

**PROFESSIONAL RESPONSIBILITY OF SCHOOL TEACHERS IN PUBLIC EDUCATION: AN ANALYSIS OF GERMAN EDUCATIONAL ADMINISTRATION FROM A JAPANESE PERSPECTIVE**

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**Abstract:** *The characteristics of the modern school system, which integrates children into a “nation state,” have been radicalized throughout history, especially in Japan and Germany. This research aims to clarify German and Japanese paradigms in public education through a focus on the roles of school teachers. The research asks: what is the professional responsibility of a school teacher and what is outside of a teacher’s responsibility? Under today’s democratic and constitutional welfare-state, reconsideration of the distributed structure of governance in public education is needed. Through document analysis and fieldwork in Germany, with a comparative educational interest from Japan, the article specifies certain differences and similarities between the two contexts. Responsibilities in public education should be understood as distributed among, most notably, teacher, local school administration, and central school administration.*

**Key words:** state supervision, school autonomy, educational participation, pedagogical freedom, Germany, outsider’s viewpoint, Japan

**Criticisms Regarding the Teacher Professional Development Policy**

In 2009 in Japan, the teaching profession as an occupation of lifetime employment was outmoded by the introduction of the teacher certificate renewal system. During the National Conference of Educational Reform (*Kyoikukaikaku-Kokuminkaigi*), the advisory committee under the Prime Minister made a motion to return to the 2000-2001 proposal, using the slogan “Removal of Unfit Teachers” at the beginning of the motion. At the same meeting, schools were likened to a restaurant “that continually serves awful tasting food yet customers still come” (National Conference of Educational Reform interim report, July 26, 2000).

In this context, *Teacher Professional Development* has recently become a big policy slogan. However, the responsibilities for school education do not rest with teachers alone, but also with the different levels of educational administration such as

the state, prefecture, and municipal governments. Nevertheless, in the policy discourse on education reform, teachers remain targets rather than the state or other government sectors. Without seeing the whole structure of public education, however, school education cannot be substantially developed.

In Japan, the Ministry of Education exercises nationwide influence over the authorization of textbooks and the course of study (*Gakushyu-Shido-Yoryo*). Within this system, textbooks are prescribed in municipal-wide areas: each school is not granted a choice in textbooks and teachers are given the content that they have to teach. Furthermore, the local level educational administration is carried out by the Board of Education which is divided into the prefectural level and the municipal level. The hiring of teachers comes under the authority of each Prefectural Board of Education and the school facilities, equipment, maintenance, and school budget come under the Municipal Board of

Education. Even principals do not have authority on these issues.

This article addresses the following question: “How should educational responsibilities be distributed among teachers and other stakeholders in public education?” This research will analyze the German paradigm as a mirror to the Japanese paradigm and consequently query school policy in this regard. For this purpose, the study conducted an analysis of school laws and regulations, surveyed related research, and conducted field research. The theoretical background of this research is informed by German educational science including researchers such as H. G. Rolf (school development), E. T. Terhart (teacher education), K. Nevermann (school administration), as well as H. Becker, H. Heckel, H. Avenarius, J. Rux, H. Wißmann, and T. Böhm, among others (German school law). Some related research by Yuki (2009) and Yanagisawa (1996) was also consulted. The author conducted the field research, including the visitation of schools, school supervisory offices, education ministries, and teacher education institutions from 2007 to 2014. The author targeted different states such as Niedersachsen, Hessen, and Nordrhein-Westfalen (former West Germany), Berlin (capital), Brandenburg (former East Germany), Bayern, and Baden-Württemberg (southern states).

### **Germany’s Educational Administration as a Mirror**

In comparison with Japan where school curricula are authorized by one national Ministry (Ministry of Education, Culture, Sports, Science and Technology: MEXT), Germany is a federal republic nation made up of 16 federal states (*Länder*). Each German state has been entrusted with the authority to oversee education and cultural administration (*Kulturhoheit*: independence in matters of education and culture). However, it is written clearly in the

constitution, which is called German Federation Fundamental Law (*Grundgesetz*) that “The entire school system shall be under the supervision of the state” (Article 7, Clause 1). This traditional principle is called “state supervision of school” The following is an overview of the German governance structure in school education.

Today, in the area of school education in Germany there is remarkably limited authority on the federal state. With the exception of the Federal Ministry for Education and Research (*Bundesministerium für Bildung und Forschung*), which deals with vocational education and scholarships, there is the Conference of Ministers of Education from all states (*Kultusministerkonferenz*; KMK). The authority for state supervision of school belongs to each federal state.

In addition to the diverse school policies and school systems within each state in Germany, there is a branched school system with several secondary school types after compulsory primary education. Therefore, the type of teachers or the needs of students/parents for each form of school varies. Because such school education schematics are highly diverse, this research recognizes that there are limitations to understanding Germany as a whole. However, from a Japanese outsider’s viewpoint, there are still common aspects of school education that are nation-wide in Germany. For instance, state supervision of school or the branched school system is common among all states and the half-time schooling system is also a nationwide feature.

In 2001, Germany experienced a so-called PISA Shock. The relatively low results obtained by German students in the first PISA (Programme for International Student Assessment) by OECD (Organisation for Economic Co-operation and Development) made a nationwide blow. Following these

results, full-time schooling in Germany expanded despite criticisms of mainstream afternoon school education. The following comments by a principal of a comprehensive school (*Gesamtschule*) offers a symbolic opinion:

... After the Second World War, the reform toward half-time schooling was implemented and the separation from family education began because of reflection on the educational monopoly by schools. ... But, full-time schooling became necessary again. This was brought about because of the modern situation that the number of two-income households is increasing. ... In this school, full-time schooling was agreed to at a management level; however, a school must not become a dictator of education. (Interview with a school principal in Niedersachsen state, March 7, 2012. All quotes are translated into English by the author. All quotes herein are the same).

German school education has a limited range and reach so that it does not become a dictator of education. Furthermore, in order to prevent an education monopoly by school, legal concepts such as *school autonomy*, and *educational participation by teachers, parents, and students* are secured in the school laws in every federal state. German public education should be analysed in relation to the principles of state supervision of school, school autonomy, as well as educational participation by teachers, parents and students. This is because Germany no longer allows the state or school to have absolute authority over a certain subject. The balance inside the distributed governance structure needs to be questioned. Professional responsibility of a school teacher is one of the elements.

The relation between school and state is becoming more and more important. After the PISA shock, an inquiry was conducted

at the Federation of States level with regards to quality assurance (*Qualitätssicherung*) and the way things ought to be. The institutionalization of education standards (*Bildungsstandards*) led to different kinds of achievement tests, external school evaluations (*Externe Schulevaluation*), and the monitoring system. It can be said that these reforms are more or less influenced by NPM (new public management), neo-liberalism, or new-controlling (*Neue Steuerung*). However, certain tensions between state and school still exist in the current discourse on German school education.

### **Educational Participation by Teachers, Parents, and Students**

In spite of many reforms in the past decade, and in spite of the state supervision of school, German educational administration and school management have still kept at least two fundamental principles since the 1970s: school autonomy and educational participation by teachers, parents and students (Deutscher Bildungsrat, Bildungskommission, 1973). One direct example of this is that in Germany today, teachers, parents, and children are legally taking part in the *School Conference* (*Schulkonferenz*) as a decision making organization. All participants have the right to hear, suggest, and codetermine depending on the topics (Yanagisawa, 1996; Yuki, 1988).

For example, in the state of Niedersachsen there is the *Entire Conference* (*Gesamtkonferenz*), in which all teacher, parent, and student representatives participate. Figure 1 shows that since 2007 in addition to the Entire Conference, teacher, parent, and student representatives comprise the supreme legislative organization of and participate in the school board (Schulvorstand).

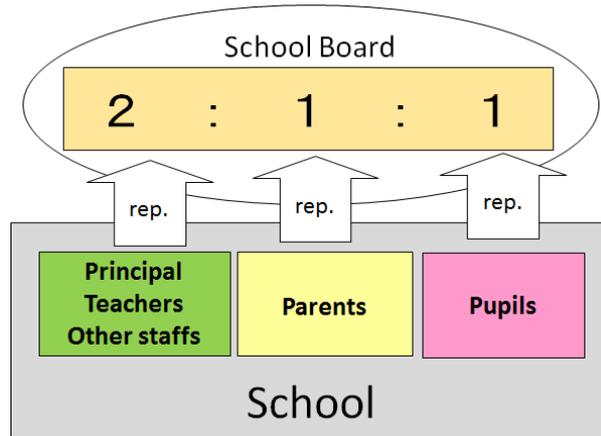


Figure 1. Structure of School Board. (Drawn by Tsujino in reference to articles 38a and 38b of the Niedersachsen School Law).

This type of educational participation system is captured within the Fundamental Law (understood in this article as parents' educational right): "The care and upbringing of children is the natural right of parents and a duty primarily incumbent upon them. The state shall watch over them in the performance of this duty" (Article 6, Clause 2). Further, "Every person shall have the right to free development of her/his personality insofar as she/he does not violate the rights of others or offend against the constitutional order or the moral law" (Article 2, Clause 1). This is understood as an individual development right.

Educational participation does not end at each school level. Figure 2 illustrates that there are different levels of participatory organization for both parent and student councils such as school level, district level, city level and state level. Under such a system, German school management is based on participation and codetermination. Historically, school management that is based on codetermination among all teachers including the principal is called collegial school management (*kollegiale Schulleitung*), which has been clearly distinguished from "dictatorial school management" or "authoritative school management" (Sturtz & Nevermann, 1985).

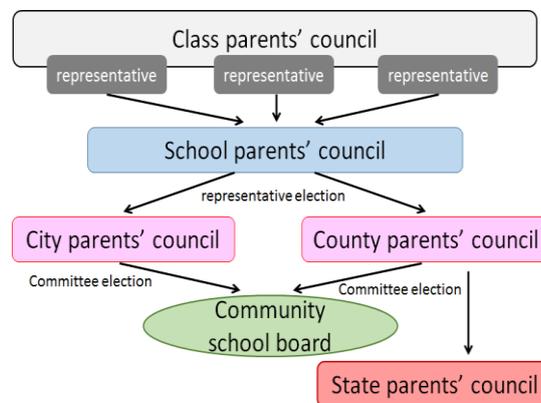


Figure 2. Structure of parents' council in Niedersachsen. Adapted from the official website of Kreiselterrat Wittmund [county parents' council Wittmund]. English translation by Tsujino.

### Placement of Pedagogical Freedom Within the Law

How are school teachers positioned under the German system, given the fundamental principles of state supervision of school, school autonomy, and educational participation? Professionals need a certain amount of autonomy; however, responsibility without authority is not allowed in modern democratic and legislative society. The legal position of the teacher, therefore, leads to the question, “How much professional responsibility should be borne by school teachers?”

In principle, school teachers in Germany hold a legal position as government officials (*Beamte*). Originally, the government connection came about from the employment and allegiance relations under public law (*öffentlich-rechtliches Dienst- und Treuerverhältnis*) in which there was an imposed duty to obey orders from superiors (*Gehorsamspflicht*). However, *Beamte* have stable positions with lifetime employment, relatively high salaries, and social security. Terhart (2008) refers to a German feature of the teaching profession. In Europe and most of all in Germany, symbiosis of the so called ‘free’ profession and state are very similar ... it is not inappropriate to refer to this context as a nationalized profession. This is a clear contrast to the ‘free’ profession in the USA (Terhart, p. 96).

Since the 1970s, following a series of decisions and judgements made by the federal constitutional court, the fundamental principles of constitutionalism and democracy have been applied to the school system. In spite of many reforms in school education since the 2000s including competencies based, standards oriented, output control, and new controlling policies, the fundamental principles of state supervision of schools, school autonomy, and educational participation remain. Under these principles, within each federal state

school law each school teacher also enjoys pedagogical freedom (*pädagogische Freiheit*), and principals and school supervisors can do academic supervision (*Fachaufsicht*) of each teacher’s educational activities. Further, pedagogical freedom legally guarantees that each teacher has discretionary power (*Gestaltungsraum/ Freiraum*) when it comes to lesson contents, teaching materials, teaching methods, and student assessment.

In spite of the diversity among the 16 federal states, pedagogical freedom today is “the recognized fact based on the school law in every state as a self-evident principle in judicial decisions” (Avenarius & Füssel, 2010, p. 663). For example, “pedagogical freedom must not be restricted unnecessarily or unfairly” (*Brandenburg School Law*, Article 67, Clause 2) and “pedagogical freedom which is required for teacher’s instructional and educational work must not be constrained by the legal regulations, administrative regulations and conference decisions unnecessarily or unfairly” (*Mecklenburg-Vorpommern School Law*, Article 100, Clause 2).

Described below are some state restrictions related to academic supervision by the state as well as teaching activities within state law. The supervisory school authority can cancel or modify the pedagogical assessments and instructional decisions in the frame of academic supervision only if:

- they violate the laws or the administrative regulations;
- they are founded on an incorrect assumption or irrelevant consideration; or
- they are against generally accepted pedagogical principles or assessment standards (*Niedersachsen School Law*, Article 12, Clause 2).

The interviews conducted for this study so far reveal that the general idea of pedagogical freedom in Germany is not

limited to legal wording. Rather, pedagogical freedom is common knowledge in both schools and in educational administrations. In one interview with a section manager from a county school department in the state of Baden-Württemberg said, “Even in a case where education method ‘A’ didn’t go well and the principal directs the teaching staff to method ‘B’ [the method] cannot be changed. Education methods are decided by the teaching staff” (November 14, 2005).

The reach and border of pedagogical freedom is dealt with by the administrative in-service education. As Arend (2002) explained from his position in the state of Saarland’s Ministry of Education, there is a range and limit of pedagogical freedom. The following response on a 2007 questionnaire is from a primary school teacher from the state of Hessen with 31 years of teaching experience: “Pedagogical freedom has to be exercised with respect to plurality of opinions in a faculty. The same as any freedom, pedagogical freedom can be abused. It is important, in this context, to emphasize the responsibility to pupils and parents.”

On the other hand, the next comment by a representative of a state parents’ council in Niedersachsen presents a frank opinion to pedagogical freedom. “... the problem so far with pedagogical freedom and pedagogical responsibility is there was not anyone to review this. I want this to be checked.”

The next comments are by the three representatives of a school students’ council conducted in Berlin on October 14, 2014: (A) “[Parents have] very big expectations;” (B) “Parents don’t see [the school], therefore it is hard to picture what is happening. They want to have information;” and (C) “Parents tend to control teachers, but this doesn’t work well in the end.” Person A also stated, “The ways of communication by parents and teachers are different.”

Although the opinions mentioned above are only a few examples, there can be certain power balances among principals, teachers, parents, and students. Even if there is no opportunity for parents and students to participate in school education, they are positioned as only service takers. Pedagogical freedom should not give teachers absolute authority in theory and in practice.

As an additional remark, pedagogical freedom is distinct from academic freedom (*akademische Freiheit*) in German Fundamental Law: “Arts and sciences, research and teaching shall be free. The freedom of teaching shall not release any person from allegiance to the constitution” (Article 5, Clause 3). This fundamental right for research and teaching freedom is acknowledged for university professors. Having pedagogical freedom for teachers is not considered as a basis for academic freedom (Avenarius & Füssel, 2010; Böhm, 2001).

### **Governance Structure in Public Education**

Since the 1970s, the German school system has democratized toward a distributed structure that includes school autonomy and educational participation. Prior to the 1970s, and up until the 1960s, the situation was far different from democracy. Becker (1954) clearly criticized the situation at the time:

Our school is an “administrated school”; while the modern school whose mental foundation has arisen from the enlightenment was a life-nexus of self-standing human being which is only monitored by state at one time, it has developed as the lowest administrative hierarchy more and more. Today, it stands on the similar stage of administrative structure such as the tax office, employment office or local police, and it makes clear contrast to the self-administration by municipal community. (p.130)

There was grave reflection on and severe criticism of Nazism during WWII. The lesson was what Arendt (1961) described afterwards as the “Banality of Evil.” Among intellectuals at the time, represented by the Frankfurt School, there was a sense of impending crisis to totalitarianism remaining in society even until the end of the war. To resist such a situation and to establish a democratic legislative welfare-state, what was strongly needed was education that keeps human-beings thinking, self-standing, critical, and creative. Heckel (1957), a famous jurist of education, addressed pedagogical freedom as follows:

Teachers can educate toward freedom, only if he himself is free. Therefore, school legislation should legally assure pedagogical freedom corresponding of the essence and significance of education. And the school administration should restrain itself from regulating individual issues of instruction and education as much as possible. (p.168)

From the time that this discussion unfolded already half a century has elapsed. Nevertheless, today’s governance structure in public education is still rooted in such thoughts; although, the historical process of structural development has not been simple

but has rather been meandering. This origin of democracy and professional autonomy in the German school system today, as mentioned above, is worth noting.

A current advocate of pedagogical freedom, Rux (2002) claims that if the fundamental law is placed at education’s core and if the state, parent, and child are placed triangularly around this core, then teachers can better accomplish their responsibilities, of which pedagogical freedom is indispensable. This triangular structure of fundamental law is illustrated in Figure 3. Another advocate, Wißmann (2002, 2003), also claims the importance of pedagogical freedom and denies absolute power belonging to any subject such as the state, parent, or child in education. Finally, school teachers as teaching professionals can be positioned to adjust different rights or authority and to keep balance among them. Figure 3 further demonstrates that pedagogical freedom is needed not for teachers themselves, but to uphold their professional responsibility for the development and welfare of children. In other words, this “freedom” is not for teachers themselves, but is a devoted freedom to students by the education profession. After Rux and Wißmann, however, this theme seems to have not been argued for more than ten years.

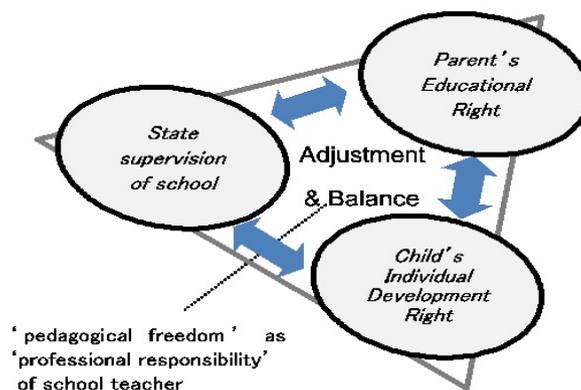


Figure 3. Author’s creation describing the fundamental law triangular structure.

### Implication for Japanese Situation

In conclusion, what kind of implications does the German example have for the Japanese paradigm? First, in both Germany and Japan, school teachers are government officials. This means that teachers are legally positioned inside the public education system with a bureaucratic structure. In Germany, pedagogical freedom is legally secured in opposition to an administrated school by the state. In Japan, however, there is no such legal security for teachers. This means that professional responsibility can hardly be fulfilled in a restaurant paradigm with a huge franchise management structure. Given that Japanese teachers have to teach according to the given content and condition, the quality of their output politically results in positioning teachers as cooks.

Second, educational participation in German school management and administration is also legally secured. Educational participation and school autonomy are understood as the wheels supporting the functioning of schools. Only autonomy can bring about bureaucracy inside schools, and only participation can cause mobocracy. In Japan, where no wheel is legally secured, an administrated school can still be alive. The professional responsibility of school teachers can be defined only in the relation with others such as their students, parents, colleagues, and principals. Autonomy and participation are also needed for education toward democracy.

Third, professional responsibility of school teachers also exists with other educational responsibilities such as state, local governments, communities, and so on. In Japan where provincial policy does not hold much authority, one central government (MEXT) makes centrally driven nationwide reforms as a part of a quality assurance policy. Within this, the professional development of school teachers is emphasized. However, in the Japanese public education system as a whole, the other structure of educational responsibility needs at least the following:

- the municipal board of education to arrange appropriate facilities and equipment in each school;
- the prefectural board of education to fulfil appropriate personnel affairs for each school; and
- the state to develop appropriate quality standards not only for teachers but also for administrations themselves.

When we think about the professional responsibility of the school teacher, we also need to recognize that teachers' jobs are set between professionalism, bureaucracy, and pupils. On the one hand, the identity of a teacher is understood as the dilemma between professionalism and bureaucracy. On the other hand, teachers also have a dilemma between authority and participation. This trilemma of teachers in public education is illustrated in Figure 4. In this structure, other actors' responsibilities are also needed to clarify the public education system as a whole.

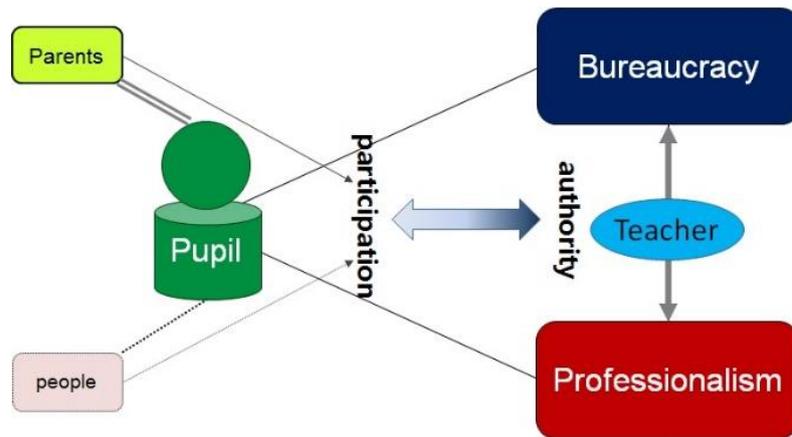


Figure 4. Trilemma of teachers in public education. (Author's creation with reference to Tsujino, 2012, p. 244).

Today's public education needs to change toward a system rooted in globalization and localization rather than nationalization. Under a de-nationalized public education system, pupils can actually think and act on their own feet in order to live. This document analysis attempted to clarify the

structure of the professional responsibility of school teachers as part of the whole structure of the public education system. To clarify, in order to develop public education in this unstable and invisible present/future society, what is also needed is the educational responsibilities of other actors.

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