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**PRINCIPAL ACCOUNTABILITY AND STUDENT ACADEMIC ACHIEVEMENT****Overview**

Contemporary local public school systems across this country operate in a data-driven, accountability focused, and transparent environment—an environment in which each school building (*i.e.*, administrators, classroom teachers, students, and support staff) is placed under the lens of an academic progress/ school deficiencies measuring microscope. Fueled by the mandates of *No Child Left Behind, 20 U.S.C.6301* (2002), widely published reports of standardized student academic test scores, local school system report cards, student drop-out rates, shrinking school system budgets, rising taxes, heated public debates over administrator and teacher tenure, shifting student enrollments, and the electronic linking of individual student academic progress to individual teachers, contemporary local school boards are making hard decisions regarding personnel and the curriculum.

**Search for Accountability**

Almost forty years ago, a federal district court judge in Virginia made the following statement, “School board members are charged with the crucial task of providing the best quality education possible for all children and this duty may be discharged only if teachers are employed by ability and no other criteria.” U.S. v. Nansemond County (E.D. Va. 1974) There is little doubt that the *sine qua non* in establishing and implementing quality educational opportunities for today’s students remains in the hiring, rewarding, and retaining of competent teachers and all other professional staff—especially school principals.

With a growing demand for quality education for all children of school age, who should be held directly accountable if a school is declared failing—the local board of education, district superintendent, school principal, classroom teachers, parents, students? If that question can be answered, what alternatives exist to remedy the situation—eliminate tenure status and summarily fire people, spend more money, build new buildings, eliminate subjects and non-productive areas of study from the curriculum, hold parents directly responsible, extend the school calendar, require more homework for students? What?

Two things are clear in searching for causes and remedies for sub-standard academic performance in students. First, a host of factors (both inside and outside the school building) influence student academic performance and academic progress. Second, no single individual or group of individuals can be identified as the proximate cause of below standard academic performance by students. But, are some professional staff members more vulnerable than are others in the search for accountability?

*Impact on School Principals.* In community after community school principals and classroom teachers have become the focus of attention—especially where student progress in a particular school building consistently falls below an acceptable standard and the school itself is in danger of losing accreditation. In my view, school principals, not classroom teachers are most vulnerable to attack as “the accountability buck stops” at the desk of the person in the leadership position—*i.e.*, the individual responsible for all that takes place in the school building. (Vacca and Boshier, 2012) The reader is cautioned that I am not advocating that principals be held directly responsible for a school’s less than acceptable academic performance of its students, I am simply pointing out their vulnerability to attack.

*What Does State Law Say?* One must turn to state law to build a foundation for the employment security, or lack thereof, of school principals. In the Commonwealth of Virginia, for example, the law clearly states that “[a] principal shall provide instructional leadership in, shall be responsible for the administration of and shall supervise the operation and management of the school or schools and property to which he has been assigned....” 22.1-293 B, *Code of Virginia, Cumm. Supp.* (2004) And, the law also mandates that local school boards adopt defined criteria for the performance evaluation of principals that includes among other things “an assessment of such administrator’s skills and knowledge; student academic progress and school gains in student learning; and effectiveness in addressing school safety and enforcing student discipline. 22.1-294 B, *Code of Virginia, Cumm. Supp.* (2004) At the same time, however, no legal mandate is specified in the *Code of Virginia* that *good cause* be shown for reassignment of a school principal. What is more, as legal experts in Virginia law have established, “[u]nlike the procedures for teachers, the law does not set forth any date by which probationary principals, assistant principals and supervisors must receive notification of non-renewal, nor does it specify a procedure that must be followed in such situations.” (Kaminski, Cafferky, Ewing, and Lacy, 2007-2008)

*Employment Contract.* When establishing the employment security (assignment, duties, transfer, evaluation, dismissal) of school principals the employment contract (duration, terms, conditions, duties) under which principals work with a local school board must be factored into the legal analysis. In some situations, for example, principals work under *term contracts* (*e.g.*, a four year renewable contract). In other places *collective bargaining agreements* exist. In other situations *tenure* as a principal is possible under state law. In the State of California, for example, school principals have no tenure in their position. Thus, they have no property interest in their administrative position. Flores v. Von Kleist (E.D. Cal. 2010)

### ***Darreyl Young-Gibson v. The Board of Education of the City of Chicago (2011)***

Recently, while doing research in the law library I came across an interesting case on point. The Young-Gibson (2011) case involved the removal of an individual from her position as principal of a high school in the City of Chicago for “a failure to make adequate progress to address deficiencies that had placed the high school on probation.” A trial court ordered her reinstatement and the case went up on appeal.

*Facts:* Plaintiff had been selected as a high school principal in 2008. Specific terms of her four year contract provided that she could be removed from her position for cause prior to the expiration of her term contract. On July 20, 2009, the school board’s chief executive officer (CEO) sent the principal a letter informing her that he

was considering removing her from her position as principal and terminating her contract. The CEO gave as reasons the high school's "failure to make adequate progress to address the deficiencies that have placed it on probation." The high school had been on probation since the 2004-2005 school year.

In August of 2009, a hearing officer heard evidence on behalf of the CEO and the principal. Of the witnesses called, the school board's Director of Performance testified that the CEO's recommendation was correctly based on the State Code. He testified that under the school board's Performance and Remediation and Probation Policy for the 2008-2009 school year, schools were placed into one of three "achievement levels" based on points, with level three being probation. Under the school board's policy schools must achieve a level one or two rating for two consecutive years to be removed from probation. Data (e.g., standardized test results, attendance rates, and other performance metrics) showed that between 2004 to 2009 plaintiff principal's high school students "were performing far below district averages and were not making significant progress in catching up." Thus, the high school was not eligible to be removed from probation for the 2009-2010 school year.

Another witness, an experienced teacher and administrator who had served as Area 24 instructional officer (CEO's designee to assess the performance of principals) during the time that plaintiff was high school principal, testified. She reported that when plaintiff was selected principal the high school had been placed on probation for five years, and the Illinois State Board of Education (ISBE) was monitoring the school's status "due to persistent failure to provide special education services to students consistent with federal law," and "persistent failure to create and maintain a safe and healthful school climate." In her view, during the time plaintiff was principal she failed to address these concerns and provide "leadership." Consequently, the high school was on the brink of losing state funding. She also testified that after eight months of plaintiff's work as principal the ISBE lowered the high school's status from "fully recognized" to "recognized pending further review." And, that plaintiff did not appear at a required meeting with the ISBE division coordinator to discuss the downgraded status.

Seven months later the ISBE again downgraded the high school's status. ISBE found that plaintiff failed to implement plans to improve special education services and failed to demonstrate "managerial expertise in improving student safety." In the view of the Area 24 instructional officer, the principal "lacked the knowledge, skills, abilities, leadership capabilities and collaborative working style" required to bring her high school back from the "brink of closure." The principal "demonstrated an inability to center the school around instruction" and "collaboratively engage and develop staff to deliver high quality instruction" to the students. She also provided examples of plaintiff's "inability to provide a safe and secure teaching and learning environment," her "inability to supervise maintenance staff and cooperatively and collaboratively work with parents and central office staff."

Another witness testified that high school administrators often refused to allow contractors to enter the building to perform necessary work. And, that a 2008 safety audit showed "a pattern of neglect and inattention."

Plaintiff testified that on April 3, 2009, she was informed that she was being reassigned to an administrative position at the Area 23 office. Three months later she received two notices from the CEO saying that he was considering removing her as principal of the high school. In her view the CEO did not follow Code guidelines. She was not afforded a hearing and an opportunity for due process. Also, the high school did not receive a remediation plan and the school's probation status was changed to "on probation" one month after she became principal. As such, she did not have time to work to change the status. She also testified that from the beginning

of her appointment as principal the high school passed North Central Accreditation and was accredited for the next five years; the class of 2008 ACT scores increased; and the graduation rate increased.

A witness for the principal/plaintiff testified that she (the principal) was harassed, and that parents “were happy with the support and effort plaintiff made for their children’s safety.” A teacher witness testified that plaintiff always had an “open door” for students to come and speak to her about their concerns. Another witness testified that a corrective plan should have been given to plaintiff and that the plaintiff’s requests for more security at school were denied.

About 915 documents were entered into evidence by plaintiff at the hearing to respond to the claims against her and specifically addressing school system allegations regarding her lack of leadership and the below standard conditions at her school.

Subsequently, October 28, 2009, the CEO issued a written recommendation to the school board that plaintiff be removed as principal of the high school, and that her contract be terminated. That same day the school board issued a resolution adopting the hearing officer’s findings and accepting the CEO’s recommendation to remove plaintiff a high school principal.

*Trial Court Action:* Plaintiff principal filed a complaint in the Circuit Court of Cook County asking for administrative review of the school board’s decision and breach of contract. The court treated the administrative review count as a *writ of certiorari*. Finding a violation of procedural requirements the court ordered the school board to reinstate plaintiff. Ultimately the school board filed a notice of appeal and the reinstatement of the principal was stayed pending the results of the appeal.

*Appellate Court of Illinois Reasoning and Decision:* After establishing a foundation for granting jurisdiction in the case, the appellate court turned its attention to what it called “the primary dispute” in the case—whether the trial court erred in finding that the Board must use the procedures outlined in section 34-85 of the Code to remove a principal under 34-8.3(d) of the Code. Regarding this issue the school board contended that under the rules of statutory construction the Illinois legislature did not intend to require a school board to follow the procedures in section 34-85 of the Code. It maintained that these procedures must be afforded tenured teachers and principals before it terminates them for cause. Rather, the relevant section of the Code for this case was section 34-8.3 which identifies the actions a school board is to take to address “chronically failing schools.”

In the appellate court’s view, the court must defer to legislative intent as can be found in the plain and ordinary meaning of the statute’s intent. Here the court reasoned that “the legislature did not intend to require that the Board follow the procedures outlined in section 34-85 to remove a principal under section 34-8.3(d), where the law authorizes the superintendent, with approval of the school board, to take certain specific actions when a school on probation fails to make adequate progress after one year. Of the several actions cited, “removing and replacing the principal” is one listed in 34-8.3(d). Citing relevant case law, the appellate court focused on the language in the principal’s contract and concluded that the school board was entitled to remove plaintiff only “as provided for in the performance contract except for cause.”

*Decision.* In viewing section 34-8.3 as a whole, said the appellate court, “we believe the Board was entitled to remove plaintiff under section 34-8.3(d)(2) without cause and was not mandated to follow the procedures outlined in section 34-85.” And, “[p]laintiff’s employment contract explicitly provides that she may be removed as principal under section 34-8.3....”

Finding no procedural errors under 34-8.3, and viewing the evidence as a whole, the appellate court concluded that the school board's decision to remove plaintiff as principal "is supported by the record and was not against the manifest weight of the evidence." The trial court is reversed.

### **Policy Implications**

My intent in writing this commentary is threefold. First, to demonstrate the vulnerability and lack of job security of school principals in the current data-driven, transparent, cost-cutting, accountability environment of public education. Second, to present Darreyl Young-Gibson v. The Board of Education of the City of Chicago (Ill. App. 2011) not as a precedent setting case but rather as illustrative of the role expectations, allegations, possible employment actions, and the types of evidence produced in court to substantiate the immediate removal of a school principal from a "failing school." Finally, to suggest potential implications for local school board policy—especially those involving the duties, responsibilities, and rights on school principals.

In 2012 it behooves local school system policy-makers to be certain that policies make it clear that:

- The school board, central office administrators, building principals, teachers, and all other personnel (including support staff) strive to provide and implement equal access to appropriate, safe, and meaningful educational opportunities for all students in the school system.
- The school board shall do all that is necessary to ensure that federal and state laws and regulations are recognized and implemented and that standards for student academic achievement are achieved, and where academic deficiencies are identified immediate steps be taken to remediate these deficiencies.
- Principals as instructional leaders are responsible for student academic progress, staff morale, student discipline, and the supervision, operation, and maintenance of the school or schools to which they have been assigned.
- Principals are expected to cooperatively and collaboratively engage teachers, support staff, and parents in the establishment of a safe, disruption-free, and instruction centered school environment.
- All school principals shall be subject to the school system's annual evaluation and performance appraisal procedure; and; where their work performance falls below school board expectations, and/or contractual obligations, and/or their school is placed in danger of receiving academic penalties including but not limited to a loss of accreditation, a formal plan for remediation shall be put in place for immediate implementation by the school principal and the entire school staff.
- Where school improvement does not take place appropriate personnel actions shall be taken.

Two final comments are in order. First, the reader is cautioned that the five suggestions for policy made above must be placed within the context of the statutes, case law, and regulations of the state where the school system is located, and must be placed within the context of collective bargaining agreements where they exist. Finally, a balance between the legal prerogatives of school officials to make personnel decisions and protecting the job security of school principals rests in a well crafted evaluation system—a system built on clearly articulated job-expectations, job-related criteria, procedural due process, and incorporating professional development.

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**Note:** The views expressed in this commentary are those of the author.