

From Compliance to Getting the Job Done: Excessive Regulations vs. Accountability for Results

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Problem Statement

California has advanced significantly toward a standards-based system. As district leaders, we wholeheartedly support the emphasis on setting clear standards and outcome goals for students and then holding local systems and schools responsible for producing results for all students in their charge. We believe our job as educational leaders is to raise student achievement overall and to close performance gaps in achievement, graduation, and preparation for post-secondary education and employment.

However, our ability to perform that job is hampered by overly restrictive and outdated regulations and by a myriad of conflicting and unnecessary categorical programs that fragment resources and divert district and school attention from meeting the needs of our students. Indeed, **over-regulation actually weakens accountability for results and discourages districts from adopting coherent, evidence-based strategies to move all children to meet state standards.**

Particular problems stemming from the proliferation of categorical programs and of state regulations associated with those programs and with a burgeoning state education code include the following:

- Lack of alignment of state and local action to achieve state standards
 - Many categorical programs, goals, and Ed Code requirements are outdated and no longer aligned with state goals or current standards.
 - Meeting these requirements makes it more difficult for districts and schools to allocate resources and design instructional programs based on the standards and on student performance.
 - Lack of alignment goes beyond state categoricals – e.g., API and state accountability programs vs. AYP and Program Improvement, and credentialing/personnel requirements.
- Fragmentation of attention and effort
 - Programs differ with respect to timing, format, planning and reporting requirements, and assumptions about best practices. Multiple planning and reporting requirements (e.g.,

- technology, school site, and school recognition documentation) divert time and energy from more important priorities.
 - These differences are reflected in compartmentalization that begins in CDE and is mirrored in the districts. Programs create specialized constituencies and staff who develop allegiances to particular regulations or programmatic components rather than to meeting demonstrated needs of children – including the children that the programs were intended to serve.
 - The compartmentalization and conflicting requirements undermine the coherence necessary for instructional and organizational improvement.
- Compliance mentality and wasted resources
 - Categoricals tend to create a rule-compliance mentality that limits creativity and diverts attention from meeting student needs. Principals and district leaders too often ask first “Can we do this with that money?” and then make decisions based on what is allowed rather than what would be most effective.
 - Districts waste substantial amounts of time, money, and staff attention on establishing a clear paper trail for state monitors. This paper trail does not lend itself to the work that needs to get done, whether that work is professional development, student intervention, assessment, etc. While documentation can be a powerful tool for improvement (one reason we need a comprehensive data system in California), the documentation associated with most categorical programs is for compliance, not progress.
 - The compliance mentality and over-specification of required practices contribute to teacher and administrator burn-out and disengagement, thus undermining professional responsibility and commitment.
 - Current checklist approaches to program monitoring reinforce these negative conditions and do little to build the capacity of district and school personnel to improve practice and student learning. Moreover, program evaluations that identify these problems often fall on deaf ears and produce little substantive change.

Policy Options and Recommendations

The primary objective must be to create an accountability and funding system that is truly standards-based; that keeps the focus on raising student achievement and closing gaps among groups of students; and that allows districts and schools the flexibility to develop coherent, evidence-based programs, while holding them accountable for results. We must replace the current compliance orientation to one of “getting the job done.” In order to do so, we suggest the following longer term and interim policy recommendations:

Longer term: We firmly believe that the school finance and governance systems in California need to be substantially overhauled, not tweaked around the edges. The findings and directions laid out in the GDTF overview and summary report (Loeb et al., 2007) are consistent with our experience and recommended course of action. Our recommended overhaul would necessitate a substantial rethinking of the ways in which fiscal resources are allocated to districts and schools as well as of the locus of decision authority as to how those funds, once allocated, are spent. At the minimum, the new system must:

- Put an end to the use of categorical programs as a central mechanism for funding improvement efforts for specific groups of children or favorite programs of particular interest groups. In its place, we must establish a system that provides adequate resources to meet the needs of the students in any given district. We strongly urge the state to investigate the use of a weighted student formula targeted to the district (that considers particular district circumstances such as degree of poverty and geography) or other similar approaches to resource allocation that would get the requisite funds where they are needed.
- Provide districts the flexibility to decide how best to allocate their resources in order to meet state standards and close achievement gaps.

- Hold districts and schools accountable for producing results – in a single accountability system (i.e., merge state and federal accountability requirements) – rather than for following overly prescriptive regulations. As stated earlier, we fully support a results-based accountability system. We would emphasize, however, that the thrust of this system should be directed toward building local district capacity to meet the outcome goals rather than on pre-determined punitive actions or checklists that do little to address underlying problems or shortcomings in identified schools and districts. We would also emphasize the need for an accountability system that is coherent and focused on measuring progress and on supporting continuous improvement strategies at both the state and local levels. This approach requires a comprehensive and easily accessed and used data system with data longitudinally linked at the student level (see our brief on improving California’s data system).
- Remove outdated and extraneous provisions in the education code that stand in the way of standard-based accountability and system improvement. For the reforms suggested by the GDTF studies to be effective, we need to simplify the education code substantially. The first items to go should be those provisions that are outdated and no longer consistent with our standards-based system. Recommendations for other simplifications have been generated by several studies focused specifically on this issue and should be revisited and implemented.

In the interim: District Flexibility and Accountability Initiative

While what we have just described is the direction we believe the state must go in to accomplish the task ahead, we recognize that this comprehensive overhaul requires further investigation of alternative models, creation of the necessary political support, and a staged approach to implementation. However, we cannot wait until these conditions have been met before addressing the barriers created by the state’s current reliance on categorical funding. Moreover, whatever governance reforms are finally implemented, they will be strengthened if the state has taken the opportunity to try out options and explore the implementation issues that are bound to arise before overhauling the system across the state.

With that in mind, we considered various alternatives for interim strategies, including a more aggressive waiver option, allowing 15-20% of a district’s categorical funding to be set aside for flexible allocation based on the district’s identified strategic needs, or allowing districts to combine the largest categoricals into a common funding stream for flexible allocation. However, we concluded that none of these options would significantly address the issues raised at the beginning of this brief. Research on past waiver programs demonstrates that they have little uptake and thus little effect on practice. Allowing for a percentage of categorical funds to be used flexibly would not reduce paperwork but might in fact increase it as districts would still need to follow the same requirements as before and then account for the flexible funds in addition. Finally, combining the large programs would reduce some paperwork and constraints but would leave the majority of small programs in place, again doing little to alleviate the problems of fragmentation and waste mentioned earlier.

What we are suggesting instead is an alternative strategy that would both address many of the most counter-productive constraints of current categorical programs and do so in a way that would provide an opportunity for a policy development process in which changes can be “implemented in a controlled fashion before they are introduced statewide”(Loeb, et al., 2007, p. 8). The focus of this interim strategy would be four-fold:

- a) Increased flexibility for selected local districts to make decisions about resource allocation based on identified local needs and a coherent, well-specified strategic plan to meet those needs. Participating districts would be released from all (or a specified majority of) state categorical requirements on input processes and allocation of dollars to specified uses. There would be one major exception to this flexibility: the categorical dollars could not be used to augment the salary schedule. This exception would ensure that monies originally allocated for categorical purposes

remained additional to the base budget with the express purpose of addressing key improvement goals in a responsive and agile fashion.

b) Accountability for results rather than processes in these districts. In exchange for being released from certain major regulations, participating districts would commit to and be held accountable for a very small set of specified outcome goals focused on reducing achievement gaps. These outcome commitments would be targeted to identified statewide goals, such as raising redesignation rates for EL students, adopting more aggressive targets for closing the gap between African American students and other groups, setting specific goals for moving students from Basic to Proficient, or increasing graduation rates and college preparedness (e.g., completion of A-G requirements, enrollment in Advanced Placement courses, and college matriculation and completion rates (when such data become readily available). Note that these goals should be small in number and both consistent with and supportive of any other accountability goals for schools and districts. For example, increasing redesignation rates for English learners is consistent with NCLB Title III AMAO targets for increasing the percentage of students scoring proficient on the CELDT and meeting AYP targets for the EL subgroup.

To remain in the initiative, districts should be expected to meet or exceed the state goals for the selected indicators – or, if initial district performance is not yet at expected state level, the district should demonstrate substantial progress toward the state goal. Districts that failed to do so within a specified period (e.g., three years) could lose some or all of the flexibility provided through the initiative. Finally, to prevent a potential narrowing of district focus solely to test-based accountability subjects and measures, we recommend that the initiative incorporate some attention to state expectations for non-academic development (such as physical fitness and arts standards) and to children who would be eligible for Gifted and Talented Education programs.

c) A new approach to state monitoring and accountability for the participating districts that focuses on capacity building and continuous improvement through the generation and analysis of local and state data, networks for sharing information and lessons, and opportunities for professional and organizational development. Local flexibility in resource allocation implies a very different role for the California Department of Education than its current emphasis on compliance to prescriptive input and process requirements. If California is to move to a more standards-based system of accountability and governance, the CDE needs to develop alternative methods of monitoring local districts and schools. We believe the crux of those methods needs to focus on continuous improvement of results, on the exchange of ideas through networking and collaborations among districts, and on local and state capacity building rather than checklists and process rules. Therefore, districts in this initiative would have to provide regular concrete evidence of progress toward the outcomes. They would need to agree to open their practice to observation and learning by others and to participate in mutually beneficial activities with other participating districts. We suggest that to develop and evaluate new methods for monitoring and capacity building, the SPI put responsibility for monitoring participating districts into a special unit in the CDE, under the leadership of a deputy superintendent whose sole responsibility is to ensure the success of the participating districts. Other monitoring typically associated with categorical funding would cease.

d) Systematic evaluation and documentation of lessons learned from the process, initiated at the very beginning of the initiative. This documentation and analysis would help to identify implementation issues that are likely to occur in a larger statewide move toward more local flexibility and best practices at both the local and state levels for addressing these issues. Information gleaned from this effort could then inform the design of a more flexible standards-based system statewide.

We believe this interim initiative has a number of advantages. It is systemic in nature, allowing whole districts to develop a coherent set of policies rather than issue more generalized releases from a limited set of regulations that will not substantially alter the barriers to effective resource allocation and decision-making at the local level. This approach also provides for standards-based improvement and results-based

accountability that can actually support change rather than simply penalizing failure. It begins to develop a new role for the CDE, a necessary ingredient of any major system overhaul. And it provides an opportunity to identify potential implementation issues as regulations are relaxed and the state moves toward a more flexible and responsive system.

At the same time, there are critical design and implementation challenges that would need to be worked out for such an initiative to yield the desired results. First and foremost, a well thought-out selection process for districts would need to be instituted. For this initiative to have the greatest chance of success and for it to yield meaningful lessons, the criteria for selection should center on evidence that the candidate district has the requisite conditions to use the regulatory flexibility to the best advantage of its students. This approach to participation would represent a major change from the usual selection processes of CDE, which tend toward reliance on lottery selection and minimal assurances from district leadership. We suggest that an independent panel be convened to refine the criteria and make the selections, removing this potentially sensitive process from the CDE, which would maintain responsibility for providing implementation support and monitoring after the selection is completed.

We recommend that the selection panel consider criteria addressing the following domains: achievement trend data; evidence of the leadership capacity and track record of the district's administrative team, and the clarity of their strategic plan regarding how they would use the flexible dollars to improve instruction and achieve the identified outcomes. Selected districts should be able to articulate a clear strategy for managing the change process and developing the capabilities of their district and school staff. They should also have analyzed potential barriers to success – such as particular collectively bargained agreements – and be able to articulate a strategy for working with their unions or others to resolve predictable issues or constraints. Finally, recognizing that flexibility may be equally necessary for currently low performing as for higher performing districts, we recommend that Program Improvement districts not be excluded from participation in this initiative if they are able to demonstrate that they have met the criteria regarding the clarity and strength of their strategic plan, the capacity of their leadership team, and analysis of the change process and potential barriers. It may also be advisable, however, for PI districts to have also established clear mechanisms for external support with their improvement efforts (e.g., through partnerships with support providers, collaborations with other districts, etc.).

Additional challenges regarding these recommendations involve creating the political support and public will required, both for the long term overhaul of the system and for this interim demonstration and developmental initiative. Interest groups and other education stakeholders would need to be willing to let go of pet programs and narrow interests, which are working neither to the benefit of the identified interested party nor for California students overall. CDE would need to be willing and able to step back from a compliance orientation and toward a more evidence-based focus on continuous improvement and capacity building. We would need to approach monitoring and evaluation in a different way, so as to derive lessons that can truly affect the design of future policy and the improvement of current implementation. Accountability criteria, processes and actions would need substantial reorientation, and capacity must be created and spread at all levels of the system if individuals and units are to take on new responsibilities and ways of operating. Critical to all of this effort are enhanced and user-friendly state and local data systems, built on longitudinally linked student data and aligned with state standards and goals. With these and other elements of a comprehensive approach in place, we have the potential for giving districts and schools the support they need to “get the job done” – that is, to raise student achievement and attainment for all students and close the gaps between the have and have-nots in California education.

Summary of Evidence Supporting Recommendations

The evidence supporting the analysis and recommendations in this brief derive from a combination of research and our own multiple decades of practice as educators and district leaders. The lack of alignment between the current finance and governance systems, the fragmentation and inefficiencies created by the

reliance on categorical funding, and the barriers to real improvement presented by the over regulation have all been well documented in the Getting Down to Facts studies (see for example, Brewer & Smith, 2007; Fuller et al. 2007; Duncombe & Yinger, 2007; Timar, 2007; Kirst, 2007; and Loeb, Bryk, & Hanushek, 2007). By contrast, the research support for many of the categorical programs and for the specific processes they require of schools and districts is generally weak and often non-existent. It is not surprising that principals and superintendents interviewed or surveyed point to greater flexibility as a central condition for deeper and more effective improvement efforts. We wholeheartedly concur with our colleagues in other districts who responded to these surveys.

Unfortunately, no simple solution emerges from the research literature. While Duncombe (2007) finds that greater reliance on categorical funding lowers district efficiency as measured by the API, Brewer & Smith (2006) find no conclusive evidence supporting any particular governance structure with respect to its impact on school improvement. These authors do, however, posit a research-based framework of design principles that includes several of the characteristics reflected in our recommendations. In particular, they include innovation, flexibility, and responsiveness (as opposed to regulation and compliance) and simplicity, efficiency, and coherence (as opposed to complexity and fragmentation) as two of their five general indicators of effective governance. We believe that moving from reliance on categorical funding (accompanied by a funding formula based on student need) and removing extraneous and ineffective regulations from the state education code will help provide the conditions for greater local flexibility and coherence. Moreover, instituting a pilot initiative in which such flexibility is introduced and studied in a small number of districts can help provide the evidence needed for more effective and informed statewide policy in the future. A similar approach was tried at the state level under the federal Education Flexibility Partnership Act of 1999 (Ed-Flex). The Ed-Flex Program allowed six states authority to waive federal requirements seen to impede local and state efforts to improve their schools. This program, however, was limited in scope (relying mainly on devolving waiver authority to the state) and short-lived (it ended under NCLB). Local examples of productive use of flexibility and pilots also abound, however. Effective districts, such as Long Beach Unified, often also use pilots as a form of R & D before instituting practices more broadly in the district. Data on implementation and effectiveness of such efforts inform later policy development and have helped to cement a continuous improvement culture in the district.

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