

Finding the Center of California Education

Gregory J. Dannis

*Turning and turning in the widening gyre
The falcon cannot hear the falconer;
Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world.*

*The best lack all conviction, while the worst
Are full of passionate intensity.*

Surely some revelation is at hand.

("The Second Coming" by William Butler Yeats)

Gregory J. Dannis is the managing partner of Miller Brown & Dannis, a law firm with offices in San Francisco, San Diego, and Long Beach. In addition to his employment, labor, and public-entity law practice, he negotiates at 20 to 30 tables annually for public school and community college districts. This article was first presented as the keynote address at the 2003 Miller Brown & Dannis Fall Workshop for Educators.

THE POET WILLIAM BUTLER YEATS describes a world in which anarchy reigns and values are skewed, all because there is no "center," no core essence to hold the world together. There are no principles upon which we can rely, so the best lose conviction and confidence, while the worst grow louder and louder in passionate intensity.

Some might say this describes all too well the current status of our state and our system of public education. We are living in times of increasing uncertainty. Will we have a budget? Will the budget hold for a full year, or only for six months? How can we commit to our economic and educational blueprints by July every year, as required by law, when the state plan that governs us is not finalized until August, September, or October, and even then rests on assumptions that may not prove true?

What new laws, reforms, and initiatives will be imposed upon us this year, even as we struggle to understand and implement ones enacted in years past? What new strategies must we devise in order to successfully weave our way through the Byzantine maze of laws, rules, regulations, policies, and procedures that appear to issue daily from state and federal lawmakers?

If this description is indeed apt, what then is the “revelation” about our education system that must surely be at hand?

But is the description really accurate? I challenge those who depict our education system in this manner and ask: Just what is the *center* of public education in California? Have you seen it? Do you know it? Can you define it? Well, let us try to define it before we conclude that it cannot hold and that things are falling apart.

Is the California legislature the center of education? After all, Article 9, Section 5, of our Constitution states that “The Legislature shall provide for a system of common schools” throughout California. We are well aware that the legislature exercises plenary control over school districts based on this constitutional authority.

Last year, Governor Davis signed 909 bills and vetoed 58. Since 1999, lawmakers sent more than 6,200 bills to the governor; he signed 5,132 and vetoed 1,100. So what did our highest policymaking body accomplish last year?

We now have new curricula in a variety of areas, including sexual health and HIV/AIDS prevention; obesity, diabetes, and nutrition; career and technical education; the Vietnam War and the “Secret War” in Laos; the role of America in World War II; and environmental education.

The environmental education law alone will cost up to \$500,000 to fund, coupled with unknown additional costs in teacher training. One instructor commented that teachers already struggle just to get students up to par in reading and math skills, “and now they want to throw the environment in there. One more thing on the plate would be overload.” A superintendent responded more succinctly by calling the law “ridiculous” and asking, “Are they serious?”

The same questions — about cost, time, and how much already is expected of teachers and students — fairly may be asked about all of these new curricula laws. Such questions should not be misconstrued as criticizing the importance of the new subject matter.

We also have a new raft of definitions to guide us. Now we may look to statutes for definitions of “racial discrimination,” “gender,” and even “educator.” We have an expanded definition of student “hazing.” Staff development “buyback days” now can be used for training designed to improve tolerance and hatred prevention, as defined. We even have some redefinition: true to the legislative tradition of speaking euphemistically, API [Academic Performance Index] “low-performing” schools henceforth will be known as “high priority” schools.

We have a new law that will require training and standards for California special education hearing officers and implements quality-control mechanisms to ensure that hearings are fair and decisions are accurate. Based on the stories I hear, this may signal a fundamental change in the nature of those hearings.

We have more laws to regulate those schools that were intended to be regulation-free: charter schools. Now school districts must ensure that independent charter schools comply with all of these new laws or be liable if the

charter school fails to live up to its obligations.

And of course we have soda pop bills and bathroom bills. Rumor has it that a group of legislators pressed forcefully for what they called an “organic veto” of the bathroom bills, arguing that if soda is truly banned, bathrooms automatically will become cleaner.

In any event, our legislature — our plenary policymaking body — has reached into the lunchroom of every school in the state to prescribe what drinks can be served, and into the bathrooms to mandate cleaning schedules and stocking requirements for paper towels and soap. One might legitimately criticize these bills as the height of micromanagement and the erasure of any semblance of local control. One might find them even humorous, were it not for the ACLU class-action lawsuit alleging that the state has failed to meet its constitutional requirement to ensure, among other things, safe and clean school facilities, especially in low-income areas.

*If laws are designed
to prevent or cure
certain behavior, what
does this say about
the legislature's
view of public school
employers...?*

While the state budget deficit ballooned from \$10 billion to \$20 billion and finally to \$38 billion, our legislature passed these and hundreds of other bills, and debated furiously over whether teachers are a dispossessed underclass of society, needing protection from a so-called “Teacher Bill of Rights.” It passed a law making it illegal for school districts to knowingly provide inaccurate financial information to unions during negotiations. If laws are designed to prevent or cure certain behavior, what does this say about the legislature’s view of public school employers — that we are by nature dishonest?

The legislature also passed Senate Bill 2 — The Health Insurance Act of 2003. Depending on the size of their workforce, by 2006 or 2007 employers will be required to provide health insurance to all employees who work at least 100 hours a month. Whether and to what extent employees covered by a negotiated agreement are exempt remains to be determined. This act could cost employers at least \$5.7 billion.

No one quite understands what this new law means or what its exact impact will be. Will districts be required to provide benefits to part-time, short-term, temporary, and substitute employees who meet the 100-hour threshold and who have worked for the district for at least three months? Initially, this appears more likely than not, but the point is that no one is sure!

S.B. 2 represents a fundamental development in our state’s social policy, on an issue that cannot be ignored — the personal, social, and economic ramifications of millions of adults and children not having health insurance. But, instead of having a new “law of the land” to address this issue, we have a law we have yet to understand, for it seems our legislature did not understand it before its passage.

Based on this record, can we really conclude that the legislature is the center of California education? To borrow from the federal lexicon, do we believe our legislature to be “highly qualified” to claim this role? Based on the record, is

our legislature making “adequate yearly progress” toward fulfillment of its constitutional mission to guide the schools? One reasonably can conclude the answer is “no.”

Will the federal government now fill this role? The more we learn about No Child Left Behind, the more it appears that the federal government aspires to play a central role in local education policy. NCLB already is showing signs of strain, however, and may be unraveling. The law is underfunded and hardly understood, leading many to believe it is

now a political liability for the current administration, rather than a success story. Educators and civic leaders across the nation are calling for fundamental revision of the law, to focus less on punishing schools that fall short and more on prescribing steps to help them improve. Some states are refusing to accept Title I funding rather than attempt to comply with NCLB’s confusing and conflicting requirements. Some of the justifications for the law are even open to question.

For example, about 1,100 of California’s 8,500 schools made this fall’s list of schools that must allow students to transfer because their state test scores show they are not making their “AYP” — adequate yearly progress. Yet, of 51,716

letters to parents in six San Francisco Bay Area districts, just 1,018 students — fewer than 2 percent — asked to exercise their right to attend a higher-achieving school. Oakland Unified sent out about 20,000 letters to families in 32 schools; 39 students asked to transfer. San Francisco Unified sent out 10,626 letters to families in 30 schools; 171 students transferred out. San Jose Unified sent out 3,000 letters to families in six schools; nine children are transferring.

Thus, when offered a choice — a centerpiece of the law — it appears that the overwhelming choice is to stay put.

NCLB also allows parents to transfer their children, and requires the district to provide transportation, from “persistently dangerous” schools. However, not a single California school met the state criteria to be considered “persistently dangerous.” California was among 44 states reporting no persistently dangerous schools.

*The more we learn
about No Child Left
Behind, the more
it appears that the
federal government
aspires to play a
central role in local
education policy.*

Rather than contributing to the stability of local schools, the federal effort has added to the air of uncertainty. AYP is on a collision course with API. Definitions of “highly qualified” teachers and paraprofessionals seem to change by the day and vary from state to state. According to initial figures, 48 percent of California’s teachers are highly qualified. Many of California’s 4,528 schools that are receiving Title I funds previously were honored as high-performing schools under state law and now find themselves branded as schools in need of improvement under federal law.

The National Education Association states that the nation’s school districts are grappling with “the worst budget shortfalls since World War II,” making it impossible for schools to meet the strict demands of NCLB if school services continue to be cut across the country. The NEA is preparing to file a lawsuit against the Department of Education that will challenge what it calls “the gigantic financial gap” between NCLB’s costs and its financing. NCLB thereby follows in the hallowed footsteps of the chronically underfunded IDEA [Individuals With Disabilities Education Act], now undergoing its own reauthorization.

Given this state of confusion and challenge, we would be hard pressed to look to the federal government for our center.

Where else can we look? Our new governor? In terms of real power and authority over our public schools, the governor probably ranks first, followed by the legislature, the state board of education, and the state superintendent of public instruction.

Governor Schwarzenegger faces daunting obstacles, however, some inherited and some created by his own policy statements. He has pledged not to raise taxes, not to cut education, and he already has repealed the vehicle license fee. Estimates for the 2004–05 state deficit already range from \$10 to \$20 billion. How can he keep all these promises?

The governor called for a repeal of S.B. 1419, the so-called contracting out law passed last year, saying it “demonstrates what’s wrong with the top-heavy approach to education under Gray Davis.” He pledged to consolidate and

reform categorical programs and to return local control to the schools. Sacramento, says the governor, “has to stop being the schoolyard bully.”

Some of these ideas are good. Local control. Fewer restrictions on how we spend every dollar. Granting districts the flexibility to explore what services can be provided by employees or contracted out. But can the governor — any governor — truly be the center of our education system?

Every call for change or reform is both supported and rabidly opposed by interest groups and constituencies rallying around single issues. Forced to operate in such a divisive environment, the office of governor is almost disabled from becoming the true center of education.

So who or what is left to occupy our center? The court system? Our federal and state courts must interpret the laws that already exist, not make new ones to advance the cause of the schools.

Our highest court in the land must address itself to constitutional issues, such as whether “one nation under God” may be recited in the classroom. Our state courts have decided that any state citizen, whether a district resident or not, can sue districts for violations of the Brown Act. And superintendents can take solace in the fact that they can make a citizen’s arrest if someone tries to dump bags of garbage on the floor during a board meeting.

No, our center is not the judicial system, nor the legislative or executive branches of state or federal government. In fact, it is sadly ironic that so much attention is given to these areas, far removed from the real core of education, rather than to where the center of education truly resides.

So where is that elusive center? I think you know, and it is not elusive at all; rather it is right in front of us every day. That center, that core, that essence of our education system is *the child*. *It is the child sitting in a classroom and learning from a teacher*. Nothing could be simpler, yet nothing has been made more complex. In order for this center to hold, and things not to fall apart, other elements must reside in the center as well.

In addition to the child, the center requires a teacher. Teachers in the classroom must increasingly disconnect

*That center, that core,
that essence of our
education system is the
child...sitting in a
classroom and learning
from a teacher.*

themselves from the outside world of more laws and less money in order to perform the core purpose of teaching. The wonder and creativity of teaching survives because of dedicated teachers, despite the many efforts of those who presume to understand and constantly seek to change teaching.

Board members are part of the center. They continue to volunteer for an increasingly thankless role even with the knowledge that the only thing constant about the laws affecting education is change.

Also at the core of education are superintendents, principals, and other administrators who keep working 80-hour weeks in order to respond to every constituency in the district so that teaching and learning will occur in the classroom.

Here too are classified employees, whose ranks and resources dwindle even as they redouble their efforts to provide the often invisible infrastructure that allows every child and teacher to succeed.

Parents contribute more time and more money to fill in widening gaps in state funding and resources.

The center also requires new school buildings, funded by billions in state and local bonds, and perhaps billions more to come with the next election.

When one realizes the simple truths regarding the center of education, one must conclude that Yeats' poem is not an accurate description of our education system. To say

"things fall apart; the center cannot hold" signifies an implosion — a state in which the core no longer exists and things therefore fall apart for lack of substance. In our case, however, great and vital substance continues to reside at the center of our education system. The danger to us comes from the forces that seek to *pull* us apart from the outside, not a lack of vital matter within. Those who conclude that our educational center is not holding simply do not know where or what or who it is.

Has anarchy been let loose upon our world of education? Sometimes it feels that way with all the laws and lawmakers pushing and pulling us in every direction. But again, at the center, education, teaching, and learning still prevail.

Do the best lack conviction while the worst take control with their passionate intensity? What is best in education is happening in the local school district, at the local schools in the classroom. Those who are passionate in their intensity about the ills of education and the need to reform must visit this center of education to see the best firsthand and to know the conviction and belief in public education that are on display daily.

And finally, what is the revelation that surely must be at hand? The answer is, it already is here, and has been all the while. The great revelation is that the center holds and things do not fall apart. The great revelation is that the center of public education is strong, strong enough even to survive those who don't know where it is. *