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# Forging New Partnerships: Teacher Unions and Educational Reform in the 90s

David S. Doty\*

## I. INTRODUCTION

The status of America's schools is an issue of major concern across the United States.<sup>1</sup> Spurred by *A Nation at Risk*,<sup>2</sup> citizens and educators joined forces a decade ago to attempt unprecedented, far-reaching changes in public education. Unfortunately, actual improvement has been minimal. Although student performance standards have risen and financial support for education has increased, much of what happens in American classrooms remains unchanged.<sup>3</sup> In order to effect meaningful change in public education, a new direction must be taken, one which focuses not on top-down mandates but on the expertise and experience of teachers.

This paper focuses specifically on site-based management initiatives and the role local teacher associations should take in

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1. *Charting a Course for Reform*, in FROM RISK TO RENEWAL (EDUC. WEEK Special Report), EDUC. WEEK, Feb. 10, 1993, at 4. ("Never before has the nation carried on such a sustained and serious dialogue about educational renewal.")

2. THE NATIONAL COMMISSION ON EXCELLENCE IN EDUCATION, UNITED STATES DEPARTMENT OF EDUCATION, A NATION AT RISK: THE IMPERATIVE FOR EDUCATIONAL REFORM (1983).

3. Since the National Commission on Excellence in Education issued its report in 1983, spending for K-12 education has gone up 40 percent in inflation-adjusted dollars. . . .

By the end of the 1980's, virtually every state had acted to impose the higher standards called for by the commission. Forty-two states had raised high school graduation requirements. Nearly every state had instituted a student-testing program. Three-fourths of high schools reported stricter attendance standards. And 70 percent set academic standards for athletics and extracurricular activities.

But all of these efforts, however well intentioned, have scarcely touched the classroom. As a new century nears, our schools seem firmly anchored in the old.

*Id.* at 3.

developing the policies surrounding these initiatives. If substantive reform is ever to take place at the classroom level, teachers must play a key role, one that allows them to have full participation in the workplace, not simply token decision-making power that only serves bureaucratic convenience. Yet while teacher unions should actively promote increased teacher participation, they should not let popular reform projects undermine teacher protections embodied in collective bargaining agreements. Reform initiatives, many of which give increased responsibility and incentives to individual teachers, must not compromise the unions' mission of protecting the terms and conditions of employment for the entire community of teachers.

Part II of this paper discusses the current trend toward site-based management and the problems this trend poses for teachers. Part III examines changing approaches to collective bargaining. Although not a substitute for formal collective bargaining, "collaborative bargaining" outside the sphere of formal negotiations may be a first step toward reaching binding agreement on participatory management issues. Part IV considers how conflicting values of individual participation and protection of community interests affect teacher hiring and transfer policies. Part V concludes that by properly advocating educational reform, in a manner that both promotes meaningful change and recognizes the community interests of teachers, teacher unions can be true agents for change in the fight for better public schools.

## II. BARRIERS TO SITE-BASED MANAGEMENT

Over the past forty years, there has been a dramatic increase in both state and national control of public schools, with a corresponding decrease in local control.<sup>4</sup> The surge in state control has been especially strong due to public pressure for reform and the "new federalism" policies of the Reagan and Bush administrations.<sup>5</sup> However, in an attempt to make schools more responsive to communities<sup>6</sup> and improve the

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4. Charles F. Faber, *Is Local Control of the Schools Still a Viable Option?*, 14 HARV. J.L. & PUB. POL'Y 447, 456 (1991).

5. See *Id.* "New federalism" refers to the efforts of Presidents Reagan and Bush to reduce federal involvement and control over matters traditionally within the realm of state governments.

6. *Id.* at 469.

educational process,<sup>7</sup> many school districts are beginning to transfer authority to local schools under a system called site-based or school-based management.

The reasoning behind this trend is that the complex problems facing schools are "best handled where and when instruction occurs."<sup>8</sup> In addition, proponents of site-based management view it as a concrete way to improve the terms and conditions of teachers' employment. The idea is that as teachers come to be treated as "professional partners" instead of hired servants, they will be more satisfied with their jobs and be more productive.<sup>9</sup> Teacher unions, however, have been reluctant to endorse employee involvement initiatives for the following reasons.

#### A. *Participatory Management as a Token Gesture*

While active employee participation can result in a variety of positive outcomes,<sup>10</sup> the inclusion of employees in decision making does not automatically improve the success of an enterprise.<sup>11</sup> Participatory schemes often fail when employees are given the trappings of authority but not the power to set their own agenda and act conclusively thereon.<sup>12</sup>

Failed participatory schemes have been common in public education. Several studies have concluded that teachers often feel that participation is nothing more than a "manipulative tool" devoid of any real meaning.<sup>13</sup> According to one national survey, teachers felt that "previous participation afforded them little real influence and hence increased their skepticism. Nonetheless, they thought they should be more involved in school and district decision making, especially with respect to

7. NATIONAL EDUCATION ASSOCIATION, *EMPLOYEE PARTICIPATION PROGRAMS: CONSIDERATIONS FOR THE SCHOOL SITE* 22-23 (1988) (noting that site-based decision-making programs foster collegiality, and the resulting reduction of teacher isolation increases educational effectiveness).

8. JEROME M. ROSOW & ROBERT ZAGER, *ALLIES IN EDUCATIONAL REFORM* 147 (1989).

9. Elizabeth Steinberger, *Teachers Unions Handling Tricky Turns On the Road to Reform*, *THE SCHOOL ADMINISTRATOR*, Sept. 1990, at 26-27.

10. Sharon C. Conley et al., *Teacher Participation in the Management of School Systems*, 90 *TEACHERS COLLEGE RECORD*, 259, 260 (1988).

11. *Id.*

12. *Id.*

13. *Id.* at 261.

issues directly affecting their immediate teaching responsibilities."<sup>14</sup>

A good example of this dilemma is the use of quality circles in public schools.<sup>15</sup> Designed to give teachers the opportunity to have meaningful input into the decisions affecting their workplace, quality circles have not met with overwhelming approval. First, teachers have protested that circle proposals are not taken seriously and administrators often delay implementation of the proposals.<sup>16</sup> Second, teachers complain that quality circles "lack an explicit and ongoing purpose,"<sup>17</sup> and that the circles do not represent a legitimate long-term solution to the lack of teacher decision making. Finally, because they are usually imposed by management, quality circles are often perceived by teachers as only one more token gesture by management meant to appease, not actively involve, them.<sup>18</sup>

### B. *The Down Side of Administration*

A second reason that site-based management programs have met with resistance from unions is that while it is plausible to view teachers as managers,<sup>19</sup> the reality is that many teachers do not want to be managers, at least as managers are traditionally defined.<sup>20</sup> Even the most reform-minded teachers have expressed doubt with respect to the benefits of becoming

14. *Id.*

15. Quality circles have been defined as:

A small group of between three and twelve people who do the same or similar work, voluntarily meeting together regularly for about an hour per week in paid time, usually under the leadership of their own supervisor, and trained to identify, analyze, and solve some of the problems in their work, presenting solutions to management, and where possible, implementing the solutions themselves.

*Id.* at 269.

16. *Id.* at 270.

17. *Id.*

18. *Id.*

19. Samuel B. Bacharach et al., *School Management and Teacher Unions: The Capacity for Cooperation in an Age of Reform*, 91 *TEACHERS COLLEGE RECORD* 97, 102 (1989).

20. For example, "[a]lthough 97 percent of classroom teachers believe that teachers should be involved in the selection of texts, less than half believe that teachers should be involved in peer review (31 percent), the selection of new principals (42 percent), or decisions about school-level budget allocations (39 percent)." LORRAINE M. McDONNELL & ANTHONY PASCAL, *TEACHER UNIONS AND EDUCATIONAL REFORM* 55-56 (1988) (citing METROPOLITAN LIFE INSURANCE COMPANY, *THE METROPOLITAN SURVEY OF THE AMERICAN TEACHER* 1986 (1987)).

quasi-administrators. Teachers do not want to waste time performing administrative tasks, particularly when such tasks are viewed as unproductive.<sup>21</sup> For example, consider the following description of teachers at Central Park East Secondary School in New York City, the site of a groundbreaking reform effort:

[T]hey did not want the same kind of information and control over budget and resources that [the principals] had, because they did not want to take the time to deal with the complexities, the politics, and the work. They clearly did want to continue their role in policy making, but not with the same detailed responsibility for implementation that the principal had.<sup>22</sup>

### *C. Egalitarian Norms of Teachers and the Collective Bargaining Agreement*

Finally, unions have opposed giving teachers more administrative responsibilities because of the threat such a shift poses to egalitarian values held by teachers as a group and to the protections embodied in collective bargaining agreements. On one hand, unions recognize that without proper incentives, site based management initiatives will flounder because teachers will not assume more work for the same pay.<sup>23</sup> On the other hand, unions have largely rejected attempts to pay individual teachers more for assuming managerial responsibilities on grounds that providing "managerial teachers" higher salaries violates egalitarian norms held by teachers as a community.<sup>24</sup> From the unions' perspective, even partial movement out of the classroom to take on administrative duties as a reward for good teaching is intolerable. Therefore, unions argue that all teachers should be given the opportunity to share in school governance, not just a select group of quasi-administrators.<sup>25</sup>

One way that unions assert the participation rights of all teachers is through collective bargaining. While critics argue that teacher unions are interested only in prescribing narrow

21. See, e.g., Steinberger, *supra* note 9, at 27 (noting that in Chicago, some teachers are complaining about the number, length, content, and quality of local school council meetings).

22. ROSOW & ZAGER, *supra* note 8, at 239.

23. See Ann Bradley, *School Reforms Bump Up Against Unions' Most Cherished Protections*, EDUC. WEEK, Dec. 9, 1992, at 1.

24. Conley, *supra* note 10, at 274-75.

25. *Id.* at 275.

rules governing the workplace,<sup>26</sup> in truth, the underlying purpose of collective bargaining is to secure fair treatment for all teachers.<sup>27</sup> Therefore, unions are wary of site-based management programs because of the possibility that these programs will undermine collective bargaining processes.<sup>28</sup> Unions are worried that school-based management programs will fracture the bargaining unit and replace collective bargaining with a new form of labor-management relations unable to adequately protect teachers.<sup>29</sup>

### III. THE RELATIONSHIP BETWEEN COLLECTIVE BARGAINING AND "COLLABORATIVE" ALTERNATIVES

The role of collective bargaining in education has been sharply criticized in recent years as being antagonistic to constructive school reform.<sup>30</sup> This criticism has focused on two elements. First, the charge is made that collective bargaining creates an adversarial relationship between school boards, administrators, and teachers that discourages the cooperation

26. Typical of this attitude are the remarks of Steven F. Wilson, co-director of the Pioneer Institute for Public Policy Research in Boston, who writes: "The teachers' union demeans its own membership by insisting that everything about the workplace be prescribed, from the length of lunch breaks, to the length and schedule of the workday, to the maximum number of minutes per week that teachers are permitted to meet with one another." Bradley, *supra* note 23, at 16.

27. One author, after reviewing the collective bargaining agreements of several school districts, concluded: "Teachers wanted contracts that were protective but not prescriptive. As a group, they reported seeking negotiated agreements that ensured sufficient autonomy in their work, reasonable demands on their time, equitable treatment, and protection against abuse. They explicitly did not expect to run their schools." SUSAN MOORE JOHNSON, *TEACHER UNIONS IN SCHOOLS* 175 (1984).

28. *EMPLOYEE PARTICIPATION PROGRAMS*, *supra* note 7, at 24.

29. *Id.*

30. See, e.g., *The Struggle to Reform and Why It's Failing*, THE SCHOOL ADMINISTRATOR, Feb. 1991, at 16, 17 (reviewing THOMAS TOCH, *IN THE NAME OF EXCELLENCE* (1991)) (noting that despite the wave of new initiatives in teaching, "union-backed impediments to teaching reform—seniority, the single salary schedule, traditional state licensing laws, rigid distinctions between 'labor' and 'management' in schools—remain in place in the vast majority of the nation's school systems"); James H. VanSciver, *Teacher Dismissals*, PHI DELTA KAPPAN, Dec. 1990, at 318-19 (arguing that teacher dismissals are essential to meaningful school reform but that termination processes are nearly guaranteed failure due to "pressure from teacher unions and restrictive negotiated agreements"); Myron Lieberman, *Educational Reform and Teacher Bargaining*, GOV'T UNION REV., Winter 1984, at 54 ("public sector bargaining poses insuperable obstacles to the educational reform movement"); Myron Lieberman, *Here's Why the Key Recommendations of the Excellence Commission Never Will Become Reality in Most Local School Systems*, THE AM. SCH. BOARD J., Feb. 1984, at 32 ("teacher bargaining as we know it will thwart most attempts at reform").

necessary to improve schools' performance.<sup>31</sup> Second, it is claimed that teacher unions use collective bargaining for narrow and self-serving interests which impede the development of innovative educational policies.<sup>32</sup> Although collective bargaining still retains a critical role in the educational setting,<sup>33</sup> teacher unions should explore alternative methods of bargaining. Union willingness to depart, at least initially, from formal negotiations may increase the success of traditional bargaining and secure more direct participation by teachers in the decision making process.

#### A. *Two Potential Alternatives to Positional Bargaining*

While several avenues exist whereby unions might deal with management in a less formal and less confrontational manner than traditional collective bargaining,<sup>34</sup> two of the most promising for teachers will be examined in the following discussion.

##### 1. *Binding arbitration.*

Teacher unions have been largely unsuccessful in their efforts to improve the workplace for teachers through conventional collective bargaining. Consequently, they have vigorously petitioned state legislatures to recognize the right to strike or to codify the right to binding arbitration.<sup>35</sup> Unfortunately, as with the right to strike, binding arbitration has met with substantial political opposition.<sup>36</sup> Most of the resistance to arbi-

31. See Bacharach, *supra* note 19, at 98; Kendrick Scott, *The Case Against Collective Bargaining in Education*, GOV'T UNION REV., Spring 1982, at 16.

32. Susan Moore Johnson, *Can Schools Be Reformed at the Bargaining Table?*, 89 TEACHERS COLLEGE RECORD 269, 271 (1987); ROSOW & ZAGER, *supra* note 8, at 20 (noting that public opinion has viewed teacher unions' obsession with the "bread and butter" issues of higher wages and better benefits as a major obstacle to urban educational reform).

33. See *infra* notes 64-100 and accompanying text.

34. See generally, NATIONAL EDUCATION ASSOCIATION, COLLECTIVE BARGAINING: A CRITICAL APPRAISAL (1991).

35. Michael Finch & Trevor W. Nagel, *Collective Bargaining in the Public Schools: Reassessing Labor Policy in an Era of Reform*, 1984 WIS. L. REV. 1573, 1626 (1984).

36. *Id.* at 1627. Consider also the situation in Utah schools. The collective bargaining agreement governing Davis County, Utah, teachers contains a clause providing for mandatory binding arbitration upon impasse. However, a bill proposed in the 1993 Utah State Legislature to make such a provision state law was defeated by a vocal group of rural superintendents who were worried about "losing control." Interview with Mr. Vik Arnold, President, Davis Education Association, Janu-

tration is centered on the perception that arbitrators will hasten the loss of local control that is alleged to already have occurred under collective bargaining.<sup>37</sup> Yet the reality is that binding arbitration could have exactly the opposite effect.

First, arbitration can resolve conflict in a much less hostile and disruptive manner than a strike. By channelling labor disagreements into a process designed to encourage "best offers" and settlement, binding arbitration forces both teachers and management to be realistic in their demands. It also provides incentives for collaboration; both sides must compromise or risk having a decision imposed on them by an "outsider."<sup>38</sup> Ideally, an arbitrator is rarely employed;<sup>39</sup> binding arbitration actually encourages voluntary settlement of localized disputes by creating the threat of outside intervention.<sup>40</sup>

Second, there is evidence that arbitration can have an inflationary impact on teacher salary levels.<sup>41</sup> If teacher salaries were to increase through arbitration at least to the point where they were comparable to other salaries in the labor market,<sup>42</sup> teachers would perhaps be more willing to assume additional responsibilities in local site-based management initiatives. By raising teachers' pay, binding arbitration could facilitate teachers' active endorsement of the reforms many argue are necessary to increase teacher professionalism.<sup>43</sup>

Finally, binding arbitration has the potential to increase the success of the most local of procedures, i.e., collective bargaining itself. The procedure of submitting disputes to a neutral third party for his or her independent judgment on the

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ary, 1993.

37. *Id.*

38. *Id.* at 1628-29.

39. *Id.* at 1629.

40. *Id.* at 1630.

41. *Id.* at 1631-47.

42. *Id.* at 1632 (noting that because statutory criteria usually direct arbitrators to examine "comparable" salaries in the labor market, "one would expect that the lowest paid employees could invoke or threaten to invoke arbitration to achieve some equalization of salaries with better-paid employees").

43. MCDONNELL & PASCAL, *supra* note 20, at 55. According to McDonnell & Pascal,

[n]ot only are provisions such as those regulating class size regarded by teacher unions as basic bread-and-butter items that need to be attained before the unions seek provisions establishing more professional teaching conditions, some of these bread-and-butter items also constitute the enabling conditions that support a more professional teaching environment.

*Id.* n.1.

merits not only promotes peaceful settlement but also establishes precedent.<sup>44</sup> Knowing that this precedent will weigh heavily in the outcome of future disputes, a party can exert significant bargaining leverage by threatening to invoke arbitration when a conflict arises.<sup>45</sup> Consequently, "the outcomes of arbitration proceedings can have dramatic effect on non-arbitrated outcomes."<sup>46</sup> The specter of arbitration could play a large role in reducing the intransigent positions and deadlocks that often arise in public school collective bargaining.

## 2. *Educational Policy Trust Agreements*

A second alternative to conventional bargaining that has the potential both to enhance collective bargaining and to increase the direct participation of teachers in school decision making is the Educational Policy Trust Agreement. In one interesting study, two researchers found that "in virtually every case in which unions and management had explicitly and intentionally tried to solve educational problems they did so outside of the contract."<sup>47</sup> Therefore, they designed a new form of agreement that would build upon, not replace, negotiated teacher contracts, and that would "allow labor and management to negotiate and reach accord on organizational goals and policies."<sup>48</sup> The procedures involved in reaching the agreement are relatively simple<sup>49</sup> and the end product is a written com-

44. Finch & Nagel, *supra* note 35, at 1630.

45. *Id.*

46. *Id.*

47. CHARLES TAYLOR KERCHNER & DOUGLAS E. MITCHELL, *THE CHANGING IDEA OF A TEACHERS' UNION* 247 (1988).

48. *Id.*

49. *COLLECTIVE BARGAINING: A CRITICAL APPRAISAL*, *supra* note 34, at 27. The National Educational Association describes the process this way:

The way trust agreements work is fairly straightforward. They do not require that specific subjects be discussed. Instead, the local education employee organization and district select the area that will be addressed by the trust agreement. Each party establishes a trust agreement team to craft the agreement. The guidelines from the Trust Agreement Project request only that neither party bring an outsider (specifically a labor attorney) to the table and that management include at least one principal among its team members.

*Id.* (citing JULIA E. KOPPICH & CHARLES T. KERCHNER, *EDUCATIONAL POLICY TRUST AGREEMENTS: CONNECTING LABOR RELATIONS AND SCHOOL REFORM, A REPORT ON YEAR TWO OF THE TRUST AGREEMENT PROJECT* (1990)).

pact between the school district and its teachers that gives teachers extensive authority over school policy matters.<sup>50</sup>

Trust agreements work to the benefit of individual teachers and collective bargaining procedures in a number of ways. With respect to teachers, the primary advantage trust agreements present is that they provide teachers with an opportunity to participate directly in educational policy making without the negative effects of conventional employee involvement (EI) programs.<sup>51</sup> It is argued that teacher unions adhering to industrial-union principles are now incompatible with public education, particularly because they focus bargaining on narrow rules of employment rather than on educational policies that have the most significant long-term impact on the workplace of teachers.<sup>52</sup> Indeed, scholars recognize that while industrial-mode collective bargaining has accomplished much good for employees in all settings, "it has given workers only a very limited voice in the operation of the firm."<sup>53</sup> Stating that it is time for a change, one author has noted:

[I]t is clear that more and more American workers want something beyond just a package of rights and benefits in return for agreeing to do what they are told. Employees also want the chance to exercise their own judgment about the work they are doing; they want to face the challenge of making a difference in the quality of their services and the success of the enterprise.<sup>54</sup>

Trust agreements address this concept for teachers, enabling them to design and implement such central educational policies as "curriculum development, instructional goals, the assignment of students or teachers, the substance of evaluation, and the bases for discipline and discharge of unprofessional teachers."<sup>55</sup> Interestingly, whereas conventional EI initiatives<sup>56</sup> automatically assume that management will imple-

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50. *Id.*

51. Regarding the negative characteristics of management-initiated employee involvement programs, see generally Conley et al., *supra* note 10, at 268-75; PAUL C. WEILER, *GOVERNING THE WORKPLACE* 205-211 (1990).

52. Bacharach et al., *supra* note 19, at 102.

53. WEILER, *supra* note 51, at 219.

54. *Id.*

55. KERCHNER & MITCHELL, *supra* note 47, at 247.

56. WEILER, *supra* note 51, at 206 (noting that an employee involvement program (EIP) "is almost invariably created by the employer. Management originates the idea, drafts the working document and the constitution, if there is one, ex-

ment their terms,<sup>57</sup> a properly designed trust agreement would empower teachers themselves to carry out its provisions.<sup>58</sup> Thus, trust agreements would go a long way in resolving the tension "between the goal of enlarging workers' influence over what happens to them in their daily lives on the job and the delegation of the representation role to a large external union organization, in which the individual member or local unit has only limited influence."<sup>59</sup>

With respect to collective bargaining, trust agreements are needed supplements,<sup>60</sup> because they help to establish a solid relationship of trust between labor and management. While trust agreements may not be legally binding in the same fashion as collective bargaining agreements,<sup>61</sup> they have the capacity to influence formal negotiations that do result in legally enforceable documents.<sup>62</sup> Certainly if an atmosphere of creative risk-sharing and problem-solving<sup>63</sup> is developed through trust agreement processes, both teachers and management will be more willing to make binding commitments on educational policy issues in collective bargaining agreements.

### B. *The Continued Importance of Strong Teacher Unions and Traditional Collective Bargaining*

Collaboration between teachers and management outside the formal bargaining process appears to play a critical role both in promoting more individual participation by teachers in school policy decisions and in encouraging better la-

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plains the EIP's purpose, and *modus operandi*, and provides the facilities and resources needed for its operation.").

57. KERCHNER & MITCHELL, *supra* note 47, at 250.

58. *Id.*

59. WEILER, *supra* note 51, at 221.

60. COLLECTIVE BARGAINING: A CRITICAL APPRAISAL, *supra* note 34, at 27.

61. The creators of the trust agreement concept propose that the agreement, if undermined by unworkable provisions or by the parties' bad faith, would be enforceable by an adjudicatory body. However, they suggest that such an adjudicatory body would not be a court, but rather a permanent umpire named in advance by the

two parties. KERCHNER & MITCHELL, *supra* note 47, at 251.

62. See Johnson, *supra* note 32, at 274 (noting that successful reform initiatives arise from collective bargaining when the negotiators "are trusting colleagues, not suspicious strangers").

63. *Id.* (noting that local districts that have made progress with school reform have done so not by a process of conventional, bilateral bargaining, but through efforts "to create mutual gain, to promote problem solving, and to encourage compromise").

bor/management relations.<sup>64</sup> However, the essential role of collective bargaining itself in school reform efforts should not be overlooked by either side, for it is bargaining that validates and solidifies the changes being sought.

There are certainly compelling arguments to be made for changing the conventional bargaining tactics used by educators.<sup>65</sup> In fact, several scholars advocate a complete overhaul of teacher union methods that would move away from "industrial" unionism in favor of more cooperative strategies.<sup>66</sup> Yet "tough" unionism and "hard" bargaining still have a legitimate place in education; it is arguable that without such an aggressive approach by teacher unions, teacher protections will be eroded and meaningful participation will drown under the tidal wave of reform initiatives. It is necessary for unions to maintain at least some degree of spirited self-interest and firmness in order for teachers to be true agents for change in educational policy making.

### 1. *Confrontational bargaining is essential to reform.*

Many policymakers and educators are of the opinion that teacher unions are inherently adversarial and necessarily opposed to any efforts made to improve the performance and participation of teachers.<sup>67</sup> Such opinion may influence, at least indirectly, the behavior of unions; if unions act in conformity with expectations, they may adamantly oppose change and innovation with respect to school policy.<sup>68</sup> Yet it would be

64. See Finch & Nagel, *supra* note 35, at 1657 ("The potential of teacher bargaining as a tool for reform, if any, depends on adoption of alternative bargaining strategies").

65. See Johnson, *supra* note 32, at 275 (discussing the popular concept of "principled negotiations" developed by Fisher & Ury, which encourages negotiators to "focus on interests, not positions"); WILLIAM G. WEBSTER, SR., EFFECTIVE COLLECTIVE BARGAINING IN PUBLIC EDUCATION 36-37 (1985) (noting that teacher unions should abandon the private sector model of bargaining and involve parents and citizens in collective bargaining).

66. See WEILER, *supra* note 51, at 218-223 (advocating a move away from traditional industrial unionism toward "enterprise unionism; "it is undeniably characteristic of [industrial-style] union representation that although the process may well be achieving many good things for workers, it is not doing so *through* the workers"); KERCHNER & MITCHELL, *supra* note 47, at 232 (proposing a shift from industrial unionism to "professional unionism," which would "give first priority to formulating appropriate teacher job definitions and supporting the development of a productive work culture").

67. Bacharach et. al., *supra* note 19, at 97-98.

68. *Id.* at 98.

a myth to assume that current efforts to increase teacher participation through a new regime of "collaborative" bargaining will result in labor-management relations that are particularly cooperative and nonconfrontational.<sup>69</sup> At the same time, it would be inaccurate to claim that a surge of "new bargaining," based on informal, cooperative rendezvous between teachers and management, will automatically bring about substantial school reform.<sup>70</sup>

A better view is that collective bargaining does not generate conflict, but rather reveals it in a forum specially suited for securing its resolution.<sup>71</sup> As one scholar has explained, "[o]ne of the most distinctive features of collective bargaining is that it combines elements of conflict and cooperation, providing incentives for the parties to cooperate by posing conflict as an alternative."<sup>72</sup> Differences between teachers and management, both as to priorities and policies, should not be discouraged, but encouraged through the collective bargaining process.<sup>73</sup> Not only does collective bargaining validate the existence of teachers' perspective and expertise, but by juxtaposing differences it provides an avenue whereby these differences may become the "source of interdependence and accommodation."<sup>74</sup> This interdependence, in turn, is highly consistent with notions of local control that are behind school-based management programs.<sup>75</sup>

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69. *Id.*

70. *Id.* (explaining that to suggest that the move toward "participatory bargaining" will result in especially cooperative and nonconfrontational relations in public education is misleading; "[t]o the extent that it may generate expectations of labor-management harmony that are impossible to satisfy, the suggestion may even discourage the gutsy experimentation and tolerance for disagreement that are necessary for reconstruction to occur").

71. *Id.*

72. *Id.*

73. *Id.* at 104.

74. *Id.*

75. See *supra* notes 4-8 and accompanying text.

2. *Collective bargaining fosters democracy and professionalism.*

Besides fostering cooperation through conflict,<sup>76</sup> collective bargaining also plays a direct role in providing individual employees with an opportunity to be active participants in the management of an enterprise. Critics have argued that participatory norms valued by employees are effectively quashed by the process of collective bargaining as it now exists.<sup>77</sup> In reality, however, unionized employees are often very involved in the decisions affecting their workplace.<sup>78</sup> As teachers learn to be participants within the bargaining process itself, there is hope that they will be accepted much more readily into the arena of school policy making,<sup>79</sup> long the sole prerogative of management.<sup>80</sup>

Moreover, collective bargaining is consistent with notions of teacher "professionalism." Certainly the push by teacher unions for things such as higher salaries and reduced work loads demonstrates a substantial degree of professional self-interest.<sup>81</sup> However, these professional goals of teachers are not antithetical to the goals of education reform. In fact, the goals of teachers and the goals of the educational system are often parallel, if not closely connected.<sup>82</sup>

76. See *supra* note 8 at 99 (noting that "[t]hose who are prepared to look beyond the messiness of the [collective bargaining] process . . . can hardly dismiss the fundamentally 'cooperative' nature of an arrangement that encourages self-interested parties to search for ways of accommodating each other's concerns").

77. WEILER, *supra* note 51, at 30.

78. *Id.* Explaining this involvement, Weiler notes that

there is a substantial degree of worker involvement in union elections, especially at the local level: the employees' views are taken into account in framing the bargaining agenda, the members vote on whether to strike or to ratify a settlement, and once the contract is in effect the local membership plays a major role in deciding whether particular cases are worth pursuing up the grievance arbitration ladder. Indeed, . . . most unionized workers take a good deal more personal responsibility for their representation in and the results of their collective bargaining process than they do as citizens in the outside political process.

*Id.*

79. Finch & Nagel, *supra* note 35, at 1667 (noting that "[i]n the final analysis, the contribution of collective bargaining to school personnel relations may come not from its generation of rules, but from its expansion of the non-contractual role of teachers in school policy making").

80. *Id.* at 1665-66.

81. *Id.* at 1664.

82. *Id.*

3. *Collective bargaining legitimizes "employee involvement programs" and fosters a "team" approach.*

There are undoubtedly several advantages to "collaborative" negotiations outside formal collective bargaining processes. In addition to those already mentioned,<sup>83</sup> the National Education Association (NEA) has noted that potential benefits of collaborative bargaining include: (1) its support of the use of collective bargaining as a vehicle for education reform, (2) its potential to improve public confidence in the system, (3) its potential to improve local associations' relationships with districts, (4) its encouragement of creative solutions to difficult problems, and (5) its role in the development of long-term vision.<sup>84</sup> Yet "collaborative" methods also pose at least three significant problems for teachers, all of which can be minimized by conventional collective bargaining.

First, a primary danger of collaborative, participatory approaches is that they can lead to the failure of the union to appropriately deal with member interests.<sup>85</sup> This failure results from the fact that teacher participation schemes, like the Educational Policy Trust Agreement, tend to stray beyond the bounds of policy making and enter into areas covered by the collective bargaining agreement.<sup>86</sup> When conflicts arise between the trust agreement and the contract, both sides may negotiate a change in the contract or waive individual contract provisions,<sup>87</sup> resulting in the loss of contractual teacher protections. If by doing so, unions compromise important terms and conditions of teachers' employment such as compensation and seniority, teachers may feel deserted. When teachers view the collective bargaining agreement as nothing but an empty shell, their faith in the system will be destroyed and they will be unwilling to participate in any form of school-based management.

Second, teacher participatory management schemes have the potential to fracture the bargaining unit and create serious hostility in the workplace.<sup>88</sup> Practical reality dictates that when union facilitators in charge of school-based management

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83. See *supra* discussion Part III.

84. COLLECTIVE BARGAINING: A CRITICAL APPRAISAL, *supra* note 34, at 33-34.

85. *Id.* at 32.

86. *Id.* at 30.

87. *Id.*

88. See EMPLOYEE PARTICIPATION PROGRAMS, *supra* note 7, at 24.

programs continually have to lobby the administration for financial support, and when most training is conducted by the administration, the union facilitators themselves will often begin to think and act like administrators.<sup>89</sup> This development causes division between union members integrally involved in site-based management and union members concerned with implementing the contract and handling grievances.<sup>90</sup>

Collective bargaining, on the other hand, emphasizes team building and recognizes the unique roles belonging to each educator in the system.<sup>91</sup> By properly and clearly separating the roles of teachers and managers, collective bargaining can structure site based management in a way that allows active teacher participation in policy making but that leaves true administrative duties with administrators.<sup>92</sup> In short, collective bargaining fosters confidence and trust among all parties in a site-based management program. As a Transportation Communications Union official, speaking on Quality of Work Life programs, stated:

Through the use of the collective bargaining tool, we feel we can set the stage for success in the use of Quality of Work Life programs. We want to help and to participate, but only if we can know and trust our partners. Again, this means coming to an agreement through the bargaining process. Agreements that clearly spell out the formation of such committees, their purpose, their duration, methods of evaluation, and if successful, how the rewards of that success will be shared by the parties involved.<sup>93</sup>

Third and most importantly, because of their non-binding status, participatory management programs may not represent meaningful, permanent solutions to the lack of teacher deci-

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89. *Id.*

90. *Id.*

91. See WEILER, *supra* note 51, at 150 (suggesting that the goal of "creating a cooperative, complementary team of employees helps explain, then, not simply the development of *rules* which limit supervisory arbitrariness to preserve morale, but also the *content* of such widespread standards as seniority in the allocation of positions, and pay systems that evaluate the job, not the person").

92. See Finch & Nagel, *supra* note 35, at 1668 ("Needed is some equilibrium between the rightful influence of professional educators and the imperative that the schools be managed. Collective bargaining may be an imperfect means of reaching that equilibrium, but it holds greater promise than the managerial traditions it replaces").

93. EMPLOYEE PARTICIPATION PROGRAMS, *supra* note 7, at 21.

sion-making involvement. Even though the creators of the Educational Policy Trust Agreement concept envision a type of binding compact,<sup>94</sup> the fact is that trust agreements differ from collective bargaining in that they are morally, but not legally binding.<sup>95</sup> Therefore, even if teachers are empowered through the agreement to help make school policies, implementation of their proposals may be frustrated if a revenue shortfall or other unexpected problem arises.<sup>96</sup> Collective bargaining by an independent union is necessary to secure the contractual right to teacher participation<sup>97</sup> and to secure the implementation of agreements reached by means of such participation.<sup>98</sup>

#### 4. *Independent unions provide stability.*

Finally, with respect to radical reform efforts, teacher unions may represent the only stability school districts have.<sup>99</sup> With the public outcry for change in education, many people are proposing drastic overhauls that could not only seriously undermine important terms and conditions of teachers' employment, but that also represent ineffective "quick-fix" schemes. Commenting on this situation, one author has noted:

Teachers . . . have been accused of sacrificing the betterment of schools to their own narrow, selfish ends, such as better pay and benefits. Other evidence exists that unions are perhaps the only major hope for children, since the "producers" of education are among the few large, powerful, organized forces that fight regularly for more resources and better working conditions in education. Parents, the consumers of education, are becoming more active in "choice" schemes for selecting a school for their children but are limited by their

94. See *supra* note 61 and accompanying text.

95. COLLECTIVE BARGAINING: A CRITICAL PROPOSAL, *supra* note 34, at 30.

96. *Id.*

97. WEILER, *supra* note 51, at 219-20.

98. According to Weiler,

the tacit assumption of the collective bargaining process is that the workers, through the union, will deal with management and the shareholders on a somewhat more equal plane with respect to the employment relationship. Rather than workers simply making suggestions for management's approval, the union aspires to something closer to bilateral governance of the workplace, the product of which will be legal entitlements for the employees.

*Id.* at 209.

99. Bradley, *supra* note 23, at 17.

short-lived interest in education and their lack of organized power.<sup>100</sup>

Consequently, teacher unions are capable not only of providing the impetus for reform, but also of providing the staying power necessary for effective reform measures to succeed.

#### IV. SITE-BASED MANAGEMENT AND PERSONNEL PRACTICES: AN APPLICATION

A practical way of examining how the principles discussed in this paper might work to the benefit of educators is to view them in the context of school district personnel practices. Arguably at the crux of any effective reform effort, the hiring and assignment of teachers and principals is a hot issue.<sup>101</sup> This section explores the conflicts of interest that arise when personnel practices are altered and suggests a possible win/win process for reconciling these conflicts. By utilizing both innovative collaborative processes as well as traditional collective bargaining, teacher unions can drive changes in personnel practices that will lead the way in school reform.

##### A. *Developing an Educational Policy Trust Agreement*

The first step in the process of changing personnel practices would be the development of a trust agreement addressing the concept of site-based management and teacher participation therein. This trust agreement would serve two purposes. First, it would be a mechanism whereby more individual teachers could be involved in the first stages of policy making. Even before they become active participants in local school-site decision making, teachers should have the opportunity, on a more significant basis than the current system of joint labor/management committees, to discuss and decide important matters of policy. Second, it would lay the groundwork for a collective bargaining agreement appropriately protective of the

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100. LABOR RELATIONS IN EDUCATION 333 (Bruce S. Cooper ed., 1992).

101. Bradley, *supra* note 23, at 16. "[I]n many big-city districts where . . . devolution of authority may seem most critical, teachers are hired and assigned to jobs in a centralized way that allows individual schools little leeway in choosing and managing their own teachers. These procedures, many experts believe, eventually could undermine efforts across the nation to give schools more autonomy." *Id.*

group interests of teachers, particularly on the difficult issues that can arise with respect to personnel practices.

1. *The trust agreement would cover the issue of seniority.*

One of the most divisive issues regarding new schemes of teacher hiring is the role of seniority. Some "experts" apparently feel that the seniority system currently in place breeds incompetence; a RAND Corporation report on decentralization stated: "If teachers continue to be assigned on the basis of seniority or other general criteria, staff assignment could become a serious barrier to the continuation of healthy site-managed schools."<sup>102</sup> Many teachers themselves also want out from under the regime of seniority; they want to do away with centralized hiring practices and hire their own colleagues based on philosophical and professional affinities.<sup>103</sup> Yet within the collaborative setting of trust agreement negotiations, all parties involved may come to realize that seniority is a necessary and appropriate element of any new system of hiring.

First, seniority, or length of time in a school district, should be viewed as demonstrative of a teacher's serious commitment to children and the system; it should be rewarded as a positive indicator of a teacher's love for his or her profession, not punished as a general indicator of teacher incompetence and inertia. The Supreme Court has recognized that seniority is important not only to the morale, but also the productivity of employees,<sup>104</sup> and trust agreement negotiations are a nonconfrontational method of discussing this principle.

102. *Id.*

103. *Id.* see also Lynn Olson, *A Matter of Choice: Minn. Puts 'Charter' Schools' Idea to Test*, EDUC. WEEK, Nov. 25, 1992, at 1 (noting that the Minnesota "charter schools" law, which "enables groups of licensed teachers to create independent public schools under a contract with a local school board," is more than just an innovative educational project—it is also a "testing ground for what happens when teachers are given the legal authority to create their own schools, hire and fire their colleagues, and spend their money as they see fit").

104. Holding that an employer accused of Title VII discrimination was not required to grant retroactive seniority to a woman applicant for the period between the time it rejected her application and the time it later offered her employment, the Court in *Ford Motor Co. v. EEOC*, 458 U.S. 219, 229 (1982), stated: "[T]he employer must . . . be prepared to cope with the deterioration in morale, labor unrest, and reduced productivity that may be engendered by inserting the claimant into the seniority ladder over the heads of the incumbents who have earned their places through their work on the job."

Second, the trust agreement could address the fact that seniority is important for fair and effective school reform. In addition to expressing concern over the possibility that once teachers are given broad discretion to hire colleagues, they will become "dictatorial,"<sup>105</sup> teacher unions have reasoned that allowing teachers to narrowly structure their own cadres endangers the mission of public schools, i.e., to provide a marketplace of ideas.<sup>106</sup> More importantly, it is possible that dispensing with a system of centralized transfer based on seniority would cause further stratification among schools already sharply divided in terms of racial composition and socioeconomic status.<sup>107</sup> In short, there is a fear that if teachers could freely work at any school they desire, the most senior and qualified teachers would be recruited away from poor urban schools most in need of their commitment and expertise.

Third, the collaborative setting of trust agreement negotiations would provide grounds for recognition that a seniority system is essential for good labor relations. Because seniority provisions are an essential component of most teacher collective bargaining agreements,<sup>108</sup> an upheaval of these provisions would certainly cause resentment among rank-and-file teachers.<sup>109</sup> In order for site based management initiatives to succeed, the school district must be prepared to court not only "lead" or "managerial" teachers, but also the vast majority of teachers whose primary focus is their individual classrooms. In light of the strong egalitarian norms of teachers, trust negotiations could educate management that "seniority plays a central role in allocating burdens and benefits among employees"<sup>110</sup> and that without a centralized system based on this right of "overriding importance,"<sup>111</sup> labor conflict may substantially increase. Among other things, conflict may brew if the tenure system is placed in jeopardy<sup>112</sup> and if transfers become arbi-

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105. Bradley, *supra* note 23, at 16.

106. *Id.* (quoting Jack Steinberg, director of education issues, Philadelphia Federation of Teachers, who has stated: "The thought of only having people in your school who agree with our philosophy is one that we reject, because the whole purpose of restructuring is to give an opportunity to all ideas to come out and be discussed").

107. *Id.*

108. See *infra* notes 122-123 and accompanying text.

109. See *supra* note 104.

110. *Ford Motor*, 458 U.S. at 239-40.

111. *Id.* (citing *American Tobacco Co. v. Patterson*, 456 U.S. 63, 76 (1982) (quoting *Humphrey v. Moore*, 375 U.S. 335, 346 (1964))).

112. See Olson, *supra* note 103, at 10 (noting that one proposed "charter

trary decisions based on financial concerns.<sup>113</sup> Considering that the goal of school reform is to encourage more cooperation and participation by all parties, this conflict may not be worth the price.

2. *The trust agreement could address issues of managerial responsibility.*

Another important issue that a trust agreement could address is the problem of how to allocate "managerial" tasks. As previously discussed, while teachers do want to have more authority and participation in policy making, many of them do not want to take on the responsibility of actually managing the schools. Consequently, the collaborative setting of the trust negotiations may be an excellent forum for reaching agreement on what the appropriate boundaries of teacher management should be.

For example, teachers participating in the trust agreement sessions might want to emphasize that while they do not want to run the schools, they are willing to support competent principals capable of running schools well.<sup>114</sup> A possible result of the trust agreement, then, would be a system wherein teachers have broad authority to hire principals directly<sup>115</sup> and delegate what managerial authority they wish to the principal. Teachers in such an agreement would have the authority to participate actively in school policy making while at the same time retaining appropriate amounts of classroom time; most of the strictly administrative duties could be delegated to the principal.<sup>116</sup>

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school" "would have enabled nontenured teachers at the school to retain their jobs when tenured teachers elsewhere in the district were being laid off because of budget cuts").

113. See Bradley, *supra* note 23, at 17 (noting that schools given an individual budget and broad discretion over how it will be spent may be tempted to transfer senior teachers in order to free up salary money for other uses).

114. Finch & Nagel, *supra* note 35, at 1668 (quoting Susan Moore Johnson, *Teacher Unions in Schools: Authority and Accommodation*, 53 HARV. EDUC. REV. 309, 326 (1983)).

115. For example, in Chicago, "principals now work directly for schools on four-year performance contracts . . . teachers continue to work for the school system under a central contract." Bradley, *supra* note 23, at 16.

116. Ann Bradley, *All About Adam*, TEACHER MAGAZINE, Apr. 1992, at 16, 21 (noting that Adam Urbanski, president of the Rochester, N.Y. teachers' association, advocates "instructional design teams" run by teachers with the "administrivia" of school life left to the principal).

### 3. *The trust agreement could address incentives.*

Finally, the cooperative nature of trust agreement negotiations could prove fertile ground for a meaningful discussion on the issue of teacher incentives. In addition to recognizing that most teachers are unwilling to accept additional responsibilities without a concurrent rise in compensation,<sup>117</sup> trust negotiations could also focus on the fact that merit-pay systems are largely opposed by teachers as violative of their egalitarian norms.<sup>118</sup> Therefore, a trust agreement might elicit a responsible exchange between labor and management regarding the importance of a pay system that evaluates the job, not the person.<sup>119</sup> Were the parties to reach agreement that any increase in individual teachers' compensation should be tied to voluntary assumption of additional responsibilities rather than as a reward for "good"<sup>120</sup> teaching, it is more likely that school-based management initiatives would be successful.

### *B. Enforcing the Trust Agreement Through Collective Bargaining*

Once a relationship of trust is developed and teachers have had an opportunity to be participatory citizens in the policy decisions of their school, the next step is for the union and management to sit down in formal negotiations and bargain over how the trust agreement's provisions will become part of the binding contract. This is an essential step; if both sides do not exercise good faith and show willingness to bargain over the terms discussed in the collaborative trust agreement, teachers will view the trust agreement as just another manipulative tool of the administration.<sup>121</sup> Moreover, without collective bargaining, the protections teachers enjoy and need could be diluted.

First and foremost, collective bargaining is needed to ensure the continued viability of seniority. Because transfer policies are usually tied to seniority,<sup>122</sup> the interests of teachers

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117. See *supra* note 23 and accompanying text.

118. See *supra* notes 23-25 and accompanying text.

119. WEILER, *supra* note 51, at 150.

120. Evaluation in teaching, perhaps more than most occupations, involves a subjective process "where the actual contribution of any individual to the group product is very difficult to measure, at least in a way that will be evident to fellow workers." WEILER, *supra* note 51, at 150.

121. See Conley, *supra* note 10, at 261.

122. See David S. Doty, *The Impact of Federal Labor Policy on the Americans*

will be best represented when changes in personnel practices recognize the validity of seniority. Teachers deserve to have their seniority rights protected through collective bargaining<sup>123</sup> and embodied in a contract.

Second, collective bargaining is needed to ensure that site based management initiatives contain clauses providing adequate leeway for teachers beginning to experiment with new roles. Where such clauses are not in place, reform initiatives may have a fate similar to the Benjamin Jepson Magnet Elementary School in New Haven, Connecticut. Opened in the fall of 1991, this school was run by a teacher "facilitator,"<sup>124</sup> rather than a principal, and was focused on a nongraded program that stressed parental involvement.<sup>125</sup> Only a little over a year passed, however, before the board of education appointed a principal to manage the school, basing its decision on 31 student transfers and complaints by parents that the school was poorly run.<sup>126</sup>

Collective bargaining agreements may protect against this scenario by including contractual language that gives teacher "management" teams and other teacher participatory initiatives adequate time to "work out the kinks"; teachers should be insulated from arbitrary administrative decisions that will undermine their efforts to reform schools. In addition, bargaining is important so that the appropriate roles of "teacher-managers" are clearly and legally defined. Speaking about his experience

*with Disabilities Act of 1990: Collective Bargaining Agreements in a New Era of Civil Rights*, 1992 B.Y.U. L. REV. 1055, 1082, 1086 (1992).

123. See *Schick v. NLRB*, 409 F.2d 395, 398 (7th Cir. 1969) (stating that seniority is "valid subject matter for the collective bargaining process"); *Oneita Knitting Mills, Inc. v. NLRB*, 375 F.2d 385, 388 (4th Cir. 1967) (stating that because seniority has a vital impact on "terms and conditions of employment" it is a mandatory subject of bargaining); *NLRB v. Frontier Homes Corp.*, 371 F.2d 974, 979-80 (8th Cir. 1967) ("Seniority rights and layoff practices have been recognized by the courts as falling within the broad definition of 'terms and conditions of employment.'" (citation omitted)).

124. One might ask why a principal could not also be a "facilitator." See *supra* note 114 and accompanying text; see also ROSOW & ZAGER, *supra* note 8, at 71 ("Teachers and other educators . . . long to see a new breed of principals. They recommend that all new principals have the self-confidence to share power, the patience to work with teachers until consensus is reached, and the courage to let teachers make occasional mistakes as they experiment with reforms").

125. *Union Head Discusses Problems with Teacher-Run School*, EDUC. WEEK, Jan. 27, 1993, at 6.

126. *Id.*

with the Benjamin Jepson school, Fran Carrano, the president of the New Haven Federation of Teachers, explained:

We had some problems just sort of working out all of the details of how the facilitator should function, the teachers' role, and the parents' role. Together with working on the curriculum for an ungraded school, it just got to be a lot to do.

...  
Like everything else, one of the things we didn't realize is that it takes a period of time just to get acclimated to both the way a school such as this operates and the decision making part of it. What are the appropriate roles for everyone to have?<sup>127</sup>

Finally, collective bargaining is necessary to preclude trust agreements and other collaborative agreements from superseding egalitarian teacher wage scales with incentives based solely on subjective evaluations of performance. School districts interested in successful site-based management would do well to heed the observation of one scholar who notes that "[w]hile . . . administrative restraints on the operation of market incentives might seem to sacrifice certain immediate spurs for individual productivity, their broader value consists in the reinforcement they give to the cooperative attitudes needed for a productive work team."<sup>128</sup>

### C. *The Role of Binding Arbitration*

The final step in this process of reform might utilize binding arbitration. After a trust agreement is developed and collective bargaining begins in an attempt to make the essential components of the trust agreement binding, it is likely that bargaining will occasionally come to an impasse. At that point, the teacher union and management would each put forth their best offer and let a disinterested party decide the matter. For example, if teachers and management cannot come to agreement on appropriate pay for certain managerial responsibilities, both sides could submit their best proposal and let the arbitrator rule as to which one is preferable. As discussed above,<sup>129</sup> the idea behind binding arbitration is that it won't be used; the threat of its invocation would hopefully be enough

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127. *Id.*

128. WEILER, *supra* note 51, at 150.

129. *See supra* notes 38-40 and accompanying text.

in most instances to encourage good faith negotiation and cooperation between the parties.

#### V. CONCLUSION

There appears to be broad consensus that if substantial school reform is ever to take place, teachers must be active participants in the process. The potential for innovation and improvement is great as school boards and administrators come to redefine involvement in educational policy-making as something they need from teachers,<sup>130</sup> rather than something they only allow teachers.<sup>131</sup> At the same time, however, teachers are unlikely to be enthusiastic about reform unless both teacher unions and management understand that the desire of many teachers to be individually involved in school decision making is at odds with many of the interests and rights of teachers as a collective group. Therefore, an appropriate balance needs to be struck between encouraging collaborative participation and collective protection.

This paper suggests that such a balance could be arranged by utilizing a combination of collaborative and conventional systems of bargaining. Perhaps the bottom line is that while increased teacher involvement in site-based decision making may be beneficial to both teachers personally and schools in general, teacher unions play an important role in providing guidance for reform, primarily by means of collective bargaining. Even though collaborative methods of bargaining are critical to a new system of public schools emphasizing decentralization over the traditional industrial model,<sup>132</sup> conventional collective bargaining is still very important for purposes of stability and fairness. One prominent educator has noted:

The collective voice of teachers speaks through their union. Policy makers who ignore the voices of teachers and of their local unions do so at some risk. For they discourage loyalty to public schooling, and they could promote the abandonment of the profession by those who might prove best able to reform it.<sup>133</sup>

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130. Bacharach et. al., *supra* note 19, at 103.

131. *Id.*

132. Bradley, *supra* note 23, at 1.

133. Susan M. Johnson & Niall C.W. Nelson, *Teaching Reform in an Active Voice*, PHI DELTA KAPPAN, Apr. 1987, at 591, 597-98.

As they jointly explore new frontiers of school reform, both unions and management will be successful as long as they follow a course that does not threaten the fundamental terms and conditions of teachers' employment. The future of public education depends on the satisfaction, strength and vision of organized teachers.