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Abstract

An institutional analysis is presented of the policy, political, and legislative events associated with the failure of an attempt in 2006 by the state of Maryland to take control of 11 schools in Baltimore City and turn them over to independent managers or into charter schools under No Child Left Behind. The place of the failed takeover-to-turnover is analyzed using a path dependent approach. Analysis suggests although state–local governing cultures may mediate the evolution of state education accountability regimes, they do so in embedded sequences of reactions and counterreactions. Findings have implications for further research on localized, performance-based federalism.

Keywords

high-stakes accountability, federal policy, No Child Left Behind Act, policy, state policies, urban schools

Analysts now agree that the ideas and institutional practices of “performance-based federalism” (Wong, 2008) under the mandates of the *No Child Left Behind Act* (NCLB; 2002) opened the door to a new federal role in education accountability (Manna & Ryan, 2011). At the same time researchers report wide

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variability among states in the approaches they have taken to designing and implementing the three elements of their “consequential accountability” systems; (1) explicit, publicized standards; (2) regular testing against those standards; and (3) consequences linked to performance (Hanushek & Raymond, 2005; Lee, 2008, 2010; Lee & Reeves, 2012; Mintrop & Sunderman, 2009).

Some analysts underscore the salience of temporal trajectories that individual states have taken in incorporating these elements into their accountability systems. For example, Hanushek and Raymond (2005) report that although “states began experimenting with school accountability systems during the 1980s, [and] the decade of 1990s began the age of accountability,” there was considerable variation in accountability system development during these pre *NCLB* years (p. 306). As a result by 2000, although 23 states had introduced explicit consequences to their accountability systems, individual states diverged considerably in the types of consequences they attached to performance. These differences may explain why research on pre-*NCLB* high-stakes testing on student achievement produced mixed and often contradictory findings (Lee, 2010).

Similar variability in state systems of accountability was also evident under the mandates of *NCLB*. This variability was evident despite claims by some researchers that the law “created a new educational federalism [where] the U.S. Department of Education now functions as a national schoolmarm hovering over state school reform efforts and whacking those states that fail to record satisfactory and timely progress toward federal education goals with financial penalties and mandatory corrective actions” (McGuinn, 2006, p. 195).

Scholars of education policy have offered a number of explanations of the apparent paradox of variability in state implementation of performance-based federalism. For example, Lee (2010), arguing that the *NCLB* era created a new ecology of accountability in the United States, suggests that “Given the tradition that much of educational policymaking has been historically left to the states, states were able to negotiate an implementation plan with the federal government and capitalize on built-in flexibilities in federal rules and regulations regarding standards under *NCLB*” (p. 74).

In this context the influences on a state’s consequential accountability regime prior to *NCLB* were salient to the trajectories they subsequently took in implementing the legislation’s mandates. For example, Lee (2010) points out that state actors were as influential under *NCLB* as they were previously when “state legislatures played a major role, even though responsibility for formulating and administering most reform policies was shared by state legislatures, state boards of education, state departments of education, and the state

governor” (p. 76). He concludes that this “policy environment raised a question as to whether states can be treated as ‘unitary’ actors under *NCLB*, when there exist multiple education policymaking institutions and pluralistic policy processes at the state level” (p. 77).

Lee’s attention to the “pluralistic policy processes” in various states is particularly important in the context of the role that Local Education Authorities (LEAs) played in implementing the *NCLB*. Although the state was ultimately responsible for ensuring that all requirements of the legislation were being met, LEAs were responsible for determining whether individual schools made progress targets for student achievement. State legislatures described the situation as one where “money goes to the school district whereas responsibility goes to the state” (p. 76). Because the goal of *NCLB* was that every student would reach proficiency levels in reading and mathematics by 2014, LEAs serving disadvantaged urban populations became the focal point for enactment of the particular state policies intended to force schools to become more accountable for the education of poor and minority children. Researchers studying the early years of *NCLB* implementation in these contexts concluded that the legislation expanded federal involvement in education by “reaching far more deeply into core local and state education operations” (Sunderman, Kim, & Orfield, 2005, p. ix).

At the same time, during the final years of the Bush administration the legislation was increasing criticized for “what some regard as an obsessive focus on test results, which has led to some notorious cheating scandals” (Rich, 2012, p. A1). State resistance to the legislation became widespread during these years. By 2006, when lobbying and petitioning for increased flexibility failed, 38 states had considered legislation critical of *NCLB* (Shelly, 2008).

Subsequently, the Obama administration failed in its efforts to address these and other concerns by critics who faulted the law’s system of rating schools, for labelling so many of them low performing that it rendered the judgment meaningless. A reporter for the *New York Times* commented on this period:

Congress has tried and failed repeatedly to reauthorize the education law over the past five years because Democrats and Republicans cannot agree on an appropriate role for the federal government in education. And so, in the heat of an election year, the Obama administration has maneuvered around Congress, using the waivers to advance its own education agenda. (Rich, 2012, p. A1)

Scholars also agree that the *NCLB* Act opened the door to a new federal role in education accountability that has not been closed by Obama's rules for waivers (Manna & Ryan, 2011). Thus questions posed in previous years about the magnitude and implications of the growth in federal power remain salient. For example, Manna's (2006b) warning remains relevant: "Although Washington's influence over American schools has increased, it is wise not to overestimate the expansion of federal power nor to underestimate the resiliency and continuing influence of state education agendas in the United States." (p. 5). Similarly relevant are Wong's (2009) comments:

Notwithstanding the growing federal influence in recent decades, the structure of political incentives for state actors remains unchanged—the source of the state political power and policy claims primarily comes from local constituencies. Under the *NCLB* Act, states are likely to frame federal expectations in ways that do not challenge the state–local governing culture. (p. 229)

Wong further observed, "in other words, ongoing research is needed to examine different state strategies in mediating the tension between local control and federalized accountability" (p. 229). The analysis I present in this article addresses this need.

Focus: Reactive Sequences in Maryland's Education Accountability Regime Development

In January, 2012, in its annual Quality Counts Report, *Education Week* reported that for the fourth year in a row the state of Maryland was first in the comprehensive ranking of more than 100 indicators of educational quality. The Quality Counts Report includes rankings on two categories of indicators of "school accountability" that reflect the ideas associated with what has come to be called a "consequential accountability" model of education reform (Hanushek & Raymond, 2005).

Maryland's trajectory to incorporation of a consequential accountability paradigm was already well developed in 1996 when Cibulka and Derlin examined performance accountability in the state and concluded: "the right combination of program design decisions, implementation skills, institutional support (particularly the state board) and political support along with continued public interest in reform, has made the Maryland reform a sustainable one (pp. 20-21). Two years later Cibulka and Derlin (1998a) reiterated their earlier assessment noting that there were three facets of Maryland's system that

contributed to its adequacy as a mode of performance accountability: “strong external support from political leaders and from civic leaders such as the business community . . . policy design and strategies for implementation, [and] attention to the different meanings that local officials attach to a policy even as it is being implemented” (p. 513). However, they also warned that “Maryland’s strong focus on a state defined approach to accountability has transformed policy discussions about school performance, but the policy has not yet achieved its ambitious goals, nor is there an overall state strategy for reaching them, even as the policy is being expanded to cover high schools” (p. 514).

Although referring specifically to Maryland’s accountability policies, Cibulka and Derlin raised a question that is particularly relevant for students of the politics of education accountability in the United States: “Perhaps the most important political question to be confronted is how to maintain political support for the policy and build needed institutional capacity throughout the state’s school systems to make success possible” (p. 514). Seven years later in 2006, the same question could have been posed when trying to understand the reactions to the state’s attempt to take over schools in Baltimore under the *NCLB* mandates.

In this article I consider the question in light of the events that occurred in the 13 days between March 30, 2006, when Nancy S. Grasmick, Maryland’s State Superintendent of the Schools, announced that the Maryland State Board of Education’s (MSBE) would take over 11 Baltimore City schools that had failed to meet the federal government’s *NCLB* mandated Adequate Yearly Progress (AYP) targets, and April, 11, 2006, when a veto by state Republican Governor Robert Ehrlich of a moratorium of the takeover adopted by the legislature failed to gain the support required for vetoes in both the Senate and the House of the Maryland Legislature. The state’s efforts to take over the schools and turn them into charter schools or turn them over to independent management companies under *NCLB* provisions had been met by fierce resistance by city officials.

At the time commentators viewed the takeover attempt as “groundbreaking” appropriation by the state of the accountability mechanisms embedded in *NCLB*. For example, Jack Jennings, president of the Center on Education Policy, a national group that closely monitored the federal law commented: “To my knowledge, no state has gone that far. State agencies are very reluctant to take over schools” (Bowie & Neufeld, 2006, p. 1A). Jennings’ comments suggest that State Superintendent Grasmick’s takeover attempt was a significant shift in the trajectory of federal influence on a state accountability regime. However, the resistance by state legislators suggests a more complex dynamic of federalism was at play.

Conceptually Framed Purpose

Scholars of policy regime change argue that such shifts can be understood as embedded sequences in the evolution of a policy paradigm (Howlett, 2009; Mahoney, 2000; Skogstad & Schmidt, 2011; Thelen, 2002). From this analytic stance understanding the place of the failed takeover in the evolution of Maryland's education accountability regime requires a process sequencing approach to representing and accounting for the historical trajectories leading to the crisis. Process sequencing approaches account for the role of social actors and take into account multiple causal timelines to offer explanatory accounts that provide a rich sense of how "earlier outcomes shape later ones" (Haydu, 1998, p. 341). As I explain next this is the approach that I have taken in addressing the need identified by Wong (2009, p. 229) "to examine different state strategies in mediating the tension between local control and federalized accountability."

McQuinn's (2006) historical institutionalist account of the transformation of U.S. federal education policy from 1965 to 2005, culminating in the early enactment of the *NCLB* is both informative to, and illustrative of, the dynamics of education policy regime change that I explore in this article. The historical institutionalist analysis I present is based on two propositions:

it is historical because it recognizes that political development must be understood as a process that unfolds over time. It is institutionalist because it stresses that many of the contemporary implications of these temporal processes are embedded in institutions—whether these be formal rules, policy structures or norms; if institutions are defined in the conventional sense as the "rules of the game" that govern behavior, then public policies clearly qualify being "crucial systems of rules, incentives, and constraints." (Pierson, 1996, p. 145)

The analysis I present in this article is guided by recent theoretical developments in historical institutionalist accounts of policy regime change that explore path dependency (Daugbjerg, 2009; Howlett, 2009; Skogstad & Schmidt, 2011; Thelen, 2002; Wilson, 2000). These approaches call for dynamic analyses of the processes in which policy changes unfold by considering the question of how events in a reform sequence are connected. Scholarship on path dependency generally takes one of two approaches on sequencing: self-reinforcing or reactive sequencing. There is, however, growing agreement among policy scholars that self-reinforcing approaches are not helpful in understanding the dynamics of substantial policy change over time.

This is because, “to allow for substantial change, the path must be wide, but the wider the path” (Daugbjerg, 2009, p. 396), “the less the notion of path dependency can account for current policy development” (Kay, 2005, p. 566).

An alternative conception views path dependency more broadly. By focusing on reactive sequences, path dependency is not viewed as being “maintained by a particular reproduction mechanism operating over time, but by the way in which each antecedent event is linked to the subsequent one through the facilitation of certain policy responses and the preclusion of others” (Daugbjerg, 2009, p. 396). Mahoney’s (2000) explanation is helpful in distinguishing between these two approaches to path dependency:

Whereas self-reinforcing sequences are characterized by processes of reproduction that *reinforce* early events, reactive sequences are marked by backlash processes that *transform* and perhaps *reverse* early events. In a reactive sequence, early events trigger subsequent development not by reproducing a given pattern, but by setting in motion a chain of tightly linked reactions and counter reactions. (p. 526, emphasis in original)

Pierson (2000) explains it is the properties of earlier events which bring about the subsequent ones “because they trigger a powerful response” (p. 85). Daugbjerg (2009) elaborates further:

In other words, actors react to events, and the properties of these events have important impacts on the way they react. In the analysis of sequences of policy reform, the reactive sequence approach has potential to provide new insights in explanations of how and why a policy developed in a particular way. (p. 399)

In sum, viewed through the lens of path dependency Maryland’s consequential accountability regime development can be viewed as arising from feedback effects of “reactive sequences.” Reactive sequences are evident when a chain of temporarily ordered and causally connected events is both a reaction to antecedent events, and a cause of subsequent events (Mahoney, 2000, pp. 509, 526). Of relevance to my analysis of the failed takeover is Daugbjerg’s (2009) claim that reactive sequences arise when “each step in the reform sequence was made possible by previous events which decreased the distance to other policy options which earlier in the reform sequence would have been politically unrealistic” (p. 407).

Analytic Method

Exploring reactive sequences in path dependency calls for the construction of a system of data collection and analysis of how different temporal processes are linked in a systematic way (Pierson, 2004). Following methods of process sequencing within the context of this instrumental case study I conducted theoretically bounded iterative searches in six data bases that provided accounts of the events occurring, and reactions and counter reactions to them, during the 13 days between March 30th and April 11th, 2006: Archives of the Maryland State Department of Education, Baltimore City Public Schools, the *Baltimore Sun*, *Education Week*, *The Washington Post*, and Lexus Nexus. All accounts were uploaded into NVivo, a computer assisted qualitative data analysis program, and then coded for reaction, counter reaction, and temporal ordering. A narrative vignette of the 13 day crisis was constructed from queries of these coded data.

Subsequently a backward–forward mapping approach was used to analyze accounts of influences on reactions or counter reactions during and subsequent to the 13 day takeover attempt. These accounts were gathered using the Pro Quest data base of the *Baltimore Sun* Newspaper to search for reactions and counteractions to takeover attempts by the state of Maryland. The search yielded 156 accounts of reactions and counter reactions between 1991 and 2012. In order to verify the relevance of a particular sequence of reactions and counter reactions to policy events that were linked to the events of the 13 day takeover attempt I cross referenced reactions and counter relations reported in “editorials,” “articles,” “commentaries,” and “correspondence.” All accounts were again uploaded into NVivo, coded to reflect reaction and counter reaction to temporally ordered events. Queries were run to identify links in the reactions to the 13 day takeover attempt. A narrative account was constructed to provide voices of reaction and counter reaction.

In what follows I first present the focal vignette of the 13 day reactive sequence developed through these analytic processes. Length limitations require that I provide only brief narrative accounts of specific selected reactions that are illustrative of the utility of using the lens of reactive sequencing in understanding education accountability policy regime change.

It's Tough to Go Against a Local School System

On March 30, 2006, the Maryland State Board of Education (MSBE) voted to place 11 schools in the Baltimore City Public School System (BCPSS) under independent management, an act perceived by many at the time to signal the

potential for states to takeover schools failing to meet subgroup targets for the AYP required under the federal government's *NCLB* Act. The MSBE voted 11 to zero to order the BCPSS to convert seven low-performing middle schools to independently operated charter schools or to seek private contractors to run them. It voted 10 to one for the state to seize control of four high schools and find independent management for them. It also ordered the state to revise key parts of its secondary school curriculum and initiate a personnel review that could lead to dismissal of senior officers of the BCPSS. State Superintendent Grasmick cited authority under state and federal law to justify one of the most sweeping state interventions in local school affairs in the country since the federal government's legislation was enacted in 2002. Grasmick made the following claim to the MSBE: "Ten thousand students are in schools that are persistently low-performing We have an obligation under the law and ethically to address that situation on behalf of the children" (Anderson, 2006, p. B01). The high schools she sought to put under third-party control had been failing to meet standards since 1997. And the 11 middle schools had terrible test results. *The Baltimore Sun* reported:

The four high schools—Frederick Douglass, Northwestern, Patterson and Southwestern No. 412—have miserable scores on the High School Assessments, tests that today's ninth-graders have to pass to get a high school diploma. Only 10 percent of Patterson students passed the algebra test last year The seven middle schools—Calverton, Chinquapin, Diggs-Johnson, Dr. Roland N. Patterson, Hamilton, Thurgood Marshall and William H. Lemmel—are all large, sometimes unruly, schools that the system has not focused as much attention on in the nine years since a major reform of the system began. (Bowie & Neufeld, 2006, p. A1)

The takeover bid was strongly supported by Maryland Governor Robert L. Ehrlich Jr. (Republican) who argued that "all extraordinary means" were justified to help improve "a system that is this dysfunctional" (Anderson, 2006, p. B01). In contrast, the intervention by the MSBE immediately provoked outrage from an array of Baltimore officials. The chairman of the Baltimore City Board of School Commissioners (BCBSC) accused the state of seeking to usurp local control without consulting the city, telling news reporters: "This political [expletive] is eroding our ability to educate the children of our city" (Bowie & Neufeld, 2006, p. A1). He described the city's dealings with the state in harsh terms: "The relationship as it stands doesn't lend itself to significantly increasing the trajectory of progress of the school system." (p. A1)

over 11 failing city schools. In issuing the warning the U.S. Department of Education explained the actions a state could take against a local school district to adhere to the federal *NCLB* Act (Bowie & Rosen, 2006, p. 1A):

After a school has failed to meet state standards for five years, the state can reopen the school as a public charter school, replace the staff, turn over the school to an independent entity or take it over, among other options If the state is prevented by the district from carrying out its responsibility under the federal law, federal funds are in jeopardy.

The state's move to take over the 11 schools was the first such action under the four-year-old federal law, and as such was seen as a test case for how the law should be enforced. Paul T. Hill commented that the warning was "clearly meant to be a threat to strengthen Grasmick's hand and the governor's What they are trying to signal is that they like what Grasmick did. They don't want the precedent of the state officer using that authority and having it slapped down" (p. 1A).

However, lawyers for Baltimore City and the state concluded that the moratorium legislation did not prevent the state from carrying out its responsibilities under *NCLB*. Nevertheless, on April 11, 2006, the final day of the legislative session, Maryland senators reversed the veto by the Republican Governor to delay the state's planned takeover of the 11 failing Baltimore schools, and shifted responsibility for reforming the failing schools back into the hands of Baltimore City School officials for the following year. The House had already approved an override, so the Senate action meant that the state was prohibited from intervening in the schools' management for one year.

that were unleashed at local and state levels by the federal government's *NCLB* legislation. On one hand it appeared that the legislation provided a window of opportunity for enhanced activism by state politicians and policy makers. On the other, supporters of local control of education also appeared to have found political leverage to resist state control.

Observers argued that the turmoil caused by the fractious politics in the takeover attempt could not be understood apart from the historical context of education governance of Baltimore City. Even prior to the enactment of *NCLB*, Baltimore City posed challenges for education reformers. Underscoring the influence of past socioeconomic and political forces, Marion Orr, a political scientist who studied Baltimore City politics, observed: "You cannot take a snapshot of what's happening in Baltimore today without bringing in some historical context" (cited in Hill, 2006, p. 3F). Orr (1999) had previously examined the role of race, class, and politics in the Baltimore public school system, finding that well-established patterns of governing the city influenced the politics of the late 20th century. Referring this analysis Orr, explained: "deindustrialization, white flight and inner-city poverty make school reform difficult in Baltimore . . . [and] the racial situation has always been a part of Maryland politics. When what you have is a largely African-American city with a largely disadvantaged population that really now needs some support from people who are leaving the city for various and sundry reasons, the racial issue become very complicated. In part it is a class issue" (Hill, 2006, p. F3).

Orr was not alone in this assessment. In 2006, at the time of the takeover attempt by the MSBE, proponents of *NCLB* argued that the federal legislation was intended to cut through these and other patterns of politics that had historically exacerbated inequitable educational outcomes for students in urban areas. Yet, as this event revealed, the prevailing patterns of politics that those same proponents claimed had exacerbated inequitable educational outcomes for students in urban areas trumped the institutional changes that they believed had to be made to address those inequities. This paradox calls attention to evidence that conflicting ideas about the role and importance of local control of education governance in the reform of Baltimore City schools identified as failing to meet AYP cannot be separated from interests of politicians, policy makers, and various communities in Maryland. Nor can these conflicting ideas be disengaged from the institutional context in which interests' articulate, debate, and fight about ideas of accountability.

Commenting on the reactions and counter reactions, Orr observed that the resistance to the takeover should be seen in the context of decisions made by civic and political leaders in the 1960s and 1970s to ensure that

the Black community in Baltimore had administrative control over the public school system:

So if you miss the fact that there was a decision made for African-Americans to be the group to run the city schools, then you will not understand the extent to which today African-Americans have such a high regard for their authority over those schools. This was the first department of city government to be run by an African-American administrator . . . [So education reform] is a delicate political challenge (Hill, 2006, 3F).

Orr's comments underscore the complexity of the issues that had arisen over the years as accountability mechanisms were imposed on BCPSS by the state that I highlight next.

Back Mapping Contentious Takeover-to-Turnover Consequences

It is important to note that by 2006 State Superintendent Grasmick already had a long history of deploying mechanisms of accountability that had provoked previous reactions and counter reactions. Grasmick was appointed State Superintendent of Education in 1991 during the administration of Governor William Donald Schaefer, and at the time of the 2006 takeover episode was one of the longest-reigning state superintendents in the nation. Over the years she was viewed to have "become more aggressive in using her authority" (Bowie & Neufeld, 2006, p. A1). Moreover, she had previous practice in using the state's earlier accountability provisions to take over Baltimore City schools. In 2000, she used a state law to take control over three elementary schools, and she led state action "to hire a for-profit company, Edison Schools Inc., to run them" (p. A1). Those takeovers also made Maryland "the first state in the country to seize control of a group of under-achieving urban schools and test whether private enterprise can succeed where government has failed" (Bowie & Daemmrich, 2000, p. 1B).

However, the potential for positive outcomes from turnover of the schools to Edison was also viewed with skepticism by Baltimore City civic leaders who had experienced the painful end to previous turnover effort supported by the state in the mid-1990s, when the first privatization experiment "crashed amid deteriorating test scores and complaints that the company (Education Alternatives Inc., also known as the Tesseract Group) was absorbing millions from the cash-strapped district" (p. 1B). A report on the reaction to the 2000

takeover offers a glimpse at the roots of the resistance to takeover-to-turnover consequences,

For 15 years, Baltimore Delegate Clarence Davis has listened to the promises of one school official after another All the while, like the leafy, once-dignified neighborhood surrounding it; his local elementary school has slid further into decline. So, when Maryland's superintendent of schools, Nancy S. Grasmick, arrived yesterday to tell state legislators about her hopes for three city elementary schools, Davis had a blunt question: What makes her think the state can do any better? "Every other year, we have a new principal, a new program, what have you," said Davis, an East Baltimore Democrat "Schools can only be what we are in the community. I'm wondering about these entities that you're bringing in that have no concern for my community. What input have we had?" It was the question asked by other city lawmakers in Annapolis. Though some were supportive, other city delegates and senators expressed profound reservations about the state school board's decision to take over three failing elementaries [sic]. (Daemmrich, 2000, 1B)

At the time some Baltimore City politicians supported the turnover. Baltimore Democratic Delegate Howard P. Rawlings argued: "The reality is we've had a Baltimore based organization running those schools, and it's not been doing well—and that's the public school system We can't spend time philosophizing about this while our students are continuing to lose out" (p. B1). Anticipating the arguments she would make again in the 2006 state takeover-to-turnover attempt, State Superintendent Grasmick countered this reaction, commenting that when the state started testing schools in 1993, it never expected that by 2000,

83 of Baltimore's 184 schools would end up its failing list . . . but with no sign of progress at some schools . . . the time has come to intervene For children in those schools, this is the only time they'll be in second grade, this is the only time they'll be in third grade It was necessary this year for the school board to act. What chance do these children have when they arrive at middle schools? (Bowie & Daemmrich, 2000, p. 1B)

Although the persuasive efforts of State Superintendent Grasmick and supporters of the takeover-to-turnover were viewed with skepticism by some

civic leaders, their reactions did not turn into the kind of resistance that stalled the 2006 takeover attempt. Indeed, these events suggest that strong resistance to the latter effort did not arise because constituents and supporters of BCPSS were unfamiliar with the takeover-to-turnover accountability mechanism. Although the State Superintendent's intent in 2006 had been to "force change and improve education in Baltimore City" by turning "the schools over to charter organizations, nonprofits and universities, not just for-profit companies such as Edison," it was "a comparison of Edison's performance with other city schools [that] led state Sen. Nathaniel J. McFadden to oppose the state takeover . . . [and to push] for the legislation that put a one-year moratorium on Grasmick's takeover attempts" (Bowie, 2006b, 1A).

The Senator's concern over turning the high schools to Edison also reflected the particular control mechanisms proposed. Grasmick's "plan was for the high schools to be handed over to private or non-profit groups who would report directly to the state,[whereas] the seven middle schools would have been transformed into charter schools or operated by some third party and would still report to the city school board" ("Debating 2006," 2010, p. A18). As I show next, the arrangements that would have required transformation of middle schools into charter schools under control of the city's Board of School Commissioners would also have carried potential mechanisms for enhanced state control over city schools.

Maryland's Slow Bumpy Ride to Chartering Turnovers

While Maryland was the first state to attempt to use the federal government's AYP requirements to takeover schools, it was relatively slow in meeting the state legislative requirements to establish charter schools in the *NCLB* Act. Maryland legislators came late and cautiously to legislating arrangements for the creation of charter schools. The state was one of only 11 states that had not yet passed a charter school law in May, 2003, when, under Governor Ehrlich, the charter schools legislation was enacted. Although State Superintendent Grasmick, who joined the governor for the bill signing, claimed that legislation was "responsive to the community in terms of looking at a variety of options in education," the governor viewed it as a "weak" compromise (Craig, 2003, p. 1A). The governor, who had made charter schools one of his top priorities, had wanted the State Board of Education to be given the authority to create such schools. However, legislators in both the House and Senate agreed on measures giving only local school boards that authority, although it allowed rejected applicants to appeal decisions to the

State Board of Education. The law also gave teachers the right to join the Maryland State Teachers Association.

In 2003, although there was general bipartisan support for charters, there were longstanding and significant differences of opinion in the state's education and political community over who should have the power to allow groups to set up charter schools. Prior to the passage of the charter law local school boards, that traditionally opposed granting charters, had full discretion to reject or accept applicants. By 2003 BCPSS had not created charter schools, but during the previous seven years had experimented with the idea by "creating more than a dozen charter-like schools" (Bowie, 2004b, p. 1A). It was lessons from those experiments that led the city's Board of Commissioners to initially take a "go-slow" approach, limiting the number of charter schools possible and postponing the adoption of charters until 2005 and beyond" (Gatekeepers, 2004, p. 10A). This position soon came under attack by groups seeking charters who threatened to appeal to the MSBE. This led the *Baltimore Sun* to claim:

Maryland lawmakers, bowing to the concerns of teachers unions and school boards, created a system in which charter schools in essence will not be independent. It will take trial and error to figure out what the proper balance should be between autonomy and accountability, but the way it works now, it's going to be a slow, bumpy ride in which local politics share the front seat with education. (Gatekeepers, 2004, p. 10A)

The editors were correct in anticipating a "slow and bumpy ride" in which "local politics shared the front seat with education," because despite the 13 US\$ million federal funding stream that the legislation created, even when school boards did grant charters, their funding formulas were viewed as inadequate. These issues were particularly critical in BCPSS where, by December 2005, the 12 charter schools that had been created under the state's charter law claimed to be underfunded. The MSBE, whose members were appointed by Governor Ehrlich, agreed that the law "had a lot of inadequacies" that would require revisiting in the General Assembly (Bowie, 2005, p. 2B). For Ehrlich and his supporters among the inadequacies that "weakened" the law was the provision for school districts like BCPSS to grant and oversee charters. Others considered this provision as a centrally important feature of local control.

Beyond these views, the law can also be seen as Maryland's unique experiment in balancing local, state, and federal accountability goals and concerns. Seen in this way, the charter law was entwined in the federal-state education

accountability mechanisms that the MSBE and Grasmick enacted in their attempted takeover of 11 BCPSS schools a few months later.

Pathways to Institutionalizing Education Accountability Mechanisms

That Grasmick was the first state superintendent in the nation to move to take over schools only four years after the federal law took effect in 2002 owes much to the fact that these schools had been labeled failing under Maryland law since the mid-1990s. When the *NCLB* legislation took effect in 2002, Grasmick decided to grandfather the schools' histories of failure into their initial status in the AYP sanction system. As a result, instead of having to wait for five years as the federal law suggested, Grasmick could move more quickly to take over the schools. Asked to comment on the takeover attempt, Frederick Hess, at the American Enterprise Institute, observed "Even the worst schools elsewhere around the country are unlikely to be in this category before next year [2007], and even then, most states are unlikely to act as aggressively" (Bowie, 2006a, p. 1B).

The aggressive takeover approach in using the AYP sanctions taken by State Superintendent Grasmick was consistent with her previous actions in implementing the accountability mechanisms the state began developing in 1987, when the Democratic Governor of Maryland, William Donald Schaefer created the Commission on School Performance, and named Walter Sondheim, a prominent Baltimore business leader and future State Board of Education member, as chairman. The work of the Sondheim Commission placed Maryland in the forefront of emerging efforts at making educational improvement priority. Indeed it was two years later, in 1989, when president George Bush followed suit. After meeting with the nation's governors, Bush set out the six goals for education to be met by the year 2000 that analysts view as establishing the ideological framework for what became the *NCLB* Act.

In parallel developments, Governor Schaefer charged the Sondheim Commission with recommending a system for reforming schools, improving their ability to raise all students to high skill levels, and holding them accountable for rigorous standards of school performance. The Commission's 1989 report was viewed by analysts as a call to action for Maryland's education, political, and business leaders: "The need to improve schools is urgent. The failure of schools to provide an adequate education for all students raises the specter of state and national decline because Americans will not be equipped to do the jobs required in the 21st century" (Governor's Commission on School Performance, 1989).

Many of the Commission's recommendations were implemented in 1990 when the State Board of Education established the Maryland School Performance Assessment Program (MSPAP). With MSPAP in place, Maryland became one of the first states in the nation to reform its educational system by holding schools accountable for measurable results for all students. Subsequently, the State Board of Education, seeking a new State Superintendent of Education "who would embrace the recommendations of a panel that called for accountability and testing," appointed Grasmick. Commentators observed that Grasmick, who had the support of Governor Schaefer, "not only embraced the idea," she "made accountability her mission" (Bowie, 2006d, November 14, p. 1B).

Under Grasmick's direction, the Maryland State Department of Education (MSDE) developed the state's signature MSPAP accountability mechanisms for the following: (a) setting measurable standards; (b) developing a public reporting system showing each school's performance annually; (c) requiring all schools to design improvement plans to meet the standards; and (d) implementing rewards for schools progressing toward the standards, and sanctions for schools failing to meet them. Among the sanctions were regulations adopted in 1993 that gave the MSBE the power to intervene in, or reconstitute, schools that failed to meet MSPAP standards. Reconstitution involved changing one or more of the following: (a) a school's administration, (b) staff, (c) organization, or (d) instructional program (Cipollone, 1998).

Commentators note that by 2002 "MSPAP was the only pure performance test left in the nation" (Bowler, 2002, p. 1F). Children in the third, fifth, and eighth grades answered questions or performed tasks using essays. However, MSPAP was designed to measure school not student performance. As a result, "during MSPAP's 10-year existence, accountability stopped at the schoolhouse door, and principals took much of the praise or blame if a school's scores shot up or plummeted. (Indeed, successful schools got cash awards)" (p. 1F).

The consequence mechanism was initiated in 1994, when the MSBE began identifying schools that were performing "below satisfactory and declining" on annual MSPAP assessments as "reconstitution eligible." That identification designated a probationary period in which the school and its district were expected to enact changes leading to substantial improvements in student performance. Should such improvement not materialize, the state could remove the school from management by the local district in a step termed "state reconstitution."

By 2002 the state had reconstituted 107 schools, 85 in Baltimore City. Although many education leaders in Maryland credited Grasmick with some positive outcomes of the MSPAP program, "early on, resentment built among

many superintendents, principals, teachers and parents whose schools were labeled as low-performing or, worse yet, failing so badly that they were under consideration for state takeover” (Libit, 2001, p. 1A). As she did in responding to other instances of resistance, Grasmick made persuasive claims, “repeating what would become one of her favorite mantras: No child should have to continue to attend a failing school by accident of where he or she lives” (p. 1A). Pointing to the evidence provided by MSPAP, she argued “I think that in this state, 15 years ago, if we had asked which children were attending those failing schools year after year after year, we wouldn’t have known, I believe we know that now” (p. 1A).

Grasmick’s arguments that data from the MSPAP assured that the goals for improvement efforts were being met were particularly compelling in the case of BCPSS schools where “the testing and accountability confirmed what many had known for years about the Baltimore schools: Achievement was not just lagging behind the rest of the state, but lagging way behind” (p. 1A). The accounting mechanisms in MSPAP thus established means by which both school and school system performance could be debated, judged, and assigned consequences. Indeed, as I explain next, evidence from MSPAP’s accounting mechanisms provided fodder for debates and legal suits over the efficacy of oversight of BCPSS that resulted in new governance controls.

Reactive Sequences in Baltimore School System Control Disputes

Commentators suggest that by 1997 “reactions to the evidence of low performance [on MSPAP] helped push the state and city toward a landmark agreement in which the city ceded some control over the system in exchange for more state dollars” (Libit, 2001, p. 1A). At that time, events converged to create a crisis of confidence in the BCPSS that brought into conflict the Office of the Mayor, the MSDE, the leadership of BCPSS, concerned citizens of Baltimore, and the U.S. federal government. Two legal suits, one on behalf of special education students (*Vaughn G.*), and one on behalf of regular education students (*Bradford*), pointed to wide-ranging inadequacies in the provision of educational services and supports for learning.

In 1997, responding to what was soundly denounced as a chaotic and dysfunctional situation that was only worsening, the Maryland General Assembly called for broad-based reforms in the delivery of education and the management of the BCPSS. The legislation specifying the components of these reforms, Maryland State Senate Bill 795 (SB 795, 1997), was both innovative and far-reaching. SB 795 took control of the school system away from the

office of the Mayor, where it had long resided, while also creating a partnership between the BCPSS and the MSDE.

The legislation required significant changes in the governance and management of the school system starting at the very top with the establishment of a new Board of School Commissioners, and with structuring a new relationship between the city school system and the state. Commissioners were to be jointly appointed by the governor and the mayor of Baltimore City. The legislation also designated key leadership positions and prescribed reporting relationships. A requirement was specified for an overarching management tool, a Master Plan, with annual updates. It was intended to lay the foundation for, and provide continuing focus on, a cohesive series of reforms. Accountability was a major theme and a desired outcome. It was expected that a comprehensive monitoring system would be put in place that would allow the leadership to assess and make midcourse adjustments. To support the reform effort, additional funds were provided above and beyond those that the system would normally expect to receive.

Unfortunately by February 2004, BCPSS was facing a US\$58 million cumulative deficit and an additional cash flow emergency that required loans from the state, city, and a nonprofit foundation. The deficit raised questions about the lack of financial accountability of BCPSS under the City-State Partnership. Observers, including some of those who had helped advance the 1997 legislation, claimed potential problems were overlooked, and the system was ill-equipped to operate apart from the city's close control. While the reform of the city schools improved academic performance, the new structure helped create the financial crisis. Thus in 2003, "when city students had a poor showing on the Maryland State Assessments, Grasmick stepped in quickly to declare the entire system in 'corrective action' [giving] her the ability to order changes in instruction . . . [However], city-state partnership did not give her, or the mayor, similar control over the system's finances" (p. 1A). One supporter commented: "I do think in hindsight it is clear that the school system probably needed more help from the state, from the city, from whomever, in working its way through this, particularly in the areas of budget and accounting controls" (Bowie, 2004a, p. 1A).

By 2004, the debt crisis had become the focus for new debates over control of BCPSS. Responding to initial requests from Baltimore City Mayor O'Malley, Governor Ehrlich offered to advance the system US\$42 million in exchange for more accountability for tax dollars. However, O'Malley soon judged the offer to be an attempted state takeover, not unlike what had occurred in other states. The *Baltimore Sun* reported: "Facing bankruptcy or plummeting test scores, more than 40 school districts nationally have been

taken over since 1994—and while parents are often outraged, school systems have sometimes received a boost from educational reforms and tighter financial controls” (Pelton, 2004, p. 7A). Commenting on the takeover trend, Kenneth Wong suggested: “This is a really a new trend, with more and more states, and sometimes cities, realizing that they can’t just stand there and do nothing, while school systems fail.” (p. 7A)

Ehrlich’s “takeover” was derailed, when, in March, 2004, following several weeks of debate, Mayor O’Malley turned down the offer citing the “onerous” strings of state control attached. O’Malley decided instead to use city reserve funds to get the troubled school system through that year, a decision that drew mixed reviews by politicians and observers. *The Baltimore Sun* reported:

Senate President Thomas V. Mike Miller said O’Malley’s decision was “a very smart move.” It was probably political in the sense that I think he realized that if the governor had seized control of the Baltimore city school system, it would appear that the mayor and the City Council had not been doing their job,” [moreover] under the proposal the governor pressed for, power of the schools likely would have been concentrated in three white officials—including Superintendent Nancy S. Grasmick. “So it became in my opinion a racial issue, and a matter of pride.” (Dresser, 2004, p. 1B)

In response to the Mayor’s rejection of state funding, Governor Ehrlich reacted by warning: “if the same people who have lacked accountability continue to lack accountability, come back on our doorstep again at any time, we really have to question them, as far as their history and their motivation. We’ll be there for the kids, but that’s it” (p. 1B). Mayor O’Malley countered by observing that he didn’t “take counsel from the Republican Party of Maryland when reforming our public institutions” (p. 1B). Two years later, in April, 2006, in the midst of the takeover attempt that coincided with the gubernatorial contest between the two, Governor Ehrlich and Mayor O’Malley reiterated these positions. In response to O’Malley’s charge that students in the BCPSS were being used as “political pawns,” Ehrlich insisted that the takeovers were not politically motivated but were “about a system that continues to receive more dollars and becomes more dysfunctional” (Bowie, Rosen, & Neufeld, 2006, p. 1A).

Seen as a continuation of Ehrlich’s 2004 efforts to increase BCPSS’s accountability to the state, the failure in 2006 of his veto of legislation providing a moratorium on his school takeover-to-turnover attempt can

be viewed as a reactive sequence in the evolution of Maryland's education accountability regime change. The connection between the incidents was evident to opponents of the 2006 takeover like Delegate Salima S. Marriott, who indicated that she "considered the takeover political payback because the city circumvented the state when it proposed to bail out the financially strapped schools two years ago . . . this is an act of revenge as far as I'm concerned . . . I think that we must take a stand" (p. 1A). As I have shown legislators did take a stand by upholding the legislative moratorium on the takeover attempt.

Back to the Future: Reactive Politics Disrupting Institutional Pathways

It is evident that pathways to the state's takeover attempt were created by the conversion of the MSPAP accountability mechanisms to those aligned with the *NCLB* regime. However, as I have suggested, it is also evident that alignments were tailored by reactions and counter reactions to elements of that regime stretching back two decades or more. Task forces, commissions, and work groups, bringing together diverse stakeholders from across the state, were engaged to design and develop the array of regulative, economic, and informational mechanisms constituting the state's consequential accountability regime. It follows that Maryland's accountability regime has evolved in sequences where the state's adoption or appropriation of federal incentives were framed by reactions to them in local communities like Baltimore City.

That some of these reactions occurred in political arenas is noteworthy. Certainly the political context of accountability regime evolution was evident in the follow up to the failed take-over. A few months after the attempt voters voiced their reaction in the gubernatorial race in which the takeover was enmeshed. Governor Ehrlich lost the governorship "on the same day his Republican Party lost control of the House of Representatives and the U.S. Senate and suffered legislative defeats across the country" in what commentators called a "tsunami" of rejection (Green, 2006, p. 1A). Analysts blamed the loss partly on Ehrlich's "inflexibility" and failure to compromise, and Ehrlich himself admitted that Marylanders "did not like the conflict" (p. 1A). Nor, it seems, did they like his approach to education reform in the 2006 election when education was viewed by voters as the number one priority. Pre-election public opinion surveys suggested that the education views of Ehrlich and O'Malley were "pivotal" in that race (Bowie, 2006c, p. 1C). Interviews with both, revealed significant differences:

Ehrlich would encourage more private partnerships and introduce more competition into the educational process. He likes charter schools, merit pay for teachers and vouchers. O'Malley's focus is on strengthening traditional public schools, improving teacher pensions and attracting highly qualified principals to struggling schools with signing bonuses. He supports charter schools, but doesn't believe they are the solution. (p. 1C)

Voters agreed with O'Malley's view, electing him in 2006, and again in 2010, as it became clear that the mechanisms of education accountability resulting from accommodations to the reactions to the takeover-to-turnover attempt had resulted in positive outcomes in the BCPSS. Prior to the 2010 gubernatorial race editors of *The Baltimore Sun* reported on the status of the 11 schools that had been the focus on the 2006 takeover attempt:

Of the seven middle schools, three have since been closed. Among the rest, test scores have, on average, more than doubled. One of the schools, Hamilton Middle School, posted 97.7 percent proficiency rates in sixth grade reading and math last year. Two of the high schools have since been closed or reconstituted, and among the remaining two, the pass rate among seniors for the high school assessments in Algebra and English 2 has nearly quadrupled. (Debating, 2010, p. A18)

It appeared that the mix of accountability mechanisms implemented under the O'Malley administration had, by 2010, created conditions supporting the reform efforts of Andres Alonso, appointed CEO of the BCPSS in the wake of O'Malley's election in 2006. In the judgment of the same editors: "the last four years saw the arrival of city schools CEO Andres Alonso and the most rapid period of reform and progress ever seen in Baltimore schools and one of the great urban education success stories in the nation" (p. A18). That this success emerged from the accommodations to local concerns that grew out of the failed takeover attempt is noteworthy evidence that accountability crises giving rise to reactions can have productive outcomes. Under the O'Malley administration, the relations between BCPSS, the MSBE, and Grasmick were markedly less confrontational than they had been under the Ehrlich administration.

After successfully surviving the transition to the O'Malley administration, Grasmick went on to lead the state in transitioning the state's accountability mechanisms to take advantage of the "Race to the Top" incentives of the Obama education accountability regime, and to win accolades for her

contribution to the recognition that Maryland received in the annual evaluations of state education systems by *Education Week*. In a news release announcing the state's number one ranking the MSDE noted: "Maryland's 2012 ranking in Quality Counts is based on State education policies and student performance that reflect nearly two decades of work under recently retired State Superintendent Nancy S. Grasmick" (MSDE, 2012).

It is important to note that although the Quality Counts indicators had been broadened, they were still framed around the logic of consequential accountability that has been a central feature of the education accountability regime that Grasmick helped to institutionalize. Significantly for this process, Grasmick's promotion of mechanisms for consequential accountability did not waiver, nor did her policy directions veer greatly from the trajectory she set the state's regime on in the early 1990s.

Researching Reactive Sequences in State Education Accountability Regime Change

At the same time, as I have shown in this article, Maryland's "aggressiveness" in attempting to take over Baltimore City schools prompted a sequence of reactions and counter reactions by state and city leaders. This reactive sequence was entwined around questions about the legitimacy of consequential accountability mechanisms applied to BCPSS that had been leveraged through federal *NCLB* provisions. This conclusion has implications for understanding the take-up by states of federal accountability policy, so in my concluding comments I return to consider Wong's (2009) claim: "Notwithstanding the growing federal influence in recent decades, the structure of political incentives for state actors remains unchanged—the source of the state political power and policy claims primarily comes from local constituencies" (p. 229).

That Maryland would be the first state to attempt to use the AYP provisions in the federal government's *NCLB* legislation to takeover and turnover 11 Baltimore City schools could be predicted from the accountability policy path that the state had taken since the late 1980s. As I have shown in this article, the development of Maryland's consequential accountability regime took a path embedded with sequences of reactions and counteractions that lends credence to Wong's prediction that "under the *NCLB* Act, states [were] likely to frame federal expectations in ways that [did] not challenge the state–local governing culture" (p. 229). That is not to say that the ideas infused in federal mechanisms of consequential accountability were not similarly infused in the state's education accountability mechanisms. Indeed my analysis suggests that although local-state governing cultures may mediate the

evolution of state education accountability regimes, they do so in embedded sequences of reactions through which federal accountability mechanisms gain more or less tenuous purchase, and significantly, that local–state reactions reform those mechanisms.

Supporting my conclusion is evidence of the reaction to the effect of Maryland’s accountability regime under *NCLB* Act mandates. By 2011, only 15 of the 141 city schools met federally mandated progress goals in math and reading on the Maryland School Assessments. Seventy-seven city schools were already on the state’s school improvement list, 31 of which could have been subject to radical reforms in the coming year. The situation in BCPSS reflected a “trend that education officials nationwide . . . [said eventually would] label most American schools as failures” (Green, 2011, p. A1). The outcomes in BCPSS prompted debate among school board members about whether the district would be in “complete unrest” by 2012 as more schools were targeted for mandated interventions (p. A1).

Faced with this kind of reaction from districts and states across the country, the Obama administration initiated efforts to offer states waivers from *NCLB*. This evidence, and the analysis I have presented in the article, call attention to the utility of examining path dependence through reactive sequences in exploring the localized and pluralistic policy processes that pervade state implementation of consequential mechanisms of education accountability leveraged by new modes of performance-based federalism.

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