FROM: Phyllis Schlafly

68 FAIRMOUNT, ALTON, ILLINOIS 62002 / (618) 462-5415

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REGULATIONS FOR THE "PUPIL RIGHTS" ACT

Now that the Supreme Court has clamped down on Congress' use of the Legislative Veto to enforce its hindsight judgment on bureaucratic regulations, we should examine the matter of the bureaucracy's use of its own brand of "veto" to impose its hindsight judgment on laws passed by Congress. There is no better place to start than with the "Protection of Pupil Rights" section of the Education Amendments.

The bureaucracy exercises its "veto" by a devious method which involves no written order, no signature, no responsibility, no press release; it's done by the nothingness of inaction. The statute is effectively ignored, buried, and killed by the simple device of failing to issue regulations. If a statute has no regulations, then there are no teeth in it, nobody is charged with the responsibility of implementing it, there are no penalties for failing to obey it, and the public has no way to file a complaint.

Such is the current status of a Federal statute entitled "Protection of Pupil Rights," subtitled "Inspection by parents or guardians of instructional material," 20 U.S. Code 1232h. It was enacted in 1974 as Section 439 of the General Education Provisions Act, and unanimously amended by Section 1250 (known as the Hatch Amendment) of the Education Amendments of 1978.

The 1974 section allows parents or guardians to inspect all instructional material to be used in connection with any research or experimentation program. The 1978 section prohibits requiring a student (without the prior written consent of his parents) to submit to psychiatric or psychological exmamination, testing, or treatment in which the primary purpose is to reveal certain information concerning specified subjects, including political affiliations, embarrassing mental or psychological problems, sex behavior and attitudes, self-incriminating behavior, critical appraisals of family members, legally privileged information, or income.

Despite the fact that one section is nine years old and the other section is five years old, no regulations have ever been issued to implement this statute. Regulations

have been written by the Department of Education, but Secretary Terrel H. Bell has not issued them.

When asked about this matter, Secretary Bell gives a disingenuous answer. He wrote Senator Orrin Hatch, "We believe we have been successfully responding to public inquiries about the parental consent amendment. We have yet to identify any violations of it."

That reply ranks with the typical equivocal response some Congressmen make to constituent mail: "Thank you for your letter. I am glad to have your views and will give them careful consideration." Secretary Bell, a longtime bureaucrat, knows full well that, without regulations, the statute isn't worth the paper it is written on, because parents now have no way of knowing about the statute and no way to register their complaints.

A federally-funded, federally-promoted curriculum called "Facing History and Ourselves," which is now used in eighth and ninth grades, is an example of a public school course which violates the Pupils Rights statute. The course guides the students through a discussion of moral and ethical issues, and requires them to turn over to the teacher "journals" in which they record their thoughts and feelings after each class.

Various professors and researchers in the Harvard Graduate School of Education were then allowed to develop "a scheme for analyzing student journals" and to test the students to uncover the attitudinal changes they experienced while taking the course. Professor Marcus Lieberman, who wrote proudly of his connection with this program in a journal published by Hunter College, CUNY, admitted that the curriculum was "controversial," that his evaluation of the students was "experimental," that the students "complained bitterly about the difficulty in answering the questions" and had an "emotional response to what students perceived as a high level of abuse," but that he proceeded with his research in order to "cast the widest possible net to capture changes in the students' moral, ego and social development."

If you think that public school pupils should be taught the basics instead of being used as guinea pigs for curricula designed to change their attitudes and provide a record of their private thoughts to the academic establishment, ask your Senators and Congressmen to insist that Secretary Bell immediately issue the regulations for the Pupil Rights act.