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SUPERVISION, EVALUATION AND CONTRACT RENEWAL



Several recent research studies on the importance of and time allotted to certain administrative tasks indicate that principals consider staff supervision a primary responsibility. However, many administrators readily admit that supervision ranks low in terms of the amount of time they spend. More immediate and seemingly more pressing concerns clamor for administrative attention. But the supervision of teachers has to be one of a principal's most important legal and ethical responsibilities.

The administrator is responsible for ensuring that qualified personnel are employed. Principals must make decisions about teacher performance. Teachers who do not leave voluntarily when found professionally deficient should not have their contracts renewed if remedies for improvement have been exhausted. Conversely, competent teachers should find supervision and emulation procedures a protection for them.

Often administrators find themselves struggling with the ethical as well as legal dimensions of situations. No one wants to end the employment of a teacher whose family livelihood depends on his or her income, but justice demands that students be provided with competent teachers.

Not Synonymous Terms

Supervision and evaluation of teachers are not synonymous terms. As most principals learned in administrative preparation classes, supervision is a formative experience and evaluation is a summative one. Practically speaking, supervision is the observation of teachers in classrooms or other instructional situations. Principals should make regular visits to teachers' classrooms.

Supervision can be problematic for both the principal and the teacher. A principal who never taught any grade lower than the sixth may feel inadequate in a fifth-grade teacher's classroom. A high school principal who taught English may feel less than competent in a physics classroom. Nonetheless, administrators should be able to recognize good teaching within five to 10 minutes of entering a classroom. If supervision is an ongoing process, both principal and teacher can grow together and help each other improve the learning environment of the school.

If supervision is seen as punitive, something that is done only if the principal is "out to get the teacher," it will not be successful.

Evaluation is summative: An administrator sums up all the available data and makes a decision

on contract renewal. Evaluation of teaching performance should be based on more than supervisory data. The principal will seek to answer such questions as "Does this person support the rules of the school? Does he or she look after the safety of the students?" as well as "Is he or she a good subject matter teacher?"

Evaluation, then, is a more encompassing concept than supervision, but both should be present in an effective school.

Teachers are in schools for the students. The students are not there for the teachers' employment. There is no more serious legal responsibility than ensuring that students are being taught by a capable, competent, caring professional and that all teachers are encouraged and given the means to become the best professionals they can be.

The importance of teachers knowing what is expected of them cannot be underestimated. The faculty handbook should contain a statement of the supervision and evaluation a teacher will experience. For example: Who will supervise? How often? What besides classroom observations will form the basis for evaluation?

Supervision enables a principal to make legally sound decisions about contract renewal. Declining to renew a contract seems unethical if the principal has never observed the teacher on the job. Yet people have lost teaching positions because they "couldn't keep order" or were judged "incompetent," even though no formal supervision had occurred. Consistent, careful supervision ensures that people are treated in appropriate legal and ethical ways.

A Teacher's Protection

Supervision is also the teacher's best defense against unjust termination. Should anyone allege that a teacher is not doing an adequate job, the supervisor's observations can protect the teacher. If a parent were to claim that a student now in the third grade could not read and the first- or second-grade teacher is to blame, it would be hard to prove the claim false if no professional had ever supervised the teachers. If, however, a supervisor could say, "I visited Mrs. Smith's class four times last year and students were being taught reading concepts, they were reading, and Mrs. Smith's lesson plans contained adequate time for the teaching of reading," it would be much harder, if not impossible, for an accusation to be supported.

Nonrenewal Decisions

If a decision is made not to renew a teacher's contract, administrators need to be clear about the teacher's employment status. Public school teachers may have tenure, an expectation of continuing employment, while Catholic school teachers, unless protected by a union contract, generally do not. Catholic schoolteachers are usually employed under one-year contracts.

Nonrenewal of contract and dismissal from employment are not synonymous terms. Nontenured teachers do not have the same rights as tenured teachers at the end of a given contract year. A nontenured teacher has no guarantee of continued employment.

Of course, one should not decide lightly against renewing the contract of a teacher who has been in a school for a substantial number of years. A nonrenewal decision in such a case has ethical as well

as legal ramifications. Nonetheless, a person who has a year-to-year contract should not be seen as having a legal expectation of continued employment unless that person can give credible evidence supporting such an expectation.

It is good policy to state in the faculty handbook or contract the reasons and procedures for termination and nonrenewal of contract. Written procedures can make everyone's positions clearer and can give all parties guidance in working through termination.

Unless a faculty handbook or contract states otherwise, a nontenured teacher does not have to be given the reasons for nonrenewal of contract. It might seem that the ethical action would be to give the person the reasons so that self-improvement might be sought. Problems can result, however, when a teacher attempts to prove in court that the reasons are not true or sufficient. Such a situation is one example of an ethical and legal dilemma in which administrators can find themselves.

In a way, administrators are involved in a kind of juggling act—attempting to juggle the legal dimensions of one's position with the ethical ones. If, however, the principal has supervised properly and kept appropriate documentation, the decision of nonrenewal should not be a surprise.

Administrators might find the following suggestions helpful:

- Develop a planned, orderly procedure for supervising teachers.
- Publish and give the procedure to teachers.
- Treat all teachers consistently.
- Keep written records of observations and evaluations, being careful to do the following:
 - Stay with the facts.
 - Avoid speculation on motive or attitude.
 - Say nothing that doesn't have to be said.
 - Write with the certainty that others will read what is written.

Finally, one might consider these oft-quoted lines from Shakespeare's *Hamlet*: "This above all: to thine own self be true, / And it must follow, as the night the day, / Thou canst not then be false to any man" (I. iii, 75). If administrators strive to be true to their own best selves, they should be successful in both the ethical and legal responsibilities of supervision and evaluation.

Recent Developments

Continuing with the twin themes of law and ethics, a recent case from the U.S. District Court in Colorado illustrates the dilemma courts face today as they seek to balance First Amendment separation of church and state issues with the mandates of antidiscrimination legislation.

In *Powell v. Stafford*, 859 F. Supp. 1343, a religion teacher in a Denver Catholic high school brought an action under the Age Discrimination in Employment Act (ADEA) when his contract was not renewed. He had taught in the high school for 13 years under a series of one-year contracts. The ADEA makes it illegal for an employer to "fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age" (29 U.S.C. s 623 (a)). The Archdiocese of

Denver answered Mr. Powell's complaint by stating that it was not subject to the ADEA and if it were subject to the law, it could not be applied in this case because it violated the Free Exercise and Establishment clauses of the First Amendment.

Antidiscrimination legislation will be upheld if the state has a compelling interest in it and there is no less burdensome way to achieve that interest. However, age discrimination does not trigger the same compelling interest issues that racial discrimination does. As long as there is some rational basis for age classification, the classification will probably be upheld. For example, the right of commercial airlines to require pilots to retire at age 60 has been upheld.

Mr. Powell is a laicized Catholic priest whose responsibilities included only those of a religion teacher. He alleged that the nonrenewal of his contract after 13 years was because of his age. The archdiocese maintained that Mr. Powell's nonrenewal was based on a need for fewer teachers and an administrative decision that he was less qualified than other faculty members.

Applying the three prongs of the famous *Lemon* test, the court held that (a) antidiscrimination legislation has a secular purpose, (b) it neither advances nor inhibits religion, but (c) policing age discrimination issues in the decision to not renew the contract of a religion teacher in a Catholic school would impermissibly entangle the state in the affairs of a religious institution. The *Powell* case cites the landmark *NLRB v. the Catholic Bishop of Chicago* case, 440 US. 490 (1979), in which the U.S. Supreme Court ruled that Catholic schools were not bound by the provisions of the National Labor Relations Act because of the potential for entanglement.

The Powell decision indicates that religious institutions have broad discretion in dealing with employees whose duties are clearly religious in nature. Although the issue is not raised in this case, one cannot but wonder what the court's holding would have been if the plaintiff had been a geometry or physics teacher. 