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ABSTRACT

The politics of assessment in New Jersey are examined in this study. Two basic questions addressed are: (1) what roles did competing interest groups play in the development and utilization of statewide assessment? and (2) has the controversy over the Educational Assessment Program (EAP) changed the impact of any of these groups on the future development of assessment policy in New Jersey? The paper follows the standard presentation of a case study analysis. First, the setting of the controversy is examined by tracing the development and application of statewide testing in New Jersey from 1970 to the present. The primary sources in this effort were court decisions in Robinson v. Cahill and Chappell v. Commissioner of Education and newspaper accounts. Second, the actors involved in the controversy over statewide testing are delineated, and from interviews with these actors their positions on the use of EAP to evaluate education in New Jersey are related. Third, the role of these groups are explored in four events--the reappointment of Carl Marburger as Commissioner of Education, the Chappel v. Commissioner of Education case, the legislation of statewide minimum standards--in order to ascertain how they influenced the development and use of statewide tests. The paper concludes with a brief discussion of the consequences of the EAP controversy on future assessment activities and the effectiveness of the EAP.

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THE POLITICS OF ASSESSMENT:
THE NEW JERSEY VARIATION

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THE POLITICS OF ASSESSMENT:

THE NEW JERSEY VARIATION

In recent years a rising chorus has been heard decrying the fact that many high school graduates lack the skills to perform what were once considered simply average tasks. College teachers at prestigious institutions such as Stanford and Yale relate tales of half of their students being unable to pass a test on writing ability, and employers attack the schools as not adequately preparing job applicants. Perhaps the saddest news of all is the evidence that urban minority children fall further behind the longer they remain in school. One response to the conditions has been to institute several statewide programs to assess, monitor, and, in the cases of Michigan and New York, allocate resources on the basis of students' performances on standardized tests.

In this paper we examine the politics of assessment in New Jersey. Our basic conclusion is that the assessment program can not be studied in a vacuum. Although the battles fought over the specific issue of statewide testing did not radically change the scope or focus of the program, the use of the Educational Assessment Program (EAP), and future assessment policies, will be determined by those groups involved in defining a "thorough and efficient" education. As the arena of conflict for this issue is much broader than that for the original assessment program, different groups--some of them newcomers to the state level educational policy-making process--will influence the direction that statewide assessment will take. In addition, concern over the politics of assessment should not keep us from evaluating the technical difficulties in using statewide testing for educational policy-making.

Educational policy in New Jersey has traditionally been set by two major education groups, the State Department of Education and the New Jersey Education

Association, with input from the less powerful New Jersey School Boards Association, various associations of school administrators, and the New Jersey Congress of Parents and Teachers. The state legislature plays a major role in issues of school finance but has left decisions concerning nonfinancial matters in the hands of the Commissioner of Education and the SDE.

The working relationship between the educational bureaucracy and educational interests groups has traditionally been a close one. This relationship was encouraged by educational officialdom; in the mid-1950s, the Commissioner of Education developed a regular series of meetings between the Department and the state education interest groups mentioned above to act as a clearinghouse on tactics, general strategy, planning and execution of various education policies.¹ Although this state level "Princeton Group" no longer meets, the State Department has continued in its role of encouraging input in a more informal manner. One former employee of the SDE has observed that the prime concern of that organization is the building of consensus among affected parties.

Why, then, did this seeming harmony explode over the issue of statewide testing? Three unique conditions were at work to change the way in which assessment policy was being made in New Jersey. First, New Jersey is a state that has traditionally and with heated passion placed the issue of local control above the equitable and adequate provision of educational services. This tradition of local control had always been respected and incorporated into state education policies. When Commissioner of Education Carl Marburger began to develop

¹ See Stephen K. Bailey, et al., Schoolmen and Politics: A Study of State Aid to Education in the Northeast (Syracuse: Syracuse University Press, 1962), pp.37-38.

what he rightly felt were needed managerial tools, including a statewide assessment program, he ignored the fact that local educators and administrators will generally view state-mandated evaluations of education with suspicion--and occasionally outright hostility--especially if these evaluations are viewed as a way of increasing state control over educational goals and curriculum.

Second, as a result of the Court decision in Robinson v. Cahill,² New Jersey is required to define a "thorough and efficient" education and implement a school finance allocation system that provides "the educational opportunity needed in the contemporary setting to equip every youngster for his role as a citizen and competitor in the labor market." This requirement broadened the decision-making arena on non-fiscal matters to include the state legislature, whose debate on how to define "T and E" -- in input, process, or output terms - included a discussion of the role of statewide testing in evaluating educational outputs, and the court, with its power to review the final laws and administrative regulations.

Third, the state is faced with inadequate revenues to maintain existing state programs. This shortage of funds has made it difficult for the state legislature to implement the financial reform required by the first Robinson v. Cahill decision. As pressure for greater conservatism has begun to dominate public opinion, legislators have responded with demands for increased accountability to state funded programs. Because state aid to localities represents so great a share of total state allocations it is to be expected that legislators would attempt to link the increased funding required by the Public Act of 1975 to methods of assessing the effectiveness of education in New Jersey. At the same time, the Court, in upholding t

²The New Jersey Supreme Court has handed down five decisions to date on Robinson v. Cahill. The first decision declared the existing school finance system unconstitutional. The next three decisions concerned the legislative deadline for reforming the school finance formula. The fifth decision reviewed the constitutionality of the Public Act of 1975.

constitutionality of the Public Act of 1975 de-emphasized the requirements of finance reform necessary to meet the constitutional mandate of "thorough and efficient." It thus shifted the focus of debate from finance reform to the definition of "T and E."

Method

Two basic questions addressed by this study are: (1) what roles did competing interest groups play in the development and utilization of statewide assessment? and (2) has the controversy over the EAP changed the impact of any of these groups on the future of development of assessment policy in New Jersey?

This paper will follow the standard presentation of a case study analysis. First, we will examine the setting of the controversy by tracing the development and application of statewide testing in New Jersey from 1970 to the present.³ Our primary sources in this effort were court decisions in Robinson v. Cahill and Chappell v. Commissioner of Education and newspaper accounts. Second, we will delineate the actors involved in the controversy over statewide testing, and from interviews with these actors relate their positions on the use of EAP to evaluate education in New Jersey. Third, we will explore the role of these groups in four events--the reappointment of Carl Marburger as Commissioner of Education, the Chappell v. Commissioner of Education case, the legislation and codification of a definition of "thorough and efficient" education and the legislation of statewide minimum standards--in order to ascertain how they influenced the development and use of statewide tests. The paper concludes with a brief discussion of the consequences of the EAP controversy on future assessment activities and the effectiveness of the EAP.

³Melinda Boroson, Educational Testing Service, played a major role in developing the chronology of events.

Setting

Beginning in 1970, Commissioner Marburger set in motion the development and modernization of a system for evaluating the successes and failures of New Jersey schools. Three separate, but eventually related, activities were undertaken. The first step was to determine statewide goals in education. Goals were adopted in 1972 based upon the work of the Our Schools Project, an outgrowth of federal Title III regulations. Second, Marburger desired to develop a management information system. Of the three activities, this was least successful and is today only beginning to be emphasized. Finally, the Commissioner set up the apparatus to create a statewide assessment program to provide information for educational decision-making. The program was scheduled to begin operation in the fall of 1973 with the testing of selected grades. Governor Cahill in his State of the State address in January 1972, however, called for statewide testing to begin that year, reflecting his concern over a lack of "reliable scientific data on a statewide basis to determine reading ability and reading growth."

At the same time the New Jersey Supreme Court was reviewing the constitutionality of the existing school finance system. In its decision of April 3, 1973, the court ordered the State to define in some discernible way the content of a thorough and efficient education, and to redistribute the funds allocated under the existing state aid formula.

On January 30, 1976 the New Jersey Supreme Court upheld the constitutionality of the Public Act of 1975, if fully funded. The Act includes a new state aid formula, a definition of "T & E," and delegation of the specifications for monitoring and implementing "T & E" to the State Board of

Education.⁴ Article II, Section 4 of the new law requires within a system of "T & E" (a) an adequate state program of research and development, and (b) an evaluation and monitoring program at state and local levels. One element of the evaluation and monitoring program stated in the legislation is the use of annual statewide tests in basic skills areas. On a state level, the Educational Assessment Program (EAP) is to serve three functions: (1) check on local systems of evaluation; (2) provide guidelines for checking locally determined minimum standards (implicitly a state acceptable minimum standard); and (3) provide statewide data for research. On a local level, EAP is to provide local districts with diagnostic information on all levels--district, school, class, and individual--and supplement any local testing program.

On January 7th the State Board had approved a set of regulations to create a process definition of "T & E"--statement goals, needs assessment, monitoring and remediation. This represented a retreat from a stronger commitment to an output approach which would require statewide minimum standards. To reconcile divergent opinions among Board members a Task Force on Competency Indicators and Standards was appointed to pursue the question of statewide standards and use of tests to define deficiencies. They are scheduled to report in September 1976.

The state legislature, however, was not content to wait for this report. On March 16, 1976 the Assembly passed a bill simultaneously with income tax legislation which incorporated the use of statewide minimum standards of

⁴An important point to remember is that the Public Act of 1975 is divisible. That is, even if not fully funded those sections dealing with the definition of "T & E" and the guidelines which have the force of law remain constitutional. Therefore New Jersey has a "T & E" system in which testing has a role.

proficiency in basic language and mathematical skills into the Public Act of 1975. This legislation is awaiting action in the state Senate.

Actors

Three general statements can be made about the actors involved in statewide assessment in New Jersey. First, the New Jersey Education Association and the State Department of Education have been the primary molders of statewide assessment policies. Second, the input of other traditional educational interest groups--the New Jersey School Boards Association, various associations of school administrators, and the New Jersey Congress of Parents and Teachers--was minimal in the initial stages of assessment development. These groups are increasing their say on the issue of statewide testing, however, through the process of defining "thorough and efficient" education. Third, non-education interest groups are entering the arena of state level educational decision-making, many for the first time, to help define "thorough and efficient" education. Like their counterparts in the field of education, their input includes a stand on the issue of statewide testing. The remainder of this section will examine the characteristics of these groups, and their position on the use of statewide testing to evaluate education in New Jersey.

The State Department of Education has a major role in defining education policy in New Jersey due to the extensive formal powers of its head, the Commissioner of Education. As part of his duty

to see to it that every district provides a thorough and efficient school system... includ(ing) adequate physical facilities and educational materials, proper curriculum and staff, 5

5 Board of Education of the City of Elizabeth v. City Council of the City of Elizabeth, 55 NJ 506 (1970).

he can, for example, direct the abandonment or order alterations of part or all of a school building; withhold, through his appointed county superintendents, state aid from any district which does not provide suitable facilities and course of study; and systematically test achievement levels of students in order to ascertain the "thoroughness and efficiency" of any public school. The formal powers of the Commissioner are limited, however, by the strong tradition of home rule in New Jersey. Since nearly seventy percent of education funds are raised by local taxpayers, the Commissioner is restrained in the use of his sanctions by the wealth and sentiments of each district's taxpaying public. Although the Commissioner has long had the power to undertake a statewide evaluation of schools, no move was made in this direction until the Marburger administration.

The State Department of Education has viewed the use of statewide testing as a diagnostic and research tool for evaluating education as a system. Five stated goals of the Educational Assessment Program (EAP) have been:

1. to assess the status of New Jersey's educational system relative to statewide goals determined by the Our Schools Project;
2. to provide information useful to the state in planning and evaluating educational programs designed to bring the New Jersey educational system closer to statewide goals;
3. to assist in identifying local school districts which have conducted programs which were especially successful and those which were particularly in need of assistance;
4. to provide information to local districts which would be helpful in making decisions on the local level about the allocation of resources and the design, implementation, and

evaluation of educational programs;
and

5. to provide local districts with information relevant in assessing their students' progress. 6

It is important to realize that until this time the only formal evaluation of schools was an inspection every five years of high schools by teams from the State Department of Education. Elementary schools were not evaluated in a systematic fashion, and high schools which exhibited problems during their accreditation visits were not systematically reexamined. The Commissioner was dependent upon his county superintendents to report trouble spots for him. On the local level, school districts were not required to evaluate the progress of their students, although more than ninety percent of the districts had some form of district level or school level testing. The results of these local evaluations, however, were not generally made available to the state or to the public.

The NJEA--the major education interest group, and some feel the most powerful lobby in the state of New Jersey--does not agree that the EAP is a diagnostic tool, nor that the EAP is needed by the local districts to measure pupil success. They feel that local districts have adequate tests to evaluate the performance of standards, and that a mandated statewide EAP is merely duplicating the efforts of many school districts. In addition, the NJEA has charged that (1) the teachers would be held accountable by the public and the school administration for the test results, without recognizing

⁶ Educational Assessment Program, State Report, 1974-75 (Trenton, New Jersey: New Jersey Department of Education, Division of Research, Planning and Evaluation, 1975), p. 3.

the individual differences that exist among children, parents, teachers, schools, and even communities; (2) the dissemination of the test results would naturally lead the media and other groups to compare the success of students in various districts and thus cause further division and polarization in communities where there has been racial unrest, conflict, and charges of neglect and indifference to the school system;⁷ and (3) the data collected could not reflect the complexities of the education process. "Pretending that one can reduce the complex purposes of the whole educational enterprise to a few goals, like teaching 'basic skills', has catastrophic potential. A few scores, no matter of what, are entirely inadequate to represent the outcomes of education."⁸

The NJEA is in a position to back its beliefs with political pressure. It is "one of the largest, most cohesive and well-organized interest groups in the entire state."⁹ Representing well over ninety percent of the teachers in the state, NJEA has a dedicated membership, and the skills and money (expenditures of one million dollars a year on research and governmental relations alone) to translate this support into an effective political lobby. Its 83,000 members (and their family and friends) represent a large and cohesive voting bloc; lawmakers depend upon the group almost exclusively for educational research data; and the NJEA's more spectacular successes (the passage of two major collective bargaining laws, and the ouster of an "inaccessible" Commissioner of Education) keep legislators aware of its potential political clout. In addition, the NJEA Political Action Committee

⁷ Chappell v. Commissioner of Education of New Jersey, 343 A. 2d. 811 (1975).

⁸ NJEA, Position Paper prepared in response to "Thorough and Efficient" workshop, Rutgers University, October 1973.

⁹ Philip Burch, Jr., "Interest Groups" in Alan Rosenthal and John Blydenburgh (eds). Politics in New Jersey (New Brunswick, N.J.: Rutgers University, (1975), p. 84

expects to start raising about \$140,000 a year to support the election of "friends of education" to the state legislature.

It has only been in the last few years that any opposition group has begun to challenge the omnipotent position of the NJEA in education policy-making. In response to the growing unionization of teachers and increasing taxpayer resistance to government spending, the New Jersey School Boards Association is developing a lobbying staff and budget. Although the group is beginning to have a greater input in the development of school policy it has not taken a formal position on statewide testing, and does not feel that the issue is of major importance to the School Boards Association. According to the Executive Director of the organization, approximately seventy percent of its members support the concept of statewide testing.

The Robinson v. Cahill case, and the subsequent activity by the legislature and State Department of Education to define "thorough and efficient" education, have involved a number of new groups in the education policy process. The Education Law Center, headed by Paul Tractenberg, a law professor at Rutgers University, and the Education Reform Project of the Greater Newark Urban Coalition, entered the decision-making arena through amicus curiae briefs filed at various stages of argument of the Robinson v. Cahill case. Tractenberg represents the interests of the NAACP and the ACLU. The Education Reform Project is one of four similar research and analysis projects funded by the National Urban Coalition in states involved in significant school finance reform, in order to provide a voice to minority and urban residents with respect to the reform process. The Project views itself as "the major, if not only, advocate for urban education in the state",

providing research and analysis support for minority community leaders as well as minority legislators with respect to issues growing out of Robinson v. Cahill.¹⁰ Both groups strongly support the use of statewide testing in evaluating education. The Education Reform Project, for example, has "no fear that statewide testing will lead to conformity of curriculum content. Tests which evaluate skills and self-concept need not preclude the wide variety of programs and processes available to educators."¹¹

The New Jersey Manufacturers Association is another newcomer to the field of educational policy. Representative of New Jersey's small and medium-sized industrial establishments and not considered a major political force, the NJMA has only recently become concerned with state level issues outside the realm of industrial and labor relations.¹² In 1969, the NJMA created a Committee on Education to deal with the decreasing abilities of students entering the job market. They felt that two problems existed: (1) an increasing emphasis on teaching skills related to post high school employment, and (2) too little integration of career guidance and preparation with elementary and secondary school curriculum. As part of its concern over the uneven accomplishment by New Jersey schools in the teaching of basic skills, the NJMA has supported statewide testing in basic language and mathematical skills, and the publication of district and school test performance as a way of pointing out which students are receiving inadequate educational preparation. In response to the NJEA's concern for the possible

¹⁰ Lawrence Rubin, Analysis of School Finance Reform Issues in New Jersey To Be Incorporated in an Amici Curiae Brief to be Submitted to the New Jersey Supreme Court, February 24, 1975 (Newark, NJ: New Jersey Education Reform Project, 1975) pp. i, 1-2.

¹¹ Ibid., p. 15

¹² Burch, op. cit., pp. 89-90.

embarrassment or negative career impact on students from poorly performing schools, the NJMA has answered that not publicizing test results would "merely submerge the more grievous harm done to youngsters who must enter our work force and society inadequately prepared."¹³

Mention should be made of one more actor, the state legislature, before we move on to the drama. The legislature was not involved in the initial development or implementation of the EAP because the Commissioner of Education had the authority to carry out this program under NJSA. 18A: 4-24 and no one contested the moneys appropriated for EAP in the Department of Education budget. The only major discussion on assessment in the legislature took place in 1974 when the Joint Committee on Education debated the role of statewide assessment in the Thorough and Efficient section of the Public Act of 1975. However, its actions concerning the issue of statewide standards will have major implications for the use of the EAP.

Drama

The State Department of Education initiated the statewide testing program as a management tool, to provide decision-makers with information to plan and evaluate educational programs. Yet assessment programs generate information that can be used to allocate resources, whether money, jobs or prestige.¹⁴ Therefore groups affected by how these resources are allocated will compete to control the type of information produced by the assessment program and

¹³ Committee on Education, New Jersey Manufacturers Association, Statement to the State Board of Education concerning proposed revisions to Title 6, New Jersey Administrative Code, May 24, 1974, p. 8

¹⁴ David K. Cohen, "Politics and Research" in School Evaluation: The Politics and Process, Ernest R. House, Comp. (Berkeley: McCutchan Publishing Co., 1973), pp. 97-98.

how that information is used.

The NJEA viewed statewide assessment as a threat to local control of education and as supportive of the growing call for teacher accountability. The newcomers to the arena of educational decision-making--the Education Reform Project, the Manufacturers Association, etc.--view statewide testing as a way of calling attention to low levels of student performance and thereby encouraging districts to deal with students who are doing poorly in school.

The conflicts between the NJEA and other actors over the content and use of the EAP were carried out in an expanded arena. Although educational decisions had traditionally been made primarily by the NJEA and the State Department of Education, three events led to a broadening of the scope of the assessment conflict.

First, Commissioner Marburger, unlike his predecessors, did not go out of his way to encourage input from outside interest groups, including the NJEA. Second, the court order to define "thorough and efficient" education brought the state legislature into the process of defining non-financial educational policy. The legislature, through its Joint Committee on Education, listened to suggestions from a wide range of groups and individuals. The court, in its role of reviewing the final legislative definition continued to receive input from a variety of interests through amicus curiae briefs. Third, the fiscal crisis facing the state of New Jersey encouraged a number of legislators to call for increased accountability for the uses of in state aid to education. Since the NJEA equated educational accountability with teacher accountability, these legislators turned to other

groups to aid them in the development of legislation.

Within this expanded arena of conflict, how did the various actors influence the development and implementation of the EAP?

With its accustomed access to State Department decision-making limited by Marburger, the NJEA had three ways of gaining control over the assessment program: (1) replacing Marburger with a Commissioner of Education more receptive to their views; (2) challenging the validity of the EAP program in the courts; and (3) changing the state education laws to remove the power of statewide testing from the Commissioner. The NJEA chose the first two options. The time was right for challenging Marburger's position. Shortly after the initiation of statewide testing in the fall of 1972, Governor Cahill reappointed Carl Marburger to a second term as Commissioner of Education. Marburger had been generating controversy over his support of school integration through busing or compulsory regionalization for a number of years; the teachers had been attacking Marburger on issues ranging from job security to "teacher power." The implementation of statewide testing gave the teachers' lobby an additional weapon to use in their campaign to defeat Senate confirmation of the reappointment. Their continuous lobbying and last-minute barrage of telegrams, coupled with the anti-busing sentiment in the legislature, was successful; the reappointment fell two votes short of confirmation.

One week before the confirmation proceedings, the NJEA filed suit to stop the implementation of the EAP. In the case Chappell v. Commissioner of Education of New Jersey, the NJEA sought to enjoin the dissemination of the results of the statewide tests administered that month by the State

Department of Education.

Dissemination of the tests...as presently planned...will violate their constitutional, statutory and common-law rights, will cause polarization within the school communities, racial conflict, degrading stigmatization, illegal tracking classifications, interference with the right to an equal free public education, the rights to earn a livelihood, deny them due process, subject them to unfair accountability proceedings, invade their right to privacy, and delay and defeat the education goals allegedly sought to be achieved by and through these tests. 15.

It appears from the arguments the NJEA was opposed to release of the test results, not the tests themselves. They argued in court that:

If the State had indeed followed the course of treating these tests as a pilot program without making such a big to-do about a public release and the results had been restricted for analysis by educational authorities alone, there would certainly be no objection to the program. 16

This line of reasoning may support one interpretation of the court case, that it was filed merely to add more wood to the fire of Marburger's confirmation hearings, and once filed; the NJEA was obligated to follow up on the case.

The case went through thirteen different administrative procedures. The NJEA was able to delay for a year the release of the 1972-73 test results, but not to change or eliminate the procedure for disseminating these or any other test results. By the time the original case was argued before the Appellate Division of the Superior Court of New Jersey on appeal from the State Board of Education, the test results for the 1973 and

¹⁵ Chappell v. Commissioner of Education, pp. 812-813.

¹⁶ Ibid.

1974 test years had also been made public. On July 31, 1975, in upholding the right of the state to distribute the 1972 results, the State Court held that the decision of the Board of Education "upholding the tests, and providing for dissemination of the results of such tests and of interpretive materials, was not arbitrary, capricious or unreasonable."¹⁷ The NJEA has ceased all current court action against statewide testing, but a spokesman for the organization said that they are not closing the door on future litigation.

In April 1973, the State Supreme Court in its decision on Robinson v. Cahill ordered the state to further define the "thorough and efficient" education that was guaranteed in the state's constitution. In response to this court edict, the state legislature and the State Department of Education began a three-year-long process to develop statutory and administrative definitions of the terms. Both the legislature and the State Department of Education solicited views from a wide range of groups. The State Department of Education invited over thirty groups to workshops whose purpose was to develop a definition of "thorough and efficient" education. Drafts of the administrative regulations were circulated to all those groups and the evolving code incorporated many of the suggestions they offered. The Joint Committee on Education, the legislative committee charged with recommending a legislative definition of "T & E", held numerous hearings and encouraged input from representatives of groups such as the Education Reform Project.

The legislature, in developing a broad process definition of "thorough and efficient", had to consider how far to go in mandating state level

¹⁷ ibid., p. 811

assessment or evaluation of education. The input from the public was varied; the NJEA strongly opposed statewide testing while groups like the Manufacturers' Association, the Urban Coalition, and others supported it. The Joint Committee on Education was advised to avoid the political conflict inherent in the issue, to leave that particular decision to the State Department of Education in the writing of the administrative code. The legislature compromised; it included statewide testing as one of several means of evaluating local districts.

Although the NJEA did not succeed in eliminating the use of statewide testing in evaluating education, it won a far more important battle when the State Department of Education's administrative regulations yielded a process definition of "thorough and efficient" education. Minimum standards of proficiency were to be locally determined; without statewide minimum standards, the impact of a statewide testing program would be minimized.

However, the debate over the use of statewide minimum standards did not end with acceptance of the administrative code by the State Board of Education. The Task Force on Competency Indicators and Standards, composed of representatives of diverse educational and non-educational interest groups, was charged with the mission of determining the need for minimum standards, finding ways of defining minimum competencies, and developing methods of implementing these standards. This Task Force was created by the State Board of Education in response to demands by urban-oriented Board members who felt that locally-determined output goals would be set so low in some districts that many students would be cheated of an opportunity to a "thorough and efficient" education.

The Task Force had barely started its deliberations when Republican members of the state Assembly began to question the wisdom of meeting the court-ordered increase in school funding without some assurances about how the additional money would be spent. Therefore, the Republican leaders of the Assembly introduced a bill that would amend the Public Act of 1975 to include a statewide definition of minimum proficiency levels for appropriate points in a student's educational career. These statewide minimum standards, not locally-defined standards, would trigger required remedial programs for students performing poorly. The Republicans tied their support of the income tax (needed to fully fund the Public Act of 1975) to Democratic support of the minimum standards bill. The bill passed the Assembly overwhelmingly. The NJEA, which is dependent on passage of the income tax to stave off large cuts in local school budgets, was reluctant to attack the minimum standards bill for fear of having the income tax defeated. Both are pending in the state Senate.

An interesting sidelight is that when Thomas Kean, leader of the Assembly Republicans, drafted the legislation, he contacted Paul Tractenberg of the Education Law Center for advice. Stephen Wiley, Chairman of the Senate Education Committee, has been meeting with the Education Reform Project to solicit their views on the legislation.

Implications for Decision-making

The foregoing drama has had three consequences for the future development of assessment policy. First, the existence of statewide testing is preserved. The ouster of Marburger and the Chappell v. Commissioner of

Education suit did not stop or radically change the shape of the EAP. The tests have been administered and the results disseminated just as though Marburger were still in office.

Second, the use of the EAP has been, and will continue to be, determined by those groups responsible for defining a "thorough and efficient" education. Although EAP is now but one of a number of evaluative techniques that can be employed by a local district in assessing the quality of education, under the 1975 Public Act, the state can require feedback from the local districts on the results of any local evaluation. Thus, the state will finally be able to correlate state and local level evaluations. And a broader use of statewide test results by policy-makers is subject to a decision on the establishment of statewide mandated minimum standards. If the state legislature mandates, or the Task Force on Competency Indicators and Standards recommends that statewide mandated minimum standards replace locally defined minimum levels of pupil proficiency in the basic communication and computational skills, the state will need a way of defining minimum standards and of locating students who are not meeting the minimum requirements. This need would best be met by a statewide standardized test.

However, concern over the political use of statewide testing has obscured a discussion of the academic uses of the EAP. Three monetary and technical constraints facing the State Department of Education have limited the usefulness of the tests. First, little money has been allocated to conduct research with the test scores. Second, even with funds available, the researchers have problems with the way in which the test data is released. The program was designed to provide scores on a question-by-question basis; there is no aggregate reading or math score for each student. Third, the

state lacks additional nontest data, which is crucial for interpreting the test results and for determining educational policy. For example, census data on the socio-economic status of the student body is aggregated on the district, not the school, level so one cannot draw intradistrict comparisons of students' backgrounds and achievement levels.

Even if the tests proved useful to the state for the development of their own policies, they have no way of achieving the last two of their five goals, both of which seek to improve the local district's program. Although the administration of the test is mandated statewide, use of the test scores on the local level is optional. Members of the State Department of Education are divided on the degree to which the local districts use state test results compared to the district tests.

If the state adopts mandated minimum standards of proficiency, another series of technical questions must be raised. Is the EAP an appropriate vehicle for implementing a minimum standards program? The designers of the test claim that the EAP is a criterion-referenced test, one that cannot yield norm scores.¹⁸ Therefore, this particular test might not prove useful for evaluating student performance if the minimum standards were norm-based (for example, all students must read at the sixth-grade level).

Third, the controversy over the statewide assessment policy has reflected not only differing stakes in the Educational Assessment Program, but shifting arenas of conflict. As the arenas shifted, the hegemony of the NJEA was reduced, permitting greater access for non-traditional interest

¹⁸ For an excellent reference on different types of tests, see James Popham, (ed.), Criterion-Referenced Measurement: An Introduction (Englewood Cliffs: Educational Technology Publications, 1971).

groups to the decision-making process. The EAP emerged at a time when three conflicting forces--the tradition of local control, the need to define a "thorough and efficient" education, and the state's fiscal crisis--were challenging the existing educational decision-making process in New Jersey. The controversy over the EAP was initially limited to the NJEA and the State Department of Education. As the controversy over the EAP became subsumed in the debate over how to define a "thorough and efficient" education, and the role of statewide minimum proficiency standards, the arenas in which decisions were being made expanded to include the legislature and the courts. These latter institutions have been more receptive to input from the non-traditional interest groups than was the State Department of Education. As a result the ability of the NJEA to control the scope and definition of assessment policies has been reduced; they will continue to dominate primarily those issues which require technical decisions by the State Department of Education. One can only speculate about the permanence of these shifts in arenas of conflict. However, as long as the courts present the possibility of ongoing intervention in the decision-making process, the new actors are guaranteed at minimum a watchdog role in educational policy-making.