vouchers should still exist
- The role of censorship and critical race theory in curriculum
- How artificial intelligence could be regulated in schools
- If Affirmative Action should exist for admissions processes
- How to ensure the rights of LGBTQ+ students in education policy

Links for Additional Info

- **More information on Supreme Court case precedents:**
<https://constitutioncenter.org/blog/10-important-supreme-court-cases-about-education>
- **Kid-friendly resource to learn more about education:**
<http://nces.ed.gov/nceskids/>
- **Recent Biden Administration Education Agenda:**
 - <https://www.ed.gov/news/press-releases/fact-sheet-biden-harris-administration-announces-new-actions-build-work-accelerate-learning-and-improve-student-achievement>
 - <https://www.ed.gov/news/press-releases/fact-sheet-biden-harris-administration-highlights-efforts-support-k-12-education-students-go-back-school>
- **2024 GOP presidential candidates on education:**
<https://thehill.com/homenews/campaign/3833724-republicans-see-education-as-winning-issue-in-2024/>