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Teacher Seniority: A Factory-Model Relic Whose Time Has Come?

Since the release of the Governor's January Budget, there has been plenty of debate. The level of cuts to education, how they are targeted, the assumed funding sources, and revenue projections have all been subjects of much concern. But also included in the Governor's January Budget are proposed statutory changes that would affect teacher seniority rules, provide greater flexibility in issuing layoff notices, and remove the requirement that permanent teachers who are laid off be given preference for substitute assignments and be paid at their daily rate, not the lower substitute rate. We think this discussion needs to be put into a broader context.

For years, schools in California have been expected to provide a world-class education on a shoestring budget with mounting statutory requirements and unfunded mandates. Despite adverse conditions, somehow we manage to outperform states with equally dismal education spending levels. Still, the enormous pressure that our education system is under—both internally and externally—cannot be ignored. The public will no longer tolerate the predictability with which minority students are failing, low-income students are dropping out, and the likelihood that those who remain will be impacted disproportionately by teacher layoffs; it *is* a civil rights issue. We have to do better—the state and the country demand it and certainly our children deserve it.

One need only look back as far as the Fifth Extraordinary Legislative session and recall the days and weeks of high drama surrounding Race to the Top (RTTT) legislation to know that we are entering a new era of accountability. Whether local educational agencies (LEAs) decided to enter the race or not, and despite the fact that we failed to make it to the starting blocks, reform is unavoidable. Either out of necessity or by choice, we cannot accept the status quo. The prohibition on using student achievement data as a measure of teacher performance has been lifted, school choice has been expanded, the Legislature continues to introduce RTTT legislation, and the Governor has promised to eliminate statutory and regulatory barriers to student achievement through a number of teacher reforms.

On the national front, *The New Teacher Project* (www.tntp.org) is advocating quality-based versus seniority-based layoffs to help schools keep great teachers in tough economic times and *The National Council on Teacher Quality* (www.nctq.org) rejects the "last-hired, first-fired" factory model approach to teacher layoffs. Here in California, a task force convened by the largest district in the state and second largest in the country has recommended revamping teacher evaluation and ending layoffs based on seniority.

The Los Angeles Unified School District's (LAUSD's) task force's recommendations were made on the heels of a class action suit filed against LAUSD on February 24, 2010, by the American Civil Liberties Union (ACLU) of Southern California for depriving low-income students and students of color an equal education. The suit alleges that layoffs disproportionately affect students in high-poverty, low-performing schools and suggests that we have turned back the clock on civil rights. Whether you agree with this assertion or not, schools in California and across the country can ill afford creation of an even greater gap between the "haves and have nots," especially when the expectations for closing the achievement gap have never been greater.

The times they are a changing, and so must we.

Education Reform in America

On Monday, March 8, 2010, Secretary of Education Arne Duncan stood on the historic Selma Bridge outside Montgomery, Alabama, and unveiled a new civil rights program that promises to make Dr. King's dream of a colorblind society a reality. The new civil rights program involves compliance reviews to ensure racial equality and equal access to educational opportunities by all. Russlynn Ali, assistant secretary for civil rights, promised that the country would meet President Obama's goal of regaining our status in the world as the number one producer of college students by 2020.

The reform efforts of the last three decades have focused on protecting our role as world leader. The predominant belief is that national curriculum standards, high-stakes tests, and national accountability systems that impose sanctions against persistently low-performing schools will result in improved academic performance. More and more time is spent on core competencies in English, math, and science. Proficiency in those core competencies is expected of all students. Students who lack aptitude in these areas are given the opportunity to remediate their deficiencies. In large part, success is being measured by our ability to produce homogenized test takers. Less and less time is spent on the social sciences, physical education, art, and music.

Some reform literature cautions against placing too much faith in high standards and narrow accountability systems. To compete in a growing global marketplace, some reformers believe we need a diversity of talents. We'll need citizens who are good problem solvers, thinkers, and innovators. We'll need some to be technology experts, researchers, and reporters. And we'll need electricians, musicians, farmers, and teachers. Our industries are more diverse, technologies are rapidly changing, and we cannot predict what new businesses will emerge in the global marketplace. Reformers on this side of the argument suggest that the ability of our children to compete will require a system of education that provides a rigorous academic program, includes an effective accountability system balanced with the development of a diversity of talents, and skills based on individual strengths and aptitudes.

A growing number of schools in California are resource poor. Nonetheless, they will be expected to provide a global standard of educational excellence by recruiting highly qualified and skilled staffs, providing meaningful evaluations that focus on student outcomes, creating longitudinal data systems that allow for meaningful evaluation of student progress over time, and holding everyone accountable to high standards. The research suggests that what matters most is not class size, teaching methodology, or even the curriculum; what matters most is the quality of the teacher. While adequate resources are important, they are not likely to materialize anytime soon. How we allocate the resources we do have and what we do to ensure teacher quality in California will matter most.

Teacher Reforms

The Governor has proposed a number of teacher reforms. Many of them resonate with the research and policy recommendations of *The New Teacher Project* (NTP) and *The National Council for Teacher Quality* (NCTQ). Specifically, the list below indicates areas where the Governor's policy proposals align with those of the NTP and NCTQ.

- Eliminate seniority as the determinate factor in teacher layoffs—the NTP and NCTQ policy recommendations specifically call for eliminating this factory model relic approach. The NTP suggest laying off teachers based on seniority is a "quality-blind" approach that treats teachers like widgets and demeans them by ignoring the value of their performance. The NTP and NCTQ agree that teacher performance should be considered as one factor in the layoff process.
- Use teacher performance and the needs of the district in establishing the criteria for layoffs—the NCTQ points to teacher evaluations as a weakness in such a plan, calling teacher evaluation systems across the country dysfunctional. Teacher evaluation is a central theme in RTTT and a hotly debated topic in California. While the Governor's policy proposals do not address teacher evaluation, they do propose a fundamental change to using seniority in staffing decisions, including layoffs.
- Increase local control and flexibility when it comes to employment decisions—The NTP, NCTQ, and Governor's policy proposals suggest that greater flexibility is needed when it comes to making employment decisions. In its recent study, the NTP noted that the opinion of the principal should be a factor in layoff decisions and his or her appeals to skip junior teachers based on the needs of the school should be a determinate factor. Additionally, the NCTQ advocates for exceptional teachers being exempt from layoffs altogether. The Governor's call for flexibility and local control is most evident in his proposal to change teacher dismissal laws by allowing Governing Boards to be the final arbiters of dismissal cases.

A number of Superintendents have indicated that, while they might philosophically support teacher reform measures, including some proposed by the Governor, for a variety of reasons they don't think now is the time to tackle the issue. First, many of their districts have incorporated current law into their collective bargaining agreements, a practice that we have always discouraged, but that nonetheless occurs. In those cases, both state law and the local union contract would have to be amended to effect a change; not a likely prospect this year. Secondly, the proposed changes appear to some as a "cherry picking" of reform issues that fails to provide a comprehensive roadmap for reform. Finally, nearly every district in the state is fighting a budget problem this year and they need the help and goodwill of their employee groups to solve the problem. Stepping out in support of the Governor's teacher reform proposals could add huge labor relations problems on top of the already enormous budget problem.

These concerns are valid, but we also think the public demand for comprehensive education reform cannot be ignored. Out of necessity, education has taken a backseat to simply sustaining a viable educational system. We may wish we had a better boat, but, given that we are faced with leading our schools during the worst economic times in our state's history, we must do what we can to keep the boat we have afloat.

Concluding Thoughts

So, while we believe philosophically that changes in seniority rules could remove some statutory barriers to reform, we also believe that any such effort would need to be part of a comprehensive effort that also addresses governance, management, program delivery, funding, assessment, accountability, and myriad other topics.

Whether you support the Governor's teacher-reform policy proposals or not, a teacher reform movement is underfoot both in California and across the country. We don't need to wait until the LAUSD lawsuit is settled to know that "last-hired, first-fired" layoff policies benefit some teachers, but are hurting kids. Arguably, dismissal policies and dysfunctional evaluation systems do too.

Teacher reform opponents will argue that eliminating seniority as a determinate factor in layoffs and other employment decisions will result in favoritism and unfair, even discriminatory, treatment and that seniority rules maintains an objective and fair system. The education community, Legislature, and the public at large must ask, "Fair to whom?" Certainly not to students and particularly those in high-poverty, low-performing schools.

Fundamentally, we would all agree that recruiting, hiring, and retaining effective teachers is—or at least should be—a core belief held by every educational institution. But in our view, seniority rules and other protections afforded teachers under current law are working against this fundamental principle. We believe that the age-old argument that seniority is the only fair and objective way to protect teachers from discrimination is no

longer compelling and does not justify maintaining the status quo. Considering that federal and state employment law provides protection against discrimination in employment, isn't it time we focused on providing protection against discrimination in education? Teacher reform cannot be dismissed or ignored. When the cover of *Newsweek* proclaims that firing bad teachers is the key to saving American education and the U.S. Department of Education embarks on a new education civil rights program, teacher reform—in whatever form it takes—is imminent.

—SSC Staff