



MANAGEMENT ANALYSIS & PLANNING, INC.

## **WYOMING EDUCATION FINANCE**

# **Wyoming Education Policy Alternatives: Complying with the Recent Campbell Decision**

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**Wyoming Education Policy Alternatives:**  
Complying with the Recent Campbell Decision

A MAP Inc. Issues Paper

by

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**Summary**

Wyoming has experienced three decades of contentious school finance litigation. Through four major decisions, beginning in 1971 and stretching to 2001, the state highest court has held that K-12 education: (1) is a constitutionally protected “fundamental interest” that must be guaranteed by state government, (2) cannot have its quality jeopardized by considerations of wealth, other than the wealth of the state as a whole, (3) must, in the court’s terms, be “proper,” “the best,” “unsurpassed,” and “visionary,” and (4) must have its funding assured ahead of all other state endeavors.

The Court’s, February 23, 2001 ruling in *Campbell County v State*<sup>2</sup> accepts the MAP Inc. “Cost Based Block Grant” education finance model as constitutional. This most recent decision, nevertheless, poses for the Wyoming legislature an unusually complicated set of decisions. The Campbell II decision, taken in tandem with its predecessor, Campbell I, creates dual or overlapping authority. It invests important decision making power, about how to achieve “the best” and “visionary” education system, both with local districts and with the state. This overlap in authority could presage conflict.

Strict adherence to the Supreme Court’s dictates risks having to spend more state funds on schooling than may be cost effective to meet the Court’s specified goal for Wyoming of having an “an unsurpassed” education system<sup>3</sup>. Alternatively, efforts by state officials to render

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<sup>2</sup> This paper refers to this case as Campbell II. Also, throughout the community of attorneys, scholars, and policy analysts that engaged with this type of legal situation, the term “adequacy” is used to refer to conditions such as now prevail in Wyoming where a court is concerned with ensuring that each student has access to a good education, not simply an equal education. In this context, “adequate” means sufficient to meet the legislatively defined “best” program, not minimal.

<sup>3</sup> In this context, terms such as “best,” “visionary,” and “unsurpassed” refer to programs for students, i.e. those that best meet students’ needs—not necessarily education programs that simply cost a great deal of money. Indeed the history of education “reform” is replete with unusually costly and well-intended programs that have provided little benefit to students. A classic case is the spending of \$2 billion by the Kansas City Missouri school district, at a court’s direction, to construct lavish facilities. The intent was to

the education system cost effective, through direct state operation of or strong oversight over local programs, could substantially curtail the state's historically valued local community influence over schools.

This paper provides and suggest a means for appraising alternative policy arrangements for meeting Wyoming court mandates regarding education equity and adequacy while striving to preserve other preferences, e.g. citizen involvement and economic efficiency, important to elected officials.

This paper describes, but does not advocate, the following policy alternatives:

- A single state education system
- A single state education system with a capacity for charters or contracts
- A local district operating system with multiple state categorical aid programs
- A local district operating system with a monitored cost based block grant

All of these options are thought to enable the legislature to comply with the Campbell decisions. However, each does so while favoring a different set of values. The first two options take efficiency and cost effectiveness heavily into account. The second two alternatives weigh local control more heavily.

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have buildings that would induce white children to return to previously racially segregated schools. The experiment failed. Taxpayers continue to bear the cost. See Ciotti, Paul in *Policy Analysis, Money and School Performance, Lessons from the Kansas City Desegregation Experiment*, *Cato Policy Analysis No. 298* (March 16, 1998).

## **Introduction**

The last three decades of education finance in Wyoming have been complicated and contentious. “*Hinkle*,” “*Washakie*,” and “*Campbell County*” may not yet be household terms among Wyoming’s lay public, but these state Supreme Court cases, nevertheless, have had a dramatic practical impact on the way in which the state now finances and governs public education. Moreover, they also hold the prospect of shaping these policy dimensions well into the future.

Judicial directives aimed at achieving greater equality have led to session-by-session legislative changes in education finance. These step-at-a-time remedial responses have resulted in a state-dominated education finance system<sup>4</sup>. The dilution of historically treasured local school district control over matters such as tax rates and spending levels might baffle a returning 19<sup>th</sup> century great plains settler and today’s governance system would be barely recognizable even to a mid-20<sup>th</sup> century Wyoming citizen. Lay controlled, proudly independent, community identifiable, local school districts may persist in the memories of some persons, but for the most part such arrangements now belong more to the mythology of Wyoming’s past than to the practical reality of the present.

Moreover, the Wyoming Supreme Court’s most recent (February 23, 2001) Campbell County decision portends even more centralized education decision making in the future. In this case, the Court accepted as constitutional the MAP Inc. constructed, “Cost Based Block Grant” education finance model. However, as consequence of other components of the decision in Campbell II, Wyoming may be on the lip of a serious issue. We refer here to a conflict between court mandated remedies that, on one hand, increasingly centralize decision making and accountability and, on the other hand, allocate to local districts control over the costs of instructional programs for disadvantaged and handicapped children.

MAP is agnostic regarding the value of needed changes. Our role as consultants is not to take sides, but rather to distill, and, when directed, to propose alternative solutions. Thus, this paper neither questions the courts’ wisdom nor advocates particular policy positions. Its purpose is to inform readers who have not been immediate parties to the relevant components of Wyoming education finance and to provoke discussion regarding policy alternatives.

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<sup>4</sup> In its Campbell decisions, the Wyoming Supreme Court has made clear its preference that the education system be regarded as a “state system.” For example in Headnote 21 of Campbell I, the Court opines: “The plain meaning of our state constitution’s Education Article left no doubt the legislature completely controlled the state’s school system in every respect, and the matter of providing a school system as a whole and financing it is a responsibility of the legislature....In view of this determination that an education system is a function of state control, it would be paradoxical to permit...local control.” In Headnote 22, the Court continues: “There cannot be both state and local control in establishing a constitutional educational system.”

### **The Problem in a Nutshell**

Several reciprocally interacting components of the Campbell II decision provoke consideration of new means for governing and financing Wyoming education.

#### A Question of Who is Empowered to Determine “The Best.”

One dimension of the court’s decision may induce the state to spend more for schooling than provision of a “visionary,” unsurpassed, and “best” education system realistically necessitates. In effect, the provisions to which we refer here may dilute the state’s capacity to ensure public funds are used in a cost-effective manner.

However, if the state acts consistent with other provisions of the Campbell decisions, if it attempts to implement cost effectiveness strategies that the Court apparently is willing to accept, then it jeopardizes historically valued local citizen participation and local district responsiveness to parent and citizen preferences<sup>5</sup>.

Here is a specific example of the problem. On pages 26 to 32 of its February 23 2001 decision, the Wyoming Supreme Court makes continued references to the insufficiency of the existing education finance model accurately to price services provided to at risk and special needs students. The court’s solution for this alleged deficiency, in the absence of precise social science knowledge of what such services should cost, is for local school districts to offer services of their design and the state fully to reimburse local district costs for these services.

The court then specifies that the state can control these locally determined costs by direct oversight. It is this latter notion of oversight that leads to a prospect, should it strive to ensure cost effectiveness, that the state will have to exercise a heavy hand.

By empowering both local districts and the state to determine what funding is needed to provide the “best” and “visionary” education system, the Court has created a potential conflict. The question becomes, “When determining the best education, who should decide, local or state officials?”

#### Misconstruing Competitive Market-Determined Costs with Average Costs.

Other features of this complex legal ruling exacerbate the above-described fundamental problem of who is in control, state or local education officials.

For example, in Campbell II the Court accepts the MAP constructed current “Cost Based Block Grant Model” as fundamentally constitutional. Nevertheless, there are subcomponents of this model the Court requires be altered. For example, vocational education services must be funded, and the instruction of Educationally Disadvantaged Youth (EDY) and Limited English

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<sup>5</sup> Whereas elected officials have seen fit over time to operate education through local school systems, the Supreme Court, in Campbell I and Campbell II, has made it clear that this convention, while perhaps attractive historically, is not consistent with the Court’s modern interpretation of the Wyoming constitution.

Proficient (LEP) classes are held by the court to be insufficiently cost based. The legislature is required by the Court to correct these conditions.

In constructing the existing education finance system, MAP relied upon Wyoming professional educators and other professional sources to construct an instructional program that can deliver the “the best” education, consistent with the Court’s mandate and legislative specification. Then, MAP determined the costs involved in each component of the model by turning to competitive economic markets to establish the “price” of component goods and services. e. g., teacher salaries, instructional supplies and equipment, and medical insurance.

However, the Court appears to discount the concept of competitive economic markets for determining costs of the “best” education<sup>6</sup>. The Court refers to the MAP model as being based upon “average expenditures.” This is accurate only in those instances in which the MAP model could reasonably assume that “average spending” reflected prices that would prevail in a competitive market. For example, school districts buy textbooks in a national market. MAP could, in that instance, reasonably assume that this was a competitively derived, or market based price. It was justifiable in such circumstances to rely upon an average spending figure.

The court’s reluctance to acknowledge the economic market underpinnings of the MAP education finance model may prove to be more than a small technicality, and here is why.

An absence of competitive market mechanisms for determining the cost of “the best” education sets the stage for state school spending to rise as a consequence of local school districts’ budgeting decisions. (A reader should keep in mind that these are the same local authorities that elsewhere in its Campbell decisions, the Court makes clear are subordinate to the state.)

Here is an illustration of how the Court’s positions regarding the market-based nature of the current “Block Grant Model” and the embryonic status of social science findings place Wyoming at risk of excessive or ineffective spending for education<sup>7</sup>.

Imagine a local Wyoming school district genuinely intent on better serving disabled and low income students. As a part of its strategy for so doing, it decides that it must employ larger numbers of instructional aides. There is little or no social science evidence that such a strategy enhances student learning<sup>8</sup>. Still, under Campbell, the state will either be responsible for

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<sup>6</sup> See page 18, paragraph #50 of the Campbell II decision for verification of the Court’s interpretation of average expenditures. Paragraphs #68 and #69 on page 26 provide further evidence of the Court’s position on “market mechanisms” as a means for determining cost components of an adequate financing system.

<sup>7</sup> “Excess” in this context refers to spending beyond either what research results would suggest as necessary to achieve “visionary” or “best” or what the market would determine to be “adequate” for delivering a “proper” education. In other words, “excess” refers here to components or procedures that may not be cost effective, i.e. wasteful.

<sup>8</sup> A recent sweeping study of the policy and practical components associated with education performance finds no significant relationship between deployment of teacher aides and student achievement. See Grissmer, D., A. Flanagan, et al. (2000). *Improving Student Achievement: What State NAEP Test Scores Tell Us*. Santa Monica, CA, RAND.

assuming the costs of such added personnel or will have to intervene and tell the district that this plan is, at least in part, inappropriate and unallowable.

Assuming state approval of the instructional aide strategy, then the additional personnel expenditures may now figure into the next statewide computation of “visionary” and “unsurpassed,” and the price of adequacy is, thus, ratcheted upward.

Campbell II, at footnote # 40 on page 38, suggests that the state’s long run expense exposure might be more intense than depicted above.

Here is the footnote verbatim:

We can foresee an argument that some school districts spend excessively on school activities due to local preferences. Again, the state has authority to set standards for school activities and decline to fund those activities which (sic) do not meet the standards. If school districts determine additional activities are desirable, although not authorized by state standards, those activities may be funded by local funding enhancement.

This footnote illustrates the legislature’s apparent dilemma. As explained by the Court, the state may possess authority to control school district costs, but in the process it must monitor and perhaps override local preferences.

Further, does this above quoted Campbell II footnote imply that a local school district can elevate its local property tax rate or impose some other kind of tax to pay for school services beyond the state approved and fully funded adequacy model? If so, are the additional local expenditures then to be considered in a new statewide calculation of base spending to determine what is “adequate” for future funding? Does this mean that local district spending increases, thereafter, expose the state to added expenses? Does the state now have to equalize the ability of each school district to spend in excess of what the state has decided is “adequate?” If the answer to such questions is “yes,” then the state’s interest in attempting to control local school district costs are intensified.

We make no allegation here that local school districts intend to act in bad faith or exercise poor judgment. Rather, the following example is used to illustrate the point. What if a local school district decided to construct and operate an Olympic swimming pool complex or to pay its superintendent \$200,000 annually. Would such expenditures then become part of the base that was subsequently calculated to be necessary to provide “the best” and “visionary” education system?

Overestimating the Current Capacity of Social Science

If social science evidence were stronger, one would have a better idea of how to structure cost effective instruction programs for Educationally Disadvantaged, Limited English proficient, and disabled students. Once knowing what the components of such programs should be, then it would be possible to determine their appropriate cost. Throughout its education finance system design efforts, MAP has relied on the best social science and professional judgment to estimate costs. However, social science does not presently enable one to determine precisely what these special services should be or should cost<sup>9</sup>.

Answers to such questions and resolutions of such tensions may or may not eventually emerge from court opinion or other government actions. What is clear, however, is that Campbell II places state officials in a difficult situation of either exposing the state to added school expenses or more heavily regulating the preferences of constituents at the local school and school district level.

Are there governance and finance mechanisms than can address or mitigate this dilemma? Are there means for simultaneously balancing the court's mandates for equity and adequacy and buttressing citizen decision making?

This is the subject for the following sections.

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<sup>9</sup> In footnote #24 on page 27, the Court specifies that the state can control these costs by direct oversight. It is this latter notion of oversight that leads to the prospect, should the state strive to control cost ineffective expenditures, of the state having to exercise an increased regulatory hand.

## **Criteria by Which to Judge Alternative Proposals**

Government is continually challenged to balance the practical expressions of three fundamental values, equality, efficiency, and liberty or individual or local determination (local control in the context of education). Far from being abstractions, these values have practical day-to-day expressions, be it in education or in other policy sectors. Traditionally it is the role of elected representatives to arrive at the balance among these values.

Because of their consequences, these values are illustrated here. Later in this paper, they are used as a practical template against which to appraise legislative policy alternatives for Wyoming's education finance system.

*Equality.* Wyoming has experienced three decades of judicial efforts to influence the state's education finance system. These judicial conclusions seem to express the Court's view that the equity of the system is of paramount concern. "Equity" here means students must receive a good, indeed an "unsurpassed" or "best," education, no matter where they reside, regardless of the wealth of their community or family. Equity also translates to ensuring that the state's funding of schooling must accurately reflect the costs involved in delivering a good education, and the characteristics of each individual student must be taken into account in ensuring that he or she has access to good schooling.

However, there are values in addition to "equity," values to which the Court has paid less attention.

*Efficiency.* In its thirty years of school finance decisions emphasizing "equality," the Wyoming court subordinates the value of "efficiency." This stands in contrast to the frequently expressed will of the legislative and executive branches of government. A state legislator or governor may willingly want to comply with the court's education finance mandates, but simultaneously may be faced with an electorate reluctant to forego funding of highways, criminal justice, health, or environmental protection. That same electorate is also likely to eschew added taxes. Increased taxes lead to a keen citizen interest in efficiency. Moreover, elected officials have no guaranteed tenure in office, and are, thus, usually loathe to ignore citizen opinion.

A problem arises when the legislature attempts to comply with the Campbell Court's equity rulings and still maintain an efficient or cost effective system for spending the public's money. For example, mixing state funding with local funding, the way in which Wyoming financed education prior to enacting the Cost Based Block Grant Model, was justified in part on efficiency grounds.

The fact that, previously, some of the money a district spent was generated locally meant that it came out of school board members' and their neighbors' pockets. After all, it was their money too and if they did not want it wasted, then they would pay keen attention to the decisions of their local school board. If all the money comes from "Cheyenne," then this fiduciary feeling may not so easily accompany money perceived as provided elsewhere, by the state or federal government, for example. Too often, money from a distant capital, state or federal, can be a beginning of a rationalization for inefficiency.

*Local Control* The Wyoming Supreme Court also has paid little attention in its decisions to the value of “liberty” or its day-to-day expression in citizen choice and responsiveness. For more than 350 years,<sup>10</sup> most states in the federal union have grounded their school operation in local government<sup>11</sup>. Wyoming, until recent efforts to comply with education finance judicial decisions, was no exception. Local school districts with elected citizen boards were accorded important authority for tailoring the quality of schooling to the preferences of communities. For example, local school boards could, within state specified boundaries, establish property tax rates, employ and decide the pay of executives, establish the school curriculum, design student attendance boundaries, construct budgets and oversee allocation of school finances, and decide upon the quality and location of school buildings.

Local control is a form of liberty that arises from self government. Local control, of the variety Wyoming once had, is presumed to have major benefits. For example, one can presume that education programs have greater fit with local preferences when designed by local decision makers. The latter are generally conceded to possess more detailed knowledge regarding community characteristics and students needs. This is held to be less wasteful than when programs are designed and implemented by remote and possibly less informed parties, say in the state capital. If a school district’s customers want classes in drama rather than computer programming or welding, it is conventionally thought that they should be able to make this decision locally, without having to petition a state agency for permission to frame their school curriculum.

Local control is generally held to reduce risk. Local school boards and their employees can certainly make mistakes. However, when that happens, consequences are constrained to a single setting. Conversely, the larger the decision unit, say a big city, a county, a state, or a nation, the greater the probability of exposing a far broader audience to risk.

One cannot claim that local school boards always make good decisions. The media repeatedly offer stories recounting bad judgment. Bad decisions are not restricted to local officials. Bad decisions can plague state and national actions as well. However, bad decisions on a state or national level can have wider consequences.

Critics of local control, or at least maximum local control, quickly assert that when a state fails to finance schools adequately, it grants uneven charters of opportunity. Local control may be beneficial, when local resources are sufficient. Local control regardless of how precious, cannot compensate for low levels of local wealth.

However, are there not means that might better balance court mandates for education equality and adequacy with other preferences for education efficiency and liberty, or local community and citizen education choice?

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<sup>10</sup> Since the 1647 adoption by the Massachusetts Commonwealth of the “Ye Olde Deluder Satan Act” that specifically rendered schooling a lay controlled government function of special local government.

<sup>11</sup> The largest exception is Hawaii, which was accorded status as a Territory and later statehood having previously been a monarchy. Hawaii had been consolidated under King Kamehameha and did not have a history of municipal government like other states.

Yes there are, and such is the subject of the following section.

## **Legislative Policy Alternatives**

There is almost an infinite variety of means by which Wyoming elected officials, in an effort to comply with Campbell I and II, could redesign the existing system. From the spectrum of alternatives, four archetypes have been distilled and described below. In fact, components of these four can be mixed and matched.

If one imagines a decision or authority spectrum anchored at one end by centralized decision making and the other end by decentralized decision making, then what follows illustrates four different points on that continuum. This practical spectrum places a powerful state education agency on one end, and local school district on the other end.

The following description begins with a centralized alternative, one in which state government operates and regulates all local schools throughout Wyoming.

The second policy alternative continues the idea of state regulation of education but allows for vendors or private providers to deliver instruction under a charter from the state.

The third alternative places heavier than at present decision making with the state, but enables local districts to continue to make operating decisions, such as hiring teachers.

The final alternative keeps many of the current functions of local school districts intact, but accords the state a higher oversight role.

Before beginning such descriptions, however, a reader should understand that what follows is analysis and not advocacy and no appraisal is offered regarding the political feasibility of an alternative.

### **A Single State Education System.<sup>12</sup>**

A single and uniform state system would no longer involve local schools districts in activities such as the setting of the school curriculum, hiring of teachers and administrators, selecting course grading criteria or report card formats, or purchasing textbooks.

Rather, a statewide education system would be a component of the Wyoming executive branch. It might have a statewide school board such as presently exists. Such a board could either be elected or appointed. If appointed, then decisions would have to be made as to the nature of the appointing authority, the governor or some other authority. Alternatively, education could simply be a component like others, e.g., the highway department, of the executive branch and have a chief executive who reported directly to the office of the governor.

Under either scenario, either with or without a state board of education, be that state board elected or appointed, the education administrative agency would need a chief executive officer. It would not be sensible, and would badly dilute accountability, to have the chief

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<sup>12</sup> Only the state of Hawaii presently meets the profile about to be described in this section.

executive officer elected statewide, as now occurs in Wyoming. Rather, the chief executive should be appointed, either by the state board or by the governor. If the latter, then the education chief executive, presumably, would become a member of the governor's cabinet.

The above referenced, reconstituted, state education department would oversee and operate a statewide education system. It would have two broad kinds of functions. One function would be an operating component performing many of the activities now undertaken by Wyoming's local school district central offices.

The state's operating arm for schools would recruit, employ, and induct classroom teachers and other professional educators and assign them to schools, or at least to regional offices, throughout Wyoming. It would regularly pay teachers and other employees. It would also select and purchase items such as, school buses, supplies, petroleum, food, and all the other goods and services that schools consume<sup>13</sup>. It would directly determine or assign to regional offices the responsibility for determining student attendance boundaries and the location of new school buildings.

In addition to this operating arm, the newly empowered state education department would continue in its current role of interpreting policies made by the legislature, and possibly by the state board of education, and move to implement them via directives to local schools. The state education department would also have responsibility for directly overseeing the administration of federally funded education programs.

Teacher credentialing provides a good example of how the state would have a dual role in a single state school system. The new state education department would have responsibility for interpreting and implementing legislation regarding teaching training and other qualifications, credentialing, and would also be responsible for ensuring that the teachers it was itself hiring and assigning to local schools possessed appropriate credentials. This latter function would formerly have been undertaken by a local school district. Now it would be a state responsibility.

School principals, teachers, and other school employees throughout Wyoming would be employees of the state. They might be supervised directly by state officials, either centrally or out of regional state education department offices. A state agency would be responsible for setting salaries of teachers and administrators, using a process similar to that now used to establish salaries for other state employees.

Equity, or at least equal treatment of students in equal situations, would be maximized through state control of education's mission, money, and measurement. Taxation would be statewide for education support. Local districts and local district taxing authority would be abandoned. Educators would be state employees paid consistent with a statewide salary schedule. A state agency would be responsible for constructing student performance standards, tests and measurements, teacher training criteria, hiring, and compensation, administrator standards, transportation standards, etc.

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<sup>13</sup> Current constitutional provisions specify local purchase of textbooks.

Financial resources, in a single state system, would flow from a state agency to individual schools, not to a school district. The state would assume all existing local school debt-service obligations. A school's financial and personnel resource level would be a function of state formulas. School construction, both its financing, planning, and oversight would become the responsibility of a state agency.

Arrangements such as these would presumably facilitate compliance with Campbell and simultaneously provide the state with greater control over resource allocation and matters of operational efficiency. By operating the entire system, the state, some might argue, could exercise better control over program quality, spending and, presumably, ensure greater operating efficiency.

By moving to a single, and uniform, state system, Wyoming could save money from the following consolidations. There would no longer be a need for school boards and local school board elections. There would be no more local school district bond and debt service elections. School district superintendents and all central office staff would be eliminated. School district offices would not have to be operated, and utility bills would be reduced. There would be no such entity as a "Small School District," and as a consequence no need for an adjustment for such districts.

The tradeoff involved in a full state system would be in citizen participation and responsiveness to local preferences and conditions. In order, at least partially, to compensate for such deficiencies, the state might well choose to have local parent advisory boards at each school to assist principals in the design and conduct of the school's program. Additionally, consideration could be given to permitting schools to make trades between budgetary categories.

Regardless of how wrenching such a change might appear in the Wyoming context; it would not be without operational counterparts. Most of America's children attend school in large systems. In fact, 25 percent of students attend school in only 1 percent of the nation's districts. With fewer than 100,000 enrollees, and on a declining student population trajectory, a Wyoming statewide system would still not rank among the nation's two dozen largest school districts.

#### **A Single State Education System with a Capacity for Charters or Contracts<sup>14</sup>**

This policy alternative places the state (through an education agency) strongly in control of Wyoming's education's mission, money, and measurement and leaves instructional methods and school operation and management to individual vendors or "contractors."

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<sup>14</sup> The logic of statewide charter or contract competition can be extended to empowering households to become the principal education decision making unit by providing them with vouchers redeemable only for schooling. Under such a system, private vendors, presumably, would be induced to come to market to offer school services and families would choose from among an array of school offerings. This issue paper does not describe a statewide voucher plan as an alternative because of the relatively small markets in Wyoming. It is difficult for a voucher plan to operate in the absence of competitive schools and Wyoming's small population and residential sparsity argues against much competition in this vein.

Under this scenario, there would again be no local school districts. There might be regional state offices. The state education agency might have a governance arrangement paralleling that outlined in the prior description of a uniform state system. Here, there might or might not be a state board of education. It could be elected or appointed. These matters are at the legislature's discretion. If not a state education board, however constituted, then education might be an agency in the executive branch under the direct administration of the governor. Presumably, the governor would appoint the chief state school officer, in circumstances where there was no state board of education to undertake such an appointment.

In this policy alternative, unlike its previously described model, the state education department would not have an operating arm. It would still have a regulatory arm, but would not itself manage schools, employ educators, issue pay checks, purchase textbooks, buy or operate buses, etc.

Instead, in effect, the state education department would outsource the operation of local schools. Contractors would respond to Requests for Proposals (RFP's) issued by the state. They would bid to operate state schools. In effect, each school or group of schools would be charter schools. The nature of the charter would be at the discretion of the state education agency.

The purpose of an individual school, its expected standards of performance for pupils, its generalized mode(s) of instruction<sup>15</sup>, its spending level, and the means by which its performance would be judged could all be part of a bidding and contracting system.

Local school districts, at least as now known, would disappear. An RFP would describe the student population to be served and the outcomes required to be produced and bidders would agree to produce stated outcomes for an agreed upon fee. Vendors failing to produce desired outcomes would lose their contract. Arrangements could be made for vendors to lease and pay existing debt service on school facilities. Statewide arrangements could be made to assist in a transition of teachers from a state retirement system to a system of individual employment retirement accounts.

Who might bid to operate a school or several schools for the state? Not-for profit organizations such as the YMCA might bid. Perhaps the Wyoming Education Association would bid to operate a school. Perhaps a joint venture submission involving administrators and teachers who would like to bid to continue operating their present public school. Perhaps a private profit seeking firm such as Edison or Sylvan Learning Systems would bid.

The principal differences between such a statewide system of charters and the status quo are (1) that teachers, classified employees, such as custodians and bus drivers, and administrators would no longer be public employees<sup>16</sup>, (2) there would be no local school districts, and (3) more

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<sup>15</sup> The state might specify, in an RFP, that it was seeking a particular instructional strategy such as a Montessori School, A Waldorf School, etc. However, one would expect that, generally, it would be left to vendors to describe their instructional strategies and for the state to decide what was best for the local setting involved.

<sup>16</sup> They would be the employees of whatever company or organization held the contract with the state to operate a school.

decisions regarding the strategic direction of schools would be made by the state through its issuance of contracts to vendors. Few decisions regarding the operation of schools would be made at the state level. The state would provide mission, money, and measurement. Independent vendors would provide management. Presumably, as long as vendors produced expected outcomes, the state would not interfere.

A statewide charter system could ensure compliance with Campbell. For example, by specifying levels of service or outcomes for at risk students, the state would set a standard and maintain oversight. If vendors failed to bid on such a contract, claiming that there was insufficient financing to comply with the at risk service specification, the state would know that resources were inadequate and would have to elevate them. Simultaneously, by issuing "Requests for Proposals (RFP's)", and thereafter contracting for services, the state would retain control over costs. Market competition would set the actual cost. The state would know precisely what it cost to deliver the "basket."

The state could enhance citizen participation by enlisting parental and citizen assistance in designing the Requests for Proposals for a community's school. Thereafter, the state could let parents interview bidders. Finally, by enabling parents in sufficiently populated settings to choose their child's charter school, an element of competition would be inserted into what is now a monopoly situation. Vendors could not survive if parents did not choose to attend their schools, at least where household choice of schools was practical. This would elevate accountability.

Many questions are raised by such a vastly different approach to the operation of local schools. Would such a plan require a constitutional amendment? How would the state make a transition to such a plan? Is it not unlikely that all public schools in Wyoming could be converted quickly? What would happen if an insufficient number of suppliers came to the market would the state have to continue to operate small schools in rural areas? What would be the role of the state if a vendor defaulted on the operation of a school?

Answers to many such questions have been generated in other contexts, and could be constructed for Wyoming. However, it is sufficient here to explain that the design of a statewide charter system is complicated and would take time and patience.

#### **A local district operating system with multiple state categorical aid programs**

This policy variant retains local school districts, but substantially constrains their decision authority<sup>17</sup>.

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<sup>17</sup> Another variation, or archetypal point on the continuum of centralized to decentralized control, consist of school district consolidation. For example, it has been suggested in a newspaper editorial that the state consider consolidating Wyoming's current 48 district into countywide units. Under such a scenario, Wyoming would reduce its local school districts by more than half. This might be a good idea. MAP Inc. neither endorses nor opposes the idea. The reason that it is not explored more fully in this policy alternatives paper is because the consolidation suggestion fails to deal with issues posed by Campbell II. Twenty-three districts, instead of forty-eight districts, does not by itself ensure that cost effective program decisions will be made. Such a consolidation, however, will erode local control further.

“Categorical” in this context refers to the manner in which a state’s funds can be used by local officials. If the state constructed “categorical” programs, for example, for vocational education, special education services for disabled students, instruction for at risk students, and programs for limited English proficient students, then the state would want to ensure that specified funds were in fact spent either upon target groups, on the goods and services specified in the formula, or both as intended.

The “categorical programs” would be necessary to comply with Campbell I and II dictates regarding the protection of various special needs children, disabled, limited English speaking, etc. Only by specifying funding for special programs, could the state ensure that specifically provided resources were being spent as intended.

School districts would retain locally elected officials and appointed chief executives. A local district, as now is true, would determine the major portion of its curriculum, employ and send paychecks to teachers, determine attendance boundaries and policies, hire administrators, arrange student activities programs, and otherwise perform many present functions.

However, and here is where this policy alternative would differ most dramatically with the status quo, school districts would be obligated to spend eligible funds in the manner quite close to that specified by the state formula.

Under this alternative, in addition to the possibility of a “core” operating grant, the state would make “categorical” funding available to the district and its schools. These funds would be targeted for the provision of a variety of additional programs for students with special needs and interests. A district or school could spend categorical funds only in keeping with state specified purpose for their use. A district would likely be subject to heavy fiscal accountability for such specialized funding.

The enforcement of “categorical” funding can occur in either or both of two ways. “Categorical” can mean either that funding is spent for a target group of students, say, disabled students, or is spent on a set of goods and services specified by the state. It can also be interpreted in both these ways.

For example, if the Wyoming elementary school distribution formula generated a teacher aide for every five low income students, then a local Wyoming district would have to ensure through accounting procedures that it had so complied. The fact that the superintendent or principal might decide such funds were better spent reducing class size would be of no consequence.

The State could decide that as long as revenues were spent on the targeted category of student, how they were spent was left to local operating officials. Or, the state could determine that the funds had to be spent for state specified items such as aides, or supplies, or computers. Finally, the state could decide to enforce spending on both the target clientele and the specified goods and services.

The MAP designed cost based, block grant model adopted by the legislature in 1997 was deliberately constructed to minimize categorical funding. Thirty years of experience with this strategy in other states and with federal programs had revealed its deleterious effects. Each categorical program promotes formation of a political constituency that then seeks to protect its interests, at the risk of interrupting the operating integrity of the overall school program.<sup>18</sup> However, in the Wyoming context, the possible advantage of such a categorical program would be simultaneously to comply with Campbell II and to preserve local school districts.

**A local district operating system with a more heavily monitored cost based block grant**

This variant also permits local districts to remain. They would have many of the same functions as now, under the Wyoming Cost Based Block Grant Model. They would design their curricula, hire their teachers and custodians, design their bus routes, purchase their textbooks, etc. However, this alternative implies an increased state presence in local school districts through significantly enhanced state oversight and auditing necessary to comply with the Court's ruling.

To ensure that special needs and special interest students were served adequately and to ensure that the state was not unduly exposed to local districts spending funds in a way that was less than cost effective, the state would have to engage in significantly more oversight of local decision making. In effect, each local school district would have one or more state department officials (program monitors and auditors) responsible for approving its intended expenditures and, periodically, inspecting its actual practices.

Among the functions these state inspectors would perform is continually collecting information on the design, costs, and student performance outcomes of programs for special needs and at risk students. This sustained information gathering would comprise a useful feedback loop enabling the state continually to refine the provision and its funding of special programs.

Under this more heavily monitored or regulated Block Grant Model, districts would continue to be provided with decision discretion to trade funds from one spending category to another, at least for normal students. However, they might be obligated to prove that deviations from state funding formula norms in certain areas were justified. District spending discretion might be substantially curtailed.

Such a policy system leaves local school districts in place. Presumably, this would continue the practice of substantial local citizen influence over many school activities. Citizens would have access to a local elected set of decision makers and would not have to prevail upon state officials to try and shape a school decision.

However, this policy alternative would substantially constrain local decisions, at least in areas of special programming. The state could not afford to permit local decision to jeopardize the declared "adequacy" of a program for a protected class of students or a protected activity,

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<sup>18</sup> See Guthrie, James W. and James R. Smith, "Wyoming Education Finance Issues Report: Programs for Students with Special Needs," May 18, 1998 for a discussion of these issues in Wyoming.

such as instruction for limited English proficient students or vocational education. In order to protect students and programs, and protect itself against claims of inadequacy of instruction, the state would be forced to engage in greater oversight than it does now. Such monitoring would necessitate expansion of the state education department.

Still, regardless of whatever additions may be necessary for the Wyoming department of Education to operate, this scenario seems to require fewer changes to what exists than any other described here.

**Comparing Policy Alternatives**

The above policy alternatives can be placed on the horizontal axis in a matrix that contains values on a vertical dimension. The resulting template facilitates comparisons and evaluations.

<b>Value/Policy Alternative</b>	<b>State System of individual local schools</b>	<b>State system with contract schools</b>	<b>Local Districts and Categorical Aid Programs</b>	<b>State Oversight of Local Districts Receiving Block Grants</b>
Equality of opportunity for students	All similarly situated student treated the same	State issued contracts specifying equal treatment	Categorical programs designed to augment regular schooling	State auditors or "Inspectors" oversee provision of special services
Ensuring Provision of "the best" education	State responsibility exercised through direct operation	State responsibility through legal contracts with vendors	Local responsibility, state enforcement	Local responsibility, state oversight
Responsive to parents' and policymaker preferences	Only remotely sensitive to local preferences	Locals shape RFP's and choose schools through attendance	Remains as is, limited by state oversight of categorical programs	Remains as is, subject to heavier state oversight
Efficient and innovative use of tax revenues	Diminished by absence of local participation in revenue generation	Enhanced through vendor competition	Diminished by absence of local participation in revenue generation	Diminished by absence of local participation in revenue generation. Still, modest innovation possible
Employer	State	Vendor	Local District	Local District
Control of waste and fraud	State via direct operation of local schools	State via Market	State via Regulation	State via Inspection and audit

### **Conclusion**

Wyoming's existing finance and governance framework was constructed in an earlier era and assumed community decision making, local citizen influence, and historically dominant notions of effectiveness and efficiency. It is not clear that, if permitted to persist in their presently diluted condition, these previously designed arrangements can any longer serve the new ends expected of them, high levels of academic achievement, higher and uniform levels of revenue support, pupil performance accountability, and powerful interventions for at risk and special needs students.

One or a combination of the policy alternatives mentioned in Section IV may redress an imbalance of values