



## Education Policy and Levels of Governance

### Introduction

Policymakers at all levels of government make decisions that have impacts on education, ranging from individual school leaders to the president of the United States. There are three main levels of governance that consist of diverse decision-making bodies: federal, state, and local. Most often, the United States Department of Education (ED) makes federal decisions, the State Education Agency (SEA—usually the state department of education) makes state decisions, and the Local Education Agency (LEA—usually the school district) makes local decisions. Throughout this document, you will see that other agencies or groups sometimes contribute to policymaking at all levels.

Often, different policy areas are decided primarily at one level of government. However, you will find in the chart below that policymakers and advocates at all levels have influence in the important decisions that affect classrooms. It is helpful to understand the levers and tools at your disposal for you to have impact in your role.

### Background

Historically, education has been a state-level issue. In recent years, there has been a strong political push to return most control of education to states. The first wide-ranging federal education legislation, the [Elementary and Secondary Education Act](#) (ESEA) introduced the federal role in funding school systems for equity and accountability in 1965. The subsequent versions of this law, including [No Child Left Behind](#) (NCLB) and the [Every Student Succeeds Act](#) (ESSA), have emphasized different priorities over the past fifty-plus years. You can learn more about this topic in ED's document, [The Federal Role in Education](#).

States are bound by federal law, and localities are bound by both state and federal law. Under the U.S. Constitution, states are prohibited from making laws that conflict with federal law, and most state constitutions prohibit municipalities and counties from making laws in conflict with state law.

The chart below outlines major areas of education policy and the role that federal, state, and local levels of government play in shaping and enforcing these policies. When considering next steps in your own community, keep in mind that things may look different from district-to-district and state-to-state. You can use our Knowing Where to Start Your Research [written guide](#), as well as our [virtual module](#), to help you learn about these topics in your community.

	Federal	State	Local
<p><b>Funding the U.S. Department of Education provides a <a href="#">useful guide on K-12 school funding</a></b></p>	<p>The federal government usually does not dictate specific budgets for states, districts, or schools. However, it can direct how certain federal grants are allocated. This is how most federal education policy is set.</p>	<p>Most states provide funding allocations to each school district. Often, states use weighted formulas per-pupil, giving a baseline amount for each student with additional dollars granted for traits such as special education status, socioeconomic status, etc. Additionally, states often allow districts to apply for competitive grants that are funded with federal dollars.</p>	<p>After receiving state and, in limited circumstances, federal funds, school districts fund themselves primarily through local taxes. In many communities, this happens through local property taxes.</p>
	<p><b>Example:</b> States that received competitive grants from ED through <a href="#">Race to the Top (RTT) Early Learning Challenge (ELC)</a> had to apply those funds toward early learning and development programs.</p>	<p><b>Example:</b> You can find your state's model from a study conducted in 2006 <a href="#">here</a>.</p>	<p><b>Example:</b> The landmark U.S. Supreme Court case, <a href="#">San Antonio v. Rodriguez</a>, challenged the use of property taxes to fund schools, arguing that this model disadvantages children in largely poor and minority communities. The Supreme Court ruled that this type of school financing is acceptable.</p>

	Federal	State	Local
Standards	The federal government does not set or select standards.	States select standards that apply to all their schools receiving federal and state funding. Although they do not receive any federal funding to do so, states may still choose to develop standards in consortia, such as Common Core.	Local school districts do not select standards, but they often choose <i>how</i> to teach these standards. See “ <b>Curricula</b> ” below.
	<b>Example:</b> A popular misconception is that the federal government created the <a href="#">Common Core</a> standards. Instead, these standards were developed by a consortium of states that received federal funds to support their efforts. Under ESSA, the federal government is no longer permitted to provide financial incentives for states to choose particular standards. However, under ESSA, states are required to adopt “challenging” standards.	<b>Example:</b> Indiana was <a href="#">one of the first</a> states in the country to adopt the Common Core standards under the guidance of Republican state superintendent Tony Bennett. Indiana <a href="#">subsequently</a> pulled out of the Common Core initiative and developed its own standards in 2014.	<b>Example:</b> In many states, such as <a href="#">Colorado</a> , state education leaders seek comprehensive feedback from all stakeholders. This often includes teacher and district leaders.
Curricula	There are no required, federal curricula.	While states may set curriculum and instructional standards, they generally do not select individual curricula in most subjects.	School districts are generally responsible for selecting curricula that align with their states’ standards.
	<b>Example:</b> <a href="#">U.S. Code § 1232a</a> specifically prohibits the federal government from “directing, supervising, or controlling” education curricula.	<b>Example:</b> Texas’ state education agency has a <a href="#">Curriculum Division</a> which provides support and information on curricula. However, this information is non-regulatory and so districts are not technically bound by it.	<b>Example:</b> <a href="#">Baltimore City Public Schools</a> provides curricula and materials to its schools. Under certain circumstances, it also allows schools to opt-out of the curricula and purchase their own materials.

	Federal	State	Local
Assessments	Federal law requires states to administer assessments when they accept federal funds under ESSA. The degree to which federal law regulates elements of the assessment program has shifted alongside federal policy (such as NCLB and ESSA), and in general states have more leeway under ESSA than previous iterations.	States oversee development of assessment systems that meet federal requirements. These systems are created to align with state standards, and some states may use Common Core State Assessments.	Districts administer state assessments and may also adopt interim assessments to track their progress on official tests. These are often called “Benchmark Assessments.”
	<b>Example:</b> Under NCLB, all states receiving federal funding were required to <a href="#">administer statewide standardized tests</a> annually.	<b>Example:</b> In spring of 2016, <a href="#">Indiana</a> eliminated its decades-old assessment system and is currently working to develop a new one by the time it expires in 2017. <b>Originally</b> , the state intended to use the <a href="#">PARCC</a> exam to fulfill the federal requirement, however when the state removed itself from the Common Core Initiative, this became politically unpopular.	<b>Example:</b> Many school districts have faced backlash over the amount of testing required. In many communities in Florida, such as <a href="#">Miami-Dade and Lake County</a> , concern over the amount of classroom time spent testing has led to reduction in benchmark tests. In <a href="#">Texas</a> , state law limits school districts from administering more than two benchmark tests per year.
Charter Schools	The federal government does not regulate charter schools, but it provides funding for their development and expansion.	In most states, charter schools must organize as part of the school district. However, in many states, charter schools are their own school districts, and in those cases the state regulates them.	When charter schools are part of school districts, school districts usually manage their approval and oversight. Charter schools are usually exempt from some state and local education regulations, such as district curricula.
	<b>Example:</b> ED has a <a href="#">Charter Schools Program</a> , which is a competitive grant to states to replicate, expand, and support high-quality charter schools.	<b>Example:</b> In Georgia, Idaho, Illinois, Louisiana, Maine, New Mexico, and Oklahoma, <a href="#">SEA's and LEA's</a> may authorize charter schools. When the state is the authorizing authority, the charter school becomes its own LEA.	<b>Example:</b> In <a href="#">Iowa</a> , local school boards must vote to approve charter school applications. If the state department of education then approves the applications, the charter school's oversight falls to the local school district.

	Federal	State	Local
Teacher Pay	The federal government does not dictate teacher pay.	States are generally not in charge of setting specific teacher salaries or salary schedules. However, states may provide minimum salary schedules for teachers.	Usually local school boards determine teacher compensation packages, working closely with district officials and unions. In some places that have “mayoral control” (where the school board is either non-existent or less authoritative as a decision-making body), district and city leaders negotiate with unions.
	<b>Example:</b> ED provides no regulatory or non-regulatory guidance on teacher pay, but does <a href="#">offer resources</a> and examples of district models. However, like all employers, SEA’S and LEA’S are bound by <a href="#">US Department of Labor</a> and <a href="#">Occupational Health &amp; Safety Administration</a> standards.	<b>Example:</b> North Carolina sets a <a href="#">salary schedule</a> each school year with minimum salary standards for teachers in the state.	<b>Example:</b> When Michelle Rhee became <a href="#">Chancellor of DC Public Schools</a> , she set out to implement a major overhaul of the compensation plan, which would dramatically increase teacher pay in exchange for the relinquishment of tenure protections. Ultimately the school district and union negotiated a salary system that included more modest increases in exchange for rigorous evaluation systems and weaker seniority protections.

	Federal	State	Local
Teacher Evaluations	The role of the federal government in determining teacher evaluation systems has shifted over time. Neither NCLB or ESSA have baseline requirements for teacher evaluation systems. Interim programs, such as <a href="#">NCLB waivers</a> and <a href="#">Race To the Top</a> , required teacher evaluation systems to be at least partly tied to student outcomes.	Nearly all states set teacher evaluation policies, many of which include student growth and student achievement as factors in the evaluations.	While states set policy guidelines for teacher evaluation, school districts typically set up the evaluation systems themselves.
	<b>Example:</b> When ED began issuing waivers for NCLB in 2011, it required states seeking waivers to design new systems for teacher evaluations. However, <a href="#">ESSA</a> significantly diminished these requirements, leaving more authority to the states.	<b>Example:</b> <a href="#">Connecticut</a> provides comprehensive evaluation system guidelines to its school districts, including a model teacher evaluation system.	<b>Example:</b> Minneapolis’ teacher evaluation system—required under a state law <a href="#">passed</a> in 2011—was developed with the collaboration of the Minneapolis School Boards Association, the Minneapolis Federation of Teachers, and Minneapolis Public Schools. The process in Minneapolis is considered a leader in part due to the high amount of teacher-input.
Special Education	Both <a href="#">ED</a> and the <a href="#">US Department of Justice</a> (DOJ), through their Offices for Civil Rights, help to regulate and enforce implementation of special education supports in public schools.	Federal laws set a “floor” for special education laws, meaning that states can develop more rigorous requirements for student supports.	School districts may have additional special education policies supplementing federal and state rules. They are responsible for setting up the systems and policies to implement special education programs that meet federal and state requirements.
	<b>Example:</b> ED regulates <a href="#">special education</a> under two acts—the <a href="#">Individuals with Disabilities Education Act</a> (IDEA), and <a href="#">Section 504</a> of the Rehabilitation Act. <a href="#">DOJ</a> also regulates and enforces IDEA and Section 504, as well as <a href="#">Title II</a> of the Americans with Disabilities Act.	<b>Example:</b> Texas provides <a href="#">state rules and regulations</a> regarding special education that are not required by IDEA or Section 504. These are developed and supported through the State Board of Education and the Education Commissioner.	<b>Example:</b> The Rochester City School Board provides a <a href="#">Special Education Plan</a> , updated every two years, to address its special education programming, rights, and responsibilities. It has retooled its policies and services to respond, in part, to years of law suits with a nonprofit over special education services.

	Federal	State	Local
Gender Equity	Similar to special education, ED and the DOJ—through their Offices for Civil Rights—support and enforce issues of gender equity in public schools. This is a shifting area of policy, particularly at the federal level.	States are bound by federal Title IX laws. They may also pass state laws that provide increased protections.	School districts are bound by federal and state laws regarding gender equity. In some instances, school districts may seek to extend protections for transgender and gender non-conforming students, but run into challenges due to state laws prohibiting such protections. This is an emerging area of law.
	<b>Example:</b> Throughout the last several years, ED’s Office for Civil Rights has <a href="#">released many</a> “Dear Colleague” letters (non-binding guidance) relating <a href="#">to Title IX</a> . Although the Obama administration released <a href="#">a Dear Colleague Letter</a> covering the rights of transgender and gender non-conforming K-12 students, in 2017 the Trump administration released an updated <a href="#">Dear Colleague Letter</a> that rolled back protections for transgender students seeking to use bathrooms that aligned with their gender identities.	<b>Example:</b> Although there is some dispute over Title IX’s authority over sexual orientation and gender identity, many individual states have enacted laws to specifically protect these communities. For example, <a href="#">Illinois</a> prohibits discrimination on the basis of sexual orientation or gender identity in employment, housing, or public accommodation—which includes schools.	<b>Example:</b> New York Public Schools sets forth a set of <a href="#">Transgender Student Guidelines</a> , asserting that transgender students are explicitly protected from discrimination and harassment. It also requires schools to use the pronouns corresponding to the gender identity that the student asserts in school.