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# CHAPTER 4

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## Options to reduce the potential for tension in the State Board/Superintendent relationship

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### Chapter Summary

***We did not see consequences that compel radical changes in structure.***

The Superintendent and State Board are traditional institutions in Wyoming's state-level administration of education, and in the case of the Superintendent, in other important state-level governance arrangements as well. There are intangible as well as practical reasons for maintaining these institutions. Our research did not indicate that the current structure creates consequences compelling enough to make radical changes, such as abolishing the State Board or changing the Constitution so that the Superintendent is no longer a statewide elected official.

Thus, we present some options that apply to the sources of tension we learned about in our research, some of which borrow from other states with the same basic model. Implementing any of these options depends upon whether policymakers believe the potential for occasional tension is untenable, or whether they see value in the complex relationship now in place.

### Independent orientations could better communicate the roles of the two

***The Office of the Attorney General could provide an orientation to statutory duties.***

A basic step, and one which is already being implemented to some degree with the Board, is to conduct orientations on roles and responsibilities for both new Board members and Superintendents, preferably when the latter are candidates. A review of statutory responsibilities along with a frank discussion of the cooperation required by the state's governance arrangement could alleviate potential misunderstandings on the part of both. Moreover, Department personnel, who may tend to narrowly perceive the boundaries of the Board's role, could benefit from such an orientation. The Office of the Attorney General may be best positioned to develop this orientation to statutes, particularly if it develops a presentation more nuanced than a list of statutes and its 2003 informal opinion.

***NASBE offers orientation possibilities, as does a formal mentoring practice for new board members.***

All the states we contacted provide some form of orientation for incoming state board members to prepare them for their duties. These orientations may be in the form of sending board members to a three-day NASBE orientation, having department staff and the state board director provide orientation, or having current state board members mentor new board members. In some states, the governor's office sponsors orientations covering state government and board service that are required for incoming board members.

In Wyoming, the Department of Education's liaison prepares an orientation manual for Board members, and along with the Board chairman, conducts orientation at the new members' first meetings. But Department officials acknowledged that some of the manual's contents are dated and not consistent with practice. Further, the Board has not developed strategic plans in the manner required of executive branch agencies, with measurable objectives.

***Orienting Superintendent candidates about the scope and authority of the position is also an option.***

Orienting candidates for the office of Superintendent about the statutory scope and authority of the position is a more difficult proposition. Some of those with whom we spoke suggested that the political parties may be the appropriate entities to undertake that sort of communication about the distribution of statutory authorities. However, even with such a primer, candidates for Superintendent may not acknowledge in their campaigns those key issues that, practically speaking, at the most, they share with the State Board.

**Enhancing Board resources would allow it to secure more information**

The Board's inability to get information necessary to develop policy options other than through the Department is a key source of contention in the relationship. A solution would be for the Board to have a staff person to perform the duties it requests. Further, whether full- or part-time, this should be a policy analyst position rather than an administrative assistant so that the Board would have the ability to obtain some independent research on policy issues. NASBE says that boards need staff that will gather

***A dedicated policy analyst would help the Board to better fulfill its open-ended responsibilities.***

information, analyze it, provide alternatives, and make recommendations. Having an analyst would also enable the Board to better fulfill those open-ended statutory responsibilities such as establishing statewide goals for Wyoming public education, and initiating or facilitating discussions about improving education in the state. Under the existing arrangement, we sensed Department impatience with assisting the Board in those endeavors that do not directly relate to action items.

***Even with such an analyst, the Board would still rely upon the Department for comprehensive expertise on issues.***

Most of those we interviewed, including present and past board members and Department officials, believed that having a staff person empowered to get information from the Department, and possibly outside as well, would be a benefit. The Department currently provides administrative assistance to the Board in arranging meetings and other such logistical tasks. Under the former Superintendent, the position was dedicated full-time to this work, although the practice generally is to have a staff member from the Superintendent's Office provide this assistance part-time.

***Among other states with Wyoming's model, most have an executive officer for their boards.***

Even if the Board were to have an analyst position, the state's comprehensive expertise in educational issues would still reside in the Department, under the supervision of the Superintendent. Further, a one-person staff would not suffice for all the work the Department does in accrediting schools, drafting rules, implementing a statewide assessment, and the other duties statute assigns to the Board. Thus, the need for cooperation and assistance from the Department and Superintendent would continue.

The most common staffing arrangement among the other states sharing Wyoming's governance model is to have an executive director or executive officer and support staff for the Board. Only North Dakota is similar to Wyoming in appointing a department liaison to staff the board. However, that state's board has an extremely limited sphere of influence and authority compared the Wyoming State Board's wide range of responsibilities.

***Increasing resources could enable the Board to better represent their districts in state-level governance***

The Governor appoints seven of the Board members from the appointment districts in Figure 4.1. Both past and current

**Reimbursement has been for only meeting-related and out-of-state travel.**

members we interviewed spoke of the need to maintain contact with school boards, administrators, and citizens to learn how state-level policies actually affect the local school districts, and to relay their concerns. Further, Board members want to attend other educational meetings and forums throughout the state, specifically including meetings of the Legislature’s Joint Education Committee. Reimbursement for the costs of travel in these large appointment districts would facilitate this model of board involvement. To date, State Board funding has traditionally covered only the travel costs generated by attendance at Board meetings, and in the last few years, included additional funds for some members to travel to NASBE conferences. Thus, the Board may need additional resources to develop this representative role more fully.

**Different boards make varying commitments to this outreach role.**

However, the Board’s role in representing local districts is not universally perceived. Some say Board members do not usually bring forth input from the local districts, and districts communicate directly with the Department and Superintendent. Most agree that the State Board is much lower profile than the Superintendent, and that different boards make varying commitments to this outreach role.

Figure 4.1

**State Board Appointment Districts**

District	Counties
1	Laramie, Goshen, Platte
2	Albany, Carbon, Sweetwater
3	Lincoln, Sublette, Teton, Uinta
4	Campbell, Johnson, Sheridan
5	Big Horn, Hot Springs, Park, Washakie
6	Crook, Niobrara, Weston
7	Natrona, Fremont, Converse

Source: W.S. 9-1-218(b)

**A Superintendent vote on the Board could help to balance authority with accountability**

We found that the Superintendent has considerable influence on Board operations and decisions even though, by law, the position

***The Superintendent perspective is that the elected official's position should prevail.***

has non-voting status on the Board. Nonetheless, the Superintendent perspective is that the elected official's position should prevail, because of its implied accountability to the citizens. Superintendents' positions on the boards in other states with Wyoming's model vary, with some having no vote and no power to override the board, to one where the superintendent is the board chairman and by virtue of setting the board's agenda, exerts some control over its decision-making.

***A vote would give the Superintendent formal as well as informal influence on Board decisions.***

As noted earlier, in 1994 the Legislature deliberately removed the Superintendent's authority to decide controversies arising from the administration of the state school system involving rules or directives promulgated by the Superintendent, Department, or State Board. According to the Attorney General, the State Board has clear authority to set policy, and many interpret that as the authority to make final decisions that should not be undermined by the Superintendent (such as the Body of Evidence issue discussed earlier). By giving the Superintendent a vote on the Board, the Legislature could give that position some formal authority as well as the informal but forceful influence the position currently holds.

### **The Legislature could make the State Board an advisory body**

***With the Legislature's heavy involvement, there may be little policymaking left for the Board.***

A source of contention in the current arrangement is that the Board is charged with making policies and implementing key tasks that it has no way to accomplish other than through the Department. According to a NASBE official, a problem that state boards face in the accountability reform era is that they are required to implement policies, but have had little input into the legislation passed by legislatures. With the heavy involvement of the Wyoming Legislature, through the Joint Education Committee (JEC), there may be little policy left for the State Board to develop, other than over the implementation of policies essentially developed in legislation. However, in statute, the Superintendent has authority over the implementation agency, thus creating the potential for tension.

***The public comment***

If the Board were to have an advisory role over policy implementation, outside input on these decisions would continue

***aspect of rulemaking  
may suffice for  
public input.***

to come through the public comment requirement of the rule promulgation process. As for the standards, these have traditionally been developed in an inclusive process involving stakeholders from throughout the state. Similarly, the Legislature has set up statewide task forces to develop the statewide student assessment.

***The Board could  
focus upon purposes  
rather than means of  
educational  
improvement.***

In this scenario, the Board might focus more on its role of initiating and facilitating discussion regarding the need and means for improving education, and upon establishing statewide goals for Wyoming public education. It could focus more upon the purposes of standards, assessments, teacher performance evaluation systems, and other elements of the educational system, rather than the means. Board members have also said that developing a relationship with the Legislature and the JEC so that the Board has more involvement at the policy-development level is a goal.

The Board has important adjudicatory duties relating to private school licensing, charter school appeals, and approving or rejecting alternative school district schedules and proposals to form boards of cooperative educational services. Any changes to the Board's authority must make provisions for how these duties will be accomplished.

***Alternatively, the Legislature could focus the State Board on its decision-making responsibilities***

***The Legislature  
could repeal the  
Board's more  
philosophical  
assignments.***

Statutes give the State Board responsibility for comprehensive discussion and policy making that may be occurring to a large degree at the legislative level. If so, the Legislature could modify Board statutes so that they are more focused on those items in which the Board has a role in making decisions critical to the system's functioning, such as accreditation and standards, and acting in an adjudicatory manner to make the determinations discussed above. Focusing the Board in this way may alleviate some of the tension with the Superintendent and Department, which may not share the Board's interest in pursuing its more open-ended and philosophical tasks.

***The Legislature could maintain the current***

## arrangement

***However, the issue of how the Board will “implement” would continue to create discord at times.***

In roughly the last two decades, the Legislature has passed two major overhauls of the Superintendent and State Board statutes, and made changes to both schemes to reflect school reform requirements. Most with whom we talked agreed with the Attorney General that the assignment of authorities now is clear, but contention arises with how the Board will prepare itself to make its decisions, and then carry them out. The Legislature has continued to assign the Board implementation roles when there is no practical way for it to implement anything without the Department, which is controlled by the Superintendent. The Legislature has woven an intricate web of interdependence that is not always clear or comfortable for either.

***This intricate web of interdependence may not be altogether bad.***

Indeed, some lack of clarity in a governance structure may not be altogether bad. This point of view was eloquently expressed by a former Wyoming Superintendent who testified in opposition to a restructuring proposal floated during reorganization of state government. She stated that despite various shortcomings and problems, Wyoming’s system “works effectively,” and went on to add:

“There are admitted ambiguities within the education governance system. Some students of government assert that they are inadvertent; others, that a complex system must have room for overlapping jurisdictions, duplication of duties, and even the absence, in some cases, of explicit delineation of responsibilities. Nevertheless, over time, the members of the system have accommodated one another in a manner that allows the system, though not monolithic, to work effectively.”

Thus, if it sees the occasional tension as a healthy indication of a good system of checks and balances, the Legislature could make no changes, and leave the responsibility for making the current system work with those who are directly involved. According to many we interviewed, the system has worked well before, although it took dedicated effort and leadership on the part of the participants.

## **Decisions on options come down to deciding whether and how to benefit from a lay board at the state level**

### ***How best can a lay board's involvement improve public education?***

It has been suggested that, in the past, the Legislature has switched authorities around depending upon whether the State Board or the Superintendent was in or out of political favor at the time. However it proceeds, if at all, in recommending or undertaking action to lessen the tension in the State Board/Superintendent relationship, the Legislature needs to make decisions based upon whether it wants the involvement of a lay board with the benefits described on page 26, and if so, how best to use it to improve public education.