

## Report on Federal Education Law

For Jenni White

October 2, 2011

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Reviewed for this report were: 20 USCA 1232a, and 1232j; we could not locate the sections called “1901 of the No Child Left Behind ESEA”; and “Section 604 of the Elementary and Secondary Education Act” but we did find a similar portion of law noted below in our report. For this report we also reviewed other sections of law, and report our observations in the material presented below.

For this report we were asked to see if the federal government was conducting testing and analysis contrary to the requirements of federal law. We must report that under present legislation in the United States Code Annotated (USCA) the Department of Education (DOEd) can do what it wants relative to testing and analysis and the local schools have no control or input on what the DOEd wishes to accomplish, if the local school is receiving federal funds in any form. There is more explanation within the body of the report.

First item of importance noted in our research in the code is this:

### TITLE 20--EDUCATION

#### CHAPTER 31--GENERAL PROVISIONS CONCERNING EDUCATION

##### Sec. 1221-1. National policy with respect to equal educational opportunity

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

This is where people get the idea that the Federal Government should provide a free education to everyone. This can be interpreted in that manner. However, the intent of Congress, when they voted and approved this statement, was that it is restricted to public elementary and secondary schools, due to the section of law in which it is written. This does point out a problem within the code. Writing the code in such a manner that different meanings can be derived.

As to §1232a. Prohibition against Federal control of education, it in fact says:

“No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution,

school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.”

The operative words are underlined. The Federal government says it will not impose testing or analysis to manipulate information such that it could be used to hide or change indications of a racial imbalance in the schools, because the government’s goal is just the opposite.

During review of the current 2010 USCA we had occasion to compare it to a 1990 version of the USCA. By checking various sections of the code in 2010 we could compare to 1990 and could see by what sections were repealed, what items in the code were being removed. This was the most disturbing item of our research.

What we discovered is a transition to a tyrannical form of government. Sections of the USCA that supported local, states’ rights and local control of schools as well as sections that placed restrictions on the Federal DOE were being repealed all together and in instances replaced by sections that grant more control to the federal level. We also checked other areas of the USCA and found this to be the rule, and not the exception. From the historical records, that we could check with our meager resources, it has apparently been going on since before the 1960’s.

Here are some examples:

Initial language showing support of States Rights to control their Education, in the 1990 USCA.

**20 USC, Education, Chapt. 47, Elementary and Secondary Schools, Sec. 2911 Findings and statement of purpose,**

**(c) State and Local Responsibility:**

“The basic responsibility for the administration of funds made available under this division is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this division will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because they have most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.”

[Inserted by public law, April 28, 1988.]

Today this section reads:

**20 USC, Education, Chapt 47, Elementary and Secondary Schools, Sec. 2911 Findings and statement of purpose, (c) State and Local Responsibility:**

“Division 2—Federal, State, and Local Partnership for Educational Improvement §§2911, 2912. Omitted”

It appears that this section of the Education Act was removed between 1990 and 1994.

Another section of the Code reads....

**20 U.S.C.**

United States Code, 2010 Edition

Title 20 - EDUCATION

CHAPTER 31 - GENERAL PROVISIONS CONCERNING EDUCATION

SUBCHAPTER III - GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

Sec. 1232g

**c) Surveys or data-gathering activities; regulations**

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

There now is a section of the Education Law, which authorizes by law such activities for DOEd.

Looking at section 1232 j, it did not exist in 1990.

1232j, today says:

**§1232j. Prohibition on federally sponsored testing**

**(a) General prohibition**

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

The section of law that allows the DOEd to do whatever testing, analysis etc., it wants to do, and they don't have to give information to congress, is in part embodied in the following:

**20 U.S.C.**

United States Code, 2010 Edition

Title 20 - EDUCATION

CHAPTER 76 - EDUCATION RESEARCH, STATISTICS, EVALUATION, INFORMATION,  
AND DISSEMINATION

SUBCHAPTER IV - NATIONAL CENTER FOR RESEARCH IN ADVANCED  
INFORMATION AND DIGITAL TECHNOLOGIES

Sec. 9631 - National Center for Research in Advanced Information and Digital Technologies

From the U.S. Government Printing Office, [www.gpo.gov](http://www.gpo.gov)

**§9631. National Center for Research in Advanced Information and Digital Technologies**

**(a) Establishment**

There shall be established, during the first fiscal year for which appropriations are made available under subsection (c), a nonprofit corporation to be known as the National Center for Research in Advanced Information and Digital Technologies, which shall not be an agency or establishment of the Federal Government. The Center shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (sec. 29-501 et seq., D.C. Official Code).

**(b) Purpose**

The purpose of the Center shall be to support a comprehensive research and development program to harness the increasing capacity of advanced information and digital technologies to improve all levels of learning and education, formal and informal, in order to provide Americans with the knowledge and skills needed to compete in the global economy.

**(c) Funding**

**(1) Authorization of appropriations**

There are authorized to be appropriated to the Center such sums as may be necessary for fiscal year 2009 and each of the five succeeding fiscal years.

The following is a print-out directly from the government web page that shows the laws repealed in Chapter 31, General Provision of the Education Act. Sections with bold type under them describe what was repealed. In most case the repealed item in this writer's opinion weakened the system for the people and states while giving strength to federal control.

## U.S. Code Browse

# ***TITLE 20--EDUCATION***

### **CHAPTER 31--GENERAL PROVISIONS CONCERNING EDUCATION**

Sec. 1221. Short title; applicability; definitions

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Sec. 1221-1. National policy with respect to equal educational opportunity

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Sec. 1221-2. National policy with respect to museums as educational institutions

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[TEXT](#)

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Sec. 1221-3. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**This section gave some oversight and protection to data gathered by the Department of Education. It is no longer applicable.**

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#### **SUBCHAPTER I--FUNCTIONS OF DEPARTMENT OF EDUCATION**

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Secs. 1221a to 1221c. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**Section 1221c established the Office of Non-Public Education**

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Sec. 1221d. Repealed. Pub. L. 96-374, title X, Sec. 1001(c), Oct. 3, 1980, 94 Stat. 1491 (repealed in 1980)

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Sec. 1221e. Repealed. Pub. L. 103-227, title IX, Sec. 911(a), Mar. 31, 1994, 108 Stat. 213

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Secs. 1221e-1 to 1221e-1c. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20,

[PDF](#)

[TEXT](#)

1994, 108 Stat. 3913

**Office of Educational Research and Improvement, with very detailed controls, processes and procedures.**

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Sec. 1221e-1d. Use of Council staff and facilities

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Sec. 1221e-2. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**Office of Education Officer of the United States**

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Sec. 1221e-3. General authority of Secretary

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Sec. 1221e-4. Educational impact statement

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[TEXT](#)

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Secs. 1221f to 1221h. Repealed. Pub. L. 100-297, title V, Sec. 5352(4), Apr. 28, 1988, 102 Stat. 414 (Repealed in 1988)

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Sec. 1221i. Repealed. Pub. L. 104-208, div. A, title I, Sec. 101(e) [title VII, Sec. 708(d)], Sept. 30, 1996, 110 Stat. 3009-233, 3009-312

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**Office of Libraries**

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Sec. 1221j. Television program assistance

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**SUBCHAPTER II--APPROPRIATIONS AND EVALUATIONS**

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**Part 1--Appropriations**

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Sec. 1222. Repealed. Pub. L. 93-380, title V, Sec. 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

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Sec. 1223. Forward funding [PDF](#) [TEXT](#)

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Sec. 1224. Repealed. Pub. L. 93-380, title V, Sec. 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562 [PDF](#) [TEXT](#)

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Sec. 1225. Availability of appropriations on academic or school- year basis; additional period for obligation of funds [PDF](#) [TEXT](#)

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Sec. 1226. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913 [PDF](#) [TEXT](#)

**Funds appropriated available until end of fiscal year .**

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Sec. 1226a. Contingent extension of programs [PDF](#) [TEXT](#)

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Sec. 1226a-1. Payments; installments, advances or reimbursement, and adjustments [PDF](#) [TEXT](#)

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**Part 2--Planning and Evaluation of Federal Education Activities**

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Sec. 1226b. Responsibility of States to furnish information [PDF](#) [TEXT](#)

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Sec. 1226c. Biennial evaluation report [PDF](#) [TEXT](#)

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Sec. 1226c-1. Availability of education reports, etc., to Congressional committees [PDF](#) [TEXT](#)

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Sec. 1226d. Repealed. Pub. L. 96-470, title I, Sec. 106(a), Oct. 19, 1980, 94 Stat. 2238 [PDF](#) [TEXT](#)

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Sec. 1227. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913 [PDF](#) [TEXT](#)

**Required reports by the Comptroller General**

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Sec. 1228. Prohibition against use of appropriated funds for busing [PDF](#) [TEXT](#)

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Sec. 1228a. Equity for students, teachers, and other program beneficiaries [PDF](#) [TEXT](#)

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Sec. 1228b. Coordination [PDF](#) [TEXT](#)

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Sec. 1228c. Disclosure requirements [PDF](#) [TEXT](#)

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**SUBCHAPTER III--GENERAL REQUIREMENTS AND CONDITIONS CONCERNING  
OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL  
AUTHORITY OF SECRETARY**

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Sec. 1230. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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Constraints on the Sec. of Education.

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**Part 1--General Authority**

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Sec. 1231. Joint funding of programs [PDF](#) [TEXT](#)

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Sec. 1231a. Collection and dissemination of information [PDF](#) [TEXT](#)

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Secs. 1231b, 1231b-1. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**Transmittal to Congress of Catalog of Education Assistance Programs and  
compilation of assisted innovative projects.**

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Sec. 1231b-2. Review of applications [PDF](#) [TEXT](#)

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Sec. 1231c. Advice, counsel, and technical assistance

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**Allowed local control of costs allocations and collections.**

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Sec. 1231c-1. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**Relieves requirement of developing reports as to what has been learned by expenditure of educational funds**

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Sec. 1231d. Parental involvement and dissemination

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Sec. 1231e. Use of funds withheld

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Sec. 1231f. Repealed. Pub. L. 103-382, title II, Sec. 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

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**Removes requirement for Secretary to provide records to states and individuals**

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## **Part 2--Administration: Requirements and Limitations**

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Sec. 1231g. Applications

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Sec. 1232. Regulations

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Sec. 1232-1. Repealed. Pub. L. 98-511, title I, Sec. 109(b), Oct. 19, 1984, 98 Stat. 2369

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Sec. 1232a. Prohibition against Federal control of education

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Sec. 1232b. Labor standards

[PDF](#)

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## **Part 3--Administration of Education Programs and Projects by States and Local**

## **Educational Agencies**

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Sec. 1232c. State agency monitoring and enforcement [PDF](#) [TEXT](#)

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Sec. 1232d. Single State application [PDF](#) [TEXT](#)

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Sec. 1232e. Single local educational agency application [PDF](#) [TEXT](#)

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## **Part 4--Records; Privacy; Limitation on Withholding Federal Funds**

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Sec. 1232f. Records [PDF](#) [TEXT](#)

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Sec. 1232g. Family educational and privacy rights [PDF](#) [TEXT](#)

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Sec. 1232h. Protection of pupil rights [PDF](#) [TEXT](#)

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Sec. 1232i. Limitations on withholding of Federal assistance [PDF](#) [TEXT](#)

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Sec. 1232j. Prohibition on federally sponsored testing [PDF](#) [TEXT](#)

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## **SUBCHAPTER IV--ENFORCEMENT**

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Sec. 1234. Office of Administrative Law Judges [PDF](#) [TEXT](#)

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Sec. 1234a. Recovery of funds [PDF](#) [TEXT](#)

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Sec. 1234b. Measure of recovery [PDF](#) [TEXT](#)

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Sec. 1234c. Remedies for existing violations

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Sec. 1234d. Withholding

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[TEXT](#)

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Sec. 1234e. Cease and desist orders

[PDF](#)

[TEXT](#)

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Sec. 1234f. Compliance agreements

[PDF](#)

[TEXT](#)

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Sec. 1234g. Judicial review

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Sec. 1234h. Use of recovered funds

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[TEXT](#)

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Sec. 1234i. Definitions

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## **SUBCHAPTER V--READY TO LEARN TELEVISION**

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Secs. 1235 to 1235g. Repealed. Pub. L. 107-110, title X, Sec. 1011(3), Jan. 8, 2002,  
115 Stat. 1986

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Last updated: >>December 23, 2008  
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I hope this information is useful. If there are questions, please call the author at 405-359-5999.