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## ABSTRACT

The purpose of this paper is to set forth the rationale for attempting research on the impact of legal-administrative processes on human resource management in schools. The term "legal-administrative processes" refers both to laws affecting schools and to the administration of those laws. Laws, standards, and funded programs generated by state legislatures, the courts, and administrative agencies are examined. The paper discusses legal-administrative processes affecting three areas: the composition of the educator labor force (affected by laws concerning certification, affirmative action, and teacher and administrator training programs); employer-employee relationships (affected by collective bargaining and laws governing fair dismissal and tenure); and interaction of school personnel, citizens, and local governmental agencies (affected by laws concerning alternative school programs, attendance, open meetings or parent-citizen involvement in school-site councils). The authors are especially concerned with the way the laws, guidelines, and funded programs in each area influence decisions about the mix of personnel in the district; working relationships among school personnel; the hiring, firing, transfer, and utilization of personnel; and the classroom agenda and use of resources and incentives to improve student achievement.  
(Author/JM)

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The Impact of Legal-Administrative Processes  
on Local Schools

by

CEPM Legal-Administrative Processes Committee

September 1981

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## I. Introduction

The Center for Educational Policy and Management has chosen to focus its research on strategies for the management of human resources in schools to improve student achievement. In the process of developing a research paradigm for the Center based on this nucleus, three primary influences were identified as affecting human resource management in schools: legal-administrative processes, the educational professions, and the community environment. Committees comprised of researchers, policymakers, and practitioners were created to develop a research program related to each of these influences. In building a framework for the examination of legal-administrative factors, the Program Development Committee on Legal-Administrative Processes has been developing guidelines for such a program of research that will meet the following criteria:

1. be timely and of national significance;
2. represent an area where CEPM can make a substantial research contribution (i.e., that it does not duplicate the research agenda of other research centers);
3. take into account the research capabilities at the university;
4. be sufficiently unified to promote a high level of interaction among projects within the same research program.

The purpose of this paper is to set forth the rationale for building a research agenda around the impact of legal-administrative processes on human resource management in schools. For this purpose, the term "legal-administrative processes" refers both to laws affecting schools and to the administration of these laws. The educational process is affected not only by legal requirements, but also by the way the state and federal agencies

choose to administer or implement those guidelines and regulations and by administrative decisions in local school districts concerning the level of compliance. Hill (1979) suggests that a strong determinant of the amount of compliance that will be achieved stems not from the formal, or legal, incentive systems described in the regulations (i.e., the withdrawal of funds), but rather from an informal system of administration that relies on professional loyalties. Thus, a productive research agenda must include both the legal processes themselves and their administration in schools.

Building a research agenda around the way in which state mandates influence the management of human resources at the local district and school levels holds great promise for meeting the criteria previously stated. It is especially timely to examine the state's role in promoting equity and efficiency in the management of human resources in schools, as the state's role in educational policy making will potentially grow stronger in relation to the federal role (Elmore et al. 1981). Many of the laws that most directly affect the management of school personnel originate at the state level.

An additional reason for focusing a research program on state guidelines and mandates is that the impact of federal legislation on schools has already received a high degree of attention from a number of other educational research centers. Desegregation is a major research focus at the Center for National Policy at Catholic University. Bilingual education is a focus for study at the Center for the Study of Evaluation at UCLA. Michael Kirst, at the Center for Finance and Governance at Stanford, has recently proposed to undertake a re-evaluation of the impact

of Title I on schools. Ohio State University has a major research center concerned with vocational education. Therefore, the Center's concentration on state laws that affect the management of school personnel seems to be a more efficient use of increasingly scarce resources for research.

CEPM has strong research capabilities in the areas of personnel management, school organization and governance, collective bargaining, special education, and sex equity. In light of these strengths, the following topics present especially promising directions for a research program in the legal-administrative domain at the Center.

#### Legal-Administrative Processes at the State Level Affecting the Employment of Local School Personnel

There are a variety of laws, standards or guidelines, and funded programs promulgated by state legislatures, courts, and administrative agencies that influence the process of human resource management in schools in the following areas:

- A. factors affecting the various educator labor markets (e.g., certification laws, affirmative action programs, and teacher and administrator training programs--for both general education personnel and specialists)
- B. employee/employer relationships (e.g., collective bargaining laws, fair dismissal laws, and tenure laws)
- C. interaction of school personnel with parents, citizens, and local governmental agencies (e.g., laws promoting parent/citizen

involvement in school-site councils, alternative school programs, laws or programs affecting attendance in public schools, open meeting laws, special education requirements requesting parental and other agency involvement, etc.) .

We are concerned with the way the laws, guidelines, and funded programs in each of the above areas influence decisions about the work agenda and the allocation of resources and incentives in schools. More specifically, we are concerned with the way each influences the following dimensions:

1. the mix of personnel in the district in terms of:
  - a. the functions served and the scope of responsibility for each position
  - b. the characteristics of personnel by sex, race, age, qualifications, and salary level
2. the working relationships among school personnel (e.g., degree of cooperation) in terms of:
  - a. horizontal relationships--among teachers or types of teachers (e.g., cooperation between special education teachers and "regular" teachers)
  - b. vertical relationships--among teachers and administrators
3. the way decisions are made about the hiring, firing, transfer, and utilization of personnel
4. the way decisions are made about the classroom agenda and the use of resources and incentives for students, teachers, and administrators to improve student achievement

In designing research projects around these questions, we expect researchers will also be concerned with factors that affect human resource management at the local level including community ideologies, financial factors, community demographics, and local school policies and practices. Where applicable, they may also be concerned with federal laws or policies (e.g., those governing special education) although federal statutes are not a prime focus for this area of research.



## II. Legal-Administrative Factors Affecting the Educator Labor Markets

Legal-administrative factors affecting the educator labor markets have important implications for the improvement of human resource management in schools. These factors include the laws (and their subsequent administration) concerning certification, equal opportunity, teacher and administrator training, and retirement. As stated earlier, these laws affect schools through their influence on the following areas: the mix of personnel in the district; the manner in which decisions are made about the hiring, firing, transfer, and utilization of personnel; the working relationships among school personnel; and the manner in which decisions are made about the classroom agenda and the use of resources and incentives to improve student achievement. Other state laws affect the management of school personnel, including state standards about course requirements and competency requirements and laws concerning support services. While we are also concerned with the effects of these laws on schools, we have chosen to highlight those concerned with certification, equal opportunity, and teacher and administrator training because of their more direct impact on the educator labor force.

### The Mix of Personnel in the District

Laws regarding certification, affirmative action, the training of teachers and administrators, and retirement may affect the composition of school personnel on the basis of such characteristics as experience,

quality, type of specialization, race, sex, age, or religion. These laws affect the composition of the work force through their influence over entry into, mobility within, and exit from the educational professions.

### Certification

Certification acts as a primary barrier to entry into the educational professions. Specialized certification courses are required not only for entry into the teaching profession, but also for mobility to administrative positions or to other fields of specialization within teaching. Some claim that strict certification laws may result in lowering overall teacher quality, since highly qualified, but uncertified, applicants must be excluded. A major finding of the recent Coleman report, that "private school produce better cognitive outcomes than do public schools" (1981, p. 224), adds credence to this hypothesis, although other differences between public and private schools obviously must also be considered. This presents an important question for further examination.

Declining enrollments, scarcity of resources, and federal and categorical programs complicate the way in which certification laws affect the composition of district staffs. Categorical programs, for example, in bilingual and special education, may necessitate hiring specialized personnel. Given scarce resources, districts may find it difficult to hire appropriately certified teachers. This may be especially problematic for administrators in rural districts who have difficulty attracting qualified applicants. A number of administrators favor less stringent certification requirements to allow more latitude in personnel decisions, such as enlarging the scope of reciprocity with other states and broadening the subject areas covered by a given endorsement.

Conversely, teachers and teacher training institutions may generally oppose reciprocity with other states and may favor fairly specific endorsement criteria as, for example, in remedial reading or gifted programs. Although some teachers favor reciprocity with other states because it widens the number of positions open to them, others oppose it on the grounds that reciprocity may increase competition and lower salaries for in-state positions. Teachers tend to prefer specific endorsement requirements in specialized areas in order to increase their own job security. Similarly, colleges of education generally support specific endorsement requirements where they provide an opportunity to develop new training programs and expand enrollments. The desire to check declining enrollments also may cause in-state teacher training institutions to oppose widening reciprocity agreements. In the present era of retrenchment at all levels of education, it is likely that debates concerning certification requirements will multiply. Further research is needed to assess the potential effects of either maintaining or altering present certification laws.

Zeigler's research suggests that laws restricting the supply of applicants for administrative positions in education may have undesired consequences (1980). Due to certification requirements, superintendents must be recruited from within the ranks of education. Until recently educators were relatively insulated from political conflicts and consequently may be ill-equipped to manage conflicts stemming from collective bargaining, school closures, affirmative action, and budget cuts. Therefore, recruitment from other professions (i.e., business, law, public administration) may be warranted.

Others argue that certification laws help ensure adequate preparation of both teachers and administrators to meet the educational needs of students. While the basic process of certification may be beneficial, it has not yet been determined whether the courses required improve the overall quality of teachers and administrators. For example, though research shows that adequate supervision of teaching enhances program effectiveness (Berman and McLaughlin 1975; Fullan and Pomfret 1977; Edmonds 1979), there is evidence that little supervision actually occurs (Cohen et al. 1980). Preservice administrator training needs to emphasize supervision as a key element in administrative work.

Other certification courses need to be updated to reflect changes in environmental conditions that affect schools. Perhaps more courses are needed to help school personnel cope with the specific problems of school closure, single-parent families, and budget cuts. Some courses presently required may need to be altered or eliminated. For example, courses concerning school facilities planning and construction, now required in a number of states, may need major revision to best serve administrators coping with a period of retrenchment. While numerous changes in certification requirements have already been made to adapt to changing needs, a more thorough examination of the benefits of specific types of certification courses is warranted.

#### Equal Opportunity

Although women comprised approximately two-thirds of the teaching profession in 1973, they held less than fifteen percent of all principalships

and only approximately one-half of one percent of all superintendent positions (NEA 1973). The number of women superintendents has almost doubled within the past five years (AASA 1979), indicating that affirmative action has had some effect, though the overall proportion of superintendents who are female is still exceptionally low. Optimism about increased opportunities for women must also be tempered by evidence suggesting that the number of women holding administrative positions dropped between 1970 and 1976 (Barnes 1976).

The proportion of minorities in administrative positions is also relatively low. In addition, as a result of desegregation in the southern and border states, many black principals lost their positions when blacks no longer made up the majority of the student population. Due to the number of imminent school closings, it is important to consider how equal opportunity or affirmative action requirements will be implemented for administrators as well as teachers during a period of retrenchment. School closure may have detrimental effects on the number of minorities and women in educational administration if inner city schools, which may have a disproportionate number of minority principals, and small elementary schools, which may have a disproportionate number of female principals, are closed more often than other types of schools.

Evidence suggests that women and minorities may not have an equal opportunity to move from the teaching ranks to administrative positions. Increasing opportunities for these two groups may have a positive impact on the educator labor market in two ways. First, the overall quality of public school administrators will be increased if all qualified applicants

are given access to those positions. Secondly, the incentives for women and minorities to excel in their present positions would be strengthened if they received equal consideration for promotions. The first point may be especially critical in light of research indicating that women principals exhibit effective qualities for administrative leadership. Fishel and Pottker (1975) found that "female principals, compared with males, concern themselves more deeply with instructional leadership and affairs of classroom teaching, interact more intensively with the faculty, . . . and exercise closer supervisory control of teachers" (Charters and Jovick 1980).

#### Teacher and Administrator Training Programs

Educator training programs affect the composition of the educator labor market through their potential impact on improvement of teaching and administrative skills and on career mobility. Further research is needed to determine the motivating factors for participants in training programs as well as the barriers to participation. Motivation may come from an individual's desire to enhance his or her skills within a present position, to effect a change in positions, or merely to move up the pay scale by acquiring more credit hours. Prior research suggests that teacher involvement in training programs for the first reason has been correlated with increased teacher effectiveness, but that this correlation does not hold when the involvement is not voluntary or when increased wages or job security are the sole motivators (Hanushek 1971). Motivation for engaging in training may also stem from external sources. The increased number of openings in specialized programs may encourage teachers to pursue further training. Also, certain teachers may receive

encouragement from administrators within the district to prepare for an "inside" administrative position. Further research could serve to determine the way personnel may be differentially affected by such informal communication, as well as the relative influence of such encouragement. Since an increasingly high number of administrative positions are filled by persons outside the district (in Oregon, more than half of all administrative positions are filled by out-of-state applicants [Carlson 1979, p. 60]), this influence may not be as strong as in the past.

#### Retirement

A recent shift in the mandatory retirement age from 65 to 70, as a result of PL 95-256, has significant consequences for the composition of the educator labor market. First, the relative importance of both inservice training and the improvement of job satisfaction increases if educators spend more time in the same position or field as a result of postponing mandatory retirement to age 70. This effect may be compounded by the fact that fewer educators with more than ten years experience are leaving their positions. We will witness decreased mobility among teachers if trends in Oregon are representative of other states in which alternative employment opportunities may be equally scarce (Oregon Department of Education, 1981). A decrease in the turnover rate, while it may enhance district stability, also decreases the district's flexibility in hiring people with needed specializations, meeting affirmative action goals, renewing and refreshing its teacher corps, and using scarce resources for non-personnel costs.

The Manner in Which Decisions are Made About the Hiring, Firing, Transfer, and Utilization of Personnel

Some administrators have claimed that legalities concerning certification, affirmative action, and collective bargaining (to be covered further in the next section) constrain the decisions made about the hiring, firing, transfer, and utilization of personnel to such an extent that they have negligible control over matters of employment. Certification and endorsement restrictions limit administrative flexibility in trying different strategies to improve the utilization of personnel within a district. School personnel may spend less time learning from each other because they need to obtain a formal certificate in order to shift positions or to advance. Unfortunately, stringent certification requirements may also discourage school personnel from learning other job skills through experience, rather than solely through academic courses. As a result of these constraints, the choices made may not always promote sound educational practice. More research is needed on the factors that hamper or facilitate this decision-making process and their effects.

Concurrently with the evolvement of stricter certification requirements, anti-discrimination regulations have resulted in formalization of the manner in which decisions are made about personnel management. Such formalization, it is hoped, will also result in a greater degree of equity in employment practices relating to sex, race, handicap, and religion. However, further exploration is needed to determine whether the regulations have actually produced greater equity. Some administrators claim that the low proportion of women and minorities in administrative positions within their districts



stems from a lack of qualified applicants. An appropriate question for research would be to what degree a disproportionately low number of women and minorities in administration can be traced to discriminatory practices rather than the differential preferences of these applicants.

The information available concerning the effective utilization of non-certified personnel, such as teacher aides, is also insufficient. Research by Eberts and Pierce shows a positive relationship between the use of teacher aides and the improvement of student performance.

This confirms the expectations implicit in federal programs such as Title I, that the employment of paraprofessionals enhances student achievement by increasing the degree of individual attention that can be given to students either by teachers or by teacher aides. However, other research suggests that teacher aides could be more efficiently employed. Conant points out that while employment of teacher aides has allowed teachers to spend more time in instruction than otherwise, teachers still spent relatively less time in instruction and more time in routine, non-instructional tasks than did the non-professional teacher aides (1971). Further research is needed to examine how teachers and teacher aides can work more efficiently together in the classroom.

The effective employment of teacher aides and other non-certified personnel may also have additional benefits. Parental interest in education may increase if parents are hired as teacher aides, or in other capacities. These parents often form informal networks with other parents of children attending the same school. Moreover, the hiring of teacher aides may help

to increase the representation of minorities in schools and may also result in a greater number of minority teacher aides subsequently enrolling in teacher certification programs.

The fiscal arrangements of local districts also play an influential role in determining school personnel decisions. A variety of specialized positions within districts are funded with federal or state categorical aid, which greatly affects hiring decisions (i.e., requirements and tenure of the position). Personnel dependent on federal or state aid for the continuation of their positions may, therefore, be more concerned with meeting the goals of the funding agency rather than of the district in which they are employed. Elmore and McLaughlin suggest that these types of vertical networks may be detrimental to the coordination of educational programs due to a lessening of cooperation among personnel at the district level (1981). Decisions about the hiring and firing of personnel are also drastically affected by general cuts in state or local funding. More and more districts have had to layoff teachers because state or local funding was cut or was very uncertain. In the Seattle School District in recent years, approximately ten percent of the teachers have received layoff notices during the spring, although some are rehired in the fall when the number of vacancies is more certain (Weatherley, Narver and Elmore 1981). The potentially serious and negative impact of this uncertainty on human resource management in schools is substantiated by a number of superintendents in California who have stated that teacher layoffs due to uncertain state funding have created serious morale problems for staff (Zeigler et al., forthcoming).

### Working Relationships Among School Personnel

Certification laws and affirmative action programs tend to formalize working relationships among school personnel and, consequently, may be expected to inhibit informal cooperative networks. On the other hand, certification and affirmative action may enhance employee cooperation in other ways. Specific certification requirements result in a greater likelihood that teachers and administrators (both within and between groups) will share a common knowledge base and, therefore, they promote further dialogue about educational goals. Teacher and administrator training programs may serve similar purposes. Affirmative action may enhance working relationships if employees feel that the laws provide greater equity or fairness.

### The Manner in Which Decisions are Made about the Classroom Agenda and the Use of Resources and Incentives to Improve Student Outcomes

The manner in which decisions are made to improve student outcomes may be best described under three sub-categories: work supervision, administration of work support systems, and governance (Duckworth 1981). Duckworth defines these terms as follows:

Work supervision refers to the definition and control of (teacher) work factors. . . . The administration of work support systems refers to both logistic support for classroom instruction and staff development efforts. Governance refers to the interpretation and incorporation of environmental and intra-system preferences through processes of policy formation, procedural development, tactical planning, and conflict management.

### Work Supervision

Although administrative supervision of teacher performance has been demonstrated to improve student achievement, as previously noted, it is infrequently carried out in school districts. One reason for this may be administrators' lack of adequate training in, or preference for, supervision. As will be discussed in greater depth in Section III, collective bargaining contracts may also limit the latitude of administrators in conducting such supervision. Further, principals who are not tenured as administrators may be concerned about maintaining good relations with teachers in order to increase job security. Focusing administrator and teacher training programs on the need for supervision and administrative moral support may improve the probability for success of programs designed to increase educational achievement (McLaughlin 1976). Still, given the uncertainty of the teacher labor market, administrators need to be especially careful that teacher evaluation does not disrupt cooperative working relationships and thus fail in its effort to promote more effective instruction (Mann 1976).

### Administration of Work Support Systems

Cohen's research suggests that teacher and student performance would improve if principals played a stronger role in providing logistical and organizational support (Cohen et al. 1977). Coordinated efforts towards this end in administrator and teacher training may increase teacher effectiveness. On the other hand, administrator and teacher training programs designed to implement one type of curriculum may inhibit subsequent changes if the administration of the work support system for the

implemented program is particularly effective (McKinney and Westbury 1975). Therefore, it is necessary to have not only strong instructional support from the principal, but also some continuity in the curricular program to promote a unified effort toward improved school effectiveness.

### Governance

Laws affecting the educator labor markets also affect governance of, or policy decisions about, curriculum priorities. An emphasis on affirmative action in hiring may be correlated with increased interest in curriculum material regarding multi-cultural issues. Both inservice teacher and administrator training and certification requirements may result in changes in priorities in the school program. For example, teacher and administrator training programs may increase the use of computer-assisted instruction as participants are kept up-to-date on the newest technology.

### III. Legal/Administrative Factors Affecting Employer-Employee Relationships

Key contributors to the increasing formality of the relationship between teachers and administrators at the local level are the advent of collective bargaining as a mechanism for the resolution of employer-employee conflicts and the increasing variety and complexity of state laws regulating the hiring, transfer, dismissal and retirement of teachers.

These legal and administrative factors have resulted historically from the "central tension or dilemma in public policy for public sector bargaining: employee rights versus sovereignty" (Cresswell and Spargo 1981). That is, the traditional model for district-level educational decision making (a "representative-governance" model) is gradually being altered to accommodate a qualitatively different model for establishing the rights of teachers as district employees (a "labor-relations" model). Collective bargaining contracts and statutory regulations concerning the treatment of public employees are the formal and tangible results of these competing models.

The proposed research agenda will focus on how these legal and administrative factors influence (1) the mix of personnel in the district (2) the manner in which decisions are made about the hiring, firing, transfer and utilization of personnel (3) the working relationships among school personnel and (4) the manner in which decisions are made about the classroom agenda and the use of resources and incentives to improve student achievement.

### The Mix of Personnel in the District

Legal and administrative factors affecting the general composition of a district's staff tend to focus on equity and quality.

### Equity Considerations

Teacher collective bargaining contracts frequently contain provisions that bar discrimination on the basis of sex, race, or ethnic background in the hiring or compensation of employees. In many cases the contract may also contain provisions barring discrimination on the basis of handicap.

However, in a recent study of school grievance arbitration, Brodie and Williams found only eight percent of the cases they examined involved charges of contract violation concerned with discrimination (1980, p. 128).

This suggests that forums are available for resolving complaints regarding discrimination other than the grievance mechanism specified in the collective bargaining contract including the following: (1), state or local level fair employment practices commissions, (2) a variety of federal agencies, such as the Equal Opportunities Commission, and (3) the court system (p. 130).

Federal and state regulations may also be used to support grievances against discriminatory personnel practices. Brodie and Williams have noted that "since the analysis began in 1973, the issues of discrimination in arbitration have increased in number as well as in the sophistication of their reasoning and have broadened in the scope of the arbitrator's award. It seems reasonable to predict this trend will continue as grievants become aware of their rights and options, and as schools increasingly attempt to meet affirmative action mandates" (p. 129).

Although collective bargaining contracts may contain provisions that bar discrimination, recently hired women and minorities may be in a less secure job position due to other clauses in the contract that promote seniority as the basis for transfer or reduction-in-force. Affirmative action goals may not be compatible with unionization during times of declining enrollments and resources, since unions have historically supported a "last hired, first fired" retrenchment policy, and women and minorities fall disproportionately into the "last hired" category.

### Quality Considerations

Of central concern to teachers and educational administrators alike is the quality of the teaching staff. Due to its elusive nature the measurement of quality has been subject to considerable controversy. Educational administrators tend to assert that staff quality is related to their authority to place personnel in positions to which they are best suited. Teachers, on the other hand, tend to relate quality to their own perceptions of job security and professional autonomy.

If quality teaching is measured in terms of superior student achievement then the relationship between these two variables needs to be more clearly delineated before the questions raised in this paper can be answered. Much of the research on how teacher characteristics affect student outcomes has been reviewed by Murnane (1980), but his work is not definitive.

Without any solid empirical basis, former research on legal administrative factors affecting employer-employee relations (and the consequent "mix" of personnel) has utilized two major indicators for quality: teaching credentials and teaching experience. The assumption is that the more



appropriate the credentials, or the longer the teaching experience, the higher the quality of the teacher.

Eberts and Pierce (1980) found that, in their broad sample of districts from New York and Michigan, teacher turnover was greater in non-union than in unionized districts, resulting in a greater proportion of senior teachers in unionized districts. They found, further, that this was especially true in districts where there was declining enrollment, implying that teacher contract provisions which included reduction-in-force according to seniority were strongly influencing the age/experience mix of personnel.

Dennis Encarnation (unpublished draft) is examining the effect of reduction-in-force provisions on the ability of administrators to hire teachers for categorical aid programs, particularly those for the bilingual and handicapped. He is finding that, especially under conditions of declining enrollment, teachers with specialized credentials are competing for jobs with more senior teachers who lack specialized credentials. The existence of contract provisions favoring the retention of senior teachers could have a definite impact on the overall composition of the teaching staff for these special programs.

Mitchell and colleagues (1981), in their study of eight districts in California and Illinois, reinforce Encarnation's conclusions. Their data lead them to believe that "teacher organizations have a great deal of difficulty supporting the interests of specialists" (p. 157). In fact, a variety of factors combine to place specialized teachers in a decidedly inferior role at the bargaining table. With the exception of specialists

who are specially funded and specifically required by law, Mitchell sees "a steady drift away from the use of categorical specialists to carry on the instructional program of the school" (p. 158).

The Manner in Which Decisions are Made About the Hiring, Firing, Transfer, and Utilization of Personnel

The combination of a contract and a set of state statutes that protect the rights of teachers can exert a strong influence on district-level decisions about the hiring, firing, and transfer of teacher staff and their daily responsibilities.

As mentioned in the previous section, seniority and reduction-in-force contract provisions can influence the manner in which positions in special programs are filled. The dismissal of teachers, however, is probably the issue that is most comprehensively governed by both contract provisions and state statutes. Oregon's Fair Dismissal Law exemplifies how the protection of teachers from "unfair dismissal" is becoming more and more a matter of statewide regulation. In general, this law makes it relatively easy for an administrator to dismiss a "probationary" teacher (a teacher who has taught fewer than three years in the same district). The dismissal of permanent teachers, on the other hand, can be extremely difficult. By law, permanent teachers can be dismissed only for certain specified "offenses," and the evidence the district produces to provide the basis for dismissal must be collected in a non-prejudicial manner. For instance, if the basis for dismissal is "inadequate performance," the district cannot appear to be building a case for dismissal through its evaluation procedure. By law, evaluation is primarily intended to provide guidance in

improving the performance of teachers. Dismissal can be justified on the basis of inadequate performance only if the teacher shows no sign of improvement after several properly managed evaluation procedures.

Oregon's Fair Dismissal Law also contains well-defined procedures for dismissal on "nonpersonal" grounds. That is, if a district is suffering declining enrollment or needs to eliminate courses, every effort must be made to transfer permanent teachers rather than dismiss them. Merit and seniority must be considered when such transfers are made.

Almost no research has been specifically directed at the influence of state statutes, such as Oregon's Fair Dismissal Law, on the transfer or dismissal of teachers at the district level. What research there is tends to view the statutory framework as a background variable and focuses instead on the influence of collective bargaining itself on the dismissal, transfer, and utilization of instructional personnel.

Johnson (1981) gathered data from six districts in six states for information regarding the effects of collective bargaining on the role of the principal and the management of the school. She noted that in four of the six districts the contracts required teacher layoffs and transfers to follow seniority rules. In addition "procedural restrictions on the principal's power to transfer or terminate teachers for poor performance reduce the principal's control over who staffs the school". (p. 6).

Johnson also documented some of the ways in which the emerging legal-administrative climate is affecting the utilization of personnel on the school site:

The teachers' contract also has reduced the principal's right to control teachers' time, both how long they spend in school and what they do while there. Teachers in all but one sample district had a contractually defined work day, before or after which the principal could not expect them to be on duty. In most districts, teachers, not principals, could determine how and where they would spend their preparation periods. No teachers could be assigned to cafeteria duty during their lunch; in some districts they could not be assigned to lunch duty at all. While principals retained authority over teachers' classroom time, they were restricted by the contract in regulating the use of non-teaching time. As one principal said, "I can't say 'Be here' and 'Do this' anymore" (p. 6).

In addition, Johnson noted that most contracts limited principals' freedom to set class size, to determine number of preparations, and to assign teachers to particular courses. One of the most striking changes from the precollective bargaining era was that introduced by the grievance procedures. Since principals, under most grievance systems, "no longer have the final say in disputes about school policies and practices," their autonomy is inhibited. In fact, according to Johnson, the mere threat of a grievance appears to have a significant impact on the authority of principals, placing them in the ironic position of being "accountable to the teachers they supervise" (p. 7).

Mitchell and colleagues (1981) conclude that collective bargaining is a major cause of:

- substantially altered definitions of teachers work responsibilities
- basic changes in the mechanisms that control how teachers will perform their jobs
- modifications in the authority available to school principals and other middle managers. (p. 155)

With regard to the first conclusion they note that the dichotomy between "regular" versus "extra" duties was explicitly recognized in all eight districts, contributing to the likelihood that teachers will be discouraged from performing those work activities identified as extra unless given additional compensation (p. 157). This implies that either there will be a decreasing utilization of instructional personnel for extra-curricular activities, after hours meetings, and student supervision activities, or that the overall cost of teacher salaries will rise.

Second, Mitchell and colleagues observe that the introduction of mutually agreed upon grievance and evaluation procedures has altered the manner in which administrators control teacher performance. Their study confirms "the accepted wisdom of labor relations theory--effective grievance procedures sharply reduce the inclination as well as the capacity of management to treat employees differentially" (p. 160). Their conclusions about evaluation procedures are less definitive. They find that both teachers and administrators lack confidence in these procedures as a method of improving teacher quality, yet, both sides appear to feel that evaluation is increasingly important.

Finally, Mitchell and colleagues support Johnson's conclusions that school principals' autonomy to utilize personnel as they see fit is increasingly threatened by the trend, which has been accelerated by collective bargaining, "toward more homogeneous and consistent interpretation and application of work rules among all schools within any given district" (p. 162).

McDonnell and Pascal (1979), in their on-site investigations of fifteen school districts in eleven states, conclude that the major district-level

effect of collective bargaining on the dismissal or transfer of personnel is the increased pressure to use seniority as the sole or predominant basis for such actions. Reliance on seniority has a variety of consequences for local districts including the following:

- Districts find it harder to meet federally imposed faculty desegregation mandates.
- As enrollment declines, it is more difficult to match particular school needs with the most appropriate and competent faculty.
- Reduction-in-force provisions based on seniority not only interfere with the retention of younger and perhaps more competent teachers, but also increase salary costs to support a predominantly senior teaching force (p. 75).

As for the school-level effects of collective bargaining, McDonnell and Pascal determined that the following types of provisions had significant influence on administrative treatment of instructional personnel:

- guaranteed teacher preparation periods and a limit on the number of different classes for which a teacher must prepare
- assignments restricted to the teacher's area of certification and made on the basis of seniority
- a limit on the nonteaching duties (e.g., clerical work and playground supervision) a teacher must perform
- class-size maximums that can be violated if the district shows just cause
- a detailed evaluation procedure that specifies the number of evaluations a teacher is subject to, the length and format of classroom observations, the timing of advance warning before evaluation begins, and the provision of opportunities for evaluations (p. 78-79)

Like Johnson and Mitchell and colleagues, McDonnell and Pascal report that the effect of such provisions is to give principals less freedom in "selecting which teachers will work in their schools and what duties each will perform there" (p. 78).

### The Working Relationships Among School Personnel

The increasing number of district-wide or state-wide rules and regulations regarding employer-employee relationships has had a two-pronged effect on the working relationships among school personnel. On the one hand, the increased consistency and predictability of both teacher and administrator behaviors has led teachers, in particular, "to feel more secure about what they do in their own classrooms" (McDonnell and Pascal p. 78). A similar perception of the role of security in promoting positive working relationships among school personnel led Murnane to conclude that "riffing" on the basis of seniority, rather than merit, may be more appropriate in school systems where merit is difficult to determine (Murnane 1981). On the other hand, as has been implied in the previous section, teacher collective bargaining may impair the working relationships between teachers and administrators where it has increased pressure on school principals to be more careful in their relationships with teachers (Mitchell and colleagues, p. 162).

Increased feelings of security among teachers and a more formal relationship between teachers and principals are recurrent themes in the literature that attempts to assess the impact of collective bargaining on working relationships among staff. However, it is dangerous to generalize too broadly. For example, it has already been noted that although regular teachers may feel more secure as a result of collective bargaining, specialized teachers may feel quite the opposite as a result of seniority provisions favoring the more experienced regular teachers (Mitchell and colleagues, p. 157-58).



With regard to the allegedly increased formalism of relationships between principal and teaching staff, Johnson (1981) provides a caveat. She asserts that the degree of formality or informality is largely a function of the principal's strategy. In her sample of six districts, "some principals embraced the opportunity to involve teachers in school management while others strictly limited teachers to advisory roles. A few used the contract to manage the school and insisted on literal compliance with its provisions, while most minimized its role and relied instead on reciprocal relations with teachers to get things done. While most carefully complied with the contract, some did so in order to preserve their right to exercise all available management prerogatives, while others did so only to avoid trouble. There were a small number of principals who actively opposed the union and a small number who abdicated to it. Some principals coped well, most managed, and a few didn't cope" (p. 19).

Johnson classified the major strategies of principals as "aggressive," "defensive," or "reciprocal." While no particular strategy proved to be a "prescription for success in managing labor practices at the school site" (p. 25), the "reciprocal" strategy at least had the advantage of greater informality since it was based more on the philosophy that teachers and administrators needed each other in order to make the school work. Under this strategy the principal was willing to bend the provisions of the contract to meet the needs of teachers if, in turn, the teachers would refrain from initiating the grievance procedure whenever anything went wrong. In essence, when this strategy was used, the contract was viewed "as a guide rather than a rule book" (p. 24).



In assessing whether a formal or informal strategy of contract enforcement is preferable, Johnson states that the answer depends on the nature of the staff. If the staff shared common goals and seemed able to develop their own programs without interference from district-level union officers, then the informal "reciprocal" strategy seemed best. However, in the case of the largest, most urban district in her sample, where principals retained no control over staff composition because of frequent seniority transfers, and where district union staff members were active in monitoring contract compliance in the schools, the maintenance of constructive reciprocal relationships was extremely difficult (p. 2). In this district the principal most likely to succeed was the one who adopted the "aggressive strategy."

The Manner in Which Decisions are Made about the Classroom Agenda and the Use of Resources and Incentives to Improve Student Outcomes

Investigation of the effects of collective bargaining on student achievement has yielded mixed results. Data from New York State indicate that districts with a relatively high number of contract items employ teachers with a higher level of education, which is related to higher achievement test scores (Eberts and Pierce 1980, p. 186). The presence of a provision for teacher aides in teacher settlements was found to be correlated with higher mean test scores and a smaller variance among students' scores, a likely result of the increased time available to teachers for purely instructional purposes (ibid, p. 187). On the other hand, the results show that newly hired teachers are

more highly educated than their predecessors. Consequently, where unionization serves to decrease teacher turnover, the level of teacher quality may also be lower than for non-unionized districts. Still, the increased overall quality of teachers resulting from a higher teacher turnover rate must be weighed against the costs of recruiting and training new teachers.

It remains to be seen whether policy-related issues will become a more frequent feature of bargaining, now that salary increases are limited by declining resources. However, teacher involvement in school policy decisions can be expected to alter the educational process. Eberts and Pierce found that districts with a class-size provision tended to use a more traditional classroom organization, which was correlated with a smaller dispersion of student achievement scores within the district. Their findings additionally indicated that the existence of a provision for teacher preparation periods was also related to a smaller variance in student scores in the district. Consequently, it can be expected that teacher involvement in policy making, through collective bargaining, may have a significant impact on student performance.

Eberts and Pierce also found that "strong unions, as reflected by the number of contract items negotiated, use their power to increase per-pupil spending." However, the increased per-pupil spending may be more than swallowed up by the increased cost of instruction, leaving fewer dollars for other resources. Johnson (1981) cited some teachers in all six districts under study as saying that the "union pursuit of high salaries and reduced duties was at the expense of well-maintained buildings,

adequate supplies and equipment and inservice training" (p. 16). This evidence, however, is of a more anecdotal nature.

An investigation of the degree to which collective bargaining is impinging upon the policy-making function of educational administrators could address the assumption that there is at least an indirect effect on decisions about the classroom agenda and the use of resources and incentives to improve student outcomes. For example, McDonnell and Pascal cited an "extreme case" in a school district whose contract appreciably constrained school management.

Here teachers are no longer required to perform clerical duties; secondary teachers receive additional preparation periods for each subject (seventh-, eighth-, and ninth-grade English, for example, are all considered separate subjects); and they cannot be assigned to more than three teaching periods or two preparation periods in a row. Until state law superseded the contract, teachers could refuse to teach students who needed the assistance of special education teachers. The contract even affects curriculum content because it now mandates labor studies as a high school elective. Principals can no longer see a teacher's grading book without first informing him/her of the reason for the meeting. The teacher may then be accompanied by a teacher organization representative. In evaluating teachers, supervisors and principals can only use a two-point rating system (satisfactory or unsatisfactory). If a central-district administrator enters a school building, the teacher organization building representative must be informed of this person's presence (p. 79).

It is apparent that such a contract gives teachers a great deal of actual and potential power over school policy. Clearly it is the exception, not the rule. Yet in certain areas at least (e.g., controlling the mix of personnel for specialized programs), collective bargaining may be giving teachers a significant role in the establishment of policy. None of the studies cited previously make any definitive statements about this.

potential effect of collective bargaining. Yet they all imply that where contracts strongly support teacher rights, administrative discretion to formulate and implement policy may be substantially reduced. More careful attention to this critical issue is merited.

#### IV. Interactions of School Personnel with Parents and Other Citizens

Both teaching personnel and educational administrators confront problems in the involvement of individual parents and parent groups in educational decision making. Additionally, district- and building-level administrators must monitor and respond to the views of a wide variety of community members regarding school policies and practices and their financial implications. To help school personnel improve their performance in these areas, a more systematic research effort is needed. Furthermore, effective strategies must be developed for training educational personnel to utilize these research findings in practical situations.

Of primary importance to the successful management of schools are the ways in which educational administrators monitor and respond to the views and reactions of community members. Although public involvement in school board meetings is sporadic, and "deference to professional expertise is generally the norm" (Tucker and Zeigler 1980), educational administrators often utilize selected individuals to sound out how the community feels about particular issues. Some of these selected individuals may be formally involved in school boards or committees (i.e., advisory committees, task forces, PTAs). However, it cannot be assumed that the only (or even the most preferred) method for gaining citizen involvement in schools is through formally recognized school committees. Indeed, it appears likely that the official records and reports of these committees will reflect only a small portion of the ways in which administrators seek out and respond to

the views of community members. Yet, university-based researchers investigating community involvement often seem to be preoccupied with the written information that is generated by the committees, as if these documents represented the major vehicle by which administrators attempted to insure community participation. Due to limitations of time and resources, researchers may find it convenient to attend regularly scheduled meetings of particular committees or to review the minutes of school board meetings over a long period of time. Although the financial costs of these data collection techniques may be low, such techniques generally do not provide comprehensive descriptions of the ways in which administrators attempt to insure community involvement.

To assist educational administrators in managing the time and effort they expend on monitoring and responding to the views of community members, a variety of studies are needed on the processes by which administrators gain information from selected individuals regarding community opinions. Few of these interactions between school administrators and selected community members are likely to be scheduled on a regular basis or documented in writing. Nevertheless, they may represent a significant tool for gauging community response to school policies and practices. The relationship between information secured by administrators through these formal and informal processes must be clarified. For example, the informal interactions with selected community members may provide administrators with a perspective on the desires of the community which is only subject to slight modification by the opinions expressed in formally constituted committees. On the other hand, some administrators may rely heavily upon written reports of

official committees as valid expressions of the views of all community members. The effectiveness of each of these administrative strategies in particular situations needs to be examined.

A major concern of both building- and district-level administrators is the management of committees that are designed to increase the community involvement in educational decisions. The number of these committees has increased as administrators have felt the need to secure more sustained and systematic input from community members. Additionally, federal and state laws have required the establishment of some of these committees (i.e., Title I and Special Education Advisory Committees). Although much of the work of these committees tends to center on the development or analysis of written documents, it is by no means clear that this is their most important function. Research is needed on the various ways that these committees may be used supportively by professional personnel as well as the ways that the committees function to promote citizen involvement. For example, these committees may provide a path for citizens to become members of the informal network that administrators use when they wish to test a community's reaction to a proposed change. By utilizing committees in this way, administrators may be able to predict more accurately the views of segments of the community regarding school developments. The proposed shift in federal funding for education from categorical to block grants is likely to affect the parental advisory committees, which were created by Title I and P.L. 94-142. During the next few years it will be of special interest to note whether local districts maintain these committees or whether any of their members become part of the informal network of individuals that administrators use to assess district performance.

When faced with particularly controversial issues, school administrators need practical guidelines for effectively involving both organized committees and selected individuals from the community. Often, the opinions of individuals and committees are seemingly solicited on issues that have already been decided by the administrators. Further research could identify more effective timing of and information gathering processes for administrative decision-making. For example, an administrator faced with a particular issue could ask for judgments regarding the following:

- whether the issue was a major problem
- whether important aspects of the problem were being ignored
- whether the process that was being used to resolve the problem was appropriate
- whether the data that were being collected about the problem seemed reasonable
- whether the choices that were made for solving the problem seemed to be producing unintended consequences

Depending upon the specific circumstances surrounding the issue and upon the timing of administrative decisions, a committee composed of parents and other citizens could conceivably provide valuable information to an administrator in each of these areas. Nevertheless, when issues are placed before committees without specifying the type of information that is desired, parents and other community members often become overwhelmed by the complexity



of the issue and their recommendations may be of little use to the administrators. To avoid these pitfalls, more research is needed on the strategies that can be used by administrators for managing the nature and timing of information that is sought from others.

Recently, several public policies have attempted to promote the involvement of parents in determining the educational strategies that should be utilized with their children. P.L. 94-142, The Education of All Handicapped Children Act, requires that schools make every effort to insure parental participation in developing individualized education programs for all handicapped children. The development of alternative educational programs and cluster schools within the regular public school system has apparently increased the commitment of some parents to participating in decisions regarding their children's educational programs. Proposals for utilizing voucher plans in education are in part justified on the basis that parents would become more involved in their children's educational program. Whether there would actually be an increase in participation among a broad cross-section of parents is open to debate. It appears that the ground rules for involving parents in educational decisions may in fact have a significant impact on which parents participate in and take advantage of the process. For example, in a study of one hundred and forty-five local hearings under P.L. 94-142 in California, Kirst and Bertken (1981) found that

Low income and minority parents participated in hearings less often than their numbers in school district would suggest. . . . In addition to their low participation rates, low-income parents pursued a limited range of issues in the hearings. Nearly all

of them were trying to maintain public support of their children's private school placements while the school districts were trying to return them to public programs. Higher income parents were much more likely to pursue new services and a variety of related services than were those in the low-income group (p. 4).

Thus, it appears that if the involvement of all parents is desired, then specific strategies must be devised to insure participation by parents from different socioeconomic and cultural backgrounds.

School personnel must also learn how to manage their interactions with parents who, for whatever reason, choose not to be involved in decisions about their children's educational programs. Some districts have expended considerable effort attempting to track down parents in order to reschedule meetings that are required under The Education of All Handicapped Children Act. In some situations, the expenditure of this time and effort has not produced any increase in the desire of parents to be involved. Thus, in addition to helping teachers and administrators facilitate parental involvement, personnel training programs must also prepare professionals for dealing with situations where parents do not wish to be active participants.

Boyd has suggested that citizens play a more active role in school policy making when the issues are highly visible or, in his terms, if they are "external" issues. He defines internal and external issues as follows:

Internal issues involve decisions on such matters as the school curriculum and personnel policy, the consequences of which are generally perceived to be largely confined to the school system itself, at least in the short run. They also involve the kinds of matters for which the expertise of the professional educators is thought most relevant in decision making. External issues, on the other hand, involve matters such as decisions on school construction and facilities and school finances, which have an immediate visible and tangible effect on the ecology of the community

as well as on the school system itself. Here, the opinion of the public tends to carry as much, and often more weight than expertise of the professionals (Boyd, 1976, p. 566).

Given that "external" issues, such as school closings and budget cuts, have become more and more prevalent in recent years, school administrators may need more preparation to adequately handle the level of citizen involvement that stems from concern over these issues.

In summary, research is needed on strategies for managing both the involvement of citizens in policy formulation and the participation of parents in choosing specific educational programs for their children. Ultimately, this research must be focused on developing procedures that enable school personnel to improve their performance in practical situations. Furthermore, these procedures must be incorporated into personnel training programs so that teachers and administrators may improve the quality of their interactions with parents and other community members.

### V. Directions for Future Research

The educational process has been increasingly influenced by legal-administrative factors over the past two decades. While much attention has been given to the laws themselves, more intensive research is needed to determine how legal requirements actually affect the educational process at the school and classroom levels. Mark Yudof describes present deficiencies in law-and-education research as follows:

Much--but not all--of today's law-and-education research is misdirected in its approach to the interaction of law with educational institutions. There is a preoccupation with the United States Supreme Court and the United States Constitution that tends to lead researchers to ignore other sources of laws. . . . This not only includes state courts--a subject of some scholarly concern--but also federal administrative agencies, Congress, state legislatures, and state and local boards of education. Superintendents and principals promulgate formal and informal rules (in school handbooks, for example) and social scientists have noted that teachers establish a "constitution of the classroom" (1979, p. 12).

Consequently, a multi-disciplinary approach is needed to understand the educational, organizational, and political impact of laws on schools.

Recent or portending changes in the political and economic dimensions of public schools make a renewed research focus on law and schools all the more critical. Guthrie summarizes some of these potential shifts as follows:

The electoral base for public schools will continue to shrink. Competition for resources will become even more pronounced. Decisions about public education will become even more politicized and centrally made. Conflict within the education community itself might intensify. Disagreement regarding the purposes of public schools might encourage present efforts to increase private educational offerings. . . . The sum of these conditions is likely to be the strongest challenge public education has faced in at least half a century (1981, p. 75).

While, as Guthrie has stated, a greater degree of centralization in educational policymaking has occurred within states as a result of a general shift towards a stronger state role in school finances, a movement towards decentralization may occur at the national level as a result of block grants or a consolidation of categorical programs (Ginsburg and Turnbull 1981). The likely result of both of these trends is a more powerful state role in educational policy-making. For this reason the proposed research agenda focuses on legal-administrative processes at the state level.

All of the possible trends noted by Guthrie can be expected to have major consequences for personnel management in education. An increasing degree of politicization in the field of education, due to greater competition for resources, makes it increasingly important that school administrators learn to manage conflict with district personnel, parents, and community groups. The controversy regarding certification and other laws affecting the educator labor market is likely to intensify as positions become more scarce. Conflict related to collective bargaining can be expected to increase in the future if a stronger state role in educational policymaking encourages greater union lobbying of state legislatures for gains they could not obtain at the negotiation table.

The way in which the public schools react to these challenges is especially critical at this time given the increased interest in vouchers and tuition tax credit plans, as well as the fact that private school enrollments have increased while public school enrollments have declined. In the past, public school personnel have resisted change. Pincus argues that this resistance stems from the non-competitive nature of the public

schools. He states that the public schools will be less likely than competitive firms (i.e., private schools) to adopt innovations that:

- change the accustomed authority roles and established ways of doing business, because changes in these relations represent the heaviest kind of real cost to bureaucracies
- change the resource mix (e.g., a higher ratio of teacher aides to teachers, sharply increased use of capital-intensive technologies), because any consequent productivity increases are not necessarily matched by greater "profits" to the district, and because any replacement of labor by capital may threaten the guild structure of schools (1974, p. 118).

Michaelsen claims that vouchers may be the only way to increase the responsiveness of school personnel to the desires of clients. He states that under the current system there is little accountability for service delivery since "clients can enter the process only to the extent that administrators and teachers permit them to do so" (1974, p. 242).

However, with rapidly declining enrollments school personnel have an incentive to be more responsive to the needs of their clients in order to maintain their own job security. A number of urban school districts, including Washington, D.C., have currently undergone extensive curricular and organizational changes to compete with the white flight syndrome (Churchman 1981). The manner in which schools attempt to be more responsive, and the degree to which they are successful, will be an important issue for personnel management in public schools during the next decade.

While a formal voucher plan may or may not become more prevalent in the next decade, one of the basic premises of the plan--competition for students--already exists in a number of districts. By maintaining high levels of enrollment, schools are able to retain a full teaching staff. Consequently, it makes sense to examine the literature related to vouchers

to estimate the effects of future trends on school personnel. A survey of parents who participated in the quasi-voucher plan in Alum Rock revealed that of the issues surveyed, parents were most interested in course content decisions (approximately 75% wanted influence over curriculum) and least interested in being involved in teacher hiring and firing decisions (approximately 50%) (R. Gary Bridge 1976, p. 377). Parental desires to determine curriculum may create additional controversy in the future, considering the heated debate over evolution and scientific creationism and the growing competition between the public and religious schools.

Competition for enrollments may have an effect on school organization, as well as on curriculum. Chambers suggests that perhaps "schools operating under a voucher system will tend to operate at relatively smaller scales" (1981, p. 38) since a number of studies have indicated that smaller schools may be more cost-effective. This phenomenon may stem from the fact that smaller schools may promote stronger collegial bonds between teachers. Further research in this area is needed to inform decisions about school closings, since such evidence indicates that consolidation may not be the most cost-effective method for coping with declining enrollments.

Public school personnel can expect to encounter drastic changes in the legal-administrative issues over the next decade. These changes will have a dramatic effect on other laws currently affecting the educator labor market; the working relationships of school personnel, and the interaction between school and community. Future research should attempt to improve the utilization of human resources in schools in order to achieve greater student performance. In his review of the

school effectiveness literature, Murnane concludes, "It is on these human resources that researchers should concentrate, since they are poorly understood, play a central role in policy choices, and appear to dominate other resources." Further research on the management of human resources should help school personnel meet the challenges created by future changes in the legal-administrative environment.



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