

Salvaging NY's School "Contracts"

by Peter Meyer

Eliot Spitzer had been governor of New York for less than a month in January 2007 when he addressed a crowd of dignitaries in the massive, colonnaded Albany headquarters of the state Education Department (SED).¹ The historic building was an appropriate setting for a historic proposal: pumping more money into public education than ever before—in return, the governor said, for more accountability than ever.

The centerpiece of Spitzer's education reform agenda was a set of performance agreements between the state and designated needy school districts. Known as Contracts for Excellence, or C4E, these agreements would eventually be linked to over a quarter of the new state aid proposed in the governor's first budget. C4E districts would not just get more money than other districts, they would be obligated to implement "proven" programs and, most importantly, be held accountable for the results.

The program was supposed to ensure the efficient and effective use of limited resources to improve educational outcomes—to be "tightly tied to educational outcomes," as Spitzer said. This was also consistent with a series of state court rulings in the Campaign for Fiscal Equity case, which required that a significant increase in funds for New York City schools include a stronger accountability component.

Spitzer's expansion of education funding and restructuring of the school aid formula may be his most important legacy. Unfortunately, C4E has been seriously hobbled by flaws in its assumptions about the mechanisms of reform, by misguided beliefs about "what works" in achieving excellence, and by a compressed timeline for adoption and implementation.

For better or worse—mostly worse—C4E could now more accurately stand for "Commitments for Expenditures." Spitzer's "contracts" have ended up looking more like a typical government grants program, draped with the jargon of reform. Governor David Paterson and state lawmakers urgently need to revisit C4E and restore its greatly weakened accountability component—the link between money and achievement outcomes.

Vanishing Accountability

Governor Spitzer used the word "accountability" nearly 30 times in his 30-minute speech last year.

"Resources without accountability are a recipe for waste," he declared.

"[A]ccountability means consequences," he said, "real consequences"—not just for schools or districts but the people who run them. If the schools fail, Spitzer promised,

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- ✓ ***"Contracts for excellence" with struggling schools were the centerpiece of former Governor Spitzer's 2007 education reform program.***
- ✓ ***The contracts (C4E) were supposed to emphasize accountability for results.***
- ✓ ***C4E has evolved into a typical government grants program, awarding money based on approved inputs, rather than desired outcomes.***

the state “will demand an overhaul in their leadership. That means new management. We will seek to have every district in the state sign contracts with their superintendents that will require dismissal after substantial failure over multiple years. And for school boards that fail their communities year after year, we will seek their removal by the Commissioner of Education.”

Driving home the point, the governor said, “There will be no more excuses for failure.”

But the 2007-08 legislative budget process, and subsequent rule writing and implementation of the new school aid law, blurred this accountability vision before it ever became clearly focused.

Personal Accountability Eliminated

Among other things, the final bill did not require the kind of personal accountability that Spitzer advocated.² The resulting C4E agreements bear little resemblance to “contracts” in the usual sense of the word. Linkage with performance goals is inconsistent, and there is no mention of what might happen to districts that fail to meet even the program’s limited input goals.³

The new section 211-b of the Education Law, entitled “consequences for consistent lack of improvement in academic performance,” makes no mention of the Governor’s promise of “new management,” “require[d] dismissal,” or “removal” of administrators if the standards aren’t met.

The Governor’s proposal for “School Leadership Report Cards” did survive, but in equally watered-down form, requiring assessment of school progress on an institutional basis without direct reference to individual school leaders.⁴

While the Governor and Legislature did agree to improve performance measures, introducing a “value-added assessment model” to track and measure individual students and their progress over time, the law fails to incorporate clear performance targets or institute meaningful consequences into the contracts themselves. Even when performance targets are finalized, in July of 2008, if the Legislature does not specify consequences, it will have missed an opportunity to create a credible accountability system.⁵

Finally, even the fundamental tool of democratic accountability – public participation – appears to have been given scant regard during the implementation of the program.

According to the Alliance for Quality Education, nearly 90 percent of the C4E districts have not complied with the law’s public participation requirements; only 45 percent of districts made their contracts available on

district web sites; and none established a parent complaint process to allow SED to receive public feedback about C4E implementation.

The Rush to Implement

The removal of meaningful consequences from the C4E legislation can be attributed to resistance from interest groups representing those who would bear the brunt of tough accountability measures. However, the failure to institute basic public participation rules, spelled out clearly in the legislation, calls attention to the problem with the law’s implementation timeline. The schedule was driven by the need to spend all the new money the law had put on the table.

The clock started ticking on April 1, 2007, when the 2007-08 state budget took effect. It was not an April Fools’ joke, but it may have been a fool’s errand: to identify qualifying districts, and to get them to write “proposals” for spending nearly half a billion dollars using approved methods—all in time for the opening of school in September.

The State Education Department mounted a massive effort to get the job done, issuing a detailed memo to more than 700 district superintendents on April 6. Other meetings, memos and training sessions would fol-

low, but given the legislation’s demands, the task was daunting: it would take months just to fill the 77 new slots allotted to administer the program. The Department was still looking for staff after the commissioner had signed off on the contracts in November—when districts had already begun spending the money.

The rhetoric surrounding the new program might have implied that C4E districts were chosen first, then given “additional” funds. In fact, the reverse was true: a district initially became eligible for C4E status as a result of receiving increased state aid, as determined by Spitzer’s new formula.⁶

The other criterion for C4E inclusion was that a district have at least one school identified as “requiring academic progress” or “in need of improvement,” or “incorrective action” or “restructuring status.” The Department had chosen 56 C4E districts by April 6 and advised them to file their “contracts” by July 1. The pressure to get things moving quickly only made the education bureaucracy do more of what it does best: write rules, have meetings, and write more rules.

“The fact that the Contracts for Excellence documents weren’t put in final form until three months into the school year is probably a good indicator of how many devils can pop out of the details,” warned a New York

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A typical C4E agreement between the state and a school district bears little resemblance to a “contract” in the usual sense of the word. There is no mention of consequences for non-performance.

State School Boards Association (NYSSBA) report.⁷

What Works -- Maybe

The 56 C4E districts—including 32 community school districts in New York City—were given lengthy guidelines about how to use their new money “to improve student achievement.” The new law obligated C4E districts to choose from a “menu” of “proven” options on which to spend the new money:

- class size reduction,
- programs that increase student time on task,
- teacher and principal quality initiatives,
- middle school and high school restructuring, and
- full-day kindergarten or prekindergarten expansion.

A C4E district could choose from among the five options. Districts were also allowed to spend up to 15 percent of their C4E funds on “experimental programs.”

This menu has significant flaws, not the least of which is its failure to acknowledge that there is no single magic bullet—that, in fact, successful districts incorporate a host of good programs, applied within a very specific context. By the same token, as reported by NYSSBA, “many have questioned the wisdom of having to discontinue innovative programs and replace them with new programs included on the state’s menu of allowable strategies.”⁸

These shortcomings were exacerbated by the rush to find proven programs – and the flawed premise on which the “menu” rests: that top-down rulemaking, enforced by bureaucrats, is the most efficient way to improve accountability.

With its detailed and complicated rules about what schools and districts should do, and with what Spitzer described as a “cadre” of bureaucratic monitors drawn from the ranks of “distinguished educators,” C4E represents the latest wrinkle in an approach to education reform that already has been tried, to little effect, in New York and other states.

A “Ladder” to Higher Costs

The preferred C4E strategies bear a striking resemblance to those laid out almost a decade earlier in Assembly Speaker Sheldon Silver’s “LADDER” program⁹, which featured a similarly strong and costly emphasis on class-size reduction, universal pre-K, and teacher training. Not by coincidence, these strategies have been strongly supported by the state’s largest teachers’ union, New York State United Teachers, and its politically powerful New York City affiliate, the United Federation of Teachers.

The Education Department guidelines explain-

ing C4E have lengthy sections on research supporting the law’s menu of options, but it is the section most damaged by the rush to implement. For example, given limited resources, the cost-effectiveness of class-size reduction has been questioned by education researchers.

“Research suggests there may be some advantages to smaller classes—though if so, the benefits are modest and come at a very high price tag,” says Jay Greene, a Manhattan Institute senior fellow and head of the University of Arkansas’ Department of Education Reform.¹⁰

Class size reduction is the most dramatic of C4E’s wrong turns, since 46 percent of the approved “contract” funds (\$197 million) were earmarked for this purpose. The rest of the C4E pot is being devoted to

one of the other four strategies – additional “time on task” for pupils in targeted subject areas (\$111 million), teacher and principal quality (\$57.8 million), school restructuring (\$55 million), kindergarten expansion (\$6.6 million), and experimental programs (\$4.3 million)

– where, for the most part, the devil is in the details.

Time-on-task strategies, for instance, may include everything from introducing the very successful *Reading First* literacy program to unspecified “individualized tutoring” programs. However, most performance goals are measured on the basis of inputs, such as number of students in a new program, instead of outcomes, such as improvements in reading test scores.³

The quality of experimental programs can be uneven. For example, the Rochester city school district touted Saturday classes in half of the district’s schools. But as a local newspaper revealed, the classes were voluntary and featured “teaching math by studying the game of golf” and “learning science through cooking lessons.”¹¹

What Next?

Though poorly implemented thus far, the goal of “performance targets” provides at least a basis for saving the C4E program. Paul Peterson, Director of Harvard’s Program on Education Policy and Governance, an advocate of vouchers and charters, suggests that the best accountability programs are those with “multiple cutting points over time.” That includes testing programs, high performance standards, and a database that can track the performance of students as they move through schools.¹²

While SED has already announced changes in the C4E program, they are of the management and monitoring kind, rather than those of the “cutting point” variety – and none address the question of real consequences.

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District “contracts” have been extended from one to three years; programs for English Language Learners are now included in the menu of allowable options; and schools not making Adequate Yearly Progress (according to federal No Child Left Behind standards) are included in the criterion for qualifying for C4E status. The paperwork burden on districts will mount as well, as the mandatory public hearings must now include a transcript of the proceedings that will be sent to the Commissioner, as well as a summary of the public comments, grouped by subject and including a district response.

Renewing the reform

While Spitzer has been personally discredited by the scandal that forced his resignation, the former governor’s original education reform speech continues to offer a touchstone of principles for making C4E the kind of program New York needs. Here’s how to accomplish it:

- create real contracts, with language spelling out what a district must do in order to receive its funding and what happens if it does not meet its performance targets;
- eliminate the prescriptive “menu of options” in favor of an approach that simply requires schools to demonstrate that their proposed strategies for improving pupil performance have produced documented results elsewhere in the country.
- require additional, more specific performance targets based on measurable student outcomes;
- ensure that the “Leadership Report Cards” grade individual school leaders—creating a model that can be applied to all schools as a way of holding them more accountable; and
- expand the improved C4E program, which now applies to just 3 percent of the \$20 billion state school aid budget, so that more schools are held accountable for a larger share of the money they receive from the state.

The ultimate reform implied by Spitzer’s original proposal would be to move the state Education Department out of the rule-writing and policing business and into the education accountability business. That is what can happen if the department redirects its energies to the task of advising districts on best practices, establishing clear performance outcome targets and multiple “cutting points,” and enforcing the terms of true contracts.

Endnotes

¹ “A Contract for Excellence,” Address by Governor Eliot Spitzer, Albany, NY, January 26, 2007.

² Most of the Contract for Excellence legislation is contained in Chapter 57 of the Laws of 2007.

³ Ibid, Article 5, Section 211-a (3). SED seems to have set performance targets for 34 of the C4E districts, in most cases calling for a percentage of “gap reduction” for a “disaggregated group,” but it is unclear whether these charts—located on the SED C4E website—are even part of a district’s contract. Some charts are labeled as an “attachment” and some aren’t; and most are not mentioned in the body of the contract.

⁴ Ibid, Article 7, Section 305, paragraph 39.

⁵ See endnote 3.

⁶ Since the new “foundation aid” formula had directed funds to needier school districts, the C4E law stipulated that all districts receiving at least 10 percent, or \$15 million, more than the previous year in aid would have a Contract.

⁷ “Contracts for Excellence are just the beginning,” by Diane S. Ward. On Board online, December 10, 2007.

⁸ “Parents, teachers to get more say on Contracts for Excellence,” by Diane S. Ward. On Board, February, 25, 2008.

⁹ LADDER stood for Learning, Achieving, Developing By Directing Educational Resources

¹⁰ In 1999, Stanford economist Eric Hanushek reported that only 15 percent of 277 econometric studies examining the impact of class size on student achievement found “statistically significant” positive effects; 13 percent found statistically significant negative effects. A massive class-size reduction program in California starting in the 1990s had no impact on student achievement, according to a RAND Corporation study. For more details, see CSR Research Consortium, “What We Have Learned About Class Size Reduction in California,” September 2002, available at www.classsize.org/techreport/CSYear4_final.pdf (accessed February, 27, 2008)

¹¹ “New City Program Lets Students Catch Up at Saturday School,” by Gary McLendon, *Democrat & Chronicle*, December 6, 2007.

¹² See “Boosting Accountability in New York’s Schools,” an Empire Center Policy Forum held in conjunction with the Foundation for Education Reform and Accountability, March 8, 2007. Published transcript.

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