

Constitutional Aspects of S.203 Which Proposes to Change the Method of Selecting Members of
the State Board of Education

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before the Senate Education Committee
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“It is a fundamental principle of the American constitutional system, clearly expressed in our own State Constitution, c. 2, § 5, that the legislative, executive and judicial departments of government are separate from each other But the doctrine of the separation of governmental departments does not mean an absolute and entire separation for “the efficient exercise of the police power inherent in the people of this state is not to be frittered away by overnice speculations upon the distribution of the powers of government.”

State v. Auclair, 110 Vt. 147 (1939)

I. Introduction

My name is Peter Teachout. I am a Professor of Law at Vermont Law School with an area of special interest in state and constitutional law. I have published articles on constitutional law issues, including issues of Vermont constitutional law, in law journals and as chapters in books. In my role as a constitutional law scholar, I am occasionally asked to testify before committees of the Vermont legislature regarding constitutional aspects of bills under consideration. I welcome the opportunity to testify this afternoon on constitutional aspects of S.203.

The question I would like to address in my testimony this afternoon is the question raised by Legal Counsel for the Governor, Jaye Johnson, in her testimony before the Committee last week: whether the state can create a system for appointing members to the state Board of Education in which the Governor, the Senate, and the House each get to appoint a certain number of members, as proposed by S.203, without violating the doctrine of separation of powers.

The short answer to the question is yes. The state can adopt the approach proposed by S.203 without violating either the state or federal constitution. Separation of powers is an important principle of constitutional law but it needs to be understood and applied sensibly, with appreciation of the practicalities of government, and in this context it does not pose a barrier to the state’s adopting the “shared responsibility” approach to appointing members to the state Board of Education proposed by S.203.

There are several reasons for this conclusion which I elaborate upon below, but let me briefly introduce them here. For starters, the general approach to appointment of board members proposed by S.203 is not unique in Vermont law. A similar, though not identical, “shared responsibility” approach currently governs the appointment of members to at least one other

state board in Vermont.¹ Second, a canvas of state education laws nationally² shows that states have great flexibility in deciding what method to adopt for selecting board of education members – states employ a wide variety of approaches - and at least some other states employ a “shared responsibility” approach similar to that proposed by S.203.³ Third, the power to make appointments to the state Board of Education is already a “shared” power since under existing statutory law the Governor can only make appointments to the Board “with the advice and consent of the Senate.”⁴ Fourth, S.203 does not “encroach upon” or “usurp” powers that are assigned to the Governor under the state constitution. Section 20 of Chapter II gives the Governor the power to make appointments of state “officers⁵ but the exercise of that power is subject to an important qualification: it can be exercised “except where provision is, or shall be, otherwise made by law,”⁶ which is to say, unless the state legislature provides otherwise. For the legislature to provide otherwise, as it is expressly authorized to do under this provision, is by definition not an “encroachment” or “usurpation.” Finally, thoughtful appreciation of the functions served by the separation of powers principle in our constitutional system and how it is properly applies to the practical affairs of government does not require absolute separation of the three branches of government into hermeneutically sealed compartments. It allows for the sort of collaborative participation of those branches as proposed in S.203.

Before proceeding to more detailed analysis, it may be helpful to set out what S.203 proposes.

Changes Proposed by S.203

A. The Current System

Under current 16 V.S.A. §161, the State Board of Education consists of ten members “appointed by the Governor with the advice and consent of the Senate.” Two of the ten members are to be secondary school students. In addition, current law establishes criteria for the selection of the nonstudent members to the Board as follows:

“In the appointment of the nonstudent members, priority shall be given to the selection of persons with a demonstrated commitment to ensuring quality education for Vermont students. To the extent possible, the members shall represent the State’s geographic, gender, racial, and ethnic diversity.”

B. Proposed New Method for Appointing Members to the Board

S.203 would retain (1) a ten-member Board, (2) the requirement that two members be secondary students, and (3) the criteria for selection as set out above, but proposes changing the method of

¹ 15 V.S.A. §601: Governor appoints two members; the Senate elects three; the House, three; and Attorneys at law, three. The approach makes sense since the different appointing bodies represent diverse interests, thus sharing the responsibility for making appointments contributes to diversity of perspective on the Board itself.

² See Appendix A, *infra* at pp.8 *et seq.*

³ For example, Indiana, Mississippi, Pennsylvania, South Carolina, Washington. That is so even though all of these states are, like Vermont, are constitutionally required to comply with separation of power principles.

⁴ 16 V.S.A. §161.

⁵ Vt. Constitution, Ch II, § 20

⁶ *Id.*

appointment. Instead of having the Governor appoint all ten members “with the advice and consent of the Senate,” S.203 would allocate responsibility for appointment of members to the Board as follows:

“(1) Four members shall be appointed by the Governor, including the secondary student members.

“(2) Three members shall be appointed by the Senate Committee on Committees, none of whom may be legislators. Members shall be chosen from among not fewer than six candidates proposed by the Senate Committee on Education.

“(3) Three members shall be appointed by the Speaker of the House, none of whom may be legislators. Members shall be chosen from among not fewer than six candidates proposed by the House Committee on Education.”

C. Transition to the New System

Under both the current law and the approach proposed by S.203, board members are appointed for six-year terms with different expiration dates allowing for sequential replacement.⁷ Under current law, the Governor is responsible for making the new appointment or replacement decisions subject to the advice and consent of the Senate. S.203 establishes a different system for making replacement decisions by allocating those decisions among the three institutions charged with responsibility for making initial appointments in the following order:

“(1) For the terms expiring on February 28, 2025, one shall be made by the Senate Committee on Committees and one shall be made by the Speaker of the House.

“(2) For the terms expiring on February 28, 2027, one shall be made by the Governor, one shall be made by the Senate Committee on Committees, and one shall be made by the Speaker of the House.

“(3) For the term expiring on February 29, 2028, the appointment shall be made by the Senate Committee on Committees.

“(4) For the term expiring on February 28, 2029, the appointment shall be made by the Speaker of the House.

“(5) For the term expiring on February 28, 2030, the appointment shall be made by the Governor.

“(6) The Governor shall continue to make annual secondary student 21 appointments in accordance with 16 V.S.A. § 161.

“(7) After each appointing authority has made its initial transition period appointments under this section, all appointments shall be made by the appointing authority that made

⁷ “A member serving a term of six years shall not be eligible for reappointment for successive terms.”

the initial appointment to the vacated or expired term in accordance with 16 V.S.A. § 161.”

D. Filling Vacancies

S.203 also changes the method for appointing members to fill “vacancies” (for example, if an existing member should resign or leave the position vacant for other reasons). Under current law, the Governor is responsible for filling vacancies with no time limit or restriction on those eligible for consideration established for doing so. Under S.203 (1) the appointing authority that made the initial appointment shall fill the vacancy “within 60 days” and (2), where the relevant appointing authority is the Senate Committee on Committees or the Speaker of the House, the vacancies “shall be filled by choosing from among the original list of candidates for the vacant term proposed by the applicable committee of jurisdiction.”

E. Secondary Students Eligible for Appointment

Current law simply provides that “[t]wo of the members shall be secondary students” without specifying whether the students selected need to be public school students or can also be students enrolled in an independent school or a state technical education center. S.203 clarifies this by specifically providing that two of the members shall be “secondary students enrolled in a public school, approved independent school, or secondary career technical education center.”

II. Constitutional Issues Presented by the Changes Proposed by S.203

The major change proposed by S.203, as explained above, is to change the method for appointing members to the Board of Education from the current approach, under which the Governor makes appointments subject to the advice and consent of the Senate, to a “shared responsibility” approach under which the Governor makes some appointments, the Senate makes some, and the House makes others. Do those proposed changes violate the constitutional principle of separation of powers?

Separation of Powers Provision in the Vermont Constitution is not Unique

Section 5 of Chapter II of the Vermont Constitution provides as follows:

“The Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others.”⁸

(1) ⁸ Vt. Constitution, Ch. II, § 5. The separation of powers clause in the Vermont constitution was added in 1786 as Section VI of Chapter II. The Council of Censors strongly urged that such an article be added because in the previous period the legislature had exercised “judicial powers” in two key respects: (a) it had removed certain cases involving land transfer and contracts from the jurisdiction of the courts and assumed responsibility for deciding such cases and (b) it had adopted the practice of acting as a kind of court of appeal by accepting petitions from those who had lost in court and reversing those decisions by adoption of special legislative bills. So the primary purpose was to prevent the legislature from exercising judicial “powers.”

This provision is not unique to Vermont. Virtually every other state has a similar constitutional provision or has adopted through state court decision a constitutional commitment to the underlying principle - including, significantly, those states which have adopted a “shared responsibility” approach to appointing members to the state board of education similar in basic approach to that proposed by S.203. The question to which that gives rise is an obvious one: if the separation of powers principle prohibits adoption of a shared approach to appointing members to a state board of education, why hasn’t that principle prevented adoption of the “shared responsibility” approach in these other states?

Significance of the Fact that the State Board of Education in Vermont is Created by Statute

In Vermont, the state Board of Education is established by statute not constitutional provision.⁹ That is not the case in all other states. In some states the state board of education is specifically provided for in the state constitution. This distinction is important because in states where the board of education is a constitutionally established body, there may be constitutional constraints on the kinds of legislation the state legislature can pass that do not exist in states where the state board of education has been created by statute. Since in Vermont the state Board of Education is established by statute¹⁰ not constitutional provision, the Vermont legislature is not constitutionally constrained as it would be if the Board of Education were a constitutional institution. States where the board of education has been created by statute have great flexibility in determining how members to that board can be selected. I have been unable to find a single case in which courts from such states have held that separation of powers doctrine prevents the state from adopting whatever approach it chooses for appointing members to the state education board.

State Board of Education does not “Belong” to any Branch of Government but Exercises Functions of all Three Branches

It is important to appreciate that the state Board of Education does not “belong” to a particular branch of government but, if it “belongs” at all, belongs to all three branches since it is charged with exercising functions associated with all three. It is vested with quasi-legislative, quasi-executive, and quasi-judicial powers. The Board exercises quasi-legislative power when it engages in “rule-making;” it exercises quasi-executive powers when it implements laws adopted by the legislature; and it exercises quasi-judicial powers when it holds hearings to determine if recommendations by the Secretary of Education in particular cases should be upheld or rejected. So even in its internal make-up and authority, the Board does not fit neatly into one of the three major branches of state government but instead exercises powers traditionally associated with all three.

What we Can Learn from Methods of Appointment Board of Education Members in Other States

⁹ 16 V.S.A. §161

¹⁰ *Id.*

In some ways the strongest evidence that the state has flexibility to adopt the approach to appointment proposed by S.203 is to survey what other states have done in this respect. Consider the wide range of approaches that have been adopted in other states entered in the first column of the Matrix of state education laws reproduced in Appendix A.¹¹ It would be wrong to assume these other states are not governed by separation of power principles, because they are. In light of what other states have done in this respect, consider what Vermont could do if it chose to do so without violating the state constitution:

- It could continue with the existing system giving the Governor the power to appoint members subject to the advice and consent of the Senate, as is done in a majority of states.
- It could authorize the Governor to appoint most of the members but allow the speaker of the House and the President *Pro Tempore* of the Senate each to appoint one, as is done in Indiana.
- It could authorize the Governor to appoint most of the members, but provide that the teachers elect one member, as is done in Maryland.
- It could authorize the legislature to make all the appointments, as is done in New York.
- It could authorize the Governor to make a majority of the appointments but allow the General Assembly to appoint four members, as is done in Pennsylvania.
- It could authorize local school board members to elect some members of the board, authorize the Governor to appoint some, allow public school students to elect some student members of the board and private school students to elect others, as is done in Washington state.

Moreover, this barely touches the surface of possibilities available to the legislature.

Keep in mind that in all of the above-mentioned states, the constitutional law of the state is also governed by the principle of separation of powers, yet in none of those states has that proved a barrier to adoption of one or more variant of the “shared responsibility” approach to appointment.

Under the Vermont Constitution the Power to Make Appointments to the Board of Education is not an Exclusive Prerogative of the Governor

The argument that shifting to a system of “shared responsibility” for making appointments to the state Board of Education violates the constitutional principle of separation of powers is based on the view that in making that shift the legislature would somehow be “usurping” or “encroaching upon” a power that inherently belongs to the executive branch or that the state constitution vests exclusively in the executive branch. So the question is, Does the Vermont constitution make the governor responsible for appointing members to state boards like the state Board of Education subject only to the check provided by requiring the advice and consent of the Senate?

To answer that question, it is helpful to examine carefully what the relevant provision of the Vermont constitution says about the Governor’s role and responsibility in making appointments.

¹¹ *Infra* at pp. 8-14.

This is the relevant language in Section 20 of Chapter II of the Vermont constitution, the section that lays out the powers and responsibilities of the Executive Department:

“The Governor, and in the Governor’s absence, the Lieutenant-Governor, shall have power to commission all officers, and also to appoint officers, except where provision is, or shall be, otherwise made by law or this Frame of Government . . .”¹²

The first question to ask about this provision is whether the power to appoint “officers” includes, or was intended to include, the power to appoint “board members.” The term “officers” arguably is intended to cover only state officials who performs state duties as individuals, with individual responsibilities and who work for the state on a salaried basis. Board members, in contrast, normally do not perform individual responsibilities but rather are authorized to act only in the collective capacity as members of a board. They participate only occasionally in this capacity and often receive no regular salary for the services they perform. So there is at least a question of whether this provision even covers appointment of members of boards.

Assuming that it does cover the appointment of board members, however, it is important to see that the Governor’s appointment power is subject to an important qualification. The Governor is authorized to make appointments “except where provision is, or shall be, other made by law . . .” which means, in so many words, unless the legislature provides otherwise.

This provision makes clear that the Governor’s power to make appointments under the Vermont constitution is not exclusive but subject to whatever limitations and exceptions the legislature may want to establish. Consequently, the argument that shifting to the “shared approach” to appointment proposed by S.203 unconstitutionally “encroaches upon” a power reserved to the executive branch under the state constitution does not hold water. The governor’s exercise of the appointment power is, and always been, subject to the condition that “provision” may be “otherwise made” by the state legislature. So in adopting the approach proposed by S.203, the legislature would not be “usurping” or “encroaching upon” executive power, it would be exercising its constitutional authority.

What Does the Separation of Powers Principle Mean and What Does it Require?

This is a complicated and interesting subject and I am reluctant to get into here, but I think it is important to stress that the separation of powers principle does not require the separation of the three branches of government into hermeneutically sealed compartments but tolerates and provides a context for the dynamic interaction of the three branches in the practical administration of governmental affairs. One can find this idea expressed in the countless state and federal court decisions that have addressed the question, but here is one such expression from a Vermont Supreme Court decision:¹³

“Our decisions reflect, however, that more difficult issues and choices lie under the surface of separation of power questions. Thus, we have emphasized that separation of

¹² Vt constitution, Ch II, §20.

¹³ *In re D.L.*, 164 Vt. 223 (1995)

powers doctrine does not contemplate an absolute division of authority among the three branches such that each branch is hermetically sealed from the others. See *State v. Pierce*, (1995); see also *INS v. Chadha*, (1983) (federal branches not hermetically sealed from one another). Practical realities of daily government require that there must be a certain amount of overlapping or blending of the powers exercised by the different departments. *Trybulski*, 112 Vt at 6, 20 A.2d at 120. Moreover, there are many powers and functions of government that defy simple or obvious classification. *Id.* at 7, 20 A.2d at 120. The focus of a separation of powers inquiry is not whether one branch of government is exercising certain powers that may in some way pertain to another branch, but whether the power exercised so encroaches upon another branch's power as to usurp from that branch its constitutionally defined function. See *Smith*, 686 F.Supp. at 854. As stated by James Madison, “where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free Constitution are subverted.” James Madison, *The Federalist* No. 47, at 303–04 (C. Rossiter ed. 1961) (emphasis in original).”

III. Conclusion

For these reasons and others, I feel confident in concluding that separation of powers doctrine, properly understood, poses no constitutional barrier to the state’s adopting the “shared responsibility” approach to appointing members to the State Board of Education as proposed by S.203.

I am happy to make myself available to the Committee to answer questions. Thank you for your consideration.

Appendix A

STATE EDUCATION GOVERNANCE MATRIX

Compiled by the National Association of State Boards of Education
(Updated December 2022)

STATE	SELECTION OF STATE BOARD MEMBERS	SELECTION OF CHIEF STATE SCHOOL OFFICER	SELECTION OF STATE BOARD CHAIR/PRESIDENT	NUMBER OF VOTING STATE BOARD MEMBERS	LENGTH OF TERM FOR STATE BOARD MEMBERS	STATE BOARD ESTABLISHED IN STATUTE OR CONSTITUTION	AUTHORITY FOR TEACHER LICENSURE	AUTHORITY FOR STANDARDS ADOPTION
Alabama	Partisan ballot	SBE appoints	Governor serves as president	9 including governor	4	Constitution	SBE	SBE
Alaska	Governor appoints; legislature confirms	SBE appoints with approval by governor	SBE elects	7 plus 2 nonvoting members,	5	Statute	SBE	SBE

				including 1 student				
Arizona	Governor appoints with consent of Senate, except CSSO	Partisan ballot	SBE elects	11, including 1 teacher	4	Constitution	SBE	SBE
Arkansas	Governor appoints; Senate confirms	SBE appoints	SBE elects	9, including 1 nonvoting teacher of the year	7	Statute	SBE	SBE
California	Governor appoints with advice and consent of Senate	Nonpartisan ballot	SBE elects	11, including 1 voting student	4	Constitution	PSC	SBE
Colorado	Partisan ballot	SBE appoints	SBE elects	9	6	Constitution	SBE	SBE
Connecticut	Governor appoints with advice and consent of General Assembly	SBE makes recommendation; governor appoints	Governor appoints	11 voting members plus 2 nonvoting students	4	Statute	SBE	SBE
Delaware	Governor appoints; Senate confirms	Governor appoints	Governor appoints	7 voting members plus 1 nonvoting student and former teacher of the year	6	Statute	SBE	SBE
Florida	Governor appoints; Senate confirms	SBE appoints	SBE elects	7	4	Constitution	SBE	SBE
Georgia	Governor appoints, with consent of Senate	Partisan ballot	SBE elects	14	7	Constitution	PSC	SBE

Hawaii	Governor appoints with advice and consent of Senate	SBE appoints	Governor appoints chair; SBE elects vice chair	9 plus 2 nonvoting members, including 1 student	3	Constitution	Standards Board	SBE
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Idaho	Governor appoints 7 with consent of Senate; CSSO also serves	Partisan ballot	SBE appoints	8	5	Constitution	SBE	SBE
Illinois	Governor appoints with consent of Senate	Governor may propose; SBE hires	Governor appoints chair; SBE elects vice chair	9	4	Constitution	SBE	SBE
Indiana	Governor appoints 8; speaker of the House 1; president pro tempore 1; CSSO also serves	Governor appoints	CSSO serves as chair	11	4	Statute	SEA	SBE
Iowa	Governor appoints; Senate confirms	Governor appoints	SBE elects (2 year term)	9 plus 1 nonvoting student	6	Statute	Independent Board	SBE
Kansas	Elected	SBE appoints	SBE elects	10	4	Constitution	SBE	SBE
Kentucky	Governor appoints; Senate confirms	SBE appoints	SBE elects	11 plus 4 nonvoting members, including student and teacher	4	Statute	PSC	SBE
Louisiana	8 elected by nonpartisan ballot; governor appoints 3; Senate confirms	SBE appoints	SBE elects	11	4	Constitution	SBE	SBE
Maine	Governor appoints	Governor appoints	SBE elects	9 plus 2 nonvoting students	5	Statute	SBE	SEA
Maryland	Governor appoints 13 with advice and consent of Senate; teachers elect 1 teacher	SBE appoints	SBE elects	14, including 1 teacher, parent, and student	4	Statute	SBE	SBE
Massachusetts	Governor appoints 6; 4 voting ex officio members, 1 student	SBE appoints, with approval from secretary	Governor appoints	11, including 1 voting student	5	Statute	SBE	SBE

Michigan	Partisan ballot	SBE appoints	SBE elects	8, including 1 nonvoting teacher	8	Constitution	CSSO	SBE
Minnesota	None	Governor appoints	NA	NA	NA	None	Standards Board	CSSO
Mississippi	Governor appoints 5; lt. gov. appoints 2; speaker of the house appoints 2	SBE appoints	SBE elects	9, including 1 teacher, plus 2 nonvoting students	9	Constitution	SBE	SBE
Missouri	Governor appoints; Senate confirms	SBE appoints	SBE elects	8, including 1 nonvoting teacher	8	Constitution	SBE	SBE
Montana	Governor appoints; Senate confirms	Partisan ballot	SBE elects	7 plus 4 nonvoting members including 1 student	7	Constitution	SBE	SBE
Nebraska	Nonpartisan ballot	SBE appoints	SBE elects	8	4	Constitution	SBE	SBE
Nevada	4 elected; governor appoints 3, 2 of whom the legislature nominates; governor appoints 4 nonvoting members	Governor appoints from 3 nominees SBE provides	SBE elects	7, including 1 teacher, plus 4 nonvoting members, including 1 student	4	Statute	Standards Board	SBE
New Hampshire	Governor and executive council appoints	Governor appoints after consulting SBE; council confirms	Governor appoints	7	5	Statute	SBE	SBE
New Jersey	Governor appoints, with advice and consent of Senate	Governor appoints, with advice and consent of Senate	SBE elects	13 plus 1 nonvoting student	6	Statute	SBE	SBE

New Mexico	None	Governor appoints	NA	NA	NA	None	SEA	SEA
New York	Legislature appoints	SBE appoints	SBE elects	17	5	Constitution and Statute	SBE	SBE

North Carolina	Governor appoints and legislature confirms 11; 2 voting exofficio members: state treasurer and lt. gov.	Partisan ballot	SBE elects	13 plus 2 nonvoting students and a teacher	8	Constitution	SBE	SBE
North Dakota	None	Nonpartisan ballot	NA	NA	NA	NA	Standards Board	CSSO
Ohio	11 elected by nonpartisan ballot; governor appoints 8 with advice and consent of Senate	SBE appoints	SBE elects (2 year term)	19	4	Constitution	SBE	SBE
Oklahoma	Governor appoints, with advice and consent of Senate	Partisan ballot	CSSO serves as chair	7	4	Constitution	SBE	SBE
Oregon	Governor appoints; Senate confirms; SBE appoints student	Governor serves as superintendent of education; appoints deputy	SBE elects	7 plus 6 nonvoting members including 2 students and a teacher	4	Statute	Standards Board	SBE
Pennsylvania	Governor appoints 17, Senate confirms; General Assembly appoints 4	Governor appoints	Governor appoints	21 plus 4 nonvoting students	6	Statute	SBE	SBE
Rhode Island	Governor appoints with advice and consent Senate	Council appoints, with advice and consent of SBE	Governor appoints	17 plus 1 nonvoting student	3	Statute	SBE	SBE

South Carolina	Legislature appoints 16, governor appoints 1	Partisan ballot	SBE elects	17	4	Constitution	SBE	SBE
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South Dakota	Governor appoints with consent of the Senate	Governor appoints	SBE elects	7	4	Statute	SBE	SBE
Tennessee	Governor appoints; General Assembly confirms	Governor appoints	SBE elects (4 year term)	10, including 1 student and teacher	5	Statute	SBE	SBE
Texas	Partisan ballot	Governor appoints	Governor appoints (2 year term)	15	4	Constitution	Independent Board	SEA
Utah	Partisan ballot	SBE appoints	SBE elects	15, including a teacher	4	Constitution	SBE	SBE
Vermont	Governor appoints 9 voting members and 2 nonvoting members with consent of Senate	Governor appoints from 3 nominees SBE provides	SBE elects (2 year term)	9 voting members, including 1 voting student, plus 1 nonvoting student and the CSSO	6	Statute	Standards Board	SBE
Virginia	Governor appoints; General Assembly confirms	Governor appoints	SBE elects	9	4	Constitution	SBE	SBE
Washington	Local school board members elect 5; governor appoints and Senate confirms 7; student group selects 2 students; private schools elect 1; CSSO also serves	Nonpartisan ballot	SBE elects	16, including 2 voting students	4	Statute	Standards Board	CSSO
West Virginia	Governor appoints 9, with consent of Senate; 3 nonvoting ex-officio members	SBE appoints	SBE elects	9	9	Constitution	SBE	SBE
Wisconsin	None	Nonpartisan ballot	NA	NA	NA	None	SEA	CSSO
Wyoming	Governor appoints; Senate approves	Partisan ballot	SBE elects	12, including 1 teacher	6	Statute	Standards Board	SBE
District of Columbia	Nonpartisan ballot	Mayor appoints chancellor and CSSO	SBE elects	9 plus 4 students (vote recorded w/o weight)	4	Statute	CSSO	SBE
Guam	6 elected at large; governor appoints 3	SBE appoints	SBE elects	9 plus 2 nonvoting members including 1 student	3 years for appointed, 2 for elected	Statute		
Northern Marianas	Elected	SBE appoints	SBE elects	5 plus 1 nonvoting student	4	Constitution		

Virgin Islands	Elected	Governor nominates; Senate approves	SBE elects	9	4	Statute	SBE	SBE
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SBE = state board of education; SEA = state education agency; CSSO = chief state school officer; PSC = professional standards commission