Making Policy Public

This book challenges the conventional wisdom that government bureaucrats inevitably seek secrecy and demonstrates how and when participatory bureaucracy manages the enduring tension between bureaucratic administration and democratic accountability. Looking closely at federal-level public participation in pharmaceutical regulation and educational assessments within the context of the vast system of American federal advisory committees, this book demonstrates that participatory bureaucracy supports bureaucratic administration in ways consistent with democratic accountability when it focuses on interdependent tasks and engages diverse expertise. In these conditions, public participation can help produce better policy outcomes, such as safer prescription drugs. Instead of being bureaucracy’s opposite or alternative, public participation can work as its complement.

Susan L. Moffitt is the Mary Tefft and John Hazen White Sr. Assistant Professor of Political Science and Public Policy at Brown University. Before joining the faculty at Brown in the fall of 2009, she was a Fellow at the Center for American Political Studies and a Robert Wood Johnson Scholar of Health Policy Research at Harvard University. Her research program focuses on the development and use of knowledge in government agencies, with particular emphasis on the fields of K–12 education policy and pharmaceutical regulation. Moffitt’s scholarship connects the study of institutional development with salient and enduring policy problems. Her first book, *The Ordeal of Equality* (coauthored with David K. Cohen), was published in 2009. Her work has appeared in the *American Journal of Political Science*, the *Journal of Politics*, the *Journal of Law, Economics and Organization*, the *American Journal of Education*, and numerous edited volumes. She holds a PhD and an MPP from the University of Michigan and a BA from the University of Rochester.
To Michael Clark, for everything
Contents

List of Figures viii
List of Tables ix
Preface xi
Abbreviations xvii

1. Portals of Democracy in American Bureaucracy 1
2. Participatory Bureaucracy in Practice 28
3. The Development of Public Committees 55
4. Making Educational Performance Public: Reporting on the Progress of Education 82
5. Private Knowledge for Public Problems: Regulating Pharmaceutical Information 112
6. Setting the Public Agenda 128
7. Deliberate Participation 170
8. The Impact of Public Advice 204
9. Participatory Bureaucracy in American Democracy 225

Appendix 237
Bibliography 243
Index 259
Figures

1.1. Participation in American Bureaucracy by Task-Specific Information and Implementation Conditions  
1.2. Count of Active Public Committees by Institutional Authority, 1974–2010
6.1. Total Number of Federal Public Advisory Committees, 1972–2010
6.2. Count of Federal Public Advisory Committees Terminated or Merged, 1972–2010
7.1. Count of Total Federal Advisory Committee Members across Agencies, 1974–2010
7.2. Average Number of Waivers per FDA Drug Advisory Committee Meeting, 1988–2009
7.3. Count of Advisory Committee Meetings and Closed/Partially Closed Meetings, 1974–2010
8.1. Total Number of Reports Produced by Federal Advisory Committees across Government Agencies, 1974–2010
Tables

1.1. Institutional and Organizational Attributes of Public Committees

2.1. Task Conditions and Contributions of Public Participation


4.1. Membership Categories for NAEP's Public Committees

6.1. Institutional and Organizational Attributes of Public Committees: Agenda Setting

6.2. FDA Advisory Committee Agenda Setting 1986–2006, Approved NMEs, Logistic Regression


7.1. Institutional and Organizational Attributes of Public Committees: Participation


7.3. Descriptive Counts of FDA Advisory Committee Members, NME Meetings, 1989–2009


7.5. Changing Status from Committee Member to Firm Representative, FDA Drug Advisory Committees, Logistic Regression, 1989–2009


8.1. Treatment Effects Models, Advisory Committee Reviews and Subsequent Implementation, Approved NMEs from 1986 to 2000
8.2. Media Attention to National Assessment Tasks, 1989–2000
A.1. FDA Drug Review Advisory Committees Descriptive Statistics
A.2. National Assessment Governing Board Agenda and Impact
Descriptive Statistics
A.3. National Assessment Governing Board Member Selection
Descriptive Statistics
Preface

“The Board helped me get my job done,” former Indiana Director of Medicaid Managed Care, Sharon Steadman, recalled, referring to the Drug Utilization Review (DUR) Board that advised her on prescription drug formularies for Indiana’s Medicaid Managed Care Organizations. Director Steadman perceived the public board, which consisted primarily of physicians and pharmacists, as a valuable way to give ideas “legs” and buffer formulary decisions from industry pressure arising from both managed care organizations and pharmaceutical firms. Conventional portraits of public bureaucracy emphasize private information, closure, control, and cozy relationships with industry; but Director Steadman’s account portrayed the board as offering independent information on formulary decisions. The disconnect between these two views of public bureaucracy caught my attention and launched my study of public committees well over a decade ago. I wanted to know when public bureaucrats would seek openness over secrecy and collaborative decision making over exclusive control, and why. I set out to understand public participation from the perspective of bureaucratic administration: when does participation through boards and committees help bureaucrats “get the job done,” and when does it not?

Since both secrecy and technical expertise represent hallmarks of bureaucratic administration, assessments of public participation through public committees typically focus on their potential to promote or inhibit democratic accountability through participatory oversight: to induce an otherwise closed bureaucracy to attend to nonbureaucratic voices in the policy-making process and to enable individuals to monitor agency decisions. When, however, can public participation support public bureaucracy, and when is participation not imposed on but initiated by bureaucrats? As I answer these questions, I develop the concept of participatory bureaucracy: a systematic process of

1 Personal communication with author.
public engagement that brings diverse expertise to bear on interdependent task implementations that exceed the scope of conventional bureaucratic hierarchy. When participation is bureaucratic, it advances competent policy implementation consistent with the core elements of bureaucratic reputation: unique agency expertise and diverse support. When bureaucracy is participatory, the scope of participation and policy decisions are fluid, not perfunctory means of rubber-stamping an agency decision or manipulating the masses.

The vast network of public committees in operation across the federal government provides prime venues for me to examine and assess participatory bureaucracy: when it manifests, how it works, how it impacts policy outcomes, and when it might contribute to democratic accountability. Federal public committees have been perennial features of the executive branch since the early twentieth century, and they remain prevalent. In 2010, U.S. federal agencies consulted 1,044 advisory committees composed of 66,389 public members. More individuals, these estimates suggest, served on advisory committees across the federal government in 2010 than worked as civil servants in the Department of Energy, the Department of Labor, the Department of Housing and Urban Development, and the Department of Education combined. Federal public committees have also contributed to major federal policies, including the mapping of the human genome. Though committee participation can yield forms of participatory oversight that monitor and constrain public bureaucracy, the origins and development of federal public committees reveal that bureaucrats have also actively initiated, cultivated, and structured public participation.

I focus my analysis on federal-level public participation for pharmaceutical regulation and for educational assessments, and I argue that participatory bureaucracy is more likely to manifest when participation engages diverse expertise focused on task implementation. Participation that abets domination by privileged interests does not support participatory bureaucracy, and neither does diffuse, unfocused participation. Participatory bureaucracy is also more likely to manifest for interdependent policy tasks rather than for tasks that occur fully within an agency’s jurisdiction. The chief reason is that interdependent tasks entail evolving implementations that exceed the scope of the agency’s hierarchical reach and thus require expertise that agencies do not command. Educational assessments sponsored by the federal government, for instance, can only succeed through interdependent action: implementation depends on the validity of the assessment instrument, on students showing up to take the test, on administrators letting special needs students take the test, on the people scoring handwritten essays, and on other implementers working in the vast space between the Department of Education and Classroom

---

Preface

Federal officials cannot command educational assessment implementation the way they can command maintenance schedules for military aircraft. Interdependent tasks create incentives for bureaucrats to attend to not only their own learning and knowledge-gathering but also to getting information out the door to other parts of the implementation chain, creating new knowledge when none exists either inside or outside the agency, and legitimating the knowledge that is used.

When participation benefits bureaucracy, is there non-zero-sum potential for it to support democratic accountability as well? Participatory bureaucracy contributes to bureaucratic administration, the analysis suggests, when it fosters multidirectional flows of knowledge instead of just one-way or two-way closed information exchanges. This flow of knowledge can abet some degree of indeterminacy: the outcome of participation is not foreordained, nor is the value of the information flow restricted to a single point in time or to a single user. In other words, participatory bureaucracy is more than a way for bureaucrats to learn from the public; it also is a way to support learning in public. Learning in public both offers bureaucrats opportunities to distribute information to key implementers outside the agency’s hierarchy on whom the agency may depend, and it provides opportunities to liquify knowledge, to use John Dewey’s metaphor. Open meetings can put knowledge into the public space that can, in turn, take on a life of its own: the information flow does not necessarily end when the votes are cast and the meeting comes to an end. The potential democratic contributions of participatory bureaucracy exceed the scope of a singular decision or information exchange and are ongoing. In these conditions of task interdependence, diverse expertise, and knowledge flow, my analysis suggests that public participation has the potential to support both bureaucratic administration and democratic governance in two respects: implementation quality and legitimacy. Instead of bureaucracy’s opposite or alternative, public participation can complement bureaucracy.

Some theories of community organizing and participatory democracy discount information sharing as token or ancillary to true decision-making power. However, from a bureaucratic perspective, knowledge is power. As Weber claimed, “bureaucratic administration means fundamentally the exercise of control on the basis of knowledge.” While information sharing may seem insignificant or insufficient from a grassroots perspective, it can be monumental from a bureaucratic perspective.

The task interdependence that is a cornerstone of participatory bureaucracy, however, does not describe all tasks. Participatory bureaucracy is less amenable to supporting bureaucratic administration for tasks that occur fully inside the bureaucratic hierarchy, such as delivering the mail, or for tasks where private information is an end goal, such as spying. As the recent scandal over

---

the National Security Agency’s practice of gathering communication data from U.S. citizens and from allies attests, ample appetites for secrecy persist. Yet, some estimates suggest that governance is becoming more interdependent and less amenable to structural secrecy. The more policy problems and policy tasks embody interdependent implementations, the more participatory bureaucracy holds promise of both enabling opportunities for democratic accountability and helping bureaucrats “get the job done.”

***

I am deeply indebted to many colleagues, scholars, family, and friends who patiently reviewed, challenged, and refined this project. I owe a special thanks to Daniel Carpenter, David K. Cohen, George Krause, Dave Lewis, and Patricia Strach for carefully reading the book manuscript at various stages of the project and providing extraordinarily constructive feedback. Daniel Carpenter also generously shared data on pharmaceutical safety outcomes used in Chapter 8. This work has also benefited greatly from thoughtful advice, challenging questions, and support from Scott Allard, Steve Balla, Jason Barabas, Nancy Burns, Chris Carrigan, Jacqueline Chattopadhyay, Ross Cheit, Cary Coglianese, Alan Cohen, Amy Connor, Nathan Dietz, Laura Evans, Martha Feldman, Archon Fung, Cynthia Grimm, Rick Hall, Hahrin Han, Cindy Kam, Anne Khademian, Miriam Laugesen, David Lazer, Ann Lin, Paul Manna, Moshe Maoz, Lorraine McDonnell, Ken Meier, Clayton Nall, Yiju Nam, Anna Maria Ortiz, Genevieve Pham-Kanter, Christine Poulos, Janna Razae, Elizabeth Rigby, Patrick Roberts, Wendy Schiller, Sharon Steadman, Ellen Adelman Stein, Kathy Swartz, Steven Teles, Michael Tesler, Rebecca Weitz-Shapiro, Susan Webb Yackee, and various anonymous reviewers. I am also grateful to Lew Bateman of Cambridge University Press for generously supporting this project. Scholars and participants in the Robert Wood Johnson Foundation Scholars in Health Policy Research Program provided tremendously helpful suggestions at various stages of this project, and the vibrant intellectual community provided by my colleagues at Brown University has been invaluable. A special thanks goes to Suzanne Brough, Isabel Costa, Patti Gardner, Sharon Krause, Jim Morone, Melissa Nicklaus, and Marion Orr for the many ways they have supported my work at Brown. Staff members at the National Center for Education Statistics and National Assessment Governing Board generously shared their time helping me access materials for this project. I am grateful for the careful research assistance I have received from Mark Bouchard, Kelly Branham, Jennifer Cassidy, Chris Chenoweth, Heather Creek, Lauren Finnessey, Kyle Giddon, Rob Kantner, Nick Lundholm, Domingo Morel, Carmen Sboczak, Chara Svaan, and Steve Vozar. All errors and shortcomings are my responsibility.

This research would not have been possible without generous financial support from the Robert Wood Johnson Foundation, the National Science Foundation (Grant No. 024.1406), the Spencer Foundation, Brown University’s Soloman Grant, and the University of Michigan’s Rackham Graduate School,
Preface

Department of Political Science, and the Nonprofit and Public Management Center. Any opinions, findings, and conclusions or recommendations expressed in this book are mine and do not necessarily reflect the views of these institutions.

I am grateful to the Moffitts (Jim, Judy, and Michael) and to the Clarks (Michael, Ed, Linda, Julia, Madeleine, and Eleanor) for their enduring support, patience, and good humor while this manuscript consumed far more time, energy, and family holidays than we ever anticipated. I am especially grateful to Judy Moffitt for patiently reviewing multiple drafts of this book over the course of a decade and for the countless ways she has supported me every step of the way. This work is dedicated to Michael Clark, whose career in public service has inspired me and the work I do. I like to joke that I study bureaucracy to make sense of our marriage. Jokes aside, Michael embodies public service at its best, with his dedication to serving all the rest of us, with his unwavering commitment to making his corner of government work well and work justly, and with his unfailing courage to speak truth to power.
### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AASA</td>
<td>American Association of School Administrators</td>
</tr>
<tr>
<td>ACES</td>
<td>Advisory Council on Education Statistics</td>
</tr>
<tr>
<td>AFT</td>
<td>American Federation of Teachers</td>
</tr>
<tr>
<td>APA</td>
<td>Administrative Procedure Act</td>
</tr>
<tr>
<td>APC</td>
<td>Assessment Policy Committee</td>
</tr>
<tr>
<td>BOB</td>
<td>Bureau of the Budget</td>
</tr>
<tr>
<td>CAB</td>
<td>Civil Aeronautics Board</td>
</tr>
<tr>
<td>CAPE</td>
<td>Committee for the Assessment of Progress in Education</td>
</tr>
<tr>
<td>CCSSO</td>
<td>Council of Chief State School Officers</td>
</tr>
<tr>
<td>CDER</td>
<td>Center for Drug Evaluation and Research</td>
</tr>
<tr>
<td>DOD</td>
<td>Department of Defense</td>
</tr>
<tr>
<td>DOJ</td>
<td>Department of Justice</td>
</tr>
<tr>
<td>DOL</td>
<td>Department of Labor</td>
</tr>
<tr>
<td>ECAPE</td>
<td>Exploratory Committee for the Assessment of Progress in Education</td>
</tr>
<tr>
<td>ECS</td>
<td>Education Commission of the States</td>
</tr>
<tr>
<td>ED</td>
<td>Department of Education</td>
</tr>
<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
</tr>
<tr>
<td>ETS</td>
<td>Educational Testing Service</td>
</tr>
<tr>
<td>FDA</td>
<td>Food and Drug Administration</td>
</tr>
<tr>
<td>FOIA</td>
<td>Freedom of Information Act</td>
</tr>
<tr>
<td>GAO</td>
<td>Government Accountability Office/General Accounting Office</td>
</tr>
<tr>
<td>HEW</td>
<td>Health Education and Welfare</td>
</tr>
<tr>
<td>IES</td>
<td>Institute of Education Sciences</td>
</tr>
<tr>
<td>IND</td>
<td>Investigational New Drug</td>
</tr>
<tr>
<td>IOM</td>
<td>Institute of Medicine</td>
</tr>
<tr>
<td>NAEP</td>
<td>National Assessment of Educational Progress</td>
</tr>
<tr>
<td>NAGB</td>
<td>National Assessment Governing Board</td>
</tr>
</tbody>
</table>
Abbreviations

NAS National Academy of Sciences
NCES National Center for Education Statistics
NCEST National Council on Education Standards and Testing
NCLB No Child Left Behind
NDA New Drug Application
NEA National Education Association
NELS National Education Longitudinal Study
NME New Molecular Entity
NRC National Research Council
OE Office of Education
OERI Office of Educational Research and Improvement
OMB Office of Management and Budget
SREB Southern Regional Education Board
VEDS Vocational Education Data System