

Who Grades the Teachers?

Peer Review Is Key Component of 'New Unionism'

By Myron Lieberman, Ph.D.

Summary: Labor unions are confronting rising anger over failing public schools. To halt the progress of the school choice movement, the unions have come up with an alternative—teacher “peer review,” which is supposed to improve schooling and weed out bad teachers. But a closer look at this key reform of the “new unionism” suggests that it is less dedicated to improving education than to protecting the teacher unions’ monopoly power over collective bargaining.

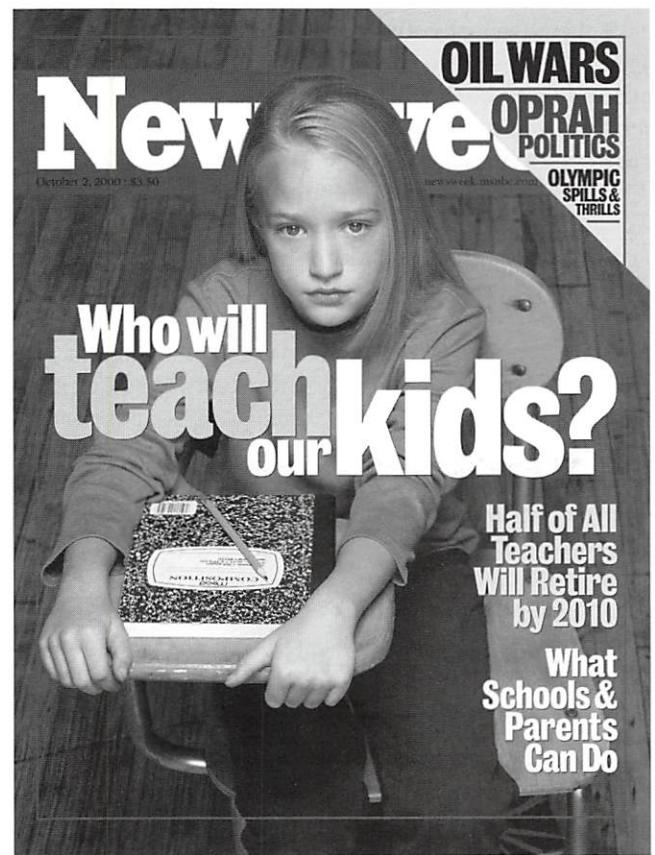
Consider this paradox: Most citizens have a negative view of unions but a favorable view of the National Education Association (NEA). The explanation is not that the NEA is considered “a good union”—it’s that the NEA isn’t considered a union at all. But all that’s changing as the public begins to understand that the NEA and the American Federation of Teachers (AFT) oppose education reform and the right of parents to choose the best schools for their children. (See this month’s *Organization Trends*.) The teacher unions’ zeal to protect their own interests—and to defend

teachers guilty of incompetence—is putting them in a new light.

Facing heightened public criticism, the NEA and AFT are changing their tune. Instead of defending the self-interest of all teachers, the teacher unions are emphasizing their concern for pupil welfare. This is particularly true of the NEA. To build its membership, it used to trumpet an “in-your-face” unionism. It wanted to persuade teachers that it was tough, not a weak imitation of the AFT. No longer.

Now the NEA claims to be forging a “new unionism,” which is concerned about student needs and is eager to promote teaching as a career profession. The NEA’s “new unionism” is not a clearly defined program or a set of standards to which teachers are held accountable. It’s not a change in the governance structure of teacher unions. Instead, it claims to be a new environment or attitude about the role teacher unions will play in education.

“Peer review” is the most prominent feature of the new unionism. NEA leaders now



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Despite dire predictions of a lack of qualified teachers, unions advocate “peer review” to protect senior teachers and discourage creative hiring and recruiting programs.

assert that education quality is the union’s highest priority. They say the best way to guarantee excellence in education will be by the “peer review” of teachers.

How Peer Review Works

In theory, “peer review” refers to the

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set of procedures that teachers and their unions use in order to improve teacher performance. It's also supposed to be the method by which bad teachers can be terminated. But in practice, peer review is a method of collective bargaining over three distinct issues:

1) It's used to decide whether to renew or not renew the contracts of first-year teachers (i.e., interns).

2) It's used to make decisions about tenured teachers who perform inadequately.

3) It is supposed to be a way to help teachers without in any way implying that they lack teaching competence.

Peer review exists only in states and school districts in which teacher unions have the power of collective bargaining. That's because any union peer review plan imposes contractual obligations on school administrators. Absent union monopoly power over collective bargaining it's unlikely that school administrators would choose to fulfill these obligations.

When a school district and its teachers union agree to establish a teacher peer review process they usually establish a Board of Review. It is comprised of several teachers appointed by the union and several school administrators. The Board then chooses and monitors the work of "consulting teachers" who visit classrooms to observe and evaluate teachers. The Review Board uses their evaluations to make recommendations to the school superintendent about whether to reemploy teacher interns. It also makes recommendations about tenured teachers whose

less-than-satisfactory job performance appears to require some type of "intervention." The school superintendent then is supposed to make independent recommendations to the Board of Education. Rarely, if ever, does a superintendent contradict a recommendation from the Board of Review.

The consulting teachers who make the evaluations are not outsiders, but are recruited from the regular teaching staff. To

there is an intervention case).

Lowering Standards

Plans for school district peer review mostly use their resources to assist and evaluate first-year teachers, and typically the standards of evaluation are less rigorous than those applied to tenured teachers. This doesn't simply mean that evaluators are more lenient when they assess an inexperienced beginning teacher on

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be selected a consulting teacher applicants must submit certain required forms and request recommendations attesting to the quality of their teaching. Typically, the recommendations come from three other teachers at the applicant's school, the school principal, and the teacher who is the union's representative at the school.

Obviously, this means outstanding teachers who are not union members or who are opposed to the union's leaders will not become consulting teachers.

The Toledo, Ohio school district has a highly-praised peer review process. The co-chairs of its Board of Review appoint consulting teachers for a three-year non-renewable term. In effect, this means the school administration and the union have a veto power over each other's candidates to evaluate the teaching staff. Other districts have similar peer review provisions. Consulting teachers usually are relieved of regular teaching duties during their terms so they can devote time to assisting interning first-year teachers. The average load of a consulting teacher varies considerably. For example, in the Toledo peer review program, the consulting teacher's average load is nine interns (less if the teacher is also responsible for a teacher in the intervention program). By contrast, the consulting teacher workload in Columbus, Ohio, is 18 interns (or 15 if

probation. More importantly, it means an experienced teacher must be very incompetent or dishonest before the teacher is terminated. In some districts that have peer review programs, this means that unless there is a specific complaint lodged a tenured teacher is never evaluated.

So what difference does peer review make? Mainly it seems to have an impact on the number and quality of first-year teachers who are offered job tenure after their probation.

School principals use peer review to evaluate teacher performance because they are responsible for their school's overall effectiveness. By contrast, teacher unions typically say they see peer review as a way to help teachers improve their performance and keep their jobs or to steer incompetent and failing teachers into another field. However, the reality is that unions value peer review because they see it as a type of "co-determination" in labor relations (such as that which formally governs management-union relations in countries like Germany). The unions want authority over areas that are management prerogatives.

The important question should be whether peer review helps schoolteachers. Unfortunately, the hidden agenda behind teacher union support for peer review is management control. When peer

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review becomes a form of management co-determination it erodes, not raises, teaching standards. That's because few teachers will impose standards on others that can be used against them. It's not surprising that tenured teachers are seldom evaluated in leading peer review school districts.

Peer review also raises several questions of the leadership of school principals: Are consulting teachers more qualified than principals to evaluate new teachers? To what extent do the recommendations of principals differ from those of consulting teachers, and how are such differences resolved? What is the impact of peer review on the principal's managerial authority?

When school districts evaluate their school principals, they typically hold them accountable for their decisions. The district may dismiss a principal whose judgment is poor. But what happens when a principal's recommendations are literally compromised by other parties whose assessment must be given equal weight? This is the problem with peer review: Lack of accountability is built into the structure of the peer review process.

In theory, consulting teachers are accountable to the Board of Review. But the Board cannot monitor their work in practice. At most, the Board might transfer a negligent or deceitful consulting teacher back to the classroom (i.e., back to a regular job at the regular salary).

In theory, the consulting teacher assesses the competence of the probationary intern or first-year teacher because he teaches the same subject and grade level. In practice, this goal is frequently missed, even in a district as large as Toledo, which employs almost 2,500 regular teachers. Small school districts will have even more problems. For instance, suppose a district employs just one physics teacher who is about to retire. As a consulting teacher, how likely is it that the teacher can mentor and evaluate his or her replacement? Doctors, lawyers, and dentists who practice in small school districts have to pass statewide examinations. How can genuine teacher quality be certified by district peer review? The consequence will be that large numbers of teachers will be hired



Feature Photo Service

New Jersey English teacher Florence McGinn was named *Technology & Learning* magazine's 1998 Teacher of the Year. Will union-controlled "peer review" programs reward and encourage teacher excellence?

outside the peer review process.

Union Control Over Peer Review

What is the union's stake in peer review? Contrary to its claims, it is far from identical with the interest of teachers.

In peer review, as in other areas of life, it's easy to confuse interests with principles. Let's assume that a school district spends a fixed amount annually to evaluate and assist new teachers, and then decides to increase the time and resources it spends on evaluation and teacher help. Which of these two plans will be most effective?

- A plan in which school administrators spend more on evaluators who will spend more time in more teachers' classrooms?
- A plan requiring the teachers union to approve the selection of teachers who will have a three-year stipend to evaluate new teachers?

Studies of the peer review process have tended to ignore the self-interest of the consulting teachers. They are usually se-

nior teachers, and they have a dominant or controlling voice in most teacher union deliberations. The unions indignantly deny that teachers have a self-serving interest in peer review, but it is unrealistic to think they are unaffected by such issues as pay scales.

Peer review plans also strengthen a union's control over its members and weaken the role of potential dissidents. New teachers will not want to jeopardize their prospects for tenure, and anyone who wants to become a consulting teacher will not want to provoke the union. Can nonunion or antiunion consulting teacher candidates reasonably expect union members on a Board of Review to evaluate them solely on their professional performance?

And what message is sent when consulting teachers must be recommended by their school's union representative? The union representative is not appointed or elected for teaching insight, but is picked to hold union meetings and handle the

grievance process to the union's satisfaction, to inform members about union activities, and to forcefully convey union views to school administrators. Interestingly, teacher unions oppose merit pay because it might reward antiunion teachers. Can a union-sponsored peer review plan be unbiased toward anti-union teachers? Unions assume school administrators are biased against them. How can they deny the likelihood that teacher union leaders will be biased against anti and non-union teachers?

The NEA and AFT object to these criticisms. They like to portray peer review as a major step towards improving education that gives unions a new role as guardians of the professional status of teachers. Their official line is a defensive one: "We were criticized for being too protective of incompetent teachers. Now cynics doubt our efforts to help beginning teachers. No matter what we do, we can't satisfy the right-wing extremists who are determined to destroy public education."

Union Co-Management in Toledo

A close look at peer review programs that evaluate teachers shows that they emerge only in school districts allowing teacher unions to co-manage them. That's my conclusion after carefully reviewing union contracts in school districts that have set up peer review processes. In Toledo and Columbus, Ohio, and in Rochester, New York—the most widely praised peer review school districts—the union exercises a de facto veto power over personnel decisions and most education policies as well.

These are not only my personal conclusions; they are also the conclusions of knowledgeable authorities who conducted an intensive review of the Toledo Federation of Teachers (TFT) contract and who interviewed school board members, district administrators and officers of the seven unions representing district employees. Their study, published in 1995, compared the TFT contract with teacher contracts in Akron, Canton, Cincinnati, Cleveland, Columbus, Dayton and Youngstown, all urban Ohio districts to which Toledo is often compared. The study director was R. Theodore Clark, Jr., one of

the country's leading authorities on public-sector bargaining and a past president of the National Public Employer Labor Relations Association (NPELRA)—the national organization of public employer representatives in labor negotiations.

The Clark report is a devastating analy-

ees, employees or even their own secretary," and gave principals "a minimal role in evaluating and mentoring teachers" with "little or no say in selecting the teachers who will work at their schools, except in the few site-based management schools where this entire situation is being

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sis of the collective bargaining agreements in the Toledo school district. Clark summarized the following "highlights" that "have the greatest impact on student achievement and better use of taxpayer resources." He found that the union contracts:

1) included restrictive management rights provisions, including "vague or limiting provisions regarding management's right to lay off employees;"

2) made it "virtually impossible to obtain a regular full-time teaching position with the school district without first serving a period of time as a substitute teacher, thus effectively excluding from serious consideration applicants for teaching positions who are coming straight out of college or who are thinking of transferring from another school district;"

3) required that "job assignments and transfers [will be] dependent almost entirely on seniority considerations;"

4) provided teachers "unusually generous benefits" including "excessive time off provisions," "generous severance pay" and "full compensation to all employees who do not work on 'calamity' or 'inclement weather' days, with the requirement that management pay twice for employees who work on such days;"

5) gave "unions a virtual veto over any proposed change in job functions and assignments;"

6) allowed principals "little or no say about who works at their particular school, whether they be teachers, other employ-

changed;"

7) provided "inadequate means... to motivate and reward exceptional performance;"

8) and were "replete with obstacles to innovation and experimentation." (Robert C. Long and R. Theodore Clark, Jr., *Evaluation of the Collective Bargaining Agreements of the Toledo Public Schools*, 1995).

Toledo's peer review program must be seen in this context. It was established and is maintained in a district that defers to its labor unions and tolerates highly inefficient personnel policies and practices. As the Clark report illustrates, the Toledo school district subordinates student achievement and taxpayer interests to union interests. Toledo's peer review program may have some benefit, but the district's lop-sided contract with the unions provides good reason for doubt.

My review of the contracts in other highly publicized peer review districts, especially in Columbus and Rochester, leads me to similar conclusions about the contract in these districts. As in Toledo, the Columbus contract is a long, detailed document that restricts managerial discretion in many ways. Even when the district retains management discretion, it is required to consult with the union before acting. The contract is bound to result in district co-management by the Columbus Education Association (CEA). Indeed, current CEA president John Grossman has outlasted nine Columbus school superintendents. It is hardly surprising that he is

widely regarded as the most powerful leader in the district.

In Rochester, the site of another highly publicized peer review program, community disenchantment with extremely generous union contracts led to sweeping changes in the school board and in the district's superintendent. Union power, not the merits of peer review, produced the outcome.

Conclusion

If peer review was a worthwhile educational program, school districts would adopt it even without teacher union pressure. But peer review plans exist in school districts that must co-exist with extremely powerful teacher unions. Media coverage has overlooked this connection, but the

union contracts in districts that have peer review confirm the association. Wherever you find a peer review plan you will find union contracts that extract very expensive concessions to teachers and impose severe limitations on school management.

Does peer review change anything at all? There are no credible studies of peer review, but it seems safe to conclude that peer review recommendations on probationary and tenured teachers are probably no different than conventional evaluation procedures. For all we know, peer review may even keep incompetent teachers in the classroom.

Can a union, dedicated to protecting its members' interests, be reconciled with a professional organization, dedicated to upholding high standards in the public

interest? That's the basic question the NEA avoids. But it is one the public must answer, and it's especially critical for parents of school-age children. The NEA argues that what's good for teachers is good for America. In no other field would such a claim be believed.

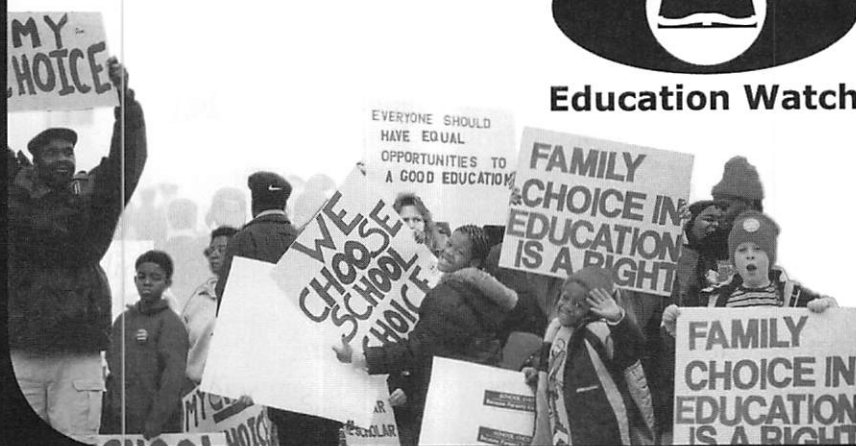
The ultimate criterion for evaluating peer review should be its effect on student achievement measured against its cost. But not even its most ardent supporters can cite any improvement in student achievement clearly attributable to peer review.

Dr. Myron Lieberman is Chairman of the Education Policy Institute (EPI) in Washington, D.C. His 1998 book, Teachers Evaluating Teachers: Peer Review & the New Unionism, is available from EPI.

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Labor Notes

Former D.C. Teachers Union Chief Pleads Guilty to Fraud

Barbara Bullock, former president of the Washington Teachers Union (WTU) in Washington, D.C., pleaded guilty to charges of conspiracy and mail fraud and admitted to stealing more than \$2.5 million from the union. But she has refused to assist the investigation seeking answers to how Bullock and other employees stole the money. She will be sentenced in January. An audit conducted by the parent American Federation of Teachers found that more than \$5 million of WTU funds had been misappropriated during Bullock's tenure.

Former Ironworkers Union President Gets Prison Term

Jake West, former president of the ironworkers union from 1989 to 2001, was sentenced to three years in prison and a \$125,000 fine for embezzling pension money and spending union funds on luxuries. The federal judge said that he would have lengthened the sentence if West were not 75 and in poor health.

Labor Department Issues Union Accountability Rules

Much-anticipated rules issued by the U.S. Labor Department force the largest labor unions—those that have income of more than \$250,000—to report and itemize expenses on politics, lobbying, gifts, overhead and management. AFL-CIO president John Sweeney told reporters the rules are intended to disarm unions before the 2004 elections, even though the first report is not due until March 2005.

AFL-CIO Declines to Endorse Presidential Candidate

Citing a lack of consensus among members about the 2004 presidential candidates, the AFL-CIO announced that it will not make an endorsement. The decision was a serious blow to Rep. Richard Gephardt (D-MO), who has been endorsed by 14 unions but couldn't muster two-thirds support among the AFL-CIO's 13 million members. Other candidates aggressively lobbied the unions to thwart an AFL-CIO nod to Gephardt, including Sen. John Kerry (D-MA) and former Vermont governor Howard Dean, who have reversed their previous support for the North American Free Trade Agreement (NAFTA) in search of union votes.

Union Political Operation Handed Over to Soros-Funded Group

The Partnership for America's Families (PAF)—the union-funded voter mobilization operation intended to help unseat President George Bush next year—has been folded into Americans Coming Together (ACT), a liberal get-out-the-vote group heavily funded by financier George Soros. ACT plans to spend \$75 million mobilizing voters in urban areas. But the enmity between PAF president Steve Rosenthal, former AFL-CIO political director, and AFSCME president Jerry McEntee which was the undoing of PAF hasn't subsided. Rosenthal has been named CEO of ACT, and McEntee has formed a competing soft-money group, Voices for Working Families.

Obstacles to Bush Administration's Workplace Reforms Continue

After approving the Bush administration's plan to rewrite overtime pay rules giving employers more flexibility, the U.S. House of Representatives reversed course and opposed the rules in a non-binding vote that fuels the Senate's opposition. The 221 to 203 vote relied on seven Republicans, most from Michigan and West Virginia, who changed their votes. Meanwhile, a Senate provision in the Defense Department appropriations bill would make it more difficult for the Pentagon to outsource jobs to the private sector, requiring that private contractors demonstrate at least a 10 percent or \$10 million savings over federal workers. A high-profile competition for 969 Forest Service jobs resulted in only 47 going to the private sector. "If either side is winning 95 or 98 percent of competitions, you have to wonder about whether your competitions are being done right," complained contractor Stan Soloway, president of the Professional Services Council.