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House Education Committee
Hearing on House Bills 1722, 1735 and 779 –
Seniority and Tenure Reform
December 3, 2013

Ashley DeMauro, Pennsylvania State Director
StudentsFirst

**To: Chairman Clymer
Chairman Roebuck
Members of the House Education Committee**

Re: Support for seniority and tenure reform

StudentsFirst thanks the House Education Committee for holding a hearing to discuss the importance of reforming Pennsylvania’s antiquated system of seniority-based reductions in force. All three bills before the committee today significantly improve Pennsylvania’s law; however, House Bill 1722 also includes a provision to improve the practice of granting tenure.

“Last in, first out” – or “LIFO” – is a quality-blind practice of seniority-based dismissals that occurs when economic conditions necessitate a reduction in force. Currently, Section 1125.1 of the Public School Code statute explicitly requires that these decisions be based solely on seniority. Because of the hard work of many on this committee, Pennsylvania now has an educator effectiveness system that includes evaluations based in part on multiple measures of student achievement. Once implemented fully, this system can become the basis for personnel decisions, taking into account educator effectiveness rather than simply relying on years of service.

Research consistently shows that the effectiveness of the educator in front of the classroom is the most important in-school factor impacting student achievement. Students of highly effective teachers gain five to six more months of learning than students of ineffective teachers.¹ Further, research has shown that students who are in the classrooms of ineffective teachers for three consecutive years are unlikely to ever catch up to their peers.² Students who had teachers that were identified as effective – based on student performance and growth – are more likely to attend college, attend

¹ TNTP, *The Irreplaceables: Understanding the Real Retention Crisis in America’s Urban Schools* (New York: TNTP, 2012), 2, 42, http://tntp.org/assets/documents/TNTP_Irreplaceables_2012.pdf.

² Research Progress Report, University of Tennessee Value-Added Research and Assessment Center, Knoxville (1996), http://news.heartland.org/sites/all/modules/custom/heartland_migration/files/pdfs/3048.pdf.

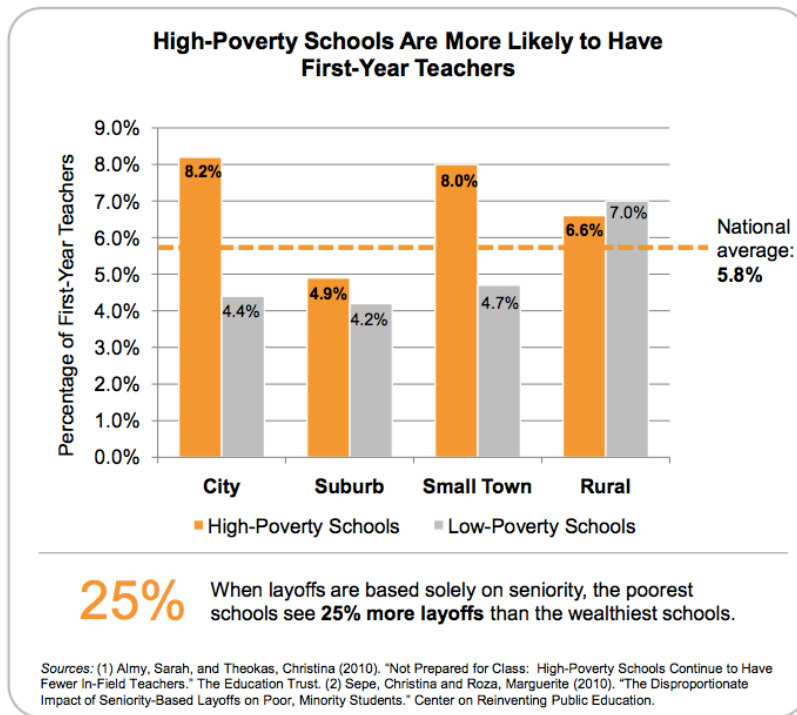


higher-ranked colleges, earn higher salaries, and live in better neighborhoods, and had lower rates of teen pregnancy.³

Knowing that great teachers have huge impacts on our students, we should be doing everything we can to ensure every student has an effective teacher. But in Pennsylvania, we do not make this assurance to our students; specifically, during a reduction in force, we rely on quality-blind dismissals that do not take into account teachers' performance. As a result of these state-mandated seniority-based dismissals, students and schools are negatively impacted in the following ways:

#1

LIFO disproportionately affects communities with the highest need.



Source: "The Case Against Quality-Blind Layoffs: Why Layoff Policies that Ignore Teacher Quality Need to End Now." The New Teacher Project. (2011).

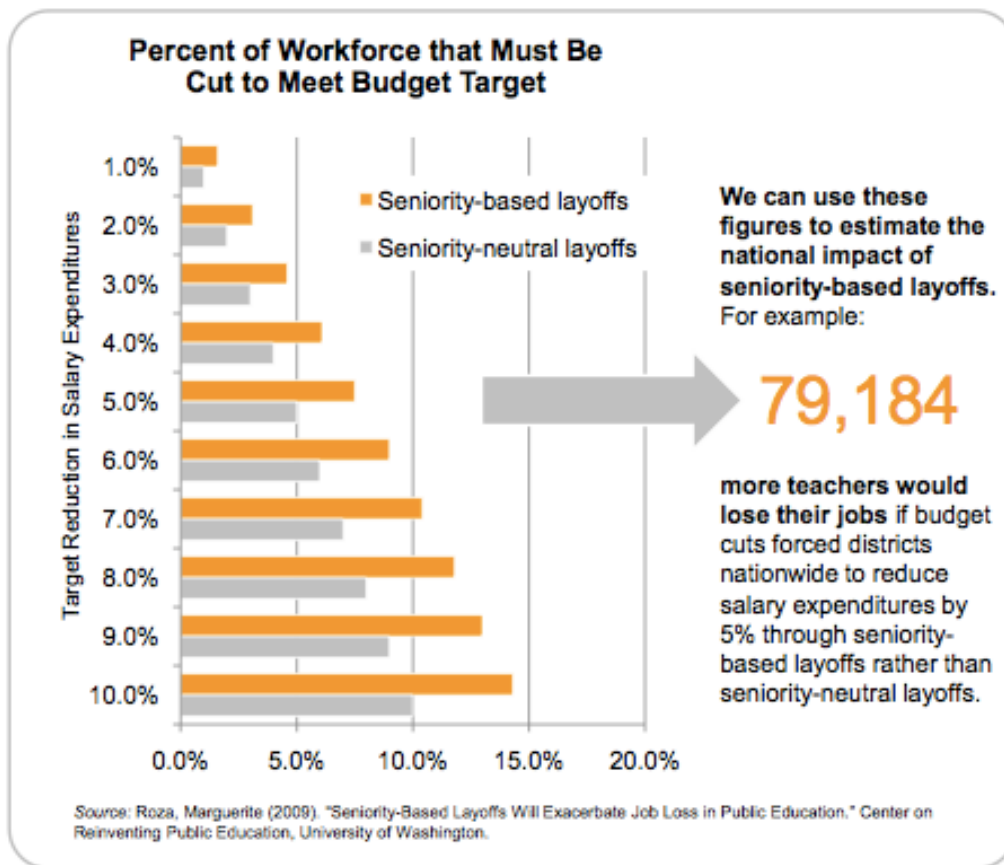
³ Raj Chetty, John Friedman, and Jonah Rockoff, "The Long-Term Impacts of Teachers: Teacher Value-Added and Student Outcomes in Adulthood" (NBER Working Paper 17699, National Bureau of Economic Research, Cambridge, 2011), http://obs.rc.fas.harvard.edu/chetty/value_added.pdf.



Schools that serve lower-income and minority students tend to have higher concentrations of new teachers.⁴ As a result of LIFO policies, these schools experience higher teacher turnover, losing many more of their teachers compared to schools serving higher-income, less diverse communities.⁵

#2

LIFO disrupts more classrooms than seniority-neutral dismissals.



Source: "The Case Against Quality-Blind Layoffs: Why Layoff Policies that Ignore Teacher Quality Need to End Now." The New Teacher Project. (2011).

⁴ Cristina Sepe and Marguerite Roza, "The Disproportionate Impact of Seniority-Based Layoffs on Poor, Minority Students." Center on Reinventing Public Education, University of Washington (2010).

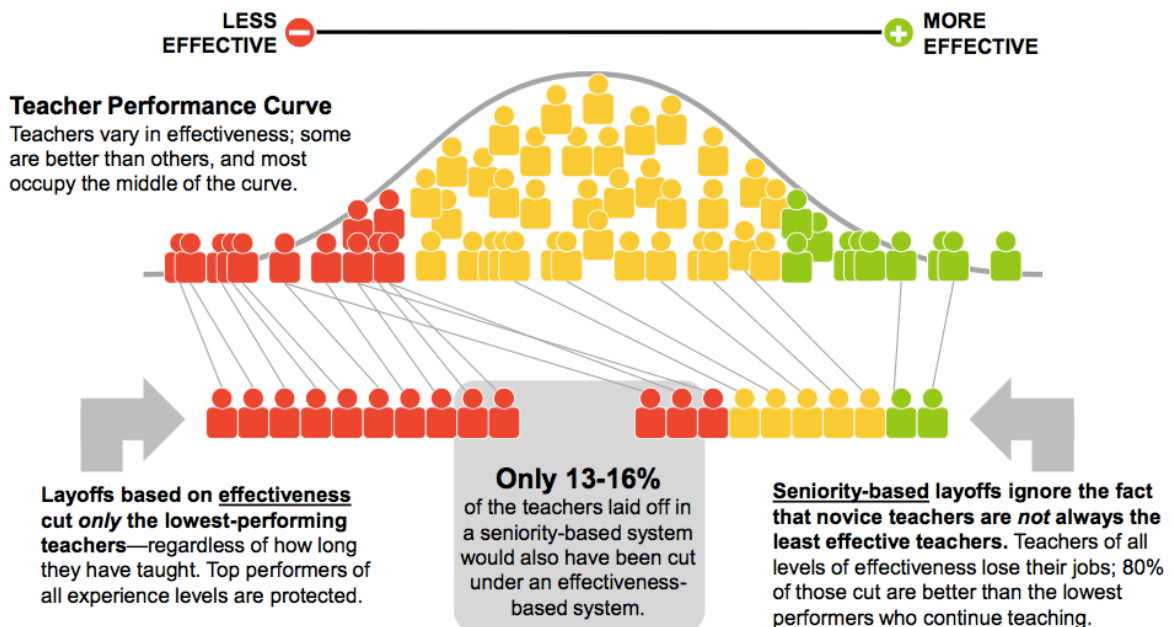
⁵ "The Case Against Quality-Blind Layoffs: Why Layoff Policies that Ignore Teacher Quality Need to End Now." The New Teacher Project (2011).



Relative to performance-based systems, seniority-based layoffs disrupt more classrooms and affect more students as a result. Basing dismissals on strong evaluations allows performance – not the number of years served – to determine which teachers should remain in the classroom. A 20-year veteran teacher should and must be kept in a school if he or she is effective, just as a 5th-year teacher should be retained if he or she is effective. How well a teacher is helping students learn must be the guiding principle in the unfortunate event that layoffs arise and school leaders have to make difficult dismissal decisions.

#3

LIFO guarantees the dismissal of effective educators.



Sources: (1) Boyd, Donald; Lankford, Hamilton; Loeb, Susanna; and Wyckoff, James (2010). "Teacher Layoffs: An Empirical Illustration of Seniority v. Measures of Effectiveness." The Urban Institute, National Center for the Analysis of Longitudinal Data in Education Research (CALDER). (2) Goldhaber, Dan and Theobald, Roddy (2010). "Assessing the Determinants and Implications of Teacher Layoffs." Center for Education Data & Research, University of Washington-Bothell.

Source: "The Case Against Quality-Blind Layoffs: Why Layoff Policies that Ignore Teacher Quality Need to End Now." The New Teacher Project. (2011).



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The current system of reduction in force dismissals is quality-blind, leading to the dismissal of some of effective teachers. Research shows that after the first three to five years of a teacher's career, experience does not correlate strongly to performance. Seniority-based layoffs do not ensure that the best educators are retained in the classroom. In fact, one study that simulated the impact of a seniority-based layoff system to a performance-based one found only a 13-16% overlap between the two; this essentially tells us that with a seniority-based layoffs system, you are highly likely to dismiss effective educators.

Novice teachers are not always the least effective, just as a 15-year-veteran may not always be the most effective. By utilizing Pennsylvania's new educator effectiveness system to drive these decisions, we can be sure that the teachers making the biggest impact on students are retained, regardless of years of service.

Tenure reform

House Bill 1722 also contains a revision to Section 1121 increasing the years of service required prior to receiving tenure from three to five years, which StudentsFirst supports. The move from three years to five years allows for an administrator to base decisions on more data that shows consistent performance. More data will lead to more effective decision-making. In fact, 11 states now require more than three years of service prior to granting tenure.



While this is an important step forward, there are additional ways to ensure that the granting of tenure is based on consistent performance. Section 1121 currently requires educators to “satisfactory” complete three years of service before receiving tenure; however, the law could result in the granting of tenure for inconsistent performance. Furthermore, Section 1108(2)(b) requires a school district to grant a temporary employee tenure if the teacher's work is deemed satisfactory in the last four months of the third year of service. This, too, could result in the granting of tenure for inconsistent performance.

Recommendations for improving LIFO and tenure reform legislation

While each of the bills being considered by the committee improves Pennsylvania’s current statute, there are several ways to amend the bills to further improve the way schools make personnel decisions:

- Adding the word “solely” before performance evaluations to ensure that performance is the only determining factor in dismissals except in the event of a tie.
- The tenure provisions of the bill would be stronger if – in addition to increasing the years of service from three to five years – tenure would only be granted if the educator received a satisfactory rating on the annual evaluation in the third, fourth and fifth year of service.
- The bill could also improve the practice of mutual consent by adding language to permit principals to refuse to accept the forced placement or



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transfer of a teacher by the district administration to his or her school and providing for mutual consent placements instead.

The antiquated seniority-based system is long overdue for a change, and now that Pennsylvania has a strong evaluation system on which to base personnel decisions, we should not wait any longer to enact legislation that requires personnel decisions – including both reduction in force dismissal and the granting of tenure – to be based on effectiveness rather than years of service. Increasing teacher quality requires a comprehensive approach, and that means linking performance evaluations to major personnel decisions, like reduction in force dismissal, tenure, and placement.

Pennsylvania has taken a significant step forward with our teacher evaluation system; let's make sure we continue this momentum and take a comprehensive approach to investing in our educators, our schools, and our students. Our students deserve to have the best teacher in front of their classroom, and our educators deserve to be valued for their effectiveness and impact on students. Thank you for considering these important pieces of legislation.

Elevating the
Teaching Profession:
**INCREASING
TEACHER QUALITY**
A Comprehensive Approach



A Call to Action: Increase Teacher Effectiveness through a Comprehensive Approach

Imagine entering into a profession because of your passion for the work and a desire to give back to your community. Then imagine that in that job, you will most likely be laid off after your first year if there are budget cuts; that if you are lucky enough to keep your job, you will go years without receiving critical feedback; that your individual impact and performance will go wholly unrecognized; and that you will only reach your full earning potential if you remain in the position for a decade.

Even if you love the work itself, would you remain in such a job? And, if so, how long do you think you would stay?

Most people would say that kind of employment structure is unsustainable. And yet, millions of teachers across the country are expected to operate in this kind of system. When we know how critical teachers are to student success, why do we allow this to continue?

This brief is a call to action for state political and education leaders to build comprehensive performance-based systems that identify, develop, retain, and reward effective educators in our public schools. A quality education is not possible without great teachers, and the only way to ensure there is a great teacher in every classroom is through an entire systematic reform of teacher quality policies.



Introduction

By focusing on the need to create more equity among our schools and raise achievement levels, policymakers have sparked a rethinking of many of the policies that shape public education in America. At the heart of new reforms under consideration is the need to increase the quality of instruction students receive in the classroom. And that is with good reason: teachers are more influential on students' success than any other in-school factor; strengthening policies that help districts and schools increase teacher effectiveness is one of the most important investments states can make.^{1,2}

Ensuring every child has an effective teacher is a matter of social justice and speaks directly to equity issues faced by underserved children. Moreover, the positive influence of effective teaching spans far beyond individual students, impacting the economic prosperity of our entire country. Consider the following:



Students of highly effective teachers gain five to six more months of learning than students of ineffective teachers.³ And research has shown that students who are in the classroom of ineffective teachers for three consecutive years are unlikely to ever catch up to their peers.⁴



Students of effective teachers showed positive outcomes lasting into adulthood, including a higher likelihood to attend college, attend higher-ranked colleges, earn higher salaries, live in better neighborhoods, and experience lower rates of teen pregnancy, compared to their counterparts who did not have effective teachers.⁵



Improving access to effective educators has economic implications that extend beyond classrooms and families. One study looked at the economic effect of removing the bottom 5 to 7 percent of the least-effective teachers and replacing them with average-performing teachers. It found that this could result in an annual growth rate of the country by 1 percent of Gross Domestic Product (GDP). Aggregating this effect over the lifetime of someone born in 2011 could result in economic output of \$112 trillion for the U.S.⁶

Yet, despite these findings, most school districts currently operate in a way that de-prioritizes the impact of teachers and stymies large-scale investment that would help students and educators alike. At every major point in their career, a large majority of teachers go unrecognized for their individual performance and impact on students. Too many great

¹ Eric Hanushek, John Kain, and Steven Rivkin, "Teachers, Schools, and Academic Achievement" (NBER Working Paper 6691, National Bureau of Economic Research, Cambridge, 1998), <http://www.nber.org/papers/w6691>.

² Daniel Aaronson, Lisa Barrow, and William Sander, "Teachers and Student Achievement in the Chicago Public High Schools," *Journal of Labor Economics* 25, no. 1 (2007) 95-135, <http://jstor.org/stable/10.1086/508733>

³ TNTP, *The Irreplaceables: Understanding the Real Retention Crisis in America's Urban Schools* (New York: TNTP, 2012), 2, 42, http://tntp.org/assets/documents/TNTP_Irreplaceables_2012.pdf.

⁴ William Sanders and June Rivers, "Cumulative and Residual Effects of Teachers on Future Student Academic Achievement" (Research Progress Report, University of Tennessee Value-Added Research and Assessment Center, Knoxville, 1996), http://news.heartland.org/sites/all/modules/custom/heartland_migration/files/pdfs/3048.pdf.

⁵ Raj Chetty, John Friedman, and Jonah Rockoff, "The Long-Term Impacts of Teachers: Teacher Value-Added and Student Outcomes in Adulthood" (NBER Working Paper 17699, National Bureau of Economic Research, Cambridge, 2011), http://obs.rc.fas.harvard.edu/chetty/value_added.pdf.

⁶ Eric Hanushek, "Valuing Teachers: How much is a Good Teacher Worth?," *Education Next*, 11, no. 3 (2011): 40-45, <http://hanushek.stanford.edu/publications/valuing-teachers-how-much-good-teacher-worth>.



teachers are under-valued for their talents and results in the classroom, and few teachers receive the development and support they need to reach their full potential.

To change this dynamic, states and districts must focus on building comprehensive, performance-based systems that identify, reward, and retain effective teachers. This work cannot be carried out in a piecemeal fashion, however. Otherwise, what results is a disjointed, punitive system that risks losing a sustainable approach to developing and keeping effective teachers in the classroom.

Policy reform designed to increase the effectiveness of all educators must be broad and systemic. For example, state leaders should not focus only on eliminating an outdated layoff policy, and then decide they have done enough by way of education policy change. This approach would be like building the framework of a house and then choosing not to build walls. States must establish a broader policy framework that systemically enables district and school leaders to recruit, recognize, reward, and retain effective teachers.

There are numerous policies that states and districts can put in place to increase the effectiveness of their teaching corps. Teacher preparation (discussed in StudentsFirst's previous brief through the lens of alternative certification) is an enormous policy issue that is in need of significant reform. This brief, however, will focus on policies that affect teachers once they are in the classroom, focusing in particular on teacher evaluations and the use of evaluations to inform important personnel decisions.

FOUNDATIONAL CHANGE: MEANINGFUL EVALUATIONS

In order to develop and increase their effectiveness, teachers must receive meaningful feedback about their instruction, and administrators must be able to use multiple measures and data to identify teachers at varying levels of performance. Without these components, there is no substantive way to recognize excellence, provide targeted development and support, and swiftly address persistent ineffectiveness.

This may sound simple enough, but just three years ago, the prevalent teacher evaluation models across the country lacked critical pieces. In fact, in 2010, only 16 states required that teacher evaluations include what is perhaps the most meaningful measure reflective of a teacher's work – evidence of student learning.⁷

We know that student achievement data is not the only valuable component absent from traditional educator evaluation systems. Evaluations that have defined the landscape for far too long are unhelpful for many other reasons as well:

INFREQUENCY: Just four years ago, only 15 states required annual evaluations of all teachers.⁸ In other words, teachers in the overwhelming majority of states were not receiving formal, consistent feedback about their practice. Today, this has largely changed; yet some states still fail to require annual evaluations. California, for example, requires that tenured teachers with more than ten years of experience be evaluated only once every five years.⁹

UNDIFFERENTIATED FEEDBACK: In 2011, 34 states used rating systems for teachers in which their performance could be assigned only one of two ratings – satisfactory or unsatisfactory.¹⁰ This type of binary rating system affords evaluators very little room to provide teachers meaningful feedback that they can use to continually reflect and improve upon their practice. To make matters worse, a 2009 study reported that in districts utilizing these types of binary rating systems, 99 percent of teachers received a satisfactory rating.¹¹ This does little to distinguish among varying levels of performance or provide guidance for developing teachers in need of support.

UNREFLECTIVE OF PRACTICE: In many districts, evaluations have been a cursory exercise of compliance for principals and teachers, rather than an opportunity to reflect on practice informed by data and measures that matter to a teacher's craft. In 2011, 13 states did not have policies requiring classroom observations to be a part of the evaluation process.¹² And while most states do incorporate observational data, there is little policy guidance related to the frequency or observational metrics used to help teachers improve.

Evaluations Matter

“While I receive great feedback about my teaching from my principal, it's frustrating as someone who cares about this profession to know that is not the case for my colleagues in other schools. All teachers need differentiated, frequent evaluations that celebrate our successes and clearly highlight priorities for professional development, so that we can achieve the level of greatness in the classroom that our students deserve.”

– Laura Welsh,
Teacher,
San Jose, California

⁷ National Council on Teacher Quality, *Blueprint for Change: National Summary, 2010 State Teacher Policy Yearbook* (District of Columbia: NCTQ, 2010), 6. http://www.nctq.org/stpy09/updates/docs/stpy_national.pdf.

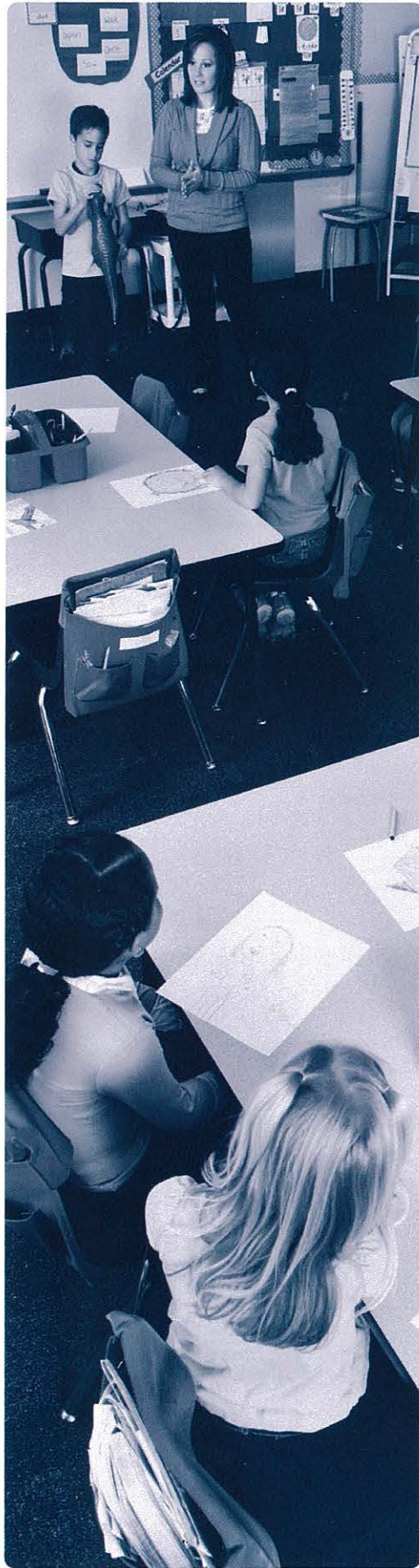
⁸ National Council on Teacher Quality, *State of the States: Trends and Early Lessons on Teacher Evaluation and Effectiveness Policies* (District of Columbia: NCTQ, 2011), ii. http://www.nctq.org/p/publications/docs/nctq_stateOfTheStates.pdf.

⁹ California Education Code § 44660-44665.

¹⁰ National Council on Teacher Quality, *2011 State Teacher Policy Yearbook: National Summary* (District of Columbia: NCTQ, 2011), 69. http://www.nctq.org/stpy11/reports/stpy11_national_report.pdf.

¹¹ Daniel Weisburg, Susan Sexton, Jennifer Mulher, and David Keeling, *The Widget Effect* (New York: TNTP, 2009). <http://widgeteffect.org/downloads/TheWidgetEffect.pdf>.

¹² National Council on Teacher Quality, *2011 State Teacher Policy Yearbook*, 73.



A DIFFERENT APPROACH

Given the stark deficiencies in traditional teacher evaluation systems, the need for a more robust framework is clear. Fortunately, state policymakers are starting to take action; since 2010, 16 additional states have reformed their teacher evaluation systems to include some measure of student academic achievement, putting the total number of states that do this at thirty-two.¹³

New models of teacher evaluations should include the following components:

ANNUAL FREQUENCY: Evaluations should be conducted annually to create a school culture committed to continuous improvement. Educators, like other professionals, deserve to receive multi-dimensional, data-driven feedback about their performance on a regular basis.

MULTIPLE MEASURES: Teaching is complex and cannot be assessed by one measure alone. Evaluations must be comprised of several measures that describe a teacher's performance. States and districts should decide which measures to include in evaluations, but some measures – specifically student surveys and classroom observations – increase the overall predictive power and reliability of an evaluation when coupled with measures of student growth.

- Classroom observations allow evaluators the opportunity to view a teacher's instruction firsthand. This provides important context and insight used to inform targeted feedback for teachers about what is happening in their classrooms. Recent research finds that multiple observers and multiple observation periods lasting varying lengths increase the reliability of the overall evaluation framework.¹⁴
- Student surveys provide important feedback for teachers. The data, if collected using a valid and reliable survey tool, bolsters the accuracy of the overall evaluation. Additionally, student surveys can provide important feedback reflecting parts of a teacher's performance that cannot be easily captured by other measures.^{15, 16}

STUDENT ACADEMIC GROWTH: For any evaluation in any profession to matter, it should be centered around the main responsibilities of the position. Because a teacher's main responsibility is to educate his or her students, evidence of student learning reflected by measures of student academic growth must be a significant component of a teacher's evaluation. Here, it is important to note that academic growth, and not academic achievement, should be the major consideration when assessing teachers' overall performance. Regardless of where their students start the year, teachers should be able to help all children make learning gains and be recognized for that success.

¹³ "Teacher Evaluations," StudentsFirst State Policy Report Card: 2013, accessed April 1, 2013, <http://reportcard.studentsfirst.org/policy-discussion?objective=Teacher%20Evaluations>

¹⁴ Measures of Effective Teaching Project, *Ensuring Fair and Reliable Measures of Effective Teaching: Culminating Findings from the MET Project's Three-Year Study* (Seattle: Bill and Melinda Gates Foundation, 2013), 16-19, http://www.metproject.org/downloads/MET_Ensuring_Fair_and_Reliable_Measures_Practitioner_Brief.pdf.

¹⁵ Measures of Effective Teaching Project, *Asking Students about Teaching: Student Perception Surveys and Their Implementation* (Seattle: Bill and Melinda Gates Foundation, 2012), http://www.metproject.org/downloads/Asking_Students_Practitioner_Brief.pdf.

¹⁶ *The Brown Center Chalkboard Blog*, *The Brookings Institution*, "Ask the Students," blog entry by Thomas Kane, last modified April 10, 2013, accessed April 17, 2013, <http://www.brookings.edu/blogs/brown-center-chalkboard/posts/2013/04/10-teacher-evaluations-kane>.

MULTIPLE PERFORMANCE RATINGS: As described previously, binary performance ratings result in heavily skewed results, with 99 percent of teachers receiving "satisfactory" ratings. These undifferentiated results do not provide accurate, nuanced reflections of practice, resulting in a tool that cannot be used for developing teachers or increasing overall effectiveness. Evaluation performance ratings must be comprised of multiple tiers – for instance, highly effective, effective, needs improvement, and ineffective – aligned to clear and meaningful expectations.

However, requiring multiple performance ratings is not all that is needed to meaningfully differentiate performance. As the early results from a few states that have reformed their evaluation systems show, the overwhelming majority of teachers are still being rated as effective or higher.¹⁷ This emphasizes a larger, more important point: adopting stronger, meaningful evaluation systems is just the first step to developing and increasing teacher effectiveness. While technical aspects of evaluation systems are improving, state and school leaders must work concurrently to change the culture around evaluations and how they are used. We must as a nation become comfortable with differentiating performance among educators, so we recognize excellence and identify and support those who are struggling to improve. Furthermore, policymakers and administrators, in collaboration with educators, must use feedback about the evaluation system itself to adjust the model so that the information it provides is as reliable, fair, and useful as possible.



¹⁷ Jenny Anderson, "Curious Grade for Teachers: Nearly All Pass," *New York Times*, March 30, 2013, <http://www.nytimes.com/2013/03/31/education/curious-grade-for-teachers-nearly-all-pass.html?hp&r=1&>.

Performance Not Seniority

"I was laid off due to 'last in, first out' practices during my first year teaching in NV, after teaching for 7 years in FL. Putting a 'number stamp' on my head makes me feel that my expertise and skills are invalid and unimportant. As a professional, it seems like commonsense to hire and fire according to effectiveness. And as a parent, I know I want effective teachers for my kids, above all other criteria."

- Christine Simo
Teacher,
Las Vegas, Nevada

Policy Barriers to Increasing Teacher Effectiveness

Even though teachers matter tremendously, current school personnel systems are built in a way that ignores and devalues teachers' individual performance. The chief obstacle is a mindset that has prevailed in public education for decades – that seniority is the primary differentiating characteristic among teachers. As a corollary, individual performance is often ignored at a system-wide level.

The standard school system enshrines and allows seniority and other measures that also are not strongly correlated to teacher effectiveness to dictate every major personnel decision for teachers.¹⁸ This makes no sense. Every student deserves a great teacher, and every teacher deserves to work with an instructional team dedicated to high expectations and high student achievement levels in the classroom.

To get there, districts must construct a comprehensive, performance-based personnel system in which excellence is celebrated, middling performance is acknowledged and improved through targeted feedback, and chronic ineffectiveness is not accepted. Policymakers must address head-on the bureaucratic and antiquated policies that govern major personnel decisions and stymie the ability of schools to develop and increase teacher effectiveness. This includes the dismissal, assignment, and promotion of teachers based solely or significantly on seniority.

"LAST IN, FIRST OUT"

Perhaps the clearest case for reforming current dismissal practices is seniority-based layoffs. Seniority-based layoffs, commonly referred to as "last in, first out" (LIFO), are dismissals caused by a reduction in force (RIF) that are conducted in order of inverse seniority.¹⁹ The last teacher hired is the first person fired, regardless of his or her impact on students.

Basing layoff policies on seniority is a blatant disservice to students and teachers. Research shows that after the first few years in the classroom, the number of years a teacher has taught does not strongly correlate with effectiveness; thus, layoffs based on seniority have the following effects:²⁰

DISPROPORTIONATE IMPACT ON HIGH-NEED STUDENTS

Schools serving low-income and minority families have higher concentrations of new teachers than more affluent schools.²¹ As a result of seniority-based layoffs, these schools experience higher teacher turnover, losing many more teachers compared to schools serving higher-income, less diverse communities.²²

¹⁸ National Council on Teacher Quality, *Teacher Layoffs: Rethinking 'Last-Hired, First-Fired' Policies* (District of Columbia: NCTQ, 2010), http://www.nctq.org/p/docs/nctq_dc_layoffs.pdf.

¹⁹ RIFs commonly occur because of budgetary constraints, district reorganization, or a decrease in student enrollment.

²⁰ Jennifer Rice, "The Impact of Teacher Experience: Examining the Evidence and Policy Implications," *National Center for Analysis of Longitudinal Data in Education Research (CALDER)*, Brief 11 (2010), <http://www.urban.org/UploadedPDF/1001455-impact-teacher-experience.pdf>.

²¹ Donald Boyd, Hamilton Lankford, Susanna Loeb, and James Wycoff, "Teacher Layoffs: An Empirical Illustration of Seniority vs. Measures of Effectiveness," *CALDER*, Brief 12 (2010), <http://www.urban.org/UploadedPDF/1001421-teacher-layoffs.pdf>.

²² TNTP, *The Case Against Quality-Blind Teacher Layoffs: Why Layoff Policies that Ignore Teacher Quality Need to End Now* (New York: TNTP, 2011), http://tntp.org/assets/documents/TNTP_Case_Against_Quality_Blind_Layoffs_Feb2011F.pdf?files/TNTP_Case_Against_Quality_Blind_Layoffs_Feb2011F.pdf.

GREATER LOSS OF EFFECTIVE TEACHERS

One study that simulated and compared the impact of a seniority-based layoff system versus a performance-based system found only a 16 percent overlap between teachers who were dismissed under the two systems.²³ In other words, the more effective teacher is dismissed roughly four out of five times under a seniority-based layoff system. Yet 11 states still require seniority to be the sole factor that determines layoffs. An additional 25 states neither prohibit seniority from being used nor require performance be a factor in dismissals.²⁴ In these cases, relying on seniority is common.

MORE DISRUPTED CLASSROOMS

Relative to performance-based systems, seniority-based layoffs disrupt more classrooms and affect more students as a result. Basing dismissals on strong evaluations allows performance – not the number of years served – to determine which teachers should remain in the classroom. A 20-year veteran teacher should and must be kept in a school if he or she is effective, just as a 5th-year teacher should be retained if he or she is effective. How well a teacher is helping students learn must be the guiding principle in the unfortunate event that layoffs arise and school leaders have to make difficult dismissal decisions.

The adverse impacts of LIFO make eliminating this policy an obvious first step that states and districts must take to ensure that students have access to effective teachers.

FORCED PLACEMENT

Building the right team and culture is critical to any school's success. But forced placement, practiced in school districts across the country, prohibits schools from having any flexibility in hiring staff based on their performance or whether they are a good fit.²⁵ Forced placement is a policy that requires "excessed" teachers to be reassigned to schools based primarily on seniority. Teachers are excessed due to events like budget cuts or declines in student enrollment. In cases when these teachers remain district employees after they are excessed, forced placement policies dictate that they must be placed in open teaching positions in other schools. In most states, this reassignment is done in order of teachers' seniority. As a result, schools are forced to accept teachers without regard to fit and previous performance, and less senior teachers may be bumped, or moved from a school, also regardless of their performance.

Apart from forced placement hindering flexibility and considerations of performance in staffing, the policy directly thwarts any effort to increase teacher effectiveness in several additional ways. A study that examined this policy in New York Public Schools found that with forced placement:²⁶

RESHUFFLING OF INEFFECTIVE TEACHERS

Principals often use excessing as an opportunity to move an ineffective teacher from

²³ Boyd, Lankford, Loeb, and Wycoff, "Teacher Layoffs"

²⁴ "Staffing Decisions," *StudentsFirst State Policy Report Card*, 2013, accessed April 1, 2013, <http://reportcard.studentsfirst.org/policy-discussion/objective=Staffing%20Decisions>.

²⁵ *Pretty Darn Quick Blog*, *National Council on Teacher Quality* "Tr3 Trends: Teacher Excessing and Placement," last modified March 28, 2013, accessed April 1, 2013, <http://www.nctq.org/p/tqb/viewStory.jsp?id=33611>.

²⁶ Jessica Levin, Jennifer Mulhern, and Joan Schunck, *Unintended Consequences: The Case for Reforming the Staffing Rules in Urban Teacher Union Contracts*, (New York: TNTP, 2005), <http://tntp.org/assets/documents/UnintendedConsequences.pdf>.

In **30** states, forced placement policies do not allow principals to hire the most effective teachers for their students.

Effective Teachers in the Classroom

"I've been shifted from site to site in my 9 years of teaching due to seniority, and every time I have left a site, a teacher who is known throughout the district as being ineffective has taken my spot. Parents, students, and our community should be outraged at this kind of policy; it puts seniority on a pedestal and as a result, my performance and my students, in a back seat."

- Bhavini Bhakta,
Teacher,
Los Angeles, California

²⁷ "Ending Forced Placement," *StudentsFirst State Policy Report Card*, 2013, accessed April 1, 2013, <http://reportcard.studentsfirst.org/policy-discussion/objective=Ending%20Forced%20Placement>.

Ensuring Students are the Priority

“My district is vigilant in addressing ineffective teachers, whether tenured or not. However, when teachers are tenured, the process is more lengthy and involved. While safeguards are important for teachers, when the process becomes so time-consuming and overly cumbersome to address ineffective teachers, there is a real problem. Ultimately, the one who matters the most - the student - is left behind.”

- Michelle Humphrey,
Administrator,
Minneapolis, Minnesota

their own school. While this may be the easiest way for a principal to move a low-performing teacher, the fact remains that these low-performing teachers are going to teach another group of children somewhere else.

DISTRICTS OFTEN LOSE NEW CANDIDATES IN THE PROCESS

Under forced placement policies, schools are forced to fill vacant positions with excessed teachers first, even if there are other candidates available who could have a greater impact on student learning. In some cases, new candidates hear back about possible teaching positions as late as October, after the school year has already started. One study found that districts can lose anywhere from 31 to 60 percent of those applicants. More disheartening is that many of those applicants – 37 percent in this particular study – want to teach in high-need communities.²⁷ Worse yet, the candidates who withdrew their applications early in the process of waiting to hear from districts were those with significantly higher undergraduate GPAs and coursework completed in their teaching field.²⁸

The climate and culture of a school is dependent on its principal and teachers. Forced placement deprives schools of the very flexibility needed to build a cohesive team that will lead their students to success. And evidence shows that because of this policy, low-performing teachers are reshuffled through excessing and transfer, while potentially selective candidates are lost in the process. If states and districts expect to leverage the full impact of their teacher corps on a large scale, they must eliminate forced placement and move to a mutual consent policy, in which principals and prospective teachers have the flexibility to jointly agree to a teacher's assignment.

TENURE

When New Jersey enacted the first tenure law for K-12 educators in 1909, the intent was to protect primary and secondary school educators from unfair personnel policies. And rightly so – at that time, there were no other laws to protect educators from biased or discriminatory personnel policies. But that has changed. And in 2013, tenure has become a significant policy barrier to increasing teacher effectiveness within a quality-blind system.

In 2007-08, only 2.1 percent of teachers were dismissed or did not have their contracts renewed due to poor performance.^{29, 30} It stands to reason then that ineffective teachers are rarely dismissed on account of their performance. A natural question is: Why? A large part of it has to do with how teachers attain and maintain tenure. Consider the following:

SHORT PROBATIONARY PERIODS

In 30 states, teachers are granted tenure after only three years of service; in six other states, teachers can earn the status with less than three years of experience in the

²⁷ Jessica Levin and Meredith Quinn, *Missed Opportunities: How We Keep High-Quality Teachers Out of Urban Classrooms* (New York: TNTP, 2003), <http://tntp.org/assets/documents/MissedOpportunities.pdf?files/MissedOpportunities.pdf>.

²⁸ *Ibid.*

²⁹ Patrick McGuinn, *Ring the Bell for K-12 Teacher Tenure Reform* (District of Columbia: Center for American Progress, 2010), 12, 34, http://www.americanprogress.org/wp-content/uploads/issues/2010/02/pdf/teacher_tenure.pdf.

³⁰ U.S. Department of Education, Schools and Staffing Survey, “Table 8 Average number of public school teachers and average number of public school teachers who were dismissed in the previous year or did not have their contracts renewed based on poor performance, by tenure status of teachers and state: 2007-08”, http://nces.ed.gov/surveys/sass/tables/sass0708_2009320_d1s_08.asp.

classroom.³¹ As mentioned previously, teachers develop most significantly within the first three to five years of their careers, so granting tenure status before teachers are masters in their craft does not create a system that values and recognizes effective teachers.³²

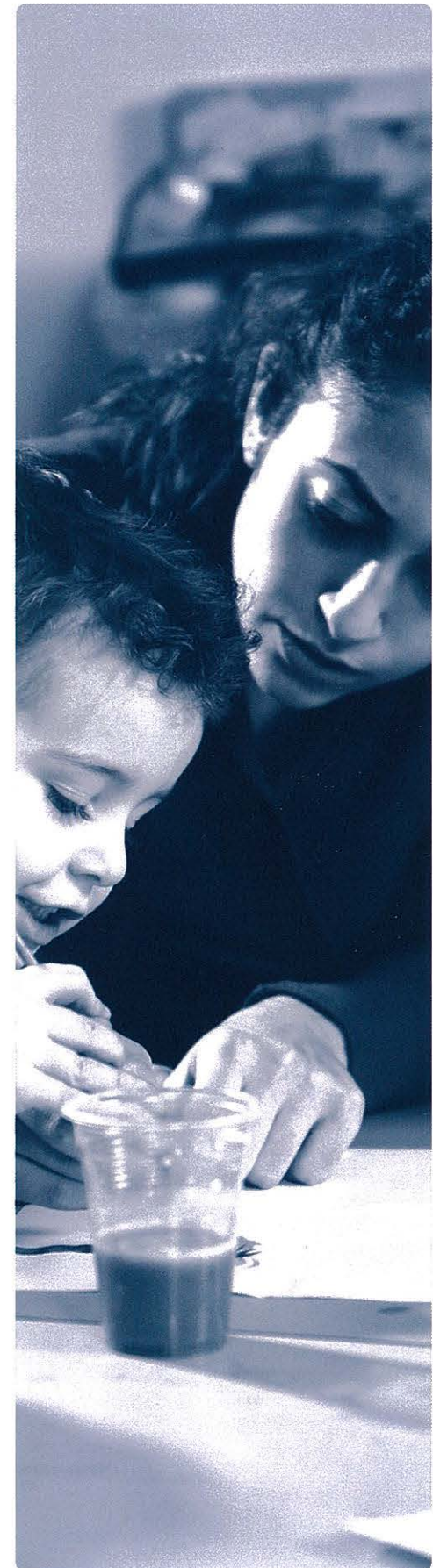
NO CONSIDERATION OF PERFORMANCE

In 36 states, tenure is virtually automatically granted and maintained without consideration of a teacher's effectiveness.³³ Earning and maintaining tenure, for the vast majority of teachers in our country, has nothing to do with whether or not students are learning. Tenure has become a matter of course rather than a meaningful process that recognizes and rewards excellent teachers with an elevated status.

ONEROUS DISMISSAL PROCESS

Anecdotally, there is no shortage of stories from principals who admit they knew a particular tenured teacher was ineffective in the classroom, yet did not go through the steps of dismissing that teacher because the process would take far too long, require expending a tremendous amount of capital and resources, and the results rarely end in dismissal. In fact, one survey of principals found that 86 percent of respondents did not pursue dismissal for tenured teachers they knew were ineffective due to the onerous process.³⁴ To be clear, principals have a significant role to play in rectifying this situation. However, the process for dismissal of tenured teachers should not be so tedious that students continue to suffer from poor instruction. States must have a clear, streamlined process for at least revoking tenure status based on a record of consistent ineffective performance in the classroom.

Tenure is often defended as a policy that protects teachers from discriminatory dismissal practices and from any bias and unfair treatment that may come from principals. Yet well-established federal and state policies allow teachers to challenge wrongful actions and prevent discriminatory dismissals. Moreover, a better remedy for bias and other circumstantial factors is to rely on a performance-based system that utilizes a robust evaluation tool for both teachers and administrators based on multiple, objective measures.



³¹ “Tenure Attainment and Maintenance,” StudentsFirst State Policy Report Card, 2013, accessed April 1, 2013, <http://reportcard.studentsfirst.org/policy-discussion/objective=Tenure%20Attainment%20%26amp.%20Maintenance>.

³² Rice, “The Impact of Teacher Experience: Examining the Evidence and Policy Implications”

³³ “Tenure Attainment and Maintenance,” StudentsFirst State Policy Report Card, 2013.

³⁴ Weisburg, Sexton, Mulher, and Keeling, *The Widget Effect*.



Policy Barriers to Retaining Effective Teachers

Fortunately, even despite all of the policy barriers discussed above, there are excellent teachers reporting to work every day in schools across the country. Perhaps it is their grit, their perseverance, and their commitment to children that keeps them in the classroom. Perhaps strong administrators fought to keep them in their schools despite policies that assign and dismiss teachers in ways that are not in the best interests of schools, educators, or students.

And while effective teachers are in the classroom today, how much longer can we really rely on them to remain in a profession that is not designed to support their development or incent them to stay?

The existing compensation and retirement structures for K-12 teachers were developed with the hopes of “locking” teachers into the profession, but it is clear from surveys of teachers with less than 10 years of experience that this strategy is no longer appealing.³⁵ Moreover, the research shows that these policies are not fair to all teachers. Both the salary and retirement systems in place in the majority of states are designed to reward longevity in a particular district or state rather than what that teacher accomplishes with his or her students over the course of his or her career. While not the topic of this brief, the role compensation plays in attracting and retaining quality teachers cannot be understated.

UNCOMPETITIVE COMPENSATION

Most states compensate teachers through single salary schedules, which are schedules that reward teachers for years of service and type of degrees earned. In terms of attracting talented individuals to the teaching profession, this type of one-size-fits-all system does little to make teaching a competitive and attractive career to those considering the profession. Most professional jobs create pay bands and then tailor salaries and career paths based on the employee’s work history, strengths, and weaknesses. In teaching, the unattractive compensation model begins with a low starting salary that is standard across each district. For example, while the average computer science graduate earned \$56,000 last year, new teachers in some states earned less than \$28,000.^{36, 37} In other organizations, top performers can quickly earn large pay raises and promotions. But in most public schools, even the best teachers can only receive pay raises for earning a master’s degree or simply for staying on the job each year. Even then, the pay raises are modest: on average, a teacher with 35 years of experience earns only \$24,000 more than a new teacher.³⁸ To retain the effective teachers in the classroom – and to attract competitive talent into the profession – compensation systems must match the value of the work educators perform and reflect the tremendous importance of the profession.

³⁵ Teach Plus, *Great Expectations: Teachers’ Views on Elevating the Teaching Profession* (Boston: Teach Plus, 2012), http://www.teachplus.org/uploads/Documents/1350917768_Teach%20Plus%20Great%20Expectations.pdf.

³⁶ National Association of Colleges and Employers Salary Survey (2012), http://www.naceweb.org/uploadedFiles/NACEWeb/Research/Salary_Survey/Reports/SS_April_exsummary_4web.pdf.

³⁷ U.S. Department of Education, National Center for Education Statistics, “Table 80. 2007-08 school year, average base salary for a teacher with 2 or fewer years of experience and bachelor’s degree. States paying under \$28,000 include Montana, North Dakota and South Dakota”.

³⁸ U.S. Department of Education, National Center for Education Statistics, “Table 78. 2007-08 school year, average base salary in current dollars for a teacher with 1 year of experience vs. 35+ years of experience, includes all degree types”.

UNRELIABLE RETIREMENTS

Most states offer only one type of retirement savings plan for teachers. These pension systems lock teachers into impossible scenarios - blocking teachers from receiving any employer contributed benefits for up to ten years and locking them into working at a single school (or state) system for 20-25 years in order to access their full retirement wealth. Because they were intended to provide incentives to keep teachers in the profession, today’s pension systems actually punish teachers who move during their career or change course. In order for teachers to access their full retirement wealth, they must remain in one retirement system for their entire career. A teacher who stays in the profession for his or her entire life, but moves to a different state just once, will lose up to half of his or her accumulated retirement wealth.³⁹ On average, teachers are not allowed to access any of their employer-contributed earnings until they have worked in the same state or district for more than six years (in fifteen states, teachers must wait for ten years).⁴⁰ Defined benefit plans also intentionally suppress retirement wealth accrual for teachers in their first twenty years of teaching. For instance, a teacher in one state who stays in the profession from age 25-55 will earn pension wealth of about 33 percent of his or her career earnings. But the same teacher will only have pension wealth of about 1 percent of his or her earnings if he or she leaves the classroom at age 35.⁴¹

Furthermore, today’s pension systems are structurally imbalanced and consistently vulnerable to underfunding, which leads to state measures that actually hurt teachers. In just the past several years, 35 states have increased the mandatory contribution amount that teachers and school districts have to pay into underfunded pensions, 33 states have increased the age of retirement for current teachers, 21 states have reduced or eliminated cost of living adjustments in a teacher’s retirement years, and 17 states have made changes to the final calculation of benefits, most often reducing a teacher’s annual retirement earnings.⁴² All of these changes break promises made to teachers at the beginning of their careers, which they have planned for and counted on to take them into retirement.

³⁹ Robert Costrell and Michael Podgursky, “Distribution of Benefits in the Teacher Retirement Systems and Their Implications for Mobility,” *American Education Finance Association* (2010): 519-557, http://web.missouri.edu/~podgurskym/articles/files/EDFP_a_00015.pdf.

⁴⁰ Kathryn Doherty, Sandi Jacobs, and Trisha Madden, *No one Benefits: How Teacher Pension Systems are Failing Both Teachers and Taxpayers* (District of Columbia: National Council on Teacher Quality, 2011), http://www.nctq.org/plpublications/docs/nctq_pension_paper.pdf.

⁴¹ Robert Costrell and Michael Podgursky, “Yes, We Have No Bananas,” *Education Next* (2010), <http://educationnext.org/yes-we-have-no-bananas/>.

⁴² Ron Snell, *State Pension Reform 2009-2011* (District of Columbia: National Conference of State Legislatures, 2012), <http://www.ncsl.org/issues-research/labor/state-pension-reform-2009-to-2011.aspx>.





Putting it All Together – Systematically Increasing Teacher Effectiveness

From meaningless evaluation systems to personnel policies that devalue a teacher's individual performance in the classroom, it is painfully clear that most states have built systems that are unable to boost teacher effectiveness on a large scale or ensure that the profession attracts highly talented new teachers. Seniority dominates the decision-making process around every major personnel issue and as a result, students, effective teachers, and entire school systems suffer.

Reforming policies and removing barriers is difficult work. Often when a state passes legislation addressing one barrier, legislators believe their work is done. But that's hardly the case. As evident from the connectivity of each of these areas and how each relates to a school system's ability to attract and retain great teachers, policymakers must be comprehensive in their approach and relentless in their drive to build performance-based systems.

Of course, removing these policy barriers to increasing teacher effectiveness is just the first step. These decades-old personnel systems are enshrined in how districts operate. Realizing the full impact of these policy changes requires a transformative culture shift in the way the teaching profession is regarded. School leaders and policymakers must celebrate excellence and reward better instruction. By shifting away from the punitive mindset currently associated with evaluation to one focused on targeted feedback and development informed by data, educators can feel recognized for their efforts in the classroom.

Ultimately, the goal is simple: teachers deserve to know that once they enter the classroom, they are valued for their unique contributions, will receive continuous and meaningful support and feedback, and will be rewarded for the tremendous value they bring to their students and community. Achieving all this will not be easy, but there is reason to be optimistic. Momentum at the state level in each of these policies areas means there are viable models for policymakers to consider and lessons from early implementation to be learned. Now is the time for every state to value and invest in the effectiveness of their teachers.

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