



## BEYOND CONSOLIDATION: A NEW SYSTEM OF EDUCATION

The author describes two eras in the history of Indiana government schools. First there was the Common School Era with its one-room school houses and limited grade span. Then was the Public School Era with its expanded social agendas, collective bargaining and massive consolidation. Now will come what the author hopes will be the Freedom School Era.

Building on the theories of Dr. W. Edwards Deming, the renowned grandfather of the total quality management philosophy, the author looks at Indiana government schools as a system, one dependent on all of its parts functioning effectively. Dr. Deming observed that about 94 percent of an organization's problems are in the design of its system and are not due to special-cause variation. Deming found that no amount of care or skill in workmanship can overcome fundamental faults of the system.

Thus, the professionals who work in the Indiana public-school system may be only six percent responsible, at most, for the major problems for the problems of government education. Moreover, the No Child Left Behind Act and various state accountability laws fly in the face of Deming's wisdom because they blame the worker for the failings of the education system.

Using modern leadership and organizational theories combined with a funding mechanism that tracks students rather than offices or buildings, the author argues that it is possible for legislators to construct a more democratic and less regulated system, Freedom Schools that empower those who make the real difference in the success of Indiana students — the teachers and their leaders in the school buildings rather than in the central offices.

## AN INSIDE LOOK AT HOW INDIANA EXPANDS A FEDERAL LAW

How many educators does it take to turn the idiomatic light bulb in Indiana's special-education services? It takes a lot more, even, than the federal government requires. The author gives us a rare inside look at how an Indiana bureaucracy mindlessly expands to send a message to hard-working teachers and school leaders that "We don't trust you to do what's in the best interest of disabled children." He wonders what Indiana schools might look like if educators didn't have to worry about being in compliance with mindless state and federal regulations. A simple reform would be to give parents a meaningful opportunity to select their children's schools through a weighted school-funding formula.

## ABUSES & USURPATIONS

Fred McCarthy calls to account the sharp tongue of a governor piqued. He also has advice for the new mayor of Indianapolis (suspend subsidies for a luxury hotel as a gesture to the struggling economy). Dr. Sam Staley adds his own advice for the mayor, his concerning being a more effective way to revive distressed neighborhoods (sell abandoned property in blocks rather than individually). Craig Ladwig raises the examples of George Washington and Harry Truman to shame today's hometown-less politicians. And finally, in a time of much-lauded bipartisanship in the Indiana Senate and in even in GOP county headquarters, Ladwig calls for the opposite — more rigorous public debate over both method and philosophy, all fully reported without friend or favor by a trusted even if opinionated mass media.

ABBOTT  
PAGE 3

ABBOTT  
PAGE 20

McCARTHY  
STALEY  
LADWIG  
PAGE 29

## THE THURSDAY LUNCH

*For too long Indiana education has been held to be intractable, a problem beyond political solution. "Freedom Schools" take away that excuse.*

### No More Excuses on Education

The persistent notion that local government can be made more efficient and accountable through consolidation is just as persistently tested here.

Dr. Sam Staley, an adjunct scholar, has noted that one of the stated goals of Gov. Mitch Daniels' Commission on Local Government Reform was the "uniform delivery of services." But Dr. Staley asks whether that is uniformly desirable.

"Citizens don't necessarily want uniform service delivery. That's why they move to new neighborhoods and towns," argues Staley. "Families in rural areas don't necessarily want the same level of snow removal that cities in urban areas want."

And so it is with the proposed consolidation of Indiana government schools. Students have widely differing needs, not uniform ones.

A veteran Indiana educator, Dr. Jeff Abbott, asks the consolidators to

explore as well: 1) funding reform, 2) deregulation and 3) systemic redesign of the government schools — that is, things that might actually work.

Dr. Abbott endorses a funding system that tracks students to classrooms, consolidated or not, rather than merely throws money at offices and buildings.

He considers such a system prerequisite to a detailed list of reforms needed to get legislators and school boards out of the business of micromanaging education.

For too long, education has been held to be intractable, a problem beyond political solution. The following pages, however, lay out a practical and measured plan for reform called "Freedom Schools."

A fair and careful reading will find the plan considerate of teacher unions, parents and taxpayers alike.

In sum, it provides a realistic opportunity for this next General Assembly to bring true change into the Indiana classroom.

History, consolidated or not, will be watching. — *tcl*

## David C. Ford

*Sen. David C. Ford of the 19th District died March 5 from pancreatic cancer at age 59. We commend him to the membership with the below excerpt from notes he wrote us last summer on an unfinished project. The foundation had asked Senator Ford to compile his personal list of legislative sophisms — that is, arguments without factual basis that keep cropping up in Statehouse debate.*

*We last talked with Senator Ford at a seminar where he was deep into the study of Frédéric Bastiat and Adam Smith, champions nonpareil of limited government. Senator Ford's contribution to the seminar was profound, his loss to the Legislature complete, our liberty now the less secure.*

### *The Sophisms of Senator Ford*

**1. Income to the State Treasury or Balancing the State Budget Is the Test of a Good State Economy** — The reality is that the first economic responsibility of government is to increase the collective wealth of the citizenry. There are many examples of policies that bring additional revenue to the state treasury that do not build general wealth and may, in fact, even cause wealth to shrink. Likewise, there are taxing policies that discourage the building of wealth because they are judged too important to the treasury to modify.

**2. Sales Taxes on Goods Are Acceptable but Sales Taxes on Services Are not Acceptable** — Economically, goods are nothing more than a collection of the services that go into the production of the raw materials, the manufacture of the good, transportation, wholesaling and retailing. We tax the service that manufactures a good, but not the service that repairs it. We should treat both sectors alike.

**3. Money Spent on Public Projects Turns Over Seven Times (or pick a number)** — There is never empirical evidence to support this assertion, but even if we assume some ripple effect we miss the point, *i.e.*, that the same dollars might have as much residual economic benefit if spent on other projects including allowing the taxpayers to keep the dollars and spend them on their own preferences.

# FREEDOM SCHOOLS

## *A Third Dimension to the Upcoming Debate Over The Consolidation of Indiana Government Schools*

by JEFF ABBOTT

In December 2007, the Indiana Commission on Local Government Reform issued its report to the governor. The report, captioned “Streamlining Local Government: We’ve Got to Stop Governing Like This,” contained 27 recommendations unanimously approved by the commission members.<sup>1</sup> The commission described its 27 recommendations as “common sense” recommendations. Consider Recommendation No. 11:

*Reorganize school districts to achieve a minimum student population of 2,000. Establish state standards and a county-based planning process similar to that established in 1959 legislation.<sup>2</sup>*

The commission thereby laid down the gauntlet and called for another round of school consolidation in Indiana. This call will surely once again cause turmoil and conflict among the citizens of Indiana. Within a day of the issuance of the report, special interests were beginning their spin against its recommendations.

Citizens soon will line up for or against consolidation. This will be a heated battle that will occur throughout Indiana since more than half of all Indiana school districts have fewer than 2,000 students, and 46 school districts have fewer than 1,000 students.<sup>3</sup>

This article will first review the commission’s rationale for its proposal. Next, a review of the commission’s recommendations will be presented with an analysis of the recommendations. Third, a summary of the arguments for and against

school consolidation as presented in the literature will be set forth. Fourth, the author will offer a third alternative to the upcoming debate on school consolidation — the establishment of Indiana Freedom Schools. How the Freedom School Era would differ from the Common School Era and the Public School Era will be discussed. Finally, the author will offer concluding comments and recommendations for further research.

### *The Rationale*

The governor asked the commission to:

*Develop recommendations to reform and restructure local government in Indiana in order to increase the efficiency and effectiveness of its operations and reduce its costs to Hoosier taxpayers.<sup>4</sup>*

The report included an introductory letter, signed by Joseph Kernan, former governor of Indiana, and Randall Shepard, chief justice of the Indiana Supreme Court. In that letter these two prominent and respected commission members informed Indiana’s citizens that the commission spent six months asking whether Indiana’s patchwork of local government delivers the most effective service at the lowest possible expense. They concluded that it does not.

The letter also pointed out that “Indiana is a place where the taxpayers support lots and lots of governments” and that “all of this is more expensive than it needs to be.”

*Indiana citizens soon will line up for or against school consolidation. This will be a heated battle that will occur throughout Indiana since more than half of all Indiana school districts have fewer than the supposed optimum of 2,000 students. It is, however, a historic opportunity for lawmakers to explore how education could be funded and operated in a deregulated environment.*



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*“Local government reform should create a more equitable distribution of services and responsibility for funding (practical, concrete, common-sense solutions).”*

— The report of the Indiana Commission on Local Government to Gov. Mitch Daniels, December 2007

The authors of the letter acknowledge that the transformation the commission proposes “will be disruptive, even painful, in the short run.” They also offer the reality that “many who have vested interests in the status quo will resist these changes with great vigor.” However, they conclude the letter by stating:

“We say that the status quo in local government is simply not good enough. Indiana can either embolden itself, designing new arrangements for its future prosperity, or continue to trudge along under a system of government erected 150 years ago.”<sup>5</sup>

The commission set forth its viewpoints that guided the deliberations, and suggested that with local government reform, Indiana could:

- Help thousands of hard-working, well-meaning public servants provide the highest quality of service to their constituents.
- Streamline the layers of government and direct dollars to better services instead of excess administration.
- Hold local government more accountable on decisions and spending that are currently fragmented and delegated.
- Better address modern needs instead of being bound by outdated realities.
- Ensure that all Hoosiers have access to essential services.
- Realize more cost-efficiency.<sup>6</sup>

The report also set forth the commission’s guiding principles of reform. The core principles at the heart of the commission’s recommendations are:

- Local government should be simpler, more understandable and more responsive.
- Local government should be more transparent, allowing citizens to better understand whom to hold accountable — whom to thank or blame — for decisions, actions and spending.
- Local government reform should drive real cost savings for Indiana citizens through the reduction of local government layers and the adoption of other cost-saving measures.
- The structure of local government should be flexible enough to accommodate different kinds and sizes of communities and an evolving definition of community.

- Reform should focus on long-term solutions that not only consider immediate needs, but also position Indiana for future efficiency and growth.

- Reform should provide practical, concrete, common-sense solutions, rather than grand schemes that would be difficult to implement.

- Local government reform should create a more equitable distribution of services and responsibility for funding them.<sup>7</sup>

With regard to the commission’s recommendation to consolidate school districts to achieve a minimum student population of 2,000 students, the commission pointed out that 54 percent of all the property tax collected in 2006 was for schools.<sup>8</sup> The commission expressed that many Indiana school districts are not large enough to maximize student achievement or cost efficiencies. In support of that view the commission offered that in 2006 three-quarters of graduates in 77 Indiana school districts would not be eligible for admission to university campuses at Bloomington or West Lafayette because they did not complete a core-40 curriculum.<sup>9</sup>

In support of its recommendation to consolidate schools under 2,000 students, the commission stated that “preliminary research on Indiana suggests that an optimal balance of cost efficiencies and student achievement is realized in school corporations with enrollment between 2,000 and 4,000 students.”<sup>10</sup> The commission also asserted that national research suggests that this balance typically is achieved at district enrollments of between 2,000 and 6,000 students.<sup>11</sup>

### *Review and Analysis Of the Commission’s Report*

It should first be stated that nowhere in the commission’s report does it describe the results of the unpublished upcoming doctoral dissertation that the commission relies on to conclude that an optimal balance of cost efficiencies and student achievement is realized in Indiana with school districts between 2,000 and 4,000 students. Nor does the commission describe the criteria it used to determine the optimal balance of cost efficiencies and student achievement. Thus, researchers are

unable to analyze the data and conclusions proffered by the commission on its view of the appropriate size of Indiana school districts. Indiana citizens would be well-served to have this dissertation posted on the web and made available to the public for review and analysis, as well as for the commission to fully disclose the criteria it used to determine this optimal balance.

The commission also referred to a 2007 policy brief published by the Center for Evaluation and Education Policy (CEEP) at Indiana University in support of its assertion that national research suggests that the optimal balance of cost efficiencies and student achievement is with school districts between 2,000 and 6,000 students. However, a close analysis of the 15-page policy brief shows it deals with a wide variety of topics, including: alternatives to school district consolidation; ideas about shared services, resources and personnel; the Indiana Government Efficiency commission; Indiana Educational Service Centers; the Indiana FinMaRS Plan (a new financial reporting system for school districts); a discussion of school corporation governance, staffing and finances; and a case study examining local decision-making as to consolidation. About two pages of the policy brief discussed a national overview of school-consolidation issues and the evidence on school-district consolidation.

This is not intended to be a criticism of the CEEP's policy brief. It was titled "Assessing the Policy Environment for School Corporation Collaboration, Cooperation and Consolidation in Indiana." It was intended to be a brief introduction to several issues facing Indiana policy-makers, to wit: school district collaboration, cooperation and consolidation issues. It was not intended to be an exhaustive scholarly analysis of the issue of school consolidation. But it appears the commission may have treated it as the authority for its position. Like the policy brief, this article is not intended to be an exhaustive analysis of the school-consolidation issue, but is simply an encouragement to Indiana policy-makers to not ignore another possible dimension to the school-consolidation issue.

Thus, it appears that the commission's recommendation to consolidate Indiana

school districts with fewer than 2,000 students appears to be based upon a student's unpublished doctoral dissertation, and about two pages of a CEEP education policy brief. Such evidence for school consolidation can hardly be described as overwhelming. The authority the commission used to arrive at its recommendations is thin at best. Indiana policy-makers would be well-served by having more specific research on the issue of Indiana school-district consolidation before any final legislative solutions are proposed to resolve this issue.

### *The Arguments for School and School-District Consolidation*

The movement for consolidation began as a trend toward the professionalization of educators in the late 19th century.<sup>12</sup> Since the 19th century various arguments have been advanced by proponents of consolidation. Arguments for consolidation have not changed dramatically in the last 75 years.<sup>13</sup> Generally the arguments for consolidation state that consolidation will:

- Provide positive educational and social progress through centralization of authority.<sup>14</sup>
- Achieve economies of scale by reducing the cost of production of learning per student due to a large number of students educated, thus increasing efficiency.<sup>15</sup>
- Provide a natural social center for communities and foster the education of adults.<sup>16</sup>
- Provide a better academic and social education for students by offering a broadened program of studies and activities, as well as a widened acquaintance group with wholesome competition.<sup>17</sup>
- Provide greater financial resources and improved financial stability.<sup>18</sup>
- More fully utilize school facilities.<sup>19</sup>
- Expose students to diverse races, religions, nationalities and cultures in the student body and the faculty.<sup>20</sup>
- Increase student academic achievement.
- Increase staffing which allows teachers to specialize, more course electives and more specialized services for students.

*The governor's commission seemingly based its recommendation to consolidate Indiana school districts on little more than a student's unpublished doctoral dissertation.*

*A third dimension that can be inserted into the school-consolidation debate could provide the best of both worlds: 1) A highly efficient system of public schools that is also more effective in producing academic achievement for students; and 2) a system that achieves economies of scale but provides the opportunity to preserve small schools in neighborhoods and in rural areas.*

- Eliminate some building level and/or some central-office administrative positions, and either reduce taxes or redirect those expenses to the classroom.<sup>21</sup>

#### *The Arguments Against School and School-District Consolidation*

Not everyone in the past century has willingly embraced the purported advantages of consolidation. Rural residents have been particularly vocal and adamantly opposed to consolidation for most of the past century. They are now well financed and highly organized nationally.<sup>22</sup> The opponents against consolidation typically argue that consolidation will:

- Result in loss of community identity, loss of community attachment and result in community economic disintegration.<sup>23</sup>
- Result in diseconomies of scale, *i.e.*, there will be new and enlarged costs (*e.g.*, increased capital expenditures, more administrative and clerical salaries and additional or new security, transportation and other costs attributable to the increased size of operations.)<sup>24</sup>
- Result in larger school districts that are less efficient than smaller ones in both dollars per student and numbers of administrators per student.<sup>25</sup>
- Increase non-essential activities—the larger a school district becomes the more resources it devotes to secondary or even non-essential activities.<sup>26</sup>
- Increase the complexity of the district's budget—larger districts' budgets are more complicated and less able to track expenses and account for specific funding.<sup>27</sup>
- Result in bureaucratic red tape and inefficiencies which can wipe out monetary savings—two inefficient districts combining do not necessarily combine into one efficient one.<sup>28</sup>
- Result in lower graduation rates, fewer students taking advanced-level courses, less individualized instruction and lower student academic achievement.<sup>29</sup>
- \* Result in larger schools where students will not feel that they belong, and schools that are not as safe as small schools.<sup>30</sup>
- \* Result in less extra-curricular activity participation by students which will decrease positive attitudes of their school experience and learning, decrease student self-esteem, lower expectations

about obtaining a college degree, lower attendance rates and decrease grade-point averages.<sup>31</sup>

#### *Another Alternative to School Consolidation — Freedom Schools*

Policy-makers and citizens might benefit by understanding that their choice is not limited to either support school consolidation as recommended by the commission, or to reject the report in its entirety and do nothing to improve the efficiency and effectiveness of Indiana's public-school system. It may be helpful to develop a third alternative that might meet the desires for school consolidation proponents and yet at the same time meet the objections of those who oppose consolidation of their schools.

There is a third dimension that can be inserted into the school consolidation debate that could possibly provide the best of both worlds: 1) A highly efficient system of public schools that is also more effective in producing academic achievement for students; and 2) a system that achieves economies of scale but provides the opportunity to preserve small schools in neighborhoods and in rural areas.

#### *The Common Schools Era*

There is no mention of education in the federal Constitution. Therefore, under the Tenth Amendment the power to establish education systems for the citizens is reserved to the states.<sup>32</sup> As a result, all states' constitutions mandate their state legislatures to establish and implement common schools to educate their youthful citizenry. The Indiana Constitution provides that the Indiana General Assembly has the duty to establish a free and uniform system of common schools.<sup>33</sup> Thus, the Legislature has plenary or complete power to operate the state's common schools. As a result, the Legislature has the power to order school districts to consolidate since they are political subdivisions of the state.

The Common School Era lasted throughout the 19th century as Indiana established and operated common schools to educate its youth. Common schools were often one-room school houses with limited grade spans, schools focused on

basic elementary education. Many were in rural areas. Students normally after eighth grade dropped out of school and went to the farm to work. Common schools served the state well in this agrarian time as they taught the Three R's.

#### *The Public School Era*

The Public School Era began with the start of the 20th century. It was at this time that Indiana started to become more industrialized. Farms began to be sold or consolidated into bigger farms. Fewer farm jobs were available but an increasing number of factory jobs became available. Thus, the common school's role began to change from teaching the Three R's to preparing workers for a modern industrial society. School consolidation began at that time with the appearance of larger and larger factories and larger and larger schools. Early in the 20th century scientific management leadership theory was adopted first by industry and then by the administrators of common schools.<sup>34</sup> It was at this time that the common schools morphed into the public schools.

The Public School Era has been characterized by many years of school consolidation. The public schools became larger and more complex. High schools increased in number and size. Curriculum expanded, electives and advanced courses were added and teacher specialization occurred. Special-education programs proliferated for children with special needs. Schools became complex social institutions. Society expanded schools' duties to include many non-academic responsibilities and programs such as extra-curricular activities, after-school child care, serving lunches and breakfast to children, health clinics, as well as a plethora of other expectations and mandates.

During the latter half of the 20th century collective bargaining was required by law in Indiana and many other states.<sup>35</sup> Local, state and national teacher unions consolidated their political power. The teacher unions became highly organized and politically active, electing favored candidates, or voting out of office those who were not supportive of teacher union goals. Congress and state legislatures began to adopt more and more laws governing public education. Bureaucracies at the

federal, state and local levels developed to administer the ever-increasing number of laws passed governing public schools. Many public schools became large and impersonal institutions more resembling factories, or in a few cases even prisons, than enlightened arenas for learning.<sup>36</sup>

For the first 75 years of the 20th century, the nation's public schools did a good job of educating workers for an industrial society. However, in the last quarter of a century an ever-increasing amount of criticism has been cast upon public schools. This started with issuance of the Nation at Risk<sup>37</sup> report that consisted of a scathing indictment of the nation's public schools. Public schools became fertile ground for litigation as activist courts gave teachers and students more and more rights. Schools became turbulent political playgrounds with special-interest groups pressuring elected school boards for their way. Some school boards caved in to the demands of special-interest groups in order to be re-elected.

During the past 25 years the global economy and factory productivity growth eliminated many factory jobs. Students could no longer count on getting a good-paying factory job after high school. The new information economy required more and more technical knowledge and skills for the American worker. New academic standards were adopted by all states in the 1990s to prepare students to become economically productive adults in the 21st century. Yet many continued to believe that the public schools are inefficient, ineffective and fail to prepare children to live and work in the 21st century.

#### *The Freedom School Era*

The critics of public schools are not only more and more vocal with their criticism, but they have become well organized and funded. Charter school statutes were passed by over 40 state legislatures. Voucher programs began to spring up and the United States Supreme Court confirmed their legality.<sup>38</sup> The period of public schools has lasted for over a century.

It is time to consider a restructuring of the public-school system. Can a public-school system designed, developed and organized in the horse-and-buggy era

*A short history of Indiana schools: The Common School Era and the Public School Era. Will the Freedom School Era be next?*

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adequately provide the education required for youth to prepare them to live and work in the 21st century with its global economy? The Indiana General Assembly has wide discretion to determine what constitutes the components of a uniform system of public education.<sup>39</sup> It is not stuck with the current system.

W. Edwards Deming, the distinguished and internationally renowned grandfather of the total quality management philosophy, observed that about 94 percent of an organization's problems are in the design of the system and are not due to special-cause variation. Deming observed that no amount of care or skill in workmanship can overcome fundamental faults of the system.<sup>40</sup> Thus, the professionals who work in the public-school system may only be about six percent responsible, at most, for the major problems in the public-school system. The good news, applying Deming's theory, is that about 94 percent of the improvements that could be made in public education can be made by redesigning and improving the system. But legislatures all over the country, and even Congress, are apparently unaware of Dr. Deming's observations. The passage of the No Child Left Behind Act<sup>41</sup> and state accountability laws<sup>42</sup> fly in the face of Dr. Deming's wisdom because they blame the worker for the failings of public schools.

The current design of the Indiana K-12 public-school system is a complex hierarchical structure. It is a top-down structure with a heavy emphasis on regulation and compliance. The structure uses the bureaucracy to implement its commands and mandates. The structure promotes confusion. It has placed too many chefs in the governance kitchen which prevent the development of good educational recipes. See Figure 1 on the next page.

It may be past time to re-examine a system that's been largely unchanged in its design for over 100 years. It's time to redesign the system using modern leadership and organizational theories to more fully achieve its purposes. It's time for a more-democratic and less-regulated and bureaucratic system — one that empowers those who make the most difference in the academic success of Indiana's students — the teachers and their school leaders.

Perhaps it's time for a new era of Freedom Schools.

By redesigning the basic structure of Indiana's K-12 public education system, a move away from a hierarchical structure is possible. Schools are systems. As such, system theory teaches us that each part is integral to the whole. If one part is not functioning, then the whole will not perform at optimal or possibly even a satisfactory level.<sup>43</sup> If the Legislature does not do its job in carrying out the constitutional mandate to provide for a free and uniform common-school system that educates Indiana's children well, then student learning will not occur. If the Indiana State Board of Education and the Indiana Department of Education do not show leadership in assisting the Legislature in fulfilling the constitutional mandate, then learning will not occur. If local school boards do not provide an excellent learning environment, then learning will not occur. If school leaders do not lead and inspire teachers and support staff, then learning will not occur. If teachers do not use best teaching practices, and do not provide meaningful and inspirational instruction, then learning will not occur. If parents don't support their children and provide a home living environment conducive to studying and learning, then learning will not occur. If students don't try to learn, then learning will not occur. Figure 2 describes the design of a new K-12 Indiana public-school system under the Freedom School concept.

Figure 2, the Freedom School model, significantly changes the current design of the system of K-12 public education in Indiana. The model abandons the century-old public school model with its hierarchy and bureaucracy. The model moves away from the current system's attempt to regulate and mandate public schools into excellence. After a quarter of a century of failure of the current design to mandate schools into excellence, perhaps consideration of a redesign of the system itself is in order. It is time that policy-makers recognize the simple fact that they cannot regulate teachers and school leaders into excellence.

What is important to understand is that the chief policy-maker under the Indiana Constitution is the Legislature. It is the

Legislature's responsibility to ultimately design a system of common schools that creates the best environment for learning. The current system's design is widely recognized to be a system that is not meeting learning needs of students in the global environment in which they must live and work. Thus, it is the Legislature's sole prerogative and responsibility to correct the system.

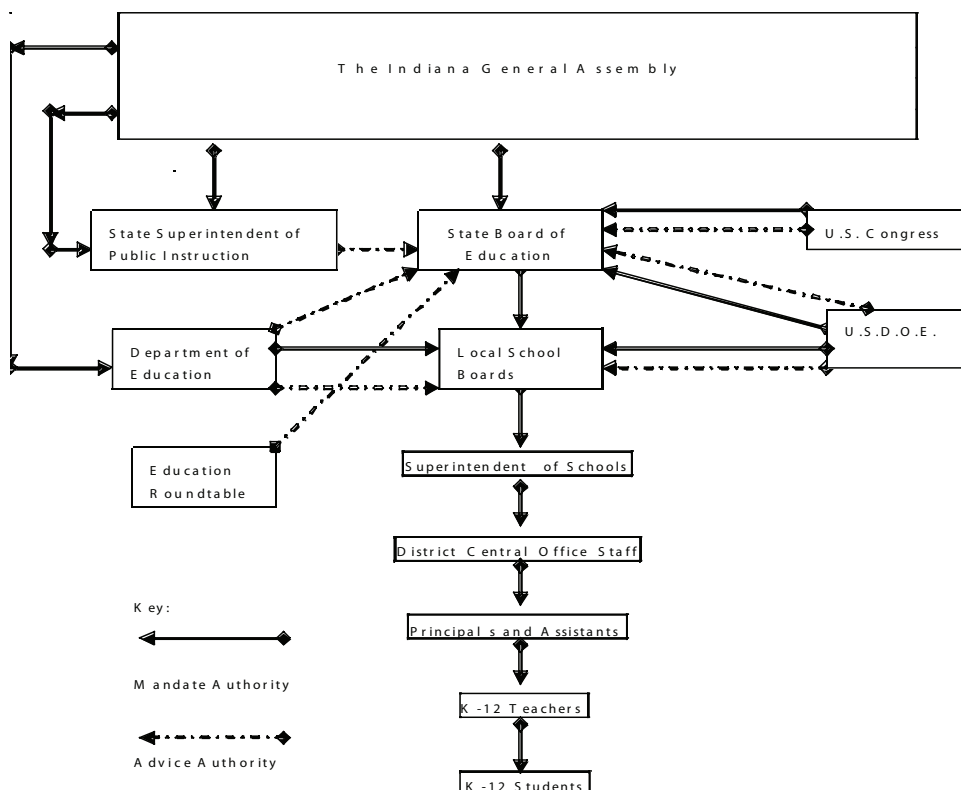
From a comparison of Figures 1 and 2 it can be observed that there is a different look to the diagrams. The public schools model pictorially described in Figure 1 shows the heavy reliance on mandates, commands, hierarchy and bureaucracy. The Freedom School model pictorially described in Figure 2 shows that all the players in the system are reliant upon the performance of others. All members of the system must perform their responsibilities if learning is to occur. Figure 2 also describes a system where the parts are all interdependent and thus depend on the successful participation of all parts in the system to achieve the system's goals. In other words, if any one part of the system fails to do its job right, then the entire

system malfunctions and cannot achieve its goal of student learning. It should be noted that even the parents and students have a responsibility. No matter how well the system is designed, it can still break down if the ultimate beneficiaries of the system don't actively participate. Without student effort or participation no learning will occur regardless of how well the system is designed.

So how would Freedom Schools differ from public schools? The following is a brief description of the difference. This description illustrates how Indiana's public-school system could be redesigned in an effort to provide a more efficient and effective system of public education. Such a redesign involves a significant change in the roles of all participants involved in the current Indiana public-education system. It is an untested theory in Indiana that serves as the basis of the Freedom School model — the more authority over the learning process that is given to teachers and school leaders, coupled with individual and school accountability, the higher level of student academic achievement. The redesign involves some major changes to

*It is time that policy-makers recognize the simple fact that they cannot regulate teachers and school leaders into excellence.*

Figure 1



*Under the Freedom School model teachers and school-level leaders have the authority and responsibility to practice their profession without interference from the legislature, politicians and self-interest groups. The quid pro quo for this grant of authority and responsibility is a new accountability system.*

the various parts of the whole system as described below.

#### *The Indiana Legislature*

The first step in the restructuring to the Freedom School model of public education is for the Legislature to change the existing structure from a hierarchical structure to a flat structure with all parts of the system having clearly identified responsibilities and areas of authority. Thus, legislation would be needed to set up the system as described below.

The Legislature, as part of the system redesign, might benefit by getting out of the business of regulating, mandating and micromanaging local schools. Under the Freedom School model teachers and school-level leaders have the authority and responsibility to practice their profession without interference from the Legislature, politicians and self-interest groups. The *quid pro quo* for this grant of authority and responsibility is a new accountability system as described below.

The Legislature would also need to develop a school-funding weighted

student-funding formula.<sup>44</sup> The formula would need to provide adequate incentives for teachers and school leaders to choose to operate schools for special needs children, at-risk children and children who are not English proficient. Under this weighted funding formula, the state's funding would follow the child. A major task each legislative session would be to set the reimbursement amounts that are attached to the weighted student-funding formula.

The General Assembly's role would evolve more into a parent-company board of director's role for the Freedom Schools. It would receive data, annual accountings and reports on the performance of the system. It could modify the system if it does not perform to the Legislature's standards of performance. Other needed legislative action is described below.

#### *Indiana State Board of Education*

Currently the governor appoints the members to the state board of education. This does not need to change under the new system. However, what needs to change under the Freedom School model is for the state board of education to step out of the politics business and to get out of the business of trying to regulate and mandate schools into excellence.

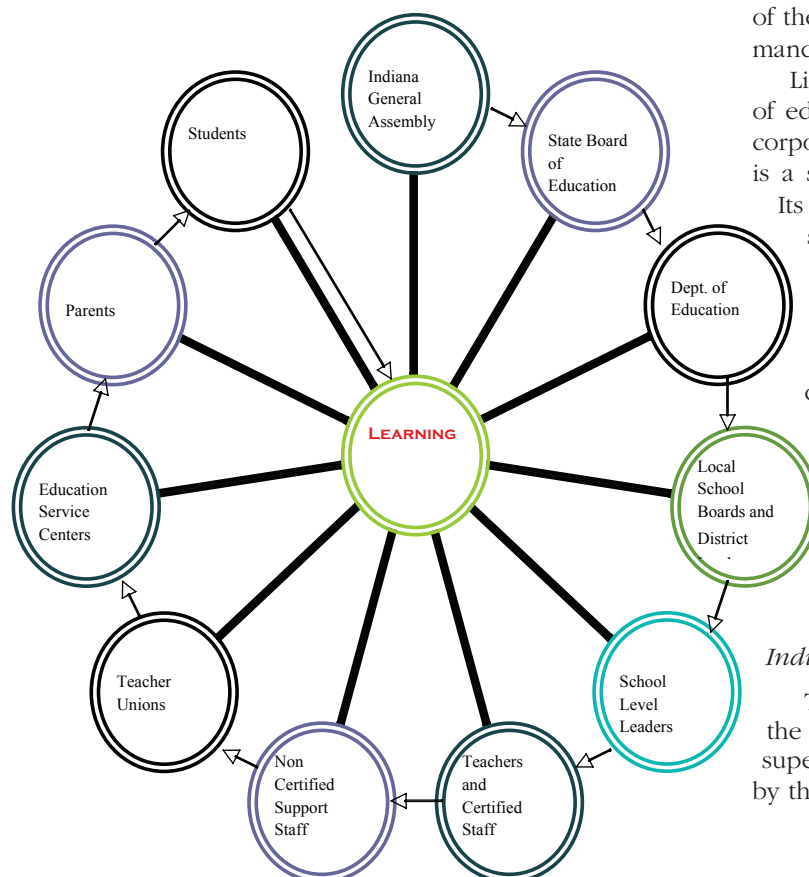
Like the Legislature, the state board of education would function more as a corporate board of directors, but one that is a subsidiary to the parent company.

Its responsibility is to implement the system as designed by the Legislature. Its major function would be to assure that local school districts are carrying out their responsibilities appropriately. If local school districts do not fully carry out their responsibilities, then the state board would have the right to place the local school district in receivership, remove local board members and appoint board members temporarily to lead the local school district.

#### *Indiana Department of Education*

The first important change in the department is to make the state superintendent an appointed position by the Indiana state board of education.

Figure 2



There is no room for politics in the Freedom School model. The department of education would need to be the technical arm of the state board of education and support its mission. As such, it needs to provide the expertise in school and program evaluation. It would provide the expertise to continually improve the state's academic standards and assessments.

The chief responsibility of the department would be to collect data on local school performance and to evaluate local schools' performance. Thus, quality standards and school ratings would be needed. Common student assessments would need to be developed and implemented with adequate safeguards to protect the reliability of the data. Such student assessments should not only measure academic achievement of the standards, but measure student academic growth and affective-domain growth. Also, a critical measure of school performance is to measure the school's level of client satisfaction, *i.e.*, how well students and parents are satisfied.

All of these data, measurements and evaluations are meaningless unless they are put in a form that is meaningful to students, parents, teachers, school leaders, school boards and all others who participate in the system or support it. Thus, the department would have the important responsibility to make all this information accessible and transparent to the public. An important role would be to interpret this data for the public.

All of this of course would require a restructuring of the department. No longer would the department have the role of serving as chief compliance officer and chief bureaucrat. As such, there may be substantial savings available under the Freedom School model as a smaller and leaner department of education may be sufficient to carry out its new limited duties.

#### *Local School Boards and District Leaders*

It is at this level that another substantial reform is made to the system. Despite public perception, under Indiana law school boards are not "local" boards but are political subdivisions of the state. Thus, since the Legislature has plenary power over schools, the Legislature could elect

to do away with local school districts and local school boards and take over the entire management of public schools. The state has not done that because it is more practical to operate and manage schools locally or regionally.

Under the current design of the system school board members are in almost all school districts elected officials. Thus, they are politicians and subject to the will, desires and even whims of those who support and elect them. Few people actually vote for school board members, and it is not unusual to have only a small percent of the electorate vote in school board races. Thus, school board members typically take their seats not with a mandate from a majority of the electorate, but with the mandate of only a small fraction of the electorate.

This writer has represented and consulted with over 60 Indiana school districts for over 30 years. All too often it has been observed that some school board members appear to run for school boards because of an axe to grind with a specific school employee, because of a special-interest group that they represent, because they seek political power to install their personal vision of what public schools should do and be, to gain health insurance benefits and salary, or to affirm to themselves that they are an important person in the community. This is not at all to suggest that there aren't many dedicated school board members who run for public office out of a sincere desire to help public schools improve. Indeed, there are many school board members who fall into this latter description. However, there are an ever-increasing number of school board members who fall into the former category. The reasons for the latter group shying away from running for school board office may be the ever-increasing conflict that occurs in the public schools, and the expanding mandates, burdens and expectations placed upon public schools. It has essentially become a public office with excessive responsibilities but with insufficient authority to carry out these responsibilities. This is not a formula designed to attract the best and brightest to serve on school boards.

Another problem with the current design, is that it does not require school

*A weighted student-funding formula would have to be developed under which the state's funding would follow the student. A major task each legislative session would be to set the reimbursement amounts that are attached to the weighted student-funding formula.*

*There are far too many external political pressures influencing public-school personnel, with school boards, individual legislators and special-interest groups being the chief culprits. On top of that, the current system confuses local control with client control.*

board members to bring expertise to the governance of an institution that is socially, culturally and financially complex. Public schools in many Indiana communities are the largest business in the community. But the current design typically only requires school board members be of legal age and a resident of the district. What kind of large and complex private-sector business could survive if these were the only requirements for its board of directors?

There are far too many external political pressures influencing public-school personnel, with school boards, individual legislators and special-interest groups being the chief culprits. The system might achieve a significant level of performance improvement if school boards became appointed boards, and if specific expertise for governance of this large and complex organization were required. Accountants, architects, engineers, attorneys, bankers and financial analysts, quality-control experts, statisticians, transportation and logistics professionals, researchers and educators would all be examples of occupations and professions that would add real value to governing the school district. There are of course other occupations and experiences in certain individual circumstances that can be added to this list.

The current system confuses local control with client control. The system might become far more productive if significant control would pass from politicians to the students and parents — the system's ultimate clients. But there is another important part of the system that will be discussed below, those who need more control of their jobs — the teachers and school-level leaders. Local control can be better maintained by allowing the governor, state board of education, or local legislators to make the school-board appointments. This may be far superior to allowing only special-interest groups and a small fraction of the electorate determine the election of school board members. In far too many communities local control in reality does not exist, and the control is not in citizens' hands but in the hands of a small group of school board members too often elected by family, friends and special-interest groups.

This article is less about the failings of school boards to adequately govern public education than it is about systemic reform of the entire system. Any failings of school boards are likely due to the design of the system, not to individual school board members. School boards can add great value to the system. School boards under the Freedom School model would play a vital role in the system.

As a necessary component to the Freedom School model, school districts should become county-wide school districts. This idea would not create school districts like the county-wide units in Florida, where school board members may be full-time, have their own private offices inside the school district offices, and where high rise towers have been built to accommodate hundreds of central-office bureaucrats. Nor does this concept mean that small schools should be closed. This idea does not mean that rural areas would lose the heartbeat of their community — their local school. If anything, the new model may likely preserve small schools and rural schools.

How could this paradox work? How can the district become larger geographically but preserve small and rural schools? How can the district become larger geographically and yet not destroy "local control"? How would larger districts achieve any economies of scale? How could they set a proper learning environment for student learning?

The answer to all these questions is that the role of the school-district leaders must change. The district would not exist to implement mandates and laws of the state, as there would be few to implement under the Freedom School model. The district would not exist to set policy for all schools thereby forcing uniformity. It would not exist to satisfy the political interests of the influential and powerful.

The school board under a Freedom School model would have six critically important responsibilities:

- 1) Draft requests for proposals, take bids, negotiate and let five-year contracts for the management of individual schools;

- 2) Provide and maintain all school facilities necessary for district operations;

3) Provide and maintain a student transportation program adequate to fulfill the district's mission;

4) Provide and maintain a school breakfast and school lunch program;

5) Annually evaluate and publicize each school's performance, review requests for school-contract renewals, and determine whether to renew those school contracts; and

6) Counsel students and parents on an appropriate selection of school.

With the revised role of the school board, a revised role for school-district central offices is also in order. The central office under the current system is the compliance arm of the school board. Its chief purpose is to manage the day-to-day to affairs of the school district and to assure that schools comply with board policies, laws and regulations. The new role of the central office under the Freedom School model would eliminate many current functions of the central office, including employee recruitment, employment applicant interviewing and hiring; employee suspension, termination and other employee discipline; collective bargaining and labor contract administration; employee training; technology services; student services; curriculum, instruction and academics; and purchasing, accounting, auditing and other business functions.

Central offices could be organized to provide school management contract negotiation services; school construction, remodeling, maintenance and land-planning activities; organization and operation of the transportation program; organization and operation of the school breakfast and lunch program; legal services; counsel students and parents in school selection; evaluation of school performance; and advise the school board on whether to renew the management contract for each school.

It is here that even more substantial savings might occur. A much-smaller central office would be required to implement the Freedom School model since many central-office functions would be assumed by other existing entities, and because many central office activities occur only to comply with numerous school-board policies, laws and regulations that control public

education. Much time would be saved by central-office administrators in preparing for and attending what are often weekly school board meetings. Significant fewer central-office meetings with principals and teachers would be needed, all to the great cheer of teachers and school-level leaders, who not infrequently think that many central-office meetings are a waste of their time.

It is not possible for researchers to calculate the total central-office costs of Indiana school districts with complete precision. Superintendents and business managers, along with a state accounting system, have cleverly hidden the real costs in a myriad of funds and accounts. Thus the real costs are not easily discoverable by the public. But the Legislature would have the power to retrieve these total costs. Under the Freedom School model, there indeed may be tens and tens of millions of dollars of low-hanging fruit that could be eliminated and diverted to the classroom or used to give taxpayers relief, or a combination of both. Under the current public-school model, Indiana maybe spends as much as \$50 million or more in unnecessary school-district administrative costs.

#### *School-Level Leaders*

School-level leaders under the current system are licensed by the state and titled as principals, vice-principals, assistant principals and administrative assistants. Such school leaders under the Freedom School model would continue to be licensed professionals to help assure some level of minimum training and experience for school leaders. However, under the freedom model it would not be state boards and bureaucrats that would administer the licensing program. Such state-mandated licensing requirements restrict universities from innovation, creativity and moving quickly to update school-level leadership training. Universities would be held accountable for providing quality school leaders. The performance of universities could be tracked by the number of school-leadership teams that are successful in contract renewals. This can be a strong accountability element. Other accountability measures can be developed.

*The role of the school district must change. Under a Freedom School model, the district would have only six specific and limited responsibilities.*

*Under a Freedom School model, it would be the school-leadership team, not just the principal, that would submit a bid to operate the school for a five-year period of time. When evaluating bids, the school board would not only evaluate the chief school leader, but also the entire school-leadership team.*

An important change in the structure of school-level leadership would be inclusion of several senior respected faculty on the leadership team. Research is bountiful and has established that one of the core requirements of successful schools is to establish a cooperative and collaborative working and learning environment.<sup>45</sup> Under the Freedom School model, it would be the school-leadership team, not just the principal, that would submit a bid to operate the school for a five-year period of time. When evaluating bids, the school board would not only evaluate the chief school leader, but also the entire school-leadership team. The board would make a determination whether the team has the knowledge, ability and capacity to manage and operate the school for the next five years.

One important point needs to be made here. Under a Freedom School model, the school-leadership team would be required to form a not-for-profit corporation or association and qualify as a section 501(c)(3) organization.<sup>46</sup> The Freedom School model would not permit for-profit entities to bid on the management of schools. This prohibition has three benefits: 1) It would avoid shareholders sacrificing the needs of students to gain profits; 2) it would be much more acceptable to educators to work for not-for-profit entities that were not perceived as profit-seeking vultures; and 3) by requiring the organization to be a 501(c)(3) organization it brings in legal requirements and safeguards that would prevent profiteering by the school-leadership team.

Another important point in the organization of the school is that the school would be run and managed by the leadership team. Accountability lies squarely on the leadership team at contract renewal. The team has nobody to blame for any lack of success. Central offices don't control them, school boards don't set their policies, few state rules and laws interfere and burden them. One problem in the current system is that nobody is really in charge. Legislators make school decisions, state bureaucrats make school decisions, school boards make school decisions, central-office administrators make school decisions, school leaders actually get to make a few decisions (often unimportant

decisions), parents sometimes make school decisions, interest groups either make the school decisions or influence decisions, and the poor teacher simply stands at the bottom of the totem pole with the onerous burden of carrying out all these various groups' decisions. When things go wrong in the current system, all parties point their fingers to someone else in the school governance kitchen and blame them for the poor performance of their recipe. The Freedom School model would avoid this mess in the school-governance kitchen. Only one chef is in charge of the kitchen under the new model. Only one chef is accountable in the kitchen under the new model. That chef is the school-leadership team.

Under the Freedom School model, schools would be freed from excessive government regulation. School-leadership teams would be free to use their best independent professional judgment in deciding how to best-serve the academic needs of their clients, the students. Creativity, innovation and risk-taking would be rewarded along with outcomes that established success in meeting the district's goals and requirements.

This is not to suggest that schools will be completely unregulated and not held accountable. There will continue to be a need for a few laws to protect the health and safety of students. There will need to be a state accountability testing system with measurements of academic success or failure. The managing contract will have various accountability provisions built into the contract. School districts may even insist the school show evidence it uses the continuous improvement process in its daily activities, and that it maintains a culture that supports the quality philosophy. School districts may set standards as to how many students must show proficiency, or how many students must show academic growth during the year. Schools will be free to adopt the processes that the professionals believe will lead to school success. However, they will be measured on the success of their outcomes. It is the outcomes for which school leaders and their staff will be held accountable. Under the current design, it is the reverse — school leaders and teachers

are told what processes to use but are not held accountable for outcomes.

#### *Teachers and Certified Staff*

It is at this level that the real action in public education occurs. Without effective teachers and effective teaching, no amount of policies, laws, regulations, mandates and rules will produce optimum student learning. Under the Freedom School model teachers and certified specialists work under the supervision of the building-level school-leadership team. Teachers would trade relief from school-board policies, state laws and state regulations for the accountability of school outcomes.

The school-leadership team under site-based budgeting would determine the number of teachers and specialists needed. The team would also determine what working conditions and compensation would be offered to staff.

Effective school leaders who lead the continuous improvement process will realize that teachers will perform best when given the opportunity to be creative and innovative. Effective leaders also understand that in today's complicated organizational environment that teachers will be more productive if involved in the decision-making of the school. Under the quality philosophy the focus of school activities will be what's best for students. Under the Freedom School model teachers' professional image and respect may be enhanced because of the greater degree of freedom and accountability under a competitive environment.

#### *Non-Certified Support Staff*

As under the current model, non-certified support staff will be an important part of the school team. They would likely perform similar duties as they do now under the public-school model. The number and types of support staff needed would be a decision of the school leadership team. Working conditions and compensation would also be set by the school-leadership team. Schools would under site-based budgeting determine whether to trade off any support staff positions for certified staff positions.

#### *Teacher Unions*

Under the Freedom School model, collective bargaining would be permitted

if a majority of the teachers at the school voted to be represented by the exclusive representative. Thus, wages, salaries, hours and working conditions could be set either by the collective-bargaining process or by policy adopted by the school.

However, under the Freedom School model there is the possibility of the teacher unions morphing into a professional model as opposed to the current industrial workers' union model. The state teachers' unions could organize and operate under a professional model, similar to the professional organizations of other professions, such as lawyers, medical doctors, accountants, engineers, etc. Under such a professional model, unions could assume the professional post-graduate level training of teachers. The need for strong professional development and training for teachers has never been greater as they assume the demands of the quality process in the new competitive environment.

There is another critical need for the local schools. Human resource management is a highly specialized field in the school sector, as well as in the private sector. Many highly technical state and federal laws apply to the various areas of human resource management. There is an important role the teacher unions could fulfill. They could recruit and provide highly qualified teacher candidates for schools to consider. Or, unions could take over the hiring process altogether such as some private-sector unions do by providing a union hiring hall.

#### *Education Service Centers*

With the downsizing of the traditional central office, educational service centers can assume an important role.<sup>47</sup> Service centers are ideally situated to assume the business activities for the local schools and serve as their business manager. With many service centers now having membership of dozens of schools, by volume purchasing they could make an important contribution to the success of schools. They can also provide accounting, auditing, budgeting, insurance and financial planning and analysis services for local schools. Many small school districts under the public-school model are inefficient and duplicate business services of surrounding schools.

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*Since the significance of change would be so considerable, a few counties might be considered for a pilot project. Thus a research design could be set up with experimental groups and a control group.*

Thus, a smaller number of workers would be needed to provide the business services needed by local schools.

#### *Students and Parents*

With the weighted-student funding formula students and parents would choose their schools. They no longer would have to attend a school located within an assigned attendance boundary. They would be free to choose any public school located within the county, as long as there was room. They would even have transportation provided to some of the other schools from which they could choose.

Freedom Schools, like charter schools and public schools, would not be permitted to unlawfully discriminate in their admissions policies.<sup>48</sup> But on the flip side, schools would be free to set their own discipline code. Students and parents who choose a particular school would understand the requirements of attendance at that particular school. Freedom Schools would thus be able to act similarly to private schools in setting their own attendance and behavior requirements.

For instance, if a school wanted a tough no-nonsense policy on homework — that after three times in a semester the student fails to complete homework assignments, the school would be free to suspend or expel the student from attendance for the remainder of the school year — then the school would be free to adopt such a policy. Students and parents may likely lose the sense of entitlement some have, and realize that they too have responsibilities if the student is to continue in attendance. This may revolutionize student and parent attitudes and significantly improve student discipline — at least for those who value or grow to value school attendance.

#### *Conclusion and Recommendations*

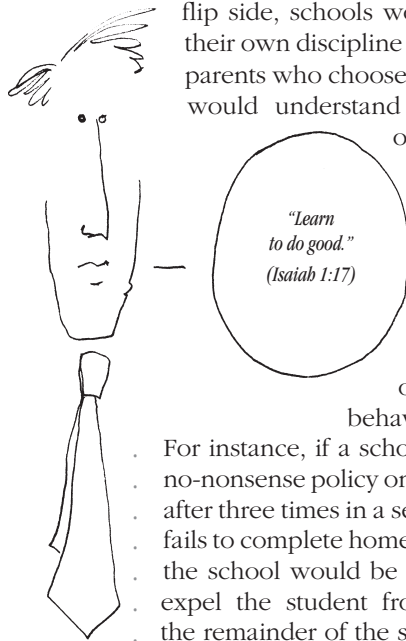
The above-presented Freedom School model, if adopted by the Legislature, would be the largest reform of Indiana's public K-12 system ever undertaken. However, it is not without precedent. The new model

is similar to the freeway schools allowed by statute.<sup>49</sup> The model presented above is only an outline. Many details would need to be decided upon to successfully implement the model. Considerable retraining of school and government personnel would be needed prior to implementation of the model.

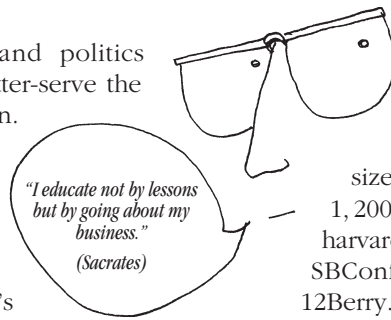
Since the significance of change would be so considerable, perhaps a few counties might be considered for a pilot project before a decision was made whether to implement the Freedom School model statewide. There may be some counties willing to undertake a pilot program, particularly if the state provides financial incentives. Thus a research design could be set up with experimental groups and a control group.

The author does not represent that the new model is a perfect answer to the problems of the current system of public education. The General Assembly has a decision to make as to whether to reject the commission's recommendations and not consolidate any schools, or to accept the commission's recommendation to consolidate school districts fewer than 2,000 students, or to decide to consider other alternatives. The Freedom School model could simply add to the discussion as a third dimension of the debate on school consolidation. Policy-makers and citizens may benefit by examining not only the third dimension as presented herein, but other possible dimensions to the school consolidation debate. The author invites study, analysis and discussion by researchers, practitioners and policy-makers as to whether the Freedom School model could meet the guiding principles of reform as presented by the commission. Any such drastic overhaul of Indiana's public-school system should not be attempted without careful study and deliberations by a wide variety of participants.

With the current system of public schools organized over 100 years ago, it is time for such serious examination. A system invented in the horse-and- buggy era is past its time and begs for re-examination. A new system is needed that unleashes the power of the human spirit. Teachers and their school leaders who are freed from bureaucracy, excessive



government regulation and politics will be empowered to better-serve the best interests of children. The power to care and improve the learning of children will be unleashed. Indiana teachers and school leaders are fully capable of taking Indiana's public-education system to new heights — if only they will be given the opportunity to do so.



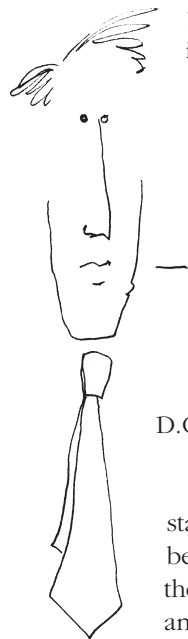
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*"Twenty years of  
schoolin' and they put  
you on the day shift."  
(Bob Dylan, 1965)*

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45. See DuFour, R. (2004). What is a "professional learning community"? *Educational Leadership* 61(8), 6-11; Black, S. (2007). A community of learners. *American School Board Journal* 194(11), 40-47.

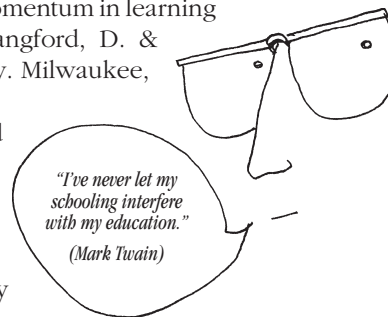
46. A 501(c)(3) organization is a not-for-profit organization that has been organized under the Internal Revenue Code section 501(c)(3). See 26 U.S.C. Section 1 et seq.

47. See I.C. 20-20-1 et seq. and 511 IAC 4-4-1 for statutory and administrative authorization of educational services centers and their responsibilities. There are nine educational services centers spread around the state.

48. I.C. 20-24-5-4 provides in part that a charter school may not establish admission policies or limit student admissions in any manner in which a public school is not permitted to establish admission policies or limit student admissions, except as authorized specifically by I.C. 20-24-5.

49. See I.C. 20-26-15 -1 et seq. for the Freeway School Corporation and Freeway School Program. Freeway schools are similar to charter schools and the proposed Freedom Schools in that they grant relief from certain state laws in return for certain accountability provisions.

*A system invented more than 100 years ago in the horse-and-buggy era is past its time and begs for re-examination. A new system is needed that unleashes the power of the human spirit. Teachers and their school leaders who are freed from bureaucracy, excessive government regulation and politics will be empowered to better-serve the best interests of our children.*



The war against illegal plunder has been fought since the beginning of the world. But how is legal plunder to be identified? Quite simply. See if the law takes from some persons what belongs to them, and gives it to other persons to whom it does not belong. See if the law benefits one citizen at the expense of another by doing what the citizen himself cannot do without committing a crime. Then abolish this law without delay. . . . If such a law is not abolished immediately it will spread, multiply and develop into a system.

— Frédéric Bastiat

# AN INSIDE LOOK AT HOW INDIANA EDUCRATS EXPAND A FEDERAL LAW

*The Special-Education Bureaucracy*

*Both sides of the current discussion consist of educators and special-education advocates. The special-education interest group is in control of the process. Business and taxpayer representatives are not even part of the process.*

*Author's Note: Does it make sense for government schools to expand their bureaucracy at a time of declining economic vitality in the state economy? A significant expansion of Indiana's special-education laws by the edu-bureaucracy was occurring at a time when Indiana taxpayers were facing a property-tax crisis. The edu-bureaucracy is about ready to dip deeper into the pockets of Indiana taxpayers. This article provides an inside look at how one special-interest group works with government bureaucrats to expand educational benefits even in difficult economic times.*

by **JEFF ABBOTT**

Indiana's special-education education bureaucracy consists of many players. It includes special-education parents, lobbyists, providers of special-education services, advocates, educators and state department of education employees. Special-education interest groups are well-organized political machines and have already achieved over the past 30 years many political wins and gains both on the state level and the national level for the people they represent.

What have these political machines accomplished? First, they achieved the passage of the Individuals with Disabilities in Education Act (IDEA), the federal statute governing special-education services in the nation's public and private

schools. This statute is a whopping 405 pages in the United States Code Service. Even without the annotations, it is 173 pages. The political machine has also achieved the passage of lengthy federal regulations adopted by the United States Department of Education (DOE) to assist the federal government in enforcing and implementing the statute. These federal regulations are 307 pages long.

The Indiana Legislature also regulates special education and has added to the pile of laws governing special education by passing 181 statutes dealing with special education, about 53 pages worth. The Indiana State Board of Education has also entered into the special-education compliance business by passing its own version of IDEA called Article 7. These rules are 98 pages.

Thus, legislative bodies have enacted laws totaling 531 pages to govern special education in Indiana. But they are not done.

The U.S. Congress in 2004 passed the Individuals with Disabilities Education Improvement Act (IDEIA). In response to the new IDEIA, staff members of the 30-employee Indiana Department of Education's Division of Exceptional Learners have been meeting for almost two years with the 24-member state Advisory Council on the Education of Children with Disabilities to rewrite the state Board of Education's Article 7. The proposed rewrite, with comments, is 184 pages.

*Members and accredited academics can request a footnoted version of this work by writing the author in care of the foundation. Nothing written here is to be construed as reflecting the views of the foundation or as an attempt to aid or hinder the passage of any bill before the legislature.*

The almost two-year Article 7 revision process is yet another example of how long the government bureaucracy takes to implement change. However, this is not the major problem. The revision process is being done publicly, but is not transparent. First, who is revising Article 7? The state Advisory Council on the Education of Children with Disabilities is full of special-education advocates, service providers, and special-education parents. Both sides of the current discussion consist of educators and special-education advocates. The special-education interest group is in control of the process. Business and taxpayer representatives are not part of the process. The edu-bureaucracy is rewriting Article 7, not Indiana taxpayer representatives.

Further, it is difficult to obtain information about the Article 7 revision. Nowhere does this information appear on the "Hot Topics" or "Current News" on the home page of the DOE web site. In fact, one would have to go to the DOE home page and make no less than four clicks of pull-down menus, and make a wild guess by choosing among dozens of options. Thus, the information needed is buried well in the abyss of the DOE web site.

The citizens of Indiana will be well-served by a process that is more inclusive of all Indiana citizens and one that is much more transparent than currently exists.

#### *Indiana's Proposed Rewrite to Article 7 Expands the Federal Law*

What is little known outside of the edu-bureaucracy is that the proposed Article 7 revision will contain many areas that expand the requirements of the IDEIA. Thus, Indiana will end up with many more regulations than required by the federal law. The current Article 7 is also being expanded by the proposed rewrite. Here are 25 examples of that expansion:

*1. FAPE Until Age 22 Required.* Under the current Article 7, schools were required to serve students and provide them with a free and appropriate education (FAPE) until graduation, withdrawal from school, or until the student reaches age 22, whichever is first. Under the proposed rewrite, the student may continue until the end of the school year during which the student

reaches age 22. When age 22 becomes the standard, how long will it be until we see the end of the school year that the "child" reaches age 23, and 24, and so on?

*2. Choice of Who Can Evaluate Eliminated.* For students who attend non-public schools outside their own school corporation, parents under the proposed rewrite of Article 7 can require either the school corporation within which the private school is located, or the student's own resident school corporation to conduct an evaluation of the student. Comments to the federal regulations state that the local resident school corporation may assume the responsibility itself, contract with another public agency, or make other arrangements to have the evaluation performed. The proposed Article 7 would eliminate the option for schools to have the discretion to enter into agreements with neighboring public schools to coordinate evaluation services.

*3. Offering of More Government Services Required.* The change of one word can lead to a significant expansion of the government schools' services with more costs for the taxpayers. The federal IDEA provides that special education and related services will be *apportioned* if federal funds are insufficient to serve all parentally placed private-school children. Indiana's proposed Article 7 requires that special education and related services will be *offered* to all non-public school students with disabilities if the proportionate amount of federal funds is insufficient to serve all non-public school students with disabilities. Thus, Article 7 as proposed will require the expenditure of more Indiana taxpayer funds than required by the federal government.

*4. Additional Consultation and Collaboration Services Required.* The state's proposed Article 7 requires consultation and collaboration services be provided to parentally placed students in non-public schools who are eligible for special-education and related services. These services include, but are not limited to, the development of a service plan, periodic communication and reporting requirements and mandated collaboration.

The federal IDEA has no comparable provision requiring these services to

*What is little known outside of the edu-bureaucracy is that the proposed state Article 7 revision will contain many areas that expand regulation even beyond what is required by federal law.*

*The potential problem of the language in the state revision is that it is micromanagement of school operational details and presents more procedural issues with which schools must comply.*

non-public school students. This proposal will cause significant paperwork and will require a considerable expenditure of time by public-school personnel. The more paperwork, the higher the personnel cost as more people may be employed than otherwise necessary. A high paperwork burden can also shift the time and attention of special-education teachers from teaching to paperwork compliance.

*5. More Litigation Likely over Issue of Proper Support for School Personnel.* Federal law requires each school district to carry out activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities and are provided with technical assistance and training necessary to assist them in this effort.

Proposed Article 7 adds the requirement that schools must provide the necessary knowledge and skills to implement each student's individualized education program. Proposed Article 7 would also require that a student's case conference committee must consider whether any "support" is necessary to provide school personnel with the knowledge and skills necessary to implement the student's individualized education program. If the case conference committee determines that "support" is necessary the committee must document the types of support that will be provided and the general intent of the support. Despite the numerous definitions contained in proposed Article 7, nowhere does it define what "support" is. It is not clear whether this is a back-door attempt to get training in as a requirement. Given that many of the due-process hearing requests filed by parents' attorneys seek review of whether school personnel are properly trained, the proposed addition may increase the costs of litigation and result in case conference committees being in control of staff development. They may require the school to spend money that it may not have for staff development.

*6. Advisory Councils "Encouraged."* Proposed Article 7 states that school districts are "encouraged" to establish a local parent advisory council with the goals of "supporting" student and family membership in the school community, inviting parents of students with disabilities to "participate" on school decision-making

committees, and fostering "effective communication" with families focused on student learning and development. There is no comparable language in the federal law. It would not be good public relations for the school district to refuse to establish such a council. The council will likely serve as an effective lobbying group at the local level and may end up asking for more and more government services paid for by Indiana taxpayers. Thus, if the special-education lobby groups can't accomplish everything they need at the state level, perhaps they can bring pressure to bear on local school leaders to get what they want.

*7. Instructional Space and Emergency Plans Regulated.* Proposed Article 7 regulates the amount of instructional space a school is to provide for special-education students. It also regulates the development of emergency preparedness plans. There is no federal comparable language in IDEA. The potential problem of such language that appears to be innocuous is that it is micromanagement of school operational details and presents more procedural issues with which schools must comply. This entangles schools in more potential litigation over an area that is not mandated by the federal law.

*8. Copy Fees For Educational Records Prohibited.* IDEA allows the school to charge a fee for copies of records that are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. Proposed Article 7 expands the federal law by requiring free copies of a student's educational evaluation report or individualized education program (IEP) to be provided to parents. Although this is not a great cost item to a school, this is yet just one more example of how the Department of Education micromanages schools and how the special-education interest groups have nicked and dined the government for more benefits.

*9. Required Response to Intervention Expanded.* Although proposed Article 7 doesn't require the schools to establish and maintain an integrated and focused system of prevention, assessment, intervention, problem-solving and referral for students who are experiencing problems that adversely affect educational performance,

the state Board of Education has required this. When the school assesses the student's response to scientific, research-based intervention the proposed language requires a detailed and lengthy notification to parents.

It is helpful to compare the requirements of the proposed Article 7 and the federal regulations. The federal regulation is a mandate for schools to do "response to interventions" (RTI) for students suspected of having a learning disability. Where proposed Article 7 expands the required RTI is the reference under the proposed Article 7 to another state board of education regulation in Article 4. What is incorporated by reference (Article 4) is much broader than the federal RTI requirements. Article 4 requires schools to provide "student assistance services" which include certain prevention, assessment, intervention and referral activities for all students.

The proposed Article 7 also requires an explanation not found in the federal regulations. Section (5)(D) requires an explanation about the school needing to request an evaluation if the student fails to make progress as "determined by the parent and public agency . . .", and that the school will provide a written notice before requesting parental consent for an evaluation (which must be completed in 20 school days). Nowhere is there any comparable time line like this under federal law. The only time the federal law requests expedited evaluations is for situations where discipline is involved.

IDEA only contemplates a response to the intervention as a pre-referral activity for students with a suspected learning disability. The proposed language offers more procedural issues that can entangle schools in more litigation that ends up costing Indiana taxpayers more and more money.

*10. Five-Day Time Line for Notice Regarding Educational Evaluation Imposed.* Proposed Article 7 provides that a school has only five instructional days after a parent makes a request for an educational evaluation to provide the parent with a lengthy written notice. There is no five-day time line in IDEA. More importantly, five instructional days is insufficient time for information to be gathered, collected,

analyzed and reduced to writing when determining what testing may or may not be needed. The focus should be on quality — not speed or quantity.

*11. Time for Initial Educational Evaluation Reduced.* Current Article 7 allows a school 60 instructional days after the date written parental consent is received to conduct an initial educational evaluation and convene a case conference committee. The proposed Article 7 reduces the number of days to 45 instructional days. The federal law permits states to establish their own time line for this initial evaluation. To shorten the time line by 20 instructional days (a 33 percent reduction in time) will create undue pressure on local school personnel to merely do a quick and dirty initial evaluation. The focus should be on obtaining accurate data for the evaluation. Quality, not speed, should be the goal. This reduction in time will also compromise the school staff's ability to develop defensible IEPs, which will likely lead to more protracted litigation at the expense of taxpayers' wallets. This significant reduction is particularly problematic for schools given the severe shortage of school psychologists. It may even lead to the employment of more psychologists, assuming that they can even be found, thus increasing costs to Indiana taxpayers

*12. Multidisciplinary Team Must Compile Findings Into Report.* After an educational evaluation has been completed, proposed Article 7 requires a single multidisciplinary team to compile the findings of the team into an educational evaluation report. There is no comparable language in IDEA. This is more unnecessary bureaucratic paperwork that places further pressures on the school staff to timely complete a thorough initial evaluation, particularly given the fact that many specialists are often involved in the assessment, such as speech therapists, school psychologists, occupational therapists and educational diagnosticians.

*13. Fifty Instructional Day Time line Effectively Reduced to 45 Instructional Days.* The edu-bureaucracy is playing the game "now you see it . . . now you don't." The proposal requires a pre-case conference meeting if the parent requests

*It is helpful to compare the requirements of the proposed state changes to the federal regulations. Again, in many cases the state actually broadens regulation and complicates the paperwork required in the local special-education system.*

*The proposed state language creates even more opportunity for possible disputes between the parents and the school.*

a meeting within five instructional days prior to the case-conference meeting. This preliminary meeting is to have the results of the evaluation explained prior to the scheduled case-conference committee meeting. The school must arrange a meeting with the parent and an individual who can explain the evaluation results. Of course, the parents receive a free copy of the educational evaluation report at the expense of Indiana taxpayers. This pre-meeting effectively reduces the proposed 50 instructional day time line to 45 instructional days. There is no comparable language in IDEA.

*14. Re-evaluation Cannot Occur Without Consent of Parents.* Current Article 7 provides that parental consent is not required to review existing data as part of a re-evaluation. The proposed Article 7 requires the consent of the parents before the school can review the existing data. Thus, the discretion to review the data if the school believes it to be appropriate is taken away regardless of the reasonableness of the parents' position. There is no comparable federal-law provision.

*15. Case-Conference Committee Must Convene Within 10 Instructional Days After Enrollment.* The proposed Article 7 requires that schools convene the case-conference committee within 10 instructional days of the enrollment date of a student who has been receiving special education in another state or another district within the state. Schools must obtain from the previous school a copy of the student's prior IEP and evaluation and then hold the case conference to decide how the new school will implement the new IEP. To comply with this rule the new school must rely on the cooperation of the previous school. This is problematic when the new school must deal with large urban out-of-state school districts. Other schools at the beginning of the school year may not send the information needed within the time frame, due to their being busy dealing with the start of their school year. Getting records is difficult and can easily result in noncompliance—not a good way to start a solid client relationship.

*16. School Cannot Revise the IEP Without Parent Consent.* Under the proposed Article 7, if the parent of a student refuses to consent to a revised IEP

that changes the student's placement, the school cannot implement the revised IEP. Instead, the school may initiate mediation or request a due-process hearing. This provision is applied regardless of the urgency of the needed revision of the IEP. Having this requirement in Article 7 will cause schools to negotiate educational services with parents and will likely result in inappropriate IEPs that are not defensible from an educational viewpoint. These IEPs may not be based upon scientific research. How many schools will compromise their professional beliefs just to get the parents off their back and avoid mediation or costly litigation? The proposed language creates even more opportunity for possible disputes between the parents and the school. There is no comparable federal law requiring this action.

*17. Instruction for Students with Injuries and Temporary or Chronic Illness Required.* Both current and proposed Article 7 require schools to provide instruction to all students with injuries and temporary or chronic illnesses that preclude their attendance in school for at least 20 instructional days, including students who are not eligible for special-education and related services. These instructional services are not required by IDEA as IDEA does not apply to students who are not disabled. Complaint investigators have ordered schools to provide costly compensatory education for lack of compliance to this section. This represents yet another way that the Indiana special-education interest groups have successfully lobbied for and have achieved additional services not required by federal law, all at the expense of Indiana taxpayers.

*18. Hiring of Special-Education Directors Required.* Indiana law requires the hiring of a special-education director for every school district or every special-education cooperative. The number of full-time equivalent (FTE) special-education administrators increased 12 percent during the 2001-2005 interval, from 383 in 2001 to 429 in 2005. These are highly paid central-office administrative jobs. The average compensation per FTE administrator in 2001 was \$75,249 rising to \$80,489 in 2005. Using the \$80,489

average compensation for school year 2004-2005, the total compensation cost to Indiana taxpayers for special-education administrators for school year 2004-2005 was \$34,529,781.

Thus, Indiana is paying tens of millions of dollars each year for employment positions whose main responsibility is to serve as the district's compliance officer to make sure the district follows the 531 pages of statutes and regulations that govern special education, as well as the thousands of pages of administrative agency and court decisions that also regulate special education. However, as long as the government continues to micromange special education by passing more and more laws with more and more regulations, that end up with more and more administrative agency and court litigation to interpret these laws and regulations, there indeed is a need for special-education directors and their compliance role. There is no federal law requiring the employment of special-education directors.

*19. State Financial Support for Intensive Services.* To the extent that state funds are appropriated, the Department of Education is authorized to provide indirect financial support to school districts by paying the excess costs of educating students whose educational needs require intensive special education and related services that are beyond both the school district's continuum of services and the services available through other public-funding sources including Medicaid. Intensive services include a public or non-public residential program when services in a residential setting are necessary for the student to benefit from special education. Intensive services may also include non-residential services necessary to enable the student to remain in the community without resorting to residential placement, or to return to the local community without resorting to residential placement, or to return to the local community from a residential placement. Despite the detail included in the DOE's 51-page financial report found in its web site, there is no mention as to how much residential placements are costing Indiana taxpayers. The state budget for the cost of such services described in this paragraph in

fiscal year 2006-2007 was \$24,750,000. In some cases the level of care exceeds federal requirements while in other cases those on waiting lists receive no care at all. There is no comparable language in IDEA or the federal regulations.

*20. Comprehensive Plans Required.* Under Indiana law school districts must file with the Indiana Department of Education a comprehensive plan specifying how the school district will provide special education and related services in accordance with Indiana's special-education rules. The school district must also obtain approval from the division of special education prior to implementing a proposed change to a comprehensive plan that involves certain restructurings. There is no comparable requirement in IDEA or the federal regulations.

*21. Medication Administration Controlled.* Under IDEA, schools are prohibited from requiring a parent to obtain a prescription for medication for a student as a condition for attending school, receiving an educational evaluation, or receiving special education and related services. The proposed Article 7 contains this provision but expands IDEA by incorporating other state-law requirements pertaining to the administration of medication. Those requirements include such items as employee administration of medication, employee discipline, record-keeping and training.

Many of these requirements are in place for all students, so one could wonder why these requirements are duplicated here. This has just added to the procedural requirements and compliance mechanisms with which schools must comply under the special education laws. Article 7 should be reserved for issues specific to special education programs as intended by the IDEA.

*22. Transition Planning Age Reduced.* The latest revision of IDEA changed the age at which transition planning for life after high school must begin from 14 to 16 years of age. However, proposed Article 7 reduces the age that transition planning must begin to age 14. Thus, more time will be spent at a younger age planning for the transition. Surely two years of transition planning is sufficient. Do children really need four years of transition planning for

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*By mandating a specific organizational model without sufficient time for training, the state may throw schools into chaos. Certain schools simply won't be ready by fall 2008 to implement the required changes.*



"Look, we play the Star Spangled Banner before every game. You want us to pay income taxes, too?"  
(Bill Veeck, Chicago White Sox)

life after high school? Some students age 14 are still in middle school. It would make more sense to make this requirement after they enter high school. Also, most high-school freshman are taking the same basic courses and don't select many electives or vocational education courses until their junior year. Why bump this up for special-education students? This requirement adds to the personnel costs of schools.

**23. Additional Meeting Required Prior to Case Conference Meeting Held to Review an Evaluation.** Proposed Article 7 requires the school to hold a meeting upon a parent's or an emancipated student's request for a meeting prior to the first case-conference meeting. This pre-case conference meeting must take place no less than five instructional days prior to the first case-conference meeting. The proposed rule states that this meeting is to allow the parent and student to have the results of an educational evaluation explained to the parent and student. But can't this be done in the first case-conference meeting? The more meetings teachers and school leaders are compelled to attend the less time there is available for student instruction.

The federal regulations permit schools to give notice of the meeting by electronic mail if the public agency makes that option available.

This had been in an earlier version of proposed Article 7. This would include placing a copy of the procedural safeguards notice on a school's web site. Notices of procedural rights have to be sent with an initial referral for evaluation upon receipt of a due-process request, and must include IDEA discipline procedures. These procedural rights are over 10 pages. Schools also have to give notice of proposals to change identification, evaluation or educational placement. The Council is eliminating this means to serve parents with notices via electronic mail, an option permitted under federal law.

Yet there is another change that exceeds the federal requirements — who has to be at a case conference. The only participants under federal law that have to be at a case conference are the child's special-

education teacher, a general-education teacher, a person who is qualified to either provide or supervise special education, and the parent.

When there is an evaluation, the case conference must also include a person who is qualified to interpret the educational implications of test data. However, Article 7 requires other participants depending on the purpose. It adds yet another: a person from the alternative school when that option is being reviewed. This makes little sense. When options like this come up, the building principal has a good idea about how to speak to this option. Stopping a case conference or dragging another person in may be a waste of the public's resources. Case conferences already cause teachers to be out of the classroom much too often.

**24. Additional Services Not Related to Disability.** Here is another brewing dispute. Under proposed Article 7-42-6(d) schools will be mandated to provide special-education services that do not stem from the child's disability. Thus, if a child might have some areas of problems that are typical of his age but not related to his disability, there is a pedagogical question as to whether or not the school has to provide services not stemming from the disability. The advisory council seems to want to end this debate with 7-42-6(d). This is problematic for schools. For example, is a child who only has speech problems entitled to the expensive services of occupational therapy or physical therapy when it is not related to her disability? The proposed Article 7 requires special-education services regardless of the child's identified disability. This is a new section that was not found under the previous Article 7. Nor are these additional services required by federal law.

**25. "Optional" Training.** Proposed 50IAC 7-40-2(c) appears to make RTI (response to intervention) training optional by the school. Schools have used a discrepancy model to determine whether a student was learning-disabled. The federal law now prohibits schools from using the discrepancy model alone. There is good reason for this. The IQ-achievement discrepancy model as a valid criterion for determining if students are

eligible for special education has been repeatedly challenged.

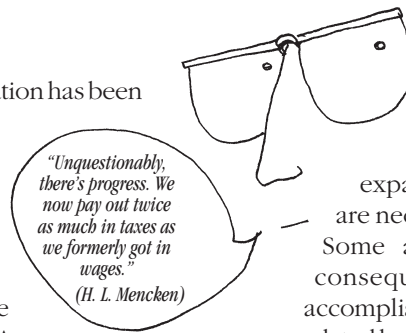
The federal law provides that a state can go to an RTI model alone for determining eligibility, or use the RTI model with the discrepancy model. An issue that arises, if RTI is good for special-education students, why is it not prevalent in general-education services? Why is it even in Article 7 at all, and not in Article 4 that applies to all students, whether special-education or general-education students?

It appears that with the new proposed Article 7 the state may not timely be announcing that schools will use only an RTI model. It is not that the RTI model is an improper model. It is in fact a promising model that could serve special-education as well as general-education students. There is developing research to support it. However, by mandating this new model without sufficient time for training, such haste may throw schools into chaos. Many schools simply aren't ready and aren't going to be ready by fall 2008 to implement this change. This may cause unnecessary conflict and litigation.

### Conclusion

The special education edu-bureaucracy has no responsibility for assuring taxpayers that their funds will be spent effectively and frugally. This interest group is making decisions that will cause the expenditure of additional taxpayer funds beyond that required by federal law. Nowhere is the old adage more true that "it's easy to spend other peoples' money" than the special-education interest group that continues to look for ways to expand the services provided by Indiana's government schools.

One of the problems in tracking a bureaucracy model of government is that it constantly shifts. More and more regulations are piled upon more and more regulations. New preliminary drafts appear regularly before final adoption. Thus, although every effort was made to track the constantly changing proposals of a revised Article 7, this paper may not totally and accurately reflect the proposed



changes as of the date the reader reads this.

Not all the changes and expansions of the federal law are necessarily bad or imprudent. Some are even of minor cost consequence. Many would be accomplished by teachers even if not mandated by the bureaucracy. However, what is important to understand is the extent of the top-down management style that pervades the area of special education. Local control of special education by school boards, local school leaders and teachers is a myth. The system is a highly regulated bureaucratic system with a heavy bent toward conflict and litigation. This is evidenced by the 858 due-process complaint investigations conducted by the DOE since 2000, and the 98 formal due-process hearings before the Board of Special Education Appeals held since 1997. There also have been numerous court cases in Indiana over special-education disputes.

As further evidence of this characterization of Indiana's special-education governance system, one only need remember the 531 pages of single-spaced highly technical laws passed by Congress and the Indiana General Assembly, with the able aid of the United States Department of Education and the Indiana State Board of Education, all of which not only govern special education, but do so in such detail that the only terms that can be used to describe the system of governance are scientific management, bureaucratic and micromanagement.

The edu-bureaucracy's efforts to expand the requirements of the federal law governing special education is particularly difficult to understand in light of the federal requirement that states are to minimize the number of rules, regulations and policies to which the local educational agencies and schools located in the state are subject under the federal IDEA law.

The sad part of all this government regulation is the message the government schools sends to its hard-working teachers and school building leaders. The message is that "we don't trust you to do what's in the best interest of disabled children." This is demoralizing to them and treats them as uncaring and unskilled workers. This

*Local control of special education by school boards is a myth. The Indiana system is a highly regulated bureaucratic system with a heavy bent toward conflict and litigation.*

*A simple reform that would allow teachers and school building leaders to take off their compliance cloaks and allow parents a meaningful opportunity to select their children's schools would be implementation of a weighted school-funding formula.*

writer has seen countless special-education teachers performing their classroom teaching services. These people are saints. All, or nearly all, are competent and caring professionals who have to a large extent been robbed of the opportunity to use their professional judgment and creativity. They worry constantly about compliance with all of the laws that have been handed down from upon high and expend much energy and time in their compliance activities. Instruction and planning for instruction become secondary to compliance. Special-education teachers have the most difficult and heart-wrenching jobs in public education. It's too bad the U.S. Congress and the Indiana General Assembly don't want to unleash the power of their passion that these teachers have within them, drawing out their enthusiasm and creativity, and rekindling their desire for innovation in an effort to continually improve their services for this special group of children entrusted to them.

But the system does not have to be like it is. It doesn't have to be an adversarial system pitting teachers and school leaders against their clients — the students and

their parents whom they serve. The highly regulated bureaucratic system governing Indiana special education does not have to exist to the detriment of students, parents, teachers and school-building leaders.

A simple and easy reform that would allow teachers and school-building leaders to take off their compliance cloaks and put on their new professional cloaks is to do away with nearly all of the statutes and regulations that micromanage special education, and put in the hands of parents a meaningful opportunity to select their children's schools along with the weighted school-funding formula.

How would parents react if they had the power of choice and could select their children's schools? What would our schools look like and be like when teachers and school leaders shed their compliance roles, no longer work in an adversarial atmosphere and devote their entire energy to serving their clients in the best way their professional judgment allows? Serving their clients to their highest abilities would become job number one. Their jobs would depend on it. Teaching could again be fun. Q

### *Questions Remain After the Tax Overhaul — Big Ones*

Here are some questions (regarding this past session's overhaul of the Indiana tax code):

- With the economy slowing down, will there be enough sales-tax revenue to support the added state spending? There's been concern that replacing the stable property tax with the less stable sales tax could create revenue shortfalls. We may find out sooner rather than later.
- If the state pays the whole of the school general fund, can we still have differences in spending per-pupil across school corporations? And, if the state pays the whole of the school general fund, will it need more control over local spending decisions?
- How will businesses respond to the increase in the sales tax on business-to-business sales, which are 20 percent to 40 percent of total sales taxes? Will they try to pass these taxes on to customers in higher prices?
- Since the tax cut for rental housing makes owning rental property more profitable, will it cause a boom in apartment construction? If so, will competition for tenants drive rents lower than they would have been? Will renters benefit, at least a little, from their landlords' property tax cuts?
- Will counties respond to the revenue shortfalls from the circuit-breaker credits with increases in local income taxes, which can partially offset these losses? If so, how big of a net tax cut will the reform really deliver to homeowners?

— Larry DeBoer, Ph.D., writing in his April 3 column, "Capital Comments," at the Purdue Agriculture Web site, [www.agriculture.purdue.edu](http://www.agriculture.purdue.edu)

## ‘WHERE THE MOON DON’T SHINE’

*The Sharp Tongue of an  
Arrogant Government*

by FRED McCARTHY

(March 24) — We cite a column, “Behind Closed Doors,” in the Sunday *Indianapolis Star*, carrying a quote from the governor of the state of Indiana. If the quote is accurate, the gentleman to whom he made reference deserves an apology, as does the organization the gentleman represents, as do all citizens of the state as well.

The president of the Indiana Chamber of Commerce, Kevin Brinegar, had stated the position of his organization regarding the classification amendment the governor insisted be a part of the so-called property-tax reform legislation. The governor knew of the Chamber’s position before the Legislature even convened.

Following adjournment this year, Brinegar offered the opinion that this had not been a good session for business. Whereupon the governor of the state of Indiana commented, “I think he’s got his head where the moon don’t shine.”

Individuals and organizations are entitled to express opinions about the actions of political leaders. They ought to be able to do so without crude, personal attacks by the governor of the state, the highest public official and a supposed public servant.

The arrogance involved, particularly when one considers the probable political support given to the governor by Chamber members, is almost unbelievable. I say “almost” because I am reminded of the attitude of the governor’s Stadium Building Authority when it tried to force a thriving business out of town to make room for a few parking spaces for the Colts.

Again, Brinegar deserves not just an apology but a public apology. I would further suggest that the Chamber’s board direct a letter to the governor demanding a separate apology for its membership.

### A Letter to the New Mayor

(April 16) — This letter pleads with you for an important decision on behalf of your people. It would be meaningful immediately, and would give all of us some hope for the future.

We ask you to notify everyone connected with the proposed new Marriott Hotel downtown that there will be no tax subsidy for this project. Tell them that they have your best wishes for economic success, but that monetary gifts from the public pocketbook have come to an end.

You inherited a situation from your predecessors that is impossible. For decades, Indianapolis has maintained a fiscal policy that, so far as municipal government is concerned, has been a miserable failure. A news story some time ago indicated that some \$4 billion have been “invested” in downtown Indianapolis over the last quarter century in the name of economic “development.” Over that same period, the tax base has deteriorated. There surely must be some explanation for such a phenomenon.

You have been left with debt and with commitments which must be fulfilled. The new stadium, well under way, will no doubt be finished — at a yet-to-be-determined cost. Has anyone in your

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Fred McCarthy, a retired lobbyist and perhaps Indianapolis City Hall’s most-influential critic, for 40 years represented various taxpayer and business organizations before local governmental bodies and the Indiana General Assembly. He was awarded a Sagamore of the Wabash by two governors. Items here are reprinted with permission from his blog, “Indytaxdollars,” at <http://www.indytaxdollars.typepad.com>.

*Rather than sell the foreclosed and abandoned homes as individual units, Indianapolis should use this unique opportunity in the housing market to consolidate the properties and sell them as a block.*

— Staley

administration attempted to determine the total outstanding debt issued in the name of the city through a variety of boards, commissions and agencies? We admit to having no specific suggestions or answers to current fiscal problems resulting from all these activities.

But is it not at least time to take off the Santa Claus suit, put on a mayor's hat and become a leader instead of having to act like a hunted animal gone to ground for which the only alternative is to keep digging a deeper hole?

The hotel business is far beyond our area of expertise. There may be — or there may not be — a need for another huge block of rooms for potential visitors. But in any case that need is not a problem of Indianapolis municipal government.

What Indianapolis municipal government needs is a leader with the courage to take a new position — to change direction — and to say to the business community that Santa's gift bag is permanently closed.

You can't turn your back on standing contracts or commitments, Mr. Mayor, but there can be no better time than right now to make the decision that the economically tragic policies employed by the city for these many years will cease immediately — and cease for as long as you have the responsibility for directing this great city.

It would be a magnificent start, Mr. Mayor, for your first term of office.

## Mayor Ballard, Here's a Bolder, More Promising Neighborhood Plan

by Sam Staley

(March 17)— Indianapolis, like other big cities in the Midwest, is straining under the weight of abandoned homes. Nearly 7,000 abandoned buildings litter the landscape of the city's most hard-pressed neighborhoods, and the Indianapolis Housing Agency and Mayor Greg Ballard deserve credit for trying to take the bull by the horns. Unfortunately, their recently announced initiative may not be bold

enough. Realizing record foreclosure rates were sinking the city's housing market, the housing agency has proposed having the city buy foreclosed homes from the federal Department of Housing and Urban Development and then sell them to neighborhood development agencies. The goal is to have the homes renovated and resold at affordable prices to home buyers. Indeed, in cities across the nation, nonprofit neighborhood associations have been at the forefront of developing affordable housing in central cities.

Yet, Indianapolis can be much bolder. Sherron Franklin, the former councilwoman whom the mayor put in charge of the initiative, could be given the authority to use market incentives to create a model for cities across the nation.

The problem Indianapolis faces, like other major urban centers, is too much housing of the wrong kind. That's one reason homes prices are so low compared with outlying suburban areas. These low prices, and the low-income consumers to whom they cater, squeeze profits margins to the point that individual developers and builders can't make enough money to justify a major investment or commitment.

Again, Indianapolis is in a position to turn this around in a revolutionary way.

Rather than sell the foreclosed and abandoned homes as individual units, the city should use this unique opportunity in the housing market to consolidate the properties and sell them as a block. Rather than offer neighborhood groups one house, or several houses scattered throughout these neighborhoods, the city could offer them as one property. This gives developers, whether private for-profit or non-profit, more opportunities to make the project financially viable.

Then developers can think in terms of larger-scale projects that might include a mix of residential and commercial units, a mix of different kinds of housing units — or the property might be redeveloped based on its current use. The low profit margins on individual units can be aggregated over the entire project, or even increased by



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allowing higher valued commercial uses. Developers can think “urban village” rather than low-income home.

For the first time in decades, developing in poor neighborhoods might hold the promise of profitability. Moreover, since the properties being transferred are already in foreclosure, the city and private developers won’t have to worry about violating property rights through eminent domain. The deeds will be clear. In fact, the potential for realizing higher property values should make it easier to acquire nearby properties or secure the blessings of neighbors.

A critical part of the success of such a program would be to create large enough bundles of property that experienced developers would take this opportunity seriously. They should also be market-rate housing units.

With the right leadership, an Indianapolis program could become a model for housing policy, one based on economic realities rather than political good intentions.

## Do Politicians Have ‘Hometowns’?

by Craig Ladwig

(March 27)—We note with admiration how easily Barack Obama and the Clintons (with native son Evan Bayh in tow) found connections in the Hoosier crowds during their campaign stops. It was almost as if they . . . well, as if they lived here. Truly, politicians no longer have hometowns (*bitter or otherwise*) in the traditional sense.

And yet, when it comes to democratic representation there remains a pesky provincialism in Indiana. At the very least we cling (*if we may use Mr. Obama’s wording*) to the expectation that our politicians, who owe their status and ample retirement benefits not to marketable skills or business acumen but to the loyalty of a constituency, should retire amid that constituency.

None can say that Barack, Bill, Hillary or Evan, now welding power and influence around the world, won’t return to Honolulu, Hope, Chicago or



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Shirkieville when their days of public service are over.

It’s a good bet, though, that they won’t. And if you’re going to join in that wager you’ll want the term “hometown” carefully defined. Most politicians could answer honestly that they plan to retire to their Indiana hometown but only if you accept a mailing address as a home.

What the rest of us mean by a hometown is what Harry S Truman, “the man from Independence,” meant by a hometown.

Keeping tabs on the retired president wasn’t difficult. Harry was always at home except for his morning walks. And this was the home, please know, that Harry owned before he went to the White House.

“I’ve been taking my walks around the city and passing places that bring back wonderful recollections,” Truman wrote. “The Presbyterian Church where I started to Sunday school at the age of six years, where I first saw a lovely little golden-haired girl who is still the lovely lady that is my wife. What a pleasure to be back here at home — once more a free and independent citizen.”

Times change, say those who reject such sentimentalism. The new politician, it can be argued, serves his hometown best by maintaining a presence near a power center — Washington, New York or, if duty calls, the capitals of Europe or the Orient.

Most of us would buy that except for the fact all the places in which our former politicians choose to serve in retirement are decidedly more luxurious than the Indiana towns from which they first petitioned our trust and support.

What is it about the climate of Arizona and the Gulf of Mexico or the social swirl of Georgetown that so commands an attention to Hoosier interests? Wouldn’t chance dictate that at least one retired pol, though resigned to serving Indiana from afar, end up somewhere without 365 days of golfing weather or a celebrity at the next table?

And while we’re at it, isn’t there somewhere that our governor and legislative leaders could visit on their annual summer trips in search of Hoosier

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— Ladwig

jobs that doesn't require a luxurious jet ride to Europe or the Pacific?

Seemingly not.

Perhaps it's not so much the times that have changed as the leadership that has changed. A British historian, Paul Johnson, relates a conversation between King George III and an adviser following the shocking news from Yorktown:

*"What will George Washington do now?" the king asked.*

*"I expect he will go back to his farm," was the answer.*

*"If he does that, he will be the greatest man on earth," the king responded in sincere admiration.*

That, in fact, was what Washington did, Johnson notes, first at the end of the war and again after being called from Mount Vernon by election to the presidency.

Indiana has a few months remaining in another season of modern election campaigns marked by unbridled ambition and narrow factional maneuver. It has seen the last time a person of accomplishment with a sincere call to public service simply waited at home among family, friends and neighbors until he or she was elected to something.

## A Good Word For Partisanship

by CRAIG LADWIG

(Feb. 27) — This is written in hopes there's still room for a good word about partisanship.

An article coauthored by the president pro tempore of the state Senate and the minority leader, published in Indiana newspapers Monday, dismissed partisanship in the context of property tax reform.<sup>1</sup> And this last weekend, the chairman of the state's second largest county Republican Party reiterated his longtime policy of including persons of many political fashions.<sup>2</sup>

Does any of that make sense? Why would someone contribute to an election campaign or a political party that stands for everything?

Granted, most of us do not want partisanship in our government functions. That is, we don't want to be asked our political affiliation as we take our place

in line at the license branch. But do we really want partisanship taken out of our legislative deliberations or, most absurdly, our party politics? The confusion centers around the purpose of democratic conflict (partisanship) in a constitutional republic.

Elections in our system were meant to determine who governs us, not how we are governed. They determine succession rather than mandate. It is an improvement over the historical alternatives, hereditary monarchy and assassination.

They are not as meaningful, however, when they are understood to be a priori approval of specific public policies (property taxes, for example), policies whose elements may be only partly revealed or comprehended. Elections are most meaningful when we understand them as public judgment of past policy failures (property taxes, again).

And elections certainly fail us when they can be manipulated to result in perpetual incumbency for office holders and party leaders, in effect protecting a class of professional politicians from public dissatisfaction.

The remedy for that, to narrow the point here, is unabashed partisanship — rigorous debate over both method and philosophy, all reported by a trusted even if opinionated media.

It should worry us, then, that in an election year, at the closing of a short legislative session, political opponents felt a need to profess agreement over a policy as complicated as taxation. And it should worry us that party chairmen thought it anathema to encourage homogeneity on the issues of the day.

The respected economist Arthur Laffer put it this way: "Whenever you observe bipartisan cooperation, hold on to your wallet and run to the basement."<sup>3</sup>

Those are words to the Hoosier wise.

## Endnotes

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1. "Senate Working on 3 R's: Tax Relief, Reform, Repeal." *The Fort Wayne Journal Gazette*, Feb. 25, 2008.

2. "The Battle for GOP Control." *The Journal Gazette*, Feb. 24, 2008.

3. "That 'Stimulus' Nonsense." *The Wall Street Journal*, Feb. 13, 2008.