

National Federalism Initiative

Utah State Board of Education Exploratory Presentation

Utah State Legislature Federalism Commission

August 18, 2025

Agency Background

- Name: Utah State Board of Education
- Head of Agency/Designated Contact:
 - Head of Agency: Dr. Molly Hart, Superintendent of Public Instruction
molly.hart@schools.Utah.gov
 - Point of Contact for Federalism Commission: Deputy Superintendent of Operations Scott Jones scott.jones@schools.utah.gov
- Policy Focus: Utah Core
- Mission: Exercise General Control and Supervision of the Public Education System in Utah **(subject to strategic plan session by the USBE on August 22 and 23)**
- Authority: Utah Constitution and Policy Making
- Expertise/Learning: Experience in public education, law, trainings, and a variety of additional experiences and learning opportunities

Source of Federal Authority (Slide 1 of 3)

While the U.S. Constitution does not expressly mention education — and the United States Supreme Court has not interpreted it to require the federal government to provide or fund education services — the [14th Amendment to the U.S. Constitution](#) has had a significant effect on protecting public education rights.

- **How Does the 14th Amendment Affect Education?**

- The 14th Amendment protects public education rights through its Equal Protection and Due Process Clauses. These clauses prohibit states from denying equal protection of the laws and from depriving any person of life, liberty, or property without due process of law. Other constitutional rights (like freedom of speech) also apply to states and public schools through incorporation under the 14th Amendment.

- **Clauses That Affect Public Education**

- **Equal Protection Clause: What It Is and Why It Matters**

- ❖ The [Equal Protection Clause](#) of the 14th Amendment provides that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” It also applies to local governments and public schools because they are state actors. In 1954, the Supreme Court interpreted the Equal Protection Clause’s requirements in [Brown v. Board of Education](#). In perhaps one of the most famous and important cases issued by the Court, it stated:

“We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs ... are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment.”

Source of Federal Authority (Slide 2 of 3)

- **How Does the 14th Amendment Affect Education?**
 - The 14th Amendment protects public education rights through its Equal Protection and Due Process Clauses. These clauses prohibit states from denying equal protection of the laws and from depriving any person of life, liberty, or property without due process of law. Other constitutional rights (like freedom of speech) also apply to states and public schools through incorporation under the 14th Amendment.
- **Clauses That Affect Public Education**
 - **Equal Protection Clause: What It Is and Why It Matters**
 - ❖ The Equal Protection Clause of the 14th Amendment provides that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” It also applies to local governments and public schools because they are state actors. In 1954, the Supreme Court interpreted the Equal Protection Clause’s requirements in Brown v. Board of Education. In perhaps one of the most famous and important cases issued by the Court, it stated:

“We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs ... are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the 14th Amendment.”

Source of Federal Authority (Slide 3 of 3)

In addition to the discussion of the 14th Amendment and its role in protecting public education rights, it's also important to recognize the role of state authority in education. The **10th Amendment to the United States Constitution** reserves "powers not given to the federal government" to the states or the people. These reserved powers include education. State constitutions provide states with the authority to enact laws regarding education, and some state constitutions require the state to provide students with an adequate education. All fifty states have laws requiring state and local governments to provide public education services to students of certain ages.

Basis of Federal Control (Slide 1 of 4)

The major laws authorizing the education programs that the Department of Education Administers are as follows:

Education Sciences Reform Act of (2002)

- [P.L. 107-279](#) also enacted two other laws. The Educational Technical Assistance Act (ETAA; Title II of [P.L. 107-279](#)) authorizes the Secretary of Education to make grants to states for statewide longitudinal data systems. The National Assessment of Educational Progress Authorization Act (NAEPAA; Title III of [P.L. 107-279](#)) authorizes national, state, and long-term assessments in reading and mathematics, which are collectively referred to as the National Assessment of Educational Progress (NAEP).
- Authorizations of appropriations for ESRA, ETAA, and NAEPAA programs and activities have expired; however, discretionary funding for them continues to be provided through annual appropriations acts.

Basis of Federal Control (Slide 2 of 4)

Elementary and Secondary Education Act (ESEA)

- The ESEA (P.L. 89-10, as amended) was enacted in 1965 and was last reauthorized in 2015 by the Every Student Succeeds Act (ESSA; [P.L. 114-95](#)). Title I-A, the largest ESEA program, provides compensatory grants to local educational agencies (LEAs) to fund educational and related services for low-achieving and other students who attend elementary and secondary schools with relatively high concentrations of students from low-income families. Receipt of Title I-A funds is conditioned upon acceptance of certain educational accountability requirements (e.g., standards, assessments, and identifying low-performing schools), affecting broad aspects of public elementary and secondary education for all students.
- Other ESEA programs, for example, provide grants to support rural schools, teacher recruitment, instruction for English language learners, afterschool activities, the expansion of charter and magnet schools, and education services for Indian, Native Hawaiian, and Alaska Native students. Authorizations of appropriations for ESEA programs have expired. Annual appropriations acts have continued to provide discretionary funding for them.

Basis of Federal Control (Slide 3 of 4)

Adult Education and Family Literacy Act (AEFLA)

- The AEFLA was enacted in 1998 as Title II of the Workforce Investment Act (WIA; [P.L. 105-220](#)) and was reauthorized in 2014 through the Workforce Innovation and Opportunity Act (WIOA; [P.L. 113-128](#)). It is the primary federal law supporting basic education for out-of-school adults—commonly referred to as adult education. AEFLA programs mainly support educational services at the secondary level and below and English language instruction. Authorizations of appropriations for the AEFLA program have expired. Annual appropriations acts have continued to provide discretionary funding.

Individuals with Disabilities Education Act (IDEA)

- The federal government has provided support for the education of children with disabilities since the 1960s (P.L. 89-750). In 1975, Congress enacted [P.L. 94-142](#) (now known as the IDEA), which authorizes grant programs that support early intervention and special education services for children with disabilities from birth to age 21. The IDEA was last reauthorized in 2004 ([P.L. 108-446](#)). Over 90% of IDEA funds are appropriated for Part B (Section 611), which authorizes grants to states for special education services for school-aged children. As a condition of receiving these funds, states must provide certain substantive and procedural protections for students with disabilities. For example, states and LEAs must convene a team to develop an individual education program (IEP) that states the specific special education and related services to be provided to ensure a child served under the IDEA receives a "free appropriate public education" (FAPE).
- The authorization of appropriations for Part B is permanent. The authorizations of appropriations for Part C, which authorizes state grants for infants and toddlers with disabilities, and Part D, which authorizes national activities, have expired. Annual appropriations acts have continued to provide discretionary funding.

Basis of Federal Control (Slide 4 of 4)

Perkins Career and Technical Education Act

- Federal support for career and technical education (CTE; once referred to as vocational education) dates to the Smith-Hughes Vocational Education Act (P.L. 64-347), enacted in 1917. Currently, the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act; P.L. 88-210, as amended) is the primary federal law supporting CTE. It authorizes a state grant program to support CTE activities at the secondary and postsecondary education levels. The Perkins Act was reauthorized by the Strengthening Career and Technical Education for the 21st Century Act ([P.L. 115-224](#)). Discretionary appropriations are authorized through FY2025.

Statutes that Protect Student and Parental Rights

- ED is also charged with enforcing various civil rights laws that prohibit discrimination in all programs or activities that receive federal financial assistance (unless otherwise noted). These include Title VI of the Civil Rights Act of 1964 (P.L. 88-352, as amended; prohibits discrimination based on race, color, or national origin), Title IX of the Education Amendments of 1972 (P.L. 92-318, as amended; prohibits discrimination based on sex), Section 504 of the Rehabilitation Act of 1973 ([P.L. 93-112](#), as amended; prohibits discrimination based on disability), the Age Discrimination Act of 1975 ([P.L. 94-135](#), as amended; prohibits discrimination based on age), and Title II of the Americans with Disabilities Act of 1990 ([P.L. 101-336](#), as amended; prohibits discrimination based on disability by public entities).
- ED also enforces two laws that protect student privacy rights: (1) the Family Educational Rights and Privacy Act (FERPA), which guarantees parental access to student education records while limiting the disclosure of those records to third parties; and (2) the Protection of Pupil Rights Amendment (PPRA), which gives parents certain rights regarding the collection of student data.

Department of Education

The U.S. Department of Education (ED) has the authority to interpret federal statutes, but this authority is not absolute. The Secretary of Education has administrative flexibility over grants, waivers, and regulations, but most major funding and structural changes require congressional approval. The President can issue executive orders to guide policy but cannot override congressional funding decisions. Congress controls funding, program transfers, and structural changes for nearly all major education programs. All of the largest Department of Education programs require congressional action to be changed or moved.

Federal Preemption /Mandates and Response(s) to Federal Control

- The situation in Washington DC is evolving and there are changes everyday
 - USBE will review final appropriations
 - USBE will review any changes to laws
- No responses/actions since 2017/2018 waiver request for assessment
- Utah State Board of Education audit engagement on costs of compliance of federal laws/requirements

Questions