

# **NCPEA**

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# *Education Leadership Review*

## **Spring 2015**

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# Speaking Out on Matters of Public Concern: The Precarious Nature of School Administrator Speech

This manuscript has been peer-reviewed, accepted, and endorsed by the National Council of Professors of Educational Administration as a significant contribution to the scholarship and practice of school administration and K-12 education.



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*The purpose of this paper is to highlight current U.S. Supreme Court precedents regarding public employee speech on matters of public concern, and how those precedents are being applied by lower federal courts to public school administrators. Surveying the current legal landscape reveals a heightened vulnerability for school administrators engaging in speech on matters of public importance. Due to the complexity of the school administrator's job, the vast scope of their responsibilities, and the uniqueness of their position (which often entails being a spokesperson of sort for the school district), the speech of public school administrators, even on matters of public concern, often lacks the legal protection many assume exists for such speech. This paper is intended to raise awareness for both practitioners and those who train them with the hope that a better understanding of recent litigation in this area will help inform one's practice and preparation.*

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## Introduction

In *Pickering v. Board of Education* (1968) the United States Supreme Court held that public employers violate the First Amendment rights of their employees when employers retaliate for speech made while the employee is speaking as a private citizen on a matter of public concern, provided the speech does not substantially disrupt organizational efficiency (Pickering, 1968). This is often referred to as the *Pickering* two-part test. Over the years, subsequent court opinions frequently focused on whether the speech at issue regarded a matter of public concern and/or whether there was an adverse effect on the employer-employee relationship. Little attention was given to the role of the speaker or their particular job responsibilities at the time the speech was made. Almost forty years after *Pickering*, the Supreme Court once again addressed the parameters of public employee speech in the seminal case of *Garcetti v. Ceballos* (2006). In *Garcetti* the Court clarified that statements made pursuant to a public employee's official duties do not qualify as private citizen speech. As a result, *Garcetti* fundamentally altered the analysis courts engage in when deliberating employee speech cases in public school settings.

In recent years several federal circuit courts have applied *Garcetti* (2006) to cases involving public school employees (see *Casey*, 2007; *Brammer-Hoelter*, 2007; *D'Angelo*, 2007; *Mayer*, 2007; *Williams*, 2007; *Almontaser*, 2008; *Samuelson*, 2008; *Posey*, 2008; *Weintraub*, 2010; *Reinhardt*, 2010; *Fox*, 2010; *Evans-Marshall*, 2010; *Decotiis*, 2011; *Johnson*, 2011; *Ross*, 2012; *McArdle*, 2013; *Dougherty*, 2014; *Hubbard*, 2014; *Mpoy*, 2014). Many of these appellate cases have been decided in favor of the employer/school district as the courts determined the speech at issue was speech engaged in as an employee and because the speech in question fell within the parameters of the employees' job responsibilities. Some have argued that "the circuits have impermissibly broadened the *Garcetti* threshold exemption far beyond its intended scope" (Bauries & Schach, 2011, p. 383). Regardless, it is safe to say that *Garcetti* has profoundly impacted free speech retaliation claims brought by public school employees. Bowman (2013) observed that "*Garcetti* in particular limits public employees' speech rights to a point where they have almost wasted away" (p. 254). Many times cases that would have been previously analyzed under the two-part test in *Pickering* are now disposed of rather efficiently after an initial analysis applying the *Garcetti* test of whether the speech at issue was made pursuant to one's official job duties. In this regard, public school administrators appear to be a *particularly* vulnerable group because their job responsibilities are often quite broad and elastic.

This paper highlights a growing number of federal appellate cases (*Casey*, 2007; *Williams*, 2007; *D'Angelo*, 2007; *Almontaser*, 2008; *McArdle*, 2013) where school administrators are discovering the harsh application of the Supreme Court's decision in *Garcetti* (2006) to expression that most would deem ethically mandated and/or job-required. Furthermore, recent cases from the Sixth and Eleventh Circuits are presented that should give policy-making, school administrators pause as they consider the potentially vulnerable nature of expression directly related to the policy positions of their public employers. While most school administrators may not consider themselves "policy makers" as that phrase is commonly understood in the field of education, this paper will describe how the courts define "policy-making" or "confidential" public employees for purposes of free speech analysis. Finally, this paper not only serves to inform current school administrators about the challenges they face in light of *Garcetti* and recent holdings by various federal circuits, but it also encourages those who prepare future administrators and those who counsel current administrators to consider the implications for practice.

## **Framework of a First Amendment Retaliation Claim**

The cases cited herein typically involve public school administrators who assert they were adversely affected by their public employers for exercising rights guaranteed to be protected under the First Amendment. To support a retaliation claim, specific legal elements must be present. There is variation among the federal circuits as to how they articulate these elements (see *Fox*, 2010, p. 348), but the factors they hold in common include proving that 1) the public employee engaged in a constitutionally protected activity (e.g., speech or petition), 2) the employer took an adverse employment action against the employee, and 3) the employee's constitutionally protected activity was a substantial or motivating factor for the employer's adverse action. Even if a plaintiff proves the aforementioned elements, a public employer may still overcome liability by demonstrating they would have taken the same adverse action against the plaintiff even if there had been no protected expression because of legitimate reasons quite separate from the expression at issue (see *Mt. Healthy*, 1977, p. 283).

### **The *Garcetti* Effect**

Thirty-eight years after the Supreme Court's *Pickering* (1968) ruling, the Court handed down the *Garcetti v. Ceballos* (2006) decision. "The Supreme Court ... in *Garcetti* did revisit *Pickering's* first prong ... and added some clarity to the question when a public employee speaks as a citizen rather than as an employee" (*Casey*, 2007, p. 1328). In *Garcetti* the Court ruled that the First Amendment does not protect a public employee from discipline for speech made pursuant to the employee's official duties. *Garcetti* clarified that there is a threshold determination to be made prior to (and quite separately from) an analysis of whether the content of the employee's speech was on a matter of public concern. In order for the employee's speech to be protected, the content of the speech may *not* be "pursuant to" the employee's job duties and responsibilities. Therefore, the employee must truly be speaking as a "citizen" rather than an "employee." Bowman (2013) explains that "because the government effectively hires 'official duty' speech, it is the government's speech to control" (p. 254).

In the few short years since the Court's *Garcetti* decision was issued, the federal appellate courts already have had numerous opportunities to apply its holding to retaliation claims brought by public employees in K-12 settings (see *Casey*, 2007; *Brammer-Hoelter*, 2007; *D'Angelo*, 2007; *Mayer*, 2007; *Williams*, 2007; *Almontaser*, 2008; *Samuelson*, 2008; *Posey*, 2008; *Weintraub*, 2010; *Reinhardt*, 2010; *Fox*, 2010; *Evans-Marshall*, 2010; *Decotiis*, 2011; *Johnson*, 2011; *Ross*, 2012; *McArdle*, 2013; *Dougherty*, 2014; *Hubbard*, 2014; *Mpoy*, 2014). Five of these appellate cases are highlighted below. They were selected as a sub-set for review because they all involve public school *administrators* who alleged they suffered adverse employment actions for engaging in expression that should have been protected by the First Amendment, and in each case the courts ruled (at least in part) against their claims. Each case highlighted below demonstrates a new reality under *Garcetti*; namely, that simply engaging in speech that encompasses a public concern is not sufficient to secure First Amendment protection.

## Post *Garcetti* Federal Appellate Cases Pertinent to School Administrator Speech

### Casey v. West Las Vegas Independent School District

A newly appointed superintendent discovered that her school district was not in compliance with the requirements of the federal Head Start program, the district was in violation of the New Mexico Open Meetings Act, and the district was engaged in other miscellaneous “violations of state or federal law (*e.g.*, hiring employees without advertising vacancies or conducting a review process, and improperly handling claims of misconduct by teachers and principals)” (*Casey*, 2007, p. 1329). During her brief tenure, the superintendent addressed all of these issues in one way or another. When the superintendent was subsequently fired she filed a retaliation claim asserting the school district had terminated her over expression that constituted protected speech. The Tenth Circuit Court of Appeals entertained this appeal shortly after *Garcetti* (2006) was handed down by the United States Supreme Court. In light of the Court’s *Garcetti* holding, the Tenth Circuit observed that the “question for us on *Pickering’s* first prong is thus significantly modified...” (*Casey*, 2007, p. 1328). No longer would the courts simply decide whether the speech touched on a matter of public concern, but they would now analyze whether the public employee speaking on a matter of public concern did so as a private citizen or as part of their employment responsibilities as a public employee.

*Casey* (2007) presented the Tenth Circuit with several instances of public expression that had to be analyzed according to what was expected of a school superintendent in the normal course of one’s duties. With regard to the miscellaneous violations of state and federal law, the superintendent admitted that statements she made to the School Board concerning these violations “fell within the scope of her duties as Superintendent because they were aimed ‘solely to the School Board’ to which she reported and her job admittedly included ‘advis[ing] Defendants about the lawful and proper way to conduct school business’” (*Casey*, 2007, p. 1328). Hence, under *Garcetti* (2006) such expression was not protected by the First Amendment. As to the district’s Head Start violations, the superintendent both reported these violations to the School Board and directed a subordinate to contact federal authorities to discuss the district’s non-compliance with federal regulations. Still, the Tenth Circuit held that such expression was a function of the superintendent’s position and was therefore not protected speech.

We simply hold that Ms. Casey’s speech, such as it was, is more akin to that of a senior executive acting pursuant to official duties than to that of an ordinary citizen speaking on his or her own time; accordingly, Ms. Casey cannot meet her burden here and avoid the heavy barrier erected by the Supreme Court in *Garcetti* to the satisfaction of *Pickering’s* first prong. (*Casey*, 2007, p. 1331)

The final act of “expression” at issue in this case involved the superintendent’s statements to the School Board that they were violating the state’s Open Meetings Act, and her subsequent statements to the state Attorney General regarding the same issue. While the Tenth Circuit held that the statements made to the School Board did not survive the *Garcetti* test, the statements made to the Attorney General were quite a different matter: “...we conclude that Ms. Casey’s conduct fell sufficiently outside the scope of her office to survive even the force of the Supreme Court’s decision in *Garcetti*” (*Casey*, 2007, pp. 1332-33). Thus, we see in the *Casey* decision one of the first examples of going outside the chain of command and, as a result,

preserving the First Amendment protection of such speech. Notably, however, we also see in the *Casey* decision just how pervasive *Garcetti's* (2006) reach is, especially when it involves the all-encompassing job responsibilities of a school superintendent.

### **Williams v. Dallas Independent School District**

The plaintiff in the *Williams* (2007) case was a high school athletic director and head football coach who became increasingly concerned about the lack of appropriate operating procedures employed by his school in relation to how the school was handling gate receipts for football games. Williams attempted to address this issue with the school business manager, and ultimately brought the high school principal into the discussion. Four days after Williams submitted a memo to the high school principal regarding the lack of appropriate operating procedures, his position as athletic director was terminated and his football coaching contract was not renewed. Thereafter, Williams filed a retaliation lawsuit alleging the school district took inappropriate action regarding the memo which constituted protected speech. The Fifth Circuit Court of Appeals concluded that even though the memo was not a requirement of the athletic director's position, the content of the memo was directly tied to his position and did not constitute protected speech. Applying *Garcetti* (2006), the Fifth Circuit explained that "even if the speech is of great social importance, it is not protected by the First Amendment so long as it was made pursuant to the worker's official duties" (*Williams*, 2007, p. 692). It is interesting to note that shortly after Williams was terminated, the business manager and high school principal were dismissed for financial improprieties, the very conduct Williams sought to address. The *Williams* (2007) case demonstrates that those who have the courage and opportunity to address financial malfeasance may nonetheless lack First Amendment protection for such speech in light of the *Garcetti* affect.

### **D'Angelo v. School Board of Polk County, Florida**

In the *D'Angelo* (2007) case, the principal of a public school attempted to convert his school to a charter school. His initiative did not receive sufficient faculty support and, as a result, the effort to convert failed. The principal was then terminated for what he deemed to be protected speech in relation to his advocacy for conversion to a charter. Analyzing the principal's retaliation claim, the Eleventh Circuit Court of Appeals recognized that even though the speech took place on school property and the administrator had used school resources to communicate with staff members, those factors alone did not automatically exempt his speech from being that of a private citizen. However, since the principal asserted it was his duty to pursue the conversion to charter school status, the court determined his speech was rooted in his responsibilities as the school's administrator and therefore under *Garcetti* (2006) his speech was not protected. In *D'Angelo* (2007) the principal's own testimony was detrimental to his case because he characterized the speech at issue as part of what his duty entailed as principal of the school. In relation to the *D'Angelo* case Bauries & Schach (2011) observed that "the court's election to sweep discretionary administrative speech 'rallying the troops' within *Garcetti's* categorical threshold exclusion presents an example of the troubling nationwide trend to expand the *Garcetti* exclusion, and thereby to narrow individual speech rights" (p. 379).

### **Almontaser v. New York City Department of Education**

The *Almontaser* (2008) case involved an interim school principal (Almontaser) who was passed over for a permanent administrative position in her district. During her stint as an interim principal, the school district required Almontaser to meet with the press and discuss a sensitive local issue. While the interview went quite well and Almontaser apparently did a good job, the subsequent newspaper contained exaggerations and untruths which led to community unrest. Through no fault of Almontaser, the newspaper article created a public relations nightmare for the district. Sometime later, Almontaser applied for a principal position within the school district but her application was removed from the applicant pool due to the controversy over the interview.

Claiming the interview with the press was protected speech and the sole reason her application was removed from consideration, Almontaser filed a Section 1983 retaliation claim. Analyzing the circumstances that gave rise to Almontaser's claim, the Eighth Circuit Court of Appeals determined that since the press had asked her to do the interview in the first place due to the fact that she was an interim principal at the time, the speech had a direct link to her job duties and was therefore, according to *Garcetti* (2006), not protected speech. The *Almontaser* (2008) case demonstrates how a school administrator could be asked to engage in particular speech, do so admirably, yet suffer an adverse employment action for circumstance beyond the administrator's control. Those who are most often called upon to speak out publicly because of the nature of their job as a school administrator may find such speech the legal basis of an adverse employment action. Under *Garcetti*, there is simply no First Amendment protection for speech that owes its very existence to the job responsibilities required of the school administrator.

### **McArdle v. Peoria School District No. 150**

The *McArdle* (2013) case involved a middle school principal who confronted a superior about financial improprieties and found herself the target of alleged employment retaliation soon thereafter. McArdle, the middle school principal, called out her superior (who was also her immediate predecessor as middle school principal) for "use of school funds and a school credit card for personal purposes; ... direction of payment to a student teacher in violation of district policy against such payments; and ... circumvention of rules regarding admission procedures for nonresident students" (*McArdle*, 2013, p. 752). Soon after McArdle discovered these financial improprieties and brought them to the attention of her superiors, her two-year contract was terminated early. Applying *Garcetti* (2006) to McArdle's complaint, the Seventh Circuit Court of Appeals summarily dismissed the case in favor of the school district because it attributed the expression that formed the basis of the complaint to be expression that owed its very existence to McArdle's job duties as a principal (*McArdle* at 754). Most people reading the case in the light most favorable to the plaintiff would find her to be in an impossible situation: either turn a blind eye to financial impropriety (potentially implicating an ethical responsibility, though in this case not a legal responsibility) or speak out and risk falling out of favor with one's superiors and ultimately the loss of one's livelihood. Hence is the Hobson's choice some public school employees are finding themselves in as a result of *Garcetti's* pervasive application.

The practical effect of the Court's *Garcetti* (2006) application to retaliation claims by public employees in K-12 settings is that those who are most likely to be in a position to observe malfeasance in a public school system and have the ethical fortitude to confront it (*i.e.*, school



administrators) will seldom find such expression protected by the First Amendment primarily because of the expansive scope of a school administrator's job responsibilities. School administrators may have to rely on alternative legal protections that may or may not be available depending on the state in which a school administrator works. For example, in the *McArdle* (2013) case several alternative state claims were presented but were also dismissed by the court. As the next section demonstrates, there is no solid safety net either in federal law or state law that would protect all instances of whistleblower expression by public school employees.

### **A “Patchwork of Protection” for Public School Employee Whistleblowers**

Strasser (2013) rightly points out that, in light of the *Garcetti* (2006) decision, public employees who “wish to expose official corruption are afforded no First Amendment protection if those messages are communicated as part of an individual's job” (p. 997). Knowing this would be a concern, the Court in *Garcetti* pointed to alternative protections for such speech, namely “the powerful network of legislative enactments-such as whistle-blower protection laws and labor codes-available to those who seek to expose wrongdoing” (p. 1962); however, Justice Souter's dissenting opinion in *Garcetti* criticized the majority's reliance on this “powerful network,” likening it instead to a “patchwork” of whistleblower laws. Indeed, a thorough review of state whistleblowing statutes demonstrates the merit of Justice Souter's concerns that the current patchwork of law in place is rather inadequate to protect public employees who blow the whistle on misconduct in public employment settings (*see* Kallio & Geisel, 2011). An analysis of state whistleblower statutes revealed that Justice Souter's concerns are well founded as the parameters various states have established for protected whistle blowing span a wide spectrum of guidelines and limitations (Kallio & Geisel, 2011, p. 526). For example, while Alaska has no statute of limitations, most states have a window between one and five years to file a state whistle blowing claim before such a claim is barred. In a few states, the statute of limitations for filing whistleblower claims is extremely short (e.g., 10 days in Colorado and 90 days in Michigan).

An examination of state whistle blowing statutes also showed that “chain of command” may play an important role in whether a public employee has any recourse under a whistleblower statute (Kallio & Geisel, 2011). Several state statutes require the aggrieved party to notify the employer prior to making the information available outside the chain of command (e.g. Colorado, Kansas, Wyoming, and Alaska). On the other hand, Oregon specifically forbids the creation of any policy or law that requires employees to discuss alleged violations with employers prior to reporting the information outside the chain of command. The majority of state whistleblower statutes appear to be silent on the matter which could create an ambiguity about the necessity of following the chain of command in order to bring a successful claim (Kallio & Geisel, 2011, p. 525).

This matter of “chain of command” has proved to be an important factor in several cases analyzing whether a public employee's speech was pursuant to their job responsibilities (and thus unprotected under *Garcetti*) or whether the speech was transformed into citizen speech precisely because the public employee exited the chain of command. For example, in *Fox v. Traverse City Area Public School Board of Education* (2010) the Sixth Circuit Court of Appeals specifically noted that the plaintiff did not exit the chain of command when complaining about her allegedly illegal caseload of special education students. To the court, staying within the chain of command about a matter related to one's job responsibilities only underscored that the plaintiff engaged in speech pursuant to those job responsibilities and therefore the court easily concluded that her speech was not protected by the First Amendment. Consistently, in *Davis v.*

*McKinney* (2008), the Fifth Circuit Court of Appeals stated that “when a public employee raises complaints or concerns up the chain of command at his workplace about his job duties, that speech is undertaken in the course of performing his job” (p. 313). Accordingly, such speech is not protected under *Garcetti* (2006).

By contrast, cases where the public employee has been able to demonstrate that they went outside the chain of command to address a matter of public importance reveal that such speech is largely protected by the First Amendment (assuming the speech survives the *Pickering* balancing test). For example, in *Dougherty v. School District of Philadelphia* (2014) a school business officer (“plaintiff”) was terminated after he leaked information to the newspaper about an illegal no-bid contract the superintendent awarded to a non-approved firm. While the school district argued that the plaintiff had engaged in speech pursuant to his job responsibilities (and therefore such speech would not be protected), the Third Circuit Court of Appeals found just the opposite, noting that the plaintiff had exited the chain of command when he went to the local newspaper. The court explained that nothing in the plaintiff’s job duties required him to report the information he had obtained to the school district, the newspaper, or any other source. And in spite of an ethics code that the school district used to argue that the plaintiff improperly went outside the chain of command, the court found that the plaintiff’s speech to the newspaper “was made as a citizen for First Amendment purposes and should not be foreclosed from constitutional protection” (*Dougherty*, 2014, p. 988). Furthermore, the court also found that the plaintiff’s speech survived the *Pickering* balance test. On this note, the court concluded that “some disruption is almost certainly inevitable; the point is that *Pickering* is truly a balancing test” (*Dougherty*, 2014, p. 993). Finding that the disruption came primarily from those trying to suppress the plaintiff’s speech rather than from the plaintiff’s speech itself, the court ruled in favor of giving First Amendment protection to the plaintiff’s speech. The *Dougherty* case exemplifies how going *outside* of the chain of command may make it more apparent that certain speech is citizen speech rather than speech pursuant to one’s job responsibilities. Still, public employees considering such an exit from the chain of command will necessarily need to contemplate whether their speech will survive the *Pickering* balance even if they have met the *Garcetti* threshold for protected speech.

Whether one views the alternative speech protections as a “powerful network” (as the majority opinion in *Garcetti* did) or regards them more as a “patchwork” (as Justice Souter did in his dissenting opinion), it should be noted that an additional source of protection for whistleblowing speech may be found in federal civil rights legislation where applicable. For example, in *Reinhardt v. Albuquerque Public School Board of Education* (2010) a speech and language pathologist (“plaintiff”) complained that her hours at work were reduced because of her persistent advocacy for students with disabilities in the district. The plaintiff brought a First Amendment claim, but also brought alternative claims of engaging in “protected activity” under Section 504 of the Rehabilitation Act of 1973 and the American with Disabilities Act of 1990. The Tenth Circuit Court of Appeals affirmed that “attempting to protect the rights of special education students constitutes protected activity under the Rehabilitation Act” (*Reinhardt*, 2010, p. 1132). As DePietro & Zirkel (2010) point out, “the first element of a retaliation claim brought under Section 504 and/or the ADA is whether the employee has engaged in protected activity, and advocacy on behalf of students with disabilities is generally recognized by courts as a protected activity” (p. 837). DePietro & Zirkel also note that “it is much easier for public school employees to satisfy the first element of a Section 504 or ADA retaliation claim in the context of special education advocacy” (p. 837) than it is to secure First Amendment protection post-

*Garcetti*. DePietro & Zirkel explain why this is so: “Following *Garcetti* ... the majority of advocacy cases were dismissed because the employee's speech was determined to be within the scope of the employee's employment” (p. 837). While not widely applicable, it is important for those engaging in advocacy on behalf of students with disabilities to know that this alternative protection for whistleblowing speech is available.

Justice Souter's concerns regarding the Court's reliance on whistleblower laws as an adequate safeguard for public employee speech that addresses governmental misconduct were well-founded as few situations meet all the criteria of a successful whistle blowing action (e.g., must be reporting on a violation of federal or state law, meet the statute of limitations for filing, and follow the state statute's chain of command requirements for a state claim). Strasser (2013) concludes that post-*Garcetti* “numerous individuals have suffered adverse employment actions when seeking to expose the kinds of practices that whistleblower protections are designed to bring to light” (p. 993). With *Garcetti* (2006) rendering public employee speech that is pursuant to one's job responsibilities unprotected by the First Amendment and the significant variance of state requirements for a successful whistle blower action being what they are, it becomes quite apparent that public school administrators are a particularly vulnerable class of public employees when it comes to their job-related expressions.

### **Special Scrutiny of “Policy-Making” Public Employees Renders Protection for High-Level School Administrator Speech Even More Tenuous**

There is yet another basis upon which some federal circuit courts have denied speech-based retaliation claims that public school employees should be aware of, especially those who serve in administrative roles. Many of these cases still implicate the *Pickering* balance test but carve out additional vulnerabilities for high level public employees such as school superintendents and other central office administrators with “policy-making” roles. To fully appreciate the significance of these cases one must understand how courts determine whether a public employee is a “policy-maker.” While the Sixth Circuit Court of Appeals in *Dixon v. University of Toledo* (2012) acknowledged that “there is no clear line drawn between policymaking and non-policymaking positions” (p. 275) (in other words, a simple job description or title will be insufficient to determine whether a position is a policymaking position), it did refer back to its earlier case in *Rose v. Stephens* (2002) to explain that policy-making positions would certainly include those where policy-making authority was expressly authorized by law or such authority was delegated (or could be delegated) by those so authorized (e.g., a school board). In some federal circuits the very nature of one's position as a “policymaking” or “confidential” employee (courts appear to use these terms interchangeably to describe a type of employee whose position necessarily requires a degree of policy/political loyalty to their public employer) may render their speech (i.e., speech related to their employer's policies or policy positions) unprotected by the First Amendment (see Haas, 2004). For example, in *Leslie v. Hancock County Board of Education* (2013), the Eleventh Circuit Court of Appeals considered whether a policymaking or confidential employee “has a right not to be retaliated against for speech about policy” (p. 1348).

In *Leslie* (2013) a Superintendent was fired and the Assistant Superintendent was demoted after they had spoken out publicly about local tax policy. Specifically, the school administrators (plaintiffs) drew attention to the Tax Commissioner's deficient collection of taxes because it was having an adverse effect on the local school district. However, after the next round of school board elections resulted in the Tax Commissioner's sister being elected as the

School Board President, the Superintendent was terminated without explanation and the Assistant Superintendent was demoted. Consequently, the plaintiffs brought a Section 1983 retaliation case against the school district for violating their freedom of speech. Rather than applying *Garcetti* (2006) to the plaintiffs' claims, the Eleventh Circuit focused on the nature of the plaintiffs' positions as policymaking or confidential employees and the effect that has on the *Pickering* balance (*Leslie*, 2013 at p. 1347). Under *Pickering* (1968), if the government's interests outweigh a public employee's First Amendment right to speak out on matters of public concern, then the balance tips in favor of the government and essentially renders the speech unprotected by the First Amendment.

After first acknowledging that among the federal circuits there is no uniform approach to this question (*i.e.*, whether policy making employees have a right not to be penalized for speaking out on matters of policy), the Eleventh Circuit held that "no clearly established law bars the termination of a policymaking or confidential employee for speaking about policy" (*Leslie*, 2013, p. 1349). In fact, the court noted that the First, Sixth, and Seventh Circuits take the position that "where an employee is in a policymaking or confidential position and is terminated for speech related to political or policy views, the *Pickering* balance favors the government as a matter of law" (*Rose*, 2002, p. 922). In other words, "the employer's interest in effective governance outweighs the employee's interest in speaking when an employee in a policymaking position expresses political or policy views" (*Leslie*, 2013, p. 1348). In the end, the defendants in *Leslie* (*i.e.*, the board of education) prevailed on their qualified immunity defense because there is no law preventing the firing or demotion of a policymaking public employee for speaking out on matters of policy related to the employer's interests.

Another aspect of *Leslie* that is noteworthy is the finding that the Superintendent and the Assistant Superintendent were "policymaking" employees. While not surprising, it may nonetheless be sobering for school administrators (and those who train them) to know just how tenuous a school administrator's employment may be. According to the court, the Superintendent "was the executive officer on whom the Board relied for the enforcement of its policies. Georgia law makes a local school superintendent the alter ego of the local school board" (*Leslie*, 2013, p. 1351). It is likely that most jurisdictions would find high level school administrators to be "policymaking" employees. And for those policymaking/confidential employees in the Sixth Circuit, the next case demonstrates that even "*citizen*" speech on policy matters may jeopardize one's public employment.

In *Dixon v. University of Toledo* (2012), the Sixth Circuit denied a university administrator's retaliation claim that was based on *citizen* speech on a matter of public concern. Crystal Dixon, an African-American female, was an interim Associate Vice President for Human Resources at the University of Toledo when she wrote an op-ed article for the Toledo Free Press in which she criticized a comparison the paper made between the gay rights movement and the civil rights movement. Shortly after the paper ran her article, Dixon was fired. Dixon never identified herself as an employee of the University, and it was undisputed that she wrote her letter as a private citizen and was dismissed precisely because of this expression. Subsequently, Dixon brought a Section 1983 case against the University of Toledo for retaliating against her for exercising her freedom of speech. The Sixth Circuit articulated the issue before it as a question of "whether the speech of a high-level Human Resources official who writes publicly against the very policies that her government employer charges her with creating, promoting, and enforcing is protected" (*Dixon*, 2012, p. 271).

While Dixon expressed her position solely as a citizen, her position on the issue was nevertheless at odds with the university's public position on the matter, and formed the basis of her dismissal. In a letter to Dixon terminating her employment, the President of the University articulated the incongruity between Dixon's public expression as a citizen and the official position of the University as follows:

The public position you have taken in the Toledo Free Press is in direct contradiction to University policies and procedures as well as the Core Values of the Strategic Plan which is mission critical. Your position also calls into question your continued ability to lead a critical function within the Administration as personnel actions or decisions taken in your capacity as Associate Vice President for Human Resources could be challenged or placed at risk. The result is a loss of confidence in you as an administrator. (*Dixon*, 2012, p. 273)

Once the Sixth Circuit established that Dixon had engaged in expression on a matter of public concern, it immediately turned its attention to the nature of her position as a policymaking or confidential employee.

If one is a policymaking or confidential employee in the Sixth Circuit, then there is a legal presumption (known as the "Rose Presumption") that the *Pickering* balance favors the public employer as a matter of law (see *Dixon*, 2012 at p. 275). In order for the presumption to apply, one must "(1) hold a confidential or policymaking position, and (2) have spoken on a matter related to political or policy views" (*Dixon*, p. 275). According to the Sixth Circuit: "An application of this presumption 'renders the fact-intensive inquiry normally required by *Pickering* unnecessary because under these circumstances it is appropriate to presume that the government's interest in efficiency will predominate'" (*Dixon*, p. 275). Having found that Dixon was a policymaking employee by analyzing her job description and duties, and having concluded that Dixon spoke out about a policy matter related directly to her position within the University, the Sixth Circuit held that the University's interest outweighed Dixon's interest as a matter of law. Underscoring the significance of the "Rose Presumption," the Sixth Circuit made the following statement: "Because the Rose presumption is dispositive, it is unnecessary for us to consider the district court's *Pickering* and *Garcetti* analyses" (*Dixon*, p. 277).

The *Leslie* (2013) and *Dixon* (2012) cases demonstrate that whether one's speech is *employee speech* focused on a policy matter related to one's employment or whether the speech is *citizen speech* on a policy matter that is at odds with the official position of one's employer, the "confidential" or "policymaking" public employee may have little First Amendment protection when engaging in such speech. While not all federal circuits would necessarily go as far as the Sixth and Eleventh Circuits, the *Leslie* and *Dixon* cases serve as a reminder that policy-making school administrators are a particularly vulnerable sub-set of public employees when it comes to both their employee-based and citizen-based expressions on matters of policy related to their public employment. Ominously, Gibson (2003) correctly observes that "permitting terminations for any policy-related speech creates a nearly endless range of dischargeable speech." (p. 781).

### **Implications for Practice**

The *Garcetti effect* has several implications for practice, including the following: 1) public school employees need to understand that speech on a matter of public concern does not automatically equate to speech protected by the First Amendment, 2) public school employees

need to understand “chain of command,” when it is critical to follow, when it may be necessary to go outside of it, and what the potential implications may be, 3) public school employees need to develop and operate from an ethical framework that informs their practice with an understanding that doing what is ethical may not always be protected by law, 4) public school employees should have a basic awareness of the *Garcetti effect*, their state’s whistleblower law, and the nature of “protected activity” under various federal civil rights laws (e.g., Section 504, ADA, etc.), and how these areas may or may not overlap, 5) school administrators should carefully consider issues appealed up the chain of command by public employees lest the school administrator’s unresponsiveness encourage an exit from the chain of command, potentially making a bad situation worse and giving First Amendment protection to the speech as it may no longer be considered employee based speech under *Garcetti* (2006), and 6) school administrators should understand and be aware of their particular vulnerability as public school employees because of the often broad and elastic nature of their job duties, especially those high level school administrators in policy-making or confidential roles.

### Conclusion

In the area of speech and expression, *Garcetti* (2006) makes it clear that speech that owes its very existence to one’s employment duties will not be protected by the First Amendment regardless of the speaker’s motivation or the public concern implicated. The past several years have given ample opportunity to see how the federal circuits are applying *Garcetti* to retaliation claims in K-12 settings. For many courts, *Garcetti* requires a “threshold” determination of whether the speech owes its existence to one’s employment in order to know whether one is speaking as a citizen or an employee. Increasingly, courts are looking at factors such as “chain of command,” specified and implied job duties, location of the speech, etc. to determine when a public employee is wearing their citizen hat versus their employee hat. To be sure, the application of *Garcetti* to some public school employee cases has resulted in rather harsh outcomes where, at best, the employee is left to find alternative statutory protections. Whether those statutory protections even exist or the employee is favorably situated to avail themselves of such protections is often an open question subject to a rather porous “patchwork” of whistleblower protection.

Additionally, recent cases in the federal circuits such as *Leslie* (2013) and *Dixon* (2012) remind us that the body of law related to public employee speech is still evolving and presents a minefield through which public employees must navigate. It is likely that many public school employees have a limited understanding of just how tenuous their freedom of speech is in the workplace (and perhaps even beyond the workplace for the policy-making, public employee). Furthermore, school administrators (as a particular class of public school employees) may be uniquely vulnerable based upon the very nature of their positions because their job descriptions are fairly elastic and often involve policymaking roles.

The implications for those in the trenches of educational leadership and those tasked with preparing future educational leaders is profound. At a minimum, public school employees need to recognize that speech on a matter of public concern does not inevitably equate to speech protected by the First Amendment. Speech that owes its very existence to one’s job duties and categorized as “employee speech” will not be protected speech even if it is on a matter of public concern. Additionally, if public employee speech is on a matter of public concern and engaged in as a citizen, but fails the *Pickering* balance, then that speech will also be unprotected. Finally, school administrators (particularly high ranking central office type administrators) should be

aware that their classification as a policymaking employee could (in some jurisdictions) automatically render citizen speech on a matter of public concern unprotected if it is at odds with the policy position of one's public employer. The need for continuous professional development in this area has never been greater.

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# Teachers' Perceptions of Teacher Supervision and Evaluation: A Reflection of School Improvement Practices in the Age of Reform

This manuscript has been peer-reviewed, accepted, and endorsed by the National Council of Professors of Educational Administration as a significant contribution to the scholarship and practice of school administration and K-12 education.



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*This study examined how principals in eight high-functioning elementary schools provide teacher supervision and evaluation to promote high levels of student achievement. Perceptions of teachers were measured to provide an understanding of which specific principal behaviors translated into better instructional practices within the selected schools. Schools were chosen based on their performance on both state communication arts and math standardized assessments, which were in the top 10% of all elementary schools in the state. Data were collected from 74 teachers using an online survey tool to assess perceptions about principals' supervision within pre-observation and post-observation conferences. Quantitative analyses, part of a larger inquiry previously analyzed by the authors, revealed that 64% percent of the variability in principals' pre-conference supervisory effectiveness was accounted for by discussing how students will be engaged in their learning during instruction; 65% of the variability in principals' post-conference supervisory effectiveness was accounted for by building teachers' capacity to self-reflect about teaching. Overall, this study points toward the importance of teachers and principals working together to provide engaging instruction to drive increased student achievement while implementing school reform and improvement efforts.*

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## **Introduction**

Researchers argue teacher effectiveness is the most significant variable to student learning (Aaronson, Barrow, & Sander, 2007; Crum & Sherman, 2008; Dinham, 2005; Leithwood, Seashore Louis, Anderson, & Wahlstrom, 2004; Stronge, Ward, & Grant, 2011). As a result, teacher supervision remains a high priority for school reform efforts (Darling-Hammond & Sykes, 2003; Goldhaber, 2002; Marion, DePascale, Domaleski, Gong, & Diaz-Biello, 2012). Teacher supervision, in this context and for the purpose of this paper, is a means to improve education by developing the skill sets of teachers through supervisory practice and resource allocation, hopefully translating to increased student achievement (Sergiovanni & Starrat, 2002). Memduhoglu (2012) describes the purpose of supervision by stating “what lies in the heart of education supervision is guiding teachers and developing teaching process rather than error seeking and mere evaluation” (p.152).

Principals are those primarily charged with engaging in teacher supervision, merging this role with their responsibility to be instructional leaders (Glickman, Gordon, & Ross-Gordon, 2001; Zepeda, 2012). In addition, there is a need for researchers to understand teachers’ views about effective supervisory practice (Memduhoglu, 2012), within the complexities of purposes, structure, and the application of holistic and fair supervisory practices. As a result, the purpose of this study was to understand teachers’ attitudes about supervisory practice in eight high performing elementary schools, and the lessons that can be learned to bridge the gap between theory and practice, as well as to better inform policy decisions regard school reform and improvement.

## **Conceptual Framework**

The conceptual framework which grounds this study is derived from school reform efforts centered on principals as instructional leaders (Crum & Sherman, 2008). Researchers who view instructional leadership as the primary role of principals argue that a shift is needed from traditional models which position principals as managers of schools, a transformation that has been influenced by research, accountability, and policy reform (Goodwin, Cunningham, & Childress, 2003; Prytula, Noonan, & Hellsten, 2013). The instructional leadership role for the purpose of this study is grounded within formative supervision that can lead to differentiated professional development opportunities and encompasses formative supervision, summative evaluation, and professional development (Zepeda, 2012). When principals engage in formative supervision, they attempt to increase the instructional capacity of teachers by providing structured feedback to teachers about effectiveness primarily as a result of classroom observations (Hill & Grossman, 2013; Marshall, 2010). As White-Smith (2012) posits, understanding how principals influence instructional excellence in schools is crucial to implementing school reform, and when principals use classroom observations to shape instruction, their leadership takes on an instructional role (Ing, 2009).

## **Teacher Supervision**

As principals engage in formative supervision, they collect data on teacher performance with the purpose of expanding teachers’ skill sets (Hinchey, 2010; Matthews & Crow, 2010), and this supervision should be a systematic sequence of frequent observations, both formal and informal

(DiPaola & Hoy, 2008; Zepeda, 2012). Informal observations occur when teachers do not have prior knowledge they will be observed, while formal observations occur when teachers have prior knowledge they will be observed and typically follow the clinical supervision model (Hill & Grossman, 2013; Knoeppel & Blake, 2007; Oliva & Pawlas 2001; Ubben, Hughes, & Norris 2004; Zatynski, 2012). Clinical supervision is associated to the seminal work of Goldhammer (1969) and Cogen (1973) and includes a pre-observation conference between principals and teachers in which both discuss the upcoming lesson, an extended observation in which principals observe teachers instructing, and a post-observation conference in which principals and teachers discuss the observation, plan for future observations, and differentiate support to target instructional improvement based on professional needs (Range, Scherz, Holt, & Young, 2011).

Within the clinical supervision model, the pre-observation conference ensures both principals and teachers have a common understanding of what will occur during the extended observation, either teacher or principal directed. It is important for principals to attempt to develop trust between teachers during the pre-observation as principals are charged with providing non-evaluative feedback at the conclusion of the lesson, usually within the post-observation conference (Bouchamma 2005; Nolan & Hoover, 2008; Olivia & Pawlas 2001). Teachers are more apt to take principals' feedback seriously if they trust principals' skills in assessing strengths and weaknesses (Jacob & Lefgren, 2006). Although not inclusive, variables principals and teachers might discuss during the pre-observation conference include student assessment, student engagement, classroom management, and classroom climate issues (Range, Young, & Hvidston, 2013).

Conversely, the purpose of the post-observation conference is to review and reflect upon data collected during the extended observation and plan future professional development opportunities (Zepeda, 2012). Because providing feedback to teachers about their classroom performance is a primary purpose of the post-observation conference (Hoy & Hoy, 2003; Marzano, Frontier, & Livingston, 2011; Ovando, 2005; Ovando & Harris, 1993; Zepeda, 2012), feedback dispensed by principals should focus on qualitative and quantitative data collected during the scripted observation (Olivia & Pawlas, 2001). Principals also might acknowledge teachers for their on-going continuous improvement efforts and attempt to cause teachers to reflect about their practice (Costa & Garmston, 2002; Marzano et al., 2011; Ovando, 2003). The purpose of carefully planning feedback provided to teachers is that, as reflective practitioners, teachers should feel open to discuss their own strengths and weaknesses (Ovando, 2005; Zepeda, 2012). Finally, a purpose of the post-observation conference, which sets the course for future teacher growth, is identifying possible professional development opportunities (Zepeda, 2012), including both short and long term goals, as well as setting the instructional focus of the next extended observation (O'Rourke, Provenzano, Bellamy, & Ballek, 2007; Spillane, Healey, & Parise, 2009).

## **School Reform**

When *A Nation at Risk* was published in 1983, the message for a need to return to rigorous standards and accountability programs was conveyed so that "our nation could continue to be a productive world leader" (Squires, 2005, p. 49). Since that time the federal mantra of standards and accountability has been expressed by leaders of both political parties. In 2000, President Clinton began focusing on low-performing schools by directing the U.S. Department of Education to provide state agencies with support to improve school achievement (U.S. DOE,

2001). Measures of accountability were further encouraged by President George W. Bush with the passage of the *No Child Left Behind Act* (NCLB, 2002) by providing economic incentives for schools to increase performance on state standardized tests with the goal of increasing quality education for all American children. In 2010, President Barack Obama proposed reauthorizing the Elementary and Secondary Education Act in order to compete economically with other countries, arguing a collective education effort must be made to turn around our education system in order to compete on a global economic scale (U.S. DOE, 2010).

Clearly, the federal government has influenced, and continues to influence, the political system regarding the issue of public education reform (Fowler, 2013). America has a history of using public education policy as a vehicle to sustain a strong national economy that is capable of competing at a global level. The intertwining of social justice issues of equitable education for all Americans with efforts intended to strengthen the American economy creates a political issue that is capable of forging coalitions between conservative and liberal politicians. However, substantial school reform is unlikely to occur as a result of imposed standards on school systems in the hopes of producing increased student achievement (English, 2012). Despite nearly \$70.6 billion allocated to K-12 public education systems through the 2009 American Recovery and Reinvestment Act (Garrison-Mogren & Gutmann, 2012), little research has been conducted to assess evaluation model improvement efforts and the supports required from schools, districts, and state agencies to improve instruction for underperforming teachers (McGuinn, 2012), and not simply hold teachers accountable for low academic performance. Conversely, few studies research and investigate the conditions present in high-functioning schools and districts to better inform policy decisions about what works in successful, high-achieving school buildings. Instead, many revamped teacher evaluation systems focus on increased accountability for teachers through the incorporation of student test scores into overall teacher evaluations (Donaldson, 2012), stopping short of the necessary support systems that will drive professional development and build capacity within state and local school systems.

If student achievement is to improve as a result of reform efforts, instructional practices of teachers must improve, which requires time, continual improvement efforts, resources, and the ability to combat teacher resistance to change (Lewis, Rice, Rice, 2011). Reform efforts have been made with regards to improving educational leadership preparation programs, specifically focusing on “the curriculum, instruction, and theoretical base of university preparation programs” (Brooks, Harvard, Tatum, & Patrick, 2010, p. 419). However, if school districts and principal preparation programs are to be able to navigate the current managerial-based reform climate (Bogotch, 2011), greater efforts must be made to reexamine the relationships between teachers and administrators to improve instruction, build school cultures that value ongoing learning in a non-defensive manner, and foster the importance of distributive leadership that values a shared decision-making process in addressing school improvement efforts (Datnow & Castellano, 2001; Marks & Nance, 2007; Monk, 2008).

For school reform efforts to be successful, implementation must be sustained and institutionalized within school buildings and supported by school districts (Datnow, 2005), despite the fact these reform efforts are almost always mandated by state or federal education agencies. Thus, in order to address social inequities highlighted by disproportionate academic outcomes, and provide a learning environment that attempts to provide an equitable education for all students (Ishimaru, 2013), district leaders need to be able to facilitate and support systematic school reform in order to improve student achievement through strong instructional leadership based on the individual needs of schools within their respective districts (Rorrer, Skrla, &

Scheurich, 2008). Ironically, as school district leaders attempt to support school building principals in developing individualized learning organizations based on building-to-building needs, the “standardized reform movements legislate the content and micromanage the process of learning to such a degree that there is little scope for teachers to learn in what little time is left over” (Giles & Hargreaves, 2006, p. 153). As a result there is a need to examine the teacher supervision and evaluation practices of principals in highly-effective schools, the perceived effectiveness of these practices by teachers, and the cultures, space, and time provided within highly-effective schools that target continual and ongoing instructional supervision that translates to increased student achievement so that other practitioners may attempt to replicate their efforts and successes.

### **Context of the Study**

As reported by the State Department of Education (SDOE), the school district selected for this study is the largest school district in a Midwest state with a population of just over 24,000 students, allowing the researchers to examine not only the characteristics of principals who are able to navigate large school district systems, but also the levels of support provided by the school district in order to foster continuous student achievement. The school district was selected because of its large size, its ongoing professional development to support new teachers, and its systematic approach to teacher supervision and evaluation. Additionally, the school district was selected due to its a) willingness to be studied and share the findings with practitioners in their organization, b) previous participation in an evaluative study, and c) desire to inform the practice and research of education.

### **Method**

This study, which is part of a larger inquiry previously analyzed by the authors, investigated the common leadership traits of principals in eight high achieving elementary schools from one urban district in a Midwest state and teachers’ perceptions about principals’ supervision practices (Range, Anderson, Hvidston, & Mette, 2013). The eight elementary schools were selected due to their high performing student achievement, as determined by the researchers, based on third and fourth grade communication arts and math assessment scores, which were in the top 10% of the state. To understand how the schools were successfully insuring high student achievement, four research questions guided the inquiry: 1) What are teachers’ perceptions about the pre-observation conference items; 2) What are teachers’ perceptions about the post-observation conference items; 3) What are the best predictors of principals’ supervisory effectiveness based on how teachers viewed the importance of pre-conference elements?; and 4) What are the best predictors of principals’ supervisory effectiveness based on how teachers viewed the importance of post-conference elements?

To begin data collection, an online survey was administered to teachers in the eight elementary schools assessing their perceptions about principals’ supervision within pre-observation and post-observation conferences. The survey was sent to the principals in each of the eight elementary schools by a central office administrator who asked principals to forward the survey to teachers. In sum, the instrument was e-mailed to 179 teachers and 74 teachers responded to the survey, a response rate of 41%. Thus, this study sought to inform the practice of teacher supervision and evaluation by examining and understanding the personal experiences

of teachers working in high achieving elementary schools in the largest school district of a Midwestern state.

### **Instrument**

The instrument used in data collection was adapted from a previous supervision and evaluation study (Clark, 1998), and was revised by the researchers. Ten Likert scaled items (1=strongly disagree to 4=strongly agree) were used for analyses in the current study. Four items on the survey asked teachers about principals' skills in conducting pre-observation conferences and included items about student assessment, student engagement, lesson objectives, and remediation instruction. Six items on the survey included items about principals' skills in conducting post-observation conferences and included items about identification of performance strengths, meaningful feedback, collective data analysis, agreed upon focus, teacher reflection, and collective identification of improvement. To establish internal reliability on the survey, Cronbach's Alpha coefficient was calculated on all items and was 0.98. Additionally, Cronbach's Alpha coefficients were calculated on the two sub-scales which included the pre-observation conference items (0.96) and the post-observation conference items (0.97). To establish content validity, the survey was reviewed by four administrators with approximately 60 total years of teacher supervisory experience.

### **Data Analysis and Findings**

To address the primary research questions, quantitative analyses were used. Means and standard deviations for each of the 10 Likert-scaled items are presented in Table 1 (research questions 1 and 2). Regression analyses were used to identify the best predictors of principals' supervisory effectiveness from both the pre-observation conference and post-observation conference items (research questions 3 and 4). Specifically, two separate regression models were tested. The first model examined pre-conference predictors of principals' supervisory effectiveness, and the second model examined post-conference predictors of principals' supervisory effectiveness. Results of regression analyses for pre-observation conference and post-observation conference items are presented in Table 2 and Table 3, respectively.

Table 1

*Teachers' Perceptions about the Pre- and Post-observation Conference Items*

Statement	M	SD
<b>Pre- Conference Items</b>		
During the pre-observation conference, my principal and I discuss how I will assess students' knowledge	3.47	0.71
During the pre-observation conference, my principal and I discuss how I will actively engage students in learning	3.43	0.72
During the pre-observation conference, my principal and I discuss the objectives of the lesson	3.39	0.76
During the pre-observation conference, my principal and I discuss my plan for remediation of students who struggle with content	3.22	0.82
<b>Post-Conference Items</b>		
During the post-observation conference, my principal and I identify performance strengths	3.46	0.74
My principal provides meaningful feedback after observing my teaching	3.41	0.72
During the post-observation conference, my principal and I analyze data collected during the observation	3.37	0.79
During the post-observation conference, my principal and I discuss the things we agreed to focus upon during the pre-observation conference	3.35	0.78
During the post-observation conference, my principal builds my capacity to reflect about my teaching	3.35	0.80
During the post-observation conference, my principal and I identify areas in which I can improve	3.33	0.73

Note: Scale ranges from 1=strongly disagree to 4=strongly agree

Research questions 1 and 2 asked about teachers' perceptions regarding the pre- and post-conference items. In regards to the first research question pertaining to teachers' perceptions about the pre-observation conference items, teachers perceived all as important as all had means greater than 2.50. Teachers agreed most that *principals discussed student assessment issues* with



them (M=3.47; SD=0.71) and agreed least principals discussed the remediation plans for students who struggled with content (M=3.22; SD=0.82). In regards to the second research question pertaining to teachers' perceptions about the post-observation items, again teachers agreed with all items as all had means higher than 2.50. Teachers agreed most with *collective identification of teachers' performance strengths* (M=3.46; SD=0.74) and agreed least with *collective identification of areas in which teachers could improve* (M=3.33; SD=0.73).

### Leading the Pre-Observation Conference

The third research question asked “What are the best predictors of principals’ supervisory effectiveness based on how teachers viewed the importance of pre-conference elements?” To address research question three, regression analyses were conducted with the pre-observation conference items in order to identify significant predictors of principals’ supervisory effectiveness. The four pre-observation conference items were regressed onto the criterion variable, principals’ supervision efforts to improve teachers’ instructional practice. Table 2 shows the regression statistics for this item.

Table 2

*Regression Statistics for Pre-Observation Conference Items on Principals’ Supervisory Effectiveness.*

Statement	R <sup>2</sup>	p value
During the pre-observation conference, my principal and I discuss how I will actively engage students in learning	0.641	<0.001

Sixty-four percent of the variability in principals’ supervisory effectiveness was accounted for by one item, namely how students will be engaged in learning during the observed lesson. Thus, student engagement was the most important predictor of teachers’ ratings of principals’ supervisory effectiveness in helping improve teacher instruction during the pre-observation conference. This variable alone explained 64.1% of the importance of principals’ ability to help improve instruction, and at a highly significant level. None of the other pre-observation conference items contributed significantly to the model.

### Leading the Post-Observation Conference

The fourth research question asked “What are the best predictors of principals’ supervisory effectiveness based on how teachers viewed the importance of post-conference elements?” To answer research question four, regression analyses were conducted with the post-observation conference items in order to identify significant predictors of principals’ supervisory effectiveness. For the post-observation conference statements, all six items were regressed on the criterion variable, principals’ supervision efforts to improve teachers’ instructional practice. Table 3 displays the regression statistics for this item.

Table 3

*Regression Statistics for Post-Observation Conference Items on Principals' Supervisory Effectiveness.*

Statement	R <sup>2</sup>	p value
During the post-observation conference, my principal builds my capacity to reflect about my teaching	0.655	<0.001

Sixty-five percent of the variability in principals' supervisory effectiveness was accounted for by one item, namely the ability of the principal to build teachers' capacity to self-reflect about teaching. As a result, helping teachers self-reflect was the most important predictor of teachers' ratings of principals' supervisory effectiveness in helping improve teacher instruction during the post-observation conference. This variables alone explained 65.5% of principals' supervisory effectiveness in helping improve teacher instruction, and, as with the pre-conference item, at a highly significant level. The other five of the six total post-observation conference items did not contribute significantly to the model.

**Discussion**

This quantitative study was conducted to understand teachers' views about teacher supervision in eight high performing elementary schools, including how supervision practices supported high performance and thus might better inform school reform efforts and policy decisions. The results add to the literature concerning teachers' formative supervision and principals' responsibilities to engage in instructional leadership to build the capacity of teachers via pre- and post-observation conferences. In sum, the results can be summarized as follows: 1) teachers believed that all pre-observation and post-observation conference items were important but agreed most that principals discussed student assessment within the pre-observation conference and identified teacher performance strengths of the extended observation within the post-observation conference; 2) results of regression analyses suggested teachers attributed one variable as the most important predictor of teachers' rating principals' supervisory effectiveness in helping improve teacher instruction, namely discussions about *student engagement* during the pre-observation conference; and 3) results of regression analyses suggested teachers attributed one item as the most important predictor of principals' supervisory effectiveness in helping improve teacher instruction, which included discussions surrounding *capacity building to cause teachers to self-reflect* during the post-observation conference.

Teachers agreed that all pre-observation conference items were important and principals engaged in conversations about each, but the most important predictor of teachers' ratings of principals' supervisory effectiveness was the ability to engage in conversations about student engagement issues within the pre-observation conference. This finding reinforces an understanding of how student engagement guides instruction (Quinn, 2002), and as reported by

teachers, principals understood student engagement was an important conversation to have to foster greater organizational learning (Valentine, 2007; Yair, 2000). It also is a reflection of the data-driven focus of student achievement in the age of accountability and reform, as many walkthrough models, such as the *Instructional Practices Inventory* (IPI), are based on large data collections that are formative in nature to help teachers focus on improving student engagement in order to translate to greater student achievement (Valentine, 2010).

In regards to post-observation conference items, teachers' agreed with all items, however the most important predictor of teachers' ratings of principals' supervisory effectiveness was the ability to build capacity to self-reflect on instruction during the post-observation conference. This finding aligns to other studies that report the importance of building trusting relationships between teachers and administrators, as well as a school culture that values ongoing learning through a shared leadership approach to address school improvement efforts (Datnow & Castellano, 2001; Marks & Nance, 2007; Monk, 2008). Moreover, Zepeda (2012) has written about the importance of principals building teachers' capacity to reflect on their own instruction during the post-observation conference, and principals' ability to acknowledge teachers for their efforts to continually improve their instruction through self-reflection is a central component of instructional improvement (Costa & Garmston, 2002; Marzano et al., 2011; Ovando, 2003). When considering reform efforts, specifically those that target instructional improvement, principals must be able to guide teachers through a self-reflection process rather than simply seeking to identify areas of deficiency (Memduhoglu, 2012). Additionally, principals who see themselves as instructional leaders can help teachers identify areas for future growth, infuse trust between teachers and principals into the school culture, and promote a shared leadership approach that provides power to teachers to improve their own instruction, rather than solely exercising power over them in an evaluator role (Mette, 2014).

### **Conclusions and Implications**

As currently written and often implemented, efforts to reform teacher evaluation systems primarily focus on increased accountability for teachers through more rigorous teacher evaluation systems (Donaldson, 2012), but they stop short of the components necessary to improve teacher instruction, such as time and resources to address continual improvement efforts (Lewis, Rice, & Rice, 2011). To improve school systems, districts must empower principals by building their capacity to improve instruction (Rorrer, Skrla, & Scheurich, 2008). Perhaps just as frustrating is the standardized approach to many reform efforts that allow little time for teachers to reflect on learning and incorporate new learning into practice (Giles & Hargreaves, 2006). Thus, despite billions of dollars in federal funding allocated to K-12 public education systems (Garrison-Mogren & Gutmann, 2012), there continues to be a disconnect between research, practice, and funding of public schools to produce high quality instructional environments to produce what all stakeholders desire: an educated public that contributes to a healthy society, a strong economy, and a more socially just world.

While providing high standards for both teachers and student are important, school reform will likely be unsuccessful by simply imposing standards on school systems (English, 2012). Specifically in this study, the researchers observed the importance of principals working with teachers to collectively target areas of instructional improvement. By viewing their principals as an instructional facilitator targeting student engagement, teachers from high achieving schools shared their perceptions of their principals who value a focus on self-reflection

of instruction in order to help meet the individual needs of students. As a result, these building administrators saw their role as instructional coaches by connecting the cycle of supervision, professional development, and evaluation to drive improvement efforts that build capacity within their teachers to impact student achievement. Due to their commitment to provide support to the instructional environment, as well as target differentiated improvement efforts, teachers perceived them as more effective supervisors, particularly in their ability to help teachers become more reflective about student engagement in their own instructional practices. These findings have a significant impact on how school reform efforts could be implemented in underperforming schools, particularly as this study focuses on the conditions present in high achieving schools within a large school district.

In order to provide better instructional environments for students, however, schools must be supported by school districts to not succumb to managerial reform efforts. Rather than reinforcing hardline approaches to teacher supervision and evaluation that simply increase pressure to produce high student achievement, it appears that school district leadership in this study provided support to the eight high achieving schools for building principals to build relationships with teachers that value continuous ongoing improvement efforts through shared leadership by valuing teacher input and allowing for teacher-driven reflection to promote high student engagement and achievement. In order to ensure a learning environment that addresses issues of social justice and equitable education for all students (Ishimaru, 2013), school district leadership must support the development and training of principals to differentiate supervision in order to facilitate systematic reform that meets the individual needs of schools within respective districts (Rorrer, Skrla, & Scheurich, 2008). Moreover, in order for school reform efforts to become institutionalized processes, the reform efforts must be supported by district level leaders before they can be sustained within individual buildings (Datnow, 2005). Thus, through an instructional supervision lens, school reform efforts should have an increased focus on engaging students in their learning, as well as the need for the principal to serve as an instructional facilitator to help build self-reflection capacity among teachers in order to strive for continual improvement of instruction.

### **Limitations**

The study is limited in that data were collected from teachers in eight high-performing elementary schools in a Midwest state making generalizability difficult. Additionally, data were collected from schools considered high performing and none of the schools received federal assistance through Title 1 programs. Finally, only teachers were surveyed to collect quantitative data concerning teacher supervision. To further affirm the findings of this study, the researchers recommend future inquires do the following: 1) conduct follow-up interviews or focus groups with teachers to better understand their views concerning principals' supervision on the variables explored in this study along with others; 2) conduct interviews with principals to better understand their views concerning their own reflection of supervision and the variables explored in this study along with others; and 3) conduct interviews with district administrators to better understand their views regarding how they structure support for building principals to reflect on supervision and the variables explored in this study and others.

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# ***Vergara v. State of California: A Political Analysis and Implications for Principal Practice***

This manuscript has been peer-reviewed, accepted, and endorsed by the National Council of Professors of Educational Administration as a significant contribution to the scholarship and practice of school administration and K-12 education.



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*This political analysis uses the Vergara case as an example of how principals can be dynamic leaders who are well prepared for and engaged in their political terrain. This will be important to decrease judicial dependency and legislative interference to better ensure that reform begins with those closest to the problem.*

## Introduction

Public schools have moved at a glacial pace to reform the existing system to one that is responsive to a nation whose students have become increasingly more diverse (Cohen, Moffitt, & Goldin, 2007; Plank & Davis, 2010). Indeed, it seems the public education system has insulated itself and become reluctant to change. At least four waves of education reform have been directed towards the United States public education system with little change in performance gaps among racially diverse students (Boyd, 2010; Gay, 2009). As a result, third party criticisms (businesses, teacher unions, taxpayers) have created a space for the government to intervene (Plank & Davis).

The 2012 the *Vergara v. State of California* case became a prime example of how a tug of war between political actors led to government intervention. Specifically, our policy analysis covers the political tensions that surround three California statutes:

1. Permanent Employee Status “Tenure” (Code 44929.21): Teachers receive permanent employment status after teaching for two consecutive years. Tenure decisions are finalized and publicized to teachers after 18 months of teaching.
2. Dismissal “Due Process” (Codes 44938(b)1, 44938 (b)2, 44934, 44944): These three codes delineate the administrative process, including timelines and costs, for teacher dismissal. These codes demand a substantial financial commitment from the state and districts if teacher dismissal is pursued. Some of the administrative costs that surround teacher dismissal include lawyer fees, facility costs, accrued travel and lodging fees, and teacher compensation for missed work.
3. Last-in-First-Out “Seniority” (Code 44955): This code mandates that administrators lay off staff based on seniority as the sole factor. This criterion holds unless there is substantial evidence that the teacher in question teaches a subject or possesses demonstrated skills that are critical for the students’ learning needs.

In this case, claims were made that these three statutes, hereinafter known as the Challenged Statutes, were in violation of the equal protection clause of the California Constitution, because these statutes denied educational equality to students in the Los Angeles Unified School District (LAUSD), Oakland Unified School District (OUSD), and Alum Rock School District (ARUSD).

The analysis begins with the facts of the case followed by critical events and reform efforts that led up to the filing of the case. The discussion continues with an analysis of the Los Angeles Supreme Court ruling followed by implications for practice. We use the *Vergara* case to stress the importance of the principal’s role as an instructional leader and to illustrate the hesitancy of the courts to infringe upon this autonomy. Our aim is that the analysis be used to facilitate deliberate discussions on ways principals can leverage limited resources to maximize their roles as instructional leaders while minimizing the fear of lawsuits from politically charged and highly contested decisions such as teacher evaluation and dismissal.

## **Background of the Problem**

According to the 2012-2013 California Department of Education's (CDOE) Adequate Yearly Progress Report, no student group (including White) met the 89% state proficiency target in Math (59.5%) or English Language Arts (58.1%) statewide (California DOE, 2014). From the same CDOE report, the highest performing students groups on the English Language Arts and Math assessments as identified by group proficiency levels were Asians (80% ELA, 85% Math) and Whites (74% ELA and 71.2% Math), and the lowest performing groups were African Americans (45.6% ELA and 42.3% Math), Hispanics (46.9% ELA and 50.6% Math), and English Learners (40.6% ELA and 49.5% Math). This is interesting in that all children, particularly those who are second language learners, had been in the system under another voted policy—Proposition 227 (1998) which had all second language learning students taught in English without bilingual education support.

The plaintiffs of the *Vergara* case claimed that California's permanent status statutes protected ineffective teachers that were disproportionately assigned to the lowest-performing and most racially homogenous (predominantly African American or Hispanic) schools. The plaintiffs' expert witnesses, Harvard professor Dr. Thomas Kane, testified that African Americans are 43% more likely and Hispanics 68% more likely to be taught by a teacher in the bottom 5% of effectiveness than Whites (Kane, 2014). He further contended that a student assigned to a grossly ineffective teacher loses almost a year's worth of learning compared to a student assigned to an average teacher (Kane, 2014). Dr. Raj Chetty, also a plaintiff expert witness, testified that one long-term impact for the student assigned to an effective teacher is the loss of \$50,000 in potential lifetime earnings compared to a student with an average teacher. These examples drawn from the LAUSD seem to reflect the larger national picture, where Linda Darling-Hammond (2010) contended that most low-income and students of color will only be prepared to become "part of a growing underclass, cut off from productive engagement in society" (p.23). Nine students who claimed to experience unequal schooling took action and were represented by Students Matter, a "national non-profit organization dedicated to sponsoring impact litigation to promote access to quality public education" (Students Matter, 2012, para 1).

## **Case Facts**

With the help of Students Matter, nine California public school children filed the lawsuit *Vergara v. California* against the State of California in May 2012 under the premise that the students' equal protection had been violated, because the Los Angeles district systematically discriminated against poor students and students of color "by assigning them to weaker teachers" (Sawchuk, 2014, p. 2). The plaintiffs contended that the California statutes made it virtually impossible to remove grossly ineffective teachers. The defendants' response was that the district has increased its teacher dismissal recommendations, but due to a competitive labor market, teacher tenure was necessary to recruit and retain teachers in high poverty areas.

Distinct from the national 3-year teacher probation average (*Vergara v. California*, 2014), California beginning teachers have the opportunity to earn a permanent employment status after 18 months of employment. The law governing lay-offs required administrators to dismiss by seniority status as the last one in and first one out policy. Finally, teachers could not be dismissed without due process. However, previous court rulings such as the *Serrano v. Priest* (1971) and

*Butt v. State of California* (1992) led to the questioning of whether students' equal protection under the Fourteenth Amendment had been violated due to California's tenure, dismissal, and seniority statutes.

## Legal Precedence

The landmark *Brown v. Board of Education* (1954) is likely the most referenced Supreme Court case in education to date. The *Brown* decision was momentous, finding racial segregation to be unconstitutional and that all children were constitutionally entitled to an "equal educational opportunity" (Rebell & Wolff, 2008, p. 1). The *Serrano v. Priest* (1971) California Supreme Court case was about the State's inequitable public education financing system. The significance of the *Serrano I and II* (1971, 1976) rulings was that funding disparities violated students' equal educational opportunity under the California Constitution. The *Butt v. State of California* (1992) ruling held that the district's six week premature closing in response to budget cuts was unconstitutional and deprived students of their right to equal public education. These court rulings show that racial segregation, funding disparity, and school term length could be considered a deprivation of students' of equal educational opportunities.

## The Dilemma

Essentially, the *Vergara v. State of California* case is about teacher quality, systematic sorting, and the perceived barriers that make it difficult for K-12 school administrators to recruit and retain the best teachers and remove the worst teachers in the lowest-performing schools. For both parties, teacher attrition of effective teachers, especially in urban and low-income schools, has been one of the most prevalent problems identified regarding beginning teachers (Vergara v. California, 2014). Highly-credentialed teachers often flock to highly-respected suburban schools which can offer a substantially higher pay than under-resourced urban districts, thereby decreasing the hiring pool. As a result, low-income schools seem to be the "dumping grounds" for unqualified teachers (Darling-Hammond, 2010, p. 43). This is significant as Darling-Hammond found that having a qualified teacher in comparison to an unqualified teacher had larger effects on student achievement than did race and parent education combined. That is,

the difference in student achievement due to having a well-qualified teacher rather than a poorly qualified one was larger than the average difference in achievement between a typical White student with college-educated parents and a typical Black student with high school educated parents. (p. 43)

What heightens this problem is that the number of high-poverty districts will steadily increase, and "new teachers, who have an inordinate rate of attrition and are assigned to the neediest students in schools with the least resources, will comprise the large majority of the teaching force" (Weiss & Weiss, 2003, p. 5). This, in turn, leaves students, particularly students of color, enrolled in high-poverty schools and districts, with a revolving door of novice and underprepared teachers (Darling-Hammond, 2010).

Nationally, there also continues to be concerns of teacher quality. According to published report by the Education Trust (2008), Texas, at that time, had large inequities in teacher quality between rich and poor schools. This report revealed that Black and Hispanic students were less

likely to have a credentialed or experienced teacher, and they were more likely to be enrolled in a school with an unstable teaching force (Education Trust, 2008, p. 2). Illinois gained national attention from the 2012 Chicago Teacher Strike regarding methods to ensure and protect teacher quality. Haycock and Crawford (2008) reported similar problems and teacher quality issues in New York and Tennessee. There are others who have indicated similar issues with teacher quality and suggested that removing underperforming teachers could significantly improve student achievement (Brill, 2009; Hanushek, 2009; Rothstein, 2010)

To be clear, the distribution of quality teachers to all students is not a new issue or problem specific to California. The concerns of both the plaintiffs and defendants of the *Vergara* case were grounded in both the literature and national concerns regarding teacher quality. However, both the plaintiffs and defendants in the *Vergara* case held different views on how to ensure the best teachers are teaching students who need it most.

### **Plaintiff Position**

Students Matter, a non-profit organization that uses litigation to promote access to quality public education, was the leader for the plaintiffs. The crux of the plaintiff's argument was that a disproportionate number of poor and students of color did not have access to equal educational opportunities due to California statutes. California state standards required access to adequate resources, and such resources had been restricted (*Vergara v. California*, 2014). The plaintiffs contended that a major resource absent in the lowest performing schools was quality teachers. To remedy this problem, they proposed changes to teacher permanent status, lay off procedures, and due process so administrators could have more autonomy to dismiss ineffective teachers. Under the Challenged Statutes, the plaintiffs argued that removing an ineffective teacher was an arduous process that often resulted in considerable costs in time and money. Consequently, the ineffective teacher would remain in the classroom for an extended time precluding those students from access to a quality education. According to the plaintiffs' website, removing the statutes would allow school administrators to "reward and retain excellent teachers and hold those accountable who are failing our children" (Students Matter, Case Summary, 2012, para 3).

The plaintiffs also contended that the 18-month automatic permanent status is hardly enough time to evaluate a teacher's effectiveness. Next, they posited that due process was not to be removed but updated for better efficiency. Finally, the Last In and First Out Statute did not provide protection for all teachers; even the best teachers were in danger of being dismissed depending on their years of service. The plaintiffs further contended that there was little to no empirical research that linked tenure with attracting and retaining quality teachers. In other words, the plaintiffs believed that years of teaching experience did not automatically result in good teaching. Essentially, the position of the plaintiffs was that the Challenged Statutes made it extremely difficult and costly to dismiss grossly ineffective teachers.

### **Defendant Position**

California teacher unions were interveners for the defendants. Both websites of the California Teacher Association (CTA, Issues & Action, n.d.) and the California Federation of Teachers (CFT, What's At Stake, 2014) had remarks that claimed that it was difficult to get quality teachers to teach in high-need schools and consequently saw tenure as a necessary part of recruitment strategies critical to student learning and respect for the teaching profession. Second,

the defendants claimed that teachers did not have a job for life. They asserted that administrators had free range to dismiss a teacher within their first two years with or without cause. After those 2 years, teachers could be dismissed with proper due process procedures. Finally, the lay-off policy was thought to be important to avoid the dismissal of the most experienced teacher and to avoid the potential possibility of making personal rather than professional and objective staffing decisions. Essentially, the position of the defendants was that the shortages of effective teachers in high poverty schools were not caused by the Challenged Statutes but by the challenging work conditions that make teaching in such contexts less attractive.

### **Court Ruling**

Judge Rolf M. Treu rendered the decision for the *Vergara* case on March 27, 2014 in favor of the plaintiffs. Judge Treu used the *Brown* (1954), *Serrano* (1971/1976), and *Butt* (1992) cases to demonstrate that education is a fundamental interest nationally and protected right in California. In his decision, he wrote that the plaintiffs presented compelling evidence that demonstrated how the three statutes made it near impossible to dismiss grossly ineffective teachers who were disproportionately assigned to low-income and schools with a majority student of color enrollment (Vergara Decision, p. 3). Judge Treu was moved by Dr. Chetty's testimony that "a single year in a classroom with a grossly ineffective teacher costs students \$1.4 million in lifetime earnings per classroom," and also Dr. Kane's testimony "that students in LAUSD who are taught by a teacher in the bottom 5% of competence lose 9.54 months of learning in a single year compared to students with average teachers" (Vergara Decision, p. 8). The defendants' cited 1-3% of teachers in California were ineffective teachers. However, this was then quantified to demonstrate that a range of 2,750- 8,250 ineffective teachers in active positions across the state disproportionately taught poor and/or students of color. In Treu's decision he wrote,

based on the criteria set in *Serrano* I and II and *Butt*, and on evidence presented at trial, Plaintiffs have proven, by a preponderance of the evidence, that the Challenged Statutes impose a real and appreciable impact on students' fundamental right to equality of education and they impose a disproportionate burden on poor and minority students (Vergara Decision, p. 8).

Consequently, Treu examined the case with "strict scrutiny" and the defendants had to carry the burden of proof that the Challenged Statutes were necessary to accomplish the goals of attracting and retaining effective teachers in high poverty, under resourced schools.

### **Permanent Employment Statute.**

Judge Treu ruled that two school years were not a sufficient amount of time to evaluate and award tenure. In fact, California is in the minority of states who offered tenure in less than two years. Instead, Judge Treu recommended that tenure decisions be made after beginning teacher induction was over and teachers received full credentials. He found that the induction program for new teachers ran concurrently with the Permanent Employment Statute, and therefore principals could not effectively evaluate a new teacher before tenure decisions had to be made, consequently, raising the probability that non-credentialed teachers would be granted tenure. He ruled that the Permanent Employment Statute violated students' fundamental right to a quality

education because the statute granted tenure based on a passing of time rather than teacher credentials (licensure) or indicators of effectiveness. He used the defendants' expert testimony of Rothstein and Berliner that between three and five years was a more appropriate time to make tenure decisions namely because this time frame transcended the induction period. From the presented evidence from both sides, Judge Treu believed this to be mutually beneficial for both teachers and students. He reasoned that teachers do not want to work with and students do not want to be taught by grossly ineffective teachers.

### **Dismissal Statutes.**

The plaintiffs presented compelling evidence that teacher dismissals of grossly ineffective teachers could take "almost ten years and cost \$50,000- \$450,000 or more to bring these cases to conclusion under the Dismissal Statutes" (Vergara Decision, p. 11). The idea was that time and cost constraints made principals very reluctant to start dismissal procedures. Judge Treu cited evidence that due process was not in jeopardy for teachers. Instead, he referenced evidence that tenured teachers had *uber* due process (Vergara Decision, p. 12). That is, tenured teachers' due process protections were so extensive that it tied the hands of school principals and districts in ways that made it near impossible for their dismissal decisions to come to fruition. Since it was agreed by both parties that the most underprepared teachers disproportionately teach students of color or those from low-income households, Treu ruled that the Dismissal Statute served as a hindrance for principals' ability to ensure that a "grossly ineffective teacher" was not teaching their students and infringing upon the students' equal educational opportunities as protected by the California constitution. Therefore, all three of the dismissal statutes were found unconstitutional.

### **Seniority**

California's is one of only 10 states to use seniority as its sole factor in lay-off decisions. Under the strict scrutiny test, Judge Treu wrote in his decision that the defendants had to provide evidence that the "state had a compelling interest in *de facto* separation of students from competent teachers, and a like interest in the *de facto* retention of incompetent ones. The logic of this position is unfathomable and therefore constitutionally unsupportable" (Vergara Decision, p. 14). Essentially, the flaw identified in this statute was the fact that it did not contain an exception or waiver that considered other variables that illustrate teacher performance and effectiveness. Judge Treu found that this statute needed to be updated and more aligned with other state practices that allow seniority to be considered among other factors or left to the discretion of the school district.

### **Summary of the Ruling**

In sum, Judge Treu found that the Challenged statutes disproportionately affected poor and/or students of color, and consequently negatively affected their learning process. He ruled that the plaintiffs provided substantial evidence that illustrated that low income and students of color were vulnerable to staffing inequalities. According to the strict scrutiny test, he did not find that the defendants carried the burden of proof as to: (a) why teachers and students were unfairly penalized by the permanent employment statute, (b) how teachers' property rights (due process)

were in jeopardy, and (c) why seniority as a sole factor in lay-off decisions should prevail. Judge Treu's ruling was ordered stayed pending appellate review, which, some may interpret as a passing of the buck or passive because there was no legally binding injunction attached to his decision.

### **Analysis and Implications for Practice**

During a time where litigation appears to be the education reform tool of choice, today's principal must not only be adept at managing their school structure, but also in preparing for the cultural and political shifts that yield complex challenges. Principals must be dynamic leaders who are well prepared for and engaged in their political terrain. The *Vergara* ruling is evidence of the importance of the principal's role as an instructional leader and the hesitancy of the courts to infringe upon this autonomy. What follows is an example of how principals could use the *Vergara* case to facilitate deliberate discussions on ways limited resources can be leveraged to maximize principals' role as instructional leaders while minimizing the fear of lawsuits from politically charged and highly contested decisions such as teacher evaluation and dismissal.

### **Policy Instruments**

Administrators should understand that the three California statutes (Tenure, Due Process, and Seniority) in question are mandates. This policy instrument was selected to ensure widespread compliance and diffusion of benefits/protection of all classroom teachers. The expected outcome was exact compliance or face legal repercussions. Typical of mandate instruments, the initiating agency (government) prescribes the course of action but the burden is on the implementing agency—the school administrators (McDonnell & Elmore, 1987). Administrators are responsible for ensuring equitable opportunities and choices for all students or risk losing their job. Principals must provide evidence that they are closing the achievement gap and preparing students in the twenty-first century knowledge-based economy. Yet, in many ways principals may feel their hands are tied regarding staff dismissals as evidenced in the *Vergara* case.

After review of the Judge Treu's ruling, it seems a greater emphasis on capacity building policy instruments and more research on the impacts these laws have on teacher employment decisions is needed. School leader motivation and capacity to differentiate objectively between effective teachers and teaching practices will also be critical. However, if principals are to lead their schools without the fear of lawsuits from politically charged decisions such as teacher evaluations and teacher dismissal, they must understand the importance of their role as an instructional leader.

### **The Importance of Principals as Instructional Leaders**

Principals have great influence over whether a novice teacher stays or leaves their school or profession (Darling-Hammond, 2010; & Brown, 2009). The reasons beginning teachers reported for their decision to leave had more to do with internal working conditions than external factors such as school demographics which includes race, socio-economic status, and family educational background (Greenlee & Brown, 2009). Novice teachers are leaving the high need students because they are not receiving the support they perceive is needed for them to be effective in teaching students of color and students from low-income households; principals matter and can



reverse this trend (Ingersoll, 2012). One reason is because effective principals recruit and are able to retain effective teachers, and also because good teachers seek out good principals. Further, if teachers feel supported, they are more effective in their instructional practice and develop at greater rates over time (Kraft & Papay, 2014).

**Administrator support.** In the *Vergara* case, the Challenged Statutes were viewed as an effective mechanism to attract and retain teachers in hard-to-staff contexts especially due to financial constraints where offering bonuses or competitive salaries were challenging. However, evidence presented within the literature has suggested that “discipline problems, inadequate administrator support, lack of autonomy, and heavy workload are among the most common factors that influence their [teachers] decision to leave” schools with large concentrations of students who are disadvantaged (Greenlee & Brown, 2009, p. 2). Tenure, due process, and lay-off guidelines were not revealed as key factors influencing teacher employment decisions or instructional practice within the extant literature.

Frequently, principals expect that teachers could be hired with a pre-packaged knowledge base and requisite skills needed for effective instruction because of their teacher preparation programs (Donaldson, 2013). Many principals believe “that their best chance to increase teacher effectiveness in their schools is through hiring people with the ‘right’ mindset and then shaping their skills through professional development” (Donaldson, p. 868). In other words, there is an assumption that hiring a highly qualified teacher means effective instructional practice within the classroom. Thus, school-based induction programs lean heavily towards orientating the teacher to the administrative procedures of the school (Smith & Ingersoll, 2004). As a result, school leaders fall more into the category of a manager than an instructional leader.

Instead, we reemphasize evidence found in the extant literature in which Kraft and Papay (2014) suggested that school context matters and is interconnected with teacher effectiveness. Principals should structure support systems that are more aligned with the idea that teacher effectiveness is malleable and not a fixed trait that a teacher does or does not possess. Teacher effectiveness can be cultivated or constrained depending on the school context in which they work (Kraft & Papay). As such, principals’ and beginning teachers’ perceptions of what it means to be effective along with the support perceived needed to do so must be in alignment within the same school setting. After all, they are the two most important factors affecting students’ success in the classroom (Darling-Hammond, 2010). To achieve alignment, the perception of what it means to be an effective teacher must no longer be ambiguous and divergent.

Another way principals can increase teacher effectiveness and provide support is through teacher assignments. Specifically, principals should consider the load and the teaching assignments they give to new teachers (Donaldson & Johnson, 2010). The presumption of the school leader is often that the beginning teacher is fully equipped and ready to handle a heavy work load and can effectively teach all students in a challenging context, such assignments leads to lower teacher efficacy and voluntary high turnover (Donaldson & Johnson, 2010). Alternatively, support could be provided to principals so that they are able to create leadership pipelines for teachers who want to stay in the classroom and not transition to administration. Under this leadership pipeline, master teachers would have more challenging assignments in exchange for greater autonomy, resources for curriculum innovations, increased decision making authority, and improved professional development opportunities, all of which are been shown to be effective inducements for a teacher’s decision to transfer or remain in a challenging school context (Greenlee & Brown, 2009, p.6). This practice would cultivate teacher leadership for enhanced school performance (Marks & Printy, 2003, p. 233). Principals could also work to find

ways for more peer observations and peer support (Papay & Johnson, 2012), because teachers can learn from each other in peer evaluations (Darling-Hammond, 2012).

The first lesson gleaned from the *Vergara* case is that there was no evidence presented that directly connected the presence or absence of the Challenged Statutes with changes in instructional practice or the successful recruitment and/or retention of effective teachers at hard-to-staff schools. Evidence from the literature suggests that principals need to provide ongoing support for beginning teachers beyond their first year(s) as opposed to simply a fall orientation, snapshot observations, and mid and end of year evaluations, assuming such practices are currently implemented (Brock & Grady, 2010). Beginning teachers want ongoing support that addresses classroom management, instruction, emotional support, and assistance harvesting positive relationships with students, parents, school leaders, and colleagues (Brock & Grady). Brock & Grady (2010) indicated that this is the type of support that beginning teachers perceive they need in order to increase their effectiveness in the classroom.

**Principal voice in defining teacher effectiveness.** The second lesson gleaned from the *Vergara* case is that the Courts seem to defer to the expertise of those in the field to provide evidence or ways to measure teacher effectiveness. In the *Vergara* case, the plaintiffs presented Value-Added Modeling (VAM) as a reliable indicator of teacher effectiveness. Value-added models are used to evaluate teachers based on a student's growth (indicated by test scores) from previous years and are argued to be fairer, because they control for contextual factors that are outside of the teacher's control (Kane & Staiger, 2008). VAM was highly contested by the defendants, and although Judge Treu accepted the evidence that was produced from VAM, interestingly, his decision did not mention the model. VAM is but one indicator of teacher effectiveness that should be included in the portfolio of many other indicators that include the voices of all stakeholders, including students and parents; this stance is supported by the American Federation of Teacher (AFT; 2010). However, the National Education Association as of 2008 had not support such compensation plans based on student test scores as a major component of measuring teacher effectiveness for monetary rewards (Flannery & Jehlen, 2008)

As the instructional leader of the school, principals should know and be able to provide evidence of what it means to be an effective teacher in their school context. One way to collect such evidence is through teacher observations and evaluation. However, many principals do not regularly evaluate tenured teachers (Toch & Rothman, 2008). This behavior could be reflective of the ideology of effectiveness as a fixed trait or from what Donaldson (2013) cited as lack of time for rigorous teacher observations. More concerted efforts should be made towards finding ways to free the time of principals so that they can be in classrooms observing and supporting their teachers. If principals had the time to be in the classroom more, they could have the evidence needed to determine what effective teaching looks like in their school context, inform evaluation decisions, and it would further inform what type of professional development is needed for their staff.

**Separation of powers.** A third lesson that should be gleaned from the *Vergara* case is that Treu ruling indicated hesitancy from the Court to infringe upon local autonomy. According to California Rules of Court 3.1590, Treu's stayed opinion meant that his suggested injunctions were not binding. Treu's stayed ruling indicated that though he believed the statutes were unconstitutional, because of separation of powers, he was unsure if judicial interference for education reform of this nature was appropriate. This was made clear when he wrote,

Under California's separation of powers framework, it is not the function of this Court to dictate or even advise the legislature as to how to replace the Challenged Statutes. All this Court may do is apply constitutional principles of law to the Challenged Statutes as it has done here, and trust the legislature to fulfill its mandated duty to enact legislation on the issues herein discussed that passes constitutional muster, thus providing each child in this state with a basically equal opportunity to achieve a quality education. (*Vergara Decision*, p. 16)

This reemphasizes the idea that principals' instructional leadership and how they foster school culture matter (Leithwood et. al, 2004). Principals are charged with the task of figuring out how to develop teachers and increase their effectiveness. Such is necessary if there is to be a preservation of principal autonomy and a respect of local expertise to maintain professionalization of the field.

### **Concluding Thoughts**

In sum, the *Vergara* case serves as a great reminder that it is in error to assume complete efficacy in a policy (Cohen, Moffitt, & Goldin, 2007). Policies "cannot mandate what matters" (Cohen, Moffitt, & Goldin, 2007, p. 518). Both sides should understand that the presence or absence of these California statutes do not guarantee that the best and most effective teachers will be teaching the students who need it most. Conversations that stem from the *Vergara* case continue to remind political actors that student achievement is a shared responsibility. However, those safeguards, or Challenged Statutes, designed to protect could actually harm quality teachers. For example, the Last In First Out policy overemphasizes experience as evidence of teacher effectiveness. A recently hired or novice teacher could prove to be effective but under the existing lay-off guidelines would be dismissed. It also sends the message of mistrust in principals' professional judgment. In other words, principals are qualified to hire but not fire.

We suggest that principals survey their political climate, understand their positionality, and in this case, how the *Vergara* case may impact their role as school leaders if at all. Principals should not be overly consumed with the management of their school that they become oblivious to the political and cultural changes around them that could impact their school climate, instruction and student learning. The *Vergara* case is also a reminder of the importance of principals as instructional leaders who have great influence over teachers and their effectiveness potential. Principals must be trained on how to evaluate and provide the support teachers need for teaching in challenging contexts. Efforts must be made to figure out how principals can have more time to be in the classroom so that they are able to collect the necessary evidence to make decisions about the effectiveness of teachers in their school context. Administrators who document succeed in dismissal (Donaldson, 2014), and thus should not be fearful of whether their tenure or dismissal decisions will stand up against the law.

However, to better protect their autonomy, we urge principals to be familiar with policy instruments used and the expected outcomes of those instruments (see McDonnell & Elmore, 1987) to be in better position to negotiate and actively engage in their political arena. It is also critical that principals consider the cultural relevance of policy decisions and recommendations and its potential impact on their students, staff, family, and community they serve. Principals should continue to advocate for social justice for all of their students and should be prepared to answer any call to action. They should be ready to offer informed insight and recommendations

for what would work best for their school and community. This will be important to decrease judicial dependency and legislative interference to better ensure inside-out reform; that is, reform that begins with those closest to the problem.

Finally, this case provides a unique opportunity for multiple political actors to come together, despite competing interests, and make a positive impact on student achievement. One finding is very clear, “it is very hard to change the regularities of how teachers teach but much easier to change structures and policies” (Boyd, 2007, p. 233). Indeed, policy and practice contain opportunities for both cooperation and conflict (Cohen, Moffitt, & Goldin, 2007, p.523). Cohen et al. (2007) argued that the key problem solvers are those closer to the problem; however, the government is needed to frame action and offer resources. Just as it is erroneous to think that there is complete efficacy within a policy, so too is it to think practitioners have the capability to make wide-sweeping change on their own (Cohen, Moffitt, & Goldin, 2007). Practitioners, community members, families need to work together to problem-solve, or there will be mistrust and a question of legitimacy of the policy, policymakers (government), and practitioners, which increases the risk of failure (Cohen, Moffitt, & Goldin, 2007). Future discussion and work should be focused on (a) how to broaden definitions of teacher effectiveness to ones that are inclusive of more stakeholders including students and parents, (b) how to better prepare principals to lead as instructional leaders in challenging contexts, and (c) how principals can reevaluate the efficacy of current school practices and teacher support systems within their locus of control.

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# A Profile of Female Illinois School Board Presidents and Their Perceived Self-Efficacy

This manuscript has been peer-reviewed, accepted, and endorsed by the National Council of Professors of Educational Administration as a significant contribution to the scholarship and practice of school administration and K-12 education.



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*This study gathered quantitative and qualitative data from female school board presidents in Illinois. Sixty-six female school board presidents completed questionnaires gathering demographic information related to their role as school board president. As well, these participants completed the Leadership Self-Efficacy Scale, LSES (Bobbio & Manganelli, 2009) identifying perceived leadership self-efficacy in six dimensions. The study has three purposes: to determine a profile of Illinois female school board presidents, to determine perceptions of their leadership self-efficacy, and to determine any relationship between characteristics and perceptions. The results of this study contribute to research which supports the nexus of higher levels of student achievement and effective superintendent and school board leadership (Iowa Association of School Boards, 2001). The role of the school board president is the fulcrum upon which the superintendent/board relationship balances. Findings revealed the female board presidents had the highest mean rating for leadership self-efficacy in the LSES dimension Choosing Effective Followers and Delegating Responsibilities.*

## Introduction

Positive and productive relationships between superintendents and school boards profoundly affect higher levels of district student achievement (Iowa Association of School Boards, 2001; Waters & Marzano, 2005; Glass & Franceschini, 2007; Hess & Meeks, 2010; Kowalski, McCord, Petersen, Young, & Ellerson, 2011). These positive and productive relationships are characterized by shared leadership, better district governance, and increased student achievement. It is a persistent challenge for superintendents and school board members to reach this governance standard (Tallerico, 1989; Glass & Franceschini, 2007; Hess & Meeks, 2010; Kowalski, McCord, Petersen, Young, & Ellerson, 2011). Orientation to board service and board training that defines roles, structure, processes, and self-evaluation (Eadie, 2009) lay the groundwork for productive relationships, while maintenance and development of board relations is on-going. Superintendents shoulder a significant part of this responsibility. However, the fulcrum point on this balance beam of shared leadership is the board president. Depending upon many factors and influences, the role of school board president may be "alternately described as power and [or] merely ceremonial" (Alpert, 2008, n.p.). Whether powerful or ceremonial, the superintendent and board president must develop a relationship that leads to shared leadership. What is often overlooked in developing this relationship is how the self-efficacy of the school board president can be leveraged to establish shared leadership. This can be achieved by identifying, valuing, and tapping the leadership self-efficacy a board member may bring to the table.

The self-efficacy of the board president is critical for another, often overlooked, reason. As the mean length of tenure of a school board member, 6.7 years (Hess, 2002), exceeds the typical length of tenure of a school superintendent, six years (Glass & Franceschini, 2007), the leadership of the school board president bridges the gap between administration and board of education during times of superintendent turnover. The school board president may be the sole leadership constant over a length of time or over periodic lengths of time in some districts. An efficacious board president can ensure the board does not lose its focus as district administration changes.

As more women are elected to the role of school board president, their perceived self-efficacy is worth identifying as a key to developing productive shared district leadership. The representation of women and men in decision-making at board tables and in leadership roles as CEOs and board presidents continues to be a subject of interest in academic research (Eagly & Carli, 2007) and as a subject of interest in popular literature (Sandberg, 2013). Historically school board leadership has been dominated by males. While women have increased their representation on school boards over the last several decades, from 12% in 1974 (National School Board Association, 1974) to 44% in 2010 (Hess & Meeks, 2010), men continue to hold a majority of school board seats. There have been studies concerning gender and the role of superintendent (Skrla, 2000; Garn & Brown, 2008) and studies concerning the superintendent's self-efficacy and influence on student achievement (Truslow & Coleman, 2005; Whitt, 2009). But as Mountford and Brunner (2010) suggest, "educational leadership literature lacks research focused on how gender influences decision making, in particular at the highest level of school governance, the school board table" (p. 2067). With the growing acceptance of women as school board members and their growing influence in decision making, the self-efficacy of women as school board members has grown. As their self-efficacy has grown, more women

have sought and been elected to the role of school board president. Their perceived self-efficacy is a determinant which should be identified as valuable in developing shared district leadership.

### **Self-Efficacy and Leadership**

Self-efficacy is grounded in the theoretical framework of Bandura's (1986) social cognitive theory which asserts three factors, behavior, cognition, and environment, contribute to personal motivation and behaviors. The combined influences of behavior, knowledge, and environment determine self-efficacy (Bandura, 1977, 1986). Self-efficacy, "beliefs in one's capabilities to organize and execute the courses of action required to produce given attainments" (Bandura, 1997, p. 3), is a key belief one would want in developing shared leadership. The self-efficacy of the school board president in fulfilling the duties of the position and in influencing board members in decision and policy making is crucial in supporting a district's goals. With the national focus on accountability, many states have legislated board training to prepare members for the complex nature of their elected positions. A complementary approach would be to gain an understanding of the self-efficacy of key members, especially board presidents, and to use this understanding in a new way to develop productive superintendent/board relationships.

Perceived self-efficacy of individuals has power in organizations. In explaining social cognitive theory, Bandura (1986) noted that personal motivations and behaviors are an exercise of control over events in life. Self-efficacy informs the choice of action to effect a change. Efficacy beliefs are informed by assessing personal knowledge and the capability to effect change, assessing the degree to which the environment will accept change, and the degree of effort one is willing to engage. In studying managers with high self-efficacy, Bandura (1988) found their self-efficacy had a positive influence on organizational attainments. Bandura (1988) concluded increased self-efficacy "became a more powerful determinant of their aspirations, strategic thinking, and organizational attainments" (p. 290).

Gist (1987) explored the implications self-efficacy may have for organizational behavior in human resource management. Gist explored practical applications from theory supported in previous studies linking self-efficacy to productivity in the areas of employment searches, insurance sales performance, and in academic research writing. Gist posited that if high self-efficacy leads to high levels of performance, then selection to positions where performance is important would certainly lead to the selection of persons with high self-efficacy. Gist asserted that self-efficacy should be considered a relevant determinant when seeking to fill positions where positive results are valued.

Bandura (1988) found social cognitive theory had applications in organizational behavior as well. He noted "the strength of groups and organizations also lies partly in people's sense of collective efficacy that they can master problems and achieve desired results by concerted group effort" (p. 286). Leadership self-efficacy of a group's leader plays a role in the collective efficacy of a group.

The purpose of this study was to determine demographic characteristics of female school board presidents in Illinois and to determine their perceived self-efficacy as a school board president. Research supports findings of higher levels of student achievement resulting from effective working relationships between superintendents and school boards (Iowa Association of School Boards, 2001). The role of the school board president in achieving this effective working relationship cannot be underestimated. This research seeks to highlight self-efficacy as a leadership concept that should not be overlooked among board members and among those

aspiring to lead the board as president. As well, this research seeks to inform administrators of the importance of understanding the self-efficacy of school board members and aspiring school board presidents as a key to more effective school district leadership.

### **Research Questions**

The following research questions were addressed in this study:

1. What is the profile of female school board presidents in Illinois?
2. What are the perceptions of self-efficacy held by these women?
3. What relationships exist between any characteristics and perceptions of self-efficacy?

### **Method**

The study was a mixed method study gathering both quantitative and qualitative data. Survey research employed the administration of a questionnaire and a leadership self-efficacy instrument. Items on the questionnaire and dimensions on the instrument offered variables for computing descriptive statistics.

### **Participants**

The target population for this study was the 236 female school board presidents serving in Illinois in the fall of 2012. The names of these women and the addresses of the districts where they served were acquired from a website database available through the state's school board association website.

### **Instrumentation**

The questionnaire asked about school board member service: elected or appointed to the board, number of years as board member and as board president, community type, district type and district enrollment. The questionnaire included questions of a personal nature: race, marital status, age range, level of education, occupation, if elected to other publicly elected offices and, if so, what they were and if presidents had children attending school in the district where they served. As well, the questionnaire explored perceptions of factors that contributed to their election, the degree to which presidents feel comfortable making decisions in specific areas, persons who encouraged them to serve as board president, personal motivations to serve, and the degree to which they experienced a variety of challenges.

The leadership self-efficacy instrument used in the study was the Leadership Self-Efficacy Scale (LSES) developed by Bobbio and Manganelli (2009). The LSES includes 21 items organized in six dimensions identified as those indicative of effective leadership. The six dimensions are: Starting and Leading Change Processes in Groups; Choosing Effective Followers and Delegating Responsibilities; Building and Managing Interpersonal Relationships within the Group; Showing Self-awareness and Self-confidence; Motivating People; and Gaining Consensus of Group Members. Each dimension included a number of sentences that describe abilities associated with the dimension. The instrument asked for a response ranging from 1 =

Absolutely False to 7 = Absolutely True to indicate the degree to which the respondent identified with the statement.

### **Data Collection**

A letter of introduction to the study, an informed consent document, the questionnaire, the LSES instrument, and a stamped, addressed return envelope were mailed to the target group. After two weeks, an additional reminder postcard was mailed to encourage responses. In total, 66 women in the target population returned completed documents, resulting in a 28% response rate.

### **Data Analysis**

Data analysis involved two phases. In the first phase, data from the questionnaires were analyzed to determine distribution, frequency, and percent. Data from the questionnaires created a profile of female school board members. As well, the questionnaire probed for perceptions of school board service which contributed data for analysis. In the second phase, data from the LSES were analyzed by item and by dimension. To determine correlations between profile characteristics and leadership self-efficacy, the researcher found Pearson correlations and conducted one-way ANOVAs.

## **Results**

The results are reported in either table or narrative form. Demographic results concerning the type of community, the type of school district, and district enrollment where the board presidents served are reported. Illinois has three types of public school districts. They are Elementary, typically PreK through grade 8, High School, grades 9-12, and Unit, which are PreK through grade 12. Table 1 shows three sets of demographic results citing frequency and percent.

Table 1

*Demographic Results*

Type of Community	Number of female board presidents ( <i>n</i> = 66)	Percent of female board presidents
Large city—more than 50,000 population	6	9.1
Small city—less than 50,000 population	6	9.1
Suburban—near large city	29	43.9
Rural and small town	25	37.9
Total	66	100.0

  

Type of School District	Number of female board presidents ( <i>n</i> = 66)	Percent of female board presidents
Elementary	39	59.1
High School	6	9.1
Unit	19	28.8
Total	64	97.0
Missing	2	3.0
Total	66	100.0

  

District Enrollment	Number of female board presidents ( <i>n</i> = 66)	Percent of female board presidents
Less than 500 students	10	15.1
500 to 999 students	13	19.7
1000 to 2499 students	19	28.8
2500 to 4999 students	19	28.8
More than 5000 students	5	7.6
Total	66	100.0

Nearly a third (31.8%) of school board presidents had school-age children in the district where they served. A majority (98.5%) of the respondents were elected rather appointed to their board seats. Only 16.7% had held other publicly elected office. The mean number of years serving on a school board was 10.87 years with a minimum number of two years of service and a maximum number of 23 years. The mean number of years serving as school board president was 5.07 years with one year as the minimum and 20 years as the maximum.

Data concerning personal characteristics of these women were analyzed. A majority (87%) of the female board presidents were Caucasian with 9% identifying as African-American and 3% identifying as Hispanic. Ninety-one percent were married. Regarding their age, a majority (71.2%) were 50 years of age or older. Table 2 shows the education levels of the board presidents.

Table 2

*Level of Education*

Level of Education	Frequency	Percent
High School or Equivalent	2	3.0
Some College or Other Post-Secondary Education/Training	11	16.7
Four-year College Degree	25	37.9
Some Graduate Work or Advanced College Degree	28	42.4
Total	66	100.0

An open-ended question on the questionnaire asked participants to specify their occupation. Nearly one-third, 21 of the 66 respondents, currently hold or have retired from occupations associated with education. These positions include public school teacher, substitute teacher, paraprofessional, counselor, coordinator, director, assistant superintendent, and superintendent in private schools, charter schools, and institutions of higher education. Of the twenty-one, two were retired school district superintendents and one was a retired assistant superintendent. Seven respondents identified business and finance occupations; six respondents identified office and administrative support occupations; and five respondents identified themselves as a part-time or full-time homemaker or housewife, stay-at-home mom, or mom-at-home. One respondent indicated part-time occupations of farming and substitute teaching.

Reliability statistics are reported for the Leadership Self-Efficacy Scale (LSES) results. Cronbach's Alpha was determined for the entire scale and for each dimension of the scale. All items were found to be reasonably reliable. Table 3 reports these results.

Table 3

*Reliability of LSES*

Scale	Cronbach's Alpha	N of Items
Leadership Self-Efficacy Scale	.931	21
Dimensions	Cronbach's Alpha	N of Items
Starting and Leading Change Processes in Groups	.821	3
Choosing Effective Followers and Delegating Responsibilities	.851	4
Building and Managing Interpersonal Relationships within the Group	.666	3
Showing Self-awareness and Self-confidence	.835	5
Motivating People	.893	3
Gaining Consensus of Group Members	.726	3

Analysis of the distribution shows no evidence of the average variables being unusually skewed. Skewness ranged from  $-.825$  to  $.088$  with a standard error of skewness of  $.295$ .

The LSES responses to statements in each dimension were reported on a scale from 1 = Absolutely False to 7 = Absolutely True. Results for the total scale and for each dimension are reported in narrative including mean and standard deviation. The total LSES mean was  $5.67$  ( $n = 66$ ,  $SD = .64$ ). The mean for the dimension Starting and Leading Change Processes in Groups was  $5.01$  ( $n = 66$ ,  $SD = .98$ ). The mean for the dimension Choosing Effective Followers and Delegating Responsibilities was  $5.91$  ( $n = 66$ ,  $SD = .85$ ). The mean for the dimension Building and Managing Interpersonal Relationships within the Group was  $5.88$  ( $n = 66$ ,  $SD = .67$ ). The mean for the dimension Showing Self-awareness and Self-confidence was  $5.84$  ( $n = 66$ ,  $SD = .71$ ). The mean for the dimension Motivating People was  $5.60$  ( $n = 66$ ,  $SD = .90$ ). The mean for the dimension Gaining Consensus of Group Members was  $5.61$  ( $n = 66$ ,  $SD = .83$ ).

To investigate relationships between personal characteristics of school board presidents and LSES dimensions, Pearson's correlations were computed. The only LSES dimension that correlated significantly with number of years of board experience was Motivating People,  $r = .27$ ,  $p = .03$ . Years of experience as board president did not correlate significantly with any of the dimensions. Having children attending the district where the board president served correlated significantly with the dimension, Choosing Effective Followers and Delegating Responsibilities,  $r = .28$ ,  $p = .02$ . There was no significant effect in total LSES and women



board presidents who held other publicly elected offices and those who did not,  $F(1, 64) = 1.37$ ,  $p = .246$ .

To investigate group differences in LSES, a series of one-way ANOVAs was performed. There was a significant effect in total LSES and three variables that were specific to the communities and districts where they served. They were: the types of communities where the women served as board president,  $F(3, 62) = 4.59$ ,  $p = .006$ ; the size of the districts where the women served as board president,  $F(4, 61) = 3.44$ ,  $p = .013$ ; and the types of districts where the women served as board president,  $F(2, 61) = 3.45$ ,  $p = .038$ . Post hoc comparisons using the Tukey HSD test found significant effect in type of community and the LSES dimension Building and Managing Interpersonal Relationships within the Group,  $F(3, 62) = 2.02$ ,  $p = .002$  and the LSES dimension Showing Self-awareness and Self-confidence,  $F(3, 62) = 1.90$ ,  $p = .008$ . There was a significant effect in type of school district and the LSES dimensions Starting and leading Change Processes in Groups  $F(2, 61) = 2.84$ ,  $p = .050$  and the LSES dimension Building and Managing Interpersonal Relationships within the Group,  $F(2, 61) = 1.64$ ,  $p = .021$ . There was a significant effect in district enrollment and LSES dimension Choosing Effective Followers and Delegating Responsibilities,  $F(4, 61) = 2.12$ ,  $p = .015$  and LSES dimension Showing Self-awareness and Self-confidence,  $F(4, 61) = 1.39$ ,  $p = .022$ .

## Discussion

The participants in this study served as school board presidents throughout the state of Illinois. Their responses to survey items determined a personal profile of these school board presidents: Caucasian, over the age of 50, married, and have a college or advanced degree. Concerning their profile as school board presidents, these women served on school boards in medium-sized, elementary school districts with enrollments of 1000 to 5000 students in metropolitan areas. A majority of the school board presidents did not have school-age children attending school in the district where they served and had not held other publicly elected offices. They averaged nearly 11 years of total board service and a little over 5 years of service as board president.

The participants' responses to items on the LSES ranged from 1 = Absolutely False to 7 = Absolutely True on each of the 21 items. The dimension Choosing Effective Followers and Delegating Responsibilities had the highest mean among the dimensions, 5.90. This result may indicate the female board presidents know their board members' interests, knowledge, and skills enabling the board presidents to engage them in school improvement efforts. The dimension Starting and Leading Change Processes in Groups had the lowest mean among the dimensions, 5.01. This result may indicate the female board presidents perceive that they are not solely responsible for starting and leading change in the district as school district change includes the leadership of the superintendent. The Leadership Self-Efficacy Scale result for the group was 5.67. Overall, the respondents had moderately high perceived self-efficacy. Future research, interviews with school board presidents who participated in the study, can provide clarity to these results.

A limitation of this study may be that only female school board presidents with higher levels of perceived self-efficacy would respond. Further research, interviews with study participants, may define in greater detail individuals' perceptions of their self-efficacy.

This study is limited to the study of perceived leadership self-efficacy of female board presidents and does not include a study of the self-efficacy of males as school board presidents. There are several studies concerning gender differences and self-efficacy (Palladino, Grady,

Haar, & Perry, 2007; McCollum & Kajs, 2009) and gender differences and leadership (Lumby, 2013; Lopez-Afria, Garcia-Retamero, & Berrios Martos, 2012). This limitation suggests the need to replicate this study to determine the perceived leadership self-efficacy of male school board presidents.

### **Conclusion**

A recent publication *Vanishing School Boards* (Rice, 2014) asserts that while school boards are under siege, they are overlooking the opportunity to validate their existence as vital to positively impacting district achievement levels. The author devoted a chapter to describing "the interdependency role of the school board and superintendent" (p. 103) and cited specific actions this shared leadership team can take to effect student achievement. Recently, states have focused on mandated board training as a solution to achieving effective board governance, greater accountability, and student achievement. Locally, districts should look to their board members for the level of leadership self-efficacy necessary to secure these achievements. This study's findings report the perceived self-efficacy of female school board presidents in Illinois, providing an understanding of how the self-efficacy of the board president may be leveraged to achieve school district goals. The self-efficacy of the school board president is essential in successfully fulfilling the role, responsibilities, and relationships of the presidency that balance the interests and actions of the superintendent with those of the school board members. The board president's self-efficacy is the point of balance for achieving shared leadership in a school district. By bringing knowledge of board practice, experience in board/superintendent relationships, and a belief of being capable of developing effective shared leadership, the school board president with a high level of leadership self-efficacy can be a defining factor in a school district's success.

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