



Walking the Talk

Closing the Loophole in the Comparability Requirement of ESEA, Title I

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Congress will have the opportunity this year as it approaches the reauthorization of the Elementary and Secondary Education Act to revise many important features of the law. Much of Congress's attention will surely be directed at outcome-oriented policies in an effort to improve student achievement. But reauthorization will also allow Congress to focus on the financial resources put into education, particularly for Title I, which directs funds toward schools with high numbers of students in poverty. Title I accountability provisions certainly require refinement, but so do the fiscal requirements attendant to the receipt of Title I funds.

There are three fiscal requirements for districts receiving Title I funding:

- **Title I funds must supplement, not supplant, state and local funds.** Title I funds must be used to purchase goods and services for low-income children in Title I schools that would not otherwise be purchased with state and local funds. For example, if every district elementary school has a reading intervention specialist, then using Title I funds to pay the specialist working at a Title I school would represent an instance of supplanting.
- **States and districts must maintain funding for Title I schools.** State educational agencies and local educational agencies, also called school districts, must maintain fiscal effort, meaning that if their prior year's expenditures from nonfederal sources fall below 90 percent of the preceding year's level, they incur a penalty proportional to the failure.
- **Title I schools must offer comparable services.** The comparability requirement demands that schools funded under Title I provide services comparable to those in schools that do not receive Title I funding.

The comparability requirement is intimately connected to the purpose of Title I funds. Students attending high-poverty schools need additional resources to achieve in the classroom.¹ Congress has said as much through the creation of ESEA and the allocation

of compensatory federal funds through Title I. These funds flow through state and local agencies with the aim of enhancing the educational experience of children living in concentrated poverty. But the funds cannot have the desired effect unless they are distributed to schools serving concentrations of low-income children. The comparability provision is meant to ensure that Title I funds provide these schools with additional financial resources over and above those coming from state and local sources.

A legal loophole, described previously by the Center for American Progress, renders the comparability provision largely ineffectual.² The loophole combined with the law's weak enforcement apparatus undermines the Title I program's intent, which is to remedy the educational disadvantage of growing up in poverty and attending school with many other students living in poverty.³ This brief explains the mechanics of the loophole and proposes a specific approach to closing it.

The comparability loophole

The comparability provision is intended to create a fiscal environment in which Title I schools can offer low-income students an educational experience that is not merely equivalent to that received by students at non-Title I schools, but one sufficiently rich to close achievement gaps. Providing low-income students with effective teachers is the most cogent strategy available, so Title I should allow schools to use supplemental federal funds to purchase the services of effective teachers by some means. The comparability provision should guarantee Title I schools some sort of competitive advantage against other schools vying for highly effective teachers with proven records of improving academic achievement.

The loophole undoes any guarantee. The reason for this is that school districts can comply with the provision without addressing imbalances among schools in (a) actual expenditures for teachers' salaries or in (b) the qualifications of instructional staff.⁴ Inequity allowed by the two facets of the comparability loophole—imbalance in actual teacher salaries and imbalance in qualification—is compounded by a toothless enforcement regime. The law does not impose serious consequences for noncompliance, nor does it help noncompliant districts achieve comparability.

Salary reflects years of experience, not effectiveness

Districts may use one of two main approaches to demonstrate compliance with the comparability provision. The first approach requires showing evidence of equivalent allocation of staff and materials across schools, as well as a districtwide salary schedule. This focus on teachers' salaries is warranted. Salaries represent the largest single expenditure category and sometimes the majority of spending at the school level,⁵ so any serious assessment of comparability should take this into account. Teachers' salaries are determined primarily by the duration of service, so a school that has more experienced teachers will garner more

financial resources, holding everything else equal. But Title I explicitly excludes salary differentials based on experience from calculations of comparability.⁶

This exclusion is convenient for school districts since they are unaccustomed to accounting for spending at the school level in terms of actual dollars. Instead they account for financial resources in the same way that they allocate them, in nonfinancial terms such as numbers of personnel. Traditional management practices obfuscate inequity that arises, for example, when more experienced teachers exercise seniority privileges to transfer from Title I schools to schools serving a more affluent group of students. Such transfers combine with higher teacher turnover rates in Title I schools to produce hidden salary gaps, as documented by The Education Trust in California, Ohio, and Texas.⁷

Title I schools do not necessarily need highly experienced teachers, who despite receiving much higher salaries than teachers with a handful or years of experience, may prove to be no more effective in the classroom. What Title I schools need is their fair share of state and local funds. Money, not experience, is the issue. Title I funds sitting on top of truly comparable resources would put Title I schools in a position to use financial incentives to attract and retain effective teachers and to provide them with the support they need to promote dramatic student achievement gains.

Staff includes noncertified teachers and nonteachers

Districts may also demonstrate comparability by showing evidence of reasonably similar ratios of students to instructional staff in Title I and non-Title I schools.⁸ The loophole under this approach lies in the definition of instructional staff. This approach would be a promising one if instructional staff meant effective teachers, but the actual case is something quite different. The umbrella of instructional staff covers paraprofessionals and teacher's aides as well as teachers.

Title I and non-Title I schools in the same district may have reasonably similar student to instructional staff ratios, but this is cold comfort where noncertified teachers, paraprofessionals, and aides constitute a higher portion of the staff in Title I schools.⁹ Congress explicitly acknowledged the difference between noncertified teachers, paraprofessionals, and aides and “highly qualified” teachers in its enactment of the No Child Left Behind Act, but the comparability provision fails to reflect this distinction.¹⁰

Current law has toothless enforcement

The law provides districts with a legal loophole that undermines true comparability, but its regulations and guidance also fail to set up an effective mechanism for enforcing even the weak comparability provision currently in effect. Districts are permitted to submit a writ-

ten assurance of compliance to state agencies with no accompanying data to demonstrate comparability.¹¹ State educational agencies are only required to review documentation of a district's comparability calculations biennially.¹² State agencies may discover noncompliance during monitoring under this framework, or the federal Department of Education may come across it during their rare audits,¹³ but neither of these would occur until well after the district expends its Title I funds. And when districts are found to be noncompliant, departmental guidance only states that state educational agencies "may" establish procedures for implementing corrective action and provides no instructions on how state agencies should assist districts in remedying comparability problems.¹⁴ The comparability provision could function as a strict condition for receipt of federal funds, but the absence of an enforcement mechanism essentially guarantees ongoing funding to districts.

The loophole in the comparability provision and lax enforcement of the law's already weak requirements deprive high-poverty schools of much-needed resources. The law must be revised, and the loophole closed, to ensure that high-poverty schools receive their fair share of local and state resources. Closing the loophole would finally guarantee that Title I funds could give Title I schools a competitive advantage in ensuring that their students have effective teachers and the support that they need to close achievement gaps.

Closing the loophole

Instead of allowing districts to submit vague assurances of comparability in the form of uniform staffing levels or ratios, Congress should require them to demonstrate that actual per pupil expenditures from state and local sources at Title I schools are no less than those at non-Title I schools.¹⁵ Such a requirement would help ensure true comparability in the way districts distribute state and local resources.¹⁶ The requirement should be explicit that high-poverty schools may be supported by state and local funds at higher rates than low-poverty schools. This practice is currently not allowed, though relevant guidance is often interpreted otherwise.¹⁷

Closing the comparability loophole in this way would serve a second policy goal of stimulating needed reforms in school districts' financial management practices. The requirement to demonstrate comparability in terms of actual expenditures would force districts to come to terms with two shortcomings in current practice.

First, it would provide an impetus for districts to budget and allocate financial resources in dollar terms instead of abstract measures, which would be conducive to greater transparency and more rigorous financial oversight. For example, districts' financial statements are not universally subject to generally accepted government auditing standards, a puzzling fact in light of their status as recipients of federal funds.¹⁸

Second, and perhaps more importantly, school and district officials who want to deploy financial resources more strategically—in ways that promote goals such as greater academic achievement—need to have a better sense of how they actually deploy resources in the first place.¹⁹ This requires coming to terms with actual school-level expenditures, including salaries. For many school districts, doing this will require a change in mindset as well as adoption of new budgeting, allocation, and accounting practices.

The need for these shifts suggests that an augmented comparability provision should be phased in over several years. And it might behoove districts to use a student-based funding approach to resource allocation as a framework for these reforms. A district that drives dollars from state and local sources to schools based on student need should have little trouble documenting true comparability.

Accounting for actual per pupil expenditures

Using actual per pupil expenditures as the basis for comparability determinations means working with actual salaries paid to teachers and other personnel by school. This approach contrasts sharply with current practice, and implementing it will challenge districts to think differently about the relationship between employees and financial resources. Every challenge, of course, presents some danger, and organizations and advocates—even ones thoroughly dedicated to promoting equity in public education—are liable to highlight two issues.

First, it may be tempting for school districts to shuffle teachers among schools counterproductively for the sake of demonstrating comparability. The reason is that traditional compensation systems will not vanish overnight. Individual teacher salaries in a district will continue, at least for some time to come, to be driven primarily by their duration of service in the district. Exposing differences among schools in actual salary expenditures will put the experience profiles of school faculties into high relief.

One should ask whether unimaginative district and school managers would grasp the lever of unilateral teacher transfers to promote balance in the experience profiles, and therefore actual salary expenditures, in schools. The federal government should therefore make sure to include a legal barrier to unilateral transfers where the express purpose is to balance salary expenditures among schools. Few collective bargaining contracts will likely need additional fortification in this area, but a federal proscription would help send the signal that there are other more important countermeasures to such misguided practice. In particular, a strong accountability system with meaningful sanctions and rewards for adults, and tied to student achievement, encourages managers to give precedence to teachers' skills over their levels of experience when deciding how to allocate personnel. Researchers have documented again and again that teachers' abilities to promote student learning do not grow steadily with experience, as their salaries do. Rather, the ability to help schools meet goals formulated in terms of increased student achievement grows swiftly for a few years before leveling off.²⁰

The second issue sure to surface in conversations around a more demanding comparability provision is administrative capacity. It is true that many school districts lack accounting software that would enable them to calculate actual expenditures at the school level. But all Title I recipients have already been put on notice that actual expenditures would be central to compliance with the fiscal requirements. In particular, the American Recovery and Reinvestment Act required state agencies to furnish the Department of Education with school-by-school expenditure data for the 2008-09 school year by March 2010.²¹ It remains to be seen whether this reporting requirement will overwhelm administrative capacity. And those districts that have trouble can look to their peers in states such as California, which has mandated since 2005 that schools include actual expenditure data on their school accountability report cards.²²

Phasing in the changes

Until recently, many school districts have had no occasion to calculate actual school-level expenditures, and district officials tend to be unaccustomed to budgeting and allocating financial resources in dollar terms.²³ Reporting and planning should therefore be the focus of an augmented comparability provision during a phase-in period. Districts should be required to submit annually to their state agency a school-by-school list of actual current per pupil expenditures from nonfederal sources, by school, and with subcategories for certified and noncertified instructional staff, noninstructional staff, and noninstructional expenditures. Such reports would represent an important first step toward identifying spending gaps that should inform districtwide plans to ensure true comparability between Title I and non-Title I schools.

Those districts facing extraordinary challenges in reporting or planning should receive active assistance from the state agency. Many school and district leaders would benefit from receiving direct technical assistance or having access to some type of information clearinghouse. The main reason is that the prohibition on forced teacher transfers will require the dissemination and implementation of other approaches to promote spending patterns consistent with true comparability. Fortunately, many such approaches have been documented,²⁴ and district and school leaders should be empowered to use state and local funds to take actions such as:

- Offering financial incentives for experienced, effective teachers to request transfers to Title I schools
- Offering retention bonuses to encourage effective but relatively inexperienced teachers to remain in Title I schools rather than exercising transfer privileges
- Selectively reducing class sizes in conjunction with other strategies to support less experienced teachers in Title I schools

- Expanding learning time for students in Title I schools by lengthening the school day, the school year, or both
- Hiring master teachers to staff peer assistance and review programs with the aim to help new or struggling teachers improve their skills, and identify and dismiss chronically ineffective teachers

These approaches represent ways of spending money within schools. And they can be considered strategic approaches because they aim to bolster eligible students' access to effective teachers. There is another important approach to fostering comparability that is not strategic—student-based funding. Student-based funding is, however, so systematic and potentially effective for ensuring true comparability that its mere implementation merits consideration as a vehicle for compliance.

Implementation of student-based funding

Student-based funding is a method by which school districts can apportion financial resources among schools.²⁵ The method forms the backbone of resource allocation for some national school systems, such as in the Netherlands.²⁶ And a fair number of U.S. districts—such as Houston, Oakland, New York City, and Seattle—have implemented it in some form or other. The essential idea behind SBF is to distribute funds to a school in proportion to the number of students who attend it. SBF is often implemented in conjunction with some type of foundation grant program, and student counts can be weighted such that students with disabilities, students who are English language learners, or students from low-income families draw incrementally more funds to schools than their nondisabled, English-speaking, and more affluent peers.²⁷

Student-based funding schemes seem apt to ensure that schools serving concentrations of low-income students receive their fair share of state and local resources whether or not weighting is used. But districts can undermine this ability in two ways. The first is to allow supplemental funding avenues to work at cross purposes. By the time Seattle abandoned its weighted student-based funding scheme in 2007, over a quarter of its financial resources flowed outside of the student-based system.²⁸ The accretion of these supplemental routes for resource allocation can be interpreted as political concessions to organized groups of middle-class citizens, so Seattle's experience highlights the political challenges involved in targeting state and local resources to low-income children. Moreover, the accretion of supplemental arrangements made the district's funding system too complex to operate.²⁹

The second problem is that districts—teachers' actual employers—often undermine student-based funding systems in the manner that they charge schools for the salaries of their respective teachers.³⁰ If a district ignores actual salaries and charges schools the district average salary for each of their teachers, then high-poverty schools with relatively

inexperienced teachers are overcharged. Similarly, low-poverty schools with more experienced teachers are undercharged, and the district might as well just allocate resources in the form of staff instead of dollars. The problem caused by charging schools for average salaries is not unique to districts using student-weighted funding, but it is especially tragic to see the potential squandered.

California's Oakland Unified School District emerged in the 2003 aftermath of a state takeover prompted by financial problems as the first district in the country to use student-based funding while charging schools for actual teacher salaries.³¹ Oakland's novel approach, dubbed Results Based Budgeting, ensured an equitable distribution of resources and devolved significant discretion in the use of funds to the school level.³² This put management teams in high-poverty schools with relatively inexperienced teachers in a position to purchase targeted professional development and other services with an eye toward improving students' academic achievement. Such purchases seem to have paid dividends in the form of steadily increasing scores on the state's Academic Performance Index.³³

Student-based funding is no panacea for inequity, and devolving budgetary discretion to the school level provides no guarantee that managers will use funds in strategically sound ways. Oakland is only one urban school district, but federal policymakers should take note of student-based funding's potential to ensure true comparability in the provision of state and local resources while enabling strategic local thinking. As long as school expenditures reflect actual teacher salaries and a reasonably small fraction of state and local funding flows through supplemental channels, it would be reasonable for Congress to encourage districts to promote innovation in this area, say through a competitive grant program providing planning and transitional funds to facilitate implementation.

Achieving true comparability

True comparability cannot be achieved unless districts compare actual expenditures at the school level. Language in Appendix A provides a specific option that may be of help to members of Congress concerned with revising the comparability provision to reach this goal.

Removing the loophole for salary differentials and staff qualifications is the first step toward a more accurate calculation of school resources. Using a per pupil expenditure comparison—with categorical reporting for both personnel and nonpersonnel expenditures—will enable districts to see the level of resources offered at each school and equalize spending where necessary. This approach leaves districts and schools free to make their own budgeting decisions while maintaining a focus on fiscal equity.

The law should also provide for a phase-in period where districts can determine the best way to reach comparability with required guidance from state agencies. Following the phase-in period, state agencies should be required to monitor districts' compliance annually and aggressively assist districts that fail to comply with the law's demands.

Title I schools must receive at least the same amount of local and state resources as non-Title I schools in order for Title I to have its intended effect of providing additional resources to low-income students. Reauthorization of ESEA always provides Congress with an opportunity to bolster alignment of the law with its purpose. Closing the comparability loophole represents a clear way to doing so in the current reauthorization.

Appendix A

Sec. 1120A Fiscal Requirements

- (a) **MAINTENANCE OF EFFORT** —A local educational agency may receive funds under this part for any fiscal year only if the state educational agency involved finds that the local educational agency has maintained the agency’s fiscal effort in accordance with section 9521.
- (b) **FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NONFEDERAL FUNDS**
- (1) In general—A state educational agency or local educational agency shall use federal funds received under this part only to supplement the funds that would, in the absence of such federal funds, be made available from nonfederal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.
- (2) Special rule—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency’s compliance with paragraph (1).
- (c) **COMPARABILITY OF FUNDING**
- (1) In general:
- (A) **Comparable funding**—Except as provided in subparagraph (2)(C), a local educational agency may receive funds under this part only if the average per pupil expenditure, provided by state and local funds, for schools served under this part is greater than or equal to the average per pupil expenditure, provided by state and local funds, for schools not served under this part.
- (B) **Substantially comparable funding**—If the local education agency is serving all of such agency’s schools under this part, such agency may receive funds under this part only if the average per pupil expenditure, provided by state and local funds, is substantially comparable in each school served by the agency. The

secretary shall promulgate regulations regarding the appropriate method for calculating substantial comparability at each school served under the provisions of this paragraph.

- (C) Basis—A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

(2) Determinations

(A) Equivalence

- (i) A local education agency shall be considered to have met the requirements of paragraph (1) if the average per pupil expenditure, provided by state and local funds for schools served under this part is at least equal to the average per pupil expenditures of schools not receiving funds under this part. For purposes of this section, LEAs must account for the following expenditures:
 1. Actual salary expenditures for state-certified teachers, including base salaries and all other supplemental pay
 2. Actual salary expenditures for other instructional staff, (including paraprofessionals) including base salaries and all other supplemental pay
 3. Actual salary expenditures for noninstructional staff
 4. Nonpersonnel expenditures.
- (ii) SEAs shall make annual findings with regard to each local education agency's eligibility for participation in this part based on the local education agency's provision of comparable funding, as defined above. Findings of noncomparable funding shall be remedied prior to the start of the following academic year.

(B) Implementation

- (i) Not later than nine months after the date of the enactment of paragraph (1), each local education agency shall develop and submit to the state educational agency a three-year plan to ensure comparability of funding as described in (2)(A) before the beginning of the fourth academic year following enactment of the requirements of paragraph (1). Each local education agency, as part of its implementation plan, shall be required to submit an annual school-by-school listing of per pupil educational expenditures from state and local sources in a manner consistent with (c)(2)(A)(i)(1-4)

to the state education agency. If districts request assistance from the state education agency in meeting this requirement, the SEA shall provide or procure technical assistance utilizing funds from state administrative funds received pursuant to Title I and Title II.

- (ii) Beginning with the fourth academic year following enactment, the state education agency shall publish an annual report that shows the schools in each LEA where funding falls below the comparability requirement described in subparagraphs (1)(A) and (B) and the amount by which each school's funding falls short. The secretary shall promulgate regulations regarding the appropriate method for ensuring that comparable funding is provided in these schools by the start of the following academic year.
- (iii) Beginning in the sixth academic year following enactment, the state education agency shall require any LEA, where two or more schools are found to be funded at a rate below the comparability requirement described in subparagraphs (1)(A) and (B) for two consecutive years, to submit a plan for ensuring comparability of funding for those schools.
- (iv) Nothing in this provision-subsection shall be construed to require any forced or involuntary transfers of any school personnel to comply with subparagraphs (1)(A) and (B).
- (v) Monitoring
 - (a) U.S. Department of Education shall issue such regulations and guidance as the secretary shall deem appropriate for governing state responsibilities in meeting the requirements of these provisions, including articulation of SEA responsibilities for promulgating regulations and offering technical assistance to LEAs in meeting the obligations of these provisions.
 - (b) In the first two years of implementation, the inspector general shall audit five states and 10 LEAs each year to determine progress in meeting the obligations of these provisions. The inspector general shall assess progress in meeting the obligations under this section and shall examine whether, and the extent to which, states and LEAs are meeting the comparability requirements of paragraph (1).

(3) Compliance

For the purpose of determining compliance with paragraph (1), a local education agency may exclude state and local funds expended for—

(A) language instruction educational programs

(B) the excess costs of providing services to children with disabilities as determined by the local educational agency.

(d) EXCLUSION OF FUNDS

For the purpose of complying with subsections (b) and (c), a state educational agency or local educational agency may exclude supplemental state or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

Endnotes

- 1 There is a vast literature about the relationships between education spending, educational outcomes, and poverty. The landmark 1966 Equality of Educational Opportunity Study by sociologist James S. Coleman, stimulated inquiry into, among other things, the question of whether low-income students being educated among more affluent students do better than low-income students educated among low-income peers.
- 2 Ross Wiener, "Strengthening Comparability: Advancing Equity in Public Education." In Phyllis McClure and others, "Ensuring Equal Opportunity in Public Education" (Washington: Center for American Progress, 2008).
- 3 *Elementary and Secondary Education Act of 1965* (P.L. 89-10), §201, 79 Stat.27, 27 (1965).
- 4 *Elementary and Secondary Education Act*, Section 1120A(c) (1) (A). 20 U.S.C. 6321 (Government Printing Office, 2004).
- 5 To date, educational expenditures are not widely reported at the school level. Education Resource Strategies, a consultancy, provided the authors with estimates for the percentage of school-level expenditures due to teacher salary in a handful of client districts. Estimates vary significantly across districts, and across analytical approaches. The most nuanced estimates range from 42 percent to 55 percent. This evidence seems reasonable considering that, according to district-level data collected by the National Center for Education Statistics, 40 percent of expenditures are directed to salaries of instructional personnel (60 percent of expenditures are dedicated to instruction, and 67 percent of that spending goes toward salaries). See National Center for Education Statistics, "Education Finance Statistics Center," available at http://nces.ed.gov/EDFIN/graph_index.asp.
- 6 Ibid.
- 7 The Education Trust, "Their Fair Share: How Teacher Salary Gaps Shortchange Poor Children in Texas" (2009), available at [http://www.edtrust.org/sites/edtrust.org/files/publications/files/Texas%20\(Poor\).pdf](http://www.edtrust.org/sites/edtrust.org/files/publications/files/Texas%20(Poor).pdf); The Education Trust—West, "California's Hidden Teacher Spending Gap: How State and District Budgeting Practices Shortchange Poor and Minority Students and Their Schools" (2005), available at <http://www.hiddengap.org/resources/report031105>; The Education Trust, "No Accounting for Fairness: Equitable Education Funding" (2008), available at <http://www.edtrust.org/sites/edtrust.org/files/publications/files/NoAcctgforFairnessOH.pdf>.
- 8 Department of Education, *Non-Regulatory Guidance: Title I Fiscal Issues* (2008), available at <http://ed.gov/programs/titleiparta/fiscalguid.pdf>.
- 9 A 2008 Education Trust report found that high-poverty schools employ higher rates of teachers without certification or a college major in the area in which they teach. See The Education Trust, "Core Problems: Out-of-Field Teaching Persists in Key Academic Courses and High-Poverty Schools" (2008), available at <http://www.edtrust.org/sites/edtrust.org/files/publications/files/SASReportCoreProblem.pdf>.
- 10 See *Elementary and Secondary Education Act*, Title I, Part A, Section 1119 (a) and (g). For the definition of "highly qualified" teacher, see *Elementary and Secondary Education Act*, Title IX, Part A, Sec. 9101 (23).
- 11 See Department of Education, *Non-Regulatory Guidance: Title I Fiscal Issues*. LEAs must maintain records documenting comparability but are not required to submit those records to the SEA on an annual basis.
- 12 Ibid.

- 13 The Office of Inspector General conducted audits in Ohio (2003-05), Arizona (2004-06), and Illinois (2004-06). The results of these audits were reviewed as part of an internal report on the Department's monitoring efforts of the comparability of services requirement. See U.S. Department of Education, Office of Inspector General, *Final Management Information Report* (2007), available at <http://www2.ed.gov/about/offices/list/oig/auditreports/fy2008/x05h0017.pdf>.
- 14 Department of Education, *Non-Regulatory Guidance: Title I Fiscal Issues*.
- 15 Recognizing unavoidable variations in expenditures across schools, the Department of Education could provide guidance to districts on the extent of comparability required, thereby establishing a "floor" for funding levels (for example, expenditures at Title I schools must be within 2 percent of average expenditures at non-Title I schools to be comparable).
- 16 The comparability requirement deals strictly with the way districts allocate financial resources. All districts within a state could satisfy even the augmented requirement proposed in this brief while maintaining a profoundly regressive education finance system. Indeed, despite over four decades of litigation, very few states apply sufficient resources to overcome high-poverty districts' disadvantages in generating local revenue such that intrastate funding can be described as progressive. Eric A. Hanushek and Alfred A. Lindseth, *Schoolhouses, Courthouses, and Statehouses* (New Jersey: Princeton University Press, 2009).
- 17 Department of Education, *Non-Regulatory Guidance: Title I Fiscal Issues*. For an argument that the guidance does not cap state and local funding, see note 28 in Lindsey Luebchow, "Equitable Resources in Low Income Schools: Teacher Equity and the Federal Title I Comparability Requirement" (Washington: New American Foundation, 2009), available at http://www.newamerica.net/files/Equitable_Resources_in_Low_Income_Schools.pdf.
- 18 "The statutes and regulations regarding school accounting differ from state to state." U.S. Department of Education, *Financial Accounting for Local and State School Systems: 2009 Edition* (2009), available at <http://nces.ed.gov/pubs2009/2009325.pdf>. Furthermore, only Government Accounting Standards Board statements up through statement 47 pertain to school districts, thus excluding statement 56, the most current formulation of audit standards, available at <http://www.gasb.org/st/stpg.html>. Thus, it is safe to say that school districts are not universally required to present financial statements susceptible to audits under the generally accepted government auditing standards, or GAGAS, maintained by the Government Accountability Office. There are, however, school districts that hold themselves to these standards. Chicago Public Schools, for example, is consistently recognized by the Government Finance Officers Association with a Certificate of Achievement for Excellence in Financial Reporting, available at http://www.cps.edu/About_CPS/Departments/Pages/CorporateAccounting.aspx.
- 19 Karen Hawley Miles and Stephen Frank, *The Strategic School: Making the Most of People, Time, and Money* (Thousand Oaks, CA: Corwin Press, 2008).
- 20 Steven G. Rivkin, Eric A. Hanushek, and John F. Kain, "Teachers, Schools and Academic Achievement," *Econometrica* 73 (2) (2005): 417-58; Jonah E. Rockoff, "The Impact of Individual Teachers on Student Achievement: Evidence from Panel Data," *American Economic Review* 94 (2) (2004): 247-252; Douglas O. Staiger, Robert Gordon, and Thomas J. Kane, "Identifying Effective Teachers using Performance on the Job" (Washington: The Brookings Institution, 2006); Raegen T. Miller, Richard J. Murnane, and John B. Willett, "Do Teacher Absences Impact Student Achievement? Longitudinal Evidence from One Urban School District," *Educational Evaluation and Policy Analysis* 30 (2) (2008).
- 21 Department of Education, *American Recovery and Reinvestment Act of 2009: Title I, Part A Funds for Grants to Local Education Agencies* (2009), available at <http://ed.gov/policy/gen/leg/recovery/factsheet/title-i.html>.
- 22 Senate Bill 687 (Simitian, 2005) requires schools to report actual per pupil expenditures (from restricted sources, unrestricted sources, and all sources) and average teacher salary as part of the school accountability report card. Compliance with these reporting requirements, a priority of advocates if not necessarily school districts and the California Department of Education, rose quickly such that 84 percent of schools were compliant for the 2007-08 school year. Public Advocates, a law firm, has documented the saga of compliance with SB-687, available at http://www.publicadvocates.org/docs/SARC08/2008_SARC_Report_Rev1_FINAL.pdf.
- 23 Marguerite Roza, "What if We Closed the Title I Comparability Loophole?" In McClure and others, "Ensuring Equal Opportunity in Public Education," and Karen Hawley Miles and Marguerite Roza, "Understanding Student-Weighted Allocation as a Means to Greater School Resource Equity," *Peabody Journal of Education* 81 (3) (2006): 36-62.
- 24 Marguerite Roza and Sarah Yatsko, "Beyond Teacher Reassignments: Better Ways Districts Can Remedy Salary Inequities Across Schools" (Seattle: Center on Reinventing Public Education, 2010), available at http://www.crpe.org/cs/crpe/download/csr_files/rr_crpe_salinequ_feb10.pdf.
- 25 For a good definition and overview of student-based funding, see Jay Chambers and others, "A Tale of Two Districts: A Comparative Study of Student-Based Decision Making in San Francisco and Oakland Unified Districts" (Washington: American Institute of Research, 2008).
- 26 Helen F. Ladd and Edward B. Fiske, "The Dutch Experience with Weighted-Student Funding: Some Lessons for the U.S." Working Paper Series (Duke University, 2009), available at <http://sanford.duke.edu/research/papers/SAN09-03.pdf>.
- 27 William Duncombe and John Yinger, "How much more does a disadvantaged student cost?" *Economics of Education Review* 24 (5) (2005): 513-532.
- 28 The accretion of supplementary schemes reduced the effective weight for low-income students from the theoretical maximum of 16.9 percent (no supplemental funding) to 8.1 percent. Bruce Baker, "Within-District Resource Allocation and the Marginal Costs of Providing; Equal Educational Opportunity: Evidence from Texas and Ohio," *Education Policy Analysis Archive* 17 (3) (2009).
- 29 Baker, "Within-District Resource Allocation and the Marginal Costs of Providing Equal Educational Opportunity: Evidence from Texas and Ohio."
- 30 Chambers and others, "A Tale of Two Districts: A Comparative Study of Student-Based Decision Making in San Francisco and Oakland Unified Districts."
- 31 Matt Hill, "Funding Schools Equitably Results-Based Budgeting in the Oakland Unified School District." In Phyllis McClure and others, "Ensuring Equal Opportunity in Public Education" (Washington: Center for American Progress, 2008).
- 32 For a test of the hypothesis that school-level discretion promotes strategic resource allocation, see William G. Ouchi, Bruce S. Cooper, and Lydia G. Segal, "The Impact of Organization on the Performance of Nine School Systems: Lessons for California." In Daniel J.B. Mitchell, ed., "California Policy Options 2003" (Los Angeles: UCLA, 2003).
- 33 Oakland's values on the California's Academic Performance Index from 2003 through 2009 are 592, 601, 634, 653, 658, 675, and 695. Values retrieved on February 8, 2010, using California Department of Education's online DataQuest tool, available at <http://dq.cde.ca.gov/dataquest/>.

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