

R E P O R T R E S U M E S

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IMPLICATIONS OF COLLECTIVE NEGOTIATION FOR THE ROLE OF SUPERINTENDENT.

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PUB DATE

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EDRS PRICE MF-\$0.09 HC-\$0.60 15P.

DESCRIPTORS- \*COLLECTIVE NEGOTIATION, \*SUPERINTENDENT ROLE, \*SCHOOL SUPERINTENDENTS, BOARDS OF EDUCATION, \*TEACHER ASSOCIATIONS, COLUMBUS, FAYETTEVILLE

THE AUTHOR STATES THAT THREE DEFINITIONS OF THE SUPERINTENDENT'S ROLE ARE DISTINGUISHED BY THE FORM OF THE PARTICULAR NEGOTIATION PROCESS--(1) SUPERINTENDENT UNINVOLVED, WITH NEGOTIATION CARRIED ON DIRECTLY BY TEACHER-ORGANIZATION REPRESENTATIVES AND THE BOARD OF EDUCATION, (2) SUPERINTENDENT ACTING AS BOARD OF EDUCATION REPRESENTATIVE IN NEGOTIATION WITH TEACHERS' ORGANIZATION REPRESENTATIVES, AND (3) SUPERINTENDENT SERVING IN ONE OF SEVERAL CAPACITIES, PRIMARILY AS CONSULTANT, WITH BOTH BOARD OF EDUCATION AND TEACHERS' ORGANIZATION REPRESENTATIVES. THE SUPERINTENDENT'S ROLE IN COLLECTIVE NEGOTIATION WILL CONTINUE TO LACK DEFINITION UNTIL THE ROLE OF THE TEACHERS' ORGANIZATION IS MORE CLEARLY DEFINED. IN HIS ROLE AS ADMINISTRATOR, THE SUPERINTENDENT HAS RECEIVED SPECIFIC TRAINING AND IS PROFESSIONALLY QUALIFIED, WHEREAS REPRESENTATIVES OF TEACHERS' ORGANIZATIONS LACK TRAINING BOTH IN NEGOTIATION AND ADMINISTRATION AND ASSUME ADMINISTRATIVE FUNCTIONS THROUGH A NEGOTIATION PROCESS THAT IS MORE REVOLUTIONARY THAN EVOLUTIONARY. THE VIEW THAT THE SUPERINTENDENT REPRESENTS MANAGEMENT AND THE TEACHERS' ORGANIZATION REPRESENTS LABOR JEOPARDIZES THE SUPERINTENDENT'S ROLE AS THE EDUCATIONAL LEADER OF THE PROFESSIONAL STAFF. THE COMPLETE DOCUMENT "COLLECTIVE NEGOTIATIONS AND EDUCATIONAL ADMINISTRATION," OF WHICH THIS IS CHAPTER 8, IS AVAILABLE FROM THE UNIVERSITY COUNCIL FOR EDUCATIONAL ADMINISTRATION, 65 SOUTH OVAL DRIVE, COLUMBUS, OHIO 43210, AND FROM DR. ROY B. ALLEN, COLLEGE OF EDUCATION, UNIVERSITY OF ARKANSAS, FAYETTEVILLE, ARKANSAS 72701, FOR \$2.50. (JK)

ED011704

**COLLECTIVE NEGOTIATIONS  
AND  
EDUCATIONAL ADMINISTRATION**

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*Published by*

**College of Education  
University of Arkansas**

*and the*

**University Council for Educational Administration**

**U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE  
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EA000533

**Price \$2.50**

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**CHAPTER 8**

**IMPLICATIONS OF COLLECTIVE NEGOTIATION  
FOR THE ROLE OF SUPERINTENDENT**

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"Promoting a cleavage between teachers and administrators can be all but catastrophic to the quality of a school. It makes increasingly difficult the cooperative solution of problems and the cooperative meeting of needs. It diverts energy and morale from the educational task. It undermines the very structure which has been created to serve the teachers' efforts on behalf of pupils. Yet that is precisely what some organizers of teachers would seek. It is particularly unfortunate that this challenge to the independence and unity of educators, and hence to the quality of education, is coming from representatives of organized labor, who traditionally have been among the supporters of the public schools. It is equally regrettable that divisiveness between teachers and administrators has been promoted by some independent teacher organizations. Whether independent or union-affiliated, teachers or administrators who damage the unity of the profession damage the cause of education."

So states the Educational Policies Commission in its 1964 publication, *The Public Interest in How Teachers Organize*. The Policies Commission goes on to state: "An organization of educators should have the following characteristics: it should perform many of the functions which contribute both to the betterment of the schools and to the welfare of the teachers; it should be organized independently; and it should promote the unity of teachers, administrators, and other educators. An organization which is con-

sistent with these characteristics helps teachers to do their best for the pupils and for themselves. But organizations which are inconsistent with these characteristics diminish the effectiveness of teaching. That is why the way teachers organize is of great importance."

Could any of us as professional educators quarrel with this theory of education as we envision our educational environment? In this environment we understand that public education is the responsibility of the state and that by constitutional and legislative provisions the structure and pattern of operation and control of public school systems within the respective states has been established. Within this pattern of operation the local board of education serves as the legally constituted agent for providing public school education. The board of education employs its own executive officer, the superintendent of schools. The superintendent of schools, in order to be eligible for his position, must be certified by the legally constituted certification agency of the state, as are all teaching or administrative personnel. The superintendent of schools in this role is a hybrid: he is an executive officer of the board and he is the chief educational officer of the instructional staff. There is no other such employee in the educational system; in other words he is the liaison between the professional staff and the board.

We have had little difficulty defining the role of the superintendent in a simple process of board-superintendent relations. Problems of an educational nature usually were discussed in faculty meetings. The superintendent reported the suggestions to the board and perhaps invited certain faculty members to attend the board session. The board in turn acted upon the recommendations and the results were reported to the staff by the superintendent. This seems to have been an acceptable procedure by a constituency which had a strong agrarian background where the function of labor or management was not clearly defined. Especially was this true in rural America for the farmer who himself was a hybrid representing both labor and management.

However, it is the nature of man to adjust to his environment to the extent that he cannot change it, and the

adjustment influenced by the forces of labor was evidenced as early as 1897 in Chicago and further evidenced by the affiliation of the American Federation of Teachers with the American Federation of Labor in 1916. There are reported to have been over 100 strikes of teachers between 1941 and 1961. During this period the teachers who joined labor movements generally defined their role as that of labor and the role of the superintendent of schools was defined as one of management. Under this procedure the many years of labor law development provided guidelines. However, the recent program, "Professional Negotiation," developed through the National Education Association, has yet to be defined to the extent that it has developed a body of law and counter actions to the degree that the professional staff is able to define its role, and consequently the role of the administrator is fluctuating aimlessly about. Here, again we may merely be waiting for a more definite emergence of a way of life. In reviewing some notes I made a few years ago in an Economic History Course, I note that Financial Capitalism emerged roughly about 1900 from Industrial Capitalism which had existed roughly from 1815--1900, and I note that one of the difficulties which supposedly hastened the change was excessive competition and the new form, Financial Capitalism, was designed for more decisive action at greater speed, and was exemplified by Wall Street. I also found a note pointing to the next step referred to as National or State Capitalism, and its distinguishing characteristic was that it puts more emphasis upon social service, consumption, and popular control.

From all appearances this seems to describe somewhat the environment we find ourselves in today. The "Great Society" program continues emphasis on social services and the public at large seems to desire more popular control or perhaps desires to exercise more power. This desire for popular control or share in decision making is consistent with democratic principles of government as long as the power or privilege to act is equated with responsibility or ability to exercise such power. The method of seeking power or participation in decision making may be gradual or sudden. Our rate of change today seems to be dangerously close to revolutionary, and is exemplified by the militancy of status seeking groups. Militancy is generally considered

to be an attitude associated with revolutionary processes as opposed to the more friendly cooperative attitude of evolutionary processes. Professional negotiation would be a simple process in an evolving environment where the perspective of the individual is such that he has knowledge of all administrative problems including budget, taxing potential, etc., and where he approaches negotiations with the attitude that problems can and will be solved. Whereas, in the revolutionary environment, the parties to negotiation approach the conference table with the idea that the opposition cannot be trusted and issues regarding budget, taxing potential, etc. cannot be solved easily; therefore demands must be made.

One of the greatest difficulties confronting the superintendent of schools in the process of professional negotiations is that of role definition. The superintendent is not in a position to define his role clearly until such time as the teachers' organization defines its role. Therefore, until such time as the teachers' organization decides whether it is similar to a group of factory workers, a government, an army, or a professional athletic team, the superintendent will continue to speculate as to what his role should be. However, the superintendent in this case may be sure of one thing and that is that from a philosophical point of view he must be a pragmatist.

Another fact we can be certain about is that the function of administration will and must be performed. The question of who will perform the administrative function and where the instance of the function will fall, is yet to be determined. Currently we consider a public school administrator and members of his administrative staff to be educators who through specially designed training programs have become proficient in dealing with administrative problems. The administrators have been certified because of their special training to perform acts of administration. The professional negotiation guidelines do not guarantee that negotiators who represent teachers' groups will have special training or special competencies in the areas subject to negotiation; yet the process of negotiation is a procedure that seeks to transfer a portion of administrative decisions to selected representatives of the teachers'

group. Perhaps a counter requirement that will develop from this procedure will be a requirement that negotiators must be specifically trained and certified before they will be authorized to negotiate. Several states have passed laws requiring a board of education to recognize one teachers' organization as its bargaining agent. Here, again, we may visualize some counter legislation, to cover such problems as who has a right to vote in such decisions; how long are the agreements binding; what guarantee is provided that all types of instructional personnel are represented; what right does the minority have? Other questions may develop such as: After a majority group is recognized as the sole bargaining agent for the teachers, will its relationship with the minority group of teachers be more, or less, tyrannical than the teachers as a whole experienced in their relationship with the superintendent and board of education before a single negotiating group was recognized?

In the process of negotiation we are aware of certain desirable conditions that must be provided if the negotiation process is to be successful. During the summer of 1964 the National Conference of Professors of Educational Administration met in New York City. I was privileged to serve as Chairman of the Interest Group that discussed professional negotiations. One of our speakers was Mr. Albert Shanker who was at that time president of the American Federation of Teachers of New York City. Mr. Shanker made several comments that I believe may be valuable to consider in the negotiations process. He pointed out that teachers wish to negotiate directly with someone who has the power to make decisions, and that they do not desire a paternalistic attitude on the part of the superintendent or board of education.

In other words the superintendent must be aware of the role he is expected to play in the negotiation process. If he is negotiating as a representative of the board, he must not give in too easily or the teachers' representative may not appear to be fighting as hard for his objective as his constituency feels he should. The teacher representative must not ask for too many things at once, as this leaves less to negotiate in the future. If all requests are granted, new areas for negotiation must be developed or else there

will be no need for a teachers' organization. Above all, the superintendent and board must not offer concessions or any items that are not requested for negotiation. This would be paternalistic and might be interpreted as weakness on the part of the superintendent or board. Mr. Shanker, in his able discussion, seemed to place major stress upon the importance of the superintendent understanding the rules of the game before he participates in the negotiating process.

The superintendent in order to be prepared to negotiate must first be aware of the basic general environment in which he must operate. He will need to understand the rules of the game, and he will need to visualize the role of the superintendent in the various positions which may be designed as a framework within which he must exercise a leadership function. The framework will probably imply two or three major roles for the superintendent.

As was stated earlier, implication of collective negotiations for the role of the superintendent is most likely to be one of definition after or at the time the instructional staff reaches a consensus of opinion regarding its operational environment based upon factors of social economics, political and philosophical forces.

There are three possibilities of role definition that may be implied for the superintendent in the process of collective negotiations.

1. The negotiation process may be carried on directly by representatives of the teachers' organization and the board of education without the involvement of the superintendent.

2. The negotiation may be carried on by representatives of the teachers' organization and the superintendent of schools who acts as a representative of the board.

3. The negotiation process may be carried on by the representative of the teachers' organization and the board of education with the superintendent of schools present. There could be several variations of this three party arrangement.

Now let us reflect for a few minutes upon the accepted procedures for a board meeting. The generally accepted procedure and organization correspond closely to the practices of our national and state governments. We have a legislative function, which, in this case, is vested in the board of education; an executive function, which is vested in the superintendent of schools; and a judicial or appraisal function, which is vested in the board of education. The negotiation process will be most concerned with the board as it meets to perform its legislative function. Therefore, we will concentrate primarily on the legislative function as a basis for the present discussion. Since most socially oriented changes expressed by collective entities will come in contact with the board of education as the board performs its legislative functions, the superintendent and professors of administration should be more acutely aware of the necessity of insisting that reasonably accepted procedure of parliamentary law be followed in the conduct of school business.

If we accept the assumption that legislative rules of order apply generally to orderly legislative procedures whether it be the national congress, a state legislature, or a board of education, then we have taken the first major step in clarifying the position of the superintendent of schools. One of the first steps in preparing for a school board meeting is the preparation of the agenda. This task is normally the responsibility of the superintendent of schools and his administrative staff. The board of education elects its own chairman or president from its membership. The board president presides at all meetings. During the meeting as items are presented from the agenda, the superintendent may act as a reading clerk. If some item appears to be vague the superintendent may act as a consultant or advisor to the board. After a legislative body is called into session only its own membership has the privilege of being recognized or of speaking except in rare cases where the assembly invites a guest of renown to deliver an address. A complete record in the form of minutes is recorded of all assemblies while in session. How then can a process of negotiation be carried on with a board of education or how can consultants be heard? The accepted procedure for Congress, the state legislatures, and sup-

posedly boards of education must be through hearings before committees. In the case of a board of education, since the total membership is not prohibitive in numbers, the hearing might be held before a committee of the whole. Acting as a committee of the whole a board has no legislative authority; but of course can recommend a course of action, in this case to itself as it convenes in legal session. Therefore, one of the most important responsibilities of the superintendent of schools is to encourage boards of education to adopt policies and most definitely policies that include rules of procedure for accomplishing the work of the board.

The negotiations process should operate within the boundaries established by the board's adopted policies of procedure. Legally a school board cannot negotiate in such a way that it surrenders or divests itself of its legal discretion.

Now let us apply the first definition of role for the superintendent. In this case the negotiation process will be carried on by representatives of the teachers' organization directly with the board of education. The meeting could not be held during a legal board meeting but would be conducted as a hearing before a committee of the whole. The superintendent in this case would not be present, or if present would be expected to sit on the sidelines and leave the bargaining to the teachers' representatives and to the lay board members. This process could take various forms; for instance, the teachers' representatives might employ a lawyer to present their arguments and likewise the board of education might counter with a lawyer, although a committee hearing is not a trial and it should not be confused with court environment. The objective is merely to reach an agreement by two groups who are both supposedly fundamentally interested in better educational advantages for the child. This procedure seems ironical—two groups of educators who form a part of the intelligentsia of our society have purposely ignored the superintendent of schools, a professional specialist who if he is the type leader he should be, is more conversant with the facts pertaining to overall negotiable administrative problems than any other single individual in the school system including the board of edu-

cation and the teaching staff. However, after the meeting of the teachers' representative and the board as a committee of the whole, the recommendation must be placed on the agenda and brought before the board of education in a legally convened session. The superintendent of schools at this point should resume his role of advisor to the board and of course play a rather prominent part in the final decision. Even in this system the superintendent has a definite responsibility which he must maintain, but which no doubt will be correlated with his ability to exercise leadership.

The second definition of role for the superintendent is a negotiation process where the representatives of the teachers' organization meets with the superintendent of schools who acts as the representative of the board of education.

The superintendent has a very well defined role in this process. The teachers in this case have defined their position to be relative to that of labor and the superintendent of schools has defined his position to be that of representing management or the board.

Here again the meeting is not an official meeting in terms of official action that can be taken only by a legally constituted board when in legal session, but again is held as a hearing before the committee as a whole. The results of such negotiation must be placed on the agenda and officially presented to the board. The superintendent of schools obviously is in the act all the way in this process. The disturbing factor here is that the teachers and the board are likely to forget they are playing on the same team.

The most disturbing factor, however, is that the superintendent of schools has definitely aligned his position with that of management and the other half of his job—that of educational leader of the professional staff—is in jeopardy. This represents a semblance of defeat for those who believe in the unity of objectives, and perhaps a victory for those who advocate the theory of "divide and conquer."

The third definition of role for the superintendent involves a process which includes the representatives of the

teachers' organization, the board of education, and the superintendent of schools. Various combinations of this process could be employed. One procedure that has been used involves equal representation of delegates from the teachers' organization and from the board of education who meet with the superintendent of schools. The entire committee has equal status. However, again this procedure constitutes a committee report which must be placed on the agenda and considered in a legal session of the board of education. This is a procedure in which the superintendent again is involved throughout the process. He may exercise as much influence as is consistent with his leadership capabilities.

The National Education Association has suggested a somewhat comparable procedure in which members of the teachers' organization and members of the board of education meet to discuss terms and the superintendent is present and acts as an advisor for both parties. This procedure again constitutes a recommending and not a legislative process, which will need to be duly considered by the board in regular session. The superintendent of schools is definitely involved in the entire process.

This type procedure could develop in the direction of permitting the superintendent of schools to play a more important role. Since he is the specialist who is trained to evaluate personnel and budgetary problems, his special competency could be used to place him in a position as a sort of oracle or tribunal before which the representatives of the teachers' organization and board members discuss problems but leave the recommendations to the trained specialist.

I am sure it is quite obvious that I am presenting a view that there will continue to be a place of importance for the superintendent of schools regardless of the procedures requested by the negotiating parties. As long as public school budgets are based upon local taxes and state taxes, the components of the teaching profession will no doubt ultimately realize that they will need to present a united front if the public school system is to survive. If all negotiating parties are interested in better educational opportunities and will use the criterion of what is best for

the child is best for educational programs, then many differences in the negotiating process will be reconciled and education will present a united front when competing for the public tax dollar. If on the other hand we reach a high percentage of impasses in negotiations and decisions are made at the state level rather than the local level, we will likely find ourselves confronted by legislation that will spell out provisions which now fall within the discretionary jurisdiction of local boards. A trend of this type would endanger the local autonomy of both school boards and local teachers' organizations, and could evolve into more state or federal encroachment of local school districts. Since the superintendent of schools operates for the most part on delegated authority from the board of education it might be well to consider spelling out the responsibilities of the superintendency in legislative provisions of the future. There exist many legislative enactments which provide for the teaching staff and for school boards, but it is very rare for legislative acts to refer to the superintendency. Enactments which deal with professional negotiations most definitely should make some provision for the role of the superintendent.

I have attempted to point out specifically and by inference a few of the factors that I consider to have implications for the role of the superintendent in collective negotiations. I would like to review the following nine implications which collective negotiations pose for the superintendent.

1. The superintendent will need to understand the total environment within which the negotiations process must take place.

2. The role of the superintendent must be defined after and in light of the role which the teachers' organization has defined as its role.

3. The function of administration will be performed; however, there should be concern that it is not parceled out to the extent that it falls into the hands of those who are least capable of its performance.

4. The differences within the teaching profession are no doubt greater than the differences between the teachers'

group as a whole and the administration; therefore, a unified bargaining group will be difficult to maintain, and will require constant study by the superintendent as he defines his role.

5. The superintendent must be aware of the rules of the game before he engages in the negotiations process. This may include formal study and preparation.

6. It is more important than ever before that school boards adopt and maintain an orderly procedure for conducting meetings, as this provides the regulatory function which will place in proper perspective all issues with which the discretionary power of the board is concerned.

7. The leadership function of the superintendent will continue to be just as necessary, and perhaps more so, in the process of collective negotiations as it has been in other issues related to school administration.

8. There should continue to be an awareness of the encroachment upon the discretionary rights of school boards if local autonomy is retained.

9. A feasibility study should be made regarding the necessity of defining the position of the superintendent by legislative enactment, particularly as laws are enacted for the purpose of regulating the collective negotiations process.