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More Education Reforms to Make a Difference

Byron Schlomach

Introduction¹

As in an earlier publication entitled *Education Reforms to Make a Difference*,² the six education reforms suggested below are intended to weaken the solid wall of reactionary forces within public education that so effectively resist reforms to hold them accountable. That set of interests forms an iron triangle, a triumvirate of interests locked together to form a tight and nearly inseparable bond. That triangle consists of the unions and trade associations representing special interests, elected officials whose prestige and election depends on support from the other sides of the triangle, and the government employees whose careers, and retirement pensions, are tied to the existing system (and are often manipulated by their erstwhile union/association representatives).

Arguably, all education reform has accomplished in the United States for nigh-on 60 years is the growing of education bureaucracy and the expending of a great deal of treasure.

It has been said that if the education system of the 1950s in the United States had simply been left alone, we could have saved a lot of money and had basically the same educational performance we have today. Arguably, all education reform has accomplished in the United States for nigh-on 60 years is the growing of education bureaucracy and the expending of a great deal of treasure.

More than once, it's been said that the U.S. education system produces exactly the results it's designed to produce. Oklahoma's teachers and students deserve better than the educational system they've inherited. They do not need the current system just made bigger with more funding. They need a system that

allows for innovation, one that organically holds all responsible parties accountable for student learning, or, in other words, one capable of real improvement.

Our schools badly need improvement, not just in Oklahoma, which lags the rest of the United States, but in the United States as a whole, an educational laggard in its own right. Decades of reform efforts intended to produce real improvement, have only given us stagnant results. Meanwhile, a rising international rival and national security threat, China, has students who are 4 grade levels ahead of American students by the time they enter high school, according to PISA. In reading, Oklahoma's 4th graders are four points and 8th graders three points below the national average on NAEP scores.

Supposed reforms have repeatedly been repackaged, often with more money accompanying them, only to see them crash against a solid wall of bureaucratic and ideological resistance made strong by the legal structure of the public education system that gives so much power to a few. Only by weakening the iron triangle will we get anything like real, positive change in public education that leads to more knowledgeable students graduating from high school ready to succeed in other educational endeavors and the careers of tomorrow.

Each of the reforms listed and explained below is designed to weaken education's iron triangle of interests that are unaligned with the interests of students and teachers. In so doing, they will allow for an education system to arise that is more concerned with educational quality and attainment than pensions, facilities, and fads that only serve to aid in demanding more money, showing little or no productive educational impact.

Prohibit Collective Bargaining and Pass a Meaningful No-strike Law

If employees wish to peacefully organize themselves to collectively bargain with a private employer, that should be, and

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is, their right. However, there are other principles at stake when government employees unionize and collectively bargain.

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Elected officials have a fiduciary duty to ALL taxpayers. This is an absolute duty to act in the best possible interest of taxpayers as a whole. Elected officials, therefore, should not have divided loyalties. This is nearly impossible, though, when government employees that elected officials are supposed to oversee can organize and be collectively involved in low-turnout elections like school board elections. Unionized government employees can effectively “hire” their own employers. Yet these employers are supposed to act in the very best interest of taxpayers, something made much less likely given the incentives of a system in which government employees collectively bargain.³

Because of this obvious problem of divided loyalty with government-employee collective bargaining, several states explicitly prohibit collective bargaining for teachers, including Texas, which is often cited as a state that pays teachers relatively well, compared to teacher pay in Oklahoma.⁴ Oklahoma follows the more common model of allowing for collective bargaining after a bare majority of teachers in a district votes in favor of a particular union representing them.⁵ This model subjects taxpayers to the power politics of unions, with school boards siding so firmly with the unions against taxpayers that they actively encouraged the strike in 2018, made possible by a loophole in the state’s strike prohibition law.

Oklahoma law is interpreted to be a prohibition against striking against local school boards. It is considered legal behavior if local boards declare the schools closed and allow teachers to be absent to protest at the state capitol for higher pay and benefits. This is exactly the tactic adopted by local boards, many of which explicitly betrayed their fiduciary duty to taxpayers in favor of unionized employees.

Clearly, the law against strikes needs to be made more explicit, along the lines of what is proposed by House Bill 2214, introduced in 2019, for even if collective bargaining with government employee unions is prohibited, as it should be, school boards can evidently turn out teachers to strike.

Make the State Superintendent of Public Instruction an Appointed Office

Forty-one of the states fall into one of four public education governance models. The most common one, adopted by 14 states, has the governor appoint a state board of education, which then appoints the state’s chief schools officer. Massachusetts, Connecticut, West Virginia, and Mississippi number among these states (plus AK, AR, FL HI, IL, KY, MD, MO, OR, and RI). Given the variation in schooling quality across these states, it is unlikely the governance structure has much impact on quality, but there are other reasons to look at governance as noted below.

Oklahoma’s state governance model in public education is the same as that adopted by only eight other states (AZ, CA, GA, ID, IN, MT, NC, and ND). Namely, the governor appoints members of

the state board of education while the state’s chief schools officer, called the State Superintendent of Public Instruction in Oklahoma, is elected by popular vote.⁶ In Oklahoma, superintendent chairs the board. The board serves four-year terms at the pleasure of the governor, and so can be replaced entirely every four years or individually replaced at any time.⁷

Of the four most common state education governance structures, the least common sees the state board elected, and it then, in turn, appoints the chief officer. The states using this model (AL, CO, KS, LA, MI, NE, and UT) might appear to have created an entirely separate governing structure for schools from the legislature, but state boards do not raise taxes. Any legislating they do is generally limited to that allowed by statutes passed by the legislature. Nevertheless, a lack of unity in the executive branch should be expected, with all its ramifications, good and bad.

The second most popular governance structure is one in which the governor directly appoints the chief officer as well as the board. This is the structure recommended here, since the only change suggested is in how the chief officer is selected. Eleven states use this structure. Nothing readily jumps from the list of states using this model (DE, IA, ME, NH, NJ, PA, SD, TN, VT, VA, and WY) to indicate a correlation with quality, as is true of the other structures.

Governance structures as delineated here likely show no advantages or disadvantages because how the board and chief officer are selected is a very limited view of governance. For example, the legislature, and a state’s constitution, can empower the chief officer or the board to pass the rules that clarify and implement statutes passed by the legislature. How the responsibility for rules is divided from state to state is arbitrary. There are no national guidelines (nor should there be) for how such responsibilities should be divided.

The reason for recommending the governance structure be modified so the governor appoints the State Superintendent of Public Instruction in Oklahoma has much more to do with appearance and unity of governance than quality. Unity in governance can yield consistency that, minimally, can lead to greater efficiency. Appearances, or when governance is apparently done with integrity, can lead to greater morale and productivity.

The governor, being the statewide executive, is generally elected with support from a wide range of philosophical, regional, and business interests. All of these are likely to inform and influence a governor’s appointments, including that of a state superintendent. These different perspectives are unlikely to be equally weighted, or weighted the same in every appointment (or every individual occupying the governor’s chair), but the likelihood is a wide range of influence will determine who is appointed state superintendent.

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An elected state schools superintendent is far more likely to narrowly construe their constituency to the public education industry, especially teacher unions, administrator organizations, and school board associations, the most vocal of public education constituencies. This can lead to conflicts of interest and actions in favor of the industry instead of wider and arguably wiser public policy considerations in making policy.

Two examples involving the current Superintendent of Public Instruction in Oklahoma include controversy over coordination with a political action committee (PAC) that, at least in appearance, was specifically concerned with education issues.⁸ The other involved support for the teacher walkout in 2018.⁹ Although the state has an anti-strike provision in law, the state superintendent and local district school boards actively supported the strike,¹⁰ allowing it to go forward without repercussion for strikers.

There is no allegation here that anything technically illegal occurred in either of the noted situations. Minimally, though, the appearance is that the education establishment dominates the state superintendent, and in all likelihood, does. Elections are supposed to hold the state superintendent accountable, but an election regarding such a specialized office will generally be heavily influenced by the particular industry that the office affects.

While it is not necessarily detrimental to the general interest of the taxpaying public overall, for particular industries to hold sway over a policymaker's decisions, the likelihood is high that the general interest will often be ignored in subtle ways the general population will never see. The very real risk is that the voices of a few interests that benefit from public education policies and spending might even lead to decisions that are contrary to the general interest, not because policymakers do so intentionally, but because of the skillful messaging of those who stand to directly benefit at the public's expense.

Transfer School Performance Review Responsibilities to the Lieutenant Governor

The Oklahoma School Performance Review is carried out under the supervision of the Office of Educational Quality and Accountability (OEQA). The OEQA is overseen by a seven-member commission with two teachers, one parent, one business/industry representative, a public school administrator, a member from higher education, and the Secretary of Education constituting its membership. That is, four of the members are explicitly education insiders. The OEQA also oversees teacher education and certification functions.¹¹

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The Oklahoma School Performance Review (OSPR) is patterned on the Texas School Performance Review (TSPR), which was originally overseen by that state's Office of the Comptroller, a statewide elected position. That responsibility was transferred to the Texas Legislative Budget Board, a joint legislative committee

of sorts, in an act of political retaliation. However, the benefit of having the school performance review overseen by an elected official was that political ambition was harnessed in a way that tended to benefit taxpayers.

The TSPR was a newsmaker as long as an elected official was in charge. And while the TSPR's effectiveness might have sometimes been overstated, the incentive was to make it as effective as possible in order to earn unassailable praise. Although carried out with the same mission as the OSPR, then and now, there is not the same effort to publicize its presence, accomplishments, or revelations, with the incentive to dig for inefficiency and malfeasance that such publicity encourages for an ambitious elected official.

At least in Texas, the school performance review is not being overseen by industry insiders. While the OEQA is chaired by the Secretary of Education, the agency has other responsibilities and there is little opportunity for any one member to gain from the performance review doing a particularly good job of digging into school district finances and management or to increase the volume of studies.

Were the OSPR to be overseen by a statewide elected official, it is more likely its activities would be promoted and even expanded. Given that the office of the Lieutenant Governor in Oklahoma is granted scant power, being much like the U.S. vice presidency, it would give lieutenant governors something to do. The only policy area with as much relevance to how the state spends its money is health care, so with the possibility that the Lieutenant Governor might one day be Governor, the experience is relevant.

Prioritize Early College High School

Oklahoma has a system of dual credit whereby high school students can earn college credits while still in high school. Dual credit programs are distinct from other programs that can result in college credit only by exam.

Advanced Placement (AP) programs are not true dual credit programs. These see students taught with rigor by public school teachers in various courses on their home campuses. Course completion results in high school course credit. College credit is earned by passage of an exam administered at the end of the school year, with no guarantee that adequate performance in the class will result in college credit.

Another program that allows high school students to gain college credit, but is not true dual credit, is the International Baccalaureate (IB). Considered more rigorous than the AP route, IB programs do not guarantee college credit with satisfactory course completion. Adequate performance on a test is once again required for college credit.

Concurrent enrollment in Oklahoma allows juniors and seniors to attend college classes, earning college credits, at the same time they are otherwise continuing their high school education. At least some of these college courses *can* count toward both high school and college credits. Students wishing to partake of the concurrent enrollment opportunity must meet minimum college entrance exam score or minimum GPA requirements, and essentially get permission from school counselors and principals to participate.¹²

Concurrent enrollment participation is not free. Students must pay for tuition, fees, and books, although high school seniors may avail themselves of up to 18 hours of tuition-free credits, which

can only be earned from public colleges and universities. There is no legislated maximum number of hours a student can earn through concurrent enrollment.

Districts generally have to work out cooperative arrangements with colleges and/or universities to carve out schedules for participating students. Students can attend college classes during the school day (or in principle, at night). Students may only attend colleges whose geographic service area matches where they live and attend school, even if a course in question is offered online. College instructors can hold classes on public school campuses. Law requires that instructors of dual credit classes be regular college instructor employees, not repurposed school teachers, though a teacher may wear two hats if they meet college-instructor qualifications. Students can also take online courses for their credits.

Why limit concurrent enrollment to only juniors and seniors? Why limit free-tuition hours to only eighteen total hours and only for seniors? The eighteen hour limit might make sense in a world without the internet, but given the inexpensive nature of online education today, it seems that it could be cheaper for students to earn the bulk of their high school credits while also simultaneously earning college credits online through *dual credit*, where the same course counts for both college and high school, as much as possible.

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The following changes to Oklahoma's dual credit/concurrent enrollment system are recommended:

- Require high schools to establish on-campus resources for online college courses such as tutoring and technology,
- Require districts to establish cost-effective online college course offerings and allow students to earn as many credits as they wish, especially if such credits can be earned more cheaply than today's regular public school classroom, a distinct possibility,
- Set a goal that every college-bound high school student will graduate with an associate's degree (60 college credit hours), without extra public expense and without parents/students incurring expense,
- Allow private college/university participation in the free-tuition program where they are willing to accept state subsidies as low as afforded to public institutions,

- Eliminate the geographic service area restriction with respect to online courses.

Means-Test Pre-kindergarten

Pre-kindergarten (pre-k) is less an educational endeavor than a day-care endeavor. Young children are learning all the time, even when we think, or even wish, otherwise. The primary justification for providing publicly-funded pre-kindergarten is the fact that children's brains are developing so quickly, with high plasticity, making them learning sponges. So given this fact, it would seem wise to cram all we can into their little minds while we have a chance.

There are two problems with that last sentence. First, it assumes we know how to cram knowledge into little children's minds. Second, it assumes that even if the right expertise exists, it will be practiced competently and consistently in a classroom setting. Evidence is the opposite of these two assumptions, despite the best of intentions and efforts.

One study, which applied rigorous research techniques instead of relying on anecdotes, indicates that pre-kindergarten programs could have *negative* long-term effects.¹³ Other studies have shown positive effects that have disappeared by the time children get to third grade. A more recent study says that pre-k benefits persist if children consistently have highly effective schools and teachers after pre-k.¹⁴

This last study only begs the question of why resources are not being directed to developing highly effective teachers and schools in more-traditional grades. After all, pre-k remains optional with mandatory public school attendance starting at age 5 in Oklahoma (early compared to the vast majority of states). Establishing a universal pre-k program is clearly premature without having first established excellence in teaching in early grades.

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So the question is not whether state taxpayers should continue to provide universal education for four-year-olds. The question is whether state taxpayers should continue to provide free day care to parents of four-year-olds. Arguably, some poor families have a difficult time providing the sort of enriched lives their children need to truly thrive. Therefore, there is an argument for providing pre-k on a more limited, means-tested basis.

Pre-k should be limited to families whose children are *truly* eligible for the federal free or reduced-price lunch program and *true* English language learners.

Ensure Accurate Reporting of Funding-weighted Student Populations

Schools in Oklahoma are funded based on a formula system wherein a single individual student can count as more than one. For example, a child in kindergarten counts more than a child in fourth grade. A child with a disability counts as more. English language learners and children eligible for free and reduced price

lunches count as more. These numerical weights can add up, and the more heavily weighted a student population in a district is, the more money that district gets compared to a district that does not report so many weighted student characteristics. This provides an incentive for districts to over-report weights. Due to fixed appropriations each year, false reporting of student weights is effectively stealing from those who are honest.

Specifically, because they were just mentioned, it is clear that there is intentional over-reporting of the numbers of children eligible for the free or reduced price lunch program and the number of English language learners by school districts. Although neither of the weights is terribly high, those districts who commit this subterfuge are effectively redirecting funds to themselves.¹⁵

Over 60 percent of Oklahoma's school children are commonly claimed as eligible for the free/reduced price lunch program. To be eligible, the child must be from a household whose income is at or below 185 percent of the poverty level.¹⁶ Official statistics, however, show that only 49 percent of Oklahoma's children are in households below 200 percent of poverty.¹⁷

It is less obvious that the English language learner (ELL) statistics are artificially skewed, but given the dominance of Spanish speakers in ELL circumstances, comparing demographics and ELL numbers seems reasonable. While only four percent of Oklahoma's population is Hispanic and born outside the United States, almost 12 percent of Oklahoma students are counted as ELL. Under 17 percent of the student population is Hispanic. These numbers indicate that at least half of Hispanic students are counted as ELL and that a tiny percentage of Oklahoma's population is truly extraordinarily fertile and making no real effort to learn English.¹⁸

Clearly, the numbers of children reported as free/reduced price lunch eligible and ELL need closer scrutiny. Careful audits should be conducted. In addition, parents should be required to show evidence of their claimed low income when applying for free/reduced price lunch eligibility or at least required to sign a sworn statement under penalty of perjury. Current applications require no evidence and are an open invitation to fraud.

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Conclusion

Each of the education reforms mentioned above and in our earlier publication¹⁹ (listed below) is purposely intended to disrupt the current public education system. In this case, disruption is not the sort that is destructive or that interferes with progress; just the opposite. It is the sort of disruption that occurs in markets when new innovations arise.

- Allow for Teacher Charters
- Move School Board Elections to November
- Make Moving into Teaching Seamless
- Provide State-funded Teacher Professional Liability Insurance
- Promote the Conversion School Option
- Reform the State's Education Funding Formula
- Stop Requiring District Superintendent Education Certification
- Prohibit Collective Bargaining and Pass a Meaningful No-strike Law
- Make the State Superintendent of Public Instruction an Appointed Office
- Transfer School Performance Review Responsibilities to the Lieutenant Governor
- Enhance Dual Credit
- Means-Test Pre-kindergarten
- Ensure Accurate Reporting of Funding-weighted Student Populations

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