



Should Labor Law Define Instructional Supervision?

Collective bargaining legislation is reshaping the practice of school supervisors in Pennsylvania.

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In the 32 states with collective bargaining laws,¹ school supervisors may be in danger of having their practice defined by labor's expectations for supervisors. The situation in Pennsylvania suggests that supervisors in other states would be wise to pay attention to the legal basis of their professional practice (Ball, 1979; Hazi, 1980).

In 1970, a Pennsylvania collective bargaining law defined a "supervisor" as: any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees or responsibly

to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.²

This is labor's view of the supervisor; it bears little resemblance to the public school supervisor who helps teachers and whose major responsibility is the improvement of instruction. Yet this remains the only legal definition and identity for the instructional supervisor in Pennsylvania.

Under Act 195, the Pennsylvania

State Labor Relations Board (PLRB) resolves questions about who is and is not part of the teachers' bargaining unit. This "unit clarification process" also legally determines who is and is not a supervisor. In each case disputing an employee's legal status, the PLRB uses job description, testimony, and the above definition to determine supervisory status. A review of this case law shows problems and inconsistencies.

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The PLRB has given supervisory status to a number of people whose practice was not related to the improvement of instruction—those holding such titles as Team Leader, Department Head, and Athletic Director. A job that included "observing teachers" was deemed to be supervisory in one case and nonsupervisory in another.³ The PLRB also judged a position to be supervisory when it involved an "authoritative relationship" and nonsupervisory when it was a "helping or assisting relationship."⁴ The PLRB has not allowed job title or professional supervisory certification to influence its decisions. In fact, in one case,⁵ the PLRB considered supervisory certification from the state department of education "immaterial" to its decision of legal status (Ball, 1979).

Practice Defined by Contracts

Supervisory practice is also being legally defined by teacher contracts. An analysis of selected 1978-79 teacher contracts revealed many detailed statements regarding teacher evaluation, inservice, and the curriculum (Hazi, 1980). They specified, for example, the purpose of evaluation, who evaluates, how often, how the evaluation is conducted, and how the evaluation report is to be prepared and distributed. Contracts also specified conditions concerning the use of electronic devices, the basis of evaluation, complaints used in evaluation, information not to be used, conferences, and efforts of improvement.

Provisions such as these can be included in teacher contracts because of a legal "catch 22." The courts have indicated that any item not explicitly defined or prohibited by state statute can be bargained. Because state statutes fail to define explicitly the instructional supervisor or instructional supervisory practice, these matters are being legally defined in teacher contracts.

Collective bargaining law, the unit clarification process, case law, and teacher contracts are legally defining and thereby controlling supervisory practice in Pennsylvania. Supervisors in other states should begin to pay attention to the legal basis for their own professional practice. ■

¹The 18 states without collective bargaining laws are Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Ohio, South Carolina, Texas, Utah, Virginia, West Virginia, and Wyo-

ning. See *Cuebook II: State Education Collective Bargaining Laws* (Denver: Education Commission of the States, 1980).

²*School Laws of Pennsylvania* (1971) as amended (1973), Sec. 3380.301(6). Act 195 was passed in 1970 and made part of the School Laws of Pennsylvania in 1973.

³*Eastern York School District* (Case No. PERA-U-5512-C), 6 *Pennsylvania Public Employee Reporter* 22 (1975).

⁴*Tamaqua Area School District* (Case No. PERA-U-8309-C), 7 *Pennsylvania Public Employee Reporter* 253 (1976).

⁵*Erie School District* (Case No. PERA-U-8209-W), 7 *Pennsylvania Public Em-*

ployee Reporter 254 (1976).

References

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