

Comparative Studies on the Primary and Middle School Teachers' Employment Systems Between China and America

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Abstract

Teachers' Employment System is an important personnel reform in Chinese schools which shows a positive impact on faculty team-building in primary schools and middle schools. Due to short-term reform and lack of historical experience in the primary and middle school teachers' employment system in China, there are still many problems to solve in practice. This paper plans to find out these problems to help future reform on faculty employment reform in China by finding out the problems existing in the teachers' employment system in primary schools and secondary schools and comparing Chinese primary and middle school teachers' employment systems with American primary and middle school teachers' employment systems.

Key words: China; America; Primary and middle school; Teachers' employment system

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Recently, a series of law issued such as Teachers Law of the People's Republic of China, the notice of issues related to the primary and middle school teachers' employment and so on, marked a transfer of China's teachers' personnel system from appointment to employment which is conducive to the improvement of teachers' professional quality and social status as well as the faculty team-building at schools. However, because of the short-time reform, incomplete laws and regulations

and lack of historical experience in the teachers' appointment system in China, there are still many problems existing in the practice. Therefore, it is very important to learn from foreign experience and lessons. America, as a representative developed country, has adopted employment among teachers at early time. Some experience and methods are relatively scientific which are worth to learn. This paper plans to find out these problems to help future reform on faculty employment reform in China by finding out the problems existing in the teachers' employment system in primary schools and secondary schools and comparing Chinese primary and middle school teachers' employment systems with American primary and middle school teachers' employment systems.

1. TEACHER EMPLOYMENT PRECONDITIONS

In America, teacher's qualification certificate is the precondition to be a teacher, that is to say, these candidates must have the certificate related to his plan grade levels and subjects he prefer to teach. This certificate must meet the dual standard of state (e.g., the permission of law and regulation related) and of local government (e.g., special educational training and experience needed) and at the same time pass the examination of state[s education department. In addition, most primary and middle schools in most America states require teachers with bachelor's degree or master's degree. The state's education department examines educational level, educational background, teaching skills, test records and so on. Furthermore, there are some sine qua nons for teachers in public schools according to the requirement of every states and school districts, such as local residents, physical health, loyalty to constitutional government, opposition to violence at all forms etc., in order to find outstanding teachers who can meet people's expectation and can perform well in his work.

In China, with the development of teacher's professionalism, teacher's qualification certificate is also a priority to be a teacher. As to educational background, according to

Teachers Law of the People's Republic of China, secondary academic credentials and above are needed to teachers at elementary schools. Junior college academic credentials and above are required to the teachers at middle schools. Besides, some local governments require candidates to be physically healthy, advanced ideological and political thinking, loyal to the Party etc.

2. TEACHER EMPLOYMENT PROCEDURE

In America, the procedures of teachers' employment in primary schools and secondary schools are just as followings: first, according to current situation and further plan, the employment advertisement is issued to the mass by people in charge of personnel in one particular school district. The advertisement includes school name, vacant position, grade, subject, professional qualification, the amount of work, salary and application procedure on matter on paper, magazine, TV or Internet. The applicants have to submit written materials to the school district to pass the examination of the committee (the committee generally consisting of proctors, principals, deans, committee member of school district or directors of schools) by inquiry, conversation, exam and etc. to have a comprehensive knowledge of cultural quality, educational concepts, knowledge, character, ability of expression, communicative competence and teamwork spirit and so on. If the applicant passes the examination, he or she will be recommended by the selection committee to the school board or the education committee of the school district. The school board or the education committee of the school district have the right to decide his or her employment. In general, the probationary period is three years.

While in China, there are no unified national legal regulations for teacher's employment of the elementary school and secondary schools. In practice, primary schools and middle schools adopt a system with settled organization of staff, position, responsibility and appointment. The organization of staff refers to in every summer vacation, according to the standard of bureau of education, the total number of staff arrangement in schools is settled. The school settles the positions according to subjects, classes and practical demands. The school defines responsibilities of each position according to features of different positions. And the school committee headed by the principal decides appointment of a teacher, however, different schools have their different methods of appointment. It is just an ideal to appoint teachers by school committees headed by principals in primary schools and middle schools in rural areas. Because most of the right of appointment belongs to the administrative

departments of Education in cities and counties who have the final decision to appoint teachers to those schools. It is not a contract of employment but a form of appointment. The employment procedures in urban areas is that after those procedures mentioned above employment information is issued by bureau of education and school committee through mass media. The school administration and the administrative departments of Education collect and go through the candidates' information material. And then they will pick up some excellent candidates from the qualified candidates to take on-the-spot examinations consisting of written examinations and interviews. The principals and leaders of bureau of education decide whether to employ the candidates who pass the examination. Finally, they signed contract with the candidates that they have appointed. Probationary period varies in different cities and areas.

3. TEACHER EMPLOYMENT CONTRACT FORMAT

In America, the employed teachers have to sign contracts with school committee. By doing this, the obligations and rights are set and protected by laws in both sides. Teacher's employment is divided into the permanent and the non-permanent and the non-permanent teachers consist of interns and temporary teachers. Therefore, there are three kinds of contracts to deal with them, namely, long-term contract, short-term contract and one-year contract. Long-term contract is usually applied to those permanent teachers. Short-term and one-year contracts are used to non-permanent teachers who can be recruited again. Those contracts must meet the rules of related laws and regulations. Written contracts which clearly set positions, amount of work, subjects, grades, salary, tenure, related legal procedures, responsibilities and date of coming into office are required by most states. Information like employment requirement and environment does not have to be included in the contracts. Besides the regulation on tenure and dismissal procedures, the contracts also state all rules and regulation adapted by school board. If teachers agree on these regulation and statements, contracts should include all regulation and statements. According to *Labor Law*, there are two kinds of labor contracts: formal contracts and informal contracts in China. Formal contracts adopt written form, while informal ones adopt oral form. Generally speaking, written contracts which state rights and obligation between teachers and schools are preferred in China. Such written contracts have a strong legal significance. There are long-term, short-term contracts and contracts aiming to finish specific task. Those positions with strong mobility and low technique usually require short-term contracts less than three years, while to the occupation needed and short positions, three to six years' long contracts are signed. As to contracts aiming

to finish specific task, they are signed according practical demands. Tenure should not exceed the age of legal retirement. When the employees and employers reach the same agreements, any terms of the above-mentioned contracts can be signed. To those who have worked for twenty five years or consistently worked in the schools for ten years and who are also ten years younger than the retire age, permanent contracts should be signed when they ask to sign such contract which can guarantee their work until they retire.

4. DISMISSAL REASONS AND PROCEDURES

In America, dismissal refers to some punishment but reasonable reasons (generally school-stated regulation) to end contracts. And dismissal in America is different from the contracts which will not be extended and temporary dismissal. It can apply to any candidates at anytime. No matter permanent or temporary, all employments' rights must be exploited. These dismissal reasons are compulsive and clannish. An incorrect dismissal is illegal and the committee is responsible to reappointment the teacher, compensate his lost and recover his reputation. Therefore, dismissal is considered to be very serious in America, and is decided by the school board through strict examination. According to American laws, the dismissal reasons mainly are irresponsibility, disobedience and immorality. Irresponsible teachers refer to teachers are lack of the ability to teach knowledge and competence, unable to use new teaching methods and maintain discipline in class, maltreat students, violent school principles, and lack cooperation. As to disobedience, it refers to deliberately confront leaders in a long time such as quitting classed, encouraging students to disobey or disrespect the authority, forbidding regulators to oversee the class and maltreating students. Immorality means deeds which are improper to a teacher such as insulting students and attacking and threatening other teachers. There is a difference between non-permanent and permanent teachers as to dismissal procedures. To permanent teachers, the dismissal reasons must be very full. State laws and regulations have clear statement and set procedures. These compulsive laws demand to send a notice to teachers before the dismissal takes effect, and explain the dismissal reasons. When permanent teachers receive the warning of dismissal, they are protected by laws including the right to listen to testimony, refer to written evidence and the opportunity to collect evidences and attend hearing. In the hearing, the school has to provide full evidences and the teacher has the right to self-defence and appoint his lawyer and invite others to attend the hearing. If the teacher is dissatisfied with the result of the hearing, he has the right to appeal to lower court or even to high court of state. If he is succeeded in

appealing, the school district has to continue to employ him. As to non-permanent teachers, if they fail to pass the examination, and reach to the dismissal reasons, schools can send a written warning at the end of semester. Those teachers can't ask for legal protective procedures like the right of hearing. However, some states law provide some minimum right to the teachers, such as the right to state before the school board. In a word, the teacher dismissal procedures are quite complete in America, and have clear legal regulation.

In China, the subject to dismissal of the teachers in primary schools and middle schools is not very clear. Many principals think that schools lack the initiative of dismissal, are unable to dismiss some unqualified teachers. Thus, schools just choose to transfer the job position of the unqualified teachers. At the same time, some schools violent national laws in a large scale through its own rules. Teachers' legal rights are offended seriously. Dismissal becomes a tool of right-abuse. Some schools use principal responsible system as an excuse to make the right to dismiss belong completely to principals. According to the regulations of the Law of Teacher, some principals conclude conditions of dismissal. 1. Deliberately fail to finish educational tasks and cause loss; 2. Maltreat students and won't correct; 3. Be immoral, insult student and cause bad influence. But such regulation just adopts a list form. That is to say, the unqualified teachers who meet all the three regulations can be dismissed. This statement just provides the conditions of dismissal. However, it doesn't give specific procedures and legal assistant over incorrect dismissal.

5. REVELATION TO THE REFORM OF CHINESE PRIMARY AND MIDDLE SCHOOL TEACHERS' EMPLOYMENT SYSTEM

5.1 Strict Regulation on Teacher's Employment Qualification

By comparing the primary and middle school teachers' employment contracts between China and America, China's requirement for educational background is much lower than that in America. In America, teachers in elementary schools and middle schools have already been required to get bachelor's or master's degree, while in Chinese elementary schools and middle schools, especially in elementary schools, the requirement is just to get a junior college education. Teaching quality and educational quality, to a large extent, depend on the teachers' quality. Therefore, in order to promote the educational quality of elementary schools and middle schools in China and advance the new curriculum reform successfully, it is very important to improve teachers' educational background and raise teachers' academic

requirement. Besides educational background, schools and bureau of education should have a comprehensive examination on candidates' qualification, educational skills, educational achievements and etc, because present content of examination on candidates' qualification is not all-round.

5.2 Regulation on Employment Procedure

By comparing the primary and middle school teachers' employment contracts between China and America, America's primary and middle school teachers' employment has a strict, scientific and legal procedure. Through such comparing, we can easily see that there are some problems in Chinese employment just as the followings. The employment is not open and transparent enough. Most of the employment is undertaken in a small range instead of a national or international range. Schools don't have enough initiative in employment. Employment is the first step to be a teacher in one school. Only through successful and effective employment, an excellent teacher team can be made. Without unified and standard procedures to guide teachers' employment in primary schools and middle schools of China, chaos and right-abuse will inevitably happen in teachers' employment of primary schools and middle schools in China. Therefore, legal employment procedure comes first in the progress of China's reform on the teachers' employment.

5.3 Enrichment of Form and Content of Contracts

Dismissal contracts in America are detailed which includes rights and obligations of teachers, rights and obligations of employers, salary of the employers, amount of work of the employers, dismissal reasons and etc. However, the contents of Chinese teachers employment contracts in primary schools and secondary schools are too simple. Because the rights and obligations of employers and employees are not very clear and are not equal to both sides. Some contracts merely mean to the responsibility to the teachers. In addition, the forms and methods of employment contracts in China are not rich. Though there are long-term contracts, short-term contracts and contracts aiming to finish certain work in China, many schools just confine them in the short-term contract, and some schools even sign one-year contracts. Students are objects of teachers. Short-term contracts are not conducive to teachers in primary schools and secondary schools to get familiar with their students and improve their teaching skill. Besides, it is also not good to keep the stability of core-teacher team. So the primary schools and the middle school teachers' employment contracts must be standardized, legalized and completed. Permanent contracts of teachers in China should be increased to enrich the forms of contracts. It is beneficial to the diversification of forms of primary and middle school teachers' employment contracts. By doing those

can stabilize the teachers' team and boost the positive development of the primary schools and secondary schools in China.

5.4 Legalization of Dismissal

In America, dismissal in the primary schools and the secondary schools is a very serious work especially to teachers with permanent contracts. Dismissal should not only follow the legal procedures strictly. However, teachers are also entitled to rights of appealing and calling for a hearing. To incorrect dismissal, the court will not only ask school to reappoint, but also require that the schools should compensate the teacher who suffered from the incorrect dismissal. However, in China, it is very difficult to carry out dismissal. Schools are not dare to dismiss teachers, and or principals abuse their rights and control the discharge right. Without standard dismissal procedures, teachers have no rights to call for hearing and receiving legal assistant which leads to improper continual employment and improper explanation on a qualified teacher. Such situation becomes a negative factor for us to build a qualified teachers' team. So laws and regulations related to dismissal and dismissed teachers' rights and obligations should be established urgently to regulate the dismissal procedures and the obligations and rights of the dismissed people.

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