

February 14, 2018

Overview of State Governance: K-12 Education

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Committee on Education

Hon. Benjamin Allen, Chair

Assembly Committee on Education

Hon. Patrick O'Donnell, Chair





Overview of State Governance



California Has a Vast System of K-12 Education

- 6.2 million students.
- 602,000 full-time equivalent teachers and staff.
- 945 school districts.
- 8,793 district schools and 1,248 charter schools.



Four Main State Entities Responsible for Governing K-12 System

- Governor—proposes the education budget and approves or vetoes education bills.
- Legislature—approves education funding and enacts education policy.
- State Board of Education—issues regulations to implement state laws and considers district requests to be waived from state requirements.
- State Superintendent of Public Instruction—administers education programs and distributes funding to districts.

Evolution of State Governance in California



Position of Superintendent Established in 1849

- The first State Constitution (1849) established the position as an elective office.
- Statute assigned the Superintendent several duties, including building schools, overseeing teacher training institutes, and apportioning school funding.



State Board of Education Established in 1852

- The Legislature established the board through statute. Over the next 12 years, state law gave the board authority to determine required courses of study, certify teachers, and adopt regulations for the public school system.
- Board membership varied over the years but generally consisted of officials serving by virtue of their office, including the Superintendent, Governor, county superintendents from large counties, and the head of the state's teacher training institute in San Jose.



Constitutional Convention Reduced the Authority of the State Board in 1879

- Delegates to California's second Constitutional Convention decided to decentralize education governance by transferring most duties the Legislature had assigned to the state board to county boards of education.
- Over the next few decades, the state board functioned primarily as an advisory body to the Superintendent.
- One exception was an 1884 amendment that added the state board to the Constitution and gave the board responsibility for adopting textbooks. The amendment also made the Superintendent, Governor, and heads of the state's teacher training institutes the sole members of the board.



Evolution of State Governance in California (Continued)



Modern Governance Structure Emerged in 1912

- In 1912, the voters amended the Constitution to allow the Legislature to determine the method of selecting state board members. Subsequent legislation made board members appointees of the Governor.
- Through statute, the Legislature gave the board policymaking duties and made the Superintendent subordinate to the board on issues of policy.



First Major Governance Study Completed in 1920

- The *Report of the Special Legislative Committee on Education* concluded that the state's "double-headed" governance structure inevitably would lead to disputes between the Superintendent and the state board.
- The committee recommended abolishing the position of Superintendent and assigning the Superintendent's duties to an executive chosen by the state board. The Legislature did not pursue the recommendation.



Voters Have Rejected Several Proposals to Change State Governance

- Since 1920, several other studies have examined state governance and recommended amending the Constitution to make the Superintendent an appointed position.
- Voters rejected associated constitutional amendments in 1928, 1958, and 1968.



Current Role and Responsibilities of the State Board

- The State Board Consists of 11 Members Appointed by the Governor**
 - Board members serve staggered four-year terms, except for one student member who serves a one-year term.

- The Constitution Establishes Two Responsibilities for the State Board**
 - Approve textbooks for use in grades one through eight (1884, as amended in 1970).
 - Approve the appointment of the Superintendent's four senior deputies, which were made exempt from civil service requirements (1946).

- State Law Establishes Many Other State Board Responsibilities**
 - Approve statewide academic standards for core subject areas.
 - Adopt regulations to implement certain state laws.
 - Hear waiver requests submitted by school districts.
 - Hear requests for the unification and reorganization of school districts.
 - Hear appeals from charter schools denied authorization at the local level.



Current Role and Responsibilities of the Superintendent

- The Superintendent Is a Nonpartisan Office Elected by the Voters Every Four Years**

- The Constitution Assigns No Specific Duties to the Superintendent**

- State Law Assigns the Superintendent Three Basic Responsibilities**
 - Manage the California Department of Education (CDE).
 - Serve as the executive officer and secretary of the state board.
 - Serve on various boards and commissions as an ex officio member.

- As Head of CDE, the Superintendent Has Numerous Responsibilities**
 - Administer state and federal education programs.
 - Ensure schools are complying with applicable state and federal laws.
 - Allocate funding based on various formulas.
 - Compile and disseminate data on districts, schools, staff, and students.
 - Oversee development of curriculum frameworks, standardized student assessments, instructional materials, and school facilities standards.
 - Oversee county offices of education.



Relationship Between the State Board and the Superintendent



State Law Sets Forth a Few Basic Principles

- The state board is responsible for determining “all questions of policy” within its jurisdiction.
- The Superintendent has control of “executive and administrative functions” but also must execute the policies approved by the board.



The Relationship Between the State Board and Superintendent Is Less Clear in Practice



Several Disputes Over Roles and Jurisdiction

- In 1963, the state board directed the Superintendent to convey its opposition to legislation that would have given school districts greater authority to choose textbooks. The Superintendent refused, citing his personal support of the legislation. The Attorney General issued an opinion siding with the board but noting that the board had no authority to remove the Superintendent.
- During the 1980s, the Superintendent issued numerous advisories telling schools how to interpret state laws and implement state programs. The state board contended that these advisories undermined its policymaking authority and filed suit against the Superintendent. An appellate court sided with the board, affirming that the Superintendent must follow the board’s lead on all issues of policy.
- In 1997, the voters approved Proposition 227, which required English learners to be taught in English and restricted bilingual programs. The Superintendent advised districts that they could ask the state board to waive these requirements, but the board concluded that it lacked this authority and refused to issue the waivers.



Review of Recent Studies on Governance



Five Groups Have Conducted Major Studies Over the Past 25 Years

- California Constitution Revision Commission (1996).
- Joint Committee to Develop a Master Plan for Education (2002).
- California Performance Review (2004).
- Governor's Committee on Educational Excellence (2007).
- Little Hoover Commission (2008).



Broad Agreement That Current Governance Structure Is Flawed

- No clear lines of authority and responsibility.
 - Hard to hold any one entity responsible for educational quality and results.
 - Many conflicts over jurisdiction.
- System does not promote coherent policy making.
 - The Governor, Legislature, and state board rely on the Superintendent to implement their policies, but the Superintendent is elected independently and may have different policy priorities.
 - Schools and districts sometimes receive mixed signals about what objectives they are expected to pursue.
- Many examples of duplication and overlap.
 - Governors often appoint their own education advisors whose responsibilities overlap with those of other entities.
 - The state board is staffed by the Superintendent yet also retains its own staff.



Recommendations From the Five Studies



All Studies Recommended Making the Governor the Clear Head of Executive Functions

- Consolidate most policymaking, coordination, and administrative functions of the Superintendent, state board, and other state agencies into an office that reports directly to the Governor.



Studies Made Various Recommendations for Reforming the Position of Superintendent

- Make the Superintendent an appointee of the Governor, subject to Senate confirmation (one study).
- Place the Superintendent in charge of data and accountability and shift other responsibilities to the Governor. Duties of the Superintendent could include collecting and publishing accountability data, identifying low-performing schools, overseeing technical support, and issuing reports to the public (two studies).
- Maintain the superintendent's existing role with some refinements, such as modifying statute to define responsibilities more clearly and transferring some coordination functions to the Governor (two studies).



Studies Made Various Recommendations for Reforming the State Board

- Eliminate the board's policymaking powers and reconstitute it as an advisory body (two studies).
- Narrow the board's authority by eliminating its constitutional responsibilities and making it responsible only for tasks explicitly assigned by the Legislature (one study).
- Maintain the board's current role as a regulatory body appointed by the Governor (two studies).



Key Considerations



Legislature Constrained in Changing Governing Entities

- The Constitution establishes the Superintendent and the state board. It also requires the Superintendent to be elected. Changes to these provisions would require a constitutional amendment.



Legislature Has Broad Authority to Modify Roles and Responsibilities

- Nearly all other aspects of state governance—including the method of selecting the state board and most responsibilities of the Superintendent, state board, and other state agencies—could be changed through statute.



Different Systems of Governance Involve Different Trade-Offs

- California's current structure diffuses executive power, such that few major decisions can be implemented except when all of the main actors agree.
- Most recommendations for reform give greater priority to other goals, including clear lines of accountability, transparent decision-making, and elimination of duplicative functions.