

# WHO'S IN CHARGE HERE?

*The Tangled Web  
of School Governance  
and Policy*

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# *Contents*

FOREWORD	vii
ACKNOWLEDGMENTS	ix
1 Introduction: Who Should Be in Charge of Our Schools? NOEL EPSTEIN	1
2 Turning Points: A History of American School Governance MICHAEL W. KIRST	14
3 The Tenth Amendment and Other Paper Tigers: The Legal Boundaries of Education Governance JAMES E. RYAN	42
4 Recovering from an Accident: Repairing Governance with Comparative Advantage PAUL T. HILL	75
5 A Solution That Lost Its Problem: Centralized Policymaking and Classroom Gains LARRY CUBAN	104

6	Less than Meets the Eye: Standards, Testing, and Fear of Federal Control	131
	SUSAN H. FUHRMAN	
7	A Teacher Supply Policy for Education: How to Meet the “Highly Qualified Teacher” Challenge	164
	LINDA DARLING-HAMMOND AND GARY SYKES	
8	Multiple “Choice” Questions: The Road Ahead	228
	HENRY M. LEVIN	
9	The American Kibbutz? Managing the School’s Family Role	256
	NOEL EPSTEIN	
	CONTRIBUTORS	289
	INDEX	291

# 1

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## *Introduction: Who Should Be in Charge of Our Schools?*

NOEL EPSTEIN

It is only common sense that institutions need to have someone in charge, someone who sets goals and strategies and is accountable for results. In business and finance it is the chief executive officer; in the military, the generals and admirals. If one were to sketch an organizational chart of the American elementary and secondary education systems, however, one would discover that there is no such line of responsibility. Instead one would find something closer to a spider's web that has grown increasingly tangled in recent years—a web in which it is difficult, if not impossible, to figure out whether anyone is in charge. This is arguably the most fundamental flaw confronting our schools, with implications for all else that happens (or does not happen) in American public education.

Although Americans rank education as one of their highest priorities, they have little understanding of this central issue, of how this system of tangled authority came to be or what might be done about it. Few are aware, for example, that the nation long ago created a separate government for education, consisting chiefly of state and local education boards and superintendents,

or that this was supposed to shield schools from interference by mayors, governors, or other political figures. Nor is it widely appreciated that a transformation—a “revolution,” some say<sup>1</sup>—is occurring in this arrangement as the general government reasserts its authority over schools. Governors and state legislators began the process in the 1970s and 1980s with the advent of state academic standards and tests, state takeovers of failing schools, and other policies. Then some mayors began wresting control of struggling local school systems. Now the president and Congress have greatly expanded their reach into U.S. classrooms with the No Child Left Behind Act of 2001 (NCLB), requiring, among other things, annual reading and math tests for all pupils in grades 3 through 8, tougher yardsticks to measure whether they are making sufficient progress, and penalties for schools that persistently fall short.

In light of this, it is not surprising that even knowledgeable observers sometimes scratch their heads over the difficulty of assigning responsibility in the education system. During the 2000 presidential race, for example, when dramatic increases in Washington’s role in education were being proposed, one longtime education policymaker said: “Just who is really accountable, and for what? It is confusing enough today with people not being certain if the buck stops with the local school board, the local superintendent, the state legislature, the governor, the state board, the mayor or, in many states, the city/county council.”<sup>2</sup>

The organizational chart actually is even more complex than that, not only because of the crisscrossing lines needed to connect a multitude of education programs across government levels, but also because others have an important voice in school affairs. Federal and state courts, for example, obviously have a large say, shaping issues ranging from desegregation to equitable school financing to the treatment of disabled students and language minorities. Outside agencies—various federal and state departments as well as local health groups, community-based organizations, social workers, and others—are engaged in school-based programs aimed at drug and alcohol abuse, school killings, sexually transmitted diseases, and other health and social issues. Education management organizations have emerged to run both traditional public schools and quasi-independent public charter schools, which are part of the broader school choice spectrum that ranges from home schooling to market-based mechanisms like vouchers for private school tuition. (Indeed, some advocates contend that vouchers are needed precisely because our messy democratic governance system makes it impossible for public schools to set and pursue sensible goals.)<sup>3</sup>

As if this were not enough, determining education accountability is further complicated by the fact that the public has scarcely any idea of who holds key education positions. Ted Sanders, president of the Education Commission of the States, was at various times the chief state school officer of Nevada, Illinois, and Ohio. If you ask him how many people in those states ever knew who he was, he replies, “Do you mean other than my wife and children?”<sup>4</sup> As a rule, state boards of education are even less visible to the citizenry, if that is possible, and the public has little interest in local school board elections, with turnouts typically of no more than 15 percent of eligible voters.<sup>5</sup>

## **Policymakers versus Practitioners**

Despite all of the uncertainty about who is in charge, however, some things are quite clear about U.S. school governance. There is no doubt, for example, that the dominant trend has been to centralize power over education in state and federal hands. While local officials still have important management roles, the erosion of the American tradition of local school control increasingly means that they are implementing other people’s goals and priorities.

It also is evident, as Stanford University’s Michael Kirst notes in “Turning Points” (chapter 2 of this volume), that shifting school governance is a back-door way of shifting school policy. Specifically, as trust has dwindled in local school systems’ ability to raise student achievement, state and federal officials generally have embraced what are called standards-based reforms—aligning curriculums, teacher standards, and exams with specific academic goals and increasing testing to hold schools accountable—as well school choice programs.

Finally, a central consequence of the shifts in governance is a growing gap between those who make policy and those responsible for results. For example, governors, together with state legislators, have been primary forces in school policy for a generation, and many have won praise for initiatives to raise student achievement. One would be hard pressed, however, to find governors who are blamed when academic weakness continues in the face of their policies. The same holds for presidents. George W. Bush’s education plan, for example, was central to his 2000 election victory, and passage of NCLB, which is driving school policy throughout the country, represented his first success in Congress. Yet there is little chance of the president being blamed if students’ test scores do not rise appreciably as a result.

Granted, NCLB is being criticized on other grounds—particularly federal meddling and insufficient funding—even by Bush’s fellow Republicans. In early 2004, for example, the GOP-controlled Virginia House adopted a resolution, 98 to 1, assailing NCLB requirements as “the most sweeping intrusions into state and local control of education in the history of the United States” and arguing that they would cost Virginia hefty sums.<sup>6</sup> In Utah, the Republican-controlled House adopted a bill refusing to implement NCLB “except where there is adequate federal funding.” That approach was modeled on an initiative in Vermont under which several local school districts had already refused NCLB funds, as have several other districts in Connecticut. As of February 2004, about a dozen states were rebelling against the law.<sup>7</sup> Even with these attacks, as well as those by Democratic critics, however, the Bush education program is not expected to play the kind of central role in the 2004 presidential race that it did in 2000.

In short, despite decades of proposed solutions by governors and presidents—including governors like Bill Clinton and George W. Bush who rose to the presidency with important help from education issues—criticism of the schools persists and blame goes to others. With this kind of arrangement, advancing new plans for education might seem like a politician’s vision of heaven: it triggers applause, helps to win elections, and carries relatively little risk if conditions show no notable improvement. In fairness, though, that misses the mark. Not only are many political figures genuine in their education concerns and strategies, but, with rare exceptions, they have no direct control over what happens to their policies. The president is not responsible for operating public schools, and governors generally do not control those who implement the policies that they and state legislators fashion. State education departments are run by chief state school officers, who report, as a rule, to state boards of education, not to governors, just as local superintendents in most cases report to separately elected boards of education, not to mayors or county executives. That is how it works when you have two governments.

## Winds of Change

Some moves are afoot to correct this situation, to put political figures fully in charge—a step that some of us consider long overdue. The main reasons for having a separate education government, after all, long ago ceased to exist. While a measure of cronyism in school spending may continue no matter who is in charge, jobs for principals and teachers are not going to

become prizes of the political spoils system again, as they commonly were at the turn of the twentieth century. Similarly, the old notion that education should be “above politics” is sheer nonsense. Political leaders obviously are deeply involved in—indeed, are dominating—education policies. They just are not accountable for the results (though they consider accountability good for everyone else).

This is beginning to change. In fall 2003, for example, voters in New Mexico approved a constitutional amendment to put the general government back in charge, shifting school control from the state board of education to Governor Bill Richardson.<sup>8</sup> Similarly, in early 2004 Illinois governor Rod Blagojevich caused a stir by proposing to strip authority over the schools from that state’s board and put it directly under his control.<sup>9</sup> These steps at the state level come amid local-level transfers of direct school control from boards of education to mayors in a handful of cities, including Boston, Chicago, Cleveland, New York, Detroit, and Harrisburg, Pennsylvania, and efforts by the mayor of the District of Columbia to join the group.<sup>10</sup> In fact, mayors in general are becoming more involved in education, and the public already seems to be holding them accountable. According to the U.S. Conference of Mayors, education has become “a pivotal issue in reelection” even when mayors do not directly control the schools.<sup>11</sup> Perhaps this will encourage more mayors to reach for the school reins, at least in cities in which school dissatisfaction runs high and such control is feasible (though public support for more mayoral takeovers in general currently is low).<sup>12</sup>

Gubernatorial or mayoral control certainly is not a cure-all for education; there are no magic bullets. Some such efforts may well yield poor results, as was long the case when Baltimore’s mayor held power over that city’s schools.<sup>13</sup> The point is that such direct political control would provide much greater visibility and accountability for academic results, as well as helping with other important challenges, particularly the management of multiplying before-school and after-school programs, school-based health clinics, early childhood initiatives and battles against teen pregnancy, student suicides, and other social ills. State and local boards of education and superintendents simply do not have the cross-agency authority that is needed to coordinate these and other programs for children and youth.

Nor is it a simple matter to hold mayors, governors, or presidents accountable. Though new education policies might be enacted and implemented in a single term of office, for example, they cannot be evaluated in so brief a period; at reelection time, it is not possible to say whether the program at hand is effective or not. Because of this time lag, it would be



valuable, at the state and local levels, for any school board that loses control over education not just to become an advisory body but also to issue annual report cards that grade progress under the governor, mayor, or county executives. At the federal level, a similar task might be assigned to an agency like the Government Accountability Office. Such report cards are, after all, essentially what NCLB requires of schools across the nation. It seems only reasonable to apply the idea to the political figures who are shaping U.S. education policy.

## One Cannot Rely on the Constitution

While making more prominent political figures accountable for school performance at the federal, state, and local levels would, in my view, be an important step, it would not alter the balance of power over education among levels of government. That was the main issue that prompted the essays in this volume. In particular, the striking increase in the federal role engineered by the Bush administration gave rise to the idea of trying to clarify the responsibilities of all parties in education and of basing the work on the Tenth Amendment to the Constitution, which is cited almost ritually in the education community as evidence that states are in charge of schools. The thought was to prepare papers that would lead, for the first time, to Tenth Amendment guidelines for U.S. school governance.

However, in the scholarly spirit of following the evidence wherever it might lead, one paper swiftly put that idea to rest: “The Tenth Amendment and Other Paper Tigers,” by James Ryan of the University of Virginia Law School (chapter 3 in this volume). Among other things, this persuasive work on the porous legal boundaries of school governance makes clear that contrary to common belief the Constitution does not simply leave authority over education to the states or restrain federal power over schools.

True, the Tenth Amendment says that “powers not delegated to the United States, nor prohibited by it to the states, are reserved to the states respectively, or to the people.” Since the Constitution is silent on education, the states would seem to be in charge. But that is misleading, Ryan observes, because it overlooks Congress’s constitutional power to spend for the general welfare—and to tie conditions to that spending. He states, in fact, that “the Tenth Amendment is no match for Congress’s spending powers,” that so long as states accept federal education funds, “Congress can do pretty much as it pleases with education, even establish a national curriculum and a national exam, without running afoul of the Constitution.”

Some doubtless would like to curtail such congressional power over education, but Ryan warns them to be careful of what they wish for, because the result would not simply be corresponding gains for state or local authorities. An important consequence, he says, would be greater power for federal courts, which would end up making more school decisions than they already do.

If the Constitution cannot be relied on to determine who should be in charge, perhaps history or public opinion might help. Kirst's "Turning Points" (chapter 2) provides an enlightening survey of the historical road that America has traveled, from its original deep distrust of central education authority to today's growing centralization. What does the tale suggest to him? Among other things, he says, if one is concerned about democracy and accountability, "it is local school districts, with all their imperfections, that seem the superior governance choice." But he sees little chance of reversing today's centralizing trend. Nor does he think that much light will be shed on the matter by public opinion, which appears confused about the issue. On the one hand, Kirst notes, the public clings to the belief that local school boards have the most power to improve schools. On the other hand, comfortable majorities support the creation of a national curriculum and nationally standardized tests, which would, of course, drain still more power from already weakened local school systems as well as from state policymakers.

So, is there another principle that might guide education governance? Paul T. Hill of the University of Washington believes that there is. In chapter 4, "Recovering from an Accident," he notes that policymakers must start with a convoluted system that nobody of sound mind would deliberately have created. Standards-based reforms, he adds, have, with few exceptions, simply imposed new requirements atop old ones. What we need to do, he says, is stop reasoning from the Tenth Amendment and substitute other principles—specifically, "subsidiarity" and comparative advantage—to guide school governance. Subsidiarity, an idea little known to Americans but much discussed in the European Community, seeks to have decisions made as closely as possible to the citizen, turning to higher levels only when they can be shown to be more effective. Under this concept, Hill suggests, instead of fretting about constitutional powers, one should ask, "Where is what best done?" After examining the advantages and disadvantages of families, schools, districts, the states, and Washington, Hill suggests focusing on a site-based approach like charter schools, which he has long supported and which he believes can best fulfill the promise of standards-based reforms.

## Asking Different Questions

In the spirit of this volume—which is designed not to provide ready-made solutions but to stimulate important debates—others have different answers. Indeed, perhaps more important, they address different questions.

### *Does the Growing Centralization of Power Rest on a Solid Foundation or on Sand?*

Larry Cuban, professor emeritus at Stanford University and a former school superintendent and teacher, takes on that question in chapter 5, “A Solution That Lost Its Problem,” and he sees a foundation of sand. Cuban notes that growing state and federal centralization has been driven by business-inspired apprehensions about economic competition, reflected at the federal level in the influential 1983 report *A Nation at Risk*, which mainly grew out of worries that “the Japanese were coming.” Today, in light of what subsequently happened to Japan’s economy, that fear obviously looks foolish. The United States is still the world’s predominant economy and, according to the World Economic Forum, its second most competitive one, after that of Finland (“Thankfully, nobody is warning that the Finns are coming,” Cuban says). The evidence is clear, Cuban remarks, that the state of our economy does not depend on student test scores or on U.S. gains or losses in international test comparisons, and that centralizing school power is a mistake that historically has not accomplished much. We need to remember, he says, that schools are far more than employment boot camps and that the only people in education who can improve what students actually learn are those in local school systems.

### *Are Fears about Federal Control over Education Misplaced?*

Susan Fuhrman, dean of the University of Pennsylvania’s Graduate School of Education, tackles that question in chapter 6—and tells us, indeed, not to worry so much about federal school dominance. While NCLB asserts a strong new federal role, she says that “historically, Washington has lacked the capacity and the political will required for full enforcement of its policies and that NCLB accountability depends entirely on state enforcement capacity, which is limited at best.” So the result is likely to be “Less than Meets the Eye,” an observation that has been on the mark in many respects since the chapter was first prepared in mid-2002. Fuhrman sees the American “layer-cake” governance system as inevitable and rejects any definitive sorting of respon-

sibilities as unrealistic. She worries, however, that NCLB may not yield meaningful, long-term educational gains. Such improvements, she believes, require adherence to principles ranging from maximum state and local discretion (without compromising program goals) to more investment in the capacities of educators and the systems that support them. Without attention to these and other needs, “policies on standards, assessment, and accountability are likely to be both constraining, in terms of narrowing options for lower levels of government, and empty, in terms of either enforcement or the promotion of better educational practice and results.”

### *Might an Even Larger Federal Role Be Warranted?*

Linda Darling-Hammond of Stanford and Gary Sykes of Michigan State University believe that in at least one area—meeting NCLB’s requirement for “highly qualified” teachers—still greater involvement by Washington is indeed required. In “A Teacher Supply Policy for Education” (chapter 7), they note that just as U.S. medical manpower programs support the training and placement of doctors where there are shortages, so Washington needs to help states and districts provide well-qualified teachers for hard-to-staff schools. It is important to understand, Darling-Hammond and Sykes say, that the nation in general is oversupplied with qualified teachers—but not in the classrooms of poor, minority, and low-achieving students, where they are most needed. These shortages stem heavily from the exodus of young teachers from classrooms, with low-income schools suffering teacher turnover rates as much as 50 percent higher than more affluent ones. This problem cannot be solved, the authors argue, with “quick fix” alternate certification programs that send people from other fields into difficult schools with little training in how to teach or manage children. On the contrary, teachers from such programs—which have supporters in high places, including the U.S. Department of Education—commonly become part of the revolving-door problem that plagues disadvantaged schools and costs the nation billions of dollars a year.

When it comes to helping the needy, Darling-Hammond and Sykes, like other contributors to this volume, see important differences between NCLB’s promise and its reality. Over a dozen years, that law seeks to narrow the achievement gap between more privileged children and poor racial and ethnic minorities, the disabled, and limited-English-proficient (LEP) students. It states at the outset that it does not expect “to close the achievement gap,” but to reduce it to the point where all groups reach state-defined “proficient” levels on state reading and math exams.<sup>14</sup> This is a daunting

enough goal—one that many educators, in fact, consider unrealistic for special education and LEP students—and Washington consequently eased some standards for these students.<sup>15</sup> But Darling-Hammond and Sykes say that it will be impossible for NCLB's goals to be attained by poor minority children, let alone by disabled and LEP students, unless they have the well-prepared teachers who are critical to student learning. A few states and urban districts have shown how to get such teachers without lowering standards with quick-fix credentialing programs. However, after reviewing all available evidence on teaching, teacher preparation, and teacher labor markets, the authors find that NCLB's goals cannot be met without a federal teacher-supply program.

In a related vein, Cuban worries that neither reforms nor resources are being targeted at the poor students who most need them. Rather, state and federal policymakers have taken a broad-brush approach aimed at all schools, including thousands of schools where students are already doing well. This approach is based, he says, on the kind of political calculus that has created resistance to school finance equalization in many states and that has spread Title I funds for the disadvantaged among virtually all school districts. "So now academic standards initially aimed at low-performing schools have been transformed to apply to all schools, seeking to hammer our . . . system into a single mold."

### *Has the School-Centered Choice Movement Yielded Significant Gains?*

In "Multiple 'Choice' Questions" (chapter 8), Henry M. Levin of Columbia University's Teachers College uses several yardsticks to examine more than a dozen choice options and notes that alternatives to regular public schools certainly have spread. Semiautonomous public charter schools, which first appeared in 1992, multiplied to at least 2,000 in a decade. While there were just a few voucher programs for private school tuition in the 1990s, a pro-voucher Supreme Court ruling in 2002 heightened interest, and in 2004 Congress enacted a school voucher program for Washington, D.C.<sup>16</sup> NCLB, moreover, provides a potential foot in the door for other kinds of vouchers. Not only does it require public school choice for students whose schools fail to make sufficient academic progress for two consecutive years, but it also funds tutoring or summer classes for students whose schools fall short for three years in a row, raising the prospect that Washington might sometimes finance such services at private schools.

Choice approaches commonly assume that competition will improve the efficiency of schools, particularly in student test scores, both at choice

schools and at the public schools that must vie with them. Thus far, however, the evidence for charter schools and vouchers is cloudy at best, and the school choice provisions of NCLB, Levin says, “may not be the powerful lever for reform anticipated by the act’s authors.” Indeed, Levin believes that despite rhetoric to the contrary, NCLB and state policies emphasizing rewards and punishments for test results are creating growing pressure for school conformity, not increased choice.

### *Who Should Be in Charge of the Growing Family Role of Schools?*

While policymaking elites have focused for decades on academic issues, polls have shown the public to be more concerned about inadequate parental involvement in schools, student drug use, violence, gangs, and related issues. This has helped drive schools to assume responsibility for a multitude of health, social, and other programs, which I, as a former education editor for the *Washington Post*, examine in chapter 9, “The American Kibbutz?” Schools, for example, not only provide students with before-school programs, breakfast, lunch, after-school programs, after-school snacks, and sometimes dinner, but the federal government also is exploring whether to provide free school breakfast for all elementary school children, regardless of family income. Schools also have an array of other nonacademic responsibilities, from ensuring that students do not bring weapons to school, instilling ethical behavior through character education, curbing the spread of AIDS, and battling drunk driving to fighting tobacco use, tackling child obesity, making sure children are inoculated, and caring for children of teenage parents. Until recently, children in one program even occasionally spent the night at their elementary school, using sleeping bags or cots set up in the gym.

I examine how these and many related programs compare with their historic predecessors (early childhood care and education, for example, surely were not invented for today’s working parents) and where they may be headed (I believe they are likely to continue growing, especially since many have acquired broad constituencies). I then look at the governance issue, at who should be in charge. This brings me back full circle, to my belief in the need to give direct school control to more mayors and governors, in part because they, not school boards or superintendents, have the cross-agency authority to coordinate these and other programs for children and youth.

Taken as a whole, this volume provides a rich collection of essays on the administrative, legal, and political complexity of governing America’s schools, on the need to rethink the current tangled web of authority, and on

how best to create a deliberate governance system that especially benefits children who are most in need. The issue of who should be in charge of America's schools—and the fundamental policymaking that it encompasses—is likely to occupy the nation for years to come. It is hoped that these chapters will help stimulate debate on the many important questions involved, because so much of what happens in American education will depend on the answers.

## Notes

1. David T. Conley, *Who Governs Our School? Changing Roles and Responsibilities* (Teachers College Press, 2003), p. 1.

2. Christopher T. Cross, "Too Much of a Good Thing?" *Basic Education*, vol. 45, no. 2 (October 2000), pp. 1–2.

3. John E. Chubb and Terry M. Moe, *Politics, Markets and America's Schools* (Brookings, 1990), p. 2.

4. Interview with Ted Sanders, April 18, 2001.

5. Deborah Land, *Local School Boards under Review: Their Role and Effectiveness in Relation to Students' Academic Achievement* (Baltimore: Center for Research on the Education of Students Placed at Risk, January 2002), p. 7.

6. Jo Becker and Rosalind S. Helderman, "Va. Seeks to Leave Bush Law Behind: Republicans Fight School Mandates," *Washington Post*, January 24, 2004, p. A1.

7. Sam Dillon, "Some School Districts Challenge Bush's Signature Education Law," *New York Times*, January 2, 2004, p. A1; Paul Foy, "States Challenge No Child Left Behind Act," *Associated Press* ([www.washingtonpost.com/wp-dyn/articles/A49192-2004Feb17.html](http://www.washingtonpost.com/wp-dyn/articles/A49192-2004Feb17.html) [February 2004]).

8. Lisa Goldstein, "Gov. Richardson Notches Latest Political Win," *Education Week*, October 22, 2003, p. 21.

9. Ray Long and Diane Rado, "Governor Lambastes State's School Board: Blagojevich Calls Agency 'Barrier to Progress,'" *Chicago Tribune*, January 16, 2004, p. 1.

10. Michael W. Kirst, *Mayoral Influence, New Regimes, and Public School Governance* (Philadelphia: Consortium for Policy Research in Education, May 2000); Justin Bloom, "Williams Accedes to Council in Altering School Bill," *Washington Post*, June 8, 2004, p. B1.

11. Fritz Edelstein, "Voters Seek Accountability on Education from Their Elected Public Officials," *U.S. Mayor* ([www.usmayors.org/uscm/us\\_mayor\\_newspaper/documents/03\\_31\\_03/education.asp](http://www.usmayors.org/uscm/us_mayor_newspaper/documents/03_31_03/education.asp) [March 2003]). See also Fritz Edelstein and J. D. LaRock, "Takeovers or Toeholds? Mayors Don't Need to Run Schools to Make Them Better," *Education Week*, October 1, 2003, p. 44.

12. As Edelstein and LaRock note, mayoral control cannot be expected to occur where school districts are larger than metropolitan areas or in cities with multiple schools districts within their boundaries. On public support for mayoral takeovers, see

*Demanding Quality Public Education in Tough Economic Times: What Voters Want from Elected Officials* (Washington: Public Education Network and *Education Week*, February 2003), p. 12.

13. Kirst, *Mayoral Influence, New Regimes, and Public School Governance*, pp. 8, 11.

14. Although NCLB (P.L. 107-110) begins by calling itself “An act to close the achievement gap,” section 1001 states that the statute’s purpose is to give all children an opportunity to “reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.”

15. Melissa McCabe, “Teachers: Spec. Ed. Students Should Meet Own Standards,” in “Count Me In: Special Education in an Era of Standards,” *Education Week*, January 8, 2004, pp. 20–21; Jay Mathews, “Schools Chiefs Seek Changes in Testing Law: No Child Left Behind Law Called Too Harsh on Some,” *Washington Post*, January 31, 2004, p. B1; Michael Dobbs, “‘No Child’ Tests for Schools Relaxed: English Learners Get Transition Time,” *Washington Post*, February 20, 2004, p. 1; Lisa Goldstein, “Long-Awaited Spec. Ed. Testing Rules Issued,” *Education Week*, January 7, 2004, p. 27.

16. Spencer S. Hsu and Justin Blum, “D.C. School Vouchers Win Final Approval,” *Washington Post*, January 23, 2004, p. A1.