



GETTING DOWN — TO FACTS II —

Technical Report

Federal Policy Meets the “California Way”

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September 2018

About: The *Getting Down to Facts* project seeks to create a common evidence base for understanding the current state of California school systems and lay the foundation for substantive conversations about what education policies should be sustained and what might be improved to ensure increased opportunity and success for all students in California in the decades ahead. *Getting Down to Facts II* follows approximately a decade after the first *Getting Down to Facts* effort in 2007. This technical report is one of 36 in the set of *Getting Down to Facts II* studies that cover four main areas related to state education policy: student success, governance, personnel, and funding.

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Policy Analysis for California Education

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Acknowledgements

We are grateful for the feedback we received on earlier drafts from Patrick McGuinn, Susanna Loeb, Margaret Goertz, and Macke Raymond as well as helpful observations from Michael Kirst, Marshall "Mike" Smith and other participants in GDTFII discussions.

Introduction

All states value their distinct approaches to policy and to life and the U.S. Constitution embeds the idea of state rights and responsibilities as a core principle in our federal system. California arguably takes this further than most. The notion that there is a “California Way” that is both different and worth emulating has been applied in many contexts: from clean cars¹ to beauty² to good wine.³ With its proposed plan under the Every Student Succeeds Act (ESSA), the California Department of Education borrowed the “California Way” label to capture its educational vision that “rests on the belief that educators want to excel, trusts them to improve when given the proper supports, and provides local schools and districts with the leeway and flexibility to deploy resources so they can improve.”⁴

As the state looks toward electing a new governor, the concomitant discussion of various candidates’ education priorities will lead to some reexamination and updating, but citizens are unlikely to discard their attachment to the notion that there *is* a California Way for educating its children and that state policy-makers should be held accountable for pursuing it diligently. States are not islands though; while they have reserved powers for shaping their education systems, they operate within a broader national system with political, economic, and policy tides that can either facilitate or undermine their efforts.

This paper provides a new way to think about how national policies might complicate or augment the next state administration’s efforts to actualize the California Way in education. Reflecting on a question like this, the most immediate tendency is to think about federal policies that are specific to education and with direct effects on state education. An example would be a change in ESSA funding that would reduce or increase state spending power or flexibility. While education policies with direct impacts on state education are important, however, they are not necessarily the only or even the most important kind of federal action to consider.

We offer a typology that distinguishes between national policies that can have direct versus indirect effects and between education-specific national policies and more general policies. We illustrate these with specific examples of federal policies that are already in place or that are realistic possibilities based on their active consideration by the White House, Department of Education, Congress, or the Supreme Court. Where feasible, we make an effort to assess the scale of the possible impact although our primary purpose to illustrate the *kinds* of things that might happen rather than to predict future federal actions or fully map the consequences for California. An important implication of our analysis is that it underscores the key role of the governor as the general purpose official in best position to coordinate cross-sector policies within the state, and to negotiate critical political relationships inside and outside of the state. We conclude with a discussion of alternative strategies the next governor

¹ (Mernit, 2017)

² (DeMarco, 1976)

³ (“Wine The California Way,” 2017)

⁴ (Torlakson, 2015)

might consider in order to maximize the maneuvering room and support needed to improve education the California Way.

Two points are important for understanding the way we frame our discussion. First, we write at a particular juncture in national and state politics. Currently, California stands as a predominantly Democratic and relatively liberal regime facing a national political scene in which Republicans control the White House and Congress, and wherein both strong conservative ideas and the more particular positions of President Trump dominate the national level. Because we try in this paper to supplement abstract arguments with more concrete examples that express current or credible scenarios, our illustrations tend to reflect the contemporary lay of the land. As a consequence, we have more to say about possible collisions between the state and the national government than we do about ways in which their actions might be complementary. California has not always been a Democratic bastion and Washington DC has not always been a Republican stronghold; however, the general thrust of our argument should apply even if these polarities shifted or became more aligned.

Second, in privileging the California Way, we do not mean to imply that the current manifestation of the state's approach is or should be sacrosanct or that national government impingement upon the state's inclinations is illegitimate. At any point in time, California's politics and governmental decision-making practices may elevate policies that do not accurately reflect the needs, interests, and full rights of its citizenry and in such instances authoritative intervention by national governmental institutions may be warranted and desirable. Other contributions in the Getting Down to Facts II project of which this is a component piece more directly consider whether particular policies are working well or should be modified or replaced. Our approach is agnostic about the wisdom and appropriateness of the state policies that currently represent the California Way in order to keep the focus on the various ways in which national and state trajectories clash or combine.

A Typology

There is a broad array of actions by the national government that have the potential to impede or facilitate state efforts. They include budgetary, legislative, regulatory, and judicial policies and may be initiated by the White House, Congress, federal agencies, or the federal judiciary. Some of these actions may bolster state resources and capacity; that has been the case, for example, with the Elementary and Secondary Education Act (ESEA), which since 1965 has systematically used grants to support and prod states to institutionalize State Education Agencies.⁵ Some actions can steer or constrain state actions, as for example NCLB provisions that required states to intervene when schools or districts failed to make adequate yearly progress. Some federal actions are reversible and may prove short-lived; budget cuts one year, for example, might be erased subsequently. Others may be durable because they develop supporting coalitions or because they erode capacities or resources that are difficult to rebuild.

⁵ (Manna, 2006; Weiss & McGuinn, 2017)

All of these, we suggest, can usefully be distinguished along two dimensions. The first relates to education-specific actions versus those that have to do with other, general policy actions. The second distinguishes between those with direct and indirect effects.

Education-specific vs. General Purpose

Some policy levers in Washington D.C. are specific to education, in the sense that they are designed to affect what happens in schools, whether via funding, enrollment, standards, curriculum, teacher qualifications, or accountability. The most straightforward way to find these is to look at what is happening in the U.S. Department of Education (USDOE). This includes such things as the Every Student Succeeds Act (ESSA), the Higher Education Act, protecting students' privacy rights, and monitoring civil rights around race, gender and disabilities.

But other agencies and branches can promulgate or enforce education-specific policies as well. The National School Lunch Program which provides free or reduced price meals to over 30 million students, for example, is housed in the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA); while it has goals beyond addressing students' capacity to learn, it targets schools as delivery systems and imposes responsibilities upon them. Some of the most consequential education-focused national decisions over the years have come from the U.S. Supreme Court, which itself is a general purpose governance administration; most famously, its series of school desegregation rulings beginning with *Brown* generated direct and indirect effects on states and districts, arguably overshadowing for decades attention to the mechanics of instruction, curriculum, and pedagogy.

Education-specific policies where federal action may have ramifications for California include hot button K-12 issues like charter and voucher initiatives, portability of Title 1 funds, protection of family educational rights and student privacy concerns, support for after-school programs, technology in schools. In higher education, they include Title IX guidelines for how colleges and universities pursue allegations of sexual harassment or sex discrimination, funding for Pell Grants, regulation of fraud especially in the for-profit arena.

Some federal actions in policy areas outside of education nonetheless can have substantial implications for students, teachers, schools, and districts and the prospects for states like California being able to achieve its policy objectives. We refer to these broadly as "general purpose" initiatives to distinguish them from initiatives primarily intended to affect schooling. There is, however, a substantial literature highlighting ways in which general purpose policies, such as those related to health, poverty, housing, and social services can have substantial consequences for children, teachers, and schools.⁶

⁶ (Dryfoos, 1998; Duncan & Murnane, 2011; Rothstein, 2004, 2017; Schwartz, 2010)

General purpose policy changes where federal action may have ramifications for California include such things as proposed cuts in Medicaid that could reduced support to school systems dealing with children’s health needs, immigration policies that create challenges for immigrant families and student anxiety, tax policy changes that reduce the value of the deduction for state and local taxation, or funding changes targeted at so-called sanctuary cities.

Direct v. Indirect

Both education-specific and general purpose federal government actions can have effects on state policies that are direct or indirect. In the case of direct effects, there is something approaching a one-step causal chain between the federal action and consequences for state education policies. This can include mandates, changing regulatory guidelines, changes in funding levels, changes in funding priorities, or judicial rulings that strongly incentivize (or disincentivize) state education policies or practices.

By “indirect” we mean federal government decisions or “nondecisions” that do not directly mandate or incentivize state or local governmental actions, but which alter the political dynamics within the state in ways that the next governor will need to take into account. In political science, two concepts that undergird this notion of indirect effects are “policy feedback” and “nondecisions.”

Policy feedback applies when a policy action creates new interest groups (e.g. new program beneficiaries or private firms that gain new contracts or markets) or alters the level of mobilization or influence among existing interest groups (e.g., a Supreme Court decision relating to teacher unions’ ability to demand that nonmembers pay a “fair share service fee,” aka “agency fee”).⁷ Much of the literature on policy feedback highlights unintended political fallout from policy changes. In the realm of education, the Obama administration’s effort to use the leverage of Race to the Top (RTTT) funds to speed adoption of the Common Core State Standards altered political dynamics by allowing opponents to link the previously popular idea to other cases of what they characterized “federal overreach,” for example using the term “Obama-Core” to imply similarities to Obamacare as top-down and intrusive.⁸ But policy feedback can also be manipulated intentionally as a political tool. Hertel-Fernandez, for example, argues that conservative networks intentionally pushed state policies that they knew were likely to weaken public sector unions.⁹ And both the Obama administration and some national education foundations channeled support to some “jurisdictional challengers” as a

⁷ Policy feedback as used in political science—and as we apply it here—refers specifically to feedback loops that run through politics. Policies sometimes have more direct policy-to-policy effects, as, for example, if decisions to prioritize one programmatic response (for example, including student attendance as a non-academic metric of school performance) generate opportunity costs that force changes or reductions in other programmatic areas (e.g. eliminating math tutors in order to hire more attendance officers).

⁸ (Henig, Houston, & Lyon, 2017; Martin, 2014; McDonnell & Weatherford, 2013)

⁹ (Hertel-Fernandez, 2016)

strategy for building an organized constituency for reform policies they knew unions would oppose.¹⁰

Nondecisions refer to governmental failures to act to address important conditions, due, for example, to ideological rejection of the notion of governmental responsibility, political accommodation to opponents of governmental action, insufficient information or understanding of the consequences of inaction, or perceived high costs.¹¹ Federal government nondecisions create a vacuum for intervention that the state must either address (incurring new expenses and responsibilities) or ignore (resisting internal pressure to respond, allowing conditions to fester and possibly degrade educational performance). For example, the U.S. Department of Education under Betsy DeVos reportedly has considered narrowing the scope of civil rights investigations at schools by shifting attention from broad and systemic forces to individual complaints.¹² Should this come to pass, California and other states would be confronted with the decision whether to step into the gap. If they do so, the costs and complications of meeting that responsibility will be shifted from the federal government onto their shoulders. Failure to do so, however, does not mean the state's education efforts would be unaffected. Students, teachers, schools, and districts that are in fact enduring consequences from systemic forms of discrimination will either continue to suffer or find some way to pursue their legal claims unaided. The ways in which this would play out in educational consequences are impossible to trace with precision, but they could be very substantial indeed.

Other examples where federal inaction may affect the state's education efforts include: federal inattention to pre-K; failure of the national government to aggressively pursue for profit colleges and universities that overcharge and under-provide; indifferences to charter school or voucher school activities that might violate separation of church and state.

Table 1 presents the four different types of federal initiatives. Each cell contains an illustrative example. These examples will be fleshed out with greater detail in the sections that follow.

¹⁰ (Mehta & Teles, 2011; Reckhow & Snyder, 2014)

¹¹ (Bachrach & Baratz, 1963; Crenson, 1972)

¹² (Danilova, 2017)

Table 1. Typology of Federal Influence in State Education Systems

	Direct	Indirect
Education-specific	Federal directives and funding allocation in the Elementary and Secondary Education Act	A Supreme Court ruling affecting the relative power and positioning of certain interest groups, like teacher unions
General Purpose	Immigration policy changes affecting students and their families	Changes to the state and local tax deduction affecting the ability to raise revenue within the state

Three points about the figure bear emphasis. First, although we present these as if there are qualitative distinctions between education-specific and general purpose initiatives and between direct and indirect effects, the borders between them might not always be sharp and it is also possible to conceive of them as continua. Second, although education-specific initiatives with direct consequences are the most obvious subjects for consideration when one thinks about possible national impacts on a state’s education system, the question of whether they are the most important is an empirical one, and there are reasons to suspect that they are not. Indeed, no cell is necessarily more important than another. Changes in any cell could have critical consequences for California education policy or end up being trivial. Third, each of the cells carries somewhat different implications about which governmental units and officials have the mix of knowledge, skills, and capacity to best lead the state’s response. State Departments of Education (SDEs) and State Boards of Education (SBEs) are usually seen as more focused on education, deeper in educational expertise, and less oriented toward and adept at political maneuvering, attributes that may make them the “go-to” place to for responsibility in responding to federal direct, education-specific initiatives. But the other three cells highlight the importance of governors, legislators, and other general purpose actors charged with overseeing a broader range of social and economic policies and more attuned to political dynamics and better prepared to handle the challenges of building coalitions and mobilizing support.

The Typology Applied

In this section we apply our typology using concrete examples of federal policies with the potential to affect the state’s efforts to articulate and pursue “the California Way” in public education. As already noted, these applications are meant to be illustrative. We have selected examples that are real or realistic. We do not pretend to know which of these will emerge as major factors over the next four to eight years, but there are good reasons to expect that they, or policies like them, will affect the political and policy landscape on which the next state administration will maneuver.

Direct and Education-specific: The Case of ESEA

When it comes to direct, education-specific federal impacts on state policies, the obvious place to look is funding. The national government is constitutionally limited in the degree to which it can directly control public education¹³ and so has relied heavily on money—and conditions attached to money—as a way to pull and push states in directions favored by the White House, USDOE, and Congress.

The federal government sends a lot of money to California. The federal government sends about 7.5 billion dollars each year into California for public elementary and secondary education. By far the bulk of this (94%) is distributed through the state.¹⁴ Most of this is targeted at child nutrition (27%), special education (24%), or Title I (24%). The child nutrition funds come from the U.S. Department of Agriculture to support school-based programs providing lunch, breakfast, milk etc. Special education includes funds awarded under the Individuals with Disabilities Act. Title I of the Elementary-Secondary Education Act includes funds meant to aid schools and districts with large concentrations of children from low-income populations. The next largest category of aid (18%) is documented as “Other and Nonspecified” and includes revenue from other formula grant programs distributed through state governments, such as the Workforce Investment Act, Title V, the Safe and Drug-Free Schools and Community Act authorized by Title IV-A of the Elementary-Secondary Education Act, and Mathematics, Science, and Teacher Quality grants (Title II-A and Title II-B of the Elementary-Secondary Education Act). Finally, 6% of California revenues from federal sources is considered “Direct” (rather than through states) and comprises project grants for programs such as Impact Aid, Indian Education, Head Start, Follow Through, Magnet Schools, Dropout Demonstration Assistance, and Gifted and Talented.)

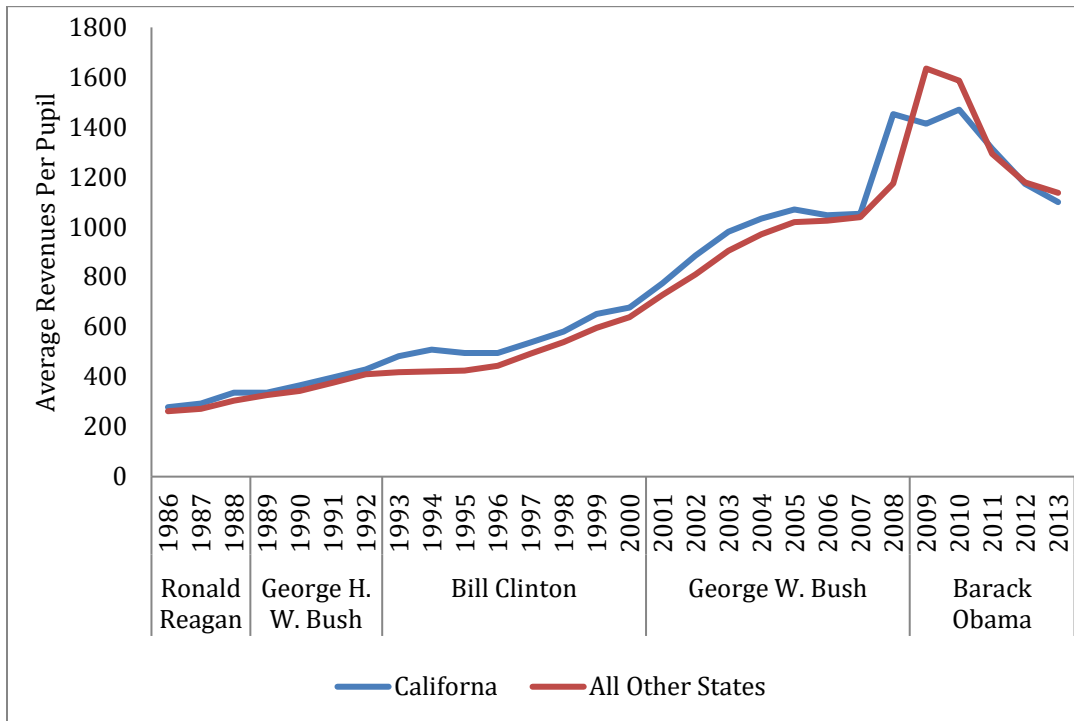
Various factors reduce the likelihood of sharp changes in funding. Figure 1 presents per pupil federal revenues going to California and to all other states from fiscal year 1987-2014. For most of this period California had slightly higher federal revenues per pupil than other states on average. What’s most notable about the pattern, however, is the steady and synchronous increase, disrupted only by the injection of federal aid occasioned by the economic depression in 2008-2009. Changes in whether the White House was occupied by a Republican or Democrat did not lead to sharp inflections, and California, despite its many idiosyncrasies, was neither markedly advantaged or disadvantaged.¹⁵

¹³ Although it may be surprising to some, there is no federal right to education. The Supreme Court confirmed this in *San Antonio Independent School District v. Rodriguez* (1973) when it declared that education was not a fundamental right protected by the Constitution. Because the Constitution gives rights that are not explicitly identified in the constitution to the states, states have primary authority over education policy.

¹⁴ A small proportion of federal grants flow directly to districts, private nonprofit and for-profit organizations, and tribal governments.

¹⁵ One gets a similar result when looking at Congressional party control; per pupil funding is not substantially associated with which party controls Congress or whether control is split between the Senate and House.

Figure 1. Per Pupil Revenues from Federal Sources by Presidential Administration, California vs. Other States



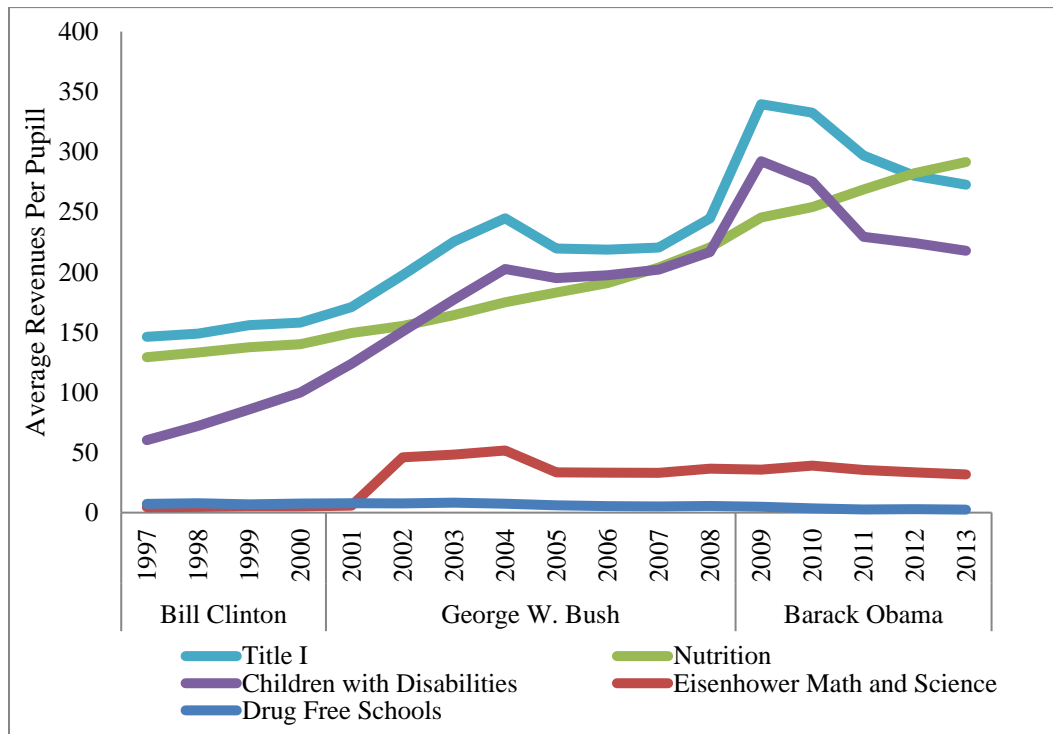
Data Source: U.S. Department of Education National Center for Education Statistics Common Core of Data (CCD) (1987-2014)

Figure 2 breaks down the main categories of revenues from federal sources over time to demonstrate the amount that states have received, on average, for each program and how it has changed over time. The graph shows that funding trend lines for nutrition, math and science, and drug free schools have remained relatively stable, without sharp changes associated with shifts in White House control. Title I and funds for students with disabilities show some volatility most evidently in response to the economic recession in 2008-2009 and federal stimulus that resulted from it.¹⁶ Taken together, these patterns suggest that federal support for K-12 education by and large adheres to the kind of incremental budgeting that Aaron Wildavsky identified more than fifty years ago as the tendency for legislators to begin their annual budget discussions by largely accepting past allocations and to limit their bargaining primarily to change at the margins.¹⁷

¹⁶ It is noteworthy here that total federal appropriations have remained relatively flat for these programs since 2009, even as the number of students has increased. Thus, the amount states are receiving per student has actually slightly decreased. This has a potentially negative effect on education revenues, as states receive fewer federal dollars per pupil than they once did; however, if allocations are remaining flat because the federal government was willing to step in when states needed a lot more support, then it is less worrisome.

¹⁷ (Wildavsky, 1984)

Figure 2. Average State Revenues per Pupil from Select Federal Sources, 1997-2013



Data Source: U.S. Department of Education National Center for Education Statistics Common Core of Data (CCD) (1998- 2014)

Note: Years indicate fall school year. Excludes New York because of substantial missing data.

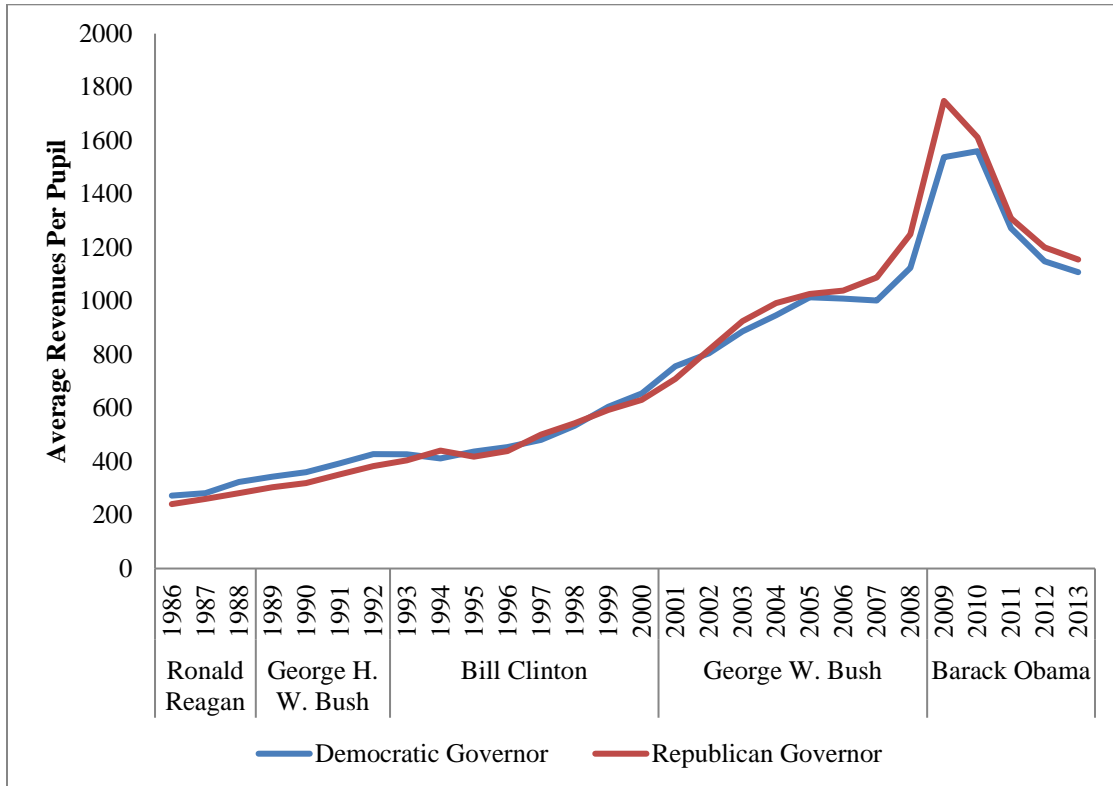
Incremental budgeting according to Wildavsky is rooted partly in the processing limitations of Congress--both the cognitive limits of its members and the institutional limits in capacity--that make it infeasible to engage in a fully comprehensive review of priorities and performance each year. But it is also reinforced by interest groups representing program beneficiaries that carefully monitor commitment and mobilize with fervor as soon as any discussion of possible cuts becomes public. The Special Education community is widely regarded as being especially vigilant and effective in this regard.¹⁸

Not only was the incremental advance of federal funding to California insensitive to changes in the White House, Figure 3 illustrates that the pattern also prevailed across states regardless of whether the sitting president and sitting governors were of the same or different party. Indeed, under the Reagan and H. W. Bush administrations, states with Democratic governors received slightly higher levels of per pupil revenues from federal sources than states with Republican Governors. During the Clinton administration, they appear to be about the same, and then under W. Bush and Obama, states led by Republicans received slightly more per pupil revenues from federal sources. This is likely a reflection both of the normal budgetary processes Wildavsky highlighted and what has been a tendency of public education funding to

¹⁸ (Itkonen 2009; Nespor & Hicks 2010)

enjoy more of a bipartisan coalition of support at the national level than is the case with more divisive social issues.

Figure 3. Per Pupil Revenues from Federal Sources by Presidential Administration and Governor Party



Data Source: U.S. Department of Education National Center for Education Statistics Common Core of Data (CCD) (1987-2014)

Race to the Top and ESEA Waivers provide a model for more forceful steering. While broad changes in federal funds can occur, especially in cases like a sharp economic disruption, the formula approach that has characterized most federal education grants reduces the ability of the White House and Congress to allocate changes differentially to like-minded or like-party states. Congress, in principle, has the authority to force major shifts in the formulas that steer federal dollars, and it has done so at various times. Over time, Congress has become more attuned to the special challenges that come from concentrated poverty as well as concern that some states might use their receipt of Title 1 as an excuse to resist responsibility for raising their own investment in public education, and it has shifted the relative weights of the four grant formulas to reflect this. In FY 2002, for example, the basic formula accounted for 69% of the funding, but twelve years later it accounted for only 45%, while the targeted formula increased from 10%-23% and the finance incentive from 8% to 23%.¹⁹ But the way Congress made these shifts also reinforces the point that sharp changes in the share any one state

¹⁹ (New America, n.d.)

receives are unlikely. Internal political dynamics make sharp changes difficult because high- and low- need Congressional districts exist in all states and there are members in both parties who have reasons to resist changes. Partly for that reason, when Congress has shifted the ESEA formulas it has tended to do so by multiplying the range of formulas applied rather than replacing one formula completely with a new one.

That said, under President Obama federal education policy employed a distinct approach that allowed for more targeted policymaking in two ways. The first was Race to the Top. While Title I is a formula grant administered through the Elementary and Secondary Education Act, Race to the Top was a competitive federal grant implemented under the Obama presidential administration that encouraged states to conform to nationally-defined priorities in order to improve their chance of winning additional funds. The second was the selective granting of requested waivers to states that conformed to the administration's favored approaches.²⁰ Although states without waivers did not lose Title I funding, they lost out on the flexibility to use those some of those funds. Both of these used the grantmaking processes to increase the discretion of the USDOE to support states with visions of education reform more complementary to federal objectives over states where less alignment existed. In short, the administration used both RTTT and ESEA waivers as incentives for states to adopt their preferred education policies. Although framed as efforts to encourage the adoption of nonpartisan, evidence-based reforms, in creating winners and losers, strategies such as these have the potential to steer money more proactively and with greater precision than has been typical in federal education funding.

Table 2 compares RTTT (competitive) to Title 1 (formula) in terms of the allocation of funding to the states and how that allocation aligned with state electoral support for Obama in his successful campaign against John McCain. We do not intend, in making this comparison, to imply that partisan motivation is behind such alignment where it occurs, although others sometimes do so. Rather we use the comparison to probe how targeted versus formula funding affects the likelihood that changes in administrations may translate into distributional shifts in support to states. For Title I, the results suggest that this formula grantmaking process generates funding amounts roughly proportional to the number of students in the state. Of all students in the 2009-2010 school year, 67% resided in states that voted for Obama, and these states received 65% of the Title I funds. Accordingly, 33% of students resided in states voting for McCain, and 35% of Title I grant money went to these states. In terms of actual dollars, states voting for Obama received roughly \$26 per pupil less, on average, than states voting for McCain. These slight differences are largely due to state needs, with states that voted for McCain tending to have more high need students. Overall, the results reinforce the point that the Title I formula grantmaking process leaves little room for new national administrations to sharply alter the flow of federal dollars to states based on whether they do or do not align with the White House in political leanings or visions of education reform.

²⁰ (McGuinn, 2012; Saultz, McEachin & Fusarelli, 2016)

Table 2. Formula v. Competitive Federal Grants and Waivers to States Based on 2008 Presidential Votes

	Voted for Obama	Voted for McCain	All States
<i>States^a</i>			
Number of States	29	22	51
Percent of States	57%	43%	100%
<i>Students</i>			
Number of Students (millions)	32.9	16.4	49.3
Percent of Students	67%	33%	100%
<i>Title I^b</i>			
Average Grant per Pupil	\$341.46	\$367.14	\$352.54
Percent of Total	65%	35%	100%
<i>Race to the Top</i>			
States Receiving RTTT	14	5	19
Average Grant per Pupil ^c	\$159.10	\$37.65	\$106.71
Percent of Total	77%	23%	100%
<i>ESEA Waivers^d</i>			
States with Waivers	25	18	43
Percent with Waivers	86%	82%	84%

^a Includes Washington, D.C. ^b In the 2009-2010 school year, the same year that the majority of RTTT awards were announced. ^c Includes those not applying for RTTT. ^d In 2015. Note: California is not considered to be a state with an ESEA waiver in 2015 even though some districts within California did receive a waiver.

Data Source: U.S. Department of Education, National Center for Education Statistics, Common Core of Data (CCD) (1987-2014)

In contrast, Table 2 also demonstrates that states that voted for Obama received substantially more RTTT funding per pupil than states that voted for McCain. On average, states voting for Obama received roughly four times more per student in RTTT grants than their Republican leaning counterparts. Nearly half of states that voted for Obama in 2008 received RTTT awards, compared to less than one in four states voting for McCain. Indeed, 14 of the 29 states that voted for Obama received RTTT grants,²¹ compared to only five of the 22 states that voted for McCain.²² The states voting for McCain that did win RTTT funding tended to receive Phase 3 grants, which were much smaller than those of prior phases, amounting to less than \$30 per student. Thus, although 67% of students resided in states voting for Obama in 2008, 77% of the total Race to the Top funding went to those states, and just 23% went to states voting for McCain. Overall, states voting for Obama in 2008 received slightly less average per

²¹ Phase 1: Delaware; Phase 2: Washington, DC, Florida, Hawaii, Maryland, Massachusetts, North Carolina, Ohio, Rhode Island, and New York; Phase 3: Colorado, Illinois, New Jersey, and Pennsylvania

²² Phase 1: Tennessee; Phase 2: Georgia; Phase 3: Arizona, Kentucky, and Louisiana

pupil funding under the formula grantmaking process of Title I but substantially more funding per student through the competitive process of Race to the Top.

This is not to say that RTTT funding was allocated based on political party affiliation. More likely is that alignment in a shared vision of education reform played a role. Republican Senator Lamar Alexander strongly supported RTTT, for example, and Tennessee was selected for one of the Phase 1 grants, receiving over \$500 million, roughly \$500 per pupil.

Around the same time as RTTT, the Obama/Duncan administration also developed a conditional waiver process to move forward their education priorities despite congressional inaction on reauthorizing ESEA.²³ As shown in Table 2, 86% of states voting for Obama in 2008 receiving waivers compared to 82% of states voting for McCain. Partisan patterns in waiver receipt are much less stark than the differences in RTTT grantmaking, in part because the vast majority of all states received ESEA waivers. This suggests that in the waiver process, the visions of educational reform prioritized by the Obama administration may not have fallen on clear party lines.

With RTTT and "conditional" waivers, Obama/Duncan showed that there are ways to more aggressively steer state educational decision making. Despite efforts by the administration to orient this around what it perceived to be evidence-based, non-ideological strategies, there is evidence that this may have had differential impacts consistent with a bias toward states that aligned with the federal government in terms of their vision of education reform.

What happened in California, specifically? California's experiences with the Obama/Duncan administration, however, were quite unique. Even with a Democratic president, California did not clearly benefit from any favored status, and the relationship between California and the Department of Education was strained and riddled with conflict. Despite some initial degree of alignment on educational priorities, as time progressed, so did considerable distrust between the Obama education administration and California leaders as well as conflict over federal priorities such as teacher evaluation. In the beginning of the Obama administration, California willingly participated in the first two rounds of Race to the Top and adopted some of the policies the federal government favored. For example, the California State Board of Education voted to adopt the Common Core State Standards, a key component of Obama and Duncan's education policy agenda. California's Phase 2 Race to the Top application also received high marks for its alignment with other federal priorities such as using data to improve instruction, improving teacher and principal training programs, intervening in the lowest performing schools, prioritizing education finance, and providing opportunities for education innovation and charter schools. Despite this alignment on some priorities, California did not receive a high enough score on its application to win Race to the Top funding during the

²³ (Henig, Houston, & Lyon, 2017)

first two phases.²⁴ In 2011, officials in the state of California decided not to apply for the third and final phase of Race to the Top funding, even though it was one of just a few eligible states.

California was also unsuccessful in advocating for an ESEA waiver for flexibility in the implementation of NCLB. California is one of just a few states to have never received this type of waiver. The state's denial was directly related to its failure to connect teacher evaluations to student academic achievement measured by standardized tests.²⁵ The state's reluctance in this area was partly due to a competing vision of reform priorities, but at least two other factors played a role: administrative capacity and internal state coalition building. California officials believed that the Obama/Duncan rush to put teacher evaluations and test-based accountability measures in place was unrealistic; rapid implementation would outrun the state's administrative capacity and teachers' preparedness for carrying out the kind of instruction needed under Common Core Standards. Politically, too, the state administration calculated that it was important to work with teachers unions rather than wage war upon them. By agreeing to hold off on test-based accountability, they won the support—or at least muted the opposition—of the teacher unions for other parts of their agenda. From the standpoint of the Obama administration it appeared as if California was deliberately flouting or ignoring priorities it had specifically underscored, while California education officials believed the administration was insufficiently attentive to the state's good faith efforts to improve California schools within the constraints of capacity and internal politics. To put it succinctly, State School Board President, Michael Kirst stated "The relationship with Obama was rocky to say the least."²⁶

In 2013, the federal government sidestepped the state of California, to some degree, by granting ESEA waivers to eight prominent California school districts: Los Angeles, San Francisco, Long Beach, Fresno, Oakland, Sacramento, Santa Ana, and Sanger. These school districts comprised a multi-district collaborative called the California Office to Reform Education (CORE) and collectively served over a million students. At the chagrin of the California Teachers Association, these districts agreed to connect student test performance to teacher evaluation, and this decision was largely cited as the reason for their receipt of the peculiar waiver.²⁷

Thus, having a Democrat in the White House ultimately did not mean that California had favored status. Even though officials in the state of California implemented some of the preferred policies of the Obama administration, such as the Common Core State Standards, the state received no RTTT funding and was denied an ESEA waiver. However, it is worth noting that the state of California felt few real consequences from the federal government for not receiving a waiver. The state continued to receive Title I and other federal funds, and because it did not receive a waiver, it simply continued to operate as it had under NCLB. The main

²⁴ There were a number of factors that account for California being shut out of the first two rounds of the RTTT competition, but two major areas where their proposal received low scores involved establishing a statewide longitudinal data system and strategies for improving teacher and principal effectiveness based on performance (US Department of Education, 2012). The explanation for their failure in Phase 3 is clear-cut: they chose not to apply.

²⁵ (Trull, 2015)

²⁶ (M. Kirst, personal communication, August 11, 2017)

²⁷ (Wong, 2015)

drawback was that the state was not able to move the Title I funds for supplementary education services elsewhere, whereas CORE districts were able to acquire that flexibility.

What does this suggest for the Trump/DeVos administration? This analysis leaves open the possibility that President Trump or a future administration could flex some of the same muscles that past administrations have used, including in ways that are more openly partisan or ideological. If the federal government moves toward a more competitive grantmaking process or a conditional waiver process, this could negatively affect California and other states that do not share the federal government’s vision of education reform, especially in those states where politics or public opinion make the adoption of conservative education programs more onerous. For example, the federal government could develop a competitive grant process requiring a statewide school voucher program to participate. In this case, if California was not able to develop such a program (e.g. because of ideological opposition to vouchers and/or opposition from powerful internal groups), the state may lose the opportunity to compete for additional federal dollars. Although there is the potential of federal capacity to influence state education decision making through vouchers or a shift in the funding formula, this would come from federal legislation that would require substantial coordination between the White House and Congress. Considering that the administration did not prioritize education during its first year, this course of action seems unlikely to come to fruition. Unless Trump breaks the bounds of precedent, there are other factors working to moderate possibilities of a sharp change to the level of federal influence in California education governance. The largely Republican backlash against RTTT and the accusations of “Obama Overreach” that ensued may make it more difficult for the present administration to direct policy through a similar competitive grant process.²⁸ Not only would a Republican push for a strong federal role in education contradict prior support of states rights in education policy making, but the institutional constraints implemented as part of the backlash against Obama persist into the current administration. Indeed, through measures such as the 2015 reauthorization of the ESEA (known as ESSA), Congress further limited the already restricted power the Department of Education has to leverage over states and localities.

Under ESSA, Congress has made it even more difficult for the federal government to impose sanctions on states that do not act in alignment with federal education priorities, and state leaders expect the Trump/DeVos administration to provide more flexibility than under Obama. In crafting their ESSA plan, California state education leaders have bet on the strategic benefits of submitting a vague proposal. We term this strategy *constructive ambiguity*. State officials see the state plan as a contract with the federal government and are worried that if they agree to do more than the minimum, they are setting themselves up for unnecessary federal involvement that may turn out to be intrusive. They argue that this strategy provides them the discretion and ability to nimbly respond to state and local needs.

However, this strategy has not received universal support. The Equity Coalition, which had advocated for some of the Obama regulations that were revoked after Trump took office,

²⁸ (Henig, Houston, and Lyon 2017)

hoped that the state of California would adopt those provisions in its ESSA plan. Wary of the potential for blunt and dysfunctional federal enforcement, the state preferred to keep its ESSA plans as unspecific as possible. In response, The Equity Coalition was vocal in pushing back against the ESSA Plan.

The federal government has sent mixed messages about changes it expects in the California ESSA plan. Initially, state leaders reported that the DeVos administration had indicated its flexibility and willingness to work with California, which led them to focus on answering the specific questions in the ESSA plan template without providing unsolicited details. However, the Department of Education refused to accept the first and second editions of the state ESSA plan. Then, in a well-publicized speech to state superintendents, Betsey DeVos appeared to specifically criticize the accountability system laid out in California's ESSA plan stating, "Some states proposed accountability schemes that were so complicated, schools would be accountable to no one. Another state took a simple concept like a color-coded dashboard and managed to make it nearly indecipherable."²⁹ Yet, in the same speech, she commended California specifically on its commitment to local control. In response to feedback from the Department of Education, state leaders have agreed to modify some measures for the purposes of federal accountability, while leaving the accountability system and the School Dashboard intact.³⁰ It is still unclear whether the plan will be approved by the U.S. Department of Education, but, for now, it seems state leaders are sticking with the core concepts of the original submission.³¹

California leaders have strategically used the ESSA planning process to ensure that they do not commit to actions that would lead to unwanted federal oversight in the future. Weary from their experience with the Obama administration, they are intentional about giving the state room to maneuver, as time passes and the goals of the Trump/DeVos administration become more clear. Some of the desire to maintain maneuvering room may also be related to the state's commitment to shifting more of the responsibility for policy decisions to the local level. California's experiment with doing this via the Local Control Funding Formula is an innovative, but still evolving approach.³² Constructive ambiguity gives the state more time to work through many implementation and capacity-building elements involved with converting from an innovative and promising idea into a proven strategy bolstered by supportive research and an invested constituency. In addition, sharp and strong state actions now might preempt options that might emerge from local deliberations. Thus, although the potential exists for

²⁹ (DeVos, 2018). The U.S. Department of Education is not the only critic of the dashboard. Some California advocates for minority and disadvantaged students also worry that the multidimensional rating system lacks the precision and sharp focus that are needed to mobilize sufficient pressure to bring about genuine reform. Some prefer a single letter grade that would directly call out schools that are failing. But when states and districts have employed letter grades, or when the nation as a whole applied the NCLB Adequate Yearly Progress designation as a near equivalent of a pass/fail grade, many complained that schools and districts are too complicated to be measured along any single dimension and that reliance on such a blunt measure underestimates the capacity of parents and citizens to consider and discern among distinctions that matter.

³⁰ (Darling-Hammond, 2018)

³¹ (Fensterwald, 2018b)

³² (Marsh & Hall 2017)

strong and direct federal influence in education decision making, there are good reasons to suspect that the largest federal impact on education in California will occur via general purpose or indirect policies, examples of which we lay out in the sections that follow.

Direct & General Purpose: Immigration/DACA

National policies that are not ostensibly about education and that are framed, debated, and decided on other grounds may nonetheless have substantial impacts on the state as it pursues the California Way. Social welfare policies, including food stamps, for example, affect the chances that students will enter kindergarten in good health and otherwise ready to learn. Housing programs affect whether high-need populations are mostly concentrated in a small proportion of districts and schools or are distributed more broadly as well as whether poor children have stable residential situations or forced to frequently relocate creating turnover that disrupts their own education as well as the functioning of their school. Other examples include changes in Medicaid or the Children's Health Insurance Program that augment or reduce reimbursements available to schools for such things as speech, language, and hearing services or that affect children's long term educational attainment indirectly through improving their health,³³ or federal actions that could block states like California from establishing gun-free zones around schools.³⁴ Some of these directly affect education policy by affecting children and families; others operate more indirectly by changing state and local politics or the incentive and capacity of the state to respond to challenges and needs. In this section we use the case of federal actions relating to immigration to illustrate ways in which national level policy and politics around immigration could directly affect efforts to define and pursue the California Way through the mechanism of increasing levels of stress among many of its children.

Although they are not education policies in and of themselves, national policies and politics surrounding immigration have the potential for substantial impacts on students and schools. As we discuss, California demographics make the state particularly vulnerable to shifts to more aggressive rhetoric, policies, and enforcement at the national level, and this vulnerability is much sharper in some districts than others. We choose to focus in particular on possible impacts of stress and resulting health problems and their impact on absences and educational achievement. While less immediate and less visible than changes in the dollars flowing to the state, these effects could be substantial. There are options open to the state to respond, and we draw attention particularly to the potential to address this through the guidance system within schools. But the districts with the greatest vulnerability to impacts from ongoing developments in federal immigration policies are also the most constrained in terms of their capacity to meet that challenge, an equity issue that presents special challenges in the context of the state's emphasis on Local Control Funding.

California is demographically vulnerable. California has an extremely large number of students who may be directly or indirectly affected by increased enforcement of immigration laws, elimination or constriction of DACA, and a more hostile national environment produced

³³ (Cohodes, Grossman, Kleiner, & Lovenheim, 2016; Goodnough & Pear, 2017; Zhang, 2012)

³⁴ (De R. Barondes, 2017)

by anti-immigrant rhetoric. With 15.2 million Hispanics in 2015, California has more Latinos than any other state; the expansion of the Hispanic population, an increase of 39% from 2000 to 2015, was surpassed only by Texas.³⁵ It is estimated that more than one out of every five of the nation's undocumented residents live in California.³⁶ Latinos have been the largest ethnic group in the state's public schools for over two decades and fully half of the state's population under 25 years of age is Latino.³⁷ A small proportion—but a large number—of Latino students are directly vulnerable to the escalation of federal enforcement actions against undocumented residents. Although an estimated 95 percent of California's Latino youth were born in the country, about 750,000 students in California have undocumented parents, 83% of whom come from Mexico, Central America, or the Philippines.³⁸ About 250,000 of California school children, ages 3-17, are themselves undocumented and about 240,000 young people, most of them older than 17, had applied for protection under DACA as of September 2016.³⁹ Pew reports that 29% of DACA recipients live in California, primarily in Los Angeles, which houses over 100,000 DACA recipients.⁴⁰

In the rest of this section, we concentrate on Hispanic students, in part, due to data limitations regarding the collection of information on children's immigration statuses, but also due to the disproportionate number of Hispanic students affected by immigration policies. Hispanic students make up the vast majority but not all of the students potentially affected by changes in federal immigration policy and enforcement. Roughly 95% of DACA recipients were born in Mexico or Central or South America, with 3% born in Asia and the other 2% from the Caribbean, Africa, and Europe.⁴¹

If we focused just on those students and their families who are directly subject to deportation, we would likely underestimate the impact of federal policies, as children whose families are not directly impacted by immigration enforcement may also experience spillover effects relevant to their education.⁴² Peer relationships of various kinds are very important to the culture of schools, and many children care deeply, and are themselves disrupted and upset, when they see friends and classmates seemingly under assault. Even more directly, some of these students have teachers who are vulnerable to changes in DACA and other immigration policies. An estimated 20,000 DACA-eligible teachers conceivably could be removed from the classroom, some even mid-year.⁴³

Concentrated effects of immigration policy changes. The students most directly affected by changes in immigration policies are concentrated in a small proportion of California counties and school districts. Data from the Stanford Education Data Archive suggest that, in

³⁵ (Flores, 2017)

³⁶ (*Undocumented Students in California: What You Should Know*, 2017)

³⁷ (*The Majority Report: Supporting the Success of Latino Students in California*, 2017)

³⁸ About 9% come from Asia, and roughly 8% are from other places.

³⁹ (Richmond, 2018; *Undocumented Students in California: What You Should Know*, 2017)

⁴⁰ (López & Krogstad, 2017)

⁴¹ (López & Krogstad, 2017)

⁴² (Gandara & Ee, 2018)

⁴³ (Toppo, 2017)

2014, districts in the top quartile of concentration of Hispanic students enrolled over half (56%) of the Hispanic students in the state of California, but just 38% of all public school students (Reardon et al., 2017). In these districts at least two thirds of students were Hispanic. This concentration means that the burden of coping with any effects on their enrollment, mobility, attendance, or stress will fall much more heavily on some local governments than others. However, as shown in **Table 3**, although these districts tended to serve needier students, they also tended to spend less per pupil than other districts in 2014.

Table 3. Districts with High Concentrations of Hispanic Students v. Other Districts in California, 2014^a

	High Hispanic Concentration	Other Districts	Difference
Enrollment	4,580 (1,279)	2,437 (176)	2,143** (798)
% Free and Reduced Lunch	69% (0.9%)	40% (0.8%)	30%*** (1.4%)
% English Language Learners (ELLs)	41% (1%)	13% (0.4%)	28%*** (1%)
Per Pupil Expenditures	\$11,200 (\$279)	\$12,062 (\$209)	-\$862* (\$393)
Unemployment Rate	7.2% (0.2%)	5.4% (0.1%)	1.8%*** (0.2%)

Data Source: Reardon et al. (2017)

Notes: Estimates are district means for all students in the district. Standard errors are in parentheses. ***p<.001, **p<.01, *p<.05. ^aDistricts in the top quartile of the concentration of Hispanic students are considered high concentration. In these districts at least two thirds of students are Hispanic. Sample sizes vary for some indicators because of varying levels of missing data on select characteristics. See Table A1 for information on the number of observations for each indicator.

Anti immigrant rhetoric in the national political environment.As a candidate, Donald Trump made inflammatory public statements that broadly denigrated illegal immigrants as lawless and untrustworthy. Immigrants from Mexico, he declared in July 2015, are “taking our jobs. They’re taking our manufacturing jobs. They’re taking our money. They’re killing us.”⁴⁴ Under his presidency, the federal government has followed up with policies and practices that

⁴⁴ (Kohn, 2016)

represent threats to immigrant youth. Between his inauguration and the end of September 2017, Immigration and Customs Enforcement (ICE) arrests of undocumented persons increased by more than 40 percent when compared to the same period in the prior year.⁴⁵ In September 2017, he announced plans to phase out DACA; while he encouraged Congress to enact new legislation to protect the so-called “Dreamers,” nine months later it remained unclear whether that would occur, and in the meantime anxieties around the issue remained high. In January 2018, Trump also ended Temporary Protected Status for El Salvadorians, a move that requires over 49,000 Salvadoran residents of California to either apply for legal immigration status or move to El Salvador by September 2019. This led over 60 California school districts and County Offices of Education to initiate action to protect these students, declaring themselves “safe havens” for immigrant students at the urging of the state superintendent.⁴⁶

Regardless of whether or not one credits his claims of an association between immigration, on the one hand, and crime and unemployment on the other—and there have been multiple analyses that challenge him on both fronts—it would be surprising if this rhetoric and policy focus failed to make a mark on the sense of well-being among young children in immigrant families.

Indeed, “The Trump administration’s crackdown on immigrants is having a chilling effect in California’s classrooms,” one source reported, “with schools reporting increased absenteeism and students having difficulty concentrating, even crying in class, teachers and administrators said.” Words matter, and the harsh rhetoric and perceived threats may be especially unsettling to children. “We’ve got 8-year-olds worried their parents will have to go back to Mexico,” one person who works with children undergoing trauma reported. “I saw one student literally crying in the elevator. If you’re undocumented, it’s not just rhetoric — it’s about survival.”⁴⁷

More than half of California teachers surveyed in 2017 reported more students experiencing “high levels of stress and anxiety” compared to the previous year” with 44.3% reporting that such concerns “impacted students’ learning—their ability to focus on lessons and their attendance.”⁴⁸ Another recent survey from 730 schools around the country⁴⁹ found that over two thirds of administrators reported that absences due to concerns about immigration enforcement were a problem.⁵⁰ This study also found that roughly 70% of administrators and certified staff had noticed academic decline among immigrant students. They quote one California teacher explaining, “One student’s father was deported after 24 years in the country. His children were born here in the U.S., but now their breadwinner is gone. Her grades plummeted after that happened.” This study also found that non-immigrant students felt the indirect consequences of immigration enforcement, as two thirds of teachers reported that students were affected by their concern for fellow immigrant students. Student concern also

⁴⁵ (Miroff, 2017)

⁴⁶ (Jones, 2018)

⁴⁷ (Jones, 2017)

⁴⁸ (Rogers et al., 2017)

⁴⁹ Of these schools, 44% were in California.

⁵⁰ (Gandara & Ee, 2018)

appears to be affecting educational attainment, with applications for state financial aid lagging substantially among undocumented students, likely because they are worried that information they provide on the required forms might help ICE track them down.⁵¹

Stress, health, and school behavior and performance. The notion that heightened and hostile rhetoric around race, ethnicity and immigrant status might affect student behavior and performance is based on a simple causal chain as represented here:

Figure 4. Causal Chain of Hostile Rhetoric and Student Behavior and Performance



Each of these links has empirical and well as theoretical support although some links are more fully supported than others. More of the research focuses on adults than on school-aged children, and more is focused on African Americans than on Latinos or immigrants. A number of studies suggest that vulnerability is greater among low-income individuals. There are few if any studies that incorporate all of the steps in a single analysis or that link the process directly to the particular elements of the political/policy environment around immigration enforcement.

For the first step of the causal chain, the links between the perceived experience of racial and ethnic discrimination and personal stress are reasonably well established.⁵² So are those between certain forms of family dysfunction and stress.⁵³ Most of these studies zero in on family problems tied to poverty, particularly as mediated by mothers' mental and emotional health. There is less research into family-induced stresses caused by disruptions to otherwise healthy and well-functioning families. However, a recent study looked at psychosocial dimensions of depression in 48 citizen-children, aged 8 to 15, with and without experiences of parental deportation. Children whose parents were deported perhaps unsurprisingly reported a greater burden of stressors in their lives, but the study also suggested that psychological hardship could be induced by the *perceived threat* of parental deportation.⁵⁴

There is growing evidence that stress has both mental and physical consequences for young students.⁵⁵ Significantly, there is some recent evidence that demonstrates an empirically isolatable link between immigration enforcement and health effects. Although the generalized stress induced by immigration enforcement normally is diffused over time and place, researchers were able to more directly assess its impact by zeroing in on a 2008 federal immigration raid in Postville, Iowa, at the time, the largest single-site federal immigration raid

⁵¹ (Gordon, 2017)

⁵² (Dolezsar, McGrath, Herzig, & Miller, 2014; Harrell, 2000; Molina & James, 2016)

⁵³ (Piccolo, Salles, Falceto, Fernandes, & Grassi-Oliveira, 2016)

⁵⁴ (Gulbas et al., 2016)

⁵⁵ (Lewis, Cogburn, & Williams, 2015; Y., 2006)

in US history. Examining birth certificate data before and after the raid, they found that infants born to Latina mothers had a 24% greater risk of lower birth weight after the raid compared to the prior year. The fact that no such change was observed among infants born to non-Latina, White mothers strengthens the case that it was stress induced by the raid, rather than some other event in Postville around that time, that accounted for the result. As they report, their findings “highlight the implications of racialized stressors not only for the health of Latino immigrants, but also for USA-born co-ethnics.”⁵⁶

The link between health and school performance seems intuitive on its face and is often cited as the justification for school health and wellness programs such as The National School Lunch Program. One strand of research on health and school performance focuses on absenteeism as a measure of mental and physical health. There is strong support in the empirical literature that links absenteeism to poorer school performance, and this is especially the case for students of lower socioeconomic status. Using national data from the Early Childhood Longitudinal Study, and analyzing growth curves for 13,613 K-1 children from 903 public and private schools, Ready found that “low SES children with good attendance gain almost 8 percent more literacy skills per month during kindergarten and almost 7 percent more per month during first grade” when compared to high SES children with good attendance.⁵⁷ Approximately 210,000 K-5 students in California missed 10% of the school year in 2015-2016, and it has been estimated that absenteeism has cost the state \$7.3 billion in funding over the past six years.⁵⁸ It’s difficult, at this time, to know whether anecdotal accounts and survey responses indicating increased absences among Latino and immigrant students will be borne out by official data.⁵⁹

If stress induced by the national political environment around immigration has consequences for students, schools and districts have little if any capacity to address the cause. But they do have some capability, incentive, and responsibility to address the effects. Increasing the number of counselors available, especially in those places where affected children are concentrated, would be one credible response.⁶⁰

⁵⁶ (Novak, Geronimus, & Martinez-Cardoso, 2017)

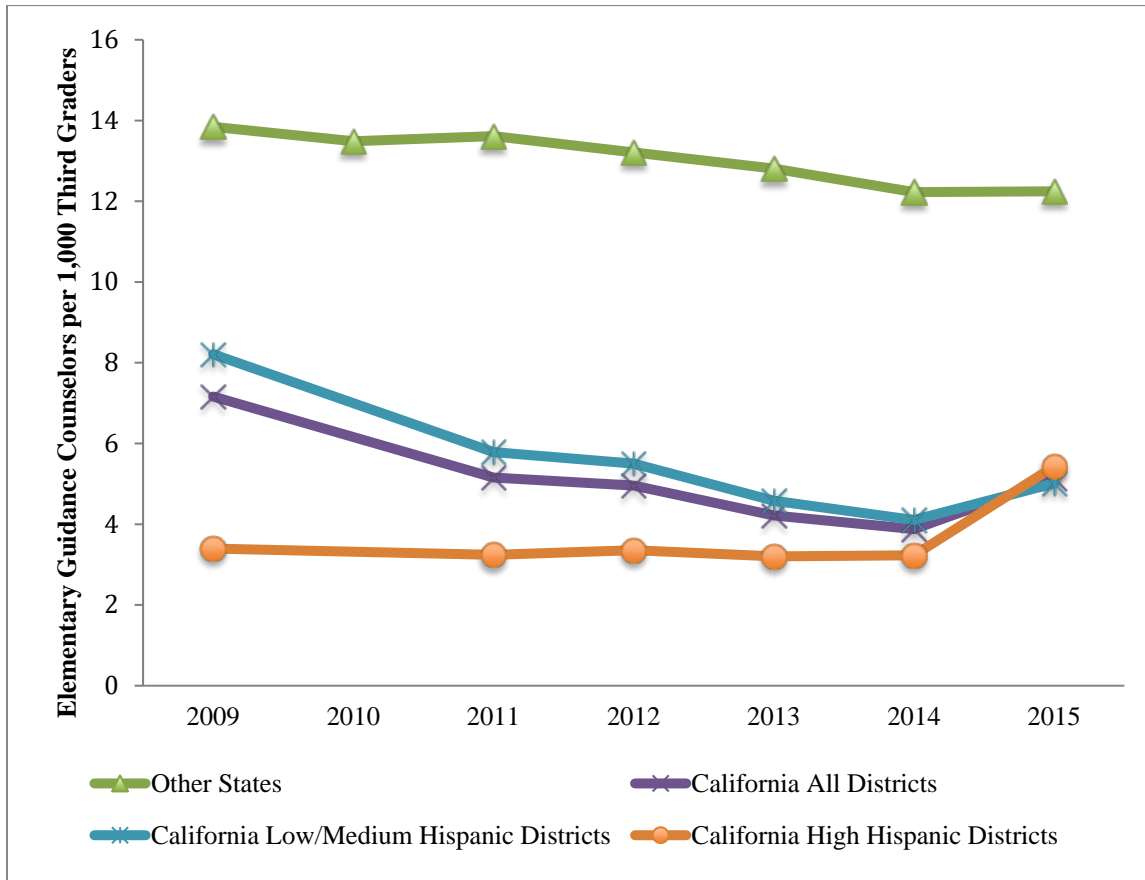
⁵⁷ (Ready, 2010)

⁵⁸ (Harris, 2016)

⁵⁹ At least through 2015-2016, chronic absenteeism has been about average among Hispanic students and lower than average for English Language Learners in California. (Harris, 2016)

⁶⁰ (Crawford & Valle, 2016)

Figure 5. Guidance Counselors per 1,000 Third Graders, 2009-2015



Data Source: Reardon et al. (2017)

Notes: School year indicates school year end. Results are school district averages. States with missing data on guidance counselors for all districts in a given year were removed for that year. This was the case for California in 2010.

If school counselors are an intervention worth considering, California starts from a lagging position. Figure 5 demonstrates that California consistently has had, on average, roughly seven or eight fewer elementary guidance counselors per 1,000 third graders than other states. Trends over time demonstrate that prior to 2013, the gap between California and other states widened slightly, but in the years since 2013, the gap has narrowed somewhat. Additionally, within California, in 2009 there was a substantial gap in the share of guidance counselors between districts. Districts with low or average concentrations of Hispanic students had roughly double the share of guidance counselors than districts with high concentrations of Hispanic students. This gap between districts, however, has narrowed in recent years, and by the 2014-2015 school year, the gap no longer existed.

We are not suggesting that adding counselors is the only, or even necessarily the best, way districts can help students deal with potentially debilitating stress. Research emphasizes that children benefit from secure and stable relationships with caring adults and those could be

provided by other school based specialists, such as nurses, or even teachers or aides, presuming they have been properly trained and supported.⁶¹ But if nurses are the alternative, indications are that the state starts from a deficit there as well.⁶² And if classroom teachers are to take on this responsibility more than they currently do, there would need to be a system of training, support, and additional staffing well beyond what is in place today.

How disproportionate effects across districts might play out in the context of Local Control of Funding. As previously noted, the effects of immigration policy changes affect some districts more than others, and the most affected districts also tend to be those districts disproportionately burdened by other high needs. Because these districts tend to have fewer resources, their capacity to deal with additional challenges due to immigration policy changes is even more limited. They have little in the way of slack resources. Such disproportionate burden might matter less when the state plays a central role and ongoing role in redistributing funds based on changing patterns of need, but California's reliance on the Local Control Funding Formula and the Local Control Accountability Plans, which put increased power and responsibility in the hands of districts, means that most of the responsibility for adapting to changing conditions falls on local institutions, that may already be over-extended, and to local decision-making dynamics, that favor more politically powerful and engaged constituents as opposed to the most vulnerable.

This raises to the fore one of the possible challenges to Local Control Financing: the risk that without strong and ongoing state intervention local control might exacerbate inequalities between districts. The state has addressed this so far by introducing a funding formula that provides substantially more money per pupil to districts with high need populations including English Language Learners.⁶³ But the basic elements of the formula do not—and arguably cannot—capture all of the dimensions of need or the ways that needs can be exacerbated by externally induced changes like those around immigration. And while it is conceivable that the state could adjust and replenish over time, there may be political obstacles to building on or even maintaining this progressive tilt. Analysts suggest that the successful enactment of the funding formula benefitted immensely from the surge in state revenues due to recovery from the Great Recession and the 2012 passage of Proposition 30. A previous effort to enact a weighted student funding formula had faltered due to opposition from districts that felt they would pay more in taxes and receive less money, but with a growing revenue pie it was possible to hold harmless even small and relatively more affluent districts, assuaging their concerns by promising that allotments would not decrease. For the time being, the state's economy is robust and revenues are expanding even more than anticipated. Governor Brown has emphasized that this can and likely will change. One major challenge for state leaders in the

⁶¹ (National Scientific Council on the Developing Child, 2004).

⁶² The ratio of students to school nurses is more than three-and-one-half times the level recommended by American Academy of Pediatrics <<https://www.kidsdata.org/blog/?p=7670>>

⁶³ For additional information on LCFF, see paper by Julia E. Koppich and Daniel C. Humphrey “*What Have We Learned After Four Years of Implementation?*” in this series.

future, then, may be to maintain a political coalition that can support redistribution at the same time it supports devolution even in years that are more lean.⁶⁴

General and Indirect: The Case of Federal Tax Reform

While national immigration politics and policy has the potential to directly affect children's readiness to learn, some general purpose policies indirectly affect education by altering political and fiscal constraints on state and local government. In this section, we illustrate this using the specific case of federal tax reform. Federal tax reform, in general and as enacted by Congress this past year, is not *about* education, but it is likely to be *consequential for* education. As we discuss, the new cap on the State and Local Tax Deduction (SALT) will likely make raising taxes harder, especially in California where SALT deductions have historically been much higher than other states.

Before the federal tax reform passed in December of 2017, households that itemized deductions could include an unlimited amount of taxes paid to state and local governments from their federal tax burden. Then, towards the end of 2017, the Senate produced a blueprint for tax legislation that eliminated SALT entirely. Representatives and journalists quickly pointed out how such a move would disproportionately impact high wealth, high tax states like California and New York, which also tend to vote for Democrats. Perhaps because of this outcry, Congress decided not to eliminate SALT altogether. Instead, the federal tax legislation that was ultimately passed limits but does not entirely discard SALT by allowing families to deduct property taxes and either state income or sales taxes, with a cap at \$10,000. This is a move that still disproportionately affects states like California and New York.⁶⁵

The indirect effect of the SALT deduction reduction on California. The Trump administration and the Republican majority in Congress argued that eliminating or reducing the ability of taxpayers to deduct state and local taxes in calculating their federal tax liability would have positive impacts for families, both directly, by increasing their spending power, and indirectly, by improving the economy with resultant increases in jobs and wages. While the national debate was alert to the fact that the immediate impact would disproportionately affect higher tax states like California, the primary focus was on competing claims about the impact nationwide. And while key interest groups tried to draw attention to possibly negative pressures on state and local education spending, education-specific consequences were at best a marginal consideration in the national debate. Despite this lack of explicit attention, the indirect effect on California, via the politics of taxation, are likely to be substantial. As has been widely reported, California is one of the states hardest hit by cap on SALT deductions. Overall,

⁶⁴ (Christina Baumgardner Stephen Frank, Jason Willis, Alex Berg-Jacobson, 2018)

⁶⁵ The tax reform package included other provisions that also can be expected to have meaningful consequences for public education in California. The provision to allow families to use so-called 529 accounts to reduce tax liabilities for private school expenditures, rather than simply for higher education as originally conceived, could both reduce public revenues and sharpen intrastate tensions between proponents of public versus private education. The establishment of a higher standard deduction is expected to hurt private fundraising by various nonprofits that provide support to schools and families by reducing the proportion of taxpayers who itemize deductions including those for charitable giving.

in California in 2015, the State and Local Income Tax Deduction amounted to \$112.6 billion, accounting for more than one fifth of the amount deducted in the nation overall. Californians are hit with a double whammy. First, California’s state and local taxes are unusually high, making the cap on deductions more binding. Second, higher income taxpayers in general are more likely to itemize their deductions and California’s taxpayers have relatively high incomes, meaning that a larger proportion of the states’ households will directly feel the pinch.

Table 4. State and Local Income Tax and Real Estate Deductions in the United States v. California, 2015

	United States	California
S&L Income Tax Claim Rate	22.0%	28.2%
S&L Income Tax Deduction Per Filer	\$2,233	\$4,500
S&L Income Tax Deduction Per Claimant	\$10,146	\$15,977
Real Estate Claim Rate	25.1%	27.1%
Real Estate Deduction Per Filer	\$1,252	\$1,594
Real Estate Deduction Per Claimant	\$4,992	\$5,877

Data Source: The Pew Charitable Trusts (2017)

As indicated in Table 4, Californians are 6.2 percentage points more likely to claim a deduction for state and local taxes and two percentage points more likely to claim one for real estate taxes. The average state and local income tax deduction per claimant was \$5,831 higher for Californians than for those taking the deduction nationwide; for real estate taxes it was \$885 higher. For high-income earners the amount per claimant gets close to \$100,000 in wealthy, high property value communities like San Mateo County, San Francisco County, and Marin.⁶⁶

Eliminating the SALT deduction would not directly mean that the state would raise or spend less, at least initially. But by effectively increasing the personal out-of-pocket cost to state taxpayers it would almost certainly reinforce what is already a harsh climate for raising revenues. California, in 1978, famously led the nation in property tax limitations with Proposition 13, which put a cap on local property taxes and instituted tougher procedures for approving future tax increases at both the state and local levels. With both the culture and mechanisms resistant to taxing, the state lost substantial ground in public education funding relative to other places. The state has been able to make up some of that ground over the past few years, in part, by increasing taxes on the wealthy through Propositions 30 and 55,⁶⁷ yet the

⁶⁶ (Parlapiano & Lai, 2017)

⁶⁷ Proposition 30 was a temporary measure passed in 2012 to stave off budget cuts. It increased the income tax burden for roughly the top 1.5% of earners and included a sales tax increase. In 2016, the sales tax increase ended, and Proposition 55 extended the income tax increases until 2030 (Chen, 2016).

reduction of the SALT deduction may place these tax increases at risk. Both the reduction of the SALT deduction and these tax increases disproportionately affect well-resourced communities, and the increased tax burden could push them to lobby for new state tax policies.

Combined with other measures in the Tax Cuts and Jobs Act of 2017, the reduction in SALT deductions may negatively affect property values, which in turn would also lead to fewer revenues raised via property taxes. Since the new legislation caps property taxes and either state income or sales taxes at \$10,000, this effectively increases the total price that many new homeowners can expect to pay initially and long term by decreasing the amount of state and local taxes that they can deduct from their federal tax burden. If potential homebuyers factor this added cost into their new home budgets, then they will not be willing to pay as much for their new home. Homesellers in turn would need to lower their prices, effectively decreasing housing values. The National Association of Realtors has estimated an expected decrease in housing values between 5% and 21%, depending on the state.⁶⁸ This could have a more dramatic effect on the local politics of school funding in California. Although the state absorbs a larger share of school funding than the national average, local governments within the state rely more on property taxes to cover their share than do local governments elsewhere: 72.7% of local education revenues come from property taxes in California compared to the US average of 65.5%.⁶⁹ It is not certain that housing values will fall, and even if they should, that would not translate immediately and directly into lost revenues, but California is already notable for the intensity and episodic successes of its anti-tax movement and the reduction in SALT could tip a delicate political balance in ways that constrain local education budgets.

SALT and education spending in California. Although California has been increasing its funding at a higher rate than the national average in recent years, the most recent reports still demonstrate that on average, California schools receive over \$1,000 less per pupil than the national average.⁷⁰ This is true even though the state has relatively high numbers of students with special needs and even though its labor costs are especially high. California, for example, has more English language learners than any other state and its percentage of low-income students ranks in the top quarter.⁷¹ This underfunding is even more striking when one takes into account the fact that compared to other low-spending states California is relatively rich in personal income and property wealth. That low spending is not due to the lack of resources underscores the point that the key challenges to increased funding are largely political, and the indirect effect of the changes in federal tax policy are likely to make these political challenges even more binding. It serves, too, as a reminder that “the California Way” –in this case, its way of supporting public education—may not always be one to protect or celebrate. It’s nearly impossible to estimate precisely how a SALT elimination would percolate through the state’s political process. Empirical research on the politics of state and local taxation is surprisingly

⁶⁸ (Erb, 2017)

⁶⁹ We should note that local property taxes make up roughly 27% of total revenues for elementary and secondary education in California, which is below the national average of 36.4% (Snyder, Brey, & Dillow, 2018; U.S. Census Bureau (2015).

⁷⁰ (Cornman, Zhou, Howell, & Young, 2017)

⁷¹ (Weston, 2012)

thin. One clue may be what happened in the state as a result of the 2008-9 national depression. While some states recovered quickly, the state of California was spending almost 12% less in per student, inflation adjusted dollars in 2015 than it had been in 2008.⁷² We can get some additional guidance from studies that attempt explain why local school bond referenda pass or fail. These confirm the theoretical and intuitive expectation that larger bond proposals are more likely to fail.⁷³ Assuming that Californians infer that the loss of deductibility increases the effective size of any “ask,” the politics will create a drag on future taxes and potentially even generate pressure for more cutbacks. The extent of the drag on is not known, but at the local level higher income, higher tax jurisdictions may feel the drag more.

What can California leaders do about it? It is true that there may be ways around the new limitations on SALT deductions that attenuate these consequences. Pundits and journalists have proposed numerous methods for avoiding the increased tax burden as a result of the elimination of SALT, the two most prominent of which involve a state government charitable donation and reliance on employer payroll taxes. The former would essentially allow California residents to “charitably” donate to the California state government and, in turn, receive dollar-for-dollar tax credits on the state level. The state would receive the same revenue, but taxpayers would then be able to deduct these contributions from their federal income taxes as charitable donations instead of as state taxes. Ironically, proponents of this approach have cited tax write-offs for private school scholarships (“neovouchers”) in Arizona as establishing the precedent for this type of action.⁷⁴ As such, the federal government may find it difficult to push back against such programs without endangering other policies they find favorable. The second widely discussed work-around, shifting to employer payroll taxes as opposed to employee income taxes, would arguably simplify tax preparation for families while also avoiding the increased tax burden due to the new limitations on SALT.⁷⁵ Again, this method could, in theory, provide the state of California the same amount of revenues, just through a channel (employer payroll taxes) that remains deductible from federal income taxes. Indeed, both of these work-arounds would theoretically leave the current level of deductibility essentially unchanged while also complying with the law as written, thus generating fewer federal tax revenues.

Both of these possible state responses have their own limitations and interest groups likely to oppose them, so whether California will attempt to employ one of these methods or other strategies to avoid increased tax burdens for some of its residents due to new limitations on SALT is yet to be determined. For our purposes in this paper, two points are clear. First, non-education initiatives like tax reform have the potential to have as much impact on California’s public education system as any likely education-specific policy, program, or regulation promulgated by Congress or the U.S. Department of Education. Second, while the state is not defenseless and has possible recourse to actions that will reduce or eliminate some of these

⁷² (Leachman, Masterson, & Figueroa, 2017)

⁷³ (Beckham & Maiden, 2003; A. Bowers & Lee, 2013; A. J. Bowers, Metzger, & Militello, 2010)

⁷⁴ (Paletta, 2018)

⁷⁵ (Baker, 2017; Matthews, 2017)

impacts, those responses, too, are likely to take the form of non-education-specific policies,⁷⁶ shepherded by general purpose government officials, and negotiated in an environment in which various interest groups that are not specifically concerned about education will have influence and voice.

Education-specific and Indirect: Supreme Court Case

While some national policies directly affect state policies, others operate indirectly by altering the political dynamics within the state, thereby changing the force and shape of demands that state policy-makers must take into account. As noted earlier, this can take multiple forms through the process of policy feedback. Policy decisions or political actions at the national level can create or energize new interest groups or they can weaken or depress action by longstanding interest groups. National “nondecisions”--the absence or rescission of national action despite conditions that government could address--can also change state political dynamics by generating internal pressures to fill the resulting vacuum. These effects may be unintended by national actors or they may be part of an intentional strategy. As with direct influences, indirect influences may be education-specific or general, and may emanate from any of the branches of government. In this section we discuss, by way of illustration, a credible education-specific action that could derive from the U.S. Supreme Court.

As a reminder of the capacity of the Supreme Court to dramatically affect state education policy and practice one needs only to reference *Brown v. Board of Education* and the various subsequent decisions relating to desegregation throughout the country. Some of the consequences of that decision were direct: they mandated action by states and localities to alter practices, sometimes in very specific terms. Other consequences, perhaps less apparent, were indirect: they armed civil rights organizations with a new tool to press their case and at the same time, in some places, animated a political backlash that in some places was both powerful and long-lasting. The example we use here is a different one: the prospect that the U.S. Supreme Court might bar teacher unions from requiring nonmember teachers to pay what are known as “agency fees.”

A potential Supreme Court decision on “agency fees.” In many states, including California, public employees who choose not to join unions nonetheless must pay a fee in lieu of member dues, which is often referred to as an “agency fee.”⁷⁷ The rationale for this is that those employees benefit from the collective bargaining activity of the unions. Absent a mandatory payment employees would have a strong incentive to “free ride,” to refuse to join the union and leave those remaining to carry the cost of bargaining. In 1977 the Court ruled that public sector unions could not require nonmembers to support their political activities, but

⁷⁶ However, the response doesn’t have to be from general-purpose actors. The reduction of the SALT deduction could instead prompt an education-specific response with the goal of restructuring costs in the long term. This might involve, for example, partitioning local budgets, imposing user taxes or fees, reshaping capital and operating budget priorities, or stimulating efforts to reshape the instructional experience to lessen labor costs. Thanks to Macke Raymond for reminding us of this point.

⁷⁷ (Superfine, Umpstead, Mayrowetz, Lenhoff, & Pogodzinski, 2017)

that they could require payments to support their fair share of collective bargaining efforts. In March 2016, the Supreme Court revisited the question in the case of *Friedrichs v. California Teachers Association*, but, at that point short one member because of the death of Antonin Scalia, deadlocked 4-4. At the time of this writing, the Court has agreed to consider the issue again this term, in the case of *Janus v. AFSCME*.⁷⁸ This case may have profound consequences for California teacher unions. Teacher unions are powerful actors in education politics. Political scientist Terry Moe argues that teacher unions are “the most powerful groups in the politics of education. No other groups have even been in the same ballpark.”⁷⁹ This is the case, he argues, because teacher unions combine two types of power. One type of power, shared by public bureaucracies in general, is the power to use their position as the chief implementers of policies to slow, reshape, or selectively ignore policies with which they disagree. The other is their power to powerfully influence the selection of elected leaders, using their endorsements, campaign contributions, in-kind electoral support, lobbying efforts, and symbolic status as “experts” to control the policy agenda at its source. According to one analysis, by an organization generally critical of teacher unions, California has the sixth strongest teacher unions in the nation and is number one in teacher unions’ perceived political influence.⁸⁰

Any court decision that substantially weakens the teacher union therefore could sharply alter the configuration of interest group power within the state. To critics of teacher unions, like Moe, this would dramatically open opportunities for the expansion of reforms that the unions have traditionally opposed, particularly market-oriented reforms, like vouchers and charter schools, and teacher accountability reforms, like using teacher value-added measures in salary and tenure decisions. It would also, they argue, provide district-level administrators more flexibility to remove ineffective teachers, redistribute experienced and effective teachers toward high need schools, close dysfunctional schools, and undertake reforms of the teacher pension system. They argue that a weakened teacher union would not necessarily leave public schools without a champion to lead the battle against underinvestment; out from under the shadow of the disproportionately powerful unions, they suggest that a more balanced and ultimately stronger coalition pushing for reform could emerge. To supporters of the teacher unions, on the contrary, a judicial decision against agency fees would substantially mute a critical voice for a traditional vision of education more informed and anchored by educator expertise and experience. It would also weaken overall the political coalition that has advocated greater investment in public education, fought against perceived narrowing of the curriculum under NCLB, and promoted community school models that emphasize schools as an organizing focus for the delivery of health and social services.⁸¹

Wisconsin legislation intended to reduce the ability of unions to collectively bargain and affect policymaking provides one window into the possible consequences. Wisconsin is a useful

⁷⁸ The *Janus* case extends the issue beyond teacher unions, and in that sense might be categorized as general rather than education-specific, but we use this an illustration nonetheless reflecting the fact that that the issues were originally raised in *Friedrichs* and in light of that case’s specific link to California.

⁷⁹ (Moe, 2011): 8.

⁸⁰ (Northern, Skull, & Shaw, 2012)

⁸¹ (Goldstein, 2014)

case study because prior to 2011 it was a stronghold of union power, particularly with regard to the National Education Association (NEA), the country's largest teacher union. However, with Act 10 in 2011, Wisconsin implemented a series of reforms that dramatically reduced teacher unions' ability to collectively bargain and increased the costs of unionization. One of the primary mechanisms increasing the costs of unionization was the elimination of teacher union agency fees.⁸² If agency fees are ruled unconstitutional in the *Janus v. AFSCME* case, then what happened after the elimination of agency fees in Wisconsin in 2011 will be a clue to what might happen in California.

Although peer-reviewed journal articles on the effect of Act 10 in Wisconsin have not yet been published, a few reports and working papers have examined the effects on student achievement, teacher turnover, and a number of other outcomes. One working paper suggests that the implementation of Act 10 resulted in a slight (.15-.18 standard deviation) decrease in student academic achievement in math and science, which was largely concentrated in the lowest performing schools.⁸³ Both this paper and another working paper also suggest that the 2011 reforms increased teacher retirement.⁸⁴ Furthermore, a recent report by the Center for American Progress Action Fund suggests that after 2011, the percent of teachers exiting the profession increased while average teacher experience decreased.⁸⁵ Despite these findings, no studies have examined the effect of the 2011 Wisconsin reforms on measures of union power, such as teacher union membership, nor have they compared Wisconsin to other states with a particular emphasis on agency fees for teacher unions in particular.⁸⁶ We offer, here, some original analysis to fill that gap.

Figure 6 compares NEA membership over time in states prohibiting agency fees for teachers unions, in states not prohibiting agency fees, and in Wisconsin, which moved from permitting to prohibiting in 2011. NEA membership is a useful metric for this analysis given that the NEA is not only the largest teacher union in California and Wisconsin but also in the United States as a whole.⁸⁷ During the 2015-16 school year, the NEA represented roughly three million teachers, ten percent of whom were from California. Currently, California is one of the 22 states not prohibiting agency fees, and its NEA membership during the 2015-2016 school year was 324,695.

Like California, Wisconsin also had higher than average NEA membership counts for the 15 years prior to 2011; however, after Act 10, the NEA in Wisconsin began to experience a

⁸² The text is amended to say, "A general municipal employee has the right to refrain from paying dues while remaining a member of a collective bargaining unit. A public safety employee, however, may be required to pay dues in the manner provided in a fair-share agreement." ("2011 Wisconsin Act 10," 2011)

⁸³ (Baron, 2017)

⁸⁴ (Baron 2017; Roth, 2017)

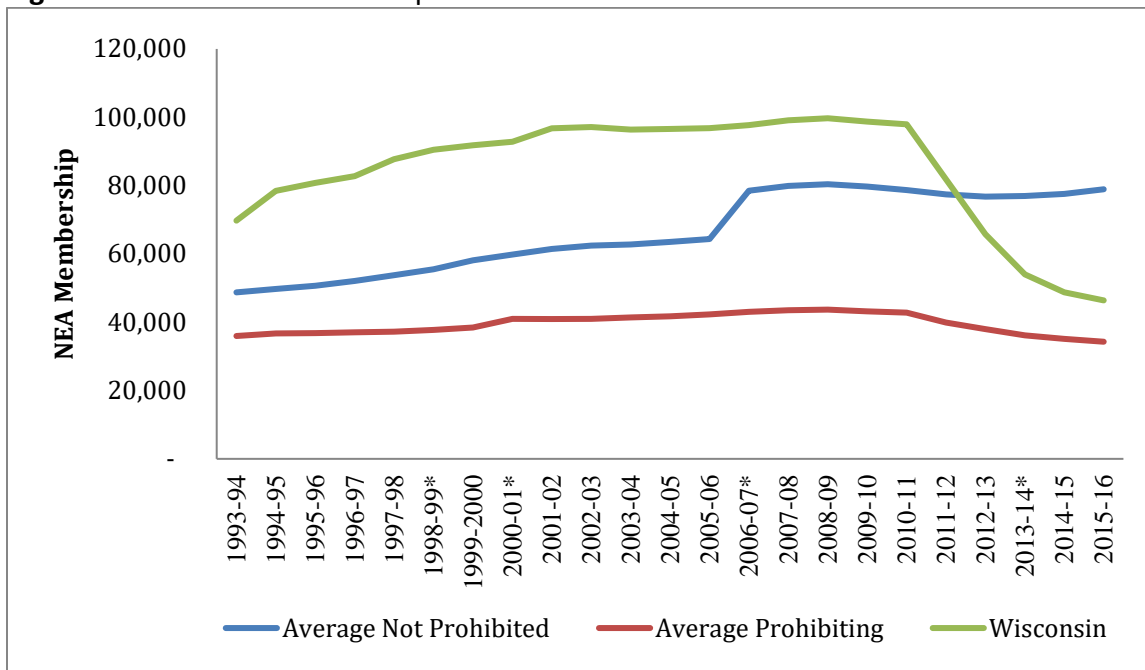
⁸⁵ (Madland & Rowell, 2017)

⁸⁶ Many studies examining the effect of agency fees use the enactment of Right to Work laws as the policy reform; however, in some states, e.g. Indiana and Wisconsin, teacher union agency fees have been prohibited prior to the enactment of a Right to Work law. Therefore, these studies are not able to approximate the true relationship between teacher union agency fees and teacher unions.

⁸⁷ (Hertel-Fernandez, 2016)

sharp decline in membership that has placed Wisconsin well below the average membership for states not prohibiting agency fees and much closer to states that prohibit agency fees. Indeed, during the years 1993-2010, membership for the NEA affiliate in Wisconsin gained an average of 2%, whereas after Act 10, the yearly average change in membership declined to -14%. During the 2010-2011 school year, the NEA reported 97,910 members, but over the next five years, Wisconsin NEA membership declined to just 46,388. By the 2015-2016 school year, NEA membership in Wisconsin was less than half of what it had been five years ago. In contrast, NEA membership in other states remained stable over this time period.⁸⁸ Although we cannot completely isolate the effect of the elimination of agency fees, this analysis does provide empirical evidence of a substantial decrease in teacher union membership in Wisconsin after the implementation of legislation eliminating agency fees, a decrease that did not occur in states that continued to allow agency fees.⁸⁹

Figure 6. NEA State Membership Over Time



Data Source: National Education Association “Secretary-Treasurer/Independent Auditors Financial Reports: Presented to the Representative Assembly,” compiled by Mike Antonucci of the74

Notes: *year after state merger(s): 1998: Minnesota, 2000: Florida and Montana, 2006: New York, 2013: North Dakota. These membership counts include all members, even those that would no longer be paying agency fees, such as retired teachers.

⁸⁸ The 2006-2007 uptick in membership for states not prohibiting agency fees is attributable to an NEA/AFT merger in New York State which dramatically increased average membership there. As such, the Figure A2 in the appendix excludes New York State and demonstrates an even clearer pattern of stability.

⁸⁹ While rigorous analysis of the causal effect of the elimination of agency fees on union membership falls beyond the scope of this paper, we are examining the effect of various state labor policies on union membership in an ongoing study. Preliminary results suggest that reforms in 2011 did cause substantial declines in NEA membership in Wisconsin.

Combined with the existing literature regarding agency fees and *Friedrichs v. California* in particular, this suggests that the CTA could be substantially weakened if the Supreme Court rules agency fees unconstitutional.⁹⁰ Considering that membership dues and fees comprise 92% of the California Teachers Association revenues,⁹¹ expected decreases associated with the loss of agency fees for non-members and declining membership could substantially weaken the California Teachers Association's ability to affect education policy making in California. There may also be broader effects on the Democratic Party in California as a whole. In a recent National Bureau of Economic Research working paper, Feigenbaum, Hertel-Fernandez, and Williamson (2018) have found that the eliminating union agency fees reduced the Democratic vote share by 3.5 percentage points. They argue that this is due to the weakened ability of unions to mobilize potential Democratic voters and to make campaign contributions.

As already noted, whether weakened teacher unions clear the way to needed reforms or weaken the coalition needed to maintain public investment is a matter of ongoing dispute. Although the empirical literature exploring the consequences of teacher unions' influence is growing, the precise nature of its consequences, and whether those overall are dysfunctional or benign, remain inconclusive.⁹² What seems uncontroversial, though, is the conclusion that teacher unions do matter, and probably a lot.

General Discussion

Traditionally in the U.S. public education is an issue that has been acted upon largely on its own terms, apart from the other arenas of general purpose government such as social welfare, law enforcement, environmental protection, transportation and the prisons. This is the case in part because education has been regarded as different: less partisan, more universally supported, more central to promoting public goods like economic development, tolerance and common understanding, and an informed citizenry.

Education also has been accorded special status when it comes to governance. Local school boards typically are separate from municipal and county governance, typically with their own leadership and often with dedicated revenue streams. This assignment of decision-making over public schools to education-specific institutions is evident in California, as well, at both the local and state level. At the local level it is manifested in the 1,082 public school systems that largely stand apart from its 58 counties and 482 municipalities.⁹³ At the state level, it is manifested in the fact that the State Superintendent of Education is elected separately from the governor;⁹⁴ each of the eight other secretaries of major state departments such as of Health and Human Service, Labor, Corrections and Rehabilitation, Environmental Protection,

⁹⁰ (Moe, 2011; Superfine et al., 2017)

⁹¹ (Superfine et al., 2017)

⁹² For one helpful review, which includes a number of findings specific to California, see Cowen & Strunk (2014)

⁹³ (*Individual State Descriptions: 2012, 2013*)

⁹⁴ This was not always the case. Until the second term of Governor Brown, there was an appointed cabinet level Secretary of Education. This created an uneasy triangle between the State Superintendent and the Chair of the State Board of Education who was also appointed by the Governor. Now the State Board Chair fulfills the policy-advisor, cabinet-level role, and State Superintendent is expected to act in an executive role.

Emergency Services, Transportation, are appointed rather than elected and so owe their position to the governor rather than having their own voting constituency. Higher education, too, has a distinctly independent governance status with independent boards or commissions overseeing Community Colleges, Postsecondary Education, State Universities, and the University of California Board of Regents.

It is not surprising, then, that the thinking and discussion about the future of public education in California tends to focus on direct and education-specific policies, like school funding, curriculum, teachers, and enrollment. While not in any way meaning to slight these critically important areas of discussion and concern, we have made the case for adopting a broader frame of reference in considering how federal policy might constrain or enable the state's pursuit of The California Way. In this section, we highlight a few themes that emerge from the analysis we have presented. We follow that with a concluding section that specifically considers implications for the state's next governor.

While it is possible that the current alignment of power in Washington D.C. could produce a sharp change in federal education funding or priorities, we think it's fair to say that now, more so than any other time in the past 15 years, the federal government is limited in its ability to influence California's education governance through direct, education-specific action. One indication of this is the state's experience during the Bush and Obama years; despite a somewhat tense relationship and the fact that state was one of three or four states that never received an ESEA waiver from the DOE under NCLB, California suffered few direct consequences from the federal government.

As we have suggested, the traditional emphasis on formula-based funding reduces the prospects for sharp funding changes based on partisan alignments. ESSA deliberately put new handcuffs on the USDOE, and contemporary political realities further limit the prospects for sharp change at the federal level. In Congress, educational action is complicated by a lack of consensus within the Republican Party. Rifts have appeared on key issues relevant for educational decision-making. Conservatives drawn to the idea of dramatic federal action to promote vouchers and private school choice, for example, are faced off against those more invested in the principle of states rights. Looming deficits create a zero-sum game at the federal level that heightens recognition that any new initiatives would come out of the hide of existing programs that have broad Congressional support.

Further, while uncertainty is a challenge under all new administrations, it seems especially pertinent under the Trump administration, both because of the lack of clear priorities about educational policies and the substantial questions about the likelihood that a troubled administration will be able to translate its priorities into legislation. This helps account for--and may provide some support for--the course of *constructive ambiguity* that has characterized the state's ESSA strategy this far.

While state-federal interactions on direct and education-specific issues may be less dramatic and impactful than might be expected, there are multiple and consequential possibilities for federal impacts via non-education-specific, general purpose policies that

directly affect families and children and for indirect effects that alter political alignments and demands within the state. We have highlighted these using three illustrations: federal immigration policy, federal tax policy, and potential action by the U.S. Supreme Court. We make no claims that these are the most likely or most important examples of non-education-specific and indirect effects of national policies; just that they are credible representatives of types of national actions that *are* probable and *are* likely to impinge upon the state's pursuit of the kind of public education its citizens want and need.

These observations underscore the importance of general purpose politics and institutions both as they affect the state and as the state fashions a response to protect itself from serious negative consequences and take advantage of possible opportunities. The state legislature and major interest groups are significant elements in generating that response, but we close with specific implications for the public official whose position and authority provide the most critical leadership role.

Implications for the Next Governor

Within every statehouse there are five metaphorical joysticks. One is labeled "State Education Policy," and by maneuvering this joystick a governor can directly steer among the familiar choices of changing the level of state education funding, delegate more or less of a role to local districts, establish new priorities like technology in the classroom or early childhood education, power up or down attention to longstanding issues like English-language learning or special education, invest more to improve the skills and knowledge of current teachers or ratchet up monitoring and enforcement with the goal of weeding out teachers who do not raise their students' test scores. When it comes to articulating goals and strategies for improving educational outcomes, campaign speeches and platforms focus on this joystick and that is neither a surprise nor, necessarily a problem. It is a very important instrument to be sure.

A second metaphorical joystick is labeled "Non-Education State Policies," and this one also has direct effects on governmental priorities and investments in things that matter for how long and how well its citizens will study and learn. This joystick steers attention and actions relating to health, and nutrition, housing, and law enforcement each of which can make it more or less likely that children will have access and be able to take full advantage of the educational offerings that state provides.

Two of the remaining three joysticks have more to do with politics than with policy per se. By politics we do not mean just the seamier business end of patronage and wrangling for partisan advantage, but more particularly the tasks of assembling and energizing constituencies, brokering agreements among competing interests, keeping government oriented toward goals that are legitimate, inspiring, and responsive to the public's needs and demands. One of these political joysticks is labeled "State Education Politics," and it connects to relationships with and among teacher unions, parent groups, school districts, charter schools, institutions of higher education, and private providers of education services of many kinds. The other is labeled "State General Politics" and it connects to relations with and among a host of other stakeholders who may also care about education, but are mobilized more centrally

around other interests like civil rights, tax reduction, real estate or protecting the environment. While they do not directly define policies, deft adjustments on these political joysticks can help to build and sustain support for efforts that will improve education, and mishandling them can foster divisiveness, intramural warfare, and result in policies that are directly counterproductive or shallow, fragmented, unsustainable.

The last metaphorical joystick has to do with representing the state's interest in the broader arena of national politics and governance. Label this one "National Politics." It controls how the governor positions the state to challenge, support, or sidestep initiatives out of the White House or Congress or the federal courts either directly or by working with other states through bodies like the National Governors Association or *ad hoc* coalitions.

We have suggested in this paper that actions at the national level can affect California education policy and politics directly and indirectly, through education-specific and general-purpose channels. While many actors inside and outside of formal positions in state government are important to how the state reacts to these external influences, the governor is especially well placed to define and coordinate the response. Using his or her powers to influence state politics and policy, the governor potentially can compensate for national actions that counter pursuit of the California Way: the vision of education and state well-being shaped and endorsed through democratic politics by the state's citizens.

The governor also has the ability to coordinate California actors, such as its Representatives and Senators in the US Congress, for the purpose of affecting policy making on the national scale. And using his or her strategic position in the national arena, the governor potentially can fend off constraining pressures or take advantage of national forces that can support the state's efforts. We do not mean to imply, of course, that the governor is the only actor who has influence and responsibility in these arenas, nor that the governor is free to manipulate the available levers unencumbered by multiple constraints. The claim is not that the governor's office is where all or even most of the solutions lie, only that it is a key venue for mobilizing a state response to relevant external opportunities and constraints. The particular tactical options open to future governors will depend on circumstances we are in no position to predict, but in this final section we lay out in broad strokes four strategic stances that are available and some of the risks and benefits associated with each.

Voice of Resistance

One option is to take on a public and proactive leadership role in challenging national policies that have the potential to impede the state in its pursuit of the California Way. There are multiple examples of governors who have done this, getting out in front of others on particular issues because they feel especially strongly about them, because they are especially relevant to their states' interests, or because they offer a good platform for their own visibility and national stature.⁹⁵

⁹⁵ (McKinley & Wang, 2018; Kang, 2018))

Governor Brown and the state of California have long taken on this leadership role when it comes to environmental policy. In June 2017 Brown traveled to China, for example, emerging, according to one media report as “a de facto envoy from the United States on climate change at a time when President Trump has renounced efforts to battle global emission....’California’s leading, China’s leading,’ Mr. Brown said at a wide-ranging and at times feisty news conference after he met with Mr. Xi.”⁹⁶ Within the U.S., the state has established a strong leadership position; because the state combines strong market position and because other states have adopted the state’s anti-pollution standards, California “finds itself in an extraordinary position to stage a regulatory mutiny of sorts - with much of the country’s car market in tow.”⁹⁷

Serving as the leading voice of resistance could be a desirable strategy even when the chances of changing the offending national policy are slim. Some benefits might accrue to the governor personally; challenging national policies that harm California education is a likely winner in a state where Donald Trump got less than one third of the vote in 2016. But it may also have a broader pay-off; rallying Californians against a perceived common enemy could create a less fractious internal political environment, making possible gains in other areas where intramural in-fighting would otherwise impede progress.

That said, becoming the voice of resistance is a high-risk strategy that needs to be adopted selectively. While there are limits in the extent to which a hostile administration is able to “punish” states by reducing the flow of federal dollars for public education, the shift from formula to competitive funding initiated under the Obama administration raises the possibility that an administration that does not cotton to direct challenge will have ways to make its displeasure felt. Leading the charge against national policy on the environment, as noted, is a natural extension of a leadership role the state has long played in this arena. It may be less viable when it comes to public education, where neither a tradition of public investment nor performance on measures of student achievement buttress the state’s authority. This strategy may also be particularly risky with the Trump administration, which, as some have noted, seems particularly concerned with loyalty.⁹⁸

Protection in Numbers

Where it is important to challenge national policy, but where leading the charge is risky or inappropriate, a governor has the option of working in alliance with governors from other states. Governors from both political parties, for example, have used public forums and private channels to collectively urge the administration not to follow through on threats to end multilateral trade agreements like NAFTA.⁹⁹ Such team efforts can be *ad hoc* or coordinated through institutionalized megaphones. Because it is structurally bipartisan, the National Governors Association (NGA) is constrained from taking on most controversial issues but can

⁹⁶ (Hernández & Nagourney, 2017)

⁹⁷ (Tabuchi, 2017)

⁹⁸ (Chapin, 2017)

⁹⁹ (Swanson, 2017)

provide a channel for speaking up where governors share common interests, as for example in pushing the administration to do more to help them respond to the opioid crisis.¹⁰⁰

This strategy might be best suited when many states share a common stake and where California lacks a strong claim to leadership status, such as increased public investment in education. Specifically, if the reduction of the State and Local Tax Deduction affects education budgets throughout the United States, this may provide a rallying point for states to come together to push for increased federal aid to make up for new budget deficits. As previously noted, California is expected to be particularly affected by the new reductions, but its notoriously low levels of per pupil funding do not give its representatives a strong claim to national leadership on the issue of school finance. Recognizing that California cannot champion every issue, this strategy also preserves political capital because it diffuses the expenditure of political capital across many states.

There are risks to this strategy though. In order to come to common terms with allied states, California might have to make compromises on the values and priorities associated with The California Way. This could unsettle constituencies inside the state, requiring the governor to devote political capital to reassuring wary interest groups that the state's core principles are not being sacrificed. Accepting a simple partner role, too, may require another state to step up as a leader, and that is not guaranteed. Ultimately, it might be easier to act alone, but when the costs of acting alone are too high, this strategy may be preferable.

Staying under the Radar

An alternative tactic would be to deliberately adopt a less visible role while nonetheless pursuing an agenda consistent with the values and priorities of the state. Staying under the radar could make sense when it comes to education policy in the current context. The somewhat chaotic first year of the Trump Administration has featured dramatic policy shifts in some areas, but lack of focus and capacity in others. The administration has not made any substantial movement toward the signature \$20 billion voucher plan that was proposed during the campaign. With other priorities looming larger it isn't clear that a major shift in education is in the offing; nor is it clear that Education Secretary DeVos has the support she would need in both Congress and the White House to successfully engineer a major initiative.

Also conducive to the stay-under-the-radar strategy is that both the administration and Congress are philosophically inclined to give states more leeway than was the case during the Bush and Obama years. Thus far, the ESSA planning process has suggested that the federal government is not pushing hard against preferred policies in California, such as the use of a dashboard instead of a single, summative score for school rankings. Oregon, for example, uses a similar dashboard, and the Department of Education has already approved its ESSA plan.¹⁰¹ And the U.S. Department of Education under DeVos has signaled that it plans to accept a considerable level of state autonomy in education decision making. California appears to be no

¹⁰⁰ (Mulvihill, 2018)

¹⁰¹ (Ujifusa, Klein, & Sawchuk, 2017)

exception to this. Indeed, Michael Kirst indicated that “From the start, the Trump administration has signaled that they will be more flexible with us, and more attuned to state needs and context and flexibility.”¹⁰²

But, staying under the radar is risky if it encourages national leaders to proceed with initiatives that could undermine state policy. For example, Senator Cruz was, somewhat quietly, able to include a provision in the new federal tax plan that allows parents to use 529 savings accounts for K-12 private schooling instead of exclusively postsecondary expenses. Although it remains unclear for now what the full effect will be, this move primarily benefits affluent families and has the potential to decrease state budgets in areas where parents receive additional 529 tax deductions once intended to incentivize saving for college.¹⁰³ However, little attention was paid to the potential effects of this change in 529 plans prior to passage. If state mobilization around the articulation of a progressive education agenda means that there are more people watching the federal government that are ready to sound the alarm and more people ready to listen, it may decrease the likelihood of other conservative action with the potential to affect state education budgets and decision making.

Tactical Alignment with National Powers that Be

Finally, the new governor may consider selectively working with powerful national actors in areas of alignment, even when those national actors are not natural allies. That offers at least two possible advantages. First, by publicly allying with the White House or Congressional majority leadership, a governor stands the chance to extract additional resources to support state efforts. This was the case, as noted earlier, when states that wholeheartedly adopted the Obama/Duncan vision of school reform were more likely to receive RTTT grants or favorable waivers. Second, selective alignment conceivably can buy a governor some space to push back on other issues with less fear about retribution.

The option of tactical alignment is more likely to occur when the governor and national leadership are from the same party and share ideological views, but that does not mean the option is off the table for a Democratic California governor during the Trump administration. Indeed, this strategy seems particularly suitable for issues such as infrastructure. In response to Trump’s proposal to increase infrastructure funding in his inaugural address, Brown reportedly responded with, “And I say, ‘Amen to that, man. Amen to that, brother. We’re there with you!’”¹⁰⁴ Issues such as this one lend themselves to alignment because the two sides have shared goals. This sort of alignment can produce the appearance of reaching across the aisle at a time when many are concerned about increasing party polarization and build a more trusting relationship that could leave state leaders more room to pursue The California Way in other areas. This could also, as Brown has noted, lead to increased federal resources directed specifically toward the state.

¹⁰² (M. Kirst, personal communication, August 11, 2017)

¹⁰³ (Turner, 2018) California is not one of the states providing additional tax deductions.

¹⁰⁴ (Bruck, 2018)

Regarding education, one might consider the potential alignment between conservative values and the Local Control Funding Formula. California's strong emphasis on pushing policy and funding decisions to the local level, for example, is consistent on its face with inclinations of the Trump administration and the Republican leadership in Congress. Publicly positioning the state as the frontrunner in promoting and actualizing the process of empowering local decision-making conceivably could open opportunities for discretionary federal funding or favorable consideration of ESSA plans or future waiver requests.

Conclusion

Each of these strategies offers risks as well as potential benefits. Becoming the face of resistance maximizes the risk to retribution from national policy-makers; tactical alignment with the National administration risks alienating liberal internal constituencies (e.g. civil rights groups, teacher unions). Importantly, these four strategies are not fully mutually exclusive and need not be permanent commitments. A sitting governor has some freedom to mix and match strategies according to specific issues (for example, leading resistance on immigration while seeking alignment on localization) or over time (adjusting based on shifts in the national political dynamics or by learning from practice what strategies work well and which do not). To date, the Trump administration has fostered an environment of volatility and uncertainty, making it harder for state leaders to predict what the administration has the will and capacity to do. While that remains the case, the safer course for the time being may be for the state to stay generally under radar while selectively counter punching in response to national initiatives that appear most directly damaging to the state's education priorities or the internal coalition it needs to nurture.

Recognizing the several and disparate ways that national politics and policy can bear upon the state's efforts to define and pursue The California Way in public education does not dictate a particular course of action. That will have to be determined by California's leadership, various advocates, and electorate in ongoing deliberations. What it does suggest is the importance that general purpose leaders, like the governor and legislators, will have to play in articulating values, shaping coalitions, and managing conflicts not just about education per se but around an array of issues that bear on families, children, communities, and politics. We say this with no attempt to diminish the critical importance of education-specific venues, like school boards and the State Board of Education, as well as knowledge and expertise about learning and instruction. However, as the state uses the coming election to check and confirm its vision for public education, to narrow discussion to those education-specific parameters would strip discourse and deliberation of much that matters.

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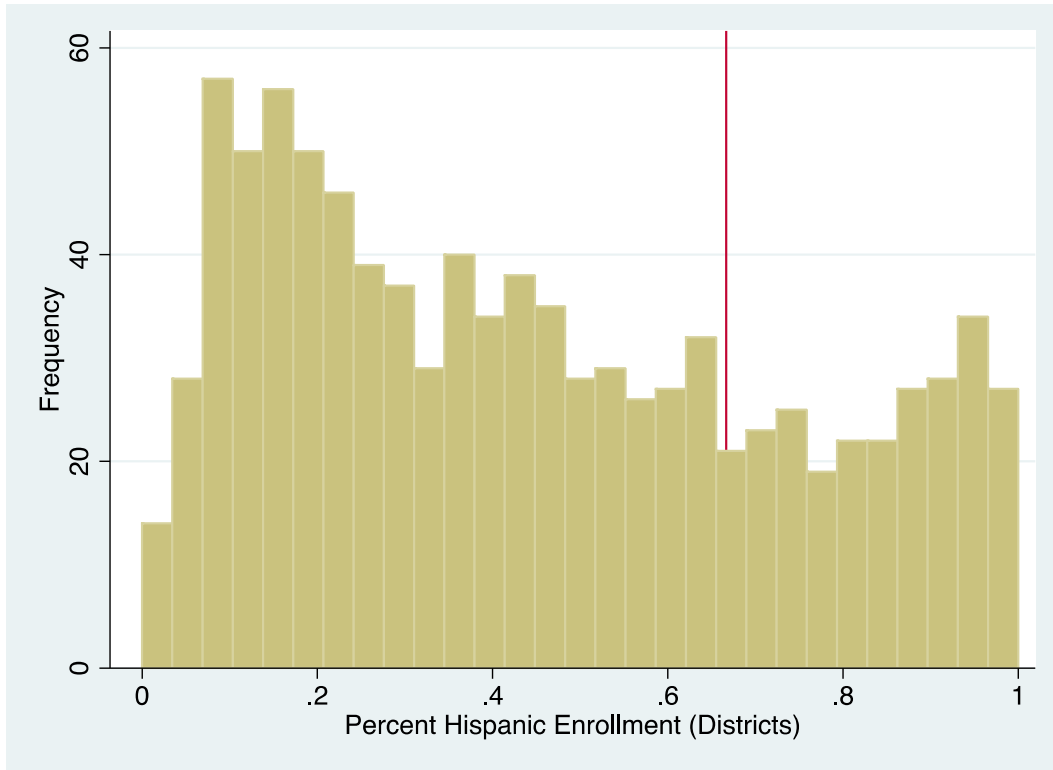
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Appendix

Additional Tables and Figures

Figure A1. Frequency Distribution of Percent Hispanic Enrollment in California Districts, 2014



Data Source: Reardon et al. (2017)

Notes: Districts to the right of the red line are districts in which more than two thirds of students are Hispanic and considered high Hispanic concentration districts.

Table A1. Bivariate Relationships Between Percent of Hispanic Students and Select Descriptive Characteristics, 2014

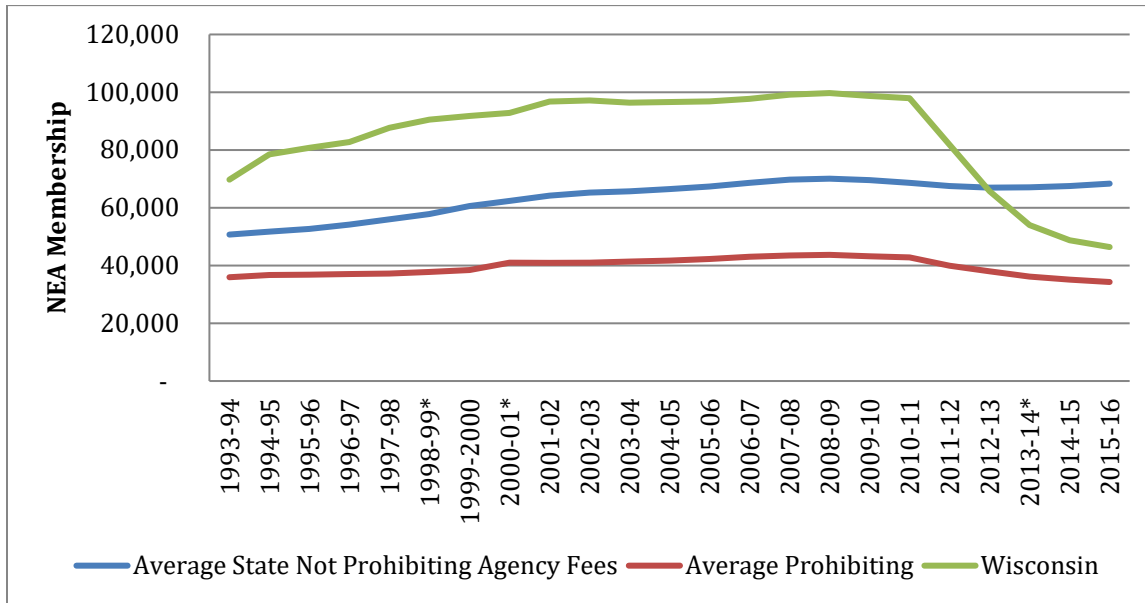
	Number of Districts Providing Information	Percent Hispanic
Total Enrollment	943	0.103**
Percent Free and Reduced Lunch	943	0.619***
Percent English Language Learners (ELLs)	940	0.817***
Per Pupil Expenditures	861	-0.152***
Unemployment	877	0.226***
Gini Coefficient	701	0.322***

Data Source: Reardon et al. (2017)

Notes: Estimates are correlation coefficients, which represent the degree to which district characteristics vary with the percent of Hispanic students in the district on a scale of -1 to +1.

***p<.001, **p<.01, *p<.05.

Figure A2. NEA State Membership Over Time, Excluding New York State



Data Source: National Education Association “Secretary-Treasurer/Independent Auditors Financial Reports: Presented to the Representative Assembly,” compiled by Mike Antonucci of the74

Notes: *year after state merger(s): 1998: Minnesota, 2000: Florida and Montana, 2013: North Dakota. These membership counts include all members, even those that would no longer be paying agency fees, such as retired teachers. These data exclude New York State due to the AFT/NEA merger in 2006.