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State Governance of Elementary and Secondary Education

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ABSTRACT

This report discusses state governance of elementary and secondary education. It provides an overview of the diversity of state governance structures — especially how state boards of education and chief state school officers are selected. It also discusses some broader differences in the state policymaking arena and how federal education legislation deals with the diversity of state governance structures. This report has been prepared as background for the consideration of the reauthorization of the Elementary and Secondary Education Act (ESEA) and will not be updated.

State Governance of Elementary and Secondary Education

Summary

The 106th Congress is considering the reauthorization of the Elementary and Secondary Education Act (ESEA). In recent debates over education legislation, Congress often wants to know how states govern their education systems. These questions sometimes arise because of concerns about the interaction of federal education and state governance structures.

This report discusses state education governance structures. It concentrates on the more formal aspects of these structures, especially how state boards of education and state superintendents (generically called the chief state school officer or CSSO) are selected. It also deals with some broader aspects of state educational policymaking, such as the political environments within which state education policies are made and implemented.

Most state governance structures fit one of four models:

- The Governor appoints the state board, and the board appoints the CSSO (12 states). The Governor appoints the state board, and the CSSO is elected (11 states).
- The state board is elected and appoints the CSSO (8 states).
- The Governor appoints both the board and the CSSO (8 states).

The governance structures in the other 11 states do not fit these models.

State governance structures change over time. Arguably the most important change in recent years has been the increasingly activist role Governors play in setting the education agenda. One result of this more active role is the move away from elected CSSOs to CSSOs appointed by the Governor, with a view to coordinating and consolidating state educational decision making and reform.

Because of the complex variations in state educational governance systems, federal education legislation traditionally has used very general terms to refer to state agencies and officials. For example, statutes often list extensive requirements for states “desiring to receive funds under this Act” but do not specify who or what entities must conform to these requirements. A common entity identified in federal education statutes is the state educational agency or SEA. But this is a generic term referring to “the agency primarily responsible for state supervision of public elementary and secondary education.”

This report has been prepared to provide background information for the consideration of ESEA and will not be updated.

Contents

Introduction	1
Federal Legislation and State Governance	1
The U. S. Department of Education and State Governance	4
Selection of State School Boards and Chief State School Officers	4
Stability and Change in State Governance	7
Roles of State Boards and CSSOs	8
Governance Structure and Policy Making	10
Conclusions	12

List of Tables

Table 1. Selection of State Boards and CSSOs	6
Table 2. Other State Governance Structures	7
Table 3. Changes in Methods of Selecting Chief State School Officers 1972 to 1999	8

State Governance of Elementary and Secondary Education

Introduction

The 106th Congress is considering the reauthorization of the Elementary and Secondary Education Act (ESEA) and other legislation that would affect elementary and secondary education. During consideration of education legislation, Congress often wants to know details of how states govern their educational systems. These questions sometimes arise because of concerns that federal legislation might override or conflict with state and local educational governance. There is also, at times, the desire to target funds to or away from certain state entities or to make sure that certain state entities are or are not involved in decisions affecting the administration of federal funds.

Debate sometimes focuses on how best to respond to the changing policy environment at the state level without “negating or superseding” state legal authority. One important change in the state policy environment is increased contentiousness, in part because of the higher visibility of education issues and the greater political stakes involved. As one observer has noted, “Education used to be a bipartisan issue. The arguments were over which districts would receive how much money. Now it’s about ‘What is the best way to reform schools?’ It’s much more polarized.”¹ In the past, state legislatures and Governors often paid relatively little attention to education issues. According to Michael Kirst of Stanford University, past president of the California state board, “Many Governors were totally detached from education well into the 1980s. Now, Governors are not just paying attention to education policy, but how it’s implemented.”²

This report begins with an overview of how federal education statutes typically address the variety of state educational governance systems to avoid conflict with them. The report concentrates on governance structure — especially regarding who is elected and who is appointed (and by whom) in various states’ structures. It also discusses some other aspects of governance, such as the broader political environment of educational policy decisions. This report has been prepared to provide background information for the consideration of ESEA and will not be updated.

Federal Legislation and State Governance

¹ Alan Rosenthal of Rutgers University, quoted in Sandham, Jessica L. “Partisan Politics Lend New Twist to State Debates.” *Education Week*. June 9, 1999, page 1 of 5 (downloaded from [www.edweek.org]). (Hereafter cited as Sandham, *Partisan Politics*.)

² Johnston, Robert C. “Governors Vie with Chiefs on Policy, Politics.” *Education Week*. May 12, 1999, page 3 of 5 (downloaded from [www.edweek.org]). (Hereafter cited as Johnston, *Governors Vie with Chiefs*.)

States vary in how they oversee and administer elementary and secondary education. For example, although all states have a chief state school officer (this individual has different titles in different states) and all states except Wisconsin have state boards of education,³ states differ in how the chief and board are selected. In some states, one or the other is elected; in other states one or the other is appointed by the Governor; and still other states use other selection methods.

Traditionally, federal education legislation takes into account the diversity in state governance structures by using very general references to state agencies and officials. For example, Title I, Part A of ESEA, Section 1111(a) simply states that “any state desiring to receive a grant under this part shall submit to the Secretary [of Education] a plan ... that satisfies the requirements of this section. ...” Although there are extensive requirements about the content of the plan and requirements for who should be consulted in the plan’s development (for example, local educational agencies (LEAs), teachers, and parents), there are no specifics about who at the state level develops or approves the state plan.

Federal education legislation often assigns responsibilities to state educational agencies (SEAs), but again this is not a specific state entity or individual.⁴ For example, Title XIV Part A of ESEA defines state educational agency as “the agency primarily responsible for state supervision of public elementary and secondary schools” (Section 14101(28)).⁵

Another general legislative strategy to avoid contradicting or conflicting with state governance structures is a blanket statement that nothing in the statute or parts of a statute is meant to do this. For example, the House-passed bill to reauthorize parts of the ESEA (H.R. 2, Section 7406), provides that, with respect to Education of Limited English Proficient Children and Emergency Immigrant Education:

³ Minnesota has enacted a law that will abolish its state board as of December 31, 1999.

⁴ McCarthy, et al., note that most state educational agencies are composed of “a policy-making state board of education, a chief state school officer, and a support staff” of the state department of education. McCarthy, Martha, Carol Langdon, and Jeannette Olson. “State Education Governance Structures.” ERIC number ED 369 167 (November 1993) p. 30. (Hereafter cited as McCarthy, *State Education Governance Structures*.)

⁵ Congress has used a similar definition of SEA for decades. For example, the original Impact Aid statute (64 Stat. 1124), enacted in 1950, defined SEA as “the officer or agency primarily responsible for the state supervision of public elementary and secondary schools” (Section 9(7)). Many federal education statutes simply refer to the current ESEA definition. Other statutes provide their own, somewhat different, definitions. For example, the Individuals with Disabilities Education Act (IDEA) defines state educational agency as “the state board of education or other agency or officer primarily responsible for the state supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by state law” (Section 602(28)).

Nothing in this title shall be construed to negate or supersede the legal authority, under State law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the State agency, entity, or official.⁶

Despite the strategy to use general language to refer to state governance structures, some federal education legislation specifies who at the state level should be involved in federal educational programs. For example, the Carl D. Perkins Vocational and Applied Technology Education Act of 1998 requires states to consult with the Governor (among others) in the development of the state plan, regardless of the role the Governor generally plays in educational governance. The School-to-Work Opportunities Act requires states applying for competitive implementation grants to describe how the Governor and various state agencies, such as those dealing with economic development, job training, and vocational rehabilitation, collaborated in the development of the grant application. In evaluating these applications, the federal government is to “give priority to applications that describe the highest level of concurrence among these required collaborators,” regardless of whether any of these agencies are generally involved with state education policy or programs.

In some legislation providing grants to states, Congress does specifically identify which state entity should have control of federal program funds because states differ significantly with respect to who has this control. At one end of the spectrum, some state courts have ruled that federal funds under grant-in-aid programs must be spent only as directed by federal law and that state legislatures have no authority over these funds. At the other end of the spectrum, other state courts have held that federal funds are like any other funds at the state level and are subject to the legislative appropriations process, just as any state funds are. These differences in state practice can be overridden by federal statute. For example, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 specifies that funds provided under certain provisions of the law are subject to appropriation by the state legislature.⁷ The power of Congress to make such provisions is firmly established by its constitutional power to tax and spend for the general welfare. States then have the right to accept or reject the federal grant. If they accept the funds, they must comply with federal requirements or face the loss of federal funding. Congress does not have to specify which individual, entity, or agency at the state level has authority of a particular

⁶ Essentially identical language is contained, for example, in the Teacher Quality Enhancement Grants for States and Partnerships program (Title II of the Higher Education Act of 1965, as amended). In addition, this legislation defines ‘state’ as the Governor, unless the state constitution or state law designates another individual, entity, or agency as responsible for teacher certification.

⁷ P.L. 104-193, Section 901. Congress recognized that in some states the executive, not the legislature, has authority over certain federal funds. Nevertheless the conference report states that:

xxquotebeginIn the States in which the Governor previously had exclusive control over Federal block grant funds, the State legislatures now would share control through the appropriations process. However, States would continue to spend Federal funds in accord with Federal law. (H.Rept. 104-725 to accompany H.R. 3734, p. 489)xxquoteend

program. But if Congress makes no specification, state practices (which may differ from state to state) may apply.⁸

The U. S. Department of Education and State Governance

Although a comprehensive review of the practices of the U.S. Department of Education (ED) toward the states is beyond the scope of this report, at least one ED office that oversees the largest ESEA program — ESEA Title I — appears to have little difficulty in determining who is responsible at the state level for such decisions. According to staff in the Title I office, Title I funds are distributed to states by means of grant award documents, which usually specify the “Chief State School Officer of the State of _____,” as the recipient of the funds. This person is deemed to be “the administrative head of the state agency with primary responsibility for supervising elementary and secondary education.”⁹

The Title I office also seems to have no trouble determining who or what is in charge when a statute only specifies the “State” as having responsibility for fulfilling federal requirements. The Title I office apparently views “State” and “SEA” as synonymous. Title I monitoring visits are conducted at the SEA, which is seen as the state department of public instruction or some similarly named state agency.

Selection of State School Boards and Chief State School Officers

With the exception of Wisconsin (and shortly, Minnesota), all states have state boards of education. Many state boards focus only on elementary and secondary education; some have additional jurisdiction over vocational education, postsecondary education, or other education and education-related areas. All states have chief state school officers (CSSOs), although the titles of these individuals differ — some are secretaries of education, others are commissioners of education, still others are state superintendents of education or state superintendents of public instruction. In addition, some states have both a state superintendent and a secretary of education. The latter may be a member of the Governor’s cabinet and have additional authority over other areas, such as the arts and humanities.

A central question concerning state boards and CSSOs is how they are selected: Are they elected or appointed, and if appointed, who appoints them? **Table 1** below categorizes states by whether the state boards are elected, appointed by the Governor, or selected by some other means, and whether the CSSO is elected or appointed by the state board or by the Governor. The selection of the state board is shown in the columns of the table. In general, Boards are appointed by the Governor (31 states), elected (10 states), or selected in some other manner (nine states, as explained in **Table 2**). The selection of CSSOs is shown in the rows of the table. In general, the

⁸ See for a discussion of these issues: Smentkowski, Brian. “Legal Reasoning and the Separation of Powers: A State-Level Analysis of Disputes Involving Federal Funds Appropriations.” *Law & Policy*, v. 16, no. 4, October 1994. p. 395-419.

⁹ Telephone interview with Paul Brown of the Office of Elementary and Secondary Education (OESE) at ED, November 24, 1999.

CSSO is appointed by the Governor (10 states), appointed by the state board (25 states), or elected (15 states).¹⁰

Governance structures in 39 states can be described by 1 of 4 general models:

- The Governor appoints the state board, and the state board appoints the CSSO (12 states). The Governor appoints the state board, and the CSSO is elected (11 states).
- The state board is elected and appoints the CSSO (8 states).
- The Governor appoints both the state board and the CSSO (8 states).¹¹

¹⁰ The categorization of states was obtained from a number of sources. Data from a recent tabulation by the National Association of State Boards of Education (NASBE—obtained from their website at www.nasbe.org, revised January 1999) and January 1999 data from the Education Commission of the States (ECS) were compared with data from two earlier studies: McCarthy, “State Education Governance Structures,” and Gary W. Badarak. “Recapturing the Policymaking Function of State Boards of Education.” ERIC number ED 325 947 (August 1990) (Cited hereafter as Badarak, “Recapturing the Policymaking Function”). In cases where these sources disagreed, state constitutions, state statutes, and state websites were consulted, and in some cases telephone calls were made to states.

¹¹ According to the NASBE 1999 data, the District of Columbia elects its board in a nonpartisan election, and the board appoints the CSSO. The Governor of Puerto Rico appoints both the board and the CSSO.

Table 1. Selection of State Boards and CSSOs

	State Board of Education		
	Appointed by Governor (31)	Elected (10)	Other (9)
CSSO Appointed by Governor (10)	Delaware Iowa Maine Minnesota* New Jersey South Dakota Tennessee Virginia**	Texas	Pennsylvania
CSSO Appointed by State Board (25)	Alaska Arkansas Connecticut Kentucky** Illinois Maryland Massachusetts** Missouri New Hampshire*** Rhode Island Vermont West Virginia	Alabama Colorado Hawaii Kansas Michigan Nebraska Nevada Utah	Louisiana Mississippi New Mexico New York Ohio
CSSO Elected (15)	Arizona California Georgia Idaho Indiana Montana North Carolina North Dakota Oklahoma Oregon Wyoming	Florida****	South Carolina Washington Wisconsin (no board)

*State board to be abolished after December 31, 1999.

**States that also have secretaries of education appointed by the Governor, in addition to a CSSO.

***Governor and a statewide elected council appoint state board.

****Board members are elected state officials: Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Agriculture and Consumer Services, and Commissioner of Education. Structure will change to a governor-appointed board and board-appointed CSSO in 2003.

Eleven states do not fit any of these models. In Texas, the state board is elected, but the Governor appoints the CSSO. In Florida, the CSSO is elected, and the state board is composed of the Governor and six elected state officials.¹² The remaining nine states have different governance structures (particularly with respect to the selection of the state board). These state structures are described in **Table 2**.

¹² In 2003 Florida's governance structure will change to one in which the Governor appoints both the board and the CSSO, according to ECS data.

Table 2. Other State Governance Structures

State	Governance structure
Louisiana	Board is partially elected, partially appointed by the Governor; board appoints the CSSO.
Mississippi	Board is partially appointed by the Governor, partially by the Lieutenant Governor, and partially by the legislature; board appoints the CSSO.
New Mexico	Board is partially elected, partially appointed by Governor; board appoints the CSSO.
New York	Legislature appoints the board; board appoints the CSSO.
Ohio	Board is partially elected, partially appointed by Governor; board appoints the CSSO.
Pennsylvania	Governor appoints (and the Senate confirms) 17 members of board (including the CSSO and the chairs of the Basic Education Council and of the Higher Education Council); four members come from the legislature (the majority and minority chairs of the House and Senate Education Committees or their designees); one member (nonvoting) is the chair of the Professional Standards and Practices Commission. The Governor appoints the CSSO.
South Carolina	The legislature appoints 16 board members; Governor appoints one board member; the CSSO is elected.
Washington	The board is elected by local school boards and one member is elected by private schools; the CSSO is elected
Wisconsin	There is no state board; CSSO is elected.

Perhaps the most notable characteristic of **Tables 1 and 2** is Governors' influence on education governance. In 22 states, he or she either appoints both the CSSO and the state board (10 states), or appoints the state board, which in turn appoints the CSSO (12 states). In four states, the Governor has some role in appointing the state board, which then appoints the CSSO. In 11 states, the Governor appoints the state board, but the CSSO is elected. The Governor apparently has no formal role in only 13 states in state governance of education.

Stability and Change in State Governance

State educational governance does change (albeit relatively slowly) over time. For example, Minnesota has recently enacted legislation to abolish its state board,¹³

¹³ The abolition of the Minnesota state board appears to be part of social program consolidation, which resulted in the creation of the Department of Children, Families and Learning in 1995. The 1998 legislation abolishes the state board at the end of 1999 and (continued...)

and Florida will change its structure in 2003 to one in which the state board and the CSSO are appointed by the Governor. **Table 3** shows changes in the selection method for CSSOs since 1972. Since the 1970s, the clearest trend has been change from elected CSSOs to CSSOs appointed by the Governor.

**Table 3. Changes in Methods of Selecting Chief State School Officers
1972 to 1999**

Method of selection	Year			
	1972	1986	1988	1999
Elected	38%	30%	32%	30%
Appointed by State Board	52%	56%	54%	50%
Appointed by Governor	10%	14%	14%	20%

Sources: Badarak, “Recapturing the Policymaking Function,” p. 12 and NASBE and ECS data.

Observers disagree on whether the trend toward appointed boards and CSSOs is a good thing. Bill Honig, a former elected California state superintendent, who fought over education issues with that state’s Governor (who was not a member of his political party), believes that the Governor should appoint the CSSO. “It’s better to have the Governor on the hook. He or she has a program. It gets implemented. You have accountability. With split governance, it gets too wishy-washy.” Others disagree. The current Wisconsin Superintendent of Public Instruction (like Honig, elected on a nonpartisan ballot) argues that a separate election of state school officials “keeps partisan politics far away from children in the school. I don’t report to anyone but the public. If they don’t like you, they throw you out.”¹⁴

Roles of State Boards and CSSOs

In discussing the roles of state boards and CSSOs, it is important to remember that state constitutions generally authorize legislatures to provide for public schooling. Thus the role of state boards and CSSOs is always legally secondary to the role of the legislature. In addition, in recent years Governors have played an increasingly active

¹³ (...continued)

transfers most of its responsibilities to the commissioner of that department. According to the chief fiscal analyst for the Minnesota House of Representatives, there were additional reasons — besides centralizing and consolidating social programs — for the demise of the board. “The board’s downfall in 1998 ... seemed to be triggered by the reaction of legislators and the Governor to the board’s willingness to take on some very controversial issues — rewriting state rules on school desegregation and integration and student diversity.” Marx, Bill. “Minnesota Education Governance Undergoes Structural Changes.” *State Education Leader*, v. 17, no. 1, Winter 1999. p. 18.

¹⁴ Both quotes are taken from the article in Johnston, *Governors Vie with Chiefs*. p. 3.

role in setting education agendas, irrespective of what formal arrangements states have for setting and implementing educational policy.¹⁵

According to McCarthy, although state boards' power and authority vary from state to state,

most have some quasi-legislative and/or quasi-judicial authority. For example, they usually adopt rules and regulations and formulate policies that supplement those prescribed by the legislature, and they often serve as the final stage in the administrative appeals process regarding education controversies.¹⁶

In addition, state boards make recommendations for funding levels and other legislation to the Governor and legislature.

A 1987 study quoted by McCarthy lists six authorities that most state boards have:

- Establish certification standards for teachers and administrators,
- Establish high school graduation requirements,
- Establish state testing and assessment programs,
- Establish standards for accreditation for local school districts and preparation programs for teachers and administrators, Review and approve the budget of the state education agency, and
- Develop rules and regulations for the administration of state programs.¹⁷

As noted above, state boards in 25 states have the authority to appoint the CSSO.

Apparently no more recent comprehensive study of state boards' roles has been done, although boards' roles have changed since the 1980s. Perhaps the most notable change involves teacher certification. Nearly all states have established separate teacher standards boards. Some of these boards serve in an advisory capacity, but others have taken over policy setting for teacher certification.¹⁸

While the CSSO's duties and authority vary from state to state, according to McCarthy, they may include:

- Heading the state department of education and directing the activities of its staff, Adjudicating educational controversies,
- Proposing and influencing legislation and policy setting, and

¹⁵ This point is illustrated by numerous current and former Governors – of states as diverse as South Carolina and Wisconsin – who have built their statewide and even national reputations, in part, on their accomplishments in elementary and secondary education.

¹⁶ McCarthy, *State Education Governance Structures*, p. 11.

¹⁷ *Ibid.*

¹⁸ ECS Information Clearinghouse, 1996. See: [www.ecs.org].

- In some states (mostly those in which the CSSO is elected), serving as a voting or nonvoting member of the state board.¹⁹

Governance Structure and Policy Making

In addition to this broad description of governance structures, state structures differ in other respects. In fact, if each state structure were described in full, it would be clear that no two structures are identical. But even a full description of each state's education governance structure would only suggest how state educational policy is actually made.

For one thing, these structures do not indicate the degree to which educational decision making is centralized or decentralized in various states. In some states, curriculum, textbook decisions, teacher salaries, and other basic issues are decided mostly at the state level. In addition, in some states a great deal of the funding for elementary and secondary education is provided at the state level. In other states, many of these decisions and much of the funding for education may be left more to local school boards and local general governments.²⁰ Badarak points out that centralization vs. decentralization tends to follow regional patterns and traditions. In the New England states, with a tradition of strong local government, educational decisions have traditionally been more locally centered. Decentralized decision making is also more typical in the Rocky Mountain states. In the South, educational decisions have traditionally been more centralized at the state level. Other states fall somewhere in between these alternatives.²¹

A major difference in formal governance structures, as **Table 1** shows, is whether the state board or the CSSO is elected or appointed. Elected boards and elected chiefs are sometimes thought to be more independent actors because they have their own political base of support. This is not always the case, however. In 1995, North Carolina, which has an elected state school superintendent, saw the power of that individual removed by the legislature and given to the state board (which is appointed by the Governor). The state board, in turn, hired a deputy superintendent, who actually ran the department of public instruction. The state superintendent became essentially a figurehead. Within 2 years, the situation had been basically reversed. A new state superintendent was elected (one presumably more acceptable to the state board), and the powers that had been removed from his predecessor were restored.²²

¹⁹ McCarthy, *State Education Governance Structures*, p. 19.

²⁰ For example, nearly all (99.6%) of the nonfederal funding for public elementary and secondary education in Hawaii is provided by the state; while only about 7% of the nonfederal education funding in New Hampshire comes from the state. U.S. Department of Education, National Center for Education Statistics. *Digest of Education Statistics*, 1998. Washington, 1999. Table 158 (data for school year 1995-1996).

²¹ Badarak, *Recapturing the Policymaking Function*, p. 8.

²² See *Education Week*. "N.C. Posed to Slash Size, Power of State Education Agency." March 8, 1995 and *Education Week*. "N.C. Board Votes to Restore Power to State (continued...)"

Another assumption is that boards or chiefs elected in nonpartisan elections may be less likely to reflect political leanings in their administration of state education policy. But again, this is not always the case. One example involves a grant to California under the Goals 2000 program. ED had accepted California's Goals 2000 application (submitted by the state superintendent, who is elected in a nonpartisan election) and awarded \$42.1 million to the state. The Governor, however, blocked the use of the grant on the grounds that he "just wanted to know what" strings were attached to the money.²³ The Governor finally agreed to accept the funds, although on the condition that the state board of education act as the oversight panel.²⁴

The formal structures of educational governance also do not recognize the broader political context within which state educational policy is set. It is sometimes assumed that conflict over education policy is more likely if various actors in the state policy arena belong to different parties. If the Governor is of one party and the other party controls the legislature or if the Governor and the chief have different party affiliations, education (and other policy) debates may be more contentious. On the other hand, under this supposition, if all actors are in the same party, there are likely to be fewer policy disputes. The table in the appendix displays the party of each state's Governor, the majority party in each state senate and house, the party affiliations of state board members (if elected on partisan ballots), and the party of the chief (if elected by party). As of January 2000 (excluding Nebraska, which has a unicameral legislature elected on a nonpartisan basis), 25 states have Governors and one or both houses of the state legislature that are of different parties.

Of course having different party affiliations among primary education policy makers does not necessarily mean that policy making will be contentious. Nor does having all policy makers in the same party guarantee harmony. Sometimes rivalry between the Governor and the legislature overshadows party unity and party differences. For example, disagreements over educational reform in Pennsylvania reportedly have arisen between the Governor and the legislature more than among legislators from different parties. According to *Education Week*,

Even as Gov. Tom Ridge, a Republican, has continued to push a school reform agenda that would provide publicly financed tuition vouchers for students in various school districts to attend private or religious schools, members of both the Republican and Democratic leadership of the House and Senate education committees have maintained a strong stance against vouchers.²⁵

²² (...continued)

Superintendent." January 15, 1997. Available from: [www.edweek.org].

²³ *Education Daily*. "California Governor Puts Goals 2000 Grant on Ice." October 10, 1995. (The quote is attributed to the California assistant secretary for child development and education.) Note that while the chief state school officer is elected on a nonpartisan ballot, she was not a member of the Governor's party.

²⁴ See *Education Week*. "In Change of Heart, Wilson to Accept Goals 2000 Funds." May 1, 1996. p. 13.

²⁵ Sandham, *Partisan Politics*, p. 3.

Another example in which other considerations overrode party affiliation reportedly occurred recently in Georgia. According to *Education Week*,

Democratic Gov. Zell Miller launched a purge of the [state school] board in October [1996], in hopes that new members could get along with Linda C. Schrenko, the state schools superintendent. Mr. Miller asked all of his appointees to the board to resign — a last-ditch effort to end months of bickering between Ms. Schrenko, a Republican, and the board, which was controlled by Democrats.²⁶

Finally the courts are sometimes the final arbitrators of conflicts over state education governance. A recent article in *Education Week*²⁷ gives several examples.

- In 1993, the California state board won the right, over the state superintendent, to determine educational priorities for the state system. The Wisconsin state supreme court overruled a 1996 state law that would have stripped most of the elected superintendent's power and would have allowed the Governor to appoint a state commission of education.
- In Michigan, a suit is still pending regarding the Governor's 1996 executive order, which would shift power from the elected state board to the Governor-appointed CSSO.

Conclusions

State educational governance structures are diverse. While four models can describe the broad outlines of formal structures in 39 states, a comprehensive description of how each state governs its elementary and secondary educational system would reveal that no two states are identical. In addition, broader state policy and political arenas add to the difficulty in understanding educational governance. An important change in these arenas over the last 10 or 15 years has been the increased role of Governors in determining educational agendas and in setting and implementing educational policy. Governors' increased involvement can be attributed, in part, to the growing visibility and importance of educational issues. In turn, the growth in visibility and importance of these issues has led, in some states, to conflicts between the Governor and other state-level actors and has made educational policy making more complex and often more contentious.

Congress has responded to the diversity and complexity of state educational governance in several ways. Traditionally federal education legislation has employed very general language in referring to state educational structures. Federal legislation often makes the state, in general, or the SEA responsible for fulfilling statutory requirements and implementing federal education programs at the state level without specifying which individuals or entities will be held accountable.

²⁶ Jacobson, Linda. "Ga. Governor Purges Board to End Bickering with Schrenko." *Education Week*, January 15, 1997, p. 1. Obtained from: [www.edweek.org].

²⁷ Johnston, *Governors Vie with Chiefs*. p. 4.

More recently, in part in response to the increased involvement of Governors in setting and implementing state education policy, Congress sometimes specifies a role for the Governor or other state entities (in addition to or instead of the SEA) in implementing federal education programs. In some cases, statutes require that the Governor (and others) be consulted in developing the state plan to implement a federal program. In other cases, Congress provides incentives for collaboration between the SEA and the Governor (and other state agencies). In still other cases, Congress makes the Governor responsible for implementing the federal program, unless the state constitution or state law specifically establishes some other entity, agency, or individual as responsible.

Another way federal education legislation recognizes the diversity of state governance structures is the use of a general provision that nothing in the statute shall be interpreted as negating or superseding state legal authority over programs under the jurisdiction of state officials or entities. This language sometimes accompanies statutory language that specifically defines a role for the Governor or other state entities.

Statutes that contain provisions that both define new state roles and avoid “negating or superseding” state law illustrate the difficult decisions Congress faces in crafting education legislation. On the one hand, there is the desire to support change in state governance structures, most notably the increased role of Governors. On the other hand is the desire to emphasize the secondary role that the federal government plays in determining educational policy and to leave most educational decisions (including who is in charge of elementary and secondary education) to state and local decision makers. It can be argued that the traditional legislative approach is a useful strategy for achieving both goals. Broad references to the state and to “the state agency or official primarily responsible for the state supervision of elementary and secondary education” recognize that a variety of state authorities (including the Governor) may be involved in educational policy making, while recognizing that it is each state’s right and responsibility to determine the specific agencies and officials who oversee public elementary and secondary education.

APPENDIX

Party Affiliations of Governors, State Legislatures, and State Boards of Education and Chief State School Officers (if elected on partisan ballots) as of December 1999

State	Governor	Senate (majority party)	House (majority party)	Board	Chief
Alabama	Dem.	Dem.	Dem.	Elected: Dem. 4, Rep. 4, Gov. breaks tie	Board Appt.
Alaska	Dem.	Rep.	Rep.	Gov. Appt.	Board Appt.
Arizona	Rep.	Rep.	Rep.	Gov. Appt.	Elected: Rep.
Arkansas	Rep.	Dem.	Dem.	Gov. Appt.	Board Appt.
California	Dem.	Dem.	Dem.	Gov. Appt.	Elected: Nonpart.
Colorado	Rep.	Rep.	Rep.	Elected: Rep. 6, Dem. 1	Board Appt.
Connecticut	Rep.	Dem.	Dem.	Gov. Appt.	Board Appt.
Delaware	Dem.	Dem.	Rep.	Gov. Appt.	Gov. Appt.
Florida	Rep.	Rep.	Rep.	Cabinet (Rep. 3, Dem. 3) and Gov. sit as state board	Elected: Rep.
Georgia	Dem.	Dem.	Dem.	Gov. Appt.	Elected: Rep.
Hawaii	Dem.	Dem.	Dem.	Elected: Nonpart.	Board Appt.
Idaho	Rep.	Rep.	Rep.	Gov. Appt.	Elected: Dem.
Illinois	Rep.	Rep.	Dem.	Gov. Appt.	Board Appt.
Indiana	Dem.	Rep.	Dem.	Gov. Appt.	Elected: Rep.
Iowa	Dem.	Rep.	Rep.	Gov. Appt.	Gov. Appt.
Kansas	Rep.	Rep.	Rep.	Elected: Rep. 8, Dem. 2	Board Appt.
Kentucky	Dem.	Rep.	Dem.	Gov. Appt.	Board Appt.
Louisiana	Rep.	Dem.	Dem.	Other	Board Appt.
Maine	Indep.	Dem.	Dem.	Gov. Appt.	Gov. Appt.
Maryland	Dem.	Dem.	Dem.	Gov. Appt.	Board Appt.
Massachusetts	Rep.	Dem.	Dem.	Gov. Appt.	Board Appt.
Michigan	Rep.	Rep.	Rep.	Elected: Dem. 4, Rep 4 no tie break	Board Appt.
Minnesota	Reform	Dem.	Rep.	Gov. Appt.	Gov. Appt.
Mississippi	Dem.	Dem.	Dem.	Other	Board Appt.
Missouri	Dem.	Dem.	Dem.	Gov. Appt.	Board Appt.
Montana	Rep.	Rep.	Rep.	Gov. Appt.	Elected: Dem.

State	Governor	Senate (majority party)	House (majority party)	Board	Chief
Nebraska	Rep.	Unicameral– Nonpart.		Elected: Nonpart.	Board Appt.
Nevada	Rep.	Rep.	Dem.	Elected: Nonpart.	Board Appt.
New Hampshire	Dem.	Dem.	Rep.	Gov. Appt.	Board Appt.
New Jersey	Rep.	Rep.	Rep.	Gov. Appt.	Gov. Appt.
New Mexico	Rep.	Dem.	Dem.	Other	Board Appt.
New York	Rep.	Rep.	Dem.	Other	Board Appt.
North Carolina	Dem.	Dem.	Dem.	Gov. Appt.	Elected: Dem.
North Dakota	Rep.	Rep.	Rep.	Gov. Appt.	Elected: Nonpart.
Ohio	Rep.	Rep.	Rep.	Other	Board Appt.
Oklahoma	Rep.	Dem.	Dem.	Gov. Appt.	Elected: Dem.
Oregon	Dem.	Rep.	Rep.	Gov. Appt.	Elected: Nonpart.
Pennsylvania	Rep.	Rep.	Rep.	Other	Gov. Appt.
Rhode Island	Rep.	Dem.	Dem.	Gov. Appt.	Board Appt.
South Carolina	Dem.	Dem.	Rep.	Other	Elected: Dem.
South Dakota	Rep.	Rep.	Rep.	Gov. Appt.	Gov. Appt.
Tennessee	Rep.	Dem.	Dem.	Gov. Appt.	Gov. Appt.
Texas	Rep.	Rep.	Dem.	Elected: 9 Rep., 6 Dem.	Gov. Appt.
Utah	Rep.	Rep.	Rep.	Elected: Nonpart.	Board Appt.
Vermont	Dem.	Dem.	Dem.	Gov. Appt.	Board Appt.
Virginia	Rep.	Rep.	Rep.	Gov. Appt.	Gov. Appt.
Washington	Dem.	Dem.	Tied.	Other	Elected: Nonpart.
West Virginia	Rep.	Dem.	Dem.	Gov. Appt.	Board Appt.
Wisconsin	Rep.	Dem.	Rep.	No board	Elected: Nonpart.
Wyoming	Rep.	Rep.	Rep.	Gov. Appt.	Elected: Rep.

Sources: National Governors’ Association; National Conference on State Legislatures; McCarthy “State Education Governance Structures;” telephone calls to selected states.