



Cutting Red Tape

Overcoming State Bureaucracies to Develop High-Performing
State Education Agencies

By Robert Hanna, Jeffrey S. Morrow, and Marci Rozen June 2014

Center for American Progress



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Introduction and summary

States serve a special role in our public education system. Through elected legislatures, states have endowed their various state departments of education with powers over public education, which include granting authority to local entities—typically school districts—to run schools. In their oversight capacity, states—traditionally through state education agencies, or SEAs—monitor districts and schools to ensure that students are safe in school and that their education meets minimum quality standards. But such standards are typically not explained with any specificity. Inspired by a national movement to provide equitable opportunities to all children, states also collect and redistribute dollars intended to reduce local funding disparities. Moreover, many policymakers—particularly federal policymakers—and advocates have asked states to drive large-scale educational improvement through federal programs, including No Child Left Behind waivers, Race to the Top initiatives, or the No Child Left Behind, or NCLB, Title I School Improvement Grant program.

The space occupied by SEAs is also an ambiguous one.¹ While SEAs and state departments of education have legal authority over schools, the districts and their schools manage the administration of education.² At the same time, the success of SEAs as organizations ultimately depends upon what teachers are able to accomplish in classrooms. The paradox in all this is that there is a very long distance between a state department of education and the school classroom.

Under mounting federal pressure to be more involved in improving schools, SEAs have seen the scope and breadth of their work significantly increase in recent years. Traditionally, SEAs' role is to closely monitor how districts and schools spend federal funds. But SEA staff are now also tasked with a long and growing list of responsibilities, including teacher licensure, distribution of funding, technical assistance to educators, the management and administration of end-of-year tests, and maintenance of state-level student and school databases. Perhaps one of the most pressing recent reforms—the implementation of college- and career-ready standards, such as the Common Core State Standards—also comes with substan-

tial responsibilities for state agencies. SEAs are now responsible for professional development and support for teachers in these new, more rigorous standards, while also administering and grading new computer-based state assessments aligned with these new standards.

Because of this wide scope of duties, those who lead SEAs—not just their executive administrators but also other high-level managers—serve an important role in the future of our country as schools are pivotal to our global competitiveness. Many state education chiefs understand this role, calling on one another to “[focus] on those state-driven leverage points they are uniquely positioned to address - and [increase] their capacity to produce students ready to succeed as productive members of society.”³ Now it is up to SEA leaders to do what they can to meet these increased demands.

One major impediment to their success is bureaucracy. State leaders have described a range of state laws and rules that direct or restrict their activities in nonproductive ways.⁴ As a consequence, many state education leaders report that they cannot secure the talent they want and need. They say they are hampered in their ability to reorganize their agencies to be more efficient and lack the needed authority to terminate consistently poor-performing employees. State education leaders also have a large list of federal requirements for the types of activities they should be managing or executing with federal funds, including improving schools that the federal government required them to designate but with little additional funding.

In this paper, we explore the red tape that binds state education leaders as they seek to make today’s ambitious reforms a reality. While navigating this maze of laws and regulations can be daunting for these leaders, often limiting their actions, not all red tape is equally debilitating and certainly not as sturdy as state leaders understand them to be. The good news is there are workarounds, as demonstrated by some SEAs. In other instances, state leaders need help from policymakers in order to succeed where bureaucratic constraints still exist. Nevertheless, overcoming such obstacles is as much about interpersonal staff work as bureaucratic reform. Being effective at this is about breaking with norms and changing behaviors.

A comprehensive review of each state's laws and regulations is beyond the scope of this paper. As such, this paper explores state laws and regulations in four states: California, Louisiana, New York, and Ohio. This purposeful sample, which varies by geographic location and politics, includes states with straightforward, easy-to-navigate resources on state laws. Along the way, we also point to specific examples of other states that have been successful at overcoming bureaucratic constraints. We also rely on research on SEAs and our previous research with these organizations. Research in this field is limited to a small set of analysts, and little information exists about what goes on within state agencies, particularly related to management and staffing.⁵ We hope that others will continue research in this field to expand our knowledge about the SEAs that we give with so much responsibility.

This report offers our perspective on the national landscape of relevant state laws and regulations based on our research.⁶ We believe that many rules considered set in stone are, in fact, very much open to interpretation and leave much more room than is assumed for state leaders to take bold actions to improve SEA performance. We also describe the management strategies and the bureaucratic requirements that limit or direct state education leaders. In some states, for example, states leaders' decisions to reorganize their agencies must be approved by multiple bodies, such as the state board of education or the governor, or these leaders must follow pay scales that are already determined by state legislatures.

Clearly, SEAs need bureaucratic flexibility, and this report explore flexibilities already available to them and identify flexibilities that other entities such as the federal government or state legislatures could grant to provide optimal support for state education agencies. Texas provides a prime example of how existing rules can aide a SEA in carrying out its charge. In Texas, the head of the SEA has a free hand to require staff to attend a variety of training activities as long as the training is linked to their work.⁷

We organize our discussion by five strategic areas that are critical to the successful functioning of SEAs: developing skills; aligning the organization to priorities; evaluating staff performance; recruiting talent; and paying competitively. Finally, recognizing that the laws and rules that govern state education work are only a part of the whole picture, with organizational history and established routines playing a role, we also explore cultural matters affecting the work of SEAs. Many

state education leaders report that staffs' resistance to change makes it difficult to take innovative actions, for instance. Staffs' organizational routines might be just as strong a barrier to SEA improvement as laws or regulations.

This paper discusses the laws and rules that govern how state leaders manage their agencies. We also highlight state leaders who have developed new strategies to overcome bureaucracy and improve their organizations. Former Louisiana State Education Chief Paul Pastorek worked with the state legislature to make a new organization for the Louisiana Department of Education a reality. Former State Chief Lisa Graham Keegan changed the civil service status of some employees by asking them to give away civil service protections in exchange for promotions.

Finally, we discuss other influences on how state leaders manage. Those influences included federal regulations that make it difficult to use federal dollars in innovative ways and state politics that may decrease employee civil service protections and increase state leaders' authority over hiring and terminating staff.

The paper concludes with the following recommendations for federal and state policymakers:

- Federal policymakers should improve and streamline compliance monitoring and reporting requirements.
- State leaders should reexamine their states' legal requirements and identify areas for agency improvement.
- State policymakers—legislators and state employee organizations—should streamline civil service processes to improve state agency operations.

In many ways, the success of educational policies in the United States depends greatly on the success of state education agencies. To meet the current demands placed on them, it is imperative that state policymakers and state leaders work together to improve the conditions in which SEA staff work. This requires a critical and thorough re-examination of what these conditions actually are, and we hope that this paper can serve as a guide for that process.

Improving SEA performance: Obstacles and opportunities

In the following sections, we describe state laws and regulations in our four study states—California, Louisiana, New York, and Ohio—pointing out which obstacles are rigid and deeply entrenched and which are not nearly as imposing as state leaders perceive. We organize our discussion below around five areas where state leaders could act as agency managers: skills development, agency reorganization, staff performance evaluation, talent recruitment, and employee compensation. This range of areas is where state leaders have recognized and reported their most significant challenges.⁸

Skills development

Historically, SEAs have focused on compliance. These activities have included and still require state leaders to monitor how districts use federal dollars, including how their own staff are allocated to federally mandated tasks. Every funding stream comes with strings attached, possibly hundreds of them.⁹ State education leaders must monitor their agencies and their districts for compliance with these regulations and requirements. In this time of large-scale policy reforms, state education leaders' monitoring responsibilities have grown, and additional new responsibilities have also increased substantially. Under new federal initiatives—such as the School Improvement Grant, or SIG, program or Race to the Top, or RTT—state leaders must manage school improvement in their lowest-performing schools, intervening intensively when necessary. Moreover, all of this is in addition to the responsibilities state legislatures place on state education departments, such as managing teacher licensure, authorizing charter schools, and implementing college-and-career-ready standards.¹⁰ For new teacher evaluation systems, state legislatures or state boards of education set guidelines for the types of evaluations districts and schools must implement, and SEA leaders are responsible for monitoring these efforts as well.

All of these responsibilities imply new tasks for the SEA, and state leaders must work with their staffs to learn the skills needed to meet these new demands. Across the four states reviewed for this report, state laws place few, if any, restrictions on what types of training opportunities state leaders can provide. Beyond our sample, we found statutes in Texas indicating state leaders can actually require that staff members to attend training as long as it is germane to their work responsibilities.¹¹

With numerous new responsibilities, many state staff members will need new skills and knowledge, and state leaders have considerable flexibility to offer—or even require—new training opportunities for agency employees to meet those responsibilities. Frequently, however, these education leaders also want to redesign how their agency is organized, so that state staff can work together in different ways aligned with new agency priorities. This is discussed in the next section.

Agency reorganization

A common first step for new incoming state superintendents is to reorganize their agencies to align with their particular vision or strategic priorities.¹² No research currently exists showing the most effective types of structures to put in place when it comes to building a high-performing SEA.¹³ Nevertheless, this is a sensible approach, and it is a common approach to organizational improvement in the business sector.¹⁴ In most cases, state leaders need formal approval to do this, often from state lawmakers. However, that is not always the case.

On the one hand, state education leaders can, without legal constraints, redirect staff members to do new tasks that are within the scope of their designated roles. This is the very nature of work and management. Sometimes restructuring is about encouraging and incentivizing new collaborations. In Kentucky, state educational leaders have formed what they term “cross-functional groups” across offices to address the state department of education’s goals, such as improving high school graduation rates.¹⁵ In Maryland, state staff members from different offices work together through the state’s Breakthrough Center, which is intended to support communities of practice where these staff members discuss issues related to school and district improvement.¹⁶ Maryland state education leaders said this approach has moved these offices away from a strictly “compliance orientation.”¹⁷

On the other hand, when state leaders want to enact strong structural changes—such as combining or eliminating positions, changing which staff report to which supervisors, or creating new operating offices—they typically need to receive approval from legislators, the governor, the state board of education, or the state director for human resources. In California, for example, the state education chief must make recommendations to the State Board of Education, which oversees the California Department of Education, or CDE, for approval of new organizations or reporting structures within the CDE.¹⁸

When most state education leaders want to terminate employees, they typically have to show and provide evidence for cause. In our sample states, staff members that are not in high-level management positions are typically in the classified service category and subject to the state's civil service code.¹⁹ For classified service staff, state education leaders must adhere to certain employee protections when dealing with disciplinary actions or terminations. In general, state education leaders can only take personnel actions against employees in this class, such as suspension or removal, when there is an identified cause. In Ohio, for example, state leaders can terminate employees for dishonesty, drunkenness, and incompetency but not without first giving employees notice and an opportunity to contest the stated cause.²⁰

However, state leaders can terminate employees in the unclassified category essentially at-will, but these employees are also subject to legally binding due processes. Unclassified positions might include, as in Ohio, the state superintendent and assistant superintendents.²¹ In New York, state leaders can terminate at-will staff in exempt positions, such as deputy executives in state agencies, except in special cases that are prohibited by law, such as when discrimination is an issue.²²

When SEA budgets are reduced, state leaders may need to lay off employees through reductions in force provisions. In New York and Ohio, state education leaders must generally lay off employees according to seniority.²³ In Ohio, there are other considerations as well, such as employees' part-time status or classification level,²⁴ and laid-off employees can displace other employees on layoff lists, according to prescribed rules.²⁵ More senior employees would then be first in line if new positions became available at their former classification level.²⁶ State leaders would prefer to terminate staff based on their job performance, rather than years of experience, and reorganize their agencies with candidates of their choice, as opposed to always having to give preference to more senior employees.

In their current policy environments, some state leaders have been able to bring structural change. Louisiana's former State Education Chief Paul Pastorek worked with state lawmakers to change state laws to reorganize the state's department of education into a few different functions, including separate offices for literacy, science, technology, and math, and college and career readiness.²⁷ In Arizona, former superintendent Lisa Graham Keegan used a process that would uncover positions, that is to say, when employees wanted to be promoted, they would be asked to relinquish civil service protections.²⁸

Regardless of whether state education agencies require formal reorganization, state education leaders should improve SEA performance through the staff performance evaluation system. In the next section, we describe the limited legal constraints state leaders face when they want to identify employee strengths, accomplishments, and areas for improvement.

Staff performance evaluation

State leaders need information to develop and manage strategies for organizational improvement. One way they can gather this information is through employee evaluations. Even in this era of educator evaluation reform, state lawmakers have established very few rules for how state education leaders should evaluate their employees. In some places, only the frequency of evaluation is set. In other places, more is said about what form it should take. In New York, for example, the state civil service agency determines the form and frequency of performance evaluations.²⁹ In Ohio, state leaders can evaluate employees using their own forms, provided they get approval from the state's director of administrative services,³⁰ and they must evaluate employees at least once per year.³¹

Despite these constraints, state leaders have considerable latitude to determine what to do with information from evaluations. In Florida, for example, leaders can use it to develop employee improvement plans.³² But state leaders are restricted in their use of evaluation for termination or layoffs, as we described in the section above.

State leaders, however, can use performance evaluation findings to identify areas of strength and needed improvement for employees. Those with demonstrated skills can teach their colleagues new skills through thoughtful training activities. But, as their agencies are called upon to perform new tasks, state leaders sometimes must look outside their agency for candidates skilled in these new areas. This is discussed in the following section.

Talent recruitment

State education leaders are expected to lead their agencies in new, innovative areas and do more of the most effective interventions in their lowest-performing schools. For example, as state leaders work to implement new teacher evaluation systems, their staff needs to be knowledgeable in measuring effective teaching and skilled at implementing evaluation systems appropriately.³³

To fill some of these critical positions, state education leaders look for talent in the private sector or in their school districts. Private-sector candidates can bring cutting-edge skills in information technology and financial management. Meanwhile some district leaders may have expertise in areas such as teacher training and first-hand knowledge of the elements of effective teaching on which new evaluation systems are based. State leaders can offer these latter candidates—district leaders—comparable positions with responsibilities over a larger scope of work such as monitoring evaluation systems across the state.

In general, as with most professions, state leaders must hire candidates who meet minimum requirements from an open applicant pool. To hire for civil service positions, state leaders must secure candidates competitively based on merit—terms common across state civil service laws. In other words, state education leaders must select candidates who meet or exceed requirements for education or professional experience, just as in other professions.

However, some exceptions to completely open competitions exist. States typically give preference in hiring to veterans of the armed forces. In Ohio, for example, after the examination process, state leaders must break ties between candidates by selecting the one with veteran status.³⁴ In other instances, states also give preference to current staff members. In New York, state leaders must fill open positions through promoting existing staff members, unless a formal determination is made by the civil service department that the position should be filled by a public, competitive examination.³⁵ In California, state education leaders must also fill high-level civil service positions with internal candidates.³⁶

When it comes to hiring the best talent, perhaps even more important than identifying and recruiting highly qualified candidates is being able to compete monetarily for their services—clearly a challenge in the public sector.³⁷ To retain the services of highly desirable candidates, state education leaders should emphasize

various nonmonetary benefits to potential candidates such as the opportunity for public service. But, the reality is that pay is still a paramount concern for recruiters. We consider employee compensation in the next section.

Employee compensation

Despite the importance of compensation to their recruitment activities, state education leaders lack direct control over their employees' salaries. Typically, state legislatures approve pay scales that define ranges for what employees can earn at each position type and these scales hold across agencies.

State education leaders, for instance, normally start employees at the lowest level of each position's pay range. But state leaders in some states, such as California and Louisiana, can make pay offers that are more competitive through a process known as "hiring above minimum."³⁸ Using this option, state education leaders can pay new staff at higher salary levels than allotted for under the preset pay scale. They do so not through legislation or rulemaking but rather through negotiation with the state agency responsible for state personnel—typically the state department of personnel administration.³⁹ To successfully secure the higher salary, state leaders must demonstrate that a candidate is "exceptional," a term used in many state civil service codes. They can do this in a variety of ways. For example, in Louisiana, state leaders can hire above the minimum if a candidate "possesses extraordinary or superior qualifications/credentials" regardless of the size of the applicant pool.⁴⁰ In California, state leaders can hire above the minimum if they can prove that a potential employee would be paid more in the private sector, in addition to other factors.⁴¹ To make new positions more competitive for top talent, state education leaders should consider negotiating more often to hire above minimum if that option is available.

For current SEA employees, state leaders can provide additional compensation to those staff members who receive high ratings on staff performance evaluations. In New York, state education leaders can provide merit awards to employees in accordance with internal rules set by the state civil service commission.⁴² By contrast, in Ohio, the SEA itself has discretion to determine the type, amount, and recipients of merit awards.⁴³

Beyond pay, state leaders compensate staff in other ways, including highly attractive health and retirement plans and other lifestyle benefits. We did not review laws or regulations governing these forms of compensation, but they likely play a role in candidates' decisions.

In each of the five strategic areas described above, state laws and regulations place specific restrictions on what state education leaders can and cannot do to manage their staffs. State-determined pay scales are one important example, but state leaders also face significant bureaucratic obstacles to terminating staff. In other ways, state education leaders have quite a bit of leeway when it comes to taking action to improve agency performance, such as through staff evaluation and training. However, being an effective education leader requires more than just an understanding of flexibilities within current bureaucracies; it demands a willingness to break out of old habits and explore new approaches to hiring, management, and termination. Let's next explore other challenges to improving SEA performance and what state leaders can do to overcome these obstacles.

Other challenges to improving SEA performance

Some SEA improvements require changing routines or challenging norms that are institutionalized within an organization’s culture. Often these routines or norms are in place due to forces outside the control of state education leaders, such as federal regulations and state politics. State leaders can get stuck in current management habits because of these sorts of challenges. Below, we consider each in turn: federal regulations, state politics, and organizational culture.

Federal regulations

State leaders frequently mention federal government requirements as a major force driving important agency decisions. State education leaders manage agency budgets that rely at least to some extent on federal dollars,⁴⁴ and because of this, they fear losing funding if their agencies fail to fulfill federal funding requirements, according education attorneys Melissa Junge and Sheara Krvaric.^{45*} Without a doubt, this is a legitimate fear: If auditors find that state education agencies did not comply with federal guidelines and regulations, they might be required to pay that money back to the federal government.⁴⁶ Some of these requirements related to the use of federal funds are directly linked to what state agency staff must track and report to the federal government. To be certain, the federal government provides some financial support for this work—commonly referred to as state “set-asides”—but often such compliance drives the work across the agency.

State leaders or their staffs also build up silos across their agencies because of federal time reporting requirements.⁴⁷ Basically, the issue here is that when state leaders use federal dollars to pay staff, they must demonstrate that their staff did work in the same proportion as they were federally funded.⁴⁸ For instance, state leaders can breakdown a program director’s pay with 50 percent coming from NCLB Title I money and 50 percent from NCLB Title II money only if that director’s time was equally split between the two federal initiatives. When their staff members work under multiple funding streams, SEAs have more extensive and more frequently

required federal forms to submit. Given the reporting requirements, it is easy to understand why state leaders feel compelled to manage funds in the manner they did when they passed their last audit inspection.⁴⁹ Overall, it is much easier to have each staff member work under one funding stream rather than multiple ones.⁵⁰

Moreover, state leaders encounter a long list of federal requirements, some of which have extensive reporting elements. The DOE's Office of the Inspector General has found that there are more than 500 separate requirements alone in Title I of the ESEA.⁵¹ Consider one of those requirements—the “supplement-not-supplant” requirement—where state and districts have to demonstrate that federal funds do not replace financial support from existing state or local funds. Specifically, states have to ensure their own and districts' compliance on a cost-by-cost basis, and each cost—that is, each distinct work activity—might have different circumstances under which states could comply.⁵² Furthermore, state and district leaders must demonstrate that they provide Title I students with services that other students do not receive.⁵³ All of these make it easier to separate the administration of each federal education fund from the others.⁵⁴

These federal requirements can bind state education leaders to traditional routines, and all of these federal regulations incentivize state leaders to comply in easy-to-monitor ways. But, as we have discussed above, overcoming state bureaucratic obstacles requires state leaders to think and act differently. This could be particularly challenging given these types of federal pressure.

State politics

State politics can put pressure on state policymakers seeking civil service reform, but governors have been somewhat successful recently in changing state personnel systems. State employee organizations representing staff members at many state agencies are often concerned with the dilution of civil service protections, in particular, eroding due process rights.⁵⁵ This concern is well founded. For example, civil service reform led by Arizona Gov. Jan Brewer (R) actually did take away these rights.⁵⁶ Likewise, Wisconsin's Gov. Scott Walker (R) garnered enough legislative support to take away collective bargaining rights for a large set of public employees⁵⁷ despite vehement protests by state employees and teachers.⁵⁸ Despite the opposition in both of these cases, state agency leaders gained substantial control over which employees they could terminate and therefore more flexibility to reorganize their agencies to meet their goals.

On the other hand, in Tennessee, reforms sought to improve civil service processes—rather than take certain protections away.⁵⁹ The Tennessee general assembly and Gov. Bill Haslam (R) enacted the Tennessee Excellence, Accountability and Management Act, or TEAM Act in 2012.⁶⁰ The result is something that could be referred to as an “enhanced civil service” model. Core job protections remained, but some civil service processes were streamlined.⁶¹ The Tennessee State Employees Association and the governor’s administration on the TEAM Act both played a critical role in developing the legislation’s final guidelines through extensive negotiations.⁶² Typically, when employees file a grievance or complaint related to their work, they could wait months before a civil service oversight body renders a ruling. Now when an employee files an appeal in Tennessee, a governing panel hears three cases at the same time.⁶³ This gives state department leaders more efficient paths to review employee performance and, in cases of persistent low performance, to complete processes for termination. The new law also introduced a new performance evaluation system for state employees, where state leaders could use employees’ ratings for a range of state personnel decisions, including termination.⁶⁴

Organizational culture

These challenges are real and substantial, but organizational reform often requires state leaders to change the way that staff members work with one another—or the “culture” of the agency. As state education agency researchers Ashley Jochim and Patrick Murphy have observed, “in many cases, the will to act is the biggest barrier to transforming agency practice.”⁶⁵ They found that state leaders’ capacity issues might be trumped by their willingness to break existing routines, and their work suggests that more money might not necessarily be the answer to these agencies’ issues.⁶⁶ Jochim and Murphy have highlighted state leaders’ “will to act” as a critical part of building state capacity within existing constraints.⁶⁷ Our analysis points out areas where state leaders should consider taking new approaches.

If state education leaders wish to accomplish new organizational reforms, they should also work hard to break out of their own agency’s routines. The literature on state education agencies cited throughout this paper focuses on state leaders as drivers of improvement, but these studies rarely explore how agency leaders themselves have changed their leadership in response to outside pressures. Through new federal initiatives, such as Race to the Top, state policymakers have responded to federal pressure to embrace and execute large-scale education reforms, and state

education leaders have taken on critical roles in managing their implementation. Our research did not uncover specific information about how state leaders have experienced or embraced change in their pursuit of agency improvement. However, the evidence suggests that these leaders recognize that existing organizational norms and routines drive agency decision making, boxing state leaders into making similar choices as before.

State education leaders also regularly acknowledge that they must overcome resistance from staff to change as well.⁶⁸ In interviews for a 2011 CAP report title “State Education Agencies as Agents of Change,” the featured state education chiefs noted that “the challenge of employees who resist direction or show little inclination to buy into a transformed agency culture.”⁶⁹ In many cases, state leaders would prefer to terminate these employees. Often, their initial response is to explore ways to do so, but due to civil service laws and processes, this is not easy.⁷⁰ In the end, these leaders work with these staff members through the change process.⁷¹

Throughout studies about change in education organizations, many researchers have identified organizational culture as a major impediment to change. They emphasize how organizations tend to continue to work in the same old ways until some outside event or force causes them to change. This holds true for state education leaders’ work with their agency staff. Typically, the installation of a new state education chief or the passage of a new state legislation provides an opportunity to change the way SEA staff do business. But this should not have to be the case, and below, we recommend actions state leaders and policymakers can take to improve their agencies short of major structural reform at the federal or state level.

Recommendations

We have explored the challenges that state education leaders face, and we have tried to identify barriers that are real and entrenched and others that are less so and that leaders could overcome through their own initiative. The responsibility to drive state-wide educational improvement is squarely on the shoulders of state education leaders and their staffs, but state and federal policymakers will need to step up and do their part as well to improve the conditions in which they work. In light of our findings, we recommend the following.

- 1. Federal policymakers should improve, modify, and streamline compliance monitoring and reporting requirements.** Federal policymakers should make it a priority to help make SEAs world-class places to work. A primary obstacle to state-level organizational reform is federal education requirements and auditing. State leaders acknowledge that the fear of consequences from a bad audit motivates their approach to agency leadership. This fear is real, but federal policymakers should improve how they monitor the activities of SEAs. There is no consensus among analysts about which rules should stay and which should go, but it is clear that some could be improved.⁷² Consider, for example, a solution proposed by CAP and its partners to the supplement-not-supplant requirement mentioned earlier in this paper. CAP and others have suggested that states and districts should be able to take a more comprehensive approach in order to meet this requirement. Specifically, district leaders should only need to show that they have distributed state and local funds to Title I and non-Title I schools in the same way instead of the current requirement: testing whether individual costs would have been made in the absence of federal funding.⁷³ This could significantly reduce administrative burden for state leaders, as they would not have to monitor compliance at such a minute level.⁷⁴

2. State leaders should re-examine their states' legal requirements and identify areas for agency improvement. Our review suggests that state education leaders can do more to improve the performance of their departments. States such as Arizona and Louisiana prove that these changes can be accomplished. Lisa Graham Keegan, Arizona's former superintendent of public instruction, leveraged the SEA promotion process to move positions out of the civil service class. In Louisiana, Paul Pastorek, the former superintendent of education, worked with the legislature to change the laws governing the structure of the state's department of education. In each of the five strategic areas described above, state leaders often have more flexibility than they execute. While the cultural and external forces are real, there is still a great deal more that state education leaders can do, especially in skill development and performance evaluation, to improve the work of SEAs.

3. State policymakers—legislators and state employee organizations—should streamline civil service processes to improve state education agency operations. State policymakers should work toward streamlining civil service-related processes. Policymakers should consider following Tennessee's example described above and expand the membership of civil service adjudication boards to allow for more grievance reviews to take place simultaneously. In addition, policymakers should ensure that state leaders can make employment-related decisions based, at least in part, on results of employee evaluations, particularly when considering employee layoffs due to reduced budgets. Under improved civil service models, state education leaders would be able to execute personnel decisions, particularly terminations, in a more timely and fair manner as they would be based on more reliable evaluation systems. Moreover, state leaders could make bold management decisions, such as introducing new responsibilities for employees to implement new reforms, and they could expect to encounter less red tape in the employee appeals process.

Conclusion

In this paper, we explored the laws and regulations governing state agency management in a small sample of states and demonstrated that what is not explicitly spelled out and defined in these laws and regulations governing SEAs are, quite literally, open to interpretation. In fact, it is state education leaders' work in the spaces that are not specifically defined that might be behind the important advances in performance management that are taking place in leading-edge SEAs across the country. In his book *Cage-Busting Leadership*, education scholar Frederick Hess defines the "cage" as bars, real or perceived, that restrict leaders' actions. He notes "It's become clear to me that much of what leaders say they can't do, think they can't do, or just don't do is stuff they are already able to do. ... The problem is they don't know they can. Or don't know how to get started. Or are too nervous to try. Or have never been taught they are supposed to push."⁷⁵

Hess suggests that it might require "fresh eyes" to see how to breakthrough counterproductive constraints.⁷⁶ But this should not always require a change in leadership. One could imagine current leaders seeing their work in new ways, which should be encouraged.

Over the next two years, states will manage the implementation of large-scale education reforms. Implementing the Common Core and new teacher evaluation systems could perhaps be the two most significant reforms state agencies face today, leading to the question: Will state departments of education have the staff they need to make these ambitious reforms a reality?

It will certainly take various kinds of support, including the flexibility in hiring, performance evaluation, and compensation. But it will also require state leaders to continue to be bold in building SEAs that embody their set of well-articulated priorities. Sometimes, this will involve cutting red tape through mechanisms such as those described above, including negotiating, hiring-above-minimum

arrangements or creating cross-functional groups. At other times, it will require that state education leaders acknowledge that some constraints holding them back are “illusory and self-imposed,” as Hess has described.⁷⁷ In either case, state education leaders will need to continue to find ways to attract the best and brightest talent and to enlist needed support to enable their staffs to meet new challenges and demands. This report serves as a useful guide to the leaders of state education agencies and the policymakers who oversee the work of these agencies.

** Correction, June 19, 2014: This report incorrectly identified Melissa Junge and Sheara Krvaric’s occupation. They are attorneys.*

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