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Funding for Performance

A Policy Statement of the Koret Task Force on K–12 Education

FEW PEOPLE QUESTION the fact that American schools must improve. While the skills of American workers propelled the U.S. economy to the top of the world during the twentieth century, we enter the twenty-first century with the realization that our schools do not rank highly in comparisons with those of other developed and developing countries.

Despite substantial efforts to improve the schools, the performance of American students has remained stubbornly flat. At least portions of the problems of performance of our students and schools have been generally recognized for some time, and policymakers have responded with programs, regulations, and resources. Nonetheless, the performance situation has not materially changed.

This situation provides the backdrop for aggressive movement from one of the least likely sources: the courts. A broad coalition of groups, with diverse interests, has presented courts

around the nation with an opportunity to enter into the school improvement fray. And the courts have responded.

Unfortunately, the courts' response to issues of school quality has been marked by a combination of naiveté and politics. By their nature, the courts are unprepared to devise school policy on their own, and they have consistently sided with the recommendations of largely self-interested parties. The decisions, whose full effect has yet to unfold, are unlikely to improve the schools and might well hurt them.

This assessment of court-ordered "reforms" in no way says that all is well and that our schools are firmly on the path of improvement. While there are some signs of positive change, the resource-oriented reforms of recent decades are unlikely to take us where we should be.

Having followed the fads and fantasies of the past decades, we are convinced that only more fundamental changes than those mandated by the courts or adopted by the states' legislatures will be successful. Accountability for results must be vigorously pursued. Improved incentives, including greater school choice options, are needed. And the system must be made more transparent so that those seeking more complete information about their schools can readily get it.

Improvement will not come from simply replicating, with more intensity and expense, what has not worked in the past. Instead it will come from a consistent willingness to do different things, to evaluate which of these work and which do not, and to stay with effective improvement programs. And these conditions are unlikely to come about through court intervention in the funding and operation of schools, no matter how well intentioned.

Where We Are

The U.S. economy continues to be the envy of the world. The growth rates sustained over the course of the twentieth century have moved the U.S. economy ahead of other competitors and produced the high economic well-being of Americans. As economists look at this performance, they find that a variety of factors have contributed: strong democratic institutions with a well-defined system of laws and property rights, relatively free labor and product markets, minimal governmental intrusion in the economy; and physical security. But in addition, the human capital and skills of American workers is consistently cited as one of the most important factors behind the U.S. engine of growth.

Through most of the century, the United States showed the way in skill development through an expansion of schooling for its population. The early movement to universal schooling and the progressively increasing community standards about the years of school to be completed surpassed those of nearly all other nations.

But recent decades have seen a dramatic change in this. U.S. high school completion rates have been almost constant for four decades (U.S. Department of Education 2004), while those in other developed countries have dramatically increased. At the turn of the current century, the U.S. secondary school completion rate ranked sixteenth out of twenty-one OECD countries (Organisation for Economic Co-operation and Development 2005).

As we know, however, school attainment is just one measure of student outcomes. The issue of quality, quite rightfully, has moved to the top of the policy agenda. There also the U.S. performance is a matter of concern. By our own NAEP tests, achievement of our graduates has been essentially flat since 1970 (National Center for Education Statistics 2005).¹ This sit-

1. The National Assessment of Educational Progress, or NAEP, has been

uation might not be worrisome were it not that U.S. students consistently do poorly on international tests. For example, in 2003 U.S. fifteen-year-olds ranked twenty-fourth out of twenty-nine participating OECD countries in the Programme for International Student Assessment (PISA) in mathematics (OECD 2005). The skills measured on these tests are directly related to aggregate economic growth, and the U.S. economy fails to achieve its full potential when it allows its schools to persist at current levels (Hanushek 2003b).

The other conditions favorable to economic performance and growth have in a real sense protected us from our schools. Yet even in these broader economic areas, other countries are moving to improve their economies, further threatening our international competitiveness.

These aggregate observations are also relevant for individuals. Workers with greater skills as measured by school achievement are more productive and earn more than those with less skill. Thus, the emphasis on school quality is justified also from its implications for individual earnings and economic well-being.

Finally, the patterns of educational outcomes have deep implications for our society as a whole. Racial gaps in school attainment and in achievement have stubbornly persisted. While there was convergence in both during the 1980s, the 1990s saw stagnation, leaving blacks in particular dramatically behind whites. These continuing gaps leave the distribution of incomes glaringly wide.

Even though the evidence about the economic costs of ineffective schools continues to mount, much if not all of it has been suspected for a long time. The famous government report of 1983, *A Nation at Risk* (National Commission on Excellence in

given to representative samples of 8-, 13-, and 17-year-olds in math, reading, and science for over three decades. These tests are designed to provide comparisons of students across time.

Education 1983), sounded an early alarm. While the response was largely ineffectual, it moved the issue of school quality onto the agenda with such force that it has stuck for two decades (Peterson 2003).

Concern about school quality also introduces the subject of this book—the entry of the courts as active and aggressive players in the effort to improve U.S. schools.

The Courts in School Policymaking

Although the courts have dealt with schools over a long period of time, a convenient starting point is the historic *Brown v. Board of Education* decision of 1954. The U.S. Supreme Court held that the racial segregation of schools violated the equal protection clause of the U.S. Constitution, introducing continuing oversight of schools in both the north and the south by the federal courts. Nonetheless, the Supreme Court refused to broaden *Brown* to prohibit disparities in district funding, instead ruling that the basic finance situation described in the equity cases did not rise to the level of a violation of the Fourteenth Amendment (*Rodriguez v. San Antonio*).

State constitutional claims are, however, different, because most states have both equal protection clauses and education clauses that set requirements for schooling. Beginning with the *Serrano v. Priest* case in California, most states have now faced challenges to their school financing schemes—all brought under the provisions of their separate state constitutions. The general thrust of the cases has been that unequal spending across districts is inequitable, because some students had better schools available to them than others.

Not surprisingly, the long series of such funding equity cases has produced mixed opinions, with some courts ruling their funding systems unconstitutional and others upholding their ba-

sic constitutionality. After all, both the funding schemes and the state constitutions differ substantially across states. These cases, along with related legislative actions, have tended nonetheless to yield several broad changes: spending has increased, the state share of funding has increased, and the amount of state control and regulation of local schools has increased.

The nature of school funding court cases changed during the 1990s when the arguments focused on the basic dissatisfaction with the performance of schools, as opposed to the unequal allocation of funding. The simplest version of these cases stated that even if the funding distribution were equitable, the financing program was not adequate to ensure the outcomes demanded of children once they entered the labor market.

These cases, labeled “adequacy” cases, have a very simple structure. While the testimony and cases may drag out for amazingly long periods (see chapter 1), the heart of these cases is a presentation that at least some students do not meet current state learning goals and that this must be the result of insufficient resources. Given enough resources, the argument goes, schools would be able to meet their educational goals.

The development of these court cases has been aided by the movement toward accountability in the schools, a movement that culminated in federal law under the No Child Left Behind Act (NCLB) of 2001. NCLB requires all states to introduce testing and accountability programs in their schools and sets 2014 as the year when all children will be proficient by each state’s standards for learning outcomes.

The introduction of NCLB emphasized the goals for each state, but subsequent data show that not all students now meet those goals (Chubb 2005). This fact fits nicely into the stories that the advocates of adequacy lawsuits develop—achievement is unacceptable; the obvious problem is insufficient resources,

and the state has a constitutional requirement to provide the added funds.

As described, however, the aspirational standards of most states, developed generally without the vote or approval of the state's legislature, seldom bear any resemblance to the language or intent of the state constitution (chapter 2). With few exceptions, state constitutions describe a floor on what is acceptable.

In looking at the history of cases, the now-well-known New York experience may appear outlandish (chapter 1), but assessing other cases suggests that it is not all that different from others. Judges recognize that schools need to be helped and want to do something to improve the situation. The stories of Kansas City, New Jersey, Cambridge, and Sausalito (chapter 4) indicate clear historical precedence for the New York case (and give a chilling foreshadowing of what may come to pass).

Indeed, the courts have been willing to be very prescriptive. In New York City the trial judge declared that the current funding for operations and maintenance should be increased by \$5.63 billion a year, an amount that would push spending to double the national average. In Wyoming the legislature, under pressure from the courts, pushed spending to fifth in the nation in 2003, but consultants hired by the legislature counseled that this spending was still substantially insufficient, leading to further massive increases in funding in 2006. In Kansas the court has directed the legislature to appropriate the amount that consultants have said would be required for adequacy—a more than 20 percent increase in spending.

By the winter of 2005, almost half the states had active cases in the courts at some stage of the judicial process. Only five states had never had a school finance court case in the past three decades.

But What Is the Problem?

One simple view is just “what’s the problem?” If the legislature and executive branches do not effectively deal with the obvious problems in our schools, can it hurt to have the courts weigh in to fix things?

The answer is that this decision-making process is fraught with problems—problems ranging from constitutional to educational. Indeed there is every reason to believe that aggressive judicial decision making will indeed hurt our schools, at least when measured in student outcomes.

Constitutional Structure and Judicial Incapacity

The constitutional division of powers found across the states and in the federal government is such that the appropriations process is the province of the political branches—the legislative and the executive—while the judicial branch interprets the laws in the framework offered by the constitution. In the normal course of events, the governor will submit a budget with recommendations for school funding, along with funding for other services, and with the taxes needed to support the spending. The legislature will consider this proposal and modify it during the process of arriving at an appropriation for schools and for other areas. The governor then has an opportunity to object through the veto power typically granted the executive. And if the legislature feels strongly about the appropriations amount, it can override the governor’s veto.

Throughout the process, the governor and the legislature gather information, analyze the specifics of programs and policies, interact with the citizens they represent, hear from the advocates for school districts, and the like. Over time, the political branches also build up expertise through hiring specialists in the

executive offices and in the legislative committees, and these specialists can provide more detailed information to the decision makers.

If these processes produce generally bad outcomes from the viewpoint of citizens, the governor and the legislators can be voted out of office. Of course, because elections are multidimensional, votes are not specific to education (or prisons or roads or . . .). Thus, the legislator seeking reelection still has considerable latitude in policy decisions without much risk of being voted out. Nonetheless, if education (or any other issue) gets too far out of line, these people can be voted out of office.

In contrast, consider the judicial appropriations process as seen, for example, in New York City. A Manhattan judge, a generalist by definition, develops expertise about schools from the material presented in the judicial proceedings, combined with whatever information or opinions he has as an individual citizen. While his opinion will be reviewed by the higher courts of the state, there is generally not a strong check or balance from the other branches. (In some states, judges are elected so that the same check from the people as found in the legislature may apply, but long term lengths, nonpartisan elections, and general lack of public scrutiny make this a weak instrument). In the New York City case, the judge hired a panel of retired judges to advise him on the correct amount to appropriate for schools. This panel took its own testimony and then ratified an analysis by consultants hired by the plaintiffs, even though similar proposed testimony by one of the consultants had been ruled inadmissible by the judge during the trial.

In other places such as Kansas, the courts skip the intervening process of a panel of judges and simply use the spending suggested by the consultants. But in each case, there is no formal review by people in the other branches—except, of course, where the judicial appropriations trigger a constitutional crisis.

(The outcome is, however, somewhat ambiguous, because the legislature can fail to assent to the judicial appropriations.)

There are many problems with this approach. The most basic is the one identified: the judicial appropriations process inverts the role of the courts and puts them in a position never envisioned by the framers of the state and federal constitutions.

Of course, the courts (and the interest groups who are plaintiffs in the cases) would argue that they have the primary role of interpreting the constitution and of ensuring compliance with it. If failures by the governor and the legislators lead to violations of the state constitution, then the courts are obligated to act. Yet on this score, it is difficult to see that the vague language of the New York Constitution requiring “free common schools,” interpreted by the highest court as a requirement for a “sound basic education,” implies that all students should meet the stringent requirements for a Regents diploma. Or that the Wyoming constitution, which variously calls for a “complete and uniform” or a “thorough and efficient” system of schools, means according to the courts that “Wyoming views its state constitution as mandating legislative action to provide a thorough and uniform education of a quality that is both *visionary and unsurpassed*” (*Campbell II*, 18; emphasis added).²

In Texas the supreme court was less expansive when it stated the general principle:

“[W]e must decide only whether public education is achieving the general diffusion of knowledge the Constitution requires. Whether public education is achieving all it should—that is, whether public education is a sufficient and fitting preparation of Texas children for the future—involves political and policy considerations properly directed to the Legislature.” (*Neeley v. West Orange-Cove*)

2. *Campbell County School District v. State*, 907 P. 2d 1238 (Wyo. 1995); *Campbell County School District v. State*, 19 P.3d 518, 538 (Wyo. 2001).

The history of judgments in different states shows clearly that the line between the proper and improper use of judicial authority has been drawn in quite different places.³ But even if these questions are viewed as matters of interpretation where people can legitimately disagree, the judicial appropriations process fails on pragmatic grounds.

Ignoring Historical Evidence

The lack of court expertise in matters of schools is important, because it allows judgments to be made on superficial—although perhaps commonsensical—grounds that may have *little empirical basis*. The adversarial system of the courts is seldom the place to get a nuanced view of the evidence on any set of policies or school programs. Indeed the judicial system tends to rulings that fall sharply on one side of the case or the other, and the two sides are not commonly going to provide balance in their presentations.

Perhaps the most crucial element of evidence that enters into the school finance discussions of the courts is the role of funding. The constitutional violation alleged in adequacy cases is built on the basis of student performance. The fundamental issue is the lack of achievement by some students. But of course courts can-

3. In fact, some argue that the judiciary should be supreme in this area. Michael Rebell, the lead attorney in the New York City *Campaign for Fiscal Equity* case, states: "Although conventional wisdom often bemoans active judicial involvement in social policy issues, in regard to the oversight of cost studies, a continued pro-active judicial stance is vitally needed. The opportunity for an adequate education is a fundamental constitutional right which past experience has indicated will not be fully and fairly respected in most states without active judicial oversight. Moreover, in regard to cost studies which constitute a critical element in developing an effective remedy in these cases, there simply is no other authoritative, impartial governmental entity that is capable of monitoring and regulating the delicate mixture of expert and political judgments that is involved in this enterprise" (Rebell 2006, 79).

not easily rule that achievement must be higher, because enforcement of such a ruling is difficult. In particular, the courts can order schools to close or can rule that diplomas be withheld if achievement is not at a sufficient level. But these remedies are what we might call the “nuclear option,” since they effectively say that “if you do not ensure that the schools sufficiently help children, we will force you to do it by hurting the children even more until you solve the problem.” Instead the courts almost always turn to calls for increased spending on schools, arguing as the plaintiffs do that increased funding will fix the achievement problems, or at least will not hurt. Again, in terms of simple spending, the courts face enforcement problems should the legislature fail to act, and here some courts have again threatened the nuclear option if the legislature does not act appropriately in spending.⁴

The fundamental problem, as made clear by the prior analyses, is that there is no reasonable or reliable way to define “adequate funding.” The plaintiff discussions of the issue, cleverly, are couched in commonsense. The arguments about funding generally include three elements: (1) a demonstration of a problem that could be easily fixed with resources, such as school plumbing that is in disrepair; (2) a general statement that we all know from our own experience that having more money is “better” than having less; and (3) at times, but not always, a demonstration that a special program at a particular site shows positive learning effects. These elements provide the evidentiary base that enters into a variety of court judgments. But none of these elements indicate how much money is needed to provide

4. Such thinking even appears to occur at the local level when the state legislature does not provide sufficient local funds. Goodwin (2006) reports that New York City mayor, Michael Bloomberg, “admits he killed 21 planned schools because they are in districts of politicians he deems insufficiently attentive to his demands [to fund the court judgment on adequacy of funding].”

an adequate education. Nor do they indicate how much achievement will improve with any added spending.

Because the courts lack expertise, they are willing to turn to “experts” who have conducted “costing out” studies to hear the details on what is required. But these costing out studies have no scientific basis and have never been tested against reality (chapter 7). The consultants, almost always hired by interested parties, say themselves in their more candid moments that the analyses can be manipulated and indeed are only done because the relation between funds and student performance is unclear.

The irony of course is that substantial scientific evidence shows no consistent relation between money alone and student achievement (Hanushek 2003a). This finding also shows the difficulty facing the courts: if spending has a very small effect on achievement, it will take a very large amount of money to bring about any achievement goal. The larger the judicial appropriations, however, the less likely it is that the legislature and the executive will support the ruling, leading to both practical and constitutional issues.

The previous chapters also provide evidence that shows the problems with the courts’ basic funding logic. Given both unrestricted funding and the latitude to make decisions, school districts have not demonstrated an ability to improve poor student performance (chapter 4). The sad story of Kansas City, which was told to dream its biggest dream and the state would finance it, yet could never improve student achievement, is the poster child for why money alone is unlikely to work. Kansas City is, of course, not alone, and the wide-ranging examples of New Jersey, Cambridge, Sausalito, and the District of Columbia reinforce the fact that Kansas City is not a singular example of bad policy.

If these districts were identifiably bad or corrupt, it might be possible to write off the evidence of bad performance and simply vow not to fund districts “like these.” But, while they appear bad

after the fact, they were given court and legislative support and funding throughout the process.

Moreover, it is also possible get high achievement—even for children from low-income families—without adding large amounts of resources (chapter 3). In all states it is easy to identify high-poverty schools that achieve much higher than is “expected” of them, based on the backgrounds of the students. But no evidence suggests money as opposed to more fundamental differences in their policies and operations accounts for such unexpectedly high performance.

The usual way the advocates of more spending deal in the courtroom with these disconcerting facts is to argue that these are special cases and that there is no reason that they have to be repeated. The tautological rebuttal of evidence that districts fail to spend extra money effectively is to state “money used wisely can be effective.” This statement ignores the fact that districts have not generally shown an ability to use money wisely. Indeed, there is *no* broad-based evidence to show that added funds without other changes in programs and policies lead to more achievement.

The courts do not have the *expertise* or the ability to develop nuanced policies that recognize what goes on in schools. For example, the courts cannot dictate how districts use funds across their schools, even when the evidence shows that districts currently do not make spending decisions relative to identified student needs (chapter 6). Per-pupil spending differences in a wide range of urban districts regularly vary by multiple thousands of dollars, and moreover these districts do not provide extra resources according to poverty concentrations. Spending differences within New York City are larger than the differences between New York City and Westchester County, even though the latter differences played prominently in the *CFE* decision. The court can dictate equal spending, that is, something that can be

directly monitored and enforced, but this ruling may not even satisfy spending equity principles if one considers concentrations of disadvantaged students.

Because the courts, and apparently the schools, do not know how to raise the achievement of all students to a high standard with any certainty, the courts have trouble ruling on the basis of outcomes because they cannot have any expectation that the ruling will be satisfied. Thus, simply requiring, for example, that at-risk students reach some achievement standard does not offer a way out for the courts because they know that even a good faith effort by the schools might not produce the desired result, and may simply invite further court cases or extended judicial supervision.

Neither can the courts readily dictate such essential elements of schools as how time is spent on math and reading and whether that time is productive (chapter 8). In simplest terms, even if some curricula or teaching methods are more productive than others, the courts cannot intervene in a practical manner. And in general, good teaching in any classroom does not cost more than bad teaching. Of course, as we discuss below, the legislature and maybe even the school districts are facing the same difficulties, because they also have trouble enforcing the dictates of various educational process matters, including the curriculum that is actually taught in classrooms or the quality of classroom interactions.

Doing Harm by Doing Good

It is not the case that court directives are “free” policies. Some argue simply that, if the court solution doesn’t work, no harm is done and at least we can say that we tried.

The very deliberations and character of judicial decisions tend to *lock in* current ways of operating. The courts have been

heavily influenced by consultants who tell them how much an adequate education will cost. These analyses are uniformly built on the extensions of current policies toward incentives, teacher salaries, and school organization and do not consider any inefficiencies that might exist (chapter 7). None of the consultants has ever, for example, suggested that different salary structures for teachers, say, with performance rewards, might enter into effective school policy. Indeed, a number of studies relied on by courts and legislatures explicitly reject providing just the minimum (or efficient level) of funds for the programs they deem good. In fact, what is defined as “costs” in the consultants’ studies is merely some modified value of current district spending without regard to whether that spending is effective. It is a serious mistake to interpret the current spending as uniformly indicating what is required.

The courts *ignore* the broad evidence that the current achievement level can be produced much more cheaply. Students in private schools do at least as well as those in public schools, even though private school expenditures are considerably less (chapter 5). Private schools can do this because they strive to keep the cost of providing a quality education down so that they can attract consumers. But their success shows that more efficient schooling is clearly possible. By implication, improvements in outcomes could also be accomplished more efficiently than by simply expanding today’s typical public school.

The courts, deciding a single case, do not have to consider any *trade-offs* or other activities of the government. While legislatures and governors regularly consider appropriations for schools in the context of spending on other activities of government (welfare, prisons and safety, roads, etc.) and in the context of the taxes needed to fund these, courts decide specific cases concerning schools. If, again, the cases represent violations of constitutional requirements, one could argue that these funds

must come in front of all other uses of income, either public or private.

The level of judicial appropriations in the New York City case is instructive. Before any response, if New York City were a state, its spending would rank well within the top ten of the nation. The New York City judgment of \$5.63 billion in annual operating expenditures and close to \$2 billion in annual capital expenditures amounts to a new bill of more than a thousand dollars a year for every household across New York State. If funded through the income tax, state rates would have to increase by some 30 percent! But the court does not worry about how this will be financed.

In fact, Michael Rebell, the lead attorney for the New York City plaintiffs, argues that the courts are the best place to decide school appropriations precisely because they have no worries about the source of revenues or other competing demands. He states, "Cost questions in education inherently involve a judgmental dimension, and since the legislature often is itself an interested party in the resource allocation decisions that are involved in this process, the only authoritative governmental institution that has both the legitimacy and the ability to tackle this task is the judicial branch" (Rebell 2006, 74). This position is, of course, far from the intended role of the courts under typical interpretations of the separation of powers. It does, however, match the single interest politics of those pushing court cases and advocating dramatic increases in school funding.

While a large part of the population appears willing to fund success in the schools, funding failure has real costs in opportunities forgone and priorities distorted.

The Democratic Appropriations Process

The plaintiffs argue that education is too important to be left to the democratic appropriations process. The stated position is that judicial appropriations would be fairer and more appropriate, even though most states do not have elected judges who are answerable, at least in the short run, to the body politic.

The coalition behind judicial approaches is broad and varied. These are people with a strong self-interest: public school personnel, unions, and state departments of education; people with intense feelings about improving the schools, including parents; a variety of foundations that support the cases and their preparation; and other vocal parties with a genuine desire to improve the schools. These concentrated and identified common interests face a diffuse group with less readily identified interests (who, after all, is for inadequate education?).

Deciding on the right balance among different government programs and between public and private spending, along with structuring the schools and their incentives, is rightfully the province of the democratic appropriations process. Constitutions generally provide for basic rights, that is, floors on what is permissible. But when these provisions are interpreted to be very much higher so that they introduce new constraints that go considerably beyond what state governments are doing or have done historically, the roles are reversed.

This constitutional statement does not, however, imply that legislatures and governors always get it right. In fact, the dissatisfaction with the current performance of schools relates directly to decisions the political branches have made in the past.

The political branches are subject to many of the same forces as have led to the courts' recurring decisions on school finance matters. Indeed, the complexity of the issues, the uncertainties about the right set of reforms, and the pressures of self-inter-

ested parties have led to a variety of decisions that have not been altogether productive or effective with respect to schools (Moe 2001; Moe 2003).

We will never avoid politics in decisions about schools. The checks and balances of our constitutional governments are designed to control extreme forms of the expression of politics. Removing these normal checks and balances remains the central problem with the judicial appropriations process on school funding. The trial courts do face an internal check through the review by the appellate courts, but the evidence of court decision making leads to questions about the effectiveness of this check.

The entry of the courts into the appropriations process goes further, however. Once the courts have determined that there is a constitutional violation, legislatures are often paralyzed by the need to redraw the funding of the schools. The legislature cannot address other school policy issues of a more fundamental nature without first dealing with the financing. But the financing issues are not ones that can be easily dealt with, because the legislature must either find new funding sources or reduce other spending to meet the court demands for new, higher appropriations. Doing so frequently means reopening the delicate balance of school funding patterns across the state, a balance always difficult to maintain.

The inability to deal with other issues of educational policy (and other policy) is truly problematic. The standards and accountability movement, which culminated in the No Child Left Behind Act of 2001, is simply the result of frustration about the efficacy of input-based policies. A long history of policy experience—one reflected in a staggering amount of scientific research and evidence—shows clearly that policies aimed at increasing school resources and not at the true object of attention, student outcomes, are wasteful and ineffective. We cannot continue returning to these discredited policies.

An Alternative Perspective on Adequacy

Dealing with both the problems of our schools and the politics of achieving change is difficult. Our recommendations are ones that address both.

The previous discussion suggests the need for balance in the decision making about schools—tempering desires for improvement with a realism about policy options. It also suggests that noticeable changes, beyond simply more money, are needed if we are to improve our schools and our potential as a nation. We have outlined several approaches designed to put us on a path to improvement. They are, as history would teach us, easier to state than to implement. Nonetheless, the needs are very apparent, and we cannot let the chance for improvement slip away yet again.

1. Our schools need strong accountability systems.

Accountability in the schools involves a combination of clear and well-defined outcome standards for schools, of the accurate assessment and testing of student achievement against these standards, and of clear data reporting on the performance of each school.

One long-standing difficulty in making decisions about schools has been imprecise information about the quality and performance of schools. Partly, the difficulty is in separating the influence of schools on achievement from the influences of parents, friends, and others. For parents and other decision makers to make effective decisions about schools, they must know both where performance currently is and how it changes with different programs, incentives, and policies.

Separating the influences of schools and teachers from those of others can be done quite reliably with regular assessment data that is built on good tests of strong standards. Ensuring the

availability of such information and using it both to inform the public and to develop incentives is important in meeting the performance challenges in the schools.

Each of the states is now involved in setting and enforcing accountability in schools. These efforts, partly the result of state initiatives and partly the result of the federal government's pushing through NCLB in 2001, have shown early signs of positive effects. But attempts to end these legislative actions have also grown louder. We need to strengthen these actions, not weaken them (Chubb 2005).

The substitution of input measures of school quality—spending, class sizes, credentialing of teachers, and the like—simply does not yield valid and reliable evidence. If we are interested in student outcomes, which we need to be, there is no substitute for focusing directly on achievement.

2. The incentives to improve student outcomes must be strengthened dramatically.

Schools currently face weak and confusing incentives to improve student outcomes. A number of natural improvements and extensions make sense.

First, part of accountability systems should be a combination of sanctions and rewards to provide direct incentives to meet the standards. NCLB mandates policy changes when failure exists, and states frequently go further. The incentives implied by these accountability systems must be focused directly on performance by teachers and schools.

Second, we place special emphasis on providing greatly expanded parental choice for schools. The expansion of choice achieves multiple goals. It provides incentives for all schools to do a good job, because they will lose students and revenue if they do not. It introduces democratic control of individual schools, since parents will be able to vote directly on school per-

formance through their choice of schools, and thus they do not have to rely on bureaucratic decision making to get results. Finally, in schooling as in other sectors of the economy, we see that competition pushes toward improved performance.

The opponents of choice have managed to confuse the issue in several ways. They argue that choice takes money from the regular public schools. They argue that choice schools are not subject to government oversight and thus that any public funds for them could be siphoned off into unproductive schools. They argue that parents, particularly low-income parents, are not good at making decisions about schools. They leave out the simple fact that the aggressive attack on choice coincides with self-interested behavior and a wish to avoid any competitive pressure on the current public schools. These arguments against choice are not founded on empirical evidence.

While opponents of choice have been generally successful in limiting even experimentation with alternatives, the choice options that have appeared are starting to show success. Even though frequently hobbled by adverse legislation and finances, charter schools have made inroads on schools in most states. A few general voucher systems—in Milwaukee, Cleveland, and Washington, D.C., for example—have also capitalized on special circumstances that have permitted their introduction. From these experiences we are beginning to see that the antichoice arguments do not represent reality.

Third, because of the overwhelming importance of good teachers, rewards should follow good performance. In most states, however, the details of contracts are settled through collective bargaining at the local district level. Given this and given the diversity across local systems in different states, it is difficult to think that the state could control and mandate the exact form of all incentive contracts. It is, however, plausible to think that the state could set general boundaries on the incentive portions

of contracts. In other words, local districts could develop their own contracts and salaries as long as they fit within some general guidelines of the state. For example, the state might specify that a certain portion of the salary budget must go into a bonus pool (as Florida has done) and might also put some bounds on how evaluations are done.

The current convention of paying all teachers (of a similar experience and education level) the same amount is simply incompatible with a desire to improve student outcomes. Policy and actions must recognize not only that we have distinct shortages of high-quality math and science teachers and other specialists but also that we need to upgrade the quality of teachers throughout the schools. Rewards should be linked to performance in the classroom, not to a perceived potential based on credentials, education, and other factors shown to be unrelated to student outcomes (Hoxby and Hanushek 2005).

3. The operations of schools must be transparent so that all interested parties can readily understand what individual schools are doing and why.

Under current operations, it is extraordinarily difficult to understand the operations, programs, and decisions of local schools. The kinds of details about activities and budgets generally do not allow even the most interested parents (and decision makers) to see what is happening. This fact in turn makes it difficult for parents to interact productively with their local schools.

Accountability focuses on reporting student outcomes and introducing rewards and sanctions for performance. But there is more information that can and should be provided.

Two kinds of information are essential for the oversight of schools by parents, decision makers, and the public. First, there needs to be “resource transparency” so that everybody knows what allocation decisions are being made. Second, there needs

to be “programmatically transparent” so that judgments can be made about the instructional program that is put in place. Historically, it has perhaps been possible to argue that providing detailed information for schools was difficult and expensive, but those arguments have lost their force both as information is regularly produced for a variety of purposes and as presentation on the Web cuts the costs.

In relation to resources, budgets have been so opaque that not even experts can decipher how and why resources are allocated. This situation makes it almost impossible for anybody outside the schools to enter into intelligent conversation or enlightened decision making. The fact discussed above, that resources are not now related in any systematic way to student performance, undoubtedly relates to the fact that important information on resources and decisions is kept hidden. Governors, legislators, and the public need to insist on knowing exactly (1) how money finds its way to districts, (2) how money finds its way to students and schools, (3) where teachers come from, and (4) how teaching talent is distributed within districts (Hill 2005). Budgeting and accounting systems that obfuscate the true allocation—for example, by not reporting actual spending, as noted in chapter 6—do not promote good decision making.

We believe that there should also be a free flow of information about the reliability and effectiveness of the programs that a district undertakes. The proliferation of programs with little accountability for results simply contributes to the performance problems we face.

Because of the realities of the current school scene, we emphasize this kind of transparency, because choice and accountability are thwarted by lack of transparency, and by all forms of monopoly—including intellectual ones. We see the continuing, and tragic, use of programs and curricula that have been scientifically discredited. The “whole language” fiasco has become

nationally known, but other manifestations of fuzzy curriculum and bad preparation exist (chapter 8).

It no longer can suffice for a school simply to assert that it is using an appropriate program. NCLB focuses on scientifically validated programs; to qualify for federal reading funds, for example, districts must use reading programs that are supported by science-based research—that is, employing clinical trials. This idea should be taken to the school level, and schools should post their reasoning and justification for their educational choices. The public should know.

Moving Forward

An important consideration is that each of the three elements of change should reinforce the others, and that they should be thought of as a package. Each element has an obvious and natural place in school decision making. Yet each on its own is subject to efforts to limit effectiveness. It is easier to eliminate one or more of the reform elements when thought of individually than when the elements form a package.

The opponents of any change in the current system argue that there is uncertainty about the best way to introduce accountability or incentives. They throw up the possibility that some reforms might not achieve their ends or that they might have associated unintended consequences. And they are correct. There is uncertainty about the best way to proceed—in large part because the opponents have been successful in blocking even the smallest experiments with change.

At the same time, the one thing that is certain is that the current system is not achieving its goals. All evidence indicates that simply doing more of the same will not carry us to where we want our schools to be.

Indeed, on a number of scores, there is dramatic evidence

that the current system is harmful. We know this, for example, about a range of reading and math programs still found in many schools. We know this from the ineffectiveness of the current salary structure.

The opponents of change continue to run aggressive campaigns to close any breaches and to defend the current structure, but it is clear to us that these reform efforts should be expanded and not rolled back. The constrained introduction of public charter schools across the nation should be broadened and onerous restrictions lifted. More experiments with vouchers—building on experiments in Milwaukee and the District of Columbia, as well as in New Orleans with Katrina relief policy—should be undertaken. Support should be provided for new teacher compensation plans—such as those popping up in Denver and Houston.

There remains much to be learned about alternative incentives and accountability. But this is not an argument for sticking with the current system, because the current system is not producing what we want and need.

These words apply to both the legislatures and the courts. Real improvement takes fundamental reform. It will not happen through more of the same.

Real adequacy is achieving learning results. It is not compounding bad decisions and institutional mistakes with further decisions that lock in these mistakes.

References

- Chubb, John E., ed. 2005. *Within our reach: How America can educate every child*. Stanford, CA: Hoover Institution Press.
- Goodwin, Michael. 2006. Mad Mike's school ax hurts kids. *New York Daily News*, March 1, 2006, 31.
- Hanushek, Eric A. 2003a. "The failure of input-based schooling policies." *Economic Journal* 113, no. 485 (February): F64–F98.
- . 2003b. "The importance of school quality." In *Our schools*

- and our future: Are we still at risk?* edited by Paul E. Peterson, 141–173. Stanford, CA: Hoover Institution Press.
- Hill, Paul T. 2005. “Transparency.” In *Reforming education in Arkansas: Recommendations from the Koret Task Force*, edited by Koret Task Force, 127–139. Stanford, CA: Hoover Institution Press.
- Hoxby, Caroline Minter, and Eric A. Hanushek. 2005. “Rewarding teachers.” In *Reforming education in Arkansas: Recommendations from the Koret Task Force*, edited by Koret Task Force, 155–166. Stanford, CA: Hoover Institution Press.
- Moe, Terry M. 2003. “The politics of the status quo.” In *Our schools and our future: Are we still at risk?* edited by Paul E. Peterson, 177–201. Stanford, CA: Hoover Institution Press.
- , ed. 2001. *A primer on America’s schools*. Stanford, CA: Hoover Institution Press.
- National Center for Education Statistics. 2005. *NAEP 2004: Trends in academic progress, three decades of student performance in reading and mathematics*. Washington, DC: U.S. Department of Education.
- National Commission on Excellence in Education. 1983. *A nation at risk: the imperative for educational reform*. Washington, DC: U.S. Government Printing Office.
- Organisation for Economic Co-operation and Development. 2005. *Education at a glance: OECD indicators 2005*. Paris, France: Organisation for Economic Co-operation and Development.
- Peterson, Paul E., ed. 2003. *Our schools and our future: Are we still at risk?* Stanford, CA: Hoover Institution Press.
- Rebell, Michael A. 2006. “Professional rigor, public engagement, and judicial review: A proposal for enhancing the validity of education adequacy studies.” Presented at the Annual Meeting of the American Education Finance Association. Denver, CO.
- U.S. Department of Education. 2004. *Digest of education statistics, 2003*. Washington, DC: National Center for Education Statistics.