The Real Obama Education Legacy

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President Obama entered the Oval Office in 2009 with great hope and promise. Education reform, in particular, seemed set to benefit. Candidate Obama had made a point of using education to illustrate that he was championing “investment” rather than mere government “spending” and was eager to find bipartisan solutions. The education landscape seemed ready for that kind of leadership. As Jeb Bush declared in 2009, “I’m excited… because I think for the first time in my political life, there seems to be more consensus than disagreement across the ideological spectrum about education reform.”

Arne Duncan, Obama’s choice for secretary of education, drew widespread praise. At Duncan’s confirmation hearing, Republican senator (and former secretary of education) Lamar Alexander said, “President-elect Obama has made several distinguished Cabinet appointments. From my view of it all, I think you are the best.” And influential Republicans endorsed Obama’s early efforts. In a telling example, Newt Gingrich joined Duncan and Al Sharpton in 2009 on a multi-city school tour to support Obama’s education agenda and lend it a bipartisan gloss.

Some of Obama’s early moves suggested he would indeed be a “post-partisan” education reformer. His appointees to the Department of Education were a talented bunch, drawing heavily from the “reform” wing of the Democratic Party and reaching beyond the Beltway bubble. He did things that aren’t easy for a Democrat on the national stage to do: He advocated charter schools, tussled with the teacher unions, and

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went after the schools of education. The administration sporadically tried to reduce the paper burden on school districts, had a secretary of education who (for a brief time) said schools needed to find ways to do more with less, and enjoyed some admirable success in increasing the role of evidence in making education funding decisions.

Obama also made powerful use of his own background to challenge America to do right by vulnerable children—and to challenge those children and their parents to do their part. He insisted that, when it comes to helping “boys and young men of color who are having a particularly tough time…government cannot play the only—or even the primary—role.” He said, “We can help give every child access to quality preschool…but we can’t replace the power of a parent who’s reading to that child. We can reform our criminal justice system to ensure that it’s not infected with bias, but nothing keeps a young man out of trouble like a father who takes an active role in his son’s life.”

Despite the soaring rhetoric and heady promises, however, education reform during Obama’s tenure has disappointed in practice. Oddly enough, some of the president’s critics on the right have missed this and have maintained that, on education, his policy has been uniquely sound. New York Times columnist David Brooks declared that “Obama has been the most determined education reformer in the modern presidency,” and suggested that Obama’s approach to education reform constituted a model for “health care, transportation, energy [and] environmental policy.”

In fact, Obama’s presidency has proven deeply divisive in nearly every area of policy, from health care to government spending to the environment. And those who have been disconcerted by the Obama administration’s faults in other areas—its abuse of executive discretion, its dramatic expansion of the federal government, and its exacerbation of identity politics and the culture wars—will find that education has not been spared. Despite all the promises of a “post-partisan” presidency, Obama has pursued a polarizing, bureaucratized, and Washington-centric education agenda while exploiting and then draining a substantial reservoir of bipartisan goodwill.

While it does little good to merely gripe about bad policies and squandered opportunities for reform, setting the record straight is crucial. Our understanding of the Obama era in education will color how we regard the promises of presidential candidates and inform our expectations for future Congressional and executive policymaking. Accounting
for the lessons of the last seven years is especially vital given education’s substantive and symbolic import and its centrality for any national figure intent on promoting opportunity. Ultimately, the Obama years have illustrated that how presidents tackle education may matter as much as whether they do.

**THE RACE TO BUREAUCRACY**

When Obama took office in 2009, he was in an ideal position to champion an education bill. There were substantial Democratic majorities in Congress, and the nation’s primary law for K-12 education—the No Child Left Behind Act—had fallen into disrepute. NCLB was hugely unpopular and overdue for reauthorization, and there was broad bipartisan support for education reform. Fixing the law seemed to be the natural first order of business. After nine months in office, Duncan gave a speech on the Elementary and Secondary Education Act titled “Reauthorization of ESEA: Why We Can’t Wait.” Ironically, Duncan took five more months just to issue a broad-strokes “blueprint” proposal for reauthorization, a proposal which then went nowhere in the Democratic Congress.

Duncan’s Department of Education had been focused instead on securing the funds from Congress to pay for a new program: Race to the Top, the president’s signature education initiative. Securing these funds was Obama’s first, and arguably only, real legislative accomplishment on education. Race to the Top, paid for with $4.35 billion from the massive 2009 stimulus bill, embodied the administration’s faith in federal dictates, bureaucratic machinations, and more federal spending—and also its gift for Pyrrhic victories.

From the Race to the Top kitty, Secretary Duncan set aside $350 million to fund tests for the not-yet-existent Common Core standards. The other $4 billion was intended by Congress to fund grants to help states improve in four key areas: building data systems, adopting “career-and-college ready” standards and tests, hiring great teachers and principals, and turning around low-performing schools. Obama’s Education Department took that broad framework as license to set forth 19 criteria that states seeking funds would be required to address. A few of the priorities entailed sensible measures like lifting state caps on the number of charter schools. But most emphasized things like professional development, ensuring an “equitable distribution” of good
teachers and principals, and “[m]aking education funding a priority.” States could ace three of the priorities simply by promising to adopt the Common Core (which had yet to be completed) and its federally funded tests. Not surprisingly, every one of the 12 winners (11 states and the District of Columbia) promised to do so.

Racing to comply with the federal priorities, states threw together bureaucratic proposals filled with empty promises and jargon. They pledged to adopt “scalable and sustainable strategies for turning around clusters of lowest-performing schools” and “clear, content-rich, sequenced, spiraled, detailed curricular frameworks.” Applications contained hundreds of jargon-laden pages, including slapped-together appendices replete with duplicate pages, Maya Angelou poetry, and letters of support from anyone willing to sign. The competition rewarded grant-writing prowess and token allegiance to the fads of the moment—which meant that commitment to and enthusiasm for reform in the winning states was often quite tepid in reality.

Due to the early enthusiasm for Race to the Top, casual observers tend to think it must have been a success. Enticing a handful of state bureaucrats to make promises, however, proved to be a flimsy lever for meaningful reform. By June 2011, the U.S. Government Accountability Office was reporting that most of the dozen winning states had already delayed or changed parts of their plans. By 2012, the Obama-friendly Center for American Progress reported that “[e]very state has delayed some part of their grant implementation.” What’s more, Race to the Top imposed substantial opportunity costs. The program so monopolized state reformers’ interest and attention, as they focused on dreaming up ways to meet the 19-item federal wish list—at a time when the Great Recession had created an opportunity to address out-of-control benefit obligations and outdated systems—that it ultimately may have done more to retard than to advance the cause of meaningful reform.

In the meantime, NCLB still required attention. In a era consumed by the Affordable Care Act and Dodd-Frank, neither the White House nor congressional leaders had made education a priority. By the time Democrats lost their congressional majority in fall 2010, nothing had been done. There was more than a hint of hypocrisy, therefore, when Obama announced in 2011 that he would reluctantly begin waiving NCLB for select states because inaction by the new Republican Congress had forced his hand: “I’ve urged Congress for a while now, let’s get a
bipartisan effort, let’s fix [NCLB]. Congress hasn’t been able to do it. So I will.”

Obama’s action consisted of allowing states to ignore some of NCLB’s more incoherent mandates — the most important being the provision that required states, starting in 2014, to initiate federally mandated interventions at any school where less than 100% of students were proficient in reading and math. Today, that encompasses nearly all of the nation’s schools, so a waiver was an offer that governors truly couldn’t refuse. The 2001 NCLB legislation did permit the secretary of education to grant states relief from portions of the law, but Secretary Duncan opted for something much grander, granting waivers only on the condition that states promise to enact a list of Obama priorities. Duncan’s conditions — including federally preferred teacher-evaluation systems and adoption of the Common Core or a federally approved alternative — had no statutory basis.

When it came to the Common Core, the waivers finished what Race to the Top had started: They cast the effort as a quasi-federal initiative fraught with slippery slopes. They helped ensure that this dramatic change unfolded with little input or attention — fueling confusion and concern. The administration’s machinations had a similarly negative effect on public attitudes toward efforts to overhaul and modernize teacher evaluation, as states felt compelled to adopt bureaucratic, half-baked policies on a federally mandated timeline. When concerns were raised, the Obama team tended to be dismissive of critics. As Secretary Duncan told a room full of state education chiefs, “It’s fascinating to me that some of the pushback is coming from, sort of, white suburban moms who — all of a sudden — [realize] their child isn’t as brilliant as they thought they were.” Duncan chalked most of the Common Core pushback up to a misinformed, ideological “fringe.”

Duncan’s lawless, erratic efforts have frustrated Republicans. In 2014, House education committee chair John Kline and Senator Lamar Alexander asked the GAO to study the waiver process, dryly observing, “The department has provided no justifications for these seemingly contradictory decisions.”

Demanding promises for waivers is typical of the Obama administration’s tactics — and is emblematic of why its reform efforts have disappointed. Absent federal pressure, the Common Core standards would have been a voluntary initiative in 15 or 20 states, with far greater
commitment from participating state officials. Absent federal demands, efforts to rethink teacher evaluation, using student test scores and emphasizing serious differentiation, would be a still-nascent effort in a dozen states as they worked through options to find the best methods. But the Obama administration encouraged the quasi-national adoption of reforms and pushed for these to be implemented on an arbitrary timeline. This delivered a short-term boost to these reforms, but only by conjoining them to Washington and, more specifically, the Obama administration’s agenda. The result is the most unfortunate part of Obama’s legacy in K-12 schooling: His administration took potentially promising reforms and badly bungled them, turning encouraging developments into divisive fads.

In the end, apart from Race to the Top (which was a footnote in the stimulus bill), the passage of an additional $10 billion education stimulus in 2010, and the federal regulation of school lunches (about which more later), the Obama administration’s education record has been little more than a series of executive-branch adventures in freelance regulation. Content with its bureaucratic edicts, the administration has evinced a remarkable lack of interest in seeing legislation enacted. That allowed the White House to do as it wished while sniping at Congressional “inaction.” Along the way, Secretary Duncan has poisoned what had been a well of bipartisan agreement, pushed states to move on a political rather than practical timeline, and ensured that conservatives would find it ever harder to work with the administration to reauthorize NCLB.

Obama’s penchant for governing by executive fiat may have received credit for short-term activity from an adoring press, but it’s proven a predictably disappointing tack — and one that will make good governance far more difficult for those who come after.

**OBAMACARE FOR HIGHER ED**

From the start of the Obama presidency, the cost of health care and the cost of college have been viewed as urgent matters requiring federal intervention. In his approach to health-care reform, President Obama adhered to a clear strategy: increase federal control, drive improvement through regulation, blunt price signals, and reduce the role of for-profit entities. His strategy for higher-education reform has drawn from the same playbook: bigger subsidies, more federal dictates, and more largesse for graduates who eschew private-sector work after graduation.
Obama’s early higher-education proposals included a $12 billion increase in community-college spending, a doubling of Pell Grant spending over just three years, a new tuition tax credit, and billions in stimulus spending. But as Andrew Kelly, director of the American Enterprise Institute’s Center on Higher Education Reform, observed, “It was a simple, naïve strategy…. It was also unsuccessful. The massive infusion of Pell Grant cash only temporarily brought out-of-pocket costs down before they were swallowed up by further tuition increases.”

Obama also proposed modifying loan-repayment plans to provide huge subsidies to highly indebted graduate students. This proposal was wedged into the legislation that enacted the Affordable Care Act. New America Foundation analysts observed in 2012 that these changes essentially eliminate the financial consequences once a borrower accumulates about $30,000 of student debt—regardless of anticipated future income. This is a recipe for perverse behavior by both borrowers and universities—especially when combined with the pre-existing Public Service Loan Forgiveness program, which allows students graduating after 2007 to have their student loans forgiven in full by the U.S. Treasury after a decade if they are employed in “public service” (which basically means they work for the government or a tax-exempt non-profit—or pretty much anything other than a for-profit enterprise). Georgetown Law School, for instance, has even advised its students that the federal government will forgive their entire law-school bill if students take federal loans, opt for income-based repayment, and then go to work for the government or a non-profit.

Increasing access to grants and loan subsidies predictably did nothing to stem the rise in college tuition, and in his 2012 State of the Union address, Obama put colleges “on notice” about rising tuition. Too many students were racking up debt with no marketable skills and no job prospects to show for their efforts. Obama insisted in his 2013 address that colleges, especially those with the highest price tags, needed to make clear what value consumers were getting for their money. While providing more transparency and information about job placement and income after college could be extraordinarily valuable to students and parents, Obama opted for a typically heavy-handed approach: Later that year, he proposed a federal ranking system for colleges that would ostensibly show which schools offer “the best value so students and taxpayers get a bigger bang for their buck.” Congress would then use the rankings
to allocate federal student loans and grants. The administration sought to impose the federal ratings by fall 2015.

This approach mimicked key flaws in No Child Left Behind, including its reliance on crude, limited measures and blunt edicts from Washington. There was also the more immediate problem of determining what constitutes “value” in education. Metrics might include things like the number of Pell Grant recipients, sticker price, and graduation rates. One early suggestion proposed to rate colleges based on whether graduates earned more or less than 200% of the poverty line; critics protested that this might punish institutions that send graduates into the priesthood or the military, or introduce any number of other distortions. AEI’s Andrew Kelly and Kevin James observed that, throughout the process, “[r]atings advocates [were] quick to dismiss any concerns as more self-interested obstructionism from the ‘higher ed lobby’ and congressional Republicans.”

Senator Alexander presciently predicted that the ratings plan would “fall on its face when they try to write it…[because] the federal government simply can’t develop ratings that account for the diversity of our higher education system.” In the end, the problem with squeezing thousands of diverse institutions into crude, one-size-fits-all metrics was so obvious that, after a series of embarrassing delays, the exercise finally collapsed in 2015.

In the meantime, Obama found a new way to insert the federal government into higher education. In the 2015 State of the Union address, he proposed to have the federal government pay tens of billions of dollars to fund two years of community college for every high-school graduate. The president’s proposal is both bad education policy and bad economics. In terms of education, the proposal seems designed to encourage students to favor two-year colleges over four-year institutions — despite research suggesting that academically successful students are better served by attending four-year colleges. Meanwhile, independent analysts predict that it would spur cost increases by incentivizing community colleges to put off hard budgetary choices and raise the sticker price. This, of course, leads to suggestions for federal price controls and new regulations intended to manage college quality. The proposal doubles down on mediocre community colleges, crowding out other options (which are not free) while creating no incentives for institutions to cut costs. The proposal would fund only public two-year programs,
squeezing out the private for-profits and non-profits that are home to most of the innovative solutions in career and technical education.

The proposal’s hostility to non-public institutions is of a piece with the administration’s long-running assault on for-profit colleges. There are real problems in for-profit higher education, due in large part to bipartisan federal student-aid policies that have long rewarded colleges merely for enrolling more bodies—not for their graduation rates or the quality of the education they provide. For-profits responded to these incentives and aggressively increased their enrollment, especially of those students underserved by traditional institutions. As they did so, some operators engaged in troubling practices even as the sector expanded access to higher education.

The administration had the opportunity to tap bipartisan support in order to address problematic behaviors and perverse incentives, both at for-profits and in federal subsidies for hidebound public institutions. But, eschewing the complexities of the legislative approach, officials at the Department of Education opted to write hundreds of new pages of regulations to emphasize two words in the Higher Education Act: “gainful employment.” The new regulations would determine whether providers were preparing graduates for “gainful employment”—with the aim of squeezing many for-profit providers out of federal lending programs. These new rules were merely the most visible manifestation of the administration’s sustained assault on for-profit higher education.

The cost and quality of higher education are real problems that need to be addressed. But the Obama administration’s taste for invasive regulations and divisive freelancing has made it more difficult to find agreement—or to craft practical responses to complex problems across a constellation of very different institutions. Higher education has received the same treatment as other sectors of the economy under the Obama administration: increased federal spending, generous treatment for those employed in favored sectors, federal ratings, a push for new federal entitlements, hostility to for-profit enterprises, and dalliance with price controls. Obama’s reforms have sought to do for post-secondary education what the Affordable Care Act did for health care, without any more success—though with far less care and attention.

PRE-K AND THE LUNCH LADY

The same tactics evident in K-12 and higher education were also applied to pre-K education and even the school-lunch program. In 2013, President
Obama proposed $75 billion in new federal funds for early-childhood programs over the next decade. The model was the Affordable Care Act’s approach to Medicaid expansion, in which federal funds would entice states to expand their offerings and then would be gradually withdrawn. To receive the funds, states would be required to comply with hundreds of federal regulations.

In early 2013, the president called on the federal government to guarantee preschool for all: “We know [pre-K] works. If you are looking for a good bang for your educational buck, this is it.” There was little cause for such certainty, however, and such declarations ignored evaluations showing that hundreds of billions spent on the federal Head Start program have had little to no impact. Indeed, in 2012, Obama’s own Department of Health and Human Services published an evaluation of Head Start showing that the $8-billion-per-year program had little or no impact on cognitive development, social-emotional health, or parenting practices.

Republicans expressed concern about expanding federally regulated and subsidized preschool programs: Congressman John Kline, the chairman of the House education committee, suggested that better utilizing the billions Washington spends on early-childhood education “should be our first priority, not rubber-stamping a 46th federal program.” But the administration would brook no dissent. Secretary Duncan dismissed Republican concerns as “economically foolish,” “morally indefensible,” and tantamount to “education malpractice.” Duncan later expressed bewilderment at his difficulty drumming up Republican support. He explained, “I’m spending time every day, including this morning, talking to Republican members of the House and Senate to try and encourage them to be supportive…. This should absolutely be a non-political, non-ideological investment.”

The Obama administration proceeded to launch two new early-childhood grant programs. One, the Early Head Start-Child Care Partnerships, funds Early Head Start programs that work with local child-care centers — as long as those centers sign on to federally mandated “high standards of quality.” The “standards” include 2,400 federal regulations specifying everything, in the words of AEI’s Katharine Stevens, from “cot placement to how to clean potties.” The second, Preschool Development Grants, supplies funding for states that adopt plans in compliance with the federal definition of “High Quality Preschool.” One noteworthy requirement is that all pre-K teachers have
bachelor’s degrees, despite a lack of evidence that the credential makes preschool teachers better at their jobs.

The administration was similarly uncompromising in its efforts to remake the school-lunch program. First Lady Michelle Obama has put healthy food for children at the top of her agenda, and she led the push for the 2010 Healthy, Hunger-Free Kids Act (with a ten-year price tag of $4.5 billion). Relative to most other first ladies’ proposals, Mrs. Obama’s project was particularly notable for its price tag and its extension of Washington’s reach. She explained, “This isn’t just any ordinary law. It’s an achievement sought for decades, enacting the most meaningful and comprehensive change to food in schools we’ve seen in a generation.”

The USDA, for the first time, claimed the right to regulate all school foods—not just federally subsidized meals, but also all snacks bought from vending machines or school stores. The rules were intrusive in the extreme: They specified, for instance, that snacks may contain no more than 200 calories, with no more than 10% of calories from saturated fat and no more than 230 mg of sodium (200 mg of sodium after July 1, 2016). Within a decade, the salt content of a high-school lunch was to be halved—a requirement that the Academy of Nutrition and Dietetics noted could not be met with existing technology. Schools were allowed to offer up to eight ounces of non-water beverages in elementary schools and up to twelve ounces in middle and high schools. High schools could also provide 12- or 20-ounce options, but only if the drink contained no more than 60 calories. And, starting in 2012, “students would be required to take at least half of” the offered fruits and vegetables, according to a New York Times report. (It was unclear what consequences would follow if students didn’t take the mandated portion of veggies.) One can admire the first lady’s desire to help kids eat well and still find this heavy-handedness troubling.

In a familiar turn, those looking askance at Obama’s new federal regulations were dismissed as either unappreciative or malicious. When the School Nutrition Association supported the congressional push to relax these regulations in 2014, the Times noted the “sense of disbelief in the White House. Michelle Obama had championed the lunch ladies and lavished them with praise. Now they were sabotaging her biggest accomplishment.” The Times also observed that “[j]ust a few years ago, President Obama’s school-lunch reform seemed like a kind of armistice” in Washington, but now it “feels mired in an endless insurgency.”
It’s quite a trick to turn school lunches into a cause for “endless insurgency,” but the episode was sadly characteristic of the Obama approach to education.

**The culture wars**

While the administration’s efforts to micro-regulate potty upkeep and school lunches have been almost comic, there is nothing amusing about the way it has used race and gender to score political points and foment educational conflict.

In the case of school discipline, the administration took the crucial but delicate question of how schools can fairly and equitably maintain a safe, orderly environment and infused it with the cause of racial grievance. The problem to be dealt with was the fact that black students tend to be disciplined and suspended at a significantly higher rate than their white peers. Although the causes are not well understood (and likely include different rates of misbehavior as well as different treatment), the administration rushed to respond with race-conscious federal directives. This approach was familiar to observers who saw how the administration handled equally sensitive questions of bullying, resource comparability, and sexual assault.

In 2014, the Department of Education’s Office of Civil Rights (OCR) announced that “student discipline can result in unlawful discrimination…[even] if a policy is neutral on its face” and “is administered in an evenhanded manner,” if it is deemed to have “a disparate impact” on students of different races. Veteran education attorney Hans Bader observed that, in response to this “Dear Colleague” letter, districts will “either suspend white students for relatively trivial things or they [won’t] punish black students for behavior that is really disruptive or even violent…. You’re effectively command them to have racial quotas.” In the face of such concerns, the administration’s response was to propose $50 million in new grants to help improve “school climate.” (Even this amount would cover only some initial training for staff at 1% of impacted schools.) University of Colorado professor Joshua Dunn observed that essentially any policy could now “fall afoul of [OCR’s] bureaucratic eye,” granting Washington a far-reaching “pretext to meddle in local schools.” Michael Greve, a professor at the George Mason School of Law, observed, “All this goes a million miles beyond the requirements of the Constitution; of Title VI; and even of OCR’s own (legally dubious)
disparate impact regulations. Yet it can’t be challenged in any court, any-
where: unlike a rule or regulation, it’s not a ‘final’ agency action that’s
subject to judicial review.”

OCR had previously expanded its regulations regarding harassment
in 2010, when it put schools on notice that they would now be “respon-
sible for addressing” harassment without regard to “whether a student
has complained, asked the school to take action, or identified the harass-
ment as a form of discrimination.” Wendy Kaminer explained in the
Atlantic that even “innocent, non-severe, non-pervasive” teasing could
now be a federal civil-rights violation. In a 2015 letter to Congress, two
members of the U.S. Commission on Civil Rights charged that OCR’s
habit of sending legally enforceable “guidance” in “Dear Colleague” let-
ters amounts to blackmail, given that investigations routinely take years
and that “[w]hen OCR finally offers the institution a settlement in lieu
of going to court, the institution frequently has no alternative but to ac-
cept.” They wrote that OCR has “been willing to define perfectly legal
conduct as unlawful” and has sought to turn “schools’ imperfect efforts
to handle ordinary incidents of schoolyard bullying into violations of
federal law.”

In 2014, citing concerns about “resource comparability,” OCR de-
clared it would henceforth regard as suspect any variability across
schools when it came to course offerings, academic rigor, staff qualifica-
tions, and facilities or technology. As Dunn put it, OCR “would evaluate
things like the provision of carpets and graphing calculators to investi-
gate and punish school districts and states. Its guidelines are so vague
and incoherent that no school is safe from OCR’s reach.” Francisco
Negrón, general counsel for the National School Boards Association,
said OCR was now positioned “to dictate to a school district” on pretty
much anything, because it could always declare a school’s plan to be
more discriminatory than a hypothetical alternative.

Through out-of-control lawyering and divisive grandstanding, the
Obama administration even managed to turn the horrific matter of
campus sexual assault into a political issue. The administration’s crusade
against campus rape began with a 2010 report by National Public Radio
and the Center for Public Integrity that touted the astounding claim
that one in five women on college campuses had been sexually assaulted.
(That statistic proved to be specious. It was based on a non-representative
online survey of women at two colleges—a survey that featured a low
response rate and vague questions. The more accurate figure, reports the federal Bureau of Justice Statistics, is one in 53.) In 2011, OCR responded by “clarifying” federal requirements for colleges regarding sexual violence. In yet another “Dear Colleague” letter, OCR directed colleges to use the standard of a “preponderance of the evidence” rather than “guilty beyond a reasonable doubt” when adjudicating sexual-assault cases. Grievance procedures were to be “prominently” posted in multiple sites, including catalogs for prospective students. Colleges were “strongly discouraged” from allowing the accused to question or cross-examine the accuser in cases of alleged sexual assault. Colleges were pressured to take action, such as banning the accused from campus, even before an investigation was complete.

*National Review*’s David French, a practicing attorney, described the regulations as an “ongoing, draconian crackdown on free speech and due process at colleges across the nation.” Even on the left, some found the new regulations problematic. In the *New Republic*, Judith Shulevitz observed that the new regulations “revealed a cavalier disregard for the civil rights” of the accused. Taking Harvard as an example, she noted that the “Title IX enforcement office acts as cop, prosecutor, judge, and jury”—and even appellate judge. Through it all, Obama gave every indication of being untroubled by these developments. Indeed, even after a high-profile *Rolling Stone* story about a rape at the University of Virginia was revealed to have been fabricated, and after a growing number of accounts of falsely accused students being treated unfairly, the administration doubled down on its claims. In early 2015, in a public-service message aired during the Grammy music awards show, Obama claimed that one in five women (not just female college students) is the victim of rape or attempted rape.

OCR’s moves in K-12 education seemed designed to aggravate racial divisions, while its activity in higher education seemed geared to whip up gender-based resentments and fear as part of the administration’s “war on women” narrative. The administration has approached the vital work of civil-rights enforcement in a manner rife with perverse consequences and calculated to extend Washington’s reach. In all of these cases, Obama’s administration used bureaucratic fiat to pursue ideological agendas, all while disingenuously insisting that it hadn’t ordered policy changes—it hadn’t changed any laws—but was merely giving guidance. The administration’s willingness to misuse bureaucratic
discretion and spark culture clashes is bad enough, but it is compounded by the administration’s self-righteousness and tendency to play fast and loose with the facts.

**School-choice hypocrisy**

Perhaps more than any other aspect of the education-reform agenda, school choice has exposed President Obama’s unlovely habit of paying lip service to post-partisanship while operating very much as a partisan. Candidate Obama made a point of touting his openness to school vouchers and got much credit for doing so. In 2008, Obama told the *Milwaukee Journal Sentinel*, in reference to Milwaukee’s school-voucher program: “Let’s see if the experiment works…. If it does, whatever my preconception, you do what’s best for kids.”

Yet once in office, his administration aggressively sought to defund the DC Opportunity Scholarship program, a federally funded model voucher program serving about 1,500 students in Washington, D.C. Early on, White House press secretary Robert Gibbs made it clear that Obama’s open-mindedness had reached its expiration date: “The president doesn’t believe that vouchers are a long-term answer to our educational problems.” Obama would go on to insist in 2014, “Every study that’s been done on school vouchers… says that it has very limited impact, if any.”

In point of fact, the research strongly suggests the opposite. Marcus Winters noted in *City Journal* in 2012, “[A] substantial body of research shows that at worst, students perform as well in private and charter schools as they would have in regular public schools, and at a lower cost.” A 2010 evaluation of the DC scholarship program for the federal Institute of Education Sciences found that the program “significantly improved students’ chances of graduating from high school.”

Even as Obama pushed to shutter the DC scholarship program, his administration also attacked school choice in the states. In 2013, Attorney General Eric Holder filed a suit to close the state-funded Louisiana Scholarship Program. Holder argued that the program violated federal desegregation laws by permitting six black students to leave their elementary school. The Department of Justice did not even allege that the program would harm these students or any others. It simply asserted that the departure of these six would impact their previous school’s racial composition, and that this would be, ipso facto, harmful. When researchers
looked more closely, the department’s claim proved specious—almost all voucher use actually made students’ old schools more integrated, since nearly all voucher students were black students leaving overwhelmingly black schools. Ultimately, a federal judge rejected Holder’s suit and ruled that the program could continue, so long as Louisiana imposed new paperwork burdens on participating schools and submitted to a federal review process for the state-run, state-funded scholarships.

When it comes to school choice, as with much else, Obama’s machinations have helped to erode trust and undermine the bipartisan spirit of school reform.

THE LESSONS OF THE OBAMA YEARS

In 2016 and beyond, our nation’s leaders will be well served by an unsentimental appraisal of Obama’s record. When it comes to the critically important and symbolically potent issue of education, the notion that the Obama administration’s approach has been post-partisan, pragmatic, and measured is a myth. Ultimately, Obama’s education-reform agenda amounted to a stimulus-funded race to bureaucracy, a call to do for higher education what the Affordable Care Act has done for health care, a push to expand Washington’s role, and a carte blanche for the aggressive lawyers at the U.S. Department of Education.

Obama’s legacy may be as significant for how he went about education reform as for his aims. He failed to pursue legislation or meaningfully engage with Capitol Hill; instead, the administration extended its reach through regulation and executive freelancing. A go-it-alone combative-ness and indifference to coalition-building were not unintended side effects of the Obama strategy; they were essential features of it. After all, Obama operated with an unusual assurance that he knew how to fix complex social problems and the belief that there was no time to waste. As he so revealingly said in 2015 about urban opportunity and poverty: “If our society really wanted to solve the problem, we could. It’s just it would require everybody saying this is important, this is significant.”

In truth, whether the challenge is pre-K, K-12, or higher education, whether it’s school discipline or college affordability, the answers are rarely so clear or straightforward. Responding to the president’s insistence that pre-K “works,” Charles Murray observed that Head Start “has never proved long-term results in half a century of existence…. Let me rephrase this more starkly: As of 2013, no one knows how to use
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government programs to provide large numbers of small children who are not flourishing with what they need. It’s not a matter of money. We just don’t know how.”

Obama’s education team has had little use for that kind of humility. Rather than wait for states to stumble forward in the messy pageantry of federalism, or for unsure independent actors to do “what’s right,” the administration has been prepared to speed things along by any means necessary. Unfortunately, issues as complicated as teacher evaluation and college costs—let alone school discipline and campus sexual assault—cannot simply be ironed out with mandates, federal “guidance,” and more money. By insisting it could fix complex problems quickly with these blunt instruments, the administration has spent billions, spawned new bureaucracy, and made progress less likely on a number of fronts.

Barack Obama came to office at a time of broad bipartisan support for education reform. And he managed to simultaneously exploit and fracture this goodwill. His aggressive approach politicized nearly all that it touched, leaving in its wake unnecessarily divisive national debates over issues like Common Core and sexual harassment on college campuses. Obama’s team went out of its way to attack school vouchers and for-profit colleges, to dismiss “suburban moms” and Capitol Hill Republicans, and even to scorn lunch ladies worried about unrealistic mandates.

Although some of Obama’s education moves have been inopportune, his agenda has also included a number of notions with real promise. But his administration’s excessive faith in federal regulation, lack of time for the niceties of federalism, and contempt for critics helped undermine these ideas and support for reform more broadly. Perhaps above all, Obama’s education legacy shows that good ideas executed poorly can prove not to be such good ideas after all.