

# **EDUCATION POLICY SYSTEM**

## **Introduction**

Education is a state function. It is mentioned nowhere in the U.S. Constitution, and the 10<sup>th</sup> Amendment to that Constitution reserves to the states all powers not claimed for the federal government. But the federal government has been involved in K-12 education for half a century and, in recent years, has played an increasingly powerful role.

Going back to the state's first forays into public education in the 1830s, it has delegated much of the authority for schools and teachers to local communities.

What follows is a brief description of education policymaking as it affects Pennsylvania children, educators, families, communities, and the state. It is designed to frame the Fellows discussions throughout the year.

## **The State Constitution**

**The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.**

**Article III, Section 14  
Pennsylvania Constitution**

As noted above, education is a state function, and the state Constitution clearly delegates that responsibility to the General Assembly. The Constitution also requires the Governor to appoint the Secretary of Education (with the advice and consent of the Senate) – the only appointive office required by the Constitution.

The Constitution makes no mention of school districts or school boards. It makes no mention of specific financial requirements to support the education system. It does not even mention “public schools,” *per se*. (Earlier versions of the Constitution did refer to schools and set minimum funding levels.)

## State and Local Policymaking

### The State:

While the General Assembly has the Constitutional mandate and authority for education in the Commonwealth, the Governor has enormous formal and practical power to direct state policymaking.

The General Assembly: The legislature makes laws affecting education, but in reality makes very few laws. In fact, in recent years, almost all legislative activity has occurred in conjunction with passage of the annual budget and occasionally at the conclusion of the legislature's two-year session. The single most important legislative action affecting education is the adoption of the annual budget. This is the vehicle by which the General Assembly sets spending priorities and distributes \$10.1 billion (2008-09) to pre-K-12 education. But in reality, the Pennsylvania General Assembly has delegated much of its Constitutional authority to others. It has created school districts and school boards, giving them considerable latitude over curriculum and school employees and an increasing share of the burden of funding education. It establishes state agencies, including the Pennsylvania Department of Education (PDE), which is the state administrative arm of the education system, and the State Board of Education, which is the body charged with promulgating state education regulations (in conjunction with and on behalf of PDE). The legislature also exercises some authority in reviewing regulations of the State Board. This power is used from time to time to influence the final language of regulations but has rarely been used to turn them down, because the regulatory review process, while time-consuming and laborious, makes it difficult to overturn a regulation. The Senate is responsible for confirming appointments of the Secretary of Education and State Board members.

In a sense, all legislators are created equal; each has one vote. But as a practical matter, as George Orwell noted in *Animal Farm*, some are more equal than others. The party with the majority in the House or Senate (and especially when the same party controls both houses) has much more power than the minority party. The majority party has more members of every committee and appoints chairs of all committees. Committee chairs have largely unfettered authority to determine which bills will be considered, and it is rare for the legislature to take up a bill unless it has first been considered in committee. In addition, the majority party selects the presiding officer (with one recent notable exception) – the Speaker of the House and President Pro Tempore of the Senate – and they are responsible for interpreting and applying legislative rules. Finally, the Majority Leader in each chamber is primarily responsible for deciding which bills will be considered by his (like Governors, we have yet to have a woman serve as Majority Leader) chamber. It is also important to note that citizens have no access to the place where much of the real legislative debate occurs – the four caucus rooms reserved solely for House Democrats, House Republicans, Senate Republicans, and Senate Democrats and a few key staff members for each. Unlike House, Senate, and committee meetings, caucus meetings are not subject to the Sunshine Act.

### The Executive Branch:

The Governor: While the General Assembly has ultimate authority under the Constitution, and while the Governor can dictate very little, Pennsylvania is in practice a very strong Executive state. He (we have yet to elect a woman Governor) proposes most of the legislation that the General Assembly ultimately adopts. There are some examples of legislation being enacted that was initially proposed by legislators and not at the behest of the Governor, but these are rare compared with the laws enacted (albeit usually with legislative modification) that had their genesis in the Governor's office. He proposes the annual budget, although the General Assembly must adopt it in order for state funds to be spent. The legislature always makes some changes in the Governor's proposal, and some of these changes are significant, but the vast majority of every year's expenditures are aligned with the Governor's initial budget proposal. He appoints the Secretary of Education and members of the State Board (except for four legislative members). The Board has been delegated a broad and deep array of policymaking responsibilities by the legislature, and the Secretary and Governors (when the latter is interested in education) are the chief spokespersons for the state on education matters. And the Governor has a "bully pulpit," from which he can provide vision and leadership, exhort, cajole, and occasionally threaten. Unlike every other education policy actor (except the President), the Governor nearly always commands the attention of the media.

The State Board: The Board is comprised of 17 members appointed by the Governor (and confirmed by the Senate) and the chairs and minority chairs of the Senate and House Education Committees. (The chair of the Professional Standards and Practices Commission is a non-voting member.) The Board promulgates regulations, which comprise a substantial part of the requirements the state imposes on local schools. While the Board can regulate only to the extent of authority granted by the legislature, that extent is considerable, and the Board also has the authority to make policy recommendations to the Governor and the General Assembly on matters beyond its authority.

The Department of Education: The Department administers state and federal laws and regulations. In addition, PDE distributes state (and most federal) subsidies to school districts. It monitors local compliance with state and federal laws and regulations. It also is responsible for providing assistance to districts, especially those that are struggling with meeting student achievement targets.

The Secretary: As noted above, the Secretary of Education is the only constitutionally required appointed officer of the Commonwealth – recognition of the key role of education in state government. He or she is the chief executive officer of PDE and of the State Board (although the Secretary and the Board jointly appoint the Board's staff). Frequently (but by no means always), the Governor relies upon the Secretary to be his chief education advisor.

Local School Districts: The day-to-day operation of education is essentially a local function conducted by 499 school districts (there are 500, but one of them has no schools and simply pays tuition for its 10-15 students to attend school elsewhere). Originally, there was a school district for each municipality (about 2,500), until the General Assembly decided to consolidate districts – delegating to local communities the planning for consolidation within

legislatively determined parameters and delegating to the State Board the power to approve or disapprove consolidation plans. In addition, the School Code (the body of education law enacted by the General Assembly) establishes school boards, defines their make-up, terms of office, and powers and duties. So school districts and boards are instrumentalities of the Commonwealth and exercise powers delegated to them by the Commonwealth.

Many of these powers are concurrent with state powers. For example, the State Board regulates student discipline, but so do local districts, and while districts have considerable latitude they cannot enact local policy that violates state policy.

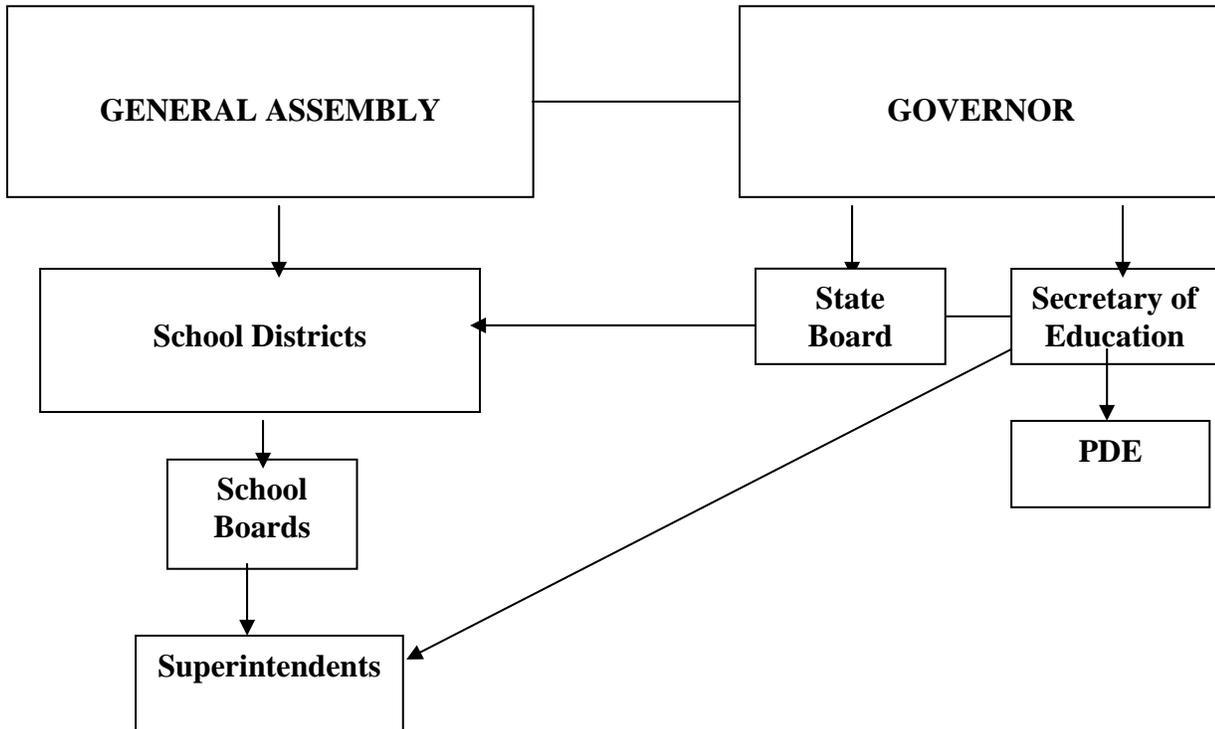
The local school board (ordinarily nine members elected for four-year terms<sup>\*</sup>) is the policymaking body for the local school district. Individual board members have no authority; policy can be set only by the corporate action of the board as a whole. The board adopts the district's annual budget (which ordinarily is proposed by the superintendent) and levies taxes to support that portion of the budget not provided by state and federal funds. The board employs a superintendent to lead and administer the district. In the best functioning districts, the superintendent serves (and is treated by the board) as a chief executive officer. This is not always the case, and state law is not particularly clear about these roles. While state policy establishes minimum requirements for school personnel, actual hiring decisions are the responsibility of local school districts.

A graphic representation of state and local roles in the education policy system appears on the next page.

---

<sup>\*</sup> There are four exceptions. Philadelphia (which used to have a mayorally-appointed board) is operated by a School Reform Commission, three of whose members are appointed by the Governor and two by the Mayor. The Harrisburg School District is operated by a seven-member Board of Control – five appointed by the Mayor and two by the elected school board – due to its academic distress. The Chester-Upland School District is operated by a three-member Board of Control, appointed by the Secretary of Education, due to its academic distress. The Duquesne City School District is operated by a three-member Board of Control, one of whom was appointed by the Secretary of Education and two by the Allegheny County Court of Common Pleas, due to its fiscal distress.

## State/Local Agencies



## Federal Policymaking

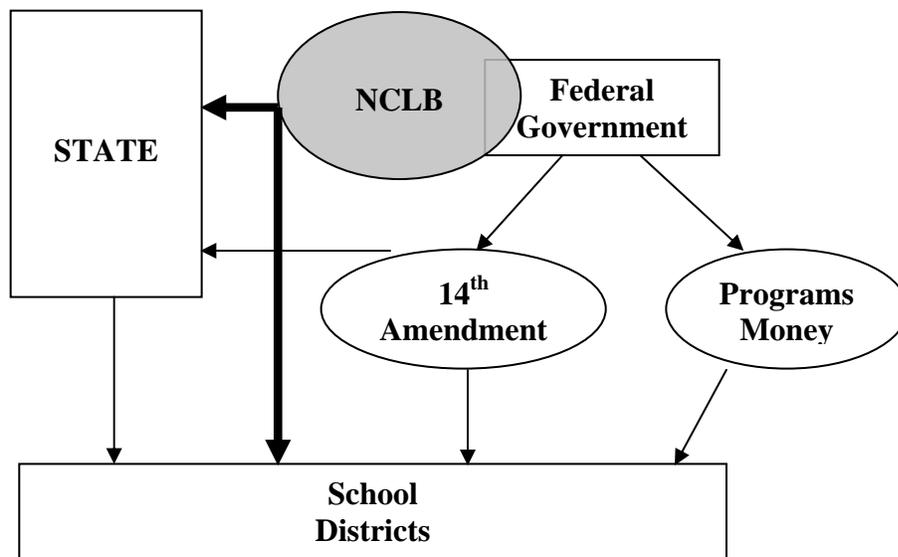
The federal government played almost no role in pre-collegiate education policymaking until passage of the Elementary and Secondary Education Act in 1965 as part of Lyndon Johnson's Great Society program. Until recently, that policymaking has been focused on specific groups of children – primarily those who are economically disadvantaged, those with disabilities, and those in vocational education programs. The federal government appropriated funds to assist these students and adopted rules for how those funds could be spent. But the reach of the federal government into education was limited. During the Clinton Administration, the Goals 2000 legislation began to impose requirements on the entire education system, including the requirements to adopt standards and assess students' performance against those standards. But the nature of education policy changed with the enactment by Congress of President Bush's No Child Left Behind (NCLB) Act of 2002. Today, federal policy affects all states, districts, schools, and students by imposing significant requirements on and leveraging both state and local policy.

States are required to have academic standards and to assess the performance of all students in grades 3-8 and at least once in high school. States are required to establish proficiency standards for state tests (the achievement targets that all students must meet by 2014). States are required to report test data by district and school, and by subgroups of students (minorities, limited English proficient, disadvantaged, disability status, etc.). States must determine which schools and districts meet adequate yearly progress (AYP) targets each year,

including data on subgroups of students within schools and districts. In addition, states must provide interventions (assistance and sanctions) for schools and districts failing to meet AYP. For the first time under NCLB, states are required to participate in the National Assessment of Educational Progress tests. NCLB imposes specific requirements for the credentialing of teachers and paraprofessionals; this is the first federal intervention on this front. And states must report to the public on student performance and on teachers meeting the federal “highly qualified teacher” designation.

At the local level, NCLB has significantly increased the amount of required student testing and imposed new requirements on district hiring practices. Districts must provide both technical assistance and eventually interventions in low-performing schools. Districts must offer students in low-performing schools the right to tutoring and to transfer to higher performing schools in the district – both funded by federal NCLB dollars. And districts must provide parents with notice of student performance and whether or not their children’s teachers meet the federal highly qualified teacher standards.

**The Bush/NCLB Education Policymaking System**



**Future Federal Policy Role**

It is too soon to know with certainty how the Administration of President Barack Obama and Secretary of Education Arnie Duncan will change the federal role in education. But early indications suggest that the new Administration’s policies will be at least as far-reaching and prescriptive as those of the Bush Administration. To date, the major education achievement has been enacted as part of the so-called economic stimulus bill, the American Recovery and Reinvestment Act of 2009, which will increase federal spending on education over a two-year period by nearly \$100 billion, nearly doubling the federal government’s previous investment. The federal share of K-12 costs will thus increase from about 9 percent to about 15 percent.

While the new administration has not yet announced plans for the long overdue reauthorization of NCLB, it has outlined several key reforms it wishes to pursue:

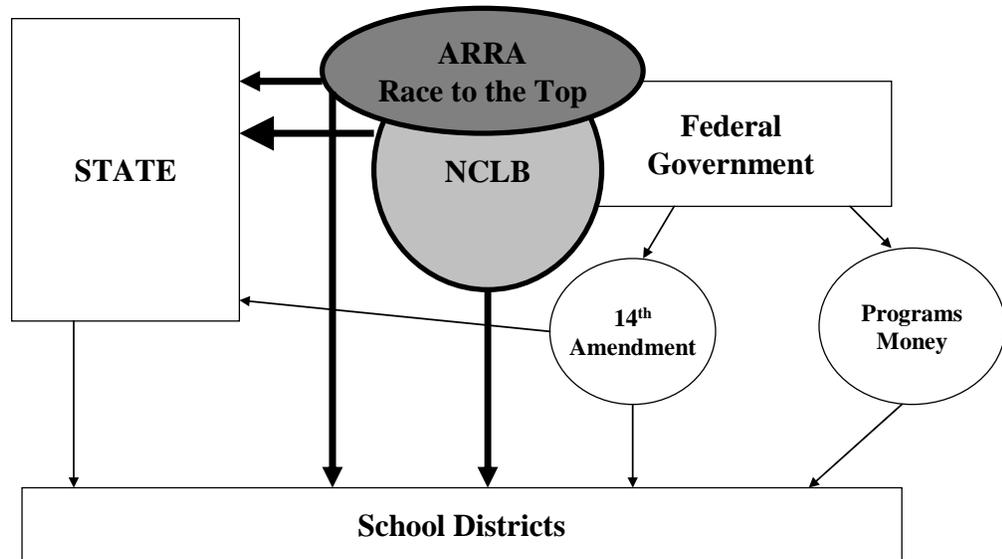
- Expand and improve early learning opportunities.
- Raise standards and improve assessments, including support for states to develop common standards and assessments that are internationally benchmarked.
- Recruit, retain, and support effective educators, and ensure that they are equitably distributed, including pay for performance initiatives.
- Build robust data systems that track student progress through K-12 and postsecondary education.
- Turn around low-performing schools, focusing on high schools with high dropout rates and their feeder schools.
- Expand college access and completion.

In late 2009 and 2010, the Administration will distribute \$4.35 billion in so-called Race to the Top funds – the largest federal investment in education reform initiatives. The U. S. Department of Education has established four areas of reform that it will support:

- Adopting internationally benchmarked standards and assessments that prepare students for success in college and the workplace.
- Recruiting, developing, retaining, and rewarding effective teachers and principals.
- Building data systems that measure student success and inform teachers and principals how they can improve their practice.
- Turning around the lowest-performing schools.

A prospective graphic view of the policy system under the Obama administration appears on the next page.

**Prospects: The Bush/NCLB Obama/Race to the Top Education Policymaking System**



[Robert E. Feir/August 2009]