



Testimony to the Kansas House Standing Committee on Education

by James Stergios

I am grateful for the opportunity to provide public testimony regarding HB2621 to the Kansas House Standing Committee on Education, and to Chairwoman Kelley, Vice Chair Cassidy and the Committee for its consideration.

My name is James Stergios, and I run a Boston-based think tank, Pioneer Institute. In our 25-year history, the Institute has been associated with most of the key reforms that have taken Massachusetts from being an above-average state in education to being the top performing state in the nation – and importantly to being counted among the top six countries in the world in math and science. These reforms included the highest academic standards in the country, strong accountability for teachers and students, and choice, including the highest performing public charter schools in the country.

I am submitting testimony concerning Common Core because we care deeply about our children and this country's future. We want to prepare our students to compete internationally and to be citizens in a free society characterized by strong local, state and federal institutions. And we want to ensure that parents, teachers, scholars and business leaders can continue to innovate in K-12 education—and continue to advance better choices for parents.

Proponents represent Common Core as state-led, respectful of federal statutes and our federalist history, academically ambitious and aligned with parental choice.

Each of these assertions is, unfortunately, false. Pioneer has produced the most analytic work on the Common Core in the

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Testimony to the Kansas House Standing Committee on Education

country, with multiple peer reviewed published reports on their relative quality, cost, and legality. In doing this work we have taken no funding from interested parties, and we have commissioned the reports from the most highly qualified scholars and experts in the country.

Allow me to share briefly why each of these assertions by proponents is false:

1. Was Common Core Standards “state-led”? Any objective review of truly state-led efforts demonstrates this assertion as misunderstanding the transparency, effort and public deliberation associated with the adoption of state academic standards.

In Massachusetts, public consideration of our state standards in the late 1990s and early 2000s included drafts developed after extensive parent, teacher, scholarly and business input; extensive public comment periods; public hearings; extensive revisions, which were again put out for public comment. The development of standards and tests was on the front pages of our newspapers for years. As a result, parents and teachers had an opportunity to follow and participate in the debate; they saw the controversies; and they could ultimately feel ownership of some very difficult and far-reaching reforms.

No such settlement is possible in the case of the Common Core standards. Why? No remotely comparable process was employed during the development of the national standards.

Having a few state education bureaucrats attend meetings in Washington, D.C, perhaps to the offices of one of the two nonprofits holding the copyright on Common Core, does not constitute a truly “state-led” process.

It is well known that those developing Common Core standards did so without broad public involvement, or meaningful public comment.

There were no public hearings as the drafts moved along – Kansas parents, teachers, and scholars were absent from the proceedings. A highly telescoped schedule ensured that few people (or frankly even legislators) knew Common Core existed in 2010.

If that is proponents’ idea of a state-led process, they do not understand or value public processes and the public trust, which are cornerstones of representative democracy.

Reality is that the vision of Common Core proponents is a top-down, technocratic one, wherein parents, teachers, and local business and community leaders play little role in the important decisions affecting children of a state.

2. Is Common Core aligned with our federalist traditions? Is it even legal? The fact is that not only are there questions about the constitutionality of Common Core, but there are three federal laws that prohibit it.

Let’s look at the law – or really laws.

The General Education Provisions Act of 1970, the Department of Education Organization of 1979, and the ESEA (1965), as amended by the No Child Left Behind Act in 2001 (NCLB) “ban federal departments and agencies from directing, supervising, or controlling elementary and secondary school curriculum, programs of instruction, and instructional materials. The ESEA also protects state prerogatives on Title I content and achievement standards.”

That’s what two of the top lawyers for the US Department of Education (USED), former Department General Counsel Kent Talbert and Deputy General Counsel Robert Eitel write in a paper entitled *The Road to a National Curriculum*.

It is worth underscoring that these federal bans were originally signed into law by Presidents Lyndon Johnson and Jimmy Carter. Thus, proponents of Common Core are suggesting a path that even these two presidents rejected as a bridge too far.

Distinguished attorneys Talbert and Eitel go so far as to say that USED is likely violating the aforementioned federal restrictions because:

1. Starting in 2010, the federal education department used discretionary Race to the Top grants to herd state education authorities into adopting national standards and tests. A later 2012 round of Race to the Top grants was created for school districts, and included the promotion of Common Core.
2. The conditional waivers to NCLB offered by U.S. Secretary of Education Arne Duncan have never been approved by Congress. Past secretaries of the federal department of education have granted waivers, but never with a unilateral and material assertion of policy that is contradicted by existing federal law.
3. The two consortia receiving over \$300 million in federal funds include in their funding applications explicit recognition that they would develop curricular materials and instructional practice guides.
4. The federal Department of Education has created a technical-review process for the two state consortia that are designing assessments for the common standards.
5. The federal Department of Education has criticized states that have sought to exit Common Core and national tests.

Noted journalist George Will cited Pioneer's work on the legal dimensions of Common

Core in a *Washington Post* column, with the following words,

As government becomes bigger, it becomes more lawless. As the regulatory state's micromanagement of society metastasizes, inconvenient laws are construed — by those the laws are supposed to restrain — as porous and permissive, enabling the executive branch to render them nullities.

I would remind the Education Committee that federal laws apply not only to federal officials, but also to state and local officials, as well as to citizens generally.

- 3. Common Core proponents like to talk about enormous transformations that will occur in student learning, but without significant costs to states and localities. What will Common Core cost? And who will pay for it? Implementation of Common Core and national assessments will bring significant new costs. These costs will be borne by states and localities.**

Those costs for a long time were unknown. That is, before Pioneer Institute initiated the first study of its costs in 2012.

That is remarkable to consider: A new set of policies affecting 50 million schoolchildren around the US was being advanced, and no cost estimate had ever been performed. Over the last half year, we have seen numerous states reconsider their participation in national tests because of the cost impacts. As they pull out, the consortia will be forced to raise the cost estimates for the tests.

Pioneer commissioned a former USED official and national expert on assessments to provide a detailed cost estimate for implementation of Common Core. Pioneer's analysis is a mid-range estimate that is based on empirical analysis and covers only basic implementation. The costs to

Testimony to the Kansas House Standing Committee on Education

states and localities will sum to at least \$15.8 billion and will largely be driven by four items:

- \$1.2 billion for new assessments
- \$5.3 billion for professional development
- \$2.5 billion for new textbooks
- \$6.9 billion for technology

Advocates of Common Core have subsequently issued their own reports, funded by the Gates Foundation, a major philanthropic supporter of Common Core. Conveniently, their estimates (inexplicably) omit technology costs, a major cost center for states implementing common standards and tests.

Three final points are worth making on cost.

First, states will pay for the implementation of Common Core and the tests. States and localities provide 90 percent of education funding, and that will hold true for Common Core-related activities. (Race to the Top grants have only funded a small part of the initial Common Core implementation.)

Second, funding requests from state education officials to state legislators are coming in at a much higher level than Pioneer's own estimates, confirming that our study in fact *underestimated* the unfunded mandate on states and localities.

Third, there is considerable uncertainty around the future costs of testing – and signs that the costs may be much higher than suggested in our analysis. For example, the costs associated with the PARCC assessment may be significantly impacted by the consortium's loss of numerous state participants.

4. Proponents of Common Core love to wax whimsical about its transformative effect on teaching and learning, but the fact is: Common Core is a mediocre set of

academic goals that aims for non-selective community and state college readiness.

Pioneer Institute conducted four independent evaluations of the national standards, comparing them to states that have or had high standards. In every case, experts found Common Core to be of lower quality. The Common Core English Language Arts standards suffer from many technical shortcomings, such as their lack of coherent grade-by-grade progressions through high school. But the problems are larger than that. As Dr. Stotsky has noted elsewhere:

“Common Core’s standards for English language arts are neither research-based nor internationally benchmarked... To judge from my own research on the language and literature requirements for a high school diploma..., Common Core’s ELA standards fall far below what other English-speaking nations or regions require of college-intending high school graduates.”

In fact, that is the main reason that Stotsky and four other members of the Common Core Validation Committee declined to sign off on Common Core's standards. Having led the effort in Massachusetts to set the highest quality academic standards, Dr. Stotsky was unwilling to sign off on far weaker Common Core standards for the country.

It is important to note that there is no evidence to support the idea, embedded in Common Core, that having English teachers teach more information reading (or literary nonfiction) and less literary reading will lead to greater college readiness. Massachusetts' remarkable rise on national assessments is not because we aligned our reading standards to the NAEP. Rather, it is because, unlike Common Core, our reading standards emphasized high-quality literature. Reading literature requires the acquisition in a

compressed timeframe of a richer and broader vocabulary than non-fiction texts. Vocabulary acquisition is all-important in the timely development of higher-level reading skills.

Common Core also misunderstands the training of our teacher corps. English teachers are trained not to teach Federal Bank reports, or computer and other manuals. They are people steeped in the love of language and literature. Asking an English teacher to teach one of Microsoft's software development manuals is really not going to work out well.

Common Core's math standards also suffer from a lack of coherent grade-by-grade progressions, but they too have deeper problems concerning Algebra I, Geometry and other aspects of topics.

Common Core's standards for Algebra I, Geometry and Algebra II are not demanding and reflect a less than rigorous definition of "college readiness." Common Core's goal of teaching Algebra I only in high school makes it at least one year behind the recommendations of the National Mathematics Panel and current practices among our international competitors. It also leaves Common Core-aligned states well behind many states that are in the upper half of performers on the National Assessment of Education Progress, a sampled national assessment of the states that is considered the Nation's Report Card.

Common Core replaces the traditional Euclidean foundations of geometry with an experimental approach to middle and high school geometry that has not been widely or, alarmingly, successfully implemented at the middle and high school levels.

Stanford mathematics professor James Milgram, well-known across the country for his expertise on state and international math standards, considers the material covered in Common

Core's math standards by fifth grade to be "more than a year behind the early grade expectations in most high-achieving countries" and by seventh grade to be "roughly two years behind." He says that the national math standards "are written to reflect very low expectations."

Data shows that students intending to go into STEM-related studies, but whose first college-level math course is in trigonometry or pre-calculus, stand a 2.1% chance of completing their degree in a STEM area. As a result, Common Core, which was sold to the states as a way to get more students internationally competitive and ready for STEM degrees and professions, will in fact do the opposite. This is why Milgram, who was appointed to the Common Core Validation Committee, stepped off the Committee. He did so with the only other academic mathematician on the Committee. (The other members of the Committee were professors from Schools of Education and not professors of mathematics.)

Jason Zimba, lead writer of Common Core's mathematics standards, admitted at a meeting of the Massachusetts Board of Elementary and Secondary Education that passing a college readiness test in mathematics will mean that students in Kansas and Massachusetts will only be qualified to enroll in a non-selective community or state college.

Is that the level of excellence that will ensure our kids are ready for a globally competitive world?

Assurances from proponents of national standards that each state will be able to add whatever it wants to the national standards is meaningless because Common Core requires that states adopt the standards verbatim, limiting state flexibility to 15 percent of the Core. However, given that national assessments will not cover that additional material, no districts and no teachers will end up teaching the add-ons.

Testimony to the Kansas House Standing Committee on Education

5. Finally, advocates of Common Core are dead wrong on the Core's impact on school choice.

States across the country have been expanding choice for parents. Parental choice is about allowing parents to select the best learning environment for their children.

As a strong supporter of market-based reforms and broader access to religious schools, I am concerned that Common Core will encroach upon key aspects of private school instruction and curriculum. So what does choice mean in a world where Common Core largely defines curricula?

It's worth stepping back and recognizing that the United States is unique in its approach to private school vouchers. When America funds school choice, we fund parental choice—we do not direct public funds to private institutions, rather we direct them to parents so that can choose the institution of their preference. In European countries that allow public dollars to support private school choice, the funding usually flows directly to an institution. In Europe, the money comes with state mandates on curriculum and instruction.

Common Core threatens to drive private school choice programs toward a similar end. We have seen a trend, in Indiana, Ohio, Louisiana and other states, where voucher and choice programs impose a requirement that the private school accepting voucher students must administer the state's curriculum-based test. That is, access to those funds is tied to administration of tests.

That is worrisome because Common Core-aligned tests are not the same as the traditional norm-referenced tests we see in schools of choice. The latter seek to be curriculum-neutral, admittedly with mixed success. Common Core tests, on the other hand, are not curriculum-

neutral; they are designed to drive curriculum and instruction.

With Common Core states tying parental choice to Common Core curriculum-based tests, you have to ask yourself: What kind of choice are we giving parents if all choices lead to the same, or close to the same, curriculum?

We have made much progress in advancing choice. We cannot allow private schools to lose autonomy over critical curricular and instructional questions.

Closing

Many states, such as Massachusetts, have seen huge student gains. Successful states have used a mix of parental choice and public charters, high-quality liberal arts standards, teacher certification that ensures content knowledge and more.

The federal government has no such record of success.

Why would states and localities give up their ability to innovate, to aim for the best for its children for mediocre standards?

Is community college readiness such a grand goal—a goal that is worthy of jettisoning our tradition of the rule of law, assuming unfunded mandates, and impairing the parental choice and education reform progress that so many parents and educators have so valiantly fought for?

Kansas parents and educators can do better. I am not urging the legislature simply to reject Common Core: That is not enough. I am asking the legislature and the Kansas Board of Education to undertake their true responsibilities before the people and the children of the Sunflower State. That will require rolling up your sleeves and creating a truly state-led process engaging parents, teachers, scholars and business leaders to craft truly internationally benchmarked standards

and an implementation plan that will make them an effective driver of student achievement.

Pioneer Institute stands ready to help you in this endeavor.

About Pioneer

Pioneer Institute is an independent, non-partisan, privately funded research organization that seeks to improve the quality of life in Massachusetts through civic discourse and intellectually rigorous, data-driven public policy solutions based on free market principles, individual liberty and responsibility, and the ideal of effective, limited and accountable government.



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