

The Red Tape Report: An Exploratory Study of the Regulatory Interference Faced by School Leaders in Five States

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Executive Summary

Observers of American public education have repeatedly asserted that schools are over-regulated, but little empirical evidence exists about the nature and scope of such regulatory interference. That's probably because the problem is so complex; aggregating and analyzing the copious volumes of statutes and regulations that bear on schools, not to mention collective bargaining agreements and reams of court decisions impacting classrooms, might easily seem a never-ending quest.

In the past, some have suggested measuring regulatory interference with crude measures, such as physically weighing the books that spell out such regulations, stacking them end to end, or simply counting the number of pages. These antics, while attention-grabbing, ultimately contribute little to our understanding of the depth and breadth of regulatory interference in education.

Thus our pilot study has a simple, if ambitious, aim: to delve into the details of key state statutory and administrative codes, as well as state budgeting practices, in order to measure some of the most critical parts of the regulatory context in which schools operate. To our knowledge, no previous analysis has attempted to map out as much of the regulatory landscape across multiple states in as much detail.

Our study is grounded in the premise that, in this era of school accountability, it is counterproductive to hold principals' "feet to the fire" for increasing student achievement while simultaneously tying their hands when it comes to staffing, budgeting, and performing other key functions of school operations.

To understand the degree to which *state* policy limits principals' autonomy in such crucial areas, we analyzed state legal codes in three broad regulatory areas (Staffing, Budgeting, and Academic/Administrative regulations), across five states. We examined 26 regulatory categories in detail—and then constructed a series of metrics to measure states' regulatory interference against a standard, and against one another. The key findings are illuminating:

- Among our five pilot states—California, Florida, Missouri, New York, and Ohio—the most over-regulated public schools are in New York, followed closely by those in California and Florida. The state with the least regulation is Missouri.
- In all five states, over-regulation occurs precisely in those management domains that are most important for school effectiveness. Specifically, principals' authority is thwarted in the following critical areas: teacher selection and other staffing decisions (including retention, compensation and evaluation, layoffs, and transfers for teachers and other staff); the length of the school day and year; and curricular decisions in English/language arts and social studies.

We plan to expand our examination of state regulatory interference to include all 50 states and hope as well to devise informative comparisons of district-operated and charter schools with regard to state regulation. We want to refine and strengthen our methods and metrics to capture what is most important and relevant in measuring state regulatory interference. Readers may have constructive ideas about how best to approach this task, and we welcome your feedback and counsel, which can be sent to us via RedTapeReport@gmail.com.

Overview

Every management expert acknowledges that the authority wielded by an organization's leader should be commensurate with his or her responsibility. It's pointless to hold an executive accountable for results while making it impossible for him or her to lead effectively. (Just as it's also folly to confer authority on individuals without regard to the results they then produce.)

In public education today, individual schools are accountable—under the federal No Child Left Behind Act as well as myriad state and local policy regimens—for their students' achievement and other vital outcomes. Increasingly, school leaders find their own job tenure and compensation tied to those outcomes as well. But do they possess the authority they need to lead their schools to heightened performance? Numerous surveys (conducted by Public Agenda, the Thomas B. Fordham Institute, and others) suggest that many school leaders feel they do not. Thus an important public policy question arises: what factors help or hinder school leaders in exercising their authority—and in which areas?

In this paper, we examined the role of the states, and in particular the state statutory codes and budgetary practices that govern key school operations. Though it is often alleged that teacher union contracts most impede principal autonomy, recent studies indicate that “state legislators and other state-level policymakers crafting state laws and regulation, not those bargaining at the local level, decide some of the most important rules governing the teaching profession.”¹ Therefore, we posit that when state code functions as regulatory interference in key areas, it essentially restricts local principals from making decisions that may optimally serve students. In short, state regulation can either serve to augment school autonomy (which we define as *principal* authority) or impede it.

In this study, we examined five states' legal codes in 26 distinct regulatory domains within three broad areas (Staffing, Budgeting, Academic/Administrative regulations). We constructed a series of measures to make sense of these regulations and to allow us to gauge states' regulatory interference against a standard and against one another.

Schools and their leaders have many masters—from the federal government, the courts and state bureaucracies, to the local school board and district administration, to contracts between the district and local unions, to name only the most obvious. Each master seeks to impose its values, priorities, hang-ups, and agendas on schools in its jurisdiction. Untold rules and regulations accumulate over time, like geological layers, as each level of government attempts to ensure its preferred policies are carried out.

“Regulatory creep” is no surprise. As John Chubb and Terry Moe wrote in 1990, “American political institutions give all the major players strong incentives to pressure for more (regulations), not less, when official decisions get made about what the schools ought to be doing, who should be doing it, and how.”² Walberg and Wang made a similar point: “He who pays the piper, of course, calls the tune; and, as state education budgets expanded, legislatures grew more directive, first with increased regulation and more recently with performance targets and further displacement of local control.”³

In short, policymakers strive to ensure that their various visions for public schools are enshrined in law, codified in regulation, and faithfully obeyed. Shifting political winds

add to the incentive to embed their own policy preferences as firmly as possible so that their successors cannot readily alter them. The incentives of political power at each of the levels governing school operations inevitably create more, and more specific, regulations and meddlesome interference.

Not surprisingly, private schools are less regulated—and their leaders wield greater authority. Jane Hannaway studied the management practices of public and private schools and the autonomy exercised by principals and teachers.⁴ She found that private school principals and teachers had substantially more authority than their public school counterparts. Greater levels of discretion for private school teachers were correlated with higher job satisfaction. Similarly, private school principals reported lower absenteeism rates and better commitment from teachers.⁵

When examining public schools, Hannaway also reported greater uniformity in their management practices regardless of their location or political environment. Such standardization in public education would appear to make it more difficult for public school leaders to adapt to their local context.

Student achievement can also be affected by greater regulation. In analyzing the relationship between school management practices and student achievement, Valerie Lee studied the effects of organizational characteristics, such as “clear mission, less bureaucracy, more satisfied teachers, and a more demanding curriculum” on student academic performance at the high school level. She found that schools with a less bureaucratic approach to school organization and instruction, whether public or private, tended to have stronger student outcomes in both math and science.⁶

Our particular project is informed by these findings as well as by prior efforts to measure regulatory interference in schools. In particular, when designing our measures of regulatory interference, we referred to the work of Common Good and to a 2002 federal report on the regulation of private schools. Also, though not strictly a study of regulatory interference, we consulted the Fordham Institute’s *Autonomy Gap* report to distill those areas of school management and control deemed most important by principals.

In 2004, Common Good appraised the regulatory burden faced by the New York City school system. Although that study included sources of regulatory burden beyond our present scope (such as collective bargaining agreements and case law), the relevant portions concerning state laws and regulations provided a sound starting point for our inquiry.

The United States Department of Education’s (USDOE) study *The Regulation of Private Schools In America: A State-by-State Analysis* was a useful resource, as well. It provided information about general categories of state school regulations and the statutory sections that house them. Unfortunately the USDOE report, like Common Good’s, was a purely descriptive examination of regulations and offered scant insight into the relative burden created by them.

Methodology

Given the enormous scope and complexity of the ways that states exert control over their public schools, we had to make numerous decisions about how best to measure the extent of regulatory interference. We also had to decide what categories of regulation to include and which level of school management (district or building) to target. This section details these decisions.

As this is a pilot study, we examined the state regulatory code in five states⁷—California, Florida, Missouri, New York, and Ohio—covering a small set of key regulations under three categories: Staffing, Budgeting, and Academic/Administrative operations. These categories were informed by the available literature in the field⁸ as well as discussions with our expert advisors (listed in Appendix A). These categories are those that many principals (89 percent, in fact) considered when they reported that one of the key ways to improve school leadership is by “giving administrators far more autonomy to run the schools while holding them accountable for results.”⁹

Regulatory Categories

1. **Staffing regulations** are critical to principal autonomy—the “bread and butter” of building and maintaining an effective school faculty. Principals consistently identify their inability to reward good teachers and remove ineffective ones as obstacles to school improvement. Specifically, in a 2001 national survey, slightly less than a third of principals (32 percent) said that they had enough freedom when it came to removing ineffective teachers, while a majority (86 percent) reported that the capacity to recruit and develop talented teachers was “absolutely essential” to good leadership.¹⁰

The staffing regulations in this category include rules related to teacher selection and tenure, compensation and evaluation, hiring, layoffs, and teacher transfers. To be sure, this category can also be affected by collective bargaining agreements. Thus in our study, states were generally awarded better scores when they identify these areas as not being subject to collective bargaining (and thus fair game for districts to set policies as they wish).

2. **Budgeting practices** refer to the extent which schools’ spending of state education dollars is restricted by regulations or other guidelines. Other than staffing concerns, control over budgets ranks high among principals’ wish lists. A 2003 study by the Center on Reinventing Public Education, for example, found that principals need command over their budgets if they are to be charged with improving achievement. The authors conclude that “Moving schools forward is difficult if leaders do not have the authority to set priorities on how resources are used and distribute them accordingly.”¹¹

Given the complexity of state budgeting and appropriation processes, and all of the nuances involved in understanding how funds are ultimately distributed, we chose to simplify this category. We reasoned that principal autonomy is often limited by how principals are allowed to spend money. Hence states that grant their funds to districts in flexible “blocks” would presumably offer more autonomy to principals than states that categorize their funding into numerous funding streams—thereby constraining how funds may be used.

3. **Academic/Administrative regulations** are those that limit how a school principal may choose to utilize certain organizational, instructional, or operational resources. They include regulations pertaining to professional development, alternative certification, class size, textbook selection, choice of curricula, and length of school day and year. These areas bear heavily on a school’s day-to-day operations and, together, have significant influence on what’s taught, how long it’s taught, how teachers are trained to teach it, and how many students they teach it to.

Table 1 below presents the specific regulations that we analyzed in each of the three categories. (See Appendix B for definitions and a complete index of regulations.)

Needless to say, the 26 specific regulations included in this report do not constitute an exhaustive list. Further, we recognize that other sources of significant interference exist: federal regulations, local collective bargaining agreements, and court rulings. However, as indicated previously, we made a number of decisions intended to target what we believe to be the most critical areas. (See Appendix C for a list of the additional limitations of this study.)

It bears repeating the central assumption of this study: that states already have, or *should* have, strong accountability and reporting systems in place. In this ideal policy setting, states provide rigorous academic standards and test students on a regular basis using high-quality assessments mapped to those standards. Based on the results of those exams, states create substantial incentives for excellent school performance, and collect salient information about every school. That information is reported to parents, policymakers, and the broader public in a timely fashion.

A system with accountability and performance tradeoffs allows better performing schools greater flexibility in how they achieve outcomes.¹² As states (and the federal government through the reauthorization of No Child Left Behind) improve accountability systems, they should also increase principal autonomy. Yet with this responsibility comes the obvious expectation that principals will exercise good judgment. That responsibility may mean school principals spend more time designing policies and procedures for managing their schools. We contend that this freedom—and the work that goes with it—is critical to the creation and sustained operation of effective schools.

Table 1: Regulations Examined

Staffing
Differential Teacher Pay and Bonuses
Teacher Evaluation
Layoffs
Hiring of Teachers and Support Staff
Transfers for Teachers or Support Staff
State Budgeting
Number of State Budget Line Items
Academic & Administrative Regulations
English/Language Arts Curriculum
Math Curriculum
Science Curriculum
Social Studies Curriculum
Foreign Language Curriculum
Health & Physical Education Curriculum
Arts Curriculum
Textbook Selection
Alternative Certification*
Teacher Licensure*
Special Day(s)
Parent or Guardian Involvement
Dress Code
Extracurricular Participation
Professional Development
Class Size
Field Trips
Libraries/Media Centers
Day/Year Length

*These categories are placed in the Academic and Administrative Regulations section, as opposed to the Staffing section, since the Staffing categories relate to *current* teaching staff; these categories are more policy-oriented. It may make sense, however, to reorganize the alternative certification and teacher licensure categories in subsequent iterations.

One final assumption is that many state regulations that govern school districts may also be impediments to principals' autonomy. Though we focus on the regulatory restrictions of principal autonomy, we also include certain regulations that pertain to school districts or superintendents if they indirectly constrict building leadership. For example, staffing restrictions place authority at the district level (i.e., hiring and transfers), but these are areas in which a principal ought to have significant discretion to make decisions based on the specific circumstances and needs of the school building.

Instrument Development

We created an index to measure relative levels of regulatory restrictiveness. It includes measurement for each of the 26 separate regulatory areas and utilizes a 5-point Likert scale on which 0 represents an "ideal" level of regulation, +5 represents moderate over-regulation, and +10 indicates excessive over-regulation.

The ideal point of 0 typically means that the state chooses not to address this issue at all or does not require schools to handle it in a certain manner. Regulations judged to fall between two benchmarks are scored at the midway point. Thus, a regulation above 0, but not reaching the benchmark for a +5 score, is recorded as +2.5. The use of such midway points turned out to be extremely useful for those regulations that fell in between the 0 and +5 benchmarks or the +5 and +10 benchmarks. There are no negative (or "under-regulation") scores awarded.

With individual scoring metrics established for each regulation, we located the relevant statutory or administrative code in each of the five pilot states and applied the Likert score from the appropriate index. In some cases, we drew helpful information about state laws from policy databases housed at the Education Commission of the States (ECS). For a few complex regulatory areas concerning teacher certification and licensure policies, we used the grades reported by the National Council on Teacher Quality's *2007 State Teacher Policy Yearbook*.¹³

In order to illustrate how we created the indices, consider the following example for class-size regulations in Florida and California.

The first step was to set the "0 point" at the ideal level of state involvement through discussion among the research team and with the advisory board. With regard to class size, we reasoned that principals should possess the authority to consider tradeoffs among competing uses of a school's resources. Perhaps there is a choice between terminating an ineffective teacher and using those monies for after-school tutoring for failing kids, versus keeping the ineffective teacher so as to uphold the class-size ratio. Imagine further that other teachers in the building might be willing to take on a few additional students in their classrooms if they knew that tutoring would be available for struggling pupils. Unfortunately, the principals and teachers are not even given this option in a state that sets maximum class-size limits. Thus, for the class-size index, we set the ideal level to be no state-prescribed class-size limits.

From the "0 point," we created benchmarks to establish levels of increasing state infringement on building-level autonomy (see Table 2). These benchmarks were essentially incremental deviations from the ideal. For the class-size index, the setting of maximum

class-size limits in *some* grades is moderate over-regulation (+5) and the setting of maximum class-size limits in *all* grades is excessive over-regulation (+10).

Table 2: Class-size Index

These regulations concern the maximum number of students that can or should be enrolled in a class.

Rating	
0	State does not set class-size limits.
5	State mandates class-size maximums in some grades.
10	State mandates class-size maximums in all grades.

Next, we searched for the relevant state constitutional, statutory and/or administrative code covering this issue. In Florida, for example, the state constitution sets the maximum number of students assigned to each teacher. Article 9 §1 requires the following:

To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school year, there are a sufficient number of classrooms so that:

- (1) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students;
- (2) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students; and
- (3) The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

The provision clearly meets the requirements set forth in our scoring index for a +10 since the state sets a maximum class-size limit in all grades. In other words, Florida considerably over-regulates its public schools in this area.

By contrast, California has initiated a grant program to incentivize class-size reductions. According to California Education Code (§52122):

- (a) Except as otherwise provided by Section 52123, any school district that maintains any kindergarten or any of grades 1 to 3, inclusive, may apply to the Superintendent of Public Instruction for an apportionment to implement a class size reduction program in that school district in kindergarten and any of the grades designated in this chapter.

Because the state is incentivizing its schools to have a policy on class size, but not mandating, California earned a score of 0.

The process just described was repeated for each state across all of the regulations included in this study. Because some statutes were vague or involved esoteric legal language, deciding on the appropriate score sometimes proved difficult. Again, given that this is a working document, we welcome input as to whether we made the right calls. Ultimately, each state was given a unique score for each regulation reviewed using the appropriate index. These separate scores were then aggregated into single scores to arrive at an over-regulation figure.

Weightings

Next, we weighted individual regulations in each of the categories according to their relative importance for a school principal's authority. We reasoned, for example, that policies regarding teacher licensure were more important to principals' ability to lead an effective school than those pertaining to student participation in extracurricular activities. In the end, we applied the following simple designations and multipliers in weighting individual regulations: Higher Importance (x3), Moderate Importance (x2), and Lesser Importance (x1).

The category weightings and an example of their application appear in Table 3, taken from our Ohio analysis.

Table 3: Ohio Results for Academic/Administrative Regulations

(1) Academic/ Administrative Regulations	(2) Level of Importance	(3) Unweighted Score	(4) Weighted Score
English/Language Arts Curriculum	Higher (x3)	5	15
Math Curriculum	Higher (x3)	0	0
Science Curriculum	Higher (x3)	5	15
Social Studies Curriculum	Higher (x3)	5	15
Foreign Language Curriculum	Lesser (x1)	0	0
Health and Physical Education Curriculum	Moderate (x2)	5	10
Arts Curriculum	Lesser (x1)	5	5
Textbook Selection	Moderate (x2)	0	0
Alternative Certification	Higher (x3)	7.5	22.5
Teacher Licensure	Higher (x3)	5	15
Special Day(s)	Lesser (x1)	10	10
Parent or Guardian Involvement	Moderate (x2)	7.5	15
Dress Code	Lesser (x1)	0	0
Extracurricular Activity Participation	Lesser (x1)	10	10
Professional Development	Moderate (x2)	5	10
Class Size	Moderate (x2)	0	0
Field Trips	Lesser (x1)	0	0
Libraries/Media Centers	Lesser (x1)	0	0
Day/Year Length	Moderate (x2)	10	20
Category Subtotal		80	162.5

Results

Table 4 shows how the states compare. The highest possible weighted over-regulation score is 550 while the lowest possible score is 0. (Individual state report cards appear in the next section.)

Table 4: Summary Report by State

It's clear that schools in New York, California, and Florida must contend with relatively high levels of regulatory interference. Although Ohio's schools are extensively over-regulated, the Buckeye State's score is still lower than three of the five states. Missouri's over-regulation score is notably lower.

	Total Weighted Over-Regulation Score
New York	303
California	293
Florida	290
Ohio	255
Missouri	183

Missouri is the only state of the five, in fact, that does not *require* collective bargaining in its state statute. Indeed, one of the major factors driving Missouri's lower score *is* this policy, since it accords the state better scores for many of the staffing-related indicators.

Looking Across the Regulations

In Table 5, we examine scores for each regulation and report the number of states deemed "ideally regulated" or "over-regulated. States score ideal ("0") most often in the following areas: Dress Code, Class Size, and Field Trips. That means they tend to stay out of schools' way in these areas. On the other hand, all five states

- Require schools to devote time and/or resources to special holidays (not federal holidays);
- Prescribe professional development hours and/or content;
- Set minimum hours, days, start/end times for school days and/or calendar years;
- Specify particular curriculum in health/physical education and social studies classes;
- Constrain teacher licensure and alternative certification;
- Require teacher tenure;
- Impede differential pay;
- Subject teacher evaluation to collective bargaining or prohibit evaluations from including student performance measures; and
- Subject layoff policies to collective bargaining or require that seniority be a factor in such decisions.

Table 5: Number of States Scoring "Ideal" and "Over" by Individual Regulation

Staffing	Level of Importance	Ideally Regulated	Over-Regulated
Teacher Tenure	Higher	0	5
Differential Teacher Pay and Bonuses	Moderate	0	5
Teacher Evaluation	Moderate	0	5
Layoffs	Moderate	0	5
Hiring of Teachers and Support Staff	Higher	1	4
Transfers for Teachers or Support Staff	Higher	1	4
State Budgeting	Level of Importance	Ideally Regulated	Over-Regulated
Number of State Budget Line Items	Higher	2	3
Academic & Administrative Regulations	Level of Importance	Ideally Regulated	Over-Regulated
English/Language Arts Curriculum	Higher	1	4
Math Curriculum	Higher	2	3
Science Curriculum	Higher	2	3
Social Studies Curriculum	Higher	0	5
Foreign Language Curriculum	Lesser	2	3
Health and Physical Education Curriculum	Moderate	0	5
Arts Curriculum	Lesser	1	4
Textbook Selection	Moderate	2	3
Alternative Certification	Higher	0	5
Teacher Licensure	Higher	0	5
Special Day(s)	Lesser	0	5
Parent or Guardian Involvement	Moderate	1	4
Dress Code	Lesser	4	1
Extracurricular Activity Participation	Lesser	2	3
Professional Development	Moderate	0	5
Class Size	Moderate	4	1
Field Trips	Lesser	4	1
Libraries/Media Centers	Lesser	2	3
Day/Year Length	Moderate	0	5

Patterns of Over-Regulation

The next two tables compare results by the three overarching categories. In Table 6, we see that over-regulation varies significantly among the pilot states within each category. For example, we see that Florida has by far the most interference in the Academic/Administrative regulations category but the least interference in the Staffing category. Similarly, where Ohio scores relatively well in the Academic/Administrative area,

its score for Staffing is relatively poor. So, though Ohio statute chooses not to interfere in school-level decisions such as class-size limits and field trips, it has much to say about teacher tenure, hiring, and teacher transfers.

In short, there are no consistent patterns across categories for individual states. States that over-regulate within one category do not tend to over-regulate in others; they interfere to varying degrees across the three categories.

Table 6: Total Over-Regulation Score by Category

	Over-Regulation Score		
	Academic & Administrative	Staffing	State Budgeting
New York	178	95	30
California	188	75	30
Florida	220	55	15
Ohio	163	93	0
Missouri	108	75	0
Total Possible	370	150	30

Comparing “Higher Importance” Regulations

In Table 7, we compare states on those regulations that we judge to have the greatest impact on school management. These include teacher licensure; alternative certification; reading, math, science, and social studies curricula; collective bargaining areas covering teacher tenure, hiring and transfers; and the number of separate state budget line items. (Sixteen of the 26 regulatory domains are excluded here.)

Table 7: Higher Importance Regulations

	Over-Regulation Score
New York	173
California	165
Ohio	135
Florida	135
Missouri	98

New York again interferes the most in these critical areas, followed by California. Ohio and Florida tie for third, though they are both significantly lower than the top two states. Missouri remains in the fifth spot, with the least interference among the pilot states. Of particular note, the variation among the five states in this comparison is not as great when measuring the full spectrum of regulations. Thus it appears that most states in our pilot are like-minded when it comes to over-regulating the areas that matter most.

Conclusion and Recommendations

We began this report by asserting that public schools are less likely to improve their performance unless their leaders are free to serve their students without undue government interference. The evidence reported here strongly suggests that schools do not have the kind of autonomy or authority in key areas that they need to be maximally effective.

State over-regulation occurs across myriad areas of school operations. Yet states that over-regulate typically don't do so across all three broad domains examined. For instance, Florida over-regulates in academic and administrative matters, but not in state budgeting matters. Four or five of the pilot states do, however, over-regulate in the few individual areas that matter most: teacher tenure, teacher hiring, teacher transfers, teacher licensure, and alternative certification.

This finding suggests that state interference in important regulatory areas is largely idiosyncratic. Perhaps this idiosyncrasy aptly reflects the dizzying number of factors influencing school operations. State school boards, teacher contracts, the courts, labor relations boards, teachers unions, and the state attorneys general all have a hand in dictating or defining education policy.¹⁴ Sometimes special interests, parties, and players collide. The unique context of each state's political and ideological climate, beliefs about the role of public schools, the occurrence of "trigger" events (e.g., high profile school scandals or tragedies), and even the power of the media (e.g., "investigative reports" during sweeps weeks) can impact the regulatory environment in which schools operate. As a result, various stakeholders typically find themselves interested in shaping a particular regulation, as opposed to the entire landscape.

That said, state statute is a main ingredient in a complicated regulatory recipe. Analyzing it in detail is key to gauging its influence on principals' authority. In this sense, it doesn't much matter whether a regulatory over-reach is the result of a high-minded "reform," interest group lobbying, or knee-jerk reactions to the sensational story of the day. Regardless, as more constraints are added over the course of time (while few, if any, are ever erased) the scope of autonomy for principals is gradually eroded. The result is that local school principals are unable to operate their schools effectively based on local circumstances, student needs and their best professional judgment about what yields successful teaching and learning.

Based on what we have been able to learn from this pilot study, the authors recommend that state policymakers reconsider their interference in important aspects of daily school operations, beginning with teacher evaluations, certification requirements, and dictates on hiring and transfers of teachers and support staff. We also found excessive state curriculum interference in the areas of English/language arts, social studies, and the arts. Freeing school principals in these key areas of school operations would be an important step towards the creation of better schools.

We're not suggesting that state leaders end monitoring and oversight of schools. The state retains an important obligation to ensure that its public schools are attentive to pupil safety and improved student achievement. Yet states should recognize that communities, like children, are incredibly diverse and should respect that there is no "one

best way” for schools to operate. Our guiding principle, therefore, is that policymakers must consider ways to increase the autonomy available to school principals in those areas where rigid or excessive regulation hinders effective schooling.

Moving Forward

Because this is a pilot study, we seek reader feedback on it before widening the analysis to all 50 states. We welcome new areas for examination and invite input on how we’ve interpreted regulations examined here. Please send feedback to RedTapeReport@gmail.com by October 19, 2008.

STATE LEVEL REPORTS

California

Total Over-regulation Score: 293

OVER-REGULATION RANK: 2nd out of 5

The Scores

Table 8 provides a complete breakdown of the scores earned for each regulation in the state. The most important figure in each category is the weighted over-regulation score in the last column. Below is a short description of this score and each of the scores in the other regulatory categories.

Staffing	Level of Importance	Unweighted Score	Weighted Score
Teacher Tenure	Higher (x3)	10	30
Differential Teacher Pay and Bonuses	Moderate (x2)	5	10
Teacher Evaluations	Moderate (x2)	5	10
Layoffs	Moderate (x2)	5	10
Hiring of Teachers and Support Staff	Higher (x3)	5	15
Transfers for Teachers and Support Staff	Higher (x3)	0	0
Category Subtotal		30.0	75.0
State Budgeting	Level of Importance	Unweighted Score	Weighted Score
Number of State Budget Line Items	Higher (x3)	10	30
Category Subtotal		10.0	30.0
Administrative & Academic Regulations	Level of Importance	Unweighted Score	Weighted Score
English/Language Arts Curriculum	Higher (x3)	5	15
Math Curriculum	Higher (x3)	5	15
Science Curriculum	Higher (x3)	5	15
Social Studies Curriculum	Higher (x3)	5	15
Foreign Language Curriculum	Lesser (x1)	5	5
Health and Physical Education Curriculum	Moderate (x2)	5	10
Arts Curriculum	Lesser (x1)	5	5
Textbook Selection	Moderate (x2)	10	20
Alternative Certification	Higher (x3)	5	15
Teacher Licensure	Higher (x3)	5	15
Special Day(s)	Lesser (x1)	10	10
Parent or Guardian Involvement	Moderate (x2)	10	20
Dress Code	Lesser (x1)	0	0
Extracurricular Activity Participation	Lesser (x1)	5	5
Professional Development	Moderate (x2)	5	10
Class Size	Moderate (x2)	0	0
Field Trips	Lesser (x1)	2.5	2.5
Libraries/Media Centers	Lesser (x1)	5	5
Day/Year Length	Moderate (x2)	2.5	5
Category Subtotal		95.0	187.5
Total Over-regulation Score			292.5

Overall Score

California ranks second out of the five pilot states in terms of over-regulation. In all three categories, the state earns comparatively high scores (the higher the score, the more the state is interfering in school management). In the Academic/ Administrative Regulations category, the Golden State has the second worst score. In the Staffing category, it is more moderately over-regulated. Finally, in the State Budgeting category, California earns the worst possible score for an excessive number of state line items used in the budgeting process.

Academic/Administrative Regulations

California received the worst score (10) for excessive interference in three of the regulation areas in this category: Special Day(s), Parent or Guardian Involvement, and Textbooks. Regarding Special Day(s), the state law (quoted at length below) requires schools to set aside time on specified days for “commemorative exercises” of various subjects. The state receives a disappointing score for Parent or Guardian Involvement because it requires schools to meet 16 separate parental “rights.” One of these rights is the right of parents to “examine the curriculum materials of the class or classes in which their child is enrolled.” Regulation in the Textbook category is deemed burdensome because textbook selection occurs at the state level.

Staffing Regulations

As noted above, California scores in the middle of the pilot states in the Staffing category. One staffing area, teacher transfers, is deemed ideal (score of 0). Specifically, the state prohibits teacher or support staff transfers based on seniority in failing schools. California receives the worst score in the Teacher Tenure category because it requires only two years of service before a teacher can be granted tenure.

Budgeting

In the State Budgeting category, California receives the worst score (10) for its excessive use of line items in funding local schools. The state’s executive budget details 56 separate line items used to appropriate school funds. In our budgeting metric, greater than 30 line items earns a state the worst score.

Sample Regulation Language

We end with an example of a regulation from the academic/administrative category (specifically, one pertaining to the observance of special holidays). This example provides an opportunity to understand how regulations are scored across states.

The regulatory language below highlights the germane section of California law that pertains to special school observances. In this case, the state sets forth four separate days for special observances, including a day that recognizes the “economic value of birds and trees.”

Special Day(s) (Score: 10 – Highly Restrictive)

37221. Unless closed by the governing board pursuant to paragraph (13) of subdivision (a) of Section 37220, the public schools shall remain open on, but shall celebrate with appropriate commemorative exercises, the following holidays:

(a) The anniversary of the adoption of the Constitution of the United States, on or near which date schools shall include exercises and instruction in the purpose, meaning, and importance of the Constitution of the United States, including the Bill of Rights.

(b) March 7, the anniversary of the birthday of Luther Burbank, known as Conservation, Bird, and Arbor Day on which day schools shall include exercises and instruction on the economic value of birds and trees, and the promotion of a spirit of protection toward them, and as to the economic value of natural resources, and the desirability of their conservation.

(c) February 15, the anniversary of the birthday of Susan B. Anthony, known as "Susan B. Anthony Day" on which day schools shall include exercises and instruction on the political and economic status of women in the United States and the contributions of Susan B. Anthony thereto.

(d) March 5, the anniversary of the death of Crispus Attucks, the first black American martyr of the Boston Massacre, known as "Black American Day" on which day schools shall include exercises and instruction on the development of black people in the United States.

Florida

Total Over-regulation Score: 290

OVER-REGULATION RANK: 3rd out of 5

The Scores

Table 9 provides a complete breakdown of the scores given for each regulation in the state. The most important figure in each category is the weighted overregulation score in the last column. Below is a short description of this score and each of the scores in the other regulatory categories.

Table 9: Florida Schools Report Card

Staffing	Level of Importance	Unweighted Score	Weighted Score
Teacher Tenure	Higher (x3)	5	15
Differential Teacher Pay and Bonuses	Moderate (x2)	2.5	5
Teacher Evaluations	Moderate (x2)	5	10
Layoffs	Moderate (x2)	5	10
Hiring of Teachers and Support Staff	Higher (x3)	0	0
Transfers for Teachers and Support Staff	Higher (x3)	5	15
Category Subtotal		22.5	55.0
State Budgeting	Level of Importance	Unweighted Score	Weighted Score
Number of State Budget Line Items	Higher (x3)	5	15
Category Subtotal		5.0	15.0
Administrative & Academic Regulations	Level of Importance	Unweighted Score	Weighted Score
English/Language Arts Curriculum	Higher (x3)	5	15
Math Curriculum	Higher (x3)	5	15
Science Curriculum	Higher (x3)	5	15
Social Studies Curriculum	Higher (x3)	5	15
Foreign Language Curriculum	Lesser (x1)	5	5
Health and Physical Education Curriculum	Moderate (x2)	5	10
Arts Curriculum	Lesser (x1)	5	5
Textbook Selection	Moderate (x2)	10	20
Alternative Certification	Higher (x3)	5	15
Teacher Licensure	Higher (x3)	5	15
Special Day(s)	Lesser (x1)	10	10
Parent or Guardian Involvement	Moderate (x2)	7.5	15
Dress Code	Lesser (x1)	0	0
Extracurricular Activity Participation	Lesser (x1)	10	10
Professional Development	Moderate (x2)	5	10
Class Size	Moderate (x2)	10	20
Field Trips	Lesser (x1)	0	0
Libraries/Media Centers	Lesser (x1)	5	5
Day/Year Length	Moderate (x2)	10	20
Category Subtotal		112.5	220.0
Total Over-Regulation Score			290.0

Overall Score

Florida ranks third out of the five pilot states. The state's scores vary across the three categories compared to other pilot states. In the Academic/Administrative regulations category, Florida has the most regulatory interference of the pilot states. In contrast, Florida has the least regulation in the staffing category. The state's moderate number of budgeting line items places it in the middle of the pack for that category.

Academic/Administrative Regulations

In Florida, we observe moderate to excessive over-regulation in most areas in the Academic/Administrative regulations category. The state receives the worst score (10) for Special Day(s), Extracurricular Activity Participation, Day/Year Length, Class Size, and Textbooks. Regarding Special Day(s), the state law (quoted at length below) requires schools to set aside time in September for "Celebrate Freedom Week." The state receives a poor mark for class size since it mandates maximum numbers of students across all grade levels. Finally, by specifying curriculum content in its academic regulations, the state earns moderate over-regulation scores in every one of the curriculum areas we reviewed.

Staffing Regulations

As noted above, Florida is the least regulated state in this category. In particular, the state allows many of the personnel decisions covered in this category to be bargained collectively, but without overly prescriptive state requirements. The state scores particularly well in the area of hiring teachers or support staff due to a statute that safeguards districts' right to designate open positions and prescribe qualifications required of potential applicants.

Budgeting

In the State Budgeting category, Florida receives a moderate score (5) for its use of 27 separate line items for funding local schools (greater than 30 earns a state the worst score).

Sample Regulation Language

We end with an example of a regulation from the Academic/Administrative category (specifically, one pertaining to the observance of special holidays). This example provides an opportunity to understand how regulations are scored across states.

The regulatory language below highlights the germane section of Florida law that pertains to one set of required special observances in schools. In this case, the state requires that the last week in September be designated "Celebrate Freedom Week" with accompanying student activities. These include reciting the first two sentences of the Declaration of Independence (perhaps not a bad idea, but still, a mandate is a mandate).

Special Day(s) (Score: 10 – Highly Restrictive)

1003.421 Recitation of the Declaration of Independence.--

(1) To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the last full week of classes in September shall be recognized in public schools as Celebrate Freedom Week. Celebrate Freedom Week must include at least 3 hours of appropriate

instruction in each social studies class, as determined by each school district, which instruction shall include an in-depth study of the intent, meaning, and importance of the Declaration of Independence.

(2) To emphasize the importance of this week, at the beginning of each school day or in homeroom, during the last full week of September, public school principals and teachers shall conduct an oral recitation by students of the following words of the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."

(3) Student recitation of this statement shall serve to reaffirm the American ideals of individual liberty.

(4) Upon written request by a student's parent, the student must be excused from the recitation of the Declaration of Independence.

Missouri

Total Over-regulation Score: 183

OVER-REGULATION RANK: 5th out of 5
(least regulated)

The Scores

Table 10 provides a complete breakdown of the scores given for each regulation in the state. The most important figure in each category is the weighted over-regulation score in the last column. Below is a short description of this score and each of the scores in the other regulatory categories.

Table 10: Missouri Schools Report

Staffing	Level of Importance	Unweighted Score	Weighted Score
Teacher Tenure	Higher (x3)	5	15
Differential Teacher Pay and Bonuses	Moderate (x2)	2.5	5
Teacher Evaluations	Moderate (x2)	2.5	5
Layoffs	Moderate (x2)	10	20
Hiring of Teachers and Support Staff	Higher (x3)	5	15
Transfers for Teachers and Support Staff	Higher (x3)	5	15
Category Subtotal		30.0	75.0
State Budgeting	Level of Importance	Unweighted Score	Weighted Score
Number of State Budget Line Items	Higher (x3)	0	0
Category Subtotal		0.0	0.0
Administrative & Academic Regulations	Level of Importance	Unweighted Score	Weighted Score
English/Language Arts Curriculum	Higher (x3)	0	0
Math Curriculum	Higher (x3)	0	0
Science Curriculum	Higher (x3)	0	0
Social Studies Curriculum	Higher (x3)	5	15
Foreign Language Curriculum	Lesser (x1)	0	0
Health and Physical Education Curriculum	Moderate (x2)	5	10
Arts Curriculum	Lesser (x1)	0	0
Textbook Selection	Moderate (x2)	2.5	5
Alternative Certification	Higher (x3)	5	15
Teacher Licensure	Higher (x3)	7.5	22.5
Special Day(s)	Lesser (x1)	10	10
Parent or Guardian Involvement	Moderate (x2)	0	0
Dress Code	Lesser (x1)	0	0
Extracurricular Activity Participation	Lesser (x1)	0	0
Professional Development	Moderate (x2)	5	10
Class Size	Moderate (x2)	0	0
Field Trips	Lesser (x1)	0	0
Libraries/Media Centers	Lesser (x1)	0	0
Day/Year Length	Moderate (x2)	10	20
Category Subtotal		50.0	107.5
Total Over-regulation Score			182.5

Overall Score

Missouri ranks fifth among the five pilot states, meaning that its schools are the most lightly regulated in our sample. In two of the three categories, the state earns relatively low scores (the lower the score, the less the state is interfering in school management). In the Academic/Administrative regulations category, the state has the least regulatory interference of our pilot states. In the State Budgeting category, Missouri is also the least over-regulated; it uses the fewest number of line items (eight) among the pilot states to fund its schools. However, Missouri does exhibit a moderate amount of over-regulation in the Staffing category.

Academic/Administrative Regulations

Missouri is over-regulated in eight areas covered by this category. The worst scores are for Day/Year Length (the state defines a “school day,” “school month,” and “school year” including start and end dates in its statutory code); Teacher Licensure (Missouri receives a grade of D from the National Council of Teacher Quality for its licensure policy); and Special Days (the state requires two separate commemorative observance days).

Staffing Regulations

Missouri earns a moderate over-regulation score for staffing. Scoring in the middle among the other pilot states, Missouri exhibits some amount of interference in school operations in all of the areas examined. In particular, the state earns the worst score in the area of Layoffs because the state requires that seniority be used as a factor in making such employment decisions.

Budgeting

In the State Budgeting category, Missouri receives an ideal score (0) since it uses only eight separate line items for funding local schools.

Sample Regulation Language

We end with an example of a regulation from the Academic/Administrative category (specifically, one pertaining to the observance of special holidays). This example provides an opportunity to understand how regulations are scored across states.

The regulatory language below highlights the germane section of Missouri law that pertains to two sets of required special observances for schools. In this case, the state requires that schools commemorate both “Missouri Day” and “Pearl Harbor Remembrance Day” with particular exercises.

Administrative - Special Day(s) (Score: 10 – Highly Regulated)

171.051 and 9.040 and 9.110 School holidays include Thanksgiving Day, December twenty-fifth, the third Monday in February, and July fourth. - The third Wednesday of October of each year is known and designated as "Missouri Day" and is set apart as a day commemorative of Missouri history to be observed by the teachers and pupils of schools with the appropriate exercises. - December seventh of every year shall be known and designated as "Pearl Harbor Remembrance Day". It shall be a day on which to commemorate the sacrifice of more than two thousand citizens of the United States who were killed and more than one thousand citizens

who were wounded when the Imperial Japanese Navy and Air Force attacked units of the armed forces of the United States stationed at Pearl Harbor, Hawaii. The teachers and students of this state shall observe this day with appropriate exercises.

New York

Total Over-regulation Score: 303

OVER-REGULATION RANK: 1st out of 5

The Scores

Table 11 provides a complete breakdown of the scores given for each regulation in the state. The most important figure in each category is the weighted over-regulation score in the last column. Below is a short description of this score and each of the scores in the other regulatory categories.

Table 11: New York Schools Report Card

Staffing	Level of Importance	Unweighted Score	Weighted Score
Teacher Tenure	Higher (x3)	5	15
Differential Teacher Pay and Bonuses	Moderate (x2)	5	10
Teacher Evaluations	Moderate (x2)	10	20
Layoffs	Moderate (x2)	10	20
Hiring of Teachers and Support Staff	Higher (x3)	5	15
Transfers for Teachers and Support Staff	Higher (x3)	5	15
Category Subtotal		40.0	95.0
State Budgeting	Level of Importance	Unweighted Score	Weighted Score
Number of State Budget Line Items	Higher (x3)	10	30
Category Subtotal		10.0	30.0
Administrative & Academic Regulations	Level of Importance	Unweighted Score	Weighted Score
English/Language Arts Curriculum	Higher (x3)	7.5	22.5
Math Curriculum	Higher (x3)	5	15
Science Curriculum	Higher (x3)	0	0
Social Studies Curriculum	Higher (x3)	7.5	22.5
Foreign Language Curriculum	Lesser (x1)	2.5	2.5
Health and Physical Education Curriculum	Moderate (x2)	7.5	15
Arts Curriculum	Lesser (x1)	5	5
Textbook Selection	Moderate (x2)	0	0
Alternative Certification	Higher (x3)	7.5	22.5
Teacher Licensure	Higher (x3)	5	15
Special Day(s)	Lesser (x1)	5	5
Parent or Guardian Involvement	Moderate (x2)	2.5	5
Dress Code	Lesser (x1)	5	5
Extracurricular Activity Participation	Lesser (x1)	0	0
Professional Development	Moderate (x2)	10	20
Class Size	Moderate (x2)	0	0
Field Trips	Lesser (x1)	0	0
Libraries/Media Centers	Lesser (x1)	2.5	2.5
Day/Year Length	Moderate (x2)	10	20
Category Subtotal		82.5	177.5
Total Over-regulation Score			302.5

Overall Score

New York ranks first among the five pilot states as the most heavily over-regulated. In two of the three categories—Staffing and Budgeting—the state receives relatively high scores (the higher the score, the more the state is interfering in school management).

Academic/Administrative Regulations

Though it ranks below Florida and California, New York’s over-regulation score in this category is not far behind. The state over-regulates in nearly every area, though the level of interference in each area is often modest. In only five areas of regulation does the state meet the ideal standard. The worst scores are found in the areas of Professional Development (for requiring the development of lengthy, prescriptive plans); Alternative Certification (New York receives a grade of D from the National Council of Teacher Quality for its alternative certification policies); Day/Year Length (for prescribing the number of days in a school year); and several curriculum areas that prescribe both subject content and sequencing.

Staffing Regulations

In this category, New York earns the worst over-regulation score of the pilot states. The state earns an excessive over-regulation score (10) for Teacher Evaluation because it prohibits the use of student performance data for tenure determinations. The state’s requirement that seniority be considered in cases of layoffs also earns the state an excessive over-regulation score. In all of the other areas in the category, the state allows policies to be collectively bargained instead of permitting district discretion, which impedes school-level autonomy.

Budgeting

In the State Budgeting category, New York receives the worst over-regulation score possible (10) for its use of 31 separate line items for funding local schools (greater than 30 line items earns a state the worst score).

Sample Regulation Language

We end with an example of a regulation from the academic/administrative category (specifically, one pertaining to the observance of special holidays). This example provides an opportunity to understand how regulations are scored across states.

The regulatory language below highlights the germane section of New York law that pertains to required special observances. In this case, the state requires that schools participate in “Conservation Day,” which includes lectures or tours designed to increase student interest in “the fish and wild life, soil and water of the state.”

Administrative - Special Day(s) (Score: 5—Moderately Over-Regulated)

Article 17 §810 Conservation day. 1. The last Friday in April each year is hereby made and declared to be known as Conservation day, and observed in accordance with the provisions of this chapter, except that for the year nineteen hundred seventy-eight, Conservation day shall be May third. 2. It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to

provide for and conduct (1) such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results, and (2) such lectures, pictures or tours, as shall tend to increase the interest and knowledge of such pupils in the fish and wild life, soil and water of the state.

The Scores

Table 12 provides a complete breakdown of the scores given for each regulation in the state. The most important figure in each category is the weighted over-regulation score in the last column. Below is a short description of this score and each of the scores in the other regulatory categories.

Table 12: Ohio Schools Report Card

Staffing	Level of Importance	Unweighted Score	Weighted Score
Teacher Tenure	Higher (x3)	2.5	7.5
Differential Teacher Pay and Bonuses	Moderate (x2)	5	10
Teacher Evaluations	Moderate (x2)	5	10
Layoffs	Moderate (x2)	10	20
Hiring of Teachers and Support Staff	Higher (x3)	7.5	22.5
Transfers for Teachers and Support Staff	Higher (x3)	7.5	22.5
Category Subtotal		37.5	92.5
State Budgeting	Level of Importance	Unweighted Score	Weighted Score
Number of State Budget Line Items	Higher (x3)	0	0
Category Subtotal		0.0	0.0
Administrative & Academic Regulations	Level of Importance	Unweighted Score	Weighted Score
English/Language Arts Curriculum	Higher (x3)	5	15
Math Curriculum	Higher (x3)	0	0
Science Curriculum	Higher (x3)	5	15
Social Studies Curriculum	Higher (x3)	5	15
Foreign Language Curriculum	Lesser (x1)	0	0
Health and Physical Education Curriculum	Moderate (x2)	5	10
Arts Curriculum	Lesser (x1)	5	5
Textbook Selection	Moderate (x2)	0	0
Alternative Certification	Higher (x3)	7.5	22.5
Teacher Licensure	Higher (x3)	5	15
Special Day(s)	Lesser (x1)	10	10
Parent or Guardian Involvement	Moderate (x2)	7.5	15
Dress Code	Lesser (x1)	0	0
Extracurricular Activity Participation	Lesser (x1)	10	10
Professional Development	Moderate (x2)	5	10
Class Size	Moderate (x2)	0	0
Field Trips	Lesser (x1)	0	0
Libraries/Media Centers	Lesser (x1)	0	0
Day/Year Length	Moderate (x2)	10	20
Category Subtotal		80.0	162.5
Total Over-regulation Score			255.0

Overall Score

Ohio ranks fourth of the five pilot states in the degree of state regulation. The state is heavily over-regulated in the Staffing category, moderately over-regulated in the Academic/Administrative regulations category, and ideally regulated in the State Budgeting category.

Academic/Administrative Regulations

In Ohio, we observe a fair number of over-regulated areas in this category. The worst scores appear in the areas of Special Days (because the state requires specific commemoration for Veteran's Day) and Day/Year Length (because the state prescribes both the minimum number of days in a school year and the number of "clock hours" that constitute a school day).

Staffing Regulations

In this category, Ohio earns the second worst over-regulation score of the pilot states. The state earns an excessive over-regulation score (10) for Layoffs for mandating that seniority be a factor in such cases. The state also earns poor scores for hiring of teachers and support staff since it requires districts to consider current teachers for positions before new applicants. Likewise, the state garners a disappointing score in the area of teacher transfers since it mandates that current teachers and support staff be considered for transfers before new teachers are considered.

Budgeting

In the State Budgeting category, Ohio receives an ideal score (0) since it utilizes only 14 separate line items for funding its local schools.

Sample Regulation Language

We end with an example of a regulation from the academic/administrative category (specifically, one pertaining to the observance of special holidays). This example provides an opportunity to understand how regulations are scored across states.

The regulatory language below highlights the germane section of Ohio law that pertains to required special observances. In this case, the state mandates that schools participate in specific celebratory events on Veteran's Day that last at least one hour or one full class period.

Sample Regulation Language

Administrative - Special Day(s) (Score: 10—Highly Over-Regulated)

5.23 (A) The twelfth day of February, known as Lincoln's birthday, the twenty-second day of February, known as Washington's birthday, the thirtieth day of May, known as Memorial day, and the eleventh day of November, known as Veterans' day, shall be commemorated in the schools.

3313.602 (D) The board of education of each city, local, joint vocational, chartered community, and exempted village school district, and the Cleveland scholarship and tutoring program, shall require each district school to devote time on or about Veterans' day to an observance that conveys the meaning and significance of that

day. The amount of time each school devotes to this observance shall be at least one hour or, in schools that schedule class periods of less than one hour, at least one standard class period. The board shall determine the specific activities to constitute the observance in each school in the district after consultation with the school's administrators.

Appendix A: Research Staff and Advisory Panel

Research Staff

Principal Investigator

Matthew Carr is a Distinguished Doctoral Fellow in the Department of Education Reform at the University of Arkansas. He is currently pursuing a Ph.D. in Public Policy, with a specialization in K-12 education policy.

Research Staff

Marc Holley is a Doctoral Academy Fellow in the Department of Education Reform at the University of Arkansas. He is currently pursuing a Ph.D. in Public Policy, with a specialization in K-12 education policy.

Nathan Gray is a Doctoral Academy Fellow in the Department of Education Reform at the University of Arkansas. He is currently pursuing a Ph.D. in Public Policy, with a specialization in K-12 education policy.

Research Advisors

Dr. Jay P. Greene is Endowed Chair and head of the Department of Education Reform at the University of Arkansas. Dr. Greene is also a Senior Fellow at the Manhattan Institute for Policy Research.

Dr. Gary Ritter is an Associate Professor of Education and Public Policy and holder of the Endowed Chair in Education Policy in the Department of Education Reform at the University of Arkansas. He is also the Associate Director of the interdisciplinary Public Policy Ph.D. program and the Director of the University's Office for Education Policy.

Advisory Committee

Dina Hasiotis, Project Director, The New Teacher Project

Dina Hasiotis is a Project Director at The New Teacher Project. Formerly, she was the Director of Education Policy at Common Good. She received her undergraduate degree from Harvard College and a master's degree in public administration from the Maxwell School of Citizenship and Public Affairs at Syracuse University.

Lisa Graham Keegan, Principal, Keegan Company

Lisa Graham Keegan, former Arizona Superintendent of Public Instruction, now manages the Keegan Company, where she consults on emerging markets in K-12 education. She is an education advisor to Senator John McCain.

Sam Redding, Executive Director, Academic Development Institute

Sam Redding is the Executive Director of the Academic Development Institute and Director of the federally-funded Center on Innovation and Improvement. He holds a doctorate in educational administration from Illinois State University and is a graduate of Harvard's Institute for Educational Management.

Robert Spillane, Executive Director of the Center for Education, The CNA Corporation

Robert R. Spillane is the Executive Director of the Center for Education at The CNA Corporation. He was Superintendent of Schools in Fairfax County, Virginia; Boston, Massachusetts; New Rochelle, New York; Roosevelt, New York; and Glassboro, New Jersey. He was the New York State Deputy Commissioner of Education for four years.

Susan Theriault, Research Analyst, American Institutes for Research

Dr. Susan Bowles Therriault is a research analyst at the American Institutes for Research. She received her doctoral degree in Education Policy and Leadership from the University of Massachusetts in Amherst in 2005.

John Winn, Chief Program Officer, National Math and Science Initiative

John Winn is the Chief Program Officer of Advanced Placement Training and Incentive Program at the National Mathematics and Science Institute. He was appointed as Florida's Commissioner of Education in August 2004 and served until 2007.

Ken Wong, Walter and Leonore Annenberg Professor in Education Policy, Brown University

Dr. Kenneth Wong chairs the Education Department at Brown University and holds the Walter and Leonore Annenberg Professorship for Education Policy. He received his doctoral degree in Political Science from the University of Chicago.

Appendix B. Indices for Determining Over-regulation Scores

Category I: Staffing

1. Teacher Tenure

These regulations address teacher tenure (i.e., assured job retention by experienced teachers who have satisfactorily served a district for a given amount of time).

Rating	
0	State bans teacher tenure OR makes it a non-permissive* issue to bargain collectively.
5	State requires that tenure be granted at 3 years or more.
10	State requires that tenure be granted at less than 3 years.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

2. Differential Pay (includes performance-based, subject-based, and hardship pay)

These regulations address state prescription of differential pay plans.

Rating	
0	State makes differential pay a non-permissive* issue to bargain collectively AND all three types of differential pay are allowed statewide.
5	Differential pay can be bargained collectively OR state prohibits one of the types of differential pay statewide.
10	Statewide prohibition on 2 or 3 of the types of differential pay.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

3. Teacher Evaluation

These regulations address teacher evaluation requirements, including whether student performance (however defined) may be a part of those evaluations.

Rating	
0	State makes teacher evaluation a non-permissive* issue to bargain collectively.
5	Teacher evaluation can be bargained collectively.
10	The state prohibits considering student performance in teacher evaluations.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

4. Layoffs

These regulations address rules and policies pertaining to retention or rehiring decisions under Reduction in Force (RIF) or similar shortages.

Rating	
0	State makes retention or rehiring decisions under Reduction in Force (RIF) a non-permissive* issue to bargain collectively.
5	Retention or rehiring decisions under Reduction in Force (RIF) can be bargained collectively.
10	State requires districts to base employment decisions under Reduction in Force (RIF) on seniority.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

5. Hiring of Teachers and Support Staff

These regulations address final decisions regarding the hiring of teachers and support staff.

Rating	
0	State makes hiring decisions a non-permissive* issue to bargain collectively.
5	State allows hiring decisions regarding teachers and support staff to be bargained collectively.
10	State law expressly gives priority for internal applicants over new hires.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

6. Transfers for Teachers or Support Staff

These regulations address rules and policies pertaining to transfer rights for teachers or support staff.

Rating	
0	State makes seniority transfer rights a non-permissive* issue to bargain collectively OR bans seniority transfer rights statewide.
5	State allows that transfer decisions regarding teachers and support staff can be bargained collectively.
10	State requires districts to grant teacher transfers based on seniority and/or other factors.

*Note: "Non-permissive" or prohibited topics may not be subject to collective bargaining. In other words, it's up to school districts to set policies.

Category II: Budgeting Regulations

1. Number of State Budget Line Items

These regulations address the number of line items in state budget allocations for K-12 education spending.

Rating	
0	State budget, pertaining strictly to state funds, provides funding through no more than fifteen line items (e.g. foundation aid, special education, and poverty-based funding redistribution).
5	State budget, pertaining strictly to state funds, provides funding through more than fifteen line items, but fewer than thirty line items.
10	State budget, pertaining strictly to state funds, provides funding through more than thirty line items.

Category III: Academic/Administrative Regulations

1. English/Language Arts Curriculum

These regulations pertain to the extent which the English/language arts curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address English/language arts curriculum at all OR State allows district to come up with own English/language arts curriculum (state may provide nonbinding model curriculum).
5	State prescribes English/language arts specific curriculum OR sequencing of classes.
10	State prescribes English/language arts specific curriculum AND sequencing of classes.

2. Math Curriculum

These regulations pertain to the extent which the math curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address math curriculum at all OR State allows district to come up with own math curriculum (state may provide nonbinding model curriculum).
5	State prescribes math curriculum OR sequencing of classes.
10	State prescribes math curriculum AND sequencing of classes.

3. Science Curriculum

These regulations pertain to the extent which the science curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address science curriculum at all OR State allows district to come up with own science curriculum (state may provide nonbinding model curriculum).
5	State prescribes science curriculum OR sequencing of classes.
10	State prescribes science curriculum AND sequencing of classes.

4. Social Studies Curriculum

These regulations pertain to the extent which the social studies curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address social studies curriculum at all OR State allows district to come up with own social studies curriculum (state may provide nonbinding model curriculum).
5	State prescribes social studies curriculum OR sequencing of classes.
10	State prescribes social studies curriculum AND sequencing of classes.

5. Foreign Language Curriculum

These regulations pertain to the extent which the foreign language curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address foreign language curriculum at all OR State allows district to come up with own foreign language curriculum (state may provide nonbinding model curriculum).
5	State prescribes foreign language curriculum OR sequencing of classes
10	State prescribes foreign language curriculum AND sequencing of classes

6. Health and Physical Education Curriculum

These regulations pertain to the extent which the health and physical education curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address health and physical education curriculum at all OR State allows district to come up with own health and physical education curriculum (state may provide nonbinding model curriculum).
5	State prescribes health and physical education curriculum OR sequencing of classes.
10	State prescribes health and physical education curriculum AND sequencing of classes.

7. Arts Curriculum

These regulations pertain to the extent which the arts curriculum is addressed, including specification and sequencing.

Rating	
0	State does not address the arts curriculum at all OR State allows district to come up with own arts curriculum (state may provide nonbinding model curriculum).
5	State prescribes the arts curriculum OR sequencing of classes.
10	State prescribes the arts curriculum AND sequencing of classes.

8. Textbook Selection

These regulations pertain to the extent which textbook selection is addressed.

Rating	
0	State does not address textbook selection, or explicitly allows districts to select textbooks of their own choosing.
5	State requires districts to select textbooks from approved list.
10	State selects textbooks for use by schools and districts.

9. Alternative Certification

Alternative Certification scores are based on NCTQ policy yearbook grades for alternative certification.

Rating	
0	Grade of A
5	Grade of C
10	Grade of F

*See endnote 12 for grading detail and NCTQ reference.

10. Teacher Licensure

Teacher Licensure scores are based on NCTQ policy yearbook grades for teacher certification.

Rating	
0	Grade of A
5	Grade of C
10	Grade of F

*See endnote 12 for grading detail and NCTQ reference.

11. Special Day(s)

These regulations address the observance of special or themed holidays that are not federal holidays (e.g. Conservation Day, Freedom Day).

Rating	
0	State does not require schools to or prevent schools from devoting time and/or resources to special observances.
5	State requires schools to devote time and/or resources to one special observance (e.g. Conservation Day).
10	State requires schools to devote time and/or resources to more than one special observance (e.g. Conservation Day).

12. Parent or Guardian Involvement

These regulations address policies regarding the amount of contact that schools must have with parents or guardians.

Rating	
0	State does not address parent or guardian involvement at all.
5	State mandates that districts and schools have a policy concerning parent or guardian involvement.
10	State mandates that districts and schools have a policy concerning parent or guardian involvement which is highly prescriptive, such as dictating the number of parent or guardian conferences each year.

13. Dress Code

These regulations address student dress or appearance. They may involve mandating uniforms or prohibiting certain hair styles or clothing (e.g., tank-tops, short skirts).

Rating	
0	State does not address dress code or addresses it by allowing, but not requiring, local school authorities to establish a dress code policy.
5	State requires local school authorities to establish a dress code policy.
10	State dictates any aspect of local dress code policy.

14. Extracurricular Activity Participation

These regulations address participation in extracurricular activities such as sports and afterschool clubs.

Rating	
0	The state does not address extracurricular participation or explicitly leaves this to the discretion of the school.
5	The state mandates that schools have policies regarding student participation in extracurricular activities, which include any specific provisions such as complying with minimum GPA requirement, attendance requirements, and code of conduct.
10	The state mandates that schools have a policy regarding student participation in extracurricular activities, which includes all of the following specific provisions: complying with minimum GPA requirements, attendance requirements, and a code of conduct.

15. Professional Development

These regulations address professional development or continuing education for teachers.

Rating	
0	The state does not address professional development or leaves complete discretion to the district regarding professional development.
5	The state prescribes hours OR content/subject matter of professional development.
10	The state prescribes hours AND content/subject matter of professional development or publishes a list of authorized providers.

16. Class Size

These regulations address the maximum number of students that may be enrolled in a class.

Rating	
0	State does not set class-size limits.
5	State mandates class-size maximums in some grades.
10	State mandates class-size maximums in all grades.

17. Field Trips

These regulations address the content (educational quality), number, and/or cost of school field trips.

Rating	
0	State does not address content (educational quality), number, and/or cost of field trips.
5	State limits maximum number of field trips and addresses the content of the outings. State does not address costs of field trips.
10	State mandates maximum number of trips and prescribes specific destinations. State addresses associated costs of field trips.

18. Libraries/Media Centers

These regulations address libraries and media centers (also called learning resource centers).

Rating	
0	State does not address school libraries OR specifically leaves provisions regarding their establishment, control, and maintenance to districts/schools.
5	State requires that districts/schools provide for the establishment, control, and maintenance of school libraries.
10	Schools/districts must provide for the establishment, control, and maintenance of school libraries, and must have a licensed librarian (i.e., a librarian with a degree in library science and teacher certification) and/or must include a certain number of books, computers, or other learning equipment per a certain number of pupils.

19. Day/Year Length

These regulations address the amount of time or when schools must be in session.

Rating	
0	State does not address the length of school year or day at all.
5	State sets a minimum number of hours, not days, that define a school year.
10	State establishes a minimum number of days in a school year and defines what a school day is in terms of number of hours OR state prescribes any of the following: specific start and/or end calendar date, specific start time/end time for school days.

Appendix C: Study Limitations

Although we have attempted to cover a number of regulations across a fairly broad sub-section of K-12 education policy, evaluating every applicable law, rule, or regulation for several states would prove nearly impossible. Thus the scope of the regulations examined is fairly limited, even within the three broad categories we address: Staffing, Budgeting, and Academic/Administrative regulations.

Major categories not addressed in this study include health and safety codes, building codes, financial reporting, and special education. Those encompass enormous sections of state and federal education code, and each could comprise its own study. Our purpose here is not to cover every state K-12 education law but to evaluate a sample of those regulations that speak to state involvement in the everyday operation of individual schools.

Even within each of the three categories, certain regulations have been excluded. For instance, regarding Academics/Administrative regulations, we did not include those concerning the displaying of federal and state flags. Even when a state has a highly prescriptive state flag law, we view such a regulation as a one-time inconvenience rather than a restriction of autonomy over school operations. Further complicating any such appraisal, some states offer schools relief from some regulations if they meet certain standards of academic excellence. Such policies are probably a good idea, but to consider them would call for a level of detail far beyond our exploratory approach.

There is a possibility we failed to locate the key statute or administrative rule pertaining to a given regulation area. K-12 education laws in many cases are complex, and some regulations could be hidden in statutes covering other general topics. For example, collective bargaining laws for teachers are not often found in the education code but in the personnel code for public employees. A related issue involves statutes or codes with vague language, as well as the possibility that courts have made interpretive rulings. Where state laws were unclear or vague in their requirements, we have made a good faith effort to interpret the level of their prescriptions.

A similar concern is that some state regulations may have minimal impact on school leaders because of how they are implemented or enforced. For purposes of this study, we took the language in state constitutions, statutes, and administrative codes at face value. That some schools may ignore certain regulations is an issue beyond the scope of this report. In other words, we are not measuring regulatory compliance or implementation; we are measuring state regulatory interference in school operations according to the letter of the law.

Notes

¹ Cohen, E., Walsh, K., & Biddle, R. (2008). *Invisible Ink in Collective Bargaining: Why Key Issues Are Not Addressed*. National Council on Teacher Quality: Washington, DC.

² Chubb, J., & Moe, T. (1990). *Politics, Markets, & America's Schools*. Washington, DC: The Brookings Institution, p. 38.

³ Walberg, H. & Wang, M. (1999). "Decentralize or 'Disintermediate'?" *Education Week*, Vol. 19, Issue 14.

⁴ Hannaway, J. (1991). "The Organization and Management of Public and Catholic Schools: Looking Inside the 'Black Box.'" *International Journal of Education*, 15.

⁵ To be clear, we are not taking the position in this report that private schools are superior to public schools. Instead, it is the management structure of schools, both public and private, with regard to the amount of flexibility, autonomy, and discretion that is key. For more information about the importance of management structures, the reader is directed to the works of William Ouchi, Herbert J. Walberg, and Philip K. Howard among many others.

⁶ Lee, V., Smith, J., and Holland, P. (1997). How High School Organization Influences the Equitable Distribution of Learning in Mathematics and Science. *Sociology of Education*, 70. Lee et al describe a bureaucratic school organization as one that "relies on affectively neutral social relationships to facilitate the administration of standardized rules and procedures" (p.129) and a bureaucratic approach to instruction as one that "emphasizes the standardization of teaching practices and learning tasks" (p.130).

⁷ Florida Statutes, Florida Administrative Code, California Statutory Code, California Administrative Code, Missouri Revised Statutes, Missouri Code of State Regulations, New York Consolidated Laws, New York Administrative Code, Ohio Revised Code, and Ohio Administrative Code.

⁸ Adamowski, S., Therriault, S., and Cavanna, A. (2007) *The Autonomy Gap*, Fordham Institute, Washington, DC; Chubb, J., & Moe, T. (1990). *Politics, Markets, & America's Schools*. The Brookings Institution, Washington, DC; Kirp, D. and Jenson, D. (1986). *School Days, Rule Days: The Legalization and Regulation of Education*. Philadelphia, PA: The Falmer Press.

⁹ Farkas, S., Johnson, J., Duffett, A., Folen, T. & Foley, P. (2001) *Trying to Stay Ahead of the Game: Superintendents and Principals Talk About School Leadership*. Public Agenda: New York, NY.

¹⁰ Farkas et al, 2001.

¹¹ Portin, B., Schneider, P., DeArmond, M., & Gundlach, L. *Making Sense of Leading Schools: A Study of School Principals*. Center for Reinventing Public Education: Seattle, WA.

¹² The extent to which states currently deliver on this assumption is beyond the scope of this report. Interested readers can review publications such as [Quality Counts](#) for more information.

¹³ The NCTQ grades for Teacher Certification policies were derived from an evaluation of the following 5 factors: 1) Defining Professional Knowledge; 2) Meaningful Licenses; 3) Interstate Portability; 4) Teacher Prep in Reading Instruction; and 5) Distinguishing Promising Teachers. Grades for Alternative Teacher Certification policies were derived from an evaluation of the following 4 factors: 1) Genuine Alternatives; 2) Limiting Alternate Routes to Teachers with Strong Credentials; 3) Program Accountability; and 4) Interstate Portability. Available online at: <http://www.nctq.org/stpy>.

¹⁴ Cohen et al., 2008.