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Since its ratification in 1868, the 14th Amendment has reshaped Americans' perceptions of our democracy. In many ways the centerpiece of Constitutional law in the modern day, the 14th Amendment includes provisions barring states from depriving people of their natural rights without due process of law, or denying them equal protection of the laws. The amendment's framer, John Bingham, believed that it would combat institutional racism in the Southern states following the abolition of slavery. He also intended that its language would allow for the incorporation of the Bill of Rights to the states. Not even Bingham, though, nor indeed any of his contemporaries, could have foreseen the monumental shift in American political philosophy and jurisprudence that the amendment would usher in. Because education is an area over which the individual states have broad jurisdiction, the 14th Amendment began to alter the landscape of the rights of students and parents. Three main ways in which education policy has shifted are through equal protection, application of the due process clause, and incorporation of Bill of Rights protections.

For nearly a hundred years following the passage of the 14th Amendment, Southern states employed the "separate but equal" doctrine, requiring racially segregated schools. The Court first confronted this doctrine head-on in the 1896 case *Plessy v. Ferguson*. In one of the most flawed judicial decisions in American history, they supported a conservative interpretation of "equal protection under the laws", under which separate but equal was deemed an acceptable protection of the rights of black students. However, Justice John Marshall Harlan anticipated the future of the debate when he famously dissented in the case, writing, "Our Constitution is color-blind and neither knows nor tolerates classes among citizens." In 1954, the progressive Warren Court decided unanimously to strike down separate but equal in *Brown v. Board of*

Education, this time specifically in reference to education. A year later in *Brown II*, they mandated that states integrate their schools “with all deliberate speed.” Since then, the equal protection clause has been applied in myriad other circumstances, including in the case *Plyler v. Doe*. The Court decided that even the children of illegal aliens had the right to an education in public school, because the 14th Amendment’s equal protection under the law extends to “any person”, not just citizens. Through this decision, the right to an education was established as fundamental, and carries numerous implications to this day.

The 14th Amendment’s due process clause has also been applied to our education systems. One substantive due process right that has been established through cases such as *Meyer v. Nebraska* is the right of parents to generally direct the education of their children. In *Pierce v. Society of Sisters*, the Court struck down an Oregon law that required all students to attend public school. Justice McReynolds wrote in the majority opinion that, “The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.” Procedural due process, too, has played a notable role, such as in *Goss v. Lopez*, when the Court identified the right to education as a property right, unable to be denied to students without due process. This understanding should foster positive change by discouraging purely punitive measures such as suspension and instead offer more opportunities for students to grow.

The incorporation doctrine, derived similarly from the due process clause, allows the Supreme Court to selectively apply the protections guaranteed in the federal Bill of Rights to state governments. Accordingly, throughout the second half of the 20th Century, the Court began to hear cases about issues such as free speech and establishment of religion in public schools.

The Court's 1969 decision in *Tinker v. Des Moines* for the first time acknowledged that students possessed First Amendment rights and that even political or controversial speech could not be limited unless it represented a material disruption to school activities. *Morse v. Frederick*, the wildly entertaining 2007 case that saw Chief Justice Roberts try to ascertain the exact meaning of "Bong Hits 4 Jesus", admittedly saw the Court take a step back in their protection of student speech. Still, this issue promises to remain in the national consciousness, with events like the shouting down of Milo Yiannopoulos on the campus of UC Berkeley making headlines. The case *Engel v. Vitale* applied the First Amendment's establishment of religion clause to schools in order to disallow school prayer. Even by providing a non-denominational, voluntary Christian prayer, the Court ruled that those actions constituted an endorsement of a specific religious tradition by a government actor, the school.

It is the nature of the 14th Amendment, more even than any other part of the Constitution, to mold itself around pressing contemporary issues and ground the present political debate in principles of constitutional and common law. For example, North Carolina's now-infamous Public Facilities Privacy & Security Act, commonly known as the "bathroom bill", was in my opinion unconstitutional under the equal protection clause. Other Bill of Rights protections, such as the 4th Amendment's protection from unreasonable searches and seizures, have been only shallowly explored in education-related jurisprudence, although Justice White did write in *New Jersey v. TLO* in reference to the 4th Amendment's application in schools, "indisputable is the proposition that the 14th Amendment protects the rights of students against encroachment by public school officials." This question will doubtlessly face the Court in the near future, as privacy in the digital age presents new challenges, like the monitoring of activities on school wifi

and searching of students' personal electronic devices. One increasingly common argument concerns provisions such as the one in Virginia's state constitution, which requires that "an educational program of high quality [be] established and continually maintained." Does the equal protection clause require a redistribution of resources and funding towards underachieving schools? The courts will continue to use the 14th Amendment to protect and expand the rights of students in the future.

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