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The Federal Role in Education

PAUL T. HILL

THE ACTION IN Kurt Vonnegut's novel *Cat's Cradle* is driven by an effort to protect the world from ice nine, a form of water that is solid at high temperatures. Normal water is transformed into ice nine upon contact, so that a drop of it can freeze an ocean and an animal that drinks or breathes it is instantly frozen solid.

Has the federal government been the ice nine of K-12 education, inexorably transforming public schools from intimate community assets into complex, impersonal, rule-driven institutions? This paper will argue in the affirmative. Contact with the federal government has not transformed schools as absolutely or to as disastrous an extent as Vonnegut's book portrays contact with ice nine. But many of the weaknesses of today's public schools are caused by their forced adoption of attributes common to bureaucracies and regulated industries, and not previously common to schools.

The federal government can eliminate the aspects of its program that weaken schools without abandoning its commitment to equal educational opportunity for poor, minority, and handicapped children. Federal policy can be rebuilt on the premise that no program or rule must burden schools if any other way exists to reach a public objective.

Since enactment of the Elementary and Secondary Education Act (ESEA) in 1965, federal programs and related state and court actions have made schools more like standard government institutions in three ways, by forcing schools to (1) become operators of programs and applicers of rules, instead of intimate communities; (2) cope with a complex political environment engineered by courts, bureaucracies, and legislatures; and (3) operate under constraints imposed by flawed proxy

measures of equity that facilitate government oversight but interfere with effective instruction.

These government-imposed preoccupations differ from schools' specific mission, which is to instruct, inspire, and nurture children. Are government and good schools completely incompatible? This paper will answer no, schools can be both public and good. However, American society has now gone too far in patterning schools on other government institutions and is paying the price, as public schools become more formal, politicized, and regulated as well as less effective.

The federal government had good reason to become engaged with the public schools when it did, in the aftermath of the *Brown v. Board of Education* decision in 1954, and not all the consequences of government involvement can or should be reversed. Before the federal government accepted a role in K-12 education, schools in white areas had no obligation to admit African American students or anyone else who was "different." Schools could readily give up on children who were slow to learn, and severely handicapped students could be excluded altogether. Federal intervention in K-12 education has made it illegal (if still not rare) for schools to discriminate on the basis of color and to exclude handicapped students. These gains are real, and no one suggests that America reverse them now.

But has federal policy made the schools better; that is, has it improved the average quality of schools available to the children that attend them? The answer is not a clear yes. Government has succeeded in what it can do best, which is to create broad movements, make investments, and redistribute opportunities. But it has not succeeded in doing what it cannot do, which is to create intimate, imaginative, and highly productive institutions.

Schools are places where teachers and others stand in for parents, and they have a responsibility to make sure children learn things they will need to function as adults. Schools have definite ideas about what students should learn at a particular time, and most assume that groups of children can learn together.

However, recognizing that every child develops at his or her own rate—and that a child who has mastered one set of skills can struggle with another—good schools leave room for individualization. Because neither teachers, administrators, nor parents can anticipate everything necessary to help a child or a group of children learn, good schools are flexible. Neither

students nor schools can be programmed in advance. Schedules and job descriptions cannot prevent a school, or an individual teacher, from doing whatever is necessary at the time. Though no school can do everything, a good school deploys its staff members to the best advantage of students. To the degree possible, every child gets access to the teacher or instructional experience that he or she needs at a particular time.

No good school ignores a child because of race, gender, or physical abilities. However, no school is good just because it does not discriminate or promote invidious relationships among people. A school is good because it nurtures and guides all children and teaches effectively.

People who attended both public and Catholic parochial schools face two competing perceptions. First, on average, Catholic schools now have higher academic standards and are more communal, more focused on instruction, and more coherent than public schools. Second, Catholic schools are not much different now than they were thirty or forty years ago when most people considered them mediocre. How to reconcile these perceptions? The answer is that the Catholic schools have stayed roughly the same, or improved slightly, while public schools have declined.

Today's Catholic parochial schools and their neighboring public schools differ in a number of ways.¹

—Catholic schools have missions stated in terms of the kinds of knowledge, skills, and values of the graduates they intend to produce. Public schools are organizations that run externally mandated programs.

—Catholic schools recognize the differences among children but regard these differences as at most temporary impediments to the student's learning the knowledge, skills, and habits that the school intends to impart to all students. In contrast, public schools classify students as handicapped, language minority, gifted, and so on and offer distinct programs of study for different categories of student.²

—Teachers and administrators in Catholic schools are jointly responsible for the school's results, while public school teachers and administrators are responsible for their specific personal tasks.

—Staff members in Catholic schools are school employees while staff members in public schools are civil servants who work under formally written job descriptions and collective bargaining agreements that spell out everything from hours of work to what students they can serve.

The point is not to praise Catholic schools but to trace the effects of federal government programs on public schools. Before federal elemen-

tary and secondary education programs were enacted, public schools had far fewer separate programs. Children were not classified according to guidelines set by regulators outside the school, and schools did not have to compete for teachers' allegiance with external funding sources, administrative units, or unions. This is not to say that federal programs are responsible for all the differences between Catholic and public schools. Since long before the enactment of federal elementary and secondary education programs, public schools were larger on average, and less unified by common beliefs, than Catholic schools. Starting in the early twentieth century, public school teachers were more likely than Catholic school teachers to complain about unnecessary paperwork.

Not all of the policies, programs, rules, and contractual provisions that have weakened schools were initiated by the federal government. Some come from litigation, some come from collective bargaining, and some come from state laws established in imitation of federal statutes. However, federal government programs and initiatives introduced the idea that government could act on some parts of schools and not others, introducing programs for some children and not others, different rules to control the work of different teachers, and central office coordinators who would choose and supervise some teachers.

All major federal initiatives in K-12 education stemmed from the *Brown* decision, which first construed school enrollments as state action and established that discrimination denies children their rights under the Fourteenth Amendment. Though many federal policymakers have understood that nondiscrimination does not in itself make a good school, most major federal programs started as antidiscrimination measures. The largest federal education program, Title I of the Elementary and Secondary Education Act, was meant to overcome school districts' perceived habit of neglecting the needs of low-income and minority students. Federal programs for the handicapped and limited-English-speaking students were patterned after court orders resulting from lawsuits that alleged denial of equal protection of the laws. Aside from the large funding programs, the most conspicuous federal activity on K-12 education has been the enforcement of antidiscrimination statutes by the Office for Civil Rights (OCR). Though the federal government has also mounted small programs intended to train teachers, conduct research, or develop new instructional methods, these programs have received minuscule amounts of funding and have had short, uncertain lives, as compared with the big group-oriented programs.

Can the national commitment to equal educational opportunity for all be sustained without weakening schools? This paper says yes and suggests principles for a new federal role. It shows how government policies have made schools more formal and complex; engineered political pressures that distorted schools' operations and priorities; and imposed requirements that facilitate oversight by legislatures, bureaucracies, and courts, yet impede effective instruction.

Formal, Complex Schools

The ice nine of government policy has made retaining the characteristics of good schools difficult for many schools. Public schools that receive federal funds are organized around programs, each designed for a given category of students; students are instructed accordingly. Teachers specialize, taking responsibility for particular instructional routines and for the students classified as needing or entitled to them. How did this happen?

Forcing Students and Teachers into Categories

Until the 1960s, elementary and secondary education policy was considered off-limits for the federal government. President John F. Kennedy strove to establish a program of general federal aid to education, but his effort foundered politically on the issue of whether Catholic schools would also benefit from federal funds. President Lyndon B. Johnson got around the church-state barriers via a new theory of federal aid, the child benefit theory. Under this theory, the federal government could pay for services to children without increasing funding for schools. Thus, federal funds could benefit children in Catholic schools without supporting religious education. Under the same theory, federal funding for public schools could be shaped in ways that encouraged educators to place greater priority on the education of children who, because of their poverty, racial minority status, or other characteristics, had not been the primary concern of local schools.³

Under the child benefit theory, Title I was not designed to improve schools as wholes. It supported only extra services, or the purchase of equipment, for special programs for specified populations.⁴ Special staff members provided these services and used equipment paid for from fed-

eral program funds. Children for whom federal programs were not specifically intended were not supposed to benefit in any way from the goods and services thereby provided.

In the first decade of its existence, Title I was a clear political success, providing funds to every congressional district and the vast majority of school districts, dominating the time and attention of local administrators, and generating research and publicity.⁵ Though the program's effectiveness in raising student achievement was not clear, its effects on changing patterns of service delivery were evident everywhere. Title I could not fund services for every disadvantaged child, and its services were normally focused on reading and arithmetic instruction in the lowest income schools.

Title I also demonstrated the federal government's power through threats to cancel grants that local schools had come to depend on, to force reallocation of state and local funds. School administrators who had resisted Title I as an unwarranted exercise of federal power were succeeded by people who bought into—and became expert at administering—federal programs.

Other federal programs have built on this politically successful model. ESEA in the late 1990s contained more than sixty programs in addition to Title I, funding services for students with limited-English proficiency, Native Americans, and migrants and supporting school safety, magnet schools, teacher training initiatives, and many other purposes. In the mid-1970s a major new program for the handicapped built on the Title I example, and the preexisting Vocational Education program came to imitate it. To varying degrees, these programs all required separate and distinct services for their beneficiaries and forced equal use of state and local funds.

Federal programs were not the only acts of government that transformed schools. States enacted additional programs modeled on Title I, each targeted to a category of student, teacher, or service. State-funded programs often supported similar services for disadvantaged children in elementary and high schools not covered by Title I. Litigation in federal courts led to decrees affecting how schools are organized, staffed, and operated.

At about the same time Title I and its imitators were changing the nature of schools, many local school boards found that they could no longer meet teacher unions' salary demands. They started to offer unions

concessions over teacher work rules, policies on teacher assignment, limitations on teachers' responsibility outside their classrooms, and constraints on school principals' management discretion.⁶

Limiting Teacher Responsibility

Title I and subsequent federal programs introduced something that schools had never before encountered: programs and funds controlled outside the school, providing staff and equipment that are sent into the school to perform particular functions.

This arrangement ensured that federal program funds could be tracked to identifiable adults, whose activities could be readily described to federal program auditors and evaluators. The downside of this arrangement was that programs developed on a districtwide basis often did not consider the specific needs of individual schools. Specialized teachers might not use the same teaching methods and present material on the same schedule as regular classroom teachers. Principals and classroom teachers had no formal authority to demand that the specialists collaborate with them, though many did so successfully on their own.⁷

As the number of federal programs increased (and as state legislatures enacted additional programs patterned after Title I), schools (especially those in poverty areas eligible for several separate programs) were served by increasing numbers of specialist teachers who did not work for the principal and did not need to coordinate with regular classroom teachers.

Classroom teachers' responsibility for individual children's learning was diluted, as more and more of their students' instruction was provided outside the classroom and by others. A teacher who could not expect a child to attend his or her reading class every day—and whose students might be confused by things they were taught elsewhere—was not clearly accountable for what that student learned. Similarly, a principal who could not coordinate teachers' schedules and methods, and had little to say about who was assigned to teach in the school or whether teachers who had become school mainstays would be abruptly transferred out, could not be expected to run a coherent instructional program.

In light of consistent research findings that disadvantaged students learn more in schools that are unified around a clear instructional mission, pressure to reverse the fragmenting effects of federal programs has been

strong.⁸ Congress and federal Title I administrators recognized this as a problem as early as the late 1970s and progressively softened the requirement that program services be distinct and easily identifiable.⁹ The current version of Title I encourages schools to adopt schoolwide programs, which make coordinated use of all the assets of a school, including teachers and equipment purchased by Title I.

However, the basic pattern was set. Deregulation of Title I and other program regulations (starting with the Educational Consolidation and Improvement Act in 1980) has continued to the present time. Efforts to strengthen schools, however, constantly struggle against the centrifugal tendencies created by federal and state program requirements and work rules established in union contracts. Some schools are wholeheartedly implementing schoolwide programs, but many are still finding it difficult to place all administrators and teachers into the same boat. Different adults owe loyalty to different program administrators in the central office; many have work rules that limit their obligation to invest time in overall school improvement; and, despite the heroic voluntary efforts of many individuals, many have job security that allows them to resist schoolwide improvement efforts that might require changes in their teaching practices.¹⁰

As schools are increasingly patterned by the ice nine of government, they progressively lose their integrity as organizations.¹¹ Assets (staff members, equipment) are added to or subtracted from schools. Constraints in the form of new goals, performance quotas, testing programs, and regulations governing treatment of students and teachers are imposed on schools by school boards, central office administrators, and state and federal funding agencies. Staff members and students are brought into the school or taken out of it in pursuit of districtwide priorities, such as fulfillment of union contracts and maintenance of racial balance. New curricula and staff training programs are selected for whole districts and then infused into schools. Budget shortfalls are met by mandated districtwide reductions in school staffing or services, and the use of budget increases is also determined at the district level, in negotiations between the school board and teachers unions.

People in schools still strive to make them caring and adaptive places that meet students' needs. However, teachers and principals must now negotiate their ways around rules, structures, and working conditions

imposed by government. Whether or not government's initiatives were necessary at the time, they have certainly burdened schools.

Political Engineering

Federal programs have deliberately put schools under new political pressures. On the assumption that past neglect of disadvantaged students was caused by local politics, in which their parents had few allies and little influence, federal programs tried to change the balance of local political forces. All large federal programs were expressly organized around constituency groups, helped parent groups organize, and gave parents official roles in school decisionmaking. Some gave parents new access to judicial remedies, on the assumption that the ability to threaten litigation would increase their influence on schools. Most tried to colonize state and local education agencies with individuals paid to advocate for compliance with federal program rules. As a result teachers are sometimes forced to treat students differently, depending on their links to organized external groups that have been set up and empowered by government actions. Many school principals' jobs have been changed, from the managers of small productive organizations to brokers among well-established interest groups and coordinators of compliance processes.

Schools were never without their politics. Even in private schools where government has little influence, different parents sometimes make competing demands, and the way these are resolved can affect teacher actions and student opportunities. Donors have influence. Staff members can disagree, and even form competing factions, about the relative importance of arts and sciences or athletics versus academics. Individual staff members can also compete for approval, status, or good job opportunities.

However, in those situations, people's interests and their influence are defined within the school community. Federal programs, court orders, and regulations have deliberately sought to reengineer the politics of individual schools, increasing the leverage exercised by certain groups within the school and creating leverage for outside groups that previously had no standing in school decisionmaking. The consequence is that individual schools operate in a far more complex political environment now than before ESEA was enacted.

Federal Programs' Focus on Constituencies

Like other Great Society programs, Title I was founded on a political argument that state and local education politics favored the white middle class and excluded the poor and minorities. To help low-income and minority students, the federal government would have to override, and ultimately alter, the innate bias of state and local politics. Title I therefore required that federal funds be tied to easily identified objects or services and that those assets be used only for the benefit of individual children deemed eligible under federal rules.¹² In the face of evidence that some localities, especially in the South, resisted using federal funds in these ways, the U.S. Office of Education created increasingly stringent program rules. These required localities not only to use federal funds as intended, but also to show that as much state and local money was spent on disadvantaged students as on other pupils.¹³

This evolution of the federal role was strongly promoted by a coalition of Office of Education officials and newly burgeoning Washington, D.C.-based educational interest groups. As Samuel Halperin wrote approvingly in 1975:

ESEA has become a rallying point for those concerned about achieving full educational opportunity for specific segments of the population [leading to] . . . special programs for out of school youth[,] . . . migrant workers[,] . . . neglected youngsters and juvenile delinquents[,] . . . handicapped children[,] . . . children forced to speak one language at home and another in the schools[, and] . . . preschool children. . . . Now the social movements which spawned ESEA are merging with those demanding greater child development and day-care services . . . and have pushed through school lunch, breakfast, special milk, and related programs.¹⁴

Title I tried to create local bases of political and administrative support by building cadres of federally paid compliance officers in state education departments and local school districts and by creating low-income parent advisory councils that could veto school districts' plans for the use of federal funds. It also put pressure on state and local superintendents by requiring frequent public evaluations of program effectiveness. Pressure to demonstrate student learning gains led most states to focus their Title I money on children in early grades, where reading gains are easier to measure. Performance pressure also led the U.S. Department of Edu-

cation to require concentration of Title I funds in local schools with the highest proportions of low-income children.

Politicization of Parent Involvement

Since the earliest days of Title I, federal officials have tried to stimulate creation of grass-roots support groups for it and other programs such as education of the handicapped and bilingual education. Influenced by War on Poverty empowerment strategies, federal regulation writers' preferred approach was to organize the parents of program recipients and give them veto power over local uses of program funds. This, it was believed, would ensure that funds were spent on the right children. Federal administrators also encouraged formation of local interest groups of citizens and educators dedicated to the schooling of specified groups of children. The Title I program pioneered these approaches, but federal administrators of programs for handicapped children raised the creation of local support groups to a high art.¹⁵ Federal programs for the handicapped did more than organize parents; they also gave parents of handicapped children unique legal rights to oversee services proposed for their children and to bring lawsuits against school districts that did not offer what the parents thought their children needed.

Administrators of state programs followed suit. By the mid-1970s, the soft collaborative ideal of parental involvement in education had taken on a hard political edge. Localities where students were compelled to attend certain schools because of desegregation court orders tried to compensate by giving parents a chance to influence school programs. The idea of authoritative parent advisory councils influenced the site-based management movement that started in Miami and was quickly adopted throughout the country. Teacher groups also demanded decisionmaking power. The idea of shared parent-teacher governance of schools reached its apogee in the 1988 Illinois law on Chicago reform, which mandated elected local site councils to govern all Chicago schools.

Some schools improved under this new politicization of parent and teacher involvement, but many did not. Many Title I parent advisory councils were inactive, and others were controlled by activist factions that less combative parents could not challenge. Other groups (for example, parents of the gifted and talented) organized politically to protect their children's education in the face of the extraordinary legal leverage

enjoyed by parents of the handicapped. As Anthony S. Bryk and others reported about the Chicago school reform, some schools changed dramatically for the better but the majority did not improve and many got dramatically worse as latent rivalries among parent and teacher factions came to the surface and dominated school life.¹⁶

Engineering New Leverage for Favored Groups

Until the mid-1970s, federal programs had generally paid for all the activities—services, purchasing, and administrative record-keeping—that they required states and localities to undertake. In the late 1970s, however, Congress and federal officials started exploiting all the leverage available to the donor of funds that the recipient had come to rely on. States and school districts that had become accustomed to receiving and using Title I funds found that new strings were attached. If they were to continue receiving Title I and other grant funds, they had to create new sports programs for women, make their buildings accessible to handicapped children, follow federal standards for equal employment opportunity, and so on.

The most important unfunded mandate, the federal program for handicapped children—the Individuals with Disabilities Education Act (IDEA)—created an entitlement requiring that some students receive all the services they need regardless of the effects on other school or district activities or the needs of other students.¹⁷

Unfunded entitlements strictly limit school leaders' ability to make judgments about services to children. The severity of the trade-off between fulfilling entitlements and serving other students depends on the numbers of entitlees and the cost of their services. The numbers of disabled children range from less than 10 percent to nearly 20 percent of the students in some districts. Though services for children with the most common forms of handicapping conditions typically cost only 20 to 50 percent more than local average per pupil expenditures, services to more profoundly disabled or disturbed students can cost five to ten times the district average.

In the early days of the federal program for handicapped children, how funding of special education services affected the regular school program was not clearly evident. Extremely expensive services were rare. In a school district serving five thousand students, a \$50,000 placement

for one student would require a transfer of at most \$10 (and probably far less than that) from the average amount available for the education of any other child. This deduction was difficult to observe, because cross-subsidies among groups of students were (and still are) created in the school district central bureaucracy, where parents cannot easily see them. However, as special education has grown and the numbers of students and handicapping conditions have increased, regular classrooms increasingly bear—and show—the cost of accommodations made.¹⁸

Unfunded mandates are a form of political engineering. They use the federal government's leverage as a donor, based on the implied threat to remove a grant on which the recipient has come to depend, to give designated groups new claims on locally funded services.

The federal government in 1975 enacted the biggest unfunded mandate of all, the Education for All Handicapped Children Act. That statute established a new civil right that was limited to a particular class of citizens. It required all school districts to provide "appropriate" services to all handicapped children, as defined by an individualized education plan approved by parents and experts in education of the disabled. School districts were required to reconcile two different principles: to educate handicapped children in the "least restrictive environment" while providing any form of service considered necessary for the child's education. Parents who were not satisfied with a district's plans could seek redress in the courts, and school districts were required to pay for any service or placement required (including, in some cases, placement in private residential facilities), whatever the cost.

The Education for All Handicapped Children Act did not derive from Title I but was based on court orders that had established new rules for the education of severely handicapped children in Pennsylvania.¹⁹ The act applied the principles established in one case in one federal judicial region to the whole country. It established the principle that the federal government could make certain children the beneficiaries of an absolute service entitlement—an entitlement that was established without reference to the needs of other students or the budget priorities and tax capacities of states and localities.²⁰

Early supporters of the Education for All Handicapped Children Act claimed that the number of children requiring expensive special services was low and that the financial impact on regular education would be slight. Critics feared that the demands of parents with severely handi-

capped children would escalate; others predicted that the numbers of parents seeking special accommodations for their children would increase and an alliance between these parents and handicapped-education providers would lead to uncontrolled expansion of special education programs.

Special education grew rapidly in the late 1970s and 1980s. Real school spending increased by 61 percent from 1967 to 1991. However, only about one-fourth of the increase was directed at “regular education.” The share of expenditures going to regular education dropped from 80 percent to 59 percent between 1967 and 1991, while the share going to special education climbed from 4 percent to 17 percent. Of the new net money spent on education, about 38 percent went to special education for severely handicapped and learning-disabled children.²¹ Increasing numbers of parents sought individually tailored accommodations for their children, and the definitions of “handicapping conditions” proliferated. Virtually any child who had trouble learning to read or adjusting to the behavioral demands of schools could be considered handicapped and was therefore entitled to a special accommodation. Litigation on schools’ obligations under the law also forced schools to accept responsibility for medical services (for example, catheterization) and limited schools’ ability to deal aggressively with disruptive student behavior.²²

Not every parent who wanted individualized treatment for his or her child was willing to accept the “handicapped” or “special education” label. Thus, many parents and advocacy groups organized to seek special treatment for other children under such labels as “gifted” or “bilingual.” The high-water mark for such efforts was a proposal made by a Title I reauthorization commission in 1993, to give every child in the United States a judicially enforceable “opportunity to learn” guarantee. To date, no group other than the handicapped has been able to gain an absolute entitlement to services.²³ Once organized for action, however, many of these groups were able to win political concessions from districts and schools.

By establishing that some students have more claims on political and legal protection than others, programs for the handicapped helped foster a virtually universal feeling among public school teachers and parents that they are not being treated fairly and that they must, therefore, look out for themselves. As Alfie Kohn has shown, many advantaged parents

act on this feeling by using their influence and access to obtain the best placements for their own children.²⁴

For schools, as for communities, political engineering by outside parties can have disastrous consequences. Nobody knows what a group will do with new powers, or how groups will react to policies that afford advantages to their rivals. The local school or district is responsible for making realistic decisions about what can best benefit the most students and what accommodations for special needs are possible. However, if only one group has such an entitlement, district and school leaders face a different problem: They are obliged fully to satisfy the entitlements first and then fund the education of all other children out of what is left.

One thing is clear, however. Politicizing school life draws attention toward the agendas of organized adult groups and away from the more mundane concerns of teaching and learning.

Colonization of Local and State Agencies

Local school systems, especially in large urban districts, depend heavily on federal funding to staff their central offices. Federal funds pay for major shares of most school districts' testing and evaluation programs, teacher training programs, and purchases of equipment. Though they are generally not as dependent on federal funding as state departments of education, local districts are heavily influenced and constrained by federal programs and their resident managers. Federal program coordinators often resist local reform initiatives that increase individual schools' control of funds, citing possible disruption of relations with the federal government and possible job loss for specialists employed to deliver federal program services.

This situation is the result of a deliberate effort by federal program managers to colonize state and local education agencies. By offering to pay for staff members who would administer federal programs and manage federally mandated compliance processes, federal programs such as Title I and IDEA created new sources of leverage on schools' use of funds and distribution of services.

Ted Sanders's experience in Ohio shows how thoroughly colonized the states have become. When he became Ohio's superintendent of public instruction in 1991, Sanders intended to make the state education department a force for school improvement throughout the Buckeye State. He

quickly discovered, however, that he had practically nothing to say about the responsibilities of the more than six hundred employees who nominally worked for him. The vast majority of them were funded by federal programs—Title I, programs for the handicapped, vocational education, and so on—and had demanding oversight and enforcement duties. Those people were often the best-educated and most experienced employees of the Ohio Department of Education; most of the remaining employees were administrators and financial specialists, not people who could contribute to a statewide school improvement program.²⁵

Many state departments of education draw most of their funding from federal sources.²⁶ The federal share of state agency operating funds for all states in 1993 was 41 percent; for Michigan, 77 percent; Iowa, 71 percent; Alabama, 69 percent; South Dakota, 62 percent; Maryland, 61 percent; New Hampshire, 60 percent; North Dakota, 59 percent; and Utah, 59 percent. In many states, the only employees on the state payroll are those who work directly for the superintendent and those who collect funds from the legislature and write checks to localities. Though some states, notably Kentucky, have been able to steer their own courses independently of the federal government, many have no real agenda beyond keeping federal funds flowing.

Starting in the early 1990s, several states tried to reassert control of their departments of education, hoping to turn them into forces for general school improvement. Illinois, Kentucky, Ohio, Texas, and Virginia were among the first to try to rehabilitate these institutions. In the mid-1990s, states that were committed to standards-based reform also tried to make their education departments into instruments for general school improvement (for example, Maryland, Missouri, Oregon, and Washington). Though some are starting to make progress, the continuing presence of many paid “colonists” from federal programs remains an obstacle.

Today’s chief state school officers are often experts in the administration of federal programs. Their delegate in Washington, the Council of Chief State School Officers (CCSSO), supports strong “categorical” regulations on the use of federal funds and opposes initiatives that would give individual schools greater discretion. This position confirms the status of the CCSSO as the point of contact between federal regulators and individual states as well as an advocate for federal regulation of states and local districts.

Local school districts are not as thoroughly colonized. The majority

of central office staff members are still paid from state and local funds, and the superintendent is clearly more accountable to the local school board than to federal program managers in Washington and the state capitol.

However, colonization definitely limits the flexibility of local school districts. Many districts are unable to take full advantage of flexibility provisions recently written into Title I because their federal program coordinators insist on maintaining patterns of service that have withstood earlier compliance audits. Federal program coordinators also resist allowing schools to choose the teachers who will deliver federally paid instructional services, and they control much of the money available for teacher in-service training. Though superintendents are often able to negotiate successfully for cooperation, they must treat their own federal coordinators as representatives of an outside power.

Such constraints on superintendents impede certain kinds of local school improvement initiatives. Superintendents often find that they cannot deliver on promises to evaluate schools on the basis of productivity, not compliance. School leadership teams of teachers and administrators often find that promised “lump-sum school budgeting” is not real, because teachers hired with federal program dollars are still controlled by central office coordinators. Philanthropists often find that schools cannot implement privately funded reform initiatives because federal program operations cannot be changed to accommodate them.

Through these methods—creating new political leverage for selected parents, favoring certain groups in the competition for funds, helping potential interest groups to form and create agendas, and colonizing state and local education agencies—the federal government created new forces to influence schools. By the same methods, federal programs have helped turn public schools into inflexible government institutions, forced to respond as much or more to political forces as to the imperatives of teaching and learning.

Proxies for Equity

Forty-five years after *Brown v. Board of Education*, the Fourteenth Amendment remains the basis of the federal role in education. Virtually all federal programs and rules identify inequalities and attempt to remedy them.

Equity is the historic basis for federal initiatives in K-12 education. Before the *Brown* decision, many states and localities practiced discrimination and neglected the needs of minority students. Actions in federal courts, the enactment of Title I, and enforcement efforts by the U.S. Office of Education (predecessor to the Department of Education) turned American school districts around.

Despite these successes, equity has often proven to be a problematic basis for action. Equity in education is difficult to identify. Because different children need different instructional experiences, identical treatment, or identical levels of expenditure, is not always equitable. Teachers are not commodities, and a few minutes with one may benefit a child more than several hours with another. Some children learn a great deal from books, while others are inspired by contact with computers, and others respond best to a great deal of interpersonal “face time.”

Even an “identical outcomes” standard is not unequivocally equitable. Some children find it easy to attain high levels of skill in some areas (for example, drawing, instrumental music, or dance) that others could never attain. Would it be equitable to require schools to teach all students to the same level of proficiency if that meant that the most gifted students would not fully develop their skills? Is it equitable to allow a student with low aptitudes in a given subject to neglect it to develop skills in an area where he or she has higher aptitude? Teachers and parents face such questions all the time and try to resolve them in the best interest of individual children. No single equity principle can apply: What is best—equitable—in one case might not be equitable in another.

Formulas that define equity as universal attainment of certain minimum outcomes offer only a temporary escape from this conundrum. Ultimately, one must determine whether it is equitable to accept a universal outcomes standard, no matter how high or low, if evidence exists that people who exceed the standard do better in jobs, further education, and so on.

Inequalities such as those recognized by *Brown*, for example, government policies expressly constructed to deny minority children access to publicly funded schools, allow unambiguous remedial action. However, not every need and deficiency of schools can be approached effectively from this perspective. Some differences in student outcomes are caused by factors other than discrimination. Some educational failures affect every student in a school, district, or state and cannot be addressed by

interventions on behalf of a particular subset of students. Some educational problems require flexible and innovative solutions that must be crafted within the classroom or school.

Government does not fare well with such complexity. Needing to judge complex situations from a distance, government agencies and courts are forced to adopt relatively simple proxy measures for equity. Sometimes, as in the case of laws and regulations on the education of handicapped children, government intervenes simply by giving one group access to courts and quasi-judicial proceedings that other groups do not have. This tilts the allocation of school resources (dollars, teachers, equipment, time) in the direction of favored groups, but it does not ensure either that they will benefit or that other disadvantaged children will not be hurt by the results. Thus, it is often difficult for anyone to be sure that government has promoted a situation that is equitable from the perspective of one disadvantaged group without increasing inequity when viewed from the perspective of another. An activity can be considered equity-promoting whether or not it creates the greatest possible advantage per dollar spent, or benefits as many people as possible, or makes some people worse off in the course of making its direct beneficiaries better off.

Government programs and prescriptions can inhabit an unreal world in which contrary prescriptions can be smoothly integrated, adult tasks can be easily distinguished, and children can be easily classified. Teachers, students, and parents do not live in such a world.

Nothing about this analysis is news. Government programs in all fields are forced to adopt measurable bases for action and are liable to goal displacement if the proxies they use are bad. In education, consistent use of bad proxies for equity can thwart efforts to make sure disadvantaged students get effective instruction.²⁷ Federal programs can sometimes create equity, at least as measured by the government's chosen proxies, without creating all the intended benefits. For example:

—Title I requires school districts to concentrate funds on certain schools, so that a low-income child in one school may get services while an equally low-income child in another school with a smaller concentration of poor students does not.

—Programs for education of the handicapped allow parents of individual children to press their demands in the courts, whether or not the benefits they gain are paid for by reducing expenditures on school programs that benefit poor, minority, or disadvantaged students.²⁸

—Students classified as “behavior disordered” can be removed from classrooms only if their Individualized Education Plan (IEP) is formally changed, regardless of whether they are learning in the class or of the consequences of their behavior for other students.²⁹

—Government civil right agencies will act against a charter school that enrolls handicapped children and does not provide the services specified in those children’s Individualized Education Plans. This can happen even if parents chose the school expressly because they thought their children were being harmed by the public school district’s special education program.³⁰

Another example of an equity definition that does not benefit the children it is intended to protect is that Title I and other federal programs require equalization of local spending per child before federal funds can be added on. But the proxies for equal spending they use do not challenge the biggest source of local spending inequalities, which is the distribution of high-salaried teachers. As a proxy for equity, federal programs count the numbers of teachers in schools, not their real-dollar cost, so that the schools in the lowest income neighborhoods, which attract the lowest paid and least-qualified teachers, get far less than their share of funds.³¹

By convention, if not in reality, all these procedures promote equity. But they may not do as much for those children as other arrangements that strengthen the schools they attend or create significant movement toward the undefined but intensely desired goal of educational equality.

Using such proxies for equity places great emphasis on the rituals of compliance, not on problem solving. It is better suited to the protection of existing programs and the stabilization of adult working environments than to finding solutions to the problem of how to improve education for the disadvantaged and handicapped.

An overheard dialogue illustrates how commitment to poor proxies for equity can act like ice nine in schools. Two academics, one who had devoted his career to studying school desegregation and another who had specialized in school effectiveness research, were asked to define a good school. The first academic replied, “A good school is one in which every person knows her rights and suffers no discrimination.” The second academic replied, “A good school is a caring environment where the adults use all their knowledge and energy to find ways to help every student learn to high standards.”

These definitions of a good school might be compatible, but their differences in emphasis are clear. Under the second definition, a school is a unique problem-solving organization unified by a commitment to helping all children meet a common standard. If it lives up to its commitments, it will not classify any child in an arbitrary way or give up on any student without first exhausting all the time, energy, and expertise available. Under the first definition, a good school is built around a set of rules intended to prevent discrimination. The question arises as to whether a school so constructed can teach any child to the limits of his or her ability.

Associating equity with specific regulations and processes makes federal programs difficult to assail, but it does not make them effective. It also impedes serious discussion about how best to use all the resources available for the education of disadvantaged children. From the standpoint of people who equate fairness with the proxies for it developed under federal programs, critics who propose changes in Title I targeting or decisionmaking processes, or current methods for determining handicapped children's placements, are by definition risking equity.

Government deals with large issues, mass programs, and gross-grained oversight. It cannot, and generally does not need to, exercise fine-grained judgment about the activities of unique, intimate local groups. In creating new equity claims for particular groups, government has entered into situations where doing good is very difficult. The methods of administration and oversight that come naturally to a government of continental scale require use of simplifications and proxy measures that match up poorly with the needs of individual children and schools. The results are all but inevitable: Government is forced to use measures of merit that are only loosely related to its goals, and schools are forced to do things that make them less effective.

The Effects of Federal Programs

Federal initiatives in K-12 education have succeeded in making disadvantaged children the top priority at the national, state, and local levels. However, though federal programs have caused changes that helped low-income and minority children, federal programs have often done harm to those same children's education—and everyone else's—by weakening the

schools. They do so by diverting funds and energy away from regular instruction and toward special programs, much as the child benefit theory anticipated and even ordained.

Public discourse about education has changed since the 1960s. No one seriously questions the importance and moral rightness of providing disadvantaged children with a fair opportunity to gain skills, stay in school, attend college, and achieve advanced training. School systems are now staffed almost entirely by people whose training is deeply influenced by values about education of the disadvantaged.

Changes in legal doctrines (for example, the 1954 *Brown* decision and subsequent Supreme Court actions), and demographic changes that make business more dependent than ever on immigrants and native-born minority workers, have also transformed national priorities.

However, the federal government has not been able to follow up its success in setting new priorities with effective action. Many of its programs and rules have weakened schools by putting process before results, caused displacement of goals from serving students to guaranteeing administrative compliance, and weakened schools' ability to pursue effective instructional programs and solve the problems presented by their students.

No one intended these outcomes. The people who write and advocate for federal program regulations can often demonstrate that local educators do not recognize or use all the options they have and that the negative outcomes of federal programs result from choices that state and local educators make.³²

Federal programs have provided needed funds for many cash-strapped school systems, but they have also set off chains of events that have weakened the very institutions on which all children depend for their education. Federal programs did not directly cause the current unrest about public education. But they have contributed greatly to schools' loss of institutional coherence and educators' eroding sense of personal responsibility, which in turn led to pressure for new schools operated under new rules, the campaign for parental control via school choice, not political involvement, and the belief that public schools are not safe and caring enough.

The flight of middle- and working-class parents of all races from city schools and African American parents' growing demand for new options and the opportunity to send their children to private schools when nearby

public schools are failing have many sources.³³ But it is hard to see how they would have happened to the current degree without the negative aspects of federal programs.

There are no villains here. One might blame the people who, in the 1960s and 1970s, were confident that the new federal initiatives would help the poor without harming anyone else (and would provide new advantages for poor children without simultaneously creating new obstacles to their education). While my work on the 1977 Title I reauthorization made a significant contribution to the regulatory structure of Title I, I do not berate myself now for actions taken then, nor should anyone else accept blame for acting in good faith in the context of those times. Yet, refraining from judging past actions does not justify persisting in the face of current knowledge about the harm done by many federal programs and policies. No one can claim that the current chaotic system of laws, regulations, constraints, and preferences is the best one that Americans could design for their children.

How can the federal government maintain its commitment to improving education for the disadvantaged, while promoting, rather than interfering with, the improvement of schools? Though many localities would probably retain their current commitment to improving education for poor and minority children even if all federal programs were eliminated, some might not. Moreover, some localities, particularly the poorest rural areas and biggest cities, would have difficulty maintaining even the marginal quality of their instructional programs without continued federal aid.

Toward a More Positive Federal Role

The federal government can be both a force for general school improvement and a source of initiative on behalf of the poor and disadvantaged. Accomplishing those goals, while helping schools become less governmental and more communal, requires fundamental changes at three levels: Federal programs must be funded and operated differently; the Department of Education must be organized differently, to become a national resource, not a captive of constituency-based interests; and Congress must oversee the department and its programs differently, focusing on its contributions to schools rather than its operation of separate categorical programs.

Can these things be done within the foreseeable future? Of course they can, if Congress decides to do so. Though the infrastructure built up to administer existing federal programs is large and powerful, it is not significantly larger or more powerful than the county-based welfare apparatus that Congress disassembled a few years ago. Similarly, though the constituencies that support the existing programs are large, they are not strongly united. Beneficiary groups, especially low-income and minority parents whose children benefit from Title I, are far more interested in better schools than in continuation of a particular federal program.

The foregoing statements come easily to a person who, like me, lives a continent away from Washington and spends much more time in the halls of schools than in Congress or the Department of Education. Schools and local education agencies would suffer if federal funds were withdrawn, and they would benefit if funding were, as it should be, increased. But most schools and districts could readily adapt to drastic revisions in federal program structure and administration. The barriers to change are not in the schools, states, or localities, but in Washington, in the form of congressional committee structures that make certain programs the property of powerful subcommittees, providers' lobbies, and other adult groups who gain from the ways the programs are now run. Necessary change will be politically difficult. But the needs of children and schools must not take a back seat to the self-protection interests of politicians.

Nothing about K-12 education, or the federal system, makes the current set of federal programs and regulatory structures inevitable. The federal government, if it chose, could construct a new role for itself, based on its unique perspectives and powers and its freedom of action. The federal government's perspective is national: The president and secretary of education are positioned to see emerging national needs that are less visible from within a state or region and to broker collaborations among states and regional organizations. The federal government's powers are also unique. Only it can spend the money raised by the Internal Revenue Service and redistribute funds from rich to poor states. The federal government's freedom of action is almost total because, unlike the state and local governments, it does not have to operate schools on a day-to-day basis.

Programs that commit all federal funds to set programs, and that consistently align federal officials with particular interest groups and

government bureaucracies, limit the federal government's ability to use its unique perspectives and powers. Categorical programs such as Title I commit virtually all federal K-12 funds to a particular set of services and create a definite entitlement mentality among state and local administrators. Entitlement programs such as IDEA permanently enlist the federal government on one side in localities' struggle to stretch limited resources to meet diverse and ever-changing needs. The regulatory aspects of programs such as Title I, IDEA, and bilingual education also commit the federal government to a specific set of bureaucracies and decisionmaking processes.

If the federal program commits itself permanently to a set of beneficiaries, bureaucracies, and procedures, it fritters away its unique assets. The federal government can use its assets and make a continuing contribution to the quality of education for all American children, particularly the poor and disadvantaged, if it rebuilds its role according to these principles:³⁴

- Subsidize children, not jurisdictions.
- Strengthen schools, not cross- or sub-school programs.
- Define results in terms of student and school performance.
- Attack emergent problems with short-term special-purpose grants.
- Make the Department of Education a national resource, not a federal ministry.

Subsidize Children, Not Jurisdictions

The federal government should support the education of disadvantaged children directly by funding the schools that educate these children, not government administrative structures. Congress should consolidate all federal grant programs into one funding mechanism, with procedures for identifying individual beneficiaries, providing funds directly to the schools those children attend, and ensuring that schools attended by beneficiaries get the same amounts of local and state dollars per pupil as other schools in the same district.³⁵

Federal laws and regulations should not require that money be traceable to particular programs, services, or students. No federal program should require localities to treat identical children differently, depending on what school they attend.

Federal funding should not remove responsibility for judgments and trade-offs about a child's education from the only people who can make

them well, teachers and parents. Congress might establish especially high weighting factors for severely disabled children or children in extremely high-cost areas. But laws that create absolute entitlements to specific services or permit court orders requiring optimal services for some children regardless of the consequences for other children's education must be amended. This implies avoiding federal prescriptions about who must sign off on decisions, what sorts of planning processes states and localities must follow, and who, if aggrieved, has a private right of legal action.

Congress might allow localities to set age-level priorities (for example, provide twice as much federal money per beneficiary pupil in grades six to eight as in grades nine to twelve). But it should not allow localities to create horizontal inequities among beneficiary children of a particular age, no matter where they go to school. Children's beneficiary status should depend on their demographic characteristics, not on their test scores or other school performance. Funding should not be reduced for disadvantaged students who perform at high levels.

This proposal will almost certainly strengthen demands for increased federal funding. The 30–40 percent of disadvantaged children who do not now receive Title I services would finally get them, and the need to spread federal funds among a larger number of students will generate demands to increase funding to match current per child amounts.³⁶ Because the money and its uses would be visible at the school level, the case for increased funding should also be easy to make. A school could add another teacher for every fifty or sixty disadvantaged students, thus creating many new opportunities for instructional improvement.

Because some of the data required to identify individual children can be collected only at the local level, federal grants would have to follow the general procedures used by Title I: Use census data (poverty counts) to allocate funds to the county level and use locally collected data (for example, free lunch counts, surveys of family language backgrounds, school surveys of handicapped children) to identify beneficiaries. These assessments might best be done at the county level, rather than by individual school districts. Government agencies that distribute funds should be paid administrative fees for their services, but these should not lead to establishment of permanent federally funded monitoring staffs.

The first step toward redefining the federal role would be to consolidate all federal grant programs into one statute and create clear definitions of beneficiaries. A reform of this scope would require scrutiny of some pro-

grams that do not normally come up for reauthorization at the same time as ESEA, for example, Vocational Education, IDEA, and the Department of Education's research structure. There is, however, no reason that those programs cannot be considered for reauthorization on the ESEA timetable. Including such programs in a review of ESEA is a necessary precondition for creating a rationalized and effective federal role in education.

Strengthen Schools

Federal policy must work with, not against, the reality that the only people who can help a student are that child's teachers, parents, and neighbors. Washington should avoid buttressing any particular administrative regime or creating permanent groups of federally paid state or local employees. It should, similarly, avoid mandating any particular orthodoxy in educational organization, whether that is systemic reform that aligns standards, tests, curriculum, teaching, charter schools, educational contracting, home schooling, cyber schooling, or anything else. Schools should be free to use federal money for teacher training, new instructional materials, or outside assistance that can improve teaching, but districts should not be free to use money for programs that put central office priorities before the needs of individual schools.

Other than eliminating earmarks that require states and localities to fund program-specific compliance monitors and coordinators, the federal government should neither solidify nor disassemble current state and local administrative structures. It should take a permissive but neutral stance toward such innovations in education provision as lump-sum budgeting of schools, private provision of school space and staffing, investment and school management by nongovernmental entities, and voucher plans that expand educational options for the disadvantaged.

Aside from eliminating funding earmarked for administration, the federal government should do nothing to encourage states or localities to disassemble the apparatus they have built for special education. Schools and communities must struggle with the question of what is to be done for children who cannot learn in normal classroom environments. Powerful interest groups and legal advocacy organizations, many created by federal subsidies, will continue to have great influence. But the federal government should not prevent schools from experimenting with different ideas

about how best to serve the handicapped or from considering the effectiveness of alternative services and the needs of other children.

In general, the federal government should not encourage any changes in state special education laws or sponsor litigation to change extant court orders on education of the handicapped. It should, however, leave the writing of laws and regulations on special education to the states and allow issues on the rights of special education students to be resolved in courts and legislatures. It should also let rights-based litigation in other areas (for example, bilingual education, sex equity) proceed and Constitutional interpretations that establish individual students' rights to services evolve. The federal government should swear off the practice of picking out the one court ruling most favorable to a particular group's interests and erecting it into a national program.

Define Results in Terms of Student and School Performance

The federal government should measure the effects of its programs in terms of overall improvement in the educational outcomes of children, both disadvantaged and advantaged, not on maintenance of a particular administrative or service scheme. Accountability based on detailed fiscal reporting and regulatory compliance does not lead to good instruction.

To assess results of its subsidies for students and schools, the federal government could conduct special analyses of the results of new statewide standards-based tests. These tests, now either in place or under construction in a majority of states, are designed to produce school-by-school comparisons in students' average test scores and growth rates. States could be required to analyze these data, comparing student growth rates in all schools in which federal funds are used versus all other schools. States could then be required to create new schooling options for students in low-growth-rate schools. These options could be provided via state intervention, reconstitution, or creation of new schooling options (including use of districtwide choice plans, vouchers, or charters).

The Department of Education could also periodically commission national sample-based studies of localities and schools and provide information to governors, mayors, and the public.

Attack Emergent Problems with Short-Term Special-Purpose Grants

States and localities will continue to need help solving short-term problems such as teacher shortages, facilities decay, lack of technology,

and overcrowding. However, the federal government should avoid creating expectations that particular jurisdictions will receive permanent federal support. It should not fund any state or local government entity for more than three years without at least a one-year hiatus. Further, these short-term interventions should be limited to a fixed percentage (for example, 10 percent) of all federal spending on K-12 education.

The secretary of education could then control a substantial fund for investment in and response to emergent problems of states and localities. The secretary, in consultation with a board representing Congress, presidential appointees, governors, and local educators and school providers, could devote as much as \$1.5 billion per year to specific problem-solving activities. Because this fund could not become an entitlement for any locality or function, and no one program could continue for more than three years, the use of this fund could be disciplined by becoming a significant issue in presidential campaigns.

*Make the Education Department a National Resource,
Not a Federal Ministry*

The Education Department should be re-missioned to emphasize national issues over the use of federal regulatory power. Its current organization, which fosters close alliances between particular constituency groups and the bureaus that run programs, should be changed.³⁷ All the separate categorical program offices could be replaced by a unified division that writes checks and ensures that funds go to the schools and children for whom they are designated.

A second major Investments Division would sponsor research, development, statistics, and emergency investments. No matter how states and localities seek to improve their schools, they will depend on the availability, both in their regions and nationally, of well-trained teachers, sound techniques for student assessment, new technologies and ideas about instruction and school management, and evidence of the effectiveness of particular instructional methods. Through its Investments Division, the Department of Education could invest in new ideas and fund rigorous clinical trials and demonstrations. Consistent with the principle that the department should be a source of ideas and not a regulator, these results would be disseminated via the marketplace of ideas, not translated into laws, regulations, or incentives.

Taken together, these principles could create a new federal role in education.

Conclusion

Would initiatives based on these principles thaw out all of the ice nine created by today's federal programs and regulations and establish a perfect federal role? The answer is no. Just as today's problems could not be anticipated in the 1960s, the challenges facing America's schools in the year 2010 cannot all be foreseen now. Future Congresses will need to reconsider and amend actions taken in 1999 and 2000.

Groups of providers and beneficiaries will always try to use federal power and dollars to create and solidify advantages for themselves. Professors and business leaders will be tempted to write their own ideas—about use of technology, adoption of whole school designs, the best teaching methods, the correct class size, or the perfect way to select and train teachers—into federal law.³⁸ Interest group representatives will draft laws and regulations that favor their constituencies; some will try to inflate court orders that apply only to specific cases into regulations that affect all schools.

The structure of the new federal role must be simple enough, and grounded on sufficiently clear principles, to withstand the inevitable processes of advocacy and advantage-taking. The foregoing suggestions lay a good foundation. But a more constructive federal role will need tending and defending. Creating a new and more constructive federal role is one thing; keeping it is another.

Comment by Christopher T. Cross

Paul T. Hill's paper sparks many thoughts, ideas, and recollections about the last thirty-five years of intensive federal activity in education. However, many questions arise from the paper and many issues need further examination. Hill's use of ice nine as a metaphor for federal involvement is colorful and effective, but it presents a picture that may be unnecessarily negative and one that fails to acknowledge the positive

aspects of what does take place with federal aid. Ice nine has no benevolent uses. Once touched, disaster occurs. While some might argue that point, I suspect that even they would acknowledge that federal aid has made positive contributions in elementary and secondary education and in higher education. Hill's paper, while having a title related to federal aid, is essentially about the U.S. Department of Education and does not touch upon programs run in such disparate agencies as the National Endowment for the Humanities, the National Science Foundation (NSF), the Department of Defense, and the National Aeronautics and Space Administration. All of this is to say that the frame of reference must be clearly defined.

Now that nearly two generations have passed since enactment of the Elementary and Secondary Education Act (ESEA), a review would be useful of some of the reasons that gave birth to the programs that, for the most part, still exist today. A child born in 1960 who might have entered school when the program first took effect in 1965 is on the verge of turning forty and likely has children of his own in school. In Washington during that same time, a half-dozen or more changes in congressional leadership have occurred and, with the exception of Representative Patsy Mink (D-Hawaii), probably not a soul is around who was present at the creation and is still active in the policy arena. With turnover at the state and local level, more cycles have been completed than most can remember.

The situation that existed in the mid-1960s compelled the enactment of federal education programs. School integration was a central focus as was the recognition that many schools that had served African American children were destitute and often received an inferior allocation of funds. When Title I was created, it was aimed at righting some of those wrongs by providing financial aid. Enactment of ESEA came only seven years after President Dwight D. Eisenhower sent troops into Little Rock, Arkansas, and when other open acts of civil and criminal disobedience had taken place to prevent school desegregation. Defiance of court decisions led to court orders and federal action. While many of those cases were about federal education programs, most were (and are) about either constitutional issues or civil rights laws that often get played out in the schools. Keeping all of this in mind is important when examining the current situation.

In the past thirty-five years, states have become much more professional and less openly political in the Tammany Hall sense of graft and corruption. They have also built professional staffs, embraced inclusive

social issues, and become rivals of the federal government for power and even moral authority. The problem is that the structure in place for the delivery of federal education programs was created in response to the problems of the 1950s and 1960s. Similar issues face society in other fields, such as health, welfare, transportation, and housing, where the issues have emerged and present different challenges but the structure has not evolved to meet them. What seemed to work no longer does.

Other Issues

One issue not addressed by Hill relates to the ways in which the federal government has chosen to organize education programs and the impact of that at the state and local level. For example, the old Office of Education and the existing U.S. Department of Education treat schools as silos—a silo for special education, for vocational education, for the education of disadvantaged children, and for children with a primary language other than English. Unfortunately, that has led to mimicry. States almost immediately organized their education agencies around these areas, as did most school districts of a reasonable size.

This simple act led to much of the program isolation evident today. In what has become a virtual chain-of-command structure, state and local officials usually have only minor influence over these programs and functions. Even in 1999, five years after enactment of major policy changes in Title I meant to eliminate this isolation, it still exists.

Unfortunately, Congress has exacerbated this problem by enacting laws calling for additional bureaucracies and protecting those already operating in the belief that doing so will help children. But that is not the case, and structural rigidity often works against good service. This approach is not limited to the political left or right, and the ultimate irony would be the legislatively mandated creation of offices to serve charter school or voucher programs. In discussing colonization of state agencies, Hill gives recognition to the problem, but without explaining the entire context at the federal level. A provocative question is what would change if the federal programs were reorganized into a single organization that served all schools and states? Would that change things or has the silo structure become so institutionalized that it is beyond change?

I agree with Hill's assertion that federal programs did not directly lead to the current unrest about public schools. I do believe, however, that he

gives scant attention to the role of the federal judiciary in undermining the authority of the schools. It has become a cliché to say that the United States is a litigious society, but consideration must be given to how, as a result, the possibility of establishing a coherent school culture has been severely eroded. While separate programs contribute to the problem, the courts have had the greatest impact in rulings that limit authority over dress, publications, speech, discipline, and more. Teachers also erode the culture of a school by dressing and acting more inappropriately than many students. The function of adults as role models is too rare.

A More Positive Federal Role

In his paper, Hill posits what he terms a new, more positive, federal role. Much of it I can easily agree with, for it represents the wisdom of careful reviews of the past. However, some major questions arise, some of which point out both the ironies of any change and the difficulties of not doing some things.

Hill proposes that children, not jurisdictions, should be subsidized. On its face that is a compelling idea. However, saying that all schools should get the same amount of state and local aid, the question immediately arises of how that would be enforced. Would there be regulations? How would they be enforced? By whom? And a law of this nature would bring with it enormous potential for lawsuits, some of which might be brought by teacher unions to challenge the potential abrogation of contracts that often permit senior teachers to move to schools of their choosing, few of which are schools that need the most help. New policy invites legal challenges. Children attending school in areas with high concentrations of poverty represent the most difficult challenge. Any proposal that has money following the child needs to take that factor into account. I do not know how that can be done in a way that does not invite greater federal involvement or that does not do something extra for those schools where concentrations of poor children are highest.

Under the constitutional system of separation of powers, judicial review cannot be prevented. The best hope is that the courts will come to understand their role in undermining certain aspects of society and restore to schools some ability to make and enforce reasonable regulations.

Hill does not want to reduce federal funding for students who perform at high levels. While I believe that his motivation is to ensure that

students who have come from behind are not allowed to slip back, are there any limits to this policy? To take a case that may appear extreme, what about a poor child who starts out needing help in the early grades and then by middle school is doing just fine? How can continuing extra help to that child be justified when his younger sister may need it, and he is doing well?

The notion of short-term, special-purpose grants is another major issue. One need look only at the all-too-frequent use by Congress of hold-harmless provisions in annual appropriations bills or the inability to close obsolete military bases to understand how difficult this concept would be to sustain. Once federal aid begins to flow, the natural political forces keep it coming. It becomes very hard to cut off. How long did it take to make even the smallest changes in impact aid?

Hill calls for the creation of a board to consult with the secretary of education on spending these special-purpose grants. Having congressional appointees on such a board would raise separation of powers issues, as that is an inherently administrative function.

Hill wants to make the U.S. Department of Education a resource and not a ministry. While the imagery of that is great, I have a hard time envisioning a cabinet position called the secretary of national educational resources.

While I believe his major proposal is an excellent idea, I cannot imagine Congress, and particularly the Senate, consolidating all legislation affecting elementary and secondary education into one bill. While I have long advocated this approach, it will never happen. The pressures of interest groups in keeping their own programs separate, combined with congressional work schedules, serve to make this impossible. If that does not occur, it is hard to see how much of the rest of what Hill calls for would, or could, emerge. In the absence of this one bill, it might be worth thinking about what could be done within the context of legislation that is pending in the 106th Congress to bring about some reforms.

One immediate action would be to streamline the technical assistance and dissemination activities that are contained within the ESEA and Office of Educational Research and Improvement laws. Currently, there are a host of organizations, ranging from regional labs to comprehensive centers. Their roles and the connection among them are unclear. Few have any relationship to the national research centers, and fewer still are informed about or informed by the work being done in agencies such

as the National Institute of Child Health and Human Development and NSF.

The Department of Education has not given much thought to getting information directly into the hands of consumers (teachers) via the use of new forms of technology such as the Internet and CD-ROMs. Nor has any action been taken to teach teachers how to be informed consumers of research and evaluation information. The recent publication on comprehensive school reform by the American Institutes for Research, sponsored by several national education organizations, that takes a consumers' report approach is a good first step. These actions represent an extension of Hill's views on the creation of an Investments Division that would sponsor research, development, and statistics. Hill calls for dissemination, but a system that will serve the consumer must be carefully planned and implemented if it is to affect teaching and learning and result in improved student achievement.

While Hill recommends this Investments Division as a part of the Department of Education to handle these areas, I believe that the research function should be removed from the department and placed in an independent agency that I call the Agency for Learning. This agency would also serve to link together the research being done in all federal agencies that is relevant to education. By removing it from the department, and creating a policy board comprised of public officials and educators, it would be removed from the politics of the Department of Education.

While I agree with Hill that results should be defined in terms of student and school performance, the practical problems of doing that on a basis that is equitable across states are significant. Given the National Research Council report on the equating of state tests, the use of a national test seems to be the only reasonable approach. Without that or some similar mechanism, proxy measures, such as census poverty data, that are unfair, outdated, and irrelevant will have to be used.

Any attempt to look at a new and better way to structure federal aid and support for education must pay careful attention to special interest groups. While federal assistance and support programs can take on many different configurations, any proposal to advance in the legislative arena must factor in consultation with powerful lobby groups, such as the Council for Exceptional Children, the American Vocational Association, the Title I parents' organizations, and bilingual education organizations. I believe that each of these groups is ready to consider new approaches

to federal aid, but none will accept a plan without consultation and the willingness of the architect to accept modifications. Clearly, doing consultation is a dangerous game because one can easily lose control of both the issue and the idea. The alternative is yet another dead-on-arrival idea that will sink below the waves after a few days of fame.

Comment by Sally Kilgore

Paul T. Hill has an intimate acquaintance with federal legislation in education—both as a policymaker and as an evaluator. In his paper, he makes masterful use of that knowledge in providing a lively and penetrating analysis of the effects of federal educational legislation.

Hill recounts that federal funding in education was justified, or otherwise rendered constitutional, using the child benefit theory. Federal funds, the theory argues, provide support services to children in a school setting in ways that do not intrude upon a state's rights (or responsibility) to control the shape and mission of schools within its boundaries. The federal legislative initiatives in education sought to remedy inequalities that existed within schools and school districts for certain identifiable classes of students—the economically disadvantaged, those lacking English language skills, those with identifiable physical or mental disabilities, and girls who had been denied the same opportunities as boys, particularly in sports.

Such legislation initially provided funding to identifiable classes of children experiencing inequities in the existing system. In reauthorizations, additional inequities were addressed by new conditions of eligibility for those federal funds. The efforts to equalize opportunities for women, for instance, were achieved almost exclusively through establishing such new eligibility criteria for federal funds. With the passing of the Education for All Handicapped Children Act, localities were required to reallocate local and state (not federal) money to address the inequities in educational opportunities for students requiring special services.

As Hill notes, in the early period (1960s and 1970s) legislators and bureaucrats intentionally designed legislation to challenge or redistribute political power within local districts, establishing parent advisory counsels and new channels for grievances. Parents made new claims and

exerted new pressures upon schools and district administrators. Less consciously, federal legislation reconfigured power within district offices with the introduction of what Hill refers to as the “colonialists”; that is, the local and state enforcers of the federal will.

Hill recognizes the profoundly important role played by federal legislation in addressing inequalities of opportunities but claims, appropriately, that the long-term—and unanticipated—consequences for children and schools have been detrimental. Hill provides vivid accounts of colonialists penetrating district offices, schools frozen by the constraints of the colonialists, interest groups clamoring for equity, state education departments living off the dole, and the federal government engineering yet another shift in power within communities.

Lessons learned from these thirty years lead Hill to recommend that future legislation in education should balance the traditional, and rightful, concern for poor and disadvantaged children with an effort to effect general school improvement. Legislation that meets these conditions, Hill suggests, should be built upon these principles:

- Subsidize children, not jurisdictions.
- Attack emergent problems with short-term solutions.
- Make the Department of Education a national resource, not a federal ministry.
- Become school-friendly.
- Define results in terms of student and school performance.

Recent Effects of Federal Legislation

Hill’s historical account, in my estimation, understates the effects of shifts in power that emerged with each reauthorization of federal programs in education. Similarly, he fails to emphasize the more perverse incentive systems inherent in federal legislation.

SHIFTING POWER STRUCTURES. The fragmentation of school authority and mission so aptly described by Hill dissipated as increasing numbers of schools were eligible to adopt a schoolwide program and as federal offices permitted the commingling of funds across programs. Commendably, legislators sought to integrate the findings of extensive research into the 1994 reauthorization of the Elementary and Secondary Education Act (ESEA), all but eliminating a number of the procedural constraints that had created ineffectual and even detrimental instructional practices

such as pullout programs. Broad categories of expenditures were mandated; for example, at least 10 percent of the revenue must be spent on professional development.

Unanticipated by this recent legislation and not addressed by Hill, though, was the substantial shift in the distribution of power within school districts. Eliminating many regulations on the use of federal funds led, I argue, to shifts in power and authority among central office administrators. Superintendents in urban districts have been provided unprecedented opportunities to deploy large sums of federal money to effect changes in classroom practices. Superintendents can and do mobilize millions of federal dollars allotted for professional development to implement priorities formulated in the superintendent's office. On the surface, such empowerment should be a welcomed relief from the reign of colonialists. Under these new conditions the potential for a coherent mission is greater. Long-term stability, however, is compromised, and the adaptability of these initiatives to local school needs is questionable.

School improvement plans required for Title I schoolwide projects must be made at the school level. Yet few school staff can deploy substantial resources in ways that reflect their understanding of the needs of students. Instead, district administrators usually control the particulars in classroom practice: the amount of time teachers devote to certain subjects, the instructional strategies used for certain subjects, which classrooms receive computers, and the specific software used for math and reading tutorials. Such district-level control in urban areas is often broad in scope and detailed in practice. Again, these actions are not inconsistent with research on effective instructional practices showing that, for instance, elementary teachers do not devote much time to mathematics and that they utilize ineffective instructional strategies in science and mathematics. These district actions are, however, inconsistent with research on effective strategies for change in organizational practices.

District officials who exercise such control claim that teachers and principals are unwilling to devote sufficient time to mathematics, are not equipped with the skills and knowledge to improve instructional strategies, and are not, for example, able to make sound decisions about software acquisitions for student learning. Certainly evidence can be marshaled to support their claim.

Research evidence, however, suggests that enduring change in practice originates from those persons required to carry out the change. Even if

that evidence were not available, the folly remains. Increased district control leads to greater instability and insensitivity to varying needs across schools.

Increasing the authority with the most vulnerable part of any urban school system, its superintendent, leads to abandoned projects, cynical teachers, and weary administrators. The average shelf life of an urban school superintendent is 2.5 years. As is the way with transitions in bureaucratic or political leadership, new superintendents announce their presence by moving the organization in a new direction; if it was headed south, it must now go north. With such a short shelf life, teachers can (and perhaps should) ignore the new priorities and practices whenever possible. Changes in school practice implemented in one regime seldom endure, if they ever were practiced.

Certainly the experience in one urban school district illustrates this process. An innovative, committed, and intelligent school superintendent brought to a sleepy and lackluster district the press to be the best—to improve achievement levels of students, not within the decade, but within a year. The district adopted one of the most rigorous math programs available and required teachers to pursue lengthy training, at considerable expenditure of Title I funds. Elementary teachers were expected to devote ninety minutes a day to mathematics lessons, and pacing charts kept teachers moving from one topic to another.

Such fast-paced and relatively chaotic change was not well received. The school board bought out the superintendent's contract two years after the mathematics program had been adopted. Within four months of the departure of the superintendent, the mathematics program, its textbooks, and supporting materials were officially abandoned. No doubt some teachers acquired some skills and understandings as a result of that initiative, but in great measure, the effort—well intentioned as it was—sent millions of dollars down the proverbial drain.

The inability of district-level mandates to be equally relevant or useful to all schools is easily evident. For instance, instituting rules about mathematics instruction assumes that each school has the same instructional weaknesses. Such commonality is rarely accurate. Some schools, some grade levels, may have much greater need for improved reading instructional practices than for a new mathematics program. Well-intentioned superintendents have been known to mandate counselors for every elementary school, even when one or more schools have such

services provided by a community agency housed within a school. Such mismatches are inevitable when strategies for change rely upon uniform mandates. Teacher cynicism and frustration inevitably emerge.

Earlier legislation, then, that concentrated authority with local and state colonialists had a long shelf life; practices endured in schools and classrooms well beyond legislation requiring them. The problem was that the endorsed practices did little to enhance achievement. Now, new conditions exist: Federal funds vacillate from one inspired vision to another with little possibility of penetrating the daily practices within the classroom and often failing to address a school's specific needs.

INCENTIVE SYSTEMS. Hill notes, but fails to develop, an argument about the perverse incentive structures that are inherent in much of the federal legislation. For districts, the amount of federal funds available varies directly with the proportion of students who possess some condition—economically disadvantaged, lacking proficiency in English, and so forth. Rationally, any savvy administrator would seek to maximize the number of students who meet such criteria.

Parents, too, have perverse incentives. Students with certain disabilities are entitled to more advantageous testing conditions (no time limits) and special tutors or services. As Hill notes, several investigations have uncovered the growing number of children with disabilities in upper-class suburban areas. Again, rational parents who seek to maximize the opportunities and advantages available to their children would (and should) seek to have them classified in ways that afford their children these special opportunities. The question for legislators, then, is how they can frame legislation that secures remedies but does not generate perverse incentives.

Some remedies can be achieved through changes in local practice. Others require reconstructing the particulars in legislation. For district-level incentives, the remedies seem fairly obvious: When districts are able to manipulate the amount of money flowing to them, the opportunity to undermine the original intent is great. Contrast Title I funds with bilingual education funding. Title I funds are distributed among districts according to census data collected by the Department of Commerce. The district has little capacity to manipulate the outcome. However, classifying children as lacking proficiency in English is almost exclusively within the purview of school officials. Thus, the regulatory structure of funding for bilingual programs creates more perverse incentives than that of Title I.

Remedies for undesirable incentives for students can, in part, be managed at the school or classroom level. For example, lifting time constraints for all students in state assessments, as well as classroom exams, eliminates one of the advantages associated with certain disabilities without curtailing the rights associated with that condition. Administratively, the change has some complications. Different types of assessments should be used under these conditions. Allocation of school time must be done differently under these conditions.

Misplaced Optimism?

It would be a mistake to take Hill's work as an exhaustive account of federal actions that impinged upon the school life of children and teachers in the last thirty years. Hill's scope appropriately focuses on the effects of legislation. That said, excluding the activities of state and federal courts overlooks the extraordinary confluence of events—both legislative initiatives and judicial decisions—that reconstituted the relations schools could and did have with students and their parents. Both branches established new avenues for conflict and grievances. Legislative actions also realigned local power structures, and judicial decisions introduced new procedural requirements that had, *de facto*, the same impact.

Identifying this confluence of legislative and judicial action is important for this discussion only if the judicial requirements undermine the anticipated effects of legislative changes. Thus, the ability of future legislation to mend the fractured relations between parents and schools is limited given all the judicial decisions that established due process for students, and so on. However, one can maintain optimism that legislative actions can affect the coherence of instruction experienced by children.

Guiding Principles for Future Legislation

If one takes these caveats and adjustments to Hill's account as valid, what are the ramifications for Hill's proposed principles to guide future legislation? The adjusted account requires that these principles acquire greater specificity to reduce the probability that unstable leadership or perverse incentives undermine the federal intent.

SUBSIDIZE CHILDREN, NOT JURISDICTIONS. Does the proposal to subsidize children, not jurisdictions, address the power or incentive problems with current practice? Only if the revenue transfers to parents instead of

states. Cash does not have to move through a parent's bank account; a redeemable coupon or its equivalent could be used.

If new federal legislation subsidizes children and uses a public entity (even the school instead of the district and state offices), the likelihood is that federal auditors will require yet another trail of evidence linking each child with the expenditure of federal funds. A coupon transaction between the parent and school mitigates the need for such practices.

Suppose schools were eligible to receive coupons from parents if their practices and mission (1) accommodate the specified special needs within their regular program, (2) provide supplementary services before or after school that meet those needs, or (3) provide alternative services at the school site for those students requiring a separate program.

Other organizations could be certified to provide supplementary services with the understanding that they are sufficient accommodation and support for the student. Such a system would ensure that auditors would lack an oversight role on the procedural aspects of education and provide parents with meaningful options to meet their child's special needs. All changes introduce new problems. This change would be no exception. The new problem is: What institution, following what procedures, will determine which children are eligible to receive such coupons? Working through existing institutions—federal or state—would appear to provide the most cost-effective strategy.

ATTACK EMERGENT PROBLEMS WITH SHORT-TERM SOLUTIONS. Does this principle address the problems identified above? Relying more on short-term solutions can limit the likelihood that perverse incentives will be created with new streams of federal funding. But this principle is not sufficient to reduce the likelihood that local districts will exploit funding opportunities. To the degree feasible, identifying categories of children eligible to receive funding should be done by government agencies indifferent to the outcome, such as the Bureau of the Census. The greatest challenge to this principle will be bilingual funding, where many of the potential beneficiaries do everything they can to obscure their presence to government agencies.

STRENGTHEN SCHOOLS OVER PROGRAMS. Hill's emphasis on strengthening schools over programs is perhaps the most important principle for, in part, strategies that realize it will, of necessity, accord greater discretion at the school level and allow (but not ensure) more coherent and stable school policies to emerge.

With authority accorded to schools, a course of action could be sustained that is adapted to the specific needs of students at that school and to the particular resources in that neighborhood. However, some school systems in urban areas, for example, within New York and New Jersey, experience as much instability in school leadership as they do in district-level leadership.

In a sense then, this principle meets the Hippocratic test: Honoring it likely will move the federal role in education from harmful to not harmful. But taken by itself, devolving authority to schools will not lead to school improvement.

For school improvement to become more likely, building the capacity of principals and teachers should be part of the federal initiative. The current Title I funds set aside for professional development could serve as a model.

SERVICE, NOT A MINISTRY. Building the capacity of principals and teachers should be the first task, if the federal role in education is to become one more of service than of ministry—through research, support for discipline-based institutes, and long-term professional development programs at schools. Information, though, of another sort is needed by schools. Regarding any legislative or judicial action, who knows what the document says or means in practice? Part of the colonialists' power arose from their ability to be the sole interpreter of federal regulatory requirements. School lawyers presumably provide competing or alternative interpretations. But large pockets of relevant folks, especially principals, were unable to challenge the interpretations imposed by the colonialists.

As a secondary challenge, then, to becoming a resource instead of a ministry, federal offices must aggressively seek out ways to ensure that all parties have equal access to regulatory information in intelligible form. Democratizing access to such information should be an integral component of the role of a national resource.

What is evident from this evaluation of Hill's guiding principles for new legislation is that legislators who pick and choose among these principles, as if to suggest that Hill has offered them a buffet of policy options, will not get the federal role out of the box. Choosing to subsidize children, but disregarding the need to become school-friendly, could create more adverse circumstances for children than those they currently encounter.

DEFINE RESULTS IN TERMS OF STUDENT AND SCHOOL PERFORMANCE. Focusing on results when evaluating the effects of federal programs is

essential—even fundamental. Lurking in the shadows, though, is the use of student or school performance as a condition of eligibility.

Legislators have been wise to avoid such criteria. The proposal, however, to require states to provide for reconstituting a school with persistently low performance is sound. Current Title I legislation requires that the effects of program initiatives be evaluated using the same assessment as that used for other students or schools. In the long run, this requirement may be the most positive change in the last reauthorization. Perverse incentives would inevitably arise with more intrusive directives than those exercised to date.

One best solution does not exist, but one best priority does: Maximize the likelihood that legislation encourages (or does not undermine) the development of coherent and effective instruction.

Notes

1. See, for example, James S. Coleman and Thomas Hoffer, *Public and Private High Schools: The Impact of Communities* (Basic Books, 1987); Anthony S. Bryk and others, *Catholic Schools and the Common Good* (Harvard University Press, 1993); Paul T. Hill, Gail E. Foster, and Tamar Gendler, *High Schools with Character* (Santa Monica, Calif.: RAND, 1990); Robert L. Crain, *The Effectiveness of New York City's Career Magnet Schools* (Columbia University, Institute on Education and the Economy, 1992); Adam Gamoran, "Do Magnet Schools Boost Achievement?," *Educational Leadership*, vol. 54, no. 2 (1996), pp. 42–46; and Paul T. Hill and others, *Schools' Integrative Capital* (University of Washington, Center on Re-Inventing Public Education, 1998).

2. Even today private schools use the concept of "disabilities" sparingly because no government fiscal or regulatory structure exists to push them into classifying students. Nobody denies that some children have special needs and that they appear in all schools, including private schools. But the label "special education" has become so elastic that it now includes children who would, in the absence of a federal program, be assisted by their regular classroom teachers and never considered "different."

3. See, for example, John F. Hughes and Anne O. Hughes, *Equal Education: A National Strategy* (Indiana University Press, 1972), chapter 2.

4. There were small federal programs intended to help schools and districts improve classrooms and teaching methods, and, for a time, the federal government subsidized the training of teachers no matter where they chose to teach. But such initiatives lacked the political appeal of intervention on behalf of children who had suffered neglect or discrimination, and they were not nearly as stable or as well funded as the Title I-style programs.

5. See, for example, Jane Hannaway, "Administrative Costs and Administrative Behavior Associated with Categorical Programs," *Educational Evaluation and Policy Analysis*, vol. 7, no. 1 (Spring 1985), pp. 57–64; and Jane Hannaway and Lee S. Sproull, "Who's Running the Show?: Coordination and Control in Educational Organizations," *Administrator's Notebook*, vol. 27, no. 9 (1978–79), pp. 1–4.

6. See Lorraine McDonnell and Anthony Pascal, *Teacher Unions and Educational Reform* (Santa Monica, Calif.: RAND, 1988). See also Lorraine McDonnell and Anthony Pascal, *Organized Teachers in American Schools* (Santa Monica, Calif.: RAND, 1979).

7. For a detailed account of these problems and schools' responses, see Jackie Kimbrough and Paul T. Hill, *Problems of Implementing Multiple Categorical Education Programs* (Santa Monica, Calif.: RAND, 1983).

8. See, for example, Fred M. Newmann and others, *Authentic Achievement: Restructuring Schools for Intellectual Quality* (San Francisco, Calif.: Jossey-Bass, 1996); Coleman and Hoffer, *Public and Private High Schools*; Bryk and others, *Catholic Schools and the Common Good*; Hill, Foster, and Gendler, *High Schools with Character*; Crain, *The Effectiveness of New York City's Career Magnet Schools*; Gamoran, "Do Magnet Schools Boost Achievement?"; and Hill and others, *Schools' Integrative Capital*.

9. Mary Jean Le Tendre, "Title I Schoolwide Programs: Improving Schools for All Children," *Journal of Education for Students Placed at Risk*, vol. 1, no. 2 (1996), pp. 109–11.

10. See, for example, Donna Muncey and Patrick McQuillan, *Reform and Resistance in Schools and Classrooms: An Ethnographic View of the Coalition of Essential Schools* (Yale University Press, 1996). See also Bruce A. Bimber, *The Decentralization Mirage: Comparing Decisionmaking Arrangements in Four High Schools* (Santa Monica, Calif.: RAND, 1994).

11. For an account of the effects of these programs, see Jackie Kimbrough and Paul T. Hill, *The Aggregate Effects of Federal Education Programs* (Santa Monica, Calif.: RAND, 1980).

12. Federal policy in this regard was influenced strongly by University of Chicago professor Benjamin Bloom's research showing that disadvantaged children could benefit by "compensatory" (for example, additional) instruction. On the influence of Bloom's work, see Hughes and Hughes, *Equal Education*, p. 43.

13. Washington Research Project, *Title I of ESEA: Is It Helping Poor Children?* (New York: NAACP Legal Defense and Education Fund, 1969). See also Hughes and Hughes, *Equal Education*, chapter 2.

14. Samuel Halperin, "Decennial Views of the Revolution: The Positive Side," *Phi Delta Kappan*, vol. 57, no. 3 (November 1975), pp. 147–51, quoted matter on p. 149.

15. See Paul T. Hill and Ellen L. Marks, *Federal Influence over State and Local Government: The Case of Nondiscrimination in Education* (Santa Monica, Calif.: RAND, 1982).

16. Anthony S. Bryk, *Democratic Localism: A Lever for Institutional Renewal* (Los Angeles, Calif.: Westview Press, 1997).

17. Patricia Morrissey, "The Individuals with Disabilities Education Act of 1997: Selected Observations," *National Association of Secondary School Principals' Bulletin*, vol. 82, no. 594 (January 1998), pp. 5–11.

18. As one superintendent said in an interview conducted for this paper, "If people knew how much special education drives a school system's budget, there would be a revolution."

19. See *Pennsylvania Association for Retarded Children v. Pennsylvania*, 343 Supp. 279, 307 (D.D. Pa. 1972).

20. See David Neal and David L. Kirp, *The Allure of Legalization Reconsidered: The Case of Special Education* (Stanford University, California Institute for Research on Educational Finance and Governance, 1983). See also Paul T. Hill and Doren Madey, *Education Policymaking through the Civil Justice System* (Santa Monica, Calif.: RAND, 1982).

21. See Richard Rothstein and Karen Hawley Miles, *Where's the Money Gone?: Changes in the Level and Composition of Education Spending* (Washington: Economic Policy Institute, 1995).

22. On rules for dealing with student behavior, see Jackson Toby, "Getting Serious about School Discipline," *Public Interest*, vol. 133 (Fall 1998), pp. 68–83.

23. The Department of Health, Education, and Welfare (HEW) Office of Civil Rights did succeed for a while in creating an administratively enforced entitlement to bilingual education, based on the principles established in *Lau v. Nichols*, 414 U.S. 563 (1974). *Lau* had the force of law only in the defendant's school district, San Francisco, but HEW applied the terms of the court order to school districts throughout the country.

24. Alfie Kohn, "Only for My Kid: How Privileged Parents Undermine School Reform," *Phi Delta Kappan* (April 1998), pp. 569–77.

25. Governor's Task Force on Education, *Model for the Future: An Organization Study of the Ohio Department of Education* (Columbus, Ohio: State of Ohio, 1991).

26. Data in the text are drawn from Department of Education, *The Use of Federal Administrative Funds for Administrative Costs* (Department of Education, Planning and Evaluation Service, 1998).

27. State-level litigation about whether different groups were getting equitable shares of federal and state program funds also led to rigid court-imposed funding categories, so that districts and schools are forced to spend fixed sums for items such as student transportation, even when they would prefer to use additional funds for teachers, instructional materials, and so on. See, for example, *Washington State Special Education Coalition v. State of Washington et al.* (known as the Doran Decision III), Thurston County Superior Court (WA), 1988.

28. See Kimbrough and Hill, *Problems of Implementing Multiple Categorical Education Programs*, for evidence that some services for handicapped children are paid for by reducing what is provided to Title I–eligible students who are not also handicapped.

29. For a discussion of the consequences of these requirements for handicapped children as well as for others, see Toby, "Getting Serious about School Discipline."

30. These results will be reported in a forthcoming University of Washington book on the results of a national study of charter school accountability.

31. Kati Haycock, "Eliminate Gross Disparities under Your Control," *School Administrator* (May 1997), pp. 30–31.

32. See, for example, Jackie Kimbrough, *The Aggregate Effects of Federal Education Programs* (Santa Monica, Calif.: RAND, 1981).

33. Denis P. Doyle, *Where the Connoisseurs Send Their Children to School* (Indianapolis, Ind.: Hudson Institute, 1995); Sari Horowitz, "Poll Finds Backing for D.C. School Vouchers: Blacks Support Idea More Than Whites," *Washington Post*, May 23, 1998; and Jean Johnson and John Immerwahr, "First Things First: What Americans Expect from the Public Schools," *American Educator*, vol. 18, no. 4 (1995), pp. 4–6, 8, 11–13, 44–45.

34. For a compatible, but different, set of principles, see Chester E. Finn and Michael J. Petrilli, "Washington versus School Reform," *Public Interest*, vol. 133 (Fall 1998), pp. 55–64.

35. Diane Ravitch named this idea a "portable entitlement." See Diane Ravitch, "Student Performance: The National Agenda in Education," in Marci Kanstoroom and Chester E. Finn Jr., eds., *New Directions: Federal Education Policy in the Twenty-First Century* (Washington: Thomas B. Fordham Foundation, 1999), pp. 139–46.

36. Unpublished estimates of the added cost of a “portable entitlement” range from \$4 billion to \$20 billion annually. The size of the estimate appears to depend on the analyst’s view of the desirability of such a change in federal program strategy.

37. For more fully developed suggestions along the same line, see Christopher T. Cross, *The Federal Role in R, D, & D: A Vision of the Future* (Washington: Council on Basic Education, 1999).

38. For lists of such proposals, see Stanley Pogrow, “Title I: Wrong Help at the Wrong Time,” in Marci Kanstoroom and Chester E. Finn Jr., eds., *New Directions: Federal Education Policy in the Twenty-First Century* (Washington: Thomas B. Fordham Foundation, 1999); and Tyce Palmaffy, “Title I: Despite the Best of Intentions,” in Marci Kanstoroom and Chester E. Finn Jr., eds., *New Directions: Federal Education Policy in the Twenty-First Century* (Washington: Thomas B. Fordham Foundation, 1999).