
DC APPLESEED CENTER REPORT

REFORMING THE D.C. BOARD OF EDUCATION: A BUILDING BLOCK FOR BETTER PUBLIC SCHOOLS

September 1999



DC Appleseed Center
733 Fifteenth Street, NW, Suite 300
Washington, D.C. 20005
Tel: (202) 393-1158
Fax: (202) 393-1495
www.dcappleseed.org



DC APPLESEED CENTER

The DC Appleseed Center is a nonprofit public interest organization dedicated to addressing systemic management and financial problems of the District of Columbia. The solutions DC Appleseed presents to the public, civic leaders, and government representatives are based on nonpartisan analysis and include concrete proposals for change. DC Appleseed is one of a number of local centers across the country fostered by The Appleseed Foundation.

Board of Directors

Nicholas W. Fels
Covington & Burling
President

Gary Ratner
Law Office of Gershon M. Ratner
Vice-President

Daniel M. Singer (of counsel)
Fried, Frank, Harris, Shriver & Jacobson
Treasurer

John Payton
Wilmer, Cutler & Pickering
Secretary

Peter D. Ehrenhaft
Ablondi, Foster, Sobin & Davidow, P.C.

Kevin Lanigan
Hogan & Hartson L.L.P.

John Graebner
Legg Mason Wood Walker, Inc.

Edward M. Levin
U.S. Department of Commerce

Rev. Graylan S. Hagler
Plymouth Congregational United Church of Christ

Alan B. Morrison
Public Citizen Litigation Group

John Hechinger, Sr. (retired)

Michael C. Rogers
Metropolitan Washington Council of Governments

Jacquelyn V. Helm
Law Office of Jacquelyn V. Helm

Lawrence Walders
Powell, Goldstein, Frazer & Murphy LLP

John W. Hill, Jr.
Arthur Andersen, LLP

Melody Webb
Lobbyline.com

Carolyn B. Lamm
White & Case

Roderic L. Woodson
Holland & Knight LLP

Affiliations listed only for purposes of identification.

Staff

Joshua S. Wyner, Executive Director
Olivia H. Devereux, Director of Development
Anna E. Laitin, Staff Associate

REFORMING THE D.C. BOARD OF EDUCATION: A BUILDING BLOCK FOR BETTER PUBLIC SCHOOLS

ACKNOWLEDGMENTS

The DC Appleseed Center thanks the following for their generous contributions to this project:

- ***Members of the DC Appleseed School Governance Project Team*** (listed on the preceding page) who collectively dedicated many hundreds of hours to convening as a group, researching issues, formulating recommendations, and drafting this report.
- ***Twenty-one people*** interviewed for this report who have knowledge about the D.C. Board of Education and school boards elsewhere, each of whom spent approximately two hours imparting valuable insights.
- ***Seventeen members of the public*** who participated in the DC Appleseed Project Team's focus group, and ***DC Agenda*** which helped organize and facilitate the focus group.
- ***Seven Anacostia High School students*** who shared their thoughts with DC Appleseed, and ***The Urban Alliance*** which helped organize DC Appleseed's meeting with the High School students.
- ***Micki O'Neil***, a Georgetown University student who conducted an extensive review of research and writing on school boards and issues related to school governance.
- All of DC Appleseed's 1999 supporters, including the following Foundations:

The Bailey Family Foundation (funding specifically for this report)

The Morris & Gwendolyn Cafritz Foundation

Naomi and Nehemiah Cohen Foundation

Fannie Mae Foundation

Freddie Mac Foundation (funding specifically for this report)

Philip L. Graham Foundation

Eugene & Agnes E. Meyer Foundation

The Summit Fund of Washington

Trellis Fund

- ***IKON Office Solutions*** which printed this report free of charge.

DC Appleseed School Governance Project Team

Alessio D. Evangelista practices civil and criminal litigation and special education law at Covington & Burling. He has been involved in many student outreach and mentoring activities over the years, including Covington & Burling's "Saturday Academy" program with Cardozo High School.

Robin-Eve Jasper is an attorney and mediator who has spent much of her career working on issues affecting families in the District of Columbia. She is currently employed as Vice President of the Education and Municipal Services practice of The Staubach Company, a national real estate advisory firm.

Mary Levy, a DCPS parent activist and lawyer with a background in school finance litigation, directs the Public Education Project of the Washington Lawyers' Committee for Civil Rights & Urban Affairs and serves as counsel and researcher for Parents United for the D.C. Public Schools. She has studied DCPS intensively for 20 years for Parents United and the D.C. Committee on Public Education.

Malcolm Lovell has held presidential appointments in three administrations. He was president and CEO of the National Policy Association, President of the Rubber Manufacturers Association, and currently is an Executive in Residence at the George Washington University School of Business and Public Management. Earlier, he served on the Birmingham (Michigan) School Board.

Alan B. Morrison is the Director and co-founder, with Ralph Nader, of the Public Citizen Litigation Group. He is a member of the Board of Directors of the DC Appleseed Center and a member of the transition team that advised the Control Board on the 1999 Transition Plan for the D.C. Board of Education.

George Napier is President and CEO of Emediaware, Inc. He is a board member of the DC Charter Schools Resource Center and has served as Executive Director of the DC Committee on Public Education.

Amy B. Rifkind is an associate in the Real Estate Group at Arnold & Porter. She has also represented schools, school boards, and parents in the District of Columbia and Massachusetts.

Colleen Shanahan, a former Program Associate at DC Appleseed, now works at Lake, Snell, Perry & Associates. She has worked for a nonprofit organization on improving the Cleveland Public Schools and was a teacher in Japan.

Michael E. Tolbert works for the Equal Employment Opportunity Commission. He has spoken before the D.C. Board of Education on many occasions over the past decade. He has spent the past two years studying the pattern of reoccurring problems in the system's 195 year history.

Harriet Tyson is an education writer, researcher, and consultant. She is the author of dozens of articles and reports on teachers and teaching, textbooks, and curriculum. She is a former high school teacher and was a member and President of the Montgomery County (Maryland) Board of Education.

John B. Weiner is an associate practicing in the areas of domestic and international environmental law at Beveridge & Diamond, P.C. Prior to entering legal practice, he did research on educational topics including textbook adoption policies, decentralization of school systems, and the role of private foundations in public education reform.

Joshua S. Wyner is the Executive Director of the DC Appleseed Center. He is a graduate of the D.C. Public Schools and has worked with Boston University on its management of the Chelsea (Massachusetts) schools.

Current affiliations listed solely for the purposes of identification.

REFORMING THE D.C. BOARD OF EDUCATION: A BUILDING BLOCK FOR BETTER PUBLIC SCHOOLS

September 1999

<u>EXECUTIVE SUMMARY</u>	i
<u>INTRODUCTION</u>	1
I. SCHOOL BOARD RESPONSIBILITIES	2
A. An Effective School Board Sets Policies and Understands Its Role Vis-a-Vis the Superintendent	3
B. The School Board Selects the Superintendent and Monitors Performance	7
C. The Superintendent Manages The Schools	7
D. The Board and Superintendent Share Responsibility for Generating and Disseminating Information	9
II. THE D.C. BOARD OF EDUCATION	11
A. How the Board Fits Into the Governance Structure Over DCPS	11
B. Problems Faced By the Board	13
III. OPTIONS FOR STRUCTURAL REFORM OF THE BOARD OF EDUCATION	16
A. Elected vs. Appointed Boards	17
1. The Process of Getting Elected, the Connection to Voters, and the Demand for Constituent Services	17
2. Different Models of Accountability and, Perhaps, Degrees of Power	17
3. Coordination Between Public Education and Other Government Services	19
4. Balance of Expertise	19
B. Recommended Changes to the Board of Education Structure	19
1. Reduce the Number of Board Members	20
2. If Members are Elected, Eliminate Pure Ward Elections and Utilize the Strength of the Hybrid Approach Where Possible	21
a. <i>Hybrid Elections Ensure Representation of Constituents from All Parts of the City and May Temper the Micromanagement that Accompanies the Demand for Constituent Services.</i>	22
b. <i>Hybrid Elections May Deter Competition and Foster Cooperative Decision Making</i>	23
c. <i>Special Attributes of Hybrid Elections</i>	24
3. If Board Members are Appointed, Establish Checks on the Mayor's Power	24
C. Examples of How DC Appleseed's Recommended Changes Might Be Structured	26
IV. OTHER GOVERNANCE IMPROVEMENTS: FINANCING AND STATE EDUCATION FUNCTIONS	29
A. Financing DCPS	29
B. State Education Functions	31
1. Principles for Transferring Functions	32
2. Examples of Functions that Might Be Transferred	33
3. Entities That Should Perform Transferred Functions	34

CONCLUSION 35

BIBLIOGRAPHY 36

APPENDIX I: Methodology I - 1

APPENDIX II: School Board Salaries and Benefits – Comparative Information II - 1

APPENDIX III: Legal Requirements for Changing the Governance Structure of the D.C.
Board of Education and Implementing Other Changes to the School System III - 1

APPENDIX IV: Fiscal Reports Required of DCPS by Congress and the District IV - 1

APPENDIX V: Functions that the District Should Consider Placing
Outside the D.C. Public School System (“DCPS”) V - 1

EXECUTIVE SUMMARY

Ask parents and students what they want most from their public school, and chances are that good teachers top the list. And certainly, within the four walls of a public school building, the ability of teachers to instruct, to inspire, and to nurture has the most direct and regular impact on how a child's mind matures. Parents and students in cities across the nation are also likely to mention secure buildings and functioning facilities, and many would add to the list a high quality principal to carry out the numerous responsibilities and respond to the daunting challenges facing urban schools.

What will not make the top ten list for most parents and students is a good Board of Education. Indeed, while District of Columbia residents listed improving public education as the top priority in a recent survey about city services, an ever decreasing percentage of eligible voters cast their votes during Board elections in the 1990's, even in the three elections when the Board had power.* However, if District residents care about classroom education, they should also be deeply concerned about how well the Board of Education has governed the schools in the past and what it is likely to do in the future.

On June 30, 2000, the Board of Education is scheduled to have its broad Home Rule Act powers restored, and it will once again have legal "control" of the District of Columbia public schools. For the children of the District, this scheduled return to power matters greatly. As things now stand, the Board of Education will—at the end of the current school year—regain its authority to hire and fire the Superintendent and the power to assume as much direct responsibility for what happens in the classroom (and elsewhere in the system) as it wishes.

D.C. residents have—for good reason—been dissatisfied with the state of public education in the District for many years. For decades, reading and math levels have been below grade level for many students, drop out rates have been exceptionally high, and basic necessities—from textbooks to adequate bathroom facilities—have often been absent. While there are many individuals and entities on whom blame can be placed, the Board of Education has played a fundamental role in what has (and has not) happened in the public schools.

Beyond expressing general concerns over the state of public education, a steady flow of commentary over several decades has pointed to the Board's deficiencies in setting policy, providing effective oversight, adhering to its role of setting policy (rather than micromanaging the system), and working together. The Board alone is not responsible for, nor can it alone

* *Washington, D.C. Residents Study: Research Findings of a Citywide Survey for the District of Columbia Financial and Management Assistance Authority*, Belden Russonello & Stewart (June 1997) at 120. Voter turnout in at large races (which, unlike ward races, are held each election cycle) diminished from 42% in 1990, to 39% in 1992, to 36% in 1994, to 33% in 1996, to 30% in 1998. *Final and Complete Election Results for November 6, 1990; November 3, 1992; November 8, 1994; November 5, 1996; and November 3, 1998 General Elections*, D.C. Board of Elections and Ethics.

solve, the complicated challenges facing the District's public education system. However, unless the Board does a much better job, the schools will remain unacceptable.

The purpose of detailing criticisms of the Board of Education in this report is not to lay blame on the current Board, many of whom have never served when the Board had real power. To the contrary, we have no doubt that many Board members, past and present, have been conscientious and capable. Recounting the Board's past shortcomings is nonetheless an essential foundation for what we consider an inescapable conclusion: the Board, as currently structured, cannot do its job properly.

We are not so naive as to think that the lack of leadership in the D.C. public school system is the root cause of all the problems facing youth in the District of Columbia, or even the problems in the school system itself. But a continuing absence of focused leadership will prevent D.C. schools from functioning well for most students and from providing the vital assistance that is essential to help the District's most vulnerable youth.

The November 1996 takeover of the school system by the Financial Responsibility and Management Assistance Authority (the "Authority") installed a radically different, but temporary, governance system that must expire when the Authority goes out of existence, if not with the scheduled transition in June 2000. The transition provides a unique opportunity for the residents of the District and their elected representatives to make significant and positive changes to the Board of Education without unnecessary disruption. This report is intended to contribute to a dialogue concerning the fundamental changes that are needed in the way the Board is structured and how it operates.

Changing the Way the Board of Education Is Chosen

At the heart of this report lies the belief that the method of choosing the Board of Education must change. It will not suffice merely to tinker with the current system by, for example, eliminating Board committees or changing Board members' salaries. Nor will exhortation to behave differently bring about the necessary reforms. Our research supports three fundamental principles upon which to base reforms.

- First, reduce the size of the Board from its current 11 members (eight of whom are elected by ward and three at large) to nine or fewer members, who could be all elected, all appointed, or some combination of the two.
- Second, if there continue to be elections, require that any ward-based members (or those representing larger segments of the city) be elected in two steps: a primary conducted in each ward (or larger segment), followed by a citywide run off among the top two vote-getters from each ward (or larger segment). This is referred to in this report as the "hybrid" system, and is described more fully on pages 21-24 of this report.

- Third, if members are appointed, have the Mayor appoint them from a list of nominees provided by a broad-based commission, and make those appointments subject to D.C. Council approval.

As these principles indicate, the need for change does not necessarily mean that Board members should not be elected. Elected board members can be connected to their constituents in a way that appointed officials may not be, a fact important to many Washingtonians. While the current election process has not succeeded, the report suggests ways to change the election system that could lead to positive reforms. Indeed, experiences in other jurisdictions indicate that elected school boards can either succeed or fail, and the relevancy and transferability of those experiences to the District should be considered and debated.

Nor should mayoral appointments be dismissed. They are a viable option that should neither be embraced as a “silver bullet” nor rejected as anti-democratic. The Mayor is, after all, elected, and, therefore, ultimately accountable to the electorate for the actions of those whom he or she appoints. That accountability can be enhanced if the Council has the power to confirm all appointees. The potential benefits of appointed Boards are (1) increasing the fiscal and programmatic connection between public education and other government services, (2) providing the opportunity to include particular types of expertise on the Board, and (3) fostering accountability by the Mayor to the electorate for public education results. However, as with elected boards, some appointed boards elsewhere have succeeded while others have failed.

At the end of this summary are four examples of how the Board of Education might be structured to comport with these principles. DC Appleseed does not prefer any one of these options, nor are the examples listed the only means by which the three principles set forth above can be satisfied. For us, no single structure is obviously best. Each involves tradeoffs, as illustrated by the strengths and weaknesses that are listed with each option. In the end, however, change must be made. And choosing a new structure will involve a weighing process that can and should be informed by a meaningful and open public debate among the citizenry of the District.

Regardless of what changes are made, the structure of the Board of Education cannot be altered through ordinary District legislation because that structure is set forth in the Charter of the District. Thus, any change must be approved by either (1) a multi-step process that involves Council legislation and a referendum of District voters (that is not subsequently disapproved by Congress), or (2) congressional legislation approved by the President. Accordingly, action on this matter must begin immediately if it is to be concluded prior to June 30, 2000.

Reforming How the Board Operates and its Relationship with the Superintendent

While altering the method for choosing the D.C. Board of Education is needed, so too is improving how the Board operates. Even with a reformed structure, a new Board of Education will have to examine its responsibilities in order to avoid the failings of past Boards. A new

Board structure can succeed if this examination yields a well-defined reform agenda, new mechanisms that foster a productive partnership with the Superintendent, well-understood divisions of labor between the Board and Superintendent, and a genuine effort by all parties to act in accordance with these standards.

The Board has been criticized, with justification, for devoting too much attention to solving problems for individual constituents and too little to setting policy. Good policies that reflect community judgments are critical to maintaining educational reforms long enough to make them effective. But any efforts to reform the D.C. schools must also include measures to respond to constituent complaints about real problems such as the absence of a teacher in the classroom, a hole in the roof, or an unsafe school yard. Board members will be expected to resolve such problems themselves if no one else is doing so.

As the research on effective boards shows, the new Board of Education can succeed if it adopts a constructive approach to governance by making its priorities the provision of effective oversight and policy direction as opposed to micromanaging schools and DCPS staff. This report recommends allocations of responsibilities that will foster, not undermine, that goal. More specifically, the report recommends that the Board, among other things, do the following:

- Set the system's broad goals and objectives;
- Ensure that the Superintendent shares those goals, and has the leadership and managerial abilities to run the system;
- Establish a clear understanding with the Superintendent regarding the division of responsibilities between the Board and Superintendent, and then respect the Superintendent's authority and refrain from interfering with personnel and other management decisions;
- Set and monitor benchmarks for the Superintendent's progress;
- Work with the Superintendent to create a respected and effective, rules-governed process, including effective grievance procedures, for dealing with constituent problems; and,
- Define (with input from the Superintendent) regular information that the Superintendent will report to the Board, insist on the establishment of systems that can help generate that information, refrain from making excessive additional information requests, and utilize the information both to oversee and support the Superintendent.

The Board and Superintendent should also improve the public education budget process by providing full information to support DCPS' budget requests, and reconciling DCPS' final budget from Congress line-for-line with DCPS' budget request.

In light of decades of experience, it seems doubtful that, in the absence of fundamental structural improvements, the Board and Superintendent will be able to carry out successfully the tasks outlined above. But if, within a framework based on the structural recommendations suggested in this report, the Board conscientiously follows these basic management principles, the District's school system—and, ultimately, each school—can improve.

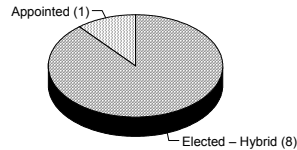
The report discusses one other important matter: removing several functions from the Board of Education and DCPS, many of which are carried out in other jurisdictions by a State Education Agency (“SEA”). The report does not support the creation of a *traditional* SEA to perform those functions, but it recognizes the inappropriateness of continuing to lodge certain functions in DCPS. Some functions—such as calculating enrollment and enforcing compulsory attendance laws—should be removed because they create a conflict of interest by requiring that DCPS oversee both itself and competitor schools, both private and charter. Other functions, such as accrediting university education programs, should be removed from DCPS because they are remote from DCPS' core mission of educating children. The District should move those functions from DCPS to the control of either the Mayor or an SEA with a narrowly tailored mission, and should leave education policy and school system management unambiguously in the hands of the Board and Superintendent.

With the return of power to the Board of Education fast approaching, the citizens of the District now have an opportunity to consider seriously the weighty matter of what sort of permanent entity is best suited to sit atop the structure of the D.C. public school system. The District can and must make substantial changes to its Board of Education to break with the past, and to increase the chances that classroom education will continue to improve. The opportunity is now; it must not be missed.

Options for Reform of the D.C. Board of Education

Example 1

Nine Members - Mostly Elected*



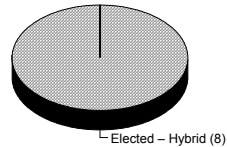
Attributes:

- Large majority of Board members are elected.
- Hybrid representation provides a voice for all parts of the city.
- Runoff provides all members an incentive to work together and to act in the interest of all schools.
- Hybrid representation may result in continued demand for constituent services and competition for resources, but less so than in a pure ward system.
- Appointed member may bring expertise to the Board.
- Appointed member would provide a minimal link between the Mayor and the schools, and may facilitate limited coordination of government agencies that provide services to children.
- Appointments susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

* Alternatively, the Board could, in this example, be entirely elected, having eight members elected under the hybrid system and the ninth elected at-large.

Example 2

Eight Members - All Elected

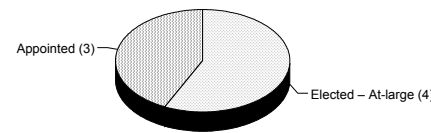


Attributes:

- All Board members are elected.
- Hybrid representation provides a voice for all parts of the city.
- Runoff provides all members an incentive to work together and to act in the interest of all schools.
- Hybrid representation may result in continued demand for constituent services and competition for resources, but less so than in a pure ward system.
- Smaller size and even number may facilitate team decisionmaking and greater collaboration.

Example 3

Seven Members - Elected/Appointed Mix*



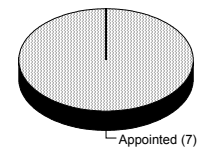
Attributes:

- Combination of elected and appointed members.
- At-large and appointed members share focus on all schools in system.
- Appointed members may bring expertise to the Board.
- Encourages some coordination among government agencies that provide services to children.
- Lack of ward representation may limit representation from some parts of city; can be mitigated by nominating committee structure.
- Smaller size increases likelihood of teamwork and group decisions.
- Appointments susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

* Alternatively, the Board's elected members, in this example, could be elected under a modified version of the "hybrid" system described in this report.

Example 4

Seven Members - All Appointed



Attributes:

- All Board members are appointed.
- Appointed members may bring expertise to the Board.
- Completely appointed system makes the Mayor accountable to the voters for the success of the schools.
- Encourages coordination among government agencies that provide services to children.
- Lack of ward representation may limit representation from some parts of city; can be mitigated by nominating committee structure.
- Smaller size increases likelihood of teamwork and group decisions.
- Appointment susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

INTRODUCTION

Governance of the District of Columbia Public Schools (“DCPS”) is in a period of transition. In 1996, the D.C. Financial Responsibility and Management Assistance Authority (the “Authority”) took control of all traditional (as opposed to charter) schools away from the Board of Education, and delegated control to an appointed school board. The delegation was overturned in a 1998 court decision, and the Authority assumed control for the traditional schools. In early 1999, a transition plan was created that provided for a phased return of full power over the schools to the elected D.C. Board of Education culminating on June 30, 2000.

Meanwhile, D.C. public charter schools were legislatively authorized, and have now enrolled nearly 10% of all public school students. While the Board of Education oversees some of these schools, others are overseen by a new, appointed public chartering authority, further changing the public school governance structure.

This tumultuous period follows years of public dissatisfaction with many aspects of the school system, including its management and governance. Perhaps out of concern that the disruptive effects of changing the governance structure would outweigh any benefits, the public never embraced any specific alternative to the pre-1996 Board of Education structure. The transition we are now in, however, provides a unique opportunity to consider and implement real, meaningful changes without unnecessarily disturbing the *status quo*.

With the scheduled return to local control fast approaching, now is the time for the public to engage in a wide-ranging discussion about how the school governance structure relates to student achievement, and what governance changes will foster a better classroom education. This report is intended to stimulate that discussion, to promote our conclusion that fundamental change is needed to improve public school governance, and to provide research and analysis regarding options for reform.

This paper focuses on the Board of Education. DC Appleseed recognizes that improving the elements of the school system addressed in this paper—how the Board operates, the way it is chosen, and the scope of its responsibilities—will not solve all public school problems. Even in a system that operates well, the role of the main governing body—the school board—should be limited to setting broad policy, hiring a superintendent to manage schools, providing oversight, and interacting with the public. For schools to educate children, the superintendent must manage the system well, principals must run schools adeptly, teachers must instruct students effectively, parents and communities must remain involved, students must be prepared for and committed to learning, and the public must provide adequate resources.

Nonetheless, while “governance reform alone cannot improve public education—sound governance is an important part of any solution.”¹ Put another way, “overhauling the structure

¹ *A Motion to Reconsider: Education Governance at a Crossroads*, National Association of State Boards of Education Study Group on Education Governance (October 1996) (hereinafter, *Crossroads*) at 9.

would not guarantee school improvement. But it would remove a barrier to improvement.”² For this reason, a 12-member DC Appleseed project team has spent a year studying options for reforming the operations of the D.C. Board of Education. It has prepared this report based on: (1) interviews with education experts, local education leaders, community representatives, and government leaders concerning the challenges facing school governance systems in the District of Columbia and other jurisdictions; (2) research on the history of the District’s governing structure, and the laws that regulate it; (3) research on the school governance structures in seven other cities and four states; (4) a review of practitioner and academic literature on school governance; and (5) two community meetings—one with civic leaders and the other with high school students.³

Section I outlines the general responsibilities of the board and superintendent in a well-functioning school system and offers nonstructural recommendations for improving the D.C. Board of Education’s performance. Section II provides a brief overview of the D.C. Board of Education and DCPS financing, and highlights concerns about both D.C. public school governance and the D.C. Board of Education’s past performance. Section III discusses various methods used to select school board members, and delineates options for reforming the structure and method of selecting the Board of Education. Section IV discusses two other areas—financing and state education functions—in which reforms are needed to improve the governance system.

I. SCHOOL BOARD RESPONSIBILITIES

Every school system’s core mission is to educate children from kindergarten through 12th grade. Four central *governance* and *management* functions are necessary to enable the fulfillment of that mission: (1) defining educational goals and setting policy, (2) selecting a superintendent and monitoring the system’s performance, (3) determining how to achieve policy goals and implementing those goals, and (4) communicating with the public.⁴

Policy analysts and practitioners have written extensively about the appropriate (and inappropriate) roles of school boards.⁵ This literature reflects agreement that the school board

² *From Crisis to Opportunity*, D.C. Committee on Public Education (1993) at 20 (hereinafter *From Crisis to Opportunity*).

³ The methodology used for this report is explained in greater detail in Appendix I.

⁴ The division of authority discussed in this chapter was derived from a variety of sources, including DC Appleseed’s interviews and several documents including: *Crossroads*; *NSBA and AASA Sketch Your Roles*, The American School Board Journal (June 1994) at 20-21; and *A Framework for Redefining the Role and Responsibilities of Local School Boards*, The Institute for Educational Leadership (September 1993) (hereinafter *Framework*).

⁵ See, e.g., *Facing the Challenge: The Report of the Twentieth Century Fund Task Force on School Governance*, The Twentieth Century Fund Press (1992) (hereinafter *Facing the Challenge*); Jacqueline P. Danzberger, Michael W. Kirst, and Michael D. Usdan, *Governing Public Schools: New Times, New Requirements*, The Institute for Educational Leadership, Inc (1992) (hereinafter *Governing Public Schools*); and *Putting Learning*

should perform the goal- and policy-setting function with significant input from the superintendent, that the school board should select the superintendent and assess his/her performance, that the superintendent should decide how to achieve policy goals and manage the system, and that both should play some role in communicating with the public.⁶ The following provides greater detail regarding the recommended division of responsibility between a school board and superintendent, as well as suggestions that may help establish a healthy division of responsibility in the District.

A. An Effective School Board Sets Policies and Understands Its Role Vis-a-Vis the Superintendent

An effective school board sets broad policy and allows the superintendent to manage the school system. The superintendent helps the board develop policy, provides the board with his or her candid judgment about the desirability and likely effects of those policies, and requires that school employees adhere to policies once they have been decided. In the end, however, school boards should make the ultimate decision on superintendents' recommendations and, to be effective, act as "policy boards instead of collective management committees."⁷

A board's policy-setting responsibilities include developing the vision for the school system; long-term planning to set goals and objectives, school performance indicators, and student assessment objectives; approving budgets in line with system goals; establishing policies to guide employee contract negotiations and approving the resulting contracts; and setting or approving policies for staff development, for procedures for hearing and deciding constituent complaints, and for facilitating collaboration with other government and non-government agencies serving children.⁸

Such wide ranging responsibility requires ongoing training to provide board members the necessary background knowledge. Moreover, to set policy, board members must have access to relevant and accurate information and know how to analyze that information. Intelligent policymaking also requires boards to review all the policies that have accumulated over time, examine them for internal consistency, and expunge those that are redundant, inconsistent with other policies, or provide excuses for personnel either to do nothing or to do the wrong thing.

First: Governing and Managing the Schools for High Achievement, Research and Policy Committee of the Committee of Economic Development (1994) (hereinafter *Putting Learning First*).

⁶ See, generally, *Facing the Challenge*; *Governing Public Schools*; *Putting Learning First*.

⁷ *Facing the Challenge* at 5.

⁸ Condensed from *Framework*; a similar list appears in *Facing the Challenge* at 8-9. A detailed list of policy areas for curriculum development and management, testing, and personnel evaluation appears in *A Curriculum Audit of the District of Columbia Public Schools*, American Association of School Administrators (1992) especially at 13-17, 20-24, and 169-72 (hereinafter *Curriculum Audit*).

The “priority-of-the-week” approach to policymaking exhausts the processes of governance and can cause staff to become cynical, demoralized, or paralyzed.⁹

When a board abdicates its policy setting responsibility, the chances diminish substantially that reform efforts—no matter how well considered—will succeed. A 1991-92 study of school boards in six cities that had “enjoyed high national visibility” for reform found that the boards rarely played a role in initiating reform, had not embedded the reforms and structural changes in their policy, paid little attention to coherence among reform initiatives and their consistency with overall goals and objectives, and failed to communicate effectively with the public about the reforms. Some boards struggled to maintain a bare majority supporting the reforms and the superintendents who initiated them. And, by 1995, those superintendents had all departed, and, in four of the six districts, the majorities that had supported reforms had dissolved, and new majorities were addressing different constituent pressures.¹⁰

The literature on school boards cites as major problems in school governance differences between board and superintendent expectations regarding (1) the division of responsibility, and (2) the criteria on which the superintendent will be evaluated.¹¹ Indeed, a core responsibility of the board and chief executive of any organization is to have a clear set of agreed upon goals and an agreed upon general strategy for what each entity will do to achieve those goals. “Regardless of how [a jurisdiction] chooses to allocate authority for education governance, the various responsibilities of the different people and entities who are involved need to be clearly defined and well understood by all.”¹²

While the line between a board’s policy responsibility and the superintendent’s management role is not always clear, there are some examples of where the correct allocation is not in dispute. For instance, the school board, with full input from the superintendent, should decide whether to pursue a policy of school-based management or one of centralized control; the superintendent should then decide how to deploy personnel to achieve that policy. In a similar fashion, the school board should decide the manner in which funds are allocated to schools (per pupil/per school/mixed allocation); the superintendent should create and implement the systems to distribute those dollars.

⁹ See, generally, *Crossroads* at 13-15.

¹⁰ Jacqueline P. Danzberger, “School Boards-Partners in Policy,” *The Superintendent of the Future* (1998) at 205-06 (hereinafter “Partners in Policy”).

¹¹ Paul T. Hill, Arthur E. Wise, and Leslie Shapiro, *Educational Progress: Cities Mobilize to Improve Their Schools*, RAND Corporation (1989). See also, Oliver S. Brown, Robert S. Peterkin, and Leonard B. Finkelstein, “Urban CEOs: Untangling the Governance Knot,” *Education Week* (March 31, 1991) (hereinafter “Urban CEOs”; and *Governing Public Schools*.

¹² *Crossroads* at 14. A recent study draws analogies between this kind of role clarification in schools and trends in corporate board reform. Christina Gibson, “Emerging Strategies for Private-Sector Governance,” *Governing America’s Schools Project, Education Commission of the States* (1999), at x-xi, 34-35.

Where, as in the District, habits have formed that blur lines of responsibility, it is particularly important to establish mechanisms that foster and reenforce patterns whereby the board and superintendent understand and perform their assigned tasks.¹³ However, policy and administrative roles should not be too precisely delineated, lest—as the Institute for Educational Leadership has found—the definitions serve to create more conflict.¹⁴ In the end, systems seem to function well if broad definitions of responsibility are codified in the law, some details are contained in an agreement between each school board and superintendent, and remaining matters are resolved in an atmosphere of mutual trust and candor.¹⁵ More specifically, the DC Applesed Project Team’s research supports the following:

- *Define Roles Generally in the Law.* Some aspects of the relationship between the Superintendent and the Board of Education should be codified in the D.C. Code.¹⁶ The D.C. Code should, at the very least, (1) expressly grant the Board the authority to hire and fire the Superintendent (including whether firing requires cause and/or a super-majority of the Board and any opportunities for a hearing), (2) provide that the Superintendent is responsible for the day-to-day operations of the school system, and (3) prohibit the Board and its members from directing or requesting the appointment, retention, or removal from office of any officer or employee reporting to the Superintendent (including all principals and teachers).¹⁷

¹³ This should happen not only at the outset of the relationship, but boards should continuously work at “sorting out” board and superintendent roles. *Governing Public Schools* at 98.

¹⁴ *Governing Public Schools* at 53.

¹⁵ *Governing Public Schools* at 87.

¹⁶ D.C. CODE § 31-102 currently provides that “[t]he Board shall determine all questions of general policy relating to the schools,” appoint executive officers, define their duties, direct expenditures, and “appoint all teachers ... and all other employees provided for in this chapter.” Section 31-107 directs the Board to appoint one Superintendent “who shall have the direction of and supervision in all matters pertaining to the instruction in all the schools under the Board of Education,” and authorizes the Board to delegate any of its authority to the Superintendent. Section 31-108 gives the Superintendent authority over personnel actions “provisionally and until the next regular meeting of the Board of Education.” Section 31-110 gives the Board power to remove the Superintendent at any time for cause.

¹⁷ The District may also wish to consider putting more detail in the law, as is frequently done in statutes governing Council-Manager forms of government, under which the local legislative body (the Council) selects an administrator (the Manager) to run the affairs of local government. For example, the law may expressly provide that the Superintendent is responsible for assuring compliance with the law; preparing an annual budget; reporting to the Board on a regular basis on fiscal and other matters; and contracting for the locality consistent with the constraints of the annual funding agreed to by the Board. *See, e.g.,* City of Charlotte Charter §§ 3.62, 4.21, 4.23, 4.25, 9.82, 9.84; City of Kansas City Charter §§ 21, 22; City Charter for the City of San Jose § 701; National Civic League Model City Charter § 3.04 (7th Edition). While not a perfect analogy, the laws of localities that have adopted the “Council-Manager” form of government—including thousands of cities, towns, and other local governments throughout the United States—may provide useful guidance because of the similarity of the Council-Manager structure to the school board-superintendent structure.

- Define Specific Allocation of Responsibility in a Memorandum of Understanding. In addition to statutory provisions, the Board of Education and the Superintendent should put in writing (in a memorandum of understanding or similar document) a more specific agreement on which functions will be handled by each. The document should include some language regarding the circumstances under which the Board of Education (and its members) should communicate with the Superintendent as opposed to subordinates designated by the Superintendent.¹⁸

Taking those steps can help create an atmosphere in which a good working relationship develops between the Board and the Superintendent, which, in turn, can help assure that the Superintendent bases his or her policy recommendations on broad guidelines communicated by the Board.

In carrying out its policy-setting role, the Board must also consider several internal matters, including:

- How much responsibility to delegate to committees of the Board (presently, the D.C. Board of Education has nine substantive committees, too many according to several people interviewed by DC Appleseed);¹⁹
- Whether the Board of Education should employ professional staff or rely on the Superintendent for assistance (the prevailing view among DC Appleseed's interviewees was that a small, centralized, professional staff could serve the Board well, but that no individual member should have staff);
- What role the Board President should play vis-a-vis other members (*i.e.*, whether the President is the "boss" of the Board, or the first among equals, whose job is to be the spokesperson for the Board's collective positions and decisions); and,
- Whether there should be penalties for Board members who violate the Board's rules or who persistently fail to attend meetings.

¹⁸ Entities governing the D.C. public schools have sought to establish an understanding of relative responsibilities over the past few years. See *The Roles and Responsibilities of the District of Columbia Board of Education and the Superintendent of Schools*, D.C. Board of Education (June 28, 1999); *Memorandum of Understanding on Trustee/Administration Roles and Responsibilities, District of Columbia Public Schools* (June 24, 1997).

¹⁹ Those who favor reducing the number of, or eliminating altogether, the D.C. Board of Education's committees argue that (1) desirable committee chairmanships are often not awarded based on the merits, but instead promised to those who support a candidate for Board President (this would not be a problem if the President were elected directly by the voters or were a mayoral appointee); and (2) important ideas are often considered in committee but never referred to, or considered by, the full Board. Counter-arguments include that (1) the committee structure allows the Board to get more work done, and (2) committee meetings tend to be lower profile, thereby allowing the consideration of issues outside the highly political atmosphere inherent in full D.C. Board of Education meetings.

Decisions on these and other internal matters have consequences, not only for the Board, but for the system as a whole. Reaching agreement on such matters will make it more likely that the Board will be able to focus on student achievement.

B. The School Board Selects the Superintendent and Monitors Performance

Obviously, a school board must have ultimate responsibility to hire the superintendent. Without such power, the school board cannot assure that its policy goals are implemented. Key to the success of a school system is the selection of a superintendent to fit the policy goals set by the board. For example, if the board favors some degree of school site governance, it should hire a superintendent who supports decentralization. In addition, in a well-functioning system, both the board and the superintendent must have a clear understanding that the superintendent can hire and fire subordinate personnel without adverse consequences from the board or its individual members.²⁰

After hiring a superintendent, the board must back him or her. Without strong backing, sabotage can easily doom the effectiveness and tenure of the person charged with the day-to-day executive responsibility for running the system.²¹ Backing the superintendent does not, however, mean ignoring the quality of his/her performance. An effective school board regularly sets benchmarks and assesses whether the superintendent is meeting them. The board should discuss with the superintendent in advance the indicators that it will use to monitor performance, and, perhaps, even place in a written agreement between the superintendent and the board the goals and the broad strategies to achieve expectations over a given period. Not only does such specificity provide the basis upon which the board can assess the superintendent, it also allows the superintendent to collect the data the board requires for its oversight of policy implementation.²²

C. The Superintendent Manages the Schools

It is the responsibility of the superintendent, not the school board, to manage the school system. To meet this responsibility, the superintendent needs the authority, without board approval, to select and assess the performance of personnel, ranging from principals and teachers, to school nurses, librarians, and custodians.²³ Superintendents are typically

²⁰ The Education Commission of the States recommends that “Compatibility between the Superintendent and the district’s vision should be at the forefront of the hiring decision and subsequent evaluations. At the same time, the school board must provide sufficient resources and flexibility to create an environment that allows the superintendent to focus on bringing the vision to fruition.” *Effective School Governance: A Look at Today’s Practice and Tomorrow’s Promise*, Education Commission of the States (January 1999) at 9.

²¹ See, generally, *Crossroads* at 17-18; *Partners in Policy* at 213-218; *Standards for Local Boards of Education*, Georgia School Boards Association (1998) at 4-6 (“The Board of Education and individual board members [should] support the Superintendent as Chief Executive Officer and his/her role as general supervisor of all school system employees”).

²² See, generally, *Crossroads* at 15. Pages 9-11 of this paper provide a broader discussion of information that should flow between the Board and the Superintendent.

²³ Of course, the superintendent can and should delegate some of this hiring authority to his/her subordinates. Although the D.C. Code gives the Board authority to appoint virtually all employees (see footnote 16 above), Board regulations have limited this authority to school officers, 5 DCMR §§ 515-520, and in practice the

professional educators, and are much more likely than board members to have the knowledge to select and assess public school personnel based on the quality of their training and job performance. In addition, superintendents will almost certainly have a better grasp than board members of the public schools' day-to-day needs, for example, to procure supplies, train staff, and provide for safe and sanitary facilities. In any case, as a practical matter, a board must delegate such responsibility to the superintendent if the board is to have the time to focus attention on policy matters. A recent study concluded that the average U.S. school board spends 90 to 99 percent of its time on administrative detail, greatly hindering its ability to develop well-informed and coherent policy.²⁴

A common management failing of boards is that they take it upon themselves to contact school personnel directly in an attempt to resolve management issues, or try to direct or rebuke school personnel. Board member meddling of this kind, even when it helps a deserving individual, makes a bad situation worse by undermining the superintendent and making her or him less able to demand accountable performance from staff.²⁵ If an individual member, or the board as a whole, is dissatisfied with the superintendent's effectiveness in enforcing policy or implementing plans, the remedy is to discuss the issue with the superintendent in an executive session, but nonetheless allow the superintendent to make management decisions about how to carry out the board's policy directives.²⁶

Unfortunately, in too many school systems, this ideal separation of policy from administration falters because, in part, school administrators often fail to respond to citizen complaints. Citizen complaints deserve responses, but, in an effective system, the school board and its members do not handle them directly, but refer them to the school system according to procedures jointly established by the board and the superintendent. Without some disciplined and evenhanded method for dealing with citizen grievances, an elected board tends to make political hay out of constituent problems (rather than solve them), to micromanage, and to form policy conclusions based on isolated instances or misunderstandings.

Board has appointed or approved only principals, not any of the Superintendent's high level (*cont'd on next page*) (*footnote 23 cont'd*) staff. The Authority has amended the regulations to vest all appointment authority in the Superintendent. 44 D.C. Reg. 7536 (Dec. 12, 1997).

²⁴ "Urban CEOs". See also, *Facing the Challenge; Governing Public Schools*; and *Putting Learning First*.

²⁵ *Crossroads* at 18. For example, a principal who owes his or her job to a board member's influence may report informally to the board member and only formally to the superintendent. If the principal is performing poorly, even a conscientious superintendent will hesitate to remove the principal from the post without the board member's "permission."

²⁶ *Putting Learning First* at 32 ("Not only is [micromanagement] unproductive; it generally causes managerial weakness and demoralization because decisions made by superintendents or by school management committees are then second-guessed at board meetings").

An effective procedure (and practice) directs the complainant to attempt resolution at the lowest possible level—usually a teacher or a principal—and then climb the chain of command.²⁷ In order to provide finality and forestall inappropriate second-guessing of school personnel, the process makes clear which decisions will and will not be reconsidered at higher levels, and review is driven by policies and rules, not personal opinions, relationships, or politics. Where school personnel do not follow rules and policies or simply do not respond, however, citizens are entitled to clear and accessible redress that does not involve board members meddling in school management issues. A citizen service or public information center can help by providing basic information and directing people precisely where to call. In addition, an ombudsman's office reporting directly to the superintendent can be effective in mediating disputes or helping school system staff understand the rules. Such a person can provide prompt, authoritative assistance only if he or she enjoys the cooperation and respect of school personnel at every level.²⁸

Conscientious application of the above procedures can limit the number of complaints referred to an overburdened superintendent's office. However, some complaints will nonetheless end up there. To ensure that the superintendent's office is neither overburdened nor acts as a bottleneck, and to encourage consistent lower level resolution, the superintendent must empower an official to respond promptly on the superintendent's behalf whenever lower level officials have failed to respond or have clearly violated established rules and policies. Moreover, the board itself must discipline its own members who seek to short-circuit the process.²⁹

D. The Board and Superintendent Share Responsibility for Generating and Disseminating Information

Access to high quality information is central to many school governance functions, such as making informed policy decisions, allowing parents to assess the schools to which they send (or may in the future send) their children, and enabling elected officials to hold school officials accountable for their performance.

The dearth of dependable data about the District of Columbia's school system is legendary. Uncertainty over such basic information as the number of students enrolled or the number of teachers employed has made rational decision-making difficult for the Superintendent

²⁷ *Crossroads* at 18.

²⁸ This discussion is based on conversations with ombudsman's offices in several large cities.

²⁹ The school system also needs to be able to examine complaints in the aggregate, which can be done only if there is a centralized system for recording complaints or at least, serious, unresolved ones. Such information will allow both the board and the superintendent to assess how the system is working and whether individual grievances form a pattern that indicates a need for administrative or policy change.

and the Board of Education, and, on budget matters, for the D.C. Council, the Mayor, and Congress.³⁰

To rectify this situation, the Board and the Superintendent should precisely define the Superintendent's obligations to provide regular data to the Board and the public. Setting appropriate parameters for the information to be gathered and shared can have several benefits: all parties can participate meaningfully in decision making; trust between the administration and the Board, as well as the public, will increase; and Board members and citizens will be less inclined to make *ad hoc* demands for information on the school system.

Information vital to a serious and useful assessment of performance includes:

- Summaries of student achievement indicators, including extant standardized test score results.
- Accurate and periodic reports on total enrollment, enrollment by school and grade, the number of children eligible for various federal programs and meal subsidies, and the number of children whose home language is other than English. These data are essential to ensure equitable distribution of resources and honest reporting to federal agencies.
- Accurate and periodic data on the characteristics and qualifications of the teaching force, on the turnover rate by school (a variable in judging principals' performances), and other matters that have implications for recruiting, licensure, mentoring, training, and compensation policies.
- An up-to-date, detailed long-range facilities plan, including a high-quality facilities utilization report. To withstand public demands for changes in renovation schedules or school closure proposals, the Board must have accurate information.
- Operating and capital budgets, in formats agreed upon by the Board and Superintendent, that are transparent enough for Board members, Council members, the Mayor's staff, the public, the press, and Congress to understand.
- Accurate annual profiles on each school with current data on enrollment, performance, student population, and special programs.

Information is important, and everybody thinks that he or she could make better decisions with more information. But, unless the Board disciplines itself, the staff burns up its energy and

³⁰ See, e.g., "D.C. Schools' Enrollment is Disputed; Head Count of 77,111 Too High, Critics Say," *The Washington Post* (Feb. 3, 1998) at C1; "Can Anybody Fix the District's Schools," *The Washington Post* (Oct. 27, 1996) at C1; and "By Some Accounts, D.C. Schools Lose Count of Workers," *The Washington Post* (Oct. 10, 1996) at E1.

attention placating the Board rather than serving students.³¹ Therefore, additional requests for information—beyond clearly required, regular information—should be infrequent and made by at least a majority of Board members. Even then, the Board should be aware of the real costs and lost opportunities because of its requests. Superintendents should not be expected to honor extensive requests for information (other than copies of existing reports or records) from individual members.

For all of the measures listed above to take hold, Board member training programs and concerted education of all actors, including the public, will be needed. If Board members are not trained regarding the purposes and role of a board, they will continue to fulfill the expectations of their constituents in the manner to which both are accustomed. Similarly, unless actively educated about the proper role for a school board, the public will continue to expect Board members to interfere with the Superintendent, and members will feel pressure to accommodate. Finally, the Superintendent and school system staff who interact with the public need to understand clearly their roles vis-a-vis the Board, its policies, and the public.

II. THE D.C. BOARD OF EDUCATION

If the Board of Education, Superintendent, and other parties not only adopt but actually follow the recommendations outlined above, the Board will have a good chance of being effective. Unfortunately, the experiences of the past several decades indicate that these recommendations are not likely to take hold in the current school governance system. In fact, the D.C. Code and Board of Education regulations already incorporate many of these recommendations, as long standing but routinely ignored official policy.³²

Reports on the D.C. Board of Education illustrate that it has, for many years, had difficulty fulfilling its major responsibilities and has interfered in functions properly carried out by its Superintendents. Numerous news stories and editorials, and public comment by citizens as well as government officials, have pointed out that the Board of Education has often (1) lacked focus on student achievement and the “big picture” policymaking important to the health of all D.C. public schools; (2) failed to provide effective oversight; (3) micromanaged the system; and (4) been prone to too much internal dissension and personal politicking.³³ While these criticisms are common to many American school boards, their frequency and intensity in the District is nonetheless a troubling sign that future progress, without other substantial changes, is unlikely.

A. How the Board Fits Into the Governance Structure Over DCPS

³¹ See, generally, *Crossroads* at 34-36.

³² The Board’s regulations (5 DCMR) delegate authority to the Superintendent in ways generally consistent with recommendations in the literature, and do not permit the Board to engage in most of the bad practices cited in the literature, such as hearing appeals or approving contracts. But the Board is free under the Code to change these regulations as it pleases. D.C. CODE §§ 31-101 *et seq.*

³³ See citations and examples at end of Section II, elaborating upon these concerns.

From 1969 through the Authority takeover in 1996, control of the public schools was vested in the D.C. Board of Education, as an independent agency of the District government. The Board has 11 members elected for four-year staggered terms, eight by voters within each ward and three more at large.³⁴ The law provides that members elect a President from among themselves each calendar year.³⁵ Until 1996, the Board appointed the Superintendent by majority vote for a three-year term to carry out the daily operations and management of the system, implement Board rules and policies, hire and supervise all staff, and prepare the budget. In addition to assuming overall power, the Authority has, since 1996, expressly removed several specific responsibilities (such as procurement) from the Superintendent and given them to other city agencies, at least until the Authority relinquishes control over DCPS.³⁶

The District's public schools are "fiscally dependent"; that is, they cannot raise their own tax revenues. By involving other elected officials in setting the public education budget, "fiscal dependence" for school systems is intended to establish a balance between the needs and expenditures of public education systems and those of other government functions.³⁷

The District's public education funding system is unique in several ways. First, a larger than normal number of entities are involved in the process of determining the level of funding for the District's schools: the Superintendent, the Board of Education, the D.C. Council, the Mayor, the Authority, and Congress.³⁸ Second, other systems receive substantial funding from their state governments in addition to their local governments or their own tax levies. Since the

³⁴ D.C. CODE § 31-101(a), a provision of the Home Rule Charter. The D.C. Board of Education also has one non-voting student member chosen by students each spring for the following school year. D.C. CODE §§ 31-101(b)-(d) set forth terms of office, candidate qualifications, and other details.

³⁵ D.C. CODE § 31-101(e).

³⁶ By Authority directive, the Superintendent now has no formal authority over DCPS fiscal matters or procurement, which are handled, respectively, by subordinates of the District's Chief Financial Officer and Chief Procurement Officer.

³⁷ Most urban systems are run by elected boards with independent taxing authority. The dependent systems have both appointed and elected boards. The D.C. system of elected board/fiscal dependence is not unique, but is hardly widespread. Internet survey of member districts of the Council of Great City Schools, supplemented by *Public School Finance Programs of the United States and Canada 1993-94*, American Education Finance Association and Center for the Study of the States (1995).

³⁸ Under the Home Rule Charter, the Board submits a budget to the Mayor, who submits it to the Council with mayoral suggestions for a bottom-line appropriation, almost invariably millions of dollars less than DCPS has requested. Following public hearings, the Council sets the appropriation as a part of the overall D.C. budget which the Mayor (and, currently, the Authority) must approve. Then, both the Senate and the House hold hearings, passing the budget through appropriations subcommittees to their full appropriations committees, to the floor of each body, and to conference, before passing it on to the President. At each stage, the Superintendent and Board can be quizzed, asked for documentation, and directed to adopt another political entity's policy preferences. Frequently the process takes so long that the school system (along with the rest of the DC government) begins the fiscal year without an appropriation. At best, the appropriation becomes final when Congress leaves for its August recess.

District combines state and local functions, the school system depends almost entirely upon local funding. Moreover, beginning with the FY 2000 budget, the school system's local funding, with limited exceptions, is determined by a Council-enacted formula based on student enrollment.³⁹

³⁹ D.C. CODE §§31-2901 *et seq.* The Uniform Per Student Funding Formula provides a base dollar amount per pupil and extra funding for students at certain grades levels, students receiving special education, English-as-a-second-language instruction, and summer school services.

B. Problems Faced by the Board

For the entire existence of the elected Board, the public, commentators, and experts have had little positive and much negative to say about its performance. Discontent with the Board's overall performance began soon after the first elected members assumed office in 1969, with comments such as "lack of leadership," "openly riddled with dissension," and "reckless and demeaning conflict," with some commentators questioning "whether we really need a school board."⁴⁰ D.C. residents in a 1975 survey gave all actors—Superintendent, Mayor, Board of Education, and teachers—more negative than positive ratings, but the Board of Education ranked worst of all.⁴¹ Outside observers have been uniformly critical,⁴² and news stories and editorials in recent, as well as earlier, years routinely fault the Board in harsh terms.⁴³

Goal- and policy-setting are, by universal agreement, the Board's special province and an area where the Board has been relatively free of outside constraint. The 1992 American Association of School Administrators ("AASA") Curriculum Audit—the most complete critique of DCPS' performance in setting policy—found that the lack of clarity in the DCPS mission forestalled improvement, and was fostered by the Board: "The large number of mission statements and the Board's intermittent and unsystematic focus on them has left administrators frustrated and resistant to change."⁴⁴ The AASA auditors found that policies were "inadequate to establish curriculum and instruction quality control" and in some regards did not exist at all.⁴⁵

Oversight is a more difficult area to evaluate, since the line between oversight and "meddling" shifts depending on the observer. Nonetheless, despite conscientious efforts of some

⁴⁰ Quoted in Steven J. Diner, *Crisis of Confidence: The Reputation of Washington's Public Schools in the Twentieth Century*, University of the District of Columbia Studies in D.C. History and Public Policy Paper No. 1 (May, 1982) at 39-42 (hereinafter *Crisis of Confidence*).

⁴¹ *Crisis of Confidence* at 42-43.

⁴² E.g., *Curriculum Audit; Our Children, Our Future*, D.C. Committee on Public Education (June 1989) (hereinafter *Our Children, Our Future*).

⁴³ E.g., "Who Should Lead D.C. Schools?" *The Washington Post* (March 13, 1999) at A20; ("The damage done to District children on the elected school board's watch was almost criminal. As divided and self-indulgent board members played ward politics and squabbled over office space, staff and job perks, SAT scores plummeted, ... almost half of all high school students dropped out ... classrooms went without textbooks, and cafeteria food was terrible"); "The School Board Problem," *Washington Times* (September 22, 1998) at A23 ("All the while superintendents came and went, and student achievement and capital improvements took back seats to politics, the single common denominator was, is, the elected school board."); "Push Comes to Shove in D.C. Schools," *Washington Times* (November 13, 1996) at A16; ("... with no clear policy goals and active oversight from the dysfunctional school board, ineffectiveness and inefficiency ran amok"); "D.C.'s Board of Miseducation," *The Washington Post* (January 28, 1995) at A14 ("... this school board is a wrecker").

⁴⁴ *Curriculum Audit* at 23. The auditors found that some Board members were not even sure if a mission statement existed, and that DCPS had no strategic or formal comprehensive plan, although it had multiple reports, mission statements, and sets of goals. *Curriculum Audit* at 20-24.

⁴⁵ *Curriculum Audit* at 13-15.

Board members as individuals, the Board as a whole has been largely unable to carry out needed, effective monitoring. The Board's most central oversight responsibility is evaluating the Superintendent's performance. In 1995, despite the troubled state and intense public scrutiny of the school system, only seven of 11 Board members submitted evaluations of the Superintendent, and the Board made no collective evaluation.⁴⁶ Similarly, fiscal responsibility requires Board oversight, but the Board over the years has paid inadequate attention to ensuring that funds are spent as budgeted and in compliance with federal and District law.⁴⁷

"Micromanagement" is the most frequent criticism of the Board, more so than weaknesses in policy setting and oversight. Although some of the criticism is directed to activities that some would regard as appropriate attempts at oversight, most critiques, unfortunately, describe inappropriate official involvement in administrative detail and blatant undermining of the Superintendent. For example, school staff, parents, administrators, and Board members reported to interviewers in the 1992 Curriculum Audit that individual Board members gave direct orders to school system employees based on community complaints. Several principals said that, when they had to resolve a problem, they called the Board member that represented the ward in which their schools are located, and the issue would be resolved. The auditors concluded that such contact perpetuated (1) inequities between schools, and (2) "a rudderless organization, drifting and darting sporadically as Board and community politics warm up and cool off."⁴⁸

Finally, Board members have been criticized continuously and intensely for their inability to get along with each other, with the Superintendent, and with other elected officials, and for pursuing their own political advancement and perquisites at the expense of the system. A written history of the elected Board's early years reports that, in the early 1970's, "emotions ran high at Board meetings, police had to be employed to keep order, differences among Board

⁴⁶ *Children in Crisis; A Report on the Failure of D.C.'s Public Schools*, D.C. Financial Responsibility and Management Assistance Authority (November 1996) at 43 (hereinafter *Children in Crisis*).

⁴⁷ *Our Children Are Still Waiting: A Report to the Citizens of Washington, D.C.*, D.C. Committee on Public Education (January 1995) at 25. The Board has never monitored federal grant expenditures. See *DC Public Schools: Where Does the Money Go?*, Parents United for the DC Public Schools (November 1991). Several years ago, DCPS had to repay \$1.5 million of misspent Title I funds to the federal government. DCPS, FY 95 Operating Budget, Congressional Submission at 2. A U.S. Department of Agriculture Audit found that, in 1995 and 1996, DCPS—without Board of Education authorization—used \$4.2 million of federal food service funds to pay for unrelated school utility and special education expenses. U.S. Department of Agriculture, Office of Inspector General Audit Report, Food and Nutrition Service National School Lunch and Breakfast Programs, District of Columbia, Audit Report No. 27010-15-HY (August 1998) at 11-12.

⁴⁸ *Curriculum Audit* at 44-53. See also, *From Crisis to Opportunity* at ii and 19-20; "D.C.'s Board of Miseducation," *The Washington Post* (January 28, 1995) at A14; *Our Children are Still Waiting*, D.C. Committee on Public Education (1995) at 25; and "A Test for the D.C. School Board," *The Washington Post* (April 8, 1999) at A14.

members routinely appeared in the press, and commentators and editorial writers periodically condemned the behavior of the Board in the harshest terms.”⁴⁹

Police no longer appear at meetings, but public complaints about the Board are, today, as prevalent as ever.⁵⁰ Board member micromanagement and feuding with Superintendents is often attributed to political self-seeking, and the failure to focus on long term goals and enhanced student achievement is attributed to the pursuit of perquisites.⁵¹ The 1996 Authority report complained that, “in several meetings with the Authority, the Board spent the majority of time discussing their salaries, health benefits, and parking spaces.”⁵²

The constancy of these criticisms over several decades strongly suggests that the structure of the DCPS governance system, particularly as regards the Board of Education, is unsatisfactory, and that it must change significantly if the school system is to improve what gets delivered to children in the classroom. It will not be enough to reduce the number of standing committees or to adjust the amount Board members are paid.⁵³ The question addressed by the remainder of this report is how to change the system of public school governance to increase the

⁴⁹ Steven J. Diner, *The Governance of Education in the District of Columbia: An Historical Analysis of Current Issues*, University of the District of Columbia Studies in D.C. History and Public Policy Paper No. 2, (1982) at 53.

⁵⁰ See, e.g., Joyce Ladner, “An ‘F’ for the School Board,” *The Washington Post* (July 27, 1999) at A15 (“It seems like the old days, when the school board provided the best show in town as it fought with its superintendent and each other over everything except the education of the children under their charge.”); “School Board on the Rocks,” *The Washington Post* (July 23, 1999) at A15 (“The current school board is as polarized and antagonistic as the worst of its predecessors. Infighting and dissension seem to be a way of life.”); “School Board to Meet on Bid to Oust Leader,” *The Washington Post* (July 21, 1999) at B1 (“‘This makes me nervous,’ said Alieze Stallworth, a math teacher at Coolidge High School in Northwest Washington, a parent of two D.C. students and a PTA activist. She said she didn’t think the board was ‘concentrating on getting themselves prepared to take over the school system - and that bothers me.’”); “As School Board Gains Power, Members Urged to Get Along,” *The Washington Post* (November 2, 1998) at C4 (“divisive behavior by successive school boards” described by many activists).

⁵¹ E.g., “Who Should Lead D.C. Schools?” *The Washington Post* (March 13, 1999) at A20; (“The damage done to District children on the elected school board’s watch was almost criminal. As divided and self-indulgent board members played ward politics and squabbled over office space, staff and job perks, SAT scores plummeted, ... almost half of all high school students dropped out ... classrooms went without textbooks, and cafeteria food was terrible”).

⁵² *Children in Crisis* at 45-46.

⁵³ Some people interviewed by DC Appleseed have suggested that the level of Board member compensation (currently \$15,000/year for part-time work) is, in fact, an issue that deserves public review. They assert that lower pay is appropriate for part-time work, will translate into a view that Board membership is a public service, and will cause Board members to spend less time micromanaging the system. Other people interviewed hold the opposite view. They argue that the Board of Education needs to attract high quality candidates from all economic strata, including those who cannot afford, or otherwise lack the capability to take time from work, to perform Board duties on a voluntary basis. A summary of the amount paid to school board members in 32 U.S. cities is attached as Appendix II.

likelihood that the system will operate effectively, help the Board of Education fulfill its appropriate roles, and avoid destructive activities.

III. OPTIONS FOR STRUCTURAL REFORM OF THE BOARD OF EDUCATION

School boards in the United States are chosen by appointment or through popular elections. While the vast majority of U.S. school boards are elected, several cities (including Detroit and Boston) have shifted from election to appointment over the past several years, while others (including Baltimore) have had appointed boards for many years. In addition, it is possible to have a school board composed of some elected and some appointed members.

There is substantial debate concerning whether elected or appointed boards work better, although many argue that neither alternative has been proven to work better in every circumstance.⁵⁴ Even supporters of appointed boards acknowledge that the change from an elected board should be made only if the context so demands.⁵⁵ Nonetheless, the current governance structure has failed the District's children for decades. In the end, DC Appleseed believes that the following view of school board selection throughout the United States applies to the District's current situation: "governance must be reformed, but we do not believe there is one perfect structure"⁵⁶ Accordingly, DC Appleseed proposes that several changes be made to the troubled system that now exists and offers several examples of elected and appointed boards that incorporate those changes. However, before discussing specific reforms, it is worth reviewing the attributes that might be expected in an all-elected board or an all-appointed board.⁵⁷

⁵⁴ See, e.g., *Facing the Challenge* at 15-16; *Governing Public Schools* at 82. A 1999 review found very little research on how governance affects student achievement and emphasizes that "[u]nderstanding the different contexts in school districts is crucial and reinforces the view that there will be no standard approach to improving educational governance." Todd Ziebarth, "The Changing Landscape of Education Governance," *Governing America's Schools Project, Education Commission of the States* (1999) at ix (hereinafter "Changing Landscape").

⁵⁵ See *Facing the Challenge* at 59 ("If the existing board selection process is seen as deficient in any school district, it should be changed. If a state or school district determines, for example, that the only way to make school boards more accountable is by linking them to the political accountability of general government, then appointed boards will meet that specific objective. But changing over to an appointed board will not necessarily achieve widespread education reform objectives").

⁵⁶ *Governing Public Schools* at 82.

⁵⁷ For the purposes of this paper, DC Appleseed has assumed the continuing existence of the Board of Education. While DC Appleseed is aware of no jurisdiction that operates without one, it is theoretically possible to abolish the Board of Education altogether and have the Mayor appoint the Superintendent (with Council confirmation) and supervise his/her work. Having a system governed directly by a Superintendent, who was hired by an effective and public-spirited Mayor, could increase accountability and allow for better integration of the school system with other government functions. However, there are other reasons why school systems may be best governed by a multi-member body. For example, multi-member bodies can bring into the decisional processes individuals with different view points, different educational philosophies, varied backgrounds, and special expertise (such as finance and facilities) that are vital for a successful school board.

A. Elected vs. Appointed Boards

1. The Process of Getting Elected, the Connection to Voters, and the Demand for Constituent Services

Running for elective office requires interaction between candidates and the electorate. At citizen forums, fund-raisers, and “meet and greet” parties (as amplified through press accounts) the public is exposed to candidates’ ideas and vice versa. Accordingly, elected members bring with them views and values based on that experience. By contrast, appointed school board members may or may not interact with the public before they take office. If the appointing authority must select from a group nominated by a panel of community members, or chooses to select candidates with prominence in their communities, appointees may have strong community ties. Nonetheless, an elected system increases the likelihood of community contact because such contact is necessary for winning elections.

Elected school board members are also likely to feel greater pressure to respond to individual constituent concerns because elected members need constituent support in the next election. By contrast, appointed board members may experience less pressure to provide constituent services, which would allow them to focus on policy issues that effect all schools and let the superintendent address management issues. Nevertheless, parents need some entity to respond to their concerns. Where the school administration’s system of responding to parent complaints works poorly, elected school board members may be more motivated than appointed members to serve as effective conduits of constituent concerns to the administration.

Elected school board members are more likely to aspire to higher political office, while appointed members are more likely to be patronage appointments.⁵⁸ In both cases, the board member can be either (1) a serious, conscientious, and effective policy maker who cares deeply about the schools and the students, or (2) an uninformed, grandstanding member interested only in putting in time and seeking personal gain. Both systems can have board members who sought or accepted the office for reasons other than their desire to provide a high quality classroom education, and both systems can be modified to reduce the possibility of that happening.

In the end, the best protection under either system is a thoughtful and vigilant public, which can best ensure quality public education by holding directly elected board members or the appointing authority accountable for public school effectiveness.

2. Different Models of Accountability and, Perhaps, Degrees of Power

Elected and appointed school boards operate under different models of accountability. Each member of an elected board is directly accountable to voters, but accountability by the board as a whole is dispersed among a multi-member body. An appointed school board, on the

⁵⁸ Marion Orr, *Mayoral Leadership and Interest Group Politics: School Reform in Baltimore*, Woodrow Wilson International Center for Scholars (March 26, 1997) at 4-6 (hereinafter *Mayoral Leadership*).

other hand, is accountable to the public through the appointing authority—usually the mayor—and ultimate accountability is concentrated in that individual.

Whether the less direct, but more concentrated, accountability of an appointed system improves management and enhances classroom education depends principally on whether the appointing authority is dedicated to improving the school system. “The interest and support of the mayor’s office for public education are heavily dependent upon the incumbent in that office.”⁵⁹ For example, the head of Chicago’s schools attributes recent improvements in student achievement first and foremost to the fact that the Mayor is responsible for the schools, has made a concerted effort to improve public education, and recognizes that “if the schools go bad, there’s a political price to pay.”⁶⁰ On the other hand, if public education is not an issue of central concern to a majority of voters or to the mayor individually, an appointed school board may not foster public discourse and accountability. A former Mayor of Baltimore, for instance, had appointment authority over the school board and is viewed as having ignored public education in favor of economic development, as reflected in a shift in spending priorities.⁶¹

A related issue is that appointed school boards may have more power than elected boards to bring resources to the school system. The D.C. Board of Education has rarely garnered political support from Congress, while Mayors Barry, Kelly, and Williams have each received substantial support for general government at times in their administrations. Similarly, the D.C. Mayor has historically had greater clout with the Council than has the Board of Education.

Why is this? It is not because D.C. residents don’t care about education. A 1997 resident survey indicates that residents consider improving public schools “the top priority” among city services.⁶² Instead, it likely results from the large discrepancy between the visibility and power of the Mayor and Board, which, in turn, results from the broader scope of the Mayor’s Home Rule powers and the larger number of constituencies interested in the Mayor’s decisions. These factors suggest that granting the Mayor direct control over some or all Board of Education members might increase both the ability of DCPS to attract resources vis-a-vis other D.C.

⁵⁹ John Portz, *External Actors and the Boston Public Schools: The Courts, the Business Community, and the Mayor*, Woodrow Wilson International Center for Scholars (March 26, 1997) at 17.

⁶⁰ *Saving Public Schools: Interview with Paul Vallas*, Manhattan Institute (December 9, 1998) at 3 (hereinafter Manhattan Institute Interview). Under the Chicago system, the Chief Executive Officer (who acts as the Superintendent does in other systems) is chosen by the Mayor, as are other members of the school board. The CEO then runs the system, albeit with confirmation by the school board for certain positions in the administration. Manhattan Institute Interview at 1. The improvement in student achievement in Chicago under this system is described in “Changing Landscape” at 21.

⁶¹ *Mayoral Leadership* at 4.

⁶² *Washington, D.C. Residents Study: Research Findings of a Citywide Survey for the District of Columbia Financial and Management Assistance Authority*, Belden Russonello & Stewart (June 1997) at 122.

government functions, as well as accountability by the Mayor and Council to the electorate for public education.⁶³

3. Coordination Between Public Education and Other Government Services

In addition to the schools, a number of agencies in the District of Columbia provide services to children, including the Department of Health, the Department of Recreation and Parks, and Child Protective Services. Even though these agencies serve the same population as do the schools, the Mayor's ability to coordinate efforts with the public school system is limited because the Superintendent reports to a different authority than do other government agencies. Because mayorally appointed Board of Education members would be directly linked to the Mayor and, through the Mayor's office, to other city agencies, the various government programs that serve the District's children could be better coordinated with the activities of DCPS.⁶⁴

The head of the Chicago school system recently provided an example, stating that, since Mayor Daley assumed control over the school system, there has been "a much greater attempt to mobilize other city departments and agencies in support of the schools. The sanitation department picks up our garbage on time; we don't have trouble getting the sidewalks paved in front of our schools when they are hazards; and the police are always ready to help, knocking down nearby drug houses."⁶⁵ Similarly, government programs that focus on teenage pregnancy prevention, youth sports activities, and technology training may be more easily coordinated with the school system through an appointed (rather than elected) school board.

4. Balance of Expertise

Elected school board members are generally chosen individually (rather than by slate) and, thus, while each member may be the best available person, the board in the aggregate may not contain members with expertise in crucial areas. For example, there is no guarantee that an elected board will include members with financial acumen or facilities' expertise. Board appointments, conversely, can be based on particular types of desired expertise.⁶⁶ On the other hand, any board (elected or appointed) can hire staff or consultants, or utilize experts within the school administration, to help it work through technical matters.

B. Recommended Changes to the Board of Education Structure

⁶³ *Facing the Challenge* at 15-16.

⁶⁴ See *Crossroads* at 22 ("Among the presumed advantages of an appointment process is that it helps to better align the education system with the goals of general purpose government...").

⁶⁵ Manhattan Institute Interview at 3.

⁶⁶ See *Crossroads* at 22 ("Among the presumed advantages of an appointment process is that it . . . allows a [mayor] to assemble a board with overall balance and cohesiveness").

Our research reveals changes that can, and, we believe, should, be made to maximize the strengths and minimize the weaknesses of the District’s Board of Education. The first change, reducing the size of the Board, applies regardless of how the Board is chosen; the second set of recommendations relates to methods for electing Board members; and the third set describes useful procedures if Board members are appointed. Although we have no preferred Board structure, adopting these recommendations should help improve whatever structure is chosen. Following a discussion of DC Appleseed’s recommendations are examples of several Board of Education structures consistent with our proposed changes.

1. Reduce the Number of Board Members

Our research strongly suggests that the Board of Education should be reduced in size from its current 11 members. Both the literature on boards and the majority of DC Appleseed’s interviewees support reducing the number of Board members.⁶⁷ There are several strengths associated with using small bodies to govern public school systems, including the following:

- First and foremost, smaller bodies typically work better as a unit and are less prone to factionalism than large boards. Given the long history of dueling factions on the D.C. Board of Education—most recently reflected in debates concerning who should be Board President—that effect alone should be reason enough to reduce the Board’s size.⁶⁸
- Smaller boards are less likely to atomize into committees to make decisions. Several interviewees noted that this would be a positive development in the District because the committee structure has fostered infighting among Board members.
- The smaller the board, the fewer the number of people who can attempt to micromanage the school system. As noted earlier, a school board with the tendency to micromanage can easily be distracted from carrying out its policymaking responsibilities.

Not only would reducing the Board of Education’s size foster its ability to make policy decisions as a unit, it would bring the District in line with other large urban school districts around the country. Specifically, as indicated in the chart below, 51 of 52 large urban school districts have school boards with nine or fewer members.⁶⁹

⁶⁷ Cyril O. Howe, *Governing Boards: Their Nature and Nurture*, National Center for Nonprofit Boards (1992); Robert Anchinga and Ted Engstrom, *Nonprofit Board Answer Book*, National Center for Nonprofit Boards (1998).

⁶⁸ See “School Board on the Rocks,” *The Washington Post* (July 23, 1999) at A15; “D.C. School Board Ousts President,” *The Washington Post* (July 23, 1999) at B1; “For Bitterly Divided D.C. School Board, No Business as Usual,” *The Washington Post* (July 27, 1999) at B2. See also, *Size of the Board*, National Center for Nonprofit Boards (April 2, 1999) at 1.

⁶⁹ Survey of websites of all members of the Council of Great City Schools. Three districts did not include that information, and one has only an “advisory board” due to state takeover.

<i>Number of Members on School Board</i>	<i>Number of Urban School Districts with School Boards That Size</i>
5	5
7	28
8	1
9	17
12	1

A related issue is whether there should be an even or odd number of school board members. With an odd number of board members, tie votes are uncommon, and, therefore, gridlock is unlikely. But, where factions have developed, as on the D.C. Board of Education, having an odd-numbered board can lead to decisions regularly being made (and unmade) based on a single-vote margin. In such cases, fractious decision-making can further exacerbate infighting and weaken leadership. Conversely, having an even number of board members may encourage a school board to develop consensus. However, if consensus does not develop in a timely manner, an even-numbered board may delay critical policy decisions.⁷⁰

2. If Members are Elected, Eliminate Pure Ward Elections and Utilize the Strength of the Hybrid Approach Where Possible

There is much discussion in school governance literature concerning the advantages and disadvantages of electing school board members by the two primary methods used around the country: at large and by district (or, in the District, by ward).⁷¹ The concern about ward-elected members centers around their tendency to divide themselves into local factions, compete for resources, and not focus on policies that benefit all schools in the system—very real problems for the D.C. Board of Education. By contrast, at large elections are seen as decreasing the

⁷⁰ As is done in the U.S. Senate, an outside authority can be given a tie-breaking vote. In the case of the D.C. Board of Education, the Mayor, for example, could be given a tie-breaker. Such a system might encourage the Board to reach consensus because intervention by the Mayor to resolve issues would reflect negatively on the Board. In addition, providing the Mayor such a role would be another way, in addition to mayoral appointments to the Board, for the Mayor to be involved in public education.

⁷¹ Ward elections provide that each geographic section of a school jurisdiction independently elects a member of the school board, whereas, in at large elections, the population of the entire school district elects one or more school board members. The strengths and weaknesses of each system are discussed in *Facing the Challenge*; *Governing Public Schools*; and *Putting Learning First*.

chances that minorities and divergent viewpoints will be represented—a serious consideration in a city as racially and economically divided as the District.⁷²

There are several ways to promote the benefits and mitigate the problems associated with each system. DC Appleseed supports one such approach: a hybrid of the ward-based and at large systems that provides for ward representation while requiring that all members run for election citywide. Both Seattle and San Diego, for example, use this system to elect their school boards. The Seattle Board consists of seven members (and San Diego five), each of whom represents a different district, but all of whom are elected at large. The “hybrid” process used by each city begins at the district level, where each district conducts a primary election. The top two vote-getters in each district then run head-to-head in the general, at large election, so that the entire city selects one of the two candidates nominated by each district. Thus, every district has one representative on the School Board, but each member is elected by all the city’s voters.

If the District chooses to adopt a system that includes fewer than eight elected members, not all eight wards could be individually represented. Thus, if the D.C. Board has fewer than eight members, the hybrid system would have to be modified to make the jurisdictions represented larger than the current wards. This could be done by combining wards or drawing entirely new districts for Board of Education elections. In the alternative, the District could employ a purely at large system if having fewer than eight Board members were a priority.

The strengths of the hybrid system are apparent when one considers the need in the District for (1) all constituencies to be represented, (2) increased cooperation by Board members, and (3) decisions to be made that focus on the needs of all schools.

- a. *Hybrid Elections Ensure Representation of Constituents from All Parts of the City and May Temper the Micromanagement that Accompanies the Demand for Constituent Services.*

Like ward-based representatives, those elected under a hybrid model represent smaller populations and, therefore, may be more directly connected than at large members to their constituents. This connection is fostered during the campaign, when a ward candidate (as opposed to one running at large) can meet with a large percentage of constituents, learn about constituent concerns, and share with constituents the platform on which the candidate is running.

The fact that ward- and hybrid-elected board members represent smaller, distinct populations also helps ensure that the board represents various populations and the public school issues with which they are most concerned. Populations in different communities may have somewhat divergent educational goals, and schools in each ward may face different challenges. Entirely at large school board elections could result in a disproportionate number of school board

⁷² There is a large body of work on different electoral systems, much of which focuses on the need for local and at large representation. DC Appleseed has not conducted an exhaustive review of such materials, but rather has based its conclusions on systems currently used to elect school boards in other cities.

members from areas with high voter turnout, resulting in a school board that has reduced representation of citizens from the areas with the poorest turnouts.

The public may demand and expect a greater degree of constituent service work from ward and hybrid members, because of the local nature of their constituencies, than from at large members. Thus, while a ward or hybrid system may provide parents a politically responsive conduit for their complaints, it may also encourage school board members to become directly involved in the daily management of individual schools, a task that is performed by the superintendent in a properly functioning school system.

Unlike a ward-based system, however, a hybrid system creates a countervailing pressure. Specifically, because all hybrid elected members must be elected through an at large runoff, the hybrid system fosters (in addition to representation of unique ward-based concerns) an incentive for all board members to work together on issues common to all schools in the system.

b. *Hybrid Elections May Deter Competition
and Foster Cooperative Decision Making*

A ward-based governance system can foster competition among school board members over the treatment of schools in each ward, including how to allocate resources. An important way that ward-elected school board members serve their constituents is, for example, to secure resources or special treatment for schools in their wards, often at the expense of schools in other wards. This practice may foster distrust and hinder cooperation among school board members. On the other hand, if the needs of schools in a single ward are not shared by schools in a majority of other wards—for example, in a ward that has a much higher percentage of non-English speakers than do others—providing the single ward its own elected member can increase the chances that those needs will be adequately addressed. Because they serve the entire city, at large members may not have the same incentive to represent such unique needs.

Conversely, at large school board members have an incentive to focus more on issues that affect all schools. Because they do not share ward-based members' allegiances to particular parts of the city, at large school board members may be better able to weigh the needs of all children in the system in response to the demands of individual parents and children. As a result, at large members may pay more attention to the needs of schools in the aggregate than would ward-elected members. In addition, at large members all have an identical constituency—the entire city. Thus, they are more likely to work together on concerns common to all schools, rather than against each other to satisfy local needs.

The hybrid model fosters the election of school board members who have qualities inherent to both at large and ward-based systems. Those elected under the hybrid system have an incentive to bring resources to the schools in their wards, and can help ensure that the concerns of a minority-populated ward are represented. Such members also have reason to focus on broader policy issues shared by their common constituency—the entire city—as well as to

consider whether attempting to bring resources to their schools will adversely effect schools throughout the District.

c. *Special Attributes of Hybrid Elections*

One criticism of the current school board election mechanism noted by those interviewed by DC Appleseed is that, due to the lack of political party influence, there is no vetting mechanism to ensure that all candidates are capable and qualified. The hybrid system would provide a means for such vetting by providing two separate elections in which candidates could be scrutinized by the public before taking office. It would also prevent a candidate from being elected with a small percentage of the vote, as happens now in Board of Education and D.C. Council races that have large numbers of candidates.⁷³

Of course, campaign money and name recognition tend to matter more in at large and hybrid elections than in ward elections, simply because the former two methods require that candidates attempt to reach more voters across larger jurisdictions. Moreover, in a hybrid system, school board candidates must run twice, which requires candidates to spend more money and time than under a system with only a single general election. If held on the same day as partisan primaries for the Council and Mayoral elections, the hybrid Board primary would not impose significant additional costs on the District.⁷⁴

**3. If Board Members are Appointed,
Establish Checks on the Mayor's Power**

The hallmark of the appointed school boards examined by DC Appleseed—all of which govern urban districts—is mayoral control.⁷⁵ As noted above, this can translate into a

⁷³ For example, in the 1990's, the majority of Board seats were won by candidates who received 40% or less of the votes cast; indeed, only one among eight candidates elected at large in the 1990's received over 30% of the votes cast. *Final and Complete Election Results for November 6, 1990; November 3, 1992; November 8, 1994; November 5, 1996; and November 3, 1998 General Elections*, D.C. Board of Elections and Ethics.

⁷⁴ If the board remains an elected body, consideration should be given to whether the Board of Education President should be selected by a majority of sitting school board members, as is now the practice, or should be elected by popular vote (or chosen by the Mayor). The current system is predicated on the idea that Board members know best what qualities are needed in a Board President, and will choose the best person to lead them. It also allows the Board to change Presidents without a new election or change in the office of the Mayor. The central argument for a popularly elected Board President is that it encourages public discussion of an education agenda and of leadership qualities during the election process, which can then serve as a mandate and source of accountability during a President's term. It also eliminates the potential of Board members promising committee chairs or other perks in exchange for votes for President. The District's two elected bodies, in fact, select their leaders differently: the D.C. Council Chair is elected at large by popular vote while the D.C. Board of Education President is elected by the Board and can be either an at large or ward representative.

⁷⁵ Of the 28 members that serve, in the aggregate, on the Detroit, Boston, Chicago, and Cleveland school boards, all but one—a single member of the Detroit school board—are appointed by the mayor. See "Control of Detroit Schools is Transferred to Mayor and Governor," *The New York Times* (March 26, 1999) at A15.

governance system with several strengths, including concentrated accountability, and the likelihood that public education will be coordinated with other government services for youth. However, mayoral control also comes with risks.

First, the Mayor is, like at large school board members, elected by the entire population. Thus, depending on the population to whom the Mayor owes his or her election, there is some risk that the Mayor will not appoint school board members who represent the concerns of the entire city. Second, Mayors have historically used appointments as a way of dispensing political patronage. Board of Education appointments (unlike, for example, ceremonial posts) are too important to lay bare to the vagaries of mayoral politicking.

Limiting the Mayor's discretion can, however, significantly reduce these risks.⁷⁶ Specifically, DC Appleseed proposes that any Board of Education appointments in the District be subject to two checks.

First, the Mayor should be required to make appointments from a slate of candidates presented by a nominating committee of D.C. residents. The slate should not be so small as to prevent the Mayor from having a meaningful choice, but should be small enough to ensure that diverse views are represented on the Board. For example, in Boston, the mayor must select the seven school board members from a list of 21 nominees provided by a nominating committee that includes parents, state appointees, teachers, and college presidents.⁷⁷

Second, the D.C. Council should have confirmation authority over Board of Education appointments as it has over other significant mayoral appointments.⁷⁸ Such power would act to restrain a Mayor from attempting to use Board of Education appointments for patronage reasons and would help assure a diversity of views and expertise.⁷⁹

In an appointed system, consideration should be given to whether members are appointed for a specific term or at the pleasure of the Mayor. The latter may increase the likelihood of

⁷⁶ See, generally, *Facing the Challenge* at 15.

⁷⁷ Mass. Ann. Laws, ch. 108, § 6 (Law. Co-op. 1991). A local nominating committee that is generally recognized as functioning well, and which might serve as a general model, is the D.C. Judicial Nomination Commission, which submits judicial nominees to the President for the District's courts. See D.C. CODE § 11-434. The nominating committee could, of course, include members chosen by the D.C. Council. In addition, a minority of Board of Education members could be required to have specific substantive expertise, as is done in Cleveland, where four of the nine school board members must have expertise in education, finance, or business management. Ohio Code § 3311.71, as amended.

⁷⁸ The Council currently has authority over the appointment of other key Mayoral appointments, including department heads. D.C. CODE § 1-633.7.

⁷⁹ A check on the mayor's power used in Detroit is selection of one board member by a State Education Officer, while the other six members are selected by the Mayor. "Control of Detroit Schools is Transferred to Mayor and Governor," *The New York Times* (March 26, 1999) at A15. While the District has no state education official, the same end could be accomplished by giving the D.C. Council direct appointing authority.

appointments subject to political patronage, while the former may limit the incentive for the members to follow the Mayor's legitimate government-wide policy initiatives and, possibly, decrease accountability.⁸⁰

**C. **Examples of How DC Appleseed's
Recommended Changes Might Be Structured****

Several examples of Board of Education structures consistent with DC Appleseed's central principles are provided in the chart below. DC Appleseed believes that each of the options would improve the system of public school governance, although we recognize that there is no "silver bullet." We do not prefer any one example over the others, and recognize that our recommendation that the Board be smaller—and elected and/or appointed under the methods detailed above—could be carried out in many ways.

Each of the options listed below, while different from one another in important ways, would be an improvement over the structure now set forth in the Home Rule Charter. Continuing to elect some or all Board members should not be dismissed out of hand simply because our elected Board has not been effective. Improving the system of elections may be a viable option. Similarly, appointed Board membership should not be rejected as undemocratic, as long as appointments are made and confirmed by locally elected leaders. Nor should the District's most recent experience with an appointed school board—the current Board of Trustees—be viewed as dispositive of whether an appointed board can be effective. The Trustees were not appointed by democratically elected representatives and have not had power during much of their tenure.

In the end, the choice among these options should depend upon what the District's residents and elected representatives believe are the most important attributes for the Board, particularly in light of the Board's past performance. The number of potential approaches should not obscure the fact that the Board of Education's structure requires fundamental change.

Regardless of what changes are chosen, because the current structure of the Board of Education is fixed in the Charter of the District, those changes cannot be adopted through ordinary District legislation. Any change must be approved either by (1) a multi-step process that involves Council legislation and a referendum of District voters (that is not subsequently disapproved by Congress), or (2) congressional legislation approved by the President.⁸¹

⁸⁰ As with an elected Board, the President of an appointed Board could be elected by the Board or appointed by the Mayor. As noted above, Board election would allow the members to decide who is best suited to lead them, while an appointed president (who could be chosen from elected or appointed members) would arguably subject the Mayor to greater accountability.

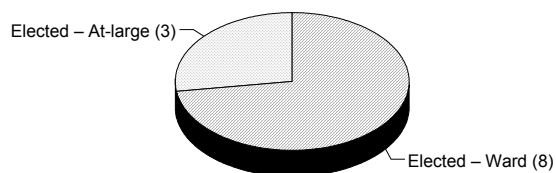
⁸¹ A more detailed discussion of the legal steps that would have to be taken to make such changes is included as Appendix III.

Accordingly, action on this matter must begin immediately if it is to be concluded prior to June 30, 2000.

Options for Reform of the D.C. Board of Education

Board of Education

Current Organization

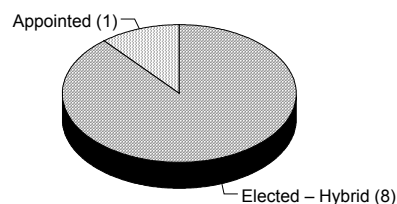


Attributes:

- All Board members are elected.
- Emphasis on ward representation.
- Greater emphasis on local concerns and constituent services than on concerns affecting all schools.
- Number of Board members has been associated with factions, preventing Board members from making decisions as a group.

Example 1

Nine Members - Mostly Elected*



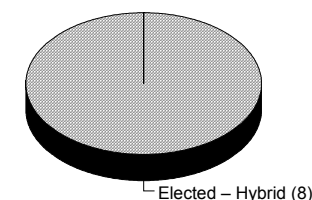
Attributes:

- Large majority of Board members are elected.
- Hybrid representation provides a voice for all parts of the city.
- Runoff provides all members an incentive to work together and to act in the interest of all schools.
- Hybrid representation may result in continued demand for constituent services and competition for resources, but less so than in a pure ward system.
- Appointed member may bring expertise to the Board.
- Appointed member would provide a minimal link between the Mayor and the schools, and may facilitate limited coordination of government agencies that provide services to children.
- Appointments susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

* *Alternatively, the Board could, in this example, be entirely elected, having eight members elected under the hybrid system and the ninth elected at-large.*

Example 2

Eight Members - All Elected

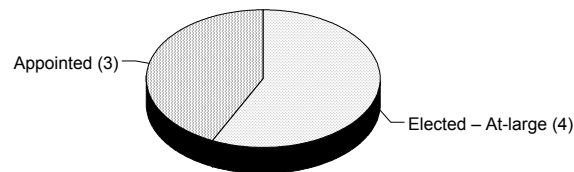


Attributes:

- All Board members are elected.
- Hybrid representation provides a voice for all parts of the city.
- Runoff provides all members an incentive to work together and to act in the interest of all schools.
- Hybrid representation may result in continued demand for constituent services and competition for resources, but less so than in a pure ward system.
- Smaller size and even number may facilitate team decisionmaking and greater collaboration.

Example 3

Seven Members - Elected/Appointed Mix*

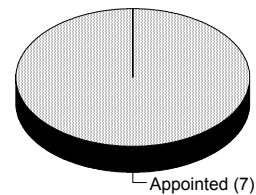


Attributes:

- Combination of elected and appointed members.
- At-large and appointed members share focus on all schools in system.
- Appointed members may bring expertise to the Board.
- Encourages some coordination among government agencies that provide services to children.
- Lack of ward representation may limit representation from some parts of city; can be mitigated by nominating committee structure.
- Smaller size increases likelihood of teamwork and group decisions.
- Appointments susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

Example 4

Seven Members - All Appointed



Attributes:

- All Board members are appointed.
- Appointed members may bring expertise to the Board.
- Completely appointed system makes the Mayor accountable to the voters for the success of the schools.
- Encourages coordination among government agencies that provide services to children.
- Lack of ward representation may limit representation from some parts of city; can be mitigated by nominating committee structure.
- Smaller size increases likelihood of teamwork and group decisions.
- Appointment susceptible to patronage; can be mitigated by nominating process and D.C. Council approval authority.

* *Alternatively, the Board's elected members, in this example, could be elected under a modified version of the "hybrid" system described in this report.*

IV. OTHER GOVERNANCE IMPROVEMENTS: FINANCING AND STATE EDUCATION FUNCTIONS

In addition to reforms in how the Board of Education is selected and how it operates, reforms in the areas of financing and state education functions are needed. These reforms should not be viewed as substitutes for fundamental structural reform of the Board of Education, but rather as actions that should be taken in concert with changes to the Board itself. For, while the success of any particular form of Board governance may depend upon instituting some of the reforms listed below, so too the success of these reforms is likely to depend upon a well-functioning Board.

A. Financing DCPS

As noted earlier, the District's school system is fiscally dependent, a fact that raises two problems.⁸² First, because the Superintendent and Board of Education set policy and run the system, while the Mayor, Council, and Congress determine funding, no one is fully accountable to the public, and each has a history of blaming the other for school shortcomings. Second, the uncertainty of funding makes long-term planning difficult.⁸³

The alternative, "fiscal independence," has its own problems. School boards that must raise their own revenues through tax levies and bond issues are sometimes blamed for robbing the community of vital services or, where (as in the District) relatively few residents have children in the public schools, may receive little taxpayer support.⁸⁴

In addition, there seems to be no political support for giving the D.C. Board of Education independent taxing authority in the foreseeable future. Accordingly, despite the problem of divided accountability, this report does not include a detailed examination of granting the Board fiscal independence.⁸⁵

Assuming the maintenance of a fiscally dependent system, DCPS would benefit enormously if Congress were eliminated from the process of approving DCPS' budget, as has

⁸² A more detailed discussion of the District's public education funding structure is provided on page 12 of this report.

⁸³ See, e.g., *Our Children, Our Future* at 108-09. The institution of the new funding formula will reduce this uncertainty, but there will still be disputes over its applications. Moreover, the amount to budget for the costly special education tuition and transportation programs (now approximately \$100 million) is based on Council judgment, not formula.

⁸⁴ There are approximately 76,000 students in the D.C. Public Schools and public charter schools combined, and the 1996 population of the District has been estimated at about 543,000.

⁸⁵ As for other changes to the governance structure, radical changes to the system of financing should be preceded by a thorough examination of the positive and negative consequences, and a full public debate about whether changing the way the public school system generates its revenues would address the problems of divided responsibility and accountability.

been proposed by D.C. Delegate Norton.⁸⁶ Not only would such a change streamline the DCPS budget process, but would improve accountability by enabling D.C. residents to hold a smaller number of officials—all elected by D.C. residents—responsible for education financing. Moreover, removing Congress would eliminate a major obstacle to changing the impractical situation in which the budget is approved one month (or more) *after* the school year starts.

Whether or not such a change occurs, several less dramatic measures ought to be undertaken to promote accountability in D.C. public education financing:

- *The school system should do better advance work to support its budget requests.* In effective school districts, the staff develops the budget over many months, and the board both reviews the budget along the way to make sure it supports the board's broad goals and eliminates items that will expose the system to criticism. The superintendent and board work together to prepare a powerful justification to the funding authority, supported by credible projected enrollment and other important data. They are also in regular contact with appropriate staff on the council and in the mayor's office. They take nothing for granted. In the District, such advance work has historically not been done, allowing federal and local government entities with power over school financing to cut the school budget request without having to consider the comprehensive needs of the public education system.
- *The DCPS final appropriation should be reconciled, line for line, with its original budget request.* Historically, the budget appropriated by Congress for the school system has been substantially less than the amount requested by DCPS. The D.C. Code requires that, by October 30, or within 30 days of enactment of the appropriations act, the school system must submit a revised budget aligned with anticipated actual expenditures in the same format as the Superintendent's original request.⁸⁷ This "reconciliation" has generally not included the level of detail the law appears to require, rendering it difficult to determine how the amount appropriated will be spent on the priorities set forth in the original budget. The Board of Education needs a line for line reconciliation in order to understand what happens to the money and to exercise its oversight role.
- *DCPS budget and financial reporting should be standardized to be consistent from one year to the next and to reflect program as well as organization level expenditures.* In recent years, DCPS has reported its budget and actual expenditures only on the basis of organizational units even though those units

⁸⁶ H.R. 1197, District of Columbia Budget Autonomy Act of 1999, introduced March 18, 1999.

⁸⁷ D.C. CODE § 31-104.2(d). Each budget request for FY 1996 through FY 2000 was in a different format and, since FY 1998, requests have included only organizational, not programmatic, data.

have been undergoing continuous reorganization.⁸⁸ As a result, one cannot follow trends or progress, even from one year to the next, let alone for several years. Moreover, disparate units, such as Facilities and Special Education, appear as one item. The system does not report how much is spent on many specific categories or programs, such as classroom teachers, attendance services, building maintenance, tuition for special education or vocational education. Nor does it file many of the reports required by federal and District law.⁸⁹ Elsewhere, basic financial information is produced routinely and consistently, usually in accordance with state mandate. No one can hold DCPS fiscally accountable without such reporting; the Board must receive such information from the Superintendent on a regular and timely basis.

B. State Education Functions

A common observation among education reformers in the District is that the D.C. Board of Education differs from virtually every other urban school district in that it is not responsible to an outside state education agency (“SEA”).⁹⁰ Nonetheless, the District has been forced to assign certain “SEA functions” to some government entity—usually the Superintendent—because federal and local law expressly allocate responsibility for these functions to SEAs. This necessity has borne a strange system in which the D.C. Superintendent—an employee of the local school system—serves oversight functions over DCPS that elsewhere are handled by a higher level, state agency. In addition, DCPS, by default, performs some additional functions that are served by SEAs elsewhere, such as accrediting teacher training programs, issuing work permits, and conducting an annual census of all children in the District.

The existence of public charter schools in the District has created additional pressures to establish an education agency outside the existing school governance system. Several Board of Education and Superintendent responsibilities that once affected only traditional schools—such as the distribution of federal grants, disposal of excess school facilities, and the accuracy of pupil counts—now affect both traditional schools and schools outside of the direct control of the Board and Superintendent. Such responsibilities often create inherent conflicts of interest for the Board of Education and Superintendent.

⁸⁸ Categories such as student assessment, curriculum development, instructional supervision, athletics and attendance services have migrated among a number of organizational (“responsibility”) centers in the last several years, making it impossible to follow spending on these functions and making data on their host centers meaningless.

⁸⁹ A list of these required reports appears in Appendix IV. They call for program as well as organizational level information to be submitted to the Mayor, Council, Authority, and Congress.

⁹⁰ Hawaii is the only exception, because it is governed by the single Hawaii school district. Hawaii Constitution, as amended January 1, 1997, Article 10, Section 302a.

What has become clear is the need to remove several functions from the D.C. Public School system. It is less clear exactly which functions should be removed and to which existing or new authority they should be delegated.

It has been suggested that the District simply transfer out of the school system all functions that other SEAs provide to their local school districts. However, there is no single paradigm for what an SEA does. DC Appleseed surveyed four states—Delaware, Hawaii, Maryland, and Virginia—and found that each performs a different set of functions for its local school district or districts.⁹¹

But, even if there were a norm, the District might not want to emulate it. Literature suggests that state agencies, in addition to sometimes providing valuable oversight of local school systems, create problems. They issue and maintain detailed mandates that are often outdated or unnecessary, inhibit flexibility of local school systems, and make significant demands on school system staff. Further, state mandates often stress procedure and compliance with mechanistic policies rather than educational results. As a result, they can divert local educators from implementing their own policies, and can burden school systems' limited resources because state mandates are often not funded adequately—if they are funded at all.⁹²

Accordingly, it makes more sense first to identify specific reasons for transferring functions out of DCPS' current governance structure, next to determine which functions should be transferred based on those reasons, and then to consider the need for an SEA based on the specific functions that should be transferred.

1. Principles for Transferring Functions

DC Appleseed believes that there are two principled (and sometimes overlapping) reasons to transfer authority from the school system to another entity:

- *Conflicts-of-interest.* There are several matters for which the Superintendent or Board of Education is now responsible (or for which no entity is responsible) that present conflicts-of-interest because the central administration is either overseeing itself or

⁹¹ For example, state agencies in Hawaii and Virginia are responsible for curriculum development, the Maryland State Board sets general policy guidelines which are used as a basis for local boards to devise curriculum, and, in Delaware, it is the local boards and not the Department of Education that establish the schools' curriculum. See Haw. Rev. Stat. §§ 302-A-410, 1128 ; VA Code Ann. §§ 27.1-207-1, 214.3, 238, 240, 253.13:1-8 ; MD Code Ann. §§ 2-205(h); 4-111, 4-205; Del. Code Ann. Title 14 § 1049. Similarly, state level entities in Delaware, Hawaii, and Virginia are responsible for overseeing or administering adult and vocational education programs while the Maryland Department has no such authority. See, e.g., Haw. Rev. Stat. § 302-A-432; VA Code Ann. §§ 22.1-224 227, 231, 253.13:1-8; Del. Code Ann. Title 14 §§ 3300 *et seq.* Finally, state agencies in Maryland and Hawaii are responsible for securing and administering federal grants, whereas, by contrast, the Virginia and Delaware codes are silent on the issue of federal funding. MD Code Ann. §§ 5-211, 8-104; Haw. Rev. Stat. § 302A-1401-1403.

⁹² *Putting Learning First* at 30-2; *Facing the Challenge* at 13.

making decisions that can disadvantage other entities for which DCPS is not otherwise directly responsible (e.g., certain charter schools).

- *Matters Remote from DCPS' Mission or Expertise.* The Superintendent and Board of Education have responsibilities concerning matters (1) for which they may not have expertise and/or (2) which are remote from DCPS' core mission of educating students because those matters either are not related to DCPS students or programs or relate to educational institutions (private schools, charter schools, universities) that are otherwise independent of DCPS.

2. Examples of Functions that Might Be Transferred

Because they do not fall under either of these principles, several functions should not be removed from DCPS, even though those functions are carried out by SEAs elsewhere. Among the functions that clearly fall within DCPS' core mission and do not now present a potential conflict of interest are: (1) supervising educational programs such as early childhood, special, and bilingual education, (2) establishing teacher licensing criteria for DCPS (charter and private schools are exempt); and (3) making decisions related to core curriculum such as textbook selection and evaluation, and curriculum development.

DC Appleseed has catalogued other responsibilities that do, in fact, fall within each principle, and has listed them, with an explanation of which principle they fall under, in a chart in Appendix V. The application of these principles to particular functions can best be illustrated by example. For instance, four functions should probably not be carried out by the school system for the reasons detailed below.⁹³

- *Calculating the pupil count.* Under the uniform per pupil funding formula used by the Council to fund DCPS schools, the school system and individual schools have an obvious incentive to inflate numbers of students. In addition, the statute calls for the Board to report the enrollment of individual public charter schools and arrange an audit of all enrollment. Permanently removing the calculation of the pupil count (both DCPS and charter) from the school system would better ensure that the school budget allocations would be based on accurate information.
- *Allocating federal grant funds to non-DCPS schools.* In its role as an SEA, DCPS prepares "state plans" for how federal grants will be used in areas such as vocational education, and then allocates the funds it receives to local education agencies ("LEAs") and in some instances private schools. For most federal grant purposes, charter schools are treated as separate LEAs. Although the elected Board of Education charters some, others are overseen by the independent Public Charter School Board. Charter schools compete with DCPS for both students and grant dollars, creating a conflict of interest for

⁹³

Citations to the statutes governing all of these examples appear in Appendix V.

DCPS when both DCPS and its LEA competitors are eligible for funding allocated by DCPS acting in its SEA role.

- *Oversight of special education and child nutrition compliance.* DCPS “state” personnel *oversee* compliance with federal special education and child nutrition requirements in both DCPS and public charter schools, while other DCPS personnel *provide* those same services. An agency cannot realistically be expected to oversee its own performance, or to even-handedly assess responsibilities that it shares with independent, unrelated authorities.
- *Accrediting educational programs of colleges and universities operating within the District.* For purposes of interstate reciprocity in teacher certification, the Board of Education approves teacher training programs at the institutions of higher education in the District, a task better suited to accrediting agencies with relevant expertise.

3. Entities That Should Perform Transferred Functions

There are two distinct methods for transferring the kind of functions outlined above. First, an SEA could be created and granted authority over some or all of the functions removed from DCPS. Second, some or all of those functions could be delegated to the Mayor, who could decide where in the executive branch of government they best belong.

DC Appleseed recognizes the appeal of placing in a single new education agency all of the functions that fit within the principles outlined above. Doing so would enable the head of a single agency to focus on issues not handled by DCPS but nonetheless related to the education system (from early childhood through adult education at the University of the District of Columbia). Conversely, scattering functions removed from DCPS’ control throughout the government might not allow for such focus.

However, creating a large SEA could also create problems. Two of the major criticisms of D.C. school governance noted elsewhere in this paper are the tendency of the Board of Education to micromanage schools, thereby interfering in the day-to-day operations for which the Superintendent is responsible, and the lack of accountability that has accompanied divided authority. The creation of another bureaucracy responsible to a political entity different from the Board of Education could easily exacerbate those problems. Accordingly, if an SEA is created, its functions should be narrowly prescribed to limit the possibility of further fracturing an already divided system of governance. Moreover, it should replace rather than duplicate DCPS activity and should not duplicate the authority of public chartering authorities.

The fact that the functions listed above (and others like them) should be performed by an entity outside the school system does not mean that a state level agency must or should be created to perform them. A second option is to allow the Mayor (or the Council) to delegate transferred functions to whatever executive branch agency is most suited to handle them. Indeed, there may be existing entities well-qualified to perform some or all such functions. For

example, the District’s Inspector General or the D.C. Auditor would be able to audit the school count, and the D.C. Office of Planning could handle the census of all District minors. On the other hand, executive agencies may not have the policy expertise needed to fulfill other functions that should be removed from DCPS for conflicts-of-interest reasons, but nonetheless are directly tied to the education mission.⁹⁴

In assessing whether to use an SEA or to vest control in existing executive departments, it is important to keep in mind the relationship between a modified basic school governance structure and the reasons for creating an SEA. For example, if DCPS is governed by a mayorally-appointed Board of Education, there would be less concern about divided authority and more reason to let the Mayor determine what entity should carry out functions removed from DCPS. Thus, the discussion of whether to create an SEA should follow the discussion of how to change the structure of the Board of Education. In the end, consideration should be given to the specific need for the creation of a new authority. And, if one is created, its mission and responsibilities should be carefully circumscribed.

CONCLUSION

The D.C. Board of Education will soon be able to help make the District’s public schools models of childhood learning, or prevent that from happening by reverting to its poor habits of the past. In a democracy, every elected official has the right to fail. But, citizens also have the right and obligation to ensure that elected leaders are supported by a framework that helps them succeed.

This report demonstrates what District residents already know: our public education system does not have an adequate governance framework. Tinkering around the edges by eliminating some Board committees or changing the rate of Board pay will not be enough. Fundamental structural reform is needed to change the pattern of past Board practices.

If reforms of the kind outlined in this paper are adopted, and, five years later, the Board remains unproductive, perhaps some more radical shift should be considered, including eliminating the Board altogether. For now, this historically important institution should be reformed with an eye toward making it work. We have an obligation to the children now in the public schools and to all who will come later not to accept the *status quo*, to review honestly the Board’s past performance, and to consider carefully how to reform the Board’s structure in order to help, not hinder, its future efforts.

⁹⁴ As with changes to the Board’s structure, transferring the Board of Education’s control over any public school-related function may implicate the Home Rule Charter’s grant of “control of the public schools in the District of Columbia” to the Board. See Appendix III.

BIBLIOGRAPHY

Government Reports

Children in Crisis; A Report on the Failure of D.C.'s Public Schools, D.C. Financial Responsibility and Management Assistance Authority (November 1996).

Final and Complete Election Results for November 6, 1990; November 3, 1992; November 8, 1994; November 5, 1996; and November 3, 1998 General Elections, D.C. Board of Elections and Ethics.

Memorandum of Understanding on Trustee/Administration Roles and Responsibilities, District of Columbia Public Schools (June 24, 1997).

The Roles and Responsibilities of the District of Columbia Board of Education and the Superintendent of Schools, D.C. Board of Education (June 28, 1999).

U.S. Department of Agriculture, Office of Inspector General Audit Report, Food and Nutrition Service National School Lunch and Breakfast Programs, District of Columbia, Audit Report No. 27010-15-HY (August 1998).

Newspaper Articles

"An 'F' for the School Board," *The Washington Post* (July 27, 1999) at A15.

"For Bitterly Divided D.C. School Board, No Business as Usual," *The Washington Post* (July 27, 1999) at B2.

"D.C. School Board Ousts President," *The Washington Post* (July 23, 1999) at B1.

"School Board on the Rocks," *The Washington Post* (July 23, 1999) at A15.

"School Board to Meet on Bid to Oust Leader," *The Washington Post* (July 21, 1999) at B1.

"A Test for the D.C. School Board," *The Washington Post* (April 8, 1999) at A14.

"Control of Detroit Schools is Transferred to Mayor and Governor," *The New York Times* (March 26, 1999) at A15.

"Who Should Lead D.C. Schools?" *The Washington Post* (March 13, 1999) at A20.

"As School Board gains Power, Members Urged to Get Along," *The Washington Post* (November 2, 1998) at C4.

"The School Board Problem," *Washington Times* (September 22, 1998) at A23.

"D.C. Schools' Enrollment is Disputed; Head Count of 77,111 Too High, Critics Say," *The Washington Post* (February 3, 1998) at C1.

"Push Comes to Shove in D.C. Schools," *Washington Times* (November 13, 1996) at A16.

"Can Anybody Fix the District's Schools," *The Washington Post* (October 27, 1996) at C1.

"By Some Accounts, D.C. Schools Lose Count of Workers," *The Washington Post* (October 10, 1996) at E1.

"D.C.'s Board of Miseducation," *The Washington Post* (January 28, 1995) at A14.

Other Reports and Articles

- Anchinga, Robert and Ted Engstrom, *Nonprofit Board Answer Book*, National Center for Nonprofit Boards (1998).
- Brown, Oliver S., Robert S. Peterkin, and Leonard B. Finkelstein, "Urban CEOs: Untangling the Governance Knot," *Education Week* (March 31, 1991).
- Danzberger, Jacqueline P., *The Superintendent of the Future* (1998).
- Danzberger, Jacqueline P., Michael W. Kirst, and Michael D. Usdan. *Governing Public Schools: New Times, New Requirements*. The Institute for Educational Leadership, Inc (1992).
- Diner, Steven J., *The Governance of Education in the District of Columbia: An Historical Analysis of Current Issues*, University of the District of Columbia Studies in D.C. History and Public Policy Paper No. 2, (1982).
- Diner, Steven J., *Crisis of Confidence: The Reputation of Washington's Public Schools in the Twentieth Century*, University of the District of Columbia Studies in D.C. History and Public Policy Paper No. 1 (May, 1982).
- Gibson, Christina, "Emerging Strategies for Private-Sector Governance," *Governing America's Schools Project, Education Commission of the States* (1999).
- Hill, Paul T., Arthur E. Wise, and Leslie Shapiro, *Educational Progress: Cities Mobilize to Improve Their Schools*, RAND Corporation (1989).
- Howe, Cyril O., *Governing Boards: Their Nature and Nurture*, National Center for Nonprofit Boards (1992).
- Orr, Marion, *Mayoral Leadership and Interest Group Politics: School Reform in Baltimore*, Woodrow Wilson International Center for Scholars (March 26, 1997).
- Portz, John, *External Actors and the Boston Public Schools: The Courts, the Business Community, and the Mayor*, Woodrow Wilson International Center for Scholars (March 26, 1997).
- Ziebarth, Todd, "The Changing Landscape of Education Governance," *Governing America's Schools Project, Education Commission of the States* (1999).
- The Changing Landscape of Education Governance*, Education Commission of the States (January 1999).
- A Curriculum Audit of the District of Columbia Public Schools*, American Association of School Administrators (1992).
- DC Public Schools: Where Does the Money Go?*, Parents United for the DC Public Schools (November 1991).
- Effective School Governance: A Look at Today's Practice and Tomorrow's Promise*, Education Commission of the States (January 1999).
- Facing the Challenge: The Report of the Twentieth Century Fund Task Force on School Governance*, The Twentieth Century Fund Press (1992).
- A Framework for Redefining the Role and Responsibilities of Local School Boards*, The Institute for Educational Leadership (1993).
- From Crisis to Opportunity*, D.C. Committee on Public Education (1993).

Other Reports and Articles (continued)

A Motion to Reconsider: Education Governance at a Crossroads, National Association of State Boards of Education Study Group on Education Governance (October 1996).

National Civic League Model City Charter § 3.04 (7th Edition).

NSBA and AASA Sketch Your Roles, The American School Board Journal (June 1994).

Our Children Are Still Waiting: A Report to the Citizens of Washington, D.C., D.C. Committee on Public Education (January 1995).

Our Children, Our Future, D.C. Committee on Public Education (June 1989).

Public School Finance Programs of the United States and Canada 1993-94, American Education Finance Association and Center for the Study of the States (1995).

Putting Learning First: Governing and Managing the Schools for High Achievement, Research and Policy Committee of the Committee of Economic Development (1994).

Saving Public Schools: Interview with Paul Vallas, Manhattan Institute (December 9, 1998).

Size of the Board, National Center for Nonprofit Boards (April 2, 1999).

Standards for Local Boards of Education, Georgia School Boards Association (1998).

Washington, D.C. Residents Study: Research Findings of a Citywide Survey for the District of Columbia Financial and Management Assistance Authority, Belden Russonello & Stewart (June 1997).

District of Columbia Laws and Regulations

5 DCMR §§ 515-502.

44 D.C. Reg. 7536 (Dec. 12, 1997).

D.C. CODE §§ 1-633.7; 11-434; § 31-101; 31-102; 31-104.2(d); 31-107; 31-108; 31-110; 31-2901.

State and Federal Laws, Regulations, and Proposed Bills

H.R. 1197, District of Columbia Budget Autonomy Act of 1999, introduced March 18, 1999.

City of Charlotte Charter §§ 3.62, 4.21, 4.23, 4.25, 9.82, 9.84.

City of Kansas City Charter §§ 21, 22.

City Charter for the City of San Jose § 701.

Mass. Ann. Laws, Acts 1991, ch. 108, § 6.

Ohio Code § 3311.71, as amended.

Hawaii Constitution, as amended January 1, 1997, Article 10, Section 302a.

State and Federal Laws, Regulations, and Proposed Bills (*continued*)

Haw. Rev. Stat. §§ 302-A-432, 302-A-410, 302A-1401-1403, 1128.

VA Code Ann. §§ 22.1-224 227, 231, 253.13:1-8, 27.1-207-1, 214.3, 238, 240, 253.13:1-8.

MD Code Ann. §§ 2-205(h), 4-111, 4-205, 5-211, 8-104.

Del. Code Ann. Title 14 § 1049, 3300 *et seq.*

APPENDIX I: Methodology

I. INTRODUCTION

In the middle of 1998, the DC Appleseed Center assembled a 12-member Project Team, whose members are listed on the second page of this report, to examine the school governance system in the District of Columbia. The Project Team (1) conducted the research outlined in this Appendix, (2) developed its findings and recommendations during 16 meetings of the entire group and a greater number of subgroup meetings, and (3) prepared this report. This final report was approved by the DC Appleseed Board of Directors.

II. LITERATURE REVIEW

The DC Appleseed Project Team reviewed literature on school governance. A Georgetown University student, Micki O'Neil, conducted an examination of school governance literature and produced a review of these documents for the Project Team. The DC Appleseed Project Team also examined literature on school governance in the District of Columbia. Several reports by the Committee on Public Education as well as other reports and media articles provided helpful background information. The documents referenced in this report are listed in the bibliography that starts on page 37.

III. SURVEY OF SCHOOL GOVERNANCE IN OTHER CITIES AND STATES

The DC Appleseed Project Team spoke with a nationally recognized expert in education governance, who identified eight cities with well-functioning school boards: Boston (MA), Chicago (IL), Cleveland (OH), Fort Worth (TX), Minneapolis (MN), San Diego (CA), San Francisco (CA), and Seattle (WA). The Project Team collected original data from seven of these cities (Fort Worth did not respond). First, a 57-question survey was prepared that focused on the operations of each city's School Board, and then interviews were conducted (most of them by telephone) with School Board members, School Board staff, or members of the school administration in each city and the District of Columbia.

The DC Appleseed Project Team also reviewed the laws and regulations of four states to investigate the functions performed by their state education offices. This research was supplemented with personal interviews with personnel in the state education offices. Of the four states that were examined, two were chosen due to their proximity to the District (Maryland, Virginia), one because of its size (Delaware), and the last because it is the only state that contains just one local school district (Hawaii).

IV. INTERVIEWS

From February to August of 1999, DC Appleseed Project Team members interviewed 21 individuals who had personal or professional experience with the D.C. Board of Education, and, in several cases, with school boards in other jurisdictions. Among those interviewed were two

members of the current Board of Education,¹ four former Board members, three members of the D.C. Council, two former D.C. government officials who served in the executive branch, one current and one former member of the Emergency Transitional Education Board of Trustees, several parents, several high-level DCPS employees, one high level administrator from another jurisdiction, a union leader, and several national school governance experts.

These interviews provided considerable anecdotal evidence about school governance in the District of Columbia. The DC Appleseed Project Team did not accept at face value the validity of every comment made in these interviews, but rather examined all interviews critically and focused on the themes that emerged from the interviews.

V. COMMUNITY MEETINGS

In July 1999, DC Appleseed and DC Agenda co-hosted a meeting of community leaders involved in education in the District. Participants in this meeting, moderated by Jim Gibson from DC Agenda, discussed the role of school governance in education in the District, and what individuals want that role to be.

In August 1999, DC Appleseed Project Team members met with a group of students from Anacostia High School to discuss the role of school governance in their education.

VI. LAWS, REGULATIONS, AND ARCHIVAL INFORMATION

The DC Appleseed Project Team researched the Home Rule Act, and amendments thereto, to determine the state of school governance in the District as well as what steps would be needed in order to make changes in the governance structure. It also examined regulations relevant to the Board of Education and DCPS.

The Project Team also researched archival information about the Board of Education in several areas. The Team obtained data from the Board of Elections regarding voter turnout for Board of Education elections. In addition, the Office of Campaign Finance provided data on candidate spending for School Board elections. The Team attempted to obtain attendance records for School Board members from the Board of Education, but was unable to obtain any records other than those for 1998. It is unclear whether these data were unavailable because they are not recorded, or because they are not centrally located.

¹

All members of the Board were invited to speak with DC Appleseed.

APPENDIX II:
School Board Salaries and Benefits -- Comparative Information

Salary of School Board Members in 32 Cities¹

Number of Boards Whose Members Make No Salary	13
Number with Salary \$1 to \$4,999	7
Number with Salary \$5,000 to \$9,999	4
Number with Salary \$10,000 to \$14,999	2
Number with Salary \$15,000 to \$19,999	3
Number with Salary \$20,000 to \$24,999	1
Number with Salary \$25,000 to \$29,999	0
Number with Salary Greater than \$30,000	2

Benefits provided to School Board Members in Some Cities

	Number of Cities that Provide	Number of Cities that Provide w/Restrictions ²	Number of Cities that Don't Provide
Expenses³	20	8	3
Car	2	0	30
Driver	1	0	31
Parking	24	0	8

¹ Information from a survey performed by the Council of Great City Schools. The information was current as of October 1998.

² Typically, limits are placed on the amount spent per month.

³ One city did not answer this question.

APPENDIX III:
**Legal Requirements For Changing the Governance Structure of
the D.C. Board of Education and Implementing Other Changes to the School System**

In order to alter the structure of the D.C. Board of Education by decreasing the number of members or changing the manner in which members are chosen, the District will be required to amend the D.C. Code, and more specifically, the Home Rule Act¹ which provides as follows:

The control of the public schools in the District of Columbia is vested in a Board of Education to consist of eleven elected members, three of whom are to be elected at large, and one to be elected from each of the eight school election wards established under the District of Columbia Election Act. The election of the members of the Board of Education shall be conducted on a nonpartisan basis and in accordance with such Act.²

This Appendix sets forth the mechanisms by which changes to the membership of the Board of Education as well as changes to other aspects of the school system may be implemented.

A. Mechanism for Changing the Membership of The Board of Education

For the most part, the legislative power granted to the District by the Home Rule Act is vested in the Council. D.C. CODE §1-227(a). Thus, the Council, subject to a 10-day mayoral review period and 30-day congressional review period, can pass most legislation for the District. D.C. CODE §1-227(e). The Home Rule Act, however, specifically prohibits the Council from passing any act “contrary to the provisions of th[is Home Rule Act]” – D.C. CODE §1-233 (emphasis added) – and instead provides for two alternative avenues for amendments:

- The Home Rule Act may be amended by legislation passed by the Council and ratified by a majority of voters voting in a referendum. D.C. CODE §1-205. Once ratified by the electorate, Congress has a 35-day period (excluding Saturdays, Sundays, holidays and days on which either the House or Senate is not in session) in which to pass a joint resolution disapproving the amendment. In the event Congress does not pass such a resolution within the allotted time, the legislation becomes effective.
- Alternatively, modifications to the Home Rule Act may be made by Congress which has retained the right to amend the Home Rule Act, as well as to enact any other legislation for the District. D.C. CODE § 1-206.

¹ The official title of what is generally referred to as “the Home Rule Act” is the District of Columbia Self-Government and Governmental Reorganization Act. Pub. L. No. 93-198, 87 Stat 774 (1973), codified, as amended, at D.C. CODE §§ 1-201 *et seq.*

² D.C. CODE §31-101(a); Home Rule Act, Title IV, Part F, § 495.

Any changes to the number or manner of electing the members of the Board of Education are “contrary to” the explicit provisions of the Home Rule Act and, consequently, will require a voter referendum or Congressional action.

B. Mechanism for Other Types of Changes

To the extent that changes to the District’s school system other than modifications regarding the number and election of school board members is sought, the appropriate method for enacting such changes will depend on the nature of the change. Key to the analysis is whether the change runs afoul of the Home Rule Act’s mandate that the “control of the public schools in the District of Columbia is vested in the Board of Education.”

What exactly Congress meant by “control” is unknown. However, common sense may provide some guidance. Certain hallmarks of control include the ability to hire and fire personnel and to distribute funds made available for public education. Thus, for example, the Home Rule Act might have to be amended in order to transfer the power to distribute federal grant dollars from the Board of Education to another agency (as is discussed on pages 31-35 of this report). While the D.C. Council has “authority to create, abolish, or organize any office, agency, department or instrumentality of the government of the District and to define the powers, duties and responsibilities of any such office, agency, department or instrumentality,” it cannot do so in contravention of the other provisions of the Home Rule Act. D.C. CODE §1-227(b). Accordingly, transferring any significant powers from the Board of Education would require an analysis of whether that transfer puts another entity significantly “in control of the public schools.” If so, the transfer will require federal legislation of an act of the Council that is affirmed by a referendum.

Some functions could perhaps be transferred from the Board of Education to another entity without amending the Home Rule Act. For example, a strong argument could be made that the current Home Rule Act would allow the D.C. Council to use its standard legislative process to remove from the Board of Education the power to perform audits of the number of students in the D.C. Public Schools.

APPENDIX IV:
Fiscal Reports Required of DCPS by Congress and the District

Short name of report Citation(s) Due date	Information Required
<p><i>Annual budget revision</i></p> <p>D.C. CODE § 31-104.2(d) Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 136.</p> <p>Within 30 calendar days of Oct. 1 or enactment of DC Appropriations Act, whichever is later.</p>	<p>Revision of operating local funds budget that (1) matches actual appropriation and (2) realigns budgeted data with anticipated actual expenditures. This version to be in same format that was used by Board of Education in its earlier request to the Mayor.</p>
<p><i>Annual report on positions</i></p> <p>D.C. CODE § 31-104.2(a)-(c) Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 135.</p> <p>Feb. 15 for previous & current fiscal year</p>	<p>“[A]ccurate and verifiable report” of number of validated “schedule A” positions, on a full-time equivalent basis, by:</p> <ul style="list-style-type: none"> • control center, • responsibility center, • funding source, • position type, • position title, • pay plan and grade, and • annual salary.
<p><i>Annual verified report on employees</i></p> <p>D.C. CODE § 31-104.2(a)-(c) Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 135.</p> <p>Feb. 15 for previous & current fiscal years.</p>	<p>“[A]ccurate and verifiable report” of all employees as of the preceding Dec. 31, verified as to accuracy in accordance with functions each employee actually performs, by:</p> <ul style="list-style-type: none"> • control center, • responsibility center, • agency reporting code, • program and funding source, • activity, • location, • position title, • pay plan and grade, • position control number, and • annual salary.

Short name of report Citation(s) Due date	Information Required
<i>Monthly expenditure report</i> Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 134(1). Fifteen calendar days after the end of each month.	Current month expenditures and obligations and total fiscal year expenditure projections vs. budget, for all funds, including capital, by <ul style="list-style-type: none"> • control center, • responsibility center, • agency reporting code, and • object class.
<i>Monthly report on frozen accounts</i> Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 134(2). Fifteen calendar days after the end of each month.	List of each account for which spending is frozen, and the amount frozen, for all funds including capital financing, by: <ul style="list-style-type: none"> • control center, • responsibility center, • agency reporting code, and • detailed object code.
<i>Monthly report of active contracts</i> Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 134(3). Fifteen calendar days after the end of each month.	All active contracts in excess of \$10,000 annually, with <ul style="list-style-type: none"> • name of contractor, • control & responsibility center, • agency reporting code, • contract identifying code, • payments in last month and YTD, • total amount of contract, • total payments made, and • modifications in report month.
<i>Monthly report of reprogrammings</i> Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 134(4). Fifteen calendar days after the end of each month.	All reprogramming requests and reports required to be submitted to the Board of Education/ Trustees.

Short name of report Citation(s) Due date	Information Required
<i>Monthly report of organizational changes</i> Annual DC Appropriations Acts FY 1995-FY 2000 FY 1999 Approp Act § 134(5). Fifteen calendar days after the end of each month.	Changes in the preceding month to organizational structure, showing: <ul style="list-style-type: none"> • previous and current control and responsibility centers, • names of organizational entities changed, • name of supervising staff member of each entity, and • reason for change.

GLOSSARY

Control center: Major subpart of a D.C. agency budget. DCPS control centers change from one year to the next. In FY 1999 budget, the centers are Boards, Central Services, Office of the Superintendent, Academic Support Services, Schools and School Programs, Office of the Chief Financial Officer & Office of Human Resources, and Operations & Maintenance.

Responsibility center: Component of a control center, office, division, or branch responsible for an account. DCPS responsibility centers change from one year to the next, and functions move about among them. Examples of responsibility centers in FY 1999 budget are Office of the General Counsel, Office of the Deputy Superintendent, Special Education, and Facilities Management. Many school-based expenditures are under “Program” headings rather than in a responsibility center.

Funding source: Appropriated (local revenues), federal, intra-District transfer, private, or reimbursement.

Agency reporting code: Shows funding source and program. Examples are Curriculum, Athletics, Student Assessment, Labor Relations, and Channel 28.

Activity code: Shows program category and function. Examples of program category are Elementary Education, Facilities, and Central Management. Examples of function are English teaching, Counseling, Repair & Maintenance, and Bilingual Curriculum.

Object class: General budget category, divided between personal services, such as salaries or fringe benefits (for employees) and nonpersonal services, such as supplies & materials or contracts. Subcategories are listed as *detailed object classes* which include educational supplies, custodial supplies, local travel, equipment maintenance and repairs, postage.

APPENDIX V: Functions That the District Should Consider Placing Outside the D.C. Public School System (“DCPS”)

If the answer to at least one question below is “Yes,” the District should *consider the option* of placing the function outside of DCPS, but should also consider leaving the function in DCPS if it is now working in a satisfactory manner and the other reason or reasons for considering its removal are not compelling. “Potential conflict” means that having DCPS perform this function raises a potential conflict of interest for the Superintendent and/or the Board of Education because they are the overseers of their own performance or are overseeing the performance of competing educational institutions. “Remote from DCPS’ Core Mission” means that the function is related to students or schools that are not part of DCPS. We have used the notation “Partly” to signify that the function is within DCPS’ core mission when DCPS performs it for its own schools, but not when DCPS performs it for private or non-DCPS charter schools. Endnotes contain relevant citations.

Functions now performed by DCPS

“State” Function	Who Is Currently Responsible for Function?	Does Status Quo Raise Potential Conflict of Interest?	Is Function Remote from DCPS’ Core Mission?
Accredit teacher training programs of all colleges and universities operating within D.C. ¹	Board of Ed	No	Yes
Approve instructional programs of public charter and private schools. ²	Board of Ed	Yes	Yes
Prescribe minimum amount of instructional time for all schools, including public charter and private. ³	Board of Ed	Yes	Partly
Enforce compulsory attendance law for all schools, including public charter and private. ⁴	Board of Ed	Yes	Partly
Conduct census of all D.C. minors 3 years of age or older. ⁵	Board of Ed	No	Yes
Administer GED and issue GED credentials. ⁶	Board of Ed	No	Yes
Issue work permits for all D.C. minors. ⁷	Board of Ed	No	Yes
Calculate enrollment for all DCPS and charter schools. ⁸	Board of Ed	Yes	Yes
Oversee all USDA school feeding programs in D.C. ⁹	Board of Ed	Yes	Yes

“State” Function	Who Is Currently Responsible for Function?	Does Status Quo Raise Potential Conflict of Interest?	Is Function Remote from DCPS’ Core Mission?
Prepare state plans for federal programs funding all eligible D.C. schools, including DCPS, charter and private schools. ¹⁰	Board of Ed	Yes	Yes
Allocate federal funds to all eligible D.C. schools, including DCPS, charter and private schools. ¹¹	Board of Ed	Yes	Yes
Oversee compliance with federal funding requirements by all recipients, including DCPS, private, and public charter schools. ¹²	Board of Ed	Yes	Yes
Dispose of excess school properties. ¹³	Unclear	Yes	Yes

*Functions not clearly assigned and newly significant
because of existence of public charter schools*

“State” Function	Who Is Currently Responsible for Function?	Does Status Quo Raise Potential Conflict of Interest?	Is Function Remote from DCPS’ Core Mission?
Determine content standards and core curriculum that apply to public charter schools as well as DCPS. ¹⁴	Unclear	Yes	Partly
Determine “district wide assessments” for public charter schools, as well as DCPS accountability. ¹⁵	Unclear	Yes	Partly
Set standardized reporting requirements for statistical information for both DCPS and public charter schools. ¹⁶	No one	Yes	Yes
Conduct hearings and appeals on matters such as special education, discipline, etc. ¹⁷	DCPS and each charter school individually	Yes	Partly

NOTES

1. **Teacher training program accreditation:** D.C. CODE § 31-1301 *et seq.*; 5 DCMR §§ 1002, 1003. The District must perform this function because of interstate agreements on reciprocity of teacher certification. Accreditation of D.C. teacher certification programs is used not only by DCPS (charter and private schools need not require certification), but by many states which accept it as evidence of teacher qualifications. Article III of the Interstate Agreement on Qualification of Educational Personnel, D.C. CODE § 31-1301, provides that any interstate contract on this subject must specify the earliest date of state (including D.C.) approval of the teacher's educational program. Professional accreditation associations, however, already perform the same function, and it could be delegated to them *in toto*.
2. **Non-DCPS instructional program approval:** D.C. CODE § 31-402, part of the compulsory school attendance law, directs the Board to "establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction." 5 DCMR § 2100 requires that the amount of instruction, character of instruction, qualifications of staff and conditions—such as class size, facilities, counseling and attendance record-keeping—be "acceptable" to the Board of Education. Accreditation from approved accrediting bodies satisfies the requirement and could be made the sole approval mechanism.
3. **Minimum amount of instructional time:** D.C. CODE § 31-402 and 5 DCMR 2100.2 require that, for non-DCPS instructional programs to be approved, the amount of instruction be "acceptable" to the Board of Education.
4. **Compulsory attendance enforcement at non-DCPS schools:** D.C. CODE § 31-403 requires all private schools and teachers to report to the Board daily attendance, the names of students absent more than two days in a month, and the reasons for their absence; 5 DCMR § 2100 delegates enforcement to the Superintendent.
5. **Census of D.C. minors:** D.C. CODE § 31-404 directs the Board to conduct annually "a complete census of all minors 3 years of age or more who permanently or temporarily reside in the District," amending it for changes of residence and age group, including name, address, sex, date of birth, school attended, and information about each child's parent or guardian and employer (if any).
6. **GED administration:** The General Educational Development (GED) test is administered by the GED Testing Service and state departments of education. 5 DCMR § 2320 assumes that this function will be carried out by DCPS for the District. The Board approves issuance of high school equivalency credentials based on certification and recommendation by the Superintendent, and sets criteria for applicant eligibility. The Board employs a GED Examiner to carry out this function.
7. **Work permits:** D.C. CODE § 36-508 directs the Board of Education to issue work permits and maintain related records for any minor under 18 seeking to work, if various requirements are met; 5 DCMR § 2410 spells out certain details. The Board employs a Child

Labor Inspector to carry out this function.

8. **Calculate enrollment counts:** D.C. CODE § 31-2853.42 provides that the Board of Education is to calculate the number of students in DCPS and in public charter schools and report it to other District authorities; the Board must also arrange with the Authority an independent audit of these calculations to be paid out of the Board's own internal budget.

9. **School lunch programs:** D.C. CODE § 31-808 authorizes the Board to contract with the U.S. Department of Agriculture to distribute USDA-provided commodities to schools and public and charitable institutions. School lunch and breakfast programs are a welfare, not an educational service, but for obvious practical reasons are administered all over the country by school systems.

In its role as state education agency, DCPS is required to monitor and enforce compliance with federal requirements in all schools (including public charter and private schools) that participate in federal food programs. 7 CFR 210.18-210.20. A USDA audit cited the lack of separation of "state" and local DCPS operations as a cause of inadequate monitoring of private schools. USDA, Office of Inspector General Audit Report, Food and Nutrition Service National School Lunch and Breakfast Programs, District of Columbia, Audit Report No. 27010-15-HY (August 1998) at 23–30.

10. **State plans:** DCPS claims that its authority to act as the state education agency for this purpose derives from the Home Rule Act provision vesting control of the public schools in the District in the Board of Education, D.C. CODE § 31-101, and its status as the District entity primarily responsible for supervising public schools, *see* 34 CFR 77(c), not from explicit designation by federal statute or the D.C. Code. It does prepare state plans in areas including special education, (Title I) vocational education and charter schools. The governing federal statutes require submission of a plan by the state through its state education agency, *e.g.*, IDEA (special education): 20 USC §§ 1411 *et seq.*, especially § 1413; Title I: 20 USC §§ 6301 *et seq.* especially § 6311; vocational education 20 USC §§ 2321 *et seq.*, especially § 2342; public charter schools: 20 USC §§ 8061 *et seq.*, especially § 8063. 20 USC § 8852 authorizes submission of a consolidated state plan for multiple programs, including the above, Even Start, Goals 2000, School-to-Work and others.

11. **Allocation of federal funds to all DC schools:** The federal government transmits grant funds to states for distribution to LEAs, usually in accordance with detailed rules. As with preparation of state plans (see above), DCPS authority to act as the state education agency is derived by default. Examples of statutory provisions designating SEAs to allocate funds to LEAs are special education: 20 USC § 1411; Title I: 20 USC § 6333 (but see D.C. CODE § 31-2853.20); vocational education 20 USC § 2351; and public charter schools: 20 USC § 8064.

12. **Supervision of compliance with federal funding requirements:** As with federal food assistance programs, DCPS oversees its own compliance with federal funding requirements as well as those of private and charter schools. DCPS does this by default rather than explicit statutory designation. IDEA: 20 USC § 1411 *et seq.* especially § 1413(a)(11); Title I: 20 USC §

6317(d); vocational education: 20 USC § 2343. Mayor's Order 90-177 and a 1990 Memorandum of Agreement between the Board and the Mayor designates the Board as the SEA charged with the supervision of all special education in the District.

13. **Excess school building disposition:** Title to all public buildings and grounds, including schools, is vested in the District of Columbia, with jurisdiction and control generally lying with the Mayor, D.C. CODE § 9-129, D.C. CODE § 9-401.1, 5 DCMR § 3500.4. D.C. CODE § 31-201 carves out a partial exception, vesting control of public school buildings and grounds in the Board of Education, unless the Board determines that a building is no longer needed for educational purposes. In that case, the Board releases control, over disposal to the Mayor; only the Mayor can sell the property. D.C. CODE §§ 5-905, 9-401; 5 DCMR §§ 3500.4, 3500.5.

This system was ended in 1997, at least temporarily, when the Authority took jurisdiction over former school properties from the Mayor and gave power to dispose of them to the appointed Emergency Board of Trustees. See "Disposal Strategy, District of Columbia Public Schools: Property Previously Held by the Office of the Mayor," DCPS (April 28, 1997) at 1. In June 1999, the Authority assumed control of the inventory itself, halting all sales or leases and promising formulation of a new policy on disposal. "Building-leasing policies hit" *Washington Times* (June 23, 1999); "It's slow growing for charter schools: D.C. won't let go of unused facilities," *Washington Times* (June 10, 1999) at A1.

14. **District-wide content standards:** Indirectly these seem to apply to the public charter schools because D.C. CODE § 31-2853.14(c)(11)(B)(ii) requires public charter schools to report annually "[s]tudent performance on any district-wide assessments," defined in § 31-2852(13) as those administered by the Superintendent to students in DCPS and charter schools that are, *inter alia*, aligned with D.C. content standards and core curriculum. It is not clear precisely what entity determines the content standards or core curriculum. Moreover, Title I requires the existence or the development of state standards and assessments for judging the performance of all LEAs and schools. 20 USC § 6311(b). The Board of Education and Superintendent are the SEA for Title I purposes.

Traditionally academic standards and core curriculum have been the province of local school districts as much as, or more than, SEAs, but recently state governments have assumed this role as one of their most important education functions.

15. **District-wide assessments:** D.C. CODE § 31-2853.14(c)(11)(B)(ii) (see above) on reporting results of assessments administered by the Superintendent to students in DCPS and charter schools that are, *inter alia*, aligned with D.C. content standards and core curriculum and in which all students participate. It is not entirely clear in the law who is supposed to select the assessments, but by default it has been the Superintendent and Board of Education.

Public charter schools set their own curriculum and may teach subject matter at a different pace or in different grades.

16. **Standardized data reporting:** D.C. CODE § 2853.14(c)(11) sets forth the information that must be included in annual reports of public charter schools. Beyond that, the D.C. Chief Financial Officer has the power to set fiscal reporting requirements for DCPS, but has not exercised that power extensively.

Although reporting requirements and standards are very much a part of local school system administration, standardization for all LEAs is inherently a higher-level function.

17. **Hearings and appeals:** DCPS has a full-scale hearing and appeal apparatus for its own students, including process required by federal laws and constitutional due process (*e.g.*, for special education or discipline). It is unclear how such process should be provided for public charter school students.