



What Education Reformers Can Learn from Kosher Certification

By Jason Bedrick

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Can we have standards without the government imposing them?

Writing in Education Week, school reform champion Robert Pondiscio recently offered a thoughtful and thought-provoking critique of the open letter on educational choice and accountability issued by the Cato Institute, the Heritage Foundation, the Friedman Foundation for Educational Choice, the Heartland Institute, and the Center for Education Reform. The letter made the case that where parents are able to choose their children's schools, uniform, government-imposed standards and tests are both unnecessary (because the schools are directly accountable to parents who have the option to leave) and counter-productive (because a uniform standard stifles diversity and innovation).

Pondiscio generally favors educational choice, agreeing that "markets have proven more effective than mandates in improving outcomes for low-income children," but expressed concern about an education system that lacked any standards:

I have insisted I'm invested only in outcomes, not systems, so I should simply favor what seems likely to achieve the best results for the most kids. **But I find myself reluctant to advocate for a standards-less system.** [emphasis added] Look, I want kids to learn how to read. As I quipped to Andrew [Coulson of the Cato Institute], I don't want to be the one to say, "Too bad, kid. Your parents chose badly. I'll tell you how the free market works as soon as you're done cutting my lawn."

This concern is understandable but misplaced. The lack of a government-imposed standard does not imply the lack of any standards. Rather, it leaves space for competing standards. An instructive example of this is private kosher certification.

A Brief Recent History of Kosher Certification

As with education, there is information asymmetry between providers and consumers. Providers know much more about the quality (or kashrut) of their products than consumers, who must therefore rely on trust or some sort of regulation or certification.

Old World kosher certification was highly-centralized in each community and often backed by the government, but when Jews immigrated to America *en masse*, they found that such a system was unworkable in a land of free markets, mass production, and religious liberty. During the 19th and early 20th centuries in America, it's likely that half or more of the meat sold as "kosher" was actually non-kosher. The Jewish community in New York turned to the government to solve this problem, and the state responded by creating the New York State Kosher Enforcement Bureau. However, by the 1930s, the Bureau proved unable to properly oversee the roughly 18,000 kosher food establishments under its jurisdiction. Moreover, arguments erupted between numerous Jewish factions over how the state agency should interpret kosher law or whether it should be in the business of interpreting Jewish law at all.

What emerged to fill this void was a system of private certification that has lasted until today. In 1924, the Union of Orthodox Rabbis created the first private kosher certifying agency in America, followed by the OK Laboratories in 1935. Kosher laws can be quite arcane and, as noted earlier, there are differences of opinion at the margins. Some kosher certifying agencies accept certain leniencies that others reject while some adopt certain stringencies that others find unnecessary. Kosher consumers are free to decide which agencies meet their level of religious observance and which do not. There are now more than 1,100 kosher certifying agencies worldwide, including 300 in the United States, and the segment of the food industry that is certified kosher is valued at about \$13 billion.

Why Private Certification Works

Professor Timothy Lytton identifies five reasons why the private system of kosher certification is so reliable: consumer demand, brand competition, interdependence, concentration of market power, and vigilant consumers. With the right policies, these dynamics could work in an education market as well.

First, sufficient consumer demand for kosher certification gives food manufacturers incentive to pay for reliable, independent inspection of their production facilities. Consumers seek the assurance provided by kosher certification and companies that fail to obtain certification risk losing market share.

There is much greater demand for quality education than there is for kosher products. However, because the government provides schools that are free of charge, most private options are crowded out. That prevents a true market in education from developing and flourishing.

Nevertheless, educational choice programs of sufficient size could mitigate the crowd-out effect and foster healthy competition among schools. Given the information asymmetry between education providers and parents, schools that obtained certification from trusted independent agencies would then have a comparative advantage. That would spur greater demand for certification and would likely induce more certifying agencies to enter the market.

Second, brand competition among certifiers based on reliability has led to increasing expertise and accountability. Efforts to build brand value in response to competition have led kosher certification agencies to provide professional training for their personnel in Jewish law as well as food chemistry and technology and to impose strict ethical codes. Agencies have also instituted new forms of quality control that include multiple layers of oversight and improved information management. Brand sensitivity has produced a culture of prompt and thorough responses to consumer complaints.

There is a legitimate diversity of views about what constitutes a quality education. It is likely that competing brands of certifying agencies would reflect this diversity. Certifiers would be at liberty to take various approaches to measuring the skills and/or content knowledge that schools impart. Certification agencies that proved their worth to parents—especially those that earned the trust of colleges—would be in greater demand and therefore sought after by schools seeking to attract those parents.

Third, interdependence among certifiers gives rise to additional oversight. The value of an agency's kosher certification of a food ingredient—for example, vanilla extract—depends on its acceptability to other agencies certifying products that include the ingredient downstream in the production process—for example, ice cream or cookies. This means that upstream certifiers must meet standards set by downstream certifiers... Since agencies typically certify different products at different stages of the production process, they operate both upstream and downstream relative to each other, creating a network of interagency oversight.

Since students often change schools, it is likely that there would be upstream and downstream interdependence among certifiers. Just as high schools want to prove their value to colleges, primary schools want to prove their value to high schools. Downstream providers would want to ensure that upstream providers are sufficiently preparing students so they would have an incentive hold upstream certifiers accountable for accurately assessing the quality of the upstream providers.

Agencies that certify K-12 would therefore operate both upstream and downstream relative to each other. That would likely foster interdependence among agencies and could even spur the creation of one or more umbrella organizations. This interdependence is likely to be even more pronounced in the digital age when students can tailor their education utilizing multiple education providers in a single year or even for a single subject.

Fourth, concentration of market power in the hands of a few large certifiers makes it easier to coordinate the development and enforcement of industry standards... Any agency that fails to conform to these standards risks losing accounts to competitors.

It's impossible to predict how a new market would develop, but the experience of other sectors suggest that a relatively small number of nationally-trusted certifiers would emerge over time while leaving room for numerous regional or niche certifiers.

Fifth, a corps of active and vigilant consumers provides additional oversight, gives certifiers quality-control feedback, and puts teeth in reputational sanctions... Since certification

agencies' brand value depends upon their reputation among vigilant consumers, agencies have a strong incentive to avoid mistakes and misconduct, and to report them promptly when they occur.

There already exists a large corps of active and vigilant parents who would provide the additional oversight and offer the necessary feedback to certifiers. A recent study by the Friedman Foundation for Educational Choice found that solid majorities of parents—including low-income parents—are willing and able to take multiple steps to seek out desired information before making a decision about their children's schooling. Two-thirds reported that they would review the information available on the internet.

Advantages of Private Certification Over Government Standards

Private certification could have several advantages over government accountability regimes in a competitive market. For example, private certifiers are likely to be more efficient and more responsive to parents. In addition, the incentives they face are likely to produce standards that are higher yet more comprehensive and diverse.

Efficiency & Responsiveness

The wheels of government turn slowly. Modifying existing standards often requires legislative action in a system that is designed to be slow and deliberative with numerous veto points. Even then, implementing the change requires further actions from large bureaucracies that are often invested in the status quo. Moreover, when a school fails to meet established standards, the sanctions they face rarely induce meaningful change.

While private certifiers have considerably less power than state and local governments, withdrawing certification could still have a more effective and immediate impact if that induces parents to withdraw their students and their funds. Financial losses are the market's way of signaling that significant changes are needed right away. In a competitive market, a low-performing organization must either improve or close down.

Higher Standards

Government accountability regimes face great political pressure from edu-crats and union officials to lower standards but little countervailing pressure to maintain high standards. Those with the most to lose from enforcing higher standards are better informed and more organized than parents and others who support them.

By contrast, far from producing no standards, a robust market is actually more likely to produce higher standards. The most important asset that private certifiers have is their reputation. While certifiers would face financial pressure to lower their standards in order to certify more schools, doing so would water down their brand. That would weaken the market signal that their certification provides, thereby reducing demand for their service and possibly jeopardizing their very existence.

More Comprehensive Standards

One component of the “teach-to-the-test” complaint is that state tests induce schools to divert resources to the subjects that are tested at the expense of other subjects. However, education experts and parents alike recognize that there is much more to education than just math and language arts, as important as those subjects are.

Given the market demand for information about other aspects of education that schools provide, schools that could demonstrate high performance in those areas would have a competitive advantage. That could mean either a single certification from a comprehensive certifier or possibly multiple certifications from niche certifiers. These certifiers would have the flexibility to measure performance using means other than test scores or inputs like seat time.

More Diverse Standards

Government standards tend to be uniform. No two children are exactly alike yet top-down government mandates by their very nature expect all children born in the same year to move at the same pace across all tested subjects.

Moreover, by choosing a single standard when there is a legitimate diversity of views, the government induces strife. When the government decided what was and was not kosher, Jews with a different understanding of the kosher laws were justifiably upset and some even sued. Likewise, some parents are not happy with the Common Core standards. A system of private certification would make room for competing views of what constitutes a quality education.

A Market Solution

No system built from the crooked timber of humanity will be perfect. In other sectors, private certifiers have sometimes proven unreliable or incompetent. However, the relevant comparison is not a utopian ideal but the far-from-utopian status quo and other feasible alternatives.

As the case of kosher certification demonstrates, market forces create incentives that give private certification numerous advantages over government-imposed accountability regimes. They are likely to be more efficient and to produce better, more comprehensive, and more diverse standards.

Eliminating a single government-imposed standard is unlikely to result in the lack of any standards. Rather than anarchy, the market fosters a spontaneous order that is the product of human action, but not of human design.

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