

*Section 5 -
Education Issues -*

Governance Structure for Public Education

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Issue Statement

The objective of this issue paper is to evaluate the present governance structure for public education (K-12) in North Carolina in order to identify barriers which may limit effective policy and decision making and to identify opportunities for improvement. This issue is also discussed in our issue paper on the continuum of education.

In conducting our study we posed the following questions:

- How should the State of North Carolina develop and implement education policy?
- Is it necessary to change the current governance structure to improve the quality of education in the State?
- Should accountability for education policy at the state level be focused in one entity?
- How can accountability for education policy be strengthened at the state level?

Background

The governance structure for public education in North Carolina has been a continuing source of controversy and concern for a number of years. Numerous studies and reports have commented and made recommendations to address the perceived problems engendered by an elected State Superintendent and a separately appointed State Board of Education.

This is not a new idea. As early as 1948 the need for a coordinated policy making and leadership function was articulated in a study of public education:

"Experience during the past several years has shown the necessity for having in a state one coordinated authority to replace the state educational system in educational matters affecting the entire state.

When the reorganized State Board of Education has been established, it should be authorized to appoint the State Superintendent of Public Education."

Current structure

The State Board of Education currently has 13 members. Eleven members are appointed by the Governor and confirmed by the General Assembly. Eight members are appointed from each of the eight educational districts, and three are appointed at-large. The 11 members of this constitutional board are appointed for eight year terms. The terms are staggered with four different classes. The Lieutenant Governor and the State Treasurer, two elected positions, also serve as members.

The Superintendent of Public Instruction position is elected statewide for a four year term. The Superintendent serves as the secretary and chief administrative officer of the Board but is not a voting member of the Board.

The State Board of Education is responsible for providing guidance and direction for public education policy throughout the state. The State Superintendent is responsible for implementing the Board's policies and for managing the State Department of Public Instruction (DPI).

What other states are doing

With increasing focus on education needs and reform efforts across the nation, the process for making education policy has come under close scrutiny. The individuals responsible for providing leadership for state public education programs are increasingly being held accountable by taxpayers for the education performance of students.

State education boards traditionally have been responsible for providing direction and for establishing policies for public education throughout their states. State superintendents are usually charged with the responsibility of carrying out the board's policy directives by serving as the executive manager of the state's education department. As a consequence, a cooperative working relationship between the state's board and superintendent becomes a critical factor in ensuring successful implementation of policy and effective leadership.

In this project we examined the governance structures and departments of education across the country. Thirty five out of 50 states have an appointed superintendent. The trend in the last forty years has been toward an appointed superintendent. Fifteen states have changed to an appointed superintendent including Kentucky in 1990 and Minnesota which plans to convert in 1995.

We performed a detailed review of governance in ten states. These states were selected because they had similar student populations to North Carolina, had high educational performance or were known for innovative reforms. In four of the states we selected (Arkansas, Connecticut, Kentucky, Maryland), the board is appointed by the governor and the superintendent is then appointed by the board. This relationship allows policy makers to select the individual that will be responsible for carrying out their decisions. In this arrangement, the superintendent is accountable to the board for actions taken.

Another arrangement found in three states (Minnesota, Tennessee, Virginia) provides that the governor will appoint both the board members and the superintendent. With the governor selecting both the board and superintendent, policy agreement and successful policy implementation can be achieved. This arrangement limits the amount of control that the board can exercise over the superintendent. One of the states we talked to with this structure noted that this arrangement sometimes becomes complicated because the superintendent is not directly accountable to the board.

In Florida, the board and superintendent are both elected by the public. The board in this case is comprised of the senior elected positions in the state. Only two states in our comparison, both located in the South, had a mixed system where the board was appointed and the superintendent was elected. In South Carolina, the legislature appoints the board; in Georgia, the governor appoints the board.

From the states surveyed, the governance structure most preferred is the structure that provides a board appointed by the governor and a superintendent appointed by the board. Kentucky converted to this arrangement in 1990. Before that time, Kentucky had operated with an elected superintendent. Minnesota has plans to convert to this arrangement effective January 1, 1995.

While the other states we contacted have no immediate plans to adopt a new governance structure, discussions over effective governance arrangements continue to be popular. In Georgia, there have been attempts to change their structure to have the board elected and the superintendent appointed by the board. Even in states that are satisfied with their current arrangement, the individuals in our survey commented that the working relationships of their existing structures are highly dependent upon the people in those positions at any given time.

Significant structural changes

During the Depression of the 1930's, the State took control of financially troubled school districts. Support for local school operations shifted to the State with the adoption of a state sales tax. At that time, the General Assembly created a State School Commission to oversee the collection and spending of state funds for public education.

This commission was abolished in 1943 by shifting authority over all state funds to the State Board of Education. This was accomplished by creating an education Controller's Office responsible to the State Board. In 1988, the General Assembly placed the Controller's Office under the authority of the Superintendent.

In 1971, the State Constitution was changed to remove the Superintendent as a voting member of the Board. Prior to that time, the elected Superintendent was a voting member as are the Lieutenant Governor and the State Treasurer.

Efforts to change the structure

Since 1948, there have been efforts to change the governance structure so that the State Superintendent of Public Instruction is an appointed position. There have also been recommendations to change the composition and selection of the State Board. To date, proponents for change have been unable to obtain support from three-fifths of the Legislature. A three-fifths majority is needed to bring the proposed change to a popular vote. None of these efforts have progressed to the point that North Carolina citizens have been asked to approve the required constitutional change.

In the last three years, groups such as the School Boards Association and the Public School Forum have advocated change.

Finding

Finding 1: There is split leadership and authority in the public education governance structure at the state level that results in fragmented policy making management and the need, even under optimal conditions, to spend unnecessary time and effort on coordination and the inability to place accountability for performance at the state level.

Because the Board is responsible for setting policy and the Superintendent is responsible for carrying out policy directives, the working relationship between the two is a critical factor in ensuring successful implementation of policy and effective leadership.

Unfortunately, the relationship between the Board and the Superintendent in recent years has not been cooperative. Even today, disagreements over leadership, authority and responsibility continue. For example:

- The Public School Forum in 1992 described the governance structure as "dysfunctional" with "intense partisan divisions".
- In December of 1991, the Superintendent sued the Board and the Governor. The lawsuit was filed after the Board used DPI funds to hire support staff. The Superintendent felt this action diminished the superintendent's authority over administration of DPI funds and selection of DPI employees.

- In July of 1992, the Board countersued the Superintendent after the Legislature passed a law giving the Superintendent the sole responsibility to provide staff support for the Board. This lawsuit addresses the same issue of power, but expands the scope of the issue. The Board is questioning the right of the Legislature to enact laws that interfere with mandates that apply to the Board in the State's Constitution. The Board's position that the Constitution gives them the authority to supervise and administer public education in the State and that they have ultimate authority over employees in DPI.
- The cost to the State of these two lawsuits is significant in terms of time spent by DPI staff, the State Board of Education staff and the Attorney General. An estimated \$150,000 has been spent this year on private attorneys by the State Board after the Attorney General decided to defend the State Superintendent.

As a result of split leadership and authority:

- It is difficult to define and place accountability for educational performance.
- Due in part to this difficulty, the General Assembly becomes prescriptive in its legislation to insure that its legislative intent is carried out.
- The State Board does not have the ability to "supervise and administer" the public education system, as stated in the State Constitution, because the primary mechanism for implementation, i.e., the Superintendent, is not answerable to the Board.
- The State Superintendent is limited in his ability to function as the chief administrative officer of the State Board and to manage the operations of DPI in an effective manner because he may not have the support of the policy-making Board as he attempts improve educational performance in North Carolina.
- The Board and the Superintendent focus significant resources on dealing with governance problems to the detriment of other important issues. For example, this summer the question of staff support to the State Board (three positions) became the subject of debate and action by the General Assembly, the State Board and the State Superintendent. The result was a lawsuit brought by the State Board.
- The State does not have the unified leadership that can offer a single focused mission, goals or plan of action to address educational issues in the State.

Recommendations

There is no one model for public education governance across the nation. It is apparent from our review that each state's experience with governance is unique and is built upon traditions and a history of personalities, economic factors and legislative environments. However, there are common trends that are apparent in North Carolina as well as other states.

For example, the public demand in the 1980's for improved education coupled with a declining federal role in education created significantly greater levels of state activity and funding responsibility. The continuing budgeting issues facing states have reduced the willingness of legislatures to continue to increase funding without seeing the results of their efforts. Governors, legislatures and the courts responded to these demands by enacting

wide-ranging changes in the expectations and requirements for public education. North Carolina has been at the forefront of this activity with the BEP and Senate Bill 2.

In developing our recommendations, we considered at the following factors:

- Process and environment for policy setting and decision making
- Ability of decision makers to implement policy in an effective manner
- Accountability for performance
- Ability of the organization to respond to the need for change.

Recommendation 1: The State Board of Education should serve as the single focus for public education policy making in the State subject to laws enacted by the General Assembly.

By focusing education leadership and policy making in one body, it will be possible for the General Assembly, the Governor and the public to define and place accountability for performance in public education. It will also enable the State Board in turn to hold the Department of Public Instruction accountable for its performance in implementing the policies set by the State Board. This will enhance the ability of the State to define the mission for public education in North Carolina in terms of a limited number of overarching goals. This would build upon the goals articulated by several different organizations including:

- The General Assembly in Senate Bill 2
- The State Superintendent in his 21 Education Goals
- Commission on the Future of North Carolina in its Goals and Recommendations for the Year 2000
- The Public School Forum in its report, "We must chart a new course for Schools. At stake is nothing less than the future of our State."

Recommendation 2: The State Board of Education appointment process and structure should be modified to make that body more accountable and responsive to changing state needs.

We recommend that the State Board be structured as follows:

- Fifteen members including: 12 at-large members, the Lieutenant Governor and the State Treasurer who already serve in the present structure, and a Chairman who is appointed by the Governor.
- The Governor and the General Assembly should each appoint six at-large members to the Board. Appointments should take into account the economic and geographical diversity of the State. The Governor should have the power to affirm or approve each position.
- Board terms should be reduced to four years. The Board should continue to be divided into four different classes. Every year, the Governor, and the General Assembly should appoint three at-large members.
- The Board of Education should be restructured as a statutory board in the same

manner as the North Carolina Community Colleges Board. This will provide increased commonality to the three education system boards under our recommended continuum of education

Recommendation 3: The State Board of Education should appoint the State Superintendent who will then report and be accountable to the Board.

This single issue has dominated the public education discussion for decades. Indeed, as we mentioned earlier, nearly 45 years ago, the 1948 State Education Commission state the following:

"Experienced during the past several years has shown the necessity for having in a state one coordinated authority to replace the state educational system in educational matters affecting the entire state...the...State Board of Education...should be authorized to appoint the State Superintendent of Public Education."

Since that time the General Assembly, the media, the Governor, the educational community, PTA's, teacher groups, and national "experts" have argued pro and con about the relative merits of this change. The arguments have become loud and at times, even emotional. On one side is the tradition, embodied in the state constitution, that our citizens elect its chief public education official. On the other side is the pressing need to assure that our over one million public school students, and our investment of over 3 billion dollars, are supervised by the most qualified and experienced leader that we can find.

The time is long past when this debate should have ended. The State Board of Education, which should be jointly appointed by the Governor and the General Assembly, should be responsible - - and accountable to the citizens of the state - for the selection, evaluation and performance of the State superintendent of Education.

Giving our public education system the strategies and tools to improve - and then seeing them work-will be a multi year effort. The State must start this journey now. The State needs to stop being stymied on the single issue of elected versus appointed chief education officer. An appointed State Superintendent will:

- Enable the state's taxpayers to have selected the most highly qualified professional to oversee day to day operations of the largest single public enterprise in the State.
- Sharpen the focus of accountability for performance of the public education system with the State Board of Education and the Governor.
- Refocus the public debate on education in the direction of strategies for the children rather than partisan politics.

Implications

There are no material cost nor staffing implications to these recommendations.

Implementation of these three recommendation will allow public education to function as one voice and will provide a logical and resonable set of reporting relationships. The recommended Board structure will allow the Board to function as "one voice" on educational issues.

The Governor and the General Assembly will have one entity to hold accountable for educational performance as will the public. There will be increased accountability for implementation of education policies and programs with an appointed Superintendent who answers to the Board.

Policy decisions that have previously gone directly to the General Assembly can be determined in a forum which focuses its primary attention on education. Educational issues can be debated during the policy development stage. The Department staff can serve effectively as support to the State Board during policy formulation. The recommended structure will allow the Board to concentrate on and make informed decisions on educational policy issues. For example, in the role envisioned in this recommendation, questions such as the use of teaching assistants will be debated and decided upon by the Board of Education based upon the education merits of the issue.

The recommended structure will also broaden the voice for educational issues by increasing participation of Senate and the House, while still allowing for participation of the Governor and the public.

Finally, the restructuring of the public education governance structure along the lines of the other education systems (university and community college systems) will increase the ability of the State to manage the life-long learning needs of its citizens in a more effective manner.

This will be accomplished by increasing the level of cooperation between the systems and increasing the role of the Governor in addressing both gaps and duplications that cross system lines. Benefits for public education (K-12) include:

- Improvement in the quality of vocational education at both the high school and community college level
- Improvement in the quality and appropriateness and coordination of teacher education programs
- Expansion of the role of higher education in ongoing teacher staff development
- Elimination of potential course duplication between systems in a given area such offering Spanish in high school, the local community college and at a nearby university
- Enhanced opportunities for high school students to take higher level courses which may not be offered at their individual high schools.

Implementation:

The implementation of this recommendation would require changes to the State Constitution.

New members should be appointed when these recommendations are implemented. After appointment, the members should draw lots to determine length of their initial terms. For example, three members would serve one year, three members would serve two years, three members would serve three years and three members would serve four years. As the terms of each Board class expires, the Governor and the General Assembly should appoint three members on a rotating basis.

Sources:

House Standing Committee on Education, Summary of Task force Reports, April 26, 1991.

Public School Forum of North Carolina, Study Group IV: North Carolina School Reform at a Crossroads, 1992.