



Who Governs Local Schools?

For decades, power over education policy has shifted toward Washington and state capitals, but politics and the realities of teaching are keeping life in the idea of local control.

By Alan J. Borsuk

As part of the administration of President Lyndon B. Johnson, Michael Kirst helped write the Elementary and Secondary Education Act of 1965. The law was the first broad foray by the federal government into kindergarten through twelfth-grade education in the United States.

“Leaving civil rights to local control was ridiculous on its face, so this intervention in the 1960s was very justified,” Kirst, a Stanford professor and prominent scholar of education policy and history, said in a recent interview with *Marquette Lawyer*. But the law set off what Kirst called “vector factors” that have changed the landscape of education decision making in profound ways.

Not only was there no such thing as federal education policy in, say, the first half of the 20th century, but state education departments often had just two or three employees, Kirst said. The impact of legislatures, courts, education organizations, and other outside forces then? Pretty much zero.

In recent decades, control over what schools do has moved up the ladder of interests in a big way. Numerous outside forces, especially the federal and state government, have big impacts on what schools teach and how they are run. In the pursuit of laudable goals—racial integration, higher achievement, holding down taxes, closing achievement gaps between students from have-and have-not backgrounds, preparing tomorrow’s workforce—the latitude of local school boards and superintendents has been constrained by larger forces.

“I’ve argued that the imbalance has grown too great,” Kirst said. “To me, this has been overkill. . . . It’s been going on in an unrelenting way for decades, and there’s been very little reversing.”

It’s become a fair question to ask what “local control” means for schools, even in states such as Wisconsin that have proclaimed this as a guiding principle for many decades. After all, what’s local about a long line of edicts from Washington?

But there is still life in the longstanding notion of local control. Orders may come from on high, but the real action of education is ultimately as local as each classroom. The distinctive cultures of different schools and school districts demonstrate that there is still a traditional local aspect to school control.

There also is new life being breathed into local control. From the right and, to a lesser degree, from the left, advocates are making headway in building opposition to the Common Core State Standards, the nationwide effort to set learning goals for children, with many prominent political leaders such as Wisconsin Governor Scott Walker calling for reinvigorating local control. In addition, Congress has been deadlocked for seven years in revising federal education law, and the days of new waves of federal funding coming to states and local schools have waned. In some ways, control is more local than ever: The controversial growth of charter schools and programs of private-school vouchers has put more than 2 million children nationwide in schools that are freed even from oversight by school districts. ▶▶

Kirst is in his second round of serving as president of the California State Board of Education. “We got into state control squared and cubed,” he said of California. But Gov. Jerry Brown, a Democrat, and Kirst have taken significant steps to restore budget and policy powers of local districts. “Local school leaders,” Kirst said, “are still vital, and I think they need more discretion to teach children. . . . All of this pushing and pulling from outside can’t really educate children in the end.”

But at the level of a typical school district, all the orders from above can feel uncomfortably restrictive. Kathleen Cooke, superintendent of the Hamilton School District in suburban Milwaukee since 1993, said that she and her staff used to put together a list of all the federal and state mandates they had to follow, including those related to education and those placed on any large business or gathering place, such as environmental and safety rules. They stopped compiling the list in 2010, she said, because it was such unhappy reading.

Cooke said that her district complies with the requirements, while doing all it can to do what fits best

school food programs. How can they do this? The power of the purse, in the form of multibillion-dollar meal subsidies for lower-income students. “We believe that proper food nutrition and meal portion guidelines are best decided at a local level,” Rick Petfalski, president of the school board of the Muskego-Norway School District in suburban Milwaukee, recently told the *Milwaukee Journal Sentinel*. The district, with relatively few low-income students, withdrew from getting subsidies. But for the large number of districts with higher percentages of low-income students, turning off the federal faucet is unrealistic, and menus will follow federal rules, whether kids or others like it or not.

Three: Perhaps the least-pursued provision of the 2002 revision of the Elementary and Secondary Education Act (this revision being popularly known as No Child Left Behind) called for solving the national problem of students in low-achieving schools disproportionately having teachers with weaker qualifications than those in high-achieving schools. In July 2014, U.S. Secretary of Education Arne Duncan



“Local school leaders are still vital, and I think they need more discretion to teach children. . . . All of this pushing and pulling from outside can’t really educate children in the end.”

Michael Kirst, President of the California State Board of Education and Professor Emeritus at Stanford University

for their schools. She said that she’s given politicians this request: “Stop the unfunded mandate machine.”

There is no question that mandates, funded or not, have grown to levels not envisioned when Congress passed the 1965 education law. Consider this overview of the roles played in education policy by various parties.

The Federal Government

Here are three recent steps by officials of President Barack Obama’s administration:

One: It was announced that federal officials will hold school districts responsible as a civil-rights matter for discipline policies that disproportionately affect students by race—for example, if suspensions are given at much higher rates to black male students than to others.

Two: In an effort supported by Michelle Obama to make offerings more nutritious, officials have revised rules for what can be served in federally subsidized

announced an “Excellent Educators for All” initiative aimed at getting states to address the issue.

School discipline, cafeteria food, and teacher hiring as federal matters? Those are pieces of a big picture of federal impact.

To be sure, these are only recent examples. Consider also the boom in girls’ basketball. For this, one would have to go back more than 40 years, to the passage of Title IX. Underestimated at the time it was created, it sparked a whole new world of women’s sports nationwide.

Critics often point out that the word *education* does not appear in the United States Constitution. “The last place you want to put any authority over education is at the federal level,” said Neil McCluskey, associate director of the Center for Educational Freedom at the CATO Institute, a libertarian think tank. He said that the federal government has reason to intervene in schools in cases of discrimination based on group identity when local and state authorities are not correcting the problem.



“Broadly speaking, that leaves us at a place where the federal government creates an expectation that all students will be served.”

Daria Hall, Director of K–12 Policy Development for the Education Trust

But beyond that, the federal government has “no authority to legislate in education” or to spend money on education programs, he said.

Others speak up for the role of the federal government. Professor Robert Lowe, an education historian with the Marquette University College of Education, said, “I look to higher levels of government to guarantee rights and guarantee resources.” Much has been done at federal initiative to help students from populations that historically have gotten lesser opportunities, Lowe said. “If you leave things at the local level, you are going to have profound inequalities.”

Daria Hall, director of K–12 Policy Development for the Education Trust, a Washington-based nonprofit that focuses on education policy, said that federal money accounts for about a dime on every public dollar spent on kindergarten through twelfth grade. The money and other powers are enough to be influential. “Broadly speaking, that leaves us at a place where the federal government creates an expectation that all students will be served,” she said.

No Child Left Behind was due to be revised and reapproved by Congress in 2007, but as the national climate around education has become more partisan and Congress more deadlocked, that has not happened, nor is it likely in the next several years. Instead, Obama and his secretary of education, Arne Duncan, have pushed federal policy onto new turf, issuing many states, including Wisconsin, “waivers” from the current accountability regime and requiring states to pursue programs, including teacher evaluation initiatives based, in part, on measures of student success. They also prodded states to join the Common Core initiative. One result has been a surge of opposition to federal involvement in education.

“I look to higher levels of government to guarantee rights and guarantee resources. If you leave things at the local level, you are going to have profound inequalities.”

Robert Lowe, Professor, College of Education, Marquette University

The States

If the federal government has no constitutionally specified role in education, states do. Most state constitutions make education explicitly a state responsibility. But for decades, states generally took a hands-off role in telling local schools what to do. That began changing as the politics around education heated up and states were given the role of disbursing and monitoring the increasing flow of federal money. Nationwide, states generally provide about half of school funding. In Wisconsin, it is more than 60 percent.

From the 1960s on, “states increasingly asserted the control over local schools that was theirs by law but that they had only modestly exercised until then,” Kirst and co-author Frederick Wirt wrote in *The Political Dynamics of American Education*, a textbook published in 2009. “Indeed, despite Washington’s greatly enlarged role, perhaps the most striking change in U.S. education governance in recent decades has been the growth of centralized state control and the ascendance of governors over school policy in most states.”

Wisconsin offers three good examples: In 1993, Gov. Tommy G. Thompson and the legislature agreed on a “three-legged stool” approach to education spending. The legs were a state commitment (no longer in force) to pay two-thirds of the general cost of schools; “revenue caps” (still in force) on how much school districts can collect in state aid and property taxes; and a limit (no longer in force) on how much salaries and benefits of teachers could go up each year. “The Thompson funding mechanism really changed local control,” said Jack Linehan, a retired suburban superintendent and former executive director of an organization of southeastern Wisconsin school leaders. “That was probably a watershed event.”

The second example is the 2011 law known as Act 10, Gov. Scott Walker’s signature accomplishment. The law both asserted state power, by cutting state spending on schools and requiring public employees—including local school district teachers—to pay more for health and retirement benefits, and put new meaning into local





“The last place you want to put any authority over education is at the federal level.”

Neil McCluskey, Associate Director of the Center for Educational Freedom at the CATO Institute

control by nearly erasing the until-then strong role teachers unions played and increasing management’s powers.

CJ Szafrir, L’11, is education policy director of the Wisconsin Institute for Law & Liberty. Szafrir said that the Act 10 changes increased local control of education. He pointed to actions taken in school districts such as Oconomowoc, which committed itself to innovation in how students learn and reduced the number of teachers at its high school while having many teachers take heavier workloads (with more pay). It couldn’t have taken those steps under prior contracts, he said.

On the other hand, Marquette’s Lowe sees the way some politicians, business groups, and foundations have fought unions and pushed reforms such as charter and voucher schools as steps to dismantle public school systems and mute local voices, particularly in low-income communities.

The third example is the power the state has (through federal Spending Clause legislation) to put chronically low-performing school districts under “corrective action plans.” That has meant the state Department of Public Instruction has played a major role in determining what is done by Milwaukee Public Schools in recent years.

Tony Evers, Wisconsin superintendent of public instruction, said that while he supports local control in general, there are issues such as financial oversight of school spending where “there isn’t local control,” and that’s good. Otherwise, “there would be no way to monitor large amounts of money being spent,” he said. The power to issue teachers’ licenses is another aspect of state control. Overall, Evers said, “I think we have a good balance” of state-local power.

Both Republican Rep. Robin Vos, speaker of the Wisconsin State Assembly, and Democratic Rep. Peter Barca, minority leader in the assembly, spoke up in favor of local control in interviews for this story.

Courts

School desegregation is probably the most potent example of the role of court actions in school policy. Judicial decisions that called for implementing integration plans profoundly changed communities and the dynamics of education in many American cities, including Milwaukee, as in many ways did the end of the era of desegregation orders. At state

levels, judicial rulings in several places that state school funding systems were unacceptable (or, in some cases, acceptable) for how they impacted low-income communities also shaped education realities, as have court proceedings about the rights of special-education students, such as the *Jamie S.* case involving Milwaukee Public Schools, described in this magazine’s fall 2013 issue.

A recent decision by a California judge that tenure and layoff practices for teachers discriminate against low-income students because they increase the likelihood of those students getting less-qualified teachers drew strong reactions nationwide, and a similar legal challenge was launched in New York. Those cases are not yet concluded.

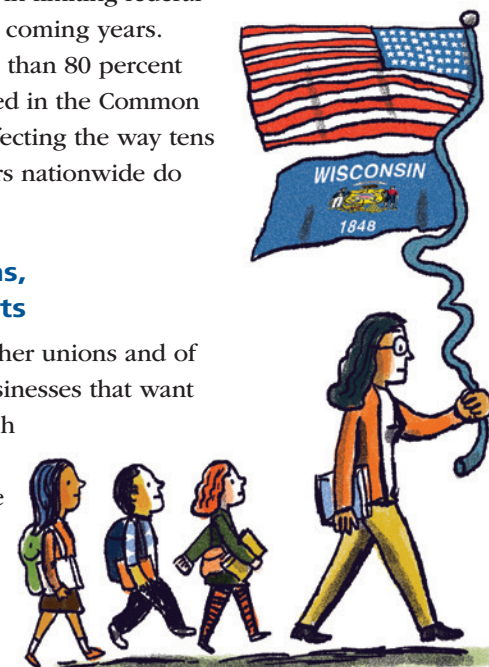
The Common Core

The rise of the set of expectations for student learning known as the Common Core State Standards is unique in that it arose from collaboration among state officials, with strong support from private, business-oriented organizations. When the Obama administration used leverage to prod states to join in, the Common Core was branded by opponents as the federal government’s taking away local and state power. Opposition continues to build, and it could have significant impact in limiting federal education initiatives in coming years.

At the same time, more than 80 percent of states remain involved in the Common Core effort, and it is affecting the way tens of thousands of teachers nationwide do their work.

Businesses, Unions, and Philanthropists

The interests of teacher unions and of philanthropists and businesses that want to spur innovations such as independent charter schools often have little in common except for two things: They are each influential in important ways, and



each one often draws great fire from the other. Teacher unions have long been shaping presences in education, and the provisions of union contracts often go far in determining what schools do. Business and foundation involvement in education issues has ebbed and flowed for decades, but it has been high nationwide in recent years, with foundations such as the Bill & Melinda Gates Foundation and the Walton Family Foundation having national impact.

So What's Left of Local Control?

Actually running schools. Hiring teachers, assigning them, and evaluating them. Selecting principals. Opening and closing schools, setting what curriculum they use, choosing textbooks and other education materials. Actually implementing all the orders from above. Those are all crucial aspects of education still in the hands of local schools and their leaders.

The Education Trust's Daria Hall said, "It's all in the implementation." Two different teachers can interpret standards and programs very differently. "It's the responsibility of districts to make sure that implementation is equitable and high quality," she said.

Kathy Christie, a vice president of the Education Commission of the States, a Denver-based organization that assists state leaders with education issues, said that local control "is still alive and kicking, but I would also contend that it is gradually being impacted by the fact that we have an increasingly mobile population. Such mobility and pressure to compete globally have contributed to concerns about consistency across state and district boundaries, and that, I think, is drawing attention to concerns about the number of decisions left to local communities. Overall, though, the 'all politics is local' adage still probably holds and generally applies to education."

But Betsy Kippers, president of the Wisconsin Education Association Council, a union organization, said that local control had slipped in Wisconsin, largely because of Act 10. "I think the history before we started losing local control is all about the voices in the local community coming together," she said. "Those voices have been severely diminished." What she called "a stranglehold" by the state on funding is "taking away a local community's ability to budget based on its values."

Michael Spector, a retired lawyer with the Milwaukee-based firm of Quarles & Brady, was involved in many education matters in Wisconsin. He said school boards and superintendents can still make significant

differences. He pointed to Shorewood, the close-in suburb where he lives, saying that its school leaders have been able to do things that serve students in distinctive and successful ways. "Part of it is how aggressive school board members want to be," Spector said.

Spector's view was backed by a study published in June 2014 by the Center for Reinventing Public Education at the University of Washington. The study, "Policy Barriers to School Improvement: What's Real and What's Imagined?" by Lawrence J. Miller and Jane S. Lee, asked principals at eight schools in four states about what they saw as policy barriers to change in their schools. It concluded that only 31 percent of the 128 barriers listed couldn't be overcome. "What we found is simultaneously troubling and encouraging: Principals have far more authority than they think," the two authors concluded.

Some education advocates question how much "local control" is really local or effective. Chester E. Finn Jr., president emeritus of the Thomas B. Fordham Institute, an influential Washington-based think tank, asked what is local about having a district the size of Los Angeles. More broadly, Finn, who favors expanding independent charter schools, said that school districts as constituted now are often roadblocks to improvement. "I've come to believe that the local school district . . . doesn't work very well any more in the 21st century and is, in its way, archaic," he said. He would be glad to "let traditional districts go the way of the passenger pigeon."

Whatever the merits of that, it isn't likely to happen on a broad scale, although some urban centers such as New Orleans, where all schools are now charter schools, provide striking examples of what Finn favors. But overall, school boards, superintendents, and local public school systems are deeply ingrained in the makeup of communities and have loyal supporters. In polls both nationwide and in Wisconsin, including the Marquette Law School Poll, people generally give mixed or poor grades to schools overall, but give their own community's schools much better grades.

Many hands are on the steering wheel of education policy, with the federal and state governments commanding powerful grips. But as much as forces try to grab that steering wheel and as much as orders come down from above (or from the backseat) on where and how to drive education, it is ultimately teachers and students who determine how far, how fast, and how well learning will go. ■