

### **3. How is the federal government involved in the Common Core?**

Three sets of laws prohibit the federal government from prescribing the content of state curricula and assessments, yet the Department of Education has done more than any other organization to propel the Common Core and is currently funding the creation of standardized assessments that are fully aligned with the Common Core.<sup>1</sup>

#### **Triggering the Adoption**

In March 2009, the Department of Education revealed its backdoor method of gaining federal control of state educational policy when Secretary of Education Arne Duncan announced the Race to the Top (RTTT) program—an opportunity for states to compete for a share of \$4.35 billion reserved for state education incentives by the American Recovery and Restoration Act. To even be eligible for funding, states had to promise that they would fully adopt a set of common college- and career-ready standards supplemented with only 15% of their own standards.<sup>2</sup> Applicants also had to demonstrate that they would expand their state’s longitudinal data system to be in the same format as other states and to contain new data including student health, demographics, and success in postsecondary education.<sup>3</sup>

Some states realized that RTTT was a dangerous expansion of federal control over education and declined to apply. On a 9–0 vote, the Kansas Board of Education decided not to apply for RTTT funding, saying, “The federal criteria required more centralized control of public school education . . .”<sup>4</sup> Texas Governor Rick Perry explained to Secretary Duncan, “In order to submit an application that is preferred . . . for Race to the Top, Texas would have to commit . . . to the adoption of national curriculum standards and tests.”<sup>5</sup>

Not only did RTTT application criteria advance the Common Core, but application deadlines forced states to rashly commit to the standards. The first two states that received RTTT grants had to promise to adhere to the Common Core by January 19, 2010, without ever seeing the

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<sup>1</sup> The General Education Provisions Act, the Department of Education Organization Act, and the Elementary and Secondary Education Act—as amended by the No Child Left Behind Act in 2001—specifically bar federal involvement in the details of education. See Robert S. Eitel and Kent D. Talbert, “The Road to a National Curriculum: The Legal Aspects of the Common Core Standards, Race to the Top, and Conditional Waivers,” *A Pioneer Institute White Paper* no. 81 (February 2012): 1.

<sup>2</sup> *Race to the Top Program Executive Summary* (Washington, D.C.: U.S. Department of Education, November 2009), 4, accessed June 10, 2013, <http://www2.ed.gov/programs/racetothetop/executive-summary.pdf>; *Federal Register* 74 no. 221 (November 18, 2009): 59836, <http://www.gpo.gov/fdsys/pkg/FR-2009-11-18/pdf/E9-27427.pdf>.

<sup>3</sup> *Federal Register* 74 no. 221 (November 18, 2009): 59836, <http://www.gpo.gov/fdsys/pkg/FR-2009-11-18/pdf/E9-27427.pdf>; *A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act* (U.S. Department of Education, March 2010), accessed June 10, 2013, <http://www2.ed.gov/policy/elsec/leg/blueprint/blueprint.pdf>.

<sup>4</sup> Scott Rothschild, “Kansas Drops Out of ‘Race to the Top’ Education Competition,” *The Lawrence Journal–World*, April 13, 2010, accessed June 10, 2013, [http://www2.ljworld.com/news/2010/apr/13/kansas-drops-out-race-to-education-competition/?kansas\\_legislature](http://www2.ljworld.com/news/2010/apr/13/kansas-drops-out-race-to-education-competition/?kansas_legislature).

<sup>5</sup> Rick Perry, *Letter to the Honorable Arne Duncan*, Office of the Governor, January 13, 2010, accessed June 10, 2013, <http://governor.state.tx.us/files/press-office/O-DuncanArne201001130344.pdf>.

standards. The second wave of states saw the finalized standards, but these states were given a mere two months to evaluate the Common Core against their own state standards and outline a detailed plan for implementation. Nineteen states ultimately received RTTT grants.<sup>6</sup> The Department of Education also used waivers for the most burdensome obligations under the No Child Left Behind Act (NCLB) to entice 38 states to implement college- and career-ready standards by the 2013–14 school year and use corresponding assessments by 2014–15.<sup>7</sup>

Supporters of the Common Core have emphasized that the Department of Education never specified that the Common Core was the “college- and career-ready standards that states needed to adopt.” But the connection with RTTT and the NCLB waivers is evident. Every state that has received an RTTT grant or NCLB waiver has adopted the Common Core and is a member of one of the two state consortia writing standardized assessments.<sup>8</sup> The only exception is Virginia, which received an NCLB waiver after proving to the Department of Education that it had adopted “revised content standards that . . . are fully aligned with Common Core State Standards.”<sup>9</sup>

Though the last RTTT grants were awarded to states in late 2011, on August 6, 2013, the Department of Education announced the Race to the Top—District (RTTT-D) competition. The purpose of this program “is to build on the momentum of other Race to the Top programs by encouraging bold, innovative reform at the local level.”<sup>10</sup> Grants ranging from \$4 million to \$30 million are being offered to local education agencies (LEAs) in states that have adopted the Common Core. Applying LEAs must detail their efforts to institute rigorous teacher and principal evaluation systems, data systems that specifically connect individual teachers with individual students, and data systems that compile student-level data from preschool through higher education. Winners of RTTT-D will be announced in December 2013.<sup>11</sup>

### **Federally Funded Assessments**

Since the early months of the Obama administration, Secretary Duncan has stressed the need for new assessments and student data systems to provide consistent accountability across the states. In April 2010, he announced another set of Race to the Top challenges: consortia of states

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<sup>6</sup> “Race to the Top Fund—Awards,” U.S. Department of Education, June 10, 2013, accessed June 10, 2013, <http://www2.ed.gov/programs/racetothetop/awards.html>.

<sup>7</sup> *ESEA Waiver Flexibility Request*, U.S. Department of Education, revised February 10, 2012, accessed June 10, 2013, [www.ed.gov/sites/default/files/esea-flexibility-request.doc](http://www.ed.gov/sites/default/files/esea-flexibility-request.doc).

<sup>8</sup> See “Race to the Top Fund—Awards,” <http://www2.ed.gov/programs/racetothetop/awards.html>; “ESEA Flexibility,” U.S. Department of Education, June 10, 2013, accessed June 10, 2013, <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>.

<sup>9</sup> Virginia Department of Education, *ESEA Flexibility Request* (Washington, D.C.: U.S. Department of Education, July 2012), 15, accessed June 10, 2013, <http://www2.ed.gov/policy/eseaflex/approved-requests/va.pdf>.

<sup>10</sup> U.S. Department of Education, *FY 2013 Race to the Top—District Executive Summary* (Washington, D.C.: U.S. Department of Education, 2013), accessed August 20, 2013, <http://www2.ed.gov/programs/racetothetop-district/2013-executive-summary.pdf>.

<sup>11</sup> “Race to the Top District (RTT-D),” U.S. Department of Education, last modified August 19, 2013, accessed August 22, 2013, <http://www2.ed.gov/programs/racetothetop-district/index.html>.

boasting at least 15 members could receive part of \$362 million to craft the assessments based on the Common Core.<sup>12</sup> Applying consortia had to submit evidence from each member state that it would adopt standards “substantially identical across all States in [the] consortium,” fully implement whatever assessments were produced by 2014–15, and expand its collection systems.<sup>13</sup> In late 2010, two consortia were granted \$170 million and \$160 million to develop assessments for use in their 45 member states (combined total at the time).

Critics of the Common Core quickly noted that it was unclear who would evaluate the assessments and determine whether they actually aligned with the Common Core. The federal government answered this question by establishing a program officer in the Department of Education who has the power to redirect consortia activity if the “outcomes are inconsistent with the intended project outcomes.”<sup>14</sup> Furthermore, in March 2013 the Department of Education created a technical review board to evaluate the assessments produced by the two consortia and “[identify] how we can better partner with the consortia during this critical development phase.”<sup>15</sup>

By dangling federal funds in front of the states in the midst of a trying recession, the federal government has circumvented the law and bound over 90% of the nation to following the same academic standards, using standardized assessments funded and reviewed by the Department of Education, and building the most expansive data systems in American history.

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<sup>12</sup> *Federal Register* 75 no. 68 (April 9, 2010): 18171, accessed June 10, 2013, <http://www.gpo.gov/fdsys/pkg/FR-2010-04-09/pdf/2010-8176.pdf>.

<sup>13</sup> “Notice Inviting Applications,” *Federal Register* 75 no. 68 (April 9, 2010): 18171, accessed June 10, 2013, <http://www.gpo.gov/fdsys/pkg/FR-2010-04-09/pdf/2010-8176.pdf>.

<sup>14</sup> *Cooperative Agreement between the U.S. Department of Education and the Smarter Balanced Assessment Consortium and the State of Washington (Fiscal Agent)* (January 7, 2011): 4, accessed June 10, 2013, <http://www2.ed.gov/programs/racetothetop-assessment/sbac-cooperative-agreement.pdf>.

<sup>15</sup> “Performance—Race to the Top Technical Review,” U.S. Department of Education, March 2013, accessed June 10, 2013, <http://www2.ed.gov/programs/racetothetop-assessment/performance.html>; for further information on the duties of the Technical Review Board, see *Race to the Top Assessment Program: Technical Review Process* (Washington, D.C.: U.S. Department of Education, April 2013), accessed June 10, 2013, <http://www2.ed.gov/programs/racetothetop-assessment/technical-review-process.pdf>.