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# Opportunity to Learn and the State Role in Education\*

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## Abstract

Standards are the new focus of state and federal policymaking in education. The current policy debate addresses several types of standards, including performance, content, and opportunity to learn (OTL). This paper focuses on opportunity to learn standards (OTL) which define a set of conditions that schools, districts, and states must meet in order to ensure students an equal opportunity to meet expectations for their performance. State have been concerned about the issues raised by OTL standards for over a century, but

they have not had much success in addressing these issues with state policy. We present some explanations for the historical inability of states to influence the equal provision of education and we offer some principles for designing new state policies that incorporate new knowledge about opportunity to learn. We conclude the paper with a discussion of how states might address the underlying problem of reconciling policies more focused on performance with the problems of assuring equitable opportunities to learn.

Standards are the new focus of state and federal education policy. Standard-setting, advocates argue, helps policymakers to clarify the purposes and set the direction in which schools should be moving, without necessarily prescribing the details of how they should get there. Standards, in addition, provide a focus for accountability, providing the public and policymakers with the leverage to question whether schools have met public expectations. The current policy debate focuses on three types of standards: performance standards, which define the results that schools are expected to produce; content standards, which define the subject matter that students are expected to engage during their time in school; and opportunity to learn standards, which define a set of conditions that schools, districts, and states must meet in order to assure that students are being offered an equal opportunity to meet the expectations embodied in performance standards. This paper focuses mainly on the third of these types of standards--opportunity to learn--and on the role of states in designing and implementing such standards.

The current national and state discussion about the value of standards rests on a set of assumptions about the state role. States are expected to be the locus of standard-setting, though federal and local governments are expected to play important supporting roles. States are expected to be explicit about expected outcomes for students, by adopting standards for student achievement and for curriculum in major content areas (mathematics, science, geography, history, etc.). At the same time that states are expected to set clear performance and content expectations, they are also expected to reduce and simplify other types of regulations operating on schools, in order to provide schools and teachers the necessary flexibility they need to engage in effective teaching. [\(1\)](#)

Holding ambitious expectations for all students should promote equity, by providing a clear message to teachers, parents, and students about what constitutes successful performance in school. At the same time, schools and districts vary considerably in the opportunities they presently provide for students to be taught the content and to meet the performance expectations contained in the proposed standards. [\(2\)](#) This variation in opportunity leads to proposals that content and performance standards should be augmented by standards that focus on students' opportunity to learn, standards that would assure equal delivery of instructional opportunities. [\(3\)](#)

The Clinton Administration's Goals 2000, establishing a mechanism for voluntary national standards and supporting state and local systemic reform, became the occasion for a major debate on the nature, desirability, and feasibility of opportunity to learn standards. The debate continued throughout the reauthorization of the Elementary and Secondary Education Act in 1994. Some, particularly some key House Democrats, were so concerned that setting high outcome standards could unfairly disadvantage students in less well-off schools that they wanted to direct states to develop relatively specific opportunity to learn standards. They argued that no content and performance standards states develop as part of their reform strategies should be used for policy purposes, or for making major decisions about student promotion, graduation and retention, unless opportunity to learn standards are in place. Others, including many Republicans, preferred to take a more measured approach, focusing on research and development rather than immediate standard-setting. They would urge states to address opportunity to learn, but in a less specific and directive manner. The second position has obvious appeal to state policymakers who are

worried about federal dictation of state policy.

To some extent, the issues of federal vs. state control and the extent to which the federal legislation is specific about how states deal with opportunity to learn standards are secondary. States are major players in standards-based reform at this point; over forty states are planning or developing curriculum frameworks and aligned assessments.<sup>(4)</sup> Whatever Goals 2000 or ESEA says, they will have to answer to constituents, including potential litigants, about whether students have an adequate opportunity to meet the new outcome standards. The major issue state policymakers face is deciding whether opportunity to learn must be addressed through some new or reinvigorated set of regulations or through alternative approaches that rely less on direct regulation.

Once the term "standards" became part of the opportunity to learn discourse, confusion ensued. Do opportunity to learn standards imply continuing, or even adding to, the plethora of regulations in existing state policy? To assure equity, must states sacrifice the goal of reducing overall regulation of schools and introducing greater flexibility for local districts and schools to meet performance expectations? Is it possible for states to discuss "outcome accountability and process deregulation" in the same breath as opportunity to learn standards? Must flexibility and professional discretion come into conflict with equity? The current debate about educational standards embodies a classic and enduring problem of governmental policymaking: To what extent should policy focus on the ends that government wants to achieve and to what extent should it try to prescribe the means by which those ends should be achieved. In an ideal world, the most efficient means of achieving public purposes is to use public policy to set goals and then allow implementing agencies to find the most effective way of achieving those ends. In the real world, implementing agencies differ markedly in their capacities, and in their motives, which means that simply setting goals and not attending to means may result in serious inequalities in the benefits people get from government policy. On the other hand, using policy to prescribe means potentially creates constraints on implementing agencies that make it more costly and difficult to achieve the overall purposes of a policy.

This problem has been at the center of debates defining the state role in education. States have historically struggled with the question of how to influence education, a service that is, by its nature, difficult to control from any point outside the school or classroom.<sup>(5)</sup> Education is an essentially professional endeavor that is strongly affected by the competencies and attitudes of teachers and students, delivered at great distance from state capitols by local governments, and surrounded by deeply-entrenched political traditions of local control. As education policy at all levels becomes more centrally focused on what students are being taught and what they are learning, the problem of how states should attempt to influence schools becomes more difficult. Teaching and learning are the central aspects of schooling and the aspects most inaccessible to the blunt instruments of policy. As classroom practice becomes a more central issue of policy, uncertainty about appropriate and effective policy instruments grows. Beneath the emerging rhetoric about "outcome accountability and process deregulation," there is little stability or agreement about the nature of "the state role." There is also little correspondence among what people think states ought to do, what they actually do, and what they know how to do.

In this paper we will examine the state role from the perspective of the problems posed by opportunity to learn standards. We view the debate surrounding opportunity to learn standards as part of a continuing debate over the nature of the state role in education. The first section of the paper sketches out how states have dealt with this issue historically. States, we will argue, have been concerned about the issues raised by opportunity to learn standards for well over a century, and have not had much success in addressing these issues with state policy. In the second section, we turn to explanations for states' historical incapacity to

influence the equal provision of education. The third section presents some bases for designing new state policies around emerging understandings of opportunity to learn. And the final section develops some ideas about how states might address the underlying problem of reconciling policies more focused on performance with the problems of assuring equitable opportunities to learn.

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### **Opportunity to Learn as a Recurring Theme in State-Local Relations**

Much of the history of state education policy deals, in one way or another, with the provision of opportunity to learn. Definitions of equality have shifted and broadened and policy instruments have changed, but improving equity has been an expressed aim of state policy for at least a century and a half.

The centrality of equality is illustrated by language in the original Massachusetts (1780) and New Hampshire (1784) constitutions. The educational provisions speak of "spreading the opportunities and advantages of education in the various parts of the country, and among the different orders of the people..." Despite this early recognition of state responsibility, states did not begin to exercise authority in any notable fashion until the last half of the 19th century. Cubberley (1927,132) argued that state delegation of constitutional authority for education, through permissive legislation, to local agencies was essential to secure the establishment of schools throughout states. But, beginning about 1840 to 1850, states began to "recall the authority which had previously been delegated." A primary reason for dissatisfaction with district supremacy was that "with the increasingly unequal distribution of wealth the system leads to great inequalities in schools, teachers, terms, and the means of education, and to an unwise distribution of schools..."<sup>(6)</sup>

States took a number of approaches to address variation in the provision of education. Minimum standards--for the certification of teachers, financial reporting, and attendance, for example--were established. County school superintendents were appointed to provide oversight of local schools, and states began set the policy framework of training and certification that would results the creation of a profession of educational administration.<sup>(7)</sup> The turn-of-the-century school consolidation movement was intended to lessen disparities between increasingly impoverished rural schools and the prospering cities. Between 1897 and 1905, twenty states had authorized consolidation. It was also in the latter part of the 19th century that states began to levy taxes to generate aid to school districts, enabling less affluent areas to provide better services.<sup>(8)</sup>

By the early part of the twentieth century, states began to design school funding approaches explicitly focused on equalization. Many used minimum foundation programs which guaranteed a base level of spending per pupil, with state aid making up the difference between the foundation amount and what could be raised from local taxation. The guaranteed spending level was intended to be sufficient to meet minimum standards for educational services. As Cubberley argued,

The needs of the children of the State as to education are paramount, and cannot wait until their parents become wealthy enough to give them the advantages the State may deem that children generally require. Often the State must advance standards without reference to the ability of many communities to meet them...The children, however, need education, and a reserve fund to help poor districts is a necessity of standards are to be maintained and advanced.<sup>(9)</sup>

The school finance reform movement of the 1960s and 70s arose out of dissatisfaction with the ability of minimum foundation programs to assure equalization. Foundation levels had not kept up with rising costs while wealthier school systems increased spending through local taxation. Consequently, funding disparities among districts grew over time. In addressing the court decisions--or anticipated court rulings--invalidating inadequate foundation approaches as unconstitutional, many states moved toward a more comprehensive definition of equalization. No longer did equalization schemes take the route of setting spending levels necessary to fund minimum standards or key inputs. Providing "adequate funding" in that manner had become a charade, since foundation levels over the years had increasingly been driven by the degree to which states were willing to tax themselves and appropriate money for education, rather than any substantive consideration of the costs of providing an "adequate" level of service.

In response to the shortcomings of previous equalization, many states embraced the emerging doctrine of "fiscal neutrality," which permitted spending levels to vary within some limit as long as the differences were not wealth related.<sup>(10)</sup> Equalization of tax burdens across variations in district wealth became a higher priority than expenditure parity in many states. Fiscal neutrality was a politically appealing remedy because it did not require total spending equalization. Its popularity also probably reflects the evidence that received wide attention in the 1970s about the weak aggregate relationship between expenditures on schooling and student achievement. It was no longer clear which aspects of schooling were particularly important to fund. Finally, and of most relevance to the following discussion of state efforts to influence schooling, some policymakers and school finance reformers increasingly recognized that assuring the presence of minimum standards was insufficient to assure quality. Even if we knew which inputs, beyond the minimum, would be important to fund, we had (and still have) very limited information about what such practices cost, much less how their costs might vary across districts.<sup>(11)</sup> Courts and policymakers concluded, in the face of this uncertainty, that local districts should be charged with determining what services and practices would provide their students equal opportunity, and the state role would be to assure that all districts were funded to provide them in a reasonably wealth-neutral way.

During the same period, the definition of equal opportunity was expanded to include desegregation and attention to special needs that inhibited students from taking advantage of educational services. States initiated programs to provide special services to needy children, paralleling federal efforts to address such problems. By 1980, 23 states had their own compensatory education programs, for example.<sup>(12)</sup>

The focus on finance, and even the shift away from a minimum service approach to funding, did not mean that states gave up on using input and process standards to assure that essential services were provided. On the contrary, the body of statute and regulation grew regularly, with more and more areas of schooling subjected to state influence. States introduced elaborate monitoring and accreditation schemes to track local compliance through visits to districts and examination of their records.

During the early stages of the 1980s reform movement, state minimum standards became considerably more comprehensive, specifying numbers and types of courses that schools should offer and students should take, as well as skills that students would have to demonstrate for graduation and teachers for certification. Even though the regulations concerning curriculum and teaching in the period following *A Nation at Risk* (1983)<sup>(13)</sup> expanded the scope of regulation to include core issues of classroom practice, these regulations were still minimal in nature. Essentially, most states were trying to assure that lower-achieving students took, and less successful districts provided, content that was already available to successful students. Hence, states set new requirements at levels that college bound students and relatively affluent districts were

already exceeding. [\(14\)](#)

The various tools aimed at providing equality of opportunity, at addressing its shifting definitions, comprise a good portion of state policy. As states advanced through each phase--standards, oversight, consolidation of districts, finance equalization, compensatory programs, and finally more standards--the results of previous phases remained on the books. Old policies were not removed but maintained; policies were layered on top of one another like geological strata. Despite this accumulating mass of policy, however, equality of opportunity has remained illusive. The primary goal of these varying efforts, assuring that all districts were relatively comparable in their ability to provide services, has not been reached. While finance equalization, compensatory programs and the other approaches have narrowed the gap in available services, they have not closed the gap, as evidence in numerous current court cases suggests. [\(15\)](#) Large inequalities among and within school districts remain.

Even if the various approaches taken over the last hundred and fifty years had equalized access to services, state actions would still fall short of providing equal opportunity to learn by today's standards. As we enter the twenty first century, the definition of equal opportunity is expanding beyond the prior definitions that have driven state policy efforts. No longer is equal access to essential services or compensatory efforts seen as sufficient. With the development of state content and performance standards, policymakers have shifted the focus of their equity concern to outcomes. The standards movement suggests that all children should have an equal chance to meet challenging outcome expectations, and that they should receive instruction to prepare them to meet these outcomes. Assuring that essential services and the resources that fund them are comparable across districts and schools is no longer enough. [\(16\)](#)

Now, standards policies are designed to assure that schools and districts use resources and provide services effectively for students. Schools are expected to provide, and states are expected to guarantee, not just course offerings but high quality curricula that support the content and performance standards, and not just certified teachers but teachers who are well prepared to teach the material in the standards. [\(17\)](#) In this latest phase, opportunity to learn means providing all students in society equal opportunity to reach ambitious outcomes, and that implies that schools must not only have resources but use them well so that quality instruction results. [\(18\)](#)

The realization that the first goal--assuring equal resources and essential services--was never met should, at the least, provide an occasion for sober reflection before states move on to the much harder goal of assuring that resources are well used. States are embarking on a task that is far more difficult than the tasks that 150 years of successive policies have failed to achieve. Why have states found it so difficult to achieve their past equity goals?

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### **Challenges States Face: Complex Problems and Limited Tools**

A number of factors limit states' capacity to influence districts and schools. Some factors are structural, essentially beyond state control; some are political, and heavily influenced by the willingness of state policymakers to make hard political choices; and some are functional, or deeply embedded in the nature of education. While many have written of the limits of state policy, [\(19\)](#) it is worth reviewing some of the underlying tensions states face in trying to influence district and school decisions.

States face a structural multilevel governance problem any time they attempt to influence schools. States exert influence on schools through a variety of channels: primarily through local school districts, sometimes through local municipalities, and increasingly directly through schools, which are more and more likely to have their own representative governance mechanisms. Each of these has its own set of constituencies, which in turn have their own priorities. All multilevel organizations, including large corporations, face a version of this problem: how to get nominally subordinate units to operate in concert with each other in the presence of strong centrifugal local pressures. The problem is complicated by the additional fact that subordinate units usually have better information about how to adapt general policies to their immediate environment. (In the organizational and economics literature, this is called the "agency problem."<sup>(20)</sup> But governments face a particularly difficult version of this problem, because, especially in federated systems, local governments have significant formal autonomy and well-organized political constituencies of their own. Local governments are less likely to adopt than to adapt higher-level policies, and the most likely result of any policy initiative is extreme variability of local response.<sup>(21)</sup> One level of government cannot so much control another as bargain with it and attempt to influence it through persuasion and exchange of benefits.

Some observers see state limitations more as a political rather than a structural issue. Despite the multiple layers of governance, the argument goes, states could exert more authority in education; what they lack is the political will or skill. This argument rests on the fact that school superintendents, local school boards and teachers are among the most active and influential constituents of state legislators. Beholden to these powerful interests, legislators try to assure a steady stream of state funding to their home districts.

Legislators resist policies that redistribute resources away from their own and toward poorer districts.<sup>(22)</sup> As a consequence, school finance equalization has been difficult to achieve without holding wealthier districts harmless from losing any aid, and adding more aid for poorer districts. In recent years, state budgets have been so tight that the aid going to wealthier districts has been sacrificed, and a few states have had to fight bitter battles to recapture funds from the more affluent areas to provide resources for the less wealthy.<sup>(23)</sup> Texas has just emerged from a three year battle over funding that was so divisive it precluded any other education policy discussion and nearly led to court closure of schools.

The power of the school constituency also leads legislators to pay deference to local control and to minimize intrusion into district affairs. For example, they set mandates for services at relatively low levels so that most districts exceed them and little political static results. Many legislators try to please their own constituents by focusing policy not on the average district, but only on troubled districts. Policies are often made with the "bad apples" in mind--the corrupt and non-compliant districts that are most likely to cause political damage. The result of these political pressures is often confused and ineffective policy: standards are often set at levels that don't require improvement in most districts and schools, but they are also voluminous in number and restrictive, sending a message of lack of trust to all districts.

Political pressures mean that policymakers usually use a narrow range of instruments, resorting primarily to mandates and incentives, which promise short-term results or provide inexpensive ways to get new programs underway. More long-term strategies aimed at building the capacity of schools and districts to provide quality instruction are much rarer.<sup>(24)</sup> Furthermore, although the strategies are limited, the individual policies are voluminous and uncoordinated with one another. State policies are typically scattershot in nature--responding to immediate political pressures rather than to long-term structural problems. Pressing problems are addressed by a separate programs, leading to what some have called a proliferation of "magic bullets" and others have called "projectitis." Policies frequently contradict one another, sending incoherent

signals to schools.<sup>(25)</sup> Many factors underlie such fragmentation, including the short-term electoral cycles of politicians; institutional separation of powers among boards, commissions, legislatures; and the high degree of specialization among lobbying groups, each eager to demonstrate its policy influence to its constituency. Politics puts a premium on novelty in policy, not necessarily coherence or depth. Solving these problems requires a rethinking of political institutions and incentives.<sup>(26)</sup> In any case, one reason states have found it hard to exert more influence over schools is that they've used limited tools and too many individual policies embodying the narrow range of strategies. Frequently, the way policies are designed inhibit rather than promote the effective use of resources that would advance opportunity to learn.

Similarly, the way states have designed their basic assistance to districts limits the ability of states to use that aid as a means of influence. Basic state aid to schools is defined as an entitlement that is essentially provided without strings, since although adherence to state standards is an understood quid pro quo, states are loathe to remove basic funding no matter how compelling the reason. For one thing, removal of aid punishes the students and parents who are typically the victims rather than the agents of failure. Only very recently are policymakers considering the notion of closing failing schools and districts, and assuring students the right to attend more successful schools elsewhere. Until that option became part of the political discourse, few districts could view loss of state aid as a genuine threat. In addition, state aid comes to districts, not schools, so the link between funding and state priorities is remote for those who are most responsible for teaching and learning.<sup>(27)</sup>

Even if policy coherence were improved and policies were designed to be more purposeful and imaginative, their success would still rest on the capacity and willingness of those throughout the system to embrace and implement them. A fourth explanation for the struggles states face in exerting influence over schools is the lack of capacity at each level of the enterprise. State agencies are under-funded for the magnitude of the tasks they are given under the law, and are often at a competitive disadvantage in attracting highly qualified staff. Over the last twenty years, legislatures and governors have focused on the political imperative of getting education dollars out to districts and schools, and, while state education budgets have increased substantially, state agencies have suffered budget cuts. In the recent recession, agencies lost an average of 20 percent of their staff. Many are reorganizing, although it is not clear whether the reduced staff can take on all the responsibilities associated with standards-based reform no matter what organizational changes state agencies make. Many agencies are still hopeful of recouping some of the positions that were lost in previous budget cuts and are making do in the interim by reassigning jobs so that individuals take on added responsibilities (not necessarily related to one another or to their expertise), redefining jobs to fit the reduced staff (perhaps by altering the nature of programs in the interest of accommodating the skills of remaining staff), and relying more on federal dollars for agency positions.

The lack of state capacity has serious implications for current reforms, which place a premium on expertise in demanding areas, such as curriculum and assessment, as well as on assistance to districts and schools in improving instruction.<sup>(28)</sup> Limited state capacity also explains why previous state efforts to enhance opportunity to learn, such as those reviewed in the previous section, have had such limited effects. States have not been capable of enforcing many of the standards they promulgated to assure comparable services, creating a gap between state goals and any realistic capacity to implement those goals. Agency personnel have not been able to inspect schools and districts in depth, to see if standards are being enforced or if, in fact, compliance with standards means better practice. Unlike inspectorates in many other countries, where lengthy visits paired oversight and assistance focused on improving instruction, state agencies have had to rely for the most part on checklists and voluntary local paper compliance, which provide little wisdom about school practice and are viewed as nuisances by school personnel.

State experiments with regulatory flexibility illustrate the limits created by unimaginative policy design and low capacity. States have been under pressure from many reformers to "deregulate" schooling. The business community in particular is urging that states reorganize, as many firms have, by devolving authority to districts and schools and removing barriers to creativity at those levels. States began to experiment with deregulatory efforts in the late 1980s. Even though deregulation was an essentially new policy problem--since up to then states had added layer after layer of standards without much thought about removal or streamlining existing rules--states did not approach it as an issue needing a new policy strategy. Instead, they turned to old strategies that they had used when they were introducing new programs; not to approaches that might have been better suited for removal of programs. With some exceptions, states developed pilot deregulatory efforts limited to just a few schools; they relied on criteria that would restrict eligibility to low-risk schools; they narrowly defined the rules that might be waived; and they frequently relied on schools to identify needs for regulatory waivers on a rule-by-rule basis rather than offering up a set of regulations for removal. As a consequence, the early experiments with deregulation were frequently quite disappointing. The few eligible schools were likely to be successful schools who had never found the rules a problem in the first place; they made few waiver requests, and, when they did "use deregulation," it was frequently for activities that were relatively tame and probably possible had the regulations still been in place. Policymakers blamed the disappointing results of these tentative deregulation efforts on the hold tradition exerts on educators, but educators were puzzled by the great expectations for "doing something different" under deregulation. Those who had wanted to get things done, who worked in the type of school likely to be eligible under the limited pilots, had always found a way to surmount regulatory barriers, in no small measure because state capacity for enforcement was so low that it was always possible to ignore some regulations if necessary. In all, the early deregulation experiences didn't teach nearly as much about deregulation as they did about state policy limits. It might be said that it was the states who suffered from traditional mind sets, even more than the schools. [\(29\)](#)

Capacity is not just a state issue. The abilities of local agency and school staff are also key influences on policy success. State policies are dependent on the capacity of local agency staff and of teachers and administrators at the school level. Critics of the current standards-based reforms warn that they will not succeed without greatly enhanced local capacity, and much more effective training and professional development for teachers and administrators. Changing curriculum and teaching is a demanding, long-term task. Teachers need continuing opportunities to develop their knowledge and skills if they are to guide student learning of challenging material, and teachers and administrators need opportunities to redesign the work of schools in ways that support new expectations. [\(30\)](#) The emphasis on professional development raises a final set of explanations for the limits state face in influencing schooling: teaching is essentially a professional endeavor, whose success depends mainly on the knowledge, skill, and judgment of teachers, not on external mandates. [\(31\)](#) Policy functions best in providing the enabling conditions for good teaching, not in controlling teaching in ways that impinge on professional judgment.

As equality of opportunity comes to rest more squarely on the need for quality instruction, these issues of how to enhance the professional competence of educators become more important. To assure equal opportunity in today's context means enhancing, not limiting, the professional nature of teaching, and for that task state policy as it has been conceived in the past is hardly the best instrument. While state policy can play an important role in promoting opportunity to learn, it will not be a role that can be fulfilled by policies designed and implemented in the usual way. Narrow strategies, scattershot projects and overambitious mandates would undermine rather than promote the goal of quality for all children. We will need new ways of conceiving of the state role and of the strategies at the state's disposal.

The balance of this paper sets out some alternative visions for the state role in promoting opportunity to learn and education quality. We also discuss what it might take for the system to move to a focus on performance and opportunity to learn. The following discussion takes the existing intergovernmental structure as a given,<sup>(32)</sup> but questions all the other factors limiting state effectiveness.

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### **Emerging Alternatives for Addressing New Conceptions of Opportunity to Learn**

The present policy debate has been largely cast as a choice between having or not having opportunity to learn standards, in combination with performance standards and content standards. Advocates of opportunity to learn standards argue that, in the absence of a fully-formed set of opportunity to learn standards, performance and content standards will have serious adverse effects on disadvantaged students and schools. Schools and students will be held to higher expectations, they argue, without a guarantee of the resources they need to meet these expectations. Skeptics about opportunity to learn standards argue that simply layering on another set of input regulations, whether they are called opportunity to learn standards or something else, will further constrain the capacity of educators to respond flexibly to new performance and content expectations.

Our perspective is somewhat different from these two points of view. We've argued essentially that states have been in the opportunity to learn business for at least a century and a half, that they have not been very successful at using state policy to assure equal access to learning, and that there are a number of deeply-rooted structural, political, and educational reasons for their limited success. If opportunity to learn standards are to be something more than a replay of past experience, or worse, yet another geological layer of input regulations on top of those that already exist, then it seems apparent that policymakers have to treat the choice as something more than choosing between the presence or absence of opportunity to learn standards. States already have an accumulation of input regulations that have as their essential purpose the assurance of equal access to learning. More input regulations probably won't materially improve students access to learning, other things being equal. From our perspective, the important policy question is not whether opportunity to learn standards should exist, but what combination of policies is most likely to break the lock of structural, political, and educational factors that have limited the effectiveness of past attempts to assure equal access to learning.

The present policy debate seems to divide between those who favor a primary emphasis on input guarantees as a mechanism for achieving equal access to learning and those who favor a primary emphasis on performance guarantees. We think both these approaches are limited, but each offers some elements of a possible solution.

**The Input Guarantee Option.** The strongest advocates of opportunity to learn standards argue, essentially, that a system of performance standards and content standards, laid on top of present resource inequalities among schools and differences in student achievement, virtually guarantees that more disadvantaged schools and students will be unable to meet higher expectations. The solution to this problem, they argue, is to guarantee that every student has equal access to high quality learning by specifying key inputs (per pupil spending, textbooks, teacher training, and the like) in the form of binding standards. Some go so far as to argue that no school or student should be held accountable in any way for their performance unless there is a clear assurance that these opportunity to learn standards have been met.

This perspective, which might be called the "input guarantee" option, sets one anchor point for the opportunity to learn debate. Its major strength is that it focuses policymakers' attention on the key limitation of past policy--its failure to address resource inequalities in any systematic and sustained way.

There are, however, a number of objections one might raise about this perspective. First, as noted above, it doesn't provide any assurance that opportunity to learn standards will be any more effectively designed and implemented than past forms of input regulation. In the absence of some such assurance, the input guarantee option simply looks like more state policymaking layered on top of an already ineffective and unmanageable system of state regulations.

Second, simply specifying inputs doesn't get at the fundamental issue behind assuring equal access to learning. Resources--money, textbooks, library books, science laboratories, teacher time and competence--can be used in widely varying ways even when they are equally distributed. The issue behind equal access to learning, some analysts argue, is whether students get roughly the same "enacted curriculum;" that is, whether resources are actually used in ways that promote student learning, rather than simply delivered.<sup>(33)</sup> Presumably, states aren't any better equipped to regulate the enacted curriculum than they are to implement existing input standards. So, the argument continues, states should not promulgate opportunity to learn standards based on the enacted curriculum, but rather should monitor variations in the way schools use resources, with samples and surveys, and use the information they gain from the monitoring to demonstrate to schools and districts the kinds of practices are most likely to be effective. Hence, a tighter focus on the fundamental issue behind equal access to learning means, for some at least, backing away from tighter input regulation.

Third, making input guarantees the sole responsibility of the state may not provide the right incentives for schools to improve. Some domains of what are presently thought of as opportunity to learn--choices among high quality curriculum materials, teaching practices that provide high quality content to diverse student populations, and relations between teachers and parents--are probably better left to the professional judgment of educators and to school-level decisions than to state regulation. The education professions could agree on standards of practice for domains like these, as a form of self-regulation, without resorting to direct regulation by the state.<sup>(34)</sup> Holding educators responsible for good practice, in other words, may require professional self-regulation in addition to state regulation.

Fourth, and perhaps most importantly, the input guarantee perspective doesn't address the obvious lack of evidence that educational inputs are directly related to student performance. It would be easier to make the case for a strong emphasis on the specification of inputs, if there were robust evidence that certain types of inputs had a reliable relationship to what students actually learned in school. But the evidence is highly debatable and uncertain. On the one hand, aggregate studies of the relationship between expenditures and student achievement seem to indicate that there is no positive relationship between the two.<sup>(35)</sup> On the other hand, there are a number of studies of specific interventions that suggest that providing certain kinds of instruction organized in particular ways results in higher achievement--and such interventions sometimes involve higher expenditures than the regular school program.<sup>(36)</sup> What's lacking in this debate is any mid-range theory about the types of inputs that matter to student achievement, whether they are amenable to influence by state and local policy, and, if so, what kinds of policies might work. In the absence of any such theory, the input guarantee perspective has to be based on an appeal to the simple fairness of distributing resources equitably--an appeal that hasn't had a very reliable effect on policy over the past century and a half.

**The Performance Guarantee Option.** The strongest critics of opportunity to learn standards argue that increased input regulation is unnecessary and probably detrimental to the achievement of greater equity in access to learning. Input standards of any kind, the critics argue, create constraints on how educators respond to the learning problems of students, and more obtrusive input standards of the kind envisioned by opportunity to learn advocates could create a kind of gridlock in which educators would not take any action, or make any educational judgment, that wasn't specifically mandated by some sort of regulation. This is the sort of regulatory system that is captured by the old Prussian dictate, "that which is not required is prohibited." The solution, from the critics' perspective, is to radically reduce input regulations of all kinds, not to add more input regulations, and to focus policy primarily on school and student performance. Holding schools and students accountable for performance, and providing public information about that performance, critics argue, creates incentives for schools to find whatever practices work most effectively and to make the best use of the resources they have at their disposal. If policymakers are concerned about the special problems of low-achieving and disadvantaged students in performance-driven systems, then they can formulate performance objectives not just in terms of aggregate achievement but also in terms of the "value added" by schools to student learning, rewarding and recognizing those schools that provide the greatest boost to low-achieving students, rather than those schools that simply attract academically talented students.

This perspective, which might be called the "performance guarantee" perspective sets another anchor point for the opportunity to learn debate. Its major strength is that it addresses frontally the problems that states have had in the past dealing with the issue of equal access to learning. It says, essentially, that only a fundamental simplification and restructuring of state policy will result in any significant progress on the equal access issue. Simply layering on more input regulations, no matter how well designed, won't materially change the way schools treat students, and could, in fact, make good educational practice less likely to happen. Focusing on how well students do in school, and providing incentives based on that performance, can provide a basis for improving equal access to learning without recreating the problems of past input-oriented policies.

There are a number of objections one might raise about the performance guarantee option. First, basing a system of state influence and control on student performance means making an important--and critics would say a fatal--assumption that tests and assessments actually measure what is worth knowing. In fact, we have no assurance that existing tests, or even the new "authentic assessments" that measure a broader range of knowledge and skills, will reliably measure things that we can say, with certainty, every student should know. Some states are investing heavily in the development of these new assessments and their experience will be an important factor in determining how much weight states can put on performance measures in state policy. Presently, emphasizing performance measures in state policy means relying heavily on very uncertain and fragile new measurement technologies. [\(37\)](#)

Second, there is no guarantee that performance measures, once in place, would automatically lead to increased equality in the distribution of student learning. While it seems plausible that rewarding schools on the basis of the value they add to student achievement, rather than their aggregate scores, would result in schools focusing more attention on low-achieving students, there is no hard evidence that this will happen. Using performance measures as the main basis for state policy, and removing most other input regulations, sends a strong signal to students, parents, and schools about what matters--a much stronger signal than state policies have sent in the past. Policymakers can't control the responses that students, parents, and schools make to such signals. One possible response, among many, might be that parents and students who care a lot about educational achievement would take the signal very seriously and use every device within their power to find schools with high student performance. Other parents and students, for whatever reason, may

not behave in this way. Since prior student academic achievement and students' social class are still the strongest predictors of how well a given school will do on academic achievement measures, focusing state policy on student performance might simply concentrate high-achieving students in a few schools, thereby aggravating current disparities in the racial and socio-economic composition of schools. Also, it may turn out that new authentic assessment measures don't result in a more equal distribution of student learning than traditional measures, in which case states will be basing their policies on achievement measures that don't equalize access to learning.

Finally, advocates of the input guarantee perspective may have a point when they observe that, in the absence of specific guarantees of equity, the distribution of inputs won't necessarily change as a result of increased attention to student performance. Increased attention to performance, coupled with deregulation of inputs, layered on top of existing resource inequalities among schools, could simply aggravate the already vicious distributional politics of existing school finance systems. Under the current system, high-spending districts argue that they "deserve" their greater resources, because those resources come from the accumulated wealth of the community and from their willingness to tax themselves to support education. Under a more performance-based system, schools could likewise argue that they "deserve" greater resources because they make more effective use of them in producing student performance. In neither case does the system focus explicitly on what to do in those instances where districts and schools don't receive equitable resources, regardless of whether they are considered "deserving" or not. State policymakers should presumably be concerned not just about whether rewards are dispensed to the deserving, but also about whether everyone has an adequate level of resources to meet performance expectations.

So neither the input guarantee nor the performance guarantee options provide a very solid basis for making state policy around the issue of opportunity to learn. The tensions between these competing perspectives do, however, provide some insights into the considerations that might shape state policy and the design principles that policymakers might use address the opportunity to learn issue.

One consideration that should have a heavy bearing on state policy is the high degree of uncertainty at present about how various solutions to the opportunity to learn problem will work. We know with some degree of certainty that past state policies, focused on the input side, have not come close to providing equal access to learning, judged either in terms of the distribution of inputs or the distribution of student learning. This conclusion would suggest that more emphasis on student performance in state policy and less on specifying inputs would at least send a signal to schools, students, and parents that results are important. But the uncertainty attached to performance-based policies suggests that state policymakers should be deliberate and skeptical about relying heavily on new performance measures as a basis for new policies. As a strategic matter, then, states should probably be looking for mechanisms that nudge state policies generally in the direction of greater reliance on performance, rather than input, controls, while looking for more effective and less obtrusive ways to engage in input regulation.

A second consideration that should influence state policy deliberations is the narrowness of existing state policies. As noted in our historical analysis, states have tended to focus on a very narrow range of policy instruments and to use the same instruments over and over again, without regard for their effectiveness in achieving policy goals. The staples of state policymaking are: the state basic aid formula, state categorical programs targeted at special student populations, project grant programs for special priorities, detailed input regulations on things like the length of the school day and whether students should be required to study state history and the virtues of capitalism, and accrediting regulations for schools and teacher education programs. State policymakers tend to cycle through these standard instruments again and again, looking for new angles and wrinkles for influencing education in schools and classrooms, layering new policies,

projects, and requirements on top of old ones, producing a complex and unmanageable web of policy with limited effects.

As a strategic matter, it makes sense for states to focus some effort on pruning and simplifying existing input regulations, while at the same time broadening the range of instruments they use to try to reach classrooms and schools. Deregulation and the redesign of governmental institutions has a certain political appeal at the moment. State legislatures periodically engage in ambitious code revisions in such areas as regulation of commercial transactions and criminal law. It makes sense to think of a similar approach to the accumulation of educational policies. But such reviews and revisions are likely to have little effect if they are not informed by an overarching objective, like finding the minimum level of state regulation necessary to assure equal access to learning that embodies new content and performance standards and to focus schools on student performance.

One possibility for broadening state policy, without increasing the state regulatory load, would be increasing reliance on professional standard-setting and self-regulation as instruments of state policy. States routinely engage in this kind of regulation with insurance agents, hairdressers, and health care professionals, but for some reason are reluctant to do so with educators. Essentially, large parts of the opportunity to learn problem can be moved from state agencies into professional networks. For example, rather than having state officials promulgate regulations on what constitutes adequate teacher preparation to teach ambitious new academic content, the state could form a board of teachers, teacher educators, and lay people to set standards in this area and delegate initial and continuing teacher licensure to the board. A handful of states have such boards. A number of states also have experimented with modest forms of professional standard-setting and self-regulation around content standards, by convening panels of subject matter experts to help formulate curriculum frameworks. So far, however, these panels have been seen as advisory to state agencies, and not as substitutes for direct state regulation. The development of alternative assessment instruments is following a similar pattern, with large numbers of professional educators involved in the development of specific assessment items and in grappling with the technical complexities of new forms of assessment. States have actually formed collaborative arrangements, using intermediaries, to share in the costs of developing new assessments. These arrangements could eventually grow into a new type of quasi-governmental professional organization, which would assume major responsibility for developing and administering new assessments, under contract with states. Or, alternatively, states could internalize assessment in their existing agency structure, increasing direct state control and regulatory burden to districts.

A third consideration that should shape state policymaking is the culture and capacity of state educational agencies. A major reason why states haven't searched for alternatives to direct regulation for influencing such areas as curriculum and assessment is that state agencies have defined their role largely in traditional bureaucratic terms, judging the scope of their influence by the size of the agency and its direct expenditures. This strategy hasn't worked very well for state agencies, since their responsibilities have tended to grow at a greater rate than their funding and staffing, leaving them in the position of constantly having more formal responsibilities than they can feasibly manage. As noted earlier, state educational agencies have been in a period of contraction for some time and the trend seems unlikely to end soon. So now seems a particularly opportune time to reframe strategies of state influence, moving away from traditional conceptions that agency size determines influence to a broader conception of state agencies at the hub of a set of relationships with a number of governmental and quasi-governmental institutions whose general purpose to improve access to learning. State agencies would act less as direct regulators under such a conception and more as mobilizers of political and professional influence around important problems.

Under any conception of the role of state agencies, it is clear that they face serious capacity problems. Both their traditional bureaucratic structures and the relative weakness of their staffs in the core issues of educational reform--academic content, assessment, school organization and management, etc.--mean that they will have to struggle to maintain their existing influence, much less respond to demands for the enforcement of new input regulations. Some state agencies are grappling with this problem, trying to reform their organizational structures to meet emerging demands. But thus far their attempts have resulted in few fundamental changes in their mission or their relationships with schools and districts. [\(38\)](#)

**Design Principles.** These considerations lead us to propose that states should approach the opportunity to learn problem as a specific instance of a much broader problem of redesigning state policy and institutional structures to meet new demands. Simply layering more input regulations, using conventional policy instruments and traditional bureaucratic enforcement mechanisms, will almost certainly not have any effect on students' access to high quality learning. Using the opportunity to learn problem as the occasion for changing institutional structures and incentives around state policy, however, could result in a break with past failures.

Each state has its own special set of institutional, political, and cultural factors that operate on the formation of education policy, so it is foolish to attempt to prescribe a single approach to the opportunity to learn problem that would work for all states. It is possible, however, to define a few basic design principles that states could apply in different ways to their own contexts. So we conclude our analysis with a brief statement and elaboration of one possible set of design principles that might guide state approaches to the opportunity to learn problem. They are as follows:

1. State policies should clearly define the purposes of content, performance, and opportunity to learn standards as (a) increasing the performance of students, and (b) increasing equal access for all students to high quality learning designed to prepare them to meet performance standards. Focusing state policy on objectives for students, rather than the institutional interests of agencies, provides a basis for arguing (but not a guarantee) that choices about which institutions should perform which functions should be made based on their competence in affecting student learning, rather than their traditional roles.
2. States should not increase the level of input regulation beyond its present level. Actions should instead focus on reducing the level of input regulation, on bringing current regulations into line with content and performance standards, and on developing alternatives to direct state regulation of inputs as a means of assuring equal student access to learning. States should review current regulations to assure that they cover the minimum core of essential elements and that they are, in fact, enforceable, given state agency capacity and competing priorities.
3. States should generally shift the focus of state policy from regulating inputs to setting performance goals for schools, and to developing definitions of performance that provide incentives to increase, rather than decrease, access to high quality learning for diverse students.
4. In the formulation of a new policy, states should give first priority to indirect strategies of regulation over direct strategies. Indirect strategies include such options as professional self-regulation, investments in professional knowledge directed at policy objectives, peer review of performance, voluntary compliance with standards, and professionally organized and delivered technical assistance to low-performing districts and schools. Such approaches might mean establishing new processes for evolving standards of good practice, for reviewing progress, and for assuring accountability. New approaches that represent professional interests would bring enhanced legitimacy to state policy; they would also serve as continuing mechanisms

for refining policies over time. Altering allocations of authority and establishing new entities are ways to broaden the array of policy approaches beyond mandates and inducements.<sup>(39)</sup>

5. Indirect strategies of regulation should be accompanied by systems of school-based indicators, and special studies, that measure the essential elements of equal access to high quality learning--basic resource inequalities among schools, variation in the enacted curriculum, variation in school access to external support, etc. These indicators and special studies should be used to evaluate the effectiveness of state and local strategies and provide public data on progress toward equal access to high quality learning.

6. The organizational focus of state policy should be the school, and the criteria for evaluating state policy should be based on the value added by schools to students. Input regulations should be evaluated in terms of their impact on the development of effective practices in schools. Financing arrangements should be evaluated in terms how equitably and efficiently they deliver resources to schools. Administrative structures--state and local--should be judged in terms the value of the service they deliver to students through schools.

7. Movement of state policy toward performance accountability--for schools and students--should be gradual, and it should be evaluated in terms of its effect on social stratification among schools, as well as the overall academic performance of schools. There should be no increases in accountability without increases in assistance to those who fail to meet performance standards. The "stakes," for students and for schools, of failing to meet performance standards should be low initially to reflect the uncertainty associated with the development of new performance measures. Students and schools might, for example, simply receive feedback on their performance with no sanctions related to performance. If policymakers want to increase accountability, by ratcheting up the stakes attached to performance, they should be required to meet a complementary responsibility to provide remedial assistance to students and schools that don't meet standards. In the absence of state investments in assistance, there should be not stakes attached to performance measures.

8. States should invest money and authority in at least two relatively new types of policies and institutions: (a) Policies that link existing institutions around performance and content standards--e.g., bringing professional organizations into the development of new curriculum and changes in teaching practice, linking schools and teacher education institutions around strategies for teaching new content to diverse student populations, and using teachers and administrators to review quality and provide advice to low performing schools; and (b) Institutions that provide advice and connections among schools around performance and content standards--e.g., networks of teachers working on the introduction of new curriculum into the classrooms, school inspectorates operating with teachers and administrators on temporarily on leave from their jobs to provide advice to schools and teachers, and connections between schools and evaluators who are interested in tracing the effects of new curriculum and teaching on diverse student populations. By creating connections among key actors involved in implementing new performance and content standards, state policy is, in effect, using professional consensus and incentives, rather than direct regulation, to "tip" the system in the direction of new practices.

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## Conclusion

The central idea behind these design principles is that state policymakers can begin to nudge state agencies,

local districts, and schools in the direction of greater emphasis on student performance and equal access to learning, while at the same time acknowledging the limitations of the input and performance guarantee approaches. This strategy involves making rather large changes in the traditional bureaucratic and regulatory culture of state legislatures and state education agencies, but making those changes in ways that acknowledge the limits of state influence and the uncertainty attached to new policy ideas. Greater reliance on indirect means of influence, rather than direct regulation, and on the development of new policies and institutions that provide assistance to schools in their movement toward a more performance-oriented view of the role, allows states to expand their influence without necessarily expanding the size of state agencies or increasing the present gap in state agencies between responsibility and capacity.

A key element in this approach to the opportunity to learn problem is continuity and consistency of state policy over time. It isn't necessary, or even feasible, to make all the necessary policy decisions at one time, given the high degree of uncertainty attached to big changes in the state role. It is necessary, however, for state policy to be consistent in its broad purposes and in the general outline of its strategy over time, if only because schools need stability and guidance if they are to make large changes in teaching and learning. State policy tends to be unstable, because state electoral cycles and annual budget and appropriation cycles reward novelty rather than continuity. One task confronting state policymakers, then, is to create stable institutions that can provide continuity and direction for schools in the face of shifting state politics. Indirect regulation and the creation of new institutions that focus on connections among professionals in the field can provide one such source of continuity. Another possible source of continuity is a willingness of state policymakers to subject new policy decisions to tough scrutiny, focused on whether they contribute to the basic goals of increasing student performance and equality of access and whether they reduce, rather than increase, the level of input regulation under which schools operate.

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## END NOTES

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