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An analysis of fact-finding and its acceptance as a method of conflict resolution in Virginia public school grievance and dismissal procedures

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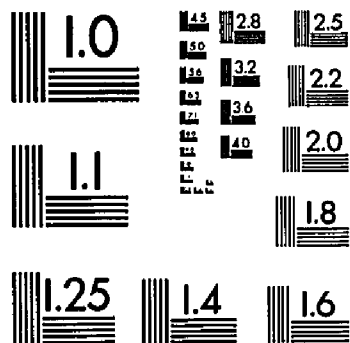
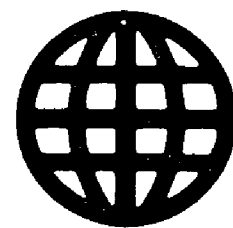
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**AN ANALYSIS OF FACT-FINDING AND ITS ACCEPTANCE AS A METHOD OF
CONFLICT RESOLUTION IN VIRGINIA PUBLIC SCHOOL GRIEVANCE AND
DISMISSAL PROCEDURES**

The College of William and Mary in Virginia

Ed.D. 1985

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AN ANALYSIS OF FACT-FINDING AND
ITS ACCEPTANCE AS A METHOD OF CONFLICT RESOLUTION
IN VIRGINIA PUBLIC SCHOOL GRIEVANCE AND DISMISSAL PROCEDURES

A Dissertation

Presented to

The Faculty of the School of Education
The College of William and Mary in Virginia

In Partial Fulfillment
of the Requirements for the Degree
Doctor of Education

by

Diane Gerian Martin

December 1985

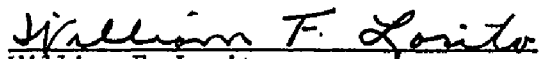
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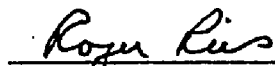
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Chapter 1

Introduction

Prior to 1960, there were no state authorized collective negotiations between teacher organizations and boards of education. The earliest citation by the National Education Association is in the 1962 convention record. This record defined professional negotiations as the "right of teachers to participate in policies of common concern" (Doherty, 1967, p. 7). During 1965 legislative sessions, employee associations in fifteen states sponsored bills affecting public employer-employee relationships. Some form of this legislation was enacted in nine of these states (Doherty, 1967, p. 95).

Three means for settling disputes are used most frequently in public sector grievance negotiations: mediation, arbitration and fact-finding. While all states now address the issue of conflict resolution, there remains a controversy over the preferred method (Gaswirth, 1981).

The Virginia State Department of Education has established provisions for fact-finding in grievance and dismissal cases since 1980 (Virginia School Laws, 1980). These procedures were revised by the General Assembly in 1981, 1983, 1984 and 1985 (Superintendents' Memo, 1981; Superintendents' Memo, 1983; General Assembly House Bill No. 528, 1984; Board of Education Agenda Item T., 1985).

Fact-finding was selected as the method of conflict resolution for school system employees to assist school boards in making decisions for dismissal. These decisions are based on facts presented in a semi-formal hearing to an impartial panel. However, fact-finding is not a simple process. Issues arise almost yearly which must be addressed by the Virginia General Assembly and, consequently, changes are made in the Code of Virginia.

It appears that, although members of the Virginia General Assembly have opted to use fact-finding as the method for resolving conflict between school employees and school boards, questions are still unanswered about its effectiveness.

Statement of the Problem

The purpose of this study was to examine fact-finding as a method of conflict resolution in Virginia Public School grievance cases to determine the extent that school boards accept the fact-finders' recommendations. Specifically, answers to the following questions were sought:

1. How many cases were resolved through the fact-finding process during the school years 1982-83 and 1983-84?
2. How many cases were resolved by the school boards during the school years 1982-83 and 1983-84?
3. How many cases were appealed after fact-finding to a court having jurisdiction?
4. In how many cases did the school board reject the fact-finders' recommendations?

5. Of those cases where the decision was at variance with the fact-finders' recommendations, what was the rationale for the board's decision?

Hypotheses

In this study, the following hypotheses were tested:

1. The recommendations of fact-finding committees are accepted more often than they are rejected as measured by the Fact-Finding Questionnaire.

2. The number of cases brought to fact-finding varies with the size and location of the school division as measured by the Fact-Finding Questionnaire.

3. The number of cases decided directly by school boards is significantly less than the number of cases decided by the school boards after a fact-finding hearing as measured by the Fact-Finding Questionnaire.

4. School central office administrators prefer fact-finding to other methods of conflict resolution as measured by the Interview Schedule.

Significance of the Study

The rapid growth in enrollment, specialization, and other factors have caused communications between teachers and administrators to be more essential and more difficult than ever before. The very nature of this relationship between labor and management is often adverse. Management has an obligation to provide procedural devices for resolving conflicts. A conflict resolution procedure should maintain credibility with teachers

and the public by permitting neutrals to participate in the process (Dubel, 1977). To determine the optimum ways of resolving conflict in public education, each procedure should be carefully studied.

The Virginia General Assembly has an established procedure which includes the use of fact-finding to resolve conflicts between school officials and teachers. A teacher may elect to skip fact-finding and request a direct decision by the school board. This study, however, only examines those cases involved in fact-finding to determine its frequency of use and to learn how frequently the fact-finders' recommendations were accepted by courts and school boards.

Conflict resolution is necessary in public education because the bureaucratic expectations of administration and the professional expectations of teachers are frequently incompatible. Jameson and Thomas have described four styles for handling conflicts. The first style is avoiding or withdrawing from the problem. Another style is competing--used for win/lose confrontations. Collaborating involves the use of honest confrontation to work together to reach an agreement. The fourth style is accommodating or "giving in" to one party (Filley, 1975).

Fact-finding is based on an initial assumption that conflict is inevitable and an agreement between the two parties is often impossible. A win/lose power struggle takes place and the intervention of a third party is necessary to recommend

a solution. Fact-finding calls for a three-member panel to thoroughly investigate the issue at conflict and to then make a recommendation of who is to "win" to the local school board. Fact-finding becomes the third party necessary to reach an agreement in Virginia public school grievance proceedings.

The findings of this study should provide insight into the usefulness of fact-finding as a method of conflict resolution and into the types of cases in conflict in the Virginia public education system.

Definition of Terms

The following definitions are presented to provide specific meanings of terms which may not be self-explanatory:

Arbitration. The term, arbitration, as used in this study refers to a simple proceeding voluntarily chosen by parties who want a dispute determined by an impartial judge of their own mutual selection, whose decision, based on the merits of the case, they agree in advance to accept as final and binding (Webster, 1976).

Due Process. The term, due process, as used in this study refers to the concept which ensures the protection of individual rights, the essential element of which is fair treatment.

Fact-finding. The term fact-finding, as used in this study, refers to a neutral or neutrals, known as a fact-finder (or fact-finding panel) who conduct a hearing at which the opposing parties define the issues in dispute and propose their prospective resolutions with supporting evidence and argument

(Weast, 1981). In Virginia, the panel is composed of three members. One member is selected by the teacher and another is selected by the superintendent. These two panel members must select a third impartial member. If they cannot agree, the circuit judge presents a list of people knowledgeable in education law. The two panel members can select a name from this list. If they cannot agree on a name, the judge will select someone.

Following the hearing, the fact-finder(s) issues recommendations for a solution, usually in writing to the school board. The recommendation is not binding (Weast, 1981).

Grievance. The term, grievance, as used in this study refers to "a complaint or a dispute by a teacher relating to his or her employment including but not necessarily limited to the application or interpretation of personnel policies, procedures, rules and regulations, ordinances, and statutes; acts of reprisal as a result of utilization of this grievance procedure; complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin, or sex"; and dismissal or placing on probation (Superintendents' Memo, 1983).

Impasse. The term, impasse, as used in this study refers to the situation in which negotiators are deadlocked in their attempt to reach an agreement.

Mediation. The term, mediation, as used in this study refers to the process in which the "mediator does not make a

decision." Rather his aim is to persuade negotiators, by proposals or arguments, to come to a voluntary agreement (Elkouri, 1973, p. 4).

School Board. The term, school board, as used in this study, refers to a body of lay members of the community, appointed in Virginia, and charged with the management and control of schools in a local school division.

School Year. The term, school year, as used in this study refers to July 1 to June 30 of the following year.

Superintendent. The term, superintendent, as used in this study refers to the person appointed by the school board to manage the school system. Technically, a teacher's grievance is against the school board. For the purpose of this study, the superintendent, as the board's representative, will be the second party to a grievance dispute.

Supervisory Employee. The term, supervisory employee, as used in this study refers to "any person having the authority in the interest of the board; (a) to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees; and (b) to direct other employees; or (c) to adjust the grievances of other employees or (d) to recommend any action set forth in (a), (b), or (c) above; provided that the authority to act as set forth in (a), (b), (c), or (d) requires the exercise of independent judgment and is not merely routine and clerical in nature" (Superintendents' Memo, 1983).

Teacher. The term, teacher, as used in this study refers to, in grievance procedures, all employees of the school division involved in classroom instruction and all other full-time employees of the school division except a supervisory employee (Superintendents" Memo, 1983). In dismissal procedures the term, teacher, refers to all regularly certified professional public school personnel employed under a written contract as provided by 22.1-302 of the Code of Virginia by any school division as a teacher or supervisor of classroom teachers but excluding all superintendents.

Limitations of the Study

This study was limited to the school years, 1982-84. The 133 school divisions within the Commonwealth of Virginia were the population for this study. This study was limited to the degree that contact by mail, phone, or in person could be made with someone from each school division who was familiar with grievance cases in that school division. The findings of this study were accurate only to the degree that the respondent could recall each case, if records were unavailable. The school division representative's disposition toward the confidentiality of information necessary to this study limited the response to certain questions. Finally, the study was limited to the degree that the returned instruments adequately represented the population selected for the study.

Organization of the Study

The remainder of this study was organized in four chapters.

In Chapter 2, a theoretical framework is presented and relevant literature is discussed. The research design, including the population, instrumentation, and data collection procedures, are described in Chapter 3. Chapter 4 contains a presentation and analysis of the data, and the investigation is summarized and recommendations are made in Chapter 5.

Chapter 2

Review of Related Literature

In this chapter related literature and research will be surveyed to support the theoretical framework for the study. Selected literature is reviewed from three perspectives. First, the literature on collective bargaining is reviewed as a background to the evolution of conflict resolution procedures. Second, material is surveyed which describes mediation, fact-finding and arbitration as forms of conflict resolution. Third, fact-finding is surveyed as a method of conflict resolution in Virginia public school grievance proceedings.

Theoretical Framework

Within our various social relationships are some which involve real or perceived differences between two or more parties. Where the gain of one party's goal is at the cost of the other's, the resulting social interaction between the two is grounds for conflict (Filley, 1975, p. 1). Filley lists the following characteristics of a conflict situation:

1. At least two parties are involved in some kind of interaction.
2. Mutually exclusive goals exist.
3. Interaction is characterized by behavior designed to defeat, reduce, or suppress the opponent and to gain a mutually designated victory.

4. The parties face each other with mutually opposing actions and counteractions.

5. Each party attempts to create an imbalance (p. 4).

Conflict resolution is defined as "the termination of manifest conflict between individuals or groups" (Filley, 1975, p. 21). Filley also describes three basic strategies of resolving conflict: lose-lose, win-win and win-lose (p. 21). The win-lose strategy is used in resolving teacher dismissal and grievance cases involving conflicts in public education. Some of the characteristics of the win-lose strategy are:

1. A clear we-they distinction, rather than one of we-versus-the problem.

2. Energies are directed toward the other party in an atmosphere of total victory or total defeat.

3. The emphasis in the process is upon attainment of a solution, rather than upon a definition of goals, values, or motives to be attained (Filley, 1975, p. 21).

With any decision there is a pre-decision phase. It is at this time that information is sought to help the decision maker make a choice based on sound facts.

Festinger found that information gathering and evaluation that occur in the pre-decision period are not usually biased but are highly objective and impartial. This view would hold that until the person makes his decision, he seeks to discover and evaluate objectively all the information that is reasonably available to him. When he has accumulated and

evaluated enough information to make him sufficiently confident, he makes his decision (1964, p. 4).

Conflict processes which are institutionalized (that is, for which acceptable resolution procedures have been established) function as preventive measures against more destructive outcomes. Grievance systems permit the step-by-step adjudication of differences to avoid major clashes between labor and management.

Collective Bargaining

Collective bargaining is the process whereby representatives of employees and employers meet to negotiate in good faith. It is based on the premise that parties should be treated as equals and should bargain in "good faith" (thus, not using unfair labor practices).

Collective bargaining in the private sector can be traced historically to the passage of national legislation beginning with the Sherman Anti-Trust Act in 1890. Although the purpose of the Act was to limit the harmful effects of business trusts on competition, the courts used it to restrict the activities of labor unions as well (Richards, 1978).

Public policy relating to collective bargaining for the private sector developed in the 1940's. A 1944 opinion of New Jersey Attorney General David T. Wilentz said, "The absence of law in this regard prohibited public sector bargaining." (Gaswirth, 1981). The New Jersey 1947 state constitution stated that persons in private employment have the right to organize

and bargain collectively. "Persons in public employment shall have the right to organize, present and make known to the state or any of its political subdivisions or agencies, their grievances and proposals through representatives of their own choosing (Gaswirth, 1981, p. 84)."

In 1935, the National Labor Relations Act, also known as the Wagner Act, legally protected the rights of employees to bargain collectively (Richards, 1978). The Taft Hartley Act, now officially called the Labor-Management Relations Act, amended the Wagner Act and guaranteed employees the right to select representatives of their own choosing for collective bargaining (Novit, 1979). These acts did not, however, apply to public employees.

In 1959, Wisconsin became the first state to pass legislation giving public employees the right to engage in collective bargaining. In 1961, mediation and fact-finding were incorporated into the statute. In 1966, after three years of experience, a review found that the availability and utilization of fact-finding as a procedure had been effective as a viable alternative to strike demonstrations and sanctions (Gatewood, 1974).

Executive Order E010988, issued by President John F. Kennedy, was the first federal recognition that government employees had the right to organize and bargain collectively. This was followed by Executive Order E11491, President Richard M. Nixon signed into effect an Impartial Federal Service

Impasse Panel. This panel can order binding arbitration for federal employees if necessary. Employees of the Federal Government in all states are not given the right to strike (Novit, 1979). Strikes and picketing, along with all forms of compulsory unionism are banned (Kern, 1975).

A 1976 Harvard Law Review survey of public sector collective bargaining agreements showed 9 out of 10 provided some form of contractual grievance process. Of these, 78% culminated in arbitration and 80% of these culminating in arbitration allowed union control over employee access to arbitration.

Since collective bargaining was not generally present in school personnel management, grievance procedures developed differently across the United States. Neal (1971) lists four ways these procedures developed. School systems with neither written personnel policies nor collective bargaining agreements consequently had no formal grievance procedure at all. These systems were usually rural and disputes, if any, were handled informally. Districts with written policies, (even though these policies vary in content, quality and thoroughness) but no collective bargaining agreement and no provision for grievance procedures, are in the second level. Here, too, grievances are handled informally. The third level includes districts which have no collective bargaining contracts but have written personnel policies that include provisions for grievances. The fourth and most prevalent level includes

school divisions which have both written personnel policies and collective bargaining agreements which include a grievance procedure.

Each state has created local boards of education to aid in implementing the educational policies of the state. Known more often as local school boards, they are concerned with executing the state's mandate for public education. Since the state maintains control over public education, local board members represent the state and act as agents. All local school officials, therefore, are agents of the state. Legally, then, school boards exist to carry out the policies of the state legislature and its agencies.

Historically, the common method of decision making by Boards of Education and administrators was one of unilateralism in which they possessed almost full authority and responsibility for making decisions related to the delivery of educational services to the local community. This method of operation ceased with the advent of collective bargaining. When the posture taken by teachers' associations changed from the "professional input" stance to the posture of advocating bilateral decision making it became inevitable that there would be disputes between boards and employees (Weast, 1981).

School boards in all states have expressed and implied powers to adopt rules and regulations relating to teacher conduct. Each day school officials encounter situations which may require the application of court decisions in

matters of conduct as related to teachers' rights and responsibilities. School officials need to have uniform, legally sound policies for resolving conflicts. School boards and school administrators need to have parameters of action established by the state through the development of such policies.

Most states have enacted legislation specifying the grounds for and the manner in which a teacher's contract may be terminated. These laws apply to teachers on limited as well as continuing contracts. The usual grounds for teacher dismissal are incompetency, immorality, misconduct, neglect of duty, and insubordination. In public education, collective bargaining reinforces the protective stance of the faculty and minimizes the discretion of administrators (Peavis, 1974).

The three techniques of achieving an agreement used in the public sector are mediation, fact-finding and arbitration. All are usually utilized in a specific order with mediation being first and arbitration last (McCubbin, 1979).

Mediation

Since collective bargaining involves communication and compromise, using a third party in times of crisis can help defuse a potential explosion. The basic goal of mediation is to get an agreement. Whether or not mediation can be used depends on terms of issue differences, attitudes of parties, and mediation services available. According to Kern (1969), mediation occurs when a third party is called to help negotiators reach a voluntary agreement. The mediator assists

for a solution, while others will only assist the two parties to reach an agreement themselves.

In a report of the Committee on Law of Public Employee Relations of the Labor Relations Law Section of the American Bar Association "It is recognized that the role of mediator would be less useful in this public area, than in private industry because here he cannot bring to bear the pressure of lockout or of strike". Mediators in the public sector must have knowledge of areas different than in private industry bargaining. In education, they must understand teacher tenure, state requirements, programs, sources of school board funds and budgets (Doherty, 1976).

Smith (1971) suggests that the mediation process is likely to be sought out or accepted willingly by parties in conflict when the process has become known as being impartial, as the servant of the parties in conflict, rather than of other interested parties.

The few studies about the value of mediation seem to indicate that it works (Lewin, 1977). Apparently mediation works well in those disputes in which the parties are inexperienced and unsure of themselves, lack knowledge of contract language, and are highly susceptible to personality conflicts. It works less well when resources are scarce, negotiators are experienced and constituency pressures are strong (Richards, 1978).

Liberman (1976) says:

1978).

Liberman (1976) says:

How effective-really-is mediation? Sometimes it is extremely effective: In some cases a dismal failure. To some important degree, the difference depends on what is to follow mediation. If mediation is used as a final state in efforts to reach agreement, it is far more likely to be successful than will be the case if both parties expect mediation to be followed by, say, fact-finding. When the board and union both are aware that a bargaining state beyond mediation is available to them, both are likely to withhold "final" offers in hopes that the next step will improve their respective lots.

Fact-finding

When mediation fails to bring settlement and real differences between the parties exist, fact-finding can be of value in resolving a conflict. In some ways, the fact-finder is a mediator with clout (Richards, 1978). Mediators typically recommend fact-finding and in some states it is encouraged by law. In California, the Rodda Act states that if the mediator is unable to effect a settlement of the controversy within 15 days after his appointment, and the mediator declares that fact-finding is appropriate to the resolution of the impasse, either party may request that their differences

be submitted to a fact-finding panel (Lieberman, 1979).

Fact-finding is a relatively formal procedure used to settle disputes. The fact-finder will generally conduct hearings to collect evidence from the parties in dispute and from other interested persons. After the hearing, a report with recommendations is usually made public (Kern, 1969). Brodie (1980) points out that the fact-finder purports to identify the true facts in a dispute.

Fact-finding, a relatively new phenomenon, started in Michigan in 1954 and did not impact heavily upon the American public school scene until the late 1960's. The majority of teachers today are covered by some form of collective bargaining agreements or contracts. School systems have not been forced to adopt private sector practices completely because school systems are public and do not come under the National Labor Relations Board. Fact-finding establishes a dialogue by means of a hearing procedure. After the hearing, the fact-finder issues a report containing the opinion on outstanding issues. Fact-finding answers the premise that facts alone can settle a dispute. A most attractive area of fact-finding is that judgment assessments can be made by someone (the fact-finder) in possession of facts relevant to making a decision. The fact-finding process, according to McCubbin (1979), should be structured in a semi-judicial framework. The hearings should be formal with each side presenting their

case through evidence and testimony.

Ross (1982) states that courts examine rules from several points of view, as follows: from a procedural standpoint, rules should follow constitutionally defined due process. Procedural issues in recent cases have become more important than the rule and the penalty. If procedural due process is not granted by court authorities, a court will decide in favor of the grievant without reaching the question of the validity of the rule. Therefore, Ross further states, school boards must know what the law requires of a due process hearing. When a fact-finding hearing arises the panel becomes a judicial body that hears and decides the case on the basis of the evidence administrators and the teacher's counsel present. Here, then, is an explanation of how the administration prepares for a fact-finding hearing.

Ross (1982) lists rules for the fact-finding hearing and states that they must be set down by the chairman of the panel according to state adopted guidelines. The rules usually cover procedural matters: will witnesses be sequestered? Will the chairman allow questions from the opposing counsel during a presentation? How will panel members ask questions to get additional facts? The responsibility of the fact-finding panel is to gather all the information needed to deliberate and then vote on a recommendation to the school board.

Dubel (1977) states that fact-finding requires the

parties to gather objective information and to present arguments with references to these data. An unsubstantial or extreme demand from either party tends to lose its force and status in this forum. After the formal presentation of issues, the report of facts and value judgments can be written into a recommendation for resolution of the conflict.

An added weapon of the fact-finding process is that the report can be made public. The fact-finding report and recommendations provide a basis to inform and crystallize thoughtful public opinion and news media comment. Such reports and recommendations have a special relevance when the public's business is involved. The public has a special right to be informed on the issues, content and merits of disputes involving public employees. The public expects the school board to accept the fact-finder's report. The school board looks objective when the report seems reasonable, logical and based on fact (Dubel, 1977).

Boards should remember that teachers are more vulnerable to an adverse fact-finding report than are school boards. If the fact-finder's report is unfavorable it puts the union in an unfavorable position (Lieberman, 1979). The union has raised expectations that it cannot fulfill and probably should not be fulfilled. Lieberman (1980) states that school boards must be able to cope with adverse fact-finding recommendations if they plan ahead. Boards must first, when negotiations bog

down and a fact-finder is about to enter the situation, remind the "union", the press, and public that the fact-finder's recommendations are only advisory. A mistake often made is thinking of a fact-finder as a judge; he is not. A judge makes decisions based on a body of law, but a fact-finder is not so restricted. Guidelines and criteria for fact-finding are so numerous and general that a fact-finder can easily find justification for any recommendation he wishes. The school board must find out how many fact-finding reports have been rejected by school boards in their state during the past few years. The board can use this information in a press release to emphasize the fact that it will listen to the fact-finder's report but will not necessarily be held to the recommendations. According to Liberman, the board must emphasize well in advance that what counts in the report is not the fact-finder's conclusions, but the rationale used to reach the conclusions.

Given no standard criterion to judge the effectiveness of the fact-finding procedure, a logical measure might be the extent to which the parties involved have accepted, in full or in part, the recommendations of fact-finding. Gatewood (1974) states that a criterion of effectiveness, predicated upon the assumption that either full or partial acceptance of awards implies general acceptance of fact-finding. While this is intuitively appealing, it may not be the best standard.

The problem stems from the assumption that partially accepted awards support the notion of acceptance of the procedure. Conversely, only complete rejection of awards would legitimately imply nonacceptance of the procedure. An examination of awards rendered in fifty-four cases in Wisconsin, showed approximately one-third were fully accepted, one-third were partially accepted (a compromise agreed upon), and one-third were rejected (Gatewood, 1974).

Confidence in the fact-finder is an important factor in conflict resolution. There is disagreement over whether a single fact-finder or a panel best suits the intended purpose. Some authorities claim that since facts are to be weighed, a single individual can provide a more decisive report (Richards, 1978). Others, however, are concerned that mediation is a part of effective fact-finding and panelists with the views of each of the parties would be helpful in the settlement seeking process (Richards, 1978).

Lewin (1977) finds fact-finding to be misnamed. He points out that it combines elements of both mediation and arbitration. It has much of the structure and ritual of arbitration, including a hearing, testimony from each side, and a written report. As in mediation, the third party's settlement recommendations are not binding.

Arbitration

Arbitration gives the third party the authority to issue an award in a dispute. A hearing is held in which evidence

is taken from both parties. Both sides agree that they will be bound by the determination of the arbitrator. Mediation and fact-finding have been reasonably well accepted in most of the public sector but arbitration remains controversial (Pers, Information Bulletin, 1978).

An arbitrator has more flexibility than a judge, both as to the evidence that can be introduced at a hearing and as to the range of remedial action. The arbitrator should have a working knowledge of behavioral psychology to equitably weigh the information. He needs to be able to determine the credibility of witnesses, to understand the motivation of participants and to forecast the results of the award. The arbitrator has broad powers and should be aware of the impact upon the people involved in the dispute (Richards, 1978).

Richards (1978) found that arbitration, compulsory and binding, is part of the search in the public sector for "finality" in negotiations. Several states provide arbitration if the conflict is still unresolved after the fact-finder's report but the issues surrounding arbitration are many. The question in public education conflict is: Can a person or body not responsible to the electorate make decisions which determine social policy for the local subdivision of the state?

The Supreme Court ruled in 1973 that binding arbitration is not an unconstitutional delegation of the school board's

power in the case of *City of Biddeford, Maine v. Biddeford Teachers' Association*. Members of the Biddeford School Board felt that by agreeing to binding arbitration they were surrendering their authority to persons who are in no way responsible to the electorate. The teachers' association based their case on the Municipal Public Employees Labor Relations Law 26 M. S. R. A. 961 which recognizes the right of public employees to join labor organizations. This act also provides a four step procedure for resolving conflict: Negotiation, mediation (when jointly requested), fact-finding, and arbitration.

If mediation is unsuccessful, one or both parties may request fact-finding. The fact-finding board has hearings and submits its findings to the parties. If the parties do not agree with the fact-finder's report then arbitration takes place and is binding (Kern, 1975). The Supreme Court ruled in favor of the Teachers' Association in *Biddeford v. Biddeford Teachers' Association* thus setting a precedent for other states to enact arbitration as the final step in conflict resolution.

Weast (1981) found that people who are opposed to legislation to provide binding arbitration believe that binding arbitration would give teachers greater benefits than they could otherwise obtain. Decisions made through non-binding arbitration or fact-finding can be rejected by the Boards of Education.

Richard Walton, former president of the National Public Employer Relations Association and a former school district staff relations director, states that binding arbitration "destroys collective bargaining" and is a "copout" for both elected and union officials. This is true, he states, because "they don't have to face the issues" (Education USA. p. 169, 1981).

There appears to be some reluctance to accept binding arbitration as the terminal step. Employment conditions of the public employee are fixed not only by contract but also, to a considerable extent, by statute, public policy and administrative regulation (Doherty, 1967). If arbitration is compulsory, not voluntary, the weak party in negotiations is likely to avoid settling disputed issues. Kern feels that since parties think they will likely lose by negotiating, they are willing to take the chance that an arbitrator may treat them more favorably. This attitude reduces the incentive to reach a solution. Negotiations may drag on endlessly. Doherty further states that there is still the question in the minds of school board members and the public as to whether acceptance of arbitration awards is a delegation of power to someone not answerable to the public.

Fact-finding in Virginia

The statement in the Code of Virginia governing public education covering teacher dismissal in 1975 reads: "Teachers may be dismissed, suspended or placed on probation for the

following reasons: Incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence, or for other good and just cause (Virginia School Laws, 1975, p. 142.)"

The 1980 Virginia School Laws, which is the most recent edition, adds "conviction of a felony or a crime of moral turpitude" to the list.

The 1975 Code of Virginia did not address the issue of teacher grievances, nor did it provide an orderly procedure for teacher dismissals.

By 1978, Virginia school officials began the use of a "panel" to help resolve conflicts and gain information to aide in the board's decision making. Chesapeake Public Schools provided a policy outlining a typical procedure for conflict resolution. The early steps in resolving a grievance provided for: First, an informal meeting between the grievant and his supervisor or immediate superior. Failure to resolve the conflict entitled the grievant to proceed to step one. At step one, a written grievance appeal could be filed with the principal. A meeting would take place between the two parties. If the grievance was not settled in step one, the employee could file a written grievance appeal with the superintendent. A meeting could then be held between the employee and the superintendent. If no settlement was reached, the employee then had five days to appeal the superintendent's decision to the school board. The employee or the superintendent

could request a panel hearing before reaching a decision.

This "advisory panel" in Chesapeake consisted of one member appointed by the board and one member appointed by the employee. This panel was to resolve the grievance within five work days. If the panel could not come to an agreement then a third, impartial panel member had to be selected. A list of names could be furnished by the American Arbitration Association from which the panel members could select the impartial third member. The recommendation of the panel was to be advisory only (Chesapeake School Board Policy (1978)).

By 1980 the term "fact-finding" was used in the Code of Virginia. The option of a fact-finding panel was added along with specific rules governing the membership of the panel and the procedures for conducting a hearing (Virginia School Laws, 1980).

A 1981 administrative memo (Memo to Superintendents #102) amended the grievance procedure to incorporate certain statutory changes. This memo also provided detailed definitions and descriptions of specific steps to be taken in grievance and teacher dismissal cases.

In the 1983 session of the legislature, amendments were enacted to section 22.1-312 and 22.1-313 of the Code of Virginia relating to teacher grievance procedures. The amendments involved the preservation of a record or recording in cases of dismissal or probation. In addition, local school board employees were granted release time if the hearing was

to be held during the school day.

Other amendments include the provision for the rationale for the local school board's decision if it is at variance with the recommendations of a fact-finding panel. The amendment also provided for the exclusion of certain parties from the Executive Session of the school board which has as its purpose reaching a decision on the grievance (Virginia School Laws, 1983).

Summary

Debates about whether collective bargaining should exist have all but subsided. Most of the controversy now is over conflict resolution devices. While the effectiveness of arbitration is still being contested, there is consensus that mediation and fact-finding are helpful in settling disputes.

Mediation and fact-finding are an established part of Virginia public school teacher grievance and dismissal procedures. Although the first three formal steps of this process have been stable for at least five years, fact-finding procedures are revised periodically. The Virginia General Assembly and the State Board of Education, when dealing with fact-finding have made several revisions.

In reviewing the forms of conflict resolution, the literature on the fact-finding process, and the provisions in the statutes of Virginia, one may determine a clear need to continue the examination of fact-finding as a method of conflict resolution in teacher grievance and dismissal procedures.

This research of fact-finding cases and of opinions of school administrators should provide insight into the current acceptance of fact-finding and recommendations as to whether or not further changes are necessary.

Chapter 3

Methods and Procedures

This study was designed to examine fact-finding as a method of conflict resolution to determine its degree of acceptance by Virginia Public School Boards. Data needed for this descriptive study included a complete listing of the cases presented to local school boards after fact-finding in Virginia during the 1982-83 and 1983-84 school years and descriptions of these cases. Relationships that were analyzed included the size and location of school divisions, frequency of fact-finding, the resolution of particular cases presented to fact-finding, and cases resolved directly by the school boards without fact-finding. The research questions are presented in this chapter.

Population for the Study

The Virginia public school system included 133 school divisions at the time this study was designed. For this study each division was considered as a separate population. A total of 119 school divisions, or approximately 90%, responded to the initial questionnaire. From these respondents, 23 school divisions which met the following criteria were selected for further study:

1. The school division had at least one case presented to fact-finding during the school year 1982-83.

2. The school division had at least one case presented to fact-finding during the school year 1983-84.

Probability and Statistics

A minimum of 10 schools, or 43 per cent of the population of school divisions participating in fact-finding, was deemed a necessary study sample for this research. A larger sampling was employed so the generated sample would provide a sufficient number of cases if some school divisions chose not to participate in the study.

Instrumentation

After reviewing the literature, it was evident that authorities disagreed about the effectiveness of fact-finding. However, they generally agreed on the format for conducting a fact-finding hearing. Since it was anticipated that some of the cases to be studied were overturned for violations of procedural due process, the questions asked of interviewees were based, in part, on "Procedures for Conducting a Fact-Finding Hearing" found in the 1980 edition of the Virginia School Laws. The remaining interview questions were selected from a literature base. The original questionnaire was adapted from the Survey of Teacher Contract Terminations. This survey is sent annually to all school divisions in Virginia by the State Department of Education. The survey provides information regarding the steps at which the number of grievances are resolved. Since this survey does not address information essential to this research, modifications

were made to determine which issues were presented to fact-finding and how these cases were resolved.

.After examining several interview guides such as Nachimas (1976) and Babbie (1975) the one by Matilda Riley was selected because it provided for a structured set of interview questions that were open-ended. This allowed the interviewee to provide answers unique to particular cases and also permitted the interviewer the validity of using the same set of questions for each case. This researcher only quantified data that readily supported the Riley technique. In this study there is a definite preference for idea over number since widespread problems could have been ignored if certain data had been quantified.

The questionnaire was piloted by submitting it to a superintendent, an assistant superintendent in charge of personnel, a supervisor of research and testing and a former member of several fact-finding committees. These four people made suggestions for changes in the interview questions. Since it was anticipated that some of the questions might not be answered by the interview due to personnel turnover, or memory problems with earlier cases, further investigation was needed. An interview was conducted with someone who had been involved with a fact-finding case. After the interview, the transcript of that case was read to determine if information could be obtained from the transcript which would help answer the questions asked in the interview. All

questions with the exception of the final three could now be supported by the transcript. This procedure was confirmed by the supervisor of research and testing who had helped revise the interview questionnaire.

The final three questions were considered sufficiently important to remain in the interview since they would aid the researcher in drawing conclusions about the fact-finding process and in making suggestions for further study. All data were confidential. At no time were names of school divisions identified when included in tabulations or case studies.

Since the research involved travel throughout the state, a master chart of appointments was made. A letter confirming the appointment was mailed to the interviewee along with a copy of the interview questions. Tape recordings were used when permitted.

Description of the Instrument

The Fact-Finding Questionnaire consists of two parts. Part I of the instrument recorded data on the number of pupils attending school in each school division and the total number of grievances filed during the school years 1982-83 and 1983-84. Part I also contained spaces for the person completing the questionnaire to record the number of cases resolved at fact-finding, the number of cases resolved directly by the school board, the number of cases where the decision of the school board was at variance with the fact-

finders' recommendation, and the number of cases appealed to a court having jurisdiction. This information was requested for the school years 1982-83 and 1983-84. Part II of the instrument contained space for the person completing the questionnaire to record the type of items presented to fact-finding during these years and record whether or not each particular case was appealed to a court and whether or not the school board accepted the fact-finders' recommendation. This approach was used to gather quantitative data on the number of cases presented to fact-finding and the resolution of all cases. Comparisons were then done on the size and location of the school divisions in relation to the total fact-finding hearings.

The second three-part instrument used in this study was the Interview Schedule. Part I contained questions about the issue at impasse and the decision of the fact-finding committee. There are 12 questions about the make-up of the committee, how it was selected and about actual aspects of the hearing such as, how many witnesses testified, the length of the hearing and the information used by the fact-finding panel in reaching the decision. Part III (7 questions) contained information necessary for reaching conclusions on the cost of fact-finding and on the opinions of school administrators regarding the process. This interview questionnaire provided data on the fact-finding process and its acceptance in Virginia school division grievance and dismissal cases.

These instruments are included in Appendices A and B.

Method of Collecting Data

A brief questionnaire was mailed to all superintendents requesting the number of grievances filed, the number of cases presented to fact-finding, the number of cases decided by the school board in lieu of fact-finding, and the number of cases appealed to a court having jurisdiction. The superintendents of schools in all school divisions in Virginia received a letter briefly explaining the study and requesting their participation. They also received an introductory letter from Dr. C. Fred Bateman, superintendent of Chesapeake Public Schools, requesting assistance with this study. These letters are included in Appendices A and B. In addition to these two letters, each superintendent received the one-page questionnaire and a stamped, self-addressed envelope. One hundred and nineteen questionnaires were returned for an overall return rate of 89.5%.

After receipt of the questionnaires, the researcher contacted persons who completed the questionnaires in school divisions that indicated cases were brought to fact-finding. Twenty-three school divisions were contacted for interviews and ten were selected for further study. Information was collected from the interviews and in one case from newspaper articles.

Hypotheses

In this study the following hypotheses were tested:

1. The recommendations of fact-finding committees are accepted more often than they are rejected.
2. The number of cases brought to fact-finding varies with the size and location of the school division.
3. The number of cases decided directly by the school board is less than the number of cases decided by the school boards after a fact-finding hearing.
4. School central office administrators prefer fact-finding to other methods of conflict resolution.

Treatment of the Data

A descriptive design was selected because this study purported to collect data describing the way things presently are. The information gathered was analyzed to form a normative basis for making judgments or decisions. Riley's method of survey research was used which examined with intense accuracy the "phenomena of the moment" by use of the open-structured interview. (Riley, 1963). The case study format was used in presenting information on percentages and types of cases. Causal-comparative study was done on the relationship, if any, that existed between the number of cases presented to fact-finding and the size of the school division.

Summary

The purpose of this study was to examine fact-finding in Virginia public school grievance or dismissal cases. The hypotheses were drawn from the literature and data

to test the hypotheses were collected through the use of the Fact-Finding Questionnaire and open-structures interviews with superintendents as subjects. Tables were made to present information which provided answers to the hypotheses. Descriptions of specific cases are given.

Chapter 4

Presentation and Analysis of Data

The purpose of this chapter is to describe and analyze the data collected in this study. The presentation of the data and the analysis and interpretation of the data are divided into the following areas:

1. 1981-83 fact-finding questionnaires.
2. 1983-84 fact-finding questionnaires.
3. Combined data from 1982-83 and 1983-84 fact finding questionnaires.
4. Combined data from the interview schedules.
5. Selected cases presented to fact-finding.

There were 23 public school divisions in Virginia involved in fact-finding in the two years studied; 12 in the 1982-83 school year and 16 in the 1983-84 school year. Data from copies of the Fact-Finding Questionnaire sent to the superintendent of schools of each of the 133 school divisions and data from 10 completed interview schedules were utilized in the preparation of the tables found in this chapter. The initial purpose of this study was to examine fact-finding as a method of conflict resolution in Virginia Public School grievance cases. The research questions of this study ask:

1. How many cases were resolved through the fact-finding

process during the school years 1982-83 and 1983-84?

2. How many cases were resolved by the school boards during the school years 1982-83 and 1983-84?

3. How many cases were appealed to a court having jurisdiction after fact-finding?

4. In how many cases did the school board reject the fact-finders' recommendation?

5. Of those cases where the decision was at variance with the fact-finders' recommendations, what was the rationale for the board's decision?

1982-83 Data and Analysis

Table I presents an abbreviated report of data in answer to these research questions for the 1982-83 school year. To be counted in the totals of fact-finding, an item must have received a recommendation in a fact-finding report.

Column totals in Table I indicate that there were a total of 106 grievances or dismissals filed by public school employees. Fifteen cases (14.4%) were decided directly by the school board without benefit of fact-finding. Twenty-three cases (21.6%) were decided by the school board after it received a recommendation by the fact-finding panel. Of these twenty-three recommendations, one was not accepted by the school board. Five cases were appealed to a court having jurisdiction after the school board decision. It should be noted that out of 106 grievance or dismissal

Table I.
1982-83 Grievance and Dismissal Resolutions

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision rejected by board	Appealed to court
A	435	1	0	0	0	0
B	980	0	0	0	0	0
C	1077	0	0	0	0	0
D	1170	0	0	0	0	0
E	1200 (1)	1	1	0	0	0
F	1200 (2)	1	1	0	0	0
G	1200 (3)	0	0	0	0	0
H	1490	0	0	0	0	0
I	1630	1	0	0	0	0
J	1948	1	1	0	0	0
K	1990	1	0	1	0	1
L	2000	0	0	0	0	0
M	2210	0	0	0	0	0
N	2300 (1)	3	0	0	0	0
O	2300 (2)	1	1	0	0	0
P	2365	1	0	1	0	1
Q	2500	1	1	0	0	0
R	2600	2	0	0	0	0
S	3000	1	0	0	0	0

Table I (continued)

1982-83 Grievance and Dismissal Resolutions

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision rejected by board	Appealed to court
T	3265	0	0	0	0	0
U	3665	0	0	0	0	0
V	4268	0	0	0	0	0
W	4582	1	1	0	0	0
X	4737	1	1	0	0	0
Y	4800	0	0	0	0	0
Z	4850	1	0	0	0	0
AA	5100	1	0	0	0	0
BB	5200(1)	1	1	0	0	0
CC	5200(2)	2	2	0	0	0
DD	6300	1	0	1	0	1
EE	7000(1)	1	1	0	0	0
FF	7000(2)	3	0	1	0	0
GG	7000(3)	0	0	0	0	0
HH	7750	4	1	1	0	0
II	8709	1	0	1	0	0
JJ	8900	1	0	1	0	1
KK	9064	0	0	0	0	0
LL	9800	0	0	0	0	0

Table I (continued)
1982-83 Grievance and Dismissal Resolution

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision re- jected by board	Appealed to court
MM	9876	0	0	0	0	0
NN	10500	8	1	4	0	0
OO	11864	0	0	0	0	0
PP	12677	1	0	0	0	0
QQ	14472	26	0	8	0	0
RR	15500	3	0	0	0	0
SS	29500	11	1	1	0	0
TT	30000	5	1	0	0	0
UU	35000	7	0	0	0	0
VV	57764	11	0	2	1	1
WW	124000	1	0	1	0	0
		<u>106</u>	<u>15</u>	<u>23</u>	<u>1</u>	<u>5</u>

cases filed, 79 cases (74.5%) were resolved before Step 4.

1983-84 Data and Analysis

Table II presents an abbreviated report of data in answer to the research questions for the 1983-84 school year. To be counted in the totals for fact-finding, an item must have received a recommendation in a fact-finding report.

Column totals in Table II indicate that there were a total of 118 grievances or dismissals filed by public school employees. Fifteen (12.7%) were decided directly by the school board without benefit of fact-finding. Twenty-four cases (20.3%) were decided by the school board after it received a recommendation by the fact-finding panel. Of these twenty-four recommendations, three were not accepted by the school board. One case was appealed to a court having jurisdiction after the school board decision. One case is still unresolved at this writing. It should be noted that out of 118 grievance or dismissal cases filed, 79 cases (66.8%) were resolved before Step 4.

Combined Data From 1982-83 and 1983-84

Table III presents the totals of categories from Table I and Table II to show a comparison of the two school years. The number of grievances and dismissals filed increased by 12 in 1983-84. However, it may be noted that 33 out of 119 Virginia school divisions actually filed grievances or dismissals in 1982-83 and the number (33) was equal to the number filed in 1983-84. Although the same 33 school divisions

Table II
1983-84 Grievance and Dismissal Resolutions

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision rejected by board	Appealed to court
A	435	0	0	0	0	0
B	980	1	0	1	0	0
C	1077	1	1	0	0	0
D	1170	1	1	0	0	0
E	1200(1)	0	0	0	0	0
F	1200(2)	1	1	0	0	0
G	1200(3)	1	0	1	0	0
H	1490	1	0	1	0	0
I	1630	2	0	0	0	0
J	1948	2	2	0	0	0
K	1990	0	0	0	0	0
L	2000	1	0	1	0	0
M	2210	1	1	0	0	0
N	2300(1)	0	0	0	0	0
O	2300(2)	0	0	0	0	0
P	2365	0	0	0	0	0
Q	2500	0	0	0	0	0
R	2600	2	0	0	0	0
S	3000	0	0	0	0	0

Table II (continued)
 1983-84 Grievance and Dismissal Resolutions

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision rejected by board	Appealed to court
T	3265	1	0	0	0	0
U	3665	1	0	1	0	0
V	4268	1	1	0	0	0
W	4582	0	0	0	0	0
X	4737	0	0	0	0	0
Y	4800	1	1	0	0	0
Z	4850	0	0	0	0	0
AA	5100	3	0	0	0	0
BB	5200(1)	0	0	0	0	0
CC	5200(2)	1	1	0	0	0
DD	6300	0	0	0	0	0
EE	7000(1)	0	0	0	0	0
FF	7000(2)	1	0	0	0	0
GG	7000(3)	3	0	1	0	0
HH	7750	3	0	0	0	0
II	8709	0	0	0	0	0
JJ	8900	0	0	0	0	0
KK	9064	2	0	2	1	0
LL	9800	1	0	1	pending	pending

Table II (continued)
1983-84 Grievance and Dismissal Resolutions

Number	Size	Number of grievances or dismissals filed	Decisions by the school board	Decisions after fact-finding	Fact-finders decision rejected by board	Appealed to court
MM	9876	8	0	8	0	0
NN	10500	13	2	1	0	0
OO	11864	3	0	0	0	0
PP	12677	2	0	0	0	0
QQ	14472	6	0	1	1	0
RR	15500	13	0	0	0	0
SS	29500	17	1	1	0	0
TT	30000	2	1	1	0	0
UU	35000	6	1	1	1	1
VV	57764	15	0	2	0	0
WW	124000	1	1	0	0	0
		118	15	24	3	1

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did not file grievances or dismissals during both years, many school divisions do become involved in this process each year. For the two years studied, 18 school divisions filed grievances or dismissals both years. The eight largest school divisions (12,000 or more pupils) reported a total of 126 cases during the two years studied; 56% of all grievances and dismissals filed by Virginia public schools for these two years. Seventeen out of forty-seven cases presented to fact-finding were from the eight largest divisions.

Table III

Totals of Table I and Table III

	1982-83	1983-84
Grievances or dismissals filed	106	118
Cases decided by school boards	15	15
Cases decided after fact-finding	12	24
Cases in which the school board rejected the fact-finders' recommendation	1	3
Cases appealed to court	5	1

Data in Table IV reveals the total number of school divisions reported in this study. It provides information, by number of pupils, on the relationship between the size of the school division and the number of cases presented to fact-finding during the 1982-83 and 1983-84 school year.

Table IV
Number of School Divisions Reported

Size	Number of Divisions	Number of Cases presented to fact-finding 1982-83	Number of Cases presented to fact-finding 1983-84
0-2000	32	1	3
2001-4000	32	1	2
4001-6000	18	0	0
6001-8000	11	3	2
8001-10000	12	3	11
10001-12000	4	4	1
12001-14000	2	0	0
14001-16000	1	8	0
16001-18000	0	0	0
18001-20000	1	0	0
20001-22000	0	0	0
22001-24000	0	0	0
24001-26000	0	0	0
26001-28000	1	0	0
28001-30000	2	1	1
30001-125000	<u>3</u>	<u>2</u>	<u>3</u>
	119	23	24

Sixty-four school divisions reported less than 4001 pupils, forty-five school divisions reported between 4001 and 12,000 pupils, and ten school divisions reported from 12,001 to 125,000 pupils. School divisions with between 4001 and 12,000 pupils and school divisions over 12,000 reported the

largest number of grievance and dismissal cases. However, with two of these school divisions, each reported 8 cases for one year. These were group cases where clusters of teachers were seeking reimbursement for course work or were grieving a new evaluation process.

Table V provides further information related to the size of school divisions and the number of grievances filed during 1982-83 and 1983-84.

Table V.

School Divisions and the Number of Grievances Filed in Virginia

Size	Number of Divisions	Number of Grievances 1982-83	Number of Grievances 1983-84	Divisions Filing no Grievances
0-2000	12	6	11	20
2001-4000	10	9	5	25
4001-6000	8	7	6	7
6001-8000	5	9	7	4
8001-10000	5	2	11	7
10001-12000	2	8	16	2
12001-14000	1	1	2	2
14001-16000	2	29	19	0
16001-18000	0	0	0	0
18001-20000	0	0	0	1
20001-22000	0	0	0	0
22001-24000	0	0	0	0
24001-26000	0	0	0	0
26001-28000	0	0	0	1
28001-30000	2	16	19	0
Over 30000	3	19	22	0

Of 119 school divisions studied, 69 divisions reported no grievances or dismissals filed during those two years. Fifty school divisions filed a total of 224 grievances and dismissals. Only four school divisions reporting over 12,000 pupils filed no grievances or dismissals.

Table VI illustrates items presented to fact-finding. Of the four fact-finding recommendations overturned by the school boards, all were for dismissal. In two of the cases, the fact-finders did not agree with dismissal.

Table VI
Items Presented to Fact-Finding

Title	Number of Cases
Conflict of Interest	1
Dismissal	23
Probation	3
Evaluation	8
Summer Position	1
Salary	1
Reimbursement for Coursework	8
Transfer	<u>1</u>
	47

These recommendations were not accepted because the school board felt that the fact-finders did not address the issues. Both of these teachers were dismissed. In two other cases the fact-finders recommended a lesser punishment but the school boards proceeded with dismissal.

Combined Data From the Interview Schedules

Table VII provides totals from the ten cases presented for analysis. Specific answers are given to questions asked during the interviews. The questions are stated and totals of answers are given.

Table VII
Answers to the Interview Schedule

Part I

1. Was the grievant male or female?

Male	7
Female	3
2. What was the position of the grievant?

Teacher	8
Principal	2
3. What was the issue at impasse?

Incompetency	3
Evaluation	1
Insubordination	1
Salary	1

- | | |
|--------------------|---|
| Moral turpitude | 3 |
| Change of position | 1 |
4. Was a transcript made of the hearing?
- | | |
|-----|---|
| Yes | 9 |
| No | 1 |
5. Where is it kept?
- | | |
|---------------------|---|
| Personnel office | 5 |
| School board office | 3 |
| Attorney's office | 1 |
| Destroyed | 1 |
6. Was the case open to the public?
- | | |
|-----|---|
| Yes | 3 |
| No | 7 |
7. Was the fact-finding decision unanimous?
- | | |
|-----|---|
| Yes | 6 |
| No | 4 |
8. If not, what was the dissenting opinion?
- | | |
|-----------------------|---|
| Lesser punishment | 2 |
| Facts did not support | 2 |
9. What was the rationale for the board's decision if it was at variance with the fact-finders' recommendation?
- | | |
|--------------------------------------|---|
| The panel did not address the issues | 2 |
| Emotional | 1 |
| Facts were not proved | 1 |

10. Was the case appealed to a court having jurisdiction?

Yes 1

No 8

Pending 1

11. If so, what was the decision of the court?

None of the cases have been decided at this writing.

12. Was the appeal made for reasons of due process?

Yes 0

No 10

Part II

1. Was the chairman of the fact-finding committee a professional arbitrator?

Yes 4

No 6

2. Who represented the superintendent on the committee?

Principal 5

Assistant Superintendent 1

Other school system adm. 4

3. Who represented the grievant on the committee?

Teacher 8

Principal 1

Uniserv director 1

4. Who was the third member of the committee and how was he or she chosen?

(a) Professional arbitrator 4

- | | |
|----------------------|---|
| Local businessman | 2 |
| Judge | 1 |
| College professor | 2 |
| Other superintendent | 1 |
| (b) Mutual agreement | 7 |
| Court list | 3 |
5. How long was the hearing?
- | | |
|---------------|---|
| 1-5 hours | 3 |
| 5-10 hours | 3 |
| 10-15 hours | 1 |
| 15-20 hours | 3 |
| Over 20 hours | 1 |
6. Were any witnesses called to testify for the grievant? Who?
- | | |
|---------|----|
| (a) Yes | 10 |
| No | 0 |
- (b) Students, teachers, parents, principals, superintendent
7. Were the names of the witnesses exchanged in advance of the hearing?
- | | |
|-----|---|
| Yes | 7 |
| No | 3 |
8. Was the grievant represented by an attorney?
- | | |
|-----|---|
| Yes | 8 |
| No | 2 |

9. Was the school system represented by an attorney?
- Yes 9
- No 1
10. Were any witnesses called to testify for the superintendent? Who?
- (a) Yes 8
- No 2
- (b) Students, principals, assistant principals, assistant superintendents, supervisors, teachers
11. Was there cause to doubt the accuracy of the data presented by the grievant?
- (a) Yes 8
- No 5
- (b) The grievant denied things were said. Old information was presented and found hard to prove. There were time contradictions. The opinion of grievants differed with the opinions of the school administrators.
12. Was there cause to doubt the accuracy of the data presented by the superintendent? Why?
- (a) Yes 1
- No 9
- (b) The evidence was heresay.
13. Did the grievant present a realistic description of the actual situation?

Yes 7

No 3

14. Did the superintendent present a realistic description of the actual situation?

Yes 10

No 0

15. Did the fact-finding committee use other information relevant to the case in reaching their decision?

What was it?

(a) Yes 2

No 8

(b) Newspaper articles, written documents

Part III

1. Did the superintendent present an explanation of the conditions under which charges were brought? What were they?

(a) Yes 10

No 0

(b) See Part I, Question 3

2. Were a series of witnesses called to testify to the authenticity of charges? How many?

(a) Yes 8

No 2

(b) From one to twenty in each case

3. Were a series of witnesses called to testify for the

grievant? How many?

(a) Yes 9

No 1

(b) From one to eight in each case

4. What would you estimate was the cost of this case in terms of loss of time, substitute pay, cost of transcript, etc.?

0-\$5000 2

\$5000-\$10,000 4

\$10,000-\$15,000 2

\$15,000-\$20,000 0

Over \$20,000 2

5. Do you think this form of arbitration should be binding? Why or why not?

(a) Yes 1

No 9

(b) The school board has a constitutional responsibility for such decisions. Binding arbitration would erode the school board's power. If the fact-finding panel recommended against the superintendent, the school board would not be able to support him in other decisions regarding the school system. The fact-finding panel is not composed of legal minds. There is an adversary relationship on fact-finding panels.

6. Do you feel that a fact finding panel has the right to make a judgment on competency?

Yes 8

No 2

7. What suggestions would you make for improving the fact-finding process?

(a) Many witnesses made similar statements. The most vexing problem is that fact-finding doesn't conform to reasonable time constraints. There should be time limits from the time the grievance is filed to the completion of the hearing. The school system should have subpoena power. Many witnesses can refuse to testify. When a teacher is terminated she/he should have to shoulder the burden of the expense.

The next section, Review and Analysis of Selected Cases, provides information on the ten cases presented here. Each case is reviewed and an analysis of the school board's decision is given.

Review and Analysis of Selected Cases

Ten cases were selected for further analysis. The cases were selected to represent the different issues brought to fact-finding, to represent different regions of the state, to represent school divisions of varying sizes, and to represent different resolutions.

Case 1 - A female teacher in school division KK was being dismissed for incompetency. In a closed hearing lasting from 8-10 hours, 2 members of the fact-finding panel recommended non-dismissal. In a dissenting opinion, the third panel member recommended dismissal. The grievant and the school system were represented by an attorney and 9 witnesses such as parents, teachers and school administrators were called in to testify. These names were exchanged in advance of the hearing. The Deputy Superintendent represented the superintendent. A teacher represented the grievant. The third panel member was a superintendent from another school division chosen by mutual agreement. Evidence presented to the panel included actual work samples of teaching materials and observation reports compiled by the principal. After a review of the hearing transcript, the school board rejected the recommendation for non-dismissal. The cost of this case was approximately \$40,000. The teacher's salary was paid until the school board reached its decision.

The fact-finding panel's recommendation for non-dismissal was rejected by the school board. The rationale for the board's decision was that the facts presented in the case, in their opinion, supported the superintendent's recommendation for dismissal. They reviewed long and detailed documentation of actual classroom experiences over a two year period. This school division reported no grievances or dismissals filed during 1982-83 and only this case for dismissal was filed

during 1983-84. It is quite possible that in this investigator's judgment, the strength of the evidence outweighed the fact-finders' recommendation and the school board based their decision on this documentation.

Case 2 - A male teacher in school division G was recommended for dismissal for being "under the influence of alcohol". The fact-finding hearing, closed at the request of the grievant, lasted 2 days. The superintendent selected a principal as his representative on the fact-finding panel. The grievant selected a teacher as his representative. A local businessman was selected by these two representatives as the chairman and third impartial member. Both parties were represented by attorneys and a transcript was made of the hearing. After several witnesses were called to testify in behalf of the grievant and the superintendent, the panel ruled in favor of the grievant based on a lack of evidence. No one had actually seen the teacher take a drink of an alcoholic beverage. The school board accepted the fact-finders' recommendation. The cost of this case was approximately \$1,500.

In this case, there was an obvious lack of evidence to support dismissal. The superintendent was relying on hearsay evidence that someone considered the grievant to be under the influence of alcohol while at work. The fact-finding panel could not support dismissal and the school board agreed with this decision. Fact-finding committees must base

their decisions on the facts of the case. This procedure appears to have been followed in school division G.

Case 3 - A male teacher from school division HH was grieving the fact that his contract was not being renewed. The fact-finding hearing was closed and was chaired by a judge. He was not a professional arbitrator. A transcript was made of the hearing which lasted three weeks. The school division paid for the transcript and incurred expenses totally \$6,500. The grievant did not want a transcript, but the school division wanted one for their records. Many witnesses were called to testify. The names of these witnesses were not exchanged in advance of the hearing. A principal represented the superintendent on the panel and a teacher represented the grievant. Both parties were represented by counsel. The fact-finding panel unanimously recommended that the teacher be dismissed and the school board accepted the panel recommendation.

The panel's decision was unanimous. This is somewhat unusual in fact-finding decisions since an adversary relationship is often present on the panels. The grievant's representative on the panel, in most cases votes for the grievant. The unanimity of the panel members recommendation lent support to the superintendent's recommendation for dismissal. This case was also selected to demonstrate the attempt of the grievant to keep a job to which he was

not entitled. The grievant did not have tenure and thus was not guaranteed his right to a job in this school system.

Case 4 - In school division L, a female elementary principal went to fact-finding on the issue of salary. The school board had refused to grant her pay for experience as a central office supervisor. The superintendent supported the grievant. In a closed hearing, the fact-finding panel decided in favor of the grievant. A transcript was made of the hearing, but it was destroyed shortly after the hearing. The Director of Instruction represented the Superintendent on the panel. A high school principal represented the grievant. The panel was chaired by a college instructor chosen by mutual consent. The hearing lasted 1½ hours and cost \$75. Witnesses called to testify for the grievant included the Superintendent and the Assistant Superintendent. Only the grievant was represented by an attorney. The panel decision was unanimous and the school board accepted the panel's recommendation to grant the grievant's prior experience as a supervisor.

In this case, a hearing appeared necessary to support a policy change in the school division's method of awarding compensation for related work experience.

Case 5 - A principal from school division JJ was charged with conflict of interest. The fact-finding hearing was closed and lasted two days. A teacher represented the grievant on the panel. A central office administrator

represented the superintendent . The third, impartial member was a professional arbitrator selected from a list supplied by a local judge. Both parties were represented by attorneys and a transcript was made of the case. The names of the witnesses were exchanged in advance of the hearing: Eight witnesses testified for the grievant. Twelve witnesses testified for the superintendent. After a hearing which cost approximately \$7,000, the panel unanimously recommended a decision in favor of the grievant.

The hearing met the global expectations of fact-finding and the decision was supported by the school board.

Case 6 - School division H reported a case presented to fact-finding. The grievant was a male, physical education teacher/coach. He was not tenured and was dismissed mid-way through the school year. The grievant filed the complaint asking reinstatement for the remainder of that school year, but the fact-finding hearing lasted through May (the entire process including the hearing). The primary issue was moral turpitude. This teacher allegedly used profanity with the students and admitted himself, at one time during this same school year, to a treatment center for alcoholics.

This case was open to the public at the request of the grievant. The superintendent was represented on the panel by an elementary principal. The grievant was represented by a teacher. The third committee member was a county administrator and was a professional arbitrator, chosen from a list

provided by a judge. A transcript was kept of the hearing at the school divisions's expense. Both parties were represented by counsel. Parents, friends, students were called to testify for the grievant. The principal of the school at which the grievant worked and some parents were called to testify for the superintendent. The names of the witnesses were exchanged in advance of the hearing.

The fact-finding panel unanimously reached a decision in favor of the superintendent. This hearing cost approximately \$15,000. The grievant later took the school division to court to collect \$1,000 he was to have earned for coaching. The school division won the case after legal fees of \$962.

This case contained three important justifications for the support of the school board of the fact-finders' recommendation. First, the employee was not tenured and was, therefore, serving under a form of probationary status. Second, the employee's actions were witnessed and accurately documented. Third, the fact-finder's recommendation was unanimous.

Case 7 - A male secondary teacher faced dismissal on charges involving moral turpitude. In school division TT, the teacher was charged with improper conduct concerning a female student. The grievant chose to have a closed fact-finding hearing. A transcript was made at the expense of

the school division and is kept in the school board office. The grievant was represented on the panel by a teacher. The superintendent was represented by a central office administrator. The third panel member was a college professor chosen by mutual agreement. The school system was represented by an attorney. The grievant was represented by two attorneys. The hearing lasted approximately five hours and cost the school division \$5,000. Several witnesses were called to testify for the grievant, including teachers, parents and students. The fact-finding panel ruled in favor of dismissal with one member dissenting on the grounds that the charges did not warrant dismissal and that a "lesser punishment" should be given.

In this case, the evidence supported the grounds for dismissal. The grievant's conduct was witnessed and documented, therefore, the school board supported the fact-finders' recommendation.

Case 8 - A male football coach in school division QQ was informed, according to school board policy, that he would not be assigned to a coaching position for the next school year. Although the policy did not provide for this, the grievant claimed that his due process rights were violated when the principal did not give him the reasons that his position was being reassigned. The grievant opted for a closed fact-finding hearing and chose, as his representative

on the panel, a Uniserv director of the local affiliate of the National Education Association. The superintendent's representative was a principal who was also an attorney. The third panel member was a lawyer; a professional arbitrator chosen from a list provided by the court. The grievant was not represented by an attorney. The superintendent was represented by counsel. The names of the witnesses were exchanged in advance of the hearing. Approximately five witnesses were called to testify for the grievant to give testimony regarding his character. The assistant superintendent was the lone witness for the superintendent. A transcript was not made of the hearing.

The panel decided in favor of the grievant with one member dissenting. After reviewing the written recommendation and the dissenting opinion, the school board rejected the fact-finders' decision and agreed with the dissenting opinion. The board's rationale for this was that all of the issues were not addressed and that a change in the policy was not necessary. The cost was \$1,500.

The fact-finding decision supported the grievant and would have resulted in a school division policy change. The school board agreed with the dissenting opinion of the superintendent's representative on the panel. The superintendent's representative was a lawyer and his opinion was based on the fact that all relevant issues were not addressed in the hearing. The global expectations of fact-finding were apparently met

in this case which resulted in a school board rejection of the fact-finding panel's recommendation.

Case 9 - Another case from school division QQ involved a male teacher who questioned a satisfactory evaluation. He felt that his performance for the year had been superior. The grievant was represented on the fact-finding panel by a teacher. The superintendent was represented by a principal. A local businessman was chosen by mutual agreement as the third impartial member. The grievant represented himself and the superintendent was represented by an attorney. A transcript was made at the school division's expense. This particular school division makes transcripts for all dismissal cases.

The hearing lasted approximately four hours. Four witnesses, one parent and three teachers, testified in behalf of the grievant. No witnesses testified for the superintendent.

The panel's decision was not unanimous. It ruled in favor of the superintendent. In the written report, the panel stated that what the teacher viewed as superior performance the principal viewed as adequate performance. The facts did not support the teacher's view. The hearing cost the school division between \$8,000-\$10,000.

The school board agreed with the decision of the fact-finding panel. Evaluation of teachers, as outlined in this

school board's policy is the responsibility of the principal.

Case 10 - Possibly the most publicized case in Virginia during the two years of this study, this case involved an elementary teacher in school division UU. The teacher was recommended for dismissal on the grounds of insubordination. Purportedly she had made inflammatory attacks upon the principal in a local newspaper, failed to carry out the instructions of the principal, falsely reported to a parent discipline carried out by the assistant principal, and exhibited disruptive behavior in the school. Although the grievant did not deny the charges, she did claim her right to free speech under the First Amendment of the Constitution.

The grievant elected to have an open hearing and gave several interviews to the press. The actual hearing lasted twenty hours but the dismissal process, from Step 1 to Step 5 lasted one year. The cost of this case to the school division was \$75,000 which included the teacher's salary for one year while the school division waited for her to prepare the case.

The grievant was represented on the panel by a teacher. The school system was represented by a central office administrator. The two panel members could not agree on the third member so they chose a professional arbitrator from a list provided by a local judge. The school division was represented by an attorney. The grievant was represented

by an attorney whose fee was paid by the local affiliate of the National Education Association. A transcript was made of the hearing and copies are filed in the Personnel Office and the City Attorney's office.

Approximately five witnesses were called to testify for the grievant including teachers and parents. Many witnesses testified for the superintendent including the principal, assistant principal, director of personnel, reading supervisor, teachers, and other principals for which the grievant had worked.

The fact-finding panel ruled in favor of the grievant in a unanimous decision. However, the school board rejected this decision and stated that the fact-finding panel did not address all of the charges brought against the grievant. The teacher was dismissed. The teacher has filed suit against the school system in civil court but the case has not been decided at this writing.

In this case, the panel member's recommendation was unanimous but the school board rejected their decision. The hearing centered on the first amendment rights of the grievant. Several of the charges of insubordination were not addressed, thus, the school board could not accept the panel's recommendation. For the global expectations of fact-finding to be met, all charges must be addressed and all facts relevant to the case must be presented.

Summary

Fact-finding occurred during the school years 1982-83 and 1983-84 in Virginia school divisions. Twenty-three public school divisions (18.6%), of those who responded to the questionnaire, were involved in fact-finding during these two years. The cost of a fact-finding case ranged from \$75 to \$75,000. The longest case studied lasted one year from its arrival at Step 4 to the decision by the school board. The majority of cases brought to fact-finding are for reasons of dismissal.

Chapter 5

Summary, Conclusions, Discussion, and Recommendations

The statement of the problem, a selected review of the literature, a report of methods and procedures, and analyses of the findings were presented in the first four chapters. In this chapter a summary of the study and findings are presented as well as conclusions and implications drawn from the conclusions. Recommendations for further study are also presented.

Summary

It was the purpose of this study to examine fact-finding as a method of conflict resolution in Virginia Public School grievance cases to determine the extent to which school boards and courts accept the fact-finder's recommendations. The problem was re-stated through the following questions:

1. How many cases were resolved through the fact-finding process during the school years 1982-83 and 1983-84?
2. How many cases were resolved by the school boards during the school years 1982-83 and 1983-84?
3. How many cases were appealed after fact-finding to a court having jurisdiction?
4. In how many cases did the school board reject the fact-finders' recommendations?

5. Of those cases where the decision was at variance with the fact-finders' recommendations, what was the rationale for the board's decision?

The study was considered important for providing information about fact-finding so that potential changes in the grievance procedures could be based on an objective study of the process.

Selected literature was reviewed from five perspectives: Collective bargaining, mediation, fact-finding, arbitration, and fact-finding in Virginia. Filley's conflict resolution theory provided the conceptual and theoretical framework for the study because of its applicability to the problems related to conflict resolution processes in public school grievance or dismissal hearings. A basic assumption of the conflict resolution theory is that in a win-lose strategy energies are directed toward the other party in an atmosphere of total victory or total defeat and the emphasis in the process is upon attainment of a solution rather than upon a definition of goals.

Five research questions were generated and were phrased in terms of the following hypotheses.

1. The recommendations of fact-finding committees are accepted more often than they are rejected as measured by the Fact-Finding Questionnaire.

2. The number of cases brought to fact-finding varies with the size and location of the school division as measured

by the Fact-Finding Questionnaire.

3. The number of cases decided directly by school boards is less than the number of cases decided by the school boards after a fact-finding hearing as measured by the Fact-Finding Questionnaire.

4. School central office administrators prefer fact-finding to other methods of conflict resolution as measured by the Fact-Finding Interview Schedule.

Findings and Conclusions

The findings of the study are presented in the following segments:

1. Items held to be at impasse and submitted for fact-finding during the 1982-83 and 1983-84 school years in Virginia public school divisions.

2. Categories of items presented to fact-finding.

3. Reported actions of school boards to accept or reject the recommendations of the fact-finders.

4. Opinions held by central office administrators in charge of fact-finding toward the fact-finding process.

Items Held to be at Impasse and

Submitted for Fact-Finding During 1982-83

and 1983-84 School Years in Virginia Public Schools

The study included all items reported at impasse in the public school districts which were submitted to fact-finders in the 1982-83 and 1983-84 school years. The total number of items in 1982-83 for which recommendations were made was

23. One recommendation was not accepted by the school board. Fifteen cases were decided by the school boards without benefit of fact-finding. All five cases appealed to court had been involved in fact-finding. Seventy-nine cases were resolved prior to Step 4.

The total number of items in 1983-84 for which fact-finding recommendations were made was twenty-four. Three fact-finding recommendations were not accepted by the school boards. Fifteen cases were decided by the school boards without benefits of fact-finding. One case was appealed to court after having been processed through fact-finding. Seventy-nine cases were resolved before Step 4.

The total number of grievances or dismissals filed in Virginia Public School Divisions for these two years was 224. The total number of cases decided directly by school boards was 30. The total number of cases resolved through fact-finding was 47.

The eight largest school divisions in Virginia are located in three geographic areas: The Richmond area, the Northern Virginia area, and the Tidewater area. Fifty-six per cent (126) of all grievances or dismissals filed were reported from these three areas. However, only 17 out of 47 cases (36%) presented to fact-finding were from these areas.

Ten school division central office administrators were interviewed and reported these figures for the school years studied. A total of 109 man hours was invested in fact-

finding hearings at a total cost of \$153,000 in these ten school divisions.

Categories of Items Presented to Fact-Finding

Following examination of items presented to fact-finding, the issues determined to be at impasse were grouped into eight categories based on the similarity of the items. In 1982-83 and 1983-84 of the items at impasse presented to fact-finding 23 were for dismissal, 1 was for a conflict of interest, 3 were for probations, 8 were teacher evaluations, 1 was for a summer position, 1 was for salary, 8 were for reimbursement for course work, 1 was for a transfer.

The Reported Actions of Boards of Education to
Accept or Reject the Recommendations of Fact-Finders

Information reported by the superintendents of the school divisions for the 1982-83 school year showed that the school boards accepted 22 out of 23 fact-finders' recommendations. Information reported for the 1983-84 school year showed that the school boards accepted 21 out of 24 fact-finders' recommendations. Two of the boards' rejections of the recommendations were for reasons procedural in nature. The panels did not address the original charges brought forth in the dismissal cases. In one of the other two cases, the panel recommended a lesser punishment and the school board proceeded with dismissals.

Opinions Held by Central Office Administrators
in Charge of Fact-Finding Toward the Process

Ten central office administrators were asked to express their opinions about the fact-finding process. They were asked whether or not they thought this form of arbitration should be binding, whether or not a fact-finding panel has the right to judge competency and what suggestions they could make to improve the fact-finding process. These data were reported in a presentation of the responses to the Interview Schedule. The nine respondents who felt that the fact-finders' recommendation should not be binding agreed that this would constitute an erosion of the school boards' powers. The interviewees stated that fact-finding panels are not comprised of legal minds and thus should not be sole arbitrators. Eight of the central office administrators stated that a fact-finding panel has the right to make a judgement on competency. One administrator disagreed with the majority. He stated that a panel is judging the competency of the principal when it disputes the word of the principal when he has documented a teacher for incompetency. All of the administrators interviewed preferred fact-finding to other forms of conflict resolution but they stated that expense is a major problem. They said that the time constraints appear to be weighted in favor of the grievant. The time lines should be tightened. Several cases reported lasting many months. Administrators also stated that fact-finding panels should have

subpoena power for documents and witnesses.

Conclusions

This study identified the items upon which school boards and teachers were declared at impasse and subjected to the fact-finding procedure in the Commonwealth of Virginia during the 1982-83 and 1983-84 school years. This research also reported studies of several cases presented to fact-finding as well as interview results with ten central office administrators. Following is a general list of the conclusions drawn from the findings of this study:

1. Over the two year period, 65.6% of grievance and dismissal cases were resolved prior to Step 4.

2. Fact-finding occurred in public school divisions in Virginia without regard to the size of student populations or the location of the school divisions.

3. Preparation for fact-finding and the cost of the process for school divisions in Virginia are both time consuming and expensive.

4. Dismissal was the most prevalent source of impasse declaration during each of the two years of the study.

5. The second and third highest frequency of items submitted for fact-finding were evaluations and financial remuneration.

6. Over the two years studied, cases that were not resolved at Step 3 were presented to fact-finding more often than presented directly to school boards, but the difference

appears not to be significant.

7. Over the two years studied, school boards accepted the fact-finders' recommendations more often than they rejected them.

8. After fact-finding, most cases are not appealed to a court having jurisdiction.

9. None of the involved parties in cases studied appealed the fact-finders' recommendations for reason of due process.

10. School administrators who were involved in the process prefer fact-finding to other forms of conflict resolution.

11. The most frequent suggested change for improving the fact-finding process was for the establishment of shorter time frames for the grievance process.

12. The second most frequent suggestion for change was listed as the need for subpoena power in fact-finding.

Discussion

A review of the literature revealed that the process of third party intervention to settle disputes has appeared in several forms throughout history, but fact-finding has only been utilized in the United States as a method of conflict resolution since 1954. The fact-finding process is one method of conflict resolution currently used in a number of states in their grievance policies. The Commonwealth of Virginia made provisions for fact-finding in public school

grievance and dismissal cases in 1980.

A review of the responses from superintendents of schools which had been involved in the fact-finding process from 1982-84, as well as a review of the responses given in selected interview schedules, resulted in a listing of the items that school boards and school employees took to fact-finding. A review of the data reported by school administrators revealed that it was both expensive and time consuming for a school division to go to fact-finding.

School administrators stated that fact-finding panels must be permitted to rule on teacher competency but that their rulings must be based only on the background work done by the administrative staff and how that information is countered by the teacher and teacher's counsel. Fact-finders must be given power to subpoena evidence and witnesses. Because of the length of the hearings, both sides must submit a brief to the panel explaining their positions and indicating the number of witnesses and the purpose for testifying.

Although it is optional, most school divisions prefer that a transcript be made of each hearing. This transcript and attendant legal fees make up the bulk of cost of fact-finding. Some cases become very costly when they involve several postponements. A teacher's salary must be paid throughout the grievance process. One of the cases studied was brought to fact-finding one year after the grievance was filed. School administrators repeatedly claimed that the

burden of expense was on them and the time lines were against them. They recommended shorter limits for each step of the grievance process including fact-finding. Their reasons for this recommendation were due to the expense and the reliability of information. In half of the cases studied, administrators reported that there was reason to doubt the accuracy of the data presented by the grievant. Time delays also contribute to this problem.

Recommendations for Further Research

This study was an initial effort to investigate the application of the fact-finding procedures of the Code of Virginia in public school districts in the state during 1982-83 and 1983-84. While the study provided information in response to the research questions raised initially, it also resulted in the development of several recommendations for further study that were beyond the scope of the current study. These recommendations follow.

1. School division administrators stated that they had reason to question the quality and quantity of data supplied by parties at impasse. An analysis of the information provided to the fact-finders is recommended to determine if guidelines could be developed to assist the parties in providing data of sufficient quality and quantity to be of assistance to the fact-finders.

2. A comparison of the grievance and dismissal procedures in Virginia with those in other states is recommended to

determine if the Code of Virginia can be improved through a revision of either the point in the process at which impasse is declared or of the procedures in the fact-finding process.

3. The study was limited to a review of fact-finding during 1982-83 and 1984. A follow-up study is recommended for subsequent years to determine if there exists an emergent model for fact-finding in the state with regard to either the processes and procedures or the format and type of data submitted on various issues.

4. A review of the data collected from school administrators indicated there were occasions in several school divisions where the fact-finding panels did not address the issues presented. It is recommended that regional or statewide workshops be provided by the State Department of Education for the purpose of informing school boards and teacher bargaining units about the fact-finding process as well as the type, amount and quality of information to be presented to the fact-finders.

5. This study was limited to superintendents and other school division administrators' opinions on fact-finding. It is recommended that a further study should be made of teachers' opinions on and knowledge about fact-finding.

Statutes are being enacted in Virginia as well as in other states to address the problems associated with negotiations between employees and employers. Each year it becomes more evident that there exists an urgent need for more

information on methods of conflict resolution. The time, effort and expense invested by school boards, teachers and central office administrators on the preparation and involvement in the fact-finding process enhances the importance of the successful resolution of the declarations of impasse which occur. Although the grievants, fact-finders, and members of the legislature are sources of information about how procedures can be made more effective, the superintendent and other central office administrators must be a major source of information for any revisions in the fact-finding process. Time and money spent on fact-finding is time and money that could be spent on educational programs. The Commonwealth of Virginia must provide the best possible conflict resolution procedures for the benefit of students, teachers, administrators, school boards and, indeed, for the future of education in the state.

APPENDIX A
FACT-FINDING QUESTIONNAIRE

QUESTIONNAIRE

Please provide the answers to the following questions. Attach extra sheets of paper if necessary.

District name _____ . Number of pupils _____ .

City or county _____ .

Part I Total number of grievances and dismissals filed during 1982-83 _____ .

Total number of grievances and dismissals filed during 1983-84 _____ .

	1982-83	1983-84
Number of cases resolved at:		
a. fact-finding panel.	_____	_____
b. school board decision.	_____	_____
Number of cases where the decision of the school board was at variance with the fact-finders' recommendation.	_____	_____
Number of cases appealed to a court having jurisdiction.	_____	_____

Part II The following table deals specifically with actual cases presented to fact-finding during 1982-83 and 1983-84. If you had no cases presented to fact-finding during these years please enter 0 on line 1. In large school systems list as many cases as possible, including all cases that were appealed to a court and all in which the school board rejected the fact-finders' recommendation.

Please turn to side 2.

Items presented to fact-finding	fiscal year	Did the board accept the fact finders' recommendation?		Was this case appealed to a court having jurisdiction?	
		yes	no	yes	no
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					

Name and position of person completing this questionnaire

Name Position

Thank you!!! Please return this questionnaire in the enclosed envelope to:

Diane G. Martin
 300 Hickory Ridge Rd.
 Chesapeake, Va. 23322

_____ Check this space if you would like a copy of the results.

APPENDIX B
INTERVIEW SCHEDULE

Position of Interviewee	School Division	Date
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Part I

1. Was the grievant male or female?
2. What was the position of the grievant?
3. What was the issue at impasse?
4. Was a transcript made of the hearing?
5. Where is it kept?
6. Was the case open to the public?
7. Was the fact-finding decision unanimous?
8. If not, what was the dissenting opinion?
9. What was the rationale for the board's decision if it was at variance with the fact-finders' recommendation?
10. Was the case appealed to a court having jurisdiction?
11. If so, what was the decision of the court?
12. Was this appeal made for reasons of due process?

Part II

1. Was the chairman of the fact-finding committee a professional arbitrator?
2. Who represented the superintendent on the committee?
3. Who represented the grievant on the committee?
4. Who was the third member of the committee and how was he or she chosen?
5. How long was the hearing?
6. Were any witnesses called to testify for the grievant?

6. (continued) Who?
7. Were the names of the witnesses exchanged in advance of the hearing?
8. Was the grievant represented by an attorney?
9. Was the school system represented by an attorney?
10. Were any witnesses called to testify for the superintendent? Who?
11. Was there cause to doubt the accuracy of the data presented by the grievant? Why?
12. Was there cause to doubt the accuracy of the data presented by the superintendent? Why?
13. Did the grievant present a realistic description of the actual situation?
14. Did the superintendent present a realistic description of the actual situation?
15. Did the fact-finding committee use other information relevant to the case in reaching their decision?
What was it?

Part III

1. Did the superintendent present an explanation of the conditions under which charges were brought? What were they?
2. Was a series of witnesses called to testify to the authenticity of charges?
How many?
Who?

3. Was a series of witnesses called to testify for the grievant?

How many?

Who?

4. What would you estimate was the cost of this case in terms of loss of time, substitute pay, cost of transcript, etc.?

5. Do you think this form of arbitration should be binding?

Why or why not?

6. Do you feel that a fact-finding committee has the right to make a judgement on competency?

7. What suggestions would you make for improving the fact-finding process?

APPENDIX C
LETTERS OF TRANSMITTAL



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION

P.O. Box 6Q
RICHMOND 23216

March 27, 1984

Ms. Diane Tolson
Camelot Elementary School
2901 Guenevere Drive
Chesapeake, Virginia 23323

Dear Ms. Tolson:

Your letter in reference to your study of fact-finding as a method of impasse resolution of Virginia Public School grievance proceedings was referred to me. I am interested in the results of your study and at a time convenient to both of us would like to talk with you. The Department does a survey of school division employee grievances which occurred the preceeding year. I am enclosing a copy of the form sent in January, 1984. The results of this survey have not been tabulated.

Also, herein is a copy of the "Procedure for Adjusting Grievances" sent each Virginia division superintendent in the Fall of 1983. This was updated to incorporate statutory changes enacted by the 1983 General Assembly. At a later date this will again be updated to reflect any changes brought about by the 1984 session.

Please give me a call if I can be of assistance. My telephone number is (804) 225-2095.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan H. Parsons".

Susan H. Parsons
Coordinator
Professional Development and the
Beginning Teacher Assistance Program

SHP/ewh

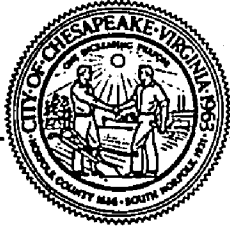
cc: Dr. William L. Helton
Mrs. Nancy C. Vance

Chesapeake Public Schools

School Administration Building

Post Office Box 15204

Chesapeake, Virginia 23320

*Office of the Superintendent*

March 25, 1985

Dear Colleague:

Enclosed is a short questionnaire for which your assistance is requested. It is important to a study being done by Mrs. Diane G. Martin who is an administrator in Chesapeake and a doctoral student at the College of William and Mary.

The focus of her study is the fact-finding procedure, particularly as it pertains to teacher dismissal. She plans to evaluate why cases have been lost or overturned.

This information will be helpful to me, and I believe to you also, when she completes her study. Knowing where the greatest vulnerability may lie will certainly assist me when future cases are prepared. Therefore, I have encouraged her in this research.

Less than five minutes should be necessary for completion of the questionnaire. I urge you also to request a copy of her full report when you return the questionnaire.

Thanks for your assistance.

Sincerely,

C. Fred Bateman
Superintendent

pe

March 21, 1985

Name
Address
City

Salutation

Recognizing that once again we are entering the time of year that preparation for teacher negotiation begins, I would ask for your help in completing the enclosed questionnaire. Because of the limited number of school districts that have gone through the fact-finding process and apparent information void about the procedure, your cooperation in gathering data will be greatly appreciated.

I can visualize your reaction to receiving another request for information. However, I believe that the potential value of this research is great enough to justify asking for a little of your time. It is also important as a basis for a dissertation, and I would be quite grateful for your help.

The items of requested information have been kept at a minimum to require the least amount of your time and yet still yield reliable information. If you have any questions about the study prior to your participation, please let me know.

Thank you for your support of educational research and for your help. A response within two weeks would be greatly appreciated.

Sincerely,

May 7, 1985

Dear

A few weeks ago you completed a questionnaire for me regarding fact-finding. Because of the unique criteria needed for my research, your school system has been selected as one of ten in the state to be further studied.

I am interested in examining fact-finding as a method of conflict resolution and I would like to learn about the process by interviewing you or a member of your staff regarding specific cases. In no way will you or your school system be identified in a report of my findings. I am only interested in comparing details in specific cases that were successfully resolved through the fact-finding process with details in specific cases that were carried further (e.g. cases appealed to a court or cases in which the school board rejected the fact-finder's recommendation).

I have enclosed a copy of the interview questions which I would like to ask if you could spare an hour of your time. If you would permit, I would like to tape the interview to conserve time and the distraction of handwritten notes.

Fact-finding is such a costly process in terms of time, money and emotions that I feel it warrants an examination which could benefit all of us as administrators. I hope that you will consent to this interview.

Sincerely,

Diane G. Martin

APPENDIX D

VIRGINIA PUBLIC SCHOOL GRIEVANCE AND DISMISSAL PROCEDURES

I. Grievance Procedure

Recognizing that grievances should be begun and settled promptly, a grievance must be initiated within 15 working days following either the event giving rise to the grievance, or within 15 working days following the time when the employee knew or reasonably should have known of its occurrence.

Grievances shall be processed as follows:

A. Step 1 - Informal. The first step shall be an informal conference between the teacher and his or her immediate supervisor (which may be the principal). The teacher shall state the nature of the grievance and the immediate supervisor shall attempt to adjust the grievance. It is mandatory that the teacher present the grievance informally prior to proceeding to Step 2.

B. Step 2 - Principal. If for any reason the grievance is not resolved informally in Step 1 to the satisfaction of the teacher, the teacher must perfect his or her grievance by filing said grievance in writing within 15 working days following the event giving rise to the grievance, or within 15 working days following the time when the employee knew or reasonably should have known of its occurrence, specifying on the form the specific relief expected. Regardless of the outcome of Step 1, if a written grievance is not filed within the specified time, the grievance will be barred.

A meeting shall be held between the principal (and/or his or her designee) and the teacher (and/or his or her designee)

within five working days of the receipt by the principal of the written grievance. At such meeting the teacher and/or other party involved shall be entitled to present appropriate witnesses and to be accompanied by a representative other than an attorney. The principal (and/or his or her designee) shall respond in writing within five working days following such meeting.

The principal may forward to the teacher within five days from the receipt of the written grievance a written request for more specific information regarding the grievance. The teacher shall file an answer thereto within 10 working days, and the meeting must then be held within five days thereafter.

C. Step 3 - Superintendent. If the grievance is not settled to the teacher's satisfaction in Step 2, the teacher can proceed to Step 3 by filing a written notice of appeal with the superintendent, accompanied by the original grievance appeal form within five working days after receipt of the Step 2 answer (or the due date of such answer). A meeting shall then be held between the superintendent (and/or his or her designee) and the teacher (and/or his or her designee) at a mutually agreeable time within five working days. At such meeting both the superintendent and the teacher shall be entitled to present witnesses and to be accompanied by a representative who may be an attorney. A representative may examine, cross-examine, question, and present evidence on behalf of a grievant or the superintendent without violating the provisions of 54-44 of

the Code of Virginia. If no settlement can be reached in said meeting, the superintendent (or his or her designee) shall respond in writing within 5 working days following such meeting.

The superintendent or designee may make a written request for more specific information from the teacher, but only if such was not requested in Step 2. Such request shall be answered within 10 working days, and the meeting shall be held within 5 working days of the date on which the answer was received. If the grievance is not resolved to the satisfaction of the teacher in Step 3, the teacher may elect to have a hearing by a fact-finding panel, as provided in Step 4, or after giving proper notice may request a decision by the school board pursuant to Step 5.

D. Step 4 - Fact-Finding Panel. In the event the grievance is not settled upon completion of Step 3, either the teacher or the school board may elect to have a hearing by a fact-finding panel prior to a decision by the school board, as provided in Step 4. If the teacher elects to proceed to Step 4, he or she must notify the superintendent in writing of the intention to request a fact-finding panel and enclose a copy of the original grievance form within 5 working days after receipt of a Step 3 answer (or the due date of such answer). If the school board elects to proceed to a fact-finding panel, the superintendent must serve written notice of the board's intention upon the grievant within 15 working days after the answer provided by Step 3.

1. Panel. Within five working days after the receipt by the division superintendent of the request for a fact-finding panel, the teacher and the division superintendent shall each select one panel member from among the employees of the school division other than an individual involved in any previous phase of the grievance procedure as a supervisor, witness, or representative. The two panel members so selected shall within five working days of their selection select a third impartial panel member.
2. Selection of Impartial Third Member. In the event that both panel members are unable to agree upon a third panel member within five working days, both members of the panel shall request the chief judge of the circuit court having jurisdiction of the school division to furnish a list of five qualified and impartial individuals from which one individual shall be selected by the two members of the panel to serve as the third member. The individuals named by the chief judge may reside either within or outside the jurisdiction of of the circuit court, be residents of the Commonwealth of Virginia, and possess some knowledge and expertise in public education and education law and shall be deemed by the judge capable of presiding over an administrative hearing. Within five days after receipt by the two panel members of the list of fact-finders nom-

inated by the chief judge, the panel members shall meet to select the third panel member. Selection shall be made by alternately deleting names from the list until only one remains. The panel member selected by the teacher shall make the first deletion. The third impartial panel member shall chair the panel. No elected official shall serve as a panel member.

3. Holding of Hearing. The hearing shall be held by the panel within 30 calendar days from the date of the selection of the final panel member. The panel shall set the date, place, and time for the hearing and shall so notify the division superintendent and the teacher. The teacher and the division superintendent each may have present at the hearing and be represented at all stages by a representative or legal counsel.
4. Procedure for Fact-Finding Panel.
 - a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, provided that, at the request of the teacher, the hearing shall be private.
 - b. The panel may ask for statements from the division superintendent and the teacher clarifying the issues involved at the beginning of the hearing and at the discretion of the panel may allow closing statements.

- c. The parties shall then present their claims in evidence. Witnesses may be questioned by the panel members, or by the teacher and the division superintendent, or their representative. The panel, in its discretion, may vary this procedure, but shall afford full and equal opportunity for all parties to present any material or relevant evidence and shall afford the parties the right of cross-examination.
- d. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel may be the judge of the relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
- e. Exhibits offered by the teacher or the division superintendent may be received in evidence by the panel and, when so received, shall be marked and made a part of the record.
- f. The finding of facts and recommendations by the panel shall be based exclusively upon the evidence presented at the hearing and the panel's recommendations shall be arrived at by a majority vote of the panel members.
- g. On its own motion or upon application of the teacher or division superintendent, the hearing may be re-

opened by the panel, for good cause shown, at any time to hear after discovered evidence before its final report is delivered.

- h. The panel shall make a written report which shall include its findings of fact and recommendations and shall file it with the members of the school board, the division superintendent, and the teacher, not later than 30 days after the completion of the hearing.
- i. A stenographic record or tape recording shall be taken of the proceedings. The recording may be dispensed with entirely by mutual consent of the parties. If the recording is not dispensed with the two parties shall share equally the cost of the recording. If either party requests a transcript, that party shall bear the expense involved in preparing it.

5. Expenses

- a. The teacher shall bear his or her own expenses. The school board shall bear the expenses of the division superintendent. The expenses of the panel shall be borne one-half by the school board and one-half by the teacher.
- b. The parties shall set the per diem rate of the panel. If the parties are unable to agree on the per diem, it shall be fixed by the chief judge

of the circuit court. No employee of the school division shall receive such per diem for service on a panel during his or her normal working hours if he receives his normal salary for the period of such service.

- c. Witnesses who are employees of the school board shall be granted release time if the hearing is held during the school day. The hearing shall be held at the school in which most witnesses work, if feasible.

6. Following a hearing by a fact-finding panel, the teacher shall not have the right to further hearing by the school board as provided in subsection E (3) of this section. The school board shall have the right to require a further hearing in any grievance proceeding as provided in subsection E (3) of this section.

E. Step 5 - Decision by the School Board.

1. If a teacher elects to proceed directly to a determination before the school board as provided for in Step 5, he or she must notify the superintendent in writing of the intention to appeal directly to the board, of the grievance alleged, and the relief sought within five working days after receipt of the answer as required in Step 3 or the due date thereof. Upon receipt of such notice, the school board may elect to have

- a hearing before a fact-finding panel, as indicated in Step 4, by filing a written notice of such intention with the teacher within 10 working days of the deadline for the teacher's request for a determination by the school board.
2. In the case of a hearing before a fact-finding panel, the school board shall give the grievant its written decision within 30 days after the school board receives both the transcript of such hearing, if any, and the panel's finding of fact and recommendations unless the school board proceeds to a hearing under E (3). The decision of the school board shall be reached after considering the transcript, if any; the findings of fact and recommendations of the panel; and such further hearing which the school board elects to conduct.
 3. In any case in which a hearing before a fact-finding panel is held in accordance with Step 4, the local school board may conduct a further hearing before such school board.
 - a. The local school board shall initiate such hearing by sending written notice of its intention to the teacher and the division superintendent within 10 days after receipt by the board of the findings of fact and recommendations of the fact-finding panel and any transcript of the panel hearing. Such notice shall be provided upon forms to be pre-

scribed by the Board of Education and shall specify each matter to be inquired into by the school board.

- b. In any case where such further hearing is held by a school board after a hearing before the fact-finding panel, the school board shall consider at such further hearing the transcript, if any; the findings and recommendations of the fact-finding panel; and such further evidence including, but not limited to, the testimony of those witnesses who have previously testified before the fact-finding panel as the school board deems may be appropriate or as may be offered on behalf of the grievant or the administration.
- c. The further hearing before the school board shall be set within 30 days of the initiation of such hearing, and the teacher must be given at least 15 days written notice of the date, place, and time of the hearing. The teacher and the division superintendent may be represented by legal counsel or other representatives. The hearing before the school board shall be private, unless the teacher requests a public hearing. The school board shall establish the rules for the conduct of any hearing before it. Such rules shall include the opportunity for the teacher and the division superintendent to

make an opening statement, and to present all material or relevant evidence, including the testimony of witnesses and the right of all parties or their representatives to cross-examine the witnesses may be questioned by the school board.

The school board's attorney, assistants, or representatives, if he or they represented a participant in the prior proceedings, the grievant, the grievant's attorney, or representative and, notwithstanding the provisions of 22.1-69, the superintendent shall be excluded from any executive session of the school board which has as its purpose reaching a decision on a grievance. However, immediately after a decision has been made and publicly announced, as in favor of or not in favor of the grievant, the school board's attorney or representative and the superintendent may join the school board in executive session to assist in the writing of the decision.

A stenographic record or tape recording of the proceedings shall be taken. However, the recording may be dispensed with entirely by mutual consent of the parties. If not dispensed with, the two parties shall share the cost of the recording equally; if either party requests a transcript, that party shall bear the expense of its preparation.

- d. The decision of the school board shall be based solely on the transcript, if any; the findings of fact and recommendations of the fact-finding panel; and any evidence relevant to the issues of the original grievance produced at the school board hearing in the presence of each party. The school board shall give the grievant its written decision within 30 days after the completion of the hearing before the school board. In the event the school board's decision is at variance with the recommendations of the fact-finding panel, the school board's written decision shall include the rationale for the decision.
4. In any case where a hearing before a fact-finding panel is not held, the board may hold a separate hearing or may make its determination on the basis of the written evidence presented by the teacher and the recommendation of the superintendent.
5. The school board shall retain its exclusive final authority over matters concerning employment and the supervision of its personnel.

II. Procedure for Dismissals or Placing on Probation

A. Notice to teacher of recommendation for dismissal or placing on probation.

1. In the event a division superintendent determines to recommend dismissal of any teacher or the placing on probation of a teacher on continuing contract, written notice shall be sent to the teacher on forms to be prescribed by the Board of Education notifying him or her of the proposed dismissal or placing on probation and informing the teacher that within 15 days after receiving the notice, the teacher may request a hearing before the school board or before a fact-finding panel as hereinafter set forth.
2. During such 15-day period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed, or acted upon by the school board except as provided for herein.
3. At the request of the teacher, the superintendent shall provide the reasons for the recommendation in writing, or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to 22.1-311 or 22.1-312, the division superintendent shall provide, within ten days of the

request, the teacher or his representative with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal or probation. Within ten days of the request of the division superintendent, the teacher or his representative shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal or probation. The cost of copying such documents shall be paid by the requesting party. For the purposes of this section, "personnel file" shall mean any and all memoranda, entries or other documents included in the teacher's file as maintained in the central school administration office or in any file on the teacher maintained within a school in which the teacher serves.

B. Hearing by the Fact-Finding Panel

Within 15 days after the teacher receives the notice referred to subsection A (1), either the teacher or the school board, by written notice to the other party upon a form to be prescribed by the Board of Education, may elect to have a hearing before a fact-finding panel prior to any decision by the school board.

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Vita

Diane G. Martin

Birthdate: April 6, 1959

Birthplace: Tulsa, Oklahoma

Education:

Elementary School in Tulsa, Oklahoma
Secondary school in Norfolk, Virginia
Bachelor of Science Degree in Elementary Education,
1972, Old Dominion University
Master of Science Degree of Elementary Education,
1978, Old Dominion University
Certificate of Advanced Study in Educational Administra-
tion, 1983, The College of William and Mary

Professional Experience:

Elementary teacher, Portlock Elementary, Chesapeake,
Virginia 1973-78
Elementary teacher, Carver Elementary, Chesapeake,
Virginia 1978-79
Assistant Principal, Georgetown Elementary, Chesapeake,
Virginia 1979-81
Assistant Principal, Western Branch Elementary, Chesapeake,
Virginia 1981-82
Assistant Principal, Butts Road Elementary, Chesapeake,
Virginia 1982-83
Assistant Principal, Camelot Elementary, Chesapeake,
Virginia 1983-85
Principal, Chittum Elementary, Chesapeake,
Virginia 1985

Abstract

AN ANALYSIS OF FACT-FINDING AND ITS ACCEPTANCE AS A METHOD OF CONFLICT RESOLUTION IN VIRGINIA PUBLIC SCHOOL GRIEVANCE AND DISMISSAL PROCEDURES

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The Problem

The purpose of this study was to examine fact-finding as a method of conflict resolution in Virginia Public School grievance cases to determine the extent that school boards and courts accept the fact-finders' recommendation. It was hypothesized that the recommendations of fact-finding committees are accepted more often than they are rejected; that the number of cases brought to fact-finding varies with the size and location of the school division, that the number of cases decided directly by school boards is less than the number of cases decided by school boards after a fact-finding hearing; and that school central office administrators prefer fact-finding to other methods of conflict resolutions.

Research Procedure

The subjects were superintendents of all school divisions in Virginia and representatives of ten selected school divisions. A survey developed by the investigator was used to determine the school divisions which reported fact-finding cases for the years 1982-83 and 1983-84. A 34 item interview schedule developed by the investigator was used to collect information on ten specific cases presented to fact-finding. Tables and rank orders were used to present information on percentages and types of cases.

Findings

There was no significant difference in the number of cases presented directly to the school boards and cases presented to fact-finding prior to a school board hearing. School boards accepted the fact-finders' recommendations more often than they rejected them. Fact-finding occurred in public school divisions in Virginia without regard to the size of student populations or the location of the school divisions. Dismissal was the most prevalent source of impasse declaration. School administrators who were involved in the process prefer fact-finding to other forms of conflict resolutions.

Conclusions

A review of the data reported by school administrators revealed that it was both expensive and time consuming for a school division to go to fact-finding. Administrators stated that panels must be permitted to rule on teacher competency and must be given power to subpoena evidence and witnesses. Administrators recommend short time limits for each step of the grievance and dismissal process to reduce expenses and increase credibility of witnesses. The findings of this study have implications for the preparation for a fact-finding hearing and for preparation of state and local grievance and dismissal procedures

Recommendations for further research are included