

Analysis of Seattle's New Teacher Contract

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National Council on Teacher Quality

National Council on Teacher Quality
1420 New York Avenue, Suite 800
Washington, DC 20005
t 202-393-0020 f 202-393-0095
www.nctq.org

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The Seattle-based Alliance for Education recently asked the National Council on Teacher Quality (NCTQ) to review the newly negotiated collective bargaining agreement for teachers in Seattle. This analysis comes one year after NCTQ released a study looking at the human capital policies in the city's schools, focusing largely on ways to improve teacher work rules. What we have seen in the year since is promising. In fact, the new contract makes a number of significant improvements, which is especially noteworthy given the constraints of state laws and regulations.

Together with the Seattle Education Association, the school district negotiated a labor agreement that gives district schools, particularly the lowest performing, more autonomy over building their staffs and prioritizes the role of student learning in evaluating teachers. Other improvements, such as added planning time for collaborating with other teachers, also represent strong progress.¹

This analysis focuses on the two most significant improvements in the labor agreement:

- 1) Improving teacher evaluations and, therefore, holding teachers accountable for their performance
- 2) Giving principals the authority to select their staffs

Highlights of key policy changes

I. Making teacher evaluations meaningful

Context: Traditionally, teacher evaluations have been treated as formalities, rather than as important tools for rewarding good teachers, helping average teachers to improve and holding weak teachers accountable for poor performance.

Teachers who receive a negative evaluation should be given help and guidance on how to improve instruction. These improvement plans should focus on performance areas that connect directly to student learning and should outline deficiencies, specific actions that will address these deficiencies and how progress will be measured. Limiting the length of remediation

¹ Elementary teachers have an additional hour of planning time each week, to be used collaboratively with their colleagues. With this additional time, elementary teachers in Seattle no longer have the lowest amount of planning time for teachers among the surrounding school districts. Overall, the average workday increases by 12 minutes (to 7 hours, 12 minutes) but is still the shortest among the surrounding districts.

ensures that student interests are paramount. A teacher who is rated “unsatisfactory” at the beginning of the school year, and who does not improve sufficiently after being placed on an improvement plan, should be dismissed, whether tenured or not.

Prior contract (2009-10): Until the new contract was ratified, the evaluation instrument used by Seattle had been structured to allow teachers to earn a satisfactory rating without any evidence of sufficiently advancing student learning. Teachers only had to make a "good faith effort" to earn a satisfactory rating. While the contract also stated that teachers were to set goals for student achievement, in practice, teachers rarely did so, and principals largely did not enforce this policy. Furthermore, there was a "firewall" preventing a teacher's goals from shaping the outcome of the evaluation.

Given the inattention to evaluation, it was not surprising to find that few teachers were identified as poor performers. Other times, poor performing teachers would agree to transfer to another school in the district in exchange for a satisfactory evaluation, or no evaluation at all.

On the flip side, high performing teachers were neither recognized nor rewarded.

New contract (2010-13): Rightfully, Seattle has revamped its teacher-evaluation system. The new approach combines objective and subjective measures of teacher effectiveness. The use of value-added growth data will be the key ingredient to the system's success.

High-performing teachers will now be able to stay in the classroom, assume leadership roles and earn higher salaries. The new contract also better articulates support that is to be provided to struggling teachers and a clearer path to dismiss those who fail to improve. Commendably, these changes exceed the reforms passed by the Washington state legislature in its effort to compete in the federal grant competition Race to the Top.²

Here is a more in-depth look at the two key improvements in Seattle's evaluation policies:

Value-added data. The use of value-added data will assess teacher performance (as measured by student growth) as it compares to one's peers. This is the first time objective data will be used to assess teacher performance.

Teachers will receive an overall rating based on a two-year rolling average of student growth. Ratings for elementary teachers will be based on the average student performance on district and state math and reading tests. Ratings for middle and high school teachers will only be available for teachers of English and mathematics. The district plans to expand testing to other subject areas over the next several years, in order to have standards-based assessments for all core subjects and apply standards-based measures to non-core subjects, such as physical and career-technical education.

² <http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bills/Session%20Law%202010/6696-S2.SL.pdf>

Backed by a grant from the federal Teacher Incentive Fund, the district plans to develop its first additional test for science.

Any overall growth rating **below 35** (on a scale of 100) will indicate that the teacher's students (based on results from all assessments for which the teacher is held accountable over two years) performed *below the range of typical growth* when compared to their academic peers.

The contract stipulates that, at the beginning of each school year, teachers with low growth scores from the previous two years will be provided with additional support, including: observations, monthly conferences with their principals, access to a \$500 fund for professional development and, if requested, a full-fledged support plan.

If the teacher does not then improve by December 15, depending on the principal's discretion, he may be placed, involuntarily, on either a support plan or a more intensive "performance improvement plan." The latter equates with being put on probation and is the first formal step in initiating a teacher's dismissal.

It is important to note that the value-added component is not immediate but will be phased in over the next three years. For the current 2010-11 school year only math and English Language Arts in grades 4-8 who are also in their first four years of teaching, new to the district and or at level one schools will participate in the system. Additionally, individual staff members and whole schools (with a 2/3 faculty vote) elsewhere may also opt in. In the 2011-12 school year the program expands to teachers at all level two schools. In the 2012-13 school year the program expands district wide for teachers at all schools.

Observation. The district has redesigned its teacher-observation instrument, basing it on the Charlotte Danielson framework. Principals observe teachers and assess performance in four areas: Planning and Preparation; Classroom Environment; Instruction; and Professional Responsibility. Teacher performance is no longer rated as either satisfactory or unsatisfactory, but now is distinguished among four performance tiers: Unsatisfactory, Basic, Proficient and, at the top, Innovative.

Teachers whose performance is rated unsatisfactory will be placed automatically on a performance improvement plan. Teachers whose performance is rated basic will be placed on a support plan which may lead to placement on a more intense support structure and probation, if there is no improvement.

Additionally, Seattle has made some changes to its teacher-goal-setting policies. In the new contract, all teachers (not just tenured, as was previously the policy) are now required to establish student-performance goals subject to principal approval. Teachers will also be assessed on the quality of those goals as well as progress in meeting them. Principals are

expected to monitor teachers' progress throughout the year. Teachers not meeting growth goals *may* be placed on a support plan.

The goal-setting component of Seattle's new evaluation system is an important aspect of teacher *professional development*, but its role in holding teachers accountable for their impact on student achievement should not be overestimated. The component's successful implementation largely depends on principal training and execution.

How Seattle compares to other districts: Seattle is among the more aggressive districts in the country attempting to use value-added data to evaluate teachers. While 44 of the more than 100 districts in NCTQ's TR³ database claim to allow some measure of student performance to factor into teacher evaluations, most of these districts do not make student performance a preponderant criterion, nor do most use value-added data.

Take Away: Seattle's efforts to improve teacher evaluation are a big step in the right direction. These changes should, however, be considered only the first, and not the final, step towards making evaluations the central component of Seattle's teacher-quality policies. Furthermore, it is worth keeping in mind that this value-added data will not be fully phased in for three years. When it is, the district and union will likely be in negotiations again for a new teachers' contract.

The district has one year before its value-added methodology will be put to the test. NCTQ recommends the following.

1) Adopt a *relative* standard of performance rather than an *absolute* standard. Under the current design of the value-added system, teacher performance will be measured against a relative standard, whereby only those teachers performing significantly lower than their peers would be given needed assistance.

Hypothetically speaking, if all of Seattle's teachers, on average, are performing at a low level (producing less than a year's worth of growth), then the district would under-identify the number of teachers needing remediation and/or dismissal. Moving towards a value-added measurement against an absolute standard would require that the district (and, ideally, the state) calibrate the average growth it expects *all* teachers to achieve, creating a minimum standard of performance that all must meet.

2) Separate value-added scores for teachers by math and reading. A teacher could produce great results in one subject and poor results in the other but her overall value-added score would mask subject-area strengths and weaknesses. A breakdown of value-added scores by subject area is a critical piece of information that should be provided to principals. Then, no matter what a teacher's overall score, the principal can determine the teacher's strengths and weaknesses and offer the appropriate support.

In addition, disaggregated data could help principals to staff grade-level teams and arrange student schedules according to teacher strengths, in both reading and mathematics. For example, a 4th grade team may have two teachers each who are stellar at teaching reading and math; it would be wise to departmentalize instruction so that students have the benefit of each teacher's strengths.

3) Develop data driven evaluations for teachers in non-tested subjects. Seattle must still develop its value-added methodology for evaluating teachers in non-tested subjects.

II. Principal's authority to hire teachers and staff their schools

Context: Like most professionals, teachers rely extensively on the expertise, support and commitment of their colleagues. And like other institutions, schools function best when staff members share a vision for their enterprise. Giving school leaders, with input from teacher teams, the authority and autonomy to interview and choose teachers whom they think would make a good fit for their school, including those who are transferring from another school within the district, is critical towards meeting this goal. Teachers should secure an assignment based on their own qualifications and fit in a school, not their seniority in a school district.

Prior contract (2009-10): Teachers at low performing schools could use seniority privileges to transfer to another school in the district, regardless of whether they were a good fit for the new assignment.

Low-performing teachers (those with an unsatisfactory evaluation) would voluntarily transfer so as to avoid being placed on an improvement plan. Or, in many cases, teachers were not evaluated at all. In some cases, principals would give low-performing teachers satisfactory ratings—or, again, none at all—if teachers agreed to transfer.

New contract (2010-13): The new teachers' contract eliminates seniority privileges when teachers transfer schools within the district as a result of program changes. Some elements of site-based hiring existed previously, but eliminating these seniority privileges removes a major obstacle to mutual consent.

Teachers wishing to transfer schools, as well as those who have been excessed (moved from schools because their positions have been eliminated) must now apply to vacancies, and principals have an opportunity to interview candidates for their schools. Teachers not selected by a principal after July 1 will be "force-placed" by HR prior to the start of the school year.

The new contract stipulates that any teacher with a basic or unsatisfactory evaluation or a value-added score below 35 cannot voluntarily transfer. This provision ensures that underperforming teachers do not bounce from school to school in the district.

Tier One schools (those in the lowest level of student performance) do not have to accept force-placed teachers. (Seventeen of the Seattle's 91 schools fall into this category.) This compromise is an approach used by other districts, such as New Haven and Detroit, where struggling schools are given increased autonomy over building staffs. While this approach is a step in the right direction, it still fails to provide full mutual consent for all schools.

On a positive note, the district will use incentive bonuses to attract top-performing teachers to struggling schools.

One area in which the Seattle contract fails to make much progress is eliminating seniority-based excessing and layoffs. When a position has to be cut due to budget or enrollment changes (excess), or if layoffs are looming, the contract still stipulates that the most junior teachers are the first to go. Other districts have tackled this challenge successfully. In the past year, a handful changed their procedures for determining which positions must be cut when there are changes in budget, student enrollment or school programs. Washington, D.C., for example, allows for other factors, such as student performance, to determine who stays or goes.

How Seattle compares with other districts: Seattle is among the more progressive districts in the nation, eliminating the role of seniority in the placement of transferring teachers. (Only 14 percent in our 100-plus-district TR³ database have done so.) However, most Seattle schools still must accept forced-placements.

Decisions about which positions must be cut (when excesses or layoffs are required) are still based on seniority. While seniority is the most transparent way to cut positions, it is not always in the best interest of students. Furthermore, research shows that experience after the first three years in the classroom has little impact on how effective a teacher will be.³

³ D. Goldhaber and M. Hansen, *Assessing the Potential of Using Value-Added Estimates of Teacher Job Performance for Making Tenure Decisions* (Cambridge, MA: National Bureau of Economic Research, 2009).

Performance versus Seniority: The challenge of deciding who gets excessed or laid off

| | Pros | Cons | What needs to be in place for this to work effectively? |
|-------------|--|---|--|
| Seniority | <p>There is no question that a seniority-based system is transparent and objective. Accordingly, it has strong support from unions.</p> <p>This system, if it were to function as designed, would make it easier to find new assignments for teachers from the excess pool. Principals would not hesitate to understand that teachers who are in the pool aren't necessarily bad teachers, but just unlucky or junior.</p> | <p>Newer teachers are always the first to go, no matter how effective they are.</p> <p>Because rules about dealing with low-performing teachers are so problematic, principals "work" the system, finding ways to avoid letting go of teachers they want to keep and targeting for excess those they would like to pass along. Principals in all of the districts in which we have worked report that many teachers in the displaced pool are sub-par.</p> <p>When applied to layoffs, seniority-based decisions have a disproportionate impact on poor/minority schools, which often have higher numbers of new teachers, creating very unstable staffs.</p> | <p>The district would have to disallow most exceptions and target which teachers would need to go.</p> <p>The system would also have to provide a more efficient process for principals to dismiss low performers, so that excessing is not considered the only viable way to remove a weak teacher.</p> |
| Performance | <p>Principals are able to keep their most effective teachers on staff, presumably benefitting students.</p> <p>A policy that factors in performance is more equitable, as schools with already high turnover rates will not be disproportionately affected.</p> | <p>Principals know for certain that teachers in the "excess" pool are sub-par and are even less willing to take them on without being forced to by the HR department. Absent forced-placements, the district is forced to pay full salaries to teachers who can't find a classroom.</p> | <p>Districts have to stop force-placing teachers and identify a legal avenue to nullify the contract of a teacher who does not secure a new placement after a specified period of time (ideally after no more than one year).</p> |

Take away: Commendably, the new contract gives principals more autonomy in selecting who works in their buildings and transferring teachers can no longer use seniority for preferential treatment in obtaining new assignments. However, with the exception of the lowest performing schools, the district retains the right to force-place teachers at 74 of the district's 91 schools, compromising its commitment to mutual-consent teacher assignment.

While force placements occur only as a last resort (after July 1), they nonetheless compromise the goal of mutual consent hiring. Furthermore, even during the site based hiring process, principals may feel pressured to hire teachers who may not be an ideal match because they would be better than the alternative: force placements from HR.

Because Washington state law does not permit districts from dismissing a teacher without an official assignment, Seattle is forced to either fund a "rubber room," to which displaced teachers could go until they are hired by a school, or compromise on mutual consent by assigning displaced teachers to schools. Not surprisingly given the state of the economy, the new contracts takes the latter approach.

In addition, the contract states that, if there are no candidates who meet the criteria specified for a job opening, the position must remain unfilled.⁴ This does not appear to leave room for principals to *not* hire a candidate because that teacher is simply not a good fit in the school, regardless if on paper they meet all of the criteria in the position advertisement.

In addition to needed state law changes (outlined below), the following two provisions could improve Seattle's staffing policies.

1. Use performance to lay off non-tenured teachers. Seattle may want to consider using performance as a factor in laying off provisional (or non-tenured) teachers. At least with such a model, the most promising junior teachers could remain in the district. This would soften the blow of layoffs. Washington state does not offer provisional teachers due-process rights when they are dismissed or laid off. (Provisional teachers are allowed to petition local school boards to reconsider the district's decision.)

We should note that tenured teachers do have due-process rights that apply even in layoff situations; therefore, moving to a performance-based layoff system for tenured teachers *may* create legal entanglements for the district. This is a law which needs changing.

2. Change seniority determinations from district-wide to school-based seniority when excessing or laying off teachers. Such an approach would likely minimize the impact of layoffs and programmatic changes on the neediest schools.

⁴ P. 74, Article VIII, Section 3.3.

Next steps: State-level policy changes

The new Seattle contract makes some important strides. Given the constraints of state laws and regulations, it is a victory for teacher quality and student achievement. That being said, the following provisions cover two key areas in which district leaders and community activists should push for state-level reforms.

1) Remedy contractual obligations. Seattle's mutual-consent hiring policy will remain weak unless the state changes the reasons a teacher may be dismissed from a district. Currently, Seattle has only two options: Place displaced teachers who were not hired by a principal in temporary assignments; or carry their salaries until they can find positions through mutual-consent hiring. Neither solution is tenable.

An alternative solution could be modeled after Colorado's approach. That state's new education reform legislation gives excess teachers two years to secure a new assignment. Those who fail to do so are not dismissed but placed on unpaid leave. This means that excess teachers who are without an assignment cannot remain on the payroll indefinitely. It's a compromise solution that is much more tenable for states to undertake.

2). Eliminate the state salary schedule. The state compensation structure forces districts to base teacher compensation on factors that bear little correlation to their effectiveness: master's degrees and experience. Moving away from this state structure would be very difficult for Seattle because it would result in a funding drop for the district.

While the new contract offers bonuses to effective teachers who take on additional responsibilities, such funds are relatively small compared to the amount of money tied up in degree-based compensation. Such bonuses, because they rely on outside funds raised through a levy, will likely remain small unless policy changes at the state level.

For more recommendations on state-level policy changes for Washington, visit:

http://www.nctq.org/stpy09/reports/stpy_washington.pdf

Conclusion

Seattle's new teachers' contract is a big step forward and a vast improvement over what preceded it. Notably, Seattle is one of the few districts with an NEA-affiliated union that has negotiated a contract that eliminates the role of seniority in teacher assignment and permits student-performance data to factor into teacher evaluations.

The *implementation* of the contract is critical to improving the quality of Seattle's teacher force. Also, a number of important details surrounding the use of value-added data in teacher

evaluations remain to be decided. It is critical that these issues be resolved promptly, as the contract has just three years to prove its merit before it is time to renegotiate.

Further improvements for Seattle schools would be facilitated by changes in state law and regulation that currently limit the district's ability to do what is in the best interests of teacher quality and student achievement.