

A Continuing Professional Education Monograph

**the structure  
and control  
of public education**

**A PRIMER FOR  
THE PUBLIC**



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# **A Primer for the Public**

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# **The Structure and Control of Public Education**

## **INTRODUCTION**

Because education holds such a significant place in American life, both for the individual citizen and society in general, and because changes in the educational process have been made so rapidly in recent years, there is much confusion and misunderstanding about the basic framework in which public education operates. This condition results in needless conflict and confrontation. If public education is to retain its democratic base in this country, it is necessary that there be a wider understanding of the design and control of the educational enterprise.

This primer is written to enhance that objective. It is intended, not as a thorough analysis or as a critique, but to provide a basic structure for the general public. References are given for those who desire to explore more deeply the issues and structures which are mentioned briefly in this primer.

## **A BRIEF HISTORICAL NOTE**

Public education in the United States is different from that of any other nation in the world. Its roots reach into colonial America and its development encompasses the movement of frontiers across three thousand miles of hostile terrain inhabited in every first instance by rugged, individualistic people. The schools established on these frontiers became interesting compromises between older structures and the requirements and conditions of the new environment. While the precise structure and function varied from place to place and from time to time, a single theme has run through this development which remains at the basic roots of our education system. This theme suggests that public education is a social institution, and that as such, it

exists to do what society wants done. A changing society has constantly changing needs. There has been and will continue to be controversy over what society wants done and what the best means are for achieving these goals, but this is a condition which reflects the very nature of a democratic system and provides the necessary impetus for change and improvement.

Schools in America began because of religious motivation. The first common schools were established in order to enable the young to learn to read the Bible. This was long before the American revolution and the establishment of the United States. As the life of the people progressed, more responsibilities were placed on the schools. With the development of industry and commerce, greater need for an expanded curriculum became apparent. Still, the three r's "readin', 'ritin' and 'rithmetic" occupied an exclusive place in the common schools for many, many years and even today remain at the foundation of all further formal learning.

As the colonies developed their own set of social, economic and political institutions, and as the concept of democracy became dominant in the emergence of the new nation, the importance of schools and education took on a new urgency which was reflected in the wording of the Ordinance of 1787, "religion, morality and knowledge, being essential to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Thus, with new social needs new purposes were added for schools. The educational system grew and developed with the nation. The curriculum was broadened to include practical subjects, and more. The school year was lengthened and the number of years expanded. As life became more complex and parents less competent or too busy to adequately provide for educational needs within the family, these jobs were given to the school.

Over the years, schools gained an ever increasing role in orienting the young into the culture, providing basic skills, knowledge and attitudes required to perform in the culture, and, in recent

years have served other functions of a custodial nature.

As the role of schools enlarged, as the importance of formal education increased, and as public education became universal and "big business," it has become more formalized, developed more permanent structure and has of necessity been woven into the legal and political framework of American Society.

## **THE BASIS FOR CONTROL**

The basic legal structure for public education can perhaps best be approached by first discovering its origin.

When the framers of the United States Constitution met, they realized the necessity of a central authority for some purposes. However, there were those present and more back home in the respective states who were very suspicious of the encroachment of power by the central government. Therefore, before the constitution was adopted, it was necessary to add 10 amendments which were known as the "Bill of Rights." These were especially designed to protect the people from the potential tyranny of the central government. The last of these, the Tenth Amendment, reads as follows: "All powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved to the states respectively or to the people." Inasmuch as the control of education is not specified in the Constitution as a power of the United States, this control must and does rest with the states or with the people. That is not to say that the Federal Government cannot engage in the support of education through other constitutional provisions, or in the control of certain educational programs of a specific nature such as Indian reservations, territories, armed forces, et cetera, but that legal general control of the educational system is thus beyond the power of the Federal Government. Thus, there are, fifty state education systems in this country, each autonomous in its authority except

where the exercise of this authority conflicts with or violates provisions of the United States Constitution. Most such conflicts have in practice involved interpretation and application of the first and fourteenth amendments.

Given then, state systems of education, the legal basis for the specific nature of the system is found in each state constitution and subsequent laws passed by the state legislatures. In a sense, the state legislatures are super school boards. State legislatures have chosen to carry out their responsibilities for education by creating local school districts and giving them varying amounts of authority and responsibility. While local district control is deep rooted in custom in many parts of the country, it is only possible for this control to be continued when continuing pressures and views of the constituency of the state are strong enough to influence the legislature to continue this delegation. Education is a state function.

Each state has a regulatory agency having the responsibility for overseeing and supervising the operation of the schools of the state. This agency, called the State Department of Education, State Education Agency, or a similar name, is established by state constitution or law and its powers and duties are provided for in the law. Generally, these agencies are responsible for enforcing state standards pertaining to the operation of the local schools, for serving in an advisory relationship to local districts on school matters, for collecting and disseminating information, and for providing leadership in the improvement of education in the elementary and secondary schools. An increasingly important function in recent years has been the coordination of special programs in the states for which federal funds are allocated.

In most states, a great many of the activities and decisions required for the operation of the local schools have been delegated to local school district governments by the states. However, these are not "rights" of local districts but delegations of authority and responsibility by the states and may be withdrawn by action of state governments. The local



school governments are at one and the same time agents of the states and, within discretionary powers granted by the states, agents of the people of the area constituting the legal boundaries of the local district.

The local school districts are governed by boards of education. They are selected in a manner specified by the laws of the state. These boards have the responsibility for overseeing the operation of the local schools as specified in the state laws. Generally, the boards determine the policies under which the employed staff function and the local policies pertaining to the conduct of the educational programs. The central reason for the existence of the local boards is to provide as much relevancy of the local educational programs as possible to the needs and abilities of the local school district.

The local boards cannot, contrary to popular opinion, do anything they desire to do except where prohibited by state rules or laws. The opposite is the case. A local board must point to a specific state law to justify its every act. Everything done by a local board of education must be specifically authorized by state law, clearly implied, or necessary for carrying out responsibilities specified in the state law. Thus, while a local board of education does have discretionary powers, the nature and extent of these powers is determined by the delegation of power in the laws of the state.

Within these limitations, the local board governs. Each board member is an agent of the state but is responsible to the local school district for discretionary judgments. The major job of the board is to develop policies which reflect the values of the people with respect to the school program but which are in harmony with its role as an agent of the state. Of course, the ultimate goal is to provide a workable, socially relevant program of education for boys and girls which is consistent with the principles of democracy and involvement, but not inconsistent with developing standards of quality education.

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