

## Major Challenges and What Small Schools Can Do About Them

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To state the obvious: Although smallness is often seen as a virtue, every small high school is not self-evidently better than every large one. While smallness affords secondary schools the opportunity to improve learning by offering more individualized and personalized educational programs, smallness by itself does not guarantee they will do so. Small schools that are able to demonstrate improved results for students are those that exhibit at least the following five attributes:

- (1) Autonomy,
- (2) Time for teacher collaboration and professional development,
- (3) Teachers who can serve as generalists,
- (4) An emphasis on individualized and performance-based education, and
- (5) The flexibility to meet the needs of special student populations and programs.

The main obstacle small school advocates face is that, by and large, school laws and regulations work against these five attributes.

### AUTONOMY

Successful small schools need sufficient autonomy to make basic decisions affecting school operations including budgeting, scheduling, staffing, curriculum, leadership and governance, and use of space.

According to researcher Mary Anne Raywid, one of the greatest inhibitors to the ability of a small school to realize its potential is a lack of autonomy due to “constraints imposed by stringent regulations, bureaucratic regularities, and longstanding labor agreements.”<sup>11</sup> Raywid also notes that achieving autonomy is especially challenging for conversion schools. These are large high schools that are broken down into smaller units or “small learning communities.” Conversion schools, according to Raywid, must consciously create “sufficient separateness and autonomy to permit staff members to generate a distinctive environment and to carry out their own vision of schooling.”<sup>12</sup>

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11. Mary Anne Raywid, in *The Learning Network*, November 2003, Issue 4, Volume 2, p. 1.

12. Mary Anne Raywid, in *The Learning Network*, November 2003, Issue 4, Volume 2, p. 1.

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Small schools need to be aggressive in promoting and protecting school autonomy. Three potential inhibitors to small school autonomy include: (1) how state law defines a school, (2) adequate yearly progress requirements under the federal No Child Left Behind statute, and (3) collective bargaining agreements based on a traditional conception of how secondary schools operate.

## THE LAW

### Defining a School

Even educators are frequently surprised to find that Washington law does not define precisely what a school is. Legislation is written as though everyone understands what is meant by the term school. Regulations frequently assume a definition, on occasion employing the term differently depending on particular purposes. This lack of clarity can be a particular challenge for small learning communities since the classification of a school in a particular way can restrict the autonomy small schools require.

In the state of Washington, school districts are responsible for establishing schools, and they do so without need for state authorization. Generally, three things need to happen in order for a high school to be recognized as such:

- The school is authorized by its district to grant diplomas,
- The state assigns a school identification number (previously referred to as a building code or building number), and
- The school obtains a College Board number.

Recently, the Office of the Superintendent of Public Instruction (OSPI), working with the U.S. Department of Education and state stakeholders, developed a definition of a school for data reporting and accountability purposes. The state expects districts to use this data definition to identify schools and calculate adequate yearly progress (AYP) beginning in school year 2004-05. Under this new definition, a school is an institution that:

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- Provides preschool, elementary and/or secondary instruction and may also provide other education-related services to students,
- Has one or more teachers,
- Is located in one or more buildings, and
- Has an assigned administrator.

A data definition is not a formal, legal definition of a school. Rather, it is an effort on the part of state education authorities to improve information management and provide a logical framework for school identification and data collection.

### What Small Schools Can Do

#### ✓ Encourage the District to Identify Your Small School Using the State's New Data Definition

The new data definition provides an opportunity for small schools, especially small learning communities, to assert their autonomy. In the past, state rules and data reporting requirements viewed schools as buildings or physical locations, rather than as educational programs. The new definition permits a more expansive vision of a school, one that can accommodate small schools, small learning communities within a single building, and schools that operate out of multiple locations. Once a district identifies a small school or small learning community as an individual school for data reporting purposes, the school could advocate for being considered distinct (and therefore autonomous) for all purposes, including district allocations, associated student body (ASB) funding, and extracurricular activities.

However, schools should carefully consider the potential negative consequences of being a school for AYP calculations. The AYP accountability implications for small schools are discussed below.

#### ✓ Work With Your District to Adopt a Small Schools Policy

Small schools also can be recognized as autonomous entities through the creation of a school board resolution or

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district policy in support of the formation and operation of small schools. A policy or resolution can be used to define the extent of small schools' authority over such issues as resources, scheduling, staffing, curriculum, leadership, and governance.

Even if your district does not have a small schools policy or board resolution, consider working with district leaders to identify ways in which the central office can support your efforts. In one district, small school advocates convened a meeting with the heads of several district departments to discuss the unique needs of small high schools and ways in which the district might support them.

#### **DISTRICT POLICIES ON SMALL SCHOOLS**

The Tukwila School District approved a policy in February 2002 that describes the parameters of the small school reform work undertaken at Foster High School, and incorporates the Coalition of Essential Schools' Ten Common Principles and the Bill & Melinda Gates Foundation's Seven Attributes of High Achieving Schools.

In February 2003, the Board of Directors of the Yakima Public Schools approved policies and procedures that support the concept of small schools as a mechanism to improve student achievement. The policies outline intervention strategies and expected outcomes. The procedures detail the requirements of Yakima's small personalized learning communities.

Other districts across the country, including Chicago, Houston and Oakland, have also adopted small schools policies.

Links to district small schools policies are available through the Small Schools Project website: [www.smallschoolsproject.org](http://www.smallschoolsproject.org).

#### **✓ Ask: Is Our Small Learning Community a School for Purposes of This Law or Policy?**

Traditionally, a legal definition of a school has not been needed because there was an understanding that a school is a physical location where instruction occurs. However, the small learning community concept raises questions about what constitutes

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a school. What makes up a learning community? What is shared? What is unique or separate?

With regard to district, state, and federal laws, regulations, and policies, small learning communities must ask: Are we a school for the purposes of this particular law, regulation, or policy? In other words, are we autonomous for this particular purpose?

Again, the state's new data definition has implications here—if the district defines a small learning community as a school for data reporting purposes, then the small learning community may be deemed a school for a host of other purposes.

### EXAMPLE:

#### ASKING “ARE WE A SCHOOL FOR ASB PURPOSES?”

State laws and regulations concerning Associated Student Body (ASB) money require that ASB funds be budgeted and approved by a school's ASB governing body (e.g., student council, student activities board, etc.). Questions for small learning communities arise:

- Are the small learning communities each considered a separate school for purposes of receiving and allocating ASB funds?
- Or is the building considered the school for ASB purposes, with one uniform ASB governing body for all of the small learning communities?

The answers to these questions depend in part on the definition of a school.

### THE LAW

#### Adequate Yearly Progress

A central goal of the federal No Child Left Behind law requires states to bring all students up to the “proficient” level on state tests by the 2013-14 school year. Toward this goal, individual

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schools must meet state adequate yearly progress targets for both their student populations as a whole and for certain demographic subgroups, including five racial and ethnic groups, students with disabilities, students with limited English proficiency, and students from low-income families.

For schools receiving federal Title I funds,<sup>13</sup> the law creates a graduated set of consequences for those schools that do not meet adequate yearly progress requirements. The consequences differ depending on the number of years in which individual schools do not meet their AYP targets. Consequences include technical assistance, student transfers to other public schools, tutoring, and major governance changes.

Currently, the state calculates adequate yearly progress at the school building level and reports data according to school identification numbers (i.e., building codes). In the future, however, the state plans to report AYP for all schools identified by their districts pursuant to the new data definition of a school. State officials are hopeful that the new definition can be implemented in time for the 2004-05 AYP determinations.

### What Small Schools Can Do

#### ✓ Understand How Adequate Yearly Progress Provisions Affect Your Small School

Small learning communities may prefer to be defined as individual schools for accountability purposes under No Child Left Behind. Only autonomy permits these schools to be held accountable for their own performance, rather than for the performance of others in the building. Washington currently calculates AYP at the building level rather than at the level of the smaller community. This clearly poses problems for the autonomy of small learning communities, conceivably creating pressures on building leaders to impose a more uniform curriculum across all small learning communities in the building.

<sup>13</sup> Title I, Part A of the No Child Left Behind Act of 2001 provides funds targeted to high-poverty schools and districts. Title I funds are used to provide educational services to students who are educationally disadvantaged or at risk of failing to meet state standards. In addition to providing financial assistance for high-poverty schools, Title I, Part A is the federal government's primary instrument for holding states, districts, and schools accountable for implementing standards-based education.

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However, calculating adequate yearly progress at the small learning community level also involves some potential challenges. If a school meets its progress target, under the terms of NCLB the district can require it to accept transfers from schools that did not. No Child Left Behind explicitly states that overcrowding in a successful school is not a valid reason for a district to refuse to transfer students. In the case of a small school, an influx of additional transfer students could threaten the integrity of the school.

### ✓ **Make Creative Use of AYP Reporting Requirements to Differentiate Your Small School or Small Learning Community**

Whether or not your small school or small learning community is considered an autonomous entity for AYP purposes, you can make use of the federal reporting requirements to provide a unique picture of your school. In Washington, high schools are required to publish annual school report cards detailing math and reading results from the Washington Assessment of Student Learning (WASL) disaggregated by demographic subgroups, along with graduation rates. Small schools should consider including measures of success beyond WASL scores and graduation rates, for example, the results of alternative assessments or the number of college credits earned by students during the year. The website of the state's school superintendent contains sample report card templates that small schools can adapt. While the state currently requires a single AYP report for each school building, small learning communities within a building could also create their own reports.

### **THE LAW**

#### Collective Bargaining Agreements

Collective bargaining agreements govern much of what happens in the day-to-day operations of a school, including teachers' work hours, planning time, and evaluation procedures. Washington's statutes and regulations contain general provisions regarding collective bargaining and employment relations in the public sector.

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Most collective bargaining agreements between districts and teachers' unions are negotiated with a traditional school model in mind. Moreover, agreements are negotiated district-wide, not school by school. They apply to every school in the district. As a result, unions may be reluctant to grant requests from small schools for different procedures out of fear that modifying the contract for one small school may set a precedent for other schools in the district. The best chance of modifying contract rules lies in seeking contract waivers or memoranda of understanding, both of which contemplate temporary changes in contract provisions that were often the subject of laborious and difficult negotiations.

### What Small Schools Can Do

#### ✓ Work With Unions to Help Small Schools

Unions can play a significant role in the small school creation or conversion process. Small school leaders are wise to engage their local union in the planning and implementation process. When feasible, small schools should consider partnering with the union and taking advantage of the resources available through local, state, and national associations. Another way for small schools to engage the local union is to encourage teachers from small schools to run for local union leadership positions.

Teachers' unions can contribute a wide range of resources and support for small schools, including:

- **Perspective.** Unions can offer perspective on the impacts of small school reform efforts on all teachers district-wide, not just teachers at small schools. This perspective can help small schools anticipate and respond to potential objections from other teachers (e.g., concern about reallocating planning time, increasing the number of prep periods, etc.).
- **Expertise.** Unions have experience and expertise in areas such as collaboration, shared decision-making, communication, public relations, budgeting, organiza-

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tional development, mediation, and educational issues such as NCLB.

- **Resources.** The Washington Education Association and some local unions have full-time staff members available to assist teachers and schools with training and staff development, data collection, research analysis, and public relations.

### ✓ Use Contract Waivers and Memoranda of Understanding to Accommodate Small Schools

Unions do not want teachers at small schools to voluntarily and informally waive provisions of the larger collective bargaining agreement because doing so could jeopardize the rights of other union members. In the case of a dispute at another school, a judge or arbitrator determines whether a contract provision has been implemented “in fact.” If teachers at one school have voluntarily waived certain provisions, they may have unwittingly given away those particular rights for all teachers.

If a small school wants to deviate from the bargained-for work rules, it should consider working with the union to take advantage of the provisions for waivers and memoranda of understanding that are built into just about every union agreement. Most collective bargain agreements outline the process by which the district or the union can request waivers from the contract. A waiver request typically requires the approval of a certain percentage of the school staff (one district, for example, requires a two-thirds vote), as well as the building’s union representative and the school principal. The request is then submitted to the district and the union, and the waiver is granted only if both the district and the union agree.

Contract waiver requests are typically subjected to close scrutiny. As the waiver provision in one collective bargaining agreement states, “since the negotiation of the contract took careful consideration by both the parties, it is reasonable that careful consideration be given prior to the granting of a contract waiver by either party.”<sup>14</sup> Because they represent teachers district-wide, unions carefully analyze the potential effects of waivers on teachers at other schools.

14. Collective Bargaining Agreement between Bellevue Education Association and Bellevue School District #405, September 1, 2002 - August 31, 2004, p. 117.

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### **TYPICAL CONTRACT WAIVER PROVISIONS**

One typical contract waiver provision requires that the waiver request: (1) be for the purpose of program improvement, (2) make reference to the specific contract provisions to be waived, (3) include evidence that both teachers and administrators participated in the decision-making process leading up to the waiver request, (4) explain the need for the waiver, and (5) address the effect of the waiver on other areas of the contract.<sup>15</sup>

### **MEMORANDUM OF UNDERSTANDING (MOU)**

A MOU offers a number of advantages for small schools seeking flexibility from provisions of the contract:

- A MOU is typically not as difficult to negotiate as a contract waiver or new contract language.
- A MOU provides a trial period for small schools, the union, and the district to experiment with reforms before making more permanent changes to the formal agreement. If an idea proves successful, then it may be easier to reach agreement later at the bargaining table when it is time to renegotiate the collective bargaining agreement.
- A MOU is easier to revise, rewrite or tinker with than are provisions in the contract.

A memorandum of understanding (sometimes called a memorandum of agreement) is a document that is negotiated separately from the collective bargaining agreement. It is typically an interim agreement on a specific issue. It can take the form of a letter signed by district and union officials that describes what the parties have agreed to and why. A memorandum could outline specific rules that will apply to a particular small school, and/or outline ways in which a small school will operate differently than it would under terms of the collective bargaining agreement. These memoranda usually last one school year.

15. Collective Bargaining Agreement between Seattle School District No. 1 and the Seattle Education Association for 2001-2004, pp. 6-7.

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### ✓ Negotiate Specific Work Rules for Small Schools Into the Collective Bargaining Agreement

Standard teacher contracts often differentiate among teachers at elementary, middle, and high schools by specifying certain rules for different types of schools. Clearly, small high schools are different from other high schools. Since both the district and the union have already agreed to the principle that different rules apply to different kinds of schools, try to expand that agreement to make additional room for different rules for small high schools. Small schools could work with the district and union to accommodate their unique working conditions by bargaining for work rules tailored to the small schools in a district.

Union leaders have a legitimate concern about uncompensated demands placed on teachers. With regard to small high schools, they have expressed anxiety that teachers in small schools be compensated for performing the extra work involved with the small school transformation process. Some unions might want to bargain for extra compensation for teachers who play leadership roles in the planning and implementation of a new small school.

Small schools might consider working with the union to negotiate ways to compensate teachers for the leadership roles they take on beyond the transformation, such as “teacher leader” positions. Since many small schools do away with academic departments, one possible source of funding is the money that is traditionally available to compensate department leaders.

Some teachers and union leaders have suggested that if small schools cannot provide extra compensation, they could consider offering teacher leaders extra planning periods instead. In order to offer some teachers extra planning periods, small schools may need a waiver from the collective bargaining agreement or from various state seat-time requirements. State law waivers will be taken up in the chapter that follows.



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