

Legislative Update: Tenure Bills' Solution Worse than the Problem

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21 June 2011

Last week, the state House of Representatives approved a package of bills that would remake the teacher tenure process, change the rules regarding seniority, and enforce a statewide teacher evaluation framework that would guide promotion and firing decisions. While the bills individually appear to address reasonable concerns about the difficulty of disciplining tenured staff and the “last-in-first-out” system used for layoffs, taken together they have the potential to do tremendous damage to our public schools.

School districts would have to move quickly to institute a comprehensive evaluation system which relies primarily on standardized tests—tests which do not yet exist for most grades or subject areas. The burden on administration would increase exponentially, with no added resources to make sure the evaluations are performed effectively. Teachers would have no guaranteed voice in the construction of evaluation systems, since the bills would prohibit collective bargaining on those issues. Finally, the changes would, in our view, create a powerful incentive for principals and administrators—who face unrelenting budget pressures - to bias performance evaluations so that it would be easier to remove senior, more expensive teachers regardless of their actual performance. **As a result, Michigan Parents for Schools cannot support this legislation and calls on the state Senate to defeat the bills.**

The package of bills—HB 4625, HB 4626, HB 4627, and HB 4628, now under consideration in the Senate Education committee—must be considered as a unit. The bills are “tie barred” together, which in the parlance of the Legislature means that none of them can take effect unless all are passed. The problems with this legislation become clear once their combined effect is considered.

For a more robust description of the legislation, we recommend the excellent summary by the House Fiscal Agency that can be found on the Legislature’s web site.ⁱ In brief, the bills make dramatic changes to the rules governing teacher hiring, promotion and retention. They would:

- Require each school district to have a teacher evaluation system that grades teachers as either “highly effective,” “effective,” “minimally effective,” or “ineffective.” These judgments would be based on criteria passed into law as part of Michigan’s “Race to the Top” funding application.ⁱⁱ
- Allow, and in some cases require, districts to place tenured teachers receiving lower ratings into another probationary period, with the possibility of dismissal if they do not improve.
- Revise tenure hearing procedures.
- Change the standard for dismissing or demoting tenured teachers from a “reasonable and just cause” to the legally much looser “not arbitrary and capricious” test.
- Limit how long a suspended teacher can draw a salary.
- Require that “effectiveness” ratings (as described above) determine which teachers are laid off if job cuts are made, relegating seniority to be used only as a tiebreaker.

- Require that a principal and teacher must both agree to a teacher’s placement both during and after a reduction in force; teachers unable to secure a placement within 30 days would be placed on unpaid leave. Teachers rated “effective” or “very effective” would be exempt from this rule.
- Add six subjects to the list of items prohibited from collective bargaining, including issues of placement, reductions in force, and, most notably, performance evaluation systems including performance-based compensation.

These provisions interact to produce disturbing consequences for the quality of our public schools. While we have many concerns about this legislation, in this article we will focus on two: the central importance being given to an as-yet-undefined evaluation system that will be based substantially on standardized test scores and will be imposed on, rather than built with, teachers; and the systemic incentives created by the laws that would lead administrators to use the evaluation system to remove more expensive employees.

Evaluation by fiat

The keystone of the new tenure rules is the evaluation system set forth in HB 4627, which requires districts to create or modify existing evaluation systems so that they rate individual teachers as “highly effective,” “effective,” “minimally effective” and “ineffective.” Districts would have 60 days after the laws took effect to meet this requirement (unless prohibited by existing contracts, in which case compliance would be delayed until current contracts expire). Individual teacher ratings on this scale would be used to determine tenure, revocation of tenure, and hiring/firing decisions during or after a reduction in force.

While significant contributions and accomplishments, and specialized training, can be considered in these ratings, the bills would require that individual performance of teachers be the majority factor in the rating. Individual performance, in turn, would be measured by evidence of increased student achievement (which must be the predominant factor) and secondarily demonstrated teaching skills in a number of dimensions.

While it seems reasonable to grade teachers by how their students do in school, this is precisely where the problems lie. Not only would current law force these evaluations to be based on very narrow and incomplete criteria, but other provisions in the bills would prohibit the evaluation system from being subject to bargaining between teachers and districts. As a result, districts would be free to construct evaluation systems without regard to the opinions and experience of the very people who are specifically trained in pedagogical best practices—their teachers.

In search of “objective measures”

The bills make it clear that any evaluation system must comply with section 1249 of the Revised School Code (MCL 380.1249ⁱⁱⁱ), which was passed hurriedly in early 2010 as part of Michigan’s unsuccessful attempt to win Federal funds under the “Race to the Top” grant program. The law requires that teachers be evaluated:

“using multiple rating categories that take into account data on student growth as a significant factor. For these purposes, student growth shall be measured by national, state, or local assessments and other objective criteria.”

The proposed legislation turns measurements of student growth from a “significant factor” into the “predominant factor” in measuring teacher performance, which in turn must be the “majority factor” in rating a teacher’s effectiveness. So how do we measure “student growth”? With

standardized tests or “other objective criteria.” The hundred plus student progress measures that may be reported on your child’s report card and which have been carefully aligned with the state curriculum requirements will not suffice, because they are not “objective” (having been evaluated by the child’s own teacher).

Instead, we are left with the standardized tests. Currently, Michigan’s MEAP program tests students on two or three subject matters at the beginning of each year in grades 3 through 8; math and language arts are tested each year, while science and social studies are tested in selected grades. A separate test to evaluate writing skills was discontinued, largely because of the cost of hiring the reviewers necessary to provide valid scores for the test. Similarly, sections of the mathematics test that required students to show the process they used to solve problems were discontinued, again because of cost.

While mathematics and reading comprehension are central components of the K-12 curriculum, they comprise only a fraction of the overall responsibilities of teachers, especially elementary teachers who must deliver nearly the entire curriculum to their students. Writing, a critical element of the curriculum at all grade levels, is no longer evaluated by state tests at the K-8 level. Science and social studies, taught at every grade level from first grade on, are tested only at grades 5 and 8, and 6 and 9, respectively. No “objective” assessments exist for special area teachers, including: art, music, physical education, media, technical education, and foreign language. At the high school level, Michigan students must take the Michigan Merit Exam in the spring of their junior year; the MME combines the national ACT test with Michigan math, science and social studies tests. This is the only independent evaluation on these topics that high school students must take (though many take Achievement and AP tests in various subjects).

The cost, time and effort required to develop “objective measures” for all teachers in all fields would be significant; moreover, even more of the school year would be dedicated to administering these tests rather than providing instruction to students. Rapidly implementing these requirements, when overall funding for education has been cut significantly and is not expected to recover in the near future, is a prescription for disaster.

The danger of a short-term perspective

Moreover, reliance on standardized tests of academic content to evaluate teacher performance ignores the entire range of social, emotional and intellectual development that is fostered by elementary and secondary teachers. Our ultimate goal is not just to have students who have specific knowledge and abilities, but to graduate young people who become informed citizens and productive members of our society.

This subject has been the focus of tremendous controversy in the education field, but we can illustrate the point by describing the results of nationally known research performed in Ypsilanti, Michigan. The High Scope Foundation’s Perry Preschool Study^{iv} began in 1962, with young children—mostly African American and living in poverty—placed by random assignment into a high-quality preschool program for two years. Other than the preschool program, the children experienced the same education and living conditions as other members of their cohort.

While an impact on test scores seen early in elementary school did eventually fade out, the study followed these children to measure long-run effects. When revisited at age 40, the researchers found that children who had experienced the preschool program were significantly more likely to have graduated from high school, to be earning more than \$20,000 per year at age 40, and significantly less likely to have been arrested multiple times by age 40. Clearly, even a brief intervention at the

preschool age had lifelong effects—effects that were not entirely visible during the school career of these children.

Similar issues exist in currently discussed measures of “student growth.” Most proposals to measure growth rely on one-year changes in student achievement (measured, again, by standardized tests). However, children do not learn, or develop, in a linear fashion. Learning is cumulative, and different children may display the benefits of the instruction they have received at different times. An elementary school student may, for example, suddenly blossom as a writer in the fifth grade. But if the school has implemented a comprehensive writing curriculum from Kindergarten onwards, can all the credit for that progress go solely to the fifth grade teacher (no matter how good that teacher may be)? Single-year measures of growth discount the value of cumulative learning, and would discourage teachers and schools from investing in programs that pay dividends only after considerable time.

Bias to save money instead of improve instruction

Finally, we are very concerned with the incentives that will face the administrators who are charged with evaluating teachers with this yet-to-be-defined system. Most school administrators have had to face dramatic budget cuts that force painful decisions as programming is cut and restructured. We have already heard from administrators who welcome the tenure changes because it will allow them to keep less expensive teachers with less seniority rather than more senior faculty. These administrators are not hostile to teachers, and do not believe that all senior teachers are “burned out” or have otherwise become ineffective. (In fact, most research indicates that more senior teachers are likely to be the most effective teachers in a school.)

Instead, these administrators have been fighting desperate budget battles for years and they are grasping at any opportunity to keep schools open and prevent class sizes from rising ever higher. To these officials, the choice between one effective senior teacher and two reasonably effective junior teachers is clear.

The impact of these judgments depends, of course, on the quality of the effectiveness ratings, which we have already called into question. But there is a further concern: that school administrators and officials, knowing that they will inevitably face increasing budget pressures, will artificially cap the effectiveness ratings of more senior teachers so that they can be more easily forced out when layoffs are necessary. Even the most well-meaning officials will be pulled along by this logic—after all, exactly how much more effective does a teacher have to be to outweigh a higher salary and benefit cost? This will hardly be fair to teachers who have dedicated a career to educating students, but it will likely not be fair to the students either. If effectiveness ratings miss crucial elements of the teaching process, then hiring and firing decisions based on those ratings will distort the educational process.

Is there an alternative?

Can we find a better way to ensure the quality of education without undermining our schools and teachers? This is a complicated subject, but allow us to review a few examples of programs in Michigan and elsewhere, which indicate that there may be better options.

Some Michigan school districts have been experimenting with alternative evaluation systems. These systems usually focus more on the quality of a teacher’s instruction, and are the result of collaboration between teachers’ unions and district officials. One example is a system developed by teacher evaluation consultant Charlotte Danielson that has been adapted for use in several hundred large school districts around the country. That system and its derivatives are under consideration in Michigan districts and are described in a research paper by the centrist think-tank Education Sector.^v

Other programs have been developed in places like Hamilton County, Tennessee,^{vi} Cincinnati and Columbus, Ohio,^{vii} and Montgomery County, Maryland.^{viii} (Unfortunately, these programs, which do not focus on student test scores, are running afoul of the US Department of Education's focus on student growth in the Race to the Top program.)

That level of evaluation comes at a price: the Education Sector report estimates that evaluation systems like the Teacher Assessment Program and Peer Assistance and Review program can cost anywhere from \$250 to \$700 per pupil—resources that Michigan public schools do not have available without external assistance.

High quality teaching will require high quality assessment programs if we are to secure the results we want for Michigan public school children. Mandating simplistic evaluations while at the same time reducing the resources available to schools will do damage to public education in Michigan that may take decades to repair.

A version of this article was published on the Michigan Parents for Schools web site (<http://mipfs.org>) on 21 June 2011.

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ⁱ <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/House/pdf/2011-HLA-4625-4.pdf>

ⁱⁱ <http://www.miparentsforschools.org/node/124>

ⁱⁱⁱ <http://legislature.mi.gov/doc.aspx?mcl-380-1249>

^{iv} <http://www.highscope.org/Content.asp?ContentId=219>

^v <http://www.educationsector.org/publications/rush-judgment-teacher-evaluation-public-education>

^{vi} <http://www.educationsector.org/publications/benwood-plan-lesson-comprehensive-teacher-reform>

^{vii} <http://www.educationsector.org/publications/leading-local-teachers-union-presidents-speak-change-challenges>

^{viii} <http://www.nytimes.com/2011/06/06/education/06oneducation.html>