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Educational Innovation and the Law

Chris Christie

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SYMPOSIUM
EDUCATIONAL INNOVATION AND THE LAW

KEYNOTE ADDRESS:
EDUCATIONAL INNOVATION AND THE LAW

*Chris Christie**

Thank you. Thank you all very much. I want to thank the dean for the introduction and the welcome to Notre Dame. It's great for me to be here; it's great for our family to come and spend time with all of you.

Before I get going, I would be remiss if I didn't make one other introduction. My chief counsel is here, the person who serves as my chief counsel in the Governor's office. This is a totally gratuitous move on my part, but he is an alumnus of Notre Dame. Jeff Chiesa is here and is so excited to have me have to come to his alma mater to speak.

Obviously also another alumnus of Notre Dame who I've already spent some time with today in Father Scully's class, is former New Jersey congressman Mike Ferguson who is here as well.

Both dear friends of mine, and I thank them for taking the time—because I'm sure this is the way they normally spend football weekends here: come to the law school and do some thinking and do whatever else they're going to do.

I am by the way, completely impressed. I saw there are tickets for this thing, first of all. And then I was seeing on Twitter there was some demand for these tickets. And then I actually saw the tickets and they have my picture on them.

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* Governor Chris Christie, New Jersey, delivered the Keynote Address at the 2011 *Notre Dame Law Review* Symposium on Educational Innovation and the Law.

So I'm lording this over Jeff in ways you can't even imagine. Like, Notre Dame printed pictures of me on tickets. Tremendous. We'll be hanging those up in my office when we get back to Trenton.

But I thank you for the opportunity to talk about an issue that I think is the single-most important issue in America today for our long-term future.

There are lots of really important issues surrounding debt and deficit and tax reform and entitlement reform. And I care very deeply about those, and have had some, I think, good progress on some of those issues in New Jersey.

But we're not here to talk about that today. I'm relieved in one respect that we're not. You know, those are kind of the actuarial accounting portions, which as a political science major and history minor in college, you know I had no interest in being an accountant or an actuary. But as governor during difficult fiscal times, you begin to feel like you are one.

My staff tells me all the time that when I speak about this issue, this is the issue they can tell I feel most passionate about.

I was talking to Father Scully's class before I came over here in leadership, and I was telling them that I don't use prepared speeches except for very rare occasions like the State budget address, things where I have to remember numbers or remember not to be too inflammatory.

And so today I'll talk to you from my heart about what I feel about this issue. Because to understand why I feel the way I feel about this issue, you have to understand where I come from. Not just in New Jersey, but I was born in Newark, New Jersey in our state's largest and in many ways most challenged city.

I was born in Newark; my parents were born in Newark; three of my four grandparents were born in Newark. So Newark was a large part of our family's culture and history and definition of who we are.

I was born in 1962. In 1967, two things happened—two things that directly affected my life, one inside my own family and one outside of it. My parents decided as I was getting ready to turn five years old that they needed to move me out of Newark and move my younger brother out of Newark because they were convinced that there was no way that we could get a good education there, and I was coming to the age where I would go to kindergarten.

The thing that accelerated that decision, of course, were the riots that were in Newark in 1967 that the city has never recovered from, and forty-four years later Newark still has not recovered from the riots that occurred in 1967. It hasn't recovered economically, and it has not recovered educationally.

The reason I tell you that that is the core of the way I feel about this issue is this: I'm convinced with every fiber in my being that if my parents had not done what they did, which was—now understand who my parents were. My mom was a graduate of West Side High School in Newark. Never had the money to go college and worked for the rest of her life until she died. From the time she was seventeen until she was seventy-one when she died.

My dad worked in the Breyer's Ice Cream plant in Newark during the day, and put himself through Rutgers at night to get his degree. Our first family picture was at my father's college graduation when he was in his cap and gown and my mother was smiling next to him, and I was in utero three months prior to arrival. My father and mother, it was any enormously proud day for them because my father was the first in his family to be able to get a college degree.

For my mother, she was living vicariously through him knowing that it was probably an opportunity she was never going to have. So for these two who cherished education so much and the importance of it, that decision in 1967 to leave the only place they had ever known to go to what my mother called "the wilderness," which was Livingston, New Jersey, fifteen miles due west of Newark.

It was an enormous decision, plus they had no money. So they borrowed \$1000 dollars from my maternal grandmother and \$1000 from my paternal grandmother to put a \$2000 down payment down on a \$22,000 house in Livingston because they heard it was a great school system.

My father, who was a Korean War veteran, got the VA mortgage to be able to buy the house. But for those efforts, I am convinced I wouldn't be standing here today. If my parents had kept me in post-riot Newark in the public school education system, which would have been all they would have been able to afford and the only option that would have been available to them, I wouldn't be standing here as the fifty-fifth governor of the state of New Jersey.

And once you're lucky enough to have that experience, I can't tell you how many times I think to myself today as I sit in that chair how many young men and women in the public schools in Newark today have all the God-given talent that would be necessary for them to be governor of New Jersey, but they never will be because we neither have the guts nor the will to change the status quo and to stand up to the comfort of adults in favor of the potential of children.

I would suggest to you don't let anybody fool that you this issue is any more complicated than that. Understand what the Socratic status quo does to protect itself. It makes issues complex that are not really complex at all. It tells you that this educational issue is just too com-

plicated for all of you to understand, and that you have to trust them, the people with the undergraduate degree in education, the Masters degree in education, the Ph.D. in education, you must trust them to make this decision.

Now, I was accused today in Father Scully's class of at times making things too simple. I plead guilty. But let me ask you this about how complicated education is. By a show of hands, how many parents do we have in this room today who have been to back-to-school night? Please raise your hand.

Okay. How long did it take to you figure out whether your kid had a good teacher or a bad teacher? Right? You've been to back-to-school night; the over/under is fifteen minutes. And you learn it in two ways. First, how that teacher is conducting themselves in front of the class when it's supposed to be like show off time because the parents are here; and second, from the whispers you get from your friends when they see you walk out of Mrs. Smith's classroom, right?

They're out in the hallway going to whatever class they're going to, and see you walking out of Mrs. Smith's classroom and they go—one of two things—they either come up to you and go, Oh, I love Mrs. Smith. God, she's great. My kid did so well in the class. She's wonderful. You're so lucky. We love her.

Or you get, Patrick has Mrs. Smith? And you say, Yeah. They go, Good luck.

Right? This is the complex issue that the defenders of the Socratic status quo tell you is much too complicated for simple mortals like you to understand.

The second thing they try to do in deflecting responsibility and accountability away from themselves for the product of their work is to say, It's not our fault; it's the parents' fault. You see, because in Newark we don't have involved parents, and there is no substitute for an involved parent in educational success.

Okay, I agree that the role of parents in educational successes is pivotal. It's pivotal. If you don't sit down and do their homework with your kids when they need the help, if you don't lean on them to make sure that that homework is done and done well, if you don't get involved in what they're doing and try to excite them, there is no question that that failure on our part as parents is a negative in their educational experience and their potential for growth.

But my problem with that is, what do you say to the children who out of no fault of their own don't have involved parents? What do you say to the children in Newark, for instance, who are the product of a single-mother home where that single mother is working three jobs to

keep a roof over their heads? Literally working sixteen, eighteen hours a day.

If you say to that child, Here is what the Socratic status quo says. They say, too bad, so sad. Our system is not built for you because your parent is not involved, so therefore we can't help you. Because the involvement of a parent is indispensable to educational success. Baloney. Not only is that wrong, but to me it's obscene. We cannot tell those children that out of no fault of their own they're bound to educational failure because we are unwilling to look at the educational establishment and say, One size doesn't fit all, everybody. Sorry.

I live in Mendham, New Jersey, a perfectly wonderful, successful suburban town in New Jersey. You know what? The parents are almost too involved in what's going on. Every kid has ADD and needs extra time to take their tests, you know. It's all scam, okay?

And that's not the product of the kids. That's of the parents, and we all know it. Because they're all trying to get their kids in here, you know. If they just had another extra half hour on their test, those grades will go up a little bit and, man, they'll be Domers, too.

That's the life in the suburbs. Maybe you don't need to change the system for those children, but you have to change a system that's failing for children that do have problems at home that are socioeconomic in nature, that may be cultural in nature, that may be driven by unemployment, poverty, drugs, alcohol, premature death by violence.

Why do we think that we teach those children the same way that we teach my children and say that both should be successful? Makes no sense. And so when you say to them, That doesn't make sense, they say, Well, you see, it's too complicated. You obviously don't understand it.

How hard is it to understand failure when in Newark the children this year, two months ago who entered the ninth grade, twenty-three percent will graduate with a high school diploma in four years. Twenty-three percent of the children who entered the ninth grade two months ago in Newark will graduate with a diploma in four years.

And, we will spend \$24,000 per pupil per year on those children. Well above, well above, almost double—more than double, actually—the national average on what spend on K-12 education for abject failure.

The kids who do get degrees, the kids that move on to Essex County Community College—ninety percent of the Newark High School graduates who go to Essex County Community College—need at least one year of remedial coursework to be able to qualify to sit in a college class.

So, of the twenty-three percent who get a high school diploma, it's a lie. They're not college ready. They're not career ready.

So do you need to be a genius to figure out that you need a longer school day for those kids? That you need a longer school year for these kids? That you need different teaching methods that are more intensive, more focused on getting them focused, that hold them by the hand a little bit?

See, but that doesn't fit in the union contract, you know. They come in at 8:30 and they leave at 3:00. If you want me to stay, you got to pay 'em more, despite the fact that they're getting paid a lot of money already for a job that's only 180 days a year. They say teachers only make on an average in New Jersey \$60,000 a year. They only work 180 days. Could we annualize that?

Now I am not an advocate for less teacher pay. I'm, in fact, an advocate for more teacher pay, but for excellent teachers. For excellent teachers. Even for good teachers. But not for failed teachers.

So what kind of things are we proposing in New Jersey to try to change this paradigm? A number of things. First and foremost is accountability. No place else in American success do we demand so little accountability for the product which is produced.

Teachers say, Well, evaluating a teacher is complex, like it is at back-to-school night. Very complex. So we say, Let's set up an evaluation system. We propose to set up an evaluation system that will be based on multiple measures of student growth so that we don't get into a box here, not just standardized tests.

Understand that that's not the only way to judge a teacher, but fifty percent of the teachers' evaluations should be on objective, quantifiable measures of students' learning. Not just standardized tests, but their grades and other objective measures. The other fifty percent, subjective: peer review, more intensive classroom observation, more intensive review of their lesson plans and how they execute them to make sure they're modernized, updated on a regular basis, and that they are responsive and reactive to the success of the students, or lack thereof in the classroom.

We need to reform tenure. Now, tenure in America right now in New Jersey means this: at three years and one day you have a job for life. If you think I'm kidding, let me give you this one example.

In the last ten years in New Jersey where we have about 50,000 public school teachers, would anyone venture a guess as to how many teachers have lost tenure based upon incompetence or ineffectiveness in the classroom? That means a million five opportunities, ten years, 150,000 teachers: seventeen. I mean, for God's sake that makes the

Bar Association look robust in its self-governance. Makes the Board of Medical Examiners look like the inquiry. This is ridiculous.

Seventeen. Do we believe out of 150,000 teachers in New Jersey over ten years, that only seventeen were ineffective or incompetent? The results don't prove that. So let's have tenure. I want to have tenure that protects teachers from retaliatory firings, political firings, age-based firings, salary-based firings. Of course.

But that tenure should be earned every year. Our suggestion is you have an evaluation system that says highly effective, effective, partially effective, or ineffective. If you get one year of ineffective, you lose your tenure. You get two consecutive years of partially effective, you lose your tenure. You can earn it back, but you lose your tenure.

Now, I'll have to tell you, looks to me from looking around this room, judging a book by its cover and where you're sitting, there is a number of highly successful people in this room. If you ran your businesses like we run education, think about whether you would be able to afford to be sitting here. Because if you ran your business by saying, I hired someone, and I kept them for three years and one day, and I can't fire them. Even if they're not doing a good job. Can't fire 'em. Not allowed. Not appropriate. You would be belly up quick.

If you wonder why the American educational system is falling further and further behind at the K-12 level to the rest of world, I would suggest to you that tenure, in the way that it's administered now, is one of those reasons. So we need to reform tenure.

Teacher compensation. We should adopt compensation policies that do two things: First, pay differentiation; second, merit pay.

Now, what I mean by pay differentiation is something that I said the other day that got me in trouble when I was on Facebook. Yeah, you're laughing. You heard, right?

But seriously, does anybody in this room believe . . . let me start off by professing my deep love and affection for gym teachers. I think phys ed teachers are some of the most wonderful, marvelous, giving, caring people in America. Let's get that out of the way.

Do you really believe that we should be paying gym teachers the same as we pay science and math teachers? I got to tell you the truth. You know, my children's future is not going to be determined by their understanding of the complexities of physical education.

I'm not saying it's not important to exercise, despite my appearance. It's an aspirational goal, and one that I cognitively recognize as important, even though I may not be totally in tune with it at the moment.

But, I was with Mark Zuckerberg on Monday, and he told me that Facebook could be growing significantly faster than it is—if you can

believe that—if he could hire more engineers. He can't find competent engineers to hire in America.

And let me tell you, he's paying really well, so it's not a money thing. So I'm saying we need to have better science and math teaching. To get that, we need better science and math teaching, we need better science and math teachers. To attract better science and math teachers to not go into private industry and to stay in teaching in the subject they feel passionate about, we should pay 'em more to come and to stay.

That doesn't mean I hate gym teachers. It means I'm awake and alive in the real world and recognize that America's in a crisis, and we need more people in science and math and engineering. We need to pay to get that. Let's have pay differentiation that makes sense. Let's also have pay differentiation to hire more great people in difficult school districts. Let's face it, in my state, would you rather be in Mendham teaching kids that have solid family lives and are driven to succeed, or would you rather teach in Newark with all the challenges, socioeconomic and otherwise, that are incumbent upon that?

Most people are going to make the choice to take the easier route. How do we attract people down there besides their passion? Let's pay them more to go down there. Let's pay them more to go into the difficult, challenging districts to help turn them around. That doesn't mean I value the teacher in Mendham any less. It's a bow to reality.

Lastly on merit pay, understand this: every place else in American life we pay based upon merit. Everywhere we pay based upon merit except in education. It's like saying—what are your names, please? Nicole and Marianne are my third grade teachers in my school. I'm the principal. We're at the end of the year, and I'm giving them their evaluations. I call Nicole and Marianne in. We have two third grades; they are two third grade teachers.

Nicole, you had an amazing year. You had an amazing year. The children love you. They're happy in class. They're learning. Test scores improved from second to third grade under your leadership. The parents love you. You're responsive. They e-mail and call you, and you get right back to them. When a kid is having a problem in class, you try to help make it better and you try to change things to adapt to that particular child. You've done a wonderful job. We're proud to have you in part of our school, so we would like you to come back next year and we would like to give you a three percent raise.

Marianne, you're awful. I mean, Marianne, there is really no other way to put it. The parents groan and come to my office and complain when their kids get put in your class. You come in at 8:30

on the dot and you leave at 3:00 on the dot. You're unresponsive. The kids aren't happy in your classroom. Their test scores have lagged under you. You haven't updated your lesson plan in years. When I try to talk to you about this, you go into your purse, take out a card and say, Call my union representative. Talk to her about it. Marianne, we would like you to come back next year. And I would like to give you a three percent raise.

That's really funny, right? Except that's what happens. Every day in public education in this country that's what happens. Because you know how they're judged? They're judged by how many years they're in. Every year they stay, if she's breathing in September, she's getting her raise.

Now, I'm not so much worried about Marianne because she's a lost cause—with all do respect—but what I'm worried about is Nicole. After a while Nicole is going to say, What am I doing? Why am I doing this? Marianne is off doing nothing and making the same amount of money I do. Yeah, I am getting personal satisfaction from this job, but after a while that's just not enough.

Why shouldn't we compensate Nicole more than Maryann? Maybe that will incentivize Marianne to get with it. But even if it doesn't, it's going to reward Nicole for being outstanding. America is based on rewarding the outstanding, rewarding the achievers, rewarding the people who are producing results.

Yet what they'll tell you, what the teacher's union tells you is that that will destroy camaraderie in the schoolhouse. This is what I love about the teacher's union. They think so little of their members, so little of their member's integrity, that they believe that will destroy camaraderie.

If you believe that, here is what you would have to believe. Let's take Nicole and Marianne again. This time, Nicole is the third grade teacher; Marianne is the fourth grade teacher. Nicole has my son, Andrew, in the third grade, and she does a great job with him. They kind of really connect. He loves going to class. He does really well.

He goes to fourth grade, and Nicole says to Marianne, By the way, you're really going to love Andrew Christie. Boy, he's really good. He's an A student. He's fabulous.

Maryann has about two months with Andrew, and she's like, Where the heck is the A student? He's drifting off in class. I can't seem to connect with him. He's not doing really well. She thinks to herself, which she actually should think, Let me go talk to Nicole and see how did she connect with this kid.

Under the teacher's union theory that it would destroy camaraderie, when Marianne goes to Nicole, Nicole is going to say under the

teacher's union theory, Sorry, I can't tell you. See, because if I tell you my secrets of how I succeeded with Andrew, then you're going to do better; and if you do better, you might get merit pay, and I might not. So I'm sorry, I can't help you, but good luck.

Does anybody think that's what a teacher would do? There is no chance that's what a teacher would do. No chance. But that's what the teacher's union is trying to sell you, is that merit pay will destroy camaraderie. They won't work together anymore, because they're awfully competitive for that merit pay money.

Well, to believe that, you would have to believe that they're lesser human beings than they are. I don't believe that. Secondly, you have to believe there is no camaraderie at Microsoft, no camaraderie at IBM, no camaraderie at Caterpillar, no camaraderie anywhere in private industry, because they're all competing for a limited pool of money against each other every day, every year.

And when you point that out to them you know what they say back? It's too complex. You don't get it. Too complicated. Too complicated. You don't have your Ph.D. in education. I don't. But this just seems to make sense in my common experience, and I suspect it makes sense in your common experience as well.

Next, end LIFO. What is LIFO for those of you who don't know? Last in, first out. It means when layoffs have to have happen in a school district, they're made based purely and solely upon seniority.

Let's be fair about this. Marianne is a new teacher. She's doing great. She's in her second year, and, boy, she is knocking it out of the park. She's amazing. Nicole has been there for twenty-four years and she's pretty much worn out. She's not working every day, and then layoffs come. I'm the principal, and, boy, I would love to lay off Nicole. The kids aren't really responding to her, and she doesn't really care anymore either. I have to lay off Marianne.

Now, in what other business would we ever tolerate this, that merit plays no role in determining who keeps and loses their job? It's ridiculous. It's degrading. It is contrary to a model for success.

Let's let the people in charge decide who are the most successful. And when layoffs have to happen, let's have it done based on those evaluations that we talked about that include peer review and based on merit. You can't justify the idea that just because you're there longer it means you're better. You see that in every walk of life. Why is it any different in K-12 education?

Lastly, on the public school side we talked about ending forced placement. Marianne's a great teacher; Nicole, not so good. I'm the principal. I go to the superintendant and I say, I cannot take Nicole anymore. She's driving me crazy. I cannot take it. Superintendent

says, All right, all right, all right. I'm going to send her to Ferguson's school. Ferguson goes, Oh, hold on. I've heard about Nicole. I'm not taking Nicole. My school is doing great. I'm not taking her. The policy now is he takes her whether he likes it or not.

This makes no sense. It undercuts him as a leader. His other teachers are going to go, Why her? What? We have to do this now? Why should they follow him? He has no authority to decide the course that his school is going to take and the quality that it's going to exude. Again, common sense. When confronted with it, it's too complex. We have studies to show that's not true. I'm sure you do. I used to be a trial attorney. You can get an expert to say anything if you pay him enough.

Lastly, competition. Competition in public schools must be increased in every way it possibly can. That means more charter schools in failed districts so that parents and children have an option to get out of a failed neighborhood school and go to a higher performing charter school.

We should have, as we have now in New Jersey, I signed this bill, interdistrict school choice. If the school in another district is willing to accept you, you can go out of a failing district and into a more successful one.

We have something in New Jersey we call and hope to get passed this fall called the Opportunity Scholarship Act, which says that private business can donate to a scholarship fund for children in failing school districts to get a scholarship to go to a private or parochial school of their choice once it's been adjudged by the Department of Education that their school is failing.

See, because I send my children to Catholic school. My wife and I made that choice because we could afford to make that choice. We believe that having a religious education as part of our children's everyday education is important and reinforces the values that we're trying to teach them at home. That single mother in Newark doesn't have that choice. Not only for religious reasons, she doesn't have that choice for educational reasons, because ZIP code is destiny in this system. ZIP code is destiny.

That's not America. So by engendering more competition, those failing public schools are going to have to decide. Shape up or ship out.

Because when you give parents the opportunity to move their children out of a failing school to a more successful model, those parents will move those children in droves. Failing schools will become extinct schools, as well they should.

You know what? We can't wait any longer, and those families can't wait any longer for success. Every year that goes by without success predetermines that that child will become an adult who can't go to college, who can't get a good job, who will in disproportionate numbers turn to crime, go to jail. Or if not, flip hamburgers in McDonald's. I am from there. That could have been me. There is no more important moral imperative than preventing that. We must stop putting the comfort of adults ahead of the potential of children. It is only us who can change that. To change it, we have to stand up to probably today the most powerful political force in the America. That's the teacher's unions and their extraordinary money in this country.

And in New Jersey, just so you know how much money we're talking about, and then I'll end it and take questions, New Jersey requires by law that every teacher do one of two things, public school teacher: either pay \$731 in dues deducted from their paycheck to their union, or if they chose not to be a member of the union, they pay eighty-five percent of \$731 to be out. For my generation, we call that the Hotel California fee. You can check out any time you like, but you can never leave.

What does that amount to? 150,000 teachers, another 50,000 school employees who have been corralled into this morass. \$130 million a year in dues in New Jersey. They don't contribute a nickel to teacher salary, teacher healthcare, or teacher pension. It is a \$130 million slush fund to help their friends and punish their enemies. That's what we're up against. The best argument they got back is it's too complex for us to understand. I have studies that show otherwise. You all have been to back-to-school night. This isn't that complicated.

Nothing that I've talked about in these last six points is something that I think for most of you violates your common sense. This is not just about political will that we care more about. So I came here and accepted this invitation because there is nothing more important in my public life than winning this. Because if I win this, then years from now there will be another kid from Newark standing here who graduated from the public schools in Newark and became governor of the state of New Jersey. He or she will be here because we did our moral duty, our moral duty.

And so I care about this issue because I care about the future of this country. But even more importantly than that, I care about the future of each individual child and the extraordinary potential that God placed in each and every one of them.

I think you should, too. Thank you for having me. I'm happy to take questions.