

# The Legal Status of Teachers in Finland

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## THE FINNISH SCHOOL SYSTEM

In this article I will not treat the highest level of education: the universities, but limit my study to the schools submitted to the National Board of Education (Act 1991:182; Decree 1991:183). This board is the supervizing body for nine sorts of schools: 1) elementary school (*grundskola*), 2) professional school (*yrkesskola*), 3) secondary school (*gymnasium*), including adult secondary school, 4) institute for adult education (*medborgarinstitut*), 5) peoples' college (*folkhögskola*), 6) music school, 7) study center, 8) sports school, 9) professional teachers' school (and three schooling centers).

Finland is ethnically divided into three communities: the nationwide Swedish and Finnish communities and the Lap community which is restricted to three municipalities in the northernmost Finland. The National Board of Education includes a special section for Swedish schools.<sup>1</sup>

Schools of the following categories: 1) (Act 1983:476), 2) (Act 1987:487), 3) (Act 1983:477, 14 categories), 4) Act 1992:722), 5) (Act 1993:1218) and 6) (Act 1987:402) are in most cases run by the municipalities or municipal federations. Schools of types 7) (Act 1993:1215) and 8) (Act 1992:801) are private institutions. The schools mentioned in 9) (Act 1990:557) are run by the state.

Most of the schools are unilingual (Swedish or Finnish), but there exist also some bilingual professional schools. A few institutes for adult education are joint Swedish-Finnish schools although operating in different Swedish and Finnish sections.

The 1984:720 Act concerns private schools replacing public elementary schools, and privately run high schools. There are only a few such schools which follow regular pedagogic principles: some Swedish minority schools in purely Finnish cities and a number of Finnish private schools

in Helsingfors-Helsinki. But nineteen private schools follow the Waldorf or Steiner pedagogic system and receive State subsidies as "alternative primary schools"; three of them also include the secondary school level.<sup>2</sup>

## TEACHERS' POSITION

Municipal school teachers are considered as public officials (public servants), i.e. their employment is based on an administrative act, not a contract.

The teachers working in private "alternative elementary schools" are, on the other hand, considered as employees under private law. In this case there exists a contractual basis for their employment.

But even the teachers belonging to this "semi-private" category enjoy the same social and pension benefits as the teachers in public elementary schools. These benefits are financed by the state.

In addition to this "semi-private category" of schools there are, as has been mentioned earlier, some (very few) other private schools (Act 1919:26). Under the Elementary School Act, 10th chapter, even their teachers benefit from certain, although limited social rights.

The training schools (elementary and high school level) for future elementary and secondary school teachers are run by the state (1985:143); their teachers are state officials. This is also the case of the teachers of the two state run foreign language (French and Russian) schools (Act 1963:373) and the state run deaf, blind and physically handicapped schools (Act 1983:481). All state officials (as people engaged by the state under a contract under private law) benefit from the same pension rights.

As there is a great variety of schools and consequently also of teachers, the following study

<sup>1</sup> See *Modeen* 1995.

<sup>2</sup> See *Modeen* 1987, 1988, 1990 and 1995.

will be restricted to teachers of the two most important types: the elementary and secondary school administered by the municipality.

From the beginning of 1988 the legal situation of the teachers in secondary schools was modified as to correspond to that of the elementary schools' teachers. Today thus teachers on both levels enjoy almost the same legal rights and have almost same duties. This facilitates the task to study the legal status of municipal school teachers.<sup>3</sup>

## STATE CONTROL HISTORY

When a uniform public elementary school system was created in 1866 the municipalities were given the task to run the schools and to hire and pay the teachers. For this purpose the municipalities received important State grants.

A local government system in the rural area separated from the Church had only recently been created. Since many municipalities at that time were badly prepared to run schools it is obvious that a close State surveillance was considered necessary. The legislator gave state authorities the power to look after the municipalities in various ways as to secure a satisfactory level of elementary education. This surveillance applied also to the cities which at the same time were given the responsibility for the running of elementary schools.

State authorities had the power to control, among other things, the appointment (and the functioning) of the teachers. The statutes contained detailed provisions concerning the situation of the teacher, for instance the consequences of the abolishing of an office for its holder, the calculation of the salary, the grounds for leave of absence, the discipline.

In the cities there were also "learned schools" (grammar school) which prepared for admission to the university. They were administered separately from the "peoples' school" run by the municipality. The schools of this category were originally all run by the state and the teachers had the status of state officials. Later on a great number of private "learned schools" were founded with teachers employed on a contractual basis. These schools were all supervised directly by the National School Board.

The important school reforms carried on in the 1970's unified the municipally run elementary

school and the "learned school" into one homogeneous comprehensive school system run by the municipality. Since then the students (with very few exceptions) must attend the nine year municipal elementary schools. Afterwards they are free to take a job or to continue their studies either in the municipal secondary school (three years) or in a professional school. The majority of students chose the secondary school. It prepares for an exam which opens the way to the university.

In the first years of the reformed school system the state still retained much of the power traditionally given it to control the teacher's situation. The teachers' unions even demanded that this control system be continued as a safeguard against possible municipal misuse of powers.

The present Elementary and Secondary School Acts of 1984 thus originally contained quite detailed provisions concerning the qualifications, the appointment and the legal status of the teachers. These provisions provided for a close state surveillance of the municipal school board – the body responsible for the administration of these schools.<sup>4</sup>

## STATE CONTROL TODAY

The municipal school administration has since proven itself as quite competent and the teachers' unions today accept that the traditional state control has been abolished.

The small municipalities in Finland used to be understaffed relying to a great deal on politically appointed members of boards and committees. Today, however, even a small municipality is professionally administered and the state does not take any risk in increasing the powers of the municipality, even in the case of school administration.

The state has thus renounced in favor of the municipalities (and the bargaining parties regarding collective agreements on working conditions in the field of public service) from most of its controlling powers.

In previous statutes on school administration a considerable number of municipal decisions concerning the situation of school teachers had to be submitted to state authorities for approval. In the present statutes, however, the municipal authorities have been given the power to act without state interference.

One important reason for this new policy is also

<sup>3</sup> See *Nuorteva* 1988.

<sup>4</sup> See *Ruuhijärvi-Toivonen* 1985–1986.

to be found in the general trend to decentralize powers from the government to the municipalities.

Beginning in 1991 and afterwards the legislator has thus continually reduced the number of provisions in the statutes concerning the situation of the teacher.

You will find the same trend in the field of financial administration. The system of state grants has radically changed. All grants used to depend on detailed advance planning and control in arrear. But under the present 1992:705 Act state grants for running the schools are given automatically and in lump sums to the municipalities depending on their size, their financial strength and other in the statute mentioned criteria. The municipalities are free to decide how they use the grants, under the general condition that the schools are functioning on a satisfactory level. Only investments in school buildings, subsidized from particular investment grants, have to be approved in advance by the state.

It is thus logical that also the provisions concerning teachers' administration have been modified in a direction where the municipalities enjoy a great deal of latitude to handle their teachers' affairs.

There still exists a certain amount of state surveillance of the municipal schools. But his control does not concern any details only the general running of the schools and the functioning of the teachers.

The competent state authority regarding school surveillance is the provincial administrative board (länsstyrelse), headed by the provincial governor (landshövding). In his office the provincial school councillor (länskskolråd) carries on the surveillance duties (Provincial Board Act and Decree 1987:1233 and 1992:638).

The above mentioned National Board of Education has got only planning and harmonizing powers. The Ministry for Education is responsible for the school legislation and budgetary matters.

The state grants to the municipalities for school purposes (such as the payment of the teachers) are distributed partly by the provincial board, partly by the Ministry.<sup>5</sup>

## COURT CONTROL

As has been already mentioned the state does not interfere any more in the municipal decision making process concerning school matters.

There is however a control carried out by administrative courts in the case of an appeal. When a municipal decision is regarded as illegal it can be attacked before the provincial court under the provisions concerning judicial review stated in the Local Government Act. A teacher as well as any other person concerned is entitled to demand judicial review of municipal decisions. The provincial administrative court (länsrätt) has the authority to annul an illegal municipal decision. As appellate body functions the Supreme Administrative Court (Acts 1974:1021 and 1918:74).

The National Board of Education does not function any more as appellate body in cases of appointment or dismissal of teachers; such appeals now go to the provincial court.<sup>6</sup>

## REFORM PLANS

The municipalities thus enjoy large autonomous powers concerning school administration.

The government suggests even more radical reductions of the number of statutory provisions on school administration and consequently more powers given to the municipalities to organize their schools according to their own ideas.<sup>7</sup>

## THE MUNICIPAL SCHOOL ADMINISTRATION

The municipal school board elected by the municipal council normally carries on the administration of the schools. The powers of the school board may be transferred to another municipal body, for instance a board responsible for all educational and cultural activities of the local district.

The chief administrative school officer in the municipality is called the school director (skoldirektör). The municipality may decide on transferring to him certain authority earlier belonging to the school board. His office may also be reorganized, all depending of the discretion of the municipal council.

## THE TEACHER'S SITUATION

The special legal status of the teachers is partly regulated by the above mentioned Elementary and Secondary School Acts and the corresponding decrees.

<sup>6</sup> See Hågglund 1994.

<sup>7</sup> Governmental Bill 1997:86; See also Committee Report 1996:4.

<sup>5</sup> See Modeen 1990.

But as municipal public officials the teachers also fall under the Municipal Act (1995:365) and the local municipal ordinances concerning public officials (tjänstestadga). The Municipal Collective Bargaining Act equally applies on the school teachers.<sup>8</sup>

Obviously the national school statutes enjoy priority over local regulations.

## TEACHERS' QUALIFICATIONS

According to the Elementary School Decree 1984:718, Chapter 9, and the Secondary School Decree 1984:719, Chapter 9, there are certain qualifications to be met by school teachers, either serving on a full time or a part time basis.

*Language.* One article concerns the teacher's linguistic proficiency. If the school is Swedish-speaking, i.e. all teaching is in Swedish, the teacher must completely master this language (and vice versa for Finnish schools). Only a teacher who has himself studied in a school of either language is qualified to get a teacher's job in a school functioning in the said language.

The statutes even include a provision concerning teachers in the Lappish (bilingual Finnish-Lappish) elementary schools, of which a certain number must master Lappish.

*Religion.* In Finland the school curriculum always contains teaching of the Christian faith on a confessional basis according to either the evangelic-lutheran or the orthodox doctrines. Under the Freedom of Religion Act 1922:267 a student must however, on the demand of his tutor, be exempted from the obligation to attend classes on religion. Under the Elementary School Act the school can also be obliged to organize teaching in other religions.

Under a particular statute (1921:173) a condition for being entitled to teach the evangelic-lutheran or the orthodox faith is that the teacher himself is a member of the church community in question. The Ministry of Education can, however, allow exemptions in this case.<sup>9</sup>

*Diplomas.* There are specific diplomas and university degrees for every category of teacher depending of the level of the teaching and its character. The statutes contain general provisions as to the qualifications of the teachers.

The statutes also contain particular provisions concerning the office of the head of the school

(rektor), the class teachers (teaching young students all subjects) (klasslärare), and lecturers (lektor) teaching only certain subjects on the secondary level of the elementary school or in the high school. A lecturer must have a university degree in the subject of his teaching and a pedagogic exam. It is also required that he has had practical training.

It is obvious that all teachers must master pedagogy. In addition to the studies concerning the subject of teaching a teacher student must spend some time training his teaching ability.

Corresponding diplomas obtained in the other Nordic countries (Denmark, Norway, Iceland, and Sweden) have the same value as Finnish diplomas. Citizens of all Nordisk countries can be appointed to classteachers' jobs in Finnish elementary schools (Act 1984:365).

The provisions concerning citizenship requirements for teachers have recently been abolished. An opening in this matter in the direction of allowing also aliens outside Scandinavia (with required linguistic proficiency) to get teachers' jobs in Finland is under way.<sup>10</sup>

## THE TEACHER'S EMPLOYER

The employer of the teacher is a municipality. As has been mentioned only a small proportion of teachers are employed by the state or private institutions.

The teacher is paid by his employer. Important state grants are distributed to the municipalities (and to the owners of the "replacing" private elementary and high schools) for the running of schools, including the wage costs (Art. 84a, Elementary Act and Art. 54a, High School Act, State Grant Acts 1992:688 and 1992:705).

## RECRUITMENT

The teachers are recruited among university graduates. The class teachers graduate from pedagogic departments, the lecturers from other departments, depending on the subject of teaching.

The jobs are declared vacant. Among the candidates the municipal school body selects the ones they considered to be the best qualified and suitable for the job.

<sup>8</sup> See *Modeen, Local Government Studies* 1995.

<sup>9</sup> See *Modeen* 1991.

<sup>10</sup> See *Committee Report* 1991:31.

## PERMANENCY

A teacher's office is filled on a permanent basis. A teacher normally stays in his office until the age of retirement (65 years or less, although at least 55 years) depending on the job. Only under certain circumstances a teacher may be dismissed by the school body.

Notice can be given by a teacher without reasons. It is, however, bound to a certain period and must be given in writing. The municipality can discharge a permanent holder of a teacher's office, only if the law allows such a measure. Such situations are when the office has been declared as discontinued, when the holder is not able to fulfil his duties or continuously neglects to do so. There are, on the other hand, a number of situations when a dismissal is not allowed. As not permitted reasons for dismissal are mentioned illness (except for permanent disability, when the teacher will get a pension), pregnancy and birth, the teacher's participating in a strike or political or dismissal motivated by the teacher's religious belief or lack of belief.

A teacher can lose his job, because of the discontinuation of his office. For this event there are particular provisions in the statute aiming at securing his rights to a job and his income.

In the case of discontinuation of a teacher's office the teacher is entitled to a substantial economic compensation when he cannot be given an other job.

In cases of a vacant job, a teacher is appointed to serve as a substitute until the job has been filled with an ordinary teacher.

## CAREER OPPORTUNITIES

There is no automatical career system provided for by statute. A teacher can apply for a better job, for example as head of the school. When he can produce the necessary diplomas and can show good records he may have chances to be promoted.

The teacher's salary is fixed by the general collective agreement. The agreement contains provisions on wage raises after certain periods of serving in a job. In addition to that the head of the school may give a good teacher an extra raise.

## TRANSFER

A teacher is not appointed to serve a particular school in the municipality, but to function as a teacher on a certain level.

School teachers' vacancies are however announced pertaining to a particular school. A person thus applies for a job in this school. But if appointed, the teacher must accept to take a job in another school in the same municipality, when the local school authority so decides.

When a job is discontinued (for instance when the school closes) the teacher is obliged to accept a job in another school. If the new school functions in another municipality, the teacher's displacement costs are paid by the state.

A teacher can always apply for a job in another municipality or try to change school within the district.

## PART-TIME JOB

Serving a school on an hourly basis often means a part-time job. But there exist also teachers who are permanently working on a hourly basis. The social rights of these teachers depend of the volume of teaching.

## COMBINED TEACHING JOBS

There exists the possibility of creating joint teachers' jobs within the same municipality. Even in different municipalities joint teachers' jobs function. In these cases the teacher circulates giving lectures in different schools.

There even exist combined teacher's and cook's jobs in elementary schools. (See also Joint Teachers' Act 1992:710).

## IN-SERVICE TRAINING

There is a lot of teachers' in-service training (summer courses etc.) provided for by the municipalities. Considerable amounts are reserved in the annual budgets for this purpose and the teachers benefit regularly from the opportunity participating in such training.

## LEAVE OF ABSENCE

Leave of absence must be given teachers on ground of illness, motherhood and other in law

prescribed situations. Otherwise a leave of absence depends of the discretion of the local school body.

## LIABILITY

There are no specific provisions concerning the liability of teachers. The liability of all employees is regulated by the Torts Act 1974:412. Under his statute the employer is always primary liable for any damages caused by an employee. But the employer may ask to employee to compensate him the damages paid, when the employee has been found guilty of more than slight negligence. Damages caused in the school are in most cases considered the result either of accidents (when no liability occurs) or of slight negligence on behalf of the school personnel. The teacher thus does not have to pay from his own means a compensation.<sup>11</sup>

A recent case from the Supreme Court of justice (1994 1) illustrates the rules. Some commercial school students had decided on playing soccer football indoors with a ball ment for volleyball game. During the game the ball hit the eye of a student who was injured. The student who had kicked the ball and the municipality as the employer had to pay a compensation to the injured student for his pain and suffering. The kick had been to hard regarding the circumstances and the teacher had not forbidden the students to go on with the playing. The compensation amount was however reduced, since the injured student was by his own doing partly responsible of the injury.

## DISCIPLINE

The earlier detailed statutory provisions concerning the teachers' disciplinary sanctions have been abolished. Not even the Municipal Act contains any such rules any more.

This does not mean that there should not exist any sanctions in the case of irregularities in a teacher's work. A common disciplinary penalty is an oral or a written warning issued by the municipal (or the school) board. In more serious cases, a faulty or negligent teacher may be dismissed from his job.

In the case of even more serious acts a teacher can be prosecuted before a court of law and penalized by a decision of the court.

Under Chapter 40 of the Penal Code of 1889 (revised 1989:792) public officials are subject to particular criminal liability rules which thus concern all teachers in public (municipal or state) schools. This chapter concerns such crimes as the taking of bribes, the revealing of secret information, the misuse of official functions. Even a break of an officer's duty without purpose but by negligence may be penalized by a court of law.

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<sup>11</sup> See *Nuorteva* 1991.