

# I

## Introduction

The most important duty of the state should not be overseen by an unwieldy department with splintered accountability.

—Ohio Governor Ted Strickland,  
State of the State, February 6, 2008

“You can’t do anything! The governor thinks he’s God,” bluntly stated Mike Ellis, the Wisconsin senate majority leader. State Superintendent John Benson was on his knees pleading to stay budget cuts that would nearly eliminate the Department of Public Instruction (DPI)—or so remembers one veteran Wisconsin lobbyist. Benson was unsuccessful, but within a year, the Supreme Court had rebuked the governor and restored the DPI.

“We had it just about right. It’s amazing in how many ways we anticipated No Child Left Behind. At the beginning, we had everyone behind us, the governor, everyone,” said one employee of Georgia’s Department of Education (GADOE). Even though the state’s Quality Basic Education program quickly lost the support of key interest groups and “just about killed everyone,” GADOE maintained the program through sometimes vicious political opposition.<sup>1</sup>

“They have a bunker mentality over there,” said a lobbyist for the Ohio Department of Education (ODE). “They’re too tight with the governor.” But even if ODE allegedly had its head in the sand, it was able to implement a regimented student assessment system and fend off the state supreme court’s challenge to the school finance system.

In each of these cases, the state’s department of education was able to prevail in setting the direction of state education policy. Yet at other times, departments failed miserably, and ambitious governors and legislators reined in their scope, as if they were afraid of competition. This book explores why.

From the outside, American education governance is a quagmire. Responsibilities for setting standards, distributing funding, and hiring personnel overlap in a crazy-quilt of jurisdictions. School districts raise money; interest groups crowd the hallways of legislatures; and teachers' unions stuff the mailboxes of members. In the middle of this confused environment lies a state agency—sometimes sleepy and sometimes volcanic—charged with the oversight of state schools. In the fifty states, its name varies from an “Office of the Superintendent” to the “Department of Public Instruction.” It employs from dozens to thousands. American education agencies provide fertile ground to understand the bureaucratic policy process.

State education agencies are caught in the American federal system between penurious school districts and an increasingly demanding federal government. Their policy areas may be as restricted as discharging federal monies or as expansive as drafting budgets for financially delinquent school districts. Administrators with seemingly less capable agencies lamented too-great local control: “You could replace ‘America’s Dairyland’ with the ‘Home of Local Control’ ” said one state education official in Wisconsin, referring to the state’s license-plate motto. The Iowa department’s mission is to *strengthen* local control. In other states, department personnel could make no such complaint. State departments in Georgia and Texas, for example, control or heavily influence textbook selection and distribution, materials at the very heart of day-to-day teaching and learning.

Yet over the last twenty years, the federal government has repeatedly signified its willingness to enter the fray. Although presidents as early as Dwight D. Eisenhower sought to increase federal involvement in public education, and Lyndon B. Johnson and others tried to ensure equal access to education for various disadvantaged groups, the 1983 report *Nation at Risk* heralded the entry of Washington into the grit of daily education politics. Secretary of Education William Bennett could only use the U.S. Department of Education as a bully pulpit (including his famous “Wall Chart” of educational statistics), but talk of national standards was not far behind. In 1990, George H. W. Bush convened an education summit to discuss standards, and many governors who attended appeared energized by the meeting. Although hints of these standards appeared in the 1994 reauthorization of the 1965 Elementary and Secondary Education Act (ESEA), nothing with “teeth” troubled state departments of education. The 2001 reauthorization of ESEA, called the No Child Left Behind Act (NCLB), removed all doubt that the federal government intended to be involved at the classroom level. The act declared not only that all students had to be tested annually for

a range of grades, but that all students had to become proficient; that teachers have to be “highly qualified,” and that some form of school choice must be offered when schools do not meet the law’s standards. The law permits states to decide what “proficient” means and allows states to design or purchase their own tests. NCLB announced that the federal government was watching the front line of instruction, even if from afar.

Policy conundrums make education policy a minefield. State departments of education are uniquely suited to sort these out. The difficulties surrounding these policies attract—and deserve—serious study, but these puzzles are temporary, shaped by the current political and sociodemographic climate. Over time, the forms of public education and the demands the public places on it will change, but the federal structure of American education remains. This structure, combined with the murky policy waters, makes state education agencies (SEAs) ideal subjects to study bureaucratic policy making. Instead of seeking to unravel the difficulties of student assessment, teacher licensure, and school finance—subjects highlighted in this book—I hope to improve understanding of the process by which an education agency can use its unique powers to address policy problems fruitfully.

Specifically, this book asks two theoretical questions: When can government agencies shape and change the policy preferences of their overseers? When do legislators and governors step aside for an agency chief to pursue her or his own policy vision for state education? Said another way, when can agencies act autonomously by demanding accountability of others while limiting outsiders’ access to their own decision-making process?

The answers are important, for three concrete reasons. First, they are pertinent to any policy area with many “street-level bureaucrats” such as education (Lipsky 1980). In these fields, street-level bureaucrats, such as police officers, teachers, or social workers, have ample opportunity to skew the implementation of programs that their agency administers. Much ink has been spilled on the difficulties of “going to scale” with education reform, and teachers have substantial control of education as soon as the starting bell rings (Hoff 2002; Elmore 1996; Smith and O’Day 1991).

Reforms are often difficult to maintain because they overlap or because a new “reform” comes along before the previous one is implemented. An agency that can effectively change the preferences of governors and legislators may well be able to sustain reforms longer—perhaps long enough to reduce local push-back—than an agency that follows the political winds.<sup>2</sup>

Second, the answers will help illuminate the multilevel relationship between the federal government and state agencies. For many “federal” programs, state agencies do the lion’s share of the administration. If an agency is able to resist the advances of governors and legislators (thus resisting micro-accountability for its decisions), then it should be able to implement federal mandates more easily—if the agency buys into the federal program. One scholar has suggested that federal requirements allow state bureaucracies to resist new legislation and oversight from *state* legislatures and governors (Hills 1999). The federal government frequently expects that state agencies have the appropriate freedom of action to be able to adapt the federal program (or, more likely, to reshape a state program) to the local context.<sup>3</sup> Scholars have asked how the federal government can be effective in policy areas where the states have had long dominance, and one answer is that the federal government “borrows strength” from state agencies, to use Manna’s (2006) phrase. Yet for a number of reasons, including political jealousy, compliance-centric state policy, and a rapid expansion of demands, state agencies have been playing catch-up with federal expectations in this area (Manna 2006, chapter 5). An autonomous agency should have less spread between its actual capabilities and expectations. That is, an autonomous agency should be a more effective federal partner.

Beyond their role as administrators, states have a special position in federal politics that makes them a valuable site for the study of American public policy and bureaucracy generally. Not only do they share substantial governing characteristics with the federal government, but they have unique informational and political advantages over both school districts and the federal government. Further, federalism endows state-level bureaucracies (as opposed to state government generally) with leverage over local governments and perhaps over state legislatures as well. These will be detailed in turn.

State governments share two major characteristics with the federal government. First, both levels of government enjoy a system of separated powers. Like the federal government, each state has competing branches filled with governors and legislators with different term lengths. That is, there are no parliamentary systems. In this arrangement, state agencies have to compete with other state agencies for money and personnel through an open budget process, just as federal agencies must. Second, state governments can expect push-back from semi-independent lower governments. In education, this includes schools and their employees who are the knowledgeable street-level bureaucrats that can make or break policy implementation (Lipsky 1980). Many state departments of education have to work with school districts that have independent

revenue authority through the property tax, allowing districts to set absolute financial parameters on state mandates (Wong 1999). Further, some schools also may have independent authority, as with site-based management (McDermott 1999) or charter schools (Nathan 1996; Mintrom 2000; Shober, Manna and Witte 2006).

Yet officials in state governments have a distinct difference from their federal counterparts: they have peers who share information. Should an assistant state superintendent in Wisconsin wonder how to respond to a provision of NCLB, she or he can call up her or his counterpart in Minnesota or Pennsylvania. This not only gives state workers a “national” perspective on federal requirements but also provides them with evidence of other states’ practices for responding to federal queries. (This situation is close to Axelrod’s (1984) “prisoner’s dilemma,” where both parties cooperate to receive the greatest global benefit.)

State government agencies also have the political advantage of national extra-governmental representation through the Council of Chief State School Officers (CCSSO), the Education Leaders Council, the National Governors’ Association (NGA), the National Association of State Budget Officers, and others. In education, the NGA’s influence on the 1994 reauthorization of ESEA is well known (Vinovskis 1999). In the 1990s, Georgia state superintendent Linda Schrenko, among others, felt that the CCSSO was sufficiently influential (but wrongheaded) and thus dropped her membership in that organization and joined the Education Leaders Council instead (Jacobson 1999).

A third difference that state bureaucracies may use to their advantage is that they have federal oversight agencies. They have a “boss.” Federalism may enable state bureaucracies to use federal legislation to trump local and even state legislative concerns (see Hills 1999). The logic is that a state legislature may balk at, say, annual assessment of students’ academic progress, even though the state education agency has been advocating such a move. The state agency has plans for the program that it cannot implement. If the federal government then enacts a law to encourage or require such testing, then the state agency can move quickly to enact its program, despite the objections.

In this light, the arrival of No Child Left Behind serves as the ultimate test of state agency autonomy. Many state legislatures and state bureaucracies saw the law as an untoward intrusion of federal activity into state policy making. A number of districts as well as Utah and Vermont threatened a court battle; Connecticut did so (Connecticut Attorney General 2005; Keller 2005). This book studies the twenty years before the act. If education agencies are able to do what the act expects them to do—that is, designing and adopting state standards, promoting teaching

reform, rating schools and districts, and otherwise enforcing test-based accountability—then state departments should have made strides toward these *independently* and *prior* to the act. State departments should have a record of autonomy and scope, and it should appear in this time frame.<sup>4</sup> The fruits of the departments' past autonomy will become apparent as the debate reopens at the act's reauthorization in Congress.

The third reason this book's answers are important is that state agencies do, in practice, shape many of the functions of government. ODE successfully implemented grade-by-grade exams in the 1990s, despite considerable uproar throughout the decade. GADOE had similar test success on a smaller scale in the late 1980s, and in the 1990s it issued test contracts without legislative or even state board approval. Other states, such as Colorado or Iowa, have education departments with small budgets and appear to be less successful at shaping their scope. These departments have to corral a large number of interests to keep limited budgets. Indeed, the introduction to the Colorado Department of Education's fiscal year 2000 budget lists fourteen interest groups consulted in drafting the department's budget to demonstrate the broad support it had. Such state departments are not likely to be able partners in implementing state programs, new federal regulations, or in creating new state policy—whether standards-based reform, teacher licensure, or school finance. It is much more likely that the legislature, governor, or even school districts themselves will take the lead.<sup>5</sup>

What are the benefits of autonomy for an agency? An autonomous agency should be able to make politically difficult decisions that could be stalled indefinitely in the legislature. Because high-level state employees are subject to scrutiny by legislators, the press, and the governor, decisions that agency leaders make are likely to be carefully considered. If the agency steps too far or too quickly from the preferences of the governor or legislators (as discussed in chapter 6), then it will be at risk of official sanction. Therefore, agencies are able to circumvent some veto points that typically block legislation but only after careful groundwork. Similarly, a policy that may be supported by a legislative majority might be blocked by interest group opposition; an autonomous agency may be able to break the logjam (as discussed in chapter 5). (Chapter 10 will consider the risks and benefits of such freedom.)

Agency autonomy bolsters the general public's ability to connect an effect of public policy with a cause. Agency activity provides a much better sense of government activity than do legislators' voting records, despite the fact that the public can only directly influence officials standing for election, and not bureaucrats. Legislators tend to be keen on avoiding traceability (Arnold 1990; Pierson 1994). On the other hand,

government agencies have no way to avoid the glare: if the Department of Education sends a memorandum that all kindergarteners must take an “exit exam” from kindergarten, then there is no secret as to who sent the memo. The Department of Education is to blame or praise. Thus watching agency activity gives voters a direct window on state government that is unavailable through the normal legislative process.

The following section presents a brief overview of my theoretical argument. Then I offer a historical sketch of the general development of state oversight of education. Next I explain how Ohio, Georgia, and Wisconsin offer relevant examples of different modes of state control. Finally, I outline the rest of the book.

### A Brief Theoretical Overview

In the previous discussion, I used the words “autonomy” and “scope.” Both are central to my argument. “Autonomy” is the exercise of independent choice by an agency, regardless of the initial preferences of the governor or legislature. “Scope” is an agency’s set of tasks formally specified by law and accompanied by a budget sufficient to do them. Scope is derived from the mutual preferences of the legislature and the governor. A highly autonomous agency will be able to move the preferences of the governor and legislators toward its own preferred policy and thereby gain broader scope to fulfill that policy preference without having to act autonomously in the future.

I propose that an agency’s success at building autonomy and scope is drawn from three sets of factors: institutional, active, and passive. The first, *institutional*, is essentially constitutional structure. All three of the state cases have educational administration outlined broadly in their constitutions. Although constitutions are not static (for example, Ohio’s clauses changed several times between 1900 and 1954, see chapter 4), the changes are rare relative to legislative changes. Thus constitutional effects occur largely in the background—but governors and others have been frustrated often by the intentionally splintered accountability found in state constitutions.

A second set of factors, *active* or endogenous factors, includes leadership and the pursuit of interest group support and allows an agency to actively expand its autonomy and scope. An agency leader may engage in any number of techniques to encourage his or her agency to pursue a program autonomously or to implore the public, governors, and legislators that his or her agency needs broader scope. High-profile, public leaders may bring short-term public pressure on other branches

of government. In the long term, however, those same governors and legislators remember the highly visible conflicts that these agency leaders sometimes prompt and are likely to try to restrict the autonomy of the agency. Leaders may also use behind-the-scenes, insider approaches to build support, one legislator at a time; or, they may use political leadership, making political appeals to legislators and the governor. (For example, two of the state superintendents I interviewed were frequent visitors to the governor's office; they made good use of that image to garner support for their agency.) Both of these will be more successful in the long term because they are generally cooperative approaches.

Agency personnel may also manipulate interest groups to their own benefit, another active factor. Agencies can support their position by sending out trial balloons to interest groups. This can alert an agency to policies that will generate opposition. Although the department may still push ahead, it will be prepared to handle complaints. For example, Georgia's landmark reform, Quality Basic Education (QBE), had significant backing from every major interest group at its implementation, but as some of its more stringent accountability standards came on line, strong resistance coalesced in the field. GADOE fended off criticism by saying that its QBE team had worked with all of the groups and had their support. Second, membership interest groups may serve to help ease policy implementation. In Wisconsin, the DPI has used the state teachers' union to hold seminars to prepare teachers for the state testing regimen (and later, Wisconsin's implementation of the No Child Left Behind Act). The value of interest groups will vary based on the dominance of those groups: if the teachers' unions are the big player, then agencies would do well to include them in their implementation plans. But if there are multiple, competing groups, then an agency may find that using a single-interest group for implementation hampers its activities in other areas. Finally, if an agency actively consults interest groups, then it may be able to avert legislative suspicion about its activities. Congress uses interest groups to alert them of agencies gone amiss; state legislatures have fewer resources for oversight and are therefore likely to do the same (Balla and Wright 2001). (The increasing frequency of "fire alarms" over time from interest groups may actually weaken this function; if so, then agencies are doubly insulated against legislative encroachments on their scope or autonomy; see Gray and Lowery 2004; Lowery and Gray 1995; McCubbins and Schwartz 1984).

The final group contains *passive*, or exogenous, factors. I expect that electoral changes, legislative salience, and legal actions in the courts will impact autonomy and scope. None of these can be controlled by an agency; indeed, they may cause shifts in government that no one



expects. Electoral changes may bring new legislators to state assemblies with whom agencies must learn to work; old friends may lose office. Nevertheless, frequent turnover is in an agency's interest for building autonomy and scope, because legislators will not have the time to develop expertise to counter an agency's natural informational advantage.

Legislative salience is not necessarily related to turnover. What I mean by this term is simply how attentive legislators are to some policy area. In Ohio, state agency officials lamented to me that they had lost some longtime friends in the early 1990s. Voters selected several new legislators with strong opinions about education in the mid-1990s, though they had opinions distinctly different than what some top ODE administrators preferred. Salience can be imperfectly measured by the number of education-related bills and the relative desirability that legislators place on education committees.

Last I consider court rulings. Legal challenges may shift an agency's environment significantly in or away from its favor. In education, legal challenges often dispute a state agency's abuse of autonomy or shirking of some scope. Yet frequently even the plaintiff must rely on data provided by the state agency, particularly in cases about school finance. Thus although legal challenges may appear to constrict agencies, they may simply reconfigure their distribution of autonomy and scope. It is difficult to theorize further the effect of legal challenges, because court rulings are multifaceted, and state courts themselves often have few resources to understand technical problems. They, too, must rely on agency information. This was aptly demonstrated by a long school finance case in Ohio where the state's supreme court ruled based on a faulty cost estimate provided by the plaintiff (see chapter 5). When the court ruled, apparently inadvertently, that the state had to spend \$1.2 billion more on schools than it currently did—a budgetary impossibility—the court was forced to recant and effectively surrender the case specifics to ODE's school finance staff.

These factors work in a circular fashion: an autonomous agency will have greater ability to widen scope, and an agency with greater scope will find it easier to argue that it needs more freedom of action to coordinate that scope effectively. The aforementioned factors only mediate between the two.

This presents some problems needing explanation. If these are recursive, then how can the factors I just identified be causal? Büthe (2002) argues that this problem is particularly acute in historical studies (such as this one) where new ideas and social constructs can change over time in ways that are interrelated but possibly unrelated to the question at hand. For example, in my cases, the rapid increase in the availability of

fast and cheap computer technology weakened the information monopoly that state education departments once had. Easy computer access also changed ideas about student assessment as it became easier to analyze and report scores. This change (and others, such as partisan alignments) was unrelated to the state education agency per se but reordered the effects of other factors. Legislative salience may have been less important when information was scarce, but when technology reduced that barrier, salience became more important—though neither the agency nor the legislators had otherwise changed.

Büthe acknowledges that allowing explanatory variables to have different effects at different times introduces a problem of endogeneity into the analysis. His solution is to construct work to explicitly analyze the *sequence* of changes. “Time itself thus becomes an element of the causal explanation . . . [and] operates in the background to affect other variables in a variety of ways” (486). As such, in the chapters that follow, I seek to explore the temporal nature of autonomy and scope and note how the same set of factors may not interact in the same way in, say, 1995, as they did in 1980.

### The Development of State Oversight

No state education agency operates in a vacuum. Most agencies have had to fight an uphill battle for scope and autonomy against not only legislators and governors but also local school systems. Local control has, after all, been the defining ideology in American education since European colonists first opened schools. In this section, I show how state government became involved in this quintessentially local issue, and I highlight groups whose cooperation and co-optation were necessary in building the general autonomy and scope of state education agencies.

In the colonial era, the New England school was scarcely separate from either home or church.<sup>6</sup> In this environment, there was little need—and little tolerance—of colonial or state oversight of education. Later, Thomas Jefferson unsuccessfully tried to convince Virginia to establish publicly funded schools to make education available to more than the privately tutored plantation class. Even Horace Mann, often credited as the founding father of tax-supported education, met setbacks in Massachusetts’ House Committee on Education. The committee found in 1840 that state influence was unnecessary: “District schools in a republican government need no police regulations, no systems of state censorship, no checks of moral, religious, or political conservatism, to preserve either the morals, the religion, or the politics of the state” (Timar 1997, 239).

Only when educational reformers became concerned about the inequities between districts did the state gain a foothold for oversight and control. By the 1830s, the perceived poor quality of teachers, particularly in frontier towns, helped lead to the creation of minimum teacher requirements. Although localities often set the requirements, state government would withhold its share of funding from districts without local certification, particularly in northern states (Beadie 2000, 56). At this time, a number of states created state superintendencies for the purpose of inspecting district practices and withholding state funds, if necessary. In many states, this state agent—the “education department” was usually but one person—frequently made strenuous pleas for increasing state aid to education or for establishing state-controlled teacher colleges. The minuscule breadth of scope assigned to these officers, however, severely limited their autonomy, and state legislatures had little need to take them seriously. Many state education offices were abolished soon after they had been established (including Georgia’s and Ohio’s).

In the 1850s, state legislatures began requiring local governments to levy taxes for education to correct for disparities. (Previously, state governments had allowed such collection, but the funds were often permanently “borrowed” for other purposes [Beadie 2000, 59].) By 1900, some states even imposed state-wide taxes or maintained state school funds disbursed by state superintendents. By the end of the nineteenth century, legislatures were celebrating a “centennial” of public education (Ohio General Assembly 1876). Thus even at this early stage states were creating a domain inside of which agencies could later pursue autonomy and wider scope.

Although state government succeeded in rooting out opposition to the idea of tax-funded education, by no means were state powers strong. Wisconsin’s superintendent of public instruction had only one secretary in the 1890s. Many states’ education departments existed to collect data and to deliver an annual report to the legislature. State power relied heavily on local compliance, which was often spotty and weakest in rural areas (where the majority of America still lived). Nevertheless, “the real struggle entailed establishing in law that education was a matter of public, not private, interest. And this was the real victory” (Timar 1997, 240).<sup>7</sup>

In the late nineteenth and early twentieth centuries, state departments of education began to corral interest groups to bolster their autonomy and scope. In Wisconsin, for example, the DPI often hosted the state education association’s annual meeting, and the state superintendent was frequently a serious candidate for president of the group. Without fail, state education groups sought increased state powers to ensure more equal benefits for teachers and administrators and to compel

increased funding from recalcitrant school boards. The association with elite interest groups reached its zenith in the Progressive era. Teachers' organizations, such as the National Education Association (NEA), were organs of Progressive reform.<sup>8</sup> At this time, agencies gained a new language of autonomy: "Experts" should settle how best to resolve teacher issues, civil rights remedies, and school funding.

State superintendents, using their position as a leader with statewide visibility, pushed for more efficient, technical control, often urging the legislature to grant them power to regulate teacher licensure, force district consolidation, and select textbooks. Some state departments championed the equalization of school funding. State superintendents had advocated for many of these ideas for sixty years, but a combination of the ascendancy of Progressive reformers in the 1910s, a rural depression in the 1920s, and the Great Depression in the 1930s squelched local opponents. School districts could no longer argue convincingly that education was a local prerogative—they could no longer fund educational programs. For example, the state of Michigan provided 20 percent of education funds in 1930 but 45 percent in 1939 (Beadie 2000, 75).<sup>9</sup> State education agencies appeared to win the day's battle with their NEA allies, but their supremacy was to be short-lived.

Portents of federal involvement had appeared on the horizon by the 1950s. If educational equality and excellence could be a state issue, then there was little that could logically prevent it from being a national issue. The math and science scare in the 1950s—prompted by the Soviet atomic experiments and *Sputnik*—led the National Science Foundation and Congress to demand better curriculum. But federal monies were small (about 2 percent of all education funds compared to about 7 percent at present) and did not significantly challenge the organization of state departments. Still, most departments did hire math and science specialists by the end of the 1950s (although five states initially rejected federal money) (Timar 1997, 247).

The first sustained entrance of the federal government into local public education came with the 1965 Elementary and Secondary Education Act, which was meant primarily as a way to alleviate the effects of poverty on education.<sup>10</sup> Despite the limitations on the money provided by the ESEA, the act did include funds to enhance the administrative ability of state education departments in Title V.<sup>11</sup>

The introduction of federal monies also provided the wedge to separate state education departments from the interest groups they had fostered and, some might argue, to which they had become captive. By the 1960s, improving teachers' economic situation had become a primary tenet of unions, displacing equity between districts (Kerchner and

Mitchell 1988, chapter 3). As the political climate and state departments of education further shifted from an equity focus to an “excellence” focus in the ’70s and beyond, unions again had to adjust to include more excellence-focused verbiage in their lobbying repertoire in order to maintain clout with governors, legislators, and state departments of education (for example, see Beilke 2001, 89). Interest groups again became a tool of state education agencies.

As had been the case when states sought to wrest control from districts, the federal intrusion into local education was premised on the existence of inequity. Reformers concerned about disparities between districts in the 1920s and 1930s saw equity between students explode onto the national stage in the 1960s. States had not done enough, according to activists, and what served administrators and bureaucrats did not appear to serve all children. The concern for equity began to trump a concern for local democracy.

Paradoxically, the federal “intrusion” created a space for agencies to expand their own autonomy and scope. With the ESEA and subsequent federal monies (nominally voluntary), education departments became the guardians of “equal opportunity” for special-needs children, ethnic minorities, and others. This led directly into state involvement in setting curriculum standards (and naturally continuing financial involvement). Like finance, educational quality would not be left up to the vagaries of local politics, so state education departments—and some interested legislators (some of whom would later work in the same departments)—began to push for a more uniform curriculum. Although basic requirements were not new, by the 1970s states were adding courses and course-taking requirements, especially in high school. In the 1980s, this only intensified as governors and legislators rhetorically tied education to economic development.

At the same time, the federal government grew to expect more of them (Manna 2006). Some observers, and certainly some of my interviewees, wondered whether “Washington” was out to make fifty branch offices of the U.S. Department of Education. This view is too simplistic: even in the heady days of the 1960s and the ESEA, characteristics of the American federal system left state agencies with substantial room to maneuver (Anton 1989; Posner 1998; Gormley 2006).

First, the federal government has never provided sufficient money to fully implement any educational program. Federal funding frequently comes with a “supplement-not-supplant” clause to *prevent* federal dollars from actually paying for an entire program: state effort, and thus state decision making, is required. Even if some federal program came with enough funding to pay for every paper clip used to fulfill a federal

education mandate, the state and local districts would still be left with filling in the rest of the constellation of education: the school building, paying other teachers, funding health insurance costs for teachers, keeping track of district lines, and selecting curriculum. That is, the federal government sponsors *individual* programs and not comprehensive ones (although the ESEA now provides some circumstances for school-wide Title I funding, somewhat weakening this claim). This leaves states freedom to “frame” how effective programs are.

Second, the federal government has rarely used “teeth” when states miss deadlines or even ignore mandates. Instead, Congress or the federal bureaucracy is likely to modify the mandate or overlook the misstep. For example, the 1994 ESEA reauthorization required states to develop content standards and a method to assess student performance. By 2001, only eleven states had fulfilled this legal requirement—the U.S. Department of Education had waived the deadlines (Manna 2006, 113). The authors of *No Child Left Behind* of 2001 did not want a repeat of this lax enforcement, so they required the testing of all students as a condition of federal money. Yet after states complained that some of the neediest schools (and some of the least needy) would not make adequate yearly progress, Education Secretary Margaret Spellings granted greater leeway for meeting the law’s requirements (Dillon 2005). Even in specific instances, the federal bureaucracy has proven remarkably pliable: Gormley (2006, 532) reports that the U.S. Department of Education granted three quarters of the waivers that states submitted between 1995 and 2004 (669 of 882).

Third, the federal government has repeatedly taken ideas from the states to expand them at the national level. There is a large literature that asks whether federalism is cooperative or combative. If it were cooperative, then the states and the federal government would act in concert to design and implement the most agreeable policies. If it were combative, then states and localities would drag their feet and use administrative and legal recourse to hamper implementation (see Gormley 2006; Agranoff and McGuire 2001). In either case, the federal government must be responsive to state preferences. In education, an “equality of outcomes” requirement, similar to Outcomes-Based Education that nearly appeared in Ohio (see chapter 6), was taken out of the 1994 ESEA reauthorization when state departments of education complained (Jennings 1998). And throughout the life of the ESEA, the *state* has been responsible for designing standards and creating (or buying) the tests. Testing may be a major federal requirement with NCLB, but allowing the state to dictate what is actually on that test is a major concession. Thus state departments retained considerable freedom, despite federal demands.

To conclude, state education departments had credible claims on significant policies with concrete local effects throughout the 1980s and 1990s. State superintendents (and any department official) could point to three major areas to argue for wider scope and the need to increase their autonomy: the technical responsibility for developing and maintaining an adequate state education funding formula, the maintenance of financial equality between districts, and the creation of a basic, state-wide curriculum. Education leaders in Ohio, Georgia, and Wisconsin would find each of these elements of scope useful to emphasize when under scrutiny by governors, legislators, courts, and the general public.

### Three Paths Taken: Georgia, Ohio, and Wisconsin

To explore the relationship of autonomy and scope ultimately leading to policy outcomes, I use in-depth case studies of the Wisconsin Department of Public Instruction, the Ohio Department of Education, and the Georgia Department of Education across the twenty years before the No Child Left Behind Act, roughly 1981 to 2001. This section explains why these three states were selected. Broadly, these three cases represent three traditions in state educational responsibilities, and each has a distinct approach to state educational governance. Case studies are particularly important for understanding the causal mechanism driving the growth or decay of agency autonomy and scope. Further, using the same cases over time holds constant unobserved state influences that would weaken a cross-sectional analysis. Using the same time period for all three also controls for the national educational currents of the time.<sup>12</sup>

Each of these state departments had a different starting point in its attempt to gain autonomy and scope. (I recount more of the departments' histories in chapter 4.) Before Reconstruction in Georgia, legislators universally considered education a private matter and provided financial support to private academies and poor schools. After the Civil War, the Reconstruction government was highly suspicious of local intentions (particularly regarding African Americans), so some education was centralized. The suspicion of local control, as well as strong state centralization, continues today.

Ohio was the first state carved out of the Northwest Territories, in 1803, and it was the first to implement the Northwest Ordinance's provision that "schools and the means of education shall forever be encouraged."<sup>13</sup> Many of the school lands designated by the ordinance for this purpose were lost in political deals through the nineteenth century, and Progressives were deeply concerned that state-level education efforts had taken a partisan tinge. They succeeded in replacing the elected

post with one appointed by the governor. Proponents of a state school board made the same argument in the 1950s—that the top education post was too political—to remove the superintendent one step farther from the electorate. The state board of education was to appoint the state superintendent.

Partisanship was much less of a concern in Wisconsin, where the state officer has always been officially nonpartisan. “Local control” is Wisconsin’s watchword. By law, the state had no practical regulatory authority over the state’s numerous one-room schools (extant until 1970), and the state department was only one of many competing state education boards and commissions, a maze at best, although the DPI has clearly become the chief agency.

Aside from their different histories, each state represents a different way to govern schools. Table 1.1 shows the selection mechanism for each state’s school chief and state board, if any. Georgia and Wisconsin have independently elected chiefs, though Georgia’s is partisan; Georgia has an appointed state board; and Ohio’s chief serves at the pleasure of a part-appointed, part-elected state board. Because I expect that the leadership of an agency plays a major part in how effectively an agency can seek new autonomy and scope, the appointment process can limit the persuasive powers of the chief. Further, the table shows that most states control education with a board. Because of this, it is important to understand how education departments work *without* one: Wisconsin

Table 1.1. State Educational Governance Structures

		<i>State Board</i>	
<i>Schools Chief</i>	<i>Elected</i>	<i>Appointed</i>	<i>None</i>
Elected	WA	AZ, CA, <i>GA</i> , ID, IN, ME, MT, NC, ND, OK, OR, SC, WY (13)	<i>WI</i>
Appointed	AL, CO, HI, KS, MI, NE, NV, <u>TX</u> , UT (9)	AK, AR, CT, <u>DE</u> , FL, <u>IA</u> , IL, KY, LA, MD, MA, MS, MO, NH, <u>NJ</u> , NM, NY, <i>OH</i> , <u>PA</u> , RI, <u>SD</u> , <u>TN</u> , VT, <u>VA</u> , WV (25)	<u>MN</u>

*Note:* Governor-appointed state schools chiefs are underlined (9). All other appointed chiefs are board appointed. (26). Cases in this study are *italicized*. Most appointed boards are appointed by the governor, although many states’ boards include a combination of appointed and elected members.

*Source:* National Association of State Boards of Education (2007).



serves as this foil. Such a contrast should highlight the importance, if any, of a state board of education.

Further, the payrolls of Georgia's, Ohio's, and Wisconsin's departments suggest that they *should* exhibit different levels of autonomy and scope. Figure 1.1 shows a scatter plot of the payroll for state-level education (adjusted to account for varying state median family income levels) versus the size of state-level education offices (in terms of students per full-time-equivalent employee) in 1991, the middle of the time span. The dashed lines indicate the national means for both variables. Note that most Southern states have well-paying, large state departments. Local control is far weaker in these states due to historical circumstances, thereby leading to more power being placed in the hands of state government. For the three cases at hand, Georgia pays its employees the national average, but it employs far more people per student than one might expect (notice the location of California, Florida, and Texas). This should give Georgia extra leverage in terms of scope and autonomy, because it has deep personnel resources. Wisconsin, on the other hand, is in the lower right-hand quadrant. Not only does it pay less than the national average, but there are fewer state employees

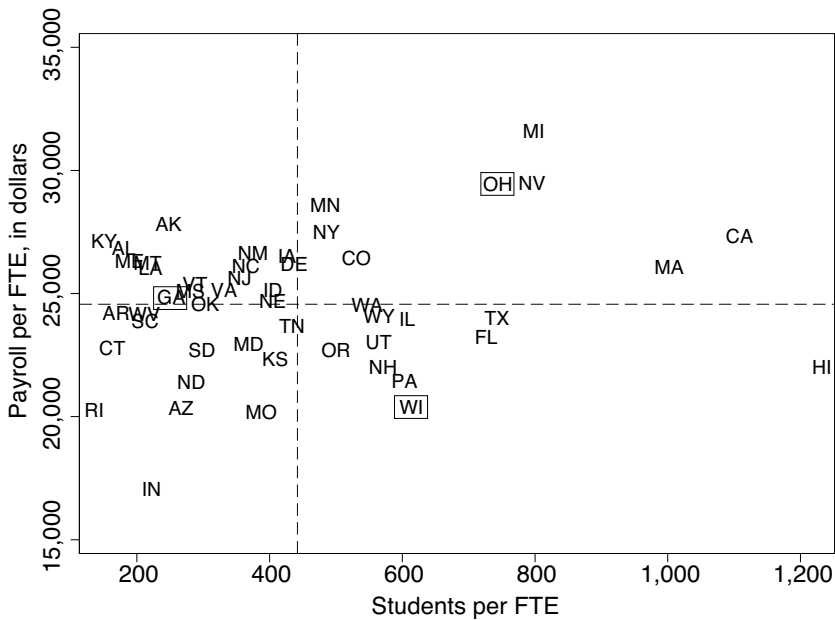


Figure 1.1. Payroll in State Education Agencies, 1991.

per student. Wisconsin should have more trouble. Finally, Ohio is above the mean for both pay and size. This should indicate a middling ability to build scope and autonomy, although it should not be as difficult as it might be in Wisconsin.

This book is built on a variety of data to ensure that my conclusions are supported from different angles. Interviews and the archived files of state officials provide the backbone for the argument. Thirty-four out of forty interviews were with representatives of major, state-level educational interest groups (e.g., state teachers' unions or associations, school administrators' groups, school board groups, business associations; see Appendix C), state legislators with a particular interest in educational issues (as determined by committee membership), and current or former state education department personnel at all levels. Each interview was approximately one hour long and confidential. Interviewees were chosen because of their likely firsthand knowledge of the activities of the state superintendent and deep involvement in education politics. The remaining interviews, with former state superintendents, were one to six hours long and not confidential. The questions were tailored specifically to each superintendent's particular policy interests, political inclinations, and controversies during that superintendent's term. Semistructured interviews such as these allow interviewees to follow some of their own tangents of thinking while providing me a better basis for consistent analysis (Leech 2002; Rubin and Rubin 1995).

Governors' papers, the files of former state superintendents and other officials kept at state archives, self-published interest group reports, and major state newspapers in Georgia, Ohio, and Wisconsin provided context for the interviews. What an interviewee could not remember often appeared scrawled on a weekly memo that had been stuffed in a superior's folder twenty years earlier. I made extensive use of weekly memos to governors, internal agency memoranda, and contemporary interest group documents to fill in these gaps in memory. The danger of archives, of course, is that there is no way to know which documents have been omitted or which documents never made it into the record. This danger is mitigated by using multiple, roughly simultaneous sources. This I did both by using major state newspapers, *Education Week* (whose coverage of states is necessarily not consistent), and the files of multiple personnel with similar responsibilities; for example, I used multiple assistant superintendents in state education agencies, or both the governor's files and the governor's education assistant's files. To gauge the public perception of an agency's importance, I sampled newspaper coverage from large dailies in each state.

A rich portrait also emerges from quantitative analysis. I draw on three basic sources. First, I analyze Wisconsin's DPI, Ohio's ODE, and Georgia's GADOE budget requests. I trace agencies' budget abilities through twenty years of budget requests, gubernatorial allowances, and legislative adjustments. This results in one measure of how autonomous an agency actually is. The budget is also an accurate measure of the scope an agency has.<sup>14</sup> Second, I compiled the tenure and committee assignments of every member of the legislature in these three states. If education is a salient issue, then one would expect that legislators would be eager to serve on an education committee relative to, say, an ethics committee.<sup>15</sup> Third, I estimated the effect of both legislative salience and budget success on the rates of introduction and passage of education-related legislation in each state.

### Plan of the Work

The next chapter, which begins part 1, lays out a theory of autonomy and scope, drawing on scholarship on bureaucracy, Congress, interest groups, and chief executives. I define my terms and explain that each of the factors that I posit influences both autonomy and scope. The third chapter sets out concrete expectations that I have for how the institutional, active, and passive factors influence governmental agencies.

Part 2 of the work presents evidence for the influence of each group of factors. In chapter 4, I trace the historical development of the scope of each state's department of education to show the roots of its institutional situation.

Chapters 5 and 6 explore active, endogenous causes. The former shows how each state's agency managed interest groups to further the agency's favored programs (or failed to do so). The latter tells the story of six state superintendents, each of whom harnessed a distinct leadership style to persuade the public, governors, and legislators to yield to the agency's direction.

Chapter 7 highlights passive, exogenous causes on agency autonomy and scope. It analyzes electoral challenges to agency clout through turnover in the governor's office.

Part 3 shows some effects of autonomy and scope. Chapter 8 looks at legislative salience over time and its link to bill introduction and passage. In chapter 9 I present the budget success of agencies over time.

A final chapter concludes by drawing on the themes developed throughout. Here I discuss the ramifications of agency autonomy for the

stability of education reforms, which are notoriously difficult to move “to scale,” and the prospects for the federal government to assume that state agencies are able to use their own clout to promulgate new mandates. Finally, I address the limits of using experts to shape policy in a democratic society.