

Teacher Termination in Ohio for “Gross Inefficiency”: The Role of Teacher Evaluation

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I. INTRODUCTION

A public school board in Ohio seeking to terminate an incompetent tenured teacher suffers from a number of disadvantages. These disadvantages arise from peculiarities in Ohio law governing teacher termination, the time and expense involved in the termination process, and lack of experience and procedures that could help a board of education adjust the legal imbalance.

First among the legal peculiarities is the Ohio Teacher Tenure Act,¹ which imposes upon a board of education the heavy burden of proving gross inefficiency before a teacher's contract can be terminated in an incompetency case. This Article will examine the manner in which Ohio courts have interpreted and applied the term “gross inefficiency,” and the problems accompanying the use of this standard.²

Second, to appreciate the disadvantages of time and expense, one need only consider a few recent examples. In one case,³ the board of education notified the teacher in 1978 of its intention to terminate him on grounds of gross inefficiency. The termination hearing before a referee lasted approximately one year. The referee recommended reinstatement of the teacher. The board of education rejected the recommendation, and the teacher appealed to the court of common pleas, which overruled the board's decision. Some four years after the board's initial notice of intention to terminate, the court of appeals affirmed the lower court's decision to reinstate the teacher.⁴

In another recent Ohio decision,⁵ perhaps presenting the most extreme case of attenuated teacher termination proceedings on record, the board of education gave notice in 1973 of its intention to terminate a teacher. Ten years later, after a variety of intervening actions and appeals in state and federal courts, the court of common pleas affirmed the board's decision. In light of such examples, a board of education deciding whether to terminate a teacher on grounds of gross inefficiency must weigh the expense of litigation and the risk of a substantial back-pay award against the less quantifiable benefit of removing an incompetent teacher from the school system.

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1. OHIO REV. CODE ANN. § 3319.16 (Page 1980).

2. The scope of this Article is limited to a discussion of termination on the grounds of incompetency or gross inefficiency. It does not address termination based on such causes as immorality, physical or mental disability, insubordination, and the like.

3. *Charles v. Princeton City School Dist. Bd. of Educ.*, No. C-820132 (Ohio Ct. App. Sept. 15, 1982).

4. *Id.*, slip. op. at 6.

5. *Jones v. Mt. Healthy Bd. of Educ.*, No. A-73-5247 (C.P. Hamilton County, Ohio Apr. 8, 1983).

When these factors are combined with a heavy burden of proof and concerns over a tight school budget, the decision is often to do nothing.⁶

Finally, this Article will consider the legal aspects of teacher evaluation in Ohio as a means of adjusting the imbalance created by the gross inefficiency standard.⁷ If a board of education is willing to face the legal uncertainties and costs of terminating its incompetent teachers, it must also be willing to use the power reserved to it by Ohio law to define its own teaching standards and to design an effective teacher evaluation system based on those standards that will withstand litigation and ultimately improve the quality of teaching within the schools.

II. THE LAW OF "GROSS INEFFICIENCY"

Section 3319.16 of the Ohio Revised Code provides that "[t]he contract of a teacher may not be terminated except for gross inefficiency or immorality; for willful and persistent violations of reasonable regulations of the board of education; or for other good and just cause."⁸ The "gross inefficiency" language of the Ohio statute appears as an anomaly when compared with the teacher termination statutes found in other jurisdictions. Other state statutes commonly speak in terms of termination on grounds of incompetency or inefficiency, without the adjective "gross."⁹ That adjective has not always been part of Ohio's statutory scheme.¹⁰ Prior to the addition of the term "gross" in 1941, simple inefficiency was the standard.¹¹ The "gross inefficiency" standard has since presented definitional problems for Ohio courts and, from the standpoint of a board of education, a heavier burden of proof than the statutes of most other states.¹²

A definition of gross inefficiency frequently cited in Ohio cases originated in a 1956 Connecticut decision, *Conley v. Board of Education of New Britain*,¹³ which construed a statute providing for termination for gross inefficiency. The court in *Conley* defined a grossly inefficient person as "one whose efforts were failing, to an intolerable degree, to produce the effect intended or desired—a manifestly in-

6. See Rosenberger & Plimpton, *Teacher Incompetence and the Courts*, 4 J. LAW & EDUC. 469, 470 (1975).

7. This Article assumes that the primary function of teacher evaluation is the improvement of teacher performance and, secondarily, if improvement efforts fail, to assist in termination.

8. OHIO REV. CODE ANN. § 3319.16 (Page 1980).

9. See, e.g., CAL. EDUC. CODE § 44932 (West Supp. 1983); CONN. GEN. STAT. ANN. § 10-151 (West Supp. 1983); DEL. CODE ANN. tit. 14, §§ 1411, 1420 (1981); FLA. STAT. ANN. § 231.36 (1) (West Supp. 1983); ILL. ANN. STAT. ch. 122, § 10-22.4 (Smith-Hurd 1983); KY. REV. STAT. § 156.132 (1982); MASS. ANN. LAWS ch. 71, § 42 (Michie/Law. Co-op. 1978); MINN. STAT. ANN. § 125.17 (West 1979); N.J. STAT. ANN. § 18A:60-2 (West 1968); N.Y. EDUC. LAW § 3020 (McKinney 1981); PA. STAT. ANN. tit. 24, § 11-1122 (Purdon 1962); TEX. EDUC. CODE ANN. § 13.109 (Vernon 1972); WIS. STAT. ANN. § 118.23 (West 1973).

One note of interest is that the Minnesota statute applies the higher standard of gross inefficiency to attempted revocation of a teacher's teaching certificate, while using simple inefficiency as the standard for terminating a teacher's contract. Compare MINN. STAT. ANN. § 125.09 (West Supp. 1983) with MINN. STAT. ANN. § 125.17 (West 1979).

10. See OHIO GEN. CODE tit. S, § 7701 (Page 1926).

11. *Id.* Another anomaly in Ohio's statutory scheme is that while gross inefficiency is the standard for the termination of a teacher's contract, simple inefficiency will suffice to terminate a non-teaching contract. Compare OHIO REV. CODE ANN. § 3319.16 (Page 1980) with OHIO REV. CODE ANN. § 3319.081 (Page 1980).

12. For decisions in other jurisdictions regarding teacher termination on grounds of inefficiency or incompetency, see Annot., 4 A.L.R.3d 1090 (1965).

13. 143 Conn. 488, 123 A.2d 747 (1956).

competent or incapable person.”¹⁴ Such language as “intolerable degree” and “manifestly” leaves serious doubt that inefficiency or incompetence alone is sufficient to terminate a teacher in Ohio.¹⁵ Ironically, Connecticut’s teacher termination statute now provides for termination on grounds of “inefficiency or incompetency,” without the term “gross.”¹⁶

In *Rumora v. Board of Education of Ashtabula*,¹⁷ the court of common pleas of Ashtabula County further elaborated upon the term gross inefficiency, concluding that “[w]ith regard to inefficiency, the key is the adjective ‘gross.’ To constitute gross inefficiency, the inefficiency must be flagrant, extreme, or complete.”¹⁸ Following the *Rumora* rule that “the key is the adjective ‘gross,’” the Eighth District Ohio Court of Appeals in *Giering v. Parma Board of Education*¹⁹ upheld termination on grounds of gross inefficiency for repeated failure to maintain classroom order, discipline, and neatness. In a two-step approach addressing “inefficiency” first and then “gross,” the court determined that the board of education produced evidence sufficient to support a finding that the teacher was unable to maintain classroom order, discipline, and neatness, and that she was unable to improve in these areas.²⁰ The court then went on to hold that “[t]he record further supports a finding that [the teacher’s] lack of ability in these areas was serious or extreme, and amounted to gross inefficiency as a teacher as required by R.C. 3319.16.”²¹

In contrast to the *Conley*, *Rumora*, and *Giering* line of cases is the Ohio Supreme Court decision of *Hale v. Lancaster Board of Education*,²² which suggests a more lenient reading of gross inefficiency. The issue before the court was whether a teacher’s leaving the scene of an automobile accident constituted grounds for termination under the “other good and just cause” language of Section 3319.16.²³ In attempting to define “other good and just cause” the court stated:

In construing the words, “other good and just cause,” we note that they are used with the words “gross inefficiency or immorality” and “willful and persistent violations” of board regulations. In our opinion, this indicates a legislative intent that the “other good and just cause” be a fairly serious matter.²⁴

If the court in *Hale* relied upon “gross inefficiency” to conclude that the legislature intended “other good and just cause” to be a “fairly serious matter,” then it follows that the legislature also intended that “gross inefficiency” be “a fairly serious matter.”

14. *Id.* at 496, 123 A.2d at 751. The court went on to say that “[a] board has the right to demand that a teacher know his subject and that he be capable of arousing and holding the interest of his pupils and maintaining discipline.” *Id.* at 497, 123 A.2d at 752 (citing two Ohio decisions in support: *Fowler v. Young*, 77 Ohio App. 20, 65 N.E.2d 399 (Mahoning County Ct. App. 1945); and *Applebaum v. Wulff*, 42 Ohio Op. 434, 95 N.E.2d 19 (Cuyahoga County C.P. 1950)).

15. See *e.g.*, *Roller v. Young*, 147 Ohio St. 13, 67 N.E.2d 710 (1946) (teacher termination overturned based on insufficient evidence to constitute finding of gross inefficiency).

16. See CONN. GEN. STAT. ANN. § 10-151 (West Supp. 1983).

17. 43 Ohio Misc. 48, 335 N.E.2d 378 (C.P. Ashtabula County 1973).

18. *Id.* at 75, 335 N.E.2d at 378. See also *Taylor v. Board of Educ.*, 77 C.A. 16 (Ohio Ct. App. Oct. 12, 1977).

19. No. 38399 (Ohio Ct. App. Apr. 5, 1979).

20. *Id.*, slip op. at 10.

21. *Id.*

22. 12 Ohio St. 2d 92, 234 N.E.2d 583 (1968).

23. *Id.* at 94-95, 234 N.E.2d at 584.

24. *Id.* at 98-99, 234 N.E.2d at 587.

One is thus left with conflicting judicial signals: some courts opine that the inefficiency must be "flagrant, extreme or complete,"²⁵ while the Ohio Supreme Court implies that the inefficiency must be "a fairly serious matter."²⁶ Ohio courts have devoted more attention to trying to define "gross" than trying to define "inefficiency," even though inefficiency should be the focus of judicial analysis. What does inefficiency in teaching mean? Is inefficient teaching synonymous with incompetent teaching? Does the idea of efficiency, with its connotation of productivity without waste, present a narrower concept of teaching ability than the term competency?

There are several cases that have more satisfactorily addressed the issue of teacher competency by considering the teacher's ability to impart knowledge. In *Goldsmith v. Elida Board of Education*,²⁷ the Court of Appeals for the Third District of Ohio linked an inability to maintain discipline with a resulting inability to transmit knowledge. "Since discipline is basic to the efficacy of the teaching process, an absence of discipline to the degree demonstrated by the record would render wholly unattainable the goal sought."²⁸ The court affirmed the termination on the basis of "gross inefficiency manifesting an inability to control and maintain the discipline of students."²⁹ Similarly, in *Clements v. Mad River Township Board of Education*,³⁰ the referee recommended termination based on gross inefficiency, noting that the teacher was "obviously failing to impart the knowledge of her subject necessary to train her students" and that her "classroom discipline was grossly lacking."³¹ The termination was affirmed by both the court of common pleas and court of appeals.

In *Powell v. Young*,³² a consolidated decision affirming two separate terminations, the Ohio Supreme Court also approached gross inefficiency from the standpoint of inability to impart knowledge. Each teacher involved in the action was rated a "poor teacher" by her principal. In the first case, evidence was also presented as to the teacher's emotional instability,³³ while in the second case the testimony described disciplinary excesses.³⁴ Nevertheless, it was the impact on the ability of the teachers to impart knowledge, and not simply their emotional instability or disciplinary excesses themselves, that was the key factor in both *Powell* cases.

In sum, inefficiency or incompetency alone is not sufficient in Ohio to terminate a teacher.³⁵ The failings must rise to the level of being extreme, intolerable, complete, or flagrant.³⁶ The Ohio law of teacher termination tolerates mediocrity. Although courts analyzing gross inefficiency in terms of the inability to impart

25. See *supra* notes 13-21 and accompanying text.

26. See *supra* notes 22-24 and accompanying text.

27. No. 1-80-35 (Ohio Ct. App. Jan. 28, 1981).

28. *Id.*, slip op. at 6.

29. *Id.*, slip op. at 2.

30. No. 81-371 (C.P. Montgomery County Jan. 22, 1982), *aff'd*, No. 7712 (Ohio Ct. App. Aug. 16, 1982).

31. *Id.*, slip op. at 1-2.

32. 148 Ohio St. 342, 74 N.E.2d 261 (1947).

33. *Id.*

34. *Id.* at 350, 74 N.E.2d at 265.

35. *Clements v. Mad River Township Bd. of Educ.*, No. 81-371 slip op. at 5 (C.P. Montgomery County Jan. 22, 1982), *aff'd*, No. 7712 (Ohio Ct. App. Aug. 16, 1982). *Accord* R. BAKER, OHIO SCHOOL LAW § 7.7, at 300 (1981).

36. See *supra* text accompanying notes 18-20.

knowledge have made progress, the term "gross" is a legislative anomaly that has distracted courts from creating clearer definitions of the legal standard for teacher incompetency in Ohio.

III. THE ROLE OF TEACHER EVALUATION

Given the legal disadvantages associated with teacher terminations,³⁷ Ohio schools nonetheless largely forego opportunities to adjust the imbalance through effective teacher evaluation. An analysis of the nature and scope of teacher evaluation in Ohio public schools has revealed that only one-fifth of the one hundred forty-three districts participating in the study attempted to evaluate teachers on an annual basis.³⁸ The study shows that the majority of school districts do not use as part of the evaluation process written standards in areas such as classroom management, instruction, pupil relationships, personal growth, and community relations.³⁹ In those districts that do use written job criteria, only 9.8 percent of the districts have criteria that the study labels as specific or mandatory.⁴⁰ Only about one-third of the schools have any specific format or objective criteria for use in classroom observation, notwithstanding the argument that "[w]hatever teacher effectiveness is, it is in all probability a function of the interaction between teachers and students in classrooms."⁴¹ "In many instances the subjective assessment of the evaluator, usually the principal, determines teacher effectiveness."⁴²

A. Ohio Statutes and Teacher Evaluation

In contrast with the abundant procedural detail contained in Ohio statutes regulating other areas of school law, such as teacher termination procedures prescribed in the Ohio Revised Code,⁴³ the statutes are largely silent on teacher evaluation. This silence seems anomalous when one considers that boards of education are required by statute to evaluate administrators. Ohio Revised Code Section 3319.02⁴⁴ provides that each board of education "shall adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals and other administrators⁴⁵ and shall evaluate such employees in accordance with those procedures."⁴⁶ The statute further specifies that the evaluation shall measure the administrator's "effectiveness in performing the duties included in his job description," that each administrator be evaluated annually by the superintendent or his designee,

37. See *supra* text accompanying notes 8-36.

38. Steele-Pierce, Boothe & Archer, *Teacher Evaluation: Where Do We Go From Here?* OSBA JOURNAL 19 (Apr. 1983).

39. *Id.* at 19-20.

40. *Id.* at 20.

41. *Id.*

42. *Id.*

43. OHIO REV. CODE ANN. § 3319.16 (Page 1980).

44. *Id.* § 3319.02.

45. See OHIO REV. CODE ANN. §§ 3319.02, 3319.22 (Page Supp. 1982) for a definition of "other administrators."

46. *Id.* § 3319.02.

and that the evaluations be in written form.⁴⁷ The statute also requires boards of education to adopt procedures for evaluation of their superintendents.⁴⁸

Although an Ohio public school board of education is explicitly required to evaluate its administrators but not its teachers, there is one statutory reference which may be read as contemplating a teacher evaluation system. That reference applies in the exceptional situation in which a teacher is eligible for a continuing contract, but the superintendent wants to postpone the granting of tenure and observe the teacher. In such circumstances, superintendents must give the teacher written notice of their intention to recommend to the board that the teacher be employed under a limited contract, with reasons for this recommendation "directed at the professional improvement of the teacher."⁴⁹ It follows that if a superintendent must give a teacher suggestions for professional improvement in the case of tenure postponement, some teacher evaluation system upon which to base those suggestions should be in place.

B. Ohio Case Law and Teacher Evaluations

A number of recent Ohio decisions illustrate the utility of teacher evaluations in gross inefficiency cases. In *Clements v. Mad River Township Board of Education*,⁵⁰ the board terminated a teacher on grounds of gross inefficiency, with evidence consisting primarily of three formal evaluations of the teacher for the school years 1977-80. The evaluations were prepared by principals after approximately three classroom observations during each school year.⁵¹ The formal evaluation instrument used by the board in *Clements* specified six areas of teaching performance, including teacher competency, classroom management, pupil-staff-community relations, teacher-staff relations, community relations, and professional growth.⁵² Listed under each category were specific standards. The evaluation instrument included a rating system for each standard.

The lower court in *Clements* described in detail the ratings received by the teacher for three years, noting "a consistent concern on the part of the evaluator for the plaintiff's abilities in the areas of teaching competencies, classroom management and pupil-staff-community relations."⁵³ The court also considered five written classroom observations that "identify major areas of concern, often gave a rationale for the concern and attempt to offer the plaintiff suggestions regarding each concern."⁵⁴ Examples of the areas of concern included the following: "Students were told to begin work with no teacher explanation or clarification of topic or when activity was to be completed"; "A student who went to the teacher to express a complaint after papers were returned was ignored"; "The teacher changed classroom procedures

47. *Id.*

48. *Id.* § 3319.01.

49. *Id.* § 3319.11.

50. No. 81-371 (C.P. Montgomery County Jan. 22, 1982), *aff'd*, No. 7712 (Ohio Ct. App. Aug. 16, 1982). See *supra* notes 28-29 and accompanying text.

51. *Clements v. Mad River Township Bd. of Educ.*, No. 81-371, slip op. at 3 (C.P. Montgomery County Jan. 22, 1982), *aff'd*, No. 7712 (Ohio Ct. App. Aug. 16, 1982).

52. *Id.*

53. *Id.*

54. *Id.*, slip op. at 4.

three times in one class period"; and "The teacher publicly identified and pointed attention to a student as an L.D. (learning disability) student."⁵⁵ On the strength of the teacher evaluations, the lower court found sufficient basis for termination on grounds of gross inefficiency, and the court of appeals affirmed.

In contrast to *Clements* is *Charles v. Princeton City School District Board of Education*.⁵⁶ In *Charles* the Court of Appeals for the First Appellate District of Ohio affirmed a lower court finding of insufficient evidence of gross inefficiency required to terminate the teacher. One of the specifications against the teacher was that he failed to prepare adequate lesson plans.⁵⁷ The court of appeals, however, found that "the record contains no exhibit setting forth a standard for an adequate lesson plan."⁵⁸ The court also discredited an evaluation charging that the teacher accused administrators and teachers of conspiring against him; the court reasoned that the principal had conducted the evaluation while a grievance filed by the teacher was pending against him.⁵⁹

Finally, in *Giering v. Parma Board of Education*,⁶⁰ the Eighth District Ohio Court of Appeals considered written teacher evaluation materials similar to those considered in *Clements*. After reviewing the evaluations in detail, the court concluded that the board produced sufficient evidence of gross inefficiency to show that the teacher was unable to maintain classroom order, discipline, and neatness and was unable to improve in those areas.⁶¹

The *Giering* court discussed the teacher's argument that evidence as to her gross inefficiency was "insufficient as a matter of law in the absence of established minimum standards for neatness, discipline and order prevailing in the teaching community."⁶² The court responded by stating that the evaluations and other testimony were "sufficient to allow a conclusion that [the teacher's] performance was far below that normally and reasonably expected of teachers in the Parma School District."⁶³ The court emphasized that the teacher was repeatedly informed in the written evaluations and oral conferences of her failure to meet accepted standards of performance,⁶⁴ and added that "[n]o authorities have been cited or found to suggest that a teacher may not be found to be grossly inefficient in the absence of written standards or guidelines, and it is difficult to see how specific guidelines could be drafted to cover all potential inefficiencies."⁶⁵

The lesson from the *Clements*, *Charles*, and *Giering* cases is that written teacher evaluations based upon specific standards for competent teaching within the school district can be potent instruments in gross inefficiency cases. The *Giering* court applied a school district standard for teacher competency much like the community

55. *Id.*

56. No. C-820132 (Ohio Ct. App. Sept. 15, 1982).

57. *Id.*, slip op. at 5.

58. *Id.*

59. *Id.*

60. No. 38399 (Ohio Ct. App. Apr. 5, 1979).

61. *Id.*, slip op. at 11.

62. *Id.*, slip op. at 10.

63. *Id.*

64. *Id.*, slip op. at 11.

65. *Id.*, slip op. at 10-11.

standard rule in professional malpractice cases. Thus, the relevant competency standards are those acceptable to the particular school district involved. Presumably, standards for teacher competency will vary from district to district, with each district responsible for defining its own standards. This is an idea consistent with the notion of control of schools vested in local boards of education.⁶⁶ Success in terminating incompetent teachers will depend in large part upon how well a school district can define what performance is normally and reasonably expected of its teachers and how well it can evaluate teachers accordingly. To the extent school districts are able to define their own teaching standards, they, rather than the courts, define "gross inefficiency."

C. *Elements of Effective Teacher Evaluation*

Commitment to teacher evaluation varies among school districts and depends upon the goals and resources of the individual district. Evaluation consumes valuable administrative time, and a board of education needs to weigh such costs against the projected educational benefits. Also, with the recent passage of the Ohio Public Employees Collective Bargaining Act,⁶⁷ teacher evaluation procedures may increasingly be the subject of collective bargaining as terms and conditions of employment. Significantly, however, the Collective Bargaining Act includes the right to "evaluate" employees in the list of management rights which are not mandatory subjects of bargaining unless the board of education chooses to make them so.⁶⁸

Despite these pressures against uniformity in teacher evaluation procedures, certain elements of effective teacher evaluations are equally applicable to all school districts.

1. *Written Standards*

The groundwork for effective teacher evaluation is the development of written standards for teaching competency within the particular school district. The standards should be clear, specific, free of educational jargon, and objective. The standards should be organized into major performance categories as in the *Clements* and *Giering* cases. If some standards are deemed more important than others, they should be designated or weighted accordingly. A rating system, perhaps using such ratings as "satisfactory/unsatisfactory" or "deficiency," should be applied to each standard. If student performance on competency or achievement tests is to be used as a determinant of teacher effectiveness, this also should be included in the district's written standards.

66. Ohio law provides that boards of education "shall have the management and control of all of the public schools . . . in their respective districts." OHIO REV. CODE ANN. § 3313.47 (Page 1980). See, e.g., *Royer v. Board of Educ.*, 51 Ohio App. 2d 17, 365 N.E.2d 889 (1977).

67. 1983 Ohio Laws S.B. No. 133.

68. *Id.* § 4117.08(C)(2).

2. Written Evaluation Procedure

The procedural steps for teacher evaluation should be written in clear and precise terms. The written procedure should cover such items as frequency of teacher evaluations, classroom observation, description of forms involved in the evaluation, and conferences between the teacher and evaluator to discuss the evaluation. Careful attention should be paid to defining key terms, such as “formal” as opposed to “informal” evaluations, or “observation” as opposed to “evaluation.”

3. Notice of Evaluation Standards and Procedures

The evaluation forms should be distributed to teachers and the process explained before it begins.

4. Classroom Observation

The evaluation procedure should require a minimum number of classroom observations by the evaluator. Observations should be in writing, detailed and factual, and recorded on an observation form immediately after or during each observation. The observation form might contain a checklist corresponding to the written district standards and space for anecdotal recording of observations. Special attention should be directed to training administrators in effective classroom observations.

5. Documentation and Record Keeping

Record keeping systems should be devised for maintaining evaluation documents and any supplementary documentation.

6. Notice of Results, Recommendations for Improvement, and Reasonable Opportunity to Improve

The teacher should be notified of the results of the evaluation, given copies of the evaluation forms, and afforded an opportunity to discuss and comment upon the evaluation. If remediable deficiencies are noted in the teaching performance, the evaluation instruments should give recommendations for improvement to the teacher. The teacher should be given a reasonable opportunity to improve after receiving notice of remediable deficiencies.

7. Nondiscrimination

The evaluation standards and procedures should be nondiscriminatory and in full compliance with state and federal laws and any collective bargaining agreement.

8. Evidentiary Concerns

Since evaluations may become involved as evidence in litigation, they should be performed with an awareness of the judicial standard that evidence be reliable, probative, and substantial.⁶⁹

IV. CONCLUSION

As the Ohio Supreme Court has opined in construing the Ohio Teacher Tenure Act, "a school system is instituted primarily for the benefit of the youth who are therein enrolled. . . . In promoting this objective it is essential that efficient teachers of the highest grade be provided."⁷⁰ Nonetheless, Ohio courts have interpreted gross inefficiency with an emphasis on the adjective "gross," concluding that the teacher's inefficiency must be extreme, flagrant, or complete. Insofar as that interpretation increases the burden of proof on boards of education in teacher termination cases, so that mediocrity or inefficiency alone is insufficient to support termination, the primary purpose of the Ohio Teacher Tenure Act to benefit students by providing "efficient teachers of the highest grade" is not served.

That a board of education is vested with the power to manage and control the public schools within its district is a maxim of Ohio school law.⁷¹ Equally fundamental is the rule that, absent an abuse of discretion, a court of law has no authority to control the board's discretion in managing and controlling its schools, or to substitute its judgment for the board's judgment upon any matters committed to the board by law.⁷² Ohio law has left to boards of education the power to define teaching standards for their schools and to evaluate teachers. Boards of education that exercise this power in good faith toward the end of providing their students with teachers of the "highest grade"⁷³ will have greater reason to expect that a court will defer to their judgment than will boards that do not.

69. See, e.g., *Jones v. Mt. Healthy Bd. of Educ.*, No. A-73-5247, slip op. at 9 (C.P. Hamilton County, Ohio Apr. 8, 1983).

70. *Powell v. Young*, 148 Ohio St. 342, 359, 74 N.E.2d 261, 269 (1947).

71. OHIO REV. CODE ANN. § 3313.47 (Page 1980).

72. See e.g., *State ex rel. Ohio High School Athletic Ass'n v. Judges*, 173 Ohio St. 239, 181 N.E.2d 261 (1962).

73. See *supra* note 69.