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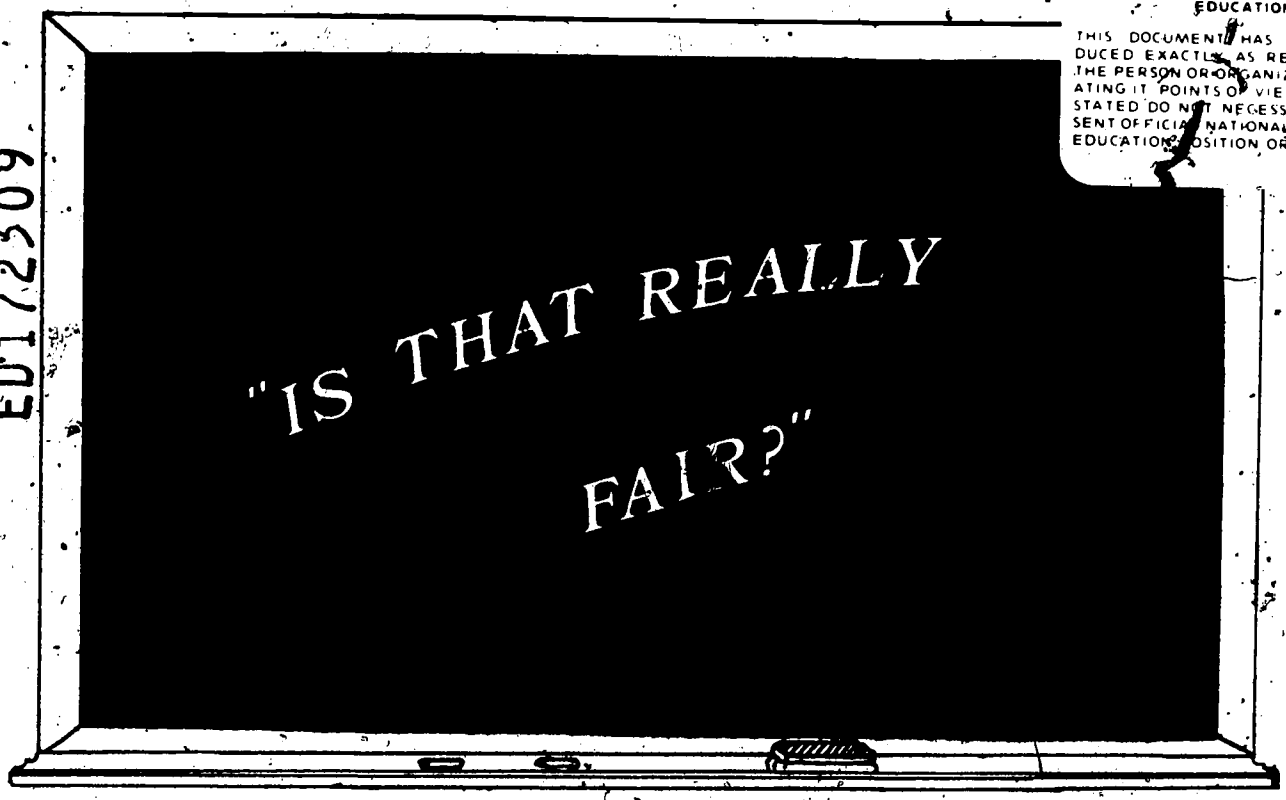
ABSTRACT

Adequate grievance procedures for use by students are still relatively uncommon in public schools. A survey of a limited number of specialists in student grievance processes, designed to indicate the range of thinking in the field rather than to find a consensus, showed general agreement that due process and legitimate grievance channels are needed, but revealed a variety of opinions concerning grievability, outside review, student and patent participation, and implementation strategy. Robert McKay claims that adequate grievance procedures could alleviate the adversary relationship growing between students and schools. Paul Alphen discusses the concerns and roles of boards of education in grievance policies, including implementation and the effects of such policies on teacher contracts, program costs, and costs of court litigation. William Clifton argues that it is the State's duty to develop effective statewide grievance policies and oversee their application. Staff members from the Center for Community Justice analyzed six grievance processes used in junior and senior high schools and found all lacking. They recommend seven specific elements for inclusion in grievance procedures. Daniel Monti and James Laue discuss the failure of a court-approved grievance process in a Missouri district undergoing desegregation. Donald Murphy enumerates implementation strategies and tactics. (Author/PGD)



COMMENTS AND RESPONSES ON THE NEEDS, PURPOSE, STATUS, AND FUNCTIONS OF STUDENT GRIEVANCE PROCEDURES IN PUBLIC EDUCATION

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The National Institute of Education
U S Department of Health, Education and Welfare
Washington, D C 20208

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"IS THAT REALLY FAIR?"

Edited By

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Sandra L. Enos

April 15, 1978

Supported by

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JOSEPH A. CALIFANO, SECRETARY

MARY BERRY, SECRETARY FOR EDUCATION

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TABLE OF CONTENTS

PREFACE

This study of grievance procedures in public education would have been impossible without the assistance of many talented and dedicated individuals. In addition to the Contributors and Respondents identified elsewhere in this volume, Thomas L. Saltonstall and Mark L. Irvings provided valuable guidance to the editors of this volume.

Mr. Saltonstall, as Deputy Director of the New England Office of Community Dispute Services, has extensive experience as a trainer and program developer in the fields of equal employment opportunity, special education, and criminal justice.

Mr. Irvings serves as a consultant to Community Dispute Services and is a practicing attorney and labor arbitrator. Mr. Irvings has been involved in the development of mediation, arbitration, and conciliation programs in special education, corrections, marital disputes and employment discrimination.

Special thanks are extended to Joseph B. Stulberg, J.D., Vice President of the American Arbitration Association and National Director of its Department of Community Dispute Services. His accomplishments in mediating disputes in the public sector and in designing court diversion programs made his contribution particularly valuable.

Ms. Miriam Nazar and Ms. Patricia McMahon guided the project through numerous revisions and prepared the manuscript in its final form. Their patience and advice during all phases of the project made the experience an enjoyable one.

Of especial note was the guidance and assistance provided by Dr. Oliver Moles, Head, School Social Relations at the National Institute of Education. Without his encouragement and support, it would have been impossible to undertake this important work.

William F. Lincoln

Sandra L. Enos

Editors

April 15, 1978

CONTRIBUTORS AND RESPONDENTS

The following individuals responded to a questionnaire designed by the National Institute of Education on student grievance procedures and/or authored a paper on various aspects of student grievance procedures for this volume.

Contributor

Paul J. Alphen has served as a member of the Wayland, Massachusetts School Committee since April, 1976, and is also an officer in that town's Police Department. He has completed graduate work at Boston College and was awarded a Master's Degree in Sociology in 1977. As a school committee member, Alphen has been actively engaged in labor negotiations, fiscal control, and policy development.

Contributor

Charles A. Bethel is staff Attorney for the Center for Community Justice. He is a graduate of Yale Law School and has been involved in representing indigent clients in civil and criminal actions in state and federal courts. At CCJ, he has designed and implemented training packages for prison grievance programs in several states and worked with correctional staff and inmates in the development of grievance systems. He has authoried "Conflict Resolution in High Schools: A Modest Proposal" with other CCJ staff and has directed a year-long evaluation of problem-solving mechanisms in California secondary schools.

Contributor

Noel A. Brennan is Director of Field Operations at the Center for Community Justice. She has been involved in the design, implementation and evaluation of grievance procedures in correctional institutions, secondary schools, and psychiatric centers. Brennan has also supervised the implementation of curriculum materials for urban children for the National Institute of Education and directed an innovative special education program in Virginia public schools. Publications include "Conflict Resolution in High Schools: A Modest Proposal" which she co-authored with Charles Bethel, Michael Lewis, and Linda Singer of CCJ staff.

Contributor

William C. Clifton is Legal Counsel for the Rhode Island Department of Education. He has been a practicing attorney for six years, and is a member of the Rhode Island, Pennsylvania, and Federal bars. Clifton has been involved in a wide scope of activities ranging from advocacy in a welfare rights organization to prosecution as an Assistant Attorney General.

He is a graduate of the University of California at Los Angeles School of Law and an active member of the National Conference of Black Lawyers and the Rhode Island Bar Association.

Contributor

Sandra L. Enos is Coordinator of Program Development at Community Dispute Services in Boston, Massachusetts. She has extensive experience in program evaluation, grantsmanship, and research design and has worked in the criminal justice, correctional, and community development fields. Ms. Enos received a Master's degree in Sociology from Brown University with special studies in interdisciplinary urban research.

Respondent and Contributor

James H. Laue is Director of the Center for Metropolitan Studies and Associate Professor of Sociology at the University of Missouri, St. Louis. He is the author of Third Men in New Arenas of Conflict and is co-author with Gerald Cormick of a forthcoming book titled Principles of Community Conflict Intervention: Theory, Practice, and Ethics. He has also published many articles which have appeared in various professional sociological journals.

Laue has served as a mediator, consultant, and trainer for national organizations which include the Ford Foundation, the American Arbitration Association, Community Relations Services, the Center for Community Justice, and the Danforth Foundation. He also has served on the faculties of Emory University, Harvard Medical School, Washington University, and Hollins College.

Contributor

Michael K. Lewis is Deputy Director of the Center for Community Justice. He has extensive experience in the establishment and monitoring of grievance procedures in state and federal correctional institutions throughout the United States. He has also been involved in reviewing grievance procedures in secondary schools and in developing a dispute resolution system for psychiatric patients in Rochester, New York. He has published a number of papers on the subject of due process in correctional settings and has co-authored a study of problem-solving mechanisms in California high schools.

Respondent and Contributor

William F. Lincoln is New England Director of the Department of Community Dispute Services of the American Arbitration Association. Lincoln is nationally recognized for his training and technical assistance capabilities as well as his accomplishments in resolving disputes related to public school desegregation, adult correctional facilities, Native American involvements, public housing, community redevelopment, and various conflicts related to public policy. He has served on the faculty of the Franklin Pierce Law Center and presently is a Lecturer in City and Regional Planning at Harvard University's Graduate School of Design.

Respondent and Contributor

Robert B. McKay is Director of the Program on Justice, Society, and the Individual of the Aspen Institute for Humanistic Studies. He served as chairperson of the Special Committee on Attica and is currently a Board Member to the National Council on Crime and Delinquency, the American Justice Society, the Vera Institute, and several other organizations. McKay is the recipient of a number of honorary degrees and has published extensively in the field of law and public policy. He is the present Chairperson of the American Bar Association's Commission on Correctional Facilities and Services and serves as an active member of Special Committees within that organization on professional standards, legal training, and bar admissions.

Respondent and Contributor

Daniel J. Monti, Jr. is a Fellow at the Center for Metropolitan Studies at the University of Missouri, St. Louis, and is a member of that University's sociology department. He has been engaged in an intensive study of court-ordered desegregation in St. Louis, and has authored numerous articles dealing with public policy and community organizations.

Monti has served as a consultant to the National Institute of Education and the Law Enforcement Assistance Administration. He is the recipient of research grants from both the Danforth and National Science Foundations.

Respondent and Contributor

Donald J. Murphy is the Student Concerns Officer for the Prince Georges County, Maryland Public School System, the tenth largest school system in the United States. He coordinates student activities and student leadership programs, and works with bi-racial student committees in designing special problem-solving techniques applicable to a court-ordered desegregation school system.

Murphy edits a monthly newsletter entitled Regional Rap, and is the author of Student Structures: Moving Toward Student Government (NASSP).

Respondent and Contributor

Linda R. Singer is Founder and Executive Director of the Center for Community Justice (CCJ). A graduate of George Washington University Law School and practicing attorney, Ms. Singer has developed, implemented, and evaluated methods of dispute resolution in institutions and communities throughout the country. Singer has served as a consultant to the American Arbitration Association, American Bar Association, National Advisory Committee on Criminal Justice Standards and Goals, California Youth Authority, Ford Foundation, Law Enforcement Assistance Administration, National Council on Crime and Delinquency and other organizations. She has published extensively in law journals and the popular press and is co-author with Ronald Goldfard of: After Conviction: A Review of American Corrections.

Respondent

Martin A. Walsh is currently the Regional Director of the Community Relations Services of the U.S. Department of Justice which he has served in numerous capacities for the past ten years. His work has involved police/community relations, corrections, school desegregation, Indian affairs, migrant workers, civil disorders, housing, community organizations and other projects. Walsh was awarded a graduate degree in sociology from Catholic University in Washington, D.C., and is a Ph.D. candidate in sociology at the University of Maryland.

Respondent

Junious Williams is Associate Director of the Project for the Fair Administration of Student Discipline at the University of Michigan's School of Education. He has published several articles dealing with student rights and responsibilities, due process and disciplinary procedures. Mr. Williams is a graduate of the University of Michigan Law School and a member of the Michigan Bar.

ANALYSIS OF NIE SURVEY

ON

STUDENT GRIEVANCE PROCEDURES

by

Sandra Lee Enos

This chapter examines responses to a questionnaire on student grievance procedures designed by the National Institute of Education. This survey was used to obtain the thinking of several leading practitioners and academicians in the field of student grievance procedures.

From the responses provided by the contributors, it is apparent that the development of grievance procedures for use in schools is still in a formative stage. This is despite the fact that there are several sophisticated procedures in various school systems across the nation. While the respondents generally agree on the needs for due process and legitimate channels for student-initiated complaints, the issues of: (a) grievability, (b) outside review, (c) student/parent participation and (d) and implementation strategy remain unresolved.

The results of the survey seem to indicate the need for demonstration projects rather than additional survey research. Some areas to be carefully monitored throughout project implementation could include the levels of student involvement and satisfaction and the effectiveness and efficiency of the system to resolve complaints. Also to be considered is the development of a case tracking system to measure (1) patterns and practices of the school (2) frequency of grievances (3) racial, ethnic and sexual characteristics of students initiating complaints, (4) levels of compliance and (5) adequacy of responses.

The purpose of this introductory chapter is to provide an analytical framework for further exploration into the area of student grievance procedures. It is primarily directed to those interested in developing guidelines for intensive investigation into the factors, assumptions, and premises underlying practical procedures for resolving student grievances. However, students, faculty, administrators, parents, and others concerned with this topic should benefit by reviewing the results of this study.

Methodology

Because the subject of grievance procedures in schools is a relatively new area of student, the basic approach utilized in this project was exploratory. Emphasis was placed on gathering the best-thinking in the filed by eliciting responses to a short questionnaire. The questionnaire was designed to obtain information on definition of terms, underlying assumptions, applicability of concepts and other elements of grievance procedures. This is not a survey of large samples of decision makers, administrators, researchers, teachers, students, parents, and school/community interest groups on the needs, merits, advantages, disadvantages, utilization, and characteristics of various methods of addressing student grievances. Such a task would have been impossible with the time and resources available. The economic and practical implications are readily apparent. Neither did we attempt to determine the state of the art. Large sampling in a subject area

Analysis

where there is little agreement regarding definitions, processes and impact may lead to erroneous conclusions and over-generalizations. Such a survey entails considerable expense and requires large investments in time and energy, but too often can result with a return of minimal value. In a developing interest area, innovations and their value tend to be borne primarily by individuals who, incorrectly but for want of a better word, are identified as "experts" by their peers. Because of their professional qualifications, positions, experience and reputations, these individuals are regarded as being extremely knowledgable in the field and are able to offer unique perspectives on the subject at hand.

For reasons cited above, several such people were chosen as respondents for this project. In interpreting the results of the study, it should be kept in mind that the opinions of the respondents represent diverse, experienced, and highly respected thinking. Great care was taken to select individuals who had different reference points. Representation included persons from educational institutions, dispute settlement organizations, research institutes and school boards.1 Because these individuals have broad

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1. The following individuals responded to the NIE questionnaire. Full biographical sketches are provided in the Contributor section of the publication: James Laue and Daniel Monti (Center for Metropolitan Studies, University of Missouri, St. Louis, Missouri); William Lincoln (Community Dispute Services, Boston, Massachusetts); Robert McKay (Aspen Institute for Humanistic Studies, New York, New York); Donald Murphy (Prince George's County Public Schools, Maryland); Linda Singer (Center for Community Justice, Washington, D.C.); Martin Walsh (Community Relations Services, Boston, Massachusetts); and Junious Williams (Project for the Fair Administration of Student Discipline, Ann Arbor, Michigan).

exposure to both the problems and potentials of public education, their responses will provide the reader with clear direction regarding policy development (in contrast to policy conclusion) in the area of student grievance designs.

As will be seen in the discussion that follows, the respondents do not always agree with one another. Personal experience and individual research have led them to different conclusions or at least different points of emphasis. This indicates the need for further investigation into the development of different models, rather than the need for additional survey research to identify one particular solution which would be transferable to all schools at any point in time. Reponsdents were asked to design "ideal" models, identify existing projects, examine potential caseloads, anticipate outcomes and define issues requiring additional study and investigation. (A copy of the questionnaire along with individual responses is provided in Attachment A located at the end of this chapter).

Analysis

Responses will be reviewed in the order they appeared in the survey. Readers interested in full responses are directed to Attachment A. Areas of agreement and disagreement will be examined in an attempt to define a scope for analysis.

I. Definition of Grievance and Grievance Procedures

1. Grievance

The term "grievance" gained popularity through the labor-management acceptance of collective bargaining and the arbitration of contract interpretation and alleged breaches of the agreement. A commonly accepted definition of grievance in this context is as follows:

> A complaint made on behalf of an employee by his union representative, against an employer, alleging failure to comply with the obligations of the collective bargaining contract. The grievance may result from disciplinary action against the employee. Any complaint relating to an employee's pay, working conditions or contract interpretation is generally considered to be a grievance....[2]

The process for resolving such complaints was developed in the 1900's as an innovative approach for handling disputes short of resorting to strikes, lay-offs and work stoppages. Quoting from the same source, a grievance procedure is defined as:

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2. Robert Coulson, Labor Arbitration: What You Need to Know (New York: American Arbitration Association, 1978), p. 78.

> The steps established in a collective bargaining contract for the handling of complaints made on behalf of employees. A grievance procedure provides a means by which a union or an individual employee can submit a complaint, without disrupting the production process or endangering the employee's job. The primary intent is to settle the dispute as soon as possible ... These procedural steps vary from contract to contract ... If no settlement is reached, it may be appealed through successive steps... The grievant may be represented by various union officials...[3]

The extent to which these definitions can be applied to the school/student environment is a matter of dispute. The absence of a contractual agreement between students and the school has indicated to some that the labor-management model of dispute resolution is of little use in the school setting. This interpretation argues that existing grievance procedures have failed in schools because planners have transplanted the industrial model to a setting where it is inappropriate. This issue, i.e., the legal basis underlying the relationship between schools and students, has been somewhat tempered by the evolving character of *student rights* and due process. The definition of *student rights* have been modified and re-interpreted through a series of judicial decisions and legislative mandates. These include rights to due process in suspension/expulsion actions, special education programs and so forth.

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3. Ibid., p. 78-79.

In any event, the lack of a contractual agreement between students and schools does not appear to be the sole factor contributing to the under-utilization of grievance mechanisms and further, it is doubtful that there is as clear a deficit as some researchers might believe.

2. Grievance Definition

Panel members provided varying definitions regarding what constitutes a grievance. Most respondents described grievances as student allegations and complaints that policies, procedures, rules or regulations have been violated or unfairly applied. There is less agreement among respondents on the question of grievability (i.e., what issues should be within the scope of a grievance procedure).

Walsh confines grievability to issues of discipline, student activities and student rights while Singer proposes a broader definition where students and teachers in each individual school system decide what is grievable. McKay includes the possibility that staff be allowed to initiate complaints against students. The rationale for such a proposition is unclear since staff usually have other established procedures to seek redress.

In addition, staff-initated complaints may increase the adversarial nature of the grievance procedure and result in a series of charges and countercharges thus minimizing the chance of resolution. For purposes of discussion, the following definition is suggested as incorporating the general comments of the respondents.

> *A complaint or allegation by a student that rules, regulations, policies or procedures or aspects of student/school relations have been violated or unfairly applied.*

3. Grievance Procedures

Again, there were some differences of opinion among the respondents. McKay states:

> A grievance procedure is the process by which grievances are responded to by those responsible for the educational program and the keeping of internal order.

This definition seems to address itself to the traditional labor-management model while avoiding cooperative decision-making and policy development. It makes no mention of formality of process and neglects the role of the grievant in dispute resolution.

Laue and Monti provided the most comprehensive definition of a grievance procedure as a set of rules, forums, and sanctions involving written responses to complaints, multiple levels of appeal, outside review by neutral party, representation by students, administrators,

teachers and parents, enforcement of decisions and timely handling of complaints.

Singer responds to this question as follows:

> "Any formal means for addressing student complaints and suggestions can be termed a grievance procedure. An effective grievance procedure, at the very least, will be designed and operated by students and faculty and will provide a forum for resolving a broad range of student complaints.

Other respondents, such as Lincoln, Walsh and Murphy, contend grievance procedures involve both formal as well as informal ways of handling complaints. This perspective gives recognition to the fact there are many dispute settlers in schools today in the form of student counselors, class advisors and deans to name a few. This perspective also acknowledges that there are various models of grievance processes, e.g. ombudspersons, which do not necessarily require the broad participation of students, parents, faculty and/or administrators.

The argument here is over how loosely the term grievance procedure can be used. Some respondents reserve the term for only those systems that include written responses, broad participation and broad areas of grievability while others apply the term to include all problem-solving mechanisms in schools.

It is interesting to note the classic definition of a grievance procedure cited above only sets out that there must be a series of steps to handle complaints. The specific character or design of the process is to be determined through collective bargaining. This definition fosters the notion that a procedure be designed for a particular setting rather than proposing one model for all settings.

In summary, an acceptable definition of a grievance procedure in a school setting might read as follows:

> *The various procedures utilized by students to resolve their complaints by referring such to their individual schools' dispute resolution system which was designed and accepted by authorized representatives of all internal parties.*

II. Need for Grievance Procedures

1. Issues Causing Grievances

The kinds of issues which suggest the need for a grievance procedure reach into nearly every aspect of student life. According to the respondents, the types of issues which would be likely topics for a grievance procedure are those which involve larger issues such as discipline, grading, participation in school activities, student rights, racial discrimination and First Amendment rights. Most respondents stated the type, frequency and seriousness of grievances in schools depended to a large extent on

the individual school. Schools undergoing desegregation efforts will have different sets of grievances than will schools with more homogenous populations. The most serious issues likely to be grieved are those involving discipline and discrimination, according to the respondents. However, grades, course assignments and extra-curricular activities account for the greatest number of complaints.

Singer's research shows high visibility issues like freedom of speech, sex discrimination, and disciplinary due process were not cited as major problems by students. Lincoln reports the same.

Because the internal school community is most aware of that school's particular needs, the argument for proposing the internal school community define its problems and collectively determine grievable issues is strengthened when one considers the fact that each school presents a unique set of circumstances best known to students, faculty and administration.

2. Seriousness of Issues

Identifying the point at which an issue becomes serious enough to refer to a grievance procedure is a complicated decision. The ends of the grievance procedure, whether it is designed as a preventive measure to handle complaints before they escalate

into major confrontations or whether it is developed to address only serious problems, will determine when a complaint is defined as serious (Williams and Walsh). Other respondents felt that grievance procedures became necessary when student complaints had not been answered by the school administration (Singer), when grievances were dismissed in a discriminatory or arbitrary manner (McKay and Murphy) or when the parties were unable to resolve their disputes short of rancorous conflict (Laue and Monti). Whether a school has the capability to respond to a student's problem in a manner that is seen as fair and equitable is the basis upon which the decision to develop a grievance procedure should be made. In short, it is the quality of the response rather than the seriousness of the issue that determines the need for a grievance mechanism.

3. Parties to Grievance

Murphy and McKay limit the parties to a grievance to students, staff and other school officials. Singer, Williams, and Walsh include these individuals in addition to parents, members of the Board of Education and central school administration.

One might conclude: (a) the greater the number of parties to a grievance, the greater the need for formalized procedures and due process and (b) the greater the involvement of community representatives,

the less chance decisions will remain unenforced or unpublicized.

4. Characteristics of Schools

According to respondents, grievances will most frequently occur in those schools which are characterized by heterogenous student populations with a rapidly changing racial, economic and ethnic mix. Lincoln, Walsh, and Williams also mentioned the quality of administrative leadership, experience and effectiveness of classroom management, specificity of policy and regulations, consistency in application and enforcement of rules, strength and activity of student government and socio-economic status of the community as other important variables determining the level and intensity of student dissatisfaction.

Although grievances and complaints exist in all schools, the need to develop processes to resolve these appears to be greatest when there are few established informal networks among students and staff. In schools where students, faculty and members of the administration are acquainted with each other's family and are members of common social or community organizations, there are more opportunities for early resolution of disputes. These links are weakest for certain groups as they enter an already established organization. In the case of students involved in cross-town busing, there are few shared

experiences that establish a basis of understanding for dispute resolution. The major point to be made here is that independent of the kinds of changes happening in the school, concentrated attention should be directed to resolve problems at the lowest and most personal level. In desegregating districts, this will require special planning by the administration.

III. Existing and Potential Models

1. Existing Models

According to the respondents, the systems currently employed to resolve student complaints are characterized by informality and lack of established procedures. Respondents identified a wide variety of such mechanisms which include student governments, class advisors, counselors, student-faculty committees, ombudspersons, student advocates and multi-level appeals procedures. Singer describes these as problem-solving techniques which contain some desirable features. The above techniques, however, are quite distinct from those grievance procedures which incorporate: (a) student-faculty participation

(b) written responses

(c) timely resolution of complaints

(d) third party review

(e) enforcement of decisions and

(f) freedom from reprisals

The most commonly found system is one which leaves most of the decisions about student complaints in the hands of the administrator, principal or headmaster.

Williams believes that many systems designed to handle grievances have failed because students discover decision-makers seldom find in favor of them.

One interesting issue is whether existing models can be replicated or modified for implementation in other schools i.e., the potential for technological transfer. Lincoln, Singer, Murphy and Walsh do not place much hope in the prospect for this. They proposed that each school requires an individually tailored grievance mechanism. To quote Walsh's response:

> Unfortunately, the systems which work in specific or individual schools often cannot be replicated because of unique features which they contain, e.g., an atypical principal, an active student government body and parent council and student ombudspersons or advisors who help make the system work.

2. Promising Models

Respondents identified elements they believed essential to a model grievance procedure. For purposes of comparison, they are presented below in TABLE A:

TABLE A

Broad Issue Jurisdiction

Lincoln
Singer
Williams

Due Process

Laue and Monti
Singer
Walsh
Williams

Student Participation

Laue and Monti
Lincoln
Singer
Walsh
Williams

Outside Review

Laue and Monti
Lincoln
Singer

Parent Involvement

Lincoln
Walsh
Williams

Multi-Level Appeals

Laue and Monti
Lincoln
Singer
Walsh

Freedom from Reprisals

Lincoln
Singer

Written Timely Responses

Laue and Monti
Lincoln
Singer

Skill Training

Lincoln
Singer
Walsh
Williams

As shown in TABLE A, there are some areas of agreement with respect to fashioning an *ideal* grievance procedure. The need for student participation, due process, multiple-levels of appeal and skill training seem to be generally recognized while the issues of grievability outside review, and parent participation are subjects of dispute. Respondents also had some particular concerns. For example, Williams was the only respondent asserting staff should be allowed to file complaints against students.

McKay contends that several present grievance processes may be useful in particular situations. Ombudspersons, fact-finding by panels and mediation or arbitration of grievances are appropriate if they are based on a general principle which emphasizes informal resolution of complaints and fairness in fact and perception.

3. Less Serious Complaints

Repondents generally felt that disputes should be initially handled at the most informal level. Referring all complaints to a formal procedure immediately could overload the system with a large number of issues which could have been more easily resolved through other channels.

Williams proposed complaints be reviewed by a *mediator* prior to their filing with a student-faculty hearing panel. This *mediator* would then attempt to resolve

the complaint through informal means before submitting it for formal processing. Exceptions to this procedure would be allowed for complaints involving a group of students. These complaints would be filed directly with the panel. This kind of arrangement appears to provide a satisfactory middle-ground solution to the issue of "serious" vs. "frivolous" or "non-serious" complaints. If the *mediator* is directly responsible to the student-faculty panel and issues reports on her/his activities which are widely distributed, the possiblity that this proposal could work seems to be enhanced.

Lincoln suggests initial screening of grievances is mandatory to determine if an informal conciliation process might resolve the issue at hand. If not, then all student grievances within the jurisdiction of the process need to be heard, for what is frivolous to one person may be regarded as very serious to another.

4. Adoption of Procedures

When asked to identify factors that would affect the acceptance of grievance procedures in school, respondents answered in two ways. Laue and Monti, Lincoln, Williams, and Murphy stress the importance of local support and leadership. These factors are probably more essential

to the implementation of grievance procedures than is the general excellence of the "model" procedure. This approach calls for leadership at the community and school levels where administrators and students design procedures specific to their needs. Lincoln also gave particular emphasis for faculty inclusion in the design stage.

McKay, however, proposes a federal or national initiative:

> Ideally, model procedures should be developed at a national level, including several variations for local adaptation. The recommended procedures could then be reviewed at the state level. Training procedures could then be established for teachers and others responsible for administering the process.

This kind of approach might be doomed to failure, if administrators perceive it as a threat to their authority. Imposed innovations, especially ones which touch areas that are as sensitive as student rights, are likely to meet great resistance by local officials particularly if they are brought into discussion at the tail end of the process.

Lincoln also believes that a federal intitiatve is in order but that only guidelines should be provided at this time. A federal effort to develop options and alternatives could be especially helpful to school departments interested in addressing student grievance procedures in a creative fashion.

The interesting point in these responses is the attention the respondents paid to the factors unique to individual schools. It is perhaps a recognition that externally imposed solutions packaged and marketed by professional consulting firms and/or promoted by federal bureaucrats are not always appropriate to particular schools. This seems especially true in terms of grievance procedures. because the credibility of the process is rooted in ownership by the parties. This can only be achieved if the parties are actively involved in designing and evaluating the processes. It is a realization that "technology transfer" involves a great deal more than distributing exemplary project manuals and *how-to-do-it* guidebooks.

5. Staff as Mediators

Most respondents cautioned against the use of staff members as mediators. It would be impossible for teachers or administrators to perform formal mediation roles because they would not be perceived as neutral and objective third parties. However, the advantages of training staff members in fact-finding, mediation, conciliation and other dispute resolution techniques and skills were emphasized. It was generally thought that these skills would help teachers, counselors, and other staff members to handle complaints or grievances in an informal manner before resorting to the more

structured process. Lincoln and Singer propose students also be involved in all such training programs, since this would provide a shared basis of knowledge and skills in conflict resolution techniques.

6. Availability of Training Materials

7. Costs of Training Materials

All respondents agreed good training approaches existed and with modifications some existing curriculum could be adapted for use in the schools. Lincoln, noted, however

> Despite the availability of some training materials, we should recognize that each piece of curriculum was designed for a specific purpose -- and some for a specific audience. It would be a disservice to the parties and their process if we simply start emptying the shelves of existing materials without first evaluating the appropriateness of existing curriculum.

A number of organizations were identified by the respondents as excellent sources of training materials. These include the American Arbitration Association, Department of Community Dispute Servies, Center for Community Justice; Community Relations Service of the U.S. Justice Department and the Institute for Mediation and Conflict Resolution.

The costs of such training are very difficult to estimate. Williams believes such training should be incorporated into school curriculum to reach all students. However, the initial piloting and design of new material could be an expensive and time consuming process. On the

other hand, McKay believes such training should be confined to those individuals who will serve as mediators and that this cost should be relatively small. Lincoln believes such training should be incorporated into the required curriculum but recommends special training for active members of the hearing panel.

Singer offers some practical considersations by stating:

> Circumstances dictate that there be little or no cost to the school and that large blocks of in-school time not be required. Whatever training is provided must be the sort that can eventually be given by staff and students to their peers.

Laue and Monti maintain a training program for mediators should include a minimum of twenty-five (25) hours of readings, lectures, simultaions, small group discussions and apprenticeship. The cost of such training depends on the availability of skilled trainers. Murphy calls for forty (40) to seventy (70) hours of instruction which might cost $5000-$15,000 for ten (10) to fifteen (15) trainees.

In summary, great differences exist in projecting costs for training since respondents differ over which groups should participate in these sessions and how lengthy and intensive such training should be.

IV. Grievance Procedure Outcomes

1. Legal Considerations

Recent developments in judicial thought which provide

"due process" protection in suspension and expulsion actions (Goss v. Lopez) and which hold school officials liable for damages suffered by students deprived of their constitutional rights (Wood v. Strickland) have encouraged the establishment of some forms of appeal procedure in local school districts. Although case law has provided some impetus, respondents identified several factors which limit the continued expansion of the movement to full due process and shared decision-making. Williams and Singer cited state and federal laws which may limit the authority of a student grievance procedure. For example, a municipal code which names the school superintendent as authorized agent to make and enforce all disciplinary codes might restrict the power of the grievance body to address this area in any respect. Singer states California law gives teachers absolute authority with regard to grading student performances. In cases such as these, the grievance committee's power would be advisory rather than final. Other factors which may limit the scope and power of the grievance committee are: (a) teachers contracts which set out the rights of teachers to classify students, determine grades and administer certain levels of disciplinary control and (b) local school policies on probation, in-school suspension, and so on.

Lincoln contends that any in-school grievance process ought only to be advisory, since no principal or headmaster can or ought to abrogate her/his responsibility as the final decision-maker for the school. His experiences have shown proper training of student-faculty panels will result in recommendations which are objective and fair, thus allowing the chief administrator to accept the recommendations in total. He maintains this will increase and not diminish the credibility of the process.

2. Measurement of Equity

The perception of the grievance procedure as fair and equitable is essential to its success. Respondents indicated that the process had to be easy to understand, free of legalisms, simple to use, responsive, consistent, free from threats of retaliation and aggressive in publishing results and monitoring compliance with decisions. Lincoln holds strong reservations about publishing outcomes of individual cases but agrees that matters of policy interpretation should be widely disseminated.

Measuring fairness and equity is a difficult task. Lincoln, Singer and Williams suggest participant surveys might be utilized to ask questions such as:

(1) Was the procedure easy to use?

(2) Did the hearing panel seem objective and impartial?

(3) Does the decision seem fair to you?

(4) Do you think you were fairly treated?

(5) Do you understand the reasons for the decision?

(6) Do you agree with it?

(7) Would you use the process again?

(8) Do you propose any changes?

Because the utilization of the system is an indication of the students' belief that the process is fair, Lincoln Singer and Williams suggest using caseload tracking as an evaluation tool. Measures like number and types of complaints, number of repeat claims and use of appeals could be used to evaluate effectivness, efficiency and equity.

3. Evaluating Efficiency and Cost

Whether a system is efficient or costly depends to a great degree on the basis of the comparison. Lincoln, Laue and Monti, Walsh, and Williams state that the cost should be evaluated in terms of the potential damage and disruption resulting from unresolved disputes. They state that grievance procedures will be more than cost-effective if they can successfully resolve student complaints at the earliest possible points.

The major expense in establishing these models is for the staff. This is especially true in systems deciding to employ staff for this specific purpose as mediators, advocates or ombudspersons. Staff time may also be needed to attend hearings, supervise compliance, counsel students on appeals and so on. Costs could also include training for participants and administrative expenses for record-keeping and case management. Lincoln suggests no extra staff need to be hired to implement a grievance procedure and, in fact, some administrative costs could be reduced.

Needless to say, the cost of the system depends on the kind of procedure established. A project employing an ombudsperson to handle a limited number of grievances on a part-time basis would not require the kind of financial support for training, record-keeping nad other expenses demanded by a system-wide panel with broad participation and wide jurisdiction.

4. Intelligibility

As stated above, all respondents agreed that the system should be both simple in design and easy to understand. All aspects of the grievance procedures should be translated into language that is comprehensible. The written policies must include information regarding jurisdiction, time frames, levels of appeals, sequence, forms to be used, and rights and responsbilities of

students in filing complaints.

Intelligibility may in part be measured by student utilization of the procedure. The intelligibility of the process can become a grievable issue, and students and staff must have the freedom to redesign various components of the system through collective planning.

5. Expected Impacts

Respondents have differing expectations for the kinds of impacts that can be produced by grievance procedures. All agree a better understanding of rules and regulations would result and the perception of discriminatory or arbitrary handling of discipline and other matters would be modified.

Lincoln, Laue and Monti are most optimistic and believe grievance mechanisms should reduce vandalism, classroom disruption, fights and suspensions; increase participation in the extra-curricular activities; enhance the dispute resolution skills of students; faculty and administrations and provide a feeling of "community" within the school. Other benefits cited are increased communication among all parties, greater respect for other opinions, and the ability to diffuse complaints before they escalate into major problems.

Murphy, Singer and Williams are more cautious in their projections. Murphy states:

> I do not expect that a grievance mechanism will improve disruptive behavior any more than it will cure poor teaching!

Singer is uncertain whether an improved school climate can be achieved by the implementation of a grievance procedure will be reflected in declines in vandalism, absenteeism or suspensions. Williams is most cautious and warns that one result could be an increasingly adversarial relationship between students and staff.

V. Scope of Further Study

In reviewing the responses, it is evident there is a great demand and need for additional study in the area of student grievance procedures. Respondents called for a study of grievance procedures which would include all grade levels in urban, suburban and rural schools with varying racial, ethnic and economic characteristics. Lincoln, and Laue and Monti propose that the study also examine political factors like leadership styles of key educators, commitment from school boards and state agencies and the existence of statutory provisions regarding student discipline and grievance. Singer and Williams suggests the study focus on student-initiated complaints rather than those that involve parents.

Laue and Monti provide further direction in the development of a research design. They state:

> The focus should be operation of the procedure at the point of delivery of services -- the individual school and its attendance area. Implications for level of data aggregation: produce a series of focused case studies, for we assume the goal is policy influence. Large-aggregated quantitative data are not useful to the individual system or school in implementing innovations.

In advocating the case study approach, Laue and Monti suggest implementation strategies as appropriate subjects for further research. This would provide policy makers with in-depth analyses of why grievance procedures worked in certain circumstances and failed in others.

Because they believe local leadership is so essential to the adoption of a grievance procedure, Murphy and Lincoln recommend special studies in school districts known for educational leadership and innovation. Because these districts are well-represented in professional organizations, administrators with successful experiences in student grievances could transmit their knowledge to their professional peers via journals and conferences. They propose this approach could provide the impetus for national change.

SUMMARY

The development of model grievance procedures in schools is an exciting and challenging area of investigation. It forces policy makers and educational leaders to re-examine some basic premises upon which schools have been established. It brings into discussion the issue of power and decision-making in schools. It calls for a re-evaluation of the roles played by students in the operation of schools and management of student behavior. Examining grievance procedures also directs attention to conflict and resolution management, curriculum design, student and community participation and joint planning for policy development and review. Most importantly, it speaks to reducing student alienation by introducing young people to systems of shared decision-making.

According to the respondents, the need for grievance mechanisms is great. Although there was little agreement over the exact form such systems should assume, each respondent identified models worthy of replication.

The potential rewards for students, educators and the community derived from the implementation of grievance procedures in schools make it essential that this subject receive additional attention. Research based on case studies of implementation in representative school districts appears to be the best approach for further study. The NIE survey has produced

valuable information on existing systems, potential models, and essential components of grievance procedures. From this base of knowledge, NIE can begin to formulate questions for additional research and exploration. Perhaps the most important finding of the survey was the respondents' opinion that systems for solving problems need to be developed and tailored to fit individual schools. If a federal effort in this area is undertaken, a variety of models should be designed so that school administrators, faculty, students, and parents can evaluate the alternatives and select a model appropriate to their situation.

ATTACHMENT A

RESPONSES TO NIE QUESTIONNAIRE ON

STUDENT GRIEVANCE PROCEDURES

I. Definitions: How would you define (1) a grievance and (2) a grievance procedure involving students or parents and schools?

(1) Grievance

Laue and Monti

A grievance is defined as any complaint or alleged injustice involving a student. It should include complaints leveled at students by school staff, as well as complaints initiated by a student against another student or a member of the school's staff.

Lincoln

A student grievance is a formal and documented complaint or allegation of an unfair, unjust, or inappropriate response to her/him as action or nonaction with regard to school policy, practice, or person by those who govern or exercise such policy and practices.

A student grievance is a complaint or feeling or perception that s/he has been treated unfairly.

McKay

In the public school context, a grievance is a complaint by one or more students or members of the school staff that a portion of the published rules or of the established procedure of the school has been violated by one or more members of the administration, faculty, or student body.

Murphy

Grievance: A complaint made by a student or a group(s) of students that a section of school rules and/or rights which

(1) Grievance continued

have been specified has been violated, misinterpreted, or improperly applied during the official school day and/or school sponsored activities.

Singer

A grievance should be defined as broadly as possible; that is, a grievance procedure should resolve as many types of problems as possible. However, students and staff at a particular school, not outsiders, should determine specifically what will be considered a grievance.

Walsh

A student grievance is a complaint brought by one or more students concerning student rights, activities, or disciplinary matters. The complaint focuses on the interpretation, procedures, or implementation of these three general areas (rights, activities, discipline).

Williams

A grievance is the formal initiation of a complaint against people, policy or practice within an organization. The grievance represents a response to some action(s) which the complaining party believes to be in violation of the "established rules" governing the relationship between individuals or groups within the organization.

(2) Grievance Procedure

Laue and Monti

A school grievance procedure is a set of rules, forums and sanctions which should be built around the following principles:

(a) Formality -- written grievances and responses.

(b) Stages and Levels of Appeal -- from informal investigation and attempts at resolution at the entry level, to formal hearings and eventually involvement of third parties outside the school system.

(c) Outside Review -- preferably by a panel selected and trained from among professional arbitrators and concerned parents/citizens.

(d) Broad Participation -- of the major parties (notably students, faculty, administration, and parents) in design and implementation.

(e) Commitment -- from the administration and the board at the minimum, and hopefully from the teachers association, student government and PTO.

(f) Implementation and Enforcement -- of resolutions achieved, especially those involving policy changes.

(g) Time Limits -- strictly-enforced time limits at each stage, with automatic passage of the grievance to the next stage if time limits are not met.

Lincoln

A student grievance procedure is a process designed and agreed by authorized representatives of all aspects of the internal school community for the purpose of resolving or determining

(2) Grievance procedures continued

the outcome of specific issues within its jurisdiction in an equitable and efficient manner through sequential steps.

A student grievance procedure is a quick and fair process in which a student's complaint can be heard and resolved or settled.

McKay

A grievance procedure is the process by which grievances are responded to by those responsible for the educational program and the keeping of internal order.

Murphy

Students should have access to an informal ombudsperson resolution process as well as a formal due process. The formal procedure should include local school grievance committee review as well as central/district-wide review.

Singer

Any formal means for addressing student complaints and suggestions can be termed a grievance procedure. An effective grievance procedure, at the very least, will be designed and operated by students and faculty and will provide a forum for resolving a broad range of student complaints.

(2) Grievance procedure continued

Walsh

A student grievance procedure is an informal and formal process by which the grievance is resolved or disposed of.

Williams

A grievance procedure involving parents or students is a concensual procedure designed to resolve complaints against personnel, policy, or practice arising in the operation of the school. The procedure is generally characterized by a series of steps through which the complainant proceeds attempting to gain satisfactory resolution of the complaint.

II. Need for grievance procedures

1. Issues that may become student grievances - ranked by frequency e.g. free speech and press, grading disputes, program or teacher change, tracking issues with racial overtones, dress codes, truancy, other infractions of school rules - we want to address issues resulting in student conflict and/or alienation from school. Also rank issues by seriousness.

Laue and Monti

It is not possible to rank student grievances by their frequency of seriousness, because there is great variation from school to school -- and through time. Especially in schools undergoing desegregation, there are many instances in which the student with justifiable complaints against her/his fellow student or staff member has no constructive recourse, and engages in disruptive behavior, which often leads to her/his being charged by school staff. There also are instances when students are wrongly accused of having violated some school rule, and little effort is made to determine whether s/he has actually committed a violation. Traditional concepts of what constitutes a student grievance tend not to include such problems, or take into consideration the dozens of comparatively minor problems experienced by a student during the normal course of a school day which can balloon into some larger issue involving free speech, truancy or suspensions. Systematically pooling the experiences of the five groups working on this project would be one way to arrive at determinations of the frequency and seriousness of grievances. The work of the Center for Community Justice, the Community Relations Service of the U.S. Department of Justice and the American Arbitration Association should be consulted, along with the book by John P. DeCecco and Arlene K. Richards, Growing Pains: Uses of School Conflict (Aberdeen Press, 1974).

Issues

If joint/collective planning involving administrators, faculty, nonteaching staff, and students is employed for designing a grievance procedure then what will be grievable will include only those issues to which the parties can agree. Consequently the issues may change from school to school within the same school system.

Perhaps this question of issues can be best answered by anticipating the response of administrators and faculty and students. For example, students in one system may wish to be able to grieve professional competency of teachers. The school administration may not have any serious problem, in and of itself, to include this matter as a grievable issue. On the other hand, faculty may argue this issue would constitute a process of teacher evaluation which is inappropriate, and perhaps a violation of contract. In another system this issue may not be an issue at all and, therefore, not included as a grievable matter. Yet, in still another school system, all parties may agree to include this substantive concern as an issue which can be brought within the grievance process.

Students most likely will strive to include those issues which, in their minds, cause or carry inconsistency, inequity, confusion, and conflict.

The list of grievable issues would most likely include:

(a) School policy deemed irrelevant for contemporary time such as "no talking during class passing in the corridors" which is still on the books

Lincoln
(continued)

in the high school I attended and, it is said, still randomly applied.

(b) General disputes as to whether or not one has violated a school rule applied to behavior and attendance.

(c) Disputes as to whether or not a student has violated a unique classroom policy ("No hats, jackets, or sunglasses to be worn in my classroom). This item, of course, raises several other issues: Does the teacher have the right or authority to set classroom standards in addition to school policy? Is the classroom policy in conflict with the school policy? Were all students informed of the classroom policy -- how, when? Is the policy enforced consistently and uniformly?

(d) Disputes as to whether or not the penalty for a violation of rules can be justified as appropriate, fair, and consistently applied.

(d) Alleged harrassment in that a student or groups of students feel singled out for disciplinary action or exclusion from activities and services.

(f) Scheduling, including course selection, course admission, and requests to discontinue a course or to be exempt from a particular course.

(g) Discrepancy of records pertaining to accumulated credit toward graduation.

(h) Contested classroom-course grade assignment.

(i) Alleged violations of civil rights.

Lincoln
(continued)

In summary, it is usually the students who bear the responsibility of proving the what and why of issues to be included as grievable. Various proposals may be hindered or rejected due to state law, school board policy, teacher contracts, specific job descriptions and/or existing processes for dealing with particular issues. For example, some school boards and school administrators might reject the issues of school suspension and expulsion as matters for review by joint student-faculty in-school grievance boards due to already established procedures as mandated by policy or law. Simlarly, the issues of being responsible for false fire alarms, accusations of carrying dangerous weapons, and selling drugs are issues which would not be in the jurisdiction of most, if any, internal school grievance processes.

To me, the violation of one's civil rights and the arbitrary ruling of administrators and teachers are the most serious issues which could come before the attention of a grievance process. Frequency is simply another matter -- too many variables in schools determine a listing.

McKay

Student grievance issues.

(a) Ranked by estimate of frequency:

(1) Disputes over violation or not of school rules including lateness, truancy, and disruptive conduct.

(2) Disputes over severity of sanctions, including handling of disputes between students.

(3) Disputes over moral codes relating to dress regulations, smoking, drugs, alcohol, sexual display.

(4) Disputes over privacy intrusion, including eavesdropping, student informers, lockers, and desks.

(5) Claims of unfair handling of racial differences.

(6) Claims of violations of freedom of expression.

(b) Ranked by estimate of seriousness:

(1) Racial disputes
(2) disruptive conduct
(3) enforcement of moral codes
(4) privacy rights
(5) Severity of sanctions
(6) freedom of expression

Murphy

1st amendment rights
Non-selection of students for performance groups, e.g. cheerleaders
Grading and non-promotion.

Singer

Issues that are troublesome at one school may be of little concern at another. Schools' assessments of their own problems are difficult to quantify or compare with estimates made elsewhere. For these reasons, there is no reliable data on the frequency with which categories of problems occur. From our experience, it does seem safe to say that, from an administrator's point of view, absenteeism in various forms is the primary school problem. Students complain most often of conflicts with teachers and administrators over course assignments, grades and illogical or unevenly applied rules. Several issues that have been highly publicized, such as freedom of speech, sex discrimination, and disciplinary due process, do not seem to be recognized as current problems by most schools.

Walsh

The specific issues which may become student grievances will vary as to school systems and school within the system. The issues which would serve as the most common matter in a grievance relate to school rules and their interpretation and implementation. Student rights, including First Amendment rights, grievances regarding student activities, and those related to the code of conduct or the disciplinary process follow in order. In specialized situations as, for example, when school desegregation is occurring or has recently occurred, racial problems and grievances tend to be not only the most important, but also the most frequent. CRS' experience indicates that some of these issues around which grievances are filed include:

(1) Uneven and/or poorly defined disciplinary processes.

(2) Lack of minorities in such positions as administrators, teachers, counselors, secretaries, custodians, kitchen workers, etc.

(3) Discrimination in extracurricular activities, such as cheerleaders, clubs, etc.

(4) A curriculum that does not serve the needs of that student body.

(5) Few, if any, minority students in student government.

(6) Racially coded school customs, such as school songs, flags, etc.

(7) Failure to involve parents in the problems of the schools, both minority and majority.

(8) Insensitivities and lack of cultural awareness of administrators, teachers, aides, secretaries, etc.

(9) Lack of counseling programs, adequately trained personnel in such programs, and counselors who fully value and properly assess the potential of minority students.

(10) A hostile environment toward minorities in the schools.

(11) Failure to disseminate information regarding school programs, security, etc.

(12) Uneven policy handling of disruptive events when called into a crisis situation.

(13) Physical attacks on members of one race, such as gang attacks.

(14) Extortion.

(15) Resentment against inter-racial dating.

(16) Classroom or program segregation, such as accomplished through tracking.

(17) Inappropriate placement or dumping of minority and non-English speaking students in special education classes.

(18) Drug use and sales.

Williams

Frequency	Issue	Seriousness
1	discriminatory treatment by staff based on race, sex, national origins or socio-economic status.	2
2	discipline and other rule enforcement	1
3	student activities	6
4	grades	7
5	personnel issues (including hiring, promotions, lay offs, firings, and incompetence)	3
6	curriculum	5
7	smoking lounges	8
8	student lounges	12
9	cafeteria food	10
10	closed campuses	13
11	passing time/schedules	11
12	use of school facilities	9

Williams
(continued)

Frequency	Issue	Seriousness
13	expenditures from student organization accounts	15
14	speakers	14
15	First Amendment issues (including press, speech and student organizing)	4

II.

2. When do issues become serious enough that grievance procedures become necessary or worthwhile?

Laue and Monti

Issues become serious enough that grievance procedures become necessary or worthwhile when the parties involved in a dispute cannot resolve their disagreement without rancorous conflict and/or the assistance of some third party or mediative (and ultimately arbitrative) process. This is a decision that one or both of the parties must make, if the grievance procedure is to work.

Lincoln

Issues which warrant consideration by all parties for inclusion as grievable items are simply those which the students regard as serious because of severity, frequency, or because of latent functions affecting school morale and inter-group relations. Grievance procedures which include issues deemed important by the parties tend to impose a consistency of both compliance to rules and application of penalties. If such be true -- and it only can be true if the process is regarded as credible by all parties -- major causes for grievances ought to be discovered and corrected. In summary, the implementation of a grievance procedure of the type we are addressing provide more than an opportunity for student recourse and due process through fair hearings. The process serves as a conflict prevention mechanism by serving notice through its various determinations to the school community how it views and values equity and appropriateness.

McKay

Whenever students might perceive (rightly or wrongly) that school officials are acting in arbitrary fashion in imposition

of rules or are unfair in the administration of sanctions, it would be useful to develop procedures to achieve the following:

(a) Student participation in the development of rules that impact on the student community.

(b) Fair hearing process for the imposition of serious sanctions, including suspension or expulsion from school and corporal punishment.

Murphy

Issues become serious when arbitrary decisions are made without teacher/administrator attempts to educate as to the reasons for the decisions.

Singer

Whenever student complaints remain unanswered or are answered in a perfunctory manner, a grievance procedure can be worthwhile. We should measure the necessity for a grievance procedure by the adequacy of existing complaint procedures, not by the presumed seriousness of current problems.

Walsh

Grievance procedures are important in the common course of any interpersonal action in which there are or may be disputes between one or more parties. Grievance procedures operate both on a preventive basis to forestall problems and complaints from becoming major matters and as a device to resolve those matters which have become serious. A complaint for which there is no process for its being resolved creates an unstable condition in a school.

When an issue becomes serious enough for grievance procedure resolution depends, in part, upon whether the procedure is designed as a tool to prevent minor conflicts from becoming more serious, or alternatively to identify serious conflicts for submission to grievance resolution. The preventive approach has as its strong points the capability to identify common issues of concern for systematic handling. It does, however, open the grievance procedure to a large number of potential grievances that could overload the grievance mechanism, especially in the initial stages of implementation.

Utilization of the procedures for more serious complaints has the obvious advantages of allowing a fewer and more manageable number of grievances to be filed. Consequently, this approach may be more successful in acting as a safety valve for major conflicts.

II.

3. Who are the parties to the grievance?

Laue and Monti

The parties to the grievance are (a) the person(s) initiating a complaint, (b) the person(s) accused by the complaining party or having violated either school of personal rights, and (c) indirect parties such as witnesses, school officials, community groups, etc.

Lincoln

The parties to the grievance most likely will include the complaining student(s) and the responding internal school staff -- primarily faculty and/or administrators. In actuality, however, school staff might be expanded to include guidance personnel, teacher aides, corridor monitors, custodians, security personnel, as well as clerical staff -- namely, anyone who can give a directive and/or issue a penalty to students. This, of course, will vary from school to school. If school staff who are party to the dispute refuse to participate in the grievance process (a) a determination needs to be ruled in favor of the student and (b) the staff might even be referred to the administration for appropriate disciplinary action.

McKay

Parties to a grievance proceeding should always include the complaining student(s) or staff member(s) and any student(s), teacher(s) or other school official(s) charged with wrongdoing. In some cases the complaint may be referred to an ombudsperson, in others to a student complaint board, or in others to a fact-finder representing the school. In every case, some responsible school official should be involved to assure consistent application of school regulations and principles established in earlier cases.

Murphy

Parties include students to principal.

Singer

Parties to a grievance could include any or all of the following: students, teachers, parents, unclassified staff, counselors and other staff, school and district administrators, and boards of education.

Walsh

The parties to the student grievance process are school administration, teachers, students, and parents.

Williams

The parties to the grievance usually vary among the current procedures. Generally the procedures provide for the inititation of a grievance by any parent or student adversely affected by an action. In some cases the procedures may give standing to certain representative groups (i.e. student council or senate) to file a "class grievance" (similar to class action law suits) when the issue broadly affects students as a class.

The "opposing" party may vary depending on the nature of the complaint. Those grievances which focus upon policy or practice may require the principal to be the opposing party. This frequently causes problems where the administrator is identified as the grievance decision maker. Where the grievance is directed at the actions of a staff member, s/he would become the oppposing party.

II.

4. In what kinds of schools do grievances most frequently occur? (e.g. location, climate, student body compositions)

Laue and Monti

To be determined by systematic research only.

Lincoln

It is difficult to identify the characteristics of schools which produce a great intensity of student dissatisfaction with the administration, faculty, course of study, code of discipline, extra curricular activities, or anything else which could be labeled as grievance producing. It is neither fair nor correct to imply that either central city schools or lower income neighborhoods with particular ethnic/minority student compositions have the need for a grievance process more than the so-called exam schools, or vice versa. It does seem true, however, that schools which are dramatically changing with respect to the socio-economic levels of the student body do produce a need for grievance procedures. This change need not only be in terms of who is attending but also who is teaching and who is administering. There is a question to be asked: "Is the administration and faculty expecting new populations to do all the adjustment (conforming to pre-existing school rules and modes of operating) or is the administration and faculty preparing to initiate some positive adjustment themselves?" The classic adult responses to a student who has committed an infraction is "You should know better!" When in reality the new student may not know at all what is tolerable in this school and what isn't.

Change and uncertainty in any institution causes confusion and conflict -- perhaps more so in schools due to the differing levels of maturity within any given student population. But it is the change, the uncertainty, the perceived inconsistency,

and the perceived inequities with which a school must deal if the confusion and conflict are to be resolved.

What causes student grief? Inflexibility on the one hand and inconsistency on the other on the part of administrators and faculty. But the worse situation seems to be when no clear cut disciplinary policies exist, thus the fostering of arbitrary rules and enforcement under the guise of adult discretion!

McKay

Grievances probably occur most frequently in schools with heterogeneous student populations, where there is a mix of race, ethnic background, or social class. This is most likely to be a school in an urban setting, especially in a changing neighborhood.

Murphy

Schools where grievances occur are suburban and urban with rapid changes in student body composition. School climate is not easily type cast.

Singer

Grievances exist in all schools. Few schools have measured their frequency or even defined grievances as a class.

Walsh

It appears that schools in which there is ineffective leadership, which are affected by externally imposed changes, such as desegregation, and where there are lacking concrete

Walsh
(continued)

and definable student rights, a written code of conduct, and explict school rules, are those in which grievances most frequently occur.

Williams

The organization and structure of schools on a model of adult supremacy and student (young people) subservience provides the basis for a moderate level of conflict in all schools. This level of conflict is usually significantly increased in schools that are racially and economically heterogenous. Schools currently experiencing severe financial deficits and program cut-backs can also expect to develop conflicts giving rise to complaints.

Factors contributing to school climate such as administrative openness, fairness in rules and policies, adequate, skilled staffing, and meaningful student participation in decision-making can serve as countervailing forces in reducing harmful conflict and developing constructive management techniques.

III. Existing and potential grievance procedure models

1. What models or mechanisms currently exist? Which are most common? Are they suited to different school circumstances or are the same models appropriate for all problems?

Laue and Monti

Our experience with student grievance procedures suggests to us that many districts leave such matters up to the discretion of individual building principals, or have an ill-defined procedure that is not followed or not completely described to the children and parents involved in some grievance.

The most promising model, we believe, involves student elections of their own representatives to a committee which is responsible for processing and forwarding any student complaint to the school's principal, with levels of appeal and outside review at the higher levels. The grievance should be resolved informally or by the first-level committee, if possible. Adaptations are feasible at grammar, elementary and secondary school levels.

Lincoln

Existing models vary from the principal or headmaster being the sole and final hearing officer to joint student-faculty review boards possessing the power of final determination. There are good and bad examples of both and everything in between -- ombudsman, guidance hearings, administrative hearings, and advisory councils. What deserves our focus is perhaps not so much the model but the process of decision making. Hopefully a fact-finding process is first employed to determine the total scenario. This should be followed by conciliation efforts, mediation for resolution by accommodation or acceptance, and then,

if necessary, a final and binding determination through impartial arbitration. This final step is presently usually reserved for the administration which, however, too often combines all steps in mixed fashion into one brief session.

It should perhaps be noted here that the most effective grievance procedure is one in which the parties must first make every effort to resolve their difference directly and between/among themselves, and if necessary, with mediation assistance from a third impartial party such as an ombudsman. If a grievance needs to go to a panel of arbitrators we must recognize with regret that a personal negotiation-communication process, if you will, has broken down.

Any model is transferable is the collective planning stage in which authorized representatives of all the parties attempt to design a total process which is mutually acceptable to all.

McKay

Existing and potential grievance procedure models.

Present grievance procedures include the following:

a. Ombudsman.

b. Fact-finding and decision by principal or his/her designate.

c. Fact-finding and decision by panel including representatives of school and students.

d. Mediation or arbitration of grievances.

Murphy

Most schools do not have mechanisms consequently, grievances, when resolved, are informally resolved or left unresolved. Those mechanisms I have seen are individually tailored -- not easily transferred from one school to another.

Singer

The Center has already made available a report with detailed observations about a variety of school problem solving mechanisms: student governments, counselors, student-faculty committees, ombudsmen, appeals procedures, and student advocates.

Of these models, student governments and counseling systems are the most common.

Walsh

Formalized student grievance procedures most often do not exist in schools. Where they do exist, there is more often an informal process for settling student grievances which are handled by individual designated as counselors, deans of discipline, class advisors, etc. A systemwide grievance procedure, which combines both the informal and the formal processes, which sets out common expectations and procedures in each school, while allowing for local flexibility, and which combines an appeals process, most often simply does not exist. The mechanisms which currently exist are most often the informal mechanisms to deal with student grievances. The informal

mechanisms, i.e., class advisors or deans of discipline, often interface with student government leaders and parent council members in resolving a grievance. Unfortunately, the systems which work in specific or individual schools often cannot be replicated because of unique features which they contain; e.g., an atypical principal, an active student government body and parent council, and student ombudspersons or advisors who help make the system work.

Williams

Existing grievance procedures can be distinguished along three dimensions: decision makers; parties; jurisdiction.

a) Decision Makers: Three types of decision making structures are commonly used in school grievance procedures: administrative; representative; student/parent.

The most common decision making structure is the administrative model which is characterized by the involvement of various building and central level administrators as decision makers at the various decisional steps of the procedure. This type of grievance mechanism would include the ombudsperson.

The representative structure employs a combination of staff, students, and parents as decision-makers.

In some cases this representative grievance tribunal does not have full authority to resolve a grievance, but must prepare a recommended resolution for approval by another party such as the superintendent, board of education or principal.

The student/parent model of decision making is perhaps the least utilized. It is based upon the involvement of parents and/or students as decision makers.

b) Parties: School grievance procedures models can also be distinguished on the basis of who can be subject to the jurisdiction of the grievance process as a party. Most procedures are designed with the assumption that the school along with its policies and personnel are in an adversarial relationship to parents and students in the same manner that management and labor organizations are adversaries in the grievance procedures developed through collective bargaining agreements. Consequently most procedures only allow for a complaint by students/parents against the school. Normally grievance procedures do not permit:

- school complaints against students, or parents, or
- student/parent complaints against other students or parents.

c) Issue Jurisdiction: Another major distinction between existing models involves what issues are

subject to grievance resolution. Some procedures limit grievances to matters of disciplinary action imposed by school officials. This limited focus procedure may actually represent an appeals process for discipline. In other situations, however, schools have explicitly excluded discipline matters from grievance procedure jurisdiction.

The common approach to defining jurisdiction is to include a generalized statement such as:

> Whenever a student believes that he or she has been treated unfairly,....

Summary: Currently most schools have designated their own grievance procedure with primary attention to local needs and desires. Through variation of the three dimensions discussed above, schools seem to have made the basic industrial grievance model adaptable to their circumstances. The critical issue is whether these adapted models have been successful. It has been my experience that these procedures generally do not function after the initial implementation since students soon discover that decision makers seldom, if ever, find in favor of the students.

2. Describe promising potential models and why they seem promising.

Laue and Monti

This model seems promising because it provides a mechanism through which minor problems can be resolved before they grow into larger ones, and -- if appropriately publicized and administered -- it can compel school personnel to develop a standard set of rules for processing and resolving grievances, as well as standard set of rules of sanction for different violations.

Lincoln

The model processes which are currently gaining much deserved attention are those which (a) assure student participation in the decision making process for final determination, (b) include broad jurisdiction over issues which can be grieved, (c) provide a deliberate sequence of steps to be followed thus providing students recourse at various levels while also satisfying mandates for due process, (d) insist upon timely responses, (e) and guard against any reprisals against student, faculty, or administrators who participate in the process in any function. Attention is often rightly given to *protect* the student who initiated a complaint. It is equally important to protect the rights of the respondent, witnesses for all parties as well as the rights of those sitting on the hearing panels. Allegations of related intimidation, harrassment, or reprisals should be referred to the administration for a determination and strong disciplinary action.

I contend parental involvement must be limited to their possibly serving on hearing panels with faculty in process implemented on the middle or junior school level, and merely as support or witnesses on the high school level. If for whatever reason, the student is unable to attend a hearing, a parent might be allowed to present his/her child's case under specific guidelines and controls. It very often is difficult to make accurate determinations of fact when the primary party is absent. It is difficult for me to imagine a process and circumstances in which a parent would be allowed to initiate a grievance. In matters of special education, for example, adequate processes supposedly exist for such initiations.

McKay

Each of the above procedures may be useful in particular circumstances. A general guiding principle might be that the procedure should be as informal as possible (ombudsman or mediation, for example) so long as consistent with fairness in fact and perception.

Murphy

Title IX and the Goss case have impacted schools with respect to an understanding of due process. Therein lies some promise.

Singer

There are no currently operating grievance procedures that, in and of themselves, promise the efficient resolution of a wide variety of student complaints. Several existing

mechanisms incorporate some desirable features. For example, there are student-faculty appeal boards offering these two groups the chance to suggest joint solutions to school problems. The value of a new model will be its synthesis of important elements such as student-faculty participation.

Walsh

A potential model has been on the drawing boards for a few years in Boston. An initial idea developed by the Community Relations Service, the American Arbitration Association, Education Collaborative, and Boston area school systems proposed a student grievance procedure which not only combined the formal and informal processes, but also included training of students involved in what was entitled "Educational Negotiations", curriculum development around this concept, and, in general, an increased role and responsibility for the students. This model, which was never implemented, still presents a range of options which, I believe, are in accord with the best extant grievance systems. At present the Boston public schools system is developing a systemwide grievance procedure which will heavily utilize established racial-ethnic student councils, racial-ethnic parent councils, and a new student disoiplinary code.

Williams

My personal preference is for the development of a model which incorporates:

a) a building or district-wide decision making body including parents, students, teaching and support staff;

b) due process procedures for conducting grievance hearings and protecting individuals rights;

c) broad issue or subject matter jurisdiction;

d) provision for student-student, and staff-students complaints as well as the common student-school complaint;

e) skill training for the decision-making body as well as the general school population in conflict management, crises prevention, mediation techniques and procedures.

This model would provide a preventive approach to conflict as well as socializing people to concepts of due process and peaceful dispute resolution. Additionally an approach which places strong emphasis on skill building for the general school population probably more realistically reflects the structural nature of conflict in schools and the need to more systematically deal with it.

3. Are some models more appropriate for less serious grievances that can be handled more simply?

Laye and Monti

Less serious grievances generally are handled at the early, informal stages of the grievance procedure; the procedure should be uniform, clearly delineating what is and is not grievable.

Lincoln

As in any effective grievance process the first step, referred to as *low level*, is an attempt at conciliation, namely, to see if the disputing parties might discuss the situation directly in an effort to resolve the conflict without third party intervention or assistance. This initial step could possibly influence the settlement of so-called frivolous complaints. Yet, the total process must be careful not to determine what is or isn't frivolous. What might be regarded as a rather silly complaint by one person may be thought to be of utmost importance to the initiator. If the matter cannot be resolved on the conciliation level and the process has jurisdiction over the issue then the complaint must be heard. In any case, a conciliator or mediator cannot have the authority to determine either (a) what is serious thus deserving the attnetion of a hearing panel or (b) what the settlement/outcome of the case will be. This power is contradictory to the spirit and meaning of mediation, and would certainly adversely effect the credibility of the process. Student access to the process must not be denied.

More efficient and effective use of guidance counselors

and ombudsman should eliminate the need of a hearing panel to give attention to relatively minor issues.

McKay

Less formal procedures are appropriate - and preferable - for less serious complaints, particularly where there is little or no dispute as to the fact. Elaborate procedures are likely to prove unworkable in the school context where participants are not trained in the language or practices of the law.

Murphy

Question #3 is not clear!

Singer

More research is needed in this area, although there is no reason why a formal grievance procedure cannot provide for expeditious, informal handling of less serious complaints.

Walsh

A student grievance mechanism should be able to handle both serious and non-major grievances. Most non-major grievances will be handled through the informal process or in accord with the time line that is not as important as those involving serious issues.

Williams

The model described in (2) would probably be better suited for more serious grievance matters. For the less serious grievances, especially those reflecting interpersonal

conflict, a mediation approach is probably more economical and efficient. The representative decision making structure by necessity involves a tribunal or panel. To assemble the panel for each of the less serious grievances would severely strain the time available for careful consideration of more serious matters. It is possible, however, to combine the mediator concept with the representative decisional model so that the mediator would initially receive the grievance. The grievance would be submitted to the panel only if it is unresolvable through mediation or serious enough to affect the interest of a class of people beyond the immediate complainant.

4. How easily could the most promising training and grievance procedures be adopted by other schools?

Laue and Monti

The ease with which any grievance procedure could be adopted (or adapted) to a specific school depends almost entirely on the support it got from district and building personnel. With strong support, two weeks is adequate for design and training.

Lincoln

Any grievance design imposed upon a school is vulnerable to suspicion and resistence on the part of those parties who were not included in the designing stage of the process. The initiative most likely will come from students. When it is not forthcoming, it would be advantageous for school administrators and/or faculty to raise the issue for student responses. If, after being made aware of the meaning and advantages of such processes, the students are not interested in the subject for the present time, then it would be best not to impose a process. Why bother? Incidently, I've never come across the kind of situation described above. Quite the opposite.

Federal, state, and local education agencies ought to take an initiative to explore various possibilities. The need, I contend, has been firmly established. Such initiative, however, particularly on the federal level must not impose regulations but offer guidelines.

McKay

Ideally, model procedures should be developed at a national level, including several variations for local adaptation. The recommended procedures could then be reviewed at the state level. Training procedures could then be established for teachers and others responsible for administering the process.

Murphy

School districts need to accept, first the concept, then adopt clear simple process steps that the average 7th grader can read, understand and use.

Singer

The Center would not recommend that any currently existing grievance procedure be adopted by other schools.

Walsh

One of the most important aspects of a student grievance procedure is its systemwide uniformity, while allowing a certain degree of flexibility in its application at each school. The basic plan must be replicable at each school within a system. Otherwise, this can be the basis of other grievances.

Williams

Training models around conflict management, mediation and other general skills are currently available and easily adaptable to use by schools if adequate time is made

available. With respect to grievance procedures, however, it is probably going to be necessary to search out successful models and determine factors contributing to their success. I suspect that the success of existing models may be more the result of school climate and committed leadership than the quality of the procedures.

5. What are the advantages and disadvantages of training school staff members as mediators? With what kinds of grievances would they work best?

Laue and Monti

A mediator of a particular dispute generally should not come from the school in which the dispute has arisen. There are too many pressures that can be brought to bear upon the teacher or administrator who interjects himself into the middle of such a problem if he must work with all the parties in question every day. The other major disadvantage of using school staff as mediators is that they are hired by one of the parties to any dispute -- the school system. It may be appropriate for school staff to serve as arbitrators in certain situations, as long as their powers are made clear.

Lincoln

It would be very difficult to train most school staff for designation as mediators in contrast to training them to serve as impartial and objective members of hearing panels. One can readily see the difficulty of being regarded as a mediator in some situations while simultaneously being an adversary and advocate in others. Such "mediators" would be seen as "serving two masters" while service on a hearing panel with others seems to hold the needed corrective checks and balances for maintaining credible impartiality.

All teachers and administrators would, however, greatly benefit from training in the techniques of conciliation, fact-finding, and mediation. Such skill acquisition would improve classroom management as well as resolution on the first step of the grievance process. It is equally important

to train as many students as possible in these techniques as well for the very same reasons -- conflict prevention and early resolution.

McKay

It should be particularly useful to train school staff members as mediators to permit the settling of as many grievances as quickly and informally as possible. There are no disadvantages to mediation so long as it is understood that the purpose of mediation is to bring the parties together in the search of a mutually agreed solution and not to force a settlement.

Murphy

Local school staff members, in my view, would not find it easy to function as a mediator in the same school. Staff are expected to uphold school rules (right or wrong) and to support peers. Non-school based school personnel have a much better chance of functioning as a mediator.

Singer

As part of a comprehensive grievance procedure, it may be desirable to give mediation training to staff members, but only if training is also given to students.

Walsh

Those who serve in the role of school ombudspersons, whether they are designated as deals of discipline, class advisors, house masters, etc., usually perform a conciliation/mediation role in attempting to resolve a grievance through

the informal process. These individuals certainly can use additional training in order to improve their performance. Such training has been provided by a number of agencies, including the Community Relations Service, the Institute for Mediation and Conflict Resolution, the Community Dispute Services, and the Community Conflict Resolution Program of Jim Laue. In the formal process of student grievances, those students, parents, teachers, and administrators would need training in order to carry out their responsibilities. Such training would range from fact-finding skills to those of conciliation and mediation. In the formal grievance process the role of a trained mediator or similar person who is external to the particular school in which the grievance exists is most important.

Williams

The primary disadvantages of training school staff members as mediators are:

a) Whether sufficient time can be made available for mediating;

b) The perception of students/parents that staff members will be unable to mediate without favoring the school or its policies and personnel.

Advantages:

a) The staff members' knowledge of school situation and individual students and staff members;

b) Each teacher could apply mediation skills to classroom conflicts;

c) Application of mediation skills on informal basis could have positive preventive effect.

6. What kind of training is required of mediators for the most promising models? What would its cost in dollars and time be?

Laue and Monti

Training for would-be school mediators should be based on the following criteria:

a. Trainees selected from a wide range of backgrounds, but each with some experience in negotiating the needs and rights of a first or second party in a community, racial, or institutional dispute (preferably not those whose experience is limited to the labor-management field).

b. Minimum of 25 contact hours, preferably distributed over two or more weeks.

c. Pedagogy to include reading, lectures, discussions, simulations, observation and apprenticeship. Apprenticeship is the preferred and most important mode of training.

d. Cost depends on willingness and resources of the system, and the availability and cost of skilled trainers.

Lincoln

Training in conflict prevention and resolution ought to be varied and comprehensive. Any acceptable training program ought to include lectures, seminars, readings, and nighly participatory exercises dealing with the concepts of authority and power; the dynamics of conflict; an analysis of and practice in negotiations; communication skills; fact-finding; and impasse resolution skills common in mediation such as reality testing and floating alternatives through an interrogatory approach. Additional training ought to be provided with regard to direct crisis intervention including techniques related to access to entry and extrication.

A training session for practitioners could be successfully conducted within a week, but followed with some in-service monitoring and training. In addition, a regular classroom course of study could be developed with existing school staff as an elective for students. I can readily see a *practicum* for students thus allowing them field opportunities to use and test their newly acquired skills. The cost of training is more appropriately stated in my next response. Suffice it to say -- minimal.

McKay

Training of school staff members as mediators should not be costly in either time or money. The principal key to success lies in the choice of individuals who are sensitive to people and willing to work patiently toward mutual agreement.

Murphy

Before training -- screening or recruiting from existing personnel is essential. Need to look for individuals who are well respected for fairness and objectivity. Also, need persons who have a working knowledge of school system policies and procedures. Beyond screening, training could be covered in 5-10 work days at roughly $100 per day per trainee (with 10-15 person classes).

Singer

The kind of training required will depend on the way mediation is written into the design of a specific grievance procedure. Circumstances dictate that there

be little or no cost to the school and that large blocks of in-school time not be required. Whatever training is provided must be the sort that can eventually be given by staff and students to their peers.

Walsh

The selection process for persons serving in the roles of ombudspersons and trained mediators is most important. Only those who can play this crucial interpersonal role should be allowed into the training process. Standards must be adopted that would screen out those unfit for such an important role. Formal training programs of one week duration, supplemented by ongoing in-service training, appear to be the minimum required to impart the needed basic skills. In addition, students, parents, faculty, and administrators who are involved in the formal grievance process must also be trained in fact finding, negotiation, conciliation, and mediation skills. This training, however, need not be as intensive as that afforded the ombudspersons or trained mediators. However, more in-service training is needed for such persons on account of the anticipated changing personnel involved in this process.

Williams

I would favor training mediators in skills for dealing with disputes formally and informally. As stated previously, I would favor a training program focused more broadly on the issues of conflict and aggression. Additionally, I feel

it is necessary to provide training to the general population including inclusion of conflict and aggression management in the curriculum.

The costs of such a program might be considerable, especially for design and piloting of materials. It would require a significant time commitment from the school district and the school community. Although school people will probably resist such a time commitment; I feel that given the magnitude of conflict in schools, ample justification can be presented.

7. Do training materials and procedures exist or would they have to be developed?

Laue and Monte

Training materials exist (CCJ, CRS, Institute for Mediation and Conflict Resolution, AAA, our Center, etc.) and can be easily adapted.

Lincoln

While much training material already exists, professional mediators would have to develop or adapt curriculum to meet the unique needs of the school. I would imagine service to a school for an entire year would be less than $15,000. If several schools in one system were to be effected, the cost per school would be considerably less.

McKay

Training materials probably do not exist, but they could be readily prepared by the American Arbitration Association, the Institute for Mediation and Conflict Resolution in New York, or the Center for Community Justice in Washington, D.C.

Murphy

Most of the basic materials exist. There is a need to adapt the approaches to school situations.

Singer

Training materials in mediation techniques exist, but will need to be modified for use with school groups.

Walsh

Training materials and procedures do exist. Since

each training would be geared to the particular grievance procedure established in a school system, there would be certain modifications needed in the existing materials.

Williams

Some existing training programs could be adapted to suit current requirements for general mediation, arbitration and conflict resolution techniques. Training designs would have to be specifically developed for teaching the applicable procedure, organizational rules, and record keeping. The designing and development process should, however, incorporate extensive efforts to identify and adapt successful existing models.

9. What are the strengths and weaknesses of existing models? How would proposed model be better?

Laue and Monte

See 1.2, III. 1, and III. 2 above.

Lincoln

Weaknesses of existing models include:

a). Not well publicized as to the workings of the process or its jurisdiction.

b) Administration of the process -- a relatively simple task requiring no extra task -- is simply sloppy thus causing severe problems in scheduling and follow through.

c) Lack of monitoring mechanism for compliance.

d) Perceived to be a *tool* of the administration thus lacking credibility with students and consequently, seldom used.

e) Lack of meaningful student participation in either the designing of the process or its implementation.

f) Lack of appropriate training including follow-up and evaluation.

g) Unwillingness or inability to institutionalize the process in the school after the initial year.

h) Evidence shows some incidents of reprisals by faculty upon students who used the process.

Strength of existing models is simply (a) initial reception in some schools to attempt a model and (b) those schools which have dealt with items #a - #h in more satisfactory terms.

McKay

Review of existing models should be completed before a judgment is made as to the potential strengths and weaknesses of present models.

Murphy

This question is too global.

Singer

For a detailed response to this question see the report cited in answer III-1 above.

Walsh

This question has been answered before.

Williams

The weaknesses of the existing grievance procedure include:

a) they generally are not used by the students because they are simply developed by administrators and given to students without adequate publicity and encouragement to utilize;

b) existing grievance procedures often exclude those issues most troublesome to students and/or parents;

c) decision-makers seldom find against adults, policies, or the established order of things making the grievance procedure predictably adverse to the complaining student or parents. This contributes to non-use.

d) Generally too difficult or political to enforce

grievance decision/resolutions against adult staff members, especially those covered by collective bargaining agreements and their own grievance procedure.

e) Schools seem unable to recognize the educational benefits of grievance procedures and consequently have difficulty in legitimizing the expenditure of time and resources necessary for adequate implementation.

f) Procedural steps are often so lengthy that complaints are usually resolved outside the procedures. Students, staff, and decision-makers are seldom given any training.

Advantages:

a) Requires minimum expenditure of time;

b) Simple and easy to implement;

c) Doesn't require any training;

d) Doesn't involve any redistribution of power;

e) Informal procedures allow for flexibility.

IV. Outcomes anticipated and/or desired frm grievance procedures.

1. Legal: What state and federal laws or judicial decisions would limit or channel the action of grievance procedure models?

Laue and Monti

Legal. Ask CCJ, National Education Association, American Association of School Principals [sic], etc?

Lincoln

Outcomes/Desires

It will be necessary for any school contemplating an internal student grievance procedure to simply check with existing case law, state law, school board policy and teacher contracts. Virtually all schools could adapt their systems' required Title IX (sex discrimination) grievance procedure to accommodate jurisdiction of many other substantive issues as agreed to by the internal school parties.

McKay

The Supreme Court of the United States decided three cases between 1975 and 1977 dealing with procedures required for discipline of students in public schools. In Goss v. Lopez, 419 U.S. 565 (1975) and Wood v. Strickland, 420 U.S. 308 (1975) the Court abandoned its previous "hands off" policy as to matters of school discipline; the Court held that due process standards apply in cases of suspension and that school officials are not immune from damage awards for violation of constitutionally protected rights of students in cases where they knew or ought to have known that such rights were being violated. In Ingraham v. Wright, 430 U.S. 651 (1977) the Court held that a Florida law which allowed disciplinary paddling in public schools

McKay
(continued)

(1) did not constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments; and (2) prior notice and a hearing are not required before the imposition of corporal punishment. Attempts to read these three cases together raise questions that can only be answered by further litigation - unless schools have the good sense to provide for notice and hearing before imposing corporal punishment. Even though notice and hearing are said not to be required by the Constitution, equally it is not forbidden and would serve as protection against subsequent suits for damages because of physical injury or other abuse of authority.

Murphy

Legal: State school law with respect to school suspension and expulsion plus local school policies regarding behavior probation and in-school suspension. Local teacher contracts also come into play, especially where they guarantee teacher rights to judge placement of students, and determine "academic parameters of the classroom" and wide latitude in determining grading procedures.

I see Federal judicial decisions as supportive of due process.

Singer

In response to several federal court decisions most school districts have developed due process procedures for use in expul-

Singer
(continued)

sions and suspensions. These procedures usually include the right of appeal to the superintendent or school board. Districts may not wish a new procedure to include disciplinary issues. Similarly, those districts that have a functioning Title IX grievance procedure to deal with complaints of sex discrimination could decide to leave such a mechanism in place.

Various state laws may limit the authority of administrators and therefore of a grievance procedure. For example, California law gives teachers absolute authority over grades. A grievance procedure might then have the authority to suggest a grade change but not the power to compel one.

Walsh

The foundation of the student grievance procedure must be based upon the existing case law (especially, Goss v. Lopez), existing state laws, and local school system policies.

Williams

All existing decisional and statutory law would have to be considered in resolving grievances. The growing body of student rights law would have to available for decision-makers so that decisions could be reached consistent with the law.

One major problem would be whether certain types of issues, especially discipline, could be decided by a body other than the local board of education or the person who has been authorized statutorily to make a particular decision. This obstacle might result in a dimunition of decisional authority for representative decision-making bodies.

IV.

2. Fairness: What are the most important aspects of fairness and equity to the various parties (grieving students, other students, school staff, etc.) to be examined in a study of the working of grievance procedures? How would you measure fairness and equity in this context?

Laue and Monti

A grievance procedure would be fair insofar as both parties to a dispute understand and accept the grievance procedures available to them, and are willing to abide by the last-appeal outcome. All parties should always be afforded their right to legal counsel. But, most important: constructive policy change rather than case-by-case social control should be the major criterion.

Lincoln

All parties must be protected by applicable law and local school board policy. Again, it appears to me that the best way to assure fairness is to include authorized representatives of all the internal school parties in the design, implementation, monitoring, and evaluation of the grievance procedure. This will assure a necessary and valued perception of credibilty and consistency by all. Every effort must be made to encourage students to use the process, and, in so doing, all parties must be protected from reprisals and harrassment, and compliance with determination must be assured.

I believe, for the sake of efficiency as well as credibility the determination -- in contrast to recommendation -- should be made by the joint student-faculty hearing panel. Principals/headmasters can't and shouldn't abrogate their responsibilities, but frankly, I do not see how they would be doing so if they alone were to remain as the final internal school appeal level.

In reality any internal school student grievance process is only advisory if the chief administrator remains as an accessible final appeal level, and perhaps that is the way it ought to be. In my experience students and faculty believed the chief administrator's review of the hearing panels' recommendations increased the credibility of the process rather than diminished its impartiality as originally feared. This was documented by students and faculty in their written evaluations of the process effectiveness.

McKay

When grievances are brought by students or members of the staff, the test to be applied in judging the validity of complaints is likely to turn on the answers to two questions.

(a) Did the school have a fair procedure, including notice and a hearing, for resolving disputes and imposing sentences?

(b) If the answer to the first question is affirmative, were the procedures adhered to in the particular case?

If both questions can be answered in the affirmative, the complainant(s) should be satisfied that the matter had been handled fairly, and courts would be unlikely to intervene.

Murphy

Parties should be assured freedom from restraint, interferenc and reprisal. Also, parties should be granted counsel with "advocates" and freedom of information regarding the case in question.

Murphy
(continued)

Additionally, parties need official time and resolution on neutral turf, if possible.

The measure of fairness and equity has to be the maintenance of files and the publication of essential facts and results. Public screening will serve to set a fair standard.

Singer

A grievance procedure should be perceived by students and faculty to be a fair one. Questionnaires and interviews can only roughly gauge perceptions of fairness. The best way to insure a fair procedure is to give students and teachers an equal voice in its design. The best way, finally, to judge the fairness of a procedure is by its rate of use and its success in resolving complaints.

Walsh

The most important aspect of student grievance procedure is its usefulness in resolving a grievance expeditiously and equitably. A process which is too burdensome, unintelligible, and too costly in the form of time or money will fail of its own weight. Students must be able to have ready access to the process, receive a timely decision, and know on what basis the grievance has been resolved. The combination of informal and formal procedures assures that the requirements of efficiency and fairness are carried out.

Williams

The most important aspects of fairness and equity are:

(a) consistency of decision making over time and across similar incidents;

(b) individual protection against harrassment through frivolous grievances;

(c) provision of minimal due process protections including:

- adequate notice
- impartial decision making
- right to a hearing
- right to face accused
- right to a defense
- a decision based upon the facts;

(d) satisfactory, or at least acceptable resolution of disputes,

(e) knowledge and skills in the process for participants;

(f) availability of assistance when needed.

Subjective measures of fairness and equity could be measured by a participant survey focusing upon issues such as:

How accessible was procedure for problems participants have encountered?

Were the participants comfortable in using procedure? Were there informal penalties for using procedure?

The perceived fairness of decisions. Was there similar level of fairness across role groups?

The perceived fairness of the procedures.

Does the presence of grievance procedure produce at least an appearance of fairness among participants?

More objective measures of fairness and equity might be provided constructing a framework for evaluation decisions (outcomes) and procedures.

Did the decision-makers follow established procedures in resolving disputes?

Were there relevant differences in cases to justify any significant disparities in outcomes?

Williams
(continued)

What was the frequency of use of the grievance procedure?

Does the "independent" (objective) assessment of fairness and equity match that of the participants?

IV.

3. Efficiency: What are the most important aspects of cost and efficiency to be measured (e.g. processing time, funding needed, staffing and procedures to administer the most promising grievance procedures)? How complex are they in fact administratively and as they are likely to be seen by the various parties in schools?

Laue and Monti

Cost and efficiency questions always should be considered in relation to projected losses from escalated grievances that were not attended to in the early stages. Space must be provided for the grievance committee and/or officers. A high-level assistant to the principal should be assigned at least 1/4 time to administer the procedure, with an advisory council of students, faculty and parents. Processing time will be the major cost/efficiency consideration of the students and the administration/faculty if a large number of grievances are not resolved through informal investigation and conciliation.

Lincoln

Any grievance procedure ought to be able to resolve or to make a determination within two school days of case initiative. In addition to equitable but rapid case processing, grievance procedures ought to relieve teachers and administrators of many current responsibilities related to matters of discipline, thus allowing them to perform more productive tasks. This will be particularly true as the grievance procedure influences (a) improved classroom management, (b) consistent application of the disciplinary code, and (c) resolution of student concerns and allegations on the conciliation level.

Current administrative costs should be reduced if the process is implemented correctly, particularly if faculty participation on hearing panels can be regarded as fulfillment of their nonteaching administrative assignments. Such assignments would certainly be more meaningful and interesting than most

Lincoln
(continued)

of their nonteaching tasks. If this model of teacher involvement is used or if clerical help is used to perform related scheduling tasks and minimal record-keeping, no extra staff need be hired for the implementation of the process. The major new expense would be for training.

McKay

Procedures that are fair and not unduly burdensome on the schools can be devised. Such process need not be as formal as court procedures and should not involve the intervention of lawyers except perhaps in establishing the procedures. (It should be noted, however, that the proposed standards of the IJA-AI Juvenile Justice Standards Project, in the volume on Schools and Education, recommends that students be given the right to counsel). The only requirement is that fair and understandable procedures be adopted which are appropriate to the circumstances of the publi school system and the types of occasions in which the authority of the school is asserted against any member(s) of the school community.

Murphy

School administrators will not view grievance mechanisms as helpful if it costs staff time. Student and teacher advocates could be designated and trained to help smooth the process and to contribute more weight to informal resolution.

Singer

Efficiency considerations can best be summarized as a series of goals:

Singer
(continued)

Responses to grievances should be as prompt as possible.

There should be a minimum of paperwork.

A school's procedure should not depend on outside funding or staff once the procedure is functioning.

The superintendent's office should monitor the procedure's operations to insure that it meets the above goals.

Walsh

A process in which grievances are mainly handled informally with a set time established for the formal process to be heard strikes a balance in the efficiency of this procedure. However, a well run student grievance procedure does cost money in the form of personnel who serve as ombudspersons or deans of discipline and those serving on the formal grievance mechanism. A well-planned student grievance procedure, with its accompanying cost, is far superior to the non-existence of a student grievance process and the turmoil and problems which can go unanswered in its absence.

Williams

Most important aspects of cost include:

(a) salary costs for staff training time

(b) printing and processing of forms

(c) time of a manager for coordinating system and staff/students for participation

(d) design and piloting costs

Most important aspects of efficiency:

(a) reduction in destructive conflict

(b) total people time for resolution of grievances

Williams
(continued)

(c) Volume of paperwork necessary to process a grievance

(d) Whether procedures reduce or increase grievances.

A successful grievance procedure is moderately complex to administer, perhaps as complex as discipline or special education. Parties in the school would probably view them as even more complex. It will be incumbent on those designing and implementing procedures to demonstrate how a successful procedure will reduce conflict and bring a pattern to the complex process of resolving the growing number of disputes that often prevent a successful instructional program.

IV.

4. What aspects of clarity and comprehension of grievance procedures are worth exploring?

Laue and Monti

Recognition level should be measured for the entire student body and faculty (and perhaps parents) following initial publicity, but before implementation of the procedure -- then again following implementation (preferably after there have been a number of grievances filed and processed, and long enough after implementaton so any initial flurry of grievances has leveled off). Client satisfaction should be measured in greater depth at intervals. Client satisfaction is the best way to make the procedure "clear and comprehensible" to the school and its various constituencies. Records also should be kept of the ways in which the school administration publicizes grievance outcomes -- with special attenti to the speed, clarity, and efficiency with which policy changes are implemented.

Lincoln

The process needs to be written in a straight forward simple manner free of legalistic language, sophisticated terminology, and confusing phraseology.

"Have a complaint regarding....? Here is what you do: Step #1, Step #2, Step #3..." Besides, despite a formal description to be included in some school manual or student handbook, the more visible description on bulletins and postings needs only to be basic. If students perceive the process to be cumbersome or complicated it either won't be used or it will cause rather than decrease confusion, frustration, and alienation.

McKay

It is of the first importance that school rules of conduct

McKay
(continued)

be developed, reduced to writing and explained to all who are to be bound by those rules. The same is true of the procedures by which sanctions are imposed and the procedures for advancing grievances for rules violated, procedures not adhered to, or other complaints about the working of the school system. There is no magic to the process except that the process be as simple as possible and that it be communicated in terms understandable to all persons affected by the rules and procedures.

Murphy

Intelligibility All grievance language must be simplified and standardized with short forms for students to complete.

Singer

Intelligibility is best measured by students' use of a procedure. Students will point out areas that require increased clarity if they are allowed to do so.

Walsh

Everyone in a school system, including administrators, faculty, students, and parents must be able to readily understand and follow the student grievance process without difficulty. If those who must use it cannot readily understand it, it is not intelligible. Certain school systems have reduced codes of conduct, student rights, and school rules to readily comprehensible forms. The same can be true of student grievance procedures.

Williams

Aspects of clarity and comprehension to be explored include:

Williams
(continued)

- o establishment of timelines for filing and resolving grievances
- o delineation of decision-making authority and parameters
- o specification of subject matter jurisdiction
- o training provided to decision-makers and potential participants

IV.

5. Changed patterns of interaction:
What changes are likely to occur in specific kinds of interactions among students and staff as a result of the implementation of the most promising grievance procedures? (e.g. disruptive behavior, openness of communication, enforcement of rules, etc.); that is, what kinds of outcomes or effects of grievance procedures which should be explored in a study of model grievance procedures?

Laue and Monti

Schools with effective grievance procedures should experience fewer fights and suspensions, less vandalism by students, less class time spent on controlling students, and less resistance by students to controlling their peers. Participation in constructive school-related activities should increase. Students (and faculty and administration) should develop improved skills in fact-finding, negotiations, conciliation, mediation, win/win processes, etc. The establishment of courses in parliamentary procedure, justice, mediation and related subjects could accompany the introduction and operation of a grievance procedure as a means of intentional community-building in the school.

Lincoln

Grievance procedures should have positive impact on the following:

(a) Consistent application of the discipline code.

(b) Number of code infractions.

(c) Assurance of student as well as staff rights.

(d) Student morale.

(e) Faculty morale.

(f) Relationships between student-student, student-faculty, students-administrators, faculty-administrators, faculty-parents, parents-administrators, and community-school.

(g) Attendance of students and staff.

(h) Staff performance.

(i) Student performance and achievement.

McKay

If rules and procedures are carefully developed along the lines

suggested above, the impact on the entire school community would be favorable. Elimination of the mystery as to what is permitted and what is forbidden, along with statement of procedures for discipline and grievances, should go far to dispel claims of arbitrariness and unevenness of treatment amounting to discrimination.

Murphy

The enforcement of a mechanism will lead to a greater understanding of fair rules and regulations. Unfair rules will be challenged. I do not expect that a grievance mechanism will improve disruptive student behavior any more than it will cure poor teaching!

The evolution of student interaction/involvement in writing, adoption and implementation of school policies and procedures.

Singer

The Center expects that school tensions should be reduced, communication at all levels should increase, school rules should become more rational and more evenly enforced, and average or even alienated students should feel more comfortable about making formal complaints. These effects may or may not show up in declines in vandalism, absenteeism, or suspensions.

Walsh

The basic pattern of change will be an openness among all parties in a school, prevention of problems from building up without those in charge knowing of their existence, an early warning system

Walsh
(continued)

of troubles and difficulties, increased reliance on students to resolve their own problems, and increased skills among the entire school community in adjusting to the ever-changing problems of society as exhibited within the microcosm of a school.

Williams

Changed patterns of interaction:

- more respect for students from staff
- more focus upon the rules by all parties
- more adversarial relationship between students and staff
- increase in communication between students and staff concerning what is "problematic" for both role groups in the other's behavior.

Other concerns:

- decrease in explosive information between students and staff
- correlation between frequency of use of procedures and favorable outcomes for students
- time expenditures and monetary cost of maintaining procedure

V. Scope of Study

1. Should we confine our study to junior and senior high schools? To low-income areas? To issues that activate or involve students directly vs. issues that arouse parents more?

Laue and Monti

The scope of the proposed study should include schools with wide variation on the following characteristics:

(a) Size

(b) Level (grammar, middle, secondary)

(c) Racial and class composition

(d) Geographical location (region of the country as well as urban/suburban/small town/rural).

(e) Personality and leadership styles of the principal (this may be the key variable).

(f) Level of commitment of the school board and central office.

(g) Existence of district, municipal, county, or state legislation regarding grievances and/or discipline.

The focus of the operation of the procedure at the point of delivery of services -- the individual school and its attendance area. Implications for level of data aggregation: produce a series of focussed case studies, for we assume the goal is policy influence. Large-aggregated quantitative data are not useful to the individual system or school in implementing innovations.

Lincoln

I believe it is time for more research-demonstration as well as case history projects in contrast to more surveys of the landscap and that the focus ought to be upon secondary schools in systems of various settings:

Lincoln
(continued)

(a) general urban including central city schools

(b) suburban

(c) rural

(d) schools undergoing intitial court-ordered desegration

(e) schools which have achieved desegregation through court-ordered implementation.

(f) schools which are involved in various so-called voluntary desegregation efforts.

(g) the above in various geographic regions of the nation.

Special attention needs to be given to other variations such as racial and socio-economic composition of the faculty and student bodies of each school; unique cultural factors; size of the student body and the student-faculty-administrative ratio; local law and policy; analysis of discipline code and student rights; leadership styles of students, faculty, and administrators; external school influence including community organizations/agencies; media and parents; commitment of the school board; degree of internal involvement of students and faculty in planning; actual design and jurisdiction of the process; decision-making process and the degree of student participation; analysis and evaluation of training; case tracking to determine types and frequency of particular cases and patterns; cost effectiveness; evaluation of process and outcomes by students, faculty and administrators, replicability.

McKay

The study should, in my judgment, look at the problems of all schools and all issues. Every school system has the same problems to some degree as every other school system. All parents,

all students, and all school officials share similar concerns with their counterparts everywhere else. Only from such a generalized study will it be possible to develop models that are flexible enough to deal with the wide variety of issues that can and do arise in the public schools of the nation.

Murphy

I believe the study should be confined to senior highs in geographic areas that have strong national reputations among National School Boards Association, National Association of Seconda School Principals, and the American Association of School Administrators (some analysis is needed here). Again, I emphasize the acceptance of the student grievance concept by school administrators who can make a difference and whose related testimony will provide for national direction/change.

Singer

The Center believes that the focus of the project ought to be on secondary schools, with possible later expansion to elementary grades. The stress at all times should be on student-initiated grievances. Improved grievance procedures should foster the ability and desire of students to participate in the resolution of school problems. This can only be done if students are treated as individuals, not as appendages of their parents or as wards of the schools.

Walsh

I believe that the study should relate to both junior and senior high schools since junior high schools are more and more

becoming the focal point of problems. Procedures which can work in senior high schools can also work in junior high schools. I believe that a wide range of school settings should be utilized in the study because an effective student grievance procedure is needed throughout the country since problems exist in suburbia as in urban areas and in rural, as well as metropolitan, school systems.

Williams

Scope of study should include:

- elementary and secondary schools
- schools with varying racial and economic composition
- issues that involve students primarily

SCHOOL DISCIPLINE AND THE COURTS

by

Robert McKay

McKay analyzes the rapidly developing body of school-related law promulgated by the U.S. Supreme Court. Beginning with the Brown v. Board of Education decision on desegregation and following with Goss v. Lopez on due process for suspension and expulsion, Wood v. Strickland on civil liability of school teachers and administrators and Ingraham v. Wright on corporal punishment, it is apparent that judicial intervention has had great and lasting impact on the character of American schools.

McKay's analysis leads him to express concern over the increasingly adversarial relationships between the student and the rest of the educational community. The growing formality of procedures increases the chances that "legalistic" responses will be forthcoming. As administrators become increasingly sensitive to the potential of civil suit; they are less likely to develop creative responses designed through collective planning to deal with student problems.

In the final section of his paper, McKay proposes that model codes of school discipline be developed. Formulated by educational professionals, these would define acceptable conduct, appropriate sanction, procedural safeguards, and alternative dispute resolution schemes. Well designed rules and regulations governing discipline and other areas of student behavior are seen by McKay as one way of handling judicial intervention in a progressive rather than reactive manner.

School discipline is a central concern of educators, administrators, students and parents. Until the last few years, it has been a peripheral concern of the courts. Although the courts have become deeply involved in matters of educational policy during the past two decades since Brown v. Board of Education, judicial intervention in school discipline has been quite recent. Dismantling a segregated school system maintained in violation of the fourteenth amendment equal protection clause was one thing; intervening in the procedures whereby a teacher disciplines a student seemed quite another.

The traditional view of the role of schools in transmitting knowledge and shaping character held that the interests of the child and the school were congruent, or at least, that the school was acting in the best interests of the child. When students became unruly or disobeyed school regulations, some form of internal punishment was to be meted out by teachers or administrators. What the rules were, what constituted an infraction, and what the sanction should be were all matters for the judgment of educators.

From the educators' point of view, discipline has been thought of as rehabilitation of the individual student, as a means to conduct the educational process in an orderly manner,

and even as a form of education itself. Indeed, discipline has sometimes been referred to as part of the "hidden curriculum," or discipline as education. Obedience to authority was itself a value to be transmitted. From this perspective, discipline was seen as being imposed in the best interest of all students. The courts were reluctant to interfere.

Two other perspectives have been highlighted in recent years which, in varying ways, have pushed toward increased judicial intervention. The first represents a direct attack on the efficacy and bureaucracy of the public school system - a questioning of the schools' ability to do their job as traditionally defined.

One manifestation of this has been a growing public awareness and anxiety about disorder in the schools. Incidents of violence and crime in the schools are increasing. Reported incidents in the New York City schools during 1974-75 showed an increase of 63.6 per cent from the previous year.[1] A United States Senate Subcommittee investigating juvenile delinquency held hearings and issued its report in April 1975 - "Our Nation's Schools - A Report Card: 'A' In School Violence and Vandalism." Public response is reflected in opinion polls showing that "lack of discipline" heads the list of concerns about the school system.[2]

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1. Lash and Sigal, State of the Child: New York City, 56 (1976).

2. Gallup, Seventh Annual Gallup Poll of Public Attitudes Toward Education, (1975).

The schools have responded in several ways, including an increase in the use of suspension as a sanction. Again the figures are depressingly dramatic. In the New York City high schools, reported suspensions rose 249.7 per cent between 1969-70 and 1974-75.[3] There is also some evidence to support the view that minorities are disproportionately affected by disciplinary sanctions such as suspension. The Children's Defense Fund in their 1975 study, School Suspensions: Are They Helping Children?, report that "Suspensions impact on some children more than others... most striking is the disparate suspension of black school children: they are suspended at twice the rate of any other group." A sampling of ethnic impact of school suspensions in the New York City public schools reaches a similar conclusion.[4]

Educational reformers who saw the schools losing their authority and validity tended perhaps to look for salvation in the courts and the requirements of procedural due process. They "anticipated that the constraint of a hearing might reduce reliance on suspensions as a disciplinary tool, and encourage educators to seek less punitive ways of restoring authority and respect."[5]

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3. Lash and Sigal, note 1 supra, at 54.

4. Id., at 55.

5. Kirp, "Proceduralism and Bureaucracy: Due Process in the School Setting," 28 Stanford L. Rev. 841, 851 (1976).

The other new perspective comes from legal reformers who have been expanding the right to a fair hearing to citizens dependent on the government for a variety of benefits, from welfare, housing and employment to education. It has been referred to as the "allure" of due process, and "the history of public law during the past decade has been in no small part a history of the expansion of procedural protection."[6] It may perhaps have been inevitable that school discipline would also be drawn into that "allure" and that students rights would be translated into procedural rights.

Both educational reformers and legal advocates question the long-standing assumption that the interests of school authorities and students are congruent, at least with respect to discipline. They express concern about the various grounds for disciplinary sanction, suggesting that it "reflects a pervasive school intolerance for children who are different."[7] They often doubt the appropriateness of the sanctions, and see students in an adversary position in need of constitutionally protected and defined procedural rights.

The lower federal courts and state courts in recent years have dealt in varying ways with aspects of school discipline.

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6. Ibid, at p. 843.

7. Children's Defense Fund, School Suspensions: Are They Helping Children? (1975).

In 1975, the United States Supreme Court for the first time considered issues arising out of student discipline procedures at the secondary school level. In Goss v. Lopez (419 U.S. 565) the Court had before it the due process claims of nine Columbus, Ohio junior high and high school students who had been suspended from their schools for periods of up to 10 days. The students were suspended during two months of widespread student unrest and disorder in the Columbus schools. The then-relevant Ohio statute permitted 10-day suspensions by the school principal. There was no provision for any sort of pre-suspension hearing procedures. Several of the nine students claimed that they were not in fact involved in the misconduct upon which the suspensions were based.

The Court, in a 5-4 decision, held that the students had a due process claim to some kind of notice and some kind of hearing before they could be suspended. In particular, the student must be told what s/he is accused of doing and what is the basis of the accusation. If the charge is denied by the student, s/he must be given the opportunity to explain her/his side of the story. There does not need to be a time lapse between the notice and the hearing, but both should generally take place before the student is sent out of school (although the Court recognized the occasional need for removing the student immediately).

The Court majority reached this result after finding that students had an entitlement to a public education under the Ohio statutes which provided free public education and compulsory school attendance. Since the students had a property interest, an entitlement granted by the State, the State could not then withdraw that right "absent fundamentally fair procedures to determine whether the misconduct occurred." (Page 574). The Court also found that the students had a liberty interest in reputation, the maintenance of an unblemished school record, of which they could not be arbitrarily deprived.

What the majority of the Court seemed to groping for was an accommodation between the different perspectives described earlier. There was no intent to convert ordinary disciplinary procedures into full-blown adversarial contests. The process that is due does not include right to counsel, to confront and cross-examine witnesses, or to call witnesses. The standards put forth by Justice White are in fact modest and vague, "an informal give-and-take between student and disciplinarian," and constitute "less than a fair-minded principal would impose upon himself in order to avoid unfair suspensions." The Court left open the possibility of "more formal procedures" for longer suspensions, expulsions or "unusual" circumstances, intimating that greater formality might be required in such situations.

A dissenting opinion was written by Justice Powell, and joined in by Chief Justice Burger and Justices Blackmun and Rehnquist. They dismissed the due process holding of the majority and stated that routine discipinary sanctions, including 10-day suspensions, do not assume constitutional dimensions. Their chief concern, however, was that the introduction into the classroom of the adversarial model of dispute resolution would disturb the ongoing quality of student-teacher relations.

In addition, the dissenters were troubled by substituting the discretion and judgment of the federal courts for that of school boards and teachers. They wondered whether many other discretionary decisions in the educational process will be subject to adversarial procedure under the Goss ruling - decisions concerning promotion, exclusion from some classes, expulsion from extra-curricular activities, and tracking.

A very recent decision by the Court seems to refine the Goss case. In Board of Curators of the University of Missouri v. Horowitz (47 U.S.L. Week 4179, March 1, 1978), a medical student dismissed for academic reasons claimed, among other things, a denial of due process in the dismissal. The majority of the Court, in an opinion by Justice Rehnquist, distinguished disciplinary suspensions from academic dismissal. "The determination whether to dismiss a student for academic reasons requires an expert eyaluation of cumulative information and is not readily adapted to the procedural tools of judicial

or administrative decisionmaking." (Page 4182). It is interesting to note that the student claimed she had been dismissed for personal reasons rather than academic ones, and was therefore entitled to the procedural protections covering disciplinary sanctions. Occasions may arise in the future where the line between academic and disciplinary sanctions is sufficiently blurred to require further refinement of the Goss decision.

In 1977, in the case of Ingraham v. Wright, (430 U.S. 651), the Court had before it the claims of two Florida junior high school students who had been subjected to disciplinary "paddling." Florida permits corporal punishment which is not "degrading or unusually severe," and in fact school board regulations give specific directions and limitations on the permissible forms of corporal punishment. It was also clear that the school authorities viewed "paddling" as a sanction less drastic than suspension, although the evidence showed that these particular incidents of "paddling" were exceptionally harsh.

The Court was again divided, but this time the majority opinion was written by Justice Powell, the author of the Goss dissent. The Court held that the Eighth Amendment prohibition against cruel and unusual punishment was designed as a restraint on criminal sanctions and was not applicable to school discipline. "The schoolchild has little need for the protection of the Eighth Amendment. Though attendance

may not always be voluntary, the public school remains an open institution" (Emphasis added.) The majority also noted that public and professional opinion is divided on the issue of corporal punishment, with twenty-one states authorizing it in their school systems.

The students claimed that they had been denied due process, or a fair hearing, prior to the imposition of discipline. On this, the Court held that a constitutionally protected liberty was involved - the State (school) cannot hold and physically punish a student except in accordance with due process of law. But on this issue, in these circumstances, what process is due? The Court said there was no requirement of notice and hearing because the common law provided adequate safeguards against excessive punishment. If teachers or administrators exceeded the permissible bounds, they would be subject to civil or criminal liability. "In those cases where severe punishment is contemplated, the available civil and criminal sanctions for abuse - considered in light of the openness of the school environment - afford significant protection against unjustified corporal punishment."

The majority of the Court was concerned lest the administrative burdens of a constitutionally mandated procedure have the effect of placing the Court's judgment on what is proper educational policy ahead of the school's. "Teachers, properly concerned with maintaining authority in the classroom, may well

prefer to rely on other disciplinary measures - which they may view as less effective - rather than confront the possible disruption that prior notice and a hearing may entail."

The dissenting opinion, written by Justice White and joined in by Justices Brennan, Marshall and Stevens, disputes the majority view on the applicability of the Eighth Amendment to school discipline. More relevant to the purpose of this paper, however, was the handling of the due process claim to a notice and hearing prior to the imposition of punishment. The dissenters found the threat of civil and criminal sanctions insufficient protection against unjust discipline. They noted that there is no remedy if the teacher imposes corporal punishment on the basis of mistaken facts if it was reasonable to do so from the teacher's viewpoint. In addition, once the physical punishment has been meted out, it is final and irreparable and cannot subsequently be undone.

Another case relevant to school discipline was decided by the Supreme Court in Wood v. Strickland (420 U.S. 308) in 1975, shortly after Goss. The Court held that school officials are personally liable for violation of the constitutional rights of students in cases where they knew or ought to have known that such rights were being violated. Reading the Wood case alongside Goss raises the question of how

school officials will view their obligation to provide "some notice" and "some hearing" to students facing suspension. It seems likely that school administrators will defensively opt for more hearings and greater formalism rather than risk liability.

There are many questions left unanswered by these school discipline decisions. The Court did not indicate the kinds of offenses that can be punished. Will the courts look behind the sanction? Will the importance of triviality of the underlying conduct be scrutinized? Should it be scrutinized, given the holding in Goss that the student has a constitutionally protected interest in a good reputation?

The Court did not deal with the thorny question of what is a sanction. Going beyond the more usual forms of discipline - corporal punishment, suspension and expulsion - how would, or should the courts regard the use of behavior-modifying drugs? To what extent are pupil classification and transfer out of the school covert forms of discipline? What are the due process implications, if any, for these other forms of discipline?

Other issues unresolved are what level of punishment is "proportional" for different offenses, and what measure of procedural safeguards is appropriate for various sanctions, graded according to severity. Neither did the Court consider what kinds of procedural protections, if any, are required

for disciplinary decisions less drastic than full suspension, such as exclusion from a final examination.

Aside from the many remaining questions, the educational consequences of even those already answered are unclear. What will be the costs, actual and hidden, of the procedural requirements of Goss? Where will the money, personnel, and time come from? When a school system contemplates the financial liability imposed by the Wood case will it provide even more costly, more adversarial procedures? Or will these cases have the effect of encouraging schools to explore alternative forms of discipline which may be more useful and more widely accepted? On the other hand, perhaps the distinction created by the Court between Ingraham and Goss will encourage more frequent use of corporal punishment rather than suspension, at least in those jurisdictions which permit physical discipline.

The very listing of these unanswered questions raises the issue whether the judiciary ought to be so heavily involved in the academic process. To many observers, the courts seem ill-suited to resolve these problems. The ongoing relationship between teacher and student may not be well served by adversarial procedures. "In short, the precepts of the adversary model may not maximize the values of community sought to be developed within the school environment."[8] An increased tension in the

8. Verkuil, "The Ombudsman and the Limits of the Adversary System," 75 Col. L. Rev. 845, 860 (1975).

teacher-student relationship may be one of the hidden costs of court-imposed procedures.

Alternatives to judicial intervention ought to be considered so that the courts might be insulated from all but the most flagrant cases. One approach that has been suggested is the development of model codes of school discipline and disciplinary procedure. Some of the issues which could be considered are:

(1) The kinds of student conduct that should be subject to the disciplinary process.

(2) The variety of available disciplinary sanctions; alternatives to corporal punishment, suspension and expulsion to be examined. (This could include behavior contracts, school ombudsperson, peer group counseling).

(3) The sanctions appropriate for various offenses.

(4) The procedural protections desirable as a matter of prudence and fair play; the extent to which the adversary process should be incorporated into disciplinary proceedings.

(5) The alternatives to the adversary process available for the resolution of school discipline disputes: the extent to which mediation and arbitration procedures can be developed as fair and effective alternatives.

STUDENT GRIEVANCE PROCEDURES

AN INTRODUCTION TO SCHOOL COMMITTEES' CONCERNS

by

Paul J. Alphen

Alphen examines the concept of student grievance procedures from the perspective of an elected official -- a school board member. He discusses the essential factors in a grievance procedure, and considers (a) the impact of establishing such a system throughout a school district on teacher contracts; (b) the costs of training personnel and administration; (c) the threats of judicial intervention; (d) student rights; (e) parental involvement and other issues.

Alphen proposes school committees should provide leadership and support for the concept and should monitor the program for equity. Incidently, the author is a police officer in the same town in which he serves as a member of the school board.

Recent research has documented that few public secondary schools have adequately responded to the *due process* requirements set out in judicial decisions (Tinker and Goss). The Children's Defense Fund of the Washington Research Project, Inc., charged that large numbers of students are annually suspended from public schools without apparent justification.[1] Another study of in-house judicial systems in Connecticut public schools demonstrated a definite absence of even the simplest judicial protections for students accused of school regulation violations.[2] There is reason to think that most school boards across the nation are indeed vulnerable to similar accusations in their own systems.

In too many instances, there is no clear statement of rules and regulations or a code of disciplinary conduct distinguishing punishable offenses from appropriate sanctions. Without consistent application of clearly understood rules and regulations, any school leaves students with feelings of frustration, anger and powerlessness. Under such circumstances students believe they are subject to arbitrary and unfair treatment at the will of the administration and faculty.

While some school departments have neglected, avoided, and resisted the movement to broaden student rights, others have set

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1. From the article, What Schools Are Doing - Or Trying To Do - To Improve Disciplinary And Suspension Procedures, "The American School Board Journal," March 1976, p. 36.

2. Rules, Regulations, and Policy Governing the Conduct and Discipline of Students, Connecticut School Development Council.

down student rights and responsibilities via handbooks and manuals. Examples of these are provided in Appendices A-C of this paper. An important part of each of these documents is provision for *due process*. Although judicial decisions have addressed due process protections in suspensions and expulsions, some communities have extended these rights far beyond narrow discipline issues. An articulate definition of due process, for example, is provided in the Scituate, Massachusetts High School "Guidelines to Student Rights and Responsibilities":

> Due process stands as a protection of all rights. Due Process is a clearly defined procedure for the consideration of student problems and the processing of student complaints. Due Process is also a means through which a student may propose change. Due Process shall protect students from the exercise of arbitrary authority over them by instituting procedures to handle any problem, rule infractions, or complaints which may arise. There shall be an appeal board to review due process cases. If not satisfied with the decision of the Appeals Board, either party to the case may appeal the decision to the Superintendent of Schools and/or School Committee within ten days of the decision.

The extension of due process protections to encompass student allegations, complaints, and general dissatisfaction toward policy, rules, and application requires the development of student grievance procedures. Only then can students as well as teachers, support staff, and administrators be provided an internal school mechanism in which to resolve student concerns. Obviously the types of disputes to be handled differ from school to school because of many factors including the socio-economic composition of the school, staff leadership, and the jurisdictional provisions

of the process itself. Some disputes could very well include categories (e.g. discrimination) which would otherwise be brought to litigation and/or which might escalate into major confrontations if not handled in an efficient, just, and equitable manner. Credible dispute prevention and resolution processes are simply becoming "a must," at least in our nation's high schools.

I have provided a few samples of grievance procedures in the Appendices in order to provide some guidance to students and school personnel who are contemplating process designs for their own systems. Each process should include statements explaining students' constitutional rights, the relevancy of various state and local laws, and, of course, the school rules and regulations. In this way students, teachers, and administrators can adjust grievance procedures according to the standards and preference of their school and community. The school community can design specific limitations to what is and isn't grievable, but the fewer the limitations, the better. When an individual feels s/he has been treated unjustly, s/he should have accessible routes for proper recourse and remedy if warranted.

But can we be sure students would abide by unpopular decisions from a grievance process? Yes, but only if grievance procedure incorporates widespread peer acceptance; i.e., process credibility with students. This can best be achieved by including meaningful student involvement in all phases of process design, implementation, monitoring and evaluation. Quick and informal grievance procedures

should exist to resolve the bulk of the disputes in a short period of time. When operating properly, the process should work to reduce conflict and tension, and even assist the school community in anticipating problems, thus permitting attempts to remedy situations before conflict disrupts the education process.

At this point, I believe I ought to suggest to school boards considering implementing a student grievance procedure in one school or throughout their system that they should investigate in the following areas:

(1) Incorporation of a union-type grievance feature which could consolidate a number of like grievances in to a single act.

(2) Incorporation of grievance representatives to insure anonymity in special circumstances.

(3) Incorporation of a regular program of school reorientation.

(4) Design of grievance administration for ease in operation.

(5) Communication mechanisms between those responsible for grievance activities and those responsible for policy regulations activities.

(6) Deciding if teachers serving on the appeals board should be selected by the staff or by the students.

(7) The desirability of an appeals level beyond the school board, i.e. a citizen's board or panel of impartials from the American Arbitration Association.

After developing broad policy statements governing grievance procedures, the local school board should provide individual support and group leadership to assist the project in implementation. If we are serious about these processes, then

we can't simply rely on building administrators. We are going to have to insist and assist!

The keys to the successful implementation of grievance procedures include:

A. Broad internal school participation in planning and implementation.

B. Training for process officiators (e.g. hearing officers) and orientation for users.

C. Support mechanisms.

I shall briefly discuss each of these matters below.

A. Participation

The effectiveness and equity of any grievance procedure is dependent upon the process officiators. The procedure must not be under the sole control or management of a small select group of faculty and/or students. The process must be accessible to all, and present a real image that it is indeed answerable to the school community. It must encourage students and faculty to perceive themselves as qualified -- able and willing-- to make decisions jointly and to effect change.

School board and administration must avoid imposing a set of grievance processes upon local schools. Instead, each process should be developed in joint planning sessions with teachers, students, support staff and building principals. At this level, a joint planning committee can examine alternative grievance procedure models and select a process which best fits their school. This cooperative decision-making exercise conveys to

the parties a sense of ownership and control. After such a system is developed, it should be presented to the central administration of the school department and then to the school board for final approval and endorsement.

Process maintenance is equally important as planning. All grievance procedure officiators should meet regularly to share problems, information, and concerns. Depending on the process selected (e.g. student advocates, mediators, student/staff panels, ombudsperson), participants can include college students, outside impartials, and elected or selected student and faculty representatives, and school committee members for proper monitoring and evaluation.

B. Training

All officiators of the procedure must have a thorough knowledge of school committee policies, rules and regulations, applicable laws and judicial rulings, and, of course, all the operational and administrative aspects of the grievance process itself.

An essential part of any training program is skill building in conciliation, fact finding, and mediation techniques. In-school workshops will need to be conducted to train faculty and students in the effective use of these objective and impartial skills. If we use our imagination, we can consider the use of such impartials in other schools throughout the system when issues of "neutrality" arise. Whereas training materials for such purposes already

exist[3] much could be achieved by incorporating this curriculum into normal classroom courses. This approach would keep the costs for training to a minimum while assuring continual updating and refinement of the curriculum. Another benefit of incorporating grievance procedure concepts into formal school curriculum, e.g. social studies and civics classes, is the orientation of students to the use of their school process. In any event, comprehensive training must occur in order for the entire school community to appreciate the philosophy and application of peaceful and impartial dispute resolution processes.

C. Support Mechanisms

A regularly functioning support system composed of school and community resources must be created to protect the integrity and perpetuate the use of the grievance process. In-service training, monitoring, and program evaluation will have to be provided. A program aimed to achieve public awareness and appreciation of grievance procedures might increase the resources available to the system. Support might be requested from local professional organizations, legal associations, interest groups and business leaders for assistance in curriculum development, training, and administrative assistance.

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3. Training materials for grievance mechanisms have been developed by the Center for Community Justice, the Institute for Mediation and Conflict Resolution, and the Community Dispute Services of the American Arbitration Association.

Regular monitoring and evaluation of the grievance procedure will help to assure that the process is effective in resolving grievances in a timely and equitable manner. Such analysis should be done on multiple levels and should involve both subjective and objective measures of program success. For example, students can be given student-designed questionnaires to determine their knowledge and familiarity with the grievance procedure. Also, students and staff responsible for officiating the process should meet regularly to critically analyze and refine the process as needed. If records are well maintained, the procedure will generate a body of data which will provide valuable indicators of performance. The following items are important considerations in determining whether a procedure is responding to student complaints effectively as intended:

(1) Access to process
(2) Quality of responses
(3) Timeliness of responses
(4) Consistency
(5) Measurement of cases by category
(6) Satisfaction of initiator and respondent
(7) Compliance
(8) Impact on existing policy
(9) Staff leadership

Needless to say, staff leadership can be difficult to measure. Since administrative support is so vital to the implementation of a grievance mechanism, it is hard to conceive of any procedure operating without a strong commitment

from the principal/headmaster, the superintendent, and the school board. An instrument will need to be designed to assess leadership even if data simply implies that individual leadership styles are important factors and variables in school management.

Also, an easy and effective way to promote confidence in the process is the establishment of a knowledgable and respected outside committee which could be called upon to review the process. The school board itself may be an appropriate body to create and maintain a subcommittee for monitoring and evaluation.

The introduction of institutional change in a school can be mildly disruptive. The level and extent of such disruption can be better managed if we anticipate the concerns and issues which might include:

A. Teacher contracts

B. Program Costs

C. Student Rights and Litigation

A. Teacher Contracts

Massachusetts General Law, for example, stipulates that the teacher's union may negotiate with the school committee on "...questions of wages, hours, and other terms of employment." A school board may find the adoption of a student grievance procedure is interpreted by the teachers' union as a change in working conditions. This could result in the filing of employee grievances against the school committee and a demand

by the union for a renegotiation of the contract. Teacher concerns may include:

(1) Actions taken against teachers to resolve student grievances.

(2) The need for protection against grievances becoming part of the teacher personnel files.

(3) Protection against grievances filed to harass individual teachers.

(4) Protection against grievances consuming valuable time.

(5) Stipends for participation in the process.

(6) Privacy and confidentiality in appeals and hearing processes.

In responding to the above, it may be helpful for the school board to document that the grievance procedure is consistent with school board policy, and that the process for students is philosophically congruent with faculty union grievance procedures. As grievance procedures have been employed to avert large scale disruptions in the labor-management arenas, such can provide similar benefits in the general school environment.

B. Program Costs

Expenses associated with the grievance procedure would include:

(1) Staff involvement and negotiated stipends/ compensatory time/alleviation of other duties.

(2) Training.

(3) Evaluation and mid-course corrections.

As discussed above, a decision to be made is how the process will be incorporated into the school; as part of the

curriculum or to be extra-curricula. Depending on the type of grievance procedure selected, extra staff may have to be employed as mediators, ombudspersons, or student advocates. The incorporation of a student grievance procedure into a school system can work toward fiscal efficiency in an important way. The student grievance procedure can be the vehicle by which a school system can head off costly litigation arising from denial of due process or violation of student rights. Because fiscal management and budgetary control are major concerns of the school board, anticipated costs of the system should be evaluated in light of the potential for legal actions and escalated disruptions in the school environment.

C. Student Rights and Litigation

Students are too sophisticated to be fooled by "paper programs," token representation, or lip service. Recent court cases have awarded students more and more rights within schools and students should be expected to exercise those freedoms in a reasonable fashion.[5] A grievance procedure may resolve questions of constitutional rights free of court costs. Issues of privacy, confidentiality of records, due process in suspension and expulsion, and other administrative regulations might also be handled via the grievance process. Of course, in and of itself,

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5 See Scoville v. Board of Education (400 U.S. 826); Trachtman v. Anker (426 F. Supp. N.Y.198) and Gambino v. Fairfax County School Board (429 F. Supp VA 731).

time saved may mean money saved for all parties. Some school board members, administrators, and educators incorrectly dismiss the possibility of litigation of student rights because they believe the "heyday of student activism" has passed. A new re-emergence of student movements may lead them to wish they had a process to resolve conflicts equitably and efficiently thus avoiding litigation.

SUMMARY AND CONCLUSION

These random thoughts represent my effort to address some of the major issues surrounding grievance procedures as they appear to me, a public school board member. Since the subjects of teacher contracts, program evaluation, student rights, and student participation in planning and implementation have been discussed above, it is now important to refer at least briefly to the impact of grievance procedures on student growth and the school environment in general.

Suspensions and expulsions cannot be regarded as dispute resolution models, but as applications of mandatory or administrative disciplinary actions. In fact, such actions may exemplify techniques of dispute avoidance since little is done to deal constructively with the causal factors of conflict. With a grievance procedure, however, steps are taken first to discover the conflict-creating factors, and then to deal with the effects equitably and finally to resolve circumstances so recurrence is unlikely. In other words, a grievance resolution process can be an effective grievance prevention process as well. Some instruction and practice in the use of grievance mechanisms will introduce students to the processes of objective evaluation and of shared decision-making, it is an educational process as well. And, furthermore, involvement in joint planning and

implementation discussed above reduces the tensions so prevalent in schools today and makes students accountable to themselves as well as to others.

Learning to deal with conflict by participating in grievance procedures is a valuable lesson that should be included in our agenda for public education. If our schools have the duty to prepare young people for full membership in a complex society, then they also have the responsibility to provide meaningful experiences in conflict resolution.

ATTACHMENT A

SCITUATE HIGH SCHOOL
GUIDELINES TO STUDENT RIGHTS AND RESPONSIBILITIES

PREAMBLE

The following guidelines have been carefully drawn to put the rules more in line with true responsible behavior. They provide for more democratic conditions necessary for the student to be able to satisfy her/his needs. They protect students from the irresponsible behavior of others. Most importantly they spell out more specifically how a student must be directly accountable for the consequences of her/his choices.

These guidelines will be reviewed once a year by a committee composed of students, faculty members, administrators and parents.

STUDENT REPRESENTATION ON THE SCHOOL COMMITTEE

RIGHTS: Students of Scituate High School have the right of non-voting representation on these bodies which have legal control over the school system. These representatives should have all other rights and privileges of the regular members of the School Committee, except the right of attending executive sessions.

RESPONSIBILITIES: It is the responsibility of these Student Representatives to obtain the views of students on all school issues: for major issues questionnaires may be used, but it is the responsibility of the student body to express their views on minor issues directly to their representatives. It is the responsibility of these representatives to attend School Committee meetings and to report back to the school. It is the responsibility of these representatives to attend Student Council meetings.

IMPLEMENTATION: There shall be an election of five member Student Advisory Committee in accordance with State Law. The School Committee shall meet at least once every other month, during the months school is in session with this committee. The Student Advisory Committee will consist of one member from each class, elected by her/his class and the student elected at large to the Southeastern Student Advisory Council. Two members of this committee will be elected by the Committee as representative on the School Committee. Impeachment proceedings may be the result of failure to perform any of the above responsibilities. The professional staff will be involved in the preparation of questionnaires.

DUE PROCESS

RIGHTS: Due Process stands as a protection of all rights. Due Process is a clearly defined procedure for the consideration of student problems and the processing of student complaints. Due Process is also a means through which a student may propose change. Due Process shall protect students from the exercise of arbitrary authority over them by instituting procedures to handle any problem, rule infractions, or complaints which may arise. There shall be an appeal board to review due process cases. If not satisfied with the decision of the Appeals Board, either party to the case may appeal the decision to the Superintendent of Schools and/or School Committee within ten school days of the decision.

RESPONSIBILITIES: Students shall act with the responsibilities of understanding Due Process, conforming to the result of the process and of working through Due Process to secur desired change. Before filing an appeal with the Student Council, it is the responsibility of the student to exhaust all existing channels of complaint; the teacher concerned, the housemaster, and finally the principal or assistant principal. Participants on the appeal board shall be responsible to react to all cases in a fair way.

IMPLEMENTATION: Refer to Appeals Procedure: Due Process, which every student will receive at the beginning of Freshman year, for information concerning: Make-up and Terms, Meeting Times and Place, Moderator, Items Appealable, Hearing Procedure, Authority of Appeals Board, Minutes of Hearing and Time of Appeal.

APPEALS PROCEDURE: DUE PROCESS

Section I Make-up and Term of Appeal Board

A. Seven members shall make up the Appeals Board (with four alternates).
B. The Student Council shall select the faculty member (which includes administrators) from a list of volunteer faculty members.
C. The vice president of the Student Council, in the presence of the Student Council Faculty Advisor, shall select at random, from a list of those faculty members who have volunteered to serve, five in number, the first three to serve and the last two as alternates.
D. The vice president of the Student Council, in the presence of the Student Council Faculty Advisor, shall select at random, from a list of those students who have volunteered to serve, five in number; the first three to serve and the last two as alternates.
E. The alternate will serve in the following manner:
   1. In the case of unavailability of a permanent member.
   2. In the case of challenge by either the plaintiff or respondent.
F. The Board shall serve for one marking term, or until the Board votes to dissolve itself (for reasons of unworkability).
G. If two Boards are deemed necessary by the first Board, then a second Board shall be selected to serve in the same manner.

Section II Meeting Times and Places

A. All hearings shall be held after the regular closing of school hours at Scituate High School.
B. The first Board shall meet on Thursdays as necessary.
C. If a second Board is selected, it shall meet on dates designated and publicized in advance by the Appeals Board Committee of the Student Council.
D. A limit of two hours for each meeting shall be in effect unless, by unanimous vote, the Board elects to continue the meeting.
E. All hearings shall be held at Scituate High School.

Section III Moderator

A. A moderator shall preside at all hearings.
B. The moderator shall serve for the length of service of the Board.
C. The initial moderator for the first term shall be the Student Council Advisor. After the initial term of the first Board, the moderator shall be either the Student Council Advisor or a Student Council member elected by the Student Council, who has served as an alternate moderator for one term. The selection of a moderator for each term shall be voted by the Student Council with approval of the Student Council Advisor. Two alternates shall also be selected for each term.

D. After the initial term of the Board, in the event of the illness or absence from school of the moderator, one of the alternates shall serve as moderator.
E. Alternate moderators shall attend all hearings.
F. The moderator shall have no vote and shall not give her/his views or opinions on the case.
G. The moderator's duty shall be to maintain order during the hearing, to clarify questionable points, to bring up points of information, on matters pertinent to the case, and to decide upon the admissibility of evidence and witnesses.

Section IV - Items Appealable

A. Students may bring cases to the Appeals Board involving such things as rule infractions, disciplinary actions, grades, or any other school related situations in which the student feels s/he has been unjustly or unfairly treated.

Section V Hearing Procedure

A. Both the plaintiff (student) and the respondent shall have at least 48 hours of advance notice of the hearing.
B. Each party to the appeal shall have the right to challenge one member of the Board. The challeneged member shall be replaced by one of the two alternates, chosen by lot.
C. Either party may request a closed hearing.
D. Presentation of case:
   1. The plaintiff and the respondent shall each present an outline of their position, in writing, to the moderator at the beginning of the hearing.
   2. The plaintiff shall present her/his statement to the Board.
   3. The respondent shall present her/his statement to the Board.
   4. Witnesses having relevant evidence may be called by the plaintiff and may be cross-examined by the respondent.
   5. Witnesses having relevant evidence may be called by the respondent and may be cross-examined by the plaintiff.
   6. The respondent and then the plaintiff, shall have the right to cross-examine one another.
   7. The respondent shall present a summation of her/his case.
   8. The plaintiff shall present a summation of her/his case.
   9. Members of the Board may then question the plaintiff and/or the respondent.
E. The Board, in the presence of the moderator, shall then meet in closed session to discuss the merits of the appeal. At the conclusion of the discussion, a secret ballot shall be taken.
F. The moderator shall announce the decision of the Board.

Section VI Authority of Appeals Board

A. All decisions of the Appeals Board shall become effective upon the parties involved after the expiration of ten school days following the decision of the Board, unless within that time either party has filed an appeal with the Superintendent of Schools and/or the School Committee to review the decision to determine whether it may be in violation of School Committee policy.

Section VII Minutes of Hearing

A. A recorder, a member of the Student Council elected by the Student Council, shall make a written record of all Appeals Board cases.
B. A final copy of the case record shall be presented to each party to the case for their signature attesting to the validity of the record.
C. If either party disputes the validity of the record, s/he may make an addendum to the record if the second party agrees to the addendum.

Section VIII Time of Appeal

A. All appeals must be filed with the Student Council within three school days of the cause for appeal.

Section IX Appeal Procedure

A. Before filing an appeal with the Student Council, the student shall first exhaust existing channels of complaint; the teacher concerned the housemaster, and finally the principal or assistant principal.
B. If not satisfied with the decision of the Appeals Board, e[illegible] to the case may appeal the decision to the Superintendent o[illegible]ls and/or School Committee within ten school days of the decision.

STUDENT ELIGIBILITY TO HOLD OFFICE

RIGHTS: It is the right of all registered students to be eli[illegible] hold office (These offices shall be referred to as Class Officers, Studen[illegible] Representatives, Representative of Southeastern Student Advisory C[illegible] Student Advisory Committee Members, Representatives to the School Com[illegible] and Homeroom Representatives.)
RESPONSIBILITIES: Any student holding an office must assume responsibility for discharging the duties of her/his office. The student should vote maturely for the candidate of her/his choice, the one whom s/he feels is best qualified.
IMPLEMENTATION: Nomination papers will be taken out two weeks before elections for all offices, except for homeroom representatives. Student Council Members, Class Officers, Student Advisory Committee Members will be elected by the largest popular vote by their class. The representative to the Southeastern Advisory Council will be elected at large. Upon request, a candidate may find out how many votes s/he had accumulated in the election concerning her/his office. Impeachment proceedings may be taken against any office holder who is not living up to her/his responsibilities.

FREEDOM OF STUDENT PRESS

RIGHTS:
1. Any group of students may print at least one paper.
2. The staff (all members inclusive) should be able to set the guidelines and the standards of content and operation for the newspaper.
3. All editing and censoring power shall belong to the staff.
4. The non-school sponsored newspaper(s) should not be required to be previewed by any group other than the staff.

5. The school should permit the use of the facilities for the operation of the newspaper(s), although the non-school sponsored newspaper will be required to pay for the use. Cost will be reasonable.
6. Reporters should be required to reveal sources of information only as required by law.
7. Publication and circulation should not be prohibitied or unfairly restricted.
8. A student should not be penalized by the school for what s/he has written.

RESPONSIBLITIES:

1. In the development of guidelines and standards of content and operation of the newspaper(s), the staff should consider existing laws, school regulations and policies, student opinion, community opinion, and the advice of the administration and faculty.
2. The staff(s) should clearly define the guidelines of the newspaper(s).
3. The staff(s) should be aware of and abide by existing libel and obscenity laws.
4. The staff must not disrupt the educational process in the operation and distribution of the paper.
5. The non-school newspaper(s) must pay for the expenses of the operation of the newspaper(s).
6. School sponsored papers must be submitted to the administration for perusal and comment.

RELATIONSHIP OF INDIVIDUAL'S ACTIVITIES OUTSIDE OF SCHOOL AND THE SCHOOL

RIGHTS: It is the right of the student to appeal any judgment made because of her/his outside activities. Breaking local, state or federal laws, outside of school will not affect a student's standing in school.
RESPONSIBILITIES: It is the responsibility of the student, as an individual to conform to local, state, or federal laws, outside of school. Students are responsible to school authorities concerning their conduct on their way to and from school. A student must act in accordance with school regulations while participating in school related activities, not on school grounds. (Such as field trips). If a student breaks an existing rule of an extra-curricular activity, s/he is subject to the ramifications of her/his actions.

STUDENT PARTICIPATION IN SCHOOL ASSEMBLY PROGRAMS

RIGHTS: Students have the right to participate in the organization of school assembly programs. Extended campus presentations are open to students with studies or permission of their class teachers. Students who do not want to attend these presentations will report to their normally scheduled classes or, in cases where classes are not being conducted, will report to a designated place. Student Council meetings are open to all students, providing they establish an arrangement for make-up work beforehand.
RESPONSIBILITIES: These programs will be part of the educational process. When controversial subjects are presented, students have the responsibility to expose major sides of the issues. Any responsible request to speak will be honored. House meetings are mandatory. Those who attend assemblies will conduct themselves in an orderly manner. A student will be responsible for subject matter covered in class in her/his absence.

IMPLEMENTATION: Agendas will be published before all meetings and assemblies. A roll call will be taken of all non-members at council meetings to be submitted to the office.

AVAILABILITY OF SCHOOL POLICIES AND REGULATIONS

Rules and policies of Scituate Public Schools should be made readily available to all students in the school library. A printed handbook of school rules and regulations will be given to all students. It is the responsibility of both students and faculty to be aware of these policies and act accordingly. All school regulations should be subjected to re-evaluation at any time during the academic year. New and modified rules must be brought to the attention of all students, faculty and administrators. Posted bulletins, announcements in the Sailors' Log and public address announcements will be the means of communication. After sufficient publication of such, they are responsible for acting in accordance with them.

DISCIPLINE

RIGHTS:

1. If a student has broken a school rule and does not agree with the disciplinar action taken by the principal, teacher, or administrator, this student has the right to have her/his case reviewed by the Appeals Board, before fulfilling this assigned punishment.
2. Students have the right to know when there is a discipline policy change.
3. Students have the right to serve on committees working on the development and revision of disciplinary policy procedures.

RESPONSIBILTIES:

1. The suspended student has the responsibility of finding out what the work was that s/he missed and to make it up on her/his own time.
2. Failure to fulfill assigned punishment will result in additional action.

STUDENT PARTICIPATION IN CURRICULUM DEVELOPMENT AND REVISION

RIGHTS:

1. It is the right of students to take part in curriculum development and revision with the professional aid and assistance of faculty, parents, administrators, and trained personnel. All suggestions for improvement and revisions will be forwarded to the superintendent and school committee for their consideration.
2. It is the right of all students who will be affected by the curriculum change to be notified before implementation, and have the opportunity to express their opinions.
3. Students will have the freedom of choosing their courses within the School Committee policy and State Law, the approval of their parents, and will be made fully aware of all ramifications involved in their choice.
4. Methodology and structure shall reflect the needs of the student involved wi the course as long as they are within School Committee policy. A parent may remove her/his child without prejudice to the student if a parent has any objection to the course content on a given day.

5. Provisions shall be made to integrate students new to the school into the curriculum in such a way as to provide as smooth a transition in their total educational process as possible.
6. Daily class activity need not be limited to the four walls of the classroom and will be left to the discretion of the indiviudal class and teachers, with administrator's approval.
7. Courses, including self-directed courses, may be requested, upon a petition of fifty students of which at least twenty agree to take the course. The School Committee wil review and consider the proposal.
8. Course credit may be obtained with permission of school administration for any course if a student passes a standardized test which signifies competence in the course, in accordance with the State Law.
9. If excessive cost is the only obstacle in the implementation of a course, or course fragment, then the students have the right to raise the needed funds.

RESPONSIBILITIES

1. A student who transfers into the class late in the year shall hold her/himself responsible to bring her/himself up the class level.
2. Students shall respect the values and sensitivities of all class members when introducing new topics and materials into the course.

IMPLEMENTATIONS

1. A course handbook will be prepared by the administration and interested students who have taken the course. It will be made available to the student body.
2. Ideally there should be a ratio of at least one guidance counselor to every two hundred students, if economically possible to enable students to gain more knowledge on course content and the ramifications involved with their choice.

OTHER CIVIL LIBERTIES

RIGHTS: Access to school facilities during normal school hours is a right, and is necessary to function as a student. This right will not be denied without Due Process.

RESPONSIBLITIES: It is the responsibilitiy of the student to utilize these facilities, as s/he sees necessary, without infringing on the rights of others.

STUDENT USE OF SCHOOL FACILITIES AFTER NORMAL SCHOOL HOURS

RIGHTS: It should be the right of the student to be allowed the use of school facilities for extra-curricular activites, as long as the student abides by the set of rules regarding the use of the said facilities. Also, library facilities should be available to the student on designated evenings and afternoons. In addition to the after school facilities, a supervised area should, if possible, be provided for students on the weekends.

RESPONSIBILITIES: Activities shall be in keeping with normal school rules and regulations including supervision. It should be the responsibility of the student to leave her/his area exactly as s/he found it.

IMPLEMENTATION: Students and administration will co-operate in the setting up of supervision and the scheduling of events with the school after normal school hours.

STUDENT SCHOOL RECORDS

RIGHTS: A student has the right to review all material included in the file, in the presence of her/his guidance counselor. I.Q. and an interpretation will be given to the student with parental permission. If a student feels information is faulty, s/he has the right to pursue her/his conviction until the matter is resolved. Students have the right to withhold their records from individuals and institutions, if they so desire.

RESPONSIBILITIES: Students must accept records which accurately record their performance.

IMPLEMENTATION: Student records will be divided into two sections: academic material and attendance record. The academic file will include: grades, along with courses taken, scores, such as I.Q., SAT's and achievements and class rank. The second will be made up of attendance, tardiness and dismissals. Educational institutions have access to the above files. Potential employers will be given attendance record and general information about the student. A record will be retained of everyone who sees the file.

ATTACHMENT B

QUINCY PUBLIC SCHOOLS
STATEMENT OF RIGHTS, RESPONSIBILITIES, AND LIMITATIONS
(1973)

PREAMBLE

As a micrcrocosm of a democratic society, a school system has many responsibilities to the community which provides its support. Not the least of these should be the development of an understanding and appreciation of our representative form of government, the rights and responsibilities of the individual and the procedures whereby necessary changes are brought about.

The school system and the schools which make up that system are a community, and the rules and regulations of the community are the laws by which it is governed. All who enjoy the right of citizenship in that community must also accept the responsibilities of citizenship. A basic responsibility of those who enjoy the rights of citizenship is to respect the laws of the community.

Over the last two decades court decisions have clearly indicated that young people in the United States have the right to a free public education. Further, the courts have stated that students have the full rights of citizenship as defined in the Constitution of the United States and its amendments; and that these rights cannot be abridged, obstructed, or otherwise altered except in accordance with due process of law. In the school setting, effective regulation of these rights is dependent upon the school authorities showing that a failure to regulate would create a material and substantial disruption of school work and discipline.

The teacher has the responsibility to maintain a suitable environment for learning and the administrators have the responsiblity for maintaining and facilitating the educational programs.

The principal is authorized by statute to suspend students for cause. The teacher has the authority to send a student to an appropriate school official from a class for cause.

The student must be free to and should be encouraged to participate in some form of Student Government that provides all students, through a representative system, a voice in school affairs. All undergraduate registered students shall be eligible to participate, including the holding of the office.

RIGHTS, RESPONSIBILITIES, AND LIMITATIONS

1. Freedom to Publish

   a. Students are entitled to express in writing their personal opinions. The distribution of such material will be limited to designated areas and may not interfere with or disrupt the educational process. Such written expression must be signed by the authors.
   b. Students who edit, publish or distribute handwritten, printed or duplicated material, including non-school sponsored newspapers, among their fellow students within the schools must assume responsibility for the content of such publications.
   c. Libel, obscenity, and personal attacks are prohibited in all publications.
   d. Unauthorized commercial solicitation will not be allowed on the school property at any time.

2. Freedom of Speech and Assembly

a. Students are entitled to express their opinions verbally. The expression of such opinions, however, shall not interfere with the freedom of others to express themselves. The use of obscenities and personal attacks are prohibited.
b. All student meetings in school buildings or on school grounds may function only as part of the formal education process or as authorized by the principal.
c. Students have the freedom to assemble peacefully. There is an appropriate time and place for the expression of opinions and beliefs. Conducting demonstrations which interfere with the operation of the school or classroom is inappropriate and prohibited.

3. Student Records

a. The request of a student to examine personal records will be honored in the presence of a parent or guardian and/or consistent with the provisions of existing State and Federal Statute.
b. There should be notations made of all persons, other than authorized school personnel, who have cause to examine school records.
c. The student has the right to append a statement of rebuttal to any negative remarks that might be contained in her/his records.

N.B. Only specific information as requested by potential employers or institutions of higher learning is released.

The only records kept after the fifth year of high school termination are those of attendance and scholarship.

4. Dress and Appearance

Daily attendance of all who are enrolled in the Quincy Public Schools is required in accordance with the laws of the Commonwealth and the School Committee rules.

6. Disruptive Conduct

Conduct which materially and substantially interferes with the educational process is prohibited.

7. Cooperation with School Personnel

Students must obey the lawful instructions of school personnel.

8. Identification

All persons must, upon request, identify themselves to proper school authorities in a manner established by those authorities in school buildings, on school grounds or at school-sponsored events.

9. Off-Campus Events

Students at school-sponsored, off-campus events shall be governed by school committee rules and regulations and are subject to the authority of school officials. Failure to obey the lawful instructions of school officials shall result in the loss of eligibility to attend school-sponsored off-campus events.

10. Search and Seizure

The following rules shall apply to the search of sohool property assigned to a specific student (locker, desk, etc.) and the seizure of any illegal items found therein;

a. There should be reasonable cause for school authorities to believe that possession of such items constitutes a crime or rule violation.
b. When reasonable cause exists, general or individual searches may be conducted under the authorization of the principal or her/his designees.
c. Search of an area assigned to a student should be made in the presence of a witness and, where reasonably possible, in the presence of the student.
d. Illegal items (firearms, weapons) or other possessions reasonably determined to be a threat to the health and safety or security of others may be seized by the school authorities.
e. Items which are used to disrupt or interfere with the educational process may be temporarily removed from student possession.

The previously listed limitations and those violations of the General Laws of the Commonwealth of Massachusetts and/or the City of Quincy as listed in the appendix are not considered to be complete or limited. Any other disruptive conduct which materially and sbustantially interferes with the educational process can result in disciplinary action as herein described.

DISCIPLINARY ACTION

The commission of or participation in any of the listed activities in school buildings, or on school grounds, or at school-sponsored events is prohibted. Disciplinary action may be taken by school authorities whether or not civil authorities choose to do so. Such disciplinary action after due process is heard could result in suspension or expulsion from school under the existing guidelines for such action.

DUE PROCESS PROCEDURES

1. Except in extraordinary disciplinary action, no suspension from class shall be enforced against any student until s/he has had an opportunity to be heard as set out below.
   a. When the infraction is of such serious nature that the penalty of suspension may be imposed, the student shall be informed that there will be a hearing on her/his case.

b. The notice of the hearing will inform the student of the infraction, of her/his right to be represented by an attorney, and the time and place of the hearing.

c. Separate and apart from notifying the student, the parent(s) or legal guardian(s) shall be informed of the date, time, and place of the hearing.

2. The hearing should be conducted by the Assistant Principal or Dean of Men or Women, hereinafter called the Hearing Officer.

The Hearing Officer sits in the position of judge. S/he must not allow her/himself to be prejudiced by any information that may come to her/him from either party prior to the hearing. As a matter or practice s/he may not involve her/himself in any disqussion of the case prior to the hearing itself.

3. At the hearing, first the teacher or administrator calling for the suspension shall put for her/his case. Secondly, the aggrieved party or her/his representative shall put forth her/his case.

There shall be no provision for rebuttal or contradiction of statements by either party during these presentations.

Following these presentations, the Hearing Officer will ask questions and call for points of clarification. S/he will then permit opportunity for informal questions and statements of clarification by eachy party, or her/his representatives.

4. At the conclusion of the hearing, or as soon thereafter as possible, the Hearing Officer shall make a decision as to the disposition of the matter.

In considering alternative dispositions, the Hearing Officer will consider the student's past record.

In no event shall the Hearing Officer make a decision that will result in a suspension of longer than five days.

In some situations, the Hearing Officer may recommend that no penalty be imposed. In other situations, s/he may suggest that some alternate clincial approach toward solution be taken not involving suspension.

5. If the decision of the Hearing Officer is for suspension, and the student does not accept this disposition, the suspension shall be stayed pending the right of the aggrieved to appeal to a tripartite board.

6. The tripartite board shall consist of three members. We recommend a student, an administrator and a teacher, with the chairperson of the board being selected by the members.

The hearing before this Board should be conducted according to the rules set out by the American Arbitration Association with the necessary adjustments made to handle this type of case. The teacher should put forther her/his case first and the aggrieved party will then go forward.

Both parties will have the right to cross-examine the other party. The Hearing Officer should not disclose the prior recommendations to the Board, but should be able to give background information on the student.

Written notes (although stenographic notes are not necessary) should be taken by one of the members of the Board.

7. At the conclusion of the appeal hearing or as soon as possible thereafter, the Board should make a recommendation for the disposition of the matter. In no event should a suspension be for more than five days. This recommendation should be forwarded to the principal of the affected school for her/his determination.

8. Based on the recommendations and other factors that s/he might consider, the principal should make a decision. If her/his decision involves the penalty of suspension, the pupil is suspended then and there despite the fact that s/he might appeal to a higher authority.

APPENDIX

The following activities are among those defined as violations of the General Laws of the Commonwealth of Massachusetts and/or the City of Quincy.

Arson	The intentional setting of a fire.
Assault	Physical threats or violence to persons.
Battery	Unpermitted application of force to the person of another.
Burglary	Stealing of public or personal property.
Explosives	(Illegally used). Explosives are not permitted on school property or at school-sponsored events.
Extortion, Blackmail or Coercion	Obtaining money or property by violence or threat of violence or forcing someone to do something against her/his will by force or threat of force.
Forgery	The production of something forged, counterfeit, or fraudulent.
Gambling	Gambling of any nature is forbidden in school, on school grounds, property or at school-sponsored events.
Larceny	Theft.
Malicious Mischief	Property damage.
Robbery	Stealing from an individual by force or threat of force.

Sale, Use or Possession of Alcoholic Beverages or Illegal or Non-Prescribed Drugs in school building or at school-sponsored events is forbidden.

The school official in charge shall have the authority to remove from contact with other students anyone suspected of being under the influence of alcohol or drugs and thereupon shall immediately contact the parent or legal guardian.

Smoking — Smoking by students is not permitted in school buildings.

Trespass	Being present in an unauthorized place and refusing to leave when told to do so.
Unlawful Intimidation of School Authorities	Interfering with school administrators or teachers by intimidation or threat of force or violence.
Unlawful Interference with School Authorities	Interfering with administrators or teachers by force or violence.
Weapons	Firearms, knives or any other materials capable of inflicting bodily harm when used in an illegal manner are prohibited on school property and at school-sponsored events.

ATTACHMENT C

BELMONT HIGH SCHOOL
STUDENT HANDBOOK 1976-1977

This booklet was prepared by the Student Government to acquaint you with our school procedures. Please share this information with your parents and keep it as a guide throughout the year. It is anticipated that this booklet will be revised annually. If you have any suggestions for additions, deletions or revisions, please bring them to the attention of the Student Government through your student representative.

SCHOOL PHILOSOPHY AND OBJECTIVES

The philosophy of Belmont High School is that:

Each student should be helped in the discovery and development of her/his human potentialities so that s/he may live a meaningful life not only as an individual but as a member of a highly complex society.

Intellectual, social and personal growth can only be fostered when students, faculty and administration join together in a friendly atmosphere of mutual respect, trust and cooperation.

The intrinsic worth of the individual student necessitates that opportunities which are provided for her/him must be flexible, constantly evaluated, and changed in order to meet each student's unique and evolving needs.

In the presentation of its curriculum the school strives to accentuate research and creativity in order to assist the students in the development of the power of observation, imagination, reasoning and discrimination so necessary to be responsibly free.

The responsibility for educational tasks should be allocated to the agency best equipped to handle them. The school is best equipped and, therefore, most responsible for the intellectual growth of the student. Those areas of human development which can be met as well or better by the home or other agencies of society are only partially the responsibilities of the school.

Education is a lifelong experience during which the student should always be curious about the world around her/him. Therefore, her/his school experience must encourage her/him to continue to reach out, to be aware, to create, and to dream.

The objectives of Belmont High School are to provide opportunities to:

1. Analyze and evaluate the various political, social, ethnic and economic forces in our complex society.
2. Understand how to make an intelligent adjustment to change.
3. Learn about varying lifestyles and receive personal, educational and vocational guidance.
4. Excite the student's interest in seeing her/his place among living and non-living things and her/his relationship to them.
5. Involve all students in physical activity in order to promote physical, mental, and emotional well being.
6. Understand the cognitive process leading to knowledge:
   a. The maintenance of intellectual curiosity and the use of sound logic.
   b. The distinction between fact and inference.
   c. The rationale and methodology of scientific research and problem solving.
   d. The organized utilization of resource facilities
   e. The concept of critical analysis and synthesis.

7. Understand the relationship between thought, language and human behavior and demonstrate this understanding.
8. Develop a capacity for independent study and continuous learning outside the classroom.
9. Utilize the maximum possibilities of education, personal and cultural enrichment that are available within both the school plant and the larger community.
10. Develop skills which will be useful in both vocational and avocational interests.
11. Develop independent judgment, insight, and sensitivity through active participation in the creative process.
12. Develop a sense of competence and self-discipline.
13. Develop an environment in which students, teachers, and administrators are able to grow fully as part of the educational process -- an environment in which they most effectively form each other's particular talents and potential for development.
14. Continue the professional growth of the faculty in such areas as: curriculum development, in-service activities and interdepartmental coordination.
15. Participate periodically in the assessment of the philosophy, the objectives and the curriculum of the school through the combined efforts of faculty, students and community.

STUDENT BILL OF RIGHTS

Students possess rights as individuals under the Constitution and should, as part of education, learn the value and extent of those rights. School officials have the sometimes conflicting right and duty to prevent interference with the orderly processes of education. The balance point between individual rights and the general need cannot be defined precisely. The courts, while affirming more and more specific rights, do not protect actions leading to material disruption of classwork or substantial disorder or invasion of the rights of others. Students and educators alike must respect needs and rights in conflict with their own.

This document attempts to list student rights which, if they do not impair the educational process, should be honored.

I. Students have the right to free expression, provided always it does not substantially disrupt school activities or threaten to produce lawless action.
   1. Students have the right of free speech and may not be penalized for views expressed.
   2. Student organizations may not be denied Student Government charter because of their social or political views.
   3. Recognized student organizations shall have equal access to the use of school facilities.
   4. Students or student organizations may arrange for individuals to speak after school in the building regardless of their social or political views.
   5. Groups of students have the right to hold meetings or peaceably assemble on school grounds.

6. Students have the right to distribute pamphlets, leaflets, or other materials within the school or on school grounds.
7. Students have the right to wear any symbol of their political views.
8. Students have the right, as a matter of conscience, to salute or to refrain from saluting the flag.

II. School newspapers, yearbooks, literary magazines, and other publications have the right of freedom of the press, subject to existing laws of libel and obscenity.

III. Students have a right to a system of rules which protect individual rights.
1. Students are entitled to have in writing the rules and regulations of the school, including a list of offenses and maximum punishments.
2. Students may not be punished under ex post facto rules.
3. In cases of serious disciplinary action such as expulsion or suspension, students are entitled to:
   a. Notification of specific charges and evidence against them.
   b. Present a defense at a hearing.
   c. Receive notice of the decision reached.
   d. A further hearing before the School Committee before expulsion.
4. Students with their parents have the right to examine their school records.
5. Contents of a student's school records may not be disclosed to unauthorized persons without her/his consent.
6. No student shall be penalized for activities not connected with the school.

IV. No dress code shall exist other than that required by state law.

V. Students have the right to free elections.
1. No student shall be barred from holding office for academic reasons.
2. No student shall be denied the right to vote for disciplinary or academic reasons.

VI. Students may listen to or confer with military recruiters or draft counselors on a voluntary basis in space provided by the school.

VII. Students have the right to be represented in the planning of Curriculum.

ACTIVITIES

STUDENT GOVERNMENT

The new Student Government Officers were elected and took office on June 1, 1973. Their first responsibility will be to carry out their duties as outlined in the Constitution.

BELMONT HIGH SCHOOL
STUDENT GOVERNMENT CONSTITUTION

PREAMBLE

The name of this association shall be the Belmont High School Student Government. Its membership is open to all students of Belmont High School.

The purpose of this organization shall be to provide: a means to improve student participation and communication in student government activities; an understanding and education in the democratic processes as practiced in the United States; opportunity and incentive for leadership; a fostering of closer relationships between the Student Government and various class governments and a channel for student participation with faculty and administration in project of school-wide concern.

AREAS OF STUDENT RESPONSIBILITY

I. The Student Government is responsible to the Principal.

II. The Student Government is responsible to the students as follows: It Shall
1. Present proposals of student concern for consideration by the faculty and administration. Consideration means to talk, think and act accordingly.
2. Building communication through the school in order to inform students, teachers, and administrators of student interests.
3. Join faculty and administration on projects of general concern such as curriculum planning and uses of the building.
4. Study applications for charters of new clubs and recommend them to the administration.
5. Initiate procedures to discontinue clubs that no longer reflect student interests and make recommendations to the administration.
6. Join with the faculty and administration in the formulation of a written behavior code.
7. Compose and publish a handbook describing the school for the informatio of students and parents.
8. Organize and carry out an orientation program for all new students.
9. Program student assemblies.
10. Direct student elections.
11. Establish a student grievance board.
12. Protect the rights of individual students in the school as described in the following Bill of Rights.

STUDENT GOVERNMENT OFFICERS

Three Student Government Officers shall be elected to one year terms of office by the whole student body.

These Officers shall be known as the President, Vice-President and Secretar Treasurer of the Student Government.

A. Duties of the Student Government President:
1. To preside at meetings of the Exeuctive Board as a voting member.
2. To preside at meetings of the House of Representatives as a voting member.
3. To carry out decisions of the House of Representatives.
4. To nominate the Chairperson of the Grievance Board.
5. To call Executive Board meetings.

B. Duties of the Vice President:
1. To assume the duties of the President in the event of her/his absence.
2. To attend meetings of the House of Representatives and the Executive Board as a Representative-at-large.

C. Duties of the Secretary-Treasurer:
1. To keep and publish minutes of the meetings of the Executive Board and the House of Representatives.
2. To collect and disburse Student Government funds.
3. To attend meetings of the Executive Board and the House of Representatives as a member-at-large.

THE HOUSE OF REPRESENTATIVES

A. Structure:
I. The House of Representatives shall consist of:
a. One Representative elected from each homeroom.
b. The President and Vice-President of Each Class acting as members-at-large with full voting powers.
c. The President, Vice-President and Secretary-Treasurer of the Student Government with full voting powers.
II. Officers shall be elected in May for one year term and shall take office June 1st. Homeroom elections shall be held in September.
III. An Executive Board shall determine the agenda for formal meetings of the House of Representatives. It shall consist of:
a. The President, Vice-President and Secretary-Treasurer of the Student Government.
b. One member from each class, chosen by the Representatives of each class from among themselves.

B. Duties and Powers:
I. Duties and Powers of the House of Representatives.
a. To carry out the Responsibilities listed in this document.
b. To determine its own procedural rules.
C. To report its actions to the student body, fully and publicly.
d. To advise and consent on the nominations of the Members and Chairperson of the Board.
II. Duties and Powers of the Executive Board:
a. To consider all Bills proposed.
b. To determine its own procedural rules.
c. To utilize the Power of Agenda to determine which Bills be submitted to the House of Representatives, and the order of their presentation.
d. To meet regularly with the Faculty Advisor.

C. Legislative Procedure:
1. Students may submit proposals for legislation to any Representative.
2. Representatives must present all proposals received to the Executive Board.
3. The Executive Board has the power to reject a proposal or to place it on the agenda for consideration by the House.
4. Members of the House, by majority vote, may compel the Executive Board to forward a bill to the House floor for consideration. This House Discharge Petition can be circulated outside the regular meet-time of the House.
5. In the event that a proposal does not receive the majority vote described above, a Petition signed by twenty-five percent of the students can also advance a bill to the floor. This procedure can only be used when the Discharge Petition has failed.

6. When approved by the House of Representatives, a Bill is then forwarded to the Principal for her/his acceptance or rejection.
7. If the Bill is rejected by the Principal, the House may, by a two-thirds vote, forward the Bill to the Superintendent of Schools for further consideration.
8. If the Bill is rejected by the Superintendent, the House may, by two-thirds vote, forward the Bill to the School Committee.

THE GRIEVANCE BOARD

A Grievance Board shall be created to provide a channel to help students handle problems of relationships with students, faculty and administration. The Board shall operate on the principle that students are entitled to an appeal procedure and to a clear answer to their complaints.

I. Duties of the Grievance Board:
   1. The Board shall assist students in finding appropriate methods of appealing decisions by students, faculty members, or administrators to higher authority.
   2. The Board may investigate complaints of students in matters concerning school life.
   3. The Board shall report any action taken to the person bringing the complaint before the Board.
   4. The Board may, at its discretion, make recommendations on complaints to the Student Government, faculty or administration.
   5. The Board must treat each complaint as private and confidential. Public announcement of disposition of a complaint should be made only after the unanimous vote of the Grievance Board and the approva of the parties involved.

II. Structure of the Grievance Board:
   1. The Board shall consist of one member from each class and a Chairperson. Candidates must signify in writing of their willingnes to serve and shall not hold any other Student Government or Class office.
   2. House members, in class caucus, shall select a candidate from their class and submit the name for confirmation by a majority of the House of Representatives.
   3. The Chairperson shall be nominated by the President of the Student Government and confirmed by a majority of the House.
   4. The Chairperson shall preside over and be a voting member of the Grievance Board.
      a. Take such action as is determined by a majority of the Grievance Board.
      b. Submit legislative proposals of the Grievance Board through the Executive Board Chairperson for agenda considerations.
      c. Speak before the Executive Board at its request.
   5. Any member of the Grievance Board may be removed from office for failure to maintain confidentiality or for incapacity to perform duties. Removal shall be effected by motion of the Student Government President and a two-thirds vote of the House.

AMENDMENTS

Amendments to this Constitution shall require the approval of two-thirds of the House of Representatives and a majority of the students.

RATIFICATION

Ratification of this plan of government shall be by a majority vote of the students.

STUDENT DISCIPLINE AND THE STATE'S RESPONSIBILITY

by

William C. Clifton

The author discusses the responsibility of the State Education Agency (SEA) in policy making and leadership with regard to the development and implementation of student grievance designs. Forced by a series of judicial decisions to take some action in the area of student disciplinary hearings for suspensions and expulsions, a State Department of Education's reponse was less than inspirational, according to the author. The SEA distributed guidelines to local school departments which set out minimum requirements for disciplinary procedures and encouraged local districts to develop their own systems for achieving compliance. Clifton contends this approach was inadequate and sees the SEA as being the appropriate vehicle to implement educational reform. Because SEAs are statutorily empowered to set uniform policies and procedures, they are, in fact, the only organization authorized to take the leadership role.

Clifton discusses how one educational innovation -- student grievance procedures -- could be introduced throughout a state with the guidance and direction of the SEA. He also discusses the potential benefits of such a system, and offers mediation and conciliation techniques for dispute resolution. He also suggests that more systematized procedures for resolving student complaints will avoid the continued reliance on the courts to set educational policy -- a fact which Clifton sees as disruptive to public education and which can and should be avoided.

INTRODUCTION

Student discipline has long been the concern of educators, administrators, parents, and students alike. It has only recently come to the attention of the courts.

Traditionally, schools and teachers occupied a special relationship to the students they served. This relationship was legally defined as in loco parentis essentially meaning in place of the parents. As a consequence of this legal application of in loco parentis, students were expected to conform their behavior and attitudes to the demands of their "school parents".

Civil rights as we know them to be today such as due process, equal protection, freedom of speech, press, and assembly were unavailable to students under prior judicial thought. Indeed, these rights, by and large, were thought by society to be unavailable to students because of their youth and inability to exercise mature judgment in regulating their conduct. Thus, their activities ought best be directed by adults.

Certainly, no one would argue against the need to maintain an orderly environment and conducive atmosphere within the schools to enhance the educational process. However, that interest must be squarely balanced against the interest of the student to free expression of thought and ideas, and freedom from arbitrary sanction and denial of basic civil rights. When it became apparent that a change in attitude

would not be forthcoming from school administrators in their response to student expression, aggrieved students and their parents looked to the courts for a remedy.

Commencing with Brown v. Board of Education and, most notably, Tinker v. Des Moines Independent Community School District and its progeny, courts began an exhaustive review of these rights in conflict. The courts undertook a critical examination of due process and equal protection provided by the 14th Amendment and applied the same legal tests to students and concluded that students do not forfeit these rights as a consequence of their status as students.

The traditional in loco parentis view of schools was dealt a death blow by the courts in Tinker when it said that neither "students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This judicial departure from the non-intervention philosophy formerly held by the courts opened the courthouse doors to a flurry of lawsuits brought by students against schools and administrators. The civil rights and peace movements in the country also contributed a great deal towards encouraging students to exercise their "rights" and to challenge the imposition of authority by schools.

Judicial attention began to focus on such diverse topics as dress codes, suspensions, expulsions, privacy and other concerns protected by "due Process" and "equal Protection". This increased school litigation prompted many state boards of education to rethink their former positions and come up

with standards and policies designed to respond to this departure from traditionalism. Efforts were undertaken both administratively and legislatively to reform the existing policies governing conduct in the schools. Appropriate mechanisms were designed and implemented on a district-by-district basis to meet the challenge as legally mandated.

The question facing schools now, however, is not whether they are willing to address the issues of student discipline but whether the systems employed can affirmatively respond to these needs. This paper hopes to explore this problem from the standpoint of a state department of education and the direction and guidance it can bring to bear on the problem.

THE ROLE OF STATE AGENCIES

Education has always been a responsibility of the states. The notion that the Constitution imposes a responsibility onto the states to provide an education for their citizens has consistently been rejected by the Supreme Court. Before seeking to intervene in the educational processes and to impose its mandates on the educational community, courts have endeavored to understand the mission and functions of our institutions of learning. It is only in the face of gross injustice and unwise action in the field of education that judicial intervention has occurred.

State constitutions, by and large, through express language, make education the responsibility of the state. In practical terms, the actual delivery of educational services is carried out at the local level through a system of semi-autonomous political subdivisions generally referred to as school districts or local educational agencies. While these districts generally exercise custodial and administrative responsibility over the day-to-day operation of the schools within their districts, they are, however, accountable to thier state counterparts. The various state boards and departments of education by statute typically exercise overall supervision and responsibility in the areas of policy, planning, administration and operation on a state-wide

basis. This exercise of plenary au[redacted] of management of educational policy within a state [redacted]s a unique opportunity to formulate broad and comprehensive policies to regulate the operation of schools in the state.

State departments of education are inherently better positioned to promulgate state-wide rules, both substantive and procedural, to respond to problems of student discipline which occur at the district level. Their recommendations to the districts would ensure a degree of uniformity from district to district and render less problematic the arbitrariness generally associated with a lack of standards. Further, the guidance and direction provided at the state level to the districts would help accelerate the acceptance by districts of their responsibilities under the law to meet and treat their student clientele in a just and equitable fashion.

The State of Rhode Island can be used as a practical example of how this system can be employed. The State Board of Regents was established by statute as a public corporation to exercise total and complete wuthority over education in the State. Through its administrative agency, the Department of Education, the entire field of education in the State, is under the control of the Board of Regents and subject to its direction. This broad authority ostensibily enables the Board to set standards and dictate policies to local districts for their adoption. In response to the judicial mandates relative to the question of students' rights and discipline, the Board in 1976 adopted regulations governing

student discipline in general and expulsions in particular. These regulations set out the following:

1. The establishement and promulgation of rules and regulations on discipline by School Committee.
2. Posting of disciplinary code.
3. Statement of punishable offenses and sanctions.
4. Identification of officials authorized to suspend students less then ten days.
5. Procedures to exclude students for ten days to include:
   a. Oral or written notice of charge
   b. Opportunity for student to dispute facts and present case.
   c. Hearing prior to exclusion, except in case of emergency.
   d. Notice to parents if student is a minor.
6. Procedures for suspensions longer than ten days and expulsion to include:
   a. Written notice of charge
   b. Right to hearing with cross-examination of witness.
   c. Right to legal counsel.
   d. Notice to parent, if student is a minor.
   e. Written record of hearing with copy to student.
   f. Written timely decision with reasons for decision.
   g. Right to appeal.

(Note that the Board of Regents did not cite levels of appeal or suggest appropriate disciplinary codes. Other student

rights with respect to dress codes, freedom of speech, search of property and so on were not dealt with.)

Upon their adoption by the Board, the State Commissioner of Education contacted the district superintendents, advised them of the new rules and required districts to take immediate steps to implement the regulations. It should be understood at this point that the regulations adopted by the Regents were not intended as complete and final district regulations but were designed as a model to be improved upon by the districts. It was expected that districts would treat these regulations as setting forth minimal standards of compliance while affording them the prerogative to assess their own needs and adopt regulations to reflect those special needs.

Not surprisingly, out of the forty (40) school districts in the State, few opted to devise regulations that went beyond the bare framework provided by the Regents. However, a number of districts responded with a finished product far superior to that suggested by the Regents. One large suburban school department published a Handbook of Student Rights and Responsibilities which covered searches of students and lockers, freedom of speech and assembly, police questioning, dress code and disciplinary procedures. Disciplinary procedures included informal and formal due process. Punishments or exclusions were divided into four levels; (1) dismissal from class, (2) dismissal from school building, (3) suspensions of less than seven days, and (4) longer suspensions and expulsions. Appeals procedures were

clearly identified and involved the principal, superintendent and school committee.

Why some districts chose to respond to the issuance of disciplinary regulations in a challenging and creative way, while others decided to simply adopt the skeleton framework suggested by the Regents is unclear. What it does indicate is due consideration and sufficient attention are not being paid to devising a process to deal with the issue of student discipline in the context of judicial intervention.

Without an affirmative commitment on the part of the local districts to meet and acknowledge their responsibility under the law to treat their students in a manner consistent with basic concepts of fairness and equity, the state is set for continued intervention of the courts into the field of education. Thus, a state department of education has a duty pursuant to its statutory authority and a moral obligation, to not only establish state-wide policy but, to utilize its authority under the law to ensure strict compliance with its mandates.

The experience in Rhode Island has shown that, for whatever reasons, local school districts have been careless and neglectful in heeding the suggestions from their state department that they develop an appropriate response mechanism. It also points out the necessity of the state boards to enforce their rules and regulations as they apply to the districts in creating a new public policy for dealing with questions of student discipline.

The biggest criticism to be made regarding this State's

effort to respond to the subject of student discipline at the local level is that the State department of education did not go far engouth in impressing upon the local districts the importance of designing a realistic system to meet these challenges. The department, in this writer's opinion, should have taken the process one additional step in suggesting to the districts that they design a response system patterned after a state model. It should not have come as a surprise to the department that the majority of districts would respond in an unimaginative fashion. Merely imposing regulations onto the districts without the benefit of a state model encourages them to meet only the minimal requirements set forth in the regulations.

WHAT SYSTEM TO EMPLOY

The grievance system as a mechamism has been around for scores of years generally associated with the labor movement and an outgrowth of the collective bargaining process. As a result, the term grievance has acquired a secondary meaning, i.e., an actionable complaint covered under a provision of a labor contract. However, the literal and primary meaning of the term is what we are concerned with here. Webster defines grievance as: "a complaint against a wrong, real or imagined".

The complaint becomes the central focus of a grievance. Whether it has merit is not the most essential aspect of a grievance. The implications of this definition should, at once, be clear to the reader. It matters not whether the grievant has accurately perceived his complaint or not but that a mechanism be available to address his concerns. Thus, a procedure was developed in the context of collective bargaining to respond to the needs of grievants to air their concerns.

In the typical labor contract, the grievance system is ususally represented by a multi-tier process with varying degrees of formality required. There are two basic systems -- the open-ended system and the restrictive system. The open-ended systems allow for airing of any and all complaints

alleged by the grievant to be brought to the panel. The restrictive system confers jurisdiction onto the panel for specified and stipulated areas of conduct. Either system offers to the parties an opportunity for mutual resolution of problems and the building of trust between them.

Can such a process be adapted to our school systems to respond to questions involving student discipline? There is nothing to suggest that the incorporation of a grievance mechanism modeled after the labor prototype could not be adapted and utilized in our school systems. With the courts increasingly rejecting notions of in loco parentis and summary punishment as justification for the abridgment of students' rights, it is clear that a mechanism will have to be employed to resolve these problems. The actual system employed in the schools could, by way of an example, utilize trained mediators skilled in mediation techniques and chosen from an available panel outside the school system much like the process used by the American Arbitration Association in the field of labor and community dispute resolution.

Student advocates trained in mediation techniques could play a role in the actual representation of students before disciplinary panels set up within schools. College students enrolled in cooperative social science and education programs and trained in mediation techniques could conceivably serve as mediators in disputes in our junior and senior high schools. Such a proposal could provide valuable practical training to students and, at the same time, render a much needed service to our schools.

The potential for developing and implementing a successful grievance mechanism is our schools is limited only by the degree of creativity we choose to exercise in searching for a workable solution to this problem. In the opinion of this writer, the adoption of a grievance mechanism in our schools would serve a number of interests of prime concern to courts, educators and students alike. First, from the standpoint of the student, such a system involving students to "buy" into the process and be more willing to be bound by the results. A level of trust and mutual respect could be developed at an early stage thereby creating a better atmosphere for a more meaningful relationship between students and teachers.

More importantly, problems existing within our school system should be resolved within the educational community, if at all possible. Solutions to problems are best fashioned by those who remain to benefit or suffer from the results.

It is impossible to disagree that judicial intervention in the school has provided important protections for students. However, continued reliance on the judicial system to settle disputes within our schools will only contribute to increased and open hostility between these two institutions.

As a learning tool, student participation in the grievance process would serve as a valuable contribution to the study of government resulting in a better understanding of the collective decision-making process this has direct and tangible application to "real life" situations. The availability

of a viable and practical grievance mechanism would reduce the likelihood of continued administrative caprice and arbitrariness in decision-making. Much of the litigation involving school disputes could be successfully avoided by adoption of mediation and grievance techniques by our school system thereby resulting in significant judicial economy. Thus, a multitude of interests could conceivably be served through utilization of tried and proven methods of dispute resolution resulting in long standing and positive benefits to parents, students, school administrators and society at large.

In the final analysis, it matters not so much what type of system is employed, but that a system in fact be adopted. Thus, the recognition of student disciplinary problems in schools coupled with an affirmative commitment on the part of state boards of education to effectively respond to this issue, can result in a better understanding and appreciation of the role the democratic process plays in this society.

GRIEVANCE PROCEDURES:

THE STATE OF THE ART IN PUBLIC SCHOOLS

Charles A. Bethel
Noel Brennan
Michael K. Lewis
Linda R. Singer

Our gym teacher makes us run laps around the gym when we're late for class. My friend came in five minutes late and had to do five laps. Somebody else showed up eight minutes late and had to do eight. I'm not sure she can do that, but what are you going to do?

Kids in our school are missing out on the chance to apply for scholarship money that's around. Counselors often don't get information to us on time; some give out misinformation, or just don't have any at all.

This paper presents the results of a survey taken to identify and evaluate problem-solving mechanisms in public schools. Center for Community Justice (CCJ) staff visited junior and senior high schools in California and Michigan in an attempt to assess the 'state of the art.' The authors analyzed six different methods which were used in schools to solve complaints. Some of these handled individual problems while others addressed system-wide policy issues. The researchers reviewed student counselors, student councils, student-faculty committees, advocates, appeal boards, ombudspersons, and found all models lacking in their capability to handle complaints in a manner which was comprehensible and responsive, and which involved students and staff in cooperative decision-making.

Based upon their research findings, the authors identify a set of program elements which they believe essential to any grievance design to be used and respected by students. Briefly, these are: (1) simple processes, (2) student and teacher participation, (3) detailed and quick responses, (4) freedom from reprisals, (5) grievability defined by participants, (6) third-party review and (7) leadership by the administration. The authors propose that by designing grievance mechanisms which incorporate these factors, the school administrators can provide important learning and living experience for youth.

What kinds of complaints or problems do you have and what can you do about them? This question was asked to students in northern and southern California school districts as part of a project to examine student problem-solving procedures in California junior and senior high schools.[1] The study sought both to assess the need of high schools for administrative means of resolving problems and evalute the effectiveness of existing procedures.

As the first step in its study, the Center conducted a survey of all California school districts containing high schools to gather data on available problem-solving procedures and to identify innovative procedures for subsequent site visits. Center staff members then visited 29 junior and senior high schools throughout the state to observe selected procedures. Finally, the Center supplemented its California research by visiting high schools in other areas of the country whose procedures are considered particularly successful.

PROBLEM AREAS IN SCHOOLS TODAY

Not surprisingly, the Center found that California high schools share certain nagging problems with schools throughout the country.

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1. The study was undertaken by the Center for Community Justice in Washington, D.C., with a grant from the Rosenberg Foundation. Since 1971 the Center has specialized in the design, implementation and evaluation of problem-solving procedures in institutional settings.

Administrators cite both drugs and vandalism as moderate or serious problems; in regard to the latter, large districts have been forced to budget hundreds of thousands of dollars per year for repairs. Yet the most common problem is students who are out of school, either because of absenteeism, class cutting or dropping out altogether. Principals are concerned both because of state educational aid to local school varies according to average daily attendance and because students out of school are not learning; their influence also disrupts the learning routine for others.

Students interviewed by Center staff were vocal about their feelings of powerlessness with regard to most aspects of their lives within schools. In all schools visited students had specific complaints. While the particular issues varied from school to school, many student complaints fell into three categories: inconsistent application of rules, (e.g., two students were late for class; one was issued a tardy slip, the other was not); harassment by other students (e.g., cutting in lunch line), and indifferent or unfair treatment by teachers, (e.g. students not allowed to make up test missed because of involvement in political campaign).

It is not commonplace for social scientists to point out that most adult American are non-participants in governmental affairs and that avoidance is the solution of choice to everyday situations with the potential for conflict.[2] How do our high

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2. See, for example, William Felstiner, "Influences of Social Organization on Dispute Processing," 9 Law and Society Review 63 (1974).

schools contribute to the origins of this apathetic climate? Certainly, as organizations designed to transmit cultural values, it is crucial for high schools to teach students how to work in a democracy, not just how a democracy works. Consequently, judgments should be made about the adequacy of procedures provided in schools for students to pursue solutions to their complaints through legitimate channels.

CURRENT PROCEDURES: STRENGTHS AND LIMITATIONS

In evaluating the effectiveness of mechanisms to handle suggestions and complaints, the Center employed the following indices: (a) student awareness of the existence of an avenue for redress; (b) consistent use of the mechanism by students; and (c) success in actually resolving complaints.

The Center found six categories of mechanisms intended to resolve student-initiated issues: counselors, student councils, student/faculty committees, student advocates, appeal boards and ombudsmen.

Counselors

The most ubiquitous method of handling students' complaints is the system of professional counselors found in most schools. While counselors' authority varies, it often includes investigating disciplinary matters and settling student/teacher conflicts as well as scheduling courses and planning for career and college. By all accounts, good counseling can increase communication between

faculty and students and help to resolve many individual problems students experience in and outside the classroom. However, students normally do not bring requests for a change of rules or policy to their counselors. For their part, counselors do not examine student problems with an eye toward recommending policy reforms.

Unfortunately, counselors are not satisfactory as the sole solution even to routine problems of scheduling or grade disputes because of the large caseload individual counselors must carry. It is not uncommon for a single counselor to be responsible for from 350 to 500 students, who sometimes wait days for an appointment and who are known personally only if they stand out -- either as unusually bright students or ones in chronic academic or disciplinary trouble.

One promising variation on the counseling idea that has been instituted at three of the high schools visited involves assigning a small group of students to each faculty member, who is responsible for scheduling and all other routine functions normally performed by counselors. At a minimum this program spreads those students with problems over a larger group of faculty, but the assignment often comes without additional counseli training or a reduction in normal classroom schedules. There may be a few other staff members -- budget permitting -- who specialize in psychological problems or difficult disciplinary cases. Schools using this system report that it increases

communication and promotes the speedy resolution of minor problems, although, like regular counselors, teacher-advisors are not expected to deal formally with policy issues. Such a program requires extensive training and a reorganization of much of a school's administrative and program structure, and therefore cannot be expected to spread rapidly to other schools.

Student Councils

The term "student council" describes a wide variety of elected or appointed, unicameral or bicameral, broadly representative or deliberately exclusive, large or small student groups, which usually use the term "government," "council" or "congress" in their names. Councils are the time-honored means of giving students a voice in school affairs and training them in the virtues and mechanics of representative government. Perhaps the very loftiness of these goals, even if they are seldom realized in practice, has deflected critical appraisal. Although recurrent professional journal articles offer techniques for revitalizing student governments, these suggestions usually consist of "projects" that have proven popular at one school or another, rather than in basic changes in process or roles.

In fact, most student councils provide the average student neither with a meaningful say in school affairs nor with an experience of representative government or participatory democracy. In site visits to California and elsewhere, a striking fact was how few students vote in council elections -- in some cases as few as 400 in student bodies of 3,500. Reasons commonly given for

the low turn-out include general apathy ("Kids here just don't care"), remoteness from the council's activities (I'm not sure what they do; plan the dances, I guess"), and elitism ("It's really just a certain group of kids -- the ones who suck up to to the teachers"). Council members themselves often stress the first of these reasons, complain that what they do accomplish is little understood or appreciated, and agree that they are not representative of the student body generally. They argue, along with many administrators, that "leaders" are never average people, and that it is no surprise that those successful in academics and/or sports should succeed at student politics. Without discounting this view, it certainly can be said that as they are commonly organized student councils provide no direct governing experience for the vast majority of students, who seem increasingly disinclined even to vote.

Student councils also are limited by the narrowness of their domain. Councils arrange charitable and social activities and some of the more active groups attempt to advise the administration on issues of broad concern, such as policies on smoking or management of the cafeteria. But concern with policy is the exception rather than the rule and, in any event, council representatives report that items for the agenda almost never are raised by constituents. Since the council format does not allow students to bring individual complaints before the group, students seem justified in feeling that they are excluded from council functioning, and that councils cannot

act as their advocate if they raise a complaint.

The Center regularly encountered two other forms of student council-connected activity of potential importance, at least in district-wide matters. One is a student group known as the "all-city council," "city-wide student council," or some variant. Composed of representatives from each of a district's high school student governments, the councils advise the superintendent and/or board of education about issues, such as the need for a free study period, or security guards on campus, that are of concern to students and affect entire districts. These groups are even less widely known at the school level than student councils; their members communicate mostly with personal friends, and there is little attempt to inform the mass of students about their work.

A second innovation that is becoming widely popular in California is the presence of a non-voting student representative on the board of education. Five of the seven Northern California districts visited, for example, had such a representative, generally chosen from the city-wide student council. Estimates of the effectiveness of the position vary; there is general agreement however, that most students are unaware of their representative's activity, and that only a relatively small number of issues can be raised successfully by the representative in any one school year. The experience, like that of sitting on an all-city council, is doubtless of great value to the participants. But the average student feels far removed from these activities,

and there are few changes in a student's daily routine that can be credited to an all-city council or board representative.

Student-Faculty Committees

Since the late 1960s, many schools have attempted, with varying degrees of persistence, to maintain student-faculty committees to advise the administration on areas of school life such as curriculum, teacher hiring, atheletics and social events. In some cases, such committees are chosen informally and called together by the principal, at whose pleasure they serve; in other instances, representatives are elected for fixed terms. In schools with a functioning faculty committee system, students are sometimes selected to sit on some committees as observers or non-voting members.

The intent of such committees is to allow students a voice in policy deliberations at the local level. Although no statistics exist, subjective evidence is that student involvement in such committees is declining, partly at least because the interest of all parties is waning. One-third of the California districts with problem-solving mechanisms report that they include student-faculty committees, but this number includes those that in reality never meet, as well as those in which students are only observers. In most cases, committee activity is again the province of that group of students who succeed academically, and who are presumed to represent other students without having any formal means of gathering their opinions. Such a group responds to policy rather than initiating it; the student body

is not encouraged, even by example, to initiate the discussion of problems.

Student Advocates

The term "student advocates" describes a program operating in a relatively small number of high schools (seven percent of California districts with problem-solving mechanisms), but one demonstrating an inventive approach to resolving students' problems. In most programs of this sort, a group of students receives special training in methods of solving a variety of student problems and in prosecuting appeals if initial attempts at resolution fail. These advocates are then available to other students who are unsure how to solve a problem or who have failed at initial attempts to have a complaint heard.

Advocate training varies greatly in quality and quantity. If the program involves all the high schools in a district, intensive training for the participants may be conducted centrally. In some programs, such as the "student ombudsman" at a large southern California school, no training at all is provided to the students selected. Those advocates spoken with recount predictable problems: lack of clear objectives for the program, low visibility in the school, reluctance of many students to approach an advocate even when aware of the program, and insufficient communication of the program's successes to the student body. Planners compound these difficulties by failing to link advocate programs to structural changes in the way

complaints are processed. If a "hearing" still involves talking to four or five different administrators with no time limits for responses, with an abstruse appellate procedure stretching off to the school superintendent, the number of students willing to prosecute complaints will remain small.

Close cousins to advocates are students who have been trained in "crisis intervention," which usually entails resolving personal problems or mediating conflicts between two or more students. In one large northern California high school, consultants paid a group of selected students to attend a series of training seminars stretching over an entire school year. The students were to use their conflict mediation techniques to prevent the escalation of minor school conflicts. Much of the first year of the project was spent in training, although some participants could recall incidents of intervention when two students or a group were on the verge of fighting.

By the second year of the project, many of the participants had graduated and, although new members were recruited and the group organized as a class for credit, no new training was offered, nor was publicity about the program directed to the student body. The surviving members of the original group admitted the dormancy of the program without prodding; most of them said that the most outstanding feature of the training had been the hourly pay. They felt that there were too few of them to make a real difference, and that their peers, for a variety of reasons, did not identify with them. This lack of

ongoing training, failure to communicate with the student body, and poor integration of the program into the schools' decision-making structure exemplifies the shortcomings of many student advocate programs.

Appeal Boards

Perhaps the most promising development in school problem-solving has been the implementation of formal appeal procedures for students, especially those which allow students an important role in making decisions.

The Center visited a number of districts that have written carefully constructed, multi-level appeals programs. Many of these programs, unfortunately, have limited jurisdiction. For example, numerous districts have procedures designed only for appealing cases of federally proscribed sex discrimination; to date these complaints have been such rare occurrences that little evaluation is possible. There are also many procedures restricted to allowing a student dissatisfied with a disciplinary decision to appeal, usually to a deputy superintendent, then to the superintendent and finally to the board of education.

In most cases, disciplinary procedures exclude students from participation, although a few schools have joint student-faculty boards that do hear disciplinary appeals as well as other types of complaints. At Fairfax High School in Los Angeles and Mills High School in San Mateo, the Center found two complaint boards that were the only successful examples of student-

faculty participation encountered in the course of the study. At Fairfax High, one student, one administrator and one teacher sit on the two-year-old complaint board. Most complaints are resolved informally in a meeting between the student representative and the complainant. More serious matters are handled by the entire board, the major exception being complaints about teachers, which go directly to the teacher and administrator members for disposition. Appeals may be taken to the principal. Shortcomings of the program include the lack of formal training for the participants and little publicity or student orientation about the Board's activities.

The Mills High School Redress Board had heard only five cases as of April -- even fewer than the twelve reported by Fairfax -- but the principal and students spoken with all agree that the existence of the Board helped induce informal resolution of complaints and safeguarded the effectiveness of other channels of communication. Under the procedure, students file written complaints with the Board Chairperson, who initially attempts to resolve the problem informally. An investigation is undertaken simultaneously. If a hearing is necessary, the appellant receives notice of the time and place within five days. The Redress Board makes recommendations to the principal within two days of the hearing. The principal in turn gives a written decision to the student within five days. A dissatisfied student or her/his parent may appeal to the school superintendent. In all five cases heard to date, the

principal concurred with the Board's recommendation; none of the decisions had been appealed beyond the school.

The three student and two teacher members of the Redress Board are elected for one year terms. Under its constitution, the Board "deals with (question/issues) of interpretation and application of existing school policy. This procedure is not a means for seeking modification of present policy or formulation of new policy..." Despite this serious limitation, the Redress Board has been utilized enough to maintain its credibility, and most students questioned indicated that they knew someone who had used the procedure.

With these two exceptions, Center staff visited no successful appeal procedures that include student participation; a few procedures allow participation on paper but in fact are dormant. The typical written procedure provides for an oral or written complaint to be made to a counselor or assistant principal. If dissatisfied, the student appeals to the principal, then to an assistant superintendent and the superintendent. In some cases, there is a further right of appeal to the Board of Education.

A critical problem with virtually every appeals procedure observed has been the lack of careful implementation. Central office administrators generally design the procedure and announce that it will begin at all schools on a certain date; they neither develop a means of explaining the program to staff and students nor train the faculty, students and administrators in whatever

skills will be needed to make the program work. No records, or only the most rudimentary sort, are kept on the number, type, origin, and disposition of appeals, so poorly performing parts of the procedure cannot be identified and improved. When asked why the mechanisms is not being used, central office staff cite "lack of student interest," as if that phenomenon were autonomous and wholly self-generating, and a "lessening of major complaints."

Often a combination of student and community pressures helped convince a school district to institute a student complaint/appeals mechanism. The absence, some years later, of equivalent political agitation does not mean that students and schools can no longer benefit from an open, formalized method of raising complaints. The procedure's survival, however, may require strong, continuous training, orientation and monitoring at each school. Student apathy toward a procedure is often a reaction to it: if students find many of their concerns excluded from consideration, if none of their peers are directly involved in its operation, if it takes weeks or months to get simple replies, if the process is overly complex and confusing, or if students fear faculty retaliation for making complaints, then they will quickly become disinterested. The enfeeblement of even the most promising-sounding appeals procedure can be attributed to some combination of these failures of design or implementation.

Ombudspersons

In Scandanavia, where the concept originated, ombudspersons

are appointed by, and report to, the legislature; they are entirely independent of the executive. Each Scandanavian ombudsperson is among the highest paid public officials in the country, and each has wide governmental experience. The chief characteristic of the ombudsperson is that the holder of the office has full authority to investigate and pass judgment, but no power to enforce her/his recommendations. The personal respect commanded by the ombudsperson and the general belief in the reasonableness of her/his recommendations are keys to the program's success.

In recent years, a modified form of the ombudsperson has become increasingly popular as a complaint-handling mechanism in the United States, and is used by some government agencies, businesses, universities, prisons, and infrequently, public schools. This modified form of ombudsperson differs in several important respects from the Scandanavian model. Few American programs, for example, have sought to hire as ombudspersons a prominent citizen with a distinguished career in public service. Often the ombudsperson, rather than being independent from the agency s/he must scrutinize, is an employee of the agency and reports to its director. Finally, although it is designed to complement a comprehensive complaint procedure, many ombudspersons programs in this country are the sole administrative means of redressing complaints. Taken together, these alterations often seriously dilute the Scandanavian ideal of independence, high public visbility, and management workload for the ombudsperson's office.

Center staff visited the Ann Arbor, Michigan, school district, which has had an ombudsperson since the early 1970s. Dr. Robert Potts has served in the postition since its inception; he also serves as the Assistant Superintendent for Human Relations and Community Services.

Dr. Potts reported that parents are usually the ones to file complaints through his office, after their children fail to have problems resolved informally at school. During the 1975-76 school year, the office handled 150 complaints from parents. The complaints involved such problems as parental dissatisfaction with teacher's refusal to let their son make up work following a trip to Europe, questioning of course grades, and accusations that a bus driver called students insulting racial names.

The Ann Arbor procedure is reported relatively successful at negotiating grievances about disciplinary actions, much less so with those related to teacher judgment (especially grades). Students, however, are not involved in operating the procedure, nor do they seem comfortable in bringing their problems directly to the ombudsperson. This may be so at least partly because the ombudsperson functions outside the schools and her/his role is limited to resolving disputes about the meaning and implementation of existing policy, rather than bringing about policy change.

Ombudspersons or other reviewers outside the school administration have a great advantage in their presumed impartiality

and ability to negotiate directly with all levels of the school bureaucracy. Their limited time and resources, however, coupled with the lack of faculty or student involvement in the process, make it unlikely that students will use the ombudsperson to help effect systematic change.

The Center's examination of high school programs for solving problems suggest two general conclusions. First, while schools themselves recognize the need for better methods of problem resolution, very few programs have succeeded in being visible, used by students, and successful in solving problems. Second, high schools teach how democracy works, but not how to work in a democracy. While students learn about community involvement, they are not treated as members of a democratic community.

Because administrators and teachers frequently are uneasy with conflict, preferring to live with superficial order, students are taught to avoid raising difficult issues. And, although schools complain about the kind of apathy manifested in absenteeism or non-participation in classroom activity, they encourage a different sort of lethargy and disinterest. Students who never are consulted about issues that affect their daily environment are not likely to develop much allegiance to their schools. Nor can they be expected to learn the benefits of cooperative decision-making and shared responsibility, since they are not given the opportunity to practice these processes.

RECOMMENDED PRINCIPLES FOR DESIGN AND IMPLEMENTATION OF A STUDENT COMPLAINT PROCEDURE

Analysis of the data thus collected indicates that procedures currently available for resolving student complaints in high schools are ineffective for one or more of the following reasons:

(a) Limitations in the nature of problems that can be submitted to the procedures are so restrictive that students have little interest in using them; or

(b) Existing procedures are viewed as vehicles for the personal advancement of handful of student leaders and lack credibility among the general student population; or

(c) The process of implementation has been conducted so crudely that existing procedures never have had an opportunity to be tested.

What should be the basis for the design of an effective school problem-solving mechanism? Many details can be worked out only in the process of designing a specific procedure. But after nearly a year of school visits and discussions with administrators, teachers, and students, the Center has identified a series of considerations that it believes must be addressed if the weaknesses in current mechanisms are to be remedied. These include:

(1) Simplicity

The bane of many programs studied by the Center, especially mechanisms for formal appeals, has been

their complexity. No procedure will be used extensively if it requires extensive paperwork or attention to legalistic detail. Although student advocate programs attempt to create peer counselors adept at using existing systems, most students are still left to face an often impenetrable bureaucracy unassisted. Every program should seek to be simple enough to be understood and used by virtually every student.

(2) Student and teacher involvement

One common criticism of existing problem-solving procedures is that "It doesn't affect me; I have nothing to do with it." This is expressed especially by average students, who often see existing programs as the special preserve of a school's student elite. Some way must be found not only to give students a stake in a procedure by involving them in its design, but also to maintain student interest in a procedure once it is in operation. Careful and continued orientation, lacking in almost all programs studied, is necessary as is designing a procedure that is easy and rewarding to use.

The needs of teachers also must be carefully considered, especially since many of them genuinely fear that their classroom performance will be subject to unwarranted criticism or that what they view as clear faculty prerogatives (determining grades, for example)

will be undermined. No procedure that fails to involve teachers, who are direct parties to almost all non-policy complaints, will succeed. Existing appeals mechanisms that seem to have done the most to promote a school climate of respect and accommodation include teacher participation. This kind of participatory approach enables those people who must live with solutions to problems to share a role in developing solutions.

(3) Prompt, specific, written responses

During its visits, Center staff asked large number of students to describe the outcome of complaints or appeals made under existing procedures. Many students could not describe even those dispositions in which they personally had been involved. This confusion results, in part, from failure to provide clear and detailed written responses to complaints. Without written responses, students become confused about what actually was agreed to, suggested, or rejected by authorities.

Provision for prompt, specific written responses make it less likely that replies to students' complaints will be vague or dilatory. Furthermore, the existence of written responses enables administrators to monitor the implementation and effectiveness of a procedure.

(4) Access to the procedure with freedom from reprisals

Even problem-solving mechanisms that are available in theory to all students are not perceived to be so by students themselves. They may see their participation as irrelevant (voting in council elections) or unwanted ("Those things are for the kids with grades, just one clique"). Or they may, like many students spoken with, be afraid of retaliation for pursuing a complaint, especially if the complaint involves a teacher. While completely eliminating the fear of reprisals may not be possible, actual retaliation can be made a rare event. Top administrators must take the lead in assuring students that using a formal procedure to resolve their problems is encouraged and will not be held against them.

(5) Jurisdiction

The scope of most school problem-solving procedures currently in use is limited. Some deal only with discipline, some only with student extra-curricular life, others with challenges exclusively to grades or the application of existing policy. The Center's prior experience in correctional institutions suggests that the broader the scope of any problem-solving mechanism, the more constructive a role it can assume in the operation of the institution and the more easily it can attract supporters. While a school procedure may need to exclude certain issues for political or statutory reasons, the Center hypothesizes that the disuse into which most current procedures

have fallen is due in part to their restricted jurisdiction.

(6) Neutral, disinterested review

The success, as well as the educational value, of a problem-solving procedure lies in its use, and use depends at least partly on the perceived objectivity of the decision-makers. One way to increase the credibility of a procedure is to provide for review of administrative decisions by some person or group independent of the school system.

In other contexts, the Center has found that the possibili of review by a disinterested outsider is absolutely necessary to the credibility of complaint procedures. This is so even if the outsiders are rarely called on to review decision; it is the promise of their availability, not their constant presence, that promotes confidence. Moreover, the possibility that decisions may be reviewed encourages all parties to resolve problems in a more reasonable fashion at lower levels of the process.

Current models of school grievance procedures are too undeveloped to allow definitive conclusions about the necessity of neutral outside review. For this reason, the Center believes that an experimental procedure should incorporate this feature so that its

operation can be evaluated.

It is already clear that defining outside review in the context of public schools presents difficulties. School boards, for example, often seem themselves as outside the administrative apparatus, even though they have ultimate responsibility for operation of the school system. Most superintendents, on the other hand, believe that their boards are too integral a part of the decion-making process to function as outside reviewing bodies. Parent groups also consider themselves outside the school system: yet, they too are interested parties.

(7) Careful implementation: administrative leadership, training, orientation and monitoring

A study of the history of several elaborate and comprehensive student appeals mechanisms, all of them now moribund, reveals several common problems. First, although top administrators approved introduction of the mechanisms, they rarely provided continuous personal leadership in promoting the programs and convincing skeptics of their value. Without this leadership, the crucial acceptance of middle-level administrators was not achieved.

Second, although initial training for participants was much better in some programs than in others, there

STUDENT GRIEVANCES AND GRIEVANCE PROCEDURES IN A DESEGREGATING SCHOOL DISTRICT

by

James H. Laue

and

Daniel J. Monti

This article provides an historical study of the use of grievance procedures in a school district undergoing desegregation. The authors propose that although all schools are affected by social, economic and political change, schools experiencing mandatory desegregation efforts have special problems which logically demand regularized problem-solving mechanisms. Laue and Monti identify six elements which constitute grievance mechanisms. These include participation of the parties, written responses and records, multiple levels of appeal, time limits, third-party reivew, and compliance enforcement.

The authors criticize the grievance design approved by the federal court because it lacked many features they and other researchers deemed essential.

Although the achool administration stated the existing systems were working well, Monti and Laue discovered many students had unresolved complaints. Minority students contended they had problems which were ignored by the administration and for which there was no means of recourse. Logistical problems and ongoing crisis management accompanying desegregation diverted the attention of the administration away from grievance mechanisms and toward issues which were more public or immediate.

The authors warn that exclusive attention to the "crisis" situation incumbent in desegregation will hamper the development of a good school climate. They state that participatory decision-making via a grievance procedure can provide a supportive atmosphere for learning in the broadest sense of the term.

generally was no provision for follow-up training or for training new personnel. If a procedure relies on specific techniques, such as mediation, this lack of training is a severe shortcoming. Similarly, when programs were introduced, there was usually some orientation concerning their purpose and operation for students, teachers, and administrators. But the orientation was given only once; there was no orientation for students or teachers arriving six months, a year, or two years later.

Certainly the manner in which schools settle conflicts and respond to students' complaints must be related to students' apathy and sense of powerlessness, as well as to their skills in managing conflict and constructively changing institutions. Problem-solving procedures will not cure the ills besetting education, but they will provide a forum in which students, teachers, parents, administrators and the community can begin to work together to control those ills. Development of such a forum can represent a significant contribution to our society.

THE PROBLEM AND THE NEED

Public education has changed markedly in the years since desegregation became a hotly contested issue. The questions of whether and how white and minority children should be educated together have been compounded by a host of social problems ranging from drugs and crime to urban decay and the erosion of a city's tax base. The conflicts accompanying these issues frequently have spilled into the classrooms, making it difficult for students to learn and sometimes disturbing the image of the school as a place for reducing the barriers between white and minority youngsters.

Often these conflicts either have grown into violent confrontations among students or between students and school staff, or have found their way into lengthy and expensive court proceedings - neither of which may resolve the problem at hand satisfactorily.[1] But the pressures created by desegregation and the attendant problems raised in its name are real and require resolution. That is why student grievances and grievance procedures should be a central concern when a school desegregation plan is being formulated or implemented.[2]

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1. Ritchie, Richard M. "Due Process and the Principal," Phi Delta Kappan, 54 (June), 1973, 697-698.

   Winston, Sheldon "Expulsion and Due Process," Phi Delta Kappan, 54 (June), 1973, 699.

2. See the Cincinnati Public School System's handbook on "Student Citizen Guidelines" for an example of how that district has organized its grievance procedures. The National Education Association's handbook entitled "What Every Teacher Should Know About Student Rights" also is useful.

The problems which school students and staff typically face can take on special significance in a desegregating school district simply because people are aware that something different (and, therefore, potentially disruptive) is occurring in the schools. There also is evidence that a desegregating school is subject to more problems and unique ones -- at least in the short run -- than a non-desegregated school ordinarily experiences.[3] Given the novelty and tension surrounding the initial contacts between students and staff of different races, there are many instances in which a student with a justifiable complaint against her/his fellow students or a staff member has no constructive recourse, and may engage in behavior which leads to suspension, dismissal from school, or more serious legal charges. There also are instances when students in a newly desegregated school are wrongly accused of having violated some rule, and become angered when little effort is made to determine whether they have actually committed a violation. Traditional concepts of what constitutes a student grievance tend not to include such problems. They usually refer to relatively minor problems faced by students during an otherwise normal school day which can balloon into larger issues if they are not handled quickly and fairly.

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3. Department of Planning and Evaluation. "Experience of Students with Disruptive Behavior in the Dade Public School System, Miami, 1976/

National Institute of Education. "Violent Schools-Safe Schools" U.s. Department of Health, Education and Welfare, 1978.

The first task of administrators in all formal organizations is to maintain internal control of personnel, clients, and problems. School officials are no different in their treatment of grievances and grievants than prison wardens or welfare administrators -- they want to keep such problems "inside" if at all possible.

The pressures on school administrators to continue both their control over the definition of what constitutes a grievance and over the process of resolving problems are especially great under the intensified public scrutiny of a desegregating situation. While a serious effort may be made by school staff to resolve all grievable issues themselves, their base as system employees makes it difficult for them to render decisions that are unbiased in fact or in the perception of the parties.

Despite this drive for internal control, administrators are not systematic in their development and application of grievance procedures. In our experience* we have found that in a large district administrators are able to divert attention away from a number of seemingly disconnected "incidents" in favor of the more public (and therefore more pressing) policy issues. Central office administrators leave such matters to the discretion of school principals or they promulgate general guidelines that are not well-known or widely used by parents

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* Including the study of two large desegregating school districts in the St. Louis metropolitan region and a brief review of the literature and current projects such as those of the Center for Community Justice.

and students. These actions can occur even in the face of a court mandate ordering the development of a grievance procedure as part of a desegregation plan.

CRITERIA FOR EFFECTIVE STUDENT GRIEVANCE PROCEDURES

Against this background of latent and actual conflict in desegregating school districts, an effective and systematic method for processing student grievances is essential. Drawing on Laue's analysis of the work of the Center for Community Justice in prison settings,* the following six principles are proposed as essential to the judicious operation of a student grievance procedure:

(1) Participation. All of the major parties with a potential stake in grievance procedures (students, teachers, administrators, school staff, parents, etc. should participate in design and implementation. Their commitment is essential if the process is to work.

(2) Formality. All grievances and responses should be formally transcribed with copies made available to the parties. Written grievances and responses encourage better understanding of the issues and more responsible representations by the parties.

(3) Levels of Appeal. Grievance procedures should have a series of appeal levels for the grievant if the

* Under LEAA subcontract 76-99-0001, "Prevention and Control of Conflict in Corrections Through Citizen Involvement."

decision is not satisfactory at a given stage. A formal appeals structure ranging up through internal administration to outside arbitration encourages informal resolution of grievances and responsive administrative behavior.

(4) Time Limits. There should be strict enforcement of time limits at each stage, with automatic passage of the grievance to the next stage if time limits are not met.

(5) Outside Review. Outside oversight must take two forms: final appeal of grievances to a panel of independent arbitrators and continuous monitoring of the procedures by a broad-based citizens advisory group.

(6) Implementation Mechanisms. Grievance procedures deal with both individual cases and policy issues; the individual "awards" and the policy changes stemming from operation of the process both must be capable of implementation. Specific procedures for implementing and appropriately publicizing outcomes should be designed and monitored externally and internally.

The goal of grievance procedures developed in line with these criteria is to provide a participatory mechanism for the resolution of student grievances in a way that (a) is mutually satisfactory to all the parties, (b) is enforceable, (c) contributes to the health and problem-solving capability of the school system,

and (d) does not rely on criminal or other litigative proceedings. The focus of a student grievance procedure should be on problems which can be remedied through a speedy process of mutual accommodation rather than one which merely pronounces guilt or innocence.

With these criteria in mind, we turn to an analysis of the design and implementation of student grievance mechanisms in a desegregation school district. The central issue to be addressed in this paper is whether top-level administrators in a desegregation environment can provide creative leadership in areas that may alter power alignments or reduce the concentration of decision making.

GRIEVANCE RESOLUTION IN A DESEGREGATING DISTRICT

Information about student grievances and how they are handled is difficult to obtain because of the sensitive nature of the issues surrounding students' rights and the operation of public schools. With these limitations in mind, staff members from the Center for Metropolitan studies, University of Missouri-St. Louis, observed the manner in which the Ferguson-Florissant Reorganized School District in St. Louis County dealt with student grievances. This research was done during the first year of student desegregation (September 1976 to May 1977) as part of the Center's overall study of desegregation in this and the St. Louis City Public School districts.

The administrations and staffs of the formerly independent Ferguson-Florrisant, Berkeley and Kinloch districts has been merged on July 1, 1975. The school district of Kinloch, consisting of a small and entirely black community, had been gerrymandered into existence several decades earlier. In the early 1970's the old Ferguson-Florissant district had a pupil population of approximately 21,000 -- the fourth largest district in the State of Missouri. Just prior to the merger, the census had dropped (consistent with school population throughout the nation, including metropolitan St. Louis) to between 15,000 and 16,000. The merger brought the population back up to approximately 20,000, of whom about 20 percent are black. While both the merger and initial year of desegregation met with some resistance, there were no major outbreaks of violence as some had feared. The approval of a new busing and pupil assignment plan for the 1977-78 school year reducing black enrollment in Berkeley schools was the last formal act of the judge in this case. He recently declared that the district had complied sufficiently with his orders and would no longer be under his supervision.

The success of the district's desegregation program was measured by school officials largely in terms of the absence of widespread organized discontent on the part of students, citizens and staff. District officials maintained publicly that there were no significant discipline or morale problems in the schools, and supported their contention with survey data and institutional

records showing that students were comparatively happy.

Students on the junior and senior high school levels were surveyed by the school administration. Positive results from these polls were summarized in the court's report. As further evidence to document the general success of the desegregation plan, it was noted that students made little use of the grievance procedure required by the court.

Although there were none of the outbursts that have affected some desegregating school systems, that it was clear to observors from the Center for Metropolitan Studies that substantial numbers of students were not having an easy time and, in fact, were ready to voice criticism of the new situation. This was espcially true in the one high school that received all of the former Kinloch students. During the first year of desegregation, minority students in that school were being suspended at a much greater rate than their white peers, doing poorly in their academic work, and finding it difficult to break into many of the school's extracurricular activities. Some complained of staff harrassment to CMS researchers, while others felt they were ignored and permitted to roam the hallways of the school or take numerous "study halls" instead of attending classes.

Despite these problems, the official court record reporting the desegregation process remained largely unblemished. The

apparent contradiction between the day-to-day reality in at least some of the district's schools and what was revealed in the public record can be accounted for partially by the way the students' problems were handled. The grievance procedure submitted by the school district and approved by the court blended the school prinicipals' insistence that they maintain some discretion in matters of discipline with a citizens committee's recommendation that students be assured of receiving equal treatment.[4] Few of the criteria that define an effective grievance procedure were satisfied in this case.

The procedure made no provision for students and parents to be involved in its implementation, other than as aggrieved parties. Records of discussions regarding a student's problem were kept irregularly, and then not by an independent recorder. Minority staff often were assigned the task of explaining to black parents why their children had been punished and discouraging them from pursuing appeals. They were also instructed not to share information regarding alternatives to out-of-school disciplinary measures. All of the proceedings involved with student disicipline were controlled by school staff and administrators. There was no external review of the procedures at any stage once the citizens committee approved of the original proposal outlining rules and regulations for students. Discrepancies in the way black and white students were disciplined continued throughout the year. The discipline decisions made by building

4. "Minutes of the Biracial Advisory Committee," February 2, 1976.

personnel were rarely, if ever, overturned by district administrators. Grievance procedures were not open to outside review, nor were they evaluated.

The lack of correspondence between the district's procedure and the criteria for successful grievance procedures outlined above may be attributable to school officials' conception of what constituted a grievance, and to the dual classification under which student complaints were handled. District administrators made a sharp distinction between a "grievance" and a "disciplinary appeal." "Grievances" dealt with matters of racial or sexual discrimination by a student or staff member against another student. A "disciplinary appeal" entailed a review of the decision to punish a student for an alleged infraction of school rules.

The "grievance" and "disciplinary appeal" followed approximately the same procedure. Matters were to be handled informally at the individual school and referred to district administrators only in those cases where the principal could not resolve the dispute. For reviewing material provided by the district, researchers found that grievances or complaints were recorded as they reached the principal's level. Parents and student were required to submit written explanations of their decision to press the matter. Apparently, this rarely happened. Counsel for the district reviewed these complaints to determine if there was justification for further appeal.

Unless counsel for the district agreed that the complaint was justified, the student's right to appeal was terminated. These decisions were handed down without the opportunity for the student to secure legal services. If the district's lawyer agreed that the student's rights had been violated, then the student and parents would be informed of additional steps they could take within the sytem.[5]

In the fall of 1976, district administrators told a group of visiting officials from the Center for Community Justice that they had not publicized all the available levels of appeal for fear that parents would use them. They also indicated they felt that the hearings procedure did not place an unfair burden on the complaining party. District officials said that although the hearings process was strictly administrative and made no provision for the external review beyond the Board of Education, few students (probably no more than ten throughout the district for the entire previous school year) had made use of the procedure. Yet it is clear from the way the terms "grievance" and "disciplinary appeal" had been defined that the great bulk of students' problems would not be addressed systematically or recorded in the court's record of district activities. The amorphous character of "racial discrimination" made it unlikely that any given student could have argued the fine points of the law with the district's attorney. This severely limited the chances that complaints

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5. Report to the Court, Ferguson-Florissant Reorganized School District, October 15, 1977.

of racial discrimination would be processed.

Regarding disciplinary problems, school personnel retained their right to determine rule and regulations, identify violators and decide appropriate sanctions. Like the "grievance" procedure, little encouragement was given to parents and students to pursue "disciplinary appeals" and little information was disseminated on a routine basis instructing grievants on the later stages of appeals.

None of these concerns about the hearings procedure would have been critical had student grievances or complaints been handled effectively within the schools. However, the informal procedures for resolving students' probems in each school -- which district and building administrators considered to be the backbone of their grievance process -- appeared to be fragmented and inconsistent, especially in the one high school receiving Kinloch students.

Well before classroom desegregation began in September 1976, the Board of Education received a favorable evaluation of the system's advisement system, which was designed to provide each student with a counselor who would remain her/his advisor for three years and be able to help her/him work out any difficulties s/he was having with the school's staff, programs or her/his fellow students.[6] In the receiving high school as in other buildings, the advising system was to have helped identify

6. "Minutes of the Board of Education," October 8, 1975.

and resolve a student's problems before they grew into something neither s/he nor her/his advisor could deal with effectively.

Yet the advisement system apparently was not effective in helping most minority students adapt to their new school or develop ways of changing school policies so their common problems might be addressed more satisfactorily. In fact, the advisement system was not organized in a way that would enable staff to discern or respond to problems that a whole category of persons -- in this case black students -- was experiencing. The emphasis on the individual student actually seemed to retard the growth of a shared understanding among school personnel that minority students as a class had similar problems that were not being confronted. Some teachers were known to be aware of various desgregation-related problems. However, researchers were told by other teachers that they had no personal knowledge of the discriminatory practices about which a number of minority students were complaining to selected minority staff members.

Additional discussions with staff members revealed that the system did not work well for the individual minority student and her/his particular problems. Some black students who met with their counselors indicated that the sessions were perfunctory reviews of their records, rather than detailed talks about students' problems and aspirations. While white students may have had similar experiences, many black students complained informally about these problems to researchers.

That black students were having problems in their new school was clear to minority staff to whom these youngsters spoke. In fact, at one point the names of sixty minority students who complained they were having problems were passed to their respective advisers by minority staff. None of the students was ever contacted. Within one month after their names had been submitted, nearly a quarter of these students permanently dropped out of school.

A Biracial Student Advisory Committee and student councils were established to identify problems that the administration should address. However, it was clear that the selected students who sat on the Biracial Committee did not enjoy the confidence of many students who were having problems. One of the white students on the committee noted that a special effort would have to be made to reach such students because the committee had no "representatives" from that population.

The court also charged a district-wide Biracial Advisory Committee with overseeing and helping amend the district's desegregation program. The Committee did not provide a larger forum or mechanism for dealing with grievances arising (and not finding satisfactory resolution) at the school level. In effect, the Committee was prevented from seriously engaging its task due to lack of understanding about grievance procedures and lack of staff support.

Members had previously held seats on Board of Education prior to the merger. They assumed no role in the hearings procedure which they had approved or in monitoring the success of other administrative procedures for dealing with student and parental concerns once the school year began. This Committee offered no significant external review of the decisions rendered through administrative procedures or of the ways they were carried out by school personnel.

ADMINISTRATIVE CONTROL AND EFFECTIVE GRIEVANCE PROCEDURES

Reconciling the needs of students and parents in a school district for thorough and fair grievance procedures with the needs of school personnel to maintain their control over students, staff, and programs, is difficult under any circumstances. When the district is undergoing desegregation the reconciliation becomes even harder to obtain.

In the case reviewed in this paper, if administrators had developed student grievance or disciplinary appeals procedures in consonance with the criteria for effective grievance procedures noted earlier, school personnel would have lost (or at least shared) some of their decision-making power in this area. They also would have exposed themselves to a good deal more public scrutiny and potential criticism. At the same time, however, they would have enabled more minority and white students to resolve problems fairly and swiftly -- thereby adding credibility and stability to the system and its operation.

In short, the question of student grievances and grievance procedures never was seriously addressed. Other issues demanded more immediate attention by district officials and building staff. In the consolidation or merger of the district, school officials were faced with logistical, staff and program problems. These involved arranging transportation, standardizing curriculum, re-assigning teachers and students, developing new tenure criteria and salary schedules. The merger process, itself, became a central concern. External pressures from citizen groups and the court did not focus on the issue of grievance procedures. They were satisfied to leave this responsiblity to school officials which our researchers found has serious negative consequences for some students.

The situation might have been improved if students had taken a more active role in processing and forwarding their peers' complaints to both school personnel and to an outside review committee capable of addressing grievances raised by students and their parents. Without an advocate -- either in the form of a person comparable to the district's lawyer or a process that insured a fair hearing -- the students had little recourse but to accept the rules and decisions made for them, including in some cases, suspension or expulsion.

Based on our observations in this desegregating school district, it is clear that school officials created a grievance procedure primarily supportive of their interests; alternative procedures that would have threatened administrators' perceived

interests were not employed. The court, concerned citizens, and students were not aware of other ways of processing student complaints, or chose to ignore them.

CONCLUSION

To summarize, the legal and other pressures on the parties in desegregating school districts often induce them to deal in depth only with those crisis issues that become public and/or threaten immediate self-interest. Many student and parent complaints are absorbed by the system without reaching this level of visibility, and therefore are not perceived as a matter for serious consideration and planning by district officials. Yet the long-range success of a desegregation plan is dependent on the investment in it by the parties with most at stake -- the students and parents -- and deep investment results only from an accumulation of equitable and satisfactory individual transactions between client and system.

Grievance procedures meeting the criteria outlined at the outset build this kind of fabric; properly framed and administered, they offer joint, cooperative approaches to problem-solving in contrast to the adversarial proceedings typical in the district described here and in most districts. Participation in design and implementation ensures investment. Formality, levels of appeal and time limits undergird fairness and due process. Outside review is essential if the interests of parties other than school officials are to be represented and protected. Implementation mechanisms are essential for both the satisfaction of individual complaints and the institutionalization of policy changes stimulated by a grievance.

District officials facing the pressures of desegregation need to look beyond their immediate needs for client control to see that their long-range self-interest lies in the health and stability that can be engendered in the schools from the fair, open, and participatory resolution of student grievances.

GRIEVANCE MECHANISMS FOR STUDENT USE

by

Donald F. Murphy

As an educational practitioner in one of the country's largest school systems, Murphy provides an implementation strategy for introducing grievance designs in schools. He has compiled rationales and justifications for grievance procedures for innovators or change agents to use in introducing the concept to a community. Murphy advocates using mediators and student advocates in a multi-level grievance design where problems are handled at the most informal level possible. Potential problems are identified and suggestions are advanced in order that some pitfalls can be avoided. From his position as Student Concerns Officer, Murphy provides an examination of the issues of grievance procedures in a practical strategy-oriented manner.

The major purpose of this paper is to provide guidance to readers who are interested in establishing student grievance procedures in their community. The rationale for considering such a system is discussed and followed by practical directions on strategy and tactics. The school system is addressed in its entirety with an analysis of how each party, i.e. students, teachers, counselors, principals, superintendents, Boards of Education and the citizenry, can become actively involved in this educational innovation. Job descriptions, sample forms, grievance committee composition and other suggestions are presented so that the practicality of the idea becomes easier to understand and accept.

INTRODUCTION

If one truly believes in teaching the democratic process and in preparing young people to understand and utilize the mechanisms and skills related to the process, one must answer the following:

(1) Do educators know and understand the democratic process?

(2) Are educators providing students with practical experience in the "process"?

The reasons for considering these questions need explanation. First, the democratic process itself has undergone a dramatic change in recent years. Public and private agencies have been working to construct procedural safeguards that protect or

enhance an individual's standing in society. Public hearings, appeal boards, negotiations, open forums and formal grievance channels are examples of procedures that provide individuals with a forum for expressing their right to be heard. Adults are generally familiar with these procedures by virtue of their employment, interest in civil affairs or interaction with governmental agencies. There is little evidence, however, that students are aware of these procedures or provided with practical applications of how these function during their school experience. Perhaps the time has come to seriously consider the use of grievance procedures in the public schools.

Rationale

A number of judicial and statutory actions have brought students closer to the privileges of adult life. The Supreme Court decisions of Tinker v. Des Moines in 1967 and Goss v. Lopez in 1975 are two landmark students' rights cases. The Tinker case expanded 1st Amendment rights and the Goss case provided schools with new guidelines for establishing due process in suspensions. Coupled with the lowering of the age of majority to eighteen, these decisions have increased the access of students to the democratic processes. The next logical step is to structure broad-based opportunities that afford students exposure to procedural mechanisms. A student grievance mechanism could provide such an experience.

Student Rights

The legitimacy of a grievance mechanism for student use should actually be a moot point in some school systems. Since 1970 high schools have been adopting documents known as "Bills of Students' Rights and Responsibilities." These documents, which are built on the foundation laid down in the Tinker and Goss decisions cited above, have the following characteristics in common:

(1) Key sections on student involvement in extra-curricular activities; use of school facilities and student government.

(2) Listing of specific rights and responsibilities in the areas of speech, assembly and expression; confidentiality of records and freedom of information; dress codes; searches of lockers and corporal punishment.

A review of students right documents in force throughout the national suggests that student appeal steps and grievance channels have not been developed in depth. Due process and appeal procedures governing suspension/expulsion and other areas of student behavior are treated in a superficial manner.

An example of this reads as follows:

> Student appeal and grievance related to the specific procedures for student involvement, rights, and responsibilities will be directed in writing to the following:
>
> A. The local school student government association or student grievance committee and the school principal. If unresolved at this level, the grievance should be directed to:

B. The Office of Pupil Services for consideration by a Central Office grievance machinery. If unresolved at this level, the grievance will be directed automatically to:

C. The Superintendent of Schools, who shall act as the final interpretive body.[1]

The reference to constructing a local school grievance mechanism is only briefly mentioned. Without a clear definition of what constitutes an acceptable format for processing student grievances, schools are left on their own to plan, develop and refine a workable process.

Perhaps one of the reasons that so little attention was directed to these vital issues pertains to the fact that suspensions and expulsions are governed by state law or administrative procedures. In any event, it is important to design a student grievance procedure that incorporates judicial decisions, federal, state and local statutes and the evolving body of student rights.

Teacher Interests

Considering the frequent use by educators of grievance procedures to handle labor-management disputes arising out of a collective bargaining agreement, it is likely that teachers have a good understanding of the concepts and dynamics underlying the process. Since teachers frequently resort to grievance channels on issues like class size, lunch periods and attendance sheets,

1. Procedure 5150, Student Involvement, Rights and Responsibilities, Prince George's County, Maryland Public Schools, October 10, 1972.

they also should recognize the benefits of this method of problem solving. With teachers spending a lot of their classroom time maintaining discipline and order, it is likely they would welcome a system that places the onus for rule-making and enforcement on other parties. Although a grievance mechanism is not intended to "take the heat off" teachers, it can provide a neutralizing force so that the appearance or actual existence of harrassment or arbitrary decision-making is reduced.

School Environment

Because school are public agencies, they need to maintain public trust and faith. Schools suffering from vandalism, in-school violence, absenteeism, high rates of suspensions and expulsions and drop-out rates do not engender citizen support. Students and parents often feel alienated from schools because they have no way to voice their complaints and tend to either withdraw their involvement with educators or exhibit more aggressive ways of demonstrating their dissatisfaction.

Grievance mechanisms are ways of making difficult choices by sharing the rights and responsibilities incumbent in joint decision-making. By involving students and parents as members of a grievance committee, rule-making and enforcement is "owned" by the parties. With grievance mechanisms in force, the principal has an opportunity to more effectively manage the disagreements and disputes which disrupt the school climate. This reduces the perception that important decisions are made in an

arbitrary manner because the decision is a joint one. "Personality" issues become less important.

Finally, the use of grievance mechanisms can be thought of as the introduction of a system that focuses on "we": As students, teachers, parents and administrators agree to its use, they are also agreeing to abide by the decisions. This concept is key to successful implementation and it represents new levels of involvement. It's grounded in compromise and involves basic precepts of the democratic process discussed earlier.

Strategies for Implementation

There are two levels of access that are open to new ideas or projects for schools. A student grievance mechanism can be implemented in one school or in many schools throughout a school district. Tactics used to negotiate the acceptance of a grievance procedure are determined by the kinds of impact desired. For example, while a project in one school will require the cooperation of the principal and local community, a district-wide effort will require the support of the superintendent, school committee, teacher union, and parent-teacher organization.

1. District-Wide Approach

   Most school superintendents are granted broad administrative authority by boards of education. The Superintendent can be approached with an innovation, like grievance mechanisms, and encouraged to experiment in one or more

local schools before accepting this idea as policy. If the project proves successful, then full district-wide implementation can be carried out.

Negotiations can also be taken up directly with the Board of Education. Because each Board has its own modus operandi, it is best to first understand how this body develops agendas and takes formal action. An individual board member can be enlisted to propose a formal presentation and discussion of student grievance procedures for Board consideration. The presentation should be informative and easy to understand with concrete examples and illustrations of how the procedure could work. It is important to publicize the meeting so that students, parents, teachers, school administrators and citizens have an opportunity to learn about the proposal in its earliest stages. No final commitments are necessary at the introductory session and board members should have time to react before making a decision. An indication of a willingnesss to work with school administrators and teachers will enhance the credibility and plausibility of the proposal.

2. Local School Approach

Educators at the local school level are usually more aware of the day-to-day problems of school administration, especially as they relate to student-student and student-faculty interactions. A principal and building staff

must be introduced to the concepts and dynamics of the grievance procedure in a non-threatening manner. As discussed earlier, teachers, who understand the grievance process set out in employment contracts, may provide important support for this kind of "technology transfer."

Teachers can also play important roles with respect to educating students on grievance procedures. As teachers are exposed to and become familiar with the concept of student grievance, they can be called upon to orient students to the important elements of these procedures. Teachers can assist in designing instructional presentations through mini-lessons and classroom rule-setting. Keeping in mind that once a grievance mechanism is instituted it must be taught to new students, teachers can play an invaluable role in developing elective courses and opportunities that will insure a long range commitment to teaching in this critical area.

In an article by Joel Henning, National Director of the American Bar Association's Youth Education for Citizenship Project, strong support was given to the idea of making better use of the schools to teach the democratic process.

> "Too many of those concerned about the issue of student behavior overlook the extraordinary educational opportunity it presents. The issues related to student behavior are issues of fundamental importance to society. They include law, order, authority, due process, and democracy. They involve relationships among people, and between individuals and the state. Problems of student behavior could be the vehicle for effective civic education."

Student Involvement

Informing students about a grievance procedure should be done in an aggressive manner by the student government association. For example:

> "Attention students! You will soon be given an opportunity to become involved in a project entitled: "Student Grievances: A New Approach to School Decision-Making." The project information will be distributed during a district-wide conference with key student leaders as participants. Your student government association will determine who will attend the conference and how this information will be given out to students."

This method of enlisting student interest requires the attention of a fairly efficient, functioning, and credible student government association. In schools where the student government association is not functioning well or lacks credibility, the assignment of an important task, along with the investment of adult guidance and supervision, can breathe new life into the basic student representation format.

Nevertheless, there are alternatives to the direct involvement of student government structures. In recent years, schools have seen the emergence of new forms of student representation. For instance, at some schools ad hoc student groups have been formed with a specific task to be discussed and acted on. In other places, informal student advisory groups have been formed by school principals and teachers to provide regular discussion between the students and principal. Whatever the format, student grievance mechanisms will require maintenance by a representative student group.

Grade Levels

Once it has been determined that student grievance mechanisms will be implemented, there will surely be questions about the merits of including various grade level combinations. All levels can participate in the project, according to their ability and need. The junior high and middle schools present an excellent opportunity for basic training and information sharing in concepts of shared decision-making and grievance procedures. This basic instruction is necessary for further skill development. However, to involve junior and middle school students as full participants in a grievance procedure may be an unrealizable task. The requisite student representation is not well-developed at this level.

Senior high schools, on the other hand, should encounter few problems in actively involving students. These students are at the top of the public school maturity ladder and they should be afforded abundant opportunities to practice the skills they will need as adults. At this stage of their maturation they should be expected to resolve most of their own problems.

Two Specialists are Essential

A major flaw in many new programs and innovations in schools is the lack of a support system. Someone has to provide leadership, conduct school awareness sessions, develop lines of communications, prepare status reports, and, most importantly,

symbolize the daily presence of the process. The establishment of the positions of student advocate and school mediator can fulfill many of these support functions.

(1) School Mediators

Successful mediation is not a chance occurrence. It requires skill and practice as well as a solid understanding of human relations and bureaucratic systems. Mediators are third parties who take on the role of clarifier and harmonizer, working informally and impartially to bring a dispute to resolution. If the informal approach by the mediator is not successful, s/he then works to see that the formal grievance process is carefully understood and followed. Mediation/conciliation is based on a thorough knowledge of rules, policies and procedures as well as the ability to communicate effectively without alienating any of the participants in a dispute.

It should be understood that mediators will be expected to assume these duties in addition to their regular job duties. Because of the requirement of neutrality, school teachers and principals can seldom function as official school mediators. Their familiarity with particular incidents or individuals and their responsibility for enforcement of school policy makes it highly unlikely that they could perform the "mediator" role in a fashion that is perceived as neutral.

There are professionals in most school systems involved in student services. This division is composed of psychologists, guidance supervisors, pupil personnel workers and counselors. The services are available to students, parents, and other school professionals. Most of the pupil services personnel are highly trained to resolve disagreements and have a solid knowledge of school system policies and procedures. They are seldom based or tied to a particular school and instead have responsbilities for several schools, which they serve on a flexible daily schedule. This flexibility is absolutely necessary for the mediator who will need to be able to respond quickly and efficiently to help the parties in a dispute.

In addition to being available as problems arise, mediators need special qualities and skills. A classified ad seeking a mediator might read as follows:

> WANTED: MEDIATOR....for difficult job of resolving disagreements among students, teachers and administrators. Must be an effective communicator with the ability to get along with all age groups, peers and students. Strong background in human relations skills essential. Writing experience and knowledge of school law and local school administrative procedures very desirable.
>
> Would prefer candidates who have had formal mediation training through the American Arbitration Association or other comparable national training group.
>
> Masters or above required. Salary: commensurate with ability and certification standards.

Although few school districts may be able to locate personnel that satisfy all these criteria, all have staff that measure up in terms of being interested in resolving student disputes in a constructive manner.

After selection, training is the most important aspect of mediation. For years, mediation skills have been taught by such as the American Arbitration Association and national labor/management schools all around the country. Yet, the public schools and teacher training colleges have been slow to include mediation skills in preparatory courses for teachers and administrators. Perhaps one of the reasons why this subject area has not been incorporated in teacher curriculums is its identification with the labor field. However, the growing use of these skills in correctional facilities, housing disputes, victim restitution and other areas demonstrates their widespread applicability.

The kinds of skills transmitted in the training sessions include conflict management, human relations, effective communication, negotiations, bargaining and so on. It has been estimated by those who have conducted similar training programs for other fields that school mediation specialists can complete their training in approximately 10 days.

(2) Student Advocates

A student body in the average three-year high school is significantly affected by the fact that one third of the students are new and one third are anxious to graduate and move on. Thus, the population is highly transitory and has very different concerns with respect to school life. Although students still need adult guidance and supervision, they are greatly influenced by peer pressure and seek reinforcement from other students. Because students tend to doubt the credibility of many adult authority figures, educators have urged the development of peer counseling programs for student support and problem solving.

A student advocate advises, assists and supports fellow students in matters where there is a disagreement between a student or a group of students and another party in the school. The nature of the disagreement can range from personality clashes to specific school rules and regulations.

The advocate differs from the mediator in that s/he works for the student interest when the student confronts the school system or its personnel. When students consider using the grievance mechanism, the student advocate can provide invaluable peer support. Advocates can help to inform students about their

rights and can encourage the resolution of disagreements through a legitimate process. For students who feel insecure and uneasy about articulating a serious complaint, the advocate can become an effective spokesperson.

Like the mediator, the advocate will be committed to informal resolution through low level negotiation and compromise. If there is need to proceed further the advocate will work for students by assisting in the filing and submission of a formal written grievance. [Exceptions to the advocate stance may arise when the advocate is asked to intervene in student-to-student disputes. More than likely, these matters will be referred directly to the school mediator if local attempts at mediation have failed.]

In order to function with the support of their peers, student advocates should be elected through a school-wide election process. A nominating committee of the student government association can organize election that is based on qualifications and sincere interst as opposed to popularity and politics. The popularity contest is a phenomenon which is difficult to overcome in schools. One of the main reasons for this is the lack of understanding of the duties and responsibilities of a given student office. The screening committee can establish specific requirements

and recruit candidates who are qualified to run for election.

Once elected, the advocates will attend a series of workshops. Training will be designed so that students become completely familiar with school policy and procedures and organizational dynamics. Students will also be trained in skills for counseling, fact-finding, mediation, bargaining, negotiating and formal grievance processing.

The Advocate/Mediator Relationship

Together the mediator and advocate form the nucleus of a conflict resolution network. Because they are mutually supportive and cannot function in isolation, their collective experiences will enable them to overcome the obstacles to a successful program.

For example, when a mediator is called upon to intervene in a particular school, s/he must immediately establish a trust level with the students. S/he must also learn as much as possible about the situation. Input from the student advocate will be a valuable resource at this point.

On the other hand, the mediator will provide a stabilizing influence to temper the short careers of the advocates. The school mediator can provide orientation and training sessions to the "new" advocates and to the larger school community.

S/he can be seen as the "keeper" of the process.

Making Grievance Mechanisms Work

The emergence of student activism during the late 1960's led to a critical review of student institutions, especially student councils or student governments. Much of the criticism was valid. It was commonly believed that each year in many local schools throughout the nation a school-wide election or a combination election and appointment by the principal resulted in the establishment of a select elite club rather than a representative body. The students who served spent a lot of time on mock political elections and simulated party conventions instead of looking out for the welfare of their constitutents -- the other students.

However, the seventies have seen a constructive change toward more meaningful student involvement. The term "student council" itself is giving way to "student government" as schools push to elevate the image of student structures.

The need for change extends well beyond the local school. Recently, the federal government adopted the position that students must play a major role when it comes to reviewing and implementing federally-funded school projects. The Emergency School Aid Act (ESAA, Title VII) is one major example.

The federal ESAA regulations state that every local school benefiting from these funds must establish a student advisory committee selected by the student body. The committee's

purposes are to advise the school and the school district on how the federal funds are being spent and to review new projects submitted under ESAA guidelines. It is a meaningful task.

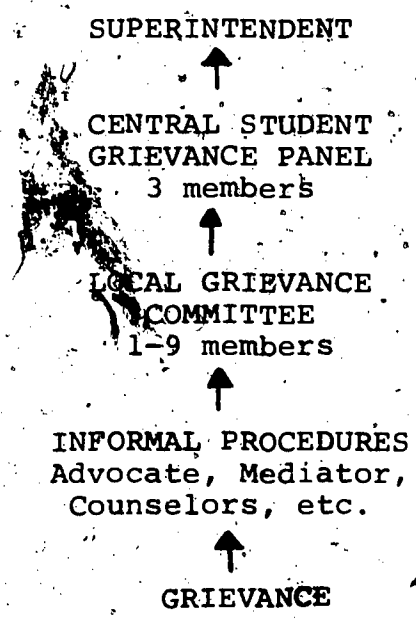
Given these developments there appears to be little justification for preventing students from participating as decision-makers. This invovlement can be activated through the use of student advocates and grievance mechanisms.

A Working Example

Following is a set of grievance procedure guidelines that can be implemented at the local school and district-wide levels. Suggested formats for the composition of the grievance committee, sample forms and levels of appeal are also provided in the Appendix. These procedures are currently in use in Prince Georges County, Maryland.

A. Grievance Channels

A grievance or complaint shall be processed as follows:



The grievance channels include:

(1) Informal procedures at the local school level.

(2) Formal procedures at the local school level.

(3) Formal procedures at the central office level.

(4) Final appeal to the Superintendent.

Student grievances are initiated at the local school level. It is anticipated that most grievances will be resolved in an informal manner. A student advocate or school mediator can be especially helpful on these occasions by bringing the parties together for discussion. If resolution of the grievance cannot be reached through this informal process, then the grievance must be submitted in writing, to initiate local school formal grievance procedures. Failure to resolve the dispute at this level will cause the complaint to be referred to the Central Office and ultimately to the Superintendent.

B. General Instructions

1. In both informal and formal procedures, all parties must recognize the importance of settling grievances promptly and fairly.
2. A grievant shall be free to submit a complaint without fear of censorship, interference, harrassment, coercion or reprisal.
3. All days referred to in these procedures shall be basic school days.

4. If the time limits for processing a grievance at any step expire due to no fault of the grievant, the grievant has the right to immediately proceed to the next step.

B. Informal Resolution Steps

1. Within five (5) days after the student has been involved in a situation which s/he thinks is in violation of school procedures or policies, s/he must discuss the grievance with a designated representative of the Student Government Association or student advocate who will advise the student of the merits of the complaint.
2. If so, the student advocate or representative shall within five (5) days arrange a meeting between the other parties and the student in an attempt to reach a mutually satisfactory solution to the complaint.
3. In matters requiring special assistance, the school mediator shall be called upon to intervene upon the request of the student advocate and/or principal.

C. Formal Resolution at Local Schools

It is extremely important to the success of a formal grievance mechanism that a well-known and regular school group assume the coordinating responsibilities

for channeling grievances. In this model, those responsibilities are assigned to the school government association. The student government association works in concert with the local grievance committee channeling complaints and monitoring activities. This relationship will strengthen the student government association and involve student leaders in the operation of the grievance procedure.

Steps

1. If informal procedures have not resolved the grievance to the satisfaction of all parties, the student may file the grievance in writing with the student government association within ten (10) days of the alleged incident. The complaint must be prepared on the approved form with the assistance of the Student Advocate. (See Sample Form in Appendix).
2. The Student Government Association shall supply a copy of the grievance to the principal and to a student grievance committee. The local school student grievance committee shall conduct a study of the case and make a recommendation to the principal within five days. (See Composition of Local Grievance Committee in Appendix.)
3. The principal shall submit her/his final decision to the student within five days.

D. Formal Procedures at Central Level

Steps

1. If the student is dissatisfied with the principal's decision, s/he can submit the grievance through the grievance committee to the central office. The approved form must be completed and forwarded to the Central Office Grievance Committee within five days. (See Sample Form and Grievance Committee Composition in Appendix.)
2. The Central Office Grievance Panel shall investigate the grievance and shall schedule a formal hearing within five (5) days if additional information is needed. The panel shall render a decision within five (5) days after the conclusion of the hearing.
3. In cases where a formal hearing is not required, a decision shall be delivered within five (5) days of the receipt of the complaint.
4. Members of the Student Grievance Panel may request written statements from any of the parties involved in the grievance and/or may request further investigation under supervision of the mediator. This may include informal discussion with any or all of the involved parties.

5. The panel's decision shall be submitted in writing to the Superintendent, school principal, local grievance committee and student within five days. Decisions by the panel must be in accordance with any existing laws, policies, rules, regulations and/or negotiated agreements.

E. Superintendent

The Superintendent shall retain the right to render final judgment in the disposition of student grievances.

Implementation of the Decision

1. The Grievance Panel shall publish decisions on all cases and distribute these to local school students. Names, positions and other identifying characteristics shall not be included in these notices.
2. Complaints concerning implementation of decisions at any point in the grievance procedure shall be referred to the Student Advocate and/or School Mediator.

APPENDIX

Grievance Forms

(1) Local School

(2) Central Office

Grievance Committee's Composition

Abstracted from material developed by:

Prince George's County Office of Student Concerns

LOCAL SCHOOL GRIEVANCE FORM

I. Student Name _____ Date _____
Grade _____
School _____

Description of Complaint (Names, dates, places and other information on the incident)

Policy/rule violated (which rule/policy or regulation was violated?)

Student behavior (was the student involved in any activities that could be interpreted as improper?)

Informal steps taken (what kinds of action were taken to settle this before filing this complaint?)

Acceptable resolution (what would the student like to see done?)

II. Actions taken by Local Committee

Date received _____

Steps taken by Committee to resolve grievance

Recommendations to Principal

Action taken by Principal

Decision acceptable to student

Referred to central panel

III. Statements by advocate and mediator

CENTRAL OFFICE GRIEVANCE FORM

I. Student Name _____ Date _____
Grade _____
School _____

Description of Complaint (Names, dates, places and other information on the incident)

Policy/rule violated (which rule/policy or regulation was violated?)

Student behavior (was the student involved in any activities that could be interpreted as improper?)

Informal steps taken (what kinds of action were taken to settle this before filing this complaint?)

Acceptable resolution (what would the student like to see done?)

II. Actions taken by Student Government Association

Date received _____

Steps taken by Local Committee

III. Statement by school principal

IV. Reasons for filing grievance

V. Statement by advocate including findings

VI. Statement by mediator including findings

VII. Action by Grievance Panel

Date Received _____

Investigation results

Findings and decision

VIII. Recommendations to principal

GRIEVANCE COMMITTEE COMPOSITION

LOCAL COMMITTEE

The size of the local committee should be no larger than nine members. The committee should be composed of equal numbers of students and staff members with the principal or a designee providing tie-breaking votes.

Student and staff representatives should be elected at large by their constituents. Candidates for election must have a working knowledge of school policies and procedures and be willing to participate in training sessions on grievance procedures. Representatives shall serve one year terms.

CENTRAL PANEL

The Central Panel shall consist of three members who represent students, administration, and the Division of Pupil Services.

Appointments to the Panel shall be made by the Superintendent for one year terms.

REVIEW AND SUMMARY:

THE APPLICABILITY OF EXTERNAL RESOURCES IN SYSTEM DEVELOPMENT AND TRAINING

by

William F. Lincoln

In this concluding chapter, Lincoln provides a crisp, but comprehensive, review of student grievance procedures. In an attempt to illustrate the applicability of existing resources, he deliberately refers to materials not intended to address the subject of student discipline and related matters. Since the need for student grievances exists and the resource is available, Lincoln contends it is time attention be given to evaluating existing processes and demonstrating new models.

REVIEW AND SUMMARY:

THE APPLICABILITY OF EXTERNAL RESOURCES IN SYSTEM DEVELOPMENT AND TRAINING

In completing this project an earnest attempt has been made to provide a substantive contribution to the general discussion of student grievance procedures in public schools. All of the contributors are recognized professionals in their own right despite the varying views which, in part, may be due to their different reference points and experiences as attorneys, educators, or impartial practitioners. Even more disparity may seem to exist when we eventually provide -- *pro bono publico* -- a written summary of student responses to these collected writings.

In a positive manner, however, one can conclude (a) there exists no single recipe, no one design, for either developing or implementing student grievance designs, (b) the need for systems has been already clearly established, and (c) therefore, attention should now be given to a variety of research-demonstration projects as well as an analysis of case histories in which particular attention should be given to identifying variables which affect the functions and credibility of such designs.

Still, however, one important question remains: Are there existing materials which could provide general direction for the full development of student grievance designs? Simply stated, there exists an abundance of external resource materials which can be applied to the development, implementation, and evaluation of student grievance designs.

By *external* I mean quality materials which, while directed toward grievance designs, were not specifically written for the purposes which we have been addressing -- student grievance designs in public schools. Instead, these resource materials were prepared for the equitable, just, and efficient case processing for the prevention and/or resolution of complaints in the arenas of (a) human rights, (b) court diversion, (c) consumer protection, (d) prison reform, and (e) labor-management relationships. For example, processes and techniques recently prepared by the American Arbitration Association for the Massachusetts Commission Against Discrimination have now been incorporated by the Equal Employment Opportunity Commission as well as by various marital mediation programs. These same guidelines have much applicability for use in secondary schools, particularly with regard to fact-finding and mediation.

In many ways these *external* resources are far superior to many existing student directed materials which too easily can restrict creativity. An effort will now be made to utilize *external* resources in providing both a review and additional guidelines for designing and implementing student grievance procedures.

First, let us reiterate some of the basic components of a grievance procedure. The Mathews/McCune manual cited below ranks among the best resources available to those preparing grievance procedures regardless of the nature of the institution or organization.

The actual grievance procedures which may develop within any grievance model vary considerably in their specificity, and the components and provisions of various procedures reflect the differing constituencies, sizes, administrative structures, legal mandates, contractual arrangements, and grievance experience of the agencies or institutions in which they exist. Certain basic components, however, characterize most formalized grievance procedures, regardless of the model on which they are based. A number of these components are listed below. Some grievance procedures contain all of them, some contain more, and some less. The organization of provisions differs from procedure to procedure, but most procedures treat the following concerns in some manner.

I. Provisions related to the initiation of grievances

   A. The definition of who may grieve

   B. The definition of what shall constitute a grievance

   C. The stipulation of time limits for the initiation of grievances

   D. The stipulation of the manner or form in which grievances shall be initiated

   E. The specification of any assistance available to grievants for the initiation/presentation of a grievance

II. Provisions related to the processing of grievances

   A. The number and levels of steps for grievance processing

   B. The form of grievance presentation or processing at each step

   C. Requirements for notification of involved parties at various phases of the grievance process

   D. Timelines governing the various actions or steps within the grievance process

   E. Procedures which shall govern the conduct of grievance meetings or hearings at any step of the grievance process, e.g.,

- the minimum time allocated for the grievance hearing;
- the time allocated to each party
- the right of each party to representation
- the right to present witnesses and evidence
- the right to question opposing witnesses
- the moderation of hearings
- the right to confidential or public grievance meetings or hearings

F. Requirements for the filing or submission of written information by the grievant or the respondent

G. The specifications of the forms which grievance decisions shall take at each step

H. The roles and/or the selection of persons involved in grievance processing

III. Provisions related to the basic procedural rights of the parties to the grievance

A. The grievant's right of appeal

B. The right of all parties to impartial grievance decisionmakers

C. The access of grievants to relevant agency/institutional records

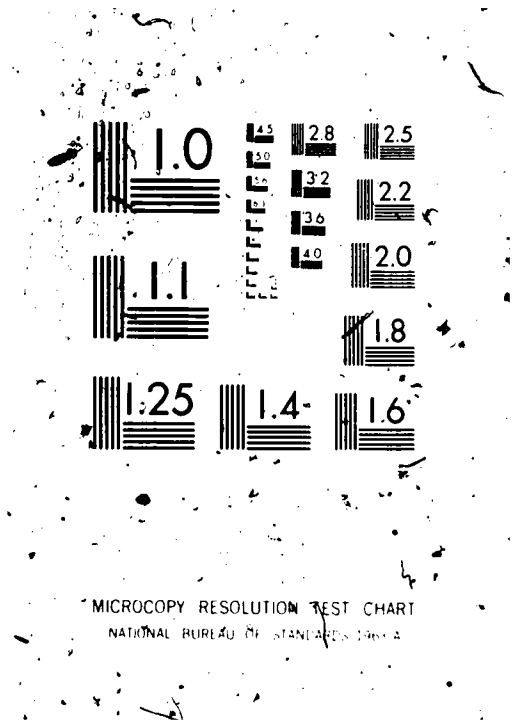
D. Protection of grievants from harrassment and retaliation

E. Confidentiality of grievance proceedings

Any or all of these components could be included in a grievance procedure. The provision included, the content of each, and the specificity of the grievance procedure would vary with the particular characteristics, needs, and experience of the education agency or institution implementing the procedure.[1]

The identification and listing of the above components are applicable to any grievance design although specific designs might stress one item more than another, such as (a) an informal

[1] "Title IX Grievance Procedures: An Introductory Manual", Martha Matthews and Shirley McCune, Office of Education, HEW, #300-75-0256, pp. 10-11.


1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS

conciliation level as an initial step (b) actual jurisidiction of issues, (c) the decision-making process and authority at each level, or (d) the importance of outside review. These matters will be determined by the institution evaluating its needs as it develops its own processes in light of external and internal factors. Again, one finds the work of Matthews/McCune helpful. A mere listing of "headings" used in the manual both illustrates this point and provides a general review of basic guidelines:

Regarding the *External Context:*[2]

- Existing standards regarding grievance handling.
- State collective bargaining laws and related rulings.
- Federal/state and/or local anti-discrimination laws and regulations.
- Student rights and responsibilities statutes and/or administrative regulations.
- Agency or institutional contracts with employee organizations.
  Agency/institutional goals and priorities
- Relevant internal characteristics of the agency/institution.

  The size of the institution or agency and its physical centralization or decentralization.

  The administrative structure of the agency or institution and the allocation of authority and responsiblity.

  The age range of the students to be served by the grievance procedure.

  The range and types of employees within the agency or institution

  The existence of any other grievance procedures, and their coverage and form(s).

- The availability, experience, and knowledge of staff.

[2]Ibid., pp 13-19

- Existing agency/institutional grievance procedures *and problem prevention/resolution systems.*

Other than for the purposes of review the above listing is also provided to exemplify the degree of preparation required in developing a grievance design. Such exhaustive planning is necessary, however, if (a) equity, effectiveness, and efficiency are to be assured, (b) case processing is to assured, (c) case processing is to occur rapidly and easily! and (d) all parties are to perceive a real sense of *process ownership*. This can best be achieved if authorized representatives of all aspects of the school community are involved throughout all phases of planning, implementation, and evaluation of the grievance process.

Students and faculty most probably will be greatly concerned with the *types* of grievances such as (a) disagreement over the interpretation and/or application of a rule or policy, (b) alledged or clear violation of a reasonable and basic, although unwritten rule or policy, i.e. *use of toilet facilities designated for members of the opposite sex*, (c) disputes over facts, and (d) disputes as to the equity and/or reasonableness of classroom or administrative acts. On this last point, the National Education Association writes:

> Determination of this type of grievance can be arrived at by answering the following types of questions:
>
> - was the act unreasonable, arbitrary, or discriminatory?
> - was the act intended to or did it actually result in unfair or inequitable treatment?

- Was the act deliverately aimed to affect a member [*student*] or group in an adverse manner?
- Has the rule been consistently enforced against all employees [*students*]?
- Has one member [*student*] or group been singled out for "special treatment"?
- Have others violated the rule without being punished?

If we substitute the italicized brackets for the word immediately preceding such, then we will better note the applicability of this resource. NEA's intended audience was unionized faculty. This particular resource is also applicable in designing student grievances in the area of establishing the so-called "equity defenses" or "tests for just cause". Again, only the "headings" are provided here.

1. The conduct of the grievant is unrelated to the policy cited.
2. The policy is unreasonable
3. The policy is so broad or vague that it does not clearly indicated prohibitive behavior.
4. There is insufficient evidence to prove the alleged violation.
5. Application of the rule is discriminatory or inconsistent.
6. Teacher has a right to know the regulation and any penalty and to receive a warning in advance of its application.
7. Extenuating circumstances were not considered in assessing the penalty.
8. Punishment was unreasonable in relation to the provision violated.[4]

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[3] "Grievance Administration: Inforcing Teachers' Contract Rights", National Education Association, 1972, pg. 37.

[4] Ibid., pp. 38-41.

Incidently, the above excerpt can be used as a valuable training tool if each point is illustrated by a probable example. NEA did exactly that in its effort to assist its members in their preparation for presenting grievances.

Labor Arbitration -- What You Need to Know provides innumerable assistance for anyone involved with grievance processes -- complainant, respondent, impartial hearing panel member -- despite the fact this publication was produced for those involved in labor arbitration, particularly the grievant. The excerpt below is presented in its original form. With very little modification, a training tool could quickly be developed for valuable use by any person involved in student grievance hearings -- students, faculty, and administrators whether they be complainants, respondents, conciliators, mediators, or members of a hearing panel.

> Effective presentation of the facts and arguments must begin with thorough preparation. The following steps are recommended:
>
> 1. Study the original statement of the grievance and review its history through every step of the grievance machinery.
>
> 2. Review the collective bargaining agreement from beginning to end. Often, clauses which at first glance seem to be unrelated to the grievance will be found to have some bearing.
>
> 3. Assemble all documents and papers you will need at the hearing. Make photostatic copies for the arbitrator and for the other party. If some of the documents you need are in the possession of the other party, ask that they be brought to the arbitration. The arbitrator usually has authority to subpoena documents and witnesses if they cannot be made available in any other way.

4. Interview all of your witnesses. Make certain they understand the theory of your case, as well as the importance of their own testimony. Run through the testimony several times. Role-play the probably cross-examination.

5. Make a written summary of the testimony of each witness. This can be useful as a check-list at the hearing, to ensure that nothing is overlooked.

6. Study the case from the other side's point of view. Be prepared to deal with opposing evidence and arguments.

7. Discuss your outline of the case with others in your organization. A fresh viewpoint will often disclose weak spots that you may have overlooked.

8. Read published awards on the issues that seem to be involved in your case. While awards by other arbitrators on cases between other parties are not decisive as to your own case, they may be persuasive. The American Arbitration Association has published summaries of thousands of labor arbitration awards in its monthly publications. Use these summaries and their cumulative indexes as a research tool.[5]

Similarly, the following could also be adapted:

TEN WAYS TO LOSE CREDIBILITY IN ARBITRATION

1. Using arbitration as a harrassing technique by arbitrating grievances that cannot be won.

2. Overemphasis of the grievance by the union or exaggeration of an employee's fault by management.

3. Insufficient preparation, with reliance on a minimum of facts and a maximum of arguments.

4. Introducing witnesses who have not been properly prepared as to demeanor or the relevance of their testimony in the case.

5. Attempting to conceal essential facts or to distort the truth.

6. Refusing to show books, records, and other documents until required to do so by subpoena.

7. Clogging the procedure with legal technicalities.

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[5] Labor Arbitration -- What You Need to Know, Robert Coulson, American Arbitration Association, N.Y. 1978, pp 59-

8. Withholding full cooperation from the arbitrator.

9. Disregarding the ordinary rules of courtesy and decorum.

10. Engaging in a debate with the other side. The time to try to convince the other party is before arbitration, during grievance discussions. At the arbitration hearing, efforts should be concentrated on convincing the arbitrator.[6]

Although possible, it is not necessary to provide any more examples as documented proof that external resources hold applicability for the development and implementation of student grievance designs. One only needs to approach a library, corporation, or union in their local community to locate resource. With regard to actual training in terms of *hands-on-skill building*, it is urged that highly participatory simulations be written or adapted to fit the precise grievance process of a particular school. In this way the trainees simultaneously learn the skills and the process while also developing needed confidence as practitioners.

Because the need for student grievance processes exists, as do the resources, to assist such efforts, it is apparent the next step is the evaluation of existing processes and the field testing of newer concepts.

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[6]Ibid., pp. 66-67.