

Dissenting Statement of Commissioner Peter Kirsanow

Money and Education

The Commission's report and recommendations boil down to one thing: *spend more money*.

Fine. Spend more money. Lots and lots of money. Spew money into the educational air like you're drilling for oil and just hit a gusher. But it won't matter. Nothing much will change. Because the primary problem with our education system is *not* lack of money. (Get out the defibrillators.)

The Department of Education periodically issues the Digest of Education Statistics, which, among other things, tracks education spending over time. On the next several pages there is a chart of annual per-pupil expenditures from 1919-2013.¹ The figures below emphatically confirm that the definition of insanity is doing the same thing (in this case, increasing spending) over and over and expecting a different result.

Table 236.55. Total and current expenditures per pupil in public elementary and secondary schools: Selected years, 1919-20 through 2013-14

School year	Expenditure per pupil in average daily attendance				Expenditure per pupil in fall enrollment ¹				
	Unadjusted dollars ²		Constant 2015-16 dollars ³		Unadjusted dollars ²		Constant 2015-16 dollars ³		Annual percent change in current expenditure
	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	
1	2	3	4	5	6	7	8	9	10
1919-20	\$64	\$53	\$800	\$667	\$48	\$40	\$598	\$499	—
1929-30	108	87	1,510	1,207	90	72	1,251	999	—
1931-32	97	81	1,601	1,340	82	69	1,355	1,135	—
1933-34	76	67	1,372	1,214	65	57	1,165	1,032	—
1935-36	88	74	1,525	1,288	74	63	1,290	1,090	—
1937-38	100	84	1,658	1,395	86	72	1,424	1,198	—
1939-40	106	88	1,803	1,502	92	76	1,562	1,302	—
1941-42	110	98	1,681	1,502	94	84	1,440	1,286	—
1943-44	125	117	1,705	1,600	105	99	1,436	1,348	—
1945-46	146	136	1,905	1,782	124	116	1,623	1,518	—

¹ Table 236.55, Digest of Education Statistics, National Center for Education Statistics (2016), https://nces.ed.gov/programs/digest/d16/tables/dt16_236.55.asp?current=yes.

School year	Expenditure per pupil in average daily attendance				Expenditure per pupil in fall enrollment ¹				
	Unadjusted dollars ²		Constant 2015-16 dollars ³		Unadjusted dollars ²		Constant 2015-16 dollars ³		
	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Annual percent change in current expenditure
1	2	3	4	5	6	7	8	9	10
1947-48	205	181	2,095	1,856	179	158	1,829	1,621	—
1949-50	260	210	2,620	2,116	231	187	2,325	1,878	—
1951-52	314	246	2,851	2,231	275	215	2,496	1,953	—
1953-54	351	265	3,110	2,346	312	236	2,765	2,087	—
1955-56	387	294	3,430	2,608	354	269	3,136	2,384	—
1957-58	447	341	3,733	2,846	408	311	3,405	2,596	—
1959-60	471	375	3,820	3,042	440	350	3,568	2,842	—
1961-62	517	419	4,099	3,321	485	393	3,847	3,117	—
1963-64	559	460	4,316	3,556	520	428	4,017	3,310	—
1965-66	654	538	4,882	4,015	607	499	4,533	3,728	—
1967-68	786	658	5,511	4,612	732	612	5,126	4,290	—
1969-70	955	816	6,024	5,147	879	751	5,546	4,738	—
1970-71	1,049	911	6,295	5,465	970	842	5,819	5,052	6.6
1971-72	1,128	990	6,531	5,731	1,034	908	5,989	5,256	4.0
1972-73	1,211	1,077	6,738	5,994	1,117	993	6,216	5,529	5.2
1973-74	1,364	1,207	6,970	6,169	1,244	1,101	6,356	5,626	1.7
1974-75	1,545	1,365	7,107	6,278	1,423	1,257	6,547	5,783	2.8
1975-76	1,697	1,504	7,292	6,460	1,563	1,385	6,715	5,949	2.9
1976-77	1,816	1,638	7,374	6,648	1,674	1,509	6,795	6,126	3.0
1977-78	2,002	1,823	7,618	6,935	1,842	1,677	7,006	6,378	4.1

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	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Annual percent change in current expenditure
1	2	3	4	5	6	7	8	9	10
1978-79	2,210	2,020	7,687	7,028	2,029	1,855	7,059	6,454	1.2
1979-80	2,491	2,272	7,644	6,973	2,290	2,088	7,027	6,410	-0.7
1980-81	2,742 ⁵	2,502	7,543 ⁵	6,881	2,529 ⁵	2,307	6,958 ⁵	6,347	-1.0
1981-82	2,973 ⁵	2,726	7,528 ⁵	6,901	2,754 ⁵	2,525	6,974 ⁵	6,393	0.7
1982-83	3,203 ⁵	2,955	7,777 ⁵	7,174	2,966 ⁵	2,736	7,201 ⁵	6,643	3.9
1983-84	3,471 ⁵	3,173	8,126 ⁵	7,429	3,216 ⁵	2,940	7,528 ⁵	6,882	3.6
1984-85	3,722 ⁵	3,470	8,385 ⁵	7,818	3,456 ⁵	3,222	7,785 ⁵	7,259	5.5
1985-86	4,020 ⁵	3,756	8,802 ⁵	8,224	3,724 ⁵	3,479	8,155 ⁵	7,619	5.0
1986-87	4,308 ⁵	3,970	9,228 ⁵	8,505	3,995 ⁵	3,682	8,558 ⁵	7,887	3.5
1987-88	4,654 ⁵	4,240	9,573 ⁵	8,721	4,310 ⁵	3,927	8,865 ⁵	8,077	2.4
1988-89	5,108	4,645	10,042	9,132	4,737	4,307	9,313	8,468	4.8
1989-90	5,547	4,980	10,409	9,345	5,172	4,643	9,705	8,712	2.9
1990-91	5,882	5,258	10,465	9,355	5,484	4,902	9,757	8,722	0.1
1991-92	6,072	5,421	10,468	9,346	5,626	5,023	9,700	8,660	-0.7
1992-93	6,279	5,584	10,498	9,335	5,802	5,160	9,701	8,626	-0.4
1993-94	6,489	5,767	10,575	9,399	5,994	5,327	9,767	8,681	0.6
1994-95	6,723	5,989	10,650	9,488	6,206	5,529	9,832	8,758	0.9
1995-96	6,959	6,147	10,733	9,480	6,441	5,689	9,934	8,774	0.2
1996-97	7,297	6,393	10,942	9,586	6,761	5,923	10,138	8,882	1.2

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	Unadjusted dollars ²		Constant 2015-16 dollars ³		Unadjusted dollars ²		Constant 2015-16 dollars ³		
	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Total expenditure ⁴	Current expenditure	Annual percent change in current expenditure
1	2	3	4	5	6	7	8	9	10
1997-98	7,701	6,676	11,344	9,834	7,139	6,189	10,518	9,118	2.7
1998-99	8,115	7,013	11,752	10,156	7,531	6,508	10,906	9,424	3.4
1999-2000	8,589	7,394	12,089	10,406	8,030	6,912	11,302	9,729	3.2
2000-01	9,180	7,904	12,492	10,756	8,572	7,380	11,665	10,043	3.2
2001-02	9,611	8,259	12,852	11,043	8,993	7,727	12,025	10,333	2.9
2002-03	9,950	8,610	13,019	11,265	9,296	8,044	12,164	10,525	1.9
2003-04	10,308	8,900	13,198	11,395	9,625	8,310	12,324	10,641	1.1
2004-05	10,779	9,316	13,398	11,580	10,078	8,711	12,528	10,828	1.8
2005-06	11,338	9,778	13,576	11,709	10,603	9,145	12,696	10,950	1.1
2006-07	12,015	10,336	14,024	12,064	11,252	9,679	13,133	11,298	3.2
2007-08	12,759	10,982	14,361	12,361	11,965	10,298	13,467	11,591	2.6
2008-09	13,033	11,239	14,467	12,475	12,222	10,540	13,567	11,699	0.9
2009-10	13,035	11,427	14,331	12,563	12,133	10,636	13,339	11,693	-0.1
2010-11	12,926	11,433	13,931	12,322	12,054	10,663	12,991	11,492	-1.7
2011-12	12,796	11,362	13,398	11,897	11,991	10,648	12,556	11,149	-3.0
2012-13 ⁶	12,859	11,509	13,243	11,854	12,033	10,771	12,394	11,093	-0.5
2013-14	13,187	11,831	13,373	11,998	12,335	11,066	12,509	11,222	1.2

—Not available.

¹ Data for 1919-20 to 1953-54 are based on school-year enrollment.

² Unadjusted (or “current”) dollars have not been adjusted to compensate for inflation.

³ Constant dollars based on the Consumer Price Index, prepared by the Bureau of Labor Statistics, U.S. Department of Labor, adjusted to a school-year basis.

⁴ Excludes "Other current expenditures," such as community services, private school programs, adult education, and other programs not allocable to expenditures per student at public schools.

⁵ Estimated.

⁶ Revised from previously published figures.

NOTE: Beginning in 1980-81, state administration expenditures are excluded from both "total" and "current" expenditures. Current expenditures include instruction, support services, food services, and enterprise operations. Total expenditures include current expenditures, capital outlay, and interest on debt. Beginning in 1988-89, extensive changes were made in the data collection procedures.

SOURCE: U.S. Department of Education, National Center for Education Statistics, *Biennial Survey of Education in the United States*, 1919-20 through 1955-56; *Statistics of State School Systems*, 1957-58 through 1969-70; *Revenues and Expenditures for Public Elementary and Secondary Education*, 1970-71 through 1986-87; and Common Core of Data (CCD), "National Public Education Financial Survey," 1987-88 through 2013-14. (This table was prepared July 2016.)

From 1919 to 2013, per-pupil expenditures increased from approximately \$496 (adjusted for inflation) to \$11,011.² Even taking into account increases in enrollment³ and curricula, it is difficult to argue that the average contemporary American student's academic performance is twenty-two times better than that of his 1919 counterpart. Indeed, in some respects, it is inarguable student performance has gotten worse.

According to the Commission's report, "school districts spend an average of \$11,066 on each student each year,"⁴ but "the highest poverty districts receive an average of \$1,200 less per-pupil than the lowest-poverty districts, and districts serving the largest numbers of students of color receive about \$2,000 less per student than districts who serve fewer students of color." If *more than doubling* per-pupil expenditures since 1970 has made almost no difference in NAEP scores, an extra \$1,200 or \$2,000 per pupil per year won't make much of a difference.⁵ In fact, some of our panelists stated as much. Catherine Brown from the Center for American Progress stated that she believed that low-income students needed to receive 150 to 200 percent as much per-pupil spending as more affluent students.⁶ Even then, as shown below, the evidence suggests the results would not be appreciably different.

The United States has dramatically increased education spending over the past 100 years, yet we have little to show for it. A study of long-term NAEP trends found that reading scores for nine-year-olds had increased from 208 to 221 from 1971 to 2012 and thirteen-year-old reading scores had increased from 255 to 263 from 1973 to 2012. Math scores for nine-year-olds had increased from 219 to 244, and math scores for thirteen-year-olds had increased from 266 to 285. These modest improvements are, however, temporary and fleeting, *as the reading and math scores of seventeen-year-olds were essentially unchanged.*⁷ In contrast, in the 1971-72 school year the United States spent an average of \$5,692 (in 2015 dollars) per pupil, and in the 2011-12 school year it spent \$11,817 (in 2015 dollars). So the math and reading scores remained static over 40 years while spending doubled. Should we, then, triple educational spending? Quadruple it? What is the last dollar that will finally move the needle by even one point? And even if we could move the needle by ten points, where does the money come from? Current expenditures for education total \$634 billion, an amount nearly equal to the entire federal deficit.⁸ If money made much of a difference, we should be seeing far greater improvements in NAEP scores than we are.⁹

Choice and Education

The report and findings and recommendations repeat over and over that high-poverty districts tend to have less experienced teachers.¹⁰ There are hints in the Commission's transcript that salary disparities are *not* the primary reason that less experienced teachers are clustered in high-poverty schools, but largely because high-poverty schools are often unpleasant places to work – in large part because of crime and disciplinary issues.¹¹ Increasing teacher pay will only do so

² *Id.*

³ "120 Years of American Education: A Statistical Portrait," National Center for Education Statistics, U.S. Department of Education, at 6 (1991), <https://nces.ed.gov/pubs93/93442.pdf> (over sixty percent of white children and approximately fifty percent of black and other-race children aged 5-19 were enrolled in school in 1919).

⁴ Report at 4.

⁵ Neal McCluskey, "Sequestration Needed for Federal Education Programs," Testimony before Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, July 15, 2012 ("overall per-pupil expenditures through high school graduation have nearly tripled since 1970."), <https://www.cato.org/publications/congressional-testimony/sequestration-needed-federal-education-programs>.

⁶ Transcript at 244-45.

⁷ "Trends in Academic Progress," National Center for Education Statistics, U.S. Dep't of Ed., at 1 (2013), <https://nces.ed.gov/nationsreportcard/subject/publications/main2012/pdf/2013456.pdf>.

⁸ "Fast Facts," National Center for Education Statistics, <https://nces.ed.gov/fastfacts/display.asp?id=66>.

⁹ Neal McCluskey, "Sequestration Needed for Federal Education Programs," Testimony before Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, July 15, 2012 ("overall per-pupil expenditures through high school graduation have nearly tripled since 1970."), <https://www.cato.org/publications/congressional-testimony/sequestration-needed-federal-education-programs>.

¹⁰ Report at 5 ("poorer schools often have less experienced and lower-paid teachers"); Report at 25 ("Higher-paid, more experienced teachers tend to be employed at lower-needs schools, and lower-paid, less experienced teachers are congregated in high-needs schools.").

¹¹ Professor Jacob Vigdor, Transcript at 200.

Another thing that I'll tell you about is discipline. It is a pattern that schools serving higher poverty, intense poverty student bodies adopt stricter disciplinary practices. ... These schools are serving a high risk population. They react to this high risk population by imposing strict standards.

much to retain good, experienced teachers in low-income districts. As Professor Rivkin stated at our briefing, “a lot of [within-district differences] are due to the fact that teachers who are more experienced and earn higher salaries choose to work in the less-poor schools. And I do think that justifies higher pay in schools serving more disadvantaged children, particularly if the teacher is effective. But I think ... we should be open about that, that *a lot of this is driven by choices.*” [emphasis added]¹² Professor Jacob Vigdor testified, “There is a lot of evidence suggesting that teachers favor jobs that are in lower poverty settings. *Teachers will often take a pay cut in order to move from a job in a high poverty school to a job in a low poverty school.*” [emphasis added]¹³

In some cases, offering more money to teachers may be enough to convince some high-quality teachers to stay in high-poverty schools. Professor Vigdor suggested that districts would need to offer salaries that were 50 to 60 percent higher in order to induce good teachers to remain in high-poverty schools.¹⁴ As I stated during the briefing, however, at some point we run into fiscal reality. Maybe some states have enough money to increase the pay of some teachers by 50 to 60 percent.¹⁵ However, we simply do not have the money to make up for the abysmal family situations of these children, which is essentially what we are trying to do with “wraparound services” and social workers and free lunches and all the other non-educational services mentioned at this briefing.¹⁶ Those services traditionally are provided by families. No amount of money will transform schools into adequate substitutes for families.

Some of us were raised in families much poorer in a material sense than many of these families. The children in these families suffer less from material poverty than from the structural poverty of growing up in chaotic, dysfunctional, single-parent households. This is not blaming the victim. This is acknowledging reality, something the report strenuously endeavors to avoid.

Housing and Coercion

One subtle current flowing through this report is “racial/societal engineering.” The report is concerned with so-called “residential segregation,” which it blames for poor educational outcomes.¹⁷ I reject the use of the term

This is a polite way of saying that children in higher poverty schools tend to be less well-behaved than their better-off peers, and schools adopt strict discipline policies in an effort to maintain some semblance of order.

See also Katherine Kersten, “No Thug Left Behind,” City Journal, Winter 2017, <https://www.city-journal.org/html/no-thug-left-behind-14951.html>.

¹² Transcript at 178.

¹³ Transcript at 199.

¹⁴ Transcript at 202.

¹⁵ What is to be done with the teacher in a wealthy district who turns out National Merit Scholars year after year? Should she not be financially rewarded because she started with more promising students?

¹⁶ For example, consider the Abecedarian early childhood treatment program, which provided full-day, intensive interventions to 57 high-risk children from infancy until entrance into kindergarten. The primary outcome was that the treated group completed an average of 13.46 years of education compared to 12.31 for the control group, and 12 members of the treated group completed bachelor’s degrees compared to 3 from the control group. The treatment group was more likely to be employed and less likely to use public assistance, although their earnings were substantially the same as the control group and they were as likely to engage in criminal activity. See Frances Campbell et al., “Adult Outcomes as a Function of an Early Childhood Educational Program: An Abecedarian Project Follow-Up,” *Dev. Psych.* 48(4): 1033-1043, July 2012, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3989926/>. Even these modest results have been questioned by other researchers and likely cannot be replicated on a large scale. See Dale C. Farran and Mark Lipsey, “Evidence for the Benefits of State Pre-kindergarten Programs: Myth and Misrepresentation,” Peabody Research Institute, Vanderbilt University, Nov. 9, 2015, at 18 (“there is virtually no methodologically credible evidence that these immediate positive effects of state pre-k programs are sustained for any length of time past the end of the pre-k year.”),

https://peabody.vanderbilt.edu/research/pri/Evidence_for_BenefitsofStatePK_Myth_Misrepresentation.pdf; Charles Murray, “The shaky science behind Obama’s universal pre-K,” American Enterprise Institute, Feb. 20, 2013, <http://www.aei.org/publication/the-shaky-science-behind-obamas-universal-pre-k/>; Dale C. Farran and Mark W. Lipsey, “Misrepresented evidence doesn’t serve pre-K programs well,” *Brookings*, Feb. 24, 2017, <https://www.brookings.edu/blog/education-plus-development/2017/02/24/misrepresented-evidence-doesnt-serve-pre-k-programs-well/>; Lindsey Burke, “Research Review: Universal Preschool May Do More Harm than Good,” Heritage Foundation, May 11, 2016, <http://www.heritage.org/education/report/research-review-universal-preschool-may-do-more-harm-good>.

¹⁷ Recommendation 4.

Federal, state, and local government should develop incentives to promote communities that are not racially segregated and do not have concentrated poverty, which in turn would positively impact segregation and concentrated poverty in public schools and the educational challenges associated with such schools.

“segregation,” which is used to elicit an emotional reaction by conjuring up visions of lunch counters and *Brown v. Board*. This vision is inaccurate. There are no racial covenants in the United States today. A person of any race is legally entitled to buy or rent a house in any area and send his child to the local public school. The fact that one’s financial circumstances may constrain one to live in a less expensive neighborhood is not segregation. As Justice Thomas has written, “Racial imbalance is not segregation, and the mere incantation of terms like resegregation and remediation cannot make up the difference.”¹⁸

The Commission majority recommends:

Federal, state, and local government should develop incentives to promote communities that are not racially segregated and do not have concentrated poverty, which in turn would positively impact segregation and concentrated poverty in public schools and the educational challenges associated with such schools.¹⁹

Some form of societal or racial engineering by bureaucrats will be necessary to implement this suggestion on a broad scale. The Commission presumably has HUD’s Affirmatively Furthering Fair Housing rule in mind.²⁰ “Incentives” are the carrots that are followed by *sticks* if a community is recalcitrant, and thus are freedoms subtly but inevitably eroded. As I recently wrote:

HUD has already forced some communities into overreaching agreements. These communities include New York’s Westchester County and Dubuque, Iowa.²¹ These communities have already been deprived of a degree of self-government, and that injury persists as long as these agreements are in effect. Dubuque already has a waitlist for Section 8 housing assistance, but a “Voluntary” Compliance Agreement requires it to advertise in Chicago in an attempt to attract *more* Section 8 voucher holders.²² Dubuque residents continue to be harmed by the Compliance agreement, which prohibits Dubuque from preferring its own residents who are in need of housing to those from outside the area, or even outside the state.²³ The people

¹⁸ Parents Involved in Community Schools v. Seattle School District No. 1, 551 U.S. 701, 750 (2007)(Thomas, J., concurring).

¹⁹ Recommendation 4.

²⁰ Commissioner Narasaki, Transcript at 188.

The other [question] is what HUD recently announced this year in terms of trying to really use its programming on fair housing to give poor families more of a choice of where they can live. And hopefully open up more opportunities for them to live in better school districts and more integrated situations which some researchers say help to contribute to better educational outcomes.

²¹ Jeremy Carl, “The Obama Administration Thinks Hillary’s Hometown is Racist: Does Congress Agree?,” National Review Online, May 18, 2016, <http://www.nationalreview.com/article/435531/obama-administration-thinks-hillarys-hometown-racist-does-congress-agree>;

²² Deborah D. Thornton, “The Nanny State Is Expanding – and Private Property Rights Are Decreasing,” Public Interest Institute, at 11-14 (June 2015), <http://www.limitedgovernment.org/publications/pubs/studies/ps-15-6.pdf>; Voluntary Compliance Agreement Between the U.S. Dep’t of Housing and Urban Development and Dubuque, Iowa, HUD Compliance Case Review Number 07-11-R001-6, Mar. 31, 2014, at 18, <http://cityofdubuque.org/DocumentCenter/View/22707>.

The Affordable Housing section shall also include specific one year goals to Affirmatively Further Fair Housing, by including a plan to increase the number of minorities, specifically African American households, to be provided affordable housing through activities that provide rental assistance, family self-sufficiency programs, or homeownership assistance. This may include marketing and information sharing of the programs availability and participation benefits.

²³Voluntary Compliance Agreement Between the U.S. Dep’t of Housing and Urban Development and Dubuque, Iowa, HUD Compliance Case Review Number 07-11-R001-6, Mar. 31, 2014, at 19, <http://cityofdubuque.org/DocumentCenter/View/22707>. Availability of Application: remove the clause that “or may accept only applications meeting certain criteria such as limiting the waiting list to applicants with local preference only.”

Local Preferences: Delete the final paragraph pertaining to residency preferences.

Id. at 25.

[T]he City shall develop and submit to the Department an Outreach Plan to ensure that information regarding the City’s Section 8 Program, including the opening of the waitlist and the corollary programs offered by the City, reaches minority populations within Dubuque and surrounding interstate areas. . . .

If the information submitted to HUD indicates that the Outreach Plan is not successfully reaching a diverse pool of potential applicants as evidenced by a lack of increased African Americans on the waitlist and/or a lack of increased participation in the program by African American families, HUD may prescribe additional Outreach activities that do not constitute an undue burden

on the housing assistance waitlist in Dubuque are too white, so the city must try to attract out-of-state African-Americans to join its waitlist – which of course makes the list even longer.

Insofar as any such agreements require communities to build types of housing mandated by HUD – for example, constructing apartment buildings in communities where the residents prefer to have single-family homes – the character of these communities will be irreversibly changed.²⁴

The American tradition of local control of schools and communities is part of who we are as a people and precedes the founding of the Republic. The report downplays this by claiming:

Some scholars believe that local participation in school board governance has been diminished to the point where it may no longer exist in certain localities, notably in low income communities and communities of color. These residents often lack the political power and financial means to influence local governance to create favorable policies and reforms, and these communities may lack funds for implementation of any desired reforms. Additionally, parents do not have much control over choosing schools for their children, often restricted by their ability to afford to live in certain neighborhoods.²⁵

It will always be the case that some people will have more political power than others. Regardless, even if residents of low-income neighborhoods have less political power than residents of another neighborhood, removing local control *will take away the little political power they have*. It may be difficult for a single mother to make arrangements to show up at the school board meeting, but it is at least feasible. If it is important enough to her, she has the ability to show up in person and address school board members face-to-face. On the other hand, it will be virtually impossible for her to determine which bureaucrat in the state capitol or the federal Department of Education is responsible for a particular decision made at her child's school. It is often difficult even for members of Congress and political appointees in the executive branch to determine that functionary Winston Smith in Cubicle 114-A is responsible for a particular policy. And even if that single mother determines that Winston Smith is the appropriate functionary, all she can do is call or send an email, which is much less effective than an in-person discussion. Winston Smith may be smarter than the school board members (obviously, he's from Washington!), he may even be better-intentioned than the school board members (virtue, after all, resides primarily inside the Beltway), but there is no substitute for on-the-ground knowledge of the community and community members' ability to confront you in person – and vote you out of office.

Removing local control is fundamentally at odds with the American ideal of representative government. Citizens should be in charge of making political decisions, including school funding. It is their money, after all. And one of the important aspects of representative government is that it allows the majority to express its will on political issues. The panjandrums of Washington, D.C. have a different vision, one that coerces polities and individuals alike. As one of the panelists at our briefing stated:

There are lots of localities. They have their own rules and laws. And so, one lever that you look for is how do you incentivize adoption of policies that may be useful in fair housing and opening up areas. So the local policy grants were designed around – it was almost a light version of Race to the Top. Could we have some incentive grants for localities to adopt policies that could be particularly useful for increasing affordable housing and affordable housing in areas of opportunity? That has not actually passed yet in a budget. But that's how it would be used. A way in which you could imagine it being used that could be effective would be an area that would adopt source of income protection. *It is currently legal in this country to discriminate on the basis of whether somebody has a housing voucher. And so, in fact, perfectly legal in a large majority of states. [Y]ou know, a first step for getting voucher households into a broader array of choices would be imagining prohibiting that discrimination.*²⁶ [emphasis added]

²⁴ Letter from Commissioner Peter Kirsanow to Secretary Ben Carson, July 20, 2017, <http://www.newamericancivilrightsproject.org/wp-content/uploads/2014/03/Letter-to-Secretary-Carson-re-AFFH-July-20-2017.pdf>.

²⁵ Report at 30.

²⁶ Katherine O'Regan, Assistant Secretary for Policy and Development, HUD, Transcript at 231-32.

Poverty is not a protected class. The rule is, and should remain, that one is allowed to exclude anyone for any reason unrelated to that person's membership in a protected class. Lack of money is as non-discriminatory a reason as one can find. Furthermore, when the good people at HUD discover that eliminating discrimination on the basis of a housing voucher still does not result in moving enough poor people into wealthier areas because rent is more than is covered by a voucher, they will inevitably begin pressing for legislation that requires landlords to accept vouchers, even if it means operating at a loss.

Commissioner Narasaki said at the briefing, "what would we change in the law to make it easier for parents to bring lawsuits or for the government to successfully help the politicians do the right thing by kids by providing this litigation leverage."²⁷ Respectfully, that gets our system of government backwards. The government is not a separate entity from politicians and should not be "help[ing] politicians do the right thing." The bureaucratic aspect of government only has the authority delegated to it by the politicians, and when politicians pursue a particular policy, the bureaucracy must follow. Likewise, it is not the role of the federal government to interfere in state education funding decisions. If there is anything that is within the purview of the states, it is how and at what level to fund education – and even whether to fund public education at all. If the right of self-government is to mean anything, it must mean the right to make decisions our self-appointed betters believe are wrong. That includes decisions about education that such betters believe to be shortsighted.

Education and Family

The crux of this report is "more money" because money is something we can control. Per-pupil education spending has doubled since the 1970s, but NAEP scores are flat. But despite the report's dogged efforts to downplay the Coleman Report's determination that a child's family is *the most important factor in his academic success*, the Coleman Report's insight has only been confirmed by 50 years of societal disintegration. Money isn't the problem – family decay is the problem.

The report barely discusses the issue of family structure, which is the single greatest factor in education outcomes, and no amount of government spending will change the fact that family structure has disintegrated as government spending has exploded. The report touches on this when discussing the Coleman Report on pages 13-14, and in footnote 75 on page 70, where a Brookings report is cited that identifies single parenthood as one factor that can have a deleterious effect on the school performance of poor children. The Commission report's discussion of the Coleman report is primarily dedicated to arguing against the Coleman Report's findings. The Commission report's almost complete omission of the importance of family structure to education outcomes, particularly the vital importance of being born to two married parents, is the elephant on steroids in the room.

Princeton's Fragile Families and Wellbeing Study [hereinafter the "Fragile Families Study"] "has been following approximately 5,000 children born in large U.S. cities between 1998 and 2000, including a large oversample of children born to unmarried parents."²⁸ This study is a rich vein of information, but here are just two findings that are pertinent to this report:

Despite their high hopes, most parental relationships do not last, and as a result many children experience high levels of instability. Only 35% of unmarried couples are still living together five years after the birth of their child, and less than half of the 35% are married. Couples that were cohabiting at birth are more likely to be together than couples in 'visiting unions.' Just over 50% of cohabiting couples are married or cohabiting five years after the birth.

Once their relationship with baby's father ends, many unmarried mothers form new partnerships and many have children with new partners. Nearly 40% of all unmarried mothers experience at least one new partnership, and about 14% have a child with a new partner, adding to the instability and complexity of these families.

²⁷ Transcript at 118.

²⁸ "Fact Sheet," The Fragile Families and Child Wellbeing Study, https://fragilefamilies.princeton.edu/sites/fragilefamilies/files/ff_fact_sheet.pdf.

Children born to unmarried parents do not fare as well as children born to married parents. Single mothers and mothers in unstable partnerships engage in harsher parenting practices and fewer literacy activities with their child than stably married mothers. Family instability also reduces children’s cognitive test scores and increases aggressive behavior. The increase in aggression is especially pronounced among boys.²⁹

These disadvantages are likely to persist for life. A peer-reviewed study of children born in Finland between 1934-1944, when approximately 10% of children were born out of wedlock, found the following:

This life course study shows that children born out of wedlock carry a socioeconomic disadvantage throughout life. As compared with children born to married mothers, they have approximately three-fold odds of ending up in the lowest than in the highest educational and occupational categories. Most likely to end up in these categories are children born to unmarried mothers who have no male caregiver during childhood. These associations are not explained by other socioeconomic factors as indicated by mother’s and possible male caregiver’s occupational statuses. This disadvantage starting in early life is likely to have a substantial effect on lifetime health.³⁰

Consider Utah, which in 2015 had the lowest out-of-wedlock birthrate in the country at 18.8 percent³¹, which is only slightly below the level Daniel Patrick Moynihan considered catastrophic in the African-American community sixty-two years ago.³² Utah also has the lowest per-pupil educational expenditures - \$6,546 per student.³³ Yet Utah’s 2015 NAEP scores for math and reading were classified as “significantly higher” than the national public average.³⁴ On the other hand, 39.5 percent of New York state births were out of wedlock, which puts it right in the middle of the pack.³⁵ New York also spends \$20,156 per-pupil, more than any other state.³⁶ But its NAEP scores are also average, and its mathematics scores among fourth-graders were significantly lower than the national public average.³⁷ There are ten states where more than 45 percent of 2015 births were out of wedlock – Nevada, Arizona, New Mexico, Louisiana, Mississippi, Florida, Georgia, South Carolina, Delaware, and Rhode Island – and all but two of those states had NAEP scores significantly below the national average.³⁸ And the ten states that had the lowest percentage of illegitimate births – Washington, Idaho, Wyoming, Utah, Colorado, Nebraska, North Dakota, Minnesota, New Hampshire, and Massachusetts³⁹ – all had NAEP scores at or above the national average.⁴⁰

Some of my colleagues might protest that there is no point in drawing attention to the deleterious consequences of single parent families, because nothing we can do will change behavior. They might be right, but, strangely, this sort of defeatism has never been pertinent to the futile expenditure of taxpayer dollars.

²⁹ *Id.* [emphasis in original]

³⁰ H. Maiju Mikkonen, et al., “The lifelong socioeconomic disadvantage of single-mother background – the Helsinki Birth Cohort study 1934-1944,” BMC Public Health, Aug. 18, 2016, <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-016-3485-z>

³¹ “Percentage of Births to Unmarried Mothers by State: 2015,” National Center for Health Statistics, Centers for Disease Control, Jan. 5, 2017, <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>.

³² Daniel Patrick Moynihan, “The Negro Family: The Case for National Action,” Office of Policy Planning and Research, U.S. Dep’t of Labor, March 1965, <https://www.dol.gov/oasam/programs/history/webid-meynihan.htm>.

³³ Report at 27.

³⁴ The Nation’s Report Card, State Profiles, <https://www.nationsreportcard.gov/profiles/stateprofile?chort=1&sub=MAT&sj=AL&sfj=NP&st=MN&year=2015R3>.

³⁵ “Percentage of Births to Unmarried Mothers by State: 2015,” National Center for Health Statistics, Centers for Disease Control, Jan. 5, 2017, <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>.

³⁶ Report at 27.

³⁷ The Nation’s Report Card, State Profiles, <https://www.nationsreportcard.gov/profiles/stateprofile?chort=1&sub=MAT&sj=AL&sfj=NP&st=MN&year=2015R3>.

³⁸ The Nation’s Report Card, State Profiles, <https://www.nationsreportcard.gov/profiles/stateprofile?chort=1&sub=MAT&sj=AL&sfj=NP&st=MN&year=2015R3>.

³⁹ “Percentage of Births to Unmarried Mothers by State: 2015,” National Center for Health Statistics, Centers for Disease Control, Jan. 5, 2017, <https://www.cdc.gov/nchs/pressroom/sosmap/unmarried/unmarried.htm>.

⁴⁰ The Nation’s Report Card, State Profiles, <https://www.nationsreportcard.gov/profiles/stateprofile?chort=1&sub=MAT&sj=AL&sfj=NP&st=MN&year=2015R3>.

College-educated whites still, by and large, delay childbearing until after marriage, whereas their less educated fellow whites have an increasingly high illegitimacy rate. Standing on a college campus does not magically inoculate one from unwed childbearing. Rather, these individuals have factored in the consequences of having a child out of wedlock.

Conclusion

This report adds absolutely nothing new to the education policy debate. It likely obscures more than it helps. The thousands of hours of Commission and staff time spent on this report would have been better spent going door-to-door in poor and working class neighborhoods populated by people of all races and handing out pictures of rainbows and unicorns. Because that would have done more to improve the world than this report ever will, even if the relevant authorities adopt every recommendation in it.