

Governance in California K-12 Public Education

Testimony to the Little Hoover Commission

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Submitted by

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Thank you for the opportunity to share my thoughts about the governance of public schools in California and ways in which this governance arrangement contributes to or detracts from the goal of ensuring quality throughout the state. As you know, more than 6.5 million young people are enrolled in public schools and are subjected to very different educational experiences. Among the multiple explanations for this state of affairs is the existence of a complex and, in many ways, dysfunctional governance system resulting from overlapping responsibilities at the state, county, and local levels.

Background

My interest and involvement in examining the governance structure for K-12 education stems from my role in helping to craft a new Master Plan for Education, Pre-school through University. As part of that process, a working group of professional educators, administrators, researchers, and other interested stakeholders were assembled to specifically examine the strengths and weaknesses of the current education governance structure and offer recommendations on how best to address observed weaknesses. Key to their work was generating a common understanding of who the major players are. They include the following:

State level

- The Governor – who establishes policy priorities for education through his annual budget decisions.
- The Superintendent of Public Instruction – who is elected for a fixed term of office to focus on just public education, is perceived to be the primary spokesperson for students and their families, is Secretary to the Board of Education, and manages the Department of Education.
- The Secretary for Education – who is appointed by the Governor to provide advice on education policy and budget priorities and whose office increasingly is assigned administrative responsibility for discrete programs. This office exists at the discretion of the Governor and does not have either statutory or constitutional authorization.
- The State Board of Education – the members of which are appointed by the Governor and charged with establishing policies and standards for public schools.
- The Legislature – which promulgates legislative mandates that, if signed by the Governor, drive local programs, policies, practices, and annual budget allocations for public schools.

County level

- County Superintendent of Schools – who is either locally elected or appointed by the county board of education or county supervisors, reviews and approves local district fiscal plans, manages the county office of education, and performs a variety of other tasks

assigned by statute or requested by local districts, including direct educational services for students within its jurisdiction.

- County Boards of Education – which exist by prescription of the state constitution with responsibilities prescribed in statute, including serving as an appellant body to parties disputing local district decisions.

Local level

- Local boards of trustees – which are locally elected and charged with policy formulation, planning, budget allocation, facilities management, and personnel policies for all schools within their jurisdiction.
- District Superintendent – who is appointed by the school board and held accountable for the overall management and leadership of district school consistent with the policies and priorities adopted by the board.

The problem with having so many players involved in the governance of public schools is resolving the question of WHO'S IN CHARGE? The problem is particularly acute at the state level where overlapping responsibilities frequently lead to “turf” battles between the various entities seeking to define what goals should be given priority in state efforts to assure all students receive a quality education and to provide a stable economic foundation for the state.

Research and conventional wisdom conclude that local districts are best positioned to know and address the needs of students but schools can get “off track” if they are not held accountable for student success. Available data documenting persistent achievement gaps among various student groups indicate that a significant number of schools have gotten off track over the years or, alternatively, they are pursuing very different definitions of student success. Prior to 1978, it could be argued that local school districts defined what student success was and had the authority to secure the resources needed to support school improvement and hold school personnel accountable for their performance. After approval of Proposition 13 authority to generate needed resources shifted from local districts to the state and commensurately state entities assumed a greater role in defining student success, thereby expanding the role of local districts to encompass responsiveness to a growing list of state mandates.

Let me turn now to some of the specific areas that the Little Hoover Commission wants to explore.

In what ways does the present system function well and in what ways does it function poorly?

In some ways public education is arguably one of the most important functions of state government, with public schools guaranteed in the state constitution, accorded nearly 40 percent of the annual state budget (Proposition 98), and being the only major category of state spending requiring only a simple majority for passage.

Despite the primacy of public education, however, the co-existence of a gubernatorially appointed state governing board and an elected state superintendent creates a tension-filled policy environment subject to power struggles at any given moment. When the priorities of the

Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) are aligned, there are few power struggles and a coherent approach to advocating and supporting school improvement. When those priorities are unaligned, it can result in genuine dysfunctionality with a SPI claiming accountability directly to the electorate and the SBE claiming fealty to the governor's priorities who, in turn, claims a responsibility to follow the mandates of the electorate. It is a classic confrontation between what is often termed a strong executive structure with the concept of a "balance of power" between two constitutional officers.

Despite this ongoing tension, the SPI and SBE have developed procedures and regulations that reliably secure data from local schools and districts to inform the general public about student and institutional performance. Unfortunately, the state has fallen short of ensuring that such data is of sufficient detail and is used to improve learning outcomes. The absence of unique identifiers for students and teachers does not permit policymakers or researchers to reliably assess the extent to which policy mandates, programs, and practices influences student success or institutional effectiveness.

There is less conflict inherent in the county layer of education governance. This is due in part to the fact that the role played by county superintendents and county offices of education have evolved over the years to encompass two primary areas: support of local school districts to expand services and general oversight of district operations. In more recent years the county superintendent has been statutorily assigned the additional role of "agent of the state" and charged with intervening in districts that are in fiscal or academic crisis. Despite near unanimous agreement that county offices of education and county superintendents have played a positive role in public school governance, there is not a similar consensus that offices of education and superintendents should exist in every county of the state. Perhaps a similar set of services and oversight can be provided under a regional approach thereby requiring fewer than 58 separate oversight entities.

What dynamics made it difficult to reform those parts of the governance structure needing reform?

The Master Plan working group addressing governance concluded that the greatest priority for governance reform was the multi-headed state governance structure. Something needed to be done to remove overlapping responsibilities residing in the office of the SPI, the SBE, the Secretary for Education (OSE), and the governor. Secondly, attention was needed on whether there remains sufficient justification for maintaining a school superintendent and office of education in every county rather than consolidating county education responsibilities into a fewer number of regional oversight entities.

At the state level, the working group considered a variety of structural changes ranging from eliminating the SPI to eliminating the SBE, to having the SBE appoint the SPI as the chief state school official. Each of the alternatives considered had advantages and disadvantages associated with them. By far, the two dynamics that curtailed thorough discussion of dramatic changes were historical precedent and pure politics. Any alternative involving elimination of the SPI as an elected office was minimized because it would require a constitutional amendment. Voters will never agree to give up the opportunity to vote for a statewide elective officer the argument went,

particularly one focusing on education. There is compelling evidence that this belief was well founded. Virtually every credible entity that has studied state-level education governance has recommended making the SPI position appointive and all such recommendations have failed. In fact, between 1945 and 1996 no fewer than nine major attempts were made to make the SPI an appointive position without success (see MPWG Issue Paper #1, pages 6-8).

Discussion about the relative advantages of alternative governance structures was also affected by perceptions of incumbents currently occupying positions affected by the structural change under consideration. Rather than discussing whether a particular structural change realigned responsibilities and authority appropriate to California's needs, discussion was disproportionately directed to whether any political support could be gathered to give or subtract power from one incumbent or another. As a compromise, some serious examination was given to retaining all current players in state-level education governance but somehow divide up responsibilities differently to define more complementary and non-duplicative responsibilities. Ultimately majority support was gained for a realignment of responsibilities that would assign the following major functions to each of the four major players in state education governance:

Governor [elected]

- Set annual education policy priorities through construction and approval of state budget
- Appoint representative and thoughtful persons to SBE
- Have ultimate responsibility for effectiveness of public schools

Superintendent of Public Instruction [elected]

- Manage the student assessment program for public schools
- Annually evaluate and report on performance of public schools in predefined areas
- Recommend or directly administer rewards and/or sanctions to schools based on review and evaluation of assessment data
- Identify promising practices that promote student achievement and impediments/challenges that impede the same

Secretary for Education [appointed]

- Manage the Department of Education, including all oversight responsibilities excluding assessment and evaluation.
- Directly advise the Governor of investments needed to properly support public schools in pursuing state priority goals.
- Serve as ex-officio member of the SBE

State Board of Education [appointed]

- Establish policies and regulations to guide actions of public schools
- Deliberate appropriate reactions to report of SPI on public school performance
- Establish standards for teaching and learning requirements
- Collaborate with SPI to assure alignment between teaching and learning standards and assessment measures

Given the ultimate authority of the governor embodied in budget decisions, consensus could not be reached about ways to ensure that the SPI would have the resources and authority to carry out

the new responsibilities assigned to that office and effectively serve as a counterbalance to the governor's office in the area of public education in this new structure. Many felt the only way to assure such authority was via a constitutional amendment, which was not deemed feasible at the time.

Similarly, partisan concerns short-circuited detailed discussion about the potential benefits of a reduced number of regional governance players. In this case, the divisions tended towards large-versus small-school districts and between counties/districts with positive school relationships and those with more contentious relationships. In the former instance, the argument was advanced that smaller, rural districts are often separated by large distances or difficult terrain that preclude common communities of interests inferred by the regional approach under consideration. In the latter instance, the argument is that there are not problems inherent in the county structures and that it is a misdirection of time and energy to "fix what isn't broken."

What areas of governance should be strategic priorities for reform and what are the promising reforms that should be explored?

I continue to believe that redefining responsibilities of the SPI to focus on assessment, evaluation, and advocacy of promising reforms and strengthening of local school capacity merits further exploration. During development of the Master Plan for Education 2002, the governance structures of other states were examined for common components and alternatives that might be considered in California. In addition, work completed by the Legislative Analyst's Office (LAO)¹ and the Constitutional Revision Commission that addressed education governance, were examined for options to consider. Clear lines of accountability, alignment of responsibility and authority, and balance of power were common criteria used in evaluating education governance structures used in other states for evaluating alternative structures that California should consider. Although objective analysis of these alternative structures and prior research continues to suggest a simpler structure in which the SPI is appointed and serves as the chief state school officer for the state governing board (SBE), I am increasingly convinced that such a structure is unachievable in this state.

A critical question to be addressed in a redefinition of responsibilities assigned to the SPI, the SBE, and the OSE is what authority can be given to the SPI position to make it relevant to the local schools and districts if the SPI has no administrative authority for resource allocation, technical assistance, or direct intervention. Some fruitful areas for further exploration would include:

- Assigning statutory authority to the SPI to grant waivers of education code provisions for a limited period of time that appear to impede ability of schools and district to improve student achievement within available resources. Such waivers would be accompanied by evaluation requirements that the SPI can use to judge if the waiver should be rescinded, made permanent, or extended to all schools.
- Serve as an ombudsman office for school districts and policymakers with specific concerns about various efforts and needs to improve the performance of schools and students.

¹ See "A K-12 Master Plan" issued by Elizabeth G. Hill, Legislative Analyst, May 1999.

- A constitutional amendment or statutory mandate to ensure adequate resources are appropriated to the SPI's office to carry out its assigned functions; perhaps through a formulaic approach.

I also think that two other governance areas should be explored further.

- A constitutional amendment to remove the requirement that a superintendent of schools and office of education should be established in every county. This would permit a more regional approach to reducing disparities in effectiveness and student achievement and access to rigorous teaching and learning opportunities. It may also squeeze out some efficiencies from non-classroom based expenditures.
- A set of state incentives (or a mandate) to reduce the number of local school districts by advocating a unified district structure. This might encourage more systemic district planning as more school districts are held accountable for the entire educational journey of students within their jurisdiction, preschool through high school.

How could a study of educational governance by the Little Hoover Commission help clarify which reforms should be pursued and serve as a catalyst to enable their implementation?

I'm not sure how to respond to this area of inquiry. A good deal of research has already been devoted to educational governance in California which can inform any potential work of the Commission in this area. Despite my skepticism that the Commission will have much more success than we had in breaking through the political resistance to change, I offer the following suggestions:

- Keep the discussion focused on one or two objectives, such as how would structural changes in governance contribute to improved school capacity to promote and document student achievement, or what functions and responsibilities should be assigned to what state entity and what authority is required to perform those functions.
- Resist efforts of discussants to debate state control versus local control or to dismiss options because of trepidation about how a particular person might function in a redefined role.
- Consider the feasibility of governance structures, policies, and procedures ensuring certain pre-requisite conditions are in place in every school (e.g.; safe and sound physical plant, adequate numbers of current textbooks, etc.) prior to districts bargaining or make discretionary expenditure decisions.

Thank you for the opportunity to share these thoughts with you. Not all of the ideas contained in these remarks are my own but I do take responsibility for the way they are characterized here.

I wish luck and the stamina needed to complete the task should the commission choose to pursue further efforts to improve California's educational governance.

ATTACHMENT ONE – Master Plan Governance Work Group Issue Paper #1, pages 6-8

Post 1913 Proposals for Structural Change

In 1927, a special committee of the California Teachers Association formally recommended that the Legislature sponsor a constitutional amendment to make the State Board elective; never since has there been a significant proposal to make that particular change. The Legislature did not embrace the CTA proposal, instead passing, with large majorities and the Governors approval, a package of legislation eliminating the three commissioners that had reported directly to the Board, providing for Senate approval of the Governor's appointments to the Board – and submitting to the voters a constitutional amendment authorizing the Legislature, through subsequent statute, to replace the elected Superintendent with a Director of Education appointed by the State Board. The proposed amendment also contained a provision, however, to lengthen the terms of the members of the State Board to ten years and thereby accord the Board a very considerable degree of independence – in addition to the complete control the Legislature planned to give it over the Superintendent. The ballot argument against the proposed amendment focused on the decreased accountability that would result from such an arrangement: “[This amendment] takes the control of our schools away from the people and vests that control in a State Board of Education responsible to no one, *not even the Governor who appoints it*, or to the Senate which confirms it.” (Emphasis added.) The voters rejected the amendment.

Through the Great Depression and World War II, no further significant proposals were made for fundamental changes in state-level governance of public education. Beginning promptly with the end of the War, however, the subject was reopened and has been revisited at irregular intervals ever since. In that time, every significant entity that has studied the matter and made a proposal for change has recommended making the Superintendent's position appointive – and all, of course, have met with failure. The more notable efforts include:

- 1945 The Legislature's “Strayer Report” recommends legislation to have the State Board appoint the Superintendent. Constitutional amendment introduced and defeated in Legislature.
- 1955 The Report of the California Committee on Public School Administration recommends that the State Board appoint the Superintendent (and that the Board include one member each year nominated by the California School Boards Association and elected by school districts, with each district having one vote). No action taken.
- 1958 The Legislature places a constitutional amendment before the voters to have the Superintendent be appointed by the State Board, with the approval of the Senate. The opposition ballot argument combines classically conservative opposition to change (“The State Superintendent of Public Instruction has always been one of the constitutional officers elected by the people. ... The present system has worked well for more than 100 years and no convincing case has been made to indicate that any change should be made at this time.”) with a blunt rejection of the premise of the Progressive ‘strong executive’ principle (“[This proposal] could lead to domination of the State Superintendent by the Governor... If you are going to appoint a State Superintendent of Schools, why not make all other state officials appointive too.”). Amendment defeated.

- 1959 In the second year of his last term, Roy Simpson recommends that the State Board appoint the Superintendent and have the power to determine the Superintendent's term of office and salary, as is standard practice with district school boards. No action taken.
- 1963 In the second year of Max Rafferty's first term, three proposed constitutional amendments to have the Superintendent be appointed are considered in the Legislature. All three defeated in Legislature.
- 1967 A prestigious professional management study commissioned by the Legislature recommends, in a slight variation on the defeated 1928 proposal, that members of the State Board be selected from nominations by the Legislature, that they have 10-year terms, and that the Board appoint the Superintendent. No action taken.
- 1968 The Legislature, with notable bipartisan support, places before the voters the second of two omnibus constitutional reform amendments proposed by what the supporting ballot argument denominates a "blue ribbon Constitutional Revision Commission of leading California citizens," established pursuant to a 1962 plebiscite (the prior amendment proposed by the same body in 1966 to modernize the "legislative, executive, and judicial articles" was passed by the voters "3 to 1"). The proposed amendment deals with "the articles on education, state institutions..., cities and counties, corporations and public utilities, ...state civil service," and a range of lesser miscellany. Implicitly reflecting an awareness of the voters unwillingness ten year before to make the office of the Superintendent appointive, the proposal resorts to a very conservative variation of the mechanism successfully employed in 1912 to exclude the Superintendent from the State Board (but unsuccessfully proposed, in part, in 1928, to empower the State Board to appoint the Superintendent). The supporting ballot argument strenuously and rather tendentiously pleads: "[This amendment would provide for] continued election of the State Superintendent of Public Instruction, *subject to change by statute approved by two-thirds of the members in each house of the Legislature which in turn is subject to the Governor's veto* and the people's powers of initiative and referendum." (Emphasis added.) The opposition argument focuses on other elements of the amendments, devoting only one sentence to the proposed changes in the article dealing with the Superintendent: "The measure removes the guarantee that the Superintendent of Public Instruction shall be elected by the people, and authorizes the state government to change the methods of his selection." Amendment defeated.
- 1993 Following the State Boards victory in court over Bill Honig – one more lost battle in the 'fighting retreat' that has continued since 1912 – legislation is passed to delete statutory provisions requiring the Superintendent to carry out the policies of the State Board, to confine the State Board to performing only the narrow range of activities specifically assigned to it in statute and the Constitution, and to provide that the State Board shall in all other respects "serve in an *advisory capacity* to the Superintendent," (Emphasis added.) Vetoed by the Governor.
- 1996 Constitution Revision Commission recommends the Governor appoint the Superintendent, subject to Senate confirmation, that the duties of the Superintendent be set forth in statute, rather than in the Constitution, and that the State Board also be removed from the Constitution (making it open to statutory redefinition). No action taken.

ATTACHMENT TWO – Basic Education Governance Structure

Education Governance Structures in the Fifty States

STRUCTURE ONE (12 states)	STRUCTURE TWO (8 states)	STRUCTURE THREE (11 states)	STRUCTURE FOUR (9 states)
<i>Governor appoints SBE; SBE appoints the CSSO</i>	<i>SBE is elected; SBE appoints the CSSO</i>	<i>Governor appoints SBE; CSSO is elected</i>	<i>Governor appoints both the SBE and the CSSO</i>

Alaska
Arkansas
Connecticut
Illinois
Kentucky
Maryland
Massachusetts
Missouri
New Hampshire
Rhode Island
Vermont
West Virginia

Alabama
Colorado
Hawaii
Kansas
Michigan
Nebraska
Nevada
Utah

Arizona
California
Georgia
Idaho
Indiana
Montana
North Carolina
North Dakota
Oklahoma
Oregon
Wyoming

Delaware
Iowa
Maine
Minnesota
New Jersey
Pennsylvania
South Dakota
Tennessee
Virginia

States that do not conform to one of the four basic structures:

Florida – The state board of education (SBE) consists of seven elected cabinet members: the governor, secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture and chief state school officer (CSSO).

Louisiana – Eight state board members are elected, and the governor appoints three members. The SBE appoints the CSSO.

Mississippi – The governor appoints five SBE members, while the lieutenant governor and speaker of the house each appoints two members. The SBE appoints the CSSO.

New Mexico – Ten SBE members are elected, and the governor appoints five. The SBE appoints the CSSO.

New York – The state legislature elects SBE members, and the SBE appoints the CSSO.

Ohio – State board is a hybrid, with 11 members elected and eight appointed by the governor with the advice and consent of the senate. CSSO appointed by SBE.

South Carolina – Legislative delegations elect 16 SBE members, and the governor appoints one SBE member. The CSSO is elected.

Texas – The SBE is elected, and the governor appoints the CSSO.

Washington – Local school boards elect SBE members, and the citizenry elects the CSSO.

Wisconsin – There is no SBE, and the CSSO is elected.

Source: *State Education Governance Structures*. Denver, CO: Education Commission of the States, 1993. Updated 1998.