

PERSONALIZED LEARNING POLICY PLAY #15: REFORM PROCUREMENT REGULATION TO FOSTER IMPLEMENTATION OF PERSONALIZED LEARNING

CONTEXT

State and district procurement policies can pose significant barriers to the development and effective implementation of new personalized learning models. Existing procurement processes were originally designed for schools to purchase specific, tangible goods and services (for example, textbooks, food services). As a result, processes do not adequately address the range of issues involved in more complex contracts for personalized learning services and models, such as student data security and provider accountability for student results. Without the ability to tackle these issues during the procurement process, schools and districts may not be able to implement personalized learning models in a meaningful and effective way.

Effective implementation of personalized learning requires services that are customized to local needs. Schools and districts that want to partner with third-party providers need to be able to work collaboratively and iteratively with vendors and other partners to determine a mix of products and services that will best meet students' needs. But current practices typically require the customer to define up front the goods or services to be purchased, and they prohibit communication with potential vendors during the procurement process. As a result, schools and districts may purchase goods and services that do not align with what they want or need.

Many states and districts have instituted lengthy and bureaucratic procurement processes that lag behind the rapid pace of technological innovation. The inflexibility of the traditional purchasing cycle and the amount of red tape involved may deter schools from acquiring new services. Schools that do move forward with purchasing and implementing personalized learning models may not end up with the services or tools that they need if their circumstances change during the purchasing lifecycle. Existing procurement processes may also dissuade providers from entering the education market.

PLAY IN ACTION

States or districts can eliminate these barriers and foster collaboration by establishing a two-stage proposal and contract process to engage vendors in complex personalized learning projects. A customized, two-stage process would also help schools and districts purchase the tools and models that they actually want.

The first stage would be a request-for-proposals process, during which the district would select a vendor for the project based on evidence of past performance and qualifications. In the second stage, districts would work with the vendor to define a scope of work customized to the district's needs, offered as a sole-source contract. Pennsylvania has implemented this type of two-stage procurement reform. Under

the state's Invitation to Qualify program, vendors that want to partner with a state agency first participate in a qualification screening. The second step is a quoting process, during which vendors and buyers can discuss services required and negotiate contract terms.

Districts and vendors may want to consider implementing a pilot as part of the contract. A pilot would give schools the opportunity to assess whether a new product or model will truly benefit students. Because a pilot involves implementation of a new model on a much smaller scale, providers could make changes to the model as needed before full implementation.

IMPLEMENTATION CONSIDERATIONS

Allowing districts to use a two-stage procurement process may require changes to state policies. Alternatively, states could offer districts waivers from certain procurement requirements when those requirements would interfere with a district's ability to implement personalized learning. Under Pennsylvania's Mandate Waiver Program, which expired in 2010, schools could request flexibility from certain regulations if they were able to improve their instruction or operate in a more effective or efficient manner. More than two-thirds of the requests under the Mandate Waiver Program were related to procurement.

States should also consider providing districts model contract language that they can adopt to address key issues—such as provider accountability; liability; and use, storage, sharing, and protection of student data—that are crucial to more complex services agreements for personalized learning providers.

Finally, states should consider conducting a thorough audit of their existing procurement policies and rules to identify ways in which these policies may constrain schools' and districts' ability to innovate or purchase goods and services that best meet their students' needs. Although procurement processes were designed for good reasons—to prevent fiscal malfeasance and ensure fairness in the selection process for public contracts—over time, additional red tape and bureaucracy may have evolved in a way that complicates the process without helping states or districts achieve their ultimate goals. By reviewing policies from time to time, states can eliminate or reduce requirements that are not essential to advancing the state's goals or to ensuring proper fiscal and contract management.

CONTACT FOR ADDITIONAL INFORMATION

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RESEARCH AND RESOURCES

Digital Learning Now published a **guide to education technology procurement** in 2014. See the report at: <http://www.digitallearningnow.com/wp-content/uploads/2014/01/Procurement-Paper-Final-Version.pdf>

Learn more about **Pennsylvania's Invitation to Qualify** process at: http://www.portal.state.pa.us/portal/server.pt/community/invitation_to_qualify/4641/where_to_start/495422

View a list of **current Invitation to Qualify contracts** in Pennsylvania at: <http://www.itqrp.state.pa.us/ITQ/ITQ/WhereToStart.aspx>

A report from Bellwether Education Partners discusses how current **procurement policies limit innovative practices** in education. View the report at: <http://bellwethereducation.org/wp-content/uploads/2011/09/pull-and-push.pdf>

A paper for a 2007 American Enterprise Institute conference discusses how **procurement acts as a barrier to entry in education**. See: http://www.aei.org/files/2007/10/25/20071024_BergerStevenson.pdf

Learn more about **Pennsylvania's Mandate Waiver Program** at: http://www.education.state.pa.us/portal/server.pt/community/education_empowerment_act/7403