



Written by [Alex Newman](#) on February 27, 2015

Common Core Testing Regime Ruled Unconstitutional

In a development with massive implications for the Obama administration's ongoing attempt at [nationalizing education with Common Core](#), a Missouri judge [ruled](#) this week that the federally funded testing regime for the controversial standards was unconstitutional. The ruling means that the state of Missouri is officially prohibited from participating in the "Smarter Balanced Assessment Consortium" (SBAC), a key element of Common Core enforcement, because it's an "unconstitutional interstate compact."



The lawsuit against participation in the scheme was filed late last year by a group of taxpayers seeking to uphold the rule of law, safeguard public funds, and stop Common Core. Judge Daniel R. Green, with the Circuit Court of Cole County, Missouri, ruled in favor of the plaintiffs and ordered the state to immediately halt all involvement with the federally funded "multi-state" testing regime. In particular, Judge Green noted that Congress had never approved the interstate compact being foisted on states by the Obama administration's Department of Education.

"The Court finds that the Smarter Balanced Assessment Consortium, a.k.a. Smarter Balanced, Smarter Balanced at UCLA, SBAC, and SB, is an unlawful interstate compact to which the U.S. Congress has never consented, whose existence and operation violate the Compact Clause of the U.S. Constitution, Article I, § 10, cl. 3, as well as numerous federal statutes," the judge ruled. "Missouri's participation in the Smarter Balanced Assessment Consortium as a member is unlawful under state and federal law."

As such, the court declared that "any putative obligations, including the obligation to pay membership fees, of the State of Missouri to the Smarter Balanced Assessment Consortium ... are illegal and void." The judge also declared that "no Missouri taxpayer funds may be disbursed to SBAC in the form of membership fees, whether directly or indirectly." Finally, the court permanently prohibited state officials, and "all those in active concert with them," from "taking any action to implement or otherwise effectuate any payment of Missouri funds as membership fees to SBAC, whether directly or indirectly."

The suit against state officials, from Democrat Governor Jay Nixon on down, argued that Nixon and his officials attempted to cede Missouri's sovereignty over education policy to the illegal entity "operating under the influence of federal regulators located in Washington, DC." Even though state lawmakers overwhelmingly repudiated the standards scheme in 2014 with veto-proof margins, state officials continued in their efforts to send millions of taxpayer dollars to the illegal entity.

Also cited in the lawsuit was the U.S. Constitution's 10th Amendment, which reserves all powers to states and the people if they were not specifically delegated to the federal government. "It has long been recognized that educational policy is an area of core state competence and concern that is not delegated to the federal government under the Constitution and our system of federalism," the concerned taxpayers argued in their complaint, adding that federal statutes going back almost 50 years also prohibit the U.S. government from controlling education policy, curriculum, or assessment



programs.

Common Core, the suit argued, violates those federal laws and the U.S. Constitution. It has also sparked nationwide outrage across the political spectrum, the petition observed. Nonetheless, Governor Nixon, without authorization from the people's elected representatives, unilaterally signed an agreement purporting to force Missouri to impose the flawed and unlawful standards. The Obama administration, meanwhile, using bribes and lawless "waivers" from other unconstitutional federal education schemes, was working to impose its nationalization plan on Missouri and other states, explained the lawsuit.

State lawmakers, at least, appear to have gotten the message. "The House will act immediately to strip all SBAC funding from the budget with the goal of ending our membership with this group that is in clear violation of the federal and state constitutions," said Missouri House Speaker John Diehl, a Republican, after the ruling. "The people of Missouri have made it clear they have a distaste for Common Core and that they do not want to see their tax dollars wasted on these federally-produced standards. Going forward, we will continue to focus our efforts on developing Missouri-based standards that will best serve the needs of our young people."

Indeed, last year, lawmakers overwhelmingly voted to kill the Common Core scheme in Missouri and to have a state panel create new, superior state standards. In interviews with *The New American*, the plaintiffs involved in the lawsuit against SBAC participation sounded optimistic that the nationalization scheme would fail in Missouri — as well as nationwide. However, as this magazine has reported, more than a few states have officially "withdrawn" from Common Core, owing to widespread public pressure, only to keep it largely in place after making a few minor changes.

Still, activists with the Missouri Coalition Against Common Core remain hopeful, and celebrated the court's ruling. "The SBAC lawsuit was, at its foundation, about the rule of law," Anne Gassel, one of the taxpayers involved in the lawsuit, told *The New American*. "Should tax payers be forced to pay for something that was created through the collusion of private entities and the government which circumvented the rule of law, in this case the Constitution?" Her answer is a strong no.

In the recently decided case against SBAC and the governor, "the court agreed that those who created the Smarter Balanced Assessment Consortia did not follow the rule of law and obtain Congressional approval in establishing the consortia," she added. "We believe, therefore, that the Memorandum of Agreement signed by our state for the Race To The Top Grant program, and the NCLB [No Child Left Behind] waiver we applied for, which required that our state be a member of a testing consortia, cannot bind the state and the taxpayer to pay for membership in the illegal consortia."

Gassel and the other two plaintiffs — former Republican gubernatorial candidate Fred Sauer and parent activist Gretchen Logue — expect the governor to appeal the ruling. However, the case appears to be relatively straightforward: State governments and the Obama administration defied the U.S. Constitution and an array of state and federal laws to foist Common Core on the unsuspecting American people. In fact, in a phone call with *The New American*, Gassel and Logue indicated that, if the testing scheme is unconstitutional in Missouri, it is also unlawful in other states. State activists hope the growing bi-partisan movement against Common Core across America can learn from Missouri and kill the testing regime in other states. Many have already backed out.

As *The New American* has been reporting for years, the federally funded testing consortia — SBAC and the Partnership for Assessment of Readiness for College and Careers (PARCC) — are [crucial to the Obama administration's nationalization plot](#). Essentially, the administration's tests, if imposed, will



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dictate what must be taught in the classroom. As chief Common Core financier and population-control zealot Bill Gates put it in a speech to the National Conference of State Legislatures in 2009: “When the tests are aligned to the common standards, the curriculum will line up as well.” The testing regime is also a [crucial component of the Orwellian data-gathering and data-mining plot](#).

Of course, the Common Core-pushing establishment — [Big Business and Big Government, mostly](#) — has no intention of surrendering. However, with outrage over what [one state lawmaker and education expert described](#) to *The New American* as “state-sponsored child abuse” continuing to sweep the nation, the battle is far from over. Parents, taxpayers, educators, and more are crossing party lines to smash the plot. If Americans hope to restore proper education and local control, though, the growing grassroots uprising against Common Core will have to ratchet up the pressure even more.

Alex Newman is a correspondent for The New American, covering economics, education, politics, and more. Follow him on Twitter [@ALEXNEWMAN_JOU](#). He can be reached at:

anewman@thenewamerican.com



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