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# Educational Reform and Its Labor Relations Impact—An Introduction

HUGH D. JASCOURT

The majority of states are considering making major changes in public education. This potential, or even probability of change, has been generated by a number of major national studies resulting in publications or books describing the present situation as being at a crisis point. Political leaders, from both parties, have joined in declaring that change is imperative.

These declarations of urgency, although stated in many different ways and differing in modes of accomplishing expressed goals, have had a central theme. There is common agreement that the present system fails in attracting and retaining the most effective instructors. There is further agreement that the instructional program appears not to be sufficiently effective in providing students with what they need to successfully meet the challenges they will have to face in later academic life, the work place or the community.

The different studies each picture "the" correct vision of educational utopia. Because they try to describe the problem in a way to persuade the public that there is a need for change, and because they try to create a recognition that there is a better way than the prevailing state of the art, little attention is devoted to describing the path to utopia.

In effect, the message is that there must be a change of major proportions and that it is up to the public and legislators to create the mechanisms for change since public policy and laws will have to be altered to accomplish "reform." The almost religious fervor which has accompanied a great public debate, because it has focused on "the big picture," for the most part has ignored the pragmatic considerations of effecting whatever is the agreed upon change. One of the pragmatic aspects is labor relations and the attendant obligations of the exclusive representative of the employees. While it may be proper to determine goals before identifying means to accomplish them, the form the current debate is taking is likely to result in the belief that there can be instant change through legislation. Shock is likely to be felt when it is recognized

that collective bargaining obligations must be met prior to such change. The disbelief, accompanying unfilled expectation, may produce much avoidable conflict and undesirable consequences.

If it were not for the emotion surrounding educational reform and the magnitude of the public policy issues involved, there should be ready recognition that education change is subject to the same processes as other change. If a city adopts a residency law for its public employees, it cannot unilaterally impose that requirement on current employees.<sup>1</sup> If a state legislature imposes fiscal austerity, it cannot abrogate existing collective bargaining obligations.<sup>2</sup>

It should be obvious that the recommended changes in education are no different. The obviousness should be inescapable when teacher pay is one of the areas of debate. The irony is that union or employee rights are not the only rights which may be trampled by the stampede toward educational reform. Management rights may fall victim, too. Consider these examples:

1. One of the areas marked for change is classroom size. The reports and studies appear to confirm teacher claims that classroom size directly impacts on their competency or, at least, the public perception of their competency. However, many school boards view classroom size as a management right not subject to bargaining.

2. Similarly, teachers claim that their instructive ability and time is impaired by administrative tasks. At the same time school boards view that they have the right to determine who will do certain work. A legislative solution may limit management's discretion.

3. Evaluation of teachers is another topic commonly addressed and similarly is a recognized management function. An almost irresistible force appears to be pushing teachers and their unions into some form of partnership or sharing if performance based salary is to come about. The mere fact that many schools lack formal evaluation procedures may open the door to union participation where unions have not desired to do more than to create safeguards for those under evaluation.

Almost every major recommendation has significant labor relations implications to both management and unions. The two articles which follow attempt to create an awareness of the collective bargaining obligations which must be met. Our goal is to reduce the possibility of shock and to set out a road map to successful change. Our further goal is to heighten an appreciation that collective bargaining may assist in achiev-

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<sup>1</sup> *Detroit Police Officers Ass'n v. City of Detroit*, 214 N.W.2d 803 (Mich. 1974); *Detroit Fed'n of Teachers v. Board of Educ.*, 237 N.W.2d 238 (Mich. Ap. 1975).

<sup>2</sup> *Sonoma Organization of Public Employees v. County of Sonoma*, 152 Cal. Rptr. 903 (Cal. 1979).

ing goals or that at the very least collective bargaining is not antithetical to change if the process and the use are fully understood.

We are indebted to Lawrence A. Poltrock, the General Counsel of the American Federation of Teachers, for providing the union perspective. We are equally indebted to Steven B. Rynecki and William C. Pickering, whose law practice spans the nation, for providing us with both a management perspective and a step-by-step analysis of the potential legal obligations, using the major recommended reforms as practical examples.

