

School Governance and Oversight in California: Shaping the Landscape of Equity and Adequacy

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This article examines California's system of school governance. The article's overarching concern is how state structures and policies support or constrain the capacity of schools to deliver an adequate and equal education. Specifically, I address the following questions: Who is responsible for ensuring that the state's schools have adequate resources? What means are available to determine if schools' curriculum, personnel, facilities, and instructional materials are adequate? What means exist for determining if schools are performing satisfactorily? What means exist for remedying deficiencies in schools? I argue that the irrationality, incoherence, and limited efficacy of California's increasingly state-controlled system of governance contribute substantially to create the substandard conditions in schools that are the subject of the Williams case.

In its 1999 report, *Governing America's Schools: Changing the Rules*, the National Commission for Governing America's Schools noted that "Governance arrangements establish the rules of the game. They determine through statutes, collective bargaining, legal agreements, regulations, and court rulings who is responsible and accountable for what in the system."¹ The report concludes by noting that "without good governance, good schools are the exception, not the rule." But what is good governance? It has meant different things at different times in the history of American education. Throughout most of the 19th century, it meant a system of democratic localism. During the first half of the 20th century, it meant elite control by education experts. By the mid-1960s, good governance meant access to decision making, particularly by previously disenfranchised minorities. Its meaning is again subject to redefinition as standards-based accountability, charter schools, privatized school administration, and vouchers seek again to reshape the landscape of education governance.²

The meaning of good governance takes on special significance in California, in the shadow of the state Supreme Court's *Butt*³ decision, which declared the state responsible for education even as it chooses to delegate some or all of that responsibility to districts. The state Supreme Court's

ruling in the case, in combination with its earlier rulings in *Serrano*, raises important questions about the state's exercise of its constitutional obligation to provide every child in the state with an adequate and equal education. The *Williams* case turns the spotlight directly on the state's system of governance and oversight. The presiding judge noted that "this case will deal with the management and oversight systems the State has in place to determine if they are legally adequate and whether they are being adequately implemented."⁴ What sets this case apart from other cases focusing on school finance equity and adequacy is the explicit connection between governance and educational opportunity. It is not a case about finance but about state oversight: how control and authority for education are exercised and organized legally, administratively, and politically. Governance defines the kinds of educational opportunities children have; which kinds of resources are available to them; who teaches, what is taught, and what is tested; and the values the education system conveys to students, parents, teachers, administrators, and communities. Governance very much defines the rules of the game.

Since the late 1960s, the state's role in public education has changed dramatically in California. Increased state activism has been responsible for shifting the locus of decision making from local school districts to the state. Over the past 40 years, a system of local, electoral control has been superseded by a system of centralized state control. The problem is not centralization, however, but the incoherence of the evolved system. As the state's legislative analyst points out, the change from local to central control has occurred "without any clear vision as to how the K-12 system can best foster high quality schools. As a result, the legislature and governor must make major decisions about the K-12 system without a long-term strategy." The analyst cites a district superintendent, who commented that "California has an educational system with no conceptual framework."⁵

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Data for this study is based on various sources: legal filings and submissions for the *Williams* case, legal and state policy documents, correspond-

ence, deposition transcripts, historical documents, and interviews with state officials. Data collection occurred between December 2001 and 2002.

THE STRUCTURE OF AUTHORITY

The organization of authority in California mirrors that of the federal government and other states in several important ways. Significant among them, and this is particularly true for education, is the dispersal of authority horizontally among various state agencies and vertically among levels of government. An abiding suspicion of central government is captured in the proceedings from the Constitutional Convention of 1879, which established the current constitutional basis for education in California.⁶ One of the Constitutional Convention's main objectives was to decentralize government authority by allocating responsibility among different levels of government—state, county, and city—and among various agencies. To that end, delegates transferred many of the tasks that had previously been the responsibility of the state board of education to county superintendents or county boards of supervisors. The intent of such a scheme was to prevent the aggregation (and subsequent arrogation) of power in the hands of powerful special interests.

The system of governance that has evolved in California is a complex structure consisting of multiple agencies and levels of government.

STATE EDUCATION OFFICIALS

At the state level, governance is shared among five principal actors: the governor, legislature, state board of education, the superintendent of public instruction, and the state department of education. The state board of education is directed “to study the educational conditions and needs of the state” and to “make public plans for the improvement of the administration and efficiency of the public schools of the state.”⁷ In designing the state board of education, the legislature intended to make the board the ultimate governing and policy making body for the department of education, its officers and employees.⁸ According to the board's own mission statement, it is to “create strong, effective schools that provide a wholesome learning environment through incentives that cause a high standard of student accomplishment as measured by valid, reliable accountability system.”⁹ The superintendent of public instruction is an elected constitutional officer responsible for “superintending the schools of the state”¹⁰ and for implementing board policies. The state department of education is responsible for administering and enforcing the laws pertaining to education and for the annual identification of “critical needs for which effective programs and practices are to be disseminated to schools.”¹¹

Although the California Department of Education (CDE) is the administrative agency responsible for school oversight, its capacity to oversee has seriously eroded over the past 20 years. The department's budget for 2001–2002 was roughly \$61.6 million in state general fund support, \$114.4 million in federal support, and \$26.8 million in other sources. The total, \$202.7 million, is about 0.5% of total expenditures for K–12 education.¹² If federal support did not comprise over half of state education department funding, state support for administration and oversight would be almost negligible. In constant dollars, funding for CDE operations declined by 34% between 1990–1992 and 1995–1996. On the other hand, between 1990–1991 and 2000–2001, state general fund support for education increased by 18%. Like other state agencies, the CDE is dependent on the legislature and the governor for its budget. What is most striking is the increase in federal funding—from just under \$49 million in 1990–1991 to just under \$86 million, a 76% increase in constant dollars.

The education excellence movement of the mid-1980s initiated the active engagement of governors in public education. Bill Clinton and Richard Riley were most prominent among governors to spearhead education reform in their states. No less in California, the last three governors, Deukmejian, Wilson, and Davis, have all claimed the title “education governor.” In California, one consequence of heightened gubernatorial interest in education has been the establishment of the Office of Secretary of Education by Governor Wilson in 1991. Prior governors had education advisors, but the creation of a cabinet level position indicated a new, more visible and central role for the governor in education.¹³

Besides the governor, other state agencies also exercise oversight responsibility. They include the California State Allocation Board, which is responsible for facilities financing; the Commission on Teacher Credentialing, which controls teacher and administrator certification standards and also has much to say about teacher professional development; the state architect; the department of finance, the Public Employees Relations Board; the state controller's office; the state auditor general; and the Little Hoover Commission. Clearly, there is considerable difference in the scope and nature of oversight exercised by various agencies. The authority of the California Teachers Credentialing Commission, through its authority over the teaching profession, is ongoing and broad. The authority the auditor general, on the other hand, is ad hoc and occasional.

REGIONAL AND COUNTY OFFICIALS

The state constitution requires each county to maintain a board of education. The county superintendent is required to “superintend the schools in his or her own county” and to “visit and examine each school in his or her

county at reasonable intervals to oversee its operation and learn of its problems.”¹⁴ In addition to the constitutionally defined responsibilities of the county board and superintendent, the legislature has assigned them additional responsibilities. They include responsibility for child welfare and attendance supervision; health and physical education; research, guidance, and programs for physically handicapped minors; services to small school districts; and oversight for school district fiscal accountability through the Financial Crisis Management and Assistance Team (FCMAT). Assembly Bill 139 enacted in 2001¹⁵ extends the authority of county superintendents to review district expenditures and fiscal controls when they have reason to believe that fraud or misappropriation of funds has occurred in the district. Historically, county offices of education were meant to provide technical assistance, curriculum support, and fiscal oversight to rural school districts that lacked the necessary resources to adequately undertake such activities on their own behalf.

While county superintendents are responsible for “superintending” the schools within their counties, there are no examples of county superintendents exercising that responsibility. The separation of county and district responsibility is aptly illustrated by the fact that there is no known record of county and local boards holding joint meetings. Like other education entities in the state, county offices operate within their own institutional boundaries. Anecdotal evidence points to competition and hostility between county offices and local districts. In one district, principals would not permit teachers to participate in county-sponsored professional development programs for implementing state standards. Whether this is an isolated incident or common practice is not known given the absence of systematic study.¹⁶

SCHOOL DISTRICTS

School districts are the state’s chosen means for operation of its common school system. Local boards of education are the governing body of the school district and are responsible for maintaining and administering the schools within their districts and for enforcing state laws and regulations. The local superintendent of schools administers district schools is the chief executive officer of the board of education.¹⁷

Development of the “modern” school district was rationalized on grounds of efficiency, expert leadership, and neutral (nonpolitical) professional expertise.¹⁸ Scientific management, economies of scale, and standardization of educational practices, in turn, promised efficiency, stability and predictability. Professional neutrality promised competence.¹⁹

Finally, districts were meant to create a system of democratic accountability. Local school districts developed their own budgets, established

curriculum priorities, identified areas of curricular and extracurricular emphasis, hired and fired staff, and constructed and maintained facilities. They were responsible for balancing and accommodating competing interests in their communities. As long as voters were happy with their schools, elected officials stayed in office and superintendents kept their jobs.²⁰

THE ORGANIZATION OF OVERSIGHT

The critical question regarding school governance and oversight, particularly within the context of the *Williams* case is whether existing state structures and policies support or constrain the capacity of schools to provide all students with adequate and substantially equal educational services. One of the ways in which responsibility is allocated is by assigning responsibility for service delivery, administration, and oversight to various levels of government. The previous section discussed the distribution of authority for oversight both vertically and horizontally among different agencies. Another way is for the state to promulgate policies and programs to monitor school performance and provide remediation when it is needed.²¹ This section discusses various state and federal oversight mechanisms purportedly to monitor school performance, identify inadequacies, and remedy deficiencies.

COORDINATED COMPLIANCE REVIEW (CCR)

The purpose of the CCR was to simplify and coordinate state and federally mandated compliance monitoring of categorically funded programs and “simultaneously to maintain a commitment to students with special needs.”²² Its principal goals were to reduce compliance monitoring by the state; encourage local responsibility for program quality through self-reviews; ensure eligible students were provided with the district’s core curriculum; and provide technical assistance to schools and districts to prevent and resolve non-compliance problems. Schools are on a four-year review cycle and are given one year in which to conduct the review. In most instances, a school’s self-review is considered sufficient by the state department of education. However, in some instances schools are selected for site visits by state review teams.

According to the CDE, reviews are meant to assure that all students receive a common, basic education. In practice, however, reviews tend to fall short of their intended goals. They do so for several reasons. The most obvious is its narrow focus on state and federal program regulations—regulations that often focus on regulatory minutiae, but miss larger issues of program quality.²³ One middle school, for instance, was cited for noncompliance with

Title IX regulations because the student council comprised too many females and the school did not show evidence of sufficient staff training for Title IX compliance. Another school was cited because the telephone number of the Title IX coordinator was not posted on the sexual harassment policy though the policy itself was prominently displayed. Other districts were cited because they did not develop adequate uniform complaint procedures, and one district was cited for not listing class times on its adult education promotional materials, from which state reviewers concluded that “not all classes were open to the public.”²⁴

In other instances, CCRs did point to potentially serious issues, such as one school district’s excessive use of substitutes, weaknesses in curriculum and instruction, and lack of district standards.²⁵ At one school, reviewers found no evidence of ongoing evaluation of Title I programs, as required. Other schools were found non-compliant for failing to assess English learners in a timely manner. Reviewers also found “insufficient numbers of ELD materials available to for teachers to have effective ELD programs.”²⁶ And, most significantly, “the district has limited central organization for monitoring school implementation patterns for Master Plan programs . . . it has a limited system in place to analyze the results of implementation or student progress to identify needs and take action for improvement.”²⁷

In the litany of noncompliance issues, some are trivial while others are serious. However, according to the manager of the compliance unit, there is not coordinated and consistent follow-up to correct problems. It is a fragmented process. Within the state department of education, there are several units responsible for various aspects of the CCR process.²⁸ At the local level, responsibility for reviews is shared between schools and districts. In cases of noncompliance, districts are notified and given forty-five days to correct the problem. If there is not action, the period for correction is extended to an entire academic year. There are instances in which schools have been non-compliant for as many as ten years without sanctions or corrective action being imposed on them. In the long run, the quality of oversight that CCR provides is both inconsistent and feckless. The efficacy of CCR appears to depend mostly on school and district variables—how seriously teachers and administrators regard the review and how much they care about program quality.

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM (FCMAT)

FCMAT was created by the legislature in 1991 in response to a fiscal debacle in a large urban district. It was established and is organized to provide fiscal management assistance at the request of a district or county superintendent. The legislation has been modified to authorize county superintendents to conduct fiscal audits of districts in jeopardy of insolvency. FCMAT reviews

are not limited to just district balance sheets. They also evaluated the adequacy of facilities, school management, and even instructional programs. However, its focus is primarily on issues of management, not teaching and learning.

While FCMAT seems to be good at identifying problems, it shares with other oversight mechanisms its limited scope (by legislative design) and its lack of ongoing engagement once the report is completed. One urban school district's review resulted in all but one high school receiving a grade of "F" (the other received a "D"). Yet there is not evidence that the state or anyone else took remedial action on the items noted in the review. While FCMAT is quite thorough in its district audits, its scope of authority is narrow. It was created by the legislature for a specific purpose and has no authority to exceed its charge. While a district audit may reveal serious education problems in the district, there are not means of elevating such concerns to trigger further investigation or action.

THE PUBLIC SCHOOLS ACCOUNTABILITY ACT (PSAA)

Immediately after his election in 1998, California's Governor Gray Davis called for a special legislative session in January of 1999 expressly for the purpose of enacting a state accountability system for K-12 education. In a matter of weeks, the legislature created an entirely new school accountability scheme for implementation the following September. In enacting the measure, the legislature noted that "it is in the interest of the people and this state to assure that each child receives a high quality education consistent with state-wide content and performance standards . . . and with a meaningful assessment system and reporting program requirements."

The resulting PSAA contains three principal provisions. One is a single-number score for each school, its Academic Performance Index (API). The API was to be based on number of factors, but in the rush to implement the program and in the absence of other measures, it is determined by student scores on statewide assessments. The assessment instrument was initially a standardized test (the Stanford Achievement Test, or more commonly the SAT-9). Beginning 2003, the API will be based on scores of a new standardized test and a norm-reference test based on state standards. PSAA's second component is the Higher Performing/Improving Schools Program that awards monetary bonuses to schools and staff for meeting or exceeding API growth targets. Finally, the Immediate Intervention/Underperforming Schools Program (II/USP) establishes an intervention program for schools failing meet growth targets. Schools in this so-called "underperforming" group receive money for planning and implementing initiatives for improvement. If they fail to improve, they are subject to various forms of intervention or sanction, including state takeover. Subsequently, the legis-

lature created the High Priority Schools Grant Program for Low-Performing Schools (HPGP),²⁹ which appropriated additional funds to the lowest performing schools.

Participation in the II/USP and HPGP is voluntary. In 1999–2000, out of more than 4,000 schools, 1,419 eligible schools applied for the program, and 430 were funded. In 2000–2001, funding was again limited to 430 schools, although 532 eligible schools applied. Participating schools receive additional funding (\$200 per student of II/USP and \$400 per student for HPGP) for at least, but possibly for as many as six years for HPGP schools. The program also provides money for external evaluators to provide technical assistance to participating schools.

As a means of oversight, API has serious limitations. Important among them is that it tells state and local decision makers very little about problems in schools. Like its predecessor, the California Assessment Program (CAP), it is a snapshot, and, like CAP, it has a disheartening predictability regarding test results. A school's test scores can be predicted by knowing the previous years' scores or by a school's demographic and socio-economic indicators. The API cannot tell schools how to improve teaching and learning or where weaknesses in programs may exist. No mechanisms exist to provide feedback to teachers, administrators, or policy makers in the state capital about why some schools do poorly. API shows which schools are failing and which are doing well.

Moreover, the meaning of success or failure is quite pinched. Besides a students' score on a test, what other indicators might be important. How many children in a school are in the course pipeline that qualifies them for admission to a University of California campus might be an important indicator. How many high schools' college preparatory classes have university certification? The list could go on, but the point is that the quality of a school and its instructional programs is encompassed by more than a single number based on test scores. That is not to say that test results are unimportant. They are. But, it depends how that information is used. What does it mean, for instance, if a school increases its API score by 20 or 30 points from one year to the next (besides teachers receiving large bonuses)? It is doubtful that anyone in the state really knows.

The putative connection between API and school improvement is that the index may trigger a series of interventions in schools and ultimately the possibility of sanctions. As noted earlier, however, only a fraction of schools eligible participate in the improvement program. Little is known about nonparticipating schools. Schools that do participate are given additional funds and work with an external evaluator who helps them design a program for improvement. An evaluation of the schools' so-called Quality Action Plans reveals a discouraging picture.³⁰ According to the evaluation, plans tend to focus on changing teaching practices and increasing APIs with

“little or no attention on the more general goal of improving actual student learning.”³¹ More important, plans “uniformly lacked an explicit strategic model for school reform and for evaluation of the school reform plan. The majority of plans seem to be a patchwork of disconnected strategies lacking a cohesive framework.”³² The study also found that school evaluators tended to rely on “off-the-shelf” programs for school actions plans. However, “the greatest concern was that plans did not provide a rationale why a packaged program (a specific reading program, for instance) was selected or how the selected program would meet the specific needs of the students. Program selection often appeared to reflect mostly convenience or familiarity.”³³ Plans also tended to rely on changing teacher practices, but made no provision or mention of professional development. State content standards were addressed marginally. And, finally, plans showed little evidence of needs assessment.

As other school oversight mechanisms, II/USP does not connect to a comprehensive system about schools. School improvement plans are either implemented or they are not. There is no monitoring of the plans and what schools do with them. When schools submit plans to the state, the CDE simply determines if the applications meets certain minimum specifications. The overall quality of the plans is not considered and is not a factor in determining plan approval. Finally, there is no follow-up on implementation. How schools implemented plans and whether they succeeded or not are unknown. The only measure of success is whether API scores increased. API scores, however, are flimsy indicators of school improvement, which depends upon a number of organizational and demographic variables.

SCHOOL ACCOUNTABILITY REPORT CARD

The school accountability report card is an extension of the statewide school accountability act. Its purpose is to “provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.”³⁴ The measure states its intention to “Ease the burden on schools of collecting and reporting data,” before proceeding to list a mind-numbing number of items the report must include. Among them are the results of mandated student assessments which must be reported by grade-level for “reading, writing, arithmetic and other academic goals.” For high schools, the report must include student Scholastic Aptitude Test (SAT) scores, progress toward reducing dropout rates, as well as progress toward reducing class size, teaching loads, including the distribution of class sizes at the school site by grade level; the number of fully credentialed teachers and the assignment of teachers outside their subject areas; the quality and currency of textbooks and other instructional materials; the availability of qualified substitutes; the

adequacy of teachers evaluation and professional development; safety, adequacy, and cleanliness of school facilities; classroom discipline and climate for learning; quality of school instruction and leadership; degree to which pupils are prepared to enter the workforce; the total number of instructional minutes offered in the school year for each grade level; the number of advanced placement courses; and various other indicators. In addition, schools are required to provide three-year averages for all these indicators.

While some of the information generated by the school report card is important, it is not entirely obvious what its intended users will be able to make of this information or how they will be able to act on it. Some of the indicators such as those measuring climate and leadership are highly subjective. Others simply provide an overwhelming amount of information that has little or no real use. What, for instance, is one to make of the availability of substitutes for the past three years? Are more instructional minutes per year thought to be a good thing, or does it depend on how those instructional minutes are used? The law assumes that once parents have all the information in hand, they will be able to make rational choices regarding which school their children should attend. Is it likely that parents would move to another community where test scores are reported to be higher, there is greater availability of qualified substitutes, the quality of instruction and leadership is higher (however that may be assessed), or more instructional minutes are offered?

The report card places a huge reporting burden on schools. For example, how are schools to know what the availability of qualified substitutes within a, say, thirty-mile radius might be? Should they survey the community? Ask people within a certain area who hold valid teaching credentials and are available to work as substitute teachers to register with the school? It also shifts the burden of oversight to parents. Since parents are armed with these voluminous reports, they then can make the choice of enrolling their children in schools with better report cards. Among the numerous faults in the logic and implementation of such a school report card is that, on average, schools with the "best" indicators are those that serve high-socioeconomic-status students. Those parents probably already have choices they can exercise among public, charter, or private schools. Parents with children in the worst performing schools have few such options.

The point is not that school report cards are a bad idea, but that there is no evidence that the state uses the data in a way that helps problem schools improve. There is evidence, mostly anecdotal, that districts issue a set of common responses for schools to fill in for their report cards. In general, the school report card shifts the burden for oversight from the state to parents. The mandate's underlying premise is that major problems, such as those alleged by plaintiffs in the *Williams* case,³⁵ can be solved by shining a spotlight on them.³⁶

HIGH SCHOOL EXIT EXAMINATION (HSEE)

Beginning with the class of 2004, all students must pass an English language and mathematics arts section of the newly created HSEE to receive a high school diploma. The purpose of the HSEE is to “ensure that students who graduate from high school can demonstrate grade-level competency in the state content standards for reading, writing, and mathematics.”³⁷ Since January 2000, the CDE has worked with a development contractor, the American Institute for Research (AIR) to develop and try out test questions for use in the HSEE. Ninth graders were tested on a voluntary basis in the spring of 2001. Students who passed the exam will not have to take it again. Students who do not pass the HSEE have eight more opportunities to take the exam beginning in the spring of the tenth grade.

Legislation specifying requirements for the test also called for an independent evaluation of HSEE. The subsequent evaluation, conducted by Human Resources Research Organization (HumROO), was issued in June 2000. The evaluation had several significant conclusions. In general, evaluators found substantial progress toward development of test items. However, the report also cautioned policy makers not to implement the test prematurely. One of the major difficulties in the test was the low alignment between test items and the current curriculum. The principals’ survey found that most principals believed that if the test were implemented according to schedule, there would be a high failure rate because students did not have time to prepare for the test.³⁸

Those and other concerns related to implementation of HSEE are stressed in a letter from State Superintendent of Instruction Delaine Eastin to Governor Gray Davis.³⁹ She writes that the governor’s signing of SB 1353 requires all high school students to take algebra to graduate. She notes, albeit obliquely, that implementing the requirement will take considerable effort in terms of teacher training, staff development, and remediation. More serious problems, she notes, are those uncovered by the HumROO evaluation. Most significant among them is that tenth grade students “often have not been taught the mathematics and English content that is likely to be on the test.”⁴⁰ The superintendent concludes by emphasizing that “despite the best efforts of CDE, serious, fundamental, legal issues surrounding the development of the test in California require your (the Governor’s) attention.”⁴¹

Similar to other policy initiatives of the past five years, HSEE was rushed to implementation in spite of the fact that little was known about its potential effects or how it would align with other high-stakes tests. The misalignment of testing becomes even more problematic in view of the PSAA. Should teachers teach to increase the school’s API, or should they teach to the state content standards and help students pass the exit exam?

It is doubtful that either HSEE or PSAA is likely to have much effect on fixing the problems that ail California's schools. Inadequately staffed schools, noncredentialed teachers, inadequate and outdated textbooks and instructional equipment, and crumbling facilities are not addressed by any of these state initiatives.

THE POLITICAL CONTEXT FOR K-12 EDUCATION GOVERNANCE

Historically, responsibility for provision of education services in California, as in most states, was broadly delegated to local school districts. Created as legal entities, school districts were authorized to levy taxes, enter into contracts, and enforce state law as it applies to the operation of schools. Accountability for education was synonymous with political accountability. School board members answered to local electorates. If a community was unhappy with its schools, it could elect a new board, which then might replace the existing school superintendent. The scope and quality of educational services in a district was determined primarily by local preferences for education and the capacity to pay for them.⁴²

While local districts were given broad authority to determine the basket of education goods in their communities, the state controlled districts through several means. The most basic of these were minimum standards below which different kinds of school operations could not fall. Based on the rationale that "the general welfare requires a basic educational opportunity for all children," the state justified requiring pupils to attend schools a minimum numbers of minutes each day for a minimum number of days per year. The state also specified what courses were to be taught and the kind of training teachers needed to teach them. The state required districts to levy a certain level of tax and to pay its teachers a minimum salary.

Even in times of perceived national crisis, state and federal officials were reluctant to interfere with local authority. The national response to the threat of Russian scientific superiority, the National Defense Education Act, was very careful not to intrude into local territory. Oversight activities tended to take the form of capacity building—professional development and technical support. State intrusion into local matters, particularly as they related to teaching and learning was relatively unknown, especially in California. The concept of local, political control based on the idea that school districts reflected community preferences for education within the context of state imposed minimum standards was the foundation on which state oversight and accountability rested.

Beginning in the late 1960s, a series of state and federal policy actions, voter initiatives, and court decisions eroded the long-standing tradition of local control and dispersed authority among multiple agencies and levels of

government. The cumulative effect of these events was twofold. They either limited local discretion—through legal empowerment of parents, students, or teachers, for example—or superseded local decision making with state and federal decision making. On the one hand, authority dispersed among various interests, while on the other, it shifted to higher, more remote reaches of government. *Centralization* of authority, however, did not lead to *concentration* of authority. Rather than integrating authority, policy makers dispersed authority across large numbers of programs and agencies.

Currently, there are separate governing boards for the state university and community colleges. Teacher licensing and certification is under its own commission. Since Bill Honig's tenure as Superintendent of Public Instruction, the State Board of Education has been at war with the Superintendent. As governors have come to compete with the superintendent for control over public education, the power of the state board has risen at the expense of the superintendent's. The second effect of state policy activism has been the attenuation of local authority and diminution of local capacity to deliver educational services. Collective bargaining, the increasing share of categorical funding relative to block-grant funding, and increasing legislative directives to districts not only placed severe limitations on local discretion but also made local decision making vastly more complicated and expensive. Authority was not only dispersed at the local level but also among other actors such as the courts and the California Public Employees Relations Board.

The major changes in school governance and their impact—individually and cumulatively—on the organizational capacity of schools are discussed below.

THE *SERRANO* DECISION

Prior to 1979, state law set a base rate of property taxation to support public education. Voters in local districts could increase the rate if they wished to provide additional funding. However, large variations among communities in property wealth (measured by assessed valuation) meant that the amount of revenue raised for a given tax rate also varied considerably. As a result, low-wealth districts had to tax themselves at higher rates than wealthier districts in order to generate the same amount of revenue. The *Serrano* case challenged the constitutionality of the existing school finance system on equal protection grounds. The court agreed and directed the legislature to equalize funding among districts.

PROPOSITION 13

This constitutional amendment passed by voters in 1978 rolled back property taxes by 60%, limited the property tax rate to 1% of the assessed value,

and held annual property tax increases to 2%. Any new taxes had to be approved by two-thirds of the voters. (This last provision was modified in 2001 when the state's voters approved an initiative that reduced the required voting majority to 55% for local bond elections but retained the two-thirds majority for general tax increases.) Its impact was to create a state school finance system. Combined with the limitations imposed on districts by *Serrano*, district capacity to generate funds for education is now, for all practical purposes, nonexistent. According to the legislative analyst, Proposition 13 eroded local authority and capacity in several ways. It shifted leadership to the state. Both funding and policy decisions about education became the responsibility of the state. Local officials no longer turned to their local communities for support (and no longer did local communities hold local officials accountable for results) as most decisions shifted to Sacramento.

PROPOSITION 98

Passed by voters in 1988, it assigned to K-12 and community colleges a constitutionally protected portion of the state budget by guaranteeing a minimum level of funding. The measure's intent was to provide stability and predictability in K-12 and community college funding from year to year. While it has provided a guaranteed base, it has also become a ceiling for K-12 and community college funding. Perhaps its greatest impact has been to use the state budget as a policy tool. Policy makers do not know how much money will be available for the following year's budget until the so-called May revise, which is used to estimate available revenues. Because 40 percent of general revenues must go to K-12 and community colleges, there is a last-minute scramble to spend available money. In good years, this can be a sizeable amount. Legislators and governors have shown increasing reluctance at allocating new moneys to fund general revenue increases to schools. Some fear that general fund dollars will be spent for teacher salary increases rather than state reform priorities. Others want to target funds to high visibility programs. The latter has become all the more common since term limits as legislators need to be associated with high-profile measures to run for their next elective position. Consequently, rather than putting the money into general revenues for schools, legislators increasingly targeted funds for specific programs, further increasing the number of categorical programs and thereby further eroding local budgetary control. While such decisions may have significant impact on schools, there is little public discussion about them. They are generally last minute deals made by the governor and legislative leaders.

COLLECTIVE BARGAINING

The legislature authorized collective bargaining for school employees in 1976. Collective bargaining greatly expanded teacher unions' rights to negotiate binding contracts with districts on a variety of matters. They include "wages, hours, and other terms and conditions of employment," such as employee benefits, teacher transfer policies, maximum class sizes, and evaluation procedures. According to the California Commission for Educational Quality, California already had statutes in place regulating various employment-related matters, such as state requirements for teacher tenure and dismissal, layoff notification, and maximum class size. These mandates were not eliminated when collective bargaining was enacted. Instead, existing statutes created a floor for the beginning of bargaining in districts. Moreover, the law's original provisions related to terms of employment and working conditions have expanded through appeals processes and new laws so that its scope now covers many more topics. Collective bargaining contracts now typically cover a wide range of issues, most of which affect local capacity for service delivery. Issues related to compensation include cost-of-living adjustments, salary schedules, pay for specific duties, minimum teacher salaries, mentor teacher selection process, tuition reimbursement, and travel expenses. Other areas covered by collective bargaining include benefits; hours and days of work; leaves; early retirement and retirement benefits; job assignment; evaluation procedures and remediation; grievance procedures, appeal process, mediation, and arbitration; discipline procedures and criteria; layoff and reemployment procedures; organization security; and a variety of other topics.⁴³

In its review of West Contra Costa Unified School District in July, 2001 the state-appointed Fiscal Crisis and Management Assistance Team concluded that collective bargaining practices (along with the district's organizational structure) were serious impediments to student achievement. The study determined that

In its current state, the Contractual Agreement Between [sic] the West Contra Costa Unified School District and the United Teachers of Richmond appears to constrain the district's ability to foster pupil achievement. Professional development, personnel evaluations, staff collaboration time, the length of the workday—each of these areas is covered by collective bargaining agreement and shows evidence of hampering the common district goal to increase students' academic performance.⁴⁴

According to the University of California's Policy Analysis for California Education (PACE), "Local teacher bargaining contracts centralized decision

authority within districts, but also dispersed authority to legislatures, the courts, and public administrative agencies like the California Public Employee Relations Board.”⁴⁵ For districts, collective bargaining means that they share power with unions over a wide range of decisions that affect district educational policies and the distribution of district resources.

CATEGORICAL FUNDING

Traditionally, the principal form of state subvention to schools was through unrestricted, block grant funding. This meant that local boards had considerable discretion over the use of state funds. Over the past 15 years, and especially in the last ten, the legislature has shifted an increasingly larger share of state monies into categorical grants. These are restricted funds that may only be used for special purposes. In 1980, approximately 13% of all state subventions to school districts were restricted, and most of that was for three programs: special education, Title I, and Economic Impact Aid. In that year also, there were 19 categorically funded programs. In the 2001–2002 budget, there are over 100 categorically funded programs. Such funding is approaching 35% of general fund subventions to districts.

Categorical funding affects school districts in very specific ways. It has placed greater restrictions on districts regarding the use of state funds.⁴⁶ It also means that as the share of categorical funding increases, education finance becomes increasingly supply driven: expenditures are not necessarily based on local needs but by the availability of state funds. Categorical funding, moreover, usually comes with a list of programmatic and reporting requirements. Detailed proscriptions about parent advisory committees (many schools have four or five), reporting requirements, and fund expenditures have resulted in legislative micromanagement of districts through funding.⁴⁷

More generally and more insidiously, the rise of categorical programs has Balkanized schools and school districts. The proliferation of categorical funding has turned schools into collections of programs instead of coherent organizations. As the Coordinated Compliance Reviews conducted by the state education department show, schools and the state are mostly concerned with fairly narrow compliance issues while they may overlook the health of the organization as a whole. They also tend to encourage strict regulatory compliance over professional judgment and replace school goals with narrow programmatic goals.⁴⁸

INCREASING LEGISLATIVE INTERVENTION

For the past two decades, the legislature has routinely enacted literally hundreds of measures dealing with K–12 education. However, the pace of

legislative activity has intensified over the past six to seven years. PACE notes that not only were initiatives of the past seven years “unprecedented in terms of the consensus they represented among an otherwise divisive body,”⁴⁹ but also indicated an unusual level of intervention and top-down control by state-elected officials in the affairs of curriculum policy.⁵⁰

Some analysts have described the 1990s as “a tumultuous decade for public education in California.”⁵¹ Over the course of the decade, teachers and local school officials have had to manage education programs while attempting to respond to an outpouring of new legislative initiatives. As analysts point out, the state has introduced numerous major new reforms and programs, some aligned to larger goals while others are not.⁵² The major thrust of these reforms has been under the heading of “standards-based reform,” most of which, though not all, have been introduced since 1995. The theory of standards-based reform is that the state adopt curriculum standards which, in turn, align with curriculum frameworks; student assessments; school accountability; and teacher training, professional development, compensation, and evaluation. The state is now on its third state assessment instrument in just over ten years.

Over the past five years, schools have been flooded with new programs and mandates. The state now bans social promotion and requires schools to provide remedial instruction for students during the summer. Students must pass a high school exit exam in order to receive a diploma. The state board of education requires all students to take algebra in the eighth grade. These requirements come on top of class size reductions, high-stakes accountability, and increasing restrictions in funding. At the same time, the demographic context of education is changing rapidly: the student population is becoming more diverse, many students are not proficient in English, and some districts face acute teacher and administrator shortages.

While some individuals are critical of the substance of legislative initiatives, others are critical of the legislative process. Increasingly, major decisions about education are the products of last-minute deals made by a handful of people during budget negotiations. For instance, the Class Size Reduction Program enacted in 1996 to reduce class size in kindergarten and Grades 1 to 3 to not more than twenty pupils per teacher was introduced and passed into law in one day.⁵³ The statute appropriated \$1.5 billion to school districts that participated in the program in the 1997–1998 school year. It proved to be a politically popular measure. Schools liked it because it provided them \$800 in per pupil funding for participating grades. The public and teachers liked it because it reduced class size from an average of thirty to twenty students. Class size reduction also created a demand for large numbers of new teachers. Since many districts were already having difficulties in staffing classes with credentialed teachers, the measure exacerbated the problem in those districts.

LEGISLATIVE TERM LIMITS

In 1990, California voters approved Proposition 140, a statewide initiative mandating term limits for legislative members. The initiative's intent aimed to reverse the domination of the legislature by "professional" politicians. The impact of term limits has been to decimate expertise within the legislature and to create what legislative insiders call a culture of self-promotion. Prior to term limits, there was a tendency within the legislature for members to specialize and develop expertise in specific areas. Leroy Greene, for instance, was an expert in state policies related to school facilities. While some members were advocates for special interests, others developed considerable policy expertise in specific areas. Their ability to do so was based on their longevity in the legislature and the expertise of legislative staff. Prior to term limits, committee members in the legislature were generally regarded as "protected" from changes in committee membership. The recent trend, however, has been for committee members to bring in their own staff who most often have little or no policy expertise or experience.

INSTITUTIONAL STRUCTURES IN THE LEGISLATURE

Most legislatures have developed various institutional mechanisms to discipline and control the legislative process on the one hand and to provide expertise on the other. Committees, caucuses, procedural rules, and omnibus bills are internal, organizational mechanisms to exert control over the legislative process. Committee staff, the Legislative Analyst's Office, the Legislative Council, and the Senate and Assembly offices of research are means of enhancing the expertise and quality of legislative decision making.⁵⁴ In addition to imposing term limits, Proposition 140 in 1990 also mandated reductions in legislative expenditures by roughly 40%. The legislature implemented the measure by significantly downsizing its policy-making infrastructure. Many long-time consultants were given "golden handshakes" while others were laid off. The Legislative Analyst and research offices, which traditionally played important roles in the legislative process, were significantly affected. As the legislative agenda becomes more complex, expertise has diminished.

The loss of institutional infrastructure within the legislature has resulted in a significant diminution of expertise. Prior to the 1990s, there was an oversight process within the legislature. Long-term staff and members of the legislature could exercise some control over the policy process and, thereby, the quality of policy. They could, for instance, call attention to measures that undermined or contradicted existing ones. However, evidence for the impact of changes in legislative processes since 1990 is mostly

anecdotal. In the absence of systematic study, it is difficult to draw very firm conclusions about the long-term impact of Proposition 140 on the legislative process.

RETHINKING STATE GOVERNANCE AND OVERSIGHT

Over the past thirty years, the state role in education has evolved from the “sick old man of the federal system” to having unprecedented and increasing influence over public school classrooms.⁵⁵ The publication of *A Nation at Risk* in the early 1980s catalyzed a new state role in education reform. With increased state activism in policy came a new regulatory framework that would, presumably, connect state policy intentions to school and student outcomes.⁵⁶

However, as the discussion in this paper has shown, thirty-some years of education reform in California have not created a school governance system that is rational, coherent, or functional. Under present circumstances, it would be difficult to operationalize the California Supreme Court’s decision in the *Butt* case, which places responsibility for education squarely in the state’s lap. Within the current governance system, it is impossible to know just who the “state” is. The diffusion of responsibility among various state actors and the lack of coordination among them make oversight both everyone’s and no one’s responsibility. The trajectory of oversight over the past thirty years has been toward more state regulation, limiting local autonomy and enmeshing schools in an increasing web of regulations, reporting requirements, and testing. Governance and oversight are in danger of becoming a massive paper chase with detailed reports that few will have the time or inclination to read.⁵⁷

The tendency for California policy makers over the past forty or so years has been to add new programs and policies to attack various problems or respond to various political pressures. As problems multiplied and political pressure increased, so did programs. The impact on schools has been to load them down with a good deal of regulatory baggage that covers everything from voluminous reporting requirements—some, as noted, impossible to reasonably complete—to minutely prescriptive regulations that leave few details in the quotidian of schooling untouched. Schools must deal with the inclusion of children with learning and physical disabilities in classrooms; non- or limited-English-speaking students, sometimes as many as a dozen languages in one school; accountability requirements; collective bargaining; an unstable and unpredictable school finance system; and major demographic changes. Any one of these would present a serious challenge to most state and local officials. In the aggregate, they are overwhelming.

Tinkering at the edges of governance and oversight is not likely to be productive. More of what Larry Cuban calls “reform by remote control” is not likely to make the problems detailed in *Williams* disappear. What is needed is a fundamental reassessment and reconstruction of the institutional framework in which schools operate. For oversight mechanisms to be successful, they must connect logically to organizational capacity building and transformation. What is needed is not more oversight or more regulation, but a new system of networked obligations.⁵⁸ Such a system could be built on a functional, conceptual framework that recognizes the school as the organizational unit responsive for service delivery. To deliver high-quality services, schools require resources—financial, human, and material—and the autonomy to convert those resources into student outcomes. Building on that conceptual framework, policy makers need to build an institutional infrastructure to support schools. Building outward from the school then raises questions about the most effective oversight structure for schools. Should it be districts, cities, counties, or some new entity? The state role also needs to be clarified. Logically, and in view of the state’s constitutional responsibility, the state should be responsible for monitoring access and educational quality, technical assistance, policy development and planning, and evaluation.

The failure of policy makers to effect improvement in low-performing schools is not because they did not hit upon the right policy or combination of policies. As some researchers suggest, some problems associated with low-performing schools are beyond the reach of policy. Instead of focusing on policies, policymakers need to think about institutional redesign. How should roles and responsibilities be allocated within a system of state-local education and what kind of institutional infrastructure best supports such a system.

The conditions of education in California that are detailed in plaintiff’s arguments in the *Williams* brief and more recently in Peter Schrag’s book *Final Test*⁵⁹ are shocking. They are all the more shocking in view of California’s position as the fifth largest economy in the world. It is difficult to imagine that such conditions would be tolerated, let alone implicitly condoned, in other developed nations. These conditions will not be easily changed without tearing down the existing system and rebuilding it from the schools up.

Notes

1 National Commission on Governing America’s Schools, *Governing America’s Schools: Changing the Rules* (Denver, CO: Education Commission of the States, November 1999). More generally, see The Twentieth Century/Danforth Foundation, *Facing the Challenge: The Report of the Twentieth Century Fund Task Force on School Governance* (with a background paper by J. Danzger) (New York: Twentieth Century Fund Press, 1992).

2 T. Timar and D. Tyack, "The Invisible Hand of Ideology: Perspectives from History on School Governance," *Governing America's Schools* (Denver, CO: Education Commission of the States, 1999).

3 *Butt v. State*, 4 Cal. 4th 668 (1992).

4 Order on State Demurrer, *Williams v. State of California*, November 14, 2000.

5 Legislative Analyst's Office. *K-12 Master Plan: Starting the Process* (Sacramento, CA: November 2000, p. 4).

6 One member proposed that "There shall be no Legislature convened from and after the adoption of this Constitution . . . and any person who shall be guilty of suggesting that a Legislature shall be held, shall be punished as a felon without benefit of clergy." N. Sargent "The California Constitutional Convention of 1978-1979," *California Law Review*, 6 (1917): 12. See also H. Scheiber, "Race, Radicalism, and Reform: Historical Perspectives on the 1879 California Constitution," in *Hastings Constitutional Law Quarterly* 17, no. 1 (1989); C. Swisher, *Motivation and Political Technique in the California Constitutional Convention 1878-79* (Pomona, CA: Claremont College, 1930).

7 *California Education Code* § 33032.

8 41 Opinion Attorney General 105 (Sacramento, CA: Office of the State Attorney General, 1963).

9 State Board of Education 1998.

10 *California Education Code* 33112.

11 *California Education Code* § 33321.

12 Data obtained from the CDE Budget Office. According to the Legislative Analyst's Office (personal communication), the 2001-2002 budget figures for the CDE are roughly \$120 million in general fund support and \$97 million in federal support.

13 Until the mid-1960s, the superintendent of public instruction was a member of the governor's executive cabinet.

14 *California Education Code* § 1240.

15 FCMAT was created by AB 1200 in 1991 in response to the financial debacle created by the Richmond Unified School District, which was the subject of the *Butt* decision.

16 The only known study of county superintendents in recent memory is a study conducted by the legislative analyst in 1971. It identified a number of issues related to the role of county offices of education for oversight and support. The study found little evidence to justify the existence of county offices of education and recommended their abolition in favor of regional education districts. See Office of the Legislative Analyst (Richard Brandsma), *The Intermediate Unit in California's Education Structure: A Study of the County Superintendent of Schools* (Sacramento, CA: Office of the Legislative Analyst, January 1971).

17 *California Education Code* provisions for school districts are contained in § 35000.

18 D. Tyack and E. Hansot, *Managers of Virtue* (New York: Basic Books, 1982). E. Cubberley, *Public Education in the United States: A Study and Interpretations of American History* (Boston: Houghton-Mifflin, 1934); R. Callahan *Education and the Cult of Efficiency: A Study of the Social Forces That Have Shaped the Administration of Public Schools* (Chicago: University of Chicago Press, 1962).

19 D. Tyack and E. Hansot, op cit.; F. Wirt and M. Kirst *Political and Social Foundations of Education* (Richmond, CA: McCutchan, 2000).

20 See, for instance, F. Lutz and L. Iannaccone (1978).

21 D. Cohen and J. Spillane. "Policy and Practice: The Relations between Governance and Instruction," *Review of Research in Education* 18, (1992): 3-49.

22 California Department of Education. *Coordinated Compliance Review Training Guide* (Sacramento, CA: California Department of Education, 2000-2001, p. 1).

23 Deposition of Eleanor M. Clark-Thomas. *Williams v. State of California*. Vol. 1 (April 5, 2001): 1-288.

24 California Department of Education. *Coordinated Compliance Review: Summary of Findings 1999–2000* (Los Angeles: Los Angeles Unified School District, p. 5).

25 California Department of Education. *Coordinated Compliance Review: Summary of Findings 1999–2000* (Oakland, CA: Oakland Unified School District).

26 California Department of Education. *Coordinated Compliance Review: Summary of Findings 1999–2000* (Los Angeles: Los Angeles Unified School District, p. 12).

27 California Department of Education. *Coordinated Compliance Review: Summary of Findings 1999–2000* (Los Angeles: Los Angeles Unified School District, p. 12).

28 See Deposition of Dr. Clark-Thomas, op. cit., especially pages 98–105.

29 Chapter 749, *Statutes of 2001* (Assembly Bill 961, 2001).

30 Katherine McKnight and Lee Sechrest, *Evaluation of the Quality Action Plans Evaluation* (Tucson: Group for the Analysis of Data, March 2001).

31 *ibid.*

32 *ibid.*

33 *ibid.*

34 CAL. ED. CODE § 33126.

35 See also Peter Schrag, *Final Test* (New York: The New Press, 2003).

36 For a thorough discussion of the role of school-level information and parent involvement, see J. Rodgers, “Creating a Public Accountability for California Schools” in this volume.

37 *California Education Code*, Ch. 8, § 60850.

38 L. Wise et al. *High School Examination (HSEE): Supplemental Year 1 Evaluation Report* (Contract Number 9234). (Sacramento: California Department of Education, August 25, 2000).

39 October 11, 2000.

40 *ibid.*

41 *ibid.*

42 C. M. Tiebout. “A Pure Theory of Local Expenditures,” *Journal of Political Economy* 64, no. 5; also J. E. Sonstelie, J. E. Brunner, and K. Ardon, *For Better or for Worse? School Finance Reform in California* (San Francisco, CA: Public Policy Institute of California, 2000).

43 The University of California’s (formerly A through F) A through G Requirements specify the course high school students must take to be eligible for admission.

44 EdSource. *Current Policy Readings: K–12 School Reform in California*. (Palo Alto, CA: 2000).

45 Fiscal Crisis Management Assistance Team. *West Contra Costa Unified School District Assessment and Improvement Plan* (Office of the Kern County Superintendent of Schools, July 2001).

46 PACE, op. cit. p. 81.

47 Even as the state faces its largest budget deficit ever, a number of schools have significant amounts of unspent categorical funds simply because they do not know how to spend them. In constant dollars, school districts in 2000 received on average \$940 less in unrestricted funds than they received in 1984.

48 J. Spillane. “Districts Matter: Local Educational Authorities and State Instructional Policy. *Education Policy* 10 no. 1 (1996); B. Fuller and J. Izu. “Explaining School Cohesion: What Shapes the Organizational Beliefs of Teachers.” *American Journal of Education* 9 no. 4 (501–535).

49 PACE op. cit. p. 83.

50 California statute specifies that reading must be taught by means of phonics.

51 EdSource, op. cit.

52 EdSource op. cit. p. 2.

53 SB 1777, O’Connell (Chapter 163, *Statutes of 1996*). An earlier version of the same measure was contained in SB 1414, Greene. However, the latter became a measure to facilities to assist school districts with facilities-related costs associated with class size reduction in K–3.

54 See, for instance, Carol Weiss, *Organizations for Policy Analysis* (Newbury Park, CA: Sage, 1992).

55 See J. Murphy, "The Paradox of State Government Reform" in M. McLaughlin, ed. *Educational Policymaking, 1978 Yearbook for the Society for the Study of Education*. (Chicago: University of Chicago Press, 1978); also J. Murphy, *State Education Agencies and Discretionary Funds: Grease the Squeaky Wheel* (Lexington, MA: Lexington Books, 1974); F. Wirt and M. Kirst, *The Political Dynamics of American Education*, 2nd ed. (Richmond, CA: McCutchan Press, 2001); M. Kirst, *Who Controls Education?* (New York: Freeman).

56 David Cohen, "Standards-Based School Reform: Policy, Practice, and Performance" in Helen Ladd, ed. *Holding Schools Accountable: Performance-Based Reform in Education* (Washington, DC: Brookings Institution, 2000).

57 See Eugene Bardach, "Education Paperwork," in D. Kirp and D. Jensen, eds., *School Days Rule Days*. (Philadelphia: Falmer Press, 1986). See generally D. Kirp and D. Jensen, *op cit*.

58 R. J. MacPherson, J. Cibulka, D. Monk, and K. Wong. "The Politics of Accountability," in *The Politics of Accountability, The Yearbook of the Politics of Education Association*. (Thousand Oaks, CA: Corwin Press, 1997).

59 Peter Schrag, *op. cit*.

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