

◇ INSTITUTE ON EDUCATION LAW AND POLICY ◇

A FINAL REPORT SUBMITTED TO THE NEW JERSEY DEPARTMENT OF
EDUCATION

**DEVELOPING A PLAN FOR REESTABLISHING LOCAL CONTROL
IN THE STATE-OPERATED SCHOOL DISTRICTS**

Executive Summary and Recommendations

Background

As a matter of state constitutional law, public education in New Jersey (and in virtually every other state) is ultimately the state's responsibility. States can, and usually do, delegate by statute and regulation much of their operating authority to local school districts. In New Jersey, there are more than 600 districts, and a strong tradition of local control in education has developed.

Yet, because ultimate responsibility for providing all students with a "thorough and efficient" education resides in the state, New Jersey's education authorities have imposed a variety of statewide requirements on the local districts. Many of these requirements seek to hold districts accountable for their educational, management and fiscal performance.

During the past several decades especially, that has led the state to establish Core Curriculum Content Standards, statewide assessment programs designed to measure pupil performance against those standards, and district certification standards and procedures that include pupil performance measures.

In 1987, the state legislature adopted a law authorizing the state to take over the operation of school districts unable or unwilling to correct serious problems that were identified by the certification process regarding governance, management, fiscal

operations or educational programs in their schools. The failure of districts to meet certification standards triggers a multi-level corrective action process, which in extreme cases can lead to state takeover.

Under that statutory procedure, New Jersey was the first state in the country to take over operation of a school district—Jersey City in 1989. That action foreshadowed a major educational development that began in earnest in 1990. In a series of landmark decisions in *Abbott v. Burke* in the decade since then, the New Jersey Supreme Court ruled that students in the state’s poor urban districts were being denied their constitutional right to a “thorough and efficient” education. The remedies ordered by the court required the state to dramatically increase funding in the “Abbott districts,” and to assure that that funding led to a wide range of educational reforms. The court also recognized the need, perhaps even greater as a result of the Abbott reforms, for a meaningful state accountability system.

In the wake of the early *Abbott* decisions, the state also took over operation of two other large urban districts—Paterson in 1991 and Newark in 1995. In a sense, the state’s action in the three state-operated districts dramatizes what we have known for more than 30 years—that the most serious public education problems in New Jersey and throughout the nation are focused in our urban centers and disproportionately affect poor, minority students.

Given that knowledge, it is hardly surprising that in New Jersey, as elsewhere, state intervention, including takeover, has occurred predominantly in urban areas. The responsibilities of New Jersey’s urban districts are framed by a combination of accountability measures, district certification and the *Abbott* remedies. These elements

start by identifying problems that, directly or indirectly, impede the effective delivery of educational services and then seek to implement corrective action under the state's oversight, supervision or direct operation.

Issues considered

In that context, there are three interrelated issues that this study has considered. First, what circumstances should trigger takeover? Second, what should happen during the period of state operation? Third, what circumstances should trigger reestablishment of local control, and by what process should control be returned? Although the study's title might suggest that the third issue is the primary focus, it is impossible to consider that issue in isolation from the other two. Indeed, meaningful recommendations about reestablishment of local control must grow out of a careful evaluation of the entire system of state intervention.

Research undertakings

The study has proceeded on multiple tracks. One track has involved an effort to learn as much as possible about the origins, purposes, operation and results of state takeover and operation of local school districts in New Jersey. A second has involved a comprehensive review of relevant literature about state intervention and takeover, as well as related topics such as educational reform and accountability, and about analogous municipal takeovers. A third has involved an examination of comparable state statutes and regulations across the country. Related to the second and third tracks is a fourth that has sought to identify "best practices" nationally in the area of state intervention in local school districts and municipalities. Based on these inquiries, the study has identified

gaps between New Jersey's approach and "best practices." This in turn has led to recommendations for changes in the New Jersey approach.

In a preliminary report submitted on June 15, 2001, we described progress to date, indicated further areas of inquiry, set forth some initial conclusions and listed some tentative recommendations. In this final report, we refine and expand our discussion of relevant issues, we incorporate detailed profiles of each of the state-operated districts and descriptions of best practices, and we set forth our final conclusions and recommendations.

1. New Jersey's takeover approach. Under New Jersey law, state takeover of a local school district is the final step in a multi-step accountability process. The statute and its legislative history suggest that takeover is a last resort to be used in extreme cases, only when a district is unable or unwilling to correct problems that the accountability process has identified.

Takeover results in removal of the local board of education, abolishment of the positions of the chief school administrator and other executive administrative staff, and appointment of a state district superintendent. One of the initial responsibilities of the state district superintendent is to reorganize the central administrative staff. Another is to assess the performance of all of the district's principals and vice-principals, and to obtain the removal (through an expedited form of the statutory tenure removal process) of all those who are not performing effectively or efficiently. One effect of these two requirements has been wholesale replacement of staff; another, in each state-operated district, has been wholesale change in the way of doing business.

The takeover law provides for a system of annual and multi-year reporting of progress by the state district superintendent to the Commissioner of Education, to the State Board of Education, to the Legislature's Joint Committee on the Public Schools, to the Legislature and the Governor. It also provides for a report by the Commissioner to the State Board of Education after five years of state-operation of any district. If the Commissioner determines that reestablishment of local control at that point is not warranted, he is required to submit a "comprehensive report" documenting "in detail" the reasons for his determination and estimating how much longer state operation is likely to be necessary.

The law does not provide, however, any specific goals, quantifiable benchmarks or assessment standards, or procedures for state-operated districts. Rather, it uses the state's certification standards as the central measure, both for whether a district should be taken over and whether a state-operated district should be returned to local control. The certification standards -- eight evaluative elements encompassing 31 indicators of acceptable school district performance -- provide no guidance specifically applicable to state-operated districts or the reforms required in those districts, or any method of determining whether those reforms are likely to be sustained after the return to local control. The certification standards also have no provisions relating to the *Abbott* requirements imposed on the state's urban school districts. The State Department of Education's Manual for the Evaluation of Local School Districts makes no reference at all to state-operated districts or the *Abbott* requirements.

2. Literature review. The literature review relating to school district takeovers, accountability systems generally, and educational improvement strategies, especially in

urban districts, and the parallel review of municipal takeovers has produced some important insights and revealed some equally important gaps. One conclusion is that takeovers in New Jersey and elsewhere seem to have resulted in more documented successes in management and fiscal areas than in education programs. That may be because states' initial emphasis usually is on fiscal and management matters, rather than educational matters. Or the converse may be true—states have focused on fiscal and management matters because they have believed those matters were more amenable to relatively rapid improvement than educational performance, especially pupil achievement. The literature regarding municipal takeovers is consistent with those conclusions. The dominant theme there is usually fiscal and management operations rather than service delivery.

A second conclusion is that the literature fully supports the view that state intervention in school districts and in municipalities should focus on local capacity building. So long as the state is not contemplating long-term direct operation of those governmental units, that conclusion is self-evident. The problem, of course, is execution. Building local capacity, especially in urban communities confronting major challenges created by the broader societal and economic context, is a formidable task. Nonetheless, there are some very helpful studies and reports that provide guidance about capacity building, and some important insights that can be gained from other states' programs of state operation.

A third conclusion is that adequate resources, effectively deployed, are essential. Among other things, that means state agencies have to be well-staffed with the right kinds of personnel to assist local districts in building their capacity; collaborations with

business, higher education, the nonprofit sector and community organizations have to be pursued; and local districts must have the wherewithal to employ competent staff for administrative, supervisory and support as well as instructional positions, and to provide them with strong professional development programs.

3. Compilation of statutes and regulations. The compilation of statutes and regulations relating to takeover and other forms of state intervention has been helpful in fleshing out the national picture, and in providing useful models for some of the recommendations contained in this final report.

4. “Best practices.” A composite of the literature search and the compilation of statutes has pointed us in the direction of both theoretical and real world “best practices.” The California system of state intervention in local school districts, spearheaded by the Fiscal Crisis and Management Assistance Team (“FCMAT”), clearly has emerged as a “best practice.” Certain elements of the systems in Connecticut, West Virginia and Kentucky have emerged as promising examples of effective state intervention in school districts, in concept or in practice. Philadelphia, Pennsylvania and Chelsea, Massachusetts have emerged as models of state intervention in municipal government.

California’s system is the most comprehensive and most fully implemented system in the country, and has resulted in the most dramatic success story—the turnaround of the Compton Unified School District, a district in Los Angeles County with approximately 30,000 students, which was operated by the state for seven years and returned to local control at the end of 2001. Professor Paul Tractenberg, this project’s co-principal investigator, has had extensive communication with FCMAT’s director and

staff. He also attended a day-long site inspection of the Compton school district, and then remained in Compton for an additional day to interview state and local educational officials. In addition, Professor Tractenberg has explored with FCMAT's director the possibility that he and a few FCMAT staff members might visit New Jersey to discuss the California model with staff of the New Jersey Department of Education and state-operated districts after the submission of this final report.

The Compton Unified School District was taken over by the state in 1993. When little improvement had been shown after four years of state operation, the California legislature authorized FCMAT to perform comprehensive assessments of the district's performance in the areas of community relations, personnel management, pupil achievement, financial management and facilities management; to develop a recovery plan for each of these areas; and to report every six months on whether the district had made "substantial and sustained progress" in each area. The legislature further required the gradual, incremental return of legal rights, duties and powers of governance to the local board of education upon a showing that the board and school district officials had the capacity to take responsibility in each area. FCMAT developed a plan in the form of a rating scale which measured district performance on 370 highly specific legal and professional standards. Each standard was rated on a scale of one to ten, with each rating specifically defined and consistent for all the performance standards. FCMAT also worked with district officials to identify measures that would improve performance on each standard.

The district showed steady, gradual improvement over the next two and a half years. In August 2000, in light of demonstrated improvement as shown on the rating

scale, FCMAT recommended the return to the local board of authority for community relations and facilities management, and this recommendation was accepted by the California Superintendent of Public Instruction. In February 2001, FCMAT recommended return of authority for pupil achievement, but the Superintendent rejected the recommendation and state authority over this area continued. In August 2001, FCMAT again recommended return of authority for pupil achievement and also recommended return of authority for personnel management and financial management. This recommendation was accepted, and the district was returned to full local control in December 2001.

Connecticut's experience with state takeover of the Hartford school district is similarly noteworthy for the specificity and comprehensiveness of the goals and objectives of state operation, as well as for the extent and depth of participation by high-level state education officials in the institution of reforms in the district. In 1996, the Commissioner of Education issued the "Hartford Improvement Plan," a set of 48 recommendations for improvement of the Hartford school district. The district was taken over by the state in 1997, and the appointed "board of trustees" that replaced the board of education was required by the takeover statute to implement the 48-point plan. The State Department of Education devoted significant resources to the plan; upon takeover, each of the 48 points was assigned to a senior staff member in the department, and every senior staff member was given responsibility for implementation of at least one point. Those staff members have worked with district officials to translate the 48 recommendations into a set of annual goals and objectives for the district. For the 2000-01 school year, for example, the district had ten goals, each with multiple specific

objectives. The board of trustees has reported quarterly to the Commissioner on the status of implementation of the 48-point plan, indicating as to each point whether it has been fully implemented, partially implemented, or there has been no progress.

West Virginia's takeover scheme is significant for, among other things, the manner and extent to which the local board of education remains in place and retains some authority. The applicable statute provides that, upon takeover, the authority of the district board of education as to the expenditure of funds, employment and dismissal of personnel, establishment and operation of the school calendar, and establishment of instructional programs and policies is "limited." This has been construed to mean that the board's authority over these areas is removed altogether, but the board remains in existence and it retains decision-making authority over areas not specified in the statute. In West Virginia's most successful state-operated district, Logan County, the board retained authority over issues relating to transportation and maintenance. It continued to meet monthly and to serve in an advisory role in all of the areas over which it did not have authority. The state-appointed superintendent discussed all aspects of operation with the board, and the relationship between the board and the superintendent was not adversarial. District performance was assessed in accordance with 28 standards developed to meet the district's specific needs. Based on this assessment, reestablishment of local control was incremental, and was completed after four years, when the district had met all 28 performance standards.

West Virginia's Office of Education Performance Audits, independent of the State Department of Education but reporting to the State Board of Education, is also worthy of consideration. The office administers the state's system of "education

performance audits” conducted by “education standards compliance teams,” which are teams composed of “persons who possess the necessary knowledge, skills and experience to make an accurate assessment of education programs.” The office also has a statutory mandate to determine what capacity is needed in schools to meet state standards and make recommendations for establishing that capacity; to determine whether there are statewide deficiencies in the capacity to establish and maintain a thorough and efficient system of education; to determine the staff development needs of schools and districts to meet standards; and to identify exemplary schools and school systems and exemplary practices.

Kentucky’s system of assessment and assistance to school districts, implemented by its Division of Management Assistance, is also worthy of consideration. A division of the state department of education, it provides technical assistance to “state assisted districts” in the development and implementation of plans with specific objectives, strategies and actions to be taken to correct deficiencies. Kentucky also has a program of “highly skilled education assistance,” in which “distinguished educators” may be granted up to two years’ leave from their employers to provide technical assistance on a full-time basis to districts in need of assistance.

Much like state intervention in school districts, state intervention in municipal governance also involves capacity-building strategies. The municipal intervention approaches used in Philadelphia, Pennsylvania and Chelsea, Massachusetts have emerged as “best practices.” Philadelphia involved continuation in office of local officials, supported by an intergovernmental authority with power to exert controls over the city’s financial affairs, including the approval of a long-term fiscal and management plan and

the power to withhold state funds if the city did not follow the plan. Chelsea involved a declaration that the mayor's office was "vacant," reduction of all other elected officials to advisory status, and appointment of a receiver. The receiver balanced the budget, modernized and reorganized departments, made numerous financial and managerial improvements, and made a recommendation to the legislature for a new form of city government. The Chelsea model is most noteworthy for the process employed by the receiver for developing the new governance structure. Building "social capital" was an objective as important to the receiver as financial or managerial reform; accordingly, the extent of public involvement in the process, and the resulting degree of support for the outcome, were remarkable. The important point, for our purposes, was the manner in which the decision-making process was used to help build the community's capacity to govern itself.

Gaps between "best practices" and New Jersey's approach

New Jersey's approach to state intervention in school districts seems ill-conceived and poorly executed. The statutory scheme does not adequately address the complexity of the task of providing quality educational programs in our state's urban districts; moreover, certain provisions of the statute that begin to address the task have not been carried out. The statute does not provide for effective assistance to struggling school districts short of takeover; it does not provide a method for building district capacity during the period of state operation or comprehensive assessment of the reforms instituted in a state-operated district; it does not provide a clear prescription for what is supposed to be accomplished by state operation. The statute does provide for monitoring of state-operated districts by the State Department of Education, provision of technical

assistance to those districts, and formal reporting of their progress toward reestablishment of local control; but none of these provisions has been implemented.

New Jersey's system of assessment and accountability was conceived prior to the major developments of the last decade in New Jersey law relating to urban education – the rulings of the New Jersey Supreme Court in *Abbott v. Burke* from 1990 on, and the statutes and regulations adopted in response to those rulings. If nothing else, an overhaul is needed to take those developments into account. Even aside from *Abbott*, state intervention in New Jersey is part of a system of command and control by the State Department of Education rather than collaboration with local school districts. The system's emphasis, even upon takeover, on accountability through monitoring and assessment of compliance with certification standards, rather than intervention with the goal of providing assistance in the provision of quality educational programs, has resulted in long-term, seemingly hopeless struggles to achieve even minimal educational improvement.

Other states have coupled their accountability measures with technical assistance programs. Such an approach should be considered in New Jersey as well, especially in light of the extra *Abbott* demands placed on this state's urban districts. An independent agency responsible for assessment and technical assistance, such as California's FCMAT, or an office such as Kentucky's Division of Management Assistance should be considered. The Technical Assistance Task Force created by the previous Commissioner in New Jersey, and best utilized in Asbury Park, is also worthy of further consideration.

At least two other conceptual issues relate specifically to state operation. First, since a district's inability or unwillingness to change or improve – i.e., incapacity -- is

the trigger for takeover, then building the district's capacity should be the main focus of state operation. Yet that does not seem to be the focus. Little or no attention is paid by the state to building local capacity in state-operated districts. To the contrary, rather than enhancing local capacity, state takeover seems to diminish it. The state immediately replaces the main local district decision makers—the board of education and the superintendent—with a state selected and hired superintendent, often someone from outside the district who lacks any personal knowledge of the district's situation, and the state district superintendent, in turn, replaces the district's senior managers with outside appointees. The board of education is replaced by an advisory board, which has no real authority. The dominant takeover theme is the failure of local decision-makers and the need to replace them. This has tended to de-legitimize, demoralize and fragment the local community, and to minimize the prospects of meaningful local capacity building.

Obviously, if part of what triggered takeover was a dysfunctional board, it should not continue to have the same authority. The challenge is to find a way to recast its role, and to create and nurture a structure that develops into an effective policy-making body. Other states have provisions that address this concern that are worth considering.

Similarly, if the district's senior managers are part of the problem rather than the solution, they should be replaced with administrators dedicated to educational reform and improvement; but the ability to carry out and sustain those reforms and improvements must be instilled in long-term district employees and members of the community, not just outside experts brought in to handle state operation.

A second issue is that state operation of school districts in New Jersey has lacked direction and coherence. The state has provided no clear statement of what districts must

accomplish under state operation. As far as we have been able to determine, the state never has issued a document specific to state-operated districts stating the goals and objectives of state operation or the standards and benchmarks by which their reforms, the sustainability of those reforms, and their progress toward return to local control will be measured. Under the statute, district certification is the stated goal of state operation, yet when the State Department of Education issued a revised manual for monitoring and assessment of school districts in 2000, it did not even mention state-operated districts, let alone provide guidance on application of the certification standards to those districts.

Lacking sufficient direction from the state, the three state-operated districts have developed their own strategic plans and adopted their own reforms. Their initial focus typically has been on correcting management and fiscal problems, and, often, that effort has dominated the first several years of takeover. Greater focus has been placed on educational programs more recently, but the myriad programs and strategies initiated in the three districts lack any consistency of approach. While local vision and creativity are not bad, the vision or theory of the programs in the state-operated districts is unclear. In any event, developing capacity for local control does not appear to be among the primary objectives.

The state also never has performed a systematic external assessment of the progress or improvement in any of the state-operated districts. Key documents required by the takeover law apparently just have not been produced -- annual reports on the progress of each state-operated district by the Commissioner to the State Board of Education, the Governor and the Legislature; annual reports on the prospects for each district's return to local control by the Commissioner to the Joint Committee on the

Public Schools and to the Governor; a five-year report by the Joint Committee to the Legislature and the Governor, and perhaps most troublesome, the reports by the Commissioner on whether state operation should be extended in each of the three districts beyond the five-year statutory minimum. Several external consultants' reports have provided some useful information about individual state-operated districts, especially Newark, but the only comprehensive reports which have been produced regularly are the districts' own annual reports. Since those reports consist entirely of self-assessment, and the districts have not been provided with any clear, specific goals or benchmarks for their efforts, assessment of their progress has been haphazard.

This relative vacuum regarding how to define and measure progress in the state-operated districts has been filled, perhaps understandably, by undue emphasis on student performance on state assessment tests. The statute refers to achievement of certification as the standard for readiness for return to local control, and the state's system of district certification includes satisfactory results on student achievement tests. Moreover, achievement test results appear to provide an objective, quantifiable, publically-available picture of district performance every year and a means of tracking trends over time. These perceived values are largely illusory, however, considering the changes in the state testing program over the period of state operation of the three districts, changes in the current tests themselves, and the high rate of pupil mobility in urban districts. Given these factors, state test results provide only a crude measure of student performance over time, and they provide even less useful information about school district performance in areas of administration and governance. Reliance on student test scores has distracted

both the state and the state-operated districts from searching out more meaningful standards for measuring progress.

The State Department and State Board of Education have recognized that achievement test scores, and the certification indicators generally, are not useful or realistic measures of progress in the state-operated districts. In truth, few poor urban districts in New Jersey fully satisfy the certification requirements, and some fare significantly worse than the state-operated districts. Continuing to rely on these measures will ensure one of two results—state operation of virtually unlimited duration or reestablishment of local control despite the districts’ failure to meet the statutory standard. Neither is likely to be satisfactory or productive.

Other states, notably California, have established clear, comprehensive, objective standards and procedures for assessment of the progress of state-operated school districts toward reestablishment of local control. These standards include student achievement standards, but not to the exclusion of other measures of educational improvement and measures of district capacity to sustain improvement and govern and manage their operations without state control. New Jersey should consider the models adopted elsewhere, and establish its own comprehensive system of assessment of state-operated school districts.

Conclusions and recommendations for reform

New Jersey’s three largest urban school districts have been under state operation for long periods of time, with no clear understanding about what the state’s focus should be, or how and when they should be returned to local control. Some steps have been taken toward phased reestablishment of local control in Jersey City; some, though fewer,

steps have been taken in Paterson; and political pressure is building for similar movement in Newark. Without any consistent, comprehensive method of measuring readiness for return to local control, it is difficult to determine whether such movement is warranted.

This is not to say there has been no progress in Jersey City, Newark and Paterson under state operation. Indeed, numerous reforms have been instituted in each district, and pupil performance appears to have improved, at least in Jersey City and Paterson. Our conclusion, however, is that whatever progress may have been achieved has not been as a result of a coherent structure and plan, with clear and measurable standards and benchmarks and careful assessment of performance. The question now is how to reconstitute New Jersey's system of state intervention and takeover so that it can produce desired results in a time- and cost-efficient manner. Our answer is in the form of a set of recommendations for accomplishing this goal.

Many of our recommendations are not new or surprising. They are derived from our literature search, from prior studies of state-operated districts, from models in other states, from the Jersey City Transition Team recommendations, from bills relating to state operation that have been introduced in the New Jersey Legislature (especially A3030), and from public discourse about state takeover. This project's findings and recommendations are distinguished by their focus on an overall strategy designed to enable the state to play a meaningful role in local educational improvement without having to operate urban school districts for extended periods.

To a substantial extent, our findings and recommendations are forward-looking—they recommend a new structure for the future. But, we are mindful of the importance of effective transition back to local control of the three state-operated districts and have

addressed that challenge in some of our recommendations and, especially, in the roadmap that concludes this Executive Summary.

We begin with four conceptual recommendations for changes in the overall approach to state intervention:

A. Redefine the State’s Role to Emphasize Support of and Technical Assistance to Districts Delivered in a Collaborative Manner.

The State’s relationship to local school districts, both with regard to state accountability and generally, should be refashioned from one that emphasizes a command-and-control approach to one that focuses on support and technical assistance delivered collaboratively. Of course, in some cases the State may still have to make and enforce difficult decisions in districts unable or unwilling to correct major educational and administrative problems, but that should be a last resort after all other efforts have failed. The State Department of Education, or another state agency charged with responsibility for providing the necessary support and technical assistance to local districts, must itself have sufficient capacity to carry out these responsibilities effectively.

B. Make Local Capacity a Cornerstone of the State’s Interactions with Districts.

The State’s assessment of district performance, especially of districts that may be in need of assistance, should focus systematically on local capacity measures rather than primarily on student outcomes. State intervention, including possibly takeover, should be triggered by a determination of local incapacity to correct problems and improve outcomes. State intervention should be directed at enhancing local capacity, and full resumption of local

operation should be based on a measured, assessment-based judgment that local capacity has reached an acceptable level.

- C. Create a Unified System of State Oversight of Urban Districts, Combining the Monitoring and Assessment Process with a Process for Assuring Implementation of *Abbott* Reforms. At the present time, the Abbott districts must be distinguished from other New Jersey districts because they have been determined to have a history of special educational needs and inadequate resources to deal with them. Several consequences flow from that. First, while the goal is that the Abbott districts, like all others, will meet all of the general district certification standards, the Abbott districts are unlikely to meet those standards, especially those relating to student achievement on standardized tests, in the near future. Second, the Abbott mandates contain various programmatic and resource elements designed to enable these districts to substantially improve their educational outcomes, but the mandates also impose special responsibilities on those districts. This suggests that, at least in the near term, the system of state oversight of the Abbott districts must be different from the system for other districts. Nevertheless, it should be a single unified system, incorporating appropriate elements from the generally applicable monitoring and assessment process, from other state accountability structures and from *Abbott*, rather than two or more parallel and sometimes overlapping systems.

- D. Establish a Clear, Specific System of Standards and Benchmarks by Which

Districts Will Be Assessed, and, in the Case of Districts Determined to Require State Assistance, Ensure that Competent, Objective Periodic Assessments Are Carried Out to Measure Progress and that the Results are Promptly Communicated to the Districts. A primary problem of the current system is that state-operated districts have never been given a set of clear and specific standards and benchmarks by which they can determine when they have satisfied the State's expectations and have earned the right to resume local control. Nor have they had the benefit of periodic objective assessment of their progress toward those, or any other, standards and benchmarks. Rather, they have been left largely to their own devices, to fashion a corrective plan and to measure progress against it. The state needs a comprehensive set of district performance standards and a method of measuring compliance with those standards accurately and objectively. Those standards and the method of measuring compliance should be used to develop plans for further improvement in each of the state-operated districts, to determine the districts' needs for technical assistance, and to measure their capacity for local control. They also should be used to evaluate the performance of other districts, to determine their technical assistance needs, and to determine when further intervention is needed.

Next, we provide a larger set of recommendations that focus on implementation of these concepts and approach:

1. Implement Preventive Program. To minimize the need for state takeover, the state should develop and implement a well thought out preventive program

that might include improved monitoring of the districts' fiscal performance, mandatory financial and legal training for administrators, enhanced school-based management efforts, and a long overdue system for collecting, using and disseminating long-term student performance data.

2. Modify Takeover Statute to Increase Flexibility. The statute should be modified to give the state substantially greater flexibility as to the form and extent of takeover. The modifications also should expressly authorize gradual or staged reestablishment of local control after takeover, as evidence accumulates of enhanced local capacity.
3. Modify Statutes to Treat Local Capacity as a Deciding Factor. The statutes should be modified to emphasize local capacity as a factor in deciding whether or not state intervention, including takeover, is necessary; what role the state should play under state operation; and when, and under what circumstances and procedures, reestablishing local control should occur.
4. Build Local Capacity. Whenever the state decides to intervene in, or to take over, a school district, it should focus its efforts on building local capacity, which involves: (1) clearly defining local responsibilities; (2) employing adequate numbers of competent, committed staff to carry them out; (3) providing them with the necessary resources, support, training, professional development opportunities and technical assistance; (4) augmenting employee capacity through collaborations with area higher education institutions, businesses and community organizations; (5) requiring efforts to involve parents and community members to the maximum extent possible in all

aspects of local decision-making; (6) monitoring performance and results; and (7) achieving accountability by a system of rewards and sanctions, as appropriate.

5. Build Capacity at the School and Classroom Level. The focus of state intervention should extend to schools and classrooms within a district, not just to the district office. This is consistent with emerging evidence that effective school-based management, in New Jersey implemented through school management teams, can improve student performance at least as much as district-level reforms. Obviously, the district, too, has an important role to play in building school capacity, by fostering educational vision and leadership, collective commitment to success, appropriate organizational structures and management, and effective deployment of adequate resources. At the school level, capacity building involves school leadership that provides direction, guidance, and support; school goals that are clearly identified, communicated, and enacted; a school faculty that collectively takes responsibility for student learning; school discipline that establishes an orderly atmosphere conducive to learning; and school academic organization and climate that challenges and supports students toward higher achievement.
6. Strengthen the Entire Educational Delivery System. Broadly speaking, the goal is to have both district-level and school-level capacity directed at providing meaningful curriculum and programs, presented by competent, committed teachers and other professionals, to small classes of students, equipped with up-to-date books, materials and technology, in safe, modern,

attractive facilities, with necessary supplemental services to ensure that students can focus on learning, and with modern data systems that permit the monitoring and assessment of individual student performance. In addition to those broad categories, the Abbott mandates impose some special capacity requirements, including high quality, well-planned early childhood education for all three and four-year olds and whole school reform programs in all elementary schools.

7. Provide Technical Assistance. The state should develop and implement a system for providing effective, intensive technical assistance to administrators and supervisors in school districts found to be in need, both to avoid takeover and to increase district capacity during the period of state operation. The state should provide all districts in need, including state-operated districts, with ongoing technical assistance, especially with regard to the standards as to which those districts are not demonstrating adequate progress. There are many ways to structure an effective technical assistance program, but clearly that function should be separated from the state education department's compliance functions. In some states, a separate departmental division provides the technical assistance. Alternatively, a team of trained technical assistance providers drawn from current or former school district personnel can be established. The State already has taken limited advantage of the valuable resource that exists in the form of skilled, experienced superintendents, business administrators, supervisors and teachers who could

share their knowledge and experience. It should consider expanding the use of such personnel.

8. Create an Independent State Agency. As another possibility, New Jersey should seriously consider vesting responsibility for assessment of and technical assistance to school districts in an objective and expert state-level agency, which is independent of the state education department. California's Fiscal Crisis and Management Assistance Team is a promising model. This agency should not have authority to make ultimate decisions about state intervention, takeover or reestablishing local control, but rather should make recommendations to the Commissioner and/or State Board of Education. As an alternative to an independent agency, the state could arrange for a program of technical assistance to be organized and supervised by universities or other collaborators.
9. Clarify Expectations for State-operated Districts. As part of a recovery, or corrective action, plan, clear and specific standards and benchmarks should be established for state-operated districts so that they understand precisely what is expected of them during takeover and what they will be required to accomplish as a condition of reestablishing local control. The standards and benchmarks should emphasize building the capacity to govern and operate the district without state control. The recovery plan should be linked to the circumstances that triggered state intervention and to the technical assistance process that occurred prior to establishment of state operation. If poor student performance was a significant part of the problem that led to state

intervention, measures of student performance, including student test scores, should be included among the benchmarks, but they should not dominate the process. For *Abbott* districts, the goals and benchmarks also should clearly reflect the special requirements imposed by that decision.

10. Assess Progress Against Benchmarks, and Develop Timely, Responsive Reports. During the period of state operation, the assessment agency should periodically assess the district's progress against the established standards and benchmarks, and should widely disseminate the results.
11. Modify Statutes to Allow Return when Circumstances Indicate Capacity for Local Control. The decision about reestablishing local control should be thoughtful and responsive to the totality of relevant circumstances, not be a mechanical response to student test scores or other ostensibly objective measures. The basic standard should be capacity for local control. A phasing-in of local control should be permitted where appropriate. For instance, a board that demonstrates capacity to assume authority over policy development matters but not fiscal matters might be given authority over the former but not the latter.
12. Modify Statutes to Provide More Flexibility Regarding the Composition and Operation of the Board of Education. Under current law, the manner in which the board of education is constituted and functions throughout state operation and during the transition back to local control is inconsistent with our recommendations' major thrusts. The onset of state operation displaces the existing board and replaces it with a purely advisory 15-member body largely

appointed by the Commissioner. Four years later, a nine-member board is elected, if possible from the existing advisory board, and it may vote on district matters subject to the state superintendent's veto power. Within one year of reestablishment of local control, the takeover statute provides that the district's voters can decide whether to have an elected or appointed board, but whatever their choice the board presumably will from then on be similar in number and function as other boards of the chosen classification (*e.g.*, with nine appointed or elected members).

This approach has a number of major deficiencies. First, it undermines our emphasis on the building and use of local capacity from the earliest feasible time. Second, it increases the possibility that reestablishing local control might return the district to old patterns. Our strong recommendation is that a new system of "structured flexibility" be adopted instead. At the start of state operation, this system should permit the Commissioner, with the approval of the State Board, to continue the existing board of education in place, with appropriately reduced functions and powers, or to reconstitute the board in part or in whole. In either case, the Commissioner should be authorized to appoint additional members, on the recommendation of a local advisory body or the mayor, to represent higher education, business, civic and community organizations, and parents. This would institutionalize the contributions of these constituencies and reduce the possibility of a board falling back into old patterns that contributed to the need for state takeover. The board also should

include the state district superintendent and a representative of the Commissioner as non-voting members.

As the board of education and professional staff demonstrate increased local capacity to operate the district effectively, the board's functions and powers should be augmented appropriately. For a period of several years after reestablishment of local control, additional members appointed by the Commissioner should continue to serve on the board to ensure a full and effective transition. Thereafter, as under existing law, the local community should determine whether it prefers an elected or appointed board.

13. Provide for School Ethics. The School Ethics Law should be amended to eliminate any ambiguity as to its applicability to state-operated school districts and to provide that any board member or administrator who violates or refuses to accept its terms shall be disqualified from service.
14. Continue Oversight after Return to Local Control. Some heightened state oversight should continue after full local control has been reestablished. The assessment agency should continue for a specified number of years (such as five) to monitor the district's performance as measured against the established standards and benchmarks.
15. Use State Operation to Develop Urban Education Models. State operation of New Jersey's three largest school districts provides an extraordinary opportunity for the state department, in collaboration with area universities, businesses and other organizations, to develop models for other districts, especially urban districts. This could extend to a range of matters. As

suggested above, one that is specifically applicable to poor urban districts relates to implementation of Abbott's requirements. Others could be even broader in scope. The state could use state-operated districts as models for restructuring of districts through school-based management, so that district offices increasingly function as service centers to schools and teachers. They could demonstrate how enhanced recruitment, retention and professional development of teachers could be put in place.

Taking all these recommendations into account, the following is an overview of the approach we contemplate for reestablishment of local control in the three state-operated districts. In our conversations with the State Department of Education, this overview has been referred to as a road map or blueprint for the process of reestablishing local district control. We prefer the term "road map" because it conveys a more dynamic sense than the term "blueprint." (To some extent, it reflects the current situation in the existing state-operated districts under the current statutes. The road map might be different for other districts in which state operation might be established in the future, if the overall system of state intervention were changed, in line with our recommendations above.)

We note that this is a generic model, applicable to all three current state-operated districts. The standards of acceptable school district performance should be the same for all three, although the findings of the recommended comprehensive assessments will differ, as will the extent and type of technical assistance provided to each district, and the timing and extent of return of authority to the three boards of education. The model also

could be adapted for use in districts other than the state-operated districts that are found to be in need of assistance.

We recommend that the following road map be implemented as soon as possible:

1. The state should specify a comprehensive but manageable set of standards against which school district performance in areas such as curriculum and instruction, personnel management, professional development, policy development, community relations, finance and facilities should be measured.
2. These standards should be derived from multiple sources, including state certification standards, and also should reflect the *Abbott* requirements specifically imposed on urban districts.
3. The standards should emphasize capacity to govern and operate the school district, and they should be specific and objectively measurable. The state also should specifically define acceptable levels of performance – benchmarks – with respect to each of the standards.
4. The state, preferably through an independent agency or a collaborative arrangement with a university or private entity, should ensure that a comprehensive assessment is made of each district's performance on each of the standards. This should be done as soon as possible to serve as a baseline for determining how the State should proceed with respect to each of the districts.
5. If the assessment indicates that the district has achieved the performance profile specified by the state in each of the areas in which standards have been set, the Commissioner and State Board of Education should restore local

control in those areas. If a district is found to have met the standards in one or more areas already, local control in those areas may be restored immediately. If the district has met the state standards in all of the areas, full authority and control should be restored.

6. If a district does not meet the standards in one or more areas, the state should determine, based on the assessor's recommendation and in collaboration with the district, what type and extent of assistance should be provided to enable the district to meet those standards; and a recovery plan with provision for appropriate technical assistance should be developed and implemented as soon as possible. The plan also should enable the district to serve as a model of educational reform and effective school district administration for other districts.
7. An independent evaluator should regularly monitor, and report to the district and the department, specific results in terms of the district's progress toward acceptable performance levels. When the district has made sufficient improvement that it meets all the performance standards established by the state, full authority and control should be restored.
8. During the period of state operation, the board of education should include four appointed non-voting members, in addition to the nine elected members. The appointed members should include representatives of a local institution of higher education, the local business community, local civic or community organizations, and parents. They should be appointed by the Commissioner, upon the recommendation of the mayor or local governing body.

Additionally, the state district superintendent and a representative of the Commissioner should serve as non-voting members of the board.

9. Upon a determination that the board of education has the capacity to exercise authority in all areas of district operations, the board should be granted authority to initiate a superintendent search. With the appointment of a local superintendent, local control will be reestablished, subject only to several transitional measures. The board of education, as constituted when local control is reestablished, should remain in existence for a period of time, perhaps two years. Additionally, the state district superintendent might remain, in an advisory capacity, for a similar period of time. Under the Compton model, the state superintendent remains in a monitoring capacity for two years after the local superintendent has been appointed. Finally, a representative of the Commissioner should continue to serve as a non-voting member of the board for five years after reestablishment of local control.
10. By the end of the transitional period, as under the current takeover law, the local voters should determine whether they prefer an elected or appointed school board. Prior to that classification election, the board of education should be required to gather information and inform the public about the various forms of board structure, and to provide opportunities for meaningful public discussion.

INTRODUCTION

The submission of this Final Report is the penultimate step in a project officially launched on January 2, 2001. It builds upon a substantial Preliminary Report submitted on June 15, 2001. The project's concluding activities, to be completed by June 30, 2002, will focus on assisting the New Jersey Department of Education to evaluate and, as appropriate, implement recommendations contained in this Report.

The project's focus has been on the way in which state takeover of local school districts has occurred under New Jersey's 1987 statute, with special emphasis on the criteria and procedures to be used in reestablishing local control. There are important and complex issues implicated by this focus. In significant part, this is because of the State's ongoing involvement in operating the three largest urban school districts. But, additionally, the accelerating implementation of the *Abbott v. Burke* judicial mandates for educational reform in these same districts has to be accommodated.

The New Jersey Department of Education's experience with state operation began in 1989 with Jersey City, and continued with Paterson in 1991 and with Newark, the State's largest district, in 1995. The statute under which this has been accomplished contemplates reestablishment of local control as soon as it is appropriate, but not before five years have elapsed. The process of reestablishing local control was begun in Jersey City, after more than 11 years of state operation, and a state-appointed Transition Team developed a report with many promising recommendations. Nonetheless, the process there appears to have stalled and Jersey City remains a state-operated district almost 13 years after takeover. There are sufficient signs of progress in Paterson to suggest to some that, after almost 11 years of state operation, some movement back to local control may

be warranted there as well. Newark, the state's largest district and the most recently put under state operation, is probably the furthest from return to local control, at least based on the current statutory standards.

Even though the Jersey City Transition Team's report has not yet led to reestablishment of local control there, it and a comprehensive legislative bill, A3030, provide a New Jersey-specific context for considering how to re-conceive of our approach to state takeover. Beyond those proposed approaches, however, there has been a substantial body of national experience with state intervention up to and including state takeover. In fact, the pace of activity across the country seems to have accelerated in recent months, and federal legislation creates a new and important complexity.

President George W. Bush's top educational priority is reflected in the No Child Left Behind Act signed into law in January 2002. A central thrust of this initiative is to require states to adopt a specific approach to testing and accountability in order to improve academic achievement of all children, to close the achievement gaps between different racial, ethnic and income groups, and to deal with the problem of failing schools. Obviously, these purposes overlap the purposes of existing state accountability systems, including those that provide for state intervention in local school districts. Indeed, to the extent this federal law provides for various forms of technical assistance, intervention and other actions affecting failing schools, including ultimately state takeover, the overlap with state intervention and takeover statutes is substantial.

The implementation and impact of the federal act will take some time to gauge. Meanwhile, a variety of high visibility state responses to struggling school districts attract regular coverage in the nation's newspapers. They tend to break down into three

longstanding approaches: direct state intervention, including takeover; increased mayoral control; and university or private operation of the schools. Illustratively, the state has moved to take over operation of the Roosevelt school district in New York and the Prince Georges County schools in Maryland pursuant to specific statutes; as a culmination of months of efforts, bills are being introduced in the New York State Legislature to provide Mayor Michael Bloomberg with substantial authority over the New York City schools; and state takeover of the Philadelphia schools is leading to management of 75 of the lowest performing schools by three school management companies and three nonprofit organizations, including Temple University.

Direct takeover of urban school districts—the predominant New Jersey approach—creates enormous challenges for the State. At the time the governing statute was adopted in 1987, and even at the time Jersey City was taken over in 1989, New Jersey had a statewide district certification program in place, but there were no major special requirements applicable to urban districts. The situation changed dramatically beginning in 1990, with the New Jersey Supreme Court’s decision in *Abbott v. Burke*. Increasingly, as the Court has ratcheted up its level of involvement in successive decisions during the past decade, compliance with the Abbott mandates has become a central part of the State’s responsibilities in operating the three takeover districts, all of them “Abbott districts.”

Indeed, in those districts, by virtue of state takeover, the Department of Education has direct operational responsibility for Abbott compliance, not just technical assistance, monitoring and enforcement responsibilities. This has led some to suggest that a central

component of state operation should be to make those districts statewide models for Abbott compliance.

To add to the fluidity and complexity of the situation, the State relatively recently has overhauled its regulations and approach to certification of all districts. Yet, the department's Manual for the Evaluation of Local School Districts, revised as of August 1, 2000 to reflect the new certification regulations, makes no reference to state-operated districts, let alone provides guidance specific to them.

In exercising its constitutional duty in the state-operated districts, the State must work with school districts and communities that have attempted, surely with less than complete success, to deal with the state's most disadvantaged students. Those school districts and communities have sought to do so with resources that, until very recently, were manifestly insufficient. Even now, the necessary resources for supplemental programs and facilities are not yet in place.

In the three urban districts for which the State has assumed operating control, it is attempting to do something still unprecedented in the nation—to dramatically elevate the quality of education and the level of student achievement in the state's hardest pressed and least successful districts. To a considerable degree, this bold attempt is being made in districts and communities where professional and public reaction is divided about the state's role, where media attention is relentless, and where political vultures are constantly circling overhead.

The State is confronting what some undoubtedly consider a "Catch-22." For many reasons, it is in the State's interest to reestablish local control as quickly as possible. However, if it does so precipitously and without succeeding in assisting the

local district to achieve the necessary improvements or to develop the stability to maintain improvements made, the State will open itself up to serious criticism.

DESCRIPTION OF THE PROJECT

To assist the State in dealing with this difficult problem, this project has brought to bear the substantial interdisciplinary resources of the Newark campus of Rutgers, the State University. The law school-based Institute on Education Law and Policy has led the effort, drawing upon faculty and graduate students from three academic disciplines—law, education and public administration.

The project team's ultimate objective has been to develop a detailed road map or blueprint for state takeover and, especially, for reestablishing local control in an effective, measured and responsible manner. Given the constitutional mandate for all the State's poor urban districts, including prominently the three state-operated districts, to implement the Abbott reforms, that road map must focus on the districts' capacity to do so and on the State's role in assuring that that occurs.

PRELIMINARY REPORT

The preliminary report, submitted on June 15, 2001, described the initiation of that process, including the development of a preliminary road map for reestablishing local control, and the start of planning for how that road map would be implemented in the three takeover districts. The project activities reported on then included the following:

- review of all relevant materials relating to state educational takeover in New Jersey, including reports and studies of the causes and effects of takeover relating to school

district management, curricular and instructional approaches, and student achievement;

- review of all relevant materials relating to governmental takeovers in New Jersey, other than of school districts, including reports and studies of the causes and effects of such takeovers;
- a literature search to identify all studies, books and articles dealing with these or related issues;
- compilation and review of statutes and administrative regulations regarding state takeover in school districts;
- consideration of how the Abbott education reform mandates affected all aspects of the State's accountability and takeover processes, relating both to local and state responsibilities and needed capacities;
- research into "best practices" relating to takeovers, drawn from the experience of other states or from the literature; and
- identification and preliminary evaluation of any useful analogues to the New Jersey experience in education or other governmental sectors and of models for reforming New Jersey's current takeover approach.

Each of those activities was substantial. They culminated in a 101-page preliminary report containing 19 recommendations; two bibliographies dealing with municipal takeovers and with educational practices; and three lengthy appendices, one an annotated bibliography dealing with takeovers and accountability, the second an annotated bibliography dealing with successful instructional practices, especially in urban school

districts, and the third a 50-state compilation and summary of state statutes and regulations relating to accountability, state intervention and takeover.

FINAL REPORT

Since then, the Rutgers-Newark team has dealt more intensively with the road map, refining the preliminary version and producing a more definitive version in this Final Report. This consisted of a number of major activities by project team members.

First, they evaluated the relevant experiences of other states, making field visits and conducting in-depth interviews with state and local school district personnel, as well as with experts, and with parent and other community representatives.

Second, they met with the state superintendents and other key personnel, and with community representatives, in each of New Jersey's state-operated districts.

Third, they investigated in more detail non-educational takeovers in New Jersey, and in other states that have been considered successful, focusing on the criteria and processes by which local control was reestablished, and interviewed key participants.

Fourth, they collected and evaluated all available data regarding district and student performance in the state-operated districts.

Fifth, based on these activities, the project team developed a refined and more definitive road map for reestablishing local control in the state-operated districts. Because it had appeared initially that the process for reestablishing local control in Jersey City would be moving forward, the team anticipated focusing its road map on Paterson and Newark. But, the delays in Jersey City have led the project team to conclude that its road map has relevance to Jersey City and might result in modifications of the reestablishment process there.

Sixth, the project team developed a detailed set of recommendations for modifications in the takeover law, in the Department's regulations and policies regarding state takeover, and in the relevant practices and procedures.

The result of these additional activities is a Final Report that is substantially broader and deeper in many respects than the Preliminary Report. It contains a number of entirely new sections, including ones dealing with the legal framework, detailed profiles of each of the state-operated districts, a description of New Jersey's technical assistance efforts, how to incorporate best practices and educational policy considerations into a system for state intervention, and a process for reestablishing local control. Other sections have been substantially expanded. Detailed case studies of municipal intervention models have been appended. The tentative recommendations have been thoroughly revised and augmented, concluding with a detailed road map for reestablishing local control in the state-operated districts.

The Final Report is presented, in effect, in four main sections. The first provides a detailed description of New Jersey's system of state intervention and its impact on the state-operated districts. The second looks at state intervention nationally in school districts and municipalities, and identifies approaches that constitute "best practices." The Report's third segment describes educational policy considerations relevant to state intervention and takeover. Finally, in the concluding sections, the Report focuses on how "best practices" should be brought to bear on New Jersey's system to substantially improve it. In "Incorporating Best Practices," the primary focus is on how the State should decide whether or not to intervene and, if it decides to do so, what it should seek to accomplish. In "A Process for Reestablishing Local Control," the focus shifts to how

and when the State should phase out its role. In “Conclusions, Recommendations and Road Map,” all these elements are combined to propose a specific new approach.

FOLLOW-UP ACTIVITIES

As completion of the Final Report neared, the project team initiated discussions with the Commissioner of Education and his staff about carrying out a number of follow-up activities after submission of the report. The purpose was to enable the Commissioner and Department to take further advantage of the project team’s expertise in converting the report into law and policy, as appropriate. A number of specific activities were contemplated. First, bringing to New Jersey key officials from states with “best practices” experiences in state intervention and takeover to share their experiences and advice. Second, assisting Department staff to develop statutory and regulatory proposals, and supporting documentation, to facilitate implementation of the Final Report’s recommendations. Third, recommending to Department staff how to most effectively disseminate the project’s findings and recommendations, and to foster a meaningful public or civic engagement process regarding them.

As a final introductory matter, and as a possible future follow-up activity, it should be noted that, in the initial discussions between the Rutgers-Newark team and the Department of Education, a two-stage project had been considered. The first stage would encompass essentially the project documented in this Final Report. The second stage, considered to involve at least an additional year’s activity, would have involved a variety of further activities focused on working collaboratively with one of the state-operated districts to implement the recommended road map for reestablishment of local control. These activities would have included:

- reviewing existing data and developing new data by interviewing teachers and other school staff, and, perhaps, students and parents, and by conducting on-site observations;
- developing specific benchmarks, based on the road map, to determine the progress of the state-operated district in moving toward satisfaction of the criteria for resuming local control, including implementation of the Abbott mandates;
- organizing a form of “negotiated rulemaking” to bring together all the local “stakeholders” to work toward the development, in advance of formal public issuance, of a mutually agreeable plan for reestablishing local control;
- detailed monitoring of the district, in light of the road map and the specific benchmarks;
- assessing the extent of the district’s progress in meeting the interim benchmarks and the ultimate criteria for resumption of local control; and
- recommending to the district, and to the State, modifications in its educational and management approaches to facilitate satisfaction of the criteria.

The status of this second stage was never fully resolved, however. In late 2000, the decision was made to proceed with the first stage as an independent project, and to consider subsequently whether or not the second stage should be carried out as a follow-up project. Since then, Newark’s state superintendent, Marion Bolden, has agreed in principle to a collaborative arrangement with Rutgers-Newark, but nothing concrete has yet resulted from that agreement in principle.

**NEW JERSEY’S EXPERIENCE WITH STATE INTERVENTION
AND OPERATION OF LOCAL SCHOOL DISTRICTS**

THE LEGAL FRAMEWORK

Constitutional Authority and Statutory Scheme

Legal authority for state intervention in local public schools derives from the New Jersey Constitution and its school laws. While it is true that “no single tradition is more deeply rooted than local control over the operation of schools . . . ,”¹ our constitution specifies that the state, rather than local municipalities or school districts, is responsible for public education. This responsibility is set forth in Article VIII, section 4, paragraph 1 of the New Jersey Constitution, which requires the Legislature to provide for the maintenance and support of a thorough and efficient system of free public schools. Broad authority accompanies this responsibility; as the New Jersey Supreme Court has stated, “The imposition of this duty of course carries with it such power as may be needed to fulfill the obligation.”² Much of the duty and the authority to operate the public schools has been delegated to local boards of education, N.J.S.A. 18A:10-1; N.J.S.A. 18A:11-1; but it is clear that the local boards’ authority is subject to supervision by the State Board of Education and the Commissioner of Education. N.J.S.A. 18A:4-10; N.J.S.A. 18A:4-22.

Specific authority for state intervention in the affairs of local boards of education is provided by the statutory provisions pertaining to monitoring and assessment of school district performance, N.J.S.A. 18:7A-10 *et seq.* The Public School Education Act of 1975 (L. 1995, c. 212) established a two-tier system of monitoring and assessment: at

¹ *Milliken v. Bradley*, 418 U.S. 717, 741-42 (1974).

² *Robinson v. Cahill*, 69 N.J. 449, 461 (1976).

Level I, a school district submits data and reports to show that it is meeting basic standards in areas such as curriculum and instruction, student attendance, mandated programs and facilities. Any district that is not certified as “acceptable” at Level I enters Level II, in which it is required to prepare and implement a corrective action plan. Twelve years after its enactment, the statute was amended (P.L. 1987, c. 398) to add a Level III to the process, involving a more intensive investigation of school districts that fail to achieve certification at Level II, and to provide, ultimately, for state operation of any district that not only failed to achieve certification but also “had failed or was unable to take the corrective actions necessary to establish a thorough and efficient system of education.” N.J.S.A. 18A:7A-15.

In Level III, pursuant to the 1987 statute, the county superintendent appoints an external review team consisting of members who are “qualified by training and experience to examine the conditions in the specific district.” N.J.S.A. 18A:7A-14b(1). The external review team examines all aspects of the district’s operations and makes recommendations to the Commissioner for a corrective action plan by which the district can achieve certification. If the Commissioner finds that conditions within the district may preclude the successful implementation of a corrective action plan or that the district has failed to make reasonable progress in the implementation of a corrective action plan, he is required by the statute to order a comprehensive compliance investigation to be conducted by the State Department of Education. The comprehensive compliance investigation entails a “thorough and detailed examination of a district’s educational programs, fiscal practices, governance and management,” and the report of the investigation “document[s] any irregularities and list[s] all those aspects of the corrective

action plan . . . which have not been successfully implemented by the district or the conditions which would preclude the district from successfully implementing a plan.” N.J.S.A. 18A:7A-14e. The report of the comprehensive compliance investigation also is the basis of an administrative order issued by the Commissioner, which requires the district to show cause, at a plenary hearing, why corrective action should not be taken by the state. The corrective action may be more limited than creation of a state-operated school district, such as ordering budgetary changes (which is explicitly mentioned). If, however, the Commissioner determines that “the district has failed to take or is unable to take the corrective action necessary to establish a thorough and efficient system of education,” he is required to recommend to the State Board of Education that it issue an order establishing a state-operated school district. N.J.S.A. 18A:7A-15. If the State Board determines that the school district “ is not providing a thorough and efficient system of education,” it is permitted to “direct the removal of the district board of education and the creation of a state-operated school district. . . .” *Id.*

The Legislature made clear that the state is to take over operation of local school districts only in extreme cases. In section 1 of the 1987 bill, the Legislature referred to the constitutional mandate of a thorough and efficient system of education and the monitoring process conducted by the Department of Education in accordance with this mandate, by which the Department “attempts to assist school districts with correcting any deficiencies identified by the monitoring.” It then found that “[t]he monitoring process may reveal some school districts which are unwilling or unable to correct the deficiencies identified during the process”; and that “[t]he State Department of Education should be empowered with the necessary and effective authority in extreme cases to take over a

local school district which cannot or will not correct severe and complex deficiencies in that school district.” P.L. 1987, c. 398, §1. Thus, state operation is reserved for “extreme cases,” districts that not only have failed to achieve certification, but which, for any reason, are unable or unwilling to correct their deficiencies.

A companion statute adopted in 1987 (L. 1987, c. 399) contains provisions setting forth the structure for state operation. See N.J.S.A. 18A:7A-34 *et seq.* With only a few amendments, these statutory provisions have governed all aspects of governance and operation of the state-operated districts since 1989. The essential elements of that structure are the following:

- The local board of education is “removed.” In effect, the board ceases to exist. It is replaced immediately by a state district superintendent and, within 60 days, by a state-appointed advisory board of education.
- The state district superintendent has all the authority and powers previously vested in the district board of education. He or she also replaces the previous local superintendent, and has all the powers and performs all the duties previously assigned to the central administrative and supervisory staff. The positions of all of the previous executive administrators in the district are abolished.
- The advisory board is appointed by the commissioner and consists of not more than 15 persons. Its membership “shall be representative of the community’s racial and ethnic balance.” The state district superintendent meets with the board at least monthly, reports on activity in the district, and provides an opportunity for full discussion of those actions by the board and the public. Beginning in the second year of state operation, the superintendent must bring curriculum-related matters to the board for a vote; beginning in the third year, he must bring legal matters; and beginning in the fourth year, he must bring fiscal matters. However, the state district superintendent retains veto power over all matters until reestablishment of local control.³

³ The requirement to bring curriculum-related, legal and fiscal matters before the board in the second, third and fourth years of operation, respectively, was added by an amendment adopted in 1995. L. 1995, c. 179, §6. Prior to that, the Superintendent was permitted, but

- In the fourth year, a nine-member board of education is elected from among the 15 appointed board members. In each subsequent year, board members are elected from the community at large. Still, the superintendent retains veto power over all matters until reestablishment of local control.
- All principals and vice-principals are evaluated not less than three times within 18 months of establishment of state operation. Based on this assessment, any tenured principal or vice-principal may be removed from office in accordance with statutory provisions for certification of tenure charges, with an expedited hearing process.⁴
- All teaching staff members and other employees retain their tenure rights. All employees serving under civil service status retain their rights under that system. All collective bargaining agreements remain in effect.
- Every March, the state district superintendent prepares a budget, conducts a public hearing, and determines the amount to be raised through local appropriations. The budget must comply with all statutory provisions generally applicable to school budgets, including the Comprehensive Education Improvement and Financing Act (CEIFA), N.J.S.A. 18A:7F-1 *et seq.*⁵
- A five-member capital project control board (consisting of the state district superintendent, one member appointed by the Commissioner, one appointed by the Director of the Division of Local Government Services and two appointed by the municipality) reviews all capital projects proposed by the superintendent to be financed by bonds, notes or lease purchase, and certifies the necessity of each project and appropriations to be made by the municipal governing body.⁶

not required, to bring matters before the board. The provision that the state district superintendent retains veto power has existed since initial adoption of the statute.

⁴ Until 1995, the statute provided for assessment of principals only. It was amended in that year to include vice-principals as well. P.L. 1995, c. 179, §3.

⁵ Until 1996, the statute provided that, if the municipality wished to contest the amount to be raised through taxes designated by the superintendent, it could appeal to the Division of Local Government Services in the Department of Community Affairs. With adoption of CEIFA, this provision was deleted, so that the budget appeal process in state-operated districts is now the same as for other districts. L. 1996, c. 138, §40.

⁶ The provisions relating to the capital project review board were added in 1991. P.L. 1991, c. 139, §1.

- An internal audit team monitors the business functions of the district, and reports its findings to the state district superintendent and the Commissioner.

The statute suggests, but does not state explicitly, that during the period of state operation, any improvement in the district's performance is to be measured by reference to the monitoring and assessment process. The state district superintendent is required to provide the Commissioner annually with "an assessment of the progress of the district toward meeting the requirements necessary for State certification." N.J.S.A. 18A:7-49. In addition, a provision adopted in 1995 requires the Commissioner to ensure that Level III monitoring continues in the same manner as it did prior to establishment of state control. *Id.*; L. 1995, c. 179, §6.

The determination of the district's readiness for return to local control also is to be made by reference to the monitoring and assessment process. The Commissioner may recommend reestablishment of local control to the State Board of Education "based upon the annual assessment of progress and the district's having received State certification," though not less than five years after establishment of the state-operated district. N.J.S.A. 18A:7A-49b. Thus, certification in accordance with the monitoring and assessment process applicable to all school districts is a prerequisite to return to local control. (As to the certification requirements, see below.)

If the Commissioner determines that he cannot recommend reestablishment of local control, he is required by the statute to present a detailed analysis of this determination to the State Board, the Governor and the Legislature. On the basis of that report, the State Board is to determine the appropriate course of action. Specifically, the statute states:

If the commissioner cannot recommend that local control be reestablished in a district five years after the establishment of a State-operated district, then the commissioner shall provide a comprehensive report to the State board and to the Governor and the Legislature, including a detailed analysis of the causes of the failure of the district to achieve certification and an assessment of the amount of time necessary for the continuation of the State-operated school district. On the basis of that report the State board shall determine whether to continue the State-operated school district or return the district to local control pursuant to this section. [N.J.S.A. 18A:7A-49g.]

The monitoring and assessment process has evolved since adoption of the Public School Education Act of 1975, and since adoption of the state operation legislation in 1987. The statutory provisions governing this process were substantially revised in 1991. The most significant revisions, for our purposes, were the provision for more extensive review, with an external review team, earlier in the process, at Level II rather than Level III; and the requirement that districts at Levels II and III be given technical assistance. Pursuant to this amendment, the external review team's report must include directives to be utilized by the district in the preparation of its corrective action plan and recommendations as to the technical assistance which the district will require in order to effectively implement the corrective action plan. N.J.S.A. 18A:7A-14b(1). Upon receipt of the external review team's report, the Commissioner is required to assure that the district's budget provides the resources necessary to implement the corrective action plan, specifically including the necessary technical assistance. *Id.* When a district is directed to enter Level III, the Commissioner is required to issue an administrative order directing implementation of the corrective actions recommended by the external review team, and he is required to insure that technical assistance is provided to the district in order to implement those actions. N.J.S.A. 18A:7A-14c(1). See L. 1991, c. 3, §3. These statutory provisions remain in effect.

In accordance with these provisions, regulations issued by the State Board of Education also require that technical assistance be provided to a district at Levels II and III. N.J.A.C. 6A:30-3.1(e), -(k); N.J.A.C. 6A:30-3.2(b)2, -(f)2. The regulations also make clear that the county superintendent is responsible for overall supervision of the assessment process. He or she appoints the external review team, performs monthly assessments of the district's progress in implementing its corrective action plan (at least in Level III), and submits quarterly reports to the Assistant Commissioner of Field Services. N.J.A.C. 6A:30-3.1(a); N.J.A.C. 6A:30-3.2(e)1. Upon completion of the corrective action plan activities, the county superintendent determines the extent to which the district has achieved the standards for certification and submits a report to the Assistant Commissioner. N.J.A.C. 6A:30-3.2(e)2. The Assistant Commissioner then makes a formal recommendation to the Commissioner as to whether the district should receive certification or be directed to undergo a comprehensive compliance investigation. N.J.A.C. 6A:30-3.2(e)3.

The substantive standards on which school districts are to be monitored and assessed are set forth in the Administrative Code. These standards also have evolved since 1987. In their present form, the regulations set forth eight evaluation elements, as follows:

1. Quality Assurance
2. School-level Planning
3. Curriculum and Instruction
4. Pupil Performance
5. Pupil Behavior

6. Teaching Staff/Professional Development
7. School Resources (Finances and Facilities)
8. State and Federally Mandated Programs and Services

Each of the elements has several indicators of acceptable performance, for a total of 31 indicators. The indicators within the element of curriculum and instruction, for example, are the following:

3.1 Curriculum and Instruction

- (1) By September 30 of each year, the chief school administrator shall verify that there are board-approved, written curricula for all pupils including the following programs and services:
 - (a) High school graduation requirements
 - (b) Instruction in the United States Constitution
 - (c) New Jersey civics, history and geography
 - (d) Drug and alcohol education
 - (e) Health, safety and physical education
 - (f) Accident and fire prevention; and
 - (g) Family life education.
 - (2) The district board of education shall provide a curriculum evaluation schedule for all content areas at all grade levels.
- 3.2 The district shall implement all approved curricula and include, for each curriculum area in grades K-12, core curriculum content standards as adopted by the State Board of Education.
- 3.3 The district shall ensure that the curriculum is articulated among grades and schools in the district, and that teaching staff is involved in the process. Constituent, regional and sending-receiving districts shall also demonstrate curriculum articulation between/among districts.
- 3.3 The district shall be responsible for identifying gifted and talented students and shall provide them with appropriate instructional adaptations and services.

As another example, the indicators of acceptable performance within the element of teaching staff and professional development are the following:

- 6.1 The district shall employ teaching staff members who hold appropriate certificates for each area of assignment pursuant to N.J.A.C. 6:11.
- 6.2 The district shall observe and evaluate tenured and nontenured teaching and administrative staff pursuant to N.J.A.C. 6:3-4.1, 4.3, and 2.2.
- 6.3 The district shall develop and cause to be implemented an annual professional improvement plan for each teaching staff member pursuant to N.J.A.C. 6:3-4.1, 4.3, and 2.2.
- 6.4 The district shall develop and implement a professional development plan, approved by the county professional development board and the district board of education, containing the following components:
 - (1) Teaching staff needs;
 - (2) Link to pupil performance;
 - (3) Relationship to professional improvement plans;
 - (4) Integration with curriculum development; and
 - (5) Follow-up evaluation.
- 6.5 The chief school administrator shall recommend formal appointment of all teaching staff members to the district board of education.

In order to achieve certification, a district must receive an acceptable rating on each indicator of each element. See N.J.A.C. 6A:30-1.2.

The Department of Education has provided guidance on these standards and the monitoring and assessment process in its *Manual for the Evaluation of Local School Districts*. In its most recent version, issued in August 2000, the manual provides detail regarding the elements and indicators, and the Level I and II assessment processes. The manual provides hardly any information regarding the Level III process, however, and has no information specifically pertaining to state-operated school districts.

The Impact of School Funding and Urban Education Reform Litigation

Nor do the statute, the regulations on monitoring and assessment, or the *Manual* contain any requirements or guidance specific to urban school districts, although the law governing education in these districts also has evolved substantially since 1987, and has

become quite specific with respect to the nature and extent of the state's obligation and the role of the urban districts themselves.

In its landmark decision in *Robinson v. Cahill* in 1973, the New Jersey Supreme Court set forth what has become a fundamental tenet of public education – that the state, and not the local districts, has ultimate responsibility for providing a thorough and efficient system of education. *Robinson v. Cahill*, 62 N. J. 473, 513 (1973) (“*Robinson I*”). The Court in *Robinson I* required the state “to define in some discernable way the educational obligation” embodied in the constitutional requirement of a thorough and efficient system of education, and further required it to ensure that the necessary funding was provided. The execution of those responsibilities has been subject of decades of litigation since then, in *Robinson* and in *Abbott v. Burke*. The Court’s mandate in *Robinson I* led, initially, to the Public Education Act of 1975 and creation of the monitoring and assessment process. However, since the Supreme Court’s 1990 decision in *Abbott v. Burke*, 119 N.J. 287 (1990), the requirement to address specifically the needs of those districts that face the greatest educational challenges – “the *Abbott* districts” -- has been clear. Moreover, since the Court’s 1998 decision in “*Abbott V*,” 153 N.J. 480 (1998), it has been clear that this requirement involves four major mandates: to achieve funding parity on “regular education” (*i.e.*, programs that are not specific to the *Abbott* districts) between the *Abbott* districts and the state’s wealthiest and highest spending districts; to identify on a needs-driven basis and fund supplemental programs designed to enable *Abbott* students to overcome their educational disadvantages; to ensure through state funding that school facilities in the *Abbott* districts are safe and educationally

sufficient to enable students to meet the state's core curriculum content standards; and to ensure that all these resources are used in an educationally effective manner.

Only the first of these mandates, achieving parity funding, has been met. School facilities legislation adopted in 2000, N.J.S.A. 18A:7G-1, is beginning to address the facilities mandate. The mandate for supplemental programs is being addressed with supplemental state aid provided to districts where there is a showing that even parity funding is insufficient to meet certain needs. The educationally efficient use of funds, and the substantial programmatic requirements imposed on urban districts by the *Abbott* mandates, are set forth in a chapter of the administrative code devoted to urban education reform, N.J.A.C. 6A:24. This chapter sets out in detail the respective roles of the state and each district with respect to the mandates relating to school management teams, early childhood education, whole school reform, needs-driven supplemental programs, secondary school programs, the budget process and requests for additional state aid. State-operated school districts are not specifically mentioned in this chapter or treated differently from other districts, though it is clear that Jersey City, Paterson and Newark are *Abbott* districts and these rules apply to them.

The state's school funding legislation, CEIFA, also authorizes intervention in local school districts, short of direct state operation, as needed to provide a thorough and efficient system of education. CEIFA provides broad authority to the Commissioner to "direct such budgetary reallocations and programmatic adjustments, or take such other measures, as he deems necessary to ensure implementation of the required thoroughness and efficiency standards." N.J.S.A. 18A:7F-6. In addition, it authorizes certain specific action to be taken by the Commissioner whenever he or she determines, through the

results of state tests or the monitoring and assessment process, that a district, or one or more of its schools, is failing to achieve the state's core curriculum content standards. In such case, the Commissioner "may summarily take such action as he deems necessary and appropriate," including:

- directing the restructuring of curriculum or programs;
- directing staff retraining or reassignment;
- conducting a comprehensive budget evaluation;
- redirecting expenditures;
- enforcing spending at the full per pupil T&E amount; and
- notwithstanding any provision of the New Jersey Employer-Employee Relations Act to the contrary, reviewing the terms of future collective bargaining agreements.

N.J.S.A. 18A:7F-6.

In *Abbott V*, 153 N.J. 480 (1998), the New Jersey Supreme Court construed this statutory provision broadly to authorize the state's requirement of whole school reform in all *Abbott* districts, even without an express finding by the Commissioner that those districts were failing to meet core curriculum standards. "The evidence of chronic failure among those schools is indisputable," the Court stated. 153 N.J. at 500. Reviewing data that indicated widespread failure to meet state pupil achievement standards, the Court concluded, "In these circumstances of pervasive academic failure, it can readily be inferred that the Legislature intended that the Commissioner's broad remedial powers under CEIFA were sufficient to deal with the problem." *Id.* Whole school reform was an action deemed "necessary and appropriate" by the Commissioner, and therefore it was legislatively authorized, the Court found. The various elements of whole school reform

were “consistent with” the types of intervention action explicitly authorized by CEIFA, according to the Court, and therefore the requirement was upheld on this ground as well.

Id.

Thus, the Supreme Court appears to have ruled that, at least in *Abbott* districts, the Commissioner is authorized to take any action that he or she deems necessary and appropriate to further the goal of educational improvement, and that is consistent with the explicit legislative authorization provided in CEIFA. It also is consistent, of course, with the Court’s ruling, almost 30 years ago, as quoted above, that the imposition of the duty to provide a thorough and efficient system of free public schools carries with it “such power as may be needed to fulfill the obligation.”

In the course of the discussion in *Abbott V*, the Court also noted that the state “operates three *Abbott* districts by takeover.” *Id.* Indeed, in the state-operated districts, the Department of Education has taken direct responsibility for *Abbott* implementation as well as for all aspects of operation. This has led some to suggest that the state’s obligation to comply with *Abbott* is greatest, or at least clearest, in the state-operated districts; and that, in turn, has led some to suggest that a central component of state operation should be *Abbott* implementation.

The Impact of Federal Legislation

In January 2002, the federal No Child Left Behind Act (NCLB) was adopted, reauthorizing and significantly expanding the Elementary and Secondary Education Act, which was first enacted in 1965. NCLB has been described as an “historic piece of legislation,” that “sends the message that the federal government will be assuming a more forceful role in elementary and secondary education, one that makes unprecedented

demands on states and local school districts to raise academic achievement and to take direct action to improve poorly performing schools.”⁷ It makes numerous changes in federal law relating to testing, collection and distribution of pupil achievement data, assistance to and intervention in failing schools, teacher qualifications, appropriation and use of federal funds, and the law relating to several federal education aid programs.

The most significant provisions of the law, for purposes of this project, are those pertaining to intervention in failing public schools and those pertaining to the use of pupil achievement data. More achievement testing is required than under previous law: by 2005-06, students must be tested, using state-developed tests, in mathematics and reading/language arts annually in grades 3 through 8 and at least once in grades 10 to 12; by 2007-08, students must be tested in science as well at certain grade levels; and states must administer a national assessment test to a sample of students. State tests must be aligned with state academic standards, must yield results that can be used to determine whether students are meeting those standards and to help diagnose and address students’ specific needs; and test results must be disaggregated by racial and ethnic group, income group, and students with disabilities, those with limited English proficiency and migrant students. Each school must test at least 95 percent of its students, and each group of students in each school must meet or exceed the annual objectives set for them. Schools that do not meet established performance objectives are subject to various forms of

⁷ The first quote here is from “Opportunities and Accountability to Leave No Child Behind in the Middle Grades: An Examination of the No Child Left Behind Act of 2001,” a report by Cynthia G. Brown prepared for the Edna McConnell Clark Foundation, March 2002. The second is from “A New Federal Role in Education,” a report by the Center on Education Policy, January 2002. The summary of NCLB presented here is derived largely from these publications. For further detail, see these publications and the web site of the U.S. Department of Education, www.ed.gov.

intervention, and their students have the right to use federal funds otherwise allocated to the school to obtain services elsewhere. The required level of intervention and the degree of students' rights to obtain services elsewhere increase with each year that the school fails to meet performance objectives, as follows:

- After two consecutive years of failure, the school must receive technical assistance from the school district, and students have the option to transfer to another public school in the district.
- In the third consecutive year of failure, technical assistance and school choice continue, and students have the option of using their share of Title I funds to pay for tutoring and other supplemental services from their school or an outside agency.
- In the fourth consecutive year of failure, technical assistance, school choice, and students' right to obtain supplemental services continue, and the school also must change its staffing or make another fundamental change.
- In the fifth consecutive year of failure, the governance of the school must be changed, by, for example, conversion to a charter school, conversion to private management, or state takeover.

As this brief summary shows, under NCLB, pupil achievement scores are the primary tool to be used by states for school and school district accountability. New Jersey's certification standards, which include pupil achievement standards, are, at least on their surface, consistent with the federal law in this regard. Thus, comments later in this report on this state's testing program, specifically the recommendation that test scores should not be the dispositive factor in determining readiness for return of a state-operated district to local control, might seem out of step with the federal law. Our comments should not be read, however, to suggest that pupil achievement is not useful or has no place in an accountability system. Rather, our point is that local capacity to

operate a school district should be determined by examining numerous factors; reliance solely on pupil achievement data is too narrow.

More significantly, as this summary shows, federal law now requires technical assistance to be provided to any school that fails to meet performance objectives. The obligation to provide that assistance appears to be placed on local school districts, but certainly the state will have a role in providing it. This aspect of NCLB strengthens our commitment to the view, as discussed further below, that the state needs a system of effective, intensive technical assistance to school district administrators and supervisors. The state should take the lead in determining the nature of the technical assistance to be provided to schools and the method of providing it, and it should work collaboratively with districts that are carrying out their obligation to assist their constituent schools. Collaboration with schools and school districts to achieve educational improvement is now a federal mandate.

NEW JERSEY'S STATE-OPERATED SCHOOL DISTRICTS

In accordance with the statutory provisions, the State of New Jersey took control of the Jersey City school district in 1989, the country's first such takeover, the Paterson school district in 1991, and the Newark school district in 1995. The takeover in each case was contentious and strongly opposed by local officials,⁸ and in each case the issues facing the state district superintendents have been extremely wide-ranging and complex. Without the traditional base of support that most superintendents enjoy in the form of a

⁸ Challenges by the Jersey City and Newark boards of education to the takeover of their districts were the subjects of extended litigation. *See McCarroll v. Jersey City Bd. of Ed.*, 1989 S.L.D. 2337 (St. Bd. of Ed. 1989); *Contini v. Newark Bd. of Ed.*, 286 N.J. Super. 106 (App. Div.), certif. denied 145 N.J. 372 (1995).

board of education, the state district superintendents have had the doubly formidable task of raising levels of pupil performance from abysmal to acceptable while also creating, almost from scratch, effective and efficient systems of administration, finance and governance. In each of the districts, gains have been made, both in academics and operations, but progress has been slow. Of greater concern for our purposes, however, than the rate of progress is the fact that all three districts appear to have been operated thus far without any method of evaluating their capacity to function without state control and without a clear plan for reestablishing local control.

As discussed above, the governing statute provides that the state-operated districts' performance is to be assessed by reference to the monitoring and assessment process, and readiness for return to local control also is to be determined by reference to that process. Level III monitoring -- including technical assistance for district administrators -- is supposed to continue during the period of state operation; each state district superintendent is supposed to assess and report to the Commissioner annually on the district's progress toward meeting the requirements of certification; and if after five years of state operation the Commissioner determines that he cannot recommend return to local control he is supposed to present a detailed analysis of this determination to the State Board, the Governor and the Legislature. *See* N.J.S.A. 18A:7A-49g.

Our investigation indicates that the process outlined in the legislation has not been carried out. The Commissioner has not presented a "detailed analysis of the causes for the failure of the district [or any of them] to achieve certification"; in fact, it appears that no commissioner of education has reported formally to the Governor or the Legislature on the status of any state-operated school district. Reportedly, since each of the districts

has failed each year to meet the requirements for certification – primarily, the pupil performance standards – and, therefore, it has seemed clear that the Commissioner could not recommend reestablishment of local control “based upon . . . the district’s having received State certification” (N.J.S.A. 18A:7A-49b), no comprehensive analysis of the districts’ performance has been done. Some data has been collected, as discussed below, and some of that data has been presented to the State Board,⁹ but -- with one exception, the Jersey City Transition Team Report, also discussed below -- no analysis of the instructional processes, administrative operations or governance procedures in any of the districts has been presented. The state district superintendents have submitted strategic plans and annual reports to the Commissioner; those plans and reports have been presented to the State Board with recommendations to continue state operation (beyond five years in each of the districts, well beyond that point in Jersey City and Paterson); and the State Board has accepted those recommendations, and adopted resolutions each year to continue state operation in each district, without the analysis apparently intended by the statute.

Nor has monitoring continued. Reportedly, notwithstanding the statutory provision requiring Level III monitoring of state-operated districts, officials in the State Department of Education determined several years ago that state-operated districts would not be monitored on a seven-year cycle like other districts, because of the Department’s more frequent communication with the state-operated districts. As a result, while the Department may have given closer-than-usual scrutiny to district operations in some

⁹ Reportedly, the last presentation to the State Board of pupil performance data in the state-operated school districts was a report on the results of the 1998-99 High School Proficiency Test.

respects – primarily through the internal audit unit, the Division of Field Services, and in recent years the Office of State-operated School Districts -- it has not performed a systematic assessment of the state-operated districts’ performance or progress toward capacity for local control.

Given sufficient resources and a mandate, the internal audit unit probably could perform a monitoring or assessment function, but it has not done so. This unit, with staff in each district pursuant to the statute (*see* N.J.S.A. 18A:7A-41), considers itself the Commissioner’s on-site representative in each state-operated district. Reporting to the Director of State-operated School Districts, the unit conducts financial, operational and compliance audits, and provides the Commissioner and each state district superintendent with information regarding the districts’ financial activities and the adequacy and effectiveness of their internal controls. The unit’s staff is quite limited, however (currently consisting of a total of ten employees for the three districts, plus a coordinating auditor who works in all of the districts), and the unit does not appear to select its subjects of audit in accordance with a comprehensive plan for assessment of district operations or managerial capacity. As stated in a recent report of the Paterson internal audit unit, for example, the unit “allocates its resources to the areas of greatest risk to ensure adequate audit coverage.” In other words, limited resources are allocated where there is perceived to be the greatest immediate need, not necessarily where there may be the greatest long-term gain. As a result, though the internal audit unit could be a source of considerable useful data relating to school district performance and capacity, its audits do not begin to provide a systematic assessment.

As noted, the districts themselves have submitted annual progress reports to the Commissioner, but none has done a full review of performance based on the 31-certification indicators or any other method of assessment. Similarly, several outside consultants have studied various aspects of the state-operated districts' operations, but none has studied district capacity to function, to provide a thorough and efficient program of education, without state control. In sum, it appears that no effort has been made to assess the state-operated districts' operations, pursuant to the certification standards or any other standards for evaluating their capacity to govern and administer themselves outside the strictures of state operation.

This is not to suggest that the state-operated districts are sailing entirely without a rudder. The superintendents and other administrators and leaders in the state-operated districts have given substantial thought to numerous aspects of their operations. It appears, based on district publications and discussions with the superintendents and others, that strides have been made in the effort to become more pupil-centered and focused on education, at least at the central office level. More thought seems to have been given, however, to evaluating and improving the educational program in each district – a worthy effort, certainly – than to developing or measuring capacity for local control. Therefore, it is difficult to gauge that capacity based on existing assessments.

Considerable attention has been given to pupil performance measured by standardized test scores. Although test results constitute only three of the 31 certification indicators, they are given far more consideration in the districts' strategic plans and annual reports than the other indicators and all other measures of performance. Improvements in student test scores do tell us something about each district's progress in

the area of teaching and learning; these performance results appear to provide an objective, quantifiable, publicly-available picture of district performance every year and a means of tracking trends over time. These perceived values are largely illusory, however, and the emphasis placed on student test scores may have distracted both the state and the state-operated districts from searching out better, more meaningful benchmarks for measuring progress.¹⁰

A threshold problem with using state test results to track progress over time is that since the Jersey City takeover in 1989 there have been several different state testing regimens, none of which has been equated or made comparable with any other. Beyond that, even under a single testing regimen, like the current ESPA, GEPA and HSPT system, the tests have changed, both in scope and level of difficulty. The “cut” for a proficient or passing score also has changed. Consequently, comparisons of student achievement, even from one year to the next, may not be valid. With the exception of the HSPT, which has been given since 1993, no long-term longitudinal comparisons are possible for the same grade level (and we were able to obtain HSPT data only as far back as 1996). Finally, given the very high rate of pupil mobility in urban districts, the cohort taking the GEPA in eighth grade in any particular district may be dramatically different in composition from that which took the ESPA in fourth grade four years earlier.

¹⁰ Indeed, if the state’s certification standards for pupil performance were the only measure of capacity for local control, none of the 30 *Abbott* districts would meet it. Based on the most recent reported data, none of the *Abbott* districts meets the state standard of proficiency for the fourth grade assessment test (ESPA); four of them meet the standard for the eighth grade assessment test (GEPA); and one meets the standard for the eleventh grade assessment test (HSPT). (Source: New Jersey Department of Education, Summary Assessment Reports). Thus, if pupil performance were the only criterion, all of the *Abbott* districts would be ineligible for local control.

For these reasons, state test results provide only a crude measure of student performance over time and provide even less useful information about school district performance. Nonetheless, they have become, by default, the primary mechanism for evaluating a state-operated district's progress, and its degree of readiness for resumption of local control.

Beyond achievement data, there is some, but not much, consistency among the districts on the specific subjects of self-assessment. In recent years, their annual reports have addressed the broad topics of Improving Student Achievement, Implementation of Urban Education Reform Regulations, Compliance, and Community and Parental Involvement. The sections on Improving Student Achievement and on Compliance are fairly consistent among the districts, the former reporting standardized test performance and the latter reporting on compliance with the certification standards with which it was found to be out of compliance at the time of takeover. (There is no assessment of current compliance with other certification indicators.) Beyond this, the annual reports vary in the scope and depth of their reporting. There is no consistent method of assessment and no objective measurement of performance – other than standardized test scores – in any of the districts.

This study provides no such assessment either. The research leading to this report has not included a full assessment of district performance, operations or capacity. Rather, it has involved, in part, a review of the status and experience of the state-operated districts and the assessments performed to date, in order to establish a baseline for development of a plan for reestablishing local control in each district and to make recommendations for systemic change.

State-operated School District of Jersey City

The report of the comprehensive compliance investigation into the Jersey City school district (the “CCI Report”), prepared by the State Department of Education prior to takeover in 1989, characterized the district as “a public enterprise that has reached a state of managerial bankruptcy.” The report contained numerous findings of failure by the district board of education and its administration in the areas of governance, educational programs, and finance. A few of those findings are illustrative:

- The Jersey City Board of Education lacks management and governance practices reasonably designed to provide a thorough and efficient system of public schools.
- The Jersey City Board of Education is a knowing, willing, and active participant in the widespread political intrusion into the operations of the Jersey City School District.
- Political patronage, union pressure, and cronyism is a consistent motivation, at all levels, in the hiring, firing, promoting and deployment of staff.
- For a district which has repeatedly failed to meet state requirements in academic performance standards, the inappropriate governance decisions made by the Jersey City Board of Education continue a cycle of failure and missed opportunities for students to receive a thorough and efficient education.
- There is no effective strategy for deployment of instructional, administrative, and support personnel in the schools.
- The assistant superintendents for elementary and secondary education have failed to implement procedures to ensure effective central office support of school level operations.
- The district does not operate an efficient, effective, and appropriate system of finance which would allow for a thorough and efficient system of education.
- The superintendent has failed to implement procedures to ensure that fiscal operations and practices effectively support the educational program.

- The facilities of the district are in deplorable conditions which do not allow for a thorough and efficient system of education.

Almost 13 years later, in contrast, observers of the Jersey City school district appear to agree that it has achieved levels of student achievement and administrative capacity that warrant return to local control. Concerns remain, however, with respect to governance capacity and the district's ability to retain, after such return, the reforms and improvements made during the period of state operation. These concerns, along with the statutory provision requiring that the district meet all requirements of certification prior to return, have prevented the Commissioner from recommending Jersey City's return to date.

In July 1999, the State Board of Education adopted a resolution finding that the district had made substantial progress in its schools and that preparation for an end to state operation should continue. The resolution stated, in part:

WHEREAS, during the course of state operation, the Jersey City Public School District has made continuous and meaningful progress towards the state's certification standards; and

WHEREAS, such progress is evidenced by the fact that in 1989, Jersey City met only 37 percent of the state's monitoring indicators, whereas today it meets virtually all of the monitoring indicators, and would likely take a considerable amount of time to meet the remaining indicators; and

WHEREAS, Jersey City has made steady and meaningful increases on the state's standardized test scores; and

WHEREAS, a locally controlled school district equaling Jersey City's current level of performance and matching its recent progress would be a very unlikely candidate to become a state-operated school district; and

WHEREAS, the Jersey City Board of Education, the central office administrative leadership, and the Jersey City school community have shown a willingness and ability to continue the progress realized under state operation, and therefore have demonstrated the capacity to take on increased responsibility in the oversight of their local school district; and

WHEREAS, the leadership of the Jersey City Board of Education has initiated a process in Jersey City designed to involve all of the key stakeholders in a public discussion to determine the best process for returning the district to local control, and the Commissioner and the State Board of Education endorse the goals of this community debate; and

WHEREAS, the New Jersey State Board of Education, the Commissioner of Education and the Jersey City State District Superintendent all concur that a meaningful degree of power should be transferred to the Jersey City Board of Education for a one-year trial period in preparation for an end to state operation, provided continuous progress is maintained; and the necessary legislative amendments are secured;

In accordance with these findings, the State Board resolved that the school district continue as a state-operated district, but that the Jersey City Board of Education be given “responsibility for all curriculum issues and issues dealing with the development of the district policy manual” for one year, and that “benchmarks against which to assess the continuous progress of the Jersey City Public Schools toward meeting state certification indicators” be established.

A year later, in a resolution adopted in July 2000, the State Board of Education made similar findings, and further found that the Jersey City Board of Education had “demonstrated the ability to responsibly exercise increased authority in the school district” during the course of the one-year trial period. Accordingly, the State Board resolved to give the board of education responsibility for “policy, curriculum, fiscal and budget issues” for the next one-year period. However, as a condition to the grant of authority over fiscal and budget matters the State Board required that the board of education and its members and key personnel adopt a strict code of ethics. The resolution stated:

RESOLVED, that the State Board of Education shall require, as a condition of exercising its authority in the area of fiscal and budget matters, that the

Jersey City Board of Education develop a stricter code of ethical and professional conduct applicable to all its members and to key district personnel. . . . The Jersey City Board of Education shall not exercise its authority in fiscal and budget matters until the proposed code of ethical and professional conduct has been approved by the Commissioner, and each board member has publicly sworn to uphold the new code. . . .

The July 2000 resolution also provided for appointment of a transition team to consider and make recommendations to the Commissioner and the State Board on a plan for transition to local control. Accordingly, Commissioner David Hespe appointed a 15-member transition team consisting of civic leaders and representatives of parents, the board of education, the business community, higher education, the mayor's office and several employee associations, as well as a non-voting student representative and the State District Superintendent, the County Superintendent and the Director of the Office of State-operated School Districts in the State Department of Education. The team met several times in the next several months, and issued a report in December 2000. Noting that there had been "remarkable" improvement in the district's schools during the period of state operation, the team recommended a transition to local control over a two-year period. During the transition period, state monitoring and oversight would continue, the district would obtain additional audits of its operations, and several other steps would be taken toward reestablishment of local control. The Transition Team report set forth a timeline culminating in resumption of full authority by the Jersey City Board of Education in October 2002.

The transition team's timeline has not been met. Neither the additional audits nor the other steps toward local control have even begun, let alone been completed. Nor has the board of education been permitted to exercise its authority over fiscal and budget matters, because the board has not adopted the required stricter code of ethics.

Reportedly, in October 2000 the board tabled a motion to adopt a proposed code of ethics because two elected board members – the former mayor and former superintendent of schools, both of whom were in office at the time of takeover – refused to agree to the conflict-of-interest provision of the proposed code. The two members reportedly continue in their refusal to this day, and consequently the Commissioner has not recommended that any further steps be taken toward reestablishment of local control. A State Board resolution adopted in July 2001 provided for continued state operation, and provided that the State District Superintendent would continue to exercise his veto power over fiscal and budget matters.

Data obtained from the New Jersey Department of Education supports the State Board’s finding that there has been improvement in student achievement in Jersey City. Although additional improvement in achievement is needed to meet state certification standards, there has been improvement during the period of state operation in most areas measured by standardized tests.

Jersey City Pupil Performance – Eleventh Grade

In 1993-94, the first year in which the High School Proficiency Test (“HSPT”) was given to eleventh graders, 66.5% of Jersey City’s eleventh graders passed the portion of the test in reading; 66.4% in mathematics; and 73.1% in writing. In 2000-01, 73.0% passed in reading; 79.6% in mathematics; and 87.6% in writing. This reflects an increase of 6.5% in reading; 13.5% in mathematics; and 14.5% in writing.

HSTP	1993-1994	2000-2001	Improvement
Reading	66.5	73.0	+6.5
Mathematics	66.4	79.9	+13.5
Writing	73.1	87.6	+14.5

Jersey City Pupil Performance – Eighth Grade

In 1999 (the first year of administration of the Grade Eight Performance Assessment (“GEPA”)), 76.2 % of Jersey City’s eighth graders were found to be proficient (here, as elsewhere in this report, defined as having received a score in the proficient or advanced proficient range) in language arts; and 48.3% in mathematics (no scores are available for science); in 2000, the proficiency rate was 74.5% in language arts; 48.4% in mathematics; and 48.2% in science. In 2001, the proficiency rate was 69.9% in language arts; 58.5% in mathematics; and 56.9% in science. This represents a decrease of 6.3% in language arts; an increase of 10.2% in mathematics; and an increase of 8.7% in science.

Improvements in eighth grade performance in Jersey City had been greater in the earlier years of state operation. The district’s scores on the previously administered eighth-grade proficiency test, the Early Warning Test (“EWT”), had shown substantial increases. In 1991, 55.8% of the eighth graders in Jersey City were found to be proficient in reading; 42.7% in mathematics; and 39.2% in writing. Seven years later, in 1998 (the last year of EWT administration), 82.1% of Jersey City’s eighth graders were found to be proficient in reading, 75.2% in mathematics; and 68.7% in writing. These figures reflect an increase of 26.3% in reading; 32.5% in mathematics; and 29.5% in writing.

EWT	1991	1998	Improvement
Reading	55.8	82.1	+26.3
Mathematics	42.7	75.2	+32.5
Writing	39.2	68.7	+29.5

GEPA	1999	2000	2001	Improvement
Language Arts	76.2	74.5	69.9	-6.3

Mathematics	48.3	48.4	58.5	+10.2
Science		48.2	56.9	+8.7

Jersey City Pupil Performance – Fourth Grade

In 1999 (the first year of administration of the Elementary School Performance Assessment (“ESPA”)), 39.9 % of Jersey City’s fourth graders were found to be proficient in language arts/literacy; 42.4% in mathematics; and 66.4% in science. In 2000, 34.4% of fourth graders in the district were found to be proficient in language arts; 45.0% in mathematics; and 68.7% in science. In 2001, 60.0% were found to be proficient in language arts/literacy; 38.7% in mathematics; and 67.9% in science. This represents an increase of 20.1% in the language arts/literacy proficiency level; a decrease of 3.7% in mathematics; and an increase of 1.5% in science.¹¹

ESPA	1999	2000	2001	Improvement
Language Arts	39.9	34.4	60.0	+20.1
Mathematics	42.4	45.0	38.7	-3.7
Science	66.4	68.7	67.9	+1.5

Jersey City Pupil Performance – Comparison to Other Urban Districts

The State Department of Education has analyzed the standardized test results for each state-operated school district in relation to the results in other urban school districts in the state. This analysis shows that among the 12 largest districts in District Factor Group “A” (“DFGA”),¹² Jersey City’s ranking on the reading subtest of the HSPT went down from second to third between fall 1993 (the first year in which the test was

¹¹ The source of all pupil performance data presented in this report is the New Jersey Department of Education. Data regarding 2001 ESPA and HSPT results are unconfirmed.

¹² The State Department of Education categorizes school districts in the state according to socioeconomic status into ten groups, District Factor Groups A through J. The New Jersey Supreme Court adopted this categorization in its analysis of district spending in *Abbott v. Burke*, 119 N.J. 287, 338 (1990).

administered to eleventh graders) and fall 2000 (although proficiency levels remained the same, at 60.6%); its ranking on the mathematics subtest remained the same, at third (although its proficiency level went up from 57.1% to 69.4%); and its ranking on the writing subtest went up from sixth to fourth (and its proficiency level went up from 76.9% to 81.2%).¹³

State-Operated School Districts 1993 Fall HSPT 11 Scores Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey						
	Reading		Math		Writing	
1	Perth Amboy	75.1	Perth Amboy	74.6	Perth Amboy	89.3
2	Jersey City	60.6	Camden	57.3	East Orange	88.2
3	Union City	60.4	Jersey City	57.1	Passaic City	82.8
4	East Orange	59.6	Elizabeth	48.0	Camden	81.9
5	Passaic City	54.9	Union City	47.6	Union City	79.3
6	Elizabeth	54.4	Paterson	44.6	Jersey City	76.9
7	Trenton	54.4	Atlantic City	44.4	Irvington	75.6
8	Atlantic City	53.6	Passaic City	44.4	Trenton	75.7
9	Camden	53.6	East Orange	41.0	Elizabeth	70.8
10	Paterson	47.3	Trenton	39.6	Paterson	66.1
11	Irvington	43.8	Newark	34.1	Newark	65.3
12	Newark	43.5	Irvington	27.9	Atlantic City	58.6
	Jersey City	2nd	Jersey City	3rd	Jersey City	6th
	Newark	12th	Newark	11th	Newark	11th
	Paterson	10th	Paterson	6th	Paterson	10th
	Special Needs Districts	59.2		53.3		78.2
	DFG 'A' Average	55.0		47.6		75.1

¹³ HSPT proficiency rates shown with these rankings differ from those stated above, under the heading “Jersey City Pupil Performance – Eleventh Grade,” as those shown here refer to the rates obtained in the fall administration of each test whereas those stated above refer to those obtained with a combination of the fall and spring test administrations. The same is true of data provided with respect to the Paterson and Newark school districts.

**State-Operated School Districts 2000 Fall HSPT 11 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing	
1	Perth Amboy	69.1	Perth Amboy	74.5	Passaic City	90.0
2	Atlantic City	61.3	Paterson	70.2	Perth Amboy	89.4
3	Jersey City	60.6	Jersey City	69.4	Union City	83.6
4	Union City	60.2	Union City	69.2	Jersey City	81.2
5	Passaic City	59.5	Passaic City	68.7	Elizabeth	78.9
6	Elizabeth	58.3	Atlantic City	67.8	Irvington	78.0
7	East Orange	46.9	East Orange	60.0	Atlantic City	74.6
8	Newark	46.7	Elizabeth	56.5	Paterson	72.8
9	Irvington	45.8	Camden	55.0	East Orange	72.6
10	Paterson	43.4	Newark	49.5	Camden	71.5
11	Camden	43.1	Irvington	37.2	Newark	68.4
12	Trenton	26.8	Trenton	27.3	Trenton	44.8
	Jersey City	3rd	Jersey City	3rd	Jersey City	4th
	Newark	8th	Newark	10th	Newark	11th
	Paterson	10th	Paterson	2nd	Paterson	8th

Again according to State Department of Education data, Jersey City's ranking among the 12 largest DFGA districts on the eighth grade assessment tests has been as follows: its ranking on the mathematics subtests of the EWT and the GEPA went up from fourth to second between 1991 and 2001 (its proficiency level went up from 42.7% to 44.3%); its ranking on the language arts subtest went up from sixth to third during the same period (and its proficiency level went up from 39.2% to 53.4%);¹⁴ and its ranking on the science subtest went down from second to fourth between 2000 (the first year in which this subtest of the GEPA was administered) and 2001 (and its proficiency level went down from 48.2% to 43.5%).

¹⁴ This comparison is between the EWT given in 1991 and the GEPA given in 2001. The "language arts" comparison is between the writing subtest of the 1991 EWT and the language arts subtest of the 2001 GEPA. Jersey City ranked fourth on the reading subtest of the 1991 EWT, with a proficiency level of 55.8%.

**State-Operated School Districts Spring 1991 EWT Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing
1 Union City	84.0	Union City	81.9	Union City	81.5
2 Perth Amboy	60.5	Perth Amboy	45.4	Passaic City	45.6
3 Passaic City	56.6	Elizabeth	43.5	Elizabeth	44.4
4 Jersey City	55.8	Jersey City	42.7	Perth Amboy	42.3
5 Irvington	54.7	Irvington	38.0	Irvington	40.2
6 Elizabeth	53.6	Passaic City	35.8	Jersey City	39.2
7 Paterson	49.7	Paterson	35.5	Camden	34.9
8 Camden	48.4	Atlantic City	34.7	Newark	31.9
9 Atlantic City	44.9	Newark	33.5	Paterson	31.2
10 Newark	43.6	Camden	31.5	Atlantic City	30.6
11 Trenton	42.2	Trenton	29.8	Trenton	29.7
12 East Orange	39.2	East Orange	25.2	East Orange	29.1
Jersey City	4th	Jersey City	4th	Jersey City	6th
Newark	10th	Newark	9th	Newark	8th
Paterson	7th	Paterson	7th	Paterson	9th
Special Needs Districts	64.4		54.3		53.5
DFG 'A' Average	54.2		42.9		41.4

**State-Operated School District 2001 GEPA 8 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	Language Arts		Math		Science
Union City	63.4	Union City	57.1	Union City	54.9
Paterson	54.5	Jersey City	44.3	Passaic City	45.4
Jersey City	53.4	Paterson	40.2	Paterson	43.6
Perth Amboy	44.6	East Orange	32.5	Jersey City	43.5
Newark	42.2	Perth Amboy	32.0	Perth Amboy	41.1
East Orange	39.9	Passaic City	28.4	Elizabeth	39.3
Elizabeth	39.6	Newark	24.1	Trenton	31.5
Passaic City	37.8	Elizabeth	21.1	East Orange	31.2
Irvington	33.5	Trenton	20.7	Newark	28.5
Trenton	26.6	Camden	14.5	Irvington	28.1
Atlantic City	24.6	Atlantic City	14.1	Atlantic City	27.5
Camden	24.4	Irvington	11.8	Camden	27.4
Jersey City	3rd	Jersey City	2nd	Jersey City	4th
Paterson	2nd	Paterson	3rd	Paterson	3th
Newark	5th	Newark	7th	Newark	9th

On the ESPA, between 1999 (the first year of ESPA administration) and 2001, Jersey City's ranking among the 12 largest DFGA districts on the language arts subtest went down from second to seventh (although its proficiency level increased from 39.9%

to 60.0%); its ranking on the mathematics subtest went down from third to seventh (its proficiency level went down from 42.4% to 38.7%); and its ranking on the science subtest went down from fifth to sixth (although its proficiency level went up from 66.4% to 67.9%).

State-Operated School Districts 1999 Spring ESPA Scores Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey						
	Language Arts		Math		Science	
1	Union City	44.6	Union City	47.5	Perth Amboy	81.0
2	Jersey City	39.9	East Orange	44.7	Union City	80.8
3	Elizabeth	38.1	Jersey City	42.4	Passaic City	78.2
4	Perth Amboy	34.5	Elizabeth	37.9	Elizabeth	72.5
5	Passaic City	32.7	Passaic City	37.8	Jersey City	66.4
6	Newark	32.2	Perth Amboy	34.3	Irvington	62.4
7	Irvington	31.3	Camden	31.8	Trenton	61.8
8	Paterson	28.1	Atlantic City	31.0	East Orange	61.7
9	East Orange	27.5	Paterson	29.7	Camden	61.0
10	Atlantic City	24.0	Newark	29.2	Atlantic City	60.2
11	Trenton	22.8	Trenton	23.5	Paterson	57.0
12	Camden	20.2	Irvington	22.9	Newark	53.8
	Jersey City	2nd	Jersey City	3rd	Jersey City	5th
	Newark	6th	Newark	10th	Newark	12th
	Paterson	8th	Paterson	9th	Paterson	11th
	Special Needs Districts	33.8		36.8		67.7
	DFG 'A' Average	32.4		34.9		65.1

**State-Operated School District 2001 ESPA 4th Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	LAL		Math		Science
Union City	79.3	Union City	57.1	Union City	85.8
Perth Amboy	75.2	Elizabeth	48.8	Perth Amboy	82.5
Elizabeth	71.7	Paterson	48.2	Passaic City	81.6
Paterson	66.3	Passaic City	45.4	Elizabeth	79.1
Atlantic City	63.3	Perth Amboy	44.4	Paterson	73.3
Passaic City	63.2	E. Orange	42.7	Jersey City	67.9
Jersey City	60.0	Jersey City	38.7	Camden	67.8
Irvington	59.5	Camden	38.5	E. Orange	64.5
E. Orange	52.8	Atlantic City	35.3	Trenton	64.2
Trenton	52.7	Trenton	35.1	Atlantic City	64.1
Newark	51.9	Newark	32.1	Irvington	60.0
Camden	51.4	Irvington	31.3	Newark	55.1

Jersey City 7th
Paterson 4th
Newark 11th

Jersey City 7th
Paterson 3rd
Newark 12th (11th)

Jersey City 6th
Paterson 5th
Newark 12th

Jersey City Attendance and Dropout Rates

With respect to attendance, Jersey City has met the state standard (minimum 90% three-year average attendance rate) since 1998-99, though it failed to meet that standard for several previous years. In 1991-92 (the first year for which data is available to calculate the three-year rate), Jersey City's three-year attendance rate was 89.8%. Thereafter, the district met or exceeded the 90% standard for three years, but then failed to meet it for four years. By 1998-99, the one-year attendance rate was 89.5, and the three-year rate, on which the state standard is based, had increased to 90.7%. In 1999-2000, the one-year attendance rate increased to 93.2 and the three-year rate remained at 90.7. In 2000-01, the one-year attendance rate was 93.3 and its three-year rate was 91.3.

Similarly, with respect to dropout rates, Jersey City has met the state standard (maximum 10%) since 1997-98, though it failed to meet the standard in earlier years. The district's dropout rate was 13.2% in 1995-96 (the first year for which comparable

data is available) and 14.6% in 1996-97; by 1998-99, the dropout rate had been reduced to 9.3%; in 1999-2000 it was 9.9%, and in 2000-01 it was 9.5%.

	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001
Drop-Out Rate	13.2	14.6	10.0	9.3	9.9	9.5
Attendance	89.4	91.3	91.4	89.5	93.2	93.3

The State Department of Education also has gathered selected financial data on the state-operated districts. These data show that Jersey City's cost per pupil increased by 26% between 1995-96 (the first year for which data is available) and 2000-01, from \$8,135 to \$10,269; that the extent of the district's per-pupil cost over the state average increased from 5% to 14% during the same period; and that the district's non-instructional costs as a proportion of total spending increased from 37% to 39.5%. The State Department's data also show that Jersey City reduced its student/teacher ratio from 14.8 to 13.9 between 1996-97 (the first year for which data is available) and 2000-01; during the same period it reduced its student/administrator ratio from 157.6 to 140.4; its median teacher salary decreased from \$56,200 to \$46,920; and its median administrative salary increased from \$84,208 to \$92,634.

The Strategic Plan of the Jersey City Public Schools reflects the complexity of the task of sustaining educational improvement and meeting state mandates while working to increase capacity to operate without state control. As stated in that document, the district's mission/goal is three-fold:

To develop and implement current, relevant, and appropriate educational programs and services, which meet the needs of a diverse student population and are fully compliant with State mandates; to ensure the quality, uniformity, and equitable delivery of educational programs and services in all schools for

all students through coordinated program planning, monitoring and evaluation; and, to build, within the district the systems and the capacity to sustain itself and continue to improve after the district returns to local control.

The Public Schools of Jersey City, *District Strategic Plan 2001-02*, October 4, 2001, at 9.

The Strategic Plan also notes the district's need to meet New Jersey's core curriculum content standards, and to address whole school reform and other *Abbott* mandates, while striving to satisfy state certification requirements in order to return to local control:

Our Strategic Plan continues to keep pace with the dynamic environment and extraordinary range of student needs in the district. Specific priority areas have been identified, and are addressed throughout the Plan. These priority areas include implementation of the NJ Core Curriculum Content standards through an aligned curriculum, Whole School Reform and adherence to the Abbott Regulations, and improvement of our lowest performing students through extended day experiences and emphasis on professional development activities for their teachers.

Overall, our Strategic Plan serves as a blueprint for sustained development and growth. It provides a sense of unity and common purpose to the educational improvement efforts of a State-operated district whose goal is to meet State certification requirements, and ultimately return to local control.

Id. at 8. However, while the strategic plan mentions the goal of returning the district to local control, it contains no hint of a plan or strategy for such return. The transition team and its report are not mentioned. Nor is there any discussion of the relationship between improvements in the district's performance and its capacity to govern and administer itself. Instead, the strategic plan has a heavy emphasis on improvements in standardized test scores. Its targets and benchmarks for each school are based on ESPA, GEPA and HSPT scores; and the success of its numerous strategies and initiatives for educational improvement is also to be evaluated, in large part, based on pupil performance on standardized tests.

The section of the strategic plan entitled “Technical Assistance and Support to Schools” details an initiative called “Focus on Improvement in the City’s Elementary and Middle Schools,” with 12 strategies; another, “Focus on Improvement in the City’s High Schools,” with 23 strategies; and 13 other educational program initiatives. The section entitled “Implementation of Whole School Reform,” details nine implementation strategies. The section entitled “Compliance” contains corrective action plans for the attendance rate and the dropout rate, each with numerous strategies for maintaining or improving the current rates, and corrective action plans for ten additional indicators chosen with reference to state certification standards. Finally, the section entitled “Community and Parental Involvement,” details two initiatives, one entitled “Involving Parents in the Education of their Children” with 17 programs, and another entitled “Involving Community-Based Organizations in Support of the Delivery of a Thorough and Efficient Education,” with eight strategies for involving those organizations.

The last strategy listed under the last initiative relates to reestablishment of local control:

Consistent with the State Board of Education’s requirements as delineated in the July 2000 and 2001 State Board Resolutions, the district will work with the local Board toward the unanimous adoption of the threefold code of ethical and professional conduct, including the nepotism clause, the conflict of interest statement and the code of ethics. Unanimous adoption of this code will provide the Jersey City board with veto-proof authority over fiscal and budget matters.

Id. at 66.

The district’s assessment of its performance and progress is provided in its annual reports. In its most recent annual report (Jersey City Public Schools, *Annual Report of Progress, 2000-01 School Year*, October 2001 Revision), each initiative listed

in the strategic plan is rated “successful” or “unsuccessful” with a brief narrative explanation of each rating. Each initiative that involves multiple strategies is given a rating for the entire initiative rather than for each strategy. Of the 22 rated initiatives, 19 are rated “successful.” Two initiatives are rated “successful” except for the notation that some aspects of the initiatives have not been implemented; and one is rated “(partially) successful.” In addition, each corrective action plan listed in the strategic plan is designated “compliant” or “noncompliant;” all are designated “compliant” except for two, “Facility Master Plan/Substandard Classrooms” and “Special Education Programs and Services.” The district’s failure to comply with state standards in these two areas is explained in some detail.

Among the “successful” initiatives, three are of note. The first, “School Performance Targets,” pertains to pupil performance as measured by standardized test scores. The annual report notes that performance is assessed on two levels, (1) progress toward meeting each school’s yearly benchmark, and (2) progress toward meeting the district’s and the state’s standards of pupil proficiency. The amount of progress, or improvement, required for a “successful” rating is not stated. Since, according to the report, “progress” has been made on each of these levels, school performance is designated “successful” although the analysis shows that this success was not complete. The district’s schools did not all meet their benchmarks, the district as a whole did not meet state standards or its own, and some scores declined, both at the school and district level.

The second is “Implementation of Whole School Reform.” The annual report states that “the implementation of Whole School Reform according to the Abbott

regulations has been effectively and successfully instituted throughout the district. All schools – elementary, middle and secondary – have researched, selected and met State deadlines for adoption and implementation of State-approved Whole School Reform models as of January 31, 2001.” Implementation apparently has not been as smooth as this might suggest, however. In the 14 pages preceding this statement, a chart describes the status of whole school reform in each school and lists the “barriers encountered in implementation.” The barriers and implementation issues appear to be numerous.

The third is “Strengthening and Refining the Role of the State-operated School Board in District Policymaking.” Consistent with the State Board resolution granting the board of education authority over issues relating to district policies, the report states that the board completed its review of policy manual sections on community relations, administration, business and noninstructional operations, and instructional and support personnel. It is in the process of reviewing sections on instruction; construction, remodeling and renovation; and bylaws. Additionally, consistent with the State Board’s grant of authority over curriculum issues, the superintendent has “given policy decisions to the Board – i.e., alternative education plans in regard to Liberty Alternative High School, Infinity High School, final exam exemption at the high school level, CISCO Magnet School, to name a few.” The report also states that the board of education adopted a code of ethics in October 2001. Apparently, the adoption was not unanimous.

Aside from this last section, the annual report provides no direct insight into the board’s preparedness for assuming responsibility for governance of the district, and little insight into the district’s fiscal and administrative capacity. The work of the district’s internal audit department may provide some insight in this area. This department, with

two employees, conducts audits of various financial and administrative functions in the district upon request of the Commissioner or the State District Superintendent. According to an unpublished report of the department dated February 2002, its recent activities have included audits of the district's payroll and human resources departments, "consultative reviews" of fixed assets inventory management and a proposed reorganization of the human resources department, and several "special projects," including specific payment history reviews and cost reviews. Additional audits of student activities program funds, and employee travel and entertainment funds, and a consultative review of a proposed reorganization of the business office, are in progress or in the planning stage.

A discussion with the state district superintendent, Dr. Charles Epps, Jr., provided a picture of a district making steady strides toward a return to local control. According to the superintendent, the first decade of state operation was difficult, with significant mistrust on both sides and a lack of consistent leadership by the state. During this period, the state's role was more monitoring and compliance than assistance, particularly in the area of improving instruction and student achievement. Over the last three years, under former Commissioners Hespe and Gagliardi, relationships with the state have improved significantly, according to the superintendent, and state selected advisors have provided more technical assistance.

One of those advisors, Frank Sinatra, provided a similar picture. After serving as interim state district superintendent from 1994 to 1997 and interim business administrator from 1997 to 1999, Mr. Sinatra served from September 2000 to February 2001 as a consultant assigned to the district by the State Department of Education. In this role Mr.

Sinatra served as a mentor for Dr. Epps, who was serving as a superintendent for the first time, and as a liaison with the transition team. Mr. Sinatra stated that, based on his experience, the state-operated school district of Jersey City received no more support from the State Department of Education than other urban districts. If, as interim superintendent or business administrator, he needed assistance from the state, he could call the department, but so could any administrator in any other district. He also noted that financial support to the district has increased during the period of state operation, but due to *Abbott* mandates rather than state operation.

Other Jersey City community and educational leaders have agreed, in discussions with us, that progress has been made in the district, especially with respect to student achievement, but their views of the state's actions during the period of state operation are less positive than those of Dr. Epps or Mr. Sinatra. A major area of criticism is the school-based budget process under whole school reform, an area where, according to these observers, bureaucracy interferes with improvements in teaching and learning. Like funding, however, this process is related more to the *Abbott* mandates than state operation.

Both Dr. Epps and Mr. Sinatra stated their views that the Jersey City school district is essentially ready to return to local control. Both noted that the major impediment is the Board's failure to unanimously pass a code of ethics. Dr. Epps also expressed a need for more training for board members on the board's primary role, setting educational policy.

The next step for Jersey City appears to be development of a plan to return the district to local control, either along the lines recommended by the transition team or

some variation. The Commissioner and the State Board of Education will need to consider whether to hold fast to the requirement for the stricter code of ethics, and, if so, how to resolve the dispute with the individual recalcitrant board members in order to allow the reestablishment of local control to proceed.

State-operated School District of Paterson

The Paterson school district has been under state operation for about 11 years. In the CCI Report on this district, the State Department of Education made the following findings:

- The board's governance practices are not reasonably designed to provide a thorough and efficient system of free public schools.
- The board has spent an inordinate amount of time on insignificant issues at the expense of fully addressing critical issues affecting the education of students.
- There has been an absence of effective management at the top, which has precluded the delivery of consistently high quality educational services throughout the district.
- The district has continued to employ individuals who did not possess appropriate certification.
- The district does not have a consistently effective and efficient system in place for the delivery of educational programs and services to students.
- Inefficient administration of district finances has resulted in the considerable loss of district funds.

Gains appear to have been made, both educationally and administratively, during the period of state operation, and there is now some sentiment for beginning the transition to local control, although no one appears to advocate immediate return. Further improvements in pupil performance and in the district's instructional and governance capacity appear to be needed.

In a resolution adopted in September 2001, the State Board of Education found that the Paterson school district had made “continuous and meaningful progress” toward the state’s certification standards, including “steady improvement” on state-administered tests and improvement in its attendance rate and dropout rates. The State Board also found, however, that the district had not improved sufficiently to meet state certification standards, and therefore the Commissioner could not recommend return to local control. Accordingly, the State Board resolved that state operation of the Paterson school district would continue.

In the same resolution, the State Board found that “the Commissioner is interested in building the internal capacity in all areas as the district moves to local control.” Accordingly, in an effort to increase the board of education’s capacity for self-government, it resolved that the Commissioner would designate a representative of higher education to serve as “an academic resource” for the board. This representative is a non-voting member of the board, permitted to participate in all of its activities and deliberations. Pursuant to this resolution, a designee of the President of William Paterson College has been appointed to the Paterson Board of Education.

Data obtained from the New Jersey Department of Education indicate that, as in Jersey City, there has been improvement in student achievement during the period of state operation in Paterson, although additional improvement in achievement is needed to meet state certification standards.

Paterson Pupil Performance – Eleventh Grade

On the HSPT in 1993-94, 57.1% of Paterson’s eleventh graders passed in reading; 62.9% in mathematics; and 66.2% in writing. In 2000-01, 60.1% passed in reading;

80.5% in mathematics; and 79.2% in writing. This reflects an increase of 3.0% in reading; 17.6% in mathematics; and 13.0% in writing.

HSTP	1993-1994	2000-2001	Improvement
Reading	57.1	60.1	+3.0
Mathematics	62.9	80.5	+17.6
Writing	66.2	79.2	+13.0

Paterson Pupil Performance – Eighth Grade

On the GEPA, in 1999, 66.3 % of Paterson’s eighth graders were found to be proficient in language arts and 38.4% in mathematics (no scores are available for science). In 2000, the proficiency rate was 64.2% in language arts; 45.8% in mathematics; and 37.6% in science. In 2001, the proficiency rate was 63.1% in language arts; 46.3% in mathematics; and 49.5% in science. This represents a decrease of 3.2% in language arts; an increase of 7.9% in mathematics; and an increase of 11.9% in science.

Like Jersey City, Paterson showed more substantial improvement in eighth grade performance, as measured by the EWT, in the earlier years of state operation. In 1991, 49.7% of the eighth graders in Paterson were found to be proficient in reading on the EWT; 35.5% in mathematics; and 31.2% in writing. After seven years of state operation, in 1998, 65.7% of Paterson’s eighth graders were found to be proficient in reading, 61.8% in mathematics; and 69.2% in writing. These figures reflect an increase of 16% in reading; 26.3% in mathematics; and 38% in writing.

EWT	1991	1998	Improvement
Reading	49.7	65.7	+16.0
Mathematics	35.5	61.8	+26.3
Writing	31.2	69.2	+38.0

GEPA	1999	2000	2001	Improvement
Language Arts	66.3	64.2	63.1	-3.2
Mathematics	38.4	45.8	46.3	+7.9
Science		37.6	49.5	+11.9

Paterson Pupil Performance – Fourth Grade

On the ESPA, in 1999, 28.1% of Paterson’s fourth graders were found to be proficient in language arts/literacy; 29.7% in mathematics; and 57.0% in science. In 2000, 34.9% were found to be proficient in language arts/literacy; 39.1% in mathematics; and 64.6% in science. In 2001, 66.3% were found to be proficient in language arts/literacy; 48.2% in mathematics; and 73.3% in science. This represents an increase of 38.2% in the language arts/literacy proficiency level; 18.5% in mathematics; and 16.3% in science.

ESPA	1999	2000	2001	Improvement
Language Arts	28.1	34.9	66.3	+38.2
Mathematics	29.7	39.1	48.2	+18.5
Science	57.0	64.6	73.3	+16.3

Paterson Pupil Performance – Comparison to Other Urban Districts

The State Department’s analysis of test results in urban school districts shows that among the 12 largest districts in DFGA, Paterson’s ranking on the reading subtest of the HSPT remained the same, at tenth, between fall 1993 and fall 2000 (proficiency levels went down, from 47.3% to 43.4%); its ranking on the mathematics subtest went up from sixth to second (and its proficiency level went up from 44.6% to 70.2%); and its ranking on the writing subtest went up from tenth to eighth (and its proficiency level went up from 66.1% to 72.8%).

**State-Operated School Districts 1993 Fall HSPT 11 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing
1	Perth Amboy 75.1	Perth Amboy	74.6	Perth Amboy	89.3
2	Jersey City 60.6	Camden	57.3	East Orange	88.2
3	Union City 60.4	Jersey City	57.1	Passaic City	82.8
4	East Orange 59.6	Elizabeth	48.0	Camden	81.9
5	Passaic City 54.9	Union City	47.6	Union City	79.3
6	Elizabeth 54.4	Paterson	44.6	Jersey City	76.9
7	Trenton 54.4	Atlantic City	44.4	Irvington	75.6
8	Atlantic City 53.6	Passaic City	44.4	Trenton	75.7
9	Camden 53.6	East Orange	41.0	Elizabeth	70.8
10	Paterson 47.3	Trenton	39.6	Paterson	66.1
11	Irvington 43.8	Newark	34.1	Newark	65.3
12	Newark 43.5	Irvington	27.9	Atlantic City	58.6
	Jersey City 2nd	Jersey City 3rd		Jersey City 6th	
	Newark 12th	Newark 11th		Newark 11th	
	Paterson 10th	Paterson 6th		Paterson 10th	
	Special Needs Districts 59.2		53.3		78.2
	DFG 'A' Average 55.0		47.6		75.1

**State-Operated School Districts 2000 Fall HSPT 11 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing
1	Perth Amboy 69.1	Perth Amboy	74.5	Passaic City	90.0
2	Atlantic City 61.3	Paterson	70.2	Perth Amboy	89.4
3	Jersey City 60.6	Jersey City	69.4	Union City	83.6
4	Union City 60.2	Union City	69.2	Jersey City	81.2
5	Passaic City 59.5	Passaic City	68.7	Elizabeth	78.6
6	Elizabeth 58.3	Atlantic City	67.8	Irvington	78.0
7	East Orange 46.9	East Orange	60.0	Atlantic City	74.6
8	Newark 46.7	Elizabeth	56.5	Paterson	72.8
9	Irvington 45.8	Camden	55.0	East Orange	72.6
10	Paterson 43.4	Newark	49.5	Camden	71.5
11	Camden 43.1	Irvington	37.2	Newark	68.4
12	Trenton 26.8	Trenton	27.3	Trenton	44.8
	Jersey City 3rd	Jersey City 3rd		Jersey City 4th	
	Newark 8th	Newark 10th		Newark 11th	
	Paterson 10th	Paterson 2nd		Paterson 8th	

Paterson's ranking among the 12 largest DFGA districts on the eighth grade assessment tests has been as follows: its ranking on the mathematics subtests of the EWT and the GEPA went up from seventh to third between 1991 and 2001 (its proficiency

level went up from 35.5% to 40.2%); its ranking on the language arts subtest went up from ninth to second during the same period (its proficiency level went up from 31.2% to 54.5%);¹⁵ and its ranking on the science subtest went up from sixth to third between 2000 and 2001 (its proficiency level went up from 37.6% to 43.6%).

State-Operated School Districts Spring 1991 EWT Scores Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey						
	Reading		Math		Writing	
1	Union City	84.0	Union City	81.9	Union City	81.5
2	Perth Amboy	60.5	Perth Amboy	45.4	Passaic City	45.6
3	Passaic City	56.6	Elizabeth	43.5	Elizabeth	44.4
4	Jersey City	55.8	Jersey City	42.7	Perth Amboy	42.3
5	Irvington	54.7	Irvington	36.0	Irvington	40.2
6	Elizabeth	53.6	Passaic City	35.8	Jersey City	39.2
7	Paterson	49.7	Paterson	35.5	Camden	34.9
8	Camden	48.4	Atlantic City	34.7	Newark	31.9
9	Atlantic City	44.9	Newark	33.5	Paterson	31.2
10	Newark	43.6	Camden	31.5	Atlantic City	30.6
11	Trenton	42.2	Trenton	29.8	Trenton	29.7
12	East Orange	39.2	East Orange	25.2	East Orange	29.1
	Jersey City	4th	Jersey City	4th	Jersey City	6th
	Newark	10th	Newark	9th	Newark	8th
	Paterson	7th	Paterson	7th	Paterson	9th
	Special Needs Districts	64.4		54.3		53.5
	DFG 'A' Average	54.2		42.9		41.4

¹⁵ Paterson ranked seventh on the reading subtest of the 1991 EWT, with a proficiency level of 49.7%.

**State-Operated School District 2001 GEPA 8 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	Language Arts		Math		Science
Union City	63.4	Union City	57.1	Union City	54.9
Paterson	54.5	Jersey City	44.3	Passaic City	45.4
Jersey City	53.4	Paterson	40.2	Paterson	43.6
Perth Amboy	44.6	East Orange	32.5	Jersey City	43.5
Newark	42.2	Perth Amboy	32.0	Perth Amboy	41.1
East Orange	39.9	Passaic City	28.4	Elizabeth	39.3
Elizabeth	39.6	Newark	24.1	Trenton	31.5
Passaic City	37.8	Elizabeth	21.1	East Orange	31.2
Irvington	33.5	Trenton	20.7	Newark	28.5
Trenton	26.6	Camden	14.5	Irvington	28.1
Atlantic City	24.6	Atlantic City	14.1	Atlantic City	27.5
Camden	24.4	Irvington	11.8	Camden	27.4
Jersey City	3rd	Jersey City	2rd	Jersey City	4th
Paterson	2nd	Paterson	3rd	Paterson	3th
Newark	5th	Newark	7th	Newark	9th

On the ESPA, between 1999 and 2001, Paterson's ranking among the 12 largest DFGA districts on the language arts subtest went up from eighth to fourth (its proficiency level increased from 28.1% to 66.3%); its ranking on the mathematics subtest went up from ninth to third (its proficiency level went up from 29.7% to 48.2%); and its ranking on the science subtest went up from eleventh to fifth (its proficiency level went up from 57.0% to 73.3%).

**State-Operated School Districts 1999 Spring ESPA Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Language Arts		Math		Science
1	Union City 44.5	Union City	47.5	Perth Amboy	81.0
2	Jersey City 39.9	East Orange	44.7	Union City	80.8
3	Elizabeth 36.1	Jersey City	42.4	Passaic City	78.2
4	Perth Amboy 34.5	Elizabeth	37.9	Elizabeth	72.5
5	Passaic City 32.7	Passaic City	37.8	Jersey City	66.4
6	Newark 32.2	Perth Amboy	34.3	Irvington	62.4
7	Irvington 31.3	Camden	31.8	Trenton	61.8
8	Paterson 28.1	Atlantic City	31.0	East Orange	61.7
9	East Orange 27.5	Paterson	28.7	Camden	61.0
10	Atlantic City 24.3	Newark	29.2	Atlantic City	60.2
11	Trenton 22.8	Trenton	23.5	Paterson	57.0
12	Camden 20.2	Irvington	22.9	Newark	53.8
	Jersey City 2nd	Jersey City	3rd	Jersey City	5th
	Newark 6th	Newark	10th	Newark	12th
	Paterson 8th	Paterson	9th	Paterson	11th
	Special Needs Districts 33.8		36.3		67.7
	DFG 'A' Average 32.4		34.9		65.1

**State-Operated School District 2001 ESPA 4th Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	LAL		Math		Science
Union City	79.3	Union City	57.1	Union City	85.8
Perth Amboy	75.2	Elizabeth	48.8	Perth Amboy	82.5
Elizabeth	71.7	Paterson	48.2	Passaic City	81.6
Paterson	66.3	Passaic City	45.4	Elizabeth	79.1
Atlantic City	63.3	Perth Amboy	44.4	Paterson	73.3
Passaic City	63.2	E. Orange	42.7	Jersey City	67.9
Jersey City	60.0	Jersey City	38.7	Camden	67.8
Irvington	59.5	Camden	38.5	E. Orange	64.5
E. Orange	52.8	Atlantic City	35.3	Trenton	64.2
Trenton	52.7	Trenton	35.1	Atlantic City	64.1
Newark	51.9	Newark	32.1	Irvington	60.0
Camden	51.4	Irvington	31.3	Newark	55.1
Jersey City 7 th		Jersey City 7 th		Jersey City 6 th	
Paterson 4 th		Paterson 3 rd		Paterson 5 th	
Newark 11 th		Newark 12 th		Newark 12 th	

Paterson Attendance and Dropout Rates

With respect to attendance, Paterson has met the state standard (minimum 90%) since the establishment of state operation. In 1990-91, the district's one-year attendance

rate was 91.2%; in 2000-01, the year-end attendance rate was 92.3%; and the three-year average, on which the state standard is based, was 92.5%.

Although its attendance rate has met the state standard, Paterson has failed to meet the state standard with respect to dropout rates (maximum 10%) in every year since 1995-96 (the first year for which comparable data is available). The district's dropout rate was 18.2% in 1995-96, and had been reduced to 14.5% by 2000-01, but this still fails to meet the state standard. Most important, Paterson's improvements on the HSPT must be considered in light of these dropout figures. Given these high rates, the students most likely to do poorly on the HSPT may no longer be in school when the test is given. Thus, apparent achievement increases in the 11th grade may be a consequence of the weakest students leaving the system and not being counted in these data.

	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001
Drop-Out Rate	18.2	15.7	18.2	15.2	13.5	14.5
Attendance	91.7	92.1	92.6	92.7	92.3	92.3

Financial data gathered by the State Department of Education shows that Paterson's cost per pupil increased by 31% between 1995-96 and 2000-01, from \$7,800 to \$10,234; that the extent of the district's per-pupil cost over the state average increased from 2% to 14% during the same period (though it had gone down to as low as 4% below the state average in 1997-98); and that the district's non-instructional costs as a proportion of total spending increased from 35% to 44.4%. The State Department's data also shows that Paterson reduced its student/teacher ratio from 14.5 to 12.8 between 1996-97 and 2000-01; during the same period it increased its student/administrator ratio

from 177.3 to 195.1; its median teacher salary decreased from \$50,578 to \$48,213; and its median administrative salary increased from \$83,851 to \$94,986.

The Strategic Plan 2001-2004 of the Paterson Public Schools, dated December 2000, reflects a district committed to improving student achievement through educational reform and staff development. The Strategic Plan states, in its introduction:

The goal of the Paterson Public Schools, a state-operated district since 1991, is to improve student achievement through intensive staff development of all personnel especially teachers, administrators and parents. Therefore, the Paterson Public Schools has focused its efforts on increasing student achievement to meet state standards in the Core Curriculum Content areas.

The bulk of the Strategic Plan is the district's Education Plan. The "thrust" of the Education Plan, it states, is to establish the link between state standards, instruction, assessment, student achievement, and staff development. "By continuing to align the Core Curriculum Content Standards with our curriculum and modifying instruction based on assessment results, our children will be able to attain the benchmarks set by the schools and ultimately the standards required by the State."

According to the Strategic Plan, the district has set a goal of achieving state standards of pupil achievement by 2004. Toward this end, the district has identified three strategies for improving assessment, four strategies under the heading "Technical Assistance and Support to Schools," and seven additional strategies under the heading "Technical Assistance and Support to Secondary Schools." The plan also contains a summary of whole school reform implementation (noting that more complete descriptions of school-level and program-specific *Abbott*-driven initiatives have not been duplicated, in the interest of space, but stating, "Above all, it is our belief that Whole School Reform under girds the entire plan, and should not be relegated to a 'section' of

the plan”); a description of initiatives to increase parent and community involvement; and a section setting forth corrective action plans with respect to eight state certification indicators.

The plan acknowledges (in the passage first quoted above) that the Paterson Public Schools is a state-operated school district. The return to local control is nowhere identified as a goal, however, or even mentioned. As far as may be determined from this document, reestablishment of local control is not a part of the district’s strategic plan.

Paterson’s Annual Report for 2000-01, dated November 2001, reflects the continued focus on curriculum and pupil achievement, and the district’s goal of achieving state pupil achievement standards by 2004. Seven areas of activity are highlighted: improving student achievement, implementing whole school reform, achieving appropriate staff certification (suggesting that this has not yet been achieved), professional development, enhancing facilities, reducing the dropout rate and increasing attendance, and strengthening parent and community relations. Staff development for teachers at all grade levels appears to be a priority, as well as early childhood education, development of reading standards for grades one through eight, and expansion of innovative academies at the secondary level to increase opportunities for learning in smaller schools.

The annual report contains assessments of district performance, both in student achievement and in the effectiveness of the strategies identified in the Strategic Plan and numerous initiatives undertaken to carry out those strategies. A chart summarizing student achievement, as measured by state standardized tests, shows that while scores increased between 1999-2000 and 2000-01 on all subtests except GEPA language

arts/literacy (which decreased by 1.1%), the district failed to meet its benchmark score on any subtest except ESPA language arts/literacy (which exceeded the benchmark by 18%). Each initiative is given an assessment on the scale of successful/unsuccessful/not implemented. While the method of assessment and the basis for each rating are not clear, the vast majority of the initiatives are found to have been successful. Several are designated “not implemented;” only two are rated unsuccessful. Both “unsuccessful” ratings appear to be based on the ineffectiveness of the initiatives in increasing student test scores rather than a failure to implement the initiatives.

The annual report also summarizes the district’s initiatives regarding whole school reform and parent/community involvement. Again, all of the district’s initiatives are rated “successful.” The report on whole school reform includes an analysis of student achievement by whole school reform model. Finally, the report summarizes the status of the district’s compliance with respect to 12 certification indicators, stating that it is in compliance as to pupil attendance (although its comprehensive high schools have not met the state attendance standard), certified teaching staff (100% of teaching staff members hold appropriate certification), state aid, GAAP, overexpenditure of funds, annual audit, and transportation contracts; but not in compliance as to the dropout rate, health and safety, comprehensive maintenance plan, facilities master plan/substandard classrooms, and special education programs and services.

The district’s interim report, dated March 19, 2002, contains a report on interim student achievement assessments, with projections as to the attainment of performance benchmarks (the district projects that all benchmarks will be met this year); a report on the district’s class size reduction efforts (indicating that 22 of 35 school sites have

enrollments below capacity, suggesting that 13 sites are at or above capacity); a report on preschool enrollment; a report on whole school reform implementation; and a summary of compliance with 12 certification indicators. Some of the compliance ratings are different from those noted in the annual report: pupil attendance is rated non-compliant (apparently because the attendance rates at the two comprehensive high schools are less than 90%, although the district-wide rate as of February 2002 is listed as 93.6%); state aid is rated non-compliant, though the reason for this is unclear; and annual audit is rated non-compliant, apparently because of the number of audit recommendations and repeat recommendations.

An interim report of the Paterson Internal Audit Unit, dated January 2002, describes the function of this unit as follows:

The Paterson Internal Audit Unit provides independent and objective assessment of the State-operated School District of Paterson. The auditors assess the integrity and adequacy of the district's financial operations, review district compliance with applicable laws and regulations, evaluate employee adherence to internal procedures and test the adequacy of the district's internal controls. The Paterson Internal Audit allocates its resources to the areas of greatest risk to ensure adequate audit coverage.

During the period of July 2001 to January 2002, the Paterson Internal Audit Unit conducted audits of the district's unemployment compensation payments and its investments in the New Jersey Cash Management Fund, both of which disclosed deficiencies in internal control and resulted in establishment of new procedures; an audit of the district's position control data base, which disclosed deficiencies in internal control, as a result of which the district is generating a corrective action plan; and audits of security and maintenance contracts and employee attendance procedures. The unit also reviewed and revised student activity fund procedures, reviewed whole school

reform budgets, reviewed salaries with respect to certain required budget reductions, and performed various other routine reviews, such as reviews of payments to vendors, overtime payments and manual checks.

The state district superintendent, Dr. Edwin Duroy, stated to us that in his view the Paterson school district is making progress toward a return to local control, and it is time to take more concrete steps in that direction. The superintendent indicated that over the past three years the relationship between the district and the State Department of Education has improved, and the State Department has provided more assistance to the district,¹⁶ but there is presently no plan for return to local control in formation. The former commissioner discussed creating a transition task force, though no action to this effect was taken; the superintendent indicated his view that this should be done, and probably should have been done already.

In Dr. Duroy's view, reestablishment of local control within two years may be possible, although a number of issues remain. These include the turnover of school building leaders, and the need to attract and train new leaders. In addition, Dr. Duroy stressed the need for systems and policies to be in place with respect to a code of ethics for the board of education, board structure, organization and policies, budget responsibilities, personnel, and curriculum and instruction, in order to ensure that the conditions that led to state takeover do not return. Finally, Dr. Duroy stated his belief that once local control is reestablished the state should maintain a monitoring role for a number of years.

¹⁶ We understand from other sources that the State Department of Education assigned a technical assistance task force to the Paterson school district in 2001, but that the task force is no longer in place.

Discussions with community and educational leaders reinforced Dr. Duroy's view that while progress has occurred there is still more to be done before local authority resumes. Our discussion with Ms. Irene Sterling of the Paterson Education Fund and review of written materials distributed by the Fund gave us an indication of Ms. Sterling's view, and that of the Fund, that there are a number of problems in the district, including the lack of training of the board of education, the lack of curriculum guides, and the board's failure thus far to review the board policy manual. Further, the Fund is concerned with issues relating to student mobility, teacher mobility, principal leadership, school size, large gaps between schools in student achievement, and racial and ethnic differences in expectations.

According to Ms. Sterling, a number of things must be done before local control can be reestablished. These include a public engagement plan on board ethics, conflict of interest, and personnel policies; an evaluation of district curriculum and practices; and an evaluation of the superintendent. Finally, she recommends that there must be local engagement in the planning process for return to local control. This process should stress the need for sufficient resources, the need for standards and evaluations for administrators, strategic planning, capacity building, a statewide code of ethics for board members, and a statewide data evaluation and assessment system.

Given the progress that has been made, but also the concerns identified by the superintendent and the Paterson Education Foundation, it appears that Paterson is well along the way toward reestablishment of local control, but much remains to be done in the areas of governance and leadership development. A comprehensive assessment

should be conducted of the district's capacity to sustain the improvements made in pupil achievement without state control.

State-operated School District of Newark

Newark is New Jersey's largest school district, with approximately 42,000 students,¹⁷ 76 schools and an annual budget of approximately \$630 million. Its students are racially diverse, and most of them are low-income: 65% are reported to be African-American, 25% Hispanic, 10% white, and 83% on free and reduced-price lunch programs. (Association for Children of New Jersey, *Kids Count, Newark 1998 Profile*). The district has been under state operation for the relatively short period (by New Jersey standards) of almost seven years. For all these reasons, it is perhaps not surprising that of the state's three state-operated districts, Newark appears to be the least ready for reestablishment of local control.

Newark is, nevertheless, the only one of the three state-operated districts to mention return to local control in its Strategic Plan, and to identify it as a district goal.

Newark's Strategic Plan states:

Returning the district to local control will only be achieved when we can create and sustain a learning community that provides our students with the academic skills and strategies they require to successfully move into the world beyond grade 12. This will only occur when an integrated plan has been established focusing all efforts towards the goal of student success. All components of the district community must be actively involved in the analyzing, planning and implementing activities.

This goal appears to be right on target. Its references to an "integrated plan," "focusing all efforts towards the goal of student success," involving "all components of the district

¹⁷ The annual report of the Newark Public Schools states that in 1999-2000 the district had 42,101 students. This is 6,000 less than the 48,000 in 1993-94, which appears in the Comprehensive Compliance Investigation issued by the New Jersey Department of Education prior to establishment of state operation.

community,” and “analyzing, planning and implementing activities” toward the goal reflect an ambitious, comprehensive child-centered approach to education. This is in stark contrast to the pre-takeover approach to education in Newark, reflected in the report of the State Department of Education’s Comprehensive Compliance Investigation team in 1994. The CCI team found that “[t]he Newark School District has been at best flagrantly delinquent and at worst deceptive in discharging its obligations to the children enrolled in the public schools.”

The CCI report focused on governance and management of the school district as much as educational achievement. While noting that the need for major improvements in student performance was “crucial,” it also acknowledged that achievement test results provide less than a full picture of school district performance. Still, it stated, “Even judging by the narrow standard of achievement test results, evidence shows that the longer students remain in the Newark public schools, the less likely they are to succeed academically.” Having said that, most of the report catalogues the examples of “neglect, mismanagement and misrepresentation” which the investigation “uncovered” “at almost every turn.”

A few of those examples suffice to portray the state of managerial and, consequently, educational disrepair in the pre-takeover Newark public schools, according to the CCI report:

- [T]he Board, as a body, has been unable to summon either the sense of urgency or the willingness to take decisive action necessary for change to occur. . . .
- The Board is unengaged with and cannot define critical challenges facing the district When the Board does pay close attention to an issue, its focus is often misguided. . . .

- Also strongly deficient in the Board’s style of governance is its failure to support or promote parental involvement at the school level
- A long-standing deficiency still evident in many schools is the lack of sufficient, appropriate instructional materials, equipment and supplies in classrooms. . . .
- Classrooms, for the most part, are dirty and ill equipped, and instruction is unchallenging and often misdirected or inappropriate. Few instances were found in any classroom . . . of children being encouraged to generate their own ideas, to collaborate in problem-solving activities, to write in class, to read widely and independently or to use skills and facts in context.
- A number of teachers and other professional staff members are uncertified or inappropriately certified for their current assignments; some were observed to lack an understanding of the subjects they were teaching and to give misinformation for children to copy into their notebooks. . . .
- Pupil transportation is hazardous, largely due to the district’s failure to provide oversight to contractors providing the services. Children are riding in school buses that are operated by improperly licensed drivers, that lack the proper safety equipment and that have not been properly inspected. . . .
- The school buildings themselves are unsafe. . . .
- The CCCI Team found two worlds during the investigation of the Newark School District: the world of the schools themselves, with misdirected instruction, badly neglected buildings, inefficient practices, and inequitable distribution of even the most basic resources; and the world of comfortable offices and important-sounding titles in the district central office, detached from the everyday reality of the schools. The activities that take place in the district central office accomplish little of value and drain needed resources from students.
- Uncovered in the district were conflicts of interest, falsification of reports, willful violation of New Jersey’s election and bidding laws, misused and mismanaged federal, local, and state monies, mismanaged personnel matters, loose control over cash, a significant backlog of uncompleted capital improvement projects, and many other irregular and deficient practices.

The extent to which these ills have been corrected during, and as a result of, state intervention has been the subject of several consultants' reports. At least four studies of the school district were issued in 2000, after five years of state operation. These included a report by the Community Training and Assistance Center ("CTAC") on the impact of the state takeover on students and schools in Newark, a series of reports by the Allen Company evaluating the takeover process in Newark, a study of student performance in Newark by Arthur Andersen, and a study of operations in the Newark Public Schools by Deloitte & Touche.

The CTAC study involved a survey of nearly 10,000 teachers, parents, students and administrators, and interviews with more than 200 individuals. It found a perception that conditions had improved, as well as some real improvement. The report stated:

A substantial majority of parents, teachers, students and site administrators believe their schools have improved during the past five years, in such categories as school planning, academic focus, atmosphere for teaching and learning, availability of resources, and opportunities for students to learn.

Conditions have improved most markedly at the district's elementary and middle schools. . . . Conditions have improved less at the high schools, where there are varied opinions and data regarding the level of progress.

Although parent involvement has increased, not all of it is substantive. Continued effort is needed to ensure that parents are meaningfully involved in school planning and assessment, as well as in supporting school activities and their children.

The support and commitment of corporations and foundations have distinctly increased.

A majority of all respondent groups believes that the district's focus on student achievement has increased significantly. Similarly, all groups also believe that the expectations for students have increased.

Student attendance has increased at all three levels of the system.

Student behavior is perceived as having improved at the elementary and middle schools.

The district's limited capacity to collect and disaggregate data prevents detailed analyses of student achievement results, particularly at the elementary level. This forces reliance on the single indicator of state tests.

CTAC also noted, and questioned, the district's ambitious agenda, stating:

Improving student achievement is characterized as the primary goal of the district. . . . Yet operationally, improving student achievement is often overshadowed by crises, political conflict and competing priorities. . . .

[T]he priorities of the district need to be finite and clearly specified. This is such a fundamental issue that it cuts across every level and layer of the district. Many school systems struggle to implement and manage a diverse range of initiatives. But activity does not necessarily translate to accomplishment. A district that has too many priorities is indicating, in fact, that it has been unable to establish its core priorities.

Finally, the report noted the difficulty of the task facing those responsible for the district, and the need for major institutional change:

[T]he district requires a readiness and capacity for institutional change that go far beyond the experience of most current staff within the district, and that transcend the traditional boundaries of professional development. . . .

The Allen Company report echoed the finding that the district's good intentions have not yet translated into results. It stated:

There is growing evidence that the Newark Public Schools *layering* one new educational innovation or approach on top of others is not working. . . .

A recent series of classroom observations in the Newark Public Schools . . . revealed that most teaching is unfocused, and instructional activities and tasks are not designed to meet the academic needs of students.

Arthur Andersen, focusing on student performance, noted "deficient results" of standardized tests and also a decline in student performance results since the state takeover of the district. Additionally, it found that successful administrative practices are

not consistently applied, and that the district's hiring methods hinder, rather than foster, improvement in student achievement, stating:

Our assessment of the District's "Evaluation of Principals" process revealed instances where "best practices" exist (that is, those policies and procedures which, when consistently followed, produce optimal results) but are not consistently applied among and within each of the SLTs¹⁸

As a result of our work performed, we noted that there are concerns relating to the teacher hiring process within the District. We believe that there is a direct correlation between student performance and the ability to attract and hire qualified teachers. Our observations revealed practices that do not foster a process that is conducive to timely hiring of qualified teachers. We believe that the District's hiring process has contributed to the poor student performance results.

Along the same lines, the findings of Deloitte & Touche included the following:

The District lacks comprehensive, integrated systems for student information, inventory management, work order management and file management.

The procurement process in Purchasing is manual, labor intensive, and cumbersome.

Current procedures for ordering, storing and distributing supplies are inefficient and lack sufficient controls.

In many offices there are issues relating to the efficient allocation and utilization of staff.

There is a need to streamline the current SLT structure.

More efficient systems and procedures are recommended for the budget office, accounts payable, grants management, payroll, fixed assets and legal services.

There is a need for an integrated facilities needs assessment and capital planning process.

¹⁸ The Newark Public Schools are divided administratively into five School Leadership Teams ("SLTs"). SLTs I, III, IV and V include all schools with fourth and eighth grade configurations. SLT II includes all secondary schools.

There is a need for a comprehensive, centralized system/process in Human Resources using a single database.

There is a need for improved management of Human Resources Services.

The State Department of Education has not conducted its own comprehensive review of performance of the Newark School District, except for its review of pupil achievement data, which indicates that the district has not met state standards. In September 2000, based on its evaluation of “student performance indicators” (*i.e.*, standardized tests), the State Board of Education adopted a resolution finding that “the state cannot certify the [Newark] district as having met the minimum standards” of student performance, and accordingly providing that state operation of the Newark School District would continue until further order. It adopted a similar resolution in October 2001.

In fact, data obtained from the New Jersey Department of Education indicates that there has been little improvement in student achievement during the period of state operation in Newark. The district continues to perform well below state standards. Its attendance and dropout rates, however, are in accordance with state standards.

Newark Pupil Performance – Eleventh Grade

On the HSPT in 1994-95 (the year just prior to establishment of state operation), 59.7% of Newark’s eleventh graders were found to be proficient in reading; 60.9% in mathematics; and 66.4% in writing. Six years later, in 2000-01, 56.9% were found to be proficient in reading; 71.1% in mathematics; and 55.7% in writing. This reflects a decrease of 2.8% in reading; an increase of 10.2% in mathematics; and a decrease of 10.7% in writing.

HSTP	1993-1994	2000-2001	Improvement
Reading	59.7	56.9	-2.8
Mathematics	60.9	71.1	+10.2
Writing	62.9	55.7	-10.7

Newark Pupil Performance – Eighth Grade

On the GEPA, in 1999, 52.6 % of Newark’s eighth graders were found to be proficient in language arts and 24.1% in mathematics (no scores are available for science). In 2000, the proficiency rate was 47.5% in language arts; 21.7% in mathematics; and 28.8% in science. In 2001, the proficiency rate was 46.3% in language arts; 26.5% in mathematics; and 31.2% in science. This represents a decrease of 6.3% in language arts; an increase of 2.4% in mathematics; and an increase of 2.4% in science.

Newark’s earlier eighth grade performance, as measured by the EWT, also was mixed. In 1994-95, 62.4% of the eighth graders in Newark were found to be proficient in reading on the EWT; 42.6% in mathematics; and 62.9% in writing. In 1997-98, 65.4% of Newark’s eighth graders were found to be proficient in reading, 56.3% in mathematics; and 44.3% in writing. These figures reflect an increase of 3.0% in reading; an increase of 13.7% in mathematics; but a decrease of 18.6% in writing.

EWT	1995	1998	Improvement
Reading	62.4	65.4	+3.0
Mathematics	42.6	56.3	+13.7
Writing	62.9	44.3	-18.6

GEPA	1999	2000	2001	Improvement
Language Arts	52.6	47.5	46.3	-6.3
Mathematics	24.1	21.7	26.5	+2.4
Science		28.8	31.2	+2.4

Newark Pupil Performance – Fourth Grade

On the ESPA, in 1999, 32.1% of Newark’s fourth graders were found to be proficient in language arts/literacy; 29.2% in mathematics; and 53.8% in science. In 2000, 31.2% were found to be proficient in language arts/literacy; 33.5% in mathematics; and 56.5% in science. In 2001, 51.9% were found to be proficient in language arts/literacy; 32.1% in mathematics; and 55.1% in science. This represents an increase of 19.8% in the language arts/literacy proficiency level; an increase of 2.9% in mathematics; and an increase of 1.3% in science.

ESPA	1999	2000	2001	Improvement
Language Arts	32.1	31.2	51.9	+19.8
Mathematics	29.2	33.5	32.1	+2.9
Science	53.8	56.5	55.1	+1.3

Newark Pupil Performance – Comparison to Other Urban Districts

The State Department’s analysis of test results in urban school districts shows that among the 12 largest districts in DFGA, Newark’s ranking on the reading subtest of the HSPT went up from eleventh to eighth between fall 1994 and fall 2000 (proficiency levels went up from 42.1% to 46.7%); its ranking on the mathematics subtest went up from eleventh to tenth (its proficiency level went up from 41.4% to 49.5%); and its ranking on the writing subtest remained the same, at eleventh (its proficiency level went up from 56.9% to 68.4%).

**State-Operated School Districts 1994 Fall HSPT 11 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing
1	Perth Amboy 69.9	Perth Amboy	76.7	Passaic City	81.0
2	Atlantic City 62.8	Camden	61.7	Perth Amboy	80.0
3	Passaic City 57.4	Atlantic City	60.5	East Orange	76.5
4	Union City 56.4	Union City	59.1	Camden	74.9
5	Elizabeth 52.5	Jersey City	53.2	Atlantic City	73.6
6	Jersey City 52.2	Passaic City	48.9	Trenton	73.1
7	Camden 49.3	Paterson	46.4	Union City	71.5
8	East Orange 47.4	Elizabeth	45.6	Jersey City	66.9
9	Trenton 46.9	East Orange	42.8	Elizabeth	65.8
10	Paterson 42.3	Trenton	41.8	Irvington	56.9
11	Newark 42.1	Newark	41.4	Newark	56.9
12	Irvington 41.2	Irvington	31.2	Paterson	55.6
	Jersey City	Jersey City	5th	Jersey City	8th
	Newark	Newark	11th	Newark	11th
	Paterson	Paterson	7th	Paterson	12th
	Special Needs Districts 56.4		56.2		69.9
	DFG 'A' Average 52.1		51.3		67.4

**State-Operated School Districts 2000 Fall HSPT 11 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Reading		Math		Writing
1	Perth Amboy 69.1	Perth Amboy	74.5	Passaic City	90.0
2	Atlantic City 61.3	Paterson	70.2	Perth Amboy	89.4
3	Jersey City 60.6	Jersey City	69.4	Union City	83.6
4	Union City 60.2	Union City	69.2	Jersey City	81.2
5	Passaic City 59.5	Passaic City	68.7	Elizabeth	78.6
6	Elizabeth 58.3	Atlantic City	67.8	Irvington	78.0
7	East Orange 46.9	East Orange	60.0	Atlantic City	74.6
8	Newark 46.7	Elizabeth	56.5	Paterson	72.8
9	Irvington 45.8	Camden	55.0	East Orange	72.6
10	Paterson 43.4	Newark	49.5	Camden	71.5
11	Camden 43.1	Irvington	37.2	Newark	68.4
12	Trenton 26.8	Trenton	27.3	Trenton	44.8
	Jersey City	Jersey City	3rd	Jersey City	4th
	Newark	Newark	10th	Newark	11th
	Paterson	Paterson	2nd	Paterson	8th

On the eighth grade assessment tests, Newark's ranking among the 12 largest DFGA districts on the mathematics subtests went down from sixth to seventh between

1994 and 2001 (its proficiency level went down from 41.9% to 24.1%); its ranking on the language arts subtest went up from seventh to fifth (though its proficiency level went down from 57.0% to 42.2%);¹⁹ and its ranking on the science subtest went up from eleventh to ninth between 2000 and 2001 (its proficiency level went down slightly from 28.9% to 28.5%).

State-Operated School Districts Spring 1994 EWT Scores Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey						
	Reading		Math		Writing	
1	Union City	78.8	Union City	68.1	Jersey City	75.0
2	Perth Amboy	70.8	Jersey City	51.8	East Orange	72.0
3	Passaic City	69.6	Perth Amboy	49.2	Union City	71.2
4	Irvington	68.4	Camden	47.0	Perth Amboy	62.0
5	Jersey City	67.0	Passaic City	42.3	Passaic City	61.9
6	Elizabeth	65.7	Newark	41.9	Atlantic City	60.1
7	Atlantic City	63.3	Elizabeth	36.4	Newark	57.0
8	Camden	60.9	Atlantic City	35.4	Elizabeth	56.4
9	East Orange	59.0	Paterson	35.3	Irvington	56.3
10	Newark	58.9	Trenton	30.6	Camden	50.4
11	Paterson	57.9	East Orange	26.7	Paterson	45.5
12	Trenton	51.4	Irvington	24.7	Trenton	38.1
	Jersey City	5th	Jersey City	2nd	Jersey City	1st
	Newark	10th	Newark	6th	Newark	7th
	Paterson	11th	Paterson	9th	Paterson	11th
	Special Needs Districts	67.7		46.7		62.5
	DFG 'A' Average	65.2		43.8		61.0

¹⁹ Newark ranked tenth on the reading subtest of the 1994 EWT, with a proficiency level of 58.9%.

**State-Operated School District 2001 GEPA 8 Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	Language Arts		Math		Science
Union City	63.4	Union City	57.1	Union City	54.9
Paterson	54.5	Jersey City	44.3	Passaic City	45.4
Jersey City	53.4	Paterson	40.2	Paterson	43.6
Perth Amboy	44.6	East Orange	32.5	Jersey City	43.5
Newark	42.2	Perth Amboy	32.0	Perth Amboy	41.1
East Orange	39.9	Passaic City	28.4	Elizabeth	39.3
Elizabeth	39.6	Newark	24.1	Trenton	31.5
Passaic City	37.8	Elizabeth	21.1	East Orange	31.2
Irvington	33.5	Trenton	20.7	Newark	28.5
Trenton	26.6	Camden	14.5	Irvington	28.1
Atlantic City	24.6	Atlantic City	14.1	Atlantic City	27.5
Camden	24.4	Irvington	11.8	Camden	27.4
Jersey City	3rd	Jersey City	2nd	Jersey City	4th
Paterson	2nd	Paterson	3rd	Paterson	3th
Newark	5th	Newark	7th	Newark	9th

On the ESPA, between 1999 and 2001, Newark's ranking among the 12 largest DFGA districts went down on the language arts subtest from sixth to eleventh (though its proficiency level increased from 32.2% to 51.9%); its ranking on the mathematics subtest went down from tenth to eleventh (though its proficiency level went up from 29.2% to 32.1%); and its ranking on the science subtest remained the same, at twelfth (its proficiency level went up slightly, from 53.8% to 55.1%).

**State-Operated School Districts 1999 Spring ESPA Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in New Jersey**

	Language Arts		Math		Science
1	Union City 44.6	Union City	47.5	Perth Amboy	81.0
2	Jersey City 39.9	East Orange	44.7	Union City	80.8
3	Elizabeth 38.1	Jersey City	42.4	Passaic City	78.2
4	Perth Amboy 34.5	Elizabeth	37.9	Elizabeth	72.5
5	Passaic City 32.7	Passaic City	37.8	Jersey City	66.4
6	Newark 32.2	Perth Amboy	34.3	Irvington	62.4
7	Irvington 31.3	Camden	31.8	Trenton	61.8
8	Paterson 28.1	Atlantic City	31.0	East Orange	61.7
9	East Orange 27.5	Paterson	29.7	Camden	61.0
10	Atlantic City 24.0	Newark	29.2	Atlantic City	60.2
11	Trenton 22.8	Trenton	23.5	Paterson	57.0
12	Camden 20.2	Irvington	22.9	Newark	53.8
	Jersey City 2nd	Jersey City 3rd	Jersey City	5th	
	Newark 6th	Newark 10th	Newark	12th	
	Paterson 8th	Paterson 9th	Paterson	11th	
	Special Needs Districts 33.8		36.8		67.7
	DFG 'A' Average 32.4		34.9		65.1

**State-Operated School District 2001 ESPA 4th Scores
Relative to Results for 12 Largest District Factor Group 'A' Districts in NJ**

	LAL		Math		Science
Union City	79.3	Union City	57.1	Union City	85.8
Perth Amboy	75.2	Elizabeth	48.8	Perth Amboy	82.5
Elizabeth	71.7	Paterson	48.2	Passaic City	81.6
Paterson	66.3	Passaic City	45.4	Elizabeth	79.1
Atlantic City	63.3	Perth Amboy	44.4	Paterson	73.3
Passaic City	63.2	E. Orange	42.7	Jersey City	67.9
Jersey City	60.0	Jersey City	38.7	Camden	67.8
Irvington	59.5	Camden	38.5	E. Orange	64.5
E. Orange	52.8	Atlantic City	35.3	Trenton	64.2
Trenton	52.7	Trenton	35.1	Atlantic City	64.1
Newark	51.9	Newark	32.1	Irvington	60.0
Camden	51.4	Irvington	31.3	Newark	55.1
Jersey City 7 th		Jersey City 7 th		Jersey City 6 th	
Paterson 4 th		Paterson 3 rd		Paterson 5 th	
Newark 11 th		Newark 12 th (11 th)		Newark 12 th	

Newark Attendance and Dropout Rates

With respect to attendance, Newark has met the state standard (minimum 90%) in every year since the establishment of state operation except the first year, 1995-96. In

that year the district's one-year attendance rate was 89.0% and its three-year average, on which the state standard is based, was 89.1%; in 2000-01, the year-end attendance rate was 90.9% and the three-year average was 90.5%.

Newark also has met the state standard with respect to dropout rates (maximum 10%) in every year of state operation. In 1995-96 the district's dropout rate was 8.0; it went as high as 9.9 in 1996-97, and was 8.74 in 2000-01.

	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001
Drop-Out Rate	8.0	9.9	8.6	8.7	9.07	8.74
Attendance	89.0	90.2	90.9	90.5	90.1	90.9

State Department of Education data show that Newark's cost per pupil increased by 16% between 1995-96 and 2000-01, from \$9,591 to \$11,093 (the smallest increase of the state-operated districts)²⁰; that the extent of the district's per-pupil cost over the state average decreased slightly, from 25% to 23%, during the same period; and that the district's non-instructional costs as a proportion of total spending increased from 39% to 46.3%. The data also show that Newark's student/teacher ratio has remained the same during the period of state operation, at 13.2 (although it went as low as 12.4 in 1999-2000); its student/administrator ratio is much lower than the other state-operated districts, and has gone down from 108.0 to 92.7 (though it was as high as 134.0 in 1998-99); its median teacher salary is higher than the other state-operated districts, and has increased from \$59,596 to \$61,910; and its median administrative salary is lower than the other state-operated districts, but has increased from \$72,336 to \$80,003.

²⁰ Per the State Department of Education, the figure shown for 2000-01 is the budgeted rather than actual cost.

In addition to its reference to returning to local control, Newark's Strategic Plan identifies four goals: (1) improve student achievement; (2) develop student moral and social responsibility; (3) structure the organization to be efficient, effective and aligned with the district mission; and (4) enfranchise community and empower parents. The plan contains performance data and benchmarks for the district and each school (curiously, there are significant differences in achievement levels among the district's schools; some have extremely low achievement scores, while others exceed state standards), and 24 "action steps" for improving performance. In a section entitled "Technical Assistance and Support to Schools," the Strategic Plan lists three strategies, with 31, 15, and 12 "action steps," respectively. A section entitled "Implementation of 6:19A Urban Education Reform Regulations" contains a discussion of barriers and issues to implementation of whole school reform, school-by-school charts of WSR implementation, school management team implementation and trends in student performance for each WSR model, and brief summaries of the district's early childhood education program and class size reduction efforts. A section entitled "Compliance with State Monitoring Indicators" describes the status of compliance with respect to nine monitoring indicators, and states that the district is in compliance with all of the indicators except for special education, for which a detailed corrective action plan is included. Finally, a section entitled "Community and Parental Involvement" includes three strategies, with five, four and three "action steps," respectively.

In the district's annual report for 2000-01, every one of the strategies and "action steps" listed in the strategic plan is rated "successful." Even with this seemingly blanket praise, the report contains some useful discussion in passages entitled "Analysis and

Impact” and “Recommendations and Modifications,” including, for example, the following:

The writing results indicate the need to continue to focus on writing across the content areas. Our success in this area has allowed us to achieve the benchmark for this content area. Considerable resources have been brought to bear on assisting all staff to implement this strategy. The consistent message to all staff is that writing must be infused into all content areas. In addition, we note the staff development efforts in this area have offered staff very specific strategies that all teachers use such as incorporating open-ended writing responses to all teacher-made exams and district developed exams for mid-term and finals. Our intense demonstration model sites at the secondary level allowed teachers to observe instruction, reflect on practice, and apply what they learned with systematic feedback and coaching. These opportunities for reflective practice have a direct impact on changing teaching patterns in the classroom. Teachers were more willing to try the strategies in a risk-free environment and determine that the strategies could work with “their students”. It is our intent to continue these demonstration sites for the 2001-2002 year.

Part of the response to the challenges we are facing in mathematics requires that we have a focused and consistent plan for addressing this problem similar to the effort we have put forth in writing. The district is tackling the teacher shortage with an aggressive recruitment plan. The need for staff development for veteran staff must be just as imperative and aggressive. We intend to launch a demonstration model at each comprehensive high school for each of the basic math courses -- Foundations, Algebra I and II, and Geometry for the 2001-2002 school year. Our mathematics office resources will be assigned to work intensively with these sites. Department chairpersons will be expected to follow up with coaching in classrooms to reinforce implementation of the standards-based student centered model. It will emphasize problem solving and conceptual application. We will work with new teachers – alternative route – on pedagogy as part of the mathematics institutes. The action steps developed for 2001-2002 will reflect this intensity and attention to this area.

The district focus on writing for the past two years has been beneficial to student achievement. It is important that we continue implementing the strategies that have contributed to increased passing scores, including writing across the content, the use of student journals and focused professional development. Throughout the data collection process, it was evident that teacher use of appropriate rubrics is a concern. Professional development that emphasized the effective development and use of rubrics is needed.

There is a need for increased alignment of curriculum and instruction by emphasizing student-centered teaching. The district-passing rate for mathematics increased by 4.8%. This is indicative of the need to continue staff development efforts that focus on helping student[s] develop the conceptual understanding and critical thinking skills that are necessary for improving student achievement. The district is implementing a standards-based approach to teaching mathematics in selected schools to improve the delivery of instruction. In addition, we will continue to focus on student centered problem solving across the district. The key to improving student achievement is a district wide focus in this problematic area.

Seventy schools offered extended day programs to support student learning by providing opportunities for participation in the Foundations Curriculum, Voyager, Lightspan, the Science Outreach Program, Versatiles, and Kids'Cents. The activities were designed to promote students' interest in mathematics, robotics, science and literacy. The district implemented ESPA, GEPA and SAT preparation courses.

Fall and Spring Criterion Referenced Assessments (CRA), aligned to the NJCCCS were developed and administered. The director of the Office of Mathematics provided an analysis of the data, including areas of need and areas of strength. Fall information was utilized to determine mathematics staff development activities for the remainder of the school year and to deploy staff most effectively to impact student learning. As a result of this information, Mathematics Resource Teachers Coordinators provided two week institutes for all grade 4 and grade 8 students, which resulted in statistically significant growth on the GEPA. The Spring results were used to compare student growth and will be utilized to plan the mathematics program for the 2001-2002 school year.

The annual report also contains summaries of compliance activities (again, the district is said to be in compliance with all monitoring indicators, although the attendance rate is less than 90% at the district's six comprehensive high schools, two special education schools and two other schools); a summary of whole school reform activities, barriers and issues to implementation of whole school reform, and achievement trends correlated with whole school reform models; a description of the district's accountability plan; and school-by-school charts of student performance against benchmarks.

The district's Interim Progress Report, dated March 19, 2002, includes a discussion of mid-year assessments of student performance and projections with respect to attainment of benchmarks (the district projects increases in test scores but also projects that it will fail to meet its benchmarks by 8% on ESPA language arts/literacy, 20% on ESPA mathematics, 12% on GEPA language arts/literacy, and 20% on GEPA mathematics). It also includes a discussion of "unexpected obstacles" to achievement of the district's goals. Those obstacles are the nationwide shortage of math teachers ("As long as elementary certified teachers who are generalists have primary responsibility to teach mathematics, the gaps in math will exist"), the need to raise standards in the pre-kindergarten and kindergarten programs, and the need to better integrate whole school reform initiatives with district and state standards. As to the last challenge, the report states:

Efforts to begin a dialogue with reform model developers have yielded better communication and understanding. Many "myths" have been dispelled regarding things one can and cannot do. Moreover, there is a concerted effort on the part of developers to understand that we are results-oriented. We expect the developers to work cooperatively with district content specialists to reach student achievement benchmarks.

The Newark internal audit unit reportedly has spent most of the current year on two projects, one involving payment review (review and approval of all district operating fund documentation before checks are issued) and another involving reconciliation of school budgets to staff rosters. It also conducted reviews of overtime payments, fringe benefit payments, and reserves for encumbrances; reviews of several categories of expenditures; and several special investigations, including investigations of alleged nepotism, an alleged bid violation, and alleged inappropriate hiring practices.

A major source of weakness in district capacity is the turnover in its school business administrators. The district's position of chief financial officer reportedly has been, or was, vacant for several months.

The first election of members of the Newark Advisory Board of Education took place, pursuant to the statute, five years after the establishment of state operation, in 2000. Three members were elected to the nine-member board in that year, three in 2001, and another three in 2002, so that the full nine-member elected advisory board is now in place.

In a discussion for this study, state district superintendent Marion Bolden stated her view that despite some improvements in student achievement and financial accountability, the district is not ready for return to local control. In the area of student achievement, scores do not come close to state standards in any area at any grade level. While Ms. Bolden pointed out that the district's strategic plan outlines a plan to raise student scores, she acknowledged that the plan must be followed carefully and changed, as necessary, to target areas that do not show significant improvement. In the area of fiscal accountability, Ms. Bolden stressed that the district's financial audits have demonstrated fiscal oversight and responsibility under her leadership. In the area of board relations and responsibility, in Ms. Bolden's judgment the district is not yet ready to return to local control, and a premature return could result in reversion to the negative practices prevalent prior to takeover.

Ms. Bolden observed that the State Department of Education has provided more oversight and compliance activities than technical assistance for the district. She reported that she has felt constrained in her efforts at educational reform by state budgeting

procedures, especially with respect to whole school reform, and with what at times has felt like micro-management under the two previous commissioners. Ms. Bolden is working to develop a sound management team at the district level, although, she stated, she needs more support to move the district forward. She is working with principals to ensure that district goals and their emphasis on learning and academic achievement are infused into the culture of each school. She believes she has made progress in this regard, but more is needed.

It does appear that the Newark school district continues to need considerable support, particularly with respect to carrying out its vision to keep the district moving forward and developing a plan for providing assistance to schools and teachers. More improvement is needed in student achievement. The district administration is committed to improving student achievement through a district-wide emphasis on teaching and learning. The administration's vision and its plan for achieving such improvement are less clear. The district needs substantial assistance in a number of areas, including teacher recruitment, professional development, and development of a highly qualified administrative team, including high-level administrators with expertise in the area of school finance.

At the same time, a comprehensive and detailed assessment of the district's capacity in the areas of instructional leadership and fiscal responsibility is needed in order to begin to develop a plan for returning the district to local control.

Longitudinal Trends in Achievement: State-operated Districts, Other *Abbott* Districts and All Other Districts (1998-2001)

Although we have pointed out the problems in using achievement data as a primary measure for evaluating district performance, it is nonetheless useful to examine

how the state takeover districts compared to the other *Abbott* districts and to the rest of the state. Given the significant historical problems faced by schools and families in low-income districts, comparisons between *Abbott* and non-*Abbott* districts only underscore these problems and are useful in this respect. Since all of the *Abbott* districts have started significantly below the levels of non-*Abbott* districts, and the *Abbott* reforms are still in the early stages of implementation, we do not provide a lengthy analysis comparing the *Abbott* districts or the state-operated districts to the non-*Abbott* districts. Rather, our longitudinal comparisons focus on achievement and improvement in the *Abbott* districts, and our analysis of achievement trends in the takeover districts focuses on how Jersey City, Paterson and Newark compare to the other *Abbott* districts, both in terms of differences in passing and proficiency rates and improvement over time. Finally, given the high scores in the non-*Abbott* districts, which leave little room at the top for improvement, comparisons between the *Abbott* and state-operated districts and the non-*Abbott* districts with respect to improvement are meaningless.

HSPT

On the HSPT, 55.0% of Jersey City students passed in reading in 1998; in 1999, 57.8% passed; in 2000, 60.6% passed, for an increase of +5.6%. In Paterson, 36.1% of its students passed in reading in 1998; in 1999, 38.5% passed; in 2000, 43.4% passed, for an increase of +7.3%. In Newark, 43.0% of its students passed in reading in 1998; in 1999, 44.5% passed; in 2000, 46.7% passed, for an increase of +3.7%.

In Jersey City, 63.7% of students passed in mathematics in 1998; in 1999, 69.0% passed; in 2000, 69.4% passed, for an increase of +5.7. In Paterson, 48.5% of its students passed in mathematics in 1998; in 1999, 57.5% passed; in 2000, 70.2% passed, for an

increase of +21.7. In Newark, 46.9% of its students passed in mathematics in 1998; in 1999, 51.4 passed; in 2000, 49.5% passed, for an increase of +2.6%.

75.8% of Jersey City students passed in writing in 1998; in 1999, 72.9% passed; in 2000, 81.2% passed, for an increase of +5.4. In Paterson, 56.8% of its students passed in writing in 1998; in 1999, 49.8% passed; in 2000, 72.8% passed, for an increase of +16.0. In Newark, 62.3% of its students passed in writing in 1998; in 1999, 52.4 passed; in 2000, 68.4% passed, for an increase of +6.1%.

57.3% of *Abbott* district students (here and throughout this section *Abbott* districts data include the state-operated districts) passed in reading in 1998; in 1999, 57.9% passed; in 2000, 56.8% passed, for a decrease of -0.5%. In all other districts (non-*Abbott*), 88.2% passed in reading in 1998; in 1999, 88.6% passed; in 2000, 88.1% passed, for a decrease of -0.1%.

63.1% of *Abbott* district students passed in mathematics in 1998; in 1999, 65.7% passed; in 2000, 63.7% passed, for an increase of +0.6%. In all other districts, 91.3% passed in mathematics in 1998; in 1999, 92.3% passed; in 2000, 92.4% passed, for an increase of +1.1%.

75.2% of *Abbott* district students passed in writing in 1998; in 1999, 66.4% passed; in 2000, 77.4% passed, for an increase of +2.2%. In all other districts (non-*Abbott*), 94.3% passed in writing in 1998; in 1999, 89.1% passed; in 2000, 95.8% passed, for an increase of +1.5%.

For 2000, Jersey City's scores in reading were +3.8% higher than the *Abbott* districts; in mathematics they were +5.7% higher; and in writing they were +3.8% higher.

From 1998-2000, Jersey City's improvement rate when compared to the *Abbott* districts was +6.1% higher in reading; +5.1% higher in mathematics; and +3.2% higher in writing.

For 2000, Paterson's scores in reading were -13.4% lower than the *Abbott* districts; in mathematics they were +6.5% higher; and in writing they were -4.6% lower. From 1998-2000, Paterson's improvement rate when compared to the *Abbott* districts was +7.8 higher in reading; +21.1% higher in mathematics; and +13.8% higher in writing.

For 2000, Newark's scores in reading were -10.1% lower than the *Abbott* districts; in mathematics they were -14.2% lower; and in writing they were -9.0% lower. From 1998-2000, Newark's improvement rate when compared to the *Abbott* districts was +4.2% higher in reading; +2.0% higher in mathematics; and +3.9% higher in writing.

HSPT 1998-2000

Jersey City

HSPT	1998	1999	2000	Improvement
Reading	55.0	57.8	60.6	+5.6
Mathematics	63.7	69.0	69.4	+5.7
Writing	75.8	72.9	81.2	+5.4

Paterson

HSPT	1998	1999	2000	Improvement
Reading	36.1	38.5	43.4	+7.3
Mathematics	48.5	57.5	70.2	+21.7
Writing	56.8	49.8	72.8	+16.0

Newark

HSPT	1998	1999	2000	Improvement
Reading	43.0	44.5	46.7	+3.7
Mathematics	46.9	51.4	49.5	+2.6
Writing	62.3	52.4	68.4	+6.1

Abbott Districts

HSPT	1998	1999	2000	Improvement
Reading	57.3	57.9	56.8	-0.5
Mathematics	63.1	65.7	63.7	+0.6
Writing	75.2	66.4	77.4	+2.2

All Other Districts

HSPT	1998	1999	2000	Improvement
Reading	88.2	88.6	88.1	-0.1
Mathematics	91.3	92.3	92.4	+1.1
Writing	94.3	89.1	95.8	+1.5

GEPA

On the GEPA, 76.2% of Jersey City students were proficient (defined here and throughout this section as proficient and advanced proficient) in language arts in 1999; in 2000, 74.5% were proficient; in 2001, 69.9% were proficient, for a decrease of -6.3%. In Paterson, 66.3% of its students were proficient language arts in 1999; in 2000, 64.2% were proficient; in 2001, 63.1% were proficient, for a decrease of -3.2%. In Newark, 52.6% of its students were proficient in language arts in 1999; in 2000, 47.5% were proficient; in 2001, 46.3% were proficient, for a decrease of -6.3%.

In Jersey City, 48.3% of students were proficient in mathematics in 1999; in 2000, 48.4% were proficient; in 2001, 58.5% were proficient, for an increase of +10.2%. In Paterson, 38.4% of its students were proficient in mathematics in 1999; in 2000, 45.8% were proficient; in 2001, 46.3% were proficient for an increase of +7.9. In Newark, 24.1% of its students were proficient in mathematics in 1999; in 2000, 21.7 were proficient; in 2001, 26.5% were proficient, for an increase of +2.4%.

48.2% of Jersey City students were proficient in science in 2000; 56.9% were proficient; in 2001, for an increase of +8.7%. In Paterson, 37.6% of its students were proficient in science in 2000; in 2001, 49.5% were proficient, for an increase of +11.9. In Newark, 28.8% of its students were proficient in science in 2000; in 2001, 31.2% were proficient, for an increase of +2.4%.

60.3% of *Abbott* district students were proficient in language arts in 1999; in 2000, 58.6% were proficient; in 2001, 54.9% were proficient, for a decrease of -5.4%. In all other districts (non-*Abbott*), 91.4% were proficient in language arts in 1999; in 2000, 89.5% were proficient; in 2001, 88.2% were proficient, for a decrease of -3.2%.

34.8% of *Abbott* district students were proficient in mathematics in 1999; in 2000, 35.2% were proficient; in 2001, 39.1% were proficient, for an increase of +4.3%. In all other districts, 76.4% were proficient in mathematics in 1999; in 2000, 74.8% were proficient; in 2001, 76.8% were proficient, for an increase of +0.4%.

43.8% of *Abbott* district students were proficient in science in 2000; in 2001, 48.2% were proficient, for an increase of +4.4. In all other districts (non-*Abbott*), 88.5% were proficient in science in 2000; in 2001, 88.8% were proficient, for an increase of +0.3%.

For 2001, Jersey City's scores in language arts were +15.0% higher than the *Abbott* districts; in mathematics they were +19.4% higher; and in science they were +8.7% higher. From 1999-2001, Jersey City's improvement rate when compared to the *Abbott* districts was -0.9% lower in language arts; +5.9% higher in mathematics; and +4.3% higher in science.

For 2001, Paterson's scores in language arts were +8.2% higher than the *Abbott* districts; in mathematics they were +7.2% higher; and in science they were +1.3% higher. From 1999-2001, Paterson's improvement rate when compared to the *Abbott* districts was +2.2% higher in language arts; +3.5% higher in mathematics; and +7.5% higher in science.

For 2001, Newark's scores in language arts were -8.6% lower than the *Abbott* districts; in mathematics they were -12.6% lower; and in science they were -17.0% lower. From 1999-2001, Newark's improvement rate when compared to the *Abbott* districts was -0.9% lower in language arts; -1.9% lower in mathematics; and -2.0% lower in science.

GEPA 1999-2001

Jersey City

GEPA	1999	2000	2001	Improvement
Language Arts	76.2	74.5	69.9	-6.3
Mathematics	48.3	48.4	58.5	+10.2
Science		48.2	56.9	+8.7

Paterson

GEPA	1999	2000	2001	Improvement
Language Arts	66.3	64.2	63.1	-3.2
Mathematics	38.4	45.8	46.3	+7.9
Science		37.6	49.5	+11.9

Newark

GEPA	1999	2000	2001	Improvement
Language Arts	52.6	47.5	46.3	-6.3
Mathematics	24.1	21.7	26.5	+2.4
Science		28.8	31.2	+2.4

Abbott Districts

GEPA	1999	2000	2001	Improvement
Language Arts	60.3	58.6	54.9	-5.4
Mathematics	34.8	35.2	39.1	+4.3
Science		43.8	48.2	+4.4

All Other Districts

GEPA	1999	2000	2001	Improvement
Language Arts	91.4	89.5	88.2	-3.2
Mathematics	76.4	74.8	76.8	+0.4
Science		88.5	88.8	+0.3

ESPA

On the ESPA , 39.9% of Jersey City students were proficient in language arts in 1999; in 2000, 34.4% were proficient; in 2001, 60.0% were proficient, for an increase of +20.1%. In Paterson, 28.1% of its students were proficient language arts in 1999; in 2000, 34.9% were proficient; in 2001, 66.3% were proficient, for an increase of +38.2%. In Newark, 32.1% of its students were proficient in language arts in 1999; in 2000, 31.2% were proficient; in 2001, 51.9% were proficient, for an increase of +19.8%.

In Jersey City, 42.4% of students were proficient in mathematics in 1999; in 2000, 45.0% were proficient; in 2001, 38.7% were proficient, for a decrease of +3.7%. In Paterson, 29.7% of its students were proficient in mathematics in 1999; in 2000, 39.1% were proficient; in 2001, 48.2% were proficient for an increase of +18.5%. In Newark, 29.2% of its students were proficient in mathematics in 1999; in 2000, 33.5% were proficient; in 2001, 32.1% were proficient, for an increase of +2.9%.

66.4% of Jersey City students were proficient in science in 1999; in 2000, 68.7% were proficient; in 2001, 67.9% were proficient, for an increase of +1.5%. In Paterson, 57.0% of its students were proficient in science in 1999; in 2000, 64.6% were proficient; in 2001, 73.3% were proficient, for an increase of +16.3. In Newark, 53.8% of its students were proficient in science in 1999; in 2000, 56.5 were proficient; in 2001, 55.1% were proficient, for an increase of +1.3%.

33.8% of *Abbott* district (here and throughout this section *Abbott* districts include the takeover districts) students were proficient in language arts in 1999; in 2000, 34.8% were proficient; in 2001, 62.6% were proficient, for an increase of +28.8%. In all other

districts (non-*Abbott*), 70.4% were proficient in language arts in 1999; in 2000, 68.0% were proficient; in 2001, 91.1% were proficient, for an increase of +20.7%.

36.3% of *Abbott* district students were proficient in mathematics in 1999; in 2000, 42.4% were proficient; in 2001, 42.7% were proficient, for an increase of +6.4%. In all other districts, 73.5% were proficient in mathematics in 1999; in 2000, 79.0% were proficient; in 2001, 78.6% were proficient, for an increase of +5.1%.

67.7% of *Abbott* district students were proficient in science in 1999; in 2000, 68.9% were proficient; in 2001, 71.3% were proficient, for an increase of +3.6. In all other districts (non-*Abbott*), 95.5% were proficient in science in 1999; in 2000, 95.1% were proficient; in 2001, 95.5% were proficient, for no change.

For 2001, Jersey City's scores in language arts were -2.6% lower than the *Abbott* districts; in mathematics they were -0.4% lower; and in science they were -3.4% lower. From 1999-2001, Jersey City's improvement rate when compared to the *Abbott* Districts was -8.7% lower in language arts; -10.1% lower in mathematics; and -2.1% lower in science.

For 2001, Paterson's scores in language arts were +3.7% higher than the *Abbott* districts; in mathematics they were +5.5% higher; and in science they were +2.0% higher. From 1999-2001, Paterson's improvement rate when compared to the *Abbott* districts was +9.4% higher in language arts; +12.1% higher in mathematics; and +12.7% higher in science.

For 2001, Newark's scores in language arts were -10.7% lower than the *Abbott* districts; in mathematics they were -10.6% lower; and in science they were -16.2% lower. From 1999-2001, Newark's improvement rate when compared to the *Abbott*

districts was -9.0% lower in language arts; -3.5% lower in mathematics; and -2.3% lower in science.

ESPA 1999-2001

Jersey City

ESPA	1999	2000	2001	Improvement
Language Arts	39.9	34.4	60.0	+20.1
Mathematics	42.4	45.0	38.7	-3.7
Science	66.4	68.7	67.9	+1.5

Paterson

ESPA	1999	2000	2001	Improvement
Language Arts	28.1	34.9	66.3	+38.2
Mathematics	29.7	39.1	48.2	+18.5
Science	57.0	64.6	73.3	+16.3

Newark

ESPA	1999	2000	2001	Improvement
Language Arts	32.1	31.2	51.9	+19.8
Mathematics	29.2	33.5	32.1	+2.9
Science	53.8	56.5	55.1	+1.3

Abbott Districts

ESPA	1999	2000	2001	Improvement
Language Arts	33.8	34.8	62.6	+28.8
Mathematics	36.3	42.4	42.7	+6.4
Science	67.7	68.9	71.3	+3.6

All Other Districts

ESPA	1999	2000	2001	Improvement
Language Arts	70.4	68.0	91.1	+20.7
Mathematics	73.5	79.0	78.6	+5.1
Science	95.5	95.1	95.5	+0.0

Conclusions about Achievement Trends

These data support our analysis in the sections on each state-operated district, suggesting that there has been some improvement in each of the three takeover districts from 1998-2001. On the HSPT, all three districts display at least modest gains, with

Paterson having double-digit gains in mathematics and writing. On the GEPA, all three districts display small to modest gains, except in language arts, where the entire state had modest declines. On the ESPA, all three districts display small to large gains, except in one case, where Jersey City had a small decline in mathematics. In some cases, there were large gains, with Jersey City improving 20.1% in language arts, Paterson improving 38.2% in language arts, 18.5% in mathematics, and 16.3% in science, and Newark improving 19.8% in language arts.

In comparison to the other *Abbott* districts, the state-operated districts generally show higher rates of improvement, with some exceptions, especially on the ESPA. On the HSPT, all three state-operated districts had higher rates of improvement ranging from small to high, in the case of Paterson, which had a 21.7% higher rate of improvement in mathematics and 16% in writing. On the GEPA, Paterson had modestly higher rates of improvement on all three tests, Jersey City on two of the three, with a slightly lower rate in language arts of 0.9%, and Newark had slightly lower rates of improvement in all three areas. On the ESPA, Paterson had higher rates of improvement in all three areas and Jersey City and Newark had lower rates of improvement in all three areas.

Based on the 2000 (HSPT) and 2001 (ESPA and GEPA) scores, the takeover districts display mixed results on the percentage passing or proficient when compared to the *Abbott* districts. On the HSPT, Jersey City is higher on all three exams, Paterson is lower on two of the three and Newark is lower on all three. On the GEPA, Jersey City and Paterson are higher on all three and Newark is lower on all three. On the ESPA, Paterson is higher on all three and Jersey City and Newark are lower on all three.

Thus, although all three districts have demonstrated improvement over the last three years, in some cases, especially in Newark, they are still below the levels of achievement in the other *Abbott* districts. Nonetheless, the rates of improvement, including in Newark, provide some degree of optimism about further improvement.

THE TECHNICAL ASSISTANCE TASK FORCE

The New Jersey Department of Education also has engaged in some more limited intervention in school districts, with its Technical Assistance Task Force program. Created in 1999 to provide an alternative to state takeover, the program offered a fairly ambitious program of technical assistance to struggling school districts, primarily through teams of retired school administrators. As discussed in this section, the program met with mixed success. Its most notable efforts were in the Asbury Park and Camden school districts, both *Abbott* districts. Reportedly, the program was eliminated in early 2002.

A document entitled “Task Force Model for Technical Assistance,” prepared by State Department of Education staff but apparently never distributed, described the program as follows:

The Task Force Model for Technical Assistance is being established in response to a recognized need to provide support for those districts that are experiencing difficulty with compliance and/or performance issues. These districts have been identified by the Department’s monitoring process; by failure to achieve the Core Curriculum Content Standards; or by summary action taken by the Commissioner, as he/she deems necessary and appropriate.

The same document expressed the philosophy of the program, to focus on technical assistance rather than regulatory compliance:

The Task Force model extends the work of the Department beyond

compliance and regulatory functions and into the area of applying the Department's resources through technical assistance in helping districts to achieve approved status.

The goal, according to this description, was to help develop local capacity and thereby avoid further intervention:

The goal is to help and assist a district to remedy problem areas and create capacity within the district to function without State intervention and provide a "thorough and efficient" system of education for students.

The task force method of providing assistance was short-term injection of aid:

It will be the mission of the Task Force to **focus** attention on problems giving rise to poor performance and/or non-compliance, help to **fix** the problems, **root** the changes, and then **leave** [emphasis in original].

Specifically, the State Department prescribed a method for the task force's work, which entailed a "systems review," a "technical assistance plan," periodic evaluation of the district's progress and the task force's performance, and periodic reports to the board of education, district administration, and the Commissioner or his or her designee.

A systems review was a review by the task force of district performance in the areas of governance, business operations and facilities management, central office administration, school operations, and, for *Abbott* districts, whole school reform. A "template" for the systems review listed detailed performance criteria in each of these areas, with a total of 309 criteria. (A copy of the template is attached to this report as Appendix B.) The scope of the systems review in a particular district could be limited to less than all of the performance areas, and the criteria also could be expanded, as task force members saw fit.

The results of the systems review would be analyzed to determine the areas in which the district needed technical assistance and to select additional task force members

with the necessary expertise. Depending on the size and needs of the district, a smaller task force team with one to six members, or a larger team with 15 to 20 members, might be formed. Task force team members would be chosen by the Commissioner and would enter into a contract to work on a per diem basis as consultants to the State Department of Education. They would be experienced educators and school administrators with expertise in areas such as teaching strategies, professional development, curriculum, pre-school education, middle school operations, special education, use of assessment data, scheduling, budgeting, organizational structure, and facilities maintenance.

Once designated, the task force team would meet with district personnel “for the purpose of forming a collaborative working relationship,” and to develop the technical assistance action plan. A prescribed format for the plan required one task force member to coordinate activity in each area, and to identify the individuals to be involved in each activity, the responsibilities of each individual, the resources needed, the timeline for the activity, and evaluative measures. The technical assistance plan would be a public document. Copies would be given to the Special Assistant to the Commissioner, the superintendent and the president of the board of education.

Task force team members would meet monthly with the superintendent and district staff to assess progress, list accomplishments, identify concerns, make any necessary changes to the technical assistance plan, and review timelines and responsibilities. The task force would submit quarterly reports to the Commissioner, describing the status of items addressed in the technical assistance plan, accomplishments, issues pertaining to district responsiveness, impediments to achieving

the objectives of the technical assistance plan, and any requests for assistance. It also would submit an annual report to the Commissioner.

The Asbury Park school district was assigned a Technical Assistance Task Force team, consisting of five or six members, in 1999. The Camden school district was assigned a team, consisting of over 20 members, in the same year.²¹ Both, reportedly, met with initial skepticism on the part of district officials. The Asbury Park team overcame that skepticism and was successful in its collaboration with school officials. Indeed, one Asbury Park official described the team as “the best thing to happen to the district.” Asbury Park made substantial progress in one year in implementing its Technical Assistance Action Plan, and continued its improvement in a second year. The Camden team, in contrast, did not completely overcome the local opposition. A report by the Camden Special Assistance Task Force dated June 2001 states:

For a variety of reasons ranging from sheer inertia to the protection of self-interest, response to technical assistance has, in many instances, been gradual, and change has come slowly. In order for technical assistance efforts to take root, the district must adopt the will to make global changes in support of the more finite initiatives.

*Camden Special Assistance Task Force, Year Two Summative Report, June 2001.*²²

Still, the efforts in the Camden school district apparently were not entirely unsuccessful. The Task Force concentrated its efforts in the areas of governance, school

²¹ We have been informed, but have been unable to confirm, that Technical Assistance Task Force teams also were assigned to the Willingboro, Pleasantville and Lakewood school districts, and to the state-operated school district of Paterson.

²² Our information on technical assistance efforts in the Camden school district is limited to that included in written reports of the Camden Special Assistance Task Force and that received in discussions with officials (and former officials) of the State Department of Education. Our information on Asbury Park was obtained primarily from a site visit by Professor Tractenberg, which included discussions with Superintendent Antonio N. Lewis and other district officials.

operations, and business fiscal services. Its June 2001 report listed numerous accomplishments, including, for example, the following:

- Introduction of a plan for a unified curriculum
- Adoption by the board of policies on nepotism and conflict of interest
- Establishment of leadership training of principals as a priority
- Establishment of an extended year summer program
- Improved delivery of instruction in many classrooms
- Improved school climate at selected locations
- Some improvement in the supervisory process
- Reconciliation of the human resources and payroll databases
- Reconciliation of revenues, expenditures, and encumbrances to enable the district to produce prospectively an accurate and timely board secretary's report
- Assurance that payroll recipients were currently employed and properly paid.

The report also listed numerous “global areas” in which more work was needed in Camden, including, for example, the following:

- A unified curriculum aligned with core curriculum content standards
- Training for all teachers in current methods of instruction, including application of technology in support of the teaching-learning process
- Fiscal policy and practice that directs the district's resources more effectively in support of its work with students
- An improved process for evaluating staff to effect improvement in student achievement.

The Asbury Park team was most effective in assisting district officials in collecting data on district performance, requiring development of a serious corrective

action plan, providing their input regarding the details of the plan, supporting those in the district who were committed to educational reform, and providing the benefit of their experience in various aspects of school district operations and administration. Team members were “demanding, even brutal,” in their constructive criticism. They were in the district on a daily basis. They made presentations at board meetings and other community board meetings. At every board meeting there was a report on implementation of the district’s corrective action plan.

A report from the Commissioner to the Asbury Park Board of Education in May 2001 listed the changes made in the district as a result of the Technical Assistance Task Force’s efforts:

- A new table of organization that defines line and staff responsibility
- The adoption of complete, up-to-date board policies to provide guidance for administrative decisions
- The adoption of job descriptions that describe the responsibilities assigned to each employee in the district
- An evaluation and “new beginning” of the Success for All program, involving training of all elementary teaching and administrative personnel
- “Impressive academic achievements” of high school students, and increases in attendance and in participation in athletics
- Establishment of a new preschool program.

The task force did not solve all of Asbury Park’s problems, of course. The Commissioner’s report also listed “some of the critical tasks” still requiring attention, as follows:

- It is urgent that the problems related to the district’s business management operations be resolved as quickly as possible.
- The department of buildings and grounds must be reorganized for

greater efficiency.

- There is a need to address the growing concern about discipline in the schools.
- A much greater effort must be made to fill vacancies in administrative, supervisory and teaching positions.
- There is also a need to establish better communications throughout the district.
- Much of the district's resources and efforts must be devoted to successful implementation of whole school reform projects.
- A more concerted effort must be made to develop a K-12 instructional program in music, art and library science.

We cannot determine, on the basis of the information available to us, why the Technical Assistance Task Force model was more successful in Asbury Park than in Camden. Some have suggested that it is because the Camden district is bigger, with greater deficiencies, although the Asbury Park district also was described to us as “fundamentally troubled.” Some have suggested that the Asbury Park team's success was the result of the particular skills and talents – “good people skills” – of its team members. Without demeaning those skills, we suspect their success involved more than that.

Clearly, the Technical Assistance Task Force model is worthy of further consideration. The concept of an alternative to takeover, using a consistent methodology and the valuable resource of the state's experienced educators to help build local capacity for successful school district operation, should be explored thoroughly. The experience in Camden should be examined further to determine the extent of the task force team's efforts at collaboration, the extent to which they were rejected, and the reasons for such

rejection. The success in Asbury Park, especially, should be examined further to determine the best way to replicate that success in other districts.

STATE INTERVENTION IN LOCAL SCHOOL DISTRICTS:

THE NATIONAL PICTURE AND BEST PRACTICES

THE NATIONAL PICTURE

For several decades at least, school accountability has been a prominent issue on the national education scene. Accountability has taken many forms, often involving state regulation or oversight. It has included state certification of school personnel and of school districts; statewide testing and assessment of pupils; state monitoring of local fiscal, management and educational practices; local districts reporting to the state; state dissemination of report cards and other district- and school-specific information to the public; and state intervention in the operation of local districts when problems were identified and solutions were determined to be beyond the local capacity.

Virtually all state accountability systems focus on rewards and sanctions. State policymakers increasingly are directing their attention to how to reward schools and districts that perform well and how to sanction those that do not. Currently, 38 states have some form of rewards or sanctions in place. Eight states reward school districts, 20 reward schools, 29 impose sanctions on school districts, and 32 impose sanctions on schools. Three states (Delaware, Oklahoma and Texas) do all four. For an excellent description and analysis of the accountability structures in each state, see CPRE, *State Assessment & Accountability Systems: 50 State Profiles* (2000).

Some systems include school or district takeover as ultimate accountability measures. Currently, 24 states have enacted statutes authorizing their state education agencies to take control of school districts from local authorities. They are Alabama, Arkansas, California, Connecticut, Illinois, Iowa, Maryland, Massachusetts, Michigan,

Mississippi, Missouri, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas and West Virginia.²³ Most of those statutes provide for a succession of increasingly severe sanctions imposed on under-performing districts, leading to takeover as a last resort, while some provide only for takeover; some indicate a preference for assistance to local boards and administrators, again with takeover a last resort, while others indicate no such preference; most provide for systems of assessment or accreditation of schools and districts statewide, while others target a single troubled school district. As to the basis for takeover, most statutes authorize action on the basis of poor academic performance, while some refer to district governance and management as well as academics. Most provide for replacement of administrative personnel with a state-appointed administrator, while some provide for a “receiver,” or transfer of control to municipal officials, or annexation into a neighboring school district. In other states, such as West Virginia, local school board members and high-level administrators remain in place, albeit largely on an advisory basis. In Logan County, West Virginia, for example, a much-cited “takeover”

²³ Alabama, Ala. Code Sec.16-B-3; Arkansas, Ark. Stat. Ann. §6-15-403; California, Stat. of 1993, Chap. 455; Connecticut, Special Act No. 97-4; Illinois, 105 ILCS 5/2-3.25f, 105 ILCS 5/34-1 (Chicago Public Schools); Iowa, Iowa Code §256.11; Kentucky, K.R.S. §§158.6455, 158.780, 158.785; Maryland, Senate Bill 795 (1997) (Baltimore Public Schools), House Bill 949 (2002) (Prince Georges County Public Schools); Massachusetts, Mass. Ann. Laws ch. 69, S1J-1K; Michigan, Senate Bill 297 (1999); Mississippi, Miss. Code Ann. §37-17-6; Missouri, Mo. Rev. Stat. §160.538; New Jersey, N.J.S.A. 18A:7A-14 *et seq.*; New Mexico, N.M. Stat. Ann. §22-2-2; New York, N.Y. Educ. Law §2590-h (New York City Public Schools), Assembly Bill 8330 (1995), Senate Bill 6617 (2002) (Roosevelt Union Free School District); North Carolina, N.C. Gen. Stat. §115C-105.39, §115C-325; Ohio, House Bill 269 (1998) (Cleveland Public Schools); Oklahoma, 70 Okla. St. §1210.541 (1999); Pennsylvania, Act 46 (1998), Senate Bill 652 (2000); Rhode Island, R.I. Gen. Laws §16-7.1-5; South Carolina, S.C. Code Ann. §59-18-30; Tennessee, Tenn. Code Ann. §49-1-601 *et seq.*; Texas, Texas Educ. Code §39.131 (2000); West Virginia, W. Va. Code §18-2E-5.

model, district officials advise state-appointed decision-makers on fiscal and budgetary matters, but continue to make curricular and instructional decisions. In other instances, including Boston, Chicago, Cleveland and Detroit, the state has placed governance authority over school districts in the hands of the cities' mayors. Some statutes provide a limit on the period of state control, while others do not; some establish a presumption of return to local control after a certain length time, while others presume continued state control until local capacity is proven, and others require periodic reporting but contain no presumption of either return or maintenance of local control, and still others are altogether silent as to the time and method of determining readiness for return to local control.

In short, there appears to be no standard method of imposing or implementing state control of local school districts, and there appears to be no standard method of returning control to local authorities. The experience with state takeovers is still relatively limited and fragmentary, but it has led to some perceived advantages and disadvantages. Among the advantages are the following:

- Takeover is, in appropriate cases, a necessary expression of a state's constitutional responsibility for public education;
- Properly done, takeover can provide a good opportunity for state and local decision-makers to combine resources and knowledge to improve children's learning;
- Takeover can allow a competent executive staff to guide an uninterrupted and effective implementation of school improvement efforts;
- Takeover can help to create a healthy environment in which the local community can address a school district's problems;
- Takeover can make possible more radical changes in low-performing school districts than the customary regimen;
- Takeover, by its relatively extreme and dramatic nature, can put

school boards throughout the state on notice that personal agendas, nepotism and public bickering can have severe consequences; and

- If the state carefully collects and analyzes pupil achievement and other data in state-operated districts and schools, it can lead to improvements in statewide accountability efforts.

The perceived disadvantages of state takeover include the following:

- Takeover may be seen as a thinly-veiled attempt to reduce local control over schools and to increase state authority over school districts, especially if state government is dominated by one political party and urban districts by another;
- The very concept of state takeover suggests that some local communities lack the capacity to operate effective public schools, and that the state has ready answers and personnel capable of turning around poor performance by the most educationally disadvantaged students;
- In fact, state takeover may place poorly prepared state-selected officials in charge, with little possibility of any meaningful change occurring in the classroom;
- Takeover tends to rely on narrow learning measures (*i.e.*, standardized test scores) as the primary criterion for takeover decisions;
- No matter what triggers takeover, it usually focuses, at least initially, on cleaning up petty corruption and incompetent administration and does not get at the root problems impeding the learning of disadvantaged students in urban school districts;
- By fostering a negative image of school board members, administrators, teachers, students and parents in urban districts, takeover tends to undermine their self-esteem and capacity to improve their performance; and
- Takeover that largely supplants local responsibility for the schools inevitably leads to frictions and confrontations between state and local officials that slow the overhaul of management practices, drain resources from educational reforms and reinforce community resentments.

There is also very little serious research on the effects of state takeovers. For the most part, the studies suggest that takeover has yielded more gains in central office activities than in classroom instructional practices. Illustratively, state takeovers are credited with the following:

- Reducing nepotism within a school district's decision-making process;
- Improving a school district's administrative and fiscal management practices;
- Removing the threat of teachers' strikes within a school district;
- Upgrading the physical condition of schools; and
- Implementing innovative programs within a school district, such as small schools programs and cooperative arrangements between schools and social service agencies.

Unfortunately, however, the limited research suggests that under state takeover student achievement gains often have fallen short of expectations.

BEST PRACTICES

Nevertheless, several states have intervention schemes that are worth considering in detail. The statutory provisions in these states, and the resulting experiences of officials and educators in these states, are all different from each other, but all have at least one aspect in common: their focus on improving the local school district's capacity to correct its own problems and to operate a successful educational program. Both the literature and the reported experience of states that have the highest rated state intervention programs suggest that local capacity building must be the cornerstone of successful state involvement. Indeed, the broad education reform literature identifies capacity as an important variable that is directly related to successful reform initiatives.

With this in mind, the statutory provisions and experiences in four states -- California, Connecticut, West Virginia and Kentucky -- provide valuable lessons.²⁴ Interestingly, none of the governing statutes in these states sets a specific standard of academic achievement as a prerequisite to reestablishment of local control. Improved pupil performance clearly is the goal of each statutory scheme, but the performance of district administrators and decision-makers is assessed by a measure of pupil performance in only one of the four states, West Virginia, and there the measure is not a statutory requirement. In that state, the statute is completely silent as to the return to local control, but the recovery plan developed by the state department of education for the Logan County school district (to be discussed in detail below) required that 90 percent of the schools in the district meet state performance standards as a condition for return. Even there, 100 percent was not required, and pupil achievement was one of 28 measures of school district performance, the others pertaining to administration and governance. In the other three states discussed in detail here, not only is readiness for return measured by standards other than academic achievement, but no required level of performance on any of the standards is predetermined. In California, local control is reestablished upon a showing of “substantial and sustained progress” in five areas of school district operations, one of which is pupil achievement. In Kentucky, control is returned when the district’s “pattern of ineffective and inefficient governance or administration” is “corrected.” In Connecticut, reestablishment of local control is, or will

²⁴ We do not include in this best practices discussion models of state takeover that are substantially different from New Jersey’s. For instance, we do not discuss the mayoral-control model of the Chicago or Cleveland Public Schools. Nor do we discuss the management-contract model of the Philadelphia or Chelsea (Massachusetts) Public Schools. The recent models of the Roosevelt (New York) and Prince Georges County (Maryland) Public Schools may be worthy of future consideration, but they are just being implemented and have not yet borne the test of time.

be, based on the district's implementation of numerous specific recommendations for change in a wide range of school district policies and practices.

That is not to say that the standards set in these states to determine readiness for return to local control are not objective and verifiable. Our review of the relevant literature and the practice in various states has persuaded us that one of the hallmarks of effective intervention in school districts is the establishment of highly specific, objective, measurable standards to be met in all areas of operation and governance. Another hallmark, we have concluded, is an effective method of providing technical assistance to district officials with the goal of developing their capacity to govern and administer an effective system of public education. The four profiles presented here have been chosen for the innovative examples they provide regarding these two aspects of effective state intervention and successful reestablishment of local control.

Compton Unified School District, California

California's provisions for state intervention in local school districts are both statewide and district-specific. Since 1971, California has had a statute providing that any board of education that determines that its revenues are not sufficient to meet its current year expenditure obligations may request an emergency apportionment through the Superintendent of Public Instruction. (Cal. Educ. Code Sec. 41320.2, Stats. 1971, c. 956, p. 1862, sec. 2.) Since 1987, any such emergency apportionment has been conditioned upon appointment of a trustee to "monitor and review the operation of the district." The trustee, someone with "recognized expertise in management and finance," is authorized to "stay or rescind" any action of the local board that, in the judgment of the trustee, "may affect the financial condition of the district." (Cal. Educ. Code Sec.

41320.1, Stats. 1987, c. 990, sec. 4 as amended.) Further, since 1991, any such emergency apportionment in an amount in excess of 200 percent of the district's recommended reserve amount is conditioned upon assumption of control of the district by the Superintendent of Public Instruction. The authorizing statute provides that the Superintendent "shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district." It further provides that the Superintendent may appoint an administrator to act on his or her behalf, and if such an administrator is appointed, the local board "shall serve as an advisory body reporting to the state-appointed administrator." The administrator is required to prepare or obtain a management review and recovery plan, a multiyear financial recovery plan, and an annual report on the financial condition of the district. State control in this form continues, pursuant to this statute, until the Superintendent approves all the recovery plans, certifies that all necessary collective bargaining agreements are consistent with the terms of the recovery plans, and determines that future compliance with the recovery plans is "probable." When these conditions have been met, the local board regains all of its rights, duties and powers, except that a trustee is appointed to monitor the operations of the district. Cal. Educ. Code Sec. 41326-27; Stats. 1991, c. 1331, sec. 10.

The same 1991 legislation also authorized creation of a unit known as the County Office Fiscal Crisis and Management Assistance Team ("FCMAT") to provide assistance to school districts. FCMAT is an independent agency funded by assessments, based on total average daily attendance, imposed on county offices of education. It is governed by a 23-member board, 11 of whom are chosen by the California County Superintendents Educational Services Association, 11 by the Association of California School

Administrators, and one by the Superintendent of Public Instruction. Its staff operates under the direction of one county office of education selected by the Superintendent of Public Instruction. Pursuant to the statute, the staff consists of “persons having extensive experience in school district budgeting, accounting, data processing, telecommunications, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, and personnel administration, organization, and staffing.” Cal. Educ. Code Sec. 42127.8, AB 1200, Stats. 1991, c. 1213, sec. 21. FCMAT provides short-term fiscal management assistance upon request of any school district, county office of education or the Superintendent of Public Instruction; and it provides training to board members, superintendents and other school district personnel and to county offices of education, emphasizing efforts to improve the fiscal accountability and competency of local educational agencies. In addition, between 25 and 50 percent of its budget is reserved each year for management assistance to school districts or county superintendents for any district in which it has been determined that a fiscal emergency exists. Since its creation, FCMAT has worked in approximately 300 school districts and county offices of education.

One of FCMAT’s most notable efforts is the assistance it has provided to the Compton Unified School District (“CUSD”). Legislation adopted in 1993 (AB 33, Stats. of 1993, c. 455) provided for emergency appropriations to the CUSD, a district with approximately 30,000 students, in the form of loans in the amount of \$21 million in accordance with the statute conditioning such appropriations on assumption of state control. During the next four years, the Superintendent of Public Instruction appointed a succession of state administrators, but little fiscal or educational improvement was

shown. Then, in 1997, legislation (AB 52, Stats. of 1997, c. 767) was adopted, setting forth a process for gradual return of the CUSD to local control, authorizing FCMAT to provide assistance to the district and assessment reports on its performance, and appropriating \$500,000 for the first year of FCMAT's work in the district. (The agency received another \$500,000 for its work in Compton in 1998, \$700,000 in 1999, and \$130,000 in 2000 and 2001.)

Over a period of four years, the process set forth in the statute was followed to successful completion, and control of the school district was returned to the local board in December 2001. Throughout the period of state control, the state-appointed administrator was responsible for school district governance and operation. The local board of education (its board of trustees) continued to exist and meet monthly, but all of its decisions initially were subject to review and veto by the state administrator, and later, as discussed below, responsibility over various aspects of governance and administration was returned to the local board incrementally.

The 1993 legislation had provided that the state-appointed administrator would retain authority for operation of the CUSD until such time as the Superintendent of Public Instruction determined that the district had met the fiscal requirements associated with the state loans and further determined that the district had demonstrated academic progress in its schools. The 1997 statute provided a more specific roadmap for reestablishment of local control. It required FCMAT to conduct comprehensive assessments in five designated areas of school district operation -- community relations, personnel management, pupil achievement, financial management, and facilities management -- and to develop a recovery plan for each of the five areas. The statute also required the

gradual, incremental return of legal rights, duties and powers of governance to the CUSD board of trustees upon a showing that the board and school district officials had the capacity to take responsibility in each area. FCMAT was required to report every six months to the Superintendent of Public Instruction on whether the school district had made “substantial and sustained progress” in the five areas.

FCMAT developed a recovery plan in the form of a rating scale, which measured performance based on highly specific legal and professional standards in each of the five operational areas. In all, 370 specific performance standards were set.²⁵ Examples of the performance standards include the following:

- The Board supports and follows its own policies once they are adopted.
- Charges or complaints against any employee will be addressed in a timely manner.
- Individual staff members have developed goals and objectives in their area of responsibility and a personal professional development plan.
- The district has adopted multiple assessment tools, including diagnostic assessments, to evaluate, improve, or adjust programs and resources.
- A common vision of what all students should know and be able to do exists and is put into practice.
- Challenging learning goals and instructional plans and programs for all students are evident.
- The budget development process includes input from staff, administration, board and community.
- All purchase orders are properly encumbered against the budget until payment.
- All exits are free of obstructions.

²⁵ FCMAT’s rationale for such numerous, detailed standards is that “when standards are clearly defined, reachable, and communicated, there is a greater likelihood they will be measured and met.” FCMAT, Fifth Six-Month Progress Review, August 2001, at 9.

- All schools shall have adequate lighting and electrical service.
- The learning environments provided within respective school sites within the CUSD are conducive to high quality teaching and learning.

FCMAT worked with district personnel to identify measures that would improve performance on each standard, and every six months the district's progress on each performance standard was rated on a scale of zero to ten. Each 0-to-10 rating was specifically defined and consistent for all of the standards. For example, a scaled score of 1 indicated that "some design or research regarding the standard is in place that supports preliminary development"; a scaled score of 5 indicated that "staff is engaged in the implementation of most elements of the standard"; and a scaled score of 9 indicated that "all elements of the standard are fully and substantially implemented and have been sustained for a full year."

FCMAT also used the scaled score system to provide a basis for its recommendation to return control to the local board. It determined that when the average rating in any operational area reached a level of 6.0 and no individual score was below 4.0, it would recommend that authority over that area be returned to the local board, and when the district had earned an average rating of 7.5 in all five operational areas, it would recommend complete return of all rights, duties and powers to the local board.

FCMAT's efforts also were driven, in part, by a consent decree entered in a law suit in which the Southern California ACLU challenged the state's failure to ensure that sufficient improvements had been made in the school district. FCMAT's assessment included many elements required by the consent decree.

Eighteen months after beginning its recovery plan and assessment, in August 2000, FCMAT recommended that the operational areas of community relations and facilities management be returned to local control. The district had met the standard established for incremental return of these areas, an average score of 6.0 and no individual score below 4.0. The Superintendent of Public Instruction accepted FCMAT's recommendation, and these two areas were returned to the CUSD board of trustees in January 2001.

In February 2001, FCMAT recommended return of authority for the area of pupil achievement. The district had met the standard established by FCMAT in this area, although academic performance remained below the state average. FCMAT's recommendation was based on the fact that the district's efforts had been focused on improving pupil performance, and it had procedures in place to identify and address deficiencies. The State Superintendent did not accept FCMAT's recommendation. She determined that the district would benefit from additional time to determine how well its new procedures would perform.

In August 2001, FCMAT again recommended return of authority for pupil performance. It also recommended return of the areas of personnel management and financial management to the local board. In other words, it recommended return of full authority for all five operational areas. The district had not achieved the average score of 7.5 in all areas as previously required by FCMAT for full return of control, but it had achieved the average score of 6 in each area as required for incremental return (its average scores were 7.48 in community relations, 7.77 in facilities management, 6.29 in personnel management, 6.61 in pupil achievement, and 6.11 in financial management),

and no score on any individual performance standard was below 4.0. FCMAT stated in its recommendation to the state superintendent of public instruction: “Although the average of 7.5 for all five operational areas has not yet been achieved, FCMAT believes that the district has made sufficient progress, has implemented appropriate operational processes, and has demonstrated sustainability of improvement efforts, that the 7.5 average rating criterion need not remain as a deterrent to the full return of legal rights, duties and powers to the governing board of the Compton Unified School District.” FCMAT, Fifth Six-Month Progress Review at 11. The State Superintendent accepted FCMAT’s recommendation, and the district was returned to local control effective December 11, 2001. The local board had hired its own superintendent in August 2001. The state administrator will continue to serve as a trustee, in a monitoring capacity, through August 2003.

The Compton school district’s improvement had been steady and gradual over the two-and-a-half year period of FCMAT’s involvement. In its first rating, the district had earned an overall score of 3.99; in successive six-month periods, it received overall scores of 4.53, 5.19, 5.98, 6.46 and, in August 2001, 6.85. Its scores in each of the five operational areas also had increased gradually, and the number of individual standards on which it received scores below 4.0 decreased gradually in all areas, until that number was zero in all operational areas in August 2001.

These improvements in the CUSD appear to have been largely a credit to the assistance received from FCMAT. Among the numerous individuals involved with the

takeover who were interviewed for this study,²⁶ there is unanimous agreement that FCMAT's careful identification of the district's critical problem areas, its targeted goals and recommended actions for each, its periodic in-depth monitoring, and its semiannual public progress reports were crucial to the success of its effort. Whether or not local officials supported the takeover (and many did not), they all appear to have respected FCMAT. Whether or not those involved with the takeover agreed with each of FCMAT's benchmarks, they all applauded the specificity and clarity, and the careful, regular monitoring of progress against those benchmarks.

FCMAT's statutory oversight responsibilities concluded upon reestablishment of local control, but it will continue to serve as the oversight agent appointed pursuant to the consent order in the ACLU litigation. In this role, FCMAT will continue to issue six-month progress reports, limited to review of areas governed by the consent order, until all the terms of the consent order have been met. The agency will also monitor compliance with the consent order by inspecting each school in the district at least once during every six-month period and conducting semiannual community meetings of parents and students.

School District of Hartford, Connecticut

Connecticut's statutory provisions for state takeover are district-specific. Legislation adopted in 1997 (Special Act No. 97-4) provided for the takeover of the Hartford school district, which has approximately 24,000 students. The Hartford Board

²⁶ On a site visit to Compton, co-principal investigator Paul Tractenberg interviewed the state administrator, Randolph Ward; president of the district's board of trustees, Cloria Patillo; two school principals, Deloris Holmes of Vanguard Learning Center and Cultomec Avila of McKinley Elementary School; Deputy Superintendent Linda Gonzalez; the school district's attorney, Jaffe Dickerson; ACLU attorneys Robert Myers and Rocio Cordoba; and the court-appointed special master, Larry Norton.

of Education was dissolved and replaced with the State Board of Trustees for the Hartford Public Schools, consisting of the mayor of Hartford as an *ex officio* non-voting member and seven members appointed jointly by the Governor and leaders of the State Senate and House of Representatives. Pursuant to the statute, the appointed members include representatives of racial and ethnic minorities, persons with expertise in the field of education, and someone with expertise in financial matters. The State Board of Trustees has all the powers held by a local board of education under Connecticut law and is solely responsible for management of the district, though it is expressly authorized to delegate responsibility to a superintendent of schools in accordance with Connecticut's school laws. In addition, two monitors appointed by the Commissioner of Education assess the district's needs and progress and any additional assistance required by the district, and to report to the Commissioner; and a seven-member advisory board composed of parents, teachers, principals and representatives of higher education advises the superintendent and the State Board of Trustees on matters such as curriculum, student achievement, parental and community involvement, and school safety and discipline.

The State Board of Trustees is required by the statute to implement the "Hartford Improvement Plan," a 48-point plan for improvement of the Hartford school district. The plan initially was issued by the Commissioner of Education in 1996 as a report entitled "Working Together for Higher Achievement in Hartford's Schools," and was adopted by the Hartford Board of Education prior to the takeover. As examples, the 48 points include recommendations that:

- The Hartford Board of Education develop a set of policies and procedures that through a new system of accreditation and probation, recognize high-performing schools and outline clear consequences for schools that are failing to make progress in

improving student achievement.

- K-12 curriculum guides be developed for each subject area, aligned with the objectives of the Connecticut Mastery Test (CMT) and Connecticut Academic Performance Test (CAPT), articulated K-12, and based on model guides in use in other Connecticut districts.
- Changes be instituted to make each of Hartford's schools more student-centered, caring and more personal communities through teams, clusters, houses, and/or keeping teachers together for more than one year, and to ensure that every student has an adult partner or mentor, whether a teacher, a coach, a nurse, a corporate mentor, or a big brother or sister.
- Reading achievement be made the primary mission of kindergarten through grade 4 classes in every elementary school, supported by necessary instructional support and an "army" of retired teachers recruited to read with first and second graders.
- Significant increases in summer school programming and enrollment be made to provide remedial and enrichment experiences throughout the summer.
- Data collection mechanisms be established and implemented to annually and accurately report on the number of three- and four-year old children served and not served by early childhood/preschool programs.
- A joint committee of school and city officials be charged with developing a comprehensive, long-range enrollment projection and facilities report that provides detailed maintenance, construction, renovation and bonding needs for the next ten years.
- A detailed three-year plan for the enhanced use of technology for non-instructional purposes be developed, funded and implemented so that such functions as reporting, record keeping, scheduling, transcript maintenance, and purchasing can be conducted far more efficiently.

According to a deputy commissioner interviewed for this study, the philosophy of the Connecticut Commissioner of Education (who has been in office since 1994, under two governors, and has been an employee of the State Department of Education for 25 years) is that "what is good for Hartford is good for Connecticut." Accordingly, the department

has focused a significant portion of its energy, both before and after takeover, on improving the Hartford district.²⁷ Upon issuance of the Hartford Improvement Plan, each of the 48 points was assigned to a senior staff member in the department. Every senior staff member is responsible for implementation of at least one point. Under the Commissioner's direction, those staff members met with officials in Hartford, devised an implementation plan, and have worked closely with district officials in addressing each of the 48 recommendations.

The state department staff, working with district officials, translated the 48 recommendations into a set of initiatives in the form of annual goals and objectives. For the 2000-01 school year, the district had ten goals, each with multiple objectives. The ten goals were the following:

1. School and District Management and Accountability: To provide a governance system and administrative structure that:
 - a. supports the effective delivery of high-quality instruction and high levels of student achievement;
 - b. implements a system of supervision, evaluation and staff development that maximizes the effectiveness of all Hartford Public School personnel; and
 - c. ensures high levels of student and staff accountability.
2. Curriculum and Course Offerings: To ensure a high-quality curriculum that establishes clear content and high expectations for every grade, every course and every child.

²⁷ In 1996, in *Sheff v. O'Neill*, 238 Conn. 1, 678 A.2d 1267 (1996), the Connecticut Supreme Court ruled that the existence of extreme racial and ethnic isolation in the public school system of Hartford deprived its students of equal educational opportunity (the Hartford school district was 92.4% minority, compared to 25.7% in the state overall, according to the Court), and ordered the state to take remedial action. The process leading to the Hartford Improvement Plan had begun prior to the Court's ruling, and the Plan and its implementation were, in part, the basis of a later ruling that the state had complied with the Supreme Court's order. *Sheff v. O'Neill*, 45 Conn. Supp. 630, 733 A.2d 9 (Conn. Super. 1999).

3. Instruction, Assessment and School Climate: To create a positive climate and ensure high-quality instruction and high levels of student achievement.
4. Professional Development: To provide all employees with high-quality professional development that supports instructional improvement.
5. Early Childhood: To provide programs and services that ensure all children come to first grade ready to learn.
6. Technology: To integrate technology throughout the instructional program and to enhance the efficiency of noninstructional functions.
7. Student Support: To ensure a seamless and coordinated array of student services and support programs that provide for individual student needs and respond to the diversity of the student body.
8. Parent and Community Support: To maximize parent and community engagement with each school and the district as a whole.
9. Fiscal Management: To develop and implement a comprehensive and effective system of fiscal management for all funds and grants in the school system.
10. Facilities Management: To ensure that every student will attend a safe, properly sized and properly equipped facility.

The objectives set for 2000-01 under the Curriculum and Course Offerings goal, for example, were the following:

- 2A: Continue the implementation of a literacy and numeracy program for all students, PK-12, and the literacy and numeracy enhancement and test sophistication program.
- 2B: Provide professional development on literacy and numeracy for all staff members.
- 2C: Develop curriculum guides for all disciplines and continue to develop grade-level and course assessments of students that are aligned with the curriculum guides.
- 2D: Provide professional development on the curriculum guides for all staff members.
- 2E: Ensure a curriculum free of bias (e.g., cultural, gender).

2F: Implement plans that will result in more students demonstrating success in reading, writing, algebra, foreign languages, the PSAT, the SAT, Advanced Placement Courses, CMT and CAPT.

2G: Pilot new science program in the fall of 2000, and explore a new social studies program for implementation in the fall of 2001.

Each of the goals had similarly specific objectives. In total, the district has 77 objectives under its ten goals.

Beginning in March 2000, the State Board of Trustees, through its superintendent, has reported quarterly to the Commissioner on the status of implementation of the 48 recommendations, indicating as to each whether it has been fully implemented, partially implemented, or there has been no progress. The State Board of Trustees also has issued cumulative annual reports outlining the district's progress and success. A report by the Commissioner of Education stated that as of June 2000, implementation of 20 of the 48 recommendations was complete or had become standard practice; and of the 77 objectives under the district's ten goals, 21 objectives were completed in the 1999-2000 school year, 52 were in progress and four were under review.

The Hartford takeover statute did not provide a measure for determining readiness for return to local control. Rather, it provided a date, subject to extension, on which control was to be returned to an elected local board of education. The takeover was to continue through June 2000 unless extended by the State Board of Education upon request of the State Board of Trustees. Such a request, if any, was to be based on "such factors as the need for additional time to improve student achievement and sufficiently address the Hartford Improvement Plan." The State Board of Education did take action in 1999 to extend the period of state control through June 2000. Then, in July 2001, the Legislature amended the statute to extend the period of takeover further, to December

2002, and also to change the manner in which governance is to be returned to a local board (Special Act No. 01-7). The 1997 statute had provided for election of a “reconstituted” board of education, and had provided that the State Board of Trustees would hold “joint meetings” with the elected board during a three-month transition period. The 2001 amendment, in contrast, provides for a three-year transition period. From December 3, 2002 to December 5, 2005, the district will be governed by a board of education consisting of four elected members and three members appointed by the mayor of Hartford with the approval of the city council. Thereafter, the district will be governed by a board of education elected in accordance with the city charter. The provision for joint meetings has been eliminated. The state monitors will continue to perform their duties through December 2005 (the 1997 statute had provided that they would continue for one year after creation of a new board). The advisory board will serve until December 31, 2003.

School District of Logan County, West Virginia

State intervention in the school district of Logan County, West Virginia is often cited as one of the country’s most successful. The West Virginia Board of Education intervened in the Logan County district in 1992 pursuant to a statute adopted four years earlier, and returned control to the local board of education in 1996. During the four-year period of operation by a state-appointed superintendent, the district showed improvement in all required measures of pupil performance . The academic improvement, along with numerous administrative reforms, was found to warrant reestablishment of local control. State officials have attributed the success of this intervention to the relatively harmonious relationship maintained between the state and local officials, particularly the state

superintendent's collaboration with the local board of education, which remained in place in an advisory role in accordance with the statute.

The Logan County School District, with approximately 7,200 students, is located in a rural former coal mining area with a struggling economy. Reportedly, while district administrators were faced with tight budgets and severe financial pressure, they also faced pressure to provide much needed employment for county residents. Cronyism and nepotism reportedly were common; many employees were serving in positions for which they were not qualified. Almost a third of the teachers in the district lacked appropriate certification. Many were not well versed in the subjects they taught. As a result, little attention was given to aligning lessons with state educational standards.

The West Virginia statute adopted in 1988 (W. Va. Code section 18-2E-5; L. 1988, 3rd Ex. Sess., c. 7) established a "performance-based accreditation system." Under this system, as amended by the time of the intervention in Logan County (see L. 1991, c. 50), the State Board of Education issued "high quality education standards" for the state's school districts in the areas of curriculum, finance, transportation, special education, facilities, administrative practices, training of board members and administrators, personnel qualifications, professional development and evaluation, student and school performance, and codes of conduct for students and employees. The State Board also issued standards for measuring the performance of every school in every district, based on student proficiency as indicated by standardized testing as well as school attendance rates, dropout rates, promotion rates, graduation rates, class size, pupil-teacher ratio, number of exceptions to the pupil-teacher ratio, number of split-grade classrooms, percentage of graduating students entering post-secondary education or training, pupil-

administrator ratio, parent involvement, parent, teacher and student satisfaction, and operating expenditures per pupil. Schools were reviewed annually and given either full accreditation or probationary status. Whenever a school was given probationary status, the district board of education was required to develop and implement a plan to enable the school to receive full accreditation within one year. Additionally, under “extraordinary circumstances,” a school could be determined to be “seriously impaired.” For those schools, a team of “improvement consultants” would be appointed by the State Department of Education to make recommendations for correction of the impairment. If progress toward improvement was not made within six months, the state superintendent was required to provide “consultation and assistance” to the district to make such improvements as might be necessary to correct the impairment.

Similarly, the State Board of Education issued standards for accreditation of school districts. Each district was given full approval, conditional approval, probationary approval or nonapproval. Probationary approval was given to any district which had satisfied less than 95 percent of the high quality education standards or in which 11 percent or more of the schools had been given probationary status or had been determined to be seriously impaired. If the number of probationary or seriously impaired schools was not reduced to below 11 percent in the following year, or the district failed to submit an improvement plan or failed to demonstrate a reasonable effort to meet the high quality education standards, or whenever “extraordinary circumstances” existed, the district would be given nonapproval status.

Nonapproval could result in state intervention. The statute described such intervention as follows:

Whenever nonapproval status is given to a district, the state board of education shall declare a state of emergency in the district and may intervene in the operation of the district to (1) limit the authority of the district superintendent and district board of education as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and policies, and such other areas as may be designated by the state board by rule, (2) take such direct action as may be necessary to correct the impairment and (3) declare that the office of the district superintendent is vacant.

The intervention authorized by the statute did not include dissolution of the local board of education. The State Board could terminate the appointment of the superintendent by declaring his office “vacant,” but it could take no comparable action with respect to the board. Its authority with respect to the local board was restricted to limiting its authority over various aspects of governance. This has been construed to remove all legal authority of the board in these areas.

The statute did not provide for how long state intervention was to continue. Nor did it provide any guidance with respect to reestablishment of local control.

The statute authorized the creation of “educational standards compliance teams.” These teams, consisting of not more than ten educators and employees of the State Board of Education, were authorized to make “unannounced on-site reviews” in any school or district to “assess compliance . . . with the high quality standards adopted by the state board.” As a result of unannounced on-site reviews by the Department of Education Office of Accreditation and Recognition and its Office of Special Education Programs and Assurances, about 100 instances of noncompliance by the Logan County school district were found. The district was given nonapproval status and the State Board of Education decided to intervene. The district superintendent was dismissed and a state superintendent appointed. Pursuant to the statute, the authority of the district board of

education was curtailed, but the board remained in existence. The board retained decision-making authority over issues relating to transportation and maintenance, while the state-appointed superintendent assumed full authority for matters relating to the school calendar, budget/fiscal affairs, personnel and curriculum. The board continued to meet monthly and served in an advisory role in the areas over which it did not have authority.

Perhaps most importantly, the relationship between the superintendent and the board was not adversarial. Although there was opposition to the superintendent's appointment initially, he is reported to have discussed all aspects of operation with the board, to have sought the board's views even in areas removed from its authority, and often to have revised his own views after consulting with the board. Also, the superintendent's approach was not to require a complete, immediate overhaul of the district administration. Rather than requiring all of the policies and practices in need of improvement to be changed immediately, he focused on a relatively small number of indicators of school district performance per year. The same state-appointed superintendent remained in office throughout the four years of state operation. At the end of that period, the local board appointed him to serve for another year.

During the period of state intervention, the school district's performance continued to be monitored and assessed by the state department of education. On-site reviews continued, and assessments were conducted in accordance with standards developed by the department to meet the specific needs of the district, based on the findings of the 1992 on-site review team. The department staff set 28 standards which

the district would be required to meet prior to a return to local control. Ten of the standards pertained to personnel/certification, including, for example, the following:

- Professional personnel must hold a valid license appropriate for their assignment.
- Job descriptions must be in existence for all personnel.
- Professional personnel must be evaluated in accordance with State policy.

One standard pertained to pupil performance, requiring 90 percent of the schools in the district to meet the performance standards established by the State Board of Education, with no school designated seriously impaired. Three of the standards were in the fiscal/budgetary category (two of which incorporated the findings of the on-site review and audit reports, and required all instances of noncompliance found in those reports to be corrected); five pertained to the state's high quality standards (including one that, similarly, required all instances of noncompliance found in the on-site review to be corrected); seven pertained to special education; and two pertained to board of education goals and policies (requiring the board to adopt a mission statement, and to review and revise all its policies as needed to reflect the mission statement).

The reestablishment of local control was incremental. In 1995, based on an assessment by the department, the State Board of Education returned authority over financial matters to the local board, with the exception of setting the salary of the superintendent. It retained the state-appointed superintendent's authority over personnel, and curriculum and instruction.

By 1996, the district had met all the standards set by the Department of Education. In the area of pupil performance, the department found that significant

improvement had been made in meeting state standards. The percentage of schools in the district with passing rates of less than 50 percent on state standardized tests had decreased from 71 percent to zero, the number of schools with attendance rates less than 90 percent had decreased from nine to zero, and all the district's high schools met the state standard of 17 percent for the dropout rate (although that rate had increased from seven to ten percent at one school and had remained unchanged at another, it had decreased from 24 to 10 percent at another). In addition, all instances of noncompliance identified four years earlier had been corrected, and all administrative practices recommended by the Department of Education had been instituted. Based on these changes and the improvements in academic performance, the State Board of Education found that sufficient improvement had been shown to warrant return to full local control.

The state of West Virginia also has intervened in two other school districts, the Mingo County school district in 1998 and the Lincoln County school district in 2000. The intervention in Lincoln County resulted in the removal of all major decision-making from the local board's authority, as a result of numerous deficiencies in financial operations, hiring practices, facilities management and curriculum. The intervention in Mingo County was less extensive. Reportedly, it was prompted by four years of budget deficits as well as poor test scores and weak leadership. A state-appointed superintendent was given authority over financial matters, but authority for all other matters remained with the board of education. Both school districts remain under state control.

Two years after the return of local control in Logan County, in 1998, the West Virginia Legislature substantially amended its state accreditation/intervention statute (L. 1998, c. 126). Pursuant to the amendment, the nature of state intervention – in particular,

the continued existence of the local board – remains the same, but the accreditation system and the process leading to state intervention have been revised. School districts may be given full approval, temporary approval, conditional approval or nonapproval status; nonapproval is given to any district previously given temporary approval that fails to submit a revised improvement plan within a reasonable time, or fails to meet the objectives and timeline in its plan, or fails to achieve full approval by the specified time. Nonapproval also may be given whenever the State Board of Education finds “extraordinary circumstances,” or whenever a district has a budget deficit of more than three percent and it fails to submit or implement a plan for reducing the deficit. Upon issuance of nonapproval, the State Board of Education declares a state of emergency and appoints a team of “improvement consultants,” who make recommendations for “correcting the emergency.” Upon acceptance of those recommendations by the State Board, the school district is required to implement them. Under the 1998 statute, if after six months the State Board determined that the district had not made “progress in correcting the emergency,” it would be required to intervene in the operation of the district. This was further amended in 2000 (L. 2000, c. 104, reportedly adopted as a result of the audit of the Lincoln County school district, where over 200 violations of state standards were found) to allow the State Board to intervene immediately if all the factors leading to intervention existed and the State Board determined that delaying intervention would not be in the best interests of the students in the district.

Additionally, the 1998 statute authorized creation of an Office of Education Performance Audits. This office reports to the State Board of Education, but is independent of the state Department of Education and the state superintendent of schools.

Its director is appointed by, and serves at the pleasure of, the State Board; the statute provides that his or her salary shall not exceed that of the state superintendent of schools. The office administers the state's system of "education performance audits" and school district accreditation, and also conducts the on-site reviews of school district operations. The audits, according to the statute, are to be conducted by "education standards compliance teams," composed of "persons who possess the necessary knowledge, skills and experience to make an accurate assessment of education programs and who are drawn from a trained cadre established by the office of education performance audits." Each team is led by a staff member of the Office of Education Performance Audits; for any members currently employed in school districts, the statute provides that their employers shall be reimbursed for the cost of substitutes required to replace them while they serve.

The Office of Education Performance Audits is also mandated by the statute to determine what capacity is needed in schools to meet state standards and make recommendations for establishing that capacity; to determine whether there are statewide deficiencies in the capacity to establish and maintain a thorough and efficient system of education; to determine the staff development needs of schools and districts to meet standards; and to identify exemplary schools and school systems and exemplary practices, and make recommendations to the state board to recognize those schools and systems and promote best practices.

State of Kentucky

The Kentucky legislature first authorized state takeover of local school districts in 1984. In 1990 it substantially revised this law and its standards for evaluation of school

district performance with adoption of the Education Reform Act, KRS 158.780 *et seq.* This statute emphasizes management efficiency and effectiveness, and provides for multi-tiered intervention: voluntary assistance, involuntary assistance and supervision, and assumption of full control. Pursuant to the statute, the State Department of Education has established a Division of Management Assistance to assist local school districts. It has taken control of two districts, Lechter County and Floyd County, since adoption of the statute in 1990.

The statute also provides for a program of “highly skilled education assistance,” in which “distinguished educators” may be granted up to two years’ leave from their employers to provide technical assistance on a full-time basis to struggling school districts. The state pays the educator and provides training. Sixty to 70 educators participate in the program at a time.

With respect to voluntary assistance, the statute provides that the State Department of Education shall provide any school district in the state, upon request, with assistance in implementing currently accepted management practices or in developing or implementing innovative management practices. With respect to involuntary assistance, the statute provides for review and audit of district management, provision of technical assistance in development and implementation of a plan for correcting deficiencies, and, ultimately, takeover in the event of failure to develop or implement such a plan. It further provides for return to local control when the district’s “pattern of ineffective and inefficient governance or administration” and the specific deficiencies identified in the state audit “have been corrected.”

Specifically, the statute provides that, whenever the State Board of Education determines that there is a “critical lack of efficiency or effectiveness” in the governance or administration of a local school district, the State Board “shall assume sufficient supervision of the district to ensure that appropriate corrective action occurs.” The determination of “critical lack of efficiency or effectiveness” may be made whenever a review of instructional and operational data and an on-site review of district management practices indicate significant deficiencies in governance policy and procedures, instructional programming and organization, fiscal management and accountability procedures, maintenance and condition of the physical plant, facility construction, student transportation, and community perception and support.

When a determination of “critical lack of efficiency or effectiveness” is made, a comprehensive management audit is conducted. This audit includes an investigation of the district’s compliance with state and federal statutes, administrative regulations and board policies; and an investigation and analysis of governance and administration in the areas of maintenance and operation, facility construction, transportation, school food services, fiscal management, personnel administration and instructional management. If the audit indicates “a pattern of significant lack of efficiency and effectiveness” in the governance or administration of the district, the Commissioner is required to make a recommendation to the State Board of Education that the district be designated either a “state assisted district” or a “state managed district.” If the Commissioner shows that the pattern is continuing and that state assistance is necessary to correct the inefficiency or ineffectiveness, the State Board of Education is required to make the appropriate designation.

Upon designation as a state assisted district, the school district is required to establish a plan to correct all the deficiencies noted in the management audit. The Division of Management Assistance provides technical assistance in development of this plan. The plan must include specific objectives, strategies and actions to be taken to correct deficiencies in defined time frames, and identification of the parties responsible for achievement of each objective. The Division of Management Assistance also monitors implementation of the plan. If the Commissioner (upon advice of the Division of Management Assistance) determines that the plan is inadequately developed or implemented, he is required to recommend that the State Board declare the district a state managed district.

Upon designation of a state-managed district, the Commissioner assumes responsibility for all administrative, operational, financial, personnel and instructional aspects of management of the district. He or his designee makes all administrative appointments and decisions “necessary to exercise complete control of all aspects of the management of the district.” The local board of education remains in place, however, and administrators and board members are not necessarily removed from office. Individual board members or the superintendent may be removed by the State Board of Education, in accordance with generally applicable legislation, upon the filing of charges of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. In addition, notwithstanding any other statute to the contrary, the Commissioner may revoke any administrative appointment. Any employee who loses his position pursuant to this provision must be given a statement of reasons, and may be reassigned to “any duty” for which he is qualified.

The Commissioner is required to report annually to the State Board of Education the status of corrective action taken in a state managed district. A district may remain under state management until the State Board of Education determines that the pattern of ineffectiveness and inefficiency and the specific deficiencies determined in the management audit “have been corrected,” but no longer than three years unless the State Board extends the takeover after review of an additional management audit.

The Lechter County school district, which has approximately 4,400 students, was a state-managed district from 1994 to 1997. Upon takeover, the State Board of Education brought charges of incompetence, nonfeasance and neglect of duty against the superintendent, and he was removed from office, but the local board of education agreed to the takeover and it remained in place. After one year, the State Board acted to extend the takeover for an additional two years. The board of education opposed the extension, and all five members of the board as well as the board’s counsel were removed from office. The takeover continued through 1997, when management of the district returned to the local board of education.

The Floyd County school district, with approximately 8,000 students, became a state-managed district in November 1997. Two members of the board of education and its superintendent had resigned shortly before the action by the State Board of Education, and the three other board members were removed upon charges of misconduct, nonfeasance and willful neglect of duty. A state administrator was appointed, and a “takeover team” of employees of the Division of Management Assistance assisted with development of an improvement plan. After three years, in February 2001, the State Board of Education acted to continue the takeover for another three years. According to

the State Department of Education, improvement had been shown in management and finances, and the takeover team would then begin to focus on curriculum and instruction.

STATE INTERVENTION IN MUNICIPAL GOVERNMENT

Distressed public organizations, especially poorly managed and failing municipalities and school districts, share a need to build capacity for service delivery. State intervention into local affairs is intended to strengthen local officials' capacity to fulfill their responsibilities in policy development, resource allocation, and management, both in school districts and municipal government. Thus, research on state intervention in municipal government can provide some useful lessons for states in their efforts to change school practices through similar intervention in local districts.

Government capacity-building is essentially institutional reform. Such reform consists of a series of interventions that introduce change into operating jurisdictions. They are not technological breakthroughs, but rather they embody proven principles of management and public administration. Given the bureaucratic inertia that is often characteristic of failing municipalities and school districts, "changing direction successfully to any significant degree is not merely a matter of executive fiat (although that helps) or employee agreement (although that is essential)," but rather a series of basic systemic changes. (Summary of Productivity Improvement Projects, p. 1)

Municipal intervention often involves a capacity-building strategy that may be applied productively to school districts. The systemic, comprehensive approach to intervention, or "whole system reform" analogous to "whole school reform," takes into consideration the full array of support services that are necessary for the effective delivery of services. As applied to public education, "within the context of systemic reform, capacity is the ability of the education system to help all students meet more challenging standards....Capacity may be increased by improving performance of

workers (that is individual teachers); by adding such resources as personnel, material, or technology; by restructuring how work is organized; and/or by restructuring how services are delivered.”(O’Day et al, 1995, p. 1).

According to Kettl, “Government officials and academics alike have agreed” on five fundamental principles for systemic reform:

- A system that builds much-needed capacity to solve government’s tough new problems;
- A system that rewards creative, high performing civil servants with better pay;
- A system that provides civil servants with far more flexibility than the current system’s dysfunctional rigidity;
- A system that holds civil servants accountable for that flexibility with tough measurement of their performance; and
- A system that develops and encourages strong leadership by career officials to protect and promote the public interest.” (Donald F. Kettl et al., 1996, p.2)

The events that have led to municipal takeovers often have involved matters of financial management, as have similar “triggering events” in many school districts. But, also as in school districts, many nonfinancial factors typically contribute to state intervention. These factors include corruption, poorly developed accountability systems, rampant crime, intolerant race relations and politics, poorly structured municipal services, unwillingness or inability to manage services as citizens expect and as the best practices among cities would suggest, and inadequate attention to economic development.

One apparent difference between intervention in municipal government and in school districts is the constitutional imperative to provide a free, public education to all

residents of school age (and, in New Jersey, a high quality, thorough and efficient education), which has no analog in municipal government. With no constitutional obligation on the municipal side, it might appear that a “quick fix” of service reduction is more available in municipal government. A “quick fix,” of course, is not always the best remedy. Research (Holzer and Callahan, 1998) indicates that a comprehensive improvement strategy is not just service reduction. Rather, it includes capacity building on five integrated factors:

1. Managing for Quality:

- Top Management Support
- Customer Focus
- Long-Term Strategic Planning
- Employee Training and Recognition
- Employee Empowerment and Teamwork
- Measurement and Analysis
- Quality Assurance

2. Developing Human Resources:

- Recruiting the Best and Brightest
- Providing Systematic Training
- Recognizing Diversity
- Building Services by Building Teams
- Providing Employee Assistance
- Balancing Employee and Organizational Needs

3. Adapting Technologies:

- Providing Open Access to Data
- Automation for Enhanced Productivity
- Delivering on the Public's Expectations
- Cost-effective Applications
- Cost-cutting Techniques

4. Building Partnerships:

- Community Partnerships—Citizens and Volunteers
- Public Sector Partners
- Private Sector Partners
- Not-for-Profit Partners

5. Measuring for Performance:

- Establishing Goals and Measuring Results
- Estimating and Justifying Resource Requirements
- Reallocating Resources
- Developing Organization Improvement Strategies
- Motivating Employees to Improvement Performance

Municipal takeovers vary, and we capture this variety in two ways. First, we review research on the various approaches to municipal intervention taken by the states. Then, we discuss the long-term causes of municipal distress, and we survey the criteria used by states for identifying municipal distress, the contents of municipal recovery plans and the remedies available to return municipalities to local control. Finally, we discuss the varied approaches, criteria and remedies in the context of specific cases.

The Three Approaches to Municipal Intervention

The literature on state intervention into distressed municipalities suffers from a data problem. Simply put, no comprehensive, reliable data exist on the number of municipal governments that have experienced distress. Few efforts have been made to collect multi-state, comprehensive data on the problem. Despite the lack of information, there has been enough recognition of distressed municipalities to prompt a policy response of some kind by many states. Cahill and James (1992) classify three policy responses or approaches to municipal problems:

First, some states do not expressly recognize “distressed” sub-state entities, but rather provide fiscal relief to municipalities. Often, this relief combines resources from existing programs, such as national or state community development grants, state-guaranteed loans or bonds, authority to issue deficit funding bonds, or revenues from economic development zones, with new programs or relief efforts, including temporary increases in various revenue sources. States have used the “one-shot” fiscal relief approach extensively as a means to avert a municipal takeover. This “one-shot” approach typically involves an injection of financial relief followed by state oversight of financial and managerial practices. The primary example of this approach is the Pennsylvania Intergovernmental Cooperation Authority established in Philadelphia.

Second, some states take an ad hoc approach in which formal distress legislation is aimed at specific municipalities that have financial or other problems. This category has the greatest number of reported cases, including New York City and Yonkers in New York; Chelsea, Massachusetts; and four municipalities in Connecticut (Bridgeport, West Haven, Jewett City and Waterbury).

Third, at least 15 states use a multi-jurisdictional approach in which a class of cities gets the same treatment. The best example of this approach is the Act 47 approach followed by the State of Pennsylvania for all of its cities except Pittsburgh and Philadelphia.

According to Cahill and James (1992), although these three approaches vary considerably, they all accomplish the same six tasks: (1) the criteria for determining distress are established; (2) the parties who may initiate distress action are identified; (3) the processes and programs for correcting the conditions causing distress are defined; (4) an administrative mechanism is established to oversee the development and implementation of the recovery program; (5) the provisions and conditions of the corrective programs are defined; and (6) the criteria for determining when local control is to resume are specified.

The Long-term Causes of Municipal Distress

Considerable research exists on the long-term causes of municipal distress. For example, the National Conference of State Legislatures (Mackey, 1993), in its investigation of the roots of fiscal distress among municipalities, has suggested that states often create the conditions which exacerbate long-term negative trends and force the issue of distress to the surface. As Mackey pointed out (p. 1):

State constitutions and statutes dictate the revenue sources available to local governments. State mandates require local governments to spend their own funds on state priorities, while state aid can help [but often does not] reduce fiscal disparities between local governments Leading culprits [of local fiscal problems] include the decline of federal aid to local governments, structural economic changes such as the decline of manufacturing, and demographic changes such as the growth of suburbs [and exurbs].

Cahill and his co-authors, in their evaluation of Pennsylvania's Act 47 takeovers (1991, pp. 8-10), argue that the primary cause of distress is persistent imbalance in cash flow:

A frequent point of confusion in many discussions of municipal fiscal distress in Pennsylvania or elsewhere regards the distinction between symptoms of distress and factors which cause distress. Although some studies refer to "structural" (or cyclical, long-term) and "managerial" or short-term distress, attaching these qualifiers to the term "distress" can be misleading. "Structural" distress and "managerial" distress as such do not exist. What do exist are varying causes of a persistent imbalance in cash flow – which is the distress itself.

There are two distinct (although interrelated) causes of a persistent imbalance in cash flows. The first consists of events, which are structural in nature -- events which are having a negative impact on a municipality's economic and tax base. The second consists of events internal to the municipality -- inappropriate, questionable, or inefficient managerial or political actions, which are within the control of the government body.

Local governments are hostages to national and international economic trends. These larger trends fundamentally affect localities but are beyond the control of most municipal officials. They may alter the underlying economic base of a municipality or a region. If they force losses in jobs or other commercial activity, a locality will face fiscal imbalances that persist over time. Just as importantly, especially for schools, changes in demographics also may result in a less fertile tax base or the need for greater expenditures without a commensurate increase in revenues.

These factors are not only beyond the immediate control of local officials within any one local jurisdiction, they also limit the scope of action that may be taken by local officials. In distress situations involving large economic and demographic changes, managerial and political actions have resulted in inefficient, inappropriate, or questionable practices. They have included such practices as "maintaining inaccurate or incomplete financial records, overestimation of revenues, unfunded spending, abuses of

borrowing authority, ineffective or inefficient tax collection methods, [budgeting methods which do not force changes of thinking about priorities and those served], and failure to control costs” (Cahill, et al, 1991, p. 9).

Our review of the literature reveals that state legislation aimed at correcting fiscal distress often deals with the managerial and political ramifications of ignoring long-term economic and demographic change. Since distress exit criteria seldom include economic planning efforts or strong statements about managerial imperatives, distress may occur again and again. The long-term success of a state takeover may, however, be a matter which a state is capable of controlling. The nature of state-local relationships has emerged as an important issue in remedying local fiscal problems. Many state-initiated changes, including state-mandated annexation and consolidation, tax base sharing, and increased transfers of responsibilities between state and local governments, could alter the nature of those state-local relationships. Some of these transfers could conceivably include the transfer of revenue raising and service provision to state governments.

Moreover, the state-local relationship itself is changing as states themselves face new responsibilities. “State governments that are scrambling to grapple with the transfer of a wide range of social, political, and financial responsibility from the federal government are unlikely to transfer financial resources [to] the local level” (Cahill et al., 1994, p. 262). They are equally unlikely to want to take on new responsibilities from both federal and local governments.

Criteria for Distress Declarations

The long-term amelioration of the conditions causing fiscal distress is, therefore, likely to be primarily a municipal problem, and a state government problem to a lesser

extent. The literature offers no magic with regard to structural changes in state-local relationships. Rather, the actions taken by states typically have been stopgap, incremental and trial-and-error in nature.

New Jersey and Rhode Island are the only states with systematic municipal distress criteria. The New Jersey Department of Community Affairs, Division of Local Government Services, has developed distress criteria as a result of its monitoring of local government budgets and audited financial statements. (See <http://www.state.nj.us/osp/doc/1996mdi.pdf>). These criteria include default, failing to meet payroll, failing to forward federal or state taxes, deficits in two or more consecutive years, and failure to pay creditors. If some or all of these conditions are met, the municipality may be considered distressed.

Cahill et al. (1994, p. 256) also note that “early warning” criteria that might indicate declining fiscal health before it reaches the point of distress are generally absent from state regulatory schemes. The few states that have such indicators include steady declines in fund balances, imbalances in revenue and expenditure flow, decline in tax collections, inability to provide adequate service levels, and excessive borrowing. The authors would include, additionally, lack of appropriate action by municipal officials, including failure to file fiscal reports or audits and failure to adhere to fiscal mandates.

In identifying the criteria for distress, Cahill and his co-authors argue that fiscal distress is merely symptomatic of managerial and, ultimately, political bankruptcy. They say (p. 258):

It could be argued that the criteria that identify fiscal problems after the fact are ultimately managerial in nature. Such indicators as a year-end deficit for two or more consecutive years, a failure to meet the payroll or forward required taxes, or an imbalance in

revenues and expenditures results from . . . the failure of a jurisdiction's officials to conduct the fiscal affairs of the jurisdiction in a way that balances expenditures with revenues. To the extent that municipal officials could have wholly or partially averted the distress, such distress is managerial in nature.

The failure to manage resources wisely results from more fundamental forms of action or inaction, according to Clark and Ferguson (1983). These types of managerially induced distress include bureaucratic expansion, in which elected and appointed officials expand the range of services and programs without sufficient regard to revenues needed to pay for those services and programs; and political vulnerability, resulting in services and programs aimed at many different interest groups without the necessary revenues to pay for them.

Remedies for Fiscal Distress

To help municipalities regain local control, policymakers typically set stringent fiscal and managerial standards. Those standards include financial management requirements, such as balanced budgets over a specific period and lower levels of debt, as well as non-financial indicators of improved capacity to deliver services, such as stronger management systems, renegotiated labor agreements, new staffing patterns, clearer performance standards, and more inclusive representational systems that have empowered citizens.

A state's approach to municipal intervention will dictate, in large part, the contents of the municipality's distress plan. In Philadelphia, for example, using the first approach to intervention discussed above (involving fiscal relief without a determination of "distress"), the State of Pennsylvania combined temporary financing authority with review of a five-year financial plan created by the city as well as quarterly reviews of the

plan's implementation. The state's reviews were stringent, allowing not more than one percent deviation from the plan.

In other municipalities, where states have taken the second or third approaches discussed above (involving distress determinations, with respect to either one municipality or a class or group of municipalities), the remedies have emphasized technical assistance to encourage careful management of fiscal resources. The states' policy responses have reflected the criteria used to determine distress in that they are directed toward correcting inappropriate actions (or the lack of action) of municipal officials. These remedies assume that distress was caused by ineffective managerial practices. Under various names, including cutback management, rightsizing, professionalization, capacity building, or simply good government, their aim is to increase the efficient use of scarce public funds. They typically have included improving the fiscal policy making and capital budgeting capabilities of government officials, increasing the use of fiscal monitoring, improving cash flow through efficient use of resources, hiring professional finance personnel, and implementing zero based budgeting. These efforts have gained popularity over the last five years.

Cahill et al. point out, however (p. 258), that while it is difficult to argue with efforts to improve the uses to which public funds are put, "it has not been demonstrated that these types of remedies actually address the causes of distress." They also argue that many of the remedies are variations on the theme of "fixing distress," but do not specify how that goal may be achieved.

Most researchers agree that clear mandates such as "pay all obligations in full," "eliminate fund deficits," "balance the budget," and "eliminate distress conditions" are

laudable responses to distress rather than successful policies to be implemented. They point out that eliminating distress requires not only one-shot improvement in a municipality's fiscal health, but also establishment and continual refinement of sound management systems. Accordingly, state intervention often, if not always, seeks to correct improper administrative policies and procedures as well as to enable the municipality to rejoin the ranks of the fiscally healthy.

Exit from State Intervention

Given the emphasis on management systems, the conditions providing for state exit are hardly ever simply that the adverse fiscal condition no longer exists. Most of the criteria for state exit are managerial in nature. They typically include establishment of good management systems throughout the administrative structure, employment of professional managers, correction of improper procedures, securing access to credit markets, adherence to applicable financing laws, and providing staff training in management and supervision and fiscal, information and human resources management.

Still, managerial criteria for reestablishing local control often are “surprisingly broad and lacking in operational teeth.” Moreover, they often focus on transitory matters, such as renegotiating labor agreements (Cahill et al., 1994, p. 261). Although the legislation aimed at correcting municipal distress deals with the managerial and political ramifications of ignoring long-term economic and demographic trends, exit criteria seldom include economic planning efforts or strong managerial imperatives. As a result, distress may occur again and again. On the other hand, successful state intervention has involved such meaningful managerial imperatives and long-term economic planning.

Specific Cases

Chelsea, Massachusetts. Chelsea provides what Berman calls the “ultimate” in successful municipal takeover. The City of Chelsea experienced a severe financial decline in the mid-1980s, even though the rest of the state of Massachusetts enjoyed rapid growth. The state initially responded in 1986, with loans and grants and establishment of the Chelsea Finance Control Board. In June 1991, the state provided an infusion of about one million dollars. At that time, the city had a \$48 million budget, of which the state was contributing more than half, and a \$9 million debt. Chelsea faced four major financial problems: a shrinking tax base, increased costs, union reluctance to make concessions, and voter refusal to approve tax increases to help close the budget gap.

In September 1991, Governor William Weld and the Massachusetts Legislature agreed to an emergency proposal to bring Chelsea under state control. New legislation abolished the Chelsea Finance Control Board and established a receivership for the City of Chelsea for five years. It provided that the receiver, appointed by the Governor, would be the chief executive officer of the city, responsible for overall operation and administration. It further provided that the position of mayor would remain vacant throughout the receivership, and that other elected officials would serve in an advisory capacity.

The legislation required the receiver to formulate and implement a “city recovery plan” with five objectives:

- (1) to secure the fiscal stability of the city, including the establishment of a balanced annual budget, a five year operating and capital outlay plan, and the implementation of prudent financial management techniques, including generally accepted accounting principles;
- (2) to establish a stable balance of revenue sources, including fees, taxes,

special assessments and local aid;

- (3) to enhance and promote opportunities for economic development, including particularly the expansion of the property tax base;
- (4) to reduce costs, including the restructuring of services, if necessary; and
- (5) to maintain and strengthen local services.

The receiver was given broad – even exceptional -- authority to cut municipal spending, eliminate services, revise agreements with unions representing municipal workers, issue service contracts, and restructure the local government. Despite considerable opposition, the receiver brought in a management team and worked to balance the budget. By cutting the payroll, renegotiating union contracts, bringing in a \$5 million advance payment from the Massachusetts Port Authority, increasing user fees and privatizing some services, and instituting delinquent tax collection procedures and a purchase order encumbrance system, the city became solvent. Savings on the labor front resulted from the reduction of the city bureaucracy by about 25%. In particular, the receiver secured a new contract with city firefighters that eliminated costly minimum staffing, sick leave, vacation and overtime requirements. According to one state official, the receiver could gain concessions from the firefighters “because [he] did not have to run for reelection and face the wrath of an organized, focused opposition” (Cyr, 1993, p. 23). At the same time, he installed a new computer system for city government, increased the non-school minority workforce from 3% to 19%, reduced employee absenteeism by approximately 50%, instituted community policing and consolidated public safety dispatching, and instituted a city-wide street sweeping program. In addition, with the assistance of the U.S. Attorney’s Office, substantial strides were made in suppressing corruption in municipal government; and with a massive infusion of state aid to the public schools, the city was

able to offer quality public schooling at the same time that it supported other vital government services on a scale that it previously had been unable to do.

The receiver in Chelsea also made a great effort to stimulate civic engagement. Building social capital was an objective equal in importance to restoring fiscal integrity, making management improvements and working to rid city government of corruption. The work toward this goal centered primarily around formulation of a new city charter. The legislation establishing the receivership required the receiver to recommend to the legislature a new form of government to be adopted upon expiration of the receivership; he determined to reach his decision as to that recommendation through a process that would engage large numbers of citizens and develop a broad consensus and strong support for the new city government. Accordingly, a process of “community mediation” was conducted by three professional staff members assigned specifically to this task: a mediator, a municipal governance expert, and a professional charter drafter. They had two goals: to write a city charter, and to engage Chelsea citizens in a way that would enable them to run their city after the receivership ended. They began the process by interviewing community leaders, holding community meetings with local residents serving as facilitators, publishing newsletters and airing cable television programs. Eventually, a Charter Preparation Team was created, with 18 members chosen from among 70 recommended candidates by a selection team of three widely respected city residents. The 18 members included three aldermen, one school committee member, one representative of the receiver, one representative of the state Executive Office of Communities and Development, and 12 others. They gathered information on the various forms of city government from several professionals, prepared an initial proposal and

then deliberated over every aspect of the proposal at weekly mediation sessions over a five-month period. Upon completion of a draft charter as a result of these sessions, the draft was presented to the public in newsletters and local newspapers; and 20 facilitated community meetings, a public forum, and several call-in cable television shows were held to answer questions and generate community support. Several changes in the draft were made as a result of input received from the community, and those changes were publicized as well. When the charter was completed, a special election was held, and the charter was approved by a 60/40 margin with a 30% turnout. Throughout the process, the receiver had said he would recommend the form of charter approved by the community as a result of this process. He did so, and his recommendation was adopted by the legislature.

The long-term beneficial effect of this process, in terms of building community support for governance, was described in a report by the mediator:

At the time Chelsea was placed under receivership, large segments of the community had become disenfranchised from the political process because they did not believe the existing government could meet their needs. By creating avenues for public input into the charter's development and by engaging citizens as decision makers the process was able to explore and contain a comprehensive accounting of the diverse concerns of the community. The Chelsea Charter Consensus Process provided opportunities for virtually all groups and individuals in the community to engage in discussions about their concerns, voice their interests, and have those interests embedded into the new city charter through deliberation about the issues that citizens had already discussed and through integrative bargaining. In effect, the process of developing consensus for the city charter created a public around the issue of local governance. Before a public could emerge, however, the mediator had to employ interventions to trigger social capital formulation to engage and sustain potential public involvement.

The new form of government, with an elected city council and an appointed city manager, was put into effect in December 1994.

Philadelphia and Pennsylvania's "Act 47" Cities. During the 1990s, as a result of legislation known as "Act 47," a dozen small municipalities came under the supervision of the Pennsylvania Department of Community Affairs. Most of these were cities in the western part of the state, which were under stress because of the decline in the steel industry, although fiscal mismanagement also had contributed to their problems. For these municipalities, state intervention into the financial planning process came essentially as a trade-off for varying forms of state assistance. Supervision brought much-needed financial relief and considerable financial restructuring. Much of the latter came at the expense of municipal employees in the form of wage freezes and cuts in job benefits. Anticipating this approach, labor unions had challenged the state's intervention in court, unsuccessfully.

Philadelphia, similarly, suffered from structural problems. In contrast with the direct state intervention in the Act 47 cities, however, Philadelphia was permitted to take direct action itself with support by the state. Berman relates that the Pennsylvania legislature intervened in Philadelphia in 1991, when it appeared that the city was about to default on its bond payments. The state created the Pennsylvania Intergovernmental Cooperation Authority ("PICA"), with authority to issue bonds and divert the proceeds to the city, and with further authority to exert certain controls over the city's financial affairs, including the approval of a long-term fiscal and management plan, and the power to withhold certain state funds from the city if the city did not follow the plan.

Philadelphia's plan, which was approved by PICA, contained many cuts in workers' salaries and benefits, a development strongly resisted by municipal unions. In addition, the city made a host of changes, including improvements in tax collection

procedures, new ways to save on utility costs, and more contracting out of services through a competitive bidding procedure. The city's financial condition improved greatly, aided both by the Authority's oversight and the resumption of robust economic growth.

The first of PICA's chairs later remarked, in testimony before Congress, that the success of the intervention rested on the board's functioning as an oversight group that allowed city officials considerable discretion in operating the city and in framing remedies for its financial and managerial woes, rather than as a control group that tried to dictate specific policy steps. PICA's chief value to city officials, in the eyes of its chair, may have been in giving those elected officials the political "cover" they needed to make unpopular decisions. When something unpopular had to be done, the city's officials could blame the board. From the city's point of view, the oversight board functioned like a friendly banker. In reality, much of its effectiveness may have rested on the board's possession of a "nuclear weapon," its ability to cut off funds to the city.

Bridgeport, Connecticut. Bridgeport provides an example of state intervention that failed to solve long-term problems. Bridgeport suffered from a loss of manufacturing jobs, shrinking federal and state aid, white flight to the suburbs, increased welfare costs, and, some observers charged, slipshod financial management. Its troubles, most obvious in a pyramiding debt of some \$60 million, prompted the state, at the city's request, to come up with special legislation creating the Bridgeport Financial Review Board to oversee the city's finances. Along with this, the state agreed to guarantee \$35 million in bonds for the city. The following year, the city sold bonds to cover its operating deficit and began a three-year plan to regain financial stability. By June 1991,

it had cut services and workforce expenditures but still had a \$12 million deficit. Mayor Mary C. Moran tried without success to cover this debt by securing concessions, such as reduced pensions and fringe benefits, from the unions.

In June 1991, the Financial Review Board adopted a budget for the city, which called for drastic spending cuts and an 18 percent increase in the property tax. Mayor Moran contended that Bridgeport could not afford the tax increase; indeed, city attorneys argued, such increases would make matters worse by encouraging more homeowners and businesses to leave the city. On the following day, the mayor took the unusual step of filing for protection under Chapter 9 of the federal bankruptcy code. The mayor sought bankruptcy to avoid the changes ordered by the board. The financial review board contended that the mayor could not apply for bankruptcy without the board's permission. The bankruptcy court rejected this position, but went on to deny the city's petition on the grounds that the city had not proven that it was insolvent or would be unable to meet its future financial obligations.

The Financial Review Board's oversight of Bridgeport continues today. To get out from under it, the city must meet certain criteria, for example relating to its credit rating. The city has a long history of conflict with the Financial Review Board. From the state's point of view, progress has been frustrated, in part, by political undercurrents and frequent mayoral turnover.

Camden, New Jersey. Camden is another example of a city with long-term underlying financial problems. The State of New Jersey has thus far refrained, however, from assuming complete control of municipal government in this city, although Camden has been the subject of substantial scrutiny and intervention by state agencies concerned

with its use of large financial subsidies and its apparent lack of progress in building management capacity for the delivery of government services. The state's intervention in Camden has taken the form of control over its parking authority, its housing and development programs, and its police and fire departments; and, in 1998, creation of a seven-member review panel with authority to control municipal finances.

A recent report prepared by consultants engaged by the state makes several recommendations for improving Camden's management capacity. Those recommendations include bolstering the authority of the professional business administrator while clearly aligning department responsibilities; creating systems for regular and systematic financial reporting and measuring results; reducing the financial burden by eliminating services that duplicate those at other levels of government, such as the county, and sharing services with other jurisdictions; encouraging competition to cut costs, avoid risks and potentially improve the quality of services; implementing regular financial monitoring; investing in innovation; improving the city's capacity to manage human resources; and strengthening the use of information technology.

Although strengthening management capacity -- especially fiscal management capacity -- is unquestionably important, an equally powerful argument is that the key missing element in Camden is simply the will to implement existing systems; and that management and fiscal change can be accomplished by Camden's own personnel, but only with strong, committed leadership. Capacity for good internal management depends on strong leaders at the top -- the mayor and city administrator -- who are willing to demonstrate a commitment to improved services, and who understand that service delivery is dependent on effective training, supervision, accountability, employee

recognition and restructured labor relations, including the correction of blatantly wasteful work rules.

Another observation is that the city needs to develop a capacity for strategic planning, administrative implementation and work prioritization (what is known collectively as “business process reengineering”). Because many employees at the middle and lower levels would respond to positive leadership and would willingly sustain a change in organizational culture, the will to adopt and actually implement such systems could easily lead to cleaning up vacant lots, demolishing vacant buildings, repairing traffic lights, decreasing police response time, etc. In effect, good management could accomplish a great deal, relatively quickly, without the need for complex, “bold” economic plans.

Camden’s municipal government is so distressed that the state may simply need to redefine the meaning of the term “success.” Traditional objectives, or benchmarks vs. expected levels of municipal services, may not be reachable. A better objective may be to deliver current city services in the most efficient and effective manner relative to traditional behaviors in the city. In any event, any change for the better will be dependent upon political-managerial will and leadership. For this reason, the state’s organizational leaders and change agents must be sensitive to issues of local control. Without local support, change may be impossible.

Lessons for School District Takeovers

The primary lesson to be learned by school officials from these examples of state intervention in municipal government is the importance of skilled, effective management and the need to develop management capacity where it is lacking. The importance of

management, including financial management, in the success of a school system is obvious. Leadership is the most important managerial function. In order to build the capacity of a school system, state officials must build the leadership capacity of school managers down to and including the school principal and the principal's staff. Leadership is the ability to focus staff and teachers' attention on goals and plans supported by the community and suggested by accumulated expertise or demanded by state standards or regulatory requirements.

Leadership is also the ability and willingness of school managers to collect information on how much progress the school is making toward achieving its goals. This information system may be one involving performance measures, but, in any case, it is a system in which information is fed back to those delivering education services, both for the correction of their work and for the rewards that come with feedback about success.

Leadership is the ability to allocate funds to their highest and best uses. Since the advent of whole school reform, the allocation function has become an extremely important one for school principals. Thus, capacity building involves ensuring that school managers down to the level of school principals have the analytical and decision-making capacity to allocate funds to their highest and best uses. Leadership, finally, is the ability to control funds and provide incentives to people so that goals are attained in the most efficient, effective, and least consuming way. Thus, capacity-building involves a financial and managerial accounting system in which plans guide funds and people's efforts, and in which deviations from plans emerge immediately and prompt remedial action.

More specifically, municipal strategies for fiscal and managerial capacity-building typically include infusion of temporary financing into the district, development and approval of a long-term financial plan, frequent review of the plan's implementation with strict controls on deviation from spending limits, technical assistance by the state to encourage careful fiscal management, improvement of fiscal policy-making capacity, improvement of capital budgeting capacity, improvement of cash flow through efficient use of resources, employment of professional finance personnel, implementation of "zero based" budgeting, and staff training in management and supervision. Each of these strategies should be equally applicable, and equally effective, in distressed school districts.

An equally important lesson may be the limited long-term effect that reasonably may be expected to be gained from managerial changes made as a result of state intervention. All observers of state intervention in municipal government agree that states appear to act on the assumption that they can help bring both immediate and long-term improvements. However, state intervention is most useful in dealing with short-term emergency problems. State direction and financial assistance can help balance the local budget and restore credit ratings. What many call "crisis regimes" have succeeded in the short run through reductions in employment, employee benefits, and citizen services. Unpopular changes along these lines may be possible only because states have suspended local elections and the rule of local politicians, or because local officials have the cover provided by an oversight agency to reverse profligate policies.

Crisis intervention, all observers agree, may not do much to address long-term problems. States have tended to look for long-term solutions through managerial

changes, i. e., through new procedures or practices that are intended to correct the behavior of local officials, especially the institution of the position of strong city manager (Chelsea) and a strong city finance officer (Philadelphia and Chelsea) with extensive power and the ability to resist the will of elected officials, at least to some extent. Such remedies can bring desirable results. Similarly, in Camden, the intervention recommended by the state's consultants includes bolstering the authority of the professional business administrator. This is a reflection of the fact that distressed cities are largely cases of inadequate managerial will. The capacity for good management – good government – in those cities depends on strong leaders who are willing to demonstrate a commitment to improved services; who understand that service delivery is dependent on effective training, supervision, accountability, employee recognition and restructured labor relations; and who are willing and able to engage in strategic planning, administration implementation and work prioritization.

In the school context, crisis intervention would not only have little long-term effect for all the same reasons that apply in the municipal government context, it probably would not even be a viable short-term solution. Service reductions, and other management changes that result in such reductions, simply are not an option in the school context because of the constitutional imperative to provide a high quality, free public education to all children residing in the district. Especially in New Jersey, where the content of a thorough and efficient system of education has been defined so comprehensively by case law and resultant statute and administrative code, the only forms of state intervention likely to have long-term effect are those that foster strong leadership, strategic planning, and educational reform.

Berman concludes his review of the takeover cases with a hesitant view of their long-term success. He states that while the success of the Chelsea receivership rests on the receiver's not having to worry about local political constraints, dysfunctional political pressures could resurface even under the new structure. Observers have always had doubts, moreover, about whether a city with Bridgeport's or Chelsea's underlying financial problems can ever be viable on its own. From this perspective, long-term solutions may rest on more drastic action such as state-imposed annexation.

At the same time, if the underlying problem in a distressed municipality is the inadequacy of the locality's economic base, the state may need to think in terms of economic development programs or, as some distress legislation authorizes, of merging the distressed area into a healthy economy through annexation or consolidation of local governments. In other words, officials may need to consider aligning the boundaries of the municipality with the boundaries of the viable economy.

Perhaps the lesson with the most potential for application in the context of state operation of school districts is the successful effort in Chelsea, Massachusetts, to build social capital. By determining that civic engagement would be one of the primary objectives of the receivership, and then engaging in a decision-making process that engaged every constituency and every member of the community, the receiver in Chelsea "created a public around the issue of local governance." Considering the importance of community support in the process of educational reform and improvement, a similar effort to engage the public could be very worthwhile in the state-operated school districts. A process similar to that employed in Chelsea could be employed in any or all of the three districts to generate community interest and support, and to reach a consensus

within the community regarding fundamental issues of district governance such as the structure and composition of the board of education to be created upon reestablishment of local control. The result, comparable to the Chelsea experience, could be the creation of a “public” around issues of public education.

EDUCATIONAL POLICY CONSIDERATIONS

As mentioned earlier, under New Jersey’s takeover statute, it is a district’s inability or unwillingness to correct problems that caused it to fall short of certification standards that may ultimately trigger state takeover. This suggests that takeover occurs, in part, because a district lacks the capacity to cure underlying problems resulting in poor educational performance. It should obviously then be the state’s goal during takeover to help districts and schools develop the needed capacity to enable the district to eventually resume local control.

School district capacity has been described as follows: “Within the context of systemic reform, capacity is the ability of the education system to help all students meet more challenging standards...capacity may be increased by improving performance of workers (including teachers); by adding resources such as personnel, material, or technology; by restructuring how work is organized; and/or by restructuring how services are delivered.” (CPRE: 1995) The research on educational practices can provide criteria for judging whether or not a district has the capacity to deliver an effective education for all students. The research identifies capacities that relate to each of the three levels – state, district and school. Across these three levels, the capacities described can be grouped into the following categories: instructional; organizational or structural; and cultural.

District Capacity

Research suggests that districts have a specific role to play in assisting schools to build the necessary capacity to improve student achievement. Districts can assist schools in developing organizational/structural and instructional capacity. Research provides

advice to districts about how they can build organizational capacity, and suggests a focus on the following five dimensions (O'Day et al.):

- Vision and leadership,
- Collective commitment and cultural norms,
- knowledge or access to knowledge,
- organizational structures and management,
- resources

(1995: 3).

Research also argues that the reform process itself is instrumental in building capacity, and indicates four strategies for building the capacity for standards based reforms (O'Day et al):

- Articulating a reform vision,
- Providing instructional guidelines,
- Restructuring governance and organizational structures,
- Establishing evaluation and accountability mechanisms.

(1995: 4).

Another study (Massell) suggests that districts use a four-pronged strategy that includes a focus on the following elements related to instructional capacity:

- Interpreting and using data;
- Building teacher knowledge and skills;
- Aligning curriculum and instruction;
- Targeting interventions on low-performing students and/or schools.

(2000: 1).

In other words, it is incumbent upon districts to do the following:

- assist schools in using achievement data as a baseline for targeted improvement
- provide district-wide professional development aimed at improving teacher knowledge and skills
- help schools align their curriculum and instruction to state learning standards and assessments
- target those students and schools with the most need for district-wide help.

School Capacity

Efforts aimed at capacity building must start with a vision of what an effective school should look like. After all, it is at the school level—more than at the district, that student achievement is most directly impacted. There is general agreement in the research conducted on the effective practices of high-performing, high-poverty schools. These schools (American Federation of Teachers, 1998, 1999; American Institutes for Research, 1999; Carter, 2000; Connell, et al. 1999; Haycock, 1999; Johnson, 1999; Lein, et al. 1997; U.S. Department of Education, 1998, 2001):

- Set high standards and develop curriculum and assessment tools based on those standards.
- Hold teachers and school administrators accountable for student performance and meeting goals.
- Create a safe and orderly academic environment.
- Employ teachers who are experienced and qualified to teach their subject matter and have access to quality professional development and school administrators who are committed to education.

- Encourage parental and community involvement.
- Enjoy administrative flexibility in making decisions involving curriculum, personnel, and school budgets.

Research from the National Center for Educational Statistics (2000) summarized the key components of school quality as follows:

- Teacher quality and experience, including the academic skills of teachers, teachers who are teaching in their field of preparation, teacher experience, professional development.
- Classroom climate, including course content and alignment with learning standards, technology, class size, pedagogy.
- School context, including school leadership, goals, professional community, discipline, academic environment.

Furthermore, the High Performance Learning Communities Project says that high performing schools share the following characteristics. They:

[H]ave a shared vision of excellence and equity, they develop a challenging curriculum with high expectations for all students and instruction that engages students to reach for excellence, they organize students and time to afford quality learning opportunities for staff and students alike, they create a collaborative school culture that enables the school to be a community of learners, and they actively involve their parents and community in student learning.

(Berman and Chambliss, 2000: 1)

In order to be more specific about school capacity, it is useful to look at what the research says about the characteristics of effective schools and classrooms, and also about effective teachers. The characteristics described encompass structural issues, broad school and classroom-culture issues, and specific instructional issues.

Based on an in-depth review of the school effectiveness literature, the National Center for Educational Statistics (2000) conducted a two-step meta-analysis to determine which school level processes had a positive effect on student learning. NCES concludes that there are five characteristics of effective schools that have a positive effect on student learning:

- School leadership that provides direction, guidance, and support;
- School goals that are clearly identified, communicated, and enacted;
- A school faculty that collectively takes responsibility for student learning;
- School discipline that establishes an orderly atmosphere conducive to learning; and
- School academic organization and climate that challenges and supports students toward higher achievement (NCES, 2000: 36).

The first indicator at the school level is leadership. Research has pointed to the role of school leadership as a key component of school improvement. Numerous studies (Barth, 1980; Semel, 1992; Semel and Sadovnik, 1999) indicate that leadership by a committed and dynamic school head is one of the central elements of effective schools (Edmonds, 1979; Riehl, 2000). Recent studies also stress that teacher leadership and empowerment are equally essential for urban school reform (Ayers, 1992; Silva, Gimbert, and Nolan 2000).

The second indicator of high student achievement at the school level is the existence of clearly defined goals (Purkey and Smith, 1983). Researchers agree that successful schools are those in which the goals are integrated into the overall fabric of the school (Bryk, Lee and Holland, 1993; Chubb and Moe, 1990). To improve student

achievement on a district-wide basis it is not only necessary for schools to have agreed upon goals, it is also necessary for district-wide goals to be understood and implemented system-wide. An alignment between district-wide goals and school goals should be part of a coherent accountability system that also gives schools the resources and guidance to implement these goals.

The third indicator at the school level is discipline. Researchers indicate that there is a direct relationship between a positive disciplinary climate and high student achievement (Barton, Coley and Wenglinsky, 1998; Bryk, Lee and Holland, 1993; Chubb and Moe, 1990). Discipline should be considered as part of an overall set of characteristics that together are responsible for student learning, rather than as an individual factor that alone produces higher learning.

The fourth indicator at the school level is academic environment. Researchers (Bryk, Lee and Holland, 1993) stress the importance of a school commitment to high academic goals for all students. They argue that Catholic schools have higher achievement for low-income, urban students than public schools in urban areas (controlling for race and socio-economic status) due to the existence of a strong academic curriculum for all students, as opposed to the tracking systems in most urban public schools, which provide a strong academic curriculum for only a small number of students. The key is to ensure that all students have access to a high quality academic curriculum from elementary school through high school so they develop the academic skills to choose college. However, if some students decide that college is not for them, there must be high quality vocational and school-to-work programs that prepare students

for real employment in stable sectors of the economy, including the trades, the airport industry, and entry-level health care and technology positions.

Classroom Capacity

At the level of the classroom, research indicates that a variety of factors, including course content, pedagogy, technology and class size all have an impact on student achievement. However, without effective teachers, these factors mean little. Research indicates that at the classroom level, effective instructional practices, implemented by knowledgeable teachers, are a prerequisite for school improvement (Darling-Hammond, 1998).

Research tells us a lot about the characteristics of effective teachers. What this research means on a practical level is that the state must partner with districts and schools to build an infrastructure that will increase the likelihood that every teacher possesses the characteristics outlined below.

According to the research, the most qualified teachers possess the following characteristics:

- Strong academic skills
- Teaching within the individual's field of expertise – having an equivalent of a major in the field.
- At least three years of teaching experience.
- Participation in high-quality professional development programs.

The characteristics outlined above can also be thought of as indicators that a district and school can use to measure teacher quality, or, as indicators to measure the capacity of its teaching force. The first indicator of teacher quality is the academic skills

of teachers. For example, research indicates that student learning is promoted by exposure to teachers with strong academic skills (Ballou, 1996; Ehrenberg and Brewer, 1994, 1995; Ferguson and Ladd, 1996). Despite this research, studies have indicated that over the past three decades teachers with low academic skills have been entering teaching in larger numbers than ever before. (Ballou, 1996; Gitomer, Latham and Ziomek, 1999; Henke, Chen, Geis and Giambattista, 1996). This is especially true in urban areas, where lower salaries and more challenging teaching conditions result in high turnover and the loss of highly qualified candidates to suburban districts (National Commission on Teaching and America's Future, 1996). It is imperative that Newark and other Abbott districts develop the capacity for the recruitment of high quality teachers. This includes the development of closer partnerships with higher education teacher education programs, incentives for recruiting new teachers, and innovative programs for attracting non-traditional students, including career changers to urban teachers. For example, programs such as the CUNY Fellows Programs in New York City, which recruits high quality candidates with baccalaureates in the arts and sciences to teach in the City's schools, should be examined as a possible model for replication.

The second indicator of teacher quality is teacher assignment in their areas of expertise and/or certification. Numerous studies have indicated that many teachers, especially in urban areas, are teaching out of their areas of expertise. These studies suggest that this appears to negatively affect student achievement (Darling-Hammond, 2000; Goldhaber and Brewer, 1997; Monk and King, 1994). Darling-Hammond indicates that, controlling for numerous student-level demographic characteristics and classroom characteristics such as class size, "the proportion of well-qualified teachers (those holding

state certification and the equivalent of the major in the field taught) is by far the most important determinant of student achievement" (Darling-Hammond, 2000: 27). Since urban areas have a larger percentage of uncertified teachers and teachers teaching out of field, these findings are especially troubling. Given these problems, Newark and Paterson must work closely with higher education teacher education programs to increase their capacity to attract teachers qualified to teach in urban areas.

The third indicator of teacher quality is teacher experience. Numerous studies report that students learn more from experienced teachers than from less experienced ones (Murnane and Phillips, 1981; Rivkin, Hanushek and Kain, 1998). The percentage of teachers with three or fewer years of experience is higher in schools with low-income and minority enrollment. For example, in 1998, 10% of the teachers in schools with low minority enrollment had three or fewer years of experience; 13% in schools with medium minority enrollment; and 21% in schools with high minority enrollment. With respect to low-income schools, 11% of the teachers in schools with low-income enrollment had three or fewer years experience; 12% in schools with medium low-income enrollment; and 20% in schools with high low-income enrollment (NCES, 2000: 13). Given these trends, it is clear that urban districts with high minority and low-income enrollment must, in addition to recruiting qualified teachers, develop the capacity to ensure their retention for longer periods of time, as high attrition rates in these schools often result in a revolving door (Henke, et al., 1997). In order to reverse this trend, Newark and Paterson need to improve mentoring and professional development programs for new teachers.

The fourth indicator of teacher quality is professional development. Most experts agree that quality professional development is crucial to improving teacher quality and

retaining high quality teachers. There is general agreement about the characteristics of effective professional development programs (CPRE, 1995; National Commission on Teaching and America's Future, 1996; National Foundation for the Improvement of Education, 1996; U.S. Department of Education, 1999a). The National Education Goals Panel outlined the "principles of high quality professional development programs" (Goals 2000, 1999: 2). These programs:

- Focus on individual, collegial, and organizational improvement;
- Promote continuous inquiry and improvement embedded in the daily life of schools;
- Are planned collaboratively by those who will participate in and facilitate that development;
- Require substantial time and other resources; and
- Are driven by a coherent long-term plan.

The recommendation to improve instructional practices was already made in the Allen Company's (2000) recent study in Newark. The report documented significant problems in instruction and the need to implement instructional improvement strategies based on research-based effective practices. Such work will undoubtedly be a challenge, since high-poverty school districts such as Newark, Paterson and the other Abbott districts have trouble attracting experienced and knowledgeable teachers, yet it is imperative that these districts develop programs for the recruitment and retention of high quality teachers, including programs for professional development. High quality professional development programs that include a focus on state and local standards and curriculum frameworks should be developed in order to enable teachers to translate the

standards into meaningful lessons. Quite simply, the challenge of developing an effective teaching force must be met if student achievement is going to improve and if Newark and Paterson are to resume local control.

In New Jersey, the state's role in supporting effective professional development is particularly important, as the whole-school-reform requirement means that whole school reform developers will essentially be providing a form of professional development. In their effort to build capacity for long-term professional development, whole school reform developers need to work closely with other professional development providers, including higher education programs to ensure alignment of programs. Since most Abbott districts have more than one whole school reform model in their schools, the capacity for district-wide professional development may be more difficult, as districts must coordinate a number of sometimes, conflicting, if not contradictory models. Thus, in order for districts to develop the capacity for a cohesive and coherent professional development program, the state might assist districts in clarifying the relationship between district-wide and individual- school professional development programs.

While building the capacity of districts to recruit and retain teachers is critical to having successful schools and classrooms, research also points to the importance of curriculum, technology and class size on student achievement. The state can play a supportive role in helping districts achieve the necessary capacity to offer a high-quality curriculum, to see that students have access to technology, and to find the resources to reduce class size.

All students must be given access to a challenging curriculum. Studies also show that instruction matters (Smith, Lee and Newman, 2001: 2), and, therefore, point to the

importance of pedagogy for learning. Given the significant differences in pedagogic approaches in the whole school reform models currently in use in the Abbott districts, this area is of particular importance. Since the whole school reform models vary, we need more evidence on the effects of these models on student achievement. The state can help districts to evaluate the effectiveness of different pedagogic approaches and different types of curriculum.

If students are to compete in the 21st century primary sector labor market it is clear that they must graduate from high school with computer literacy and the ability to use technology for a variety of information gathering and problem solving activities. Indeed, if Newark high school graduates are to be able to enter the new high technology firms planned for its downtown, the schools must prepare them adequately. Research on the digital divide in technology, however, indicates that there is a significant difference in access to computers and the internet between students who are in high poverty schools and those who are not (Anderson and Ronnkvist, 1999). Although the gap appears to be narrowing (Anderson and Ronnkvist, 1999), there is significant work to be done in this area. It is imperative that the state work with the schools districts to foster collaborations with businesses such as Lucent, Prudential, Verizon, and others, and the local institutions of higher education, Rutgers, NJIT, UMDNJ, and Essex, to provide sufficient computers and training for both teachers and students.

As part of the Abbott mandate, the Department of Education has proposed a requirement to reduce class size by September 2002 for all grades. This proposal is grounded in research that supports the benefits of smaller class sizes. A recent Tennessee class size study provides important evidence on the value of small classes (Krueger,

1998; Mosteller, 1995; Sanders and Rivers, 1996). Based on a random assignment experiment, this study indicated that there were significant achievement gains made by students in the smaller classes, when controlling for all other factors (Krueger, 1998; Mosteller, 1995; Sanders and Rivers, 1996). Further, the greatest gains were made by black students in the early grades. Further studies confirmed that the largest gains were made by black, disadvantaged students (Achilles, 1996; Finn, 1998; Grissmer, Flanagan and Williamson, 1998; Hanushek, 1998; Krueger, 1998; Mosteller, Light and Sachs, 1996; U.S. Department of Education, 1998). A report by the National Center for Educational Statistics (2000) suggests that reductions in class size have the potential for helping all students in the primary grades (NCES, 2000: 35). Based on the Tennessee evidence, it appears that for disadvantaged students the gains are especially strong. Obviously, for Newark, Paterson and other Abbott districts, reductions in class size, especially in the early grades, should have an impact on student achievement. The state should work with the districts to find creative solutions to the challenge of smaller class sizes. Efforts should focus both on finding resources to create appropriate school facilities, and also on hiring sufficient numbers of qualified teachers to staff these classes.

Whole School Reform and Capacity Building

With an awareness of what an effective school should “look like,” it is the responsibility of the state and each district to enable every school to become an effective school. The research provides a good description of the elements of effective schools, and it should inform the creation of statewide policies, including a new accountability and assessment system.

Recognizing the importance of systemic school-level change, the New Jersey Supreme Court mandated whole school reform in *Abbott V*. Consequently, all elementary and secondary schools in New Jersey's Abbott Districts have chosen a whole school reform model from 13 models approved by the NJ DOE, including Success for All, the court's presumptive model, Accelerated Schools, America's Choice, Coalition of Essential Schools, Communities for Learning, Co-Nect, Microsociety, Modern Red Schoolhouse, PAIDEIA, School Development Program (Comer), Talent Development, Ventures in Education and an Alternative Program Design (home-grown model).

Whole school reform in New Jersey has been studied by a few groups of researchers, including Bari Erlichson at the Bloustein Center for Public Policy at Rutgers, and their findings are instructive not only for the continued implementation of whole school reform, but for the wider purpose of examining the state's relationship with schools, and specifically, its efforts targeted at capacity building. For the purposes of this report, we will review only the work by the George Washington University Center for Equity and Excellence in Education that was commissioned by the New Jersey Department of Education.

This report focuses on organizational capacity and the most relevant finding is an indication that both district and Department of Education staff must change their structures and roles to increase effectiveness. The report recommends the following specific changes that in some cases apply to either the Department or the district, but may also be relevant to both.

- A change from centralized bureaucracies to decentralized institutions that manage autonomous schools.

- A change from categorical programs and budgets to consolidated programs and budgets.
- A management perspective focused on monitoring program compliance to a technical assistance program focused on continuous improvement.
- A change from organizations rich in data that are largely inaccessible to organizations able to help district and school staff organize, analyze and manipulate data in order to permit educators to make meaning about student learning (Muirhead, Tyler and Hamilton, 2001: vii).

In addition, the report makes a number of recommendations at the district, school, community and state department levels. At the department level, the report recommends that the state increase its technical assistance to districts to enable them to successfully implement whole school reform. Indeed, this is one of the report's key conclusions. The report also recommends that the department develop a research plan to address the effects of whole school reform on student achievement.

At the district level, they recommend that, in the area of technical assistance, the NJ Department of Education:

- Work with districts to design training for SMT members on how to hire personnel appropriate for their schools.
- Work with district administrators to assist them to align curricula to the state content standards.
- Work with district administrators to expand curricula alignment training to include instructional and classroom assessment alignment to the state content standards.

- Continue training on how to collect, organize and analyze comprehensive data at the district level to facilitate administrators' assistance and support of schools engaged in a continuous improvement process for managing student improvement.
- Create a partnership with Abbott districts to create a statewide warehouse for student achievement data. This centralized resource would enable educators at district and school levels to access and manipulate data in order to inform a continuous improvement process aimed at advancing and sustaining student achievement.
- Create a partnership with Abbott districts to develop an accountability system that is primarily based on a philosophy of capacity building, enabling educators to become assessment literate (pp. vii-viii).

At the school level, the report recommends:

- Train SMT members on how to identify needs for additional programs and services.
- Advance training in the area of zero-based budget development and budget adjustment to facilitate assessment of school needs.

At the community level, the report recommends that the Department form partnerships to:

- Collaborate with organizations that support parental involvement and assist them to implement the elements of WSR and train parents for volunteer roles and partnerships with the schools.

One particular problem that needs to be addressed in the context of district-wide efforts to improve schools is that districts have been left out of the whole school reform process. Individual schools contract with whole school reform developers. Consequently, districts have a limited, if not non-existent, role in the selection, implementation and operation of the models. In addition, Abbott districts, including Newark and Paterson, have a number of different whole-school reform models in individual schools, making it difficult to develop district-wide whole school reform plans. Within this context, the report strongly recommends that, in addition to continuing support for schools, the NJ DOE increase its support for districts.

To date, neither Erlichson and her colleagues nor the George Washington University team have undertaken an evaluation of the effects of each whole school reform model on student achievement in the Abbott schools. This type of analysis is essential to a further understanding of whole school reform as a tool for improving urban schools.

Based upon these studies, the NJ DOE announced an upcoming RFP for a four-year study of WSR in New Jersey, which will include the progress of implementation and the impact of WSR on student achievement. In addition, it established an Evaluation Oversight Advisory Board to review previous studies by Rutgers University, Seton Hall University and George Washington University, the new study, and to make recommendations for possible corrective actions. These two steps are important ones.

As the state continues its efforts in the takeover districts and in all of the Abbott districts, it is important to keep in mind research from the High Performance Learning Communities project, which describes lessons learned about the readiness capacity of

low-performing schools for reform. The report explains that, if a low-performing school is not ready, then a great deal of energy and resources could be expended fruitlessly--indeed such efforts may do more harm than good.

Readiness capacity is determined by examining school leadership (*Id.* at 9-11), presence or absence of collaborative structures and processes (*Id.* at 12-4), and the school's willingness to accept change and reform (*Id.* at 14-7). In order for the implementation of comprehensive school reform to be effective, efforts must: (1) consider readiness capacity; (2) utilize support programs matched to a school's readiness needs; (3) recognize that external accountability measures can retard or advance readiness capacity; and (4) understand that different schools require different amounts of time to build readiness for reform. These considerations should be factored into a new assessment and accountability system.

**INCORPORATING BEST PRACTICES
AND EDUCATIONAL POLICY CONSIDERATIONS
INTO NEW JERSEY'S SYSTEM OF STATE INTERVENTION**

In comparison to other states' programs, New Jersey's system of state intervention in local school districts has deficiencies both in structure and practice. A number of changes should be considered to incorporate those elements of other states' programs that we regard as "best practices" and to take into account important educational policy considerations.

As a structural matter, New Jersey's statute:

- fails to provide adequate flexibility regarding both the nature of state takeover and the process of reestablishing local control;
- fails to treat local capacity-building as the central focus of state operation and reestablishment of local control;
- focuses unduly on district certification, and its concomitant of pupil test scores, as the measure of a state-operated district's capability to resume local control;
- fails to provide direction and coherence to state operation;
- fails to provide for comprehensive assessment of school districts, including state-operated districts, based on clear, specific and measurable performance standards; and
- fails to provide for effective technical assistance to school district administrators and board members, directed especially at persistent areas of district weakness.

As a matter of practice, the deficiencies in New Jersey's approach include:

- a top-down, command-and-control approach rather than a collaborative, technical assistance approach;

- insufficient attention, especially in the initial years of state operation, to improving educational practices;
- failure to focus on school- and classroom-level activities, in addition to district-level activities;
- failure to produce and submit required reports;
- insufficient efforts to spur civic engagement, to gather community support for school improvement efforts, and to foster the development of partnerships and collaborations with higher education institutions, businesses, and civic and community organizations;
- failure to exercise leadership in making state-operated districts models for Abbott implementation; and
- insufficient staffing to carry out many of these functions.

The Need for Flexibility

Educational reform and improvement are extremely complex matters. Such complexity demands a system of state intervention that is flexible enough to be applied to a range of different circumstances in different districts. The laws of some states provide substantially more flexibility than New Jersey's regarding the decision to intervene in a district's operations, the extent of state intervention, and the reestablishment of local control after takeover by the state. Kentucky's system of multi-tiered intervention, providing for the full range of voluntary assistance, involuntary assistance and supervision, and full state control, is a good example. With respect to reestablishment of local control, the systems in California and West Virginia are both good examples, with their provisions for partial and gradual return of authority based on readiness for local

control of specific areas of district operations. Rather than providing for all-or-nothing local responsibility or state takeover, these systems provide for district-specific determinations of the appropriate level of intervention, taking into account all relevant circumstances, and they allow state officials to exercise appropriate discretion. To the extent that some of New Jersey's laws (particularly CEIFA) allow significant flexibility, they should be implemented to develop a more flexible approach than the State currently employs. To the extent that more specific legislative authorization is needed for such approaches as partial takeover, for example, it should be sought.

California's reference to "substantial and sustained progress" as the standard for reestablishment of local control, and the discretion granted and exercised by FCMAT in recommending return to local control, exemplify the flexibility given to state officials. As discussed above, in the Compton school district, FCMAT determined that a rating of seven out of ten on each of the agency's detailed performance standards would be required, but then recommended the return of authority even though the district had not met this standard, because it had shown considerable improvement and "substantial and sustained progress." New Jersey would benefit from a similarly flexible approach.

State Intervention Should Focus on Building Local Capacity

The state's decision to intervene in the operations of a local school district should be based on a determination that a district lacks sufficient capacity to make and sustain educational improvement. A decision to engage in the most severe intervention, state takeover, should be based on a determination that a local board of education and its administration lack any capacity to improve. The statutory provision that takeover should occur where a district is "unwilling or unable" to meet state standards (N.J.S.A.

18A:7A-14) is consistent with this principle. Local capacity, and the effort to build local capacity, are key. Notwithstanding this provision, however, neither New Jersey's statute as a whole nor the State Department's conduct of state operation seem to give primacy to local capacity-building.

Since insufficient local capacity is the trigger for state intervention, all state intervention in local school district operations should have the goal of building local capacity. The act of intervention itself, including takeover, and all action taken during a period of state intervention, including state operation, should further the goal of building local capacity to govern and operate the district effectively. For example, completely supplanting the local board of education and all senior administrators, as required by the New Jersey statute, tends to undermine local capacity rather than strengthen it. The models in Kentucky and West Virginia, in which the local board remains in place upon state takeover, with reduced authority, are preferable in this regard. Kentucky's provision that individual board members may be removed for cause is sufficient to address concerns about any individuals whose continued service would be inappropriate because of some misconduct in office or neglect of duty.

As another example, state operation in New Jersey has involved little effort by the state to prepare the board of education for the task of resuming governance authority and little effort to work with local officials to make changes that are likely to result in long-term educational improvement. Instead, once a state district superintendent is appointed, the role of the State Department of Education has been fairly minimal. The superintendent is essentially on his or her own, and receives little or no more support or assistance from the state than the superintendent in any other district. The superintendent

is expected to make changes, but little or no effort is made by the State Department of Education to ensure that the superintendent's reforms will be sustained upon return to local control. The models of all four states discussed in this report – California, Connecticut, West Virginia and Kentucky – are preferable in this regard. In varying ways, all four of those states devote substantially more effort to working with local officials to effect reforms and build capacity to sustain educational improvement. New Jersey, similarly, should increase its long-term capacity-building efforts in the state-operated districts.

Demonstration of Local Capacity, Rather than Certification, Should Be the Prerequisite to Reestablishment of Local Control

Consistent with the focus on local capacity-building, control of a state-operated district should be returned when the local board of education has the capacity to assume responsibility for governing and operating the district. A demonstration of capacity should be the prerequisite for reestablishment of local control. New Jersey's statute provides instead that district certification is the prerequisite. The focus on certification as the standard for return to local control is misguided.

A district's failure to achieve certification does not trigger takeover -- rather, as discussed, takeover occurs only where a district is unwilling or unable to address the problems that led to its failure to achieve certification, i.e., where it lacks capacity to make improvements. Thus, by providing that local control may be reestablished only if the district satisfies the requirements for certification, the statute provides a stricter standard for return of control than for takeover itself. Not only does this make little sense, but the consequence of using this stricter standard is that districts in which state operation is established are almost certain to remain under state control for extended

periods (and that is proving to be New Jersey's experience), regardless of whether continued state operation is necessary, simply because they cannot achieve certification.

Achieving certification is a formidable challenge for most urban districts. This is primarily because of the pupil achievement element of the state's certification standards. Even with the most efficient operation and sophisticated reforms, achieving the required level of pupil achievement on standardized tests is difficult for many districts. Thus, unless the pupil achievement elements are eliminated from the package of certification standards, the certification requirement effectively makes pupil achievement the dispositive factor in determining readiness for return to local control. State test scores are not a reliable indicator of improvements in pupil achievement, and are an even less accurate indicator of school district administrative performance or capacity, as discussed above. For this reason, neither those scores nor certification standards that include standardized test scores should be assigned such weight in the determination of readiness for resumption of local control. A standard more reflective of the district's capacity to sustain educational improvement and operate without state control would be preferable.

This is not to say that district certification, and the assessment and monitoring process, serve no purpose. Monitoring, assessment, and the state's certification standards, including its student achievement standards, further the beneficial purpose of promoting a thorough and efficient system of education throughout the state. We do not suggest abandoning them altogether or relaxing the requirements of certification for any district. The point here is only that New Jersey's certification standards (standards that put heavy weight on standardized test scores) are not an adequate measure of the need for the state's strongest enforcement measure, state operation of a school district. The

determination to return the district to local control should be based on more relevant factors. When that determination is made and local control resumes, monitoring and assessment should continue, and if the district continues to fail to achieve certification, different remedial measures may be necessary and appropriate. Assistance should be provided to address the specific need identified at that time, as discussed further below. But the question of readiness for return to local control cannot be answered accurately solely by reference to certification. An alternative standard, one which more accurately measures capacity to operate without state control, is needed.

Kentucky's statute, for example, provides that local control may be returned when the district's "pattern of ineffectiveness and inefficiency," and the specific deficiencies found in the management audit that led initially to state takeover, have been corrected. California's statute, as discussed above, provides for return upon a showing of "substantial and sustained progress." Both of these reflect the strength of the local board and administration, and therefore are preferable to the current standard in New Jersey.

Direction and Coherence

In general, state operation of school districts in New Jersey has lacked direction and coherence. The state has provided no clear statement of what districts must accomplish under state operation (other than certification). As far as we have been able to determine, the state never has issued a document specific to state-operated districts stating the goals and objectives of state operation or the standards and benchmarks by which their reforms, the sustainability of those reforms, and their progress toward return to local control will be measured. Under the statute, district certification is the stated goal of state operation, yet when the State Department of Education issued a revised

manual for monitoring and assessment of school districts in 2000, it did not even mention state-operated districts, let alone provide guidance on application of the certification standards to those districts.

Lacking sufficient direction from the state, the three state-operated districts have developed their own strategic plans and adopted their own reforms. Their initial focus typically has been on correcting management and fiscal problems, and, often, that effort has dominated the first several years of takeover. Greater focus has been placed on educational programs more recently, but the myriad programs and strategies initiated in the three districts lack any consistency of approach. While local vision and creativity are not bad, the vision or theory of the programs in the state-operated districts is unclear. In any event, developing capacity for local control does not appear to be the primary objective. Indeed, returning the districts to local control does not appear to be the primary objective.

The state-operated districts need better direction. In Connecticut, for example, the Commissioner of Education provided direction by issuing the 48-point plan for improvement of the Hartford school district, and the takeover statute required implementation of all 48 points. In California, the statute adopted in 1997 relating to the Compton school district provided direction by requiring that recovery plans be developed and implemented in the areas of community relations, personnel management, pupil achievement, financial management, and facilities management. Some form of vision should be given to New Jersey's state-operated districts. Ideally, the state should provide both a vision of the overall goal of state operation and district-specific directives based on identified need.

The Need for Comprehensive Assessment of District Performance and a Plan for Addressing Areas of Deficiency

The state also never has performed a systematic external assessment of the progress or improvement in any of the state-operated districts. Key documents contemplated by the statute apparently just have not been produced -- annual reports on the progress of each state-operated district by the Commissioner to the State Board of Education, the Governor and the Legislature; annual reports on the prospects for each district's return to local control by the Commissioner to the Joint Committee on the Public Schools and to the Governor; a five-year report by the Joint Committee to the Legislature and the Governor; and, perhaps most troublesome, the reports by the Commissioner on whether state operation should be extended in each of the three districts beyond the five-year statutory minimum. Several external consultants' reports have provided some useful information about individual state-operated districts, especially Newark, but the only comprehensive reports which have been produced regularly are the districts' own annual reports. Since those reports consist entirely of self-assessment, and the districts have not been provided with any clear, specific goals or benchmarks for their efforts, assessment of their progress has been haphazard. This is in sharp contrast to California, where FCMAT issued semi-annual reports of the Compton school district's progress, and Connecticut, where quarterly reports of the Hartford school district's progress were issued.

A school district's capacity to make and sustain educational reform and improvement must be measured by clear, specific, objective, measurable standards. That measurement should be in the form of a comprehensive assessment of all aspects of district performance. The need for comprehensive assessment applies to all districts, but

specifically applies to state-operated districts: a determination of readiness for return to local control cannot be made rationally except on the basis of an objective assessment of all aspects of school district operations, especially those aspects found to be deficient at the time state operation was established. If an assessment of any of New Jersey's state-operated districts shows that it currently has the capacity to operate without state control, it should be returned to local control without further delay. If an assessment identifies areas of deficiency, those areas need to be addressed, and a plan for doing so is needed.

Assessment of a state-operated district has three purposes: (1) to determine the extent to which effective instructional programs and sound business operations and governance practices are in place; (2) to the extent that they are in place, to measure the district's capacity to carry them on after state operation ends; and (3) to the extent that they are not in place, to provide the basis for a plan for improving the district's programs, operations and practices. In short, the purpose of assessment is to measure capacity to operate the district, and to assist in development of a plan for building local capacity. It is not to measure the success of the district's programs in terms of pupil achievement or cost-efficiency, though these are relevant considerations.

The assessment should be comprehensive and objective. It should be comprehensive in scope and depth, designed to encompass all areas of district operations that need to be examined in order to determine capacity to operate without state control, and to examine each of those areas in sufficient detail to make an informed judgment. The elements of New Jersey's system of assessment – quality assurance, school level planning, curriculum and instruction, pupil performance, pupil behavior, teaching staff and professional development, and school resources – encompass some, but not all, of the

relevant areas of district operations. The areas of assessment required by statute in California include community relations and personnel management, which are not included in New Jersey's system, as well as pupil achievement, financial management and facilities management. The initiatives put in place in the Hartford school district provide another model -- school and district management and accountability, curriculum and course offerings, instruction, assessment and school climate; professional development, early childhood, technology, student support, parent and community support, fiscal management, and facilities management. No matter how the areas are organized or described, they should include board structure and procedures, district-level administrative structure and supervisory practices and procedures, school-level management, professional development programs, curriculum, and community relations. They also should include indicators relating to the special requirements imposed on urban districts by *Abbott v. Burke*, including whole school reform, early childhood education, supplemental programs and services, school management teams, and the budget process.

As stated, the standards set in each area should be specific and measurable. This is where New Jersey's certification indicators fall short. With the exception of the three pupil performance measures (pupil achievement on standardized tests, attendance rate and dropout rate), the certification standards are much more general than the standards developed in some other states, notably California. Most are oriented toward a paper approval process, and do not lend themselves to periodic measurement. FCMAT, in California, set 370 specific standards for the Compton school district, relating to district policies, practices, programs, staffing levels, and school and district climate. The number need not be so great -- West Virginia, for example, set 28 standards for the Logan County

school district – but the unanimous appreciation, among those in the Compton school district interviewed for this report, of the specificity and clarity of FCMAT’s performance standards should be borne in mind. A suggested set of performance standards which incorporates New Jersey’s certification indicators, the *Abbott* requirements and some of the FCMAT standards, is contained in Appendix A to this report. This set contains 161 specific performance standards. Another possible model is the “systems review template,” prepared for New Jersey’s Technical Assistance Task Force. That set, a copy of which is attached as Appendix B to this Report, contains 309 specific standards. (In our view, however, this model contains insufficient detail regarding the Abbott requirements and excessive detail regarding classroom management and instruction.)

Once the standards have been set, school district performance should be measured based on the extent to which each standard has been met. Satisfaction of each standard should be objectively verifiable. This might be achieved with ratings such as “fully implemented/partially implemented/no progress,” as the state of Connecticut used in Hartford, or with a rating scale of one to ten, as FCMAT used in Compton, or some other objective measure. Satisfaction of all of the standards should be the basis for a determination that reestablishment of local control is appropriate.

If the assessment results in a determination that the standards are not all satisfied, state operation should continue. For any standard that is not met, an improvement plan should be developed and implemented. Plans may differ from one district to another, depending on the identified need. Each district may go about addressing its needs differently as well; the plan developed in Logan County, West Virginia, for example, was

distinctive in its focus on a few areas of improvement each year rather than an attempt to overhaul the district completely all at once. Every plan, however, should include intensive technical assistance to the district, provided by experienced educators and administrators who have been trained in effective methods of providing such assistance, as well as periodic reassessment, using the same standards as the initial comprehensive assessment. The results of the assessment and each periodic reassessment should be made available to the state district superintendent, the Commissioner, the State Board of Education, the Governor and the Legislature, as well as to the public.

The assessment must be performed by someone outside the district. Self-assessment is insufficient. It could be performed by staff of the State Department of Education if agency staff has the capacity or expertise for the task. An office such as the West Virginia Office of Education Performance Audits, for example, or the Kentucky Department of Education's Division of Management Assistance could be established. Alternatively, an agency independent of the State Department of Education could be established, and probably would be preferable. As long as the State Department carries out an enforcement function (as it should continue to do, as discussed above), accurate assessment and collaborative development and implementation of an improvement plan probably would be better conducted by an agency or organization independent of the Department. Such an agency or organization – a nonprofit organization or an institution of higher education, for example, or an independent agency such as California's FCMAT – could report its findings and recommendations to the Commissioner and the State Board of Education. Under the auspices of any such agency or organization, the state should take advantage of the many experienced educators in New Jersey who could

assess various aspects of district performance and share the wealth of their experience. Kentucky's Highly Skilled Education Assistance Program or New Jersey's own Technical Assistance Task Force might be useful models in that regard.

The assessment and the improvement plan should be integral parts of the capacity-building process of state operation. The processes of assessment and plan-development should be capacity-building exercises themselves. They should be useful exercises for all members of the district staff and board whose efforts are scrutinized. They should be collaborative efforts between the state and the district, and they should be presented to the district as collaborative exercises in order for them to have a positive capacity-building effect. They certainly should not be an adversarial process, as the pre-takeover Level III monitoring process appears to have been in each of the state-operated districts.

The assessment also should be used to obtain input from parents, community groups, business leaders and representatives of local institutions of higher education. It should be used, in part, as an opportunity to initiate or strengthen relationships with each of these constituencies, and to generate or increase their support for the district's efforts. To the extent relevant, the participation of these constituencies should be included in the improvement plan as well. Members of these groups may not have the expertise to formally evaluate or implement educational programs, but they can be a valuable source of information.

This model of comprehensive assessment leading to a plan for addressing areas of deficiency can, and should, be used in all school districts in need of assistance. The state cannot rationally determine the type and extent of assistance necessary in any district

without a systematic method of assessment based on specific, objective performance standards. Detailed, comprehensive assessment can, and should, be used to determine the extent to which effective instructional programs and sound business operations and governance practices are in place, and to the extent that they are not in place, to provide the basis for a plan for improving the district's programs, operations and practices. For all urban districts, one unified system should be used to assess district performance in the areas currently covered in the monitoring and assessment process and the areas of operation required by *Abbott*. This should be a fundamental aspect of the state's system of intervention in local school districts.

The Importance of Technical Assistance

Just as there is no system of comprehensive assessment in New Jersey, there is no significant, ongoing technical assistance provided to local school districts by the State Department of Education or any other agency. The recent George Washington University study of whole school reform in New Jersey strongly recommended that the State Department change its approach from command-and-control to collaboration and technical assistance. As the study stated, the State Department needs to change from a management perspective that is focused on monitoring program compliance to a technical assistance perspective focused on continuous improvement. We share that view. The department needs to be structured in such a way that it supports the various school improvement strategies aimed at organization, instruction and district/school culture. As it also performs an enforcement function, the department needs to devise an organizational structure or other mechanism that would accommodate both enforcement and technical assistance. Again, one effective approach is California's, with FCMAT

established as an independent state agency with only assessment and technical assistance responsibilities.

As the state begins to focus its role on providing technical assistance to districts, there are specific ways it can channel these efforts. Two broad areas that are critical to capacity, and which also pose particular challenges to the state-operated districts, are personnel and data. The suggestions made in the George Washington University report about the state's technical assistance role are particularly useful here. To improve personnel capacity, the report recommended that the state work with district administrators to expand curricula alignment training for principals and teachers, and work with district leaders to design training for school management teams about staff recruitment and retention strategies. To improve district capacity to use data to inform organizational decisions and instructional practices, the report recommended that the state work with districts to develop accountability systems that include clearly articulated benchmarks about everything from certified teachers to student achievement (this is related to our recommendation above for comprehensive assessment in all school districts), and train district administrators, supervisors and teachers to organize, analyze and manipulate data to permit them to make decisions and develop strategies to improve student learning.

We recognize that there is a finite amount of resources available to the state to assist districts. Independent, intermediary organizations may be more effective in providing technical assistance in any event. The state's role as a broker of relationships with outside organizations and individuals thus becomes critical to its effort to provide technical assistance. We therefore recommend that the State Department assist districts

in developing community collaborations that include economic development programs, business-school partnerships, family-school collaborations, school-university partnerships and collaborations with community-based organizations. Additionally, since the greatest source of expertise that is useful to educators may be other experienced educators, we also recommend that the department adopt a model similar to Kentucky's Highly Skilled Educators Program, or that it consider reinstating a program similar to its Technical Assistance Task Force.

In the latter regard, however, we are also mindful of the fact that New Jersey's Technical Assistance Task Force has not been successful in all of its efforts to assist districts. The State Department should evaluate that program to identify its strengths and deficiencies. One deficiency may have been in the level of training given to the technical assistance providers: even skilled educators may not be effective at imparting their knowledge to other educators. The primary deficiency, however, may not have been in the providers or any aspect of the task force itself, but rather in the department's overall command-and-control approach. An offer of assistance to a district may not be accepted readily if it is viewed as coming from an agency with little real interest in assisting. Thus, the department's overall relationship with districts that are struggling to meet all the demands placed on them is as important as any specific offer of assistance.

Improving Educational Practices

One of the most frequently-voiced criticisms of state operation in New Jersey is that the focus, at least for the first several years, is on fiscal and administrative management, rather than instructional, matters. There may be both practical and logical reasons for that emphasis. Showing tangible progress in improving fiscal and

management functions is much easier than showing like progress in a district's educational functions, especially regarding pupil outcomes. Moreover, a district with dysfunctional fiscal and administrative processes will be hard-pressed to effect real educational improvements. Nonetheless, in other states earlier attention has been given to at least some symbolic educational improvements. That is important because the ultimate constitutional purpose of state accountability, up to and including takeover, is to assure that all students are receiving a "thorough and efficient" education. Earlier, and sustained, attention to educational improvement in the state-operated districts probably would yield more steady progress.

Moreover, New Jersey's primary focus of state operation is at the district, rather than the school or classroom, level. The statute specifically requires central office reorganization but no direct school-level action other than assessment of principals and vice-principals. The impact on schools and classrooms, therefore, tends to be indirect. Given recent studies that emphasize the importance of change at the school and classroom levels, through instructional personnel, supervisors and school management teams, state operation should focus more attention at those levels.

Community Support

Many studies have shown that parental involvement and support, and broad-based community involvement and support, are vital to effective educational efforts. They may also be vital to educational reform and to effective state intervention in schools and school districts. Successful capacity-building efforts may depend in large part on the support of the community. Put another way, the more parental and community support there is for school administrators and teachers, the more likely they are to achieve

success, not only in educating the children in their classrooms but in developing the ability to implement and sustain effective educational reforms. The more parental and community support – and demand -- there is for facilities improvement, sound financial management, and effective personnel management, the more likely these things are to be achieved.

The model of municipal intervention in Chelsea, Massachusetts, is a prime example of the important role that may be played by the community in social reform. Building “social capital” was an objective as important to the receiver in Chelsea as financial or managerial reform; accordingly, that model is especially noteworthy for the extent of public involvement in the process, and the resulting degree of support for the outcome. In school districts, too, community involvement in the decision-making process can offer one way to build the community’s capacity to govern itself. The community’s input should be sought on many aspects of district operation. It may be especially vital on the question of the composition of the board of education to be formed upon return to local control.

Another way to bring dramatically increased capacity to bear at the school district, school and classroom levels is to develop partnerships and collaborations with higher education institutions, businesses, and civic and community organizations. This principle is well established. New Jersey has made some effort in that direction under state operation, but not enough. More specific, focused efforts should be made to obtain the support and assistance of these constituencies.

State-operated Districts as Models for *Abbott* Implementation

State operation of New Jersey’s three largest school districts provides an

extraordinary opportunity for the State Department of Education, in collaboration with area universities, businesses and other organizations, to develop models for other districts, especially urban districts. This could extend to a range of matters. One that is specifically applicable to poor urban districts relates to implementation of *Abbott's* requirements. For the past seven years, the most active *Abbott* implementation period, the state has been operating New Jersey's three largest urban school districts, *Abbott* districts all. This has presented an opportunity for the state to demonstrate to the other 27 *Abbott* districts how they should be approaching implementation of the court's mandates. Unfortunately, the state has not seized the opportunity. To the contrary, despite some efforts by state district superintendents to press ahead, the State Department has tended to limit and delay implementation, rather than expedite it. In some ways, *Abbott* implementation in the state-operated districts actually has been less effective than in the other *Abbott* districts. For example, when the *Abbott* districts were required to do particularized needs assessments of their early childhood education programs, most of them sought the assistance of the Center for Early Education Research at the Rutgers Graduate School of Education, but none of the state-operated districts did so. This should not be the case. The state-operated districts should showcase the best, not the worst.

Other opportunities to develop models of school district administration could be even broader in scope. State-operated districts could be models of restructuring for all districts, through school-based management, with district offices increasingly functioning as service centers to schools and teachers. They could demonstrate how enhanced recruitment, retention and professional development of teachers could be put in place.

They could be models of collaboration with universities, businesses and other organizations.

The possibilities are probably endless. Using state-operated districts as such models, New Jersey truly could be in the forefront of educational reform.

Of course, models of reform require resources. California, for example, appropriated five hundred thousand dollars in one year alone for FCMAT's work in one school district, Compton. Connecticut, for another, assigned every senior staff member in its State Department of Education part of the task of improving the Hartford school district. New Jersey's State Department of Education already appears to be stretched for resources, especially staff. Despite the fact that it has been given massive new responsibilities in the last decade--including, among many others, state operation and *Abbott* implementation--its staffing capacity reportedly has decreased. The mismatch between responsibilities and capacity has become painfully apparent. Additionally, there has been rapid turnover of commissioners and other senior department administrators. The result is a department manifestly struggling to discharge its current duties, let alone the additional ones proposed by this report. Without substantial augmentation of department capacity, effective reform and effective delivery of New Jersey's most important public service will be rendered virtually impossible. The State Department of Education must be given the resources to match the task, and the opportunity, presented to it.

A PROCESS FOR REESTABLISHING LOCAL CONTROL

As discussed above, New Jersey's statutory scheme for state operation of local school districts provides little guidance regarding how to end state operation. Reestablishing local control is the clear goal, but none of New Jersey's state-operated districts has been able to reach that goal, perhaps in part because of the lack of a clear statutory process for reaching it. "Now what do we do?" appears to be the question, after more than a decade of direct state operation of local school districts. Some answers to this question may be gleaned from the districts' collective experience under state operation and from the models provided by other states. Additionally, two specific proposals for reestablishing local control are worth considering in detail.²⁸

One section of the current statutory scheme, N.J.S.A. 18A:7A-49, addresses the return to local control. This section provides, in part, that achievement of state certification is a prerequisite to return. As discussed above, none of the three state-operated districts has met this standard, and certification has proven to be an unsatisfactory measure of district capacity to the extent that it requires a certain level of pupil achievement as shown by standardized test scores. The provision also sets forth a basic framework for district governance, including a one-year transition period after resumption of local control. During the transition, the board of education established

²⁸ Neither of the proposals discussed in this section, the Jersey City Transition Team recommendations and proposed bill A3030, appears to be under active consideration. The Transition Team's timeline for transition to local control has not been met, nor does there appear to be any indication at this time that its other recommendations will be implemented. Similarly, A3030 has been released from committee but has not progressed any further in the General Assembly. These proposals are not discussed here in order to take a position one way or another regarding their adoption or implementation, but rather because they are the most comprehensive proposals we have seen relating to the process of reestablishment of local control, and therefore they provide a framework for discussion of the various elements of that process.

during state operation continues to exist, the state district superintendent and his staff continue to serve, and a special election is held to place the question of the board's classification status before the voters.²⁹ Proposals have been made to modify both aspects of the statutory process – the standard for reestablishment of local control and the structure to be put in place -- and to provide a detailed procedure for the return to local control.

One proposal is the Jersey City Transition Team's recommendations. Although, as discussed above, those recommendations relate specifically to circumstances in the Jersey City school district and community, they have broader applicability. The Transition Team recommended a two-year transition period culminating in full resumption of local control. During the transition period, after six months, the board of education would assume "conditional authority" over all school district operations; the district would conduct an internal "educational audit" of test scores, dropout rates and attendance figures to serve as a benchmark to measure future progress; it would obtain "independent" audits of programs, operations, fiscal matters and personnel policy implementation; and, in the second year, the board would establish a process to fill the

²⁹ School districts in New Jersey (other than state-operated school districts) are classified into two types, Type I and Type II. Type I school districts include all those in municipalities that are cities, except those in which the voters have chosen to "accept" Type II status. *See* N.J.S.A. 18A:9-1 *et seq.* The board of education in a Type I district in a city of the first class consists of nine members, each appointed to a three-year term by the mayor or other chief executive officer of the city (though in smaller cities, the municipal governing body may provide for five- or seven-member boards). The board of education in a Type II district may consist of three, five, seven or nine members, as decided by the voters, and may be appointed or elected, although in any newly established Type II district they shall be elected. *See* N.J.S.A. 18A:12-1 *et seq.*

superintendent's position, "by extension, renewal, or search," upon resumption of local control. Additionally, the Transition Team recommended the following:

- Maintenance of a city-wide parents organization, including parents from each of the district's schools as well as Jersey City parents with children outside of the district.
- Independent audits in personnel policy implementation, program and operations to be obtained annually for at least five years after local control is resumed.
- A board of education [upon return to local control] to consist of 13 voting members and three ex-officio members. Nine of the voting members would be elected by the public and four by a standing committee representing parents, businesses, higher education, mayor/council, and clergy. The four committee nominations would be ratified by the Commissioner of Education. The three ex-officio members would consist of one parent and one student appointed by the superintendent and one member appointed by the Commissioner of Education.
- Establishment of a board of school estimate, composed of the mayor, two members of the city council, and two members of the board of education to review the annual budget and determine the annual school tax levy.
- Development of permanent and systemic connections between public education and higher education.
- Establishment of an enhanced code of ethics for school board members and administrative personnel, which would define the specific functions of the board, individual board members and district administration. It also would define and prohibit nepotism, patronage and favoritism, as well as board member involvement in the daily activities of the district. The code also would include a clear mechanism for the removal of a board member or administrator for violating this code.
- The board of education would have separate funding for a comprehensive study of district educational and organizational needs, with specific attention to the central mission of teaching and learning. It also would be funded to annually update the assessment of district needs.
- The board of education would monitor the implementation of all federal and state programs for compliance with rules and regulations.
- Establishment of a district-wide Abbott Implementation Council, with representation from the board, parents, community-at-large, teachers, school

and district administrators, support staff, higher education faculty, and students. With superintendent approval, the council would develop and oversee implementation of the annual Abbott Implementation Plan.

- Establishment of an internal office of accountability and quality assurance to be supervised by the superintendent. Its objective would be to establish in all schools the structures, time, and opportunities for teachers to work on improving their practice, the curriculum, and their knowledge of effective school and classroom reforms. The office would develop district standards and quality indicators and train district and school personnel to regularly assess program quality. The office would organize improvement planning and implementation activities.

Another proposal is in the form of a bill introduced in the New Jersey Assembly. That bill, A3030, was introduced by Reps. Joseph V. Doria and David W. Wolfe in November 2000, reportedly with the support of the State Department of Education. It was considered and reported favorably by the Assembly Education Committee in December 2000, but no further action has been taken on the bill to date. The bill incorporates some, but not all, of the Jersey City Transition Team's recommendations, and includes some additional measures. A3030 would amend existing statutes to provide as follows:

- The requirement of state certification for return to local control would be eliminated. If the Commissioner of Education determines that the district (1) had met all certification requirements or (2) it had made continuous progress toward the certification standards and had demonstrated an ability to resume governance, the Commissioner would be permitted to recommend to the State Board that a transition period begin, leading to the reestablishment of local control.
- If the State Board determined that either of the criteria above had been met, the State Board would be required to establish a transition period of a specified time period not less than two years and to reestablish local control effective on the July 1 following the satisfactory completion of the terms of a transition plan developed by the Commissioner.
- The Commissioner, in consultation with the state district superintendent and the board, with an opportunity for input from the public, would develop a transition plan to return the district to local control.

- The transition plan would be required to include criteria to (1) safeguard against a recurrence of the circumstances that led to establishment of the state-operated district and (2) assist the district in continuing to meet the requirements of certification and facilitate its meeting the requirements not already met, if any. The transition plan would include performance benchmarks to measure progress during the transition period, tailored to meet the “unique educational challenges and circumstances of the district.”
- The Commissioner could recommend to the State Board that the local board be given the right to vote on personnel matters during the transition period. If the board were given this right, the superintendent would retain veto power.
- During the transition period, the state district superintendent would be required to provide the Commissioner with an annual assessment of the district’s progress toward satisfying the criteria in the transition plan. If the Commissioner determined that progress was not satisfactory, he could recommend extension of the transition period or a return to operation in all respects as a state-operated district.
- The state district superintendent would serve for the duration of the transition period. In the last year of the transition period the board would initiate the process of selecting a new superintendent. Members of the state district superintendent’s staff would serve until June 30 of the first year after return to local control, without prejudice to the right of the board to continue the employment of those staff members.
- During the transition period, in addition to the nine elected board members, the Commissioner would appoint four members of the board – community members recommended by institutions of higher education, business leaders, and faith and community groups. The terms of these members would be set by the Commissioner. The Commissioner also would appoint a member of his staff to serve as a nonvoting member of the board and act as a liaison between him and the board.
- An election to determine the classification of the board upon reestablishment of local control would take place between September 1 and January 1 of the second year of the transition period.
- The internal auditors in a state-operated district would continue to serve for not less than five years after return to local control.

Transition Period

While the concept of the two-year transition period may have been appropriate for Jersey City, we believe it would be misguided as a measure for statewide application. It may have been appropriate for Jersey City in light of the degree to which the district already had progressed toward readiness for local control, in the Transition Team's view. As a general matter, however, all of state operation should be a process of transition to local control. The concept of a transition period, set off from the rest of the period of state operation, would detract from the principle that the primary goal of state operation is building the capacity for local control and from the corollary that the process of building local capacity should begin from the outset of state operation. Thus, while we agree with many of the recommendations as to actions to be taken during the transition period, we believe those actions should be taken throughout the period of state operation rather than only at a point late in the process. With respect to the three districts currently under state operation, we believe many of the actions recommended by the Transition Team should be taken as soon as possible.

For instance, the Transition Team recommended a "comprehensive study" of the district's educational and organizational needs, with specific attention to the "central mission" of teaching and learning, and A3030 provides for a "transition plan" tailored to meet the "unique educational challenges and circumstances" of the district. Such a study and such a plan are essential; as discussed above, we believe a comprehensive assessment should be conducted and a plan developed in each state-operated district without further delay. Providing assistance to each district's improvement efforts is also essential; if anything, such assistance is needed more at the outset of state operation than after it is

determined that the district is making satisfactory progress and a “transition period” should begin. Providing assessment and assistance only after the district has met the specified standard to begin the transition period would serve little purpose. A district that shows that it can meet such a standard should be returned to local control (though with some continued state oversight, as discussed below) without further delay. There should be no need for a two-year transition.

Eliminating the Certification Requirement

The Transition Team would begin the transition period, and ultimately would return control to the local board, notwithstanding the fact that the district has not satisfied state certification standards (specifically, the student achievement standards) and is not likely to do so in the near future. Thus, the Transition Team would disregard, or seek amendment of, the statutory prerequisite of certification for the return to local control. A3030 incorporates this recommendation, and effectively would eliminate the certification requirement, by retaining the reference to state certification but adding as an alternative standard the showing of “continuous progress” toward certification and demonstration of an “ability to resume governance.”

We agree with the recommendation to eliminate certification as a prerequisite to reestablishment of local control, as discussed above. However, while we agree with the concept of the alternative standard, the standard proposed in A3030 – “continuous progress” toward certification and “ability to resume governance” -- leaves at least two important questions unanswered. First, how do we know when a district has met this standard? Specific, objectively measurable definitions of “continuous progress” and “ability to resume governance” are needed. The definitions of “progress” and “ability”

probably need to be district-specific. Perhaps the necessary specificity could be provided by administrative code rather than statute, but since a statutory amendment is needed in any event to modify or eliminate the current standard, the amendment should make clear the mandate for an objectively measurable standard.

Second, how does a district achieve such progress toward certification and the ability to resume governance? Merely establishing a new standard would not help the state-operated districts to meet it. Nor would a declaration that the standard has been met – that there has been progress, that the local board is “able to resume governance” – help the districts and the ultimate beneficiaries, their students, if such a declaration is not based in reality. Improvement efforts are more important than any specified standard or a declaration that the standard has been met, and both A3030 and the Transition Team recommendations seem to be short on efforts to provide support and assistance to the districts’ improvement efforts. The state and each state-operated district should work together to develop district-specific plans for strengthening delivery of instruction, instituting educational reform, strengthening management practices and governance processes, and sustaining all of this reform and improvement; and the state should provide intensive, effective technical assistance to each district in each of these areas, with a team of trained providers.

Performance Assessment and a Plan for Returning to Local Control

The Transition Team recommendations call for extensive assessment of school district operations, but have no provision for development of a plan for gradual return of local control. In contrast, A3030 calls for a transition plan but has no provision for assessment of district operations. Perhaps the Transition Team believed immediate

return of the Jersey City school district was possible, and therefore no detailed plan was necessary; perhaps the drafters of A3030 thought no further assessment was needed once a transition period commenced. The bill does refer to “benchmarks;” perhaps this is an acknowledgment that some assessment will be needed. In our view, a comprehensive assessment and a plan based on the results of that assessment are essential.

Authority of the Board of Education

The Transition Team recommended that six months into the transition period, the local board of education be given conditional authority over all school district operations. Presumably, “all school district operations” implies broader authority than that held by the board of education in a state-operated district under the current statute, and “conditional authority” means the state district superintendent would retain veto power over all of the board’s decisions. Somewhat similarly, A3030 provides that, upon recommendation by the Commissioner, the board may be given the right to vote on personnel matters during the transition period, subject to the superintendent’s veto. This, too, is a broadening of board authority. The current statutory provision (N.J.S.A. 18A:7A-48, adopted in 1995) requires the state district superintendent to bring curriculum matters, legal matters and fiscal matters before the board for a vote beginning in the second, third and fourth years of state operation respectively, all subject to the superintendent’s veto. Matters other than curriculum, legal and fiscal – including personnel matters -- remain outside the board’s domain.

Vesting some authority in the local board of education is an important feature of building local capacity to operate the district without state control. It is also important to the effort to build community support for school officials, which may be at its lowest

during a period of state operation, and to the effort to restore the community's self-confidence, which may be injured by the state's finding that it has failed to meet standards and is unable or unwilling to improve. Again, according such authority to the board need not wait until a transition period commences. Granting conditional authority to the board only after it demonstrates the ability to resume governance authority (which is, in part, the standard for commencing the transition period under A3030), rather than working with the board from the outset to develop that ability, makes little sense. The effort to build the board's capacity to govern should begin as early as the efforts to build capacity in other areas of operation.

In fact, one might argue that the entire concept of "conditional authority," or the state district superintendent's veto, is not consistent with the overall goal of state operation. Granting the board the right to vote, while retaining the superintendent's veto, allows the superintendent to retain control over the board's actions, but also makes the board's authority largely illusory, which may in fact detract from, rather than assist in, the effort to build community support and self-confidence. A better approach might be that used in West Virginia, where the board of education remains in existence upon takeover, but its authority over most areas of school district operation is completely curtailed. The board continues to function in an advisory capacity, and this function is valued by the state-appointed superintendent, but there is no illusion about the authority of the board.

The need for the superintendent to retain veto power is caused by the provisions, in both the existing statute and the proposed amendments, which give the board the right to vote on various aspects of school district operations at certain set times, regardless of

whether the board has demonstrated the capacity to handle those matters. A more sensible approach would be to eliminate the set time at which authority should be granted, and provide instead that the board's role shall be advisory only until it demonstrates the ability to govern in the various areas of school district operations, and when such ability is demonstrated, full authority over those areas shall be granted. No veto, no such control, would be needed, because no real authority would be granted until the Commissioner was confident that authority would be handled responsibly.

As a further capacity-building measure, the board's authority could be phased in gradually. A board might develop expertise in each of the various aspects of school district operations – curriculum and instruction, community relations, fiscal affairs, facilities management, and personnel management, for example – over differing lengths of time. As it developed and demonstrated the ability to govern each area to the same degree and in the same manner as other boards throughout the state, it would be permitted to resume authority over each of those areas, and full control would be reestablished when the capacity to govern all areas of school district operations were demonstrated. The California and West Virginia state-operation schemes provide for such incremental return of authority. This approach requires the capacity, on the part of the state, to measure district capacity in each of these areas objectively and accurately. Comprehensive assessment, as discussed above, would serve this purpose.

With respect to the section of A3030 providing that the board may be granted the right to vote on personnel matters, we note that this is an area in which the board in a state-operated district currently has no authority. Under the present scheme, the board never has the right to consider, or be privy to, personnel matters. Personnel management

is a most sensitive area, one in which the board may have particular difficulty maintaining the line between its role and that of the administration. It is also, however, an area in which local capacity must be developed in order to reestablish local control. For this reason, authority over personnel matters probably should, at some point, be given to the board in the same manner as authority over other matters, though the need for careful and accurate assessment of the board's capacity to handle these matters is essential.

We note also, as an aside, that the role of every board of education in personnel matters is limited by the statutory provision that it may appoint, transfer or remove an employee only upon recommendation of the superintendent. (See N.J.S.A. 18A:27-4.1.) This provision, if enforced, should mitigate concerns about irresponsibility of the board in the area of personnel matters.

Finally, if the ability to govern in each of the areas of school district operation is to be the standard for returning local control – as we agree it should -- it must refer not only to the board's ability to establish policy, but also the ability of the district as a whole to implement policies, programs and practices in each area. If the board is to be given real, rather than illusory, authority over district operations – as we believe it should – this should happen only upon a finding that effective educational and administrative reforms have been put into place and the district as a whole has the ability to sustain those reforms. Responsibility for such reforms rightly should be held by the board of education, as it is in every school district. The board's ability to carry out such responsibility should be the full meaning of "ability to govern."

Composition of the Board

Both the Transition Team recommendations and A3030 provide for a board composed of 13 members, an increase over the nine provided by the current statute. Both provide that the four additional members would be representatives of the community, but they differ somewhat in the manner in which such representation would be achieved: the Transition Team recommended that they be community members recommended by institutions of higher education, business leaders and faith and community groups, and appointed by the Commissioner; A3030 provides that they shall be elected by a “standing committee” of parents, businesses, higher education, the mayor/council and clergy, and ratified by the Commissioner. In addition, the Transition Team recommended one non-voting member, a member of the Commissioner’s staff; and A3030 provides for three non-voting “*ex officio*” members, one parent and one student appointed by the superintendent and one other appointed by the Commissioner.

The value, indeed the need, for the contributions of higher education, businesses, community groups and parents is clear. Developing and maintaining strong ties with all of these groups are essential to providing a quality educational program, and to the development of local capacity to govern the district effectively. Whether such contributions can be obtained only by making appointments to the board of education is less clear, though presumably this would be an effective way of obtaining direct participation by these groups. Whether a seat must be institutionalized for each of these groups is also less clear, as is whether the board must be increased to ensure representation of these groups. The optimal way to obtain broad representation of the constituencies with interests in public education and the optimal size of a board of

education are debatable. Whether appointments should be made by the Commissioner, the mayor or governing body, or a “standing committee” is also debatable and largely a political question. We suggest, however, that some control by the Commissioner, either in the form of direct appointment authority or a ratification requirement, would be appropriate.

One proposal is to split a nine-member board equally among members appointed by the Commissioner, members appointed by the mayor or governing body, and elected members. This would have the effect of reducing by six the number of elected members of the existing boards in the state-operated districts, which might be politically unpopular. Another variation (though not one that we recommend) is the State Board of Trustees for the Hartford Public Schools, which will exist for the duration of state operation and consists entirely of appointed members: seven members appointed jointly by the Governor and the leaders of the State Senate and House of Representatives, and the mayor as an *ex officio* non-voting member. The appointed members are required to include representatives of racial and ethnic minorities, persons with expertise in education, and one with experience in financial matters. At the other end of the spectrum are California, West Virginia and Kentucky. In all of these states, the pre-takeover board continues to exist during the period of state operation, though with much reduced authority. In California, direct involvement and oversight by the state are obtained by two “monitors” who, in part, serve the same purpose as board-member representatives of the Commissioner, except that they are not board members.

In sum, having some appointed board members might be desirable, but it is not the only way to achieve close supervision of district operations or to obtain input.

Appointment would ensure representation of the important constituencies and (in theory) provide some confidence in the quality of those members' contributions to the board. As long as the Commissioner has some control over the appointments, specifying the constituencies that must be represented is probably not necessary. While the purpose of these appointments, to provide for broad-based representation, should be articulated, allowing flexibility in the choice of appointees probably would be preferable, both in order to ensure quality appointments and to avoid a situation where, for instance, appointment of a parent representative is required even though parents are adequately represented among elected members of the board. However, if the Commissioner will ratify the appointments rather than make them directly, identifying the specific constituencies to be represented would add another degree of control, and thus probably would be preferable.

A3030 provides that the appointed members of the board shall be "community members." This raises the question of whether these members should be required to be residents of the school district and qualified to serve as members of a board of education in all respects required of members of other boards of education. Allowing members who are not district residents provides greater flexibility, which may be needed especially with respect to representatives of business and higher education. On the other hand, allowing non-residents or otherwise ineligible persons to serve, especially in a voting capacity, may raise constitutional issues. The solution may be to forgo the residency requirement, but withhold the right to vote from these members. The contributions of these members, especially the business and higher education representatives, probably would be greatest in actions other than their votes in any event.

Appointment of a member of the Commissioner's staff to a non-voting position on the board would be a worthwhile measure. It would not only provide opportunities for close examination and ongoing assessment of district operations, but would afford the board and the community the benefit of the staff member's knowledge and experience. If this member's participation is constructive, it could help to show the Commissioner's support for the district, which in turn could help build community support for the state's efforts.

It also might be worthwhile to provide explicitly that the state district superintendent shall be a non-voting member of the board, in a manner similar to that provided with respect to other superintendents in the state (see N.J.S.A. 18:17-20). This would be important if the board is to have full authority over any aspect of school district operations. The board must not be able to exclude the superintendent from its meetings. Membership on the board would prevent such an occurrence.

Perhaps the most workable solution, taking into account all the considerations discussed here, would be to add four nonvoting members to the nine elected members, to provide that the four shall be appointed by the Commissioner upon the recommendation of the mayor or governing body and chosen in a manner which would ensure representation of higher education, business, community organizations and parents, and to provide further that the state district superintendent and a representative of the Commissioner also shall serve as non-voting members.

A3030 provides that these appointments to the board would be made during the transition period, and the Transition Team's recommendations seem to be consistent with this (though they could be read to provide that the appointments would be made only

upon return to local control). In our view, the contributions and representation of parents, businesses, community organizations and higher education are needed from the outset of state operation. There is no reason to wait for commencement of a transition period – even less reason to wait for the return to local control – before the participation of these constituencies is institutionalized. Moreover, there is good reason for the composition of the board to be established early in the period of state operation and to remain consistent thereafter. Efforts to build board capacity, to establish the policies and procedures of board operation, should be focused on an entity that is expected to be long-term and considered the precursor to the board that eventually will be given full authority.

One section of the statute (N.J.S.A. 18A:7A-47) currently provides for creation of a 15-member board within 60 days of establishment of state operation, with 13 members appointed by the Commissioner and two appointed by the local governing body. Those members are required to be residents of the district and “representative of the community’s racial and ethnic balance,” but there is no provision for representation of the constituencies mentioned in the Transition Team recommendations or A3030. Another section (N.J.S.A. 18A:7A-48) provides for election of nine board members from among the 15 appointees in the fourth full academic year following establishment of state operation, and election of members from the community at large thereafter. A provision could be added to this section for members to be appointed at the same time that elections are first conducted. Indeed, in our view, this should be sooner than the fourth year of state operation.

Any such change, of course, would require legislative amendment.

Enhanced Code of Ethics

The Transition Team recommended establishment of an “enhanced code of ethics” for board members and administrative personnel. Such a code would “define the specific functions of the board, individual board members and district administration”; it would “define and prohibit nepotism, patronage and favoritism, as well as board member involvement in the daily activities of the district”; and it would provide for removal of any board member or administrator who violated the code. A3030 contains no provision for such a code of ethics for state-operated school districts.

To a large extent, the stated objectives of the Transition Team’s enhanced code of ethics are satisfied by the provisions of the School Ethics Law, N.J.S.A. 18A:12-21 *et seq.*, and the code of ethics which this law requires of board members and administrators throughout the state. In addition to broad prohibitions of conflicts of interest and of any activity which “might reasonably be expected to prejudice [an official’s] independence of judgment in the exercise of his official duties,” the School Ethics Law sets forth a “Code of Ethics for School Board Members” (N.J.S.A. 18A:12-24.1), which provides that all school board members must abide by the following principles (among others):

I will confine my board action to policy making, planning, and appraisal, and I will help to frame policies and plans only after the board has consulted those who will be affected by them.

I will carry out my responsibility, not to administer the schools, but, together with my fellow board members, to see that they are well run.

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.

I will vote to appoint the best qualified personnel available after consideration of the recommendation of the chief administrative officer.

I will support and protect school personnel in proper performance of their duties.

I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.

These provisions may satisfy the need for an enhanced code of ethics. There is also a reasonable argument that they do not, however. First, the applicability of the School Ethics Law to state-operated school districts may be uncertain. "Board member" is defined in the law as "any person holding membership, whether by election or appointment, on any board of education other than the State Board of Education," which would seem to be broad enough to include the board of education in a state-operated district; but "administrator" is defined as "any officer, other than a board member, or employee of a local school district" who meets certain qualifications, and "local school district" is defined as "any local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes and any jointure commissions, county vocational school, county special services district, educational services commission, educational research and demonstration center, environmental education center, and educational information and resource center." The failure to include any reference to state-operated districts among such an extensive list could be construed as an intentional omission, and thus an intentional exemption of officials in state-operated districts from the requirements of this law. An amendment to add a specific reference to state-operated districts would help avoid such a construction.

Second, to emphasize the importance of the ethics principles identified by the Transition Team but also prevent the code of ethics from becoming an impediment to reestablishment of local control, an enforcement provision stricter in one respect than that in the School Ethics Law might be desirable for state-operated districts. The School Ethics Law provides a procedure for complaints of violations to be filed with the School Ethics Commission, and upon a finding by the Commission that such a violation has in fact occurred, for the Commissioner of Education to reprimand, censure, suspend or remove the violator. (N.J.S.A. 18A:12-29c.) An additional provision, calling for not only disciplining any sitting board member who commits a violation but also for disqualifying any prospective member who refuses to promise to abide by the Code of Ethics for School Board Members, would be useful. Such a provision would break the stalemate reportedly existing in Jersey City, in which certain board members refuse to accept a code of ethics, and this refusal has stymied further progress toward reestablishment of local control. With the proposed provision, a board member's refusal would have no effect on the constitution of the board as a whole, but rather would result in his or her own disqualification from service on the board. Kentucky's state operation statute is a useful model in this regard, in that the board remains in place upon establishment of state operation but individual members may be removed upon findings of immorality, misconduct in office, incompetence, willful neglect or nonfeasance. The focus is on the individual member rather than the full board.

Even without the two amendments discussed here, New Jersey's School Ethics Law is arguably applicable in state-operated districts and sufficiently effective to satisfy the concerns of the Transition Team. With these two additional provisions, the

applicability of the law would be unquestionable, and its effectiveness would be enhanced.

Community Support

The Transition Team recommendations include two provisions for broad-based community involvement outside the formal board structure--a city-wide parent organization and an "Abbott Implementation Council." The recommended parent organization would include parents from each school in the district as well as Jersey City parents with children "outside the district," presumably in private and charter schools. The "Abbott Implementation Council" would include representatives of the board, parents, the "community-at-large," teachers, school and district administrators, support staff, higher education faculty, and students. With "superintendent approval," this council would "develop and oversee implementation of the annual Abbott Implementation."

Because of the importance of parental and community involvement in educational reform, a mechanism or entity of some sort providing for such involvement should be required in state-operated districts. (It probably should be strongly encouraged, if not required, in other districts as well.) Because of the need to develop an effective board of education that eventually will have the capacity to govern the district, all forms of community involvement should be nurtured. Specifically with respect to Abbott implementation, a district-wide "implementation council" may be helpful. Such an entity could not only generate district-wide community support for educational reforms, it could provide a forum for cross-fertilization of ideas among all those in the district who are

coping with the numerous “barriers and issues” to Abbott implementation identified in the districts’ annual reports.

Continued Service of the State District Superintendent and the Board of Education after the Return to Local Control

Both the Transition Team recommendations and A3030 provide that the state district superintendent shall serve until the reestablishment of local control but no longer (although the Transition Team recommendation suggests that there may be some possibility of the Jersey City superintendent remaining in office, when it stated that the position would be filled by “extension, renewal or search”). Both provide that the board of education should initiate the superintendent search process in the last year of the two-year transition period. Additionally, A3030 provides that in the same year an election should be held to determine the classification of the board upon reestablishment of local control; this suggests that a new board, with a composition determined by the classification vote, would take office immediately upon reestablishment of local control. The Transition Team called for “enactment of [the] recommended governance structure and annual school board of education election” in the second year of the transition period; apparently, here, too, a new board would take office upon reestablishment of local control.

First, for reasons discussed above, we believe the authority to appoint a superintendent, or even to begin a search for a superintendent, should not be granted to or devolve upon the board at a pre-set time. Rather, such authority should be granted upon a determination that the board has the capacity to carry out such a responsibility. As discussed, the personnel management function is a most sensitive area of board authority; selection of a superintendent is probably the most important and sensitive personnel

decision to be made by a board. The authority to handle such responsibility should not be granted by statute, but rather should be determined on a case-by-case basis.

One approach could be that, upon a determination that a board has the capacity to exercise authority in all areas of school district operations, the board would be granted authority to initiate a superintendent search, and the time in which the search is being conducted would serve as a cushion between that determination and the effective date of reestablishment of local control. Another approach would be that the state district superintendent would continue to hold a position in the district after reestablishment of local control. The latter might prove problematic, however: if the state district superintendent continued to serve as chief school administrator, it would appear that local control had not really returned at all; if he served in some other position, the authority of the new superintendent might be questioned. The state district superintendent could be of service in a monitoring capacity after resumption of local control (as in Compton, California, for example), but this function probably could be served by others as well.

Of greater concern than the term of the superintendent may be the term of the board of education established during state operation. All the work done to strengthen the board during the period of state operation should be designed to have long-lasting effect. The effect is more likely to be long-lasting with a provision that the board continue in existence for some time after reestablishment of local control. Continued participation on the board by representatives of the various constituencies discussed above, and by a member of the Commissioner's staff, also would continue to be important after the return of local control. For this reason, the district would be best served by the continued existence of the board created under state operation for a period

such as two years. Thus, the election to determine board classification should not be held prior to reestablishment of local control. It should be held after local control is resumed.

One of the duties of the board of education, during the period prior to the classification election, should be to gather information and inform the public about the various forms of board structure on which a vote might be conducted. The board could distribute information in the press, hold public hearings and forums, and spur debate over the best form of governance for the district. By doing so, the district might obtain the kinds of benefits that accrued to the advisory board in Chelsea, Massachusetts. Through civic engagement, the board could generate community support for the to-be-created board of education, which in turn could help build the new board's governance capacity. As in Chelsea, civic engagement could – and should – be one of the objectives of state operation.

Other Methods of Continued State Oversight

The Transition Team recommendations and A3030 both contain additional provisions for continued oversight of state-operated districts after reestablishment of local control, but the provisions differ. The Transition Team recommended that the proposed independent audits of program, operations and personnel policy implementation continue for five years; A3030 provides that the state internal auditors should continue to serve for not less than five years and that members of the state district superintendent's staff (though not the superintendent himself) would continue to serve at least until June 30 of the first year after return to local control.

All of these are good ideas. Heightened oversight of a formerly state-operated school district is entirely appropriate. The Connecticut statute, for example, provides that

the state monitors assigned to the Hartford district will continue to serve for three years after reestablishment of local control. The purpose of such oversight, however, should not be merely to enforce compliance with performance standards, but to provide support and assistance to the district's efforts to continue to meet those standards and sustain improvement. There should be a continuation of the assessment and technical assistance that we recommend during the period of state operation. As also discussed, technical assistance should be provided to all districts found to be in need of such assistance. A formerly state-operated district would be no different from any other in this respect, except for the state's arguably heightened duty to provide assistance in light of the fact that it previously had taken on responsibility for operating the district.

To some extent, the need for internal auditors may be reduced in proportion to the degree of assessment provided by an external agency in accordance with our recommendation. If an external agency determines, as a result of a detailed, objective assessment, that the district has established sound and effective management practices and procedures, the need for continued internal audit of district operations may be reduced. To the extent that any lack of confidence in the district's management practices remains, the internal auditors could continue to serve a purpose.

The continued service of high-level district officials would be worthwhile, but they would serve less of an oversight function than a transition function. A wholesale turnover in senior staff, just at the time of return to local control, could cause many gains to be lost. Thus, it should be clear that, even if the position of state district superintendent no longer exists, the other positions created pursuant to the state-operation statute continue to exist. The board of education might decide to reorganize or eliminate

one or more of those positions, but it probably should not be permitted to do so for some time after reestablishment of local control, at least one year. To the extent that the statute is ambiguous with respect to the continued existence of positions created under state operation, it should be clarified.

Office of Accountability and Quality Assurance

Finally, the Transition Team recommendations call for establishment of “an internal office of accountability and quality assurance.” Such an office, according to this recommendation, would be under the supervision of the state district superintendent. Its objective would be as follows:

to establish in all schools the structures, time, and opportunities for teachers to work on improving their practice, the curriculum, and their knowledge of effective school and classroom reforms.

The office would “develop district standards and quality indicators.” It also would “train district and school personnel to regularly assess program quality,” and it would “organize improvement planning and implementation activities.”

Such an office, or something similar, could be of considerable benefit. It could enable each district to centralize its administration and supervision of reform efforts, professional development and educational improvement programs. As with district-wide community support efforts, a district-wide educational quality assurance office would encourage cross-fertilization of ideas. It also could provide economies of scale and strengthened accountability measures. An obvious issue would be the need to delineate clearly the relationship between this office and other units of administration and supervision, and to ensure coordination of their efforts. Another would be the extent to which such quality assurance efforts already are in place. The objective, of course, is not

to duplicate current efforts, but rather to strengthen those efforts and provide them with a clear vision and focus. Current efforts could be invigorated by high-level, high-profile direction.

Further, such an office would allow the Commissioner to demonstrate and evaluate reforms and improvement efforts in the districts for which the state has taken direct responsibility. It would provide the state an opportunity to make each state-operated district a model of educational quality and reform, as discussed above. Recognizing that these districts provide the greatest challenge for our state's educators, the Commissioner could use such an "office of accountability and quality assurance" to meet that challenge with the best minds, the best materials, and the best examples of school reform available. If successful, such an effort could lead to benefits well beyond the state-operated district.

**CONCLUSIONS, RECOMMENDATIONS AND A ROADMAP
FOR REESTABLISHING LOCAL CONTROL
IN NEW JERSEY'S STATE-OPERATED SCHOOL DISTRICTS**

In this final section, we bring together the findings and conclusions developed throughout the Report, and especially in the two prior sections, and use them as the basis for a detailed set of recommendations to improve New Jersey's system of intervening in the operation of local school districts. We address here all aspects of the system, but we focus on the criteria and process for reestablishing local control. We conclude this section with a road map detailing how the State could use our recommendations to return local control to the three urban districts that are currently state-operated.

New Jersey's three largest urban school districts have been under state operation for long periods of time, with no clear understanding about what the state's focus should be, or how and when they should be returned to local control. Some steps have been taken toward phased reestablishment of local control in Jersey City; some, though fewer, steps have been taken in Paterson; and political pressure is building for similar movement in Newark. Without any consistent, comprehensive method of measuring readiness for return to local control, it is difficult to determine whether such movement is warranted.

This is not to say there has been no progress in Jersey City, Newark and Paterson under state operation. Indeed, numerous reforms have been instituted in each district, and pupil performance appears to have improved, at least in Jersey City and Paterson. Our conclusion, however, is that whatever progress may have been achieved has not been as a result of a coherent structure and plan, with clear and measurable standards and benchmarks and careful assessment of performance. The question now is how to reconstitute New Jersey's system of state intervention and takeover so that it can produce

desired results in a time- and cost-efficient manner. Our answer is in the form of a set of recommendations for accomplishing this goal.

Many of our recommendations are not new or surprising. They are derived from our literature search, from prior studies of state-operated districts, from models in other states, from the Jersey City Transition Team recommendations, from bills relating to state operation that have been introduced in the New Jersey Legislature (especially A3030), and from public discourse about state takeover. This project's findings and recommendations are distinguished by their focus on an overall strategy designed to enable the state to play a meaningful role in local educational improvement without having to operate urban school districts for extended periods.

To a substantial extent, our findings and recommendations are forward-looking—they recommend a new structure for the future. But, we are mindful of the importance of effective transition back to local control of the three state-operated districts and have addressed that challenge in some of our recommendations and, especially, in the roadmap that concludes this Executive Summary.

We begin with four conceptual recommendations for changes in the overall approach to state intervention:

- E. Redefine the State's Role to Emphasize Support of and Technical Assistance to Districts Delivered in a Collaborative Manner. The State's relationship to local school districts, both with regard to state accountability and generally, should be refashioned from one that emphasizes a command-and-control approach to one that focuses on support and technical assistance delivered collaboratively. Of course, in some cases the State may still have to make and

enforce difficult decisions in districts unable or unwilling to correct major educational and administrative problems, but that should be a last resort after all other efforts have failed. The State Department of Education, or another state agency charged with responsibility for providing the necessary support and technical assistance to local districts, must itself have sufficient capacity to carry out these responsibilities effectively.

F. Make Local Capacity a Cornerstone of the State's Interactions with Districts.

The State's assessment of district performance, especially of districts that may be in need of assistance, should focus systematically on local capacity measures rather than primarily on student outcomes. State intervention, including possibly takeover, should be triggered by a determination of local incapacity to correct problems and improve outcomes. State intervention should be directed at enhancing local capacity, and full resumption of local operation should be based on a measured, assessment-based judgment that local capacity has reached an acceptable level.

G. Create a Unified System of State Oversight of Urban Districts, Combining the Monitoring and Assessment Process with a Process for Assuring

Implementation of *Abbott* Reforms. At the present time, the Abbott districts must be distinguished from other New Jersey districts because they have been determined to have a history of special educational needs and inadequate resources to deal with them. Several consequences flow from that. First, while the goal is that the Abbott districts, like all others, will meet all of the general district certification standards, the Abbott districts are unlikely to meet

those standards, especially those relating to student achievement on standardized tests, in the near future. Second, the Abbott mandates contain various programmatic and resource elements designed to enable these districts to substantially improve their educational outcomes, but the mandates also impose special responsibilities on those districts. This suggests that, at least in the near term, the system of state oversight of the Abbott districts must be different from the system for other districts. Nevertheless, it should be a single unified system, incorporating appropriate elements from the generally applicable monitoring and assessment process, from other state accountability structures and from *Abbott*, rather than two or more parallel and sometimes overlapping systems.

H. Establish a Clear, Specific System of Standards and Benchmarks by Which Districts Will Be Assessed, and, in the Case of Districts Determined to Require State Assistance, Ensure that Competent, Objective Periodic Assessments Are Carried Out to Measure Progress and that the Results are Promptly Communicated to the Districts. A primary problem of the current system is that state-operated districts have never been given a set of clear and specific standards and benchmarks by which they can determine when they have satisfied the State's expectations and have earned the right to resume local control. Nor have they had the benefit of periodic objective assessment of their progress toward those, or any other, standards and benchmarks. Rather, they have been left largely to their own devices, to fashion a corrective plan and to measure progress against it. The state needs a

comprehensive set of district performance standards and a method of measuring compliance with those standards accurately and objectively. Those standards and the method of measuring compliance should be used to develop plans for further improvement in each of the state-operated districts, to determine the districts' needs for technical assistance, and to measure their capacity for local control. They also should be used to evaluate the performance of other districts, to determine their technical assistance needs, and to determine when further intervention is needed.

Next, we provide a larger set of recommendations that focus on implementation of these concepts and approach:

16. Implement Preventive Program. To minimize the need for state takeover, the state should develop and implement a well thought out preventive program that might include improved monitoring of the districts' fiscal performance, mandatory financial and legal training for administrators, enhanced school-based management efforts, and a long overdue system for collecting, using and disseminating long-term student performance data.
17. Modify Takeover Statute to Increase Flexibility. The statute should be modified to give the state substantially greater flexibility as to the form and extent of takeover. The modifications also should expressly authorize gradual or staged reestablishment of local control after takeover, as evidence accumulates of enhanced local capacity.
18. Modify Statutes to Treat Local Capacity as a Deciding Factor. The statutes should be modified to emphasize local capacity as a factor in deciding

whether or not state intervention, including takeover, is necessary; what role the state should play under state operation; and when, and under what circumstances and procedures, reestablishing local control should occur.

19. Build Local Capacity. Whenever the state decides to intervene in, or to take over, a school district, it should focus its efforts on building local capacity, which involves: (1) clearly defining local responsibilities; (2) employing adequate numbers of competent, committed staff to carry them out; (3) providing them with the necessary resources, support, training, professional development opportunities and technical assistance; (4) augmenting employee capacity through collaborations with area higher education institutions, businesses and community organizations; (5) requiring efforts to involve parents and community members to the maximum extent possible in all aspects of local decision-making; (6) monitoring performance and results; and (7) achieving accountability by a system of rewards and sanctions, as appropriate.

20. Build Capacity at the School and Classroom Level. The focus of state intervention should extend to schools and classrooms within a district, not just to the district office. This is consistent with emerging evidence that effective school-based management, in New Jersey implemented through school management teams, can improve student performance at least as much as district-level reforms. Obviously, the district, too, has an important role to play in building school capacity, by fostering educational vision and leadership, collective commitment to success, appropriate organizational

structures and management, and effective deployment of adequate resources. At the school level, capacity building involves school leadership that provides direction, guidance, and support; school goals that are clearly identified, communicated, and enacted; a school faculty that collectively takes responsibility for student learning; school discipline that establishes an orderly atmosphere conducive to learning; and school academic organization and climate that challenges and supports students toward higher achievement.

21. Strengthen the Entire Educational Delivery System. Broadly speaking, the goal is to have both district-level and school-level capacity directed at providing meaningful curriculum and programs, presented by competent, committed teachers and other professionals, to small classes of students, equipped with up-to-date books, materials and technology, in safe, modern, attractive facilities, with necessary supplemental services to ensure that students can focus on learning, and with modern data systems that permit the monitoring and assessment of individual student performance. In addition to those broad categories, the Abbott mandates impose some special capacity requirements, including high quality, well-planned early childhood education for all three and four-year olds and whole school reform programs in all elementary schools.

22. Provide Technical Assistance. The state should develop and implement a system for providing effective, intensive technical assistance to administrators and supervisors in school districts found to be in need, both to avoid takeover and to increase district capacity during the period of state operation. The state

should provide all districts in need, including state-operated districts, with ongoing technical assistance, especially with regard to the standards as to which those districts are not demonstrating adequate progress. There are many ways to structure an effective technical assistance program, but clearly that function should be separated from the state education department's compliance functions. In some states, a separate departmental division provides the technical assistance. Alternatively, a team of trained technical assistance providers drawn from current or former school district personnel can be established. The State already has taken limited advantage of the valuable resource that exists in the form of skilled, experienced superintendents, business administrators, supervisors and teachers who could share their knowledge and experience. It should consider expanding the use of such personnel.

23. Create an Independent State Agency. As another possibility, New Jersey should seriously consider vesting responsibility for assessment of and technical assistance to school districts in an objective and expert state-level agency, which is independent of the state education department. California's Fiscal Crisis and Management Assistance Team is a promising model. This agency should not have authority to make ultimate decisions about state intervention, takeover or reestablishing local control, but rather should make recommendations to the Commissioner and/or State Board of Education. As an alternative to an independent agency, the state could arrange for a program

of technical assistance to be organized and supervised by universities or other collaborators.

24. Clarify Expectations for State-operated Districts. As part of a recovery, or corrective action, plan, clear and specific standards and benchmarks should be established for state-operated districts so that they understand precisely what is expected of them during takeover and what they will be required to accomplish as a condition of reestablishing local control. The standards and benchmarks should emphasize building the capacity to govern and operate the district without state control. The recovery plan should be linked to the circumstances that triggered state intervention and to the technical assistance process that occurred prior to establishment of state operation. If poor student performance was a significant part of the problem that led to state intervention, measures of student performance, including student test scores, should be included among the benchmarks, but they should not dominate the process. For *Abbott* districts, the goals and benchmarks also should clearly reflect the special requirements imposed by that decision.

25. Assess Progress Against Benchmarks, and Develop Timely, Responsive Reports. During the period of state operation, the assessment agency should periodically assess the district's progress against the established standards and benchmarks, and should widely disseminate the results.

26. Modify Statutes to Allow Return when Circumstances Indicate Capacity for Local Control. The decision about reestablishing local control should be thoughtful and responsive to the totality of relevant circumstances, not be a

mechanical response to student test scores or other ostensibly objective measures. The basic standard should be capacity for local control. A phasing-in of local control should be permitted where appropriate. For instance, a board that demonstrates capacity to assume authority over policy development matters but not fiscal matters might be given authority over the former but not the latter.

27. Modify Statutes to Provide More Flexibility Regarding the Composition and Operation of the Board of Education. Under current law, the manner in which the board of education is constituted and functions throughout state operation and during the transition back to local control is inconsistent with our recommendations' major thrusts. The onset of state operation displaces the existing board and replaces it with a purely advisory 15-member body largely appointed by the Commissioner. Four years later, a nine-member board is elected, if possible from the existing advisory board, and it may vote on district matters subject to the state superintendent's veto power. Within one year of reestablishment of local control, the takeover statute provides that the district's voters can decide whether to have an elected or appointed board, but whatever their choice the board presumably will from then on be similar in number and function as other boards of the chosen classification (*e.g.*, with nine appointed or elected members).

This approach has a number of major deficiencies. First, it undermines our emphasis on the building and use of local capacity from the earliest feasible time. Second, it increases the possibility that reestablishing local control

might return the district to old patterns. Our strong recommendation is that a new system of “structured flexibility” be adopted instead. At the start of state operation, this system should permit the Commissioner, with the approval of the State Board, to continue the existing board of education in place, with appropriately reduced functions and powers, or to reconstitute the board in part or in whole. In either case, the Commissioner should be authorized to appoint additional members, on the recommendation of a local advisory body or the mayor, to represent higher education, business, civic and community organizations, and parents. This would institutionalize the contributions of these constituencies and reduce the possibility of a board falling back into old patterns that contributed to the need for state takeover. The board also should include the state district superintendent and a representative of the Commissioner as non-voting members.

As the board of education and professional staff demonstrate increased local capacity to operate the district effectively, the board’s functions and powers should be augmented appropriately. For a period of several years after reestablishment of local control, additional members appointed by the Commissioner should continue to serve on the board to ensure a full and effective transition. Thereafter, as under existing law, the local community should determine whether it prefers an elected or appointed board.

28. Provide for School Ethics. The School Ethics Law should be amended to eliminate any ambiguity as to its applicability to state-operated school districts

and to provide that any board member or administrator who violates or refuses to accept its terms shall be disqualified from service.

29. Continue Oversight after Return to Local Control. Some heightened state oversight should continue after full local control has been reestablished. The assessment agency should continue for a specified number of years (such as five) to monitor the district's performance as measured against the established standards and benchmarks.

30. Use State Operation to Develop Urban Education Models. State operation of New Jersey's three largest school districts provides an extraordinary opportunity for the state department, in collaboration with area universities, businesses and other organizations, to develop models for other districts, especially urban districts. This could extend to a range of matters. As suggested above, one that is specifically applicable to poor urban districts relates to implementation of Abbott's requirements. Others could be even broader in scope. The state could use state-operated districts as models for restructuring of districts through school-based management, so that district offices increasingly function as service centers to schools and teachers. They could demonstrate how enhanced recruitment, retention and professional development of teachers could be put in place.

Taking all these recommendations into account, the following is an overview of the approach we contemplate for reestablishment of local control in the three state-operated districts. In our conversations with the State Department of Education, this overview has been referred to as a road map or blueprint for the process of reestablishing

local district control. We prefer the term “road map” because it conveys a more dynamic sense than the term “blueprint.” (To some extent, it reflects the current situation in the existing state-operated districts under the current statutes. The road map might be different for other districts in which state operation might be established in the future, if the overall system of state intervention were changed, in line with our recommendations above.)

We note that this is a generic model, applicable to all three current state-operated districts. The standards of acceptable school district performance should be the same for all three, although the findings of the recommended comprehensive assessments will differ, as will the extent and type of technical assistance provided to each district, and the timing and extent of return of authority to the three boards of education. The model also could be adapted for use in districts other than the state-operated districts that are found to be in need of assistance.

We recommend that the following road map be implemented as soon as possible:

11. The state should specify a comprehensive but manageable set of standards against which school district performance in areas such as curriculum and instruction, personnel management, professional development, policy development, community relations, finance and facilities should be measured.
12. These standards should be derived from multiple sources, including state certification standards, and also should reflect the *Abbott* requirements specifically imposed on urban districts.
13. The standards should emphasize capacity to govern and operate the school district, and they should be specific and objectively measurable. The state also

should specifically define acceptable levels of performance – benchmarks – with respect to each of the standards.

14. The state, preferably through an independent agency or a collaborative arrangement with a university or private entity, should ensure that a comprehensive assessment is made of each district's performance on each of the standards. This should be done as soon as possible to serve as a baseline for determining how the State should proceed with respect to each of the districts.
15. If the assessment indicates that the district has achieved the performance profile specified by the state in each of the areas in which standards have been set, the Commissioner and State Board of Education should restore local control in those areas. If a district is found to have met the standards in one or more areas already, local control in those areas may be restored immediately. If the district has met the state standards in all of the areas, full authority and control should be restored.
16. If a district does not meet the standards in one or more areas, the state should determine, based on the assessor's recommendation and in collaboration with the district, what type and extent of assistance should be provided to enable the district to meet those standards; and a recovery plan with provision for appropriate technical assistance should be developed and implemented as soon as possible. The plan also should enable the district to serve as a model of educational reform and effective school district administration for other districts.

17. An independent evaluator should regularly monitor, and report to the district and the department, specific results in terms of the district's progress toward acceptable performance levels. When the district has made sufficient improvement that it meets all the performance standards established by the state, full authority and control should be restored.
18. During the period of state operation, the board of education should include four appointed non-voting members, in addition to the nine elected members. The appointed members should include representatives of a local institution of higher education, the local business community, local civic or community organizations, and parents. They should be appointed by the Commissioner, upon the recommendation of the mayor or local governing body. Additionally, the state district superintendent and a representative of the Commissioner should serve as non-voting members of the board.
19. Upon a determination that the board of education has the capacity to exercise authority in all areas of district operations, the board should be granted authority to initiate a superintendent search. With the appointment of a local superintendent, local control will be reestablished, subject only to several transitional measures. The board of education, as constituted when local control is reestablished, should remain in existence for a period of time, perhaps two years. Additionally, the state district superintendent might remain, in an advisory capacity, for a similar period of time. Under the Compton model, the state superintendent remains in a monitoring capacity for two years after the local superintendent has been appointed. Finally, a

representative of the Commissioner should continue to serve as a non-voting member of the board for five years after reestablishment of local control.

20. By the end of the transitional period, as under the current takeover law, the local voters should determine whether they prefer an elected or appointed school board. Prior to that classification election, the board of education should be required to gather information and inform the public about the various forms of board structure, and to provide opportunities for meaningful public discussion.