

OPPOSING VERSUS SUPPORTING OPTING OUT OF STANDARDIZED TESTING

Policy Subjectivity in the State Legislative Process

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Despite the efforts of parents, educators, and activists to oppose standardized testing through the act of opting out, most states and federal law still require students to take annual standardized tests. While key arguments of the opt-out movement in a state legislative process are explored, this case study focuses on those legislators who supported standardized testing by opposing opt-out legislation. Drawing from the legislators' own rhetoric in questioning and defending their opt-out positions, the case explores the manifestation of "New Right" hegemonic discourse and policy subjectivity in an understudied policy formation arena, the state legislature, with implications for further activism.

Keywords: opt-out, standardized testing, policy, state legislature, New Right, subjectivity

INTRODUCTION

Parents, educators, and activists oppose the standardized tests required by the No Child Left Behind Act (2002) and reinforced by the Common Core State Standards (National Governors Association Center for Best Practices & Council of Chief State School Officers, 2010) by opting out. By opting out, parents refuse to let their children take the mandated tests. Opt-out parent leaders further engage with educational and political leaders to change standardized testing policies. Yet, the opt-out

movement's success in removing standardized testing from the nation's classrooms has been limited. Three states have laws permitting parental opt-out (National Education Association, 2020) and standardized testing remains embedded in the requirements of the federal Every Student Succeeds Act.

The opt-out movement's lack of political success suggests a struggle within a broader philosophic conflict. Apple (2018, 2000) frames this philosophic struggle as one between a conservative thin democracy that has focused education on meeting individual

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economic needs as opposed to a progressive thick democracy of critically searching for the common good (Apple, 2018; S. Ball et al., 2017; Ferman, 2017). Further, the thin democracy of market driven individual choice has shaped the current underlying assumptions of educational policy through the political assemblage of the New Right Coalition (Apple, 2000) composed of market-driven neoliberals, standards-driven neoconservatives, conservative-Christianity driven authoritarian populists, and results-driven new educational managers.

J. Ball (2016) further frames this struggle of competing democratic visions in a policy context as one of subjectivity, the struggle between the individual self and the powers that control and regulate the self. S.J. Ball (2015) expresses this individual struggle as one of our relations to ourselves where the fact of policy mandates challenges us to think about ourselves differently. Individuals choose to accept and be subject to the policy or change the policy itself. Either way, the struggle of accepting or changing policy challenges the individual's own core beliefs and self-identity through the process of subjectivity.

Rather than be subject to federal and state testing requirements, the opt-out movement challenges the status quo as documented in a growing corpus of literature. The opt-out movement demonstrates struggles, challenges, and influence both nationally (Bennett, 2016; Pizmony-Levy & Cosman, 2017; Pizmony-Levy & Green Saraisky, 2016) and locally (Casalaspì, 2018, 2019; Clayton et al., 2019; Currin, Schroeder, & McCardle, 2018; Morel, 2019; Wang, 2017). The opt-out experience contributes a perspective that adds to the historical and political understanding of federal reform efforts as explored more generally by Young's (2018) assessment of standardized testing and Greer's (2018) history of the Common Core.

Academic interest in the opt-out movement has largely focused on descriptive themes such as movement demographics and motivations. The opt-out movement is primarily composed

of White and affluent parents (Bennett, 2016; Casalaspì, 2019; Clayton et al. 2019; Morel, 2019, Pizmony-Levy & Green Saraisky, 2016). Some educators share similar interests with parent activists (Hursh et al., 2019; Wang, 2017) including resistance to various neoliberal disciplines that involve loss of local control over curriculum, instruction, and assessment (Currin et al., 2016; Morel, 2019).

However, gaps in understanding regarding the opt-out movement remain. Currin et al. (2018) touch briefly on the modern relationship between federal and state power as they address the need for activist legislative awareness. In evaluating the Common Core, Deas (2018) notes the underexplored tensions between local factors and federal reform efforts. Literature touches upon but does not deeply explore the opt-out movement's efforts to change state level testing law, an oversight as the state legislatures have historically controlled educational policy. Further, literature regarding opt-out has focused on the movement itself and not the forces that oppose opting out.

This state legislative policy formation case study provides another perspective on the struggle over competing definitions of democracy generally and the opt-out movement specifically by examining the movement's effort to change state law in Arizona, a historically conservative leaning state located in the southwestern United States. The case's data were collected using progressive theoretical sampling (Altheide & Schneider, 2013) and focus on legislative committee hearings and floor votes regarding opt-out legislation in the Arizona State Legislature's 52nd regular sessions. Data also include interviews with two state legislators involved in the opt-out process along with contextual data from legal texts, traditional media reports, and social media. By critically analyzing the statements of the legislators themselves and especially those who support standardized testing by voting against opt-out legislation, the following research questions are addressed:

1. Which state legislators oppose opting out and why?
2. To what extent does opposition to opting out of state mandated standardized tests reflect a struggle of subjectivity between competing discourses of democracy?

POLICY, SUBJECTIVITY, AND DEMOCRACY

In seeking to change state law governing standardized testing requirements, the opt-out movement engages the complex processes of policy formation with implications for enactment and implementation. Modern educational policies are shaped through complex interactions or assemblages of ideas moving through complex networks on the global, national, and local levels (S. Ball, 1993; Braun et al., 2011; Koyama, 2014). On the surface, policy is a text to be written, read, and followed. Yet the specific text reflects a production of truth representing underlying discourses regarding what can and cannot be said and taught and who can say what and with what authority (S. Ball, 1993; Braun et al. 2011; Sobe, 2014).

S. Ball (1993, 2015) recognizes the complexity of policy, policy formation, and the research necessary to understand both. In Ball's view, policy defines what people do, that is, the freedom to act or a restriction on what can be acted, both of which carry implications for social justice and equity. Policy travels deeper than freedom and agency, however. By becoming a concrete point of contact between individual self and the powers that control and regulate the self, policy also defines individual subjectivity as the, "struggle over and against what it is we have become, what it is we do not want to be" (J. Ball, 2016, p. 1143). Policy therefore strikes to the core of individual identity. Through enactment of policy, an individual must choose acquiescence or opposition to the policy with implications for that individual's own self-identity. Sometimes, an individual might change his/her own identity to meet the requirements of a new policy.

Other times, the individual might keep his/her identity and oppose the policy. Either way, policy affects, "our relations to ourselves" (S. J. Ball, 2015, p. 1134) in that we might struggle to think about ourselves differently.

By challenging standardized testing through the act of opting out, the opt-out movement provides a specific policy conflict that reflects a deeper tension between competing definitions of democracy, that of thin and thick democracy (Apple, 2018). In thin democracy, citizenship is defined by market-oriented versions of consumer choice, possessive individualism and education as a tool for meeting economic needs. In thick democracy, citizenship is defined by full collective participation, a search for the common good, and education performing a developing critical citizens. This fundamental choice between the common good and possessive individualism creates the individual struggles of subjectivity J. Ball (2016) and J. Ball and Olmedo (2013) explore in the relation to individual identity and self-care in a policy environment dominated by foci on competitive performativity. In further defining a thick democracy, DesJarnett and Ferman (2017, p. 36) assert, "democracy is messy because it embodies values largely absent from the marketplace," and further define thick democratic values as: equality, equal opportunity, justice, fairness, due process, transparency, deliberation and debate.

Educational policy is currently shaped by the thinly democratic yet hegemonic tenants of the New Right Coalition (Apple, 2000; Sobe, 2014; J. Ball, 2016; Ylimaki, 2011). Apple (2000) provides a four part analytic description of the New Right coalition's political components. The New Right coalition begins with neoliberals who favor market and consumer oriented educational policies believing that giving educational consumers choice would address underlying issues of student achievement on core subjects such as reading and math. Neoliberals in turn allied with neoconservatives who sought a return to traditional subjects such as reading, writing, and math. Neoconservative also sought to hold educators

accountable through quantitative measurement tools, especially standardized testing, an objective neoliberals grasped as standardized testing would allow a basis upon which the neoliberal consumer can base an educational choice decision. The sheer number of authoritarian populists, or what today might be popularly called the Religious Right, provided philosophical agreement but more importantly provided the voting power to enact New Right reform. The Religious Right in the United States today is composed of politically active Christians who strongly support social conservative values and seek to influence public policy based on their interpretation of the Bible. The tenant of free-market choice is intuitively appealing to the Religious Right who seek to defend the right choose one's own church. Likewise, the neoconservative tenant of standardized testing to measure achievement are intuitively analogous to the Religious Right's emphasis on traditional values as defined by the Ten Commandments. Finally, the new managerial class of educational leaders trained in and committed to improving education by obtaining results using technical and often business-based management skills would ensure the successful implementation with fidelity of New Right reform efforts.

While the assembled elements of the New Right Coalition politically support each other in creating majorities to influence educational policy, the elements exist in an uneasy compromise that could break apart. Further, while the New Right coalition defines current educational policy with a thin market-oriented democratic vision, a competing thick definition of democracy focused on the common good is challenging the New Right hegemony. Cases and examples of the broader struggle between thick and thin democracy are found in literature. S. Ball et al. (2017) analyze the dynamics of neoliberal efforts in a globalized context specifically focusing on the actual spaces; events, meeting, and conferences; where network action of like-minded policy leaders occurs. Apple and Schirmer (2018) examine the contest between rightist and democratic

forces in the small spaces of local school board elections exploring themes of student-parent-teacher coalitions and mobilizations. However, exploring the struggle of competing democratic visions within the context of a state legislative policy formation arena is missing.

OPT-OUT LITERATURE

By raising the question about when the personal becomes political Ferman (2017) connects S.J. Ball's (2015) questions about subjectivity with the opt-out movement specifically. Ferman addresses the case of the opt-out movement in Philadelphia by tracing the development of Philadelphia's opt-out movement from the individual parental choice to opt-out to more robust and organized community activism. In doing so, Ferman describes the opt-out movement in Philadelphia as socially diverse including African-American, Latino, and Asian parents thus suggesting a broad demographic appeal of opt-out specifically and resistance to neoliberalism generally.

However, other literature has demonstrated opt-out is largely composed of White, affluent, and mostly female participants (Bennett, 2016; Hursh, 2019; Clayton et al. 2019; Pizmony-Levy & Green Saraisky, 2016). Like Ferman's focus on Philadelphia, other opt-out literature has focused on local movements mostly in Eastern states such as Florida (Currin et al. 2016, 2018), the movement's epicenter in New York, and especially affluent Long Island (Casalaspì, 2019; Hursh, 2019; Morel, 2019; Wang, 2017). The movement's presence in Western states such as Washington is mentioned in Bennett (2016) and demographics of the Colorado movement discussed in Clayton et al. (2019). Missing from the opt-out literature is a focus on western states and states with a history of business-friendly conservative policies such as Arizona.

The opt-out literature reflects the complexity of policy formation and implementation. Some studies seek to provide more analytical explanation and understanding of the opt-out

phenomenon. Wang (2017) applies the current academic interest in network analysis to the opt-out movement. Schroeder et al. (2018) suggest opting out forms a vision for a post-neoliberal ethic of care that moves education past the patriarchy of neoliberalism. Hursh et al. (2019) connect opt-out with the recent resurgence of teacher strikes as democratic efforts to democratically reclaim public schools from neoliberal reform efforts. Similarly, Mitra and colleagues (2016) view opt-out as parents creating contested spaces and pushing back against federal authority. However, while the complexity of policy formation and implementation is addressed in current literature, the specifics focus on the opt-out movement itself rather than those who oppose the opt-out agenda.

Also missing from the current literature is an exploration of the state legislative process, a notable oversight considering education policy is historically the purview of state legislatures in the United States' federal system. Currin et al. (2018) argue for opt-out proponents to be aware of state legislative processes in their study of the impact of the Trump-DeVos era on the opt-out movement. Currin et al. (2018, p. 20) also note that legislative processes are complex and that bills can quickly become, "co-opted," so they become, "nothing like what it was intended to look like." They proceed to suggest the opt-out movement should be involved in the Florida state legislative process, but do not further explore this policy contested space.

By not further exploring the complexities of the state legislative policy process, both the opt-out movement literature specifically and educational policy literature generally are overlooking a key arena of educational policy formation and struggle. This study addresses the void in the literature of legislative policy formation by exploring the case of the opt-out movement's efforts to change Arizona state law to legalize opting out. After briefly touching on the opt-out movement itself within this policy contest, I also explore those legislative policy leaders, particularly legislators, who

opposed the movement thus suggesting insights into why mandated standardized testing remains in place. Further, I contribute to the complexity of policy studies by framing the participant's policy choices as a struggle of subjectivity involving demographic, ideological, and legal implications involved with the neoliberal discourses impact on people.

METHODOLOGY

This policy-centered case study (Stake, 1988, 1995; Yin, 2009) examines the efforts of leaders to legalize opting out in Arizona. As a historically Republican leaning and conservative state in the western United States, Arizona provides a different perspective on the opt-out movement. The case study allows exploration of a phenomenon defined in space and time while including historical background, setting, and economic, political, legal, social and other contexts. The case study approach is appropriate to this project which is specifically defined to Arizona's State Legislature in the 52nd regular session encompassing 2015 and 2016.

Data

During Arizona's 52nd legislative session, three opt-out Bills were introduced: House Bill 2246, House Bill 2056, and Senate Bill 1455. The text of these bills became the starting point of the data collection which then proceeded through a process of progressive theoretical sampling (Altheide & Schneider, 2013) to identify texts related to these bills.

The Arizona State Legislature livestreams and video records all committee hearings and floor votes making them publicly available through the legislature's own website. These videos provide a key synopsis into the rhetoric and thinking of engaged stakeholders and the legislative policymakers themselves. Additional video footage from caucus meetings and floor votes was also collected for insight into legislature's thinking but did not include other stakeholders. Further, the Arizona State Legis-

lature's website provides written documents regarding each bill including the minutes from each hearing and summaries of amendments and votes. On the legislature's house side, copies of written statements provided to legislators by stakeholders who wanted to voice a position but were unable to attend the hearing itself are also publicly posted on the legislature's website.

As I identified key policy leaders such as legislators and leadership from interest groups, I also engaged in online searches for publicly available information regarding their involvement in opt-out specifically and politics in general. Webpages from when the now elected legislators were candidates running for their offices provided insight into a number of issues including candidate policy platforms and priorities, rhetoric, and personal demographic information. For example, incumbent candidate Lisa Otondo (D-District 4), lists membership in the legislature's Latino caucus, Native American caucus, and rural caucus thus providing self-identified demographic information. Online searches also included podcasts and references in traditional media stories from both statewide and more localized outlets.

To gain insight into the behind-the-scenes workings of the opt-out movement's legislative efforts, I contacted policy leaders with a request for interview. Two legislators responded to requests for interviews: Representative Chris Ackerley, a Republican first-term legislator and prime sponsor of two opt-out Bills spoke with me via phone and in person during the 2016 session. Senator David Bradley, a veteran Democrat on the Senate Education Committee spoke with me in a semi-structured interview following the 2016 session.

I also monitored the websites and registered for publicly available email updates from various interest groups during the 2016 legislative session. Interest groups use these communication venues as means to express their positions, arguments, and political priorities on issues such as opt-out. Interest groups monitored

included the state chamber of commerce, the Arizona School Board Association, the Arizona Freedom Alliance, the Arizona Education Association and the Arizona Charter Schools Association.

Analysis

While the data collection was part of a broader study that included parent activists and other legislatively engaged stakeholders, for this particular state legislative case I have focused my analysis of the data on the involvement, rhetoric, and positions of state legislators themselves. In part, this is due to the availability of the data. While pro-opt-out parents and other engaged stakeholders spoke at the legislative hearings, the voice of those supporting standardized testing was mostly heard through incumbent legislators. Also, focusing on the legislators themselves provides insights to the legislative process itself.

Video and audio were first transcribed and were then coded both inductively and deductively. Texts were first analyzed inductively utilizing NVivo qualitative software (version 11). Thirty-nine separate themes were identified including issues of accountability, achievement, data collection, local control, policy relationships, and rights. Analysis was then reframed to deductively to examine themes using qualitative media analysis (Altheide & Schneider, 2013) focusing on themes related to the conservative hegemony such as neoliberalism, neoconservatism, and the business influence on educational policy requirements. I also looked for evidence of counter-hegemonic social democratic language representing democracy and equity.

Following these initial analyses, I further analyzed the aggregated results for examples of differences in subjectivity. Particularly, I looked for how various participants charged with creating policy either acquiesced or rebelled against the discourse of standardized testing policy represented in the mandates of federal No Child Left Behind Act and the then newly adopted Every Student Succeeds Act.

Limitations

This study relies primarily on publicly-sourced data related to a legislative process. Those participating in legislative process are leaders with the time, energy, ability and other social capital to be at the state capital building. Hence, participants may or may not be truly representative of the various opt-out positions. Also, this case examines opt-out in a specific place and time which may not necessarily be generalizable to other experiences.

FINDINGS

This section describes and details substantive findings. First, policy context is analyzed. Second, key legislative policy leaders and demographics are identified. Third, the key opt-out arguments are summarized to provide a basis from which the arguments of those opposing opt-out can be compared. The section concludes by contrasting with the arguments of pro and opposition opt-out arguments.

Context

The legislative efforts to legalize opting out began after Republican state Attorney General Mark Brnovich wrote that the legislature did not intend to include opt-out of state assessments in the parent's rights section of state law, A.R.S. 15-102. In response, opt-out movement leaders offered House Bill (HB) 2246 through the sponsorship of newly elected Republican Representative Chris Ackerley. HB 2246 stated in part, "A parent, on behalf of that parent's child, may opt-out of the state-wide assessments that are prescribed in this article."

In relation to the national context, this case begins under the policy context of No Child Left Behind and Race to the Top which included strict 95% testing requirement. However, midway through the case, the Every Student Succeeds Act (ESSA) was passed with more ambiguous language regarding testing

rates. While the Every Student Succeeds Act continued the No Child Left Behind's requirement of a 95% testing rate, Every Student Succeeds Act did not prescribe specific consequences for failing to meet the testing requirement. Instead, the Every Student Succeeds Act allowed states to determine how to intervene. The possible easing of federally mandated punitive measures created a policy opening for the opt-out movement whose goal was to decrease the testing rate without consequence.

Policy Leaders

Against this legal background, legislative policy leaders including legislators and stakeholders such as parent groups and the Arizona Education Association interested in changing state policy emerged. Those favoring opt-out were led by the Mommy Lobby, a group of White female mothers with children in public schools who repeatedly spoke at the legislative committee hearings. The Mommy Lobby was supported by the Arizona Education Association and the Republican State Superintendent of Public Instruction, Diane Douglas. In opposing opting out, the Arizona Chamber of Commerce and the Arizona Charter Schools Association supported both standardized testing and the Common Core State Standards upon which the tests were based.

Among the legislators themselves some emerged as key policy leaders through their actions of introducing and defending legislation or in the case of those opposing opting out, through their questioning of stakeholders in committee hearings, their votes, and their explanation of those votes. These key legislators in this policy drama are detailed in Table 1.

Demographically, several elements of the legislative policy leaders stand out. First, Arizona Republicans tended to support opt-out while Democrats tended to oppose it. However, that support and opposition were not set in concrete as seen in the examples of Paul Boyer and David Bradley. Some even changed

TABLE 1
Key Legislator Leaders and Demographics

<i>Policy Actor</i>	<i>Support or Oppose Opt-Out?</i>	<i>Chamber</i>	<i>Party</i>	<i>Ethnicity</i>	<i>Gender</i>	<i>District Type</i>
Chris Ackerley	Support	House	R	White	Male	Suburban
Sylvia Allen	Support	Senate	R	White	Female	Rural
Paul Boyer	Support and oppose	House	R	White	Male	Suburban
Reginald Bolding	Oppose	House	D	Black	Male	Urban
Lisa Otondo	Oppose	House	D	Latino and Native American	Female	Rural
David Bradley	Oppose and support	Senate	D	White	Male	Suburban

their support from one vote to the next. Opposition to opt-out trended to minority members of the Legislature who further represented districts with large minority populations. Representative Otondo represented a largely rural district with migrant workers and military bases while Representative Bolding represented one of the most impoverished areas in urban Phoenix. However, opposition to opt-out also included some White legislatures such as David Bradley.

The Pro Opt-Out Protagonists

Those who favored opting out focused their rhetoric on the concepts of parents rights, privacy rights, and local control.

Parental Rights

Representative Ackerley framed the opt-out movement's emphasis on various forms of rights-based arguments from his opening statements in defense of his bill when he declared that, "This is a simple bill to affirm parental and student rights." Representative Ackerley noted the passion that both sides had brought to the debate earlier that same day regarding Common Core, an issue closely related to opt-out with many of the same leaders on both sides of the issue and reiterated that the opt-out

bill is only to, "affirm parental rights" (HB 2246, 2015, February 18).

Similarly, Senator Sylvia Allen cited 92 years of court cases claiming that parents have the fundamental right to educate their children bluntly concluding, "I want you to know that philosophically that very much I believe in parents' rights." She then focused on standardized testing particularly with, "what we're debating today is the right of parents to be able to be concerned about their child being tested" (SB 1455, 2016, February 18). In making these arguments, the legislators are employing the rhetoric of the parental activists themselves which includes one Mommy Lobby member stating that parents have a, "natural right to direct the upbringing and the education of our children" (SB 1455, 2016, February 18).

Privacy Rights

Regarding privacy rights, opt-out activists focused on the issue of data mining by corporations and the federal government. Activists were particularly concerned about the collection of non-cognitive data regarding children and families. Opt-out proponents were concerned that questions on standardized test would reveal more than the student's cognitive abilities on math, reading, and writing. Standardized testing questions could inquire into

personal and family beliefs regarding social issues such as religious beliefs or gun ownership. Senator Allen asked one Mommy Lobby member, “If we can solve the problem and have good policy concerning data, and if we can solve the problem of being able to solve choice and testing, would that help?” (SB 1455, 2016, February 18). In doing so, Senator Allen took up a cause the Mommy Lobby had opened the debate with when they argued in the House that parents, “do not want personally identifiable information stored on their child in a national database and they are passionate about this” (HB 2246, 2015, February 18). The theme is seen again in another parent comment, this one submitted in writing, stating, “Please support this bill and give our kids legal cover to opt-out of the data collection in the Common Core tests” (HB 2246, 2015, March 3).

Disbelief of the 95%

The local control argument revolved around several key rhetorical and policy points. No Child Left Behind set federal mandates that 95% of all students be tested and that 95% of each identified demographic sub-group also be tested. Failure to meet this federal mandate jeopardized federal dollars. Leading the charge as the opt-out legislation’s lead sponsor, Representative Ackerley argued for local control by suggesting Arizona has been, “plagued by the specter of the bogeyman” (HB 2246, 2015, February 18) in the form of a false federal threat to take away funding from noncompliant states.

The Mommy Lobby also argued for local control emphasizing, “I repeat, no school has lost Title One funding due to parents option out,” and that, “parents all across the state were threatened last spring that they could not opt-out with fear tactics of losing money for school teachers not receiving performance pay, children not being able to participate in after-school sports or musical programs” (SB 1455, 2016, February 18). In essence, the opt-out movement dismissed the idea that there would

be actual financial federal repercussions and implied that even if there were, Arizona could still offer teacher performance pay and fun student activities.

The Anti Opt-Out Antagonists

Mirroring the pro opt-out agenda’s three major, the anti-legislators, those who voted, “no,” on the measures, also focused on three significant arguments: the bad actor argument, the 95% loss of federal funding argument, and the standing argument.

The Bad Actor

Several legislators explained their votes opposing out-out by expressing concerns about educators, especially school administrators, functioning as bad actors. These bad actors would manipulate their school’s test results through counseling students expected to perform poorly to not take the test. In the first vote on the first opt-out bill, Representative Otondo expressed empathy for teachers and the loss of instructional hours to test preparation but added, “I am concerned about some of the unintended consequences, the potential for manipulation” (HB 2246, 2015, February 18). In the same vote, Representative Bolding stated, “I am concerned about some of the unintended consequences the potential for manipulation and other problems exist with this. For right now, I’m going to vote no.” Bolding later reiterated this view on the House floor through stating, “You may have individuals who counsel students or parents to not take the statewide assessment just because of the way they may perform” (HB 2246, 2015, March 9).

The manipulation argument was not limited to Democrats. Although he eventually voted, “yes,” on the bill, Representative Coleman, a Republican representing a Phoenix suburban area, also focused on potential manipulation:

I do have some concerns about the possibility of increased manipulation. It’s one thing to

have a parent opt-out; it's another to have the schools say it may be your kid who doesn't have to take the test and try to manipulate things. (HB 2246, 2015, February 18)

Republican Senator Dial, in the Senate Education Committee, feared that some school administrators might send letters to some parents stating that their child is, "weak just opt-out of this test" (HB 2246, 2015, March 19). However, Senator Dial added that he inherently likes the idea of opting out and that his only concern, "is that a school or bad actor out there would encourage people."

Standing

In further explaining his, "no" vote on the House floor, Representative Bolding suggested that these manipulative bad actors would affect the accountability standardized testing is meant to provide by affecting the accuracy of the overall data. In turn, this argument of systematic statistical corruption was also cited by Dr. Randall Friese, a Democrat representing a mostly suburban area of Tucson. Representative Friese stated opting out would, "make the conclusions of the data completely indecipherable and our conclusions invalid" (HB 2246, 2015, March 9).

Together, these arguments form the foundation of the standing argument which suggests the point of standardized testing, to provide an accurate across-the-board assessment of student and school performance, would be compromised by allowing opting out. Senator Lesko, a Republican representing a suburban district in the Phoenix area put it succinctly in explaining her, "no," vote, "Why would we even have assessments if we're going to allow all parents to opt-out of it?" (HB 2246, 2015, March 31).

Lesko's fellow Republican Senator John Kavanaugh, also representing a suburban Phoenix district, argued, "We need to test students. We need to know where students stand. It is important for parents who may want to track their students. It is important for parents

who might want to shop around for the best school" (HB 2246, 2015, March 31). Senator Kavanaugh ultimately comes down on the side of standardized testing, "How can we have a merit pay system for teachers if different schools have different tests? We have no idea who's performing better or worse than others. We need standardized testing."

Yet, one opt-out opponent took a very different approach to the concept of standing in explaining his votes. Senator Bradley, a Democrat representing a mostly urban Tucson district, had mixed votes. While he voted, "yes," on opt-out mostly due to his admiration for the heartfelt zeal of opt-out proponents, he also voted against opting out explaining:

We have to communicate maybe getting back to the root of the word. That when we assess people, we actually stand by them and that we're trying to help them. That the purpose of the test is to be an educational tool not a hammer over your head. So while I appreciate having an escape hatch for a parent who's facing the conundrum, I would suggest that we are fueling the fire in a way by providing the escape hatch and not really dealing with the central issue that is coming from this legislature, the department of education, or at the national level or the state level that all those things are contribute to the trauma that some kids are experiencing. (HB 2246, 2015, March 19)

Here, Senator Bradley affirms his support for understanding where students and schools stand, again a key objective of standardized testing, but differs from his colleagues in bringing a supportive rather than competitive ethos to the debate. His critique that state and federal testing policies created this conundrum segues into the opt-out opposition's third significant argument.

The 95%

Senator Bradley expressed his dissatisfaction with multiple levels of testing policy in the Senate Education Committee hearing stating,

“So I’m voting, ‘no,’ only because I think it just complicates an already messy situation that legislatures and the federal government have messed up so badly over such a long period of time” (SB 1455, 2016, February 18). Privately, he also explained that the potential loss of federal funding by violating the 95% testing requirements weighed heavily in his decision. Simply stated, federal law and policy supersedes state desire, autonomy, and control. In Senator Bradley’s words, “It’s just the way it is.”

Despite the opt-out movement’s dismissive arguments deriding loss of federal funding as a mythical bogeyman argument, such a fiscal loss was a real possibility. In the midst of Arizona’s opt-out debate, the assistant secretary for elementary and secondary education from the U.S. Department of Education issued a letter that standardized testing is to, “measure the achievement of *all* children” (Whalen, 2015, December 22, emphasis in original). The letter further noted that some states and local education authorities, “did not assess at least 95%,” of their students and were therefore required to, “submit information on the steps it is taking to immediately address this problem.” Consequences for not meeting this 95% testing threshold included loss of federal funding. Deliberately allowing students to not take tests by legalizing opting out would put a state at risk of not meeting that 95% testing target.

Even prior to this clarification, Arizona legislators were concerned with the potential loss of federal funding. In the very first committee hearing regarding opt-out, a representative from the Arizona Department of Education addressed both the funding issue and the implications of the 95% testing requirement for the state’s own school ranking system stating that the system is, “dependent upon 95% of the students taking this assessment.... So, this is not something that we can just opt-out of, it is a sticking point and a conversation that does need to happen” (HB 2246, 2015, February 18).

The legislators did engage in some deliberation regarding this requirement as seen in

Republican Representative Coleman’s explanation of his, “yes,” vote:

An argument can be made, I think, that we’re too dependent on federal dollars in everything, but I am concerned when the State is not doing our part in losing any more money for districts and charter schools and that is a real concern of mine. So, I just want to be sure as we go forward that we don’t jeopardize that. (HB 2246, 2015, February 18)

In other words, even a conservative Republican member of the House Education Committee has concerns about deliberately risking losing federal dollars. In Arizona, conservative Republicans tend to emphasize local loyalties, sometimes expressed as Arizona for Arizonans, rather than the loyalty to the federal government especially regarding issues of self-reliance and fiscal responsibility. Refusing federal policy intrusion and federal funding can be a point of pride.

On the other side of the aisle, Democratic Representative Bolding was concerned about the, “95% and the funding that would possibly be put in jeopardy for our schools and our districts and our students particularly at this time when there’s a number of funding struggles and resource troubles that our students are having” (HB 2246, 2015, February 18). Representative Otondo likewise asked the pointed question, “You spoke about the potential for unintended consequences. How much federal dollars could be lost if this bill actually goes through?” (HB 2246, 2015, February 18) prior to opposing opting out. For those opposing opting out, the figurative bottom line is literally the fiscal bottom line wherein needed federal dollars might be lost due to failing to meet the 95% testing requirement.

DISCUSSION

The case of opt-out Arizona’s foray into the legislative policy formation processes provides insights and further understanding regarding the opt-out movement as seen

through movement and countermovement demographics. The case provides another forum for exploring the role of New Right discourse (Apple, 2018, 2000) in an underexplored policy enactment environment (S. Ball et al., 2017). Finally, this experience provides an opportunity to explore the subjectivity (S. J. Ball, 2015) of policy, or how we form policy, but that policy also forms us.

Demographics

Matching national trends (Pizmony Levy & Green Saraisky, 2016), the opt-out movement in Arizona's legislative experience tended to be White and affluent representing suburban areas. The urban core is notably absent from the movement's legislative leadership. The leadership of Senator Allen suggests the importance of female leaders in the opt-out struggle although unlike national trends, the opt-out Arizona experience was led by Republicans and opposed by Democrats.

Opt-out Arizona failed to legalize opting out as all three bills were defeated. Apple (2000 & 2018) provides an inherent suggestion as to why opting out failed legislatively in the very name of his New Right Coalition. Politics in the United States is a matter of power and power is gained by assembling strength in voting numbers. The very narrowness of the opt-out Arizona movement's White, suburban, Republican demographics limited the appeal to create an effective and powerful coalition.

In contrast, those who opposed opting out did have a diverse coalition. Opt-out opponents represented districts that were predominantly urban (Representative Bolding), rural (Representative Otondo) and included the suburbs as seen in statements from Senators Kavanaugh and Lesko. Likewise, opt-out opponents included an ethnically diverse cast of leaders in their political coalition including a Black Representative and a Representative simultaneously in the Latino and Native American Caucuses. Additionally, the opt-out opponents found common political ground across party aisles. While the opt-out movement has the

potential for bipartisan agreement, opt-out opponents already possessed this cross-party agreement.

New Right Hegemony

The sustained consensus regarding testing policy points to an underlying philosophic agreement or hegemony regarding acceptable common sense in education purpose and policy. Apple (2000, 2018) defines this hegemony as the New Right coalition containing four distinct elements: neoliberal promotion of individual choice in free markets, neoconservative promotion of common standards, authoritarian populists providing voting power fueled by conservative interpretations of the Bible, and the new managers who provide technical expertise to make the system work. These assembled coalition elements are visible, albeit to varying degrees, in the opt-out opposition.

The opposition's argument regarding standing, concisely articulated by Senator Lesko, "It is important for parents who might want to shop around for the best school" captures the essence of both neoliberal and neoconservative thought in a thin and market-oriented democracy. The market and choice driven neoliberal searching for the ideal school is informed by the comparisons neoconservative standardized testing provide. Likewise, Senator Kavanaugh showed the same neoliberal and neoconservative thinking when he stated, "How can we have a merit pay system for teachers if different schools have different tests? We have no idea who's performing better or worse than others. We need standardized testing." Again, the emphasis is on a thin democracy of individual performativity, an underlying assumption made more visible by Senator Bradley's contrasting statement regarding the definition of standing. For Senator Bradley, the tests should be as a measurement tool to stand in support of struggling students and schools, not to rank and punish them. Regardless of the ethos used, both agree to the underlying assumption that tests should be used to define and measure success.

The New Right coalition elements of authoritarian populism and new managerialism are also visible in this case, although not quite as transparently. The opt-out opposition's utilization of the bad actor argument, that is, school administrators might manipulate opt-out freedoms to force low-performing students to not test, suggests an inherently negative and sinful view of mankind. For authoritarian populists, as the Ten Commandments are needed to restrain sin, so educational policy needs a strict standardized testing policy to prevent sinful bad educational actors. From a more organizational view, school leaders would need complete and accurate data with which to inform their managerial decisions. This thoroughness of data would again be compromised making conclusions, "indecipherable," and, "invalid," in the words of Representative Friese.

Subjectivity

The two sides of the opting out issue in Arizona approached the issue from different demographic and rhetorical standpoints. Rhetorically, the pro opt-out protagonists argued for parental and privacy rights. The anti opt-out antagonists argued against bad educational actors and for the need to assess students and schools standing in relation to their relative performances. In defining their reactions to the common policy of standardized testing, both sides of the opt-out equation demonstrate the struggle of policy subjectivity, how power relations are revealed through uncertainties, discomforts, and refusals (J. Ball & Olmedo, 2013).

In choosing the path of refusal to comply with federal and state testing policy, opt-out activists demonstrate a struggle with the mandates of the New Right hegemony. In doing so, opt-out activists seek in some manner a new rationality to replace and redefine what education should look like. Preferably for opt-out activists in the case of Arizona, the new education would better encompass parental and privacy rights and be based in more local control.

In contrast, the opt-out opposition has chosen a path of acquiescence to the New Right discourse as seen in the fears over losing federal funding as expressed by Senator Bradley's observation that federal power trumps state authority.

Yet, the opposition also faces a struggle for identity though the struggle is more internally focused. This struggle sees some outward expression such as Senators Bradley and Dial, a Democrat and a Republican, casting both "yes" and "no" votes during the process. The struggle is also seen in Representative Bolding. Bolding voted, "no," in part over concerns about the loss of federal funding due to the 95% rule. Representative Bolding also showed an interest in allowing opt-out by wishing to continue the conversation with the legislation's sponsor to maybe, "tweak some components of the bill so it will do what we would like it to do" (HB 2246, 2015, February 18).

This struggle for identity between individual and local ideologies and identities challenged by federal policy rooted in hegemonic ideology is perhaps most clearly seen in Representative Coleman, a conservative Republican who critiqued his own, "yes," vote in relation to the 95% rule and his concern to not jeopardize federal money. Here a proud Arizonan recognized the reality of how the federal rule informed by the logic of neoliberalism shapes his identity by forcing a choice between remaining true to his local loyalties, which he did by voting to support opting out, but hesitating to avoid missing needed finances.

CONCLUSION

In Arizona's case, the opt-out movement as seen engaged in the legislative process was narrowly White, suburban and Republican. Conversely, those opposing opting out in Arizona's legislature formed a more diverse coalition. The opposition coalition, those who favored standardized testing, crossed party lines by including both Democrats and Republicans. The opt-out opposition likewise crossed

geographic lines with leadership emerging from urban, rural, and suburban areas. Opt-out opposition also included a diversity of ethnicities including Black, Native American/Latina, and White.

This diverse coalition was held together through three key ideological and rhetorical themes. Opt-out opponents feared educational bad actors, those administrators who might counsel low-performing students to not take the exams by opting out and thus falsely raise their school's apparent efficacy. By holding educators to account, lawmakers reflected a neoconservative accountability discourse. Similarly, the opt-out opposition expressed the neoliberal discourse of market performativity through the argument of relative standings for teachers and schools. Opt-out opposition asked how we would know who deserves merit pay and how parents could make informed decisions regarding the best schools if the data are skewed through opting out. Finally, opt-out opposition expressed an acquiescence to the federally mandated 95% testing rate and the accompanying promise of needed federal education dollars.

Regarding the 95% testing requirement particularly, legislatures demonstrated not just through their rhetoric but through their votes policy subjectivity. While the opt-out proponents saw a federal law and chose resistance in favor of local and parental control, the opt-out opposition saw the same law and chose acquiescence through supporting the federally mandated testing requirements. In doing so, opt-out proponents as expressed through their rhetoric of markets, performance, and accountability, chose a thin version of democracy.

Yet, even in subjecting Arizona's school system to the New Right's thin discourse, lawmakers demonstrated personal subjectivity struggle. Some literally changed their votes while others asked contemplative questions regarding opposing viewpoints. This subjective struggle suggests points of possible change and influence for those seeking to develop educational policy toward more thick representations of democracy. Lobbying with

legislators open to discussion forms one such venue. Perhaps ironically, those seeking a thicker locally centered democracy may need to focus on changing federal policy, particularly the 95% testing rule. Thick democracy proponents may look for more community-based and diverse definitions of what effective school leadership looks like to address opponents concerns over bad educational actors. Proponents of thick democracy may also seek means to redefine hegemonic beliefs regarding academic standing, that is, moving beyond opting out of current testing practices to find a new definition of school and student performance that is not based in standardized testing metrics.

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