

Promoting and Implementing the National Education Association Policy Statement on Teacher Evaluation and Accountability:

AN NEA TOOLKIT



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Introduction

The National Education Association’s 2011 Representative Assembly adopted an important new [Policy Statement on Teacher Evaluation and Accountability](#) that both signals the Association’s commitment to a new, more prestigious teaching profession and acknowledges the need for evaluation and accountability reform. The policy statement reflects the growing evidence and research on the primacy of teacher quality in improving student learning—while also noting that few current teacher evaluation systems provide teachers with meaningful assessment information that can help them improve their teaching practice.

NEA President Dennis Van Roekel sums up the current situation: “As more states and districts seek to improve teacher evaluation, the risk is that reform is done to teachers rather than with them,” he says. “This policy statement was written by and for teachers and takes into account the evidence-based research on teacher evaluation.. It outlines a system to help teachers improve instruction and meet students’ needs. It offers sweeping changes to raise up the profession of teaching by focusing on high expectations.”

The policy statement, based on the recommendations of a workgroup of NEA leaders and submitted to the Representative Assembly by the NEA Board of Directors, offers guidelines for developing an evaluation and accountability system that enhances the practice of teaching rather than simply identifying teachers for dismissal. The statement emphasizes high teaching standards and calls for robust evaluations that are based on multiple indicators, including indicators related to student learning and growth. The statement suggests state and local affiliates may choose to use standardized tests to evaluate student learning and inform teacher evaluations if

such tests are developmentally appropriate as well as valid and reliable for measuring both student learning and a teacher’s effectiveness.

To help state affiliates implement the Association’s new Policy Statement on Teacher Evaluation and Accountability, NEA is providing resources and model language that can be used to develop and support high quality evaluation and accountability systems that are tied to improvements in teaching and learning. This electronic toolkit, created by leaders and staff, is designed for use by state and local affiliates to help members understand four key issues: teacher evaluation, peer assistance, peer assistance and review, and fair dismissal.

Using this resource, affiliates and members will be better equipped to develop bargaining and advocacy strategies related to evaluation and accountability. It’s important to note that nothing in the toolkit is intended to be prescriptive. Locals get to decide how to use the components in this tool kit in light of their own state laws, regulations, bargaining rights, etc. (Some states, for example, require using student growth and learning data, while others do not.) The overall purpose of this electronic resource is to help members become better advocates for teacher evaluation and assessment systems that are transparent, fair, and comprehensive, and that actually improve teaching and learning.

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Teacher Evaluation: *An Overview*

The momentum to reform teacher evaluation systems is growing—and America’s educators need to be key players in these discussions and decisions. The Association has long advocated for valid and reliable assessments of teacher performance that serve both teachers and students, but in too many places, the focus of teacher evaluation systems is solely on replacing a few underperforming teachers rather than on helping all teachers improve their practice. The vast majority of teachers serve their students well, so a robust and meaningful evaluation system, developed collaboratively by teachers and administrators, can raise the bar for all and benefit students and teachers alike.

Understanding the political landscape

While teacher evaluation has long been debated in policy circles, only now are significant resources becoming available to revamp current evaluation systems. States and locals are putting federal funds (Race To The Top and the Teacher Incentive Fund, for example) and contributions from foundations and corporations into reforming evaluation and accountability systems, but there are some issues that need to be addressed. A major concern is that these funds are often tied to additional requirements (e.g., assessing effective teaching based primarily on student test scores) that do little or nothing to improve teaching and learning or often produce unintended negative consequences.

States are in the thick of the teacher evaluation issue. NEA has responded by developing the *Teacher Evaluation: A Resource Guide for National Education Association Leaders and Staff* that provides critical information to help states and local affiliates to craft and influence policies that leads to comprehensive teacher evaluation and accountability systems. <https://insidenea.nea.org/Departments/TQ/Documents/Published%20Version%209-13-11%20TQ%20Teacher%20Eval%20Guide%20low-res.pdf>.

Within the last two years, twenty-four states have adopted legislation to revise their teacher evaluation systems, and school districts in every state have implemented evaluation reforms. In some states, policymakers have consulted NEA affiliates and worked with them to develop evaluation systems that reflect a shared vision of teaching effectiveness, but in others, such systems have been developed with little input from the teaching profession or from teacher organizations.

Knowing the issues

The Association’s concern is that a growing number of evaluation systems are focused exclusively on using tests to measure student growth or achievement. Many states have proposed using results from high-stakes student assessment instruments called value-added measures (VAM) to assess a teacher’s impact on student learning and growth. Interest in this approach is flourishing despite a growing body of research that makes it clear that student test scores alone are not sufficiently reliable and valid indicators of teacher effectiveness. The reality is that VAM estimates have proven to be unstable across statistical models, years, and teaching assignments. Research shows that VAM’s instability can result from the non-random assignment of students to particular teachers, small class sizes, high rates of student mobility, and other influences on student learning that are well beyond a teacher’s control.

NEA opposes using student tests scores to assess teaching effectiveness because these models fail to acknowledge the many factors that impact a student’s learning, both in and out of school. Unless such tests can be shown to be developmentally appropriate, valid, and reliable for the purpose of measuring both student learning and a teacher’s performance, the Association believes such tests may be used only to provide non-evaluative formative feedback rather than to support a high-stakes decision, such as termination.

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Teacher Evaluation *frameworks/contract language*

There are several comprehensive [teacher evaluation frameworks](#) that integrate multiple aspects of evaluation and education reform. These frameworks incorporate multiple indicators that provide educators with clear and actionable feedback in three areas: indicators of a teacher’s professional practice, indicators of a teacher’s contribution to school or district success, and indicators of a teacher’s contribution to student learning and growth. These frameworks are frequently mentioned in research studies and policy reports, and they are viewed as innovative approaches to reforming teacher evaluation. Many states and districts are adapting these frameworks to align with state policies that mandate the inclusion of evidence of student growth and learning.

Danielson framework: Charlotte Danielson’s framework, developed in 1995, has been adopted by many states and districts as a formative instrument to help teachers improve their practice. This approach involves more than simply observing classroom practice; it also takes into account dialogue between principal and educator as another artifact to use in assessing teaching effectiveness. It has been the subject of extensive research, and many variations have been implemented across the nation. Danielson’s framework has a clear but complex rubric for observation, which means that it requires multiple classroom visits as well as evidence provided through teacher/student artifacts.

Marshall framework: Kim Marshall’s approach is broader; it includes supervision and evaluation and involves teachers in improving the performance of all students. Some districts are using this framework despite the fact that validity and reliability issues persist. Marshall provides no guidelines for training evaluators on his model, which could explain, in part, why reliability ratings are low. In addition, Marshall’s summative rubrics use language that can be interpreted in many ways (e.g., the teacher uses silky-smooth transitions,

the teacher is poised, alert, and dynamic) which raises questions about validity.

Marzano framework: Robert Marzano’s Causal Teacher Evaluation Framework includes walkthroughs, informal and formal observations that require a significant amount of administrator time. Marzano, who has long promoted the importance of formative assessment, has just begun using his formative tools in a summative way and translating formative information into a summative calculation. There is little research that addresses the validity and reliability of using formative-designed assessments for summative purposes.

McREL Evaluation System: The Mid-continent Regional Educational Laboratory, founded in 1966, began developing teacher and principal research-based evaluation systems in collaboration with the North Carolina Department of Public Instruction and North Carolina Association of Educators. The evaluation system, which emphasizes professional growth, is designed to promote effective leadership, high-quality teaching, and student learning. It uses teacher self-assessment, presentation of artifacts, and classroom demonstrations that are all aligned to professional teaching standards. Its teacher leadership standards include teachers leading in their classrooms and schools as well as taking on leadership roles in the profession at large.

State frameworks

Many states have developed their own teacher evaluation systems, sometimes the result of collective bargaining efforts and other times the result of advocacy. Descriptions of several unique state systems are included below. Despite the fact that North Carolina and New York mandate that a specific percentage of student growth data be used in teacher evaluation systems, an issue of huge importance

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to the Association, both state affiliates have been able to maintain collegial partnerships throughout the process.

North Carolina: The evaluation system is the product of a strong collaborative effort among teachers, their representatives, and management. McREL assisted with the development of a statewide teacher growth model aligned to N.C. standards. The evaluation system was field-tested before being fully implemented. The teacher evaluation model places a very strong emphasis on teacher leadership and teachers’ advocacy for effective policies and practice that enhance student learning.

www.ncpublicschools.org/profdev/training/

Massachusetts: The state’s evaluation model, “Reinventing Educator Evaluation,” is a collaborative effort between the state department of education and the Massachusetts Teachers Association, who surveyed its members at the outset. The standards contained in this evaluation system are adapted from the core propositions of the National Board for Professional Teaching Standards (NBPTS) and the Interstate New Teachers Assessment and Support Consortium Standards (INTASC). Under the final regulations adopted in 2011, standards of productivity and evaluation processes and procedures are mandatory subjects of bargaining and proposed weight or percentages of any indicators are bargained. The indicators in the teacher evaluation model are aligned with the Danielson and Marshall teacher evaluation rubrics.

www.massteacher.org/advocating/Evaluation.aspx

Building a Breakthrough Framework for Educator Evaluation in the Commonwealth, Massachusetts Task Force on the Evaluation of Teachers and Administrators, Massachusetts Department of Elementary and Secondary Education: March 2011.

www.doe.mass.edu/boe/docs/0311/item1_breakthroughframework.pdf

New York: New York State United Teacher’s (NYSUT) Teacher Evaluation and Development (TED) system is not a state model but rather an unlimited initiative. It is an integrated system of teacher evaluation and growth that is based on extensive research on advancing teacher growth and student learning. TED was developed by joint labor-management teams from six school districts, and it is an excellent example of joint labor-management collaboration, shared leadership, and collective bargaining resulting in effective tools for positive and systemic change.

The essential components of the system are these: teaching standards and a teacher practice rubric; multiple measures of teacher professional practice and student achievement that can capture a broad range of competences; tools to assess the conditions affecting successful teaching and learning and a process for using the results for school improvement; a framework to develop a collectively bargained peer assistance and review program; targeted professional development learning plans; and guidelines for system implementation. The TED system is supported by an electronic data management system and a website that includes tools and resources for implementation.

www.nysut.org/cps/rde/xchg/nysut/hs.xsl/innovation.htm

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Sample Bargaining Language, Contracts, and Resources

California: California: CTA Contract Reference Manual (2000) provides sample language on professional rights, including evaluation.

CTA: Negotiations & Organizational Development Department Bargaining Advisory: Teacher Evaluation Bargaining Strategies: Responding to Proposals to Use Student Growth Data in Teacher Evaluation (2010)

Iowa: Iowa State Education Association Teacher Quality Bargaining Language (2010)

Iowa Senate File 137 is a bill for an act establishing a value-added assessment system to calculate annually the academic growth of students enrolled in school districts at grade levels three through eleven. However the bill clearly stipulates that:

“•5. Student academic growth determined pursuant to this section shall not be used in teacher evaluation and shall not be published if individual teacher effects can be surmised.”

http://coolice.legis.state.ia.us/linc/84/external/SF137_Introduced.pdf

New Jersey: A ratified agreement between the Lincoln Park Education Association and the Board of Education of Lincoln Park, Morris County, 2008-2011, offers contract language on alternate evaluation model and mentoring.

Minnesota: Bargaining Teacher Evaluation and Peer Coaching contains sample language for creating an evaluation design team under state law.

Edina’s contract language details how to implements a comprehensive evaluation system (as part of alternative compensation).

Rhode Island: Cumberland Teachers Association

Settlement Agreement: this agreement makes it clear that the purpose of a professional development plan is to improve instruction and clearly states that it cannot be used for disciplinary purposes. The agreement ensures due process/ access to grievance/arbitration procedure immediately if a teacher rejects the Review Committee’s recommendation, including that of the neutral party.

Washington: Evaluation Law Revisions: The new legislation regarding the use of data in evaluation in SIG schools creates a requirement for a four-tier teacher rating structure, and states conditions for the use of student growth data. It does not, however, require that student data be included. It defines student growth as a change in achievement over time.

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Teacher Evaluation: *Guiding Principles*

Developing a comprehensive and robust teacher evaluation system requires establishing a set of principles to guide the development and implementation process, and many states have done that. NEA’s Professional Standards and Practice Committee developed a set of principles (described below) that were published in a white paper entitled, “Teacher assessment and evaluation: The National Education Association’s framework for transforming education systems to support effective teaching and improve student learning.” <http://www.nea.org/home/41858.htm>

In addition to the specifics laid out in this 2010 document, two additional principles should be considered. First, there must be established standards of implementation that clearly convey the purpose, procedure, and substance of evaluation. Second, the principal must commit to investing adequate time and resources to develop and implement evaluation procedures and the ongoing training of evaluators.

NEA: Principles for teacher assessment and evaluation (modified)

- 1. Safe and open collaboration is necessary.** When assessment of teacher practices is transparent and openly collaborative, teachers can build professional communities and learn from one another. This process can only occur in non-threatening environments of formative assessment and growth.
- 2. Measures of teacher performance are most helpful and meaningful when they are based on multiple ratings and clear teaching standards.** Teachers need clear and actionable feedback based on standards for teaching and student growth and learning that are comprehensive and transparent and on criterion-referenced assessments of teacher practice. Feedback is most useful as part of a

comprehensive teacher development system. Summative evaluations of teachers should be based primarily on a single standard of effectiveness required for all teachers. Those who are consistently unable to meet this single standard of practice, even with appropriate professional support, should be removed from the classroom.

- 3. Integrated systems must link evaluation procedures** with curricular standards, professional development activities, targeted support, and human capital decisions (e.g., recruitment, selection/placement, induction, professional development, performance management and evaluation, and career progression). Teacher evaluation reform must occur with an understanding that it is part of a system designed to enhance teacher effectiveness in ways that improve instructional practice and student learning.
- 4. Validated evaluation measures are essential.** Measures of teacher effectiveness need to be based on widely accepted standards of teaching that attempt to capture a range of teaching behaviors, using multiple evaluation methods.
- 5. Teachers’ input in determining performance and learning outcomes should be part of the evaluation process.** While standards for teaching practice and student growth and learning are essential, each teacher should also help to define a set of practices and student growth and learning objectives to be assessed. Teacher input can provide vital learning goals for the unique circumstances and context of each particular classroom.
- 6. Key decisions about assessment and evaluation systems need to be made as close to the local level as possible and in partnership with teachers and their**

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representatives. This may be the most important principle of all. Ideals and visions need to be balanced with local context and political reality. There is no one-size-fits-all solution at a national level. Rather, NEA needs to work with its affiliates to craft local solutions based on the principles outlined in this report.

7. The NEA Policy Statement on Teacher Evaluation and Accountability provides a very clear set of principles to ensure that high-quality evaluation systems provide teachers with the tools they need to continuously tailor instruction, enhance practice, and advance student learning.

Key message: Teacher evaluation systems must be developed and implemented with teachers and their representatives, either through collective bargaining where available, or in partnership with the affiliate representing teachers at the state and local level.

- a. All teachers should be regularly evaluated by highly trained evaluators on the basis of clear professional standards as to what teachers should know and be able to do.
- b. Evaluations must be comprehensive—based on multiple indicators to provide teachers with clear and actionable feedback to enhance their practice—and must include all three of the following components:
 - i. **Indicators of Teacher Practice** demonstrating a teacher’s subject matter knowledge, skill in planning and delivering instruction that engages students, ability to address issues of equity and diversity, and ability to monitor and assess student learning and adjust instruction accordingly.

- ii. **Indicators of Teacher Contribution and Growth** demonstrating a teacher’s professional growth and contribution to a school’s and/or district’s success.
- iii. **Indicators of Contribution to Student Learning and Growth** demonstrating a teacher’s impact on student learning and growth.

- c. Evaluations must be meaningful, providing all teachers with clear and actionable feedback linked to tailored professional development.
- d. Evaluations must be fair, conducted by highly trained and objective supervisors or other evaluators as agreed to by the local affiliate, whose work is regularly reviewed to ensure the validity and reliability of evaluation results.
- e. To satisfy these requirements, evaluation systems must be adequately funded and staffed, and fully developed and validated, and all teachers must be trained on the new systems before they are used to make any high-stakes employment decisions.

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Teacher Evaluation: *Cautions*

Will different measures be used for different staff?

The same evaluation tool will not work for every type of educator. Effective teaching practices vary by grade level and by subject. Effective teaching in a music class requires different professional practice and outcome measures than effective teaching in an algebra class, which means that the measures of collecting evidence may vary based upon the subject area of the teacher. The practices, outcomes, and even the measures used to collect evidence of an effective instructional leader, for example, will most likely be different from that of an effective guidance counselor.

Given time and resource constraints, are the tools practical? In balancing practicality and comprehensiveness, are tradeoffs inevitable?

Providing an accurate assessment of teacher effectiveness requires a major shift in how evaluation systems are developed. To improve educator effectiveness and student learning, these systems must be comprehensive, evidence-based, and driven by data. Some evaluation tools require more time, training, materials, and expertise to implement effectively than do others. Sustaining a robust evaluation system that meaningfully differentiates performance and supports teacher development does require significant investments of time, training, materials, and expertise. The goal is to design a system that provides sufficient evidence for appropriate decision making but does not drown the evaluator in evidence or data.

An example of a well-designed evaluation system that collects a significant amount of data is the National Board for Professional Teaching Standards system. While using this system for all teachers in a district would require significant training, some practitioners believe it could be a cost-effective solution. It's important that districts and states pilot

evaluation tools to determine their practicality and benefit in achieving system goals.

How will the ratings from each of these instruments be weighted to tally a final evaluation rating?

If multiple instruments are used to develop an overall evaluation rating, it's reasonable to expect that scores from some instruments may have greater weight than others, depending on the perceived value of the results. Some states require that a certain percentage of the rating be based on student growth and learning growth. Some districts weight the measures in different ways, depending on the type of teacher and the available measures for each category or grouping. NEA believes decisions about weighting the results from different instruments must be made at the local level through collective bargaining or, where there is no bargaining, agreed to by the organization representing teachers. Regardless of the measures used or the weightings selected, NEA opposes the use of standardized tests as a rating instrument unless such tests are shown to be developmentally appropriate, valid, and reliable for the purpose of measuring both student learning and a teacher's performance.

How many levels of proficiency should the evaluation system be able to detect?

Evaluation rating systems used by principals traditionally have classified teachers as either satisfactory or unsatisfactory. Depending on the purpose of the evaluation system, rating employees in this way might be sufficient to provide important information about whether a teacher is reaching a minimum standard of performance for high-stakes decisions such as job retention. However, using only two levels for an evaluation system that aims to improve instructional practice does not adequately capture variation in teacher performance or

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provide adequate information to inform teachers’ efforts to improve. Some states now require (by law or state code) that teacher evaluation systems include four or more rating levels. What’s clear is that the greater the number of levels in an evaluation system, the smaller the differences between those levels, which means that evaluators must be highly skilled in their ability to understand and accurately distinguish the differences. There is no agreement within the education community on the optimal number of levels for an evaluation system, but many well-regarded systems use four levels. Charlotte Danielson’s teacher evaluation framework uses four: basic, satisfactory, proficient, exemplary); McREL’s Evaluation System uses four different levels of performance (developing, proficient, accomplished, distinguished); and Marzano’s Teacher Evaluation Model employs five levels, although one level is labeled “not using.”

Should classroom observation tools employ checklists, rubrics, or narratives?

If these tools are aligned to agreed-upon teaching standards, all of them can provide teachers with useful information about their performance. Rubrics and narratives provide more information than checklists but they typically take more time to implement. Well-developed rubrics that are linked to teaching standards that accurately describe teaching performance along a continuum (highly effective to ineffective performance) provide both evaluators and teachers with information on what is expected at all performance levels. One concern with using narratives is the issue of comparability. It is important that all evaluation tools are both fair and set a high bar for all teachers in the system. Whatever observation tool is selected, it must be aligned to teaching standards and used for its intended purpose.

Recognizing that some observation tools require more time than others, some districts and states have revised job description for principals so that they can focus more

on instructional leadership and spend less time on budget, operations, and school discipline. In other districts and states, teachers who are consultants or peer reviewers receive training that qualifies them to conduct teacher evaluations.

How frequently should teachers be observed and how long should each observation last?

The frequency and duration of observations are often established in teachers’ collective bargaining agreements or codified in state law. It’s up to locals to determine whether the regulations meet the needs of members and the district. For example, some systems require that new teachers be observed twice a year and tenured teachers once every three years, for at least 30 minutes per observation. Such infrequent observation is not likely to be enough to meaningfully support teacher development, comprehensively assess the quality of a teacher’s instruction, or ensure that effective teaching practices are being implemented in every classroom.

Increasing the frequency or length of observations may enable evaluators to collect evidence that is substantial enough for making high-stakes decisions, such as nonrenewal or continued employment. If the goal is to foster teacher development, informal observations that have a formative evaluation purpose can be added to the mix. To ensure fairness and equity, contracts should include language pertaining to observations for formative evaluation.

Teachers have control over some but not all aspects of their practice that relate to successful teaching and learning. How do evaluations deal with this complexity?

Teachers may have control over some aspects of their working conditions that are related to professional practice, but there are many factors they cannot control. Here are examples of some aspects of the job that teachers do not

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control:

- ▶ The planning of instructional time allocated by content areas, and the reallocation of instructional time to prepare students for high-stakes tests;
- ▶ Assignment to managerial and organizational tasks, such as lunchroom duties, hall duties, paperwork activities, and reports;
- ▶ Physical arrangements of a classroom that could preclude various types of instructional grouping arrangements;
- ▶ The mix of students assigned to them, and those students' needs, interests, levels of readiness, and other demographics (e.g., poverty, nutrition, parenting, mobility, special needs, English skills);
- ▶ The degree to which the required curriculum is aligned with the required assessments;
- ▶ Workload, in terms of class size, student load, number of lesson preparations, and extracurricular responsibilities;
- ▶ Quality of the professional learning opportunities available to them;
- ▶ Quality of their school leadership.

The degree to which teacher evaluation tools are sensitive to these parameters is important. Most educators are wary of having their performance judged solely on the basis of students' test scores since much of what test scores are known to reflect is beyond teachers' direct control.

Existing research finds that student socioeconomic backgrounds, access to health care, neighborhood crime rates, housing stability, and other out-of-school factors significantly influence student achievement. A national campaign, called A Broader, Bolder Approach to Education (www.bolderapproach.org) acknowledges the impact of social and economic disadvantage on schools and students and proposes evidence-based policies to improve schools and remedy conditions that limit many children's readiness to learn. Certain statistical models attempt to account for these

factors, but there is no evidence that any of the value-added models does so adequately.

In-school factors that can affect the quality of teaching and learning include teaching arrangements (co-teaching and team teaching, for example), school leadership, kind of resources and support available, and the school's professional climate. Being part of a community of education professionals who have a shared vision for their students and school, for example, can enhance student growth and learning. These kinds of in-school factors must be given serious consideration in order to provide a fair and accurate picture of the context in which teaching and learning occurs. Holding teachers accountable is important and so is making certain that principals and other administrators support ongoing professional development that is focused on teaching and learning for all students, promote collaboration among teachers, and support effective teaching for all students.

How can evaluations help develop specific performance goals and targeted professional development?

The primary goal of teacher evaluation must be to help teachers become more effective. That means evaluation tools must provide administrators, instructional coaches, peer reviewers, and teachers themselves with useful information that can guide improvement efforts. For example, designing and adapting instruction based on student growth is a teacher's responsibility and therefore is subject to evaluation. But using the student growth data to evaluate teacher performance is not considered valid or reliable approach because of the many factors that fall outside of a teacher's span of control, such as:

- ▶ School factors (e.g., class sizes, curriculum materials, instructional time, availability of specialists and tutors, and resources such as books, computers, science labs, and more);

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- ▶ Home and community supports or challenges;
- ▶ Individual student needs and abilities, health, and attendance;
- ▶ Peer culture and achievement;
- ▶ Prior teachers and schooling, as well as other current teachers;
- ▶ Differential summer learning loss, which especially affects low-income children;
- ▶ The specific tests used, which emphasize some kinds of learning and not others, and which rarely measure achievement that is well above or below grade level.

For these reasons, student growth data such as value-added measures should not be used in high-stakes decision making but could, along with a well-designed observation instrument, provide guidance in developing specific performance goals and targeted professional development.

Do districts have the capability to link individual teacher data with their students’ data, including unique identifiers for both students and teachers?

Matching teachers’ data (e.g., class lists or rosters) with their students’ data allows districts and states to use student outcome measures and other trend data in teacher evaluations. However, before student data can be used to assess teaching effectiveness, those measures must be shown to be developmentally appropriate, scientifically valid, and reliable for the purpose of measuring both student learning and a teacher’s performance. In addition, teachers themselves must be able to verify that they are teaching the students they are linked to—an especially challenging goal in places where student mobility is high. These conditions then determine the types of student growth and learning outcomes that can be used in teacher evaluation.

How do districts ensure data accuracy?

Having accurate data is critical. Each teacher’s evaluation ratings must be accurately entered and properly stored, so that decisions are based on good information. One way to ensure accuracy is through transparency, which should be addressed by a district plan. One key issue is access, which means deciding whether teachers themselves will be allowed to verify that they get credit only for the students they teach.

How will the district, the Association, or both evaluate the validity and reliability of the measures being used?

Making responsible decisions on the basis of teacher evaluation tools requires that the tools measure what they are supposed to measure (validity) time and time again (reliability). There are many examples of threats to reliability and validity. If students’ prior achievement is imperfectly measured, making measurement error is inevitable. Tests can only measure a thin slice of the curriculum, which means that some standards may be poorly tested while others are missed entirely. Score meanings can be easily distorted if educators are expected to teach to the test rather than teach in more authentic ways. It is important to be able to demonstrate that the chosen measures are developmentally appropriate, scientifically valid, and reliable for its intended purpose. An overall review of the evaluation system should answer the following questions:

- ▶ Does the evaluation system achieve the purposes for which it was designed?
- ▶ How well does the evaluation system support effective teaching for all students?
- ▶ Based on the agreed-upon definition of effective teaching, are the measures valid?
- ▶ Do the measures meet high standards of reliability in every school and for every teacher?

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Peer Assistance Programs/Peer Assistance and Review Programs: *An Overview*

Peer assistance (PA) and Peer Assistance Review (PAR) programs are joint, collaborative labor-management programs that focus on enhancing teacher quality by using expert teachers as mentors for probationary or career teachers. Teachers receiving assistance may be new to teaching, be experienced teachers who are learning new skills, or be career teachers who need some additional support. PA and PAR programs are similar in that they both rely on a cadre of experienced teachers to provide mentoring, feedback, and guidance to their peers. PA programs consist of assistance, usually in the form of support, coaching, and professional development. PAR programs add another complementary component: teachers are involved in the evaluation process of other teachers.

Negotiating PAs, and especially PARs, can be especially challenging. Unions must balance their duty to fair representation with supporting a fair evaluation process, which is traditionally a management responsibility. However, a number of NEA affiliates have negotiated comprehensive programs that are working well. In many cases, affiliates have developed such programs in two steps – PA first, and then PAR. This enables a local and school district to work collaboratively, building trust during the mentoring phase before moving on to the more sensitive issue of evaluation.

Both PAs and PARs should be collectively bargained, or in the case of non-bargaining states, collaboratively developed. PA programs can stand alone, or a local can choose to negotiate a PAR component as well. Both can be jointly developed and administered by unions and school districts, and governed by a board or joint committee.

Typical elements of a PA or PAR

Both PAs and PARs rely on the work of a cadre of experienced teachers/mentors (often called consulting teachers, mentors, lead teachers, evaluators, or instructional coaches) who provide guidance and instructional support. (Note: in this document, we use the term consulting teacher or CT.)

CTs are generally selected after completing a rigorous application process. They are released from their full-time classroom duties in whole or in part while serving as mentors, and they are assigned a specific number of cases. Usually, they earn a significant stipend in addition to their regular pay.

For PA programs, CTs play a key role in the induction process for new teachers but they are not involved in evaluation. They provide guidance to probationary teachers and career teachers who need assistance or are developing new skills. As mentors, they typically meet with teachers to:

- ▶ Identify teaching goals;
- ▶ Outline professional growth plans;
- ▶ Assist teachers in developing lesson plans, assess student learning, and find necessary resources;
- ▶ Provide support to teachers in areas such as communicating with parents or students;
- ▶ Observe teachers and provide feedback.

In PAR programs, CTs provide a similar support/mentoring role but also serve as peer reviewers/evaluators. This often means that they write detailed and comprehensive reports summarizing improvements based on well-defined evaluation standards, meet with teachers to provide feedback, and report to the PAR Joint Committee (see

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next page) on whether there has been progress in the areas identified as needing improvement. The PAR Joint Committee makes employment recommendations.

Joint labor-management committees oversee PA and PAR programs. The composition of these committees is typically outlined in a collective bargaining agreement or other policy document. Usually, the joint committee is made up of an equal number of Association and school district members, or it may include a few more Association members. Association and school district representatives often serve as co-chairs. While the specific responsibilities of a joint committee are defined through negotiations, the primary responsibilities usually reflect the following:

PA joint committees perform the following governance activities:

- ▶ Develop program parameters;
- ▶ Oversee the program budget;
- ▶ Recruit, train, and evaluate CTs.

PAR joint committees also:

- ▶ Identify career teachers who will enter the PAR program;
- ▶ Oversee the status of PAR teachers to ascertain if they achieve required remediation. In general, CTs submit reports to the PAR Joint Committee. The committee makes the final recommendation as to non-renewal or dismissal.

Please see the model programs and contract language tabs for examples of different approaches.

Some PA and PAR programs are defined in specific detail in a collective bargaining agreement, while other times only a broad framework for a PA or PAR is offered. In the latter case, the joint committee is identified as the “governing body” and develops the parameters of the program.

For programs that include both PA and PAR components, PAR is triggered by factors defined by a collective bargaining agreement, policy guidance, or state law/regulation. Sometimes, a teacher makes a self-referral to a PAR program, while other times the referral may come from a mentor, an administrator, or one or more colleagues (such as a school-based team). In some places, a teacher is automatically enrolled in PAR if she or he receives a below-standard evaluation in one or more key evaluation categories.

Some say the greatest potential benefit for PA and PAR programs is that instructional support and evaluation can complement each other.

Evidence (SRI and Koppich, p. 22) suggests that CTs tend to conduct more comprehensive assessments than principals who are more typically using a checklist to identify issues that need attention. CTs typically spend more time with teachers during PA or PAR than principals or administrators—and their feedback is often more supportive, less threatening, and broader in scope. As a result, PAR evaluations not only contain more data, but they also are more nuanced, which means that teachers receive more comprehensive feedback.

PAs and PARs can be challenging to both labor and management since both parties are expanding their roles beyond the traditional employer-employee model. As a result, the most successful programs usually are found in districts where positive, collaborative labor-management relationships have been developed.

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Peer Assistance Programs/Peer Assistance and Review Programs: *Contract Language*

Sample Bargaining Language, Contracts, and Resources

PEER ASSISTANCE

California: CTA Contract Reference Manual: Article 39 – Teacher Induction provides model language on a PA program. It also contains language that provides a distinction between a PA and PAR program. *Note: funding levels for this program have changed, which may affect references in this manual.*

[Simi Education Association and Simi Valley Unified School District](#) – Article XIV – Professional accountability. Includes language on partner observations, as well as PAR.

Iowa: Sample legislation for peer assistance developed by the [Iowa State Education Association](#).

New Jersey: [Support on Site \(SOS\)](#) summarizes the New Jersey Education Association’s induction program.

PEER ASSISTANCE AND REVIEW

California: [Ojai Peer Assistance and Review Program](#) between the Ojai Unified School District and the Ojai Federation of Teachers.

[The Poway Federation of Teachers and the Poway Unified School District](#) first negotiated a PAR approximately 10 years ago. This collective bargaining language updates some provisions.

[San Juan Unified School District and San Juan Teachers Association CBA \(CBA July 1, 2009 – June 30, 2011\)](#) – This site is highlighted in some of the exemplars included in the toolkit.

Maryland: See [Montgomery County Education Association/Montgomery County Public Schools Collective Bargaining Agreement, Chapters 400, Article 401](#) for relevant language. The [MCEA/MCPS Peer Assistance and Review Program Teachers Guide](#) describes the program.

Minnesota: [Bargaining Teacher Evaluation and Peer Coaching](#) contains guidelines and recommendations developed by Education Minnesota.

Montana: The Helena Education Association and Helena School District Number 1 negotiated a PAR program. Relevant contract language (see [Article XIV](#)) and [related evaluation documents](#).

New York: [Rochester Teachers Association, Section 53, Intervention, Remediation, and Professional Support](#).

Ohio: The [Columbus Education Association’s](#) website includes comprehensive information on its longstanding program with Columbus Public Schools. In addition, see [Chapters 400 and 401](#) from the collective bargaining agreement for relevant PAR language and a summary written by the [NEA Foundation](#) on this program.

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Peer Assistance Programs/Peer Assistance and Review Programs: *Guiding Principles*

- ▶ PA and PAR programs must be collaboratively developed and overseen by joint labor-management committees.
- ▶ Before any program is implemented, the Association must educate its members and build support for it. Acceptance of a PA or PAR, especially if it must be ratified as part of a collective bargaining agreement, will hinge on whether members believe the PA or PAR system is fair and that their rights are protected.
- ▶ CTs must be carefully chosen for their commitment to the PA and/or PAR process. The skills necessary for PA (mentoring) versus PAR (mentoring and reviewing) are different and require different training and expertise.
- ▶ CTs who remain in the classroom part time must have adequate time to devote to their CT duties.
- ▶ CTs remain bargaining unit members and can return to the classroom full time upon completion of their CT tour of duty.
- ▶ Confidentiality of records/notes should be clearly defined in the collective bargaining agreement or joint committee rules. Typically, PA notes related to mentoring, especially for non-probationary teachers, are confidential. PAR notes are not because they are provided to PAR joint committees, but they should be covered by confidentiality protections that apply to all personnel matters.
- ▶ The additional compensation for serving as a CT should be significant, reflecting the additional level of responsibilities, knowledge, skills, and time required. CTs should continue to receive whatever pay and benefits they would have earned under the existing contract for regular classroom teachers. For example, if those teachers advance a step each year, so should the CTs.
- ▶ The school district must provide a sustainable, stable funding source for the program.

A data tracking system should be developed so that the joint committee has the opportunity to modify and improve the program. The following are suggested elements that should be recorded:

- Number of teachers (probationary and career) in the program
- Outcomes for the program
- Financial data
- Caseloads per mentor
- Time served by CTs

The following guiding principles also apply to PAR programs:

- ▶ PAR programs must guarantee a teacher's right to due process. This may include an expedited appeals process for career teachers (grievance and arbitration where bargaining takes place, though a well-defined process can exist in a non-bargaining environment).
- ▶ A teacher in PAR has the right to union representation at all stages.
- ▶ A teacher has the right to refuse to participate in PAR. He/she will still be eligible for all the benefits of due process and rights permitted in any collective bargaining agreement or other policies.
- ▶ A teacher's right to refuse to participate in PAR, the dismissal process itself, and the extent of the union's duty for fair representation should be addressed in the collective bargaining agreement.
- ▶ The decision to dismiss a teacher is very difficult. Many joint committees require unanimous agreement; at a minimum, a super-majority of the PAR committee should be required to make certain that decisions are perceived as fair and do not fall along labor-management lines.

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Peer Assistance Programs/Peer Assistance and Review Programs

- ▶ When a teacher’s contract is not renewed or he/she is dismissed, the union provides counseling-out services funded by the district.
- ▶ The review period (which is mutually determined by the union and school district) for non-probationary teachers is lengthy enough to allow the teacher to make the necessary improvements.
- ▶ A PAR evaluation system works best when it is based on comprehensive instructional standards rather than a simple checklist.

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Peer Assistance Programs/Peer Assistance and Review Programs: *Cautions*

There are many reasons why PA and PARs have not been widely implemented to date. Some of the concerns are listed below.

Costs

PA and PARs are expensive to implement. A school district must hire teachers to replace the CTs in the classroom. Other costs are the stipends paid to CTs and general administrative and training costs associated with the program.

Though PA and PARs may cost more initially, many school districts report that over time, PA and PAR programs reduce turnover costs, support teacher recruitment and retention, and decrease the time and expense associated with dismissing career teachers (Harvard report, p. 8)

Labor-management challenges

PAs and PARs force labor and school district representatives to take on new labor-management roles and responsibilities. It can be a particularly sensitive issue for Association members if the union becomes part of the dismissal process, and especially so for career teachers. Because of this sensitivity, some locals will only consider developing PAs. Others may start with a program for career teachers and consider expanding it over time. A go-slow approach allows the joint committee to strengthen its collaborative working relationship before addressing the higher stakes, more difficult decisions of dismissing career employees.

If your union decides to develop a PAR, care should be taken to guard against any liability by making sure that the union establishes clear protocols for the PAR program and follows those protocols with care in every case. You want to make sure that decisions made by the union as part of the PAR program are well-considered, reasonable and documented.

State statutory or regulatory limitations

Some state laws or regulations define the evaluation process in a way that limits the role of teachers in PAR.

State bargaining laws may exclude PA and/or PAR programs from the mandatory subjects of bargaining, and therefore, the Association may not be able to bargain this type of program, even if there is interest on both sides.

In addition, PAR programs must conform to state labor laws and regulations regarding the definition of supervisors. Though CTs provide input, it is ultimately the school district school board and/or superintendent who dismiss an employee. PAR joint committees must ensure that the roles and responsibilities of mentors are articulated so that CTs do not fall into the “supervisory” category, which could remove them from the teachers’ bargaining unit.

Other concerns

CT job responsibilities are comprehensive and demanding. It is crucial that the additional pay for CTs reflects their significant contributions.

Turnover among district and Association leadership can make it more difficult for a PA or PAR program to become established and successful. The bottom line: teachers must understand and trust the program, and principals must support it.

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Peer Assistance Programs/Peer Assistance and Review Programs: *Supporting Research*

An increasing number of states and locals are using a systems approach for teacher evaluation. In doing so, many have begun to incorporate support programs such as PA and PAR into their efforts to improve teacher effectiveness. Two states—Massachusetts (*Reinventing Educator Evaluation*) and New York (*Teacher Evaluation and Development Handbook*)—recently developed teacher evaluation systems that include PAR component to support novice educators and experienced teachers who are struggling in their teaching assignments.

NEA has long supported Peer Assistance Programs and Peer Assistance and Peer Assistance and Review Programs. The first resolution was passed in 1999 ([Resolution D-20](#)).

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Fair Dismissal: *An Overview*

The Changing Legal Framework

Since the 2010 enactment of SB 191 in Colorado, fifteen states have enacted laws significantly revising their tenure or other laws that provided fair dismissal rights to teachers. Within the last year, many other states have considered such legislation for the first time in decades. Those states that have significantly revised their tenure laws have done so in ways that substantially diminish the rights of teachers. Four of those states (Florida, Idaho, Indiana and Ohio) eliminated fair dismissal protections altogether for new teachers (meaning teachers hired after the date the new law was enacted) although the Ohio bill that did so has now been repealed by the voters. Three more (Michigan, Tennessee and Wisconsin) effectively have eliminated fair dismissal protections for all teachers. And three more (Colorado, Indiana and Nevada) have conditioned fair dismissal protections on a teacher receiving satisfactory evaluation ratings. Because these statutes provide that teachers who receive consecutive unsatisfactory ratings lose fair dismissal protections, they appear to be drafted for the purpose of attempting to allow school districts to terminate teachers for unsatisfactory performance without proceeding through the notice and hearing procedure that would ordinarily apply under the state’s fair dismissal laws. The changes in the laws by other states are noted below and [summarized on this overview chart](#).¹

The 2012 state legislative sessions promise to bring more legislative initiatives along these lines. To prepare to respond

to these initiatives, the following provides a brief overview of several different types of tenure reforms that different NEA state affiliates have advanced in the last few years. Before turning to the specifics of those proposed reforms, we first briefly review the protections that existing tenure laws provide so as to flag the key components that should be considered in developing any reform proposal.

The Origins of, and Protections Provided, by State Fair Dismissal Laws

Prior to the legislative changes described above, in all but three states teachers who had served in a district a considerable period of time, and whom the school district elected to reemploy, were provided with both substantive and procedural protections against discharge as a matter of state law.² Teachers who receive these protections are commonly referred to as “tenured.” In fact, most states refer to the status conferred by these laws by some other terminology (“continuing contract,” “fair dismissal,” “post-probationary” or “career” or “professional status,” etc.). Consistent with NEA’s longstanding support for such protections as a necessary foundation for elevating teaching as a profession, NEA refers to the status conferred by such laws as career status.³

Only teachers who have taught in a particular district for a considerable period of time (in most states three years) can earn career status. When teachers move to a new district they must earn the right to career status again. The fair

¹ Alabama and Wyoming expanded the causes for dismissal. Wyoming also specified that tenure may be earned only if certain performance requirements are satisfied – an approach that Illinois adopted as well. Maine extended the probationary period from two to three years as did New Hampshire for those teachers who serve three consecutive years in one school district (for teachers who serve in different school districts New Hampshire extended the probationary period to five years).

² Three states (Mississippi, Texas and Wisconsin) do not have tenure/fair dismissal laws. Prior to the enactment of Act 10, Wisconsin provided fair dismissal protections by way of just cause provisions in collectively bargained agreements.

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dismissal procedures that career status teachers receive vary somewhat from state to state, and school district to school district, but generally restrict the grounds for termination to “just” or “good cause” as well as other specified reasons, and require that a district provide a tenured teacher with notice of the reason for the termination and an opportunity to contest that reason.⁴

Career status provides vital protections for teachers. Requiring districts to have a reason before firing a proven teacher protects students and schools by ensuring that good teachers are not fired for bad reasons. Such laws protect the classroom as a place of academic inquiry and the professional expertise of teachers. Career status also forces administrators to supervise teachers appropriately, document any performance deficiencies, and provide teachers with the opportunity to remedy those deficiencies. Proven teachers should be given a chance to tell their side of the story when a parent or administrator complains that the subject matter of a class was too politically sensitive or that a teacher handled a difficult student or classroom situation inappropriately. Career status protects teachers from discharge due to, for example:

- ▶ Their speech, political beliefs, involvement or connections (or lack thereof);
- ▶ Teaching a subject that a student or a parent or an administrator considers to be too controversial;

- ▶ Refusing to conduct a prayer session in class;
- ▶ Voicing an opinion as to a particular pedagogical method or curriculum choice;
- ▶ Being a whistleblower on inappropriate conduct by an administrator, another teacher or a student;
- ▶ Refusing to alter a grade;
- ▶ Being more senior and more expensive to employ than younger teachers;
- ▶ False allegations of wrongdoing by an upset student or parent (these are often allegations of inappropriate conduct, which even if false, destroy a teacher’s career if the teacher has no ability to clear her name);
- ▶ Race, sex, sexual orientation, religious beliefs, disabilities or retirement eligibility;
- ▶ [Union activism](#).⁵

While teachers are also protected from discharge for some of the reasons listed above by generally applicable non-discrimination/retaliation laws, the protections provided by career status are both more accessible and effective. As a threshold matter, school districts bear the burden of proving cause for discharge under state career status laws but teachers must prove the reason for their discharge in a civil rights lawsuit or unfair labor practice complaint alleging a discharge was for discriminatory or retaliatory reasons. In addition, litigating discrimination/nonretaliation claims is

3 As one of the early NEA proponents for such laws explained:

As long as a teacher finds that he must be regarded as a hireling, with no guarantee of remaining in office over a year, and with all the uncertainties of an annual election before his vision, -- so long as he finds himself not connected with a profession, properly so called, he lacks one of the greatest incentives to professional study, and is tempted to make his teaching not even a calling, but only a steppingstone to some other work. Serious as is the injury to the teachers, still more serious is it to the children whom they teach.

E.E. Higbee, *Addresses and Proceedings of the NEA*, 1887, p. 308. See also Research Bulletin of the NEA, Vol. II, No.5, *The Problem of Teacher Tenure* (Nov. 1924) (reporting that tenure was needed to stem high turnover rates (upwards of 50% in some places) and to give teachers an incentive to improve their skills).

4 Thirty-seven states provide for the dismissal of career teachers for “just” or “other good cause” as well as for a variety of other reasons. The remaining states allow for the dismissal of experienced teachers for an array of reasons that invariably include some form of unsatisfactory job performance.

5 [Click here](#) for an illustrative list of the types of arbitrary, discriminatory, and inappropriate conduct against which career status protects.

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both expensive and time consuming. As a consequence, such rights generally are not enforced by teachers, who opt for the more effective and direct remedy under the state career status law.

Although proponents of tenure reform frequently point to the cost of a few outlier cases as the justification for significant overhauls of tenure protections, the fact is that the costs of most proceedings under state career status laws are modest. NEA and its affiliates represent the majority of the teachers in the country and provide legal representation to those teachers in termination cases. Our records reflect that the costs of those proceedings are quite low – 80% are resolved for \$5,000 or less in costs and fees on the employee’s side. Moreover, the vast majority of cases are resolved early in the process before any hearing.⁶ The fact of the matter is that it costs school districts far less, on average, to provide experienced teachers with a fair dismissal process than it does for a school district to replace an experienced teacher fired for a bad reason.⁷

Teachers with only a few years of experience do not have career status and are not protected by fair dismissal laws. As a consequence, administrators have significant latitude in terminating such teachers. Nationwide, approximately 17% of full time teachers have worked for less than three years – which is the usual time period a teacher must work to

earn career status.⁸ In some schools, particularly struggling schools in large urban districts, the percentage of full time teachers who have not earned career status is much higher. For example, 46% of high poverty middle schools and 40% of high-minority high schools in the Los Angeles School District are staffed with significant numbers of first and second year teachers. Such teachers make up 21-41% of the teaching staff in these middle schools and 21-35% of the teaching staff in these high schools.⁹ As a consequence, career status laws do not prevent administrators of such schools from terminating significant portions of the teaching staffs in those schools.

6 Over the four year time period from 2006 through 2009, just 7% of the fair dismissal cases involving NEA members proceeded through a full hearing. All others were resolved prior to that point. See NEA Research Analysis of DLMS Data for 2006-2009 re Teacher Dismissal Cases (March 2011).

7 The cost of replacing an experienced teacher varies depending on the particular location of a school district, but costs in urban areas often exceed \$15,000 per teacher and even in smaller jurisdictions average \$10,000 per teacher. National Commission on Teaching & America’s Future, *The Cost of Teacher Turnover in Five School Districts* (2007) (finding cost of replacing teachers in the Chicago school district to average \$17,872 per teacher, cost of replacing teachers in the Milwaukee school district to average \$15,325 per teacher, and the cost of replacing teachers in the Granville, North Carolina School District just under \$10,000 per teacher). To calculate the cost of replacing a teacher in your district, use NCTAF’s Teacher Turnover cost calculator at www.nctaf.org.

8 U.S. Department of Education, National Center for Education Statistics, Schools and Staffing Survey (SASS), Public School Teacher and Private School Teacher Data Files, 1999-2000; 2007-08, Table A-27-2. Number and percentage distribution of full-time teachers, by school level, sector, and selected teaching characteristics: School years 1999-2000 and 2007-08. (<http://nces.ed.gov/programs/coe/2010/section4/table-tsp-2.asp> 3/23/11).

9 Institute for Democracy, Education, and Access, *Sharing the burden? The impact of proposed teacher layoffs across LAUSD*, Los Angeles: University of California. (<http://idea.gseis.ucla.edu/publications/files/Layoffs-LAUSD.pdf>)

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Fair Dismissal: Key Questions

Key Questions to Answer in Considering any Career Status Reforms

In considering whether to propose or support specific modifications to tenure protections, it is important to know how your current tenure system functions. Here are some key questions that should be answered:

- 1 How is career status earned?** Do you have enough confidence in the state mandated system of evaluations to tie career status to the evaluations that teachers receive through that process? If not, what performance measures do districts now use in making career status decisions?
- 2 How is career status lost?** Are the grounds on which a career status teacher can be terminated clearly defined either in state statutory law or in prior termination decisions or are there significant areas of uncertainty that are repeatedly in dispute in teacher termination matters (e.g., what constitutes “immoral” conduct or “incompetent” performance)? Does the uncertainty as to grounds work to the advantage of school districts, for example, by allowing them to remove teachers from the classroom without pay by simply charging them with “immoral conduct,” when the conduct reflects at best a lapse of judgment?
- 3 What if any procedures are currently in place to encourage the early evaluation and resolution of teacher termination matters?** Are there any mandatory prehearing disclosure requirements in place? If so, how do they work? Are the prehearing disclosure requirements followed by a prehearing settlement conference or other Alternative Dispute Resolution (ADR) process?
- 4 How does the hearing process work?** Is the initial

hearing advisory or binding on the school board? What subsequent review is available? What stages of the hearing process, including the review steps, are the most fair and provide teachers with the best opportunity to defend against charges? What stages of the hearing process are the most perfunctory and provide the least meaningful opportunity to teachers to defend against charges? Who decides teacher termination cases and do they have the appropriate training to do so?

- 5 What timelines currently exist for the hearing process and are they observed in practice?** What is the intersection between the timelines for the hearing process and the pay status of teachers charged with grounds for termination?
- 6 Is there a difference between** how misconduct terminations and unsatisfactory performance terminations are handled and, if so, what is it?
- 7 How, if at all, does the teacher termination process** link to state teacher licensure?
- 8 How many teacher termination cases does your affiliate handle a year?** What was their disposition (win, lose or settle) and at what stage of the termination process?

As detailed in the next section of the toolkit, NEA affiliates have proposed reforms addressing all of these issues (career status attainment, grounds for termination, mandatory prehearing disclosure requirements and related ADR requirements, hearing process reforms, new timelines for teacher terminations, and differential treatment of misconduct and unsatisfactory performance evaluations). Whether such reforms make sense in your state is for you to decide based on all relevant considerations including how the existing teacher termination process works in your state.

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Fair Dismissal: Proposed Reforms—Pros & Cons

Reforms to Career Status Supported by NEA and/or NEA Affiliates

Tying Attainment of Career Status to a Specific Level of Performance Defined in State Law

The NEA Policy Statement on Teacher Evaluation and Accountability (“NEA Policy Statement”) unequivocally endorses the proposition that teacher career status should be earned based on a teacher’s performance. As the NEA Policy Statement states, “probationary teachers should become career teachers if they meet or exceed expectations at the conclusion of their probationary period.” NEA Policy Statement II.e. So that teachers are not denied career status due to a district’s failure to evaluate their performance, the Policy Statement further calls for teachers to be given “the right to require that the school district conduct the necessary evaluations within” the probationary time period, “so that an appropriate determination can be made as to career status.” *Id.*

The Illinois Model

Reflecting this same view, this past year the Illinois Education Association supported a tenure reform package that, among other things, requires teachers to earn certain evaluation ratings over a specified period of time in order to earn career status. Specifically, under a four tier evaluation system that ranks teachers as unsatisfactory, needs improvement, proficient or excellent, teachers must obtain a proficient or excellent rating in the final year of the four year probationary period and a prior rating of proficient or excellent in the second or third year of the probationary period. 105 Illinois Compiled Statutes 5/24-11. This new requirement for career status takes effect only prospectively for teachers employed after the date of the law’s enactment. Although a district may still move to terminate a teacher who receives the required evaluation ratings, it must do so by providing the teacher

with a written notice of dismissal specifying the reason for the termination by no later than 45 days before the end of the school year otherwise the teacher is reemployed the following school year.

By specifying a level of performance a teacher must meet to earn career status, IEA was also able to secure an accelerated route to career status for some teachers and career status portability for others. Under the revised Illinois law, new teachers who consistently receive excellent evaluations may earn career status in three rather than the usual four years. *Id.* In addition, teachers who had career status in another district may earn career status in a new district if they obtain two consecutive excellent ratings in the new district. *Id.*

To address the difficulty posed by administrators who fail to evaluate teachers, the law specifies that a teacher is deemed to be “proficient” in any year in which the district does not perform an annual evaluation of them. *Id.*

The Wyoming Model

In response to a proposal to repeal all career status protections for teachers, the Wyoming Education Association supported legislation that ultimately was enacted and takes effect on July 1, 2012, which similarly ties career status to a teacher obtaining certain evaluations over a specified time period. Existing Wyoming law specified that school districts were to evaluate all teachers twice annually. Wyoming Stat. 21-3-110. The new law specifies that teachers may earn career status only if they receive satisfactory evaluations (under a two tiered evaluation system that rates teachers satisfactory or unsatisfactory) in each of the three years of their probationary period. The law does not address the consequences for a teacher of a district’s failure to conduct the required evaluation. The law does, however, require school superintendents to provide an annual report to the

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school board identifying all teachers in the district whose performance was unsatisfactory and summarizing “the mentoring and other professional development activities made available to the identified teachers to improve instruction and student achievement.” *Id.*

The New Jersey One Year “Residency” Requirement

Taking a different approach to the attainment of career status, the NJEA has endorsed extending the period a teacher must serve to attain career status to four years so that every new teacher may serve a one year in district professional residency at the outset of the teacher’s career. The residency will consist of the novice teacher working with a mentor teacher for “at least two uninterrupted periods or the equivalent” every day of the school year. In the second year of employment, the novice teacher will receive support from a mentor teacher for at least one uninterrupted period each day of the school year. At the conclusion of the second year, if the novice teacher receives a satisfactory evaluation, the teacher will be issued a standard teacher certificate. Novice teachers who receive an unsatisfactory evaluation may petition the Board of Examiners for additional opportunities to seek provisional employment in another district. Mentor teachers must be assigned to provide support and guidance to each novice teacher and must meet several requirements including demonstrating “exemplary command of content area knowledge and of pedagogy” and the completion of a comprehensive mentor training program or of the requirements necessary to earn a Teacher Leader Endorsement on their teaching certificate.

Key Considerations in Tying Career Status to Evaluation Ratings

Do You and Your Members Have Confidence in the Evaluation System?

The central question to answer in deciding whether to tie career status directly to evaluation ratings is whether, and to what extent, the evaluation system operates in a fair

and understandable manner. Where a state or local affiliate will have significant input into the development of a new evaluation system, whether through bargaining or otherwise, you may have more confidence that the ultimate evaluation system will function in a fair and transparent manner and therefore can safely be tied to career status decisions. Where state or local affiliates will have little input, and the evaluation model that the state is developing is driven heavily by student test scores, extreme caution is warranted. If at all feasible, the far better alternative in such states is to provide for the development of the new evaluations on a pilot basis, not linked to any high stakes decisions, until the new system can be reviewed and validated.

What Happens if Teachers are Not Evaluated?

If attainment of career status will be tied to satisfactory evaluations, the issue of a district’s failure to evaluate a teacher needs to be addressed. A district should not be allowed to shut a teacher out of career status simply by failing to schedule the evaluations necessary to determine whether or not the teacher is performing satisfactorily. The Illinois Model’s solution, which specifies that teachers who are not evaluated are deemed to be proficient, appropriately places the onus on administrators to conduct the necessary evaluations or to choose not to do so because they have determined that a teacher in fact is meeting expectations. The NEA Policy Statement addresses the issue slightly differently, by calling for probationary teachers “to have the right to require that the school district conduct the necessary evaluations.” NEA Policy Statement II.e.i.

Are Teachers Given the Support and Professional Development Necessary to Improve?

Efforts to link career status to evaluations also raise the issue of whether teachers who fail to meet expectations will be given the support and professional development that they need to do so. The NEA Policy Statement calls for teachers who do not meet performance standards to be

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given “clear notice of the deficiencies and an improvement plan . . . developed by the teacher, local association and employer.” Policy Statement II.c. Such plans “should provide the teacher with a reasonable opportunity – including time, high quality professional development and support – to meet expectations” and the support of “an accomplished teacher to assist the teacher not meeting performance standards.” *Id.* In addition, the Policy Statement calls for specific support for all probationary teachers in the form of “ongoing support for at least the first two years of their employment from locally developed and fully supported induction programs,” *id.* II.e.i.

Proposals to reform state tenure laws should include provisions that institutionalize the provision of support to probationary teachers. The Wyoming model takes a step in this direction by requiring superintendents to annually report on the teachers who have been identified as unsatisfactory and the support that has been provided to those teachers. Such an annual reporting requirement should include confidentiality protections to ensure that teachers’ evaluation ratings are not publicly disclosed. In addition, consideration should be given to what enforcement mechanism can be used to ensure that teachers receive the support they need. One possibility is for the state law to provide that it is a valid defense against termination or nonrenewal for a teacher to show that a district did not provide the agreed upon supports in the improvement plan mutually developed by the school district, association and teacher.

Can Teachers Challenge Unsatisfactory Evaluation Ratings and/or the Denial of Career Status?

Some consideration should be given to whether and, if so, how a teacher can challenge an evaluation rating that he or she believes to be incorrect or unfair. Currently, a career status teacher who is being dismissed for unsatisfactory performance has the opportunity to challenge his or her evaluations in the termination hearing, but a probationary

teacher who is nonrenewed based on poor evaluations does not. Any effort to extend rights to probationary teachers in this regard will be strongly opposed. It may be possible, however, to insert data collection and reporting requirements in a bill to ensure that the necessary data is collected to determine whether a new evaluation system is functioning fairly or is having a disparate impact on teachers based on the schools or student populations that they teach (as some have argued will be the case with evaluation systems driven predominantly by student test scores).

In addition, the NEA Policy Statement calls for granting probationary teachers who do meet expectations at the end of their probationary period (and, hence, the requirements for attaining career status) the right to challenge before an impartial decisionmaker a district’s decision to deny the teacher career status. Teachers who meet expectations have satisfied the professional requirements for entry into career status and should be entitled to challenge the denial of that status. NEA Policy Statement II.e.iii.

Warning – Don’t Tie Loss of Career Status to Evaluation Ratings

While both the Illinois and Wyoming models tie attainment of career status on a teacher receiving a specified level of evaluation ratings, they do not strip teachers of career status based on poor evaluations. Legislative proposals to do so (like the tenure reforms that have now passed in Colorado, Indiana and Nevada) should be strongly opposed. Such proposals purport to strip from career status teachers the procedural and substantive rights to challenge their termination through the ordinary notice and hearing processes. Should school districts seek to nonrenew career status teachers based on poor evaluations without providing notice of the reasons for the termination and a hearing over the validity of those reasons, legal counsel should be consulted to determine whether or not the school district’s action can be challenged as a violation of procedural due process.

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Defining the Grounds for Termination

State tenure statutes generally provide a laundry list of reasons why a teacher may be terminated, and some of the grounds for termination are stated in such broad, vague and/or anachronistic terms (such as terminations for “incompetence,” “inefficiency” “moral turpitude” or “conduct unbecoming”) that they result in needless litigation over what the state tenure statute means rather than a focused assessment of whether a given teacher’s conduct does not meet a clearly defined standard.

Proposals to reform tenure statutes have included some modest attempts to define more precisely the bases on which a teacher may be terminated. For example, this proposed [New Jersey tenure reform bill](#) proposes to add to the tenure statute, which previously provided for teacher terminations for “inefficiency, incapacity, unbecoming conduct or other just cause,” the proviso that such “unbecoming conduct” must be “related to the employee’s office, position or employment” to avoid disputes over whether off duty conduct, unrelated to employment, can provide a basis for terminating a teacher.

To a similar end, the tenure revisions just passed in Illinois defines the term “incompetency” as two unsatisfactory evaluations within the last seven years. Under Illinois law, an unsatisfactory evaluation is the lowest rating a teacher can receive. By so defining the term, the Illinois statute seeks to narrow the focus of disputes over terminations for incompetency to the question of whether the teacher in fact received two unsatisfactory evaluations as well as the necessary subsidiary questions as to the quality of these evaluations, the training of the evaluators, the quality of the remediation plans and whether they were successfully completed, and whether termination rather than further training and professional development is appropriate.

Where the grounds for termination are tied to a teacher’s

pay status, it is particularly important to consider whether those grounds need to be clarified. Statutes that give school districts the authority to suspend teachers without pay pending termination simply by labeling particular charges as ones raising “immoral conduct” or reflecting “moral turpitude” should be revised so as to limit to clearly defined conduct (e.g., conviction of particular charges) the circumstances in which a school district may put a career status teacher out of work without pay before a hearing on the charges against the teacher.

Mandatory Prehearing Disclosure Requirements & Prehearing Discovery Reforms

Reforms instituted through bargaining in Clark County, Nevada in 2003 and passed as part of Illinois’ tenure revision this past year include significant mandatory prehearing disclosure requirements. The tenure reform proposed by NJEA also includes such requirements. Such requirements seek to prevent parties from hiding important evidence in the case, and force parties to focus on the substance of their cases earlier than they otherwise would. To be effective, such mandatory disclosure requirements should be enforceable by making evidence not disclosed in advance of the hearing inadmissible at the hearing.

Both the Clark County, Nevada MOU, and the New Jersey proposed tenure reform, establish a mandatory prehearing disclosure requirement in an arbitration regime, under which the arbitrator is empowered to exclude evidence not disclosed in advance of the hearing as required. Under the [New Jersey proposal](#), school boards would be required to disclose, upon referral of a teacher termination case to arbitration, “all evidence including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employee or the employee’s

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representative.” The employee is obliged to provide the same disclosure at least 10 days prior to the hearing. Evidence not so disclosed may not be admitted at the hearing, except if necessary to impeach witnesses.

Under the [Clark County, Nevada MOU](#) the school district is obliged to provide a complete copy of the employee’s personnel file as well as copies of all other documents that have been relied upon or reviewed by counsel for the district in connection with the termination. The employee and his or her representative may follow up on the district’s disclosure with additional discovery requests but, in practice, rarely do so given the scope of mandatory disclosures made by the school district.

The new Illinois law charges the State Board of Education with promulgating hearing rules that will address, among other things, the mandatory prehearing disclosure of the names and addresses of all potential witnesses, “a summary of the facts or opinions each witness will testify to, and all other documents and materials, including information maintained electronically, relevant to its own as well as the other party’s case.” 105 Ill. Comp. State. 5/24-12(d)(6). Information not so disclosed may be excluded by the hearing officer unless it is being offered for purposes of rebutting a point that could not reasonably have been anticipated in advance of the hearing. *Id.*

Any consideration of mandatory disclosure requirements should include an evaluation of how discovery now works in teacher termination cases and whether it can be streamlined in a manner that forces school districts to disclose earlier in the process the evidence relating to the termination decision. It may be appropriate, if the mandatory disclosure requirements are extensive and enforceable, to limit the ability of either party to proceed with additional discovery absent some showing of cause to the presiding hearing officer. It may also aid the end of ensuring full disclosure of

all relevant facts to develop form interrogatories and requests for production for use in particular types of termination cases (e.g., form discovery for all unsatisfactory performance terminations and for all inappropriate conduct terminations).

Prehearing Settlement Conferences and Mediation or Other Alternative Dispute Resolution Mechanisms

If mandatory disclosures of evidence are required, some consideration should also be given to requiring the parties to meet within a specified time after those disclosures have been made to discuss settlement and, if settlement is not feasible, discuss how the arbitration hearing will proceed. Requiring such prehearing settlement conferences in all cases – at least where the evidence relevant to the termination has been disclosed in advance –ensures that both parties focus on their case in advance of the actual hearing, so as to allow for settlement where settlement is appropriate and/or streamline the hearing process (by coming to agreement in advance on how certain evidence will come in – or not). The [Clark County, Nevada MOU](#) attached provides an example of such a requirement.

If the concern is that the parties, rather than the attorneys, need to be brought to a clearer understanding of the merits and deficiencies in their case, consider using another ADR mechanism to educate the parties and allow for a broadly framed examination of potential remedies other than the black and white choice of termination or retention. An early neutral evaluation might be particularly useful to provide for in unsatisfactory performance terminations, where a teacher is struggling with performance issues and there are deficiencies in the improvement plan and supports that the teacher has been provided to date. In an early neutral evaluation process, an experienced evaluator with subject matter expertise, hosts an informal meeting of clients and counsel in which each side presents its case, the neutral

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identifies areas of agreement and dispute, the neutral conducts an evaluation of the merits of each side's case which he then presents to the parties upon either's request, and the neutral then facilitates settlement discussions or preparation for a full hearing as appropriate. Such a process can provide an important early check for both the teacher and the school district of the merits and deficiencies in their position and may open the door for a productive resolution of the case (e.g., the provision of a specific form of professional development or mentoring) that addresses the underlying performance problem without proceeding through a full blown termination hearing.

Reforms of the Hearing Process

Substituting Binding Arbitration for an Administrative Hearing Followed by Judicial Review

Both New Jersey and Michigan advanced proposals this past year to substitute binding arbitration for an administrative hearing on the merits of a dismissal case. Connecticut has just advanced a similar proposal this year. The basic tradeoff such proposals reflect is to give up judicial review of a termination decision in exchange for securing a better (more impartial, experienced and trained) initial decisionmaker in teacher termination cases.

That tradeoff has appeal from the labor perspective in that the initial decisionmaker in many teacher termination cases is currently neither impartial nor skilled. In thirty-three states,

teacher termination cases are heard and decided first by the local school board followed by subsequent further review.¹⁰ In several others, hearing officers or administrative law judges appointed by the state board of education, state tenure commission or other state administrative agency resolve such matters. Substituting arbitrators for such decisionmakers secures a more impartial initial decisionmaker and opens the door for using panels of specialized and trained arbitrators for resolving teacher termination disputes. From the management perspective, moving to a binding arbitration regime promises to resolve teacher termination disputes faster and in a more cost-effective manner particularly in those jurisdictions that continue to pay teachers throughout the pendency of any judicial review of the initial termination decision. Although arbitration decisions are subject to judicial review under state law, the grounds on which an arbitration award can be vacated are exceedingly limited, meaning that arbitration of the dispute effectively ends the matter.¹¹

The New Jersey Model

Under this [proposed bill](#), New Jersey has proposed substituting final and binding arbitration as the venue for resolving teacher termination disputes for the existing system of a hearing before an Administrative Law Judge appointed by the Commissioner of Education followed by decision by the Commissioner, review by the State Board of Education and then judicial review. The proposal is that the Commissioner will maintain a panel of 20 permanent arbitrators to hear

10 The judicial forums for further review differ, but usually involve some type of review at the state trial court level, followed by subsequent review at the state appellate levels. A case that proceeds up through the review process all the way to the state supreme court is a lengthy endeavor and may stretch out over several years. Reversals of teacher termination decisions secured through such appellate processes are rare as courts generally defer to the factual findings made by the school board in the initial hearing and to the educational judgments of the school board as to the consequences that should follow from those facts.

11 Under the Federal Arbitration Act, for example, an arbitration award may be vacated only on the basis of one of the following four grounds: (1) the award "was procured by corruption, fraud, or undue means"; (2) "there was evident partiality or corruption in the arbitrators"; (3) the arbitrators engaged in misbehavior by refusing to consider material evidence, refusing without cause to postpone a hearing, or other acts that prejudiced one of the litigants; or (4) the arbitrators "exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made." 9 U.S.C. § 10.

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such matters, 10 designated by the New Jersey Education Association and 10 by the New Jersey School Boards Association. Arbitrators may be designated only if they serve on the American Arbitration Association panel of labor arbitrators and are members of the National Academy of Arbitrators. The Commissioner would assign arbitrators to hear cases by going down the list of the permanent panel in alphabetical order.

Arbitration hearings would be held within 60 days of the assignment of an arbitrator. Upon referral of a case to arbitration, as noted above, the employing school board would have to “provide all evidence including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employee or the employee’s representative.” At least 10 days prior to the hearing, the employee must provide the same disclosure to the employing school board. Any and all evidence not disclosed in accordance with these requirements may not be introduced at the arbitration hearing.¹²

The arbitration itself would be conducted in accordance with the American Arbitration Association labor arbitration rules except to the extent specified otherwise in the New Jersey statute (such as the exclusionary rule described above). The arbitrator is to render a decision within 30 days of the close of the hearing.¹³ Judicial review of the arbitrator’s decision is available only under the very narrow standards for vacating an arbitrator’s award that obtain under New Jersey law.

The Michigan Model

Michigan proposed a similar type of reform this past year, introducing legislation that would substitute binding arbitration conducted under the auspices of the Michigan Employment Relations Commission (“MERC”) with the current system of ALJ hearings, followed by review by the state Tenure Commission, followed by judicial review. See Michigan Senate Bill No. 503 (introduced June 21, 2011). Under the proposed bill, MERC would select the arbitrator in accordance with its normal procedures for the selection of an arbitrator in a grievance arbitration. The bill would set time limits on the process including a requirement that arbitration hearings conclude within 120 days of the arbitration demand, and that decisions would issue within 35 days of the case being submitted.¹⁴ A party aggrieved by the arbitrator’s decision could seek to vacate the decision only “for a reason that an arbitrator’s award in a grievance arbitration may be vacated under law,” which would insulate arbitration decisions from judicial review in all but the most egregious of circumstances.

Key Considerations in Moving to an Arbitration Model

Who will the arbitrators be?

The Benefits of a Panel Approach

Moving to an arbitration system without setting up a panel of arbitrators may result in significant delays in the teacher termination process as parties attempt to secure time on

12 This mandatory disclosure regime would replace the existing provisions for prehearing discovery under New Jersey law, which currently provides for a prehearing conference, discovery through one round of interrogatories with additional interrogatories allowed by the ALJ for good cause shown.

13 In contrast to the 90 day period for resolving teacher termination disputes that New Jersey has proposed, current law provides for the ALJ decision within 45 days of the date of the record being closed, and decision by the Commissioner of Education within 45 days of the ALJ’s decision, followed by lengthy judicial review.

14 In contrast, the current timelines applicable to teacher termination cases proceeding before the state tenure commission run up to 290 days from the filing of the initial claim of appeal against a teacher, through the ALJ hearing and decision, and up through review by the state tenure commission.

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arbitrators' calendars. A state run panel of arbitrators can eliminate or, at least, significantly reduce this calendar problem particularly if arbitrators on the panel are full time or are required to commit in advance a certain number of days per month to teacher termination cases in order to participate on the panel. For an example of such an approach see the [Arbitrator Commitment form](#) used by Clark County, Nevada. By requiring arbitrators to precommit six months out to certain hearing days every month, labor and management in the Clark County School District (one of the largest school districts in the country) were able to substantially shorten the time period for resolving teacher termination disputes by eliminating the time delays inherent in seeking to get on the schedule of a quality arbitrator. Most teacher termination disputes in Clark County are now resolved in just three to four months time.

Establishing a panel of arbitrators also provides an opportunity to require specialized training for arbitrators so that they understand, for example, how the teacher evaluation and remediation process is intended to function and may therefore more effectively police whether the process functioned fairly in a particular teacher termination dispute. A panel approach can also be used when teacher termination cases are heard by a select group of hearing officers resulting in the same opportunities for training and developing specialized understanding of the issues that arise in teacher terminations generally and/or in particular kinds of cases.¹⁵

Will there be Party Representatives on the Panel?

To ensure that both the teacher and the school district have a party representative involved in the decision of the case, consideration should be given to whether adding party

representatives to the arbitration process is appropriate and feasible.

A panel system of decisionmakers has been used in California for years and has been proven to be effective in making sure that the perspective of a teacher in a particular discipline is taken into account in the decisionmaker process. Under the California system, teacher termination disputes are heard by a three member Commission on Professional Competence, consisting of one neutral (an administrative law judge from the state office of administrative hearings) one representative chosen by the district and one representative chosen by the employee. See California Education Code Sect. 44944. The representatives of the employee and the district must be from another district than the one pursuing dismissal and must meet certain qualification requirements. Decisions of the panel are by majority vote. As a matter of practice, teachers chose another teacher who instructs the same subject matter – e.g., a special education teacher charged with inappropriately restraining a student will choose another special education teacher from another district. That practice has often proven to be an effective way of ensuring that the neutral panel member is informed of the norms of classroom management and conduct that obtain in particular situations.

Will mandatory disclosures as enforced by an exclusionary rule be part of the arbitration regime?

Because the default rule in arbitration is that all evidence that could be relevant or material is admitted, and discovery in advance of the arbitration is permitted to gather such evidence, consideration should be given to whether to depart from these default rules in order to force early disclosure of evidence and/or limit the introduction of

¹⁵ For an example of such an approach, see the recent Illinois reforms reflected in 105 Illinois Compiled Statutes 5/24-12(d)(3) (calling for the State Board of Education to maintain a master list of hearing officers, each of whom must be accredited by a national arbitration organization, have at least 5 years of experience in labor and employment matters, and have completed training provided by the State Board of Education on the issues involved in evaluative and non-evaluative dismissals).

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evidence at the hearing to that which was previously disclosed. For models for such an approach see the [New Jersey legislation](#) and [Clark County MOU](#).

A cautionary note – the danger of replacing state tenure law protections with a binding arbitration regime based only in individually negotiated contracts.

With the ongoing attack on public sector employee rights including bargaining rights, replacing state tenure law protections only with such termination protections as can be bargained in individual contracts is dangerous. The loss of bargaining rights should not equate directly into the loss of fair dismissal rights. To prevent that result, any move to a binding arbitration regime should be done by amending the state tenure statute, rather than repealing that statute and replacing its protections with those negotiated into individual contracts

Are other limitations on the hearing process appropriate?

Presumptive limits on the length of the hearing may be appropriate if the experience in your state is that teacher termination cases sometimes run much longer than is appropriate. Some safeguard on limitations on the length of a hearing should be included, however, so as to ensure that absolute limitations on the length of the hearing do not prevent a teacher from securing a full and fair hearing on the termination charges.

Beyond limitations on discovery and hearing days, there are other limitations on the hearing process that may be more sensible in that they expedite the termination hearing process without undermining the ability to fully represent teachers facing termination charges. If your state has no limits at all on the time by which a hearing must commence or conclude in a teacher termination matter, instituting such limits makes sense to prevent cases from dragging on for months or years. Again, in setting deadlines to move forward

to a hearing, make sure sufficient time is allotted to allow for review of the case and settlement discussions where appropriate.

Other small scale reforms may generate significant efficiencies. For example, creating a transcript of a termination hearing and then requiring the submission of post-hearing brief adds significant costs and time to termination proceedings as the creation of a transcript takes some time, and is a significant expense, as does the review of that transcript by attorneys for both parties for purposes of recapitulating it in post-hearing briefs. In the exceptional case, the cost of the preparation and review of a transcript of the hearing may be critical, as may be the submission of post-hearing briefs, but such cases should be the exception not the rule. One way to ensure that they remain the exception is to provide that a transcript will not be prepared (although termination hearings will still be recorded by a court reporter) and no post-hearing briefs submitted unless both parties mutually agree. For an example of such a regime, see the Clark County MOU attached as Exhibit D.

Timelines and Pay Status

There is a significant push to establish and/or tighten timelines for the completion of termination cases and a number of the proposals set forth above establish new deadlines for the time period between notice of the termination charges and the actual hearing, and from the hearing to the date of decision. Any decision as to the appropriate time period to set for these purposes must be made on a state by state basis, taking into consideration both how the teacher termination process works under existing law and how it would be changed with shorter time periods in place. In proposing new or shortened timelines, one key consideration that should not be overlooked is providing enough time that the relatively small group of attorneys in each state who handle teacher termination cases



can meaningfully conduct an early evaluation of a case so as to ensure the most effective resolution of the case.

In evaluating any reform of timelines, pay attention to the pay status of teachers at various points of the termination process. Teachers who are removed from the classroom without pay need to have their cases resolved very quickly or they will be forced due to economic pressures to settle no matter how unmeritorious the charges against them may be.¹⁶ Deadlines can assist in moving these cases along for the faster disposition that teachers in such circumstances need.

Different Dismissal Processes for Unsatisfactory Performance Evaluations

In a significant number of states, albeit a minority, career status laws make a distinction between the process that must be followed in terminations for unsatisfactory performance versus terminations for misconduct. In those states, unsatisfactory performance terminations must, as a matter of state law, be preceded with notice of the nature of the unsatisfactory performance, and an opportunity to remediate the performance sometimes. In a few states the opportunity to remediate must include the ability to complete an improvement plan that provides certain assistance to the teacher.

In the recent reform that Illinois enacted, this distinction between unsatisfactory performance dismissals and misconduct dismissals was expanded upon. The new Illinois law, provides an optional process for so called “evaluative dismissals” under which a career status teacher may be dismissed for failing to successfully complete a remediation plan following an “unsatisfactory” evaluation, which complied with the new state

law requirements, provided the district complies with certain pre-remediation and remediation requirements. 105 Illinois Compiled Statutes 5/24-16.5. Those requirements include the use of a second evaluator to conduct either the mid-point or final evaluation to determine if the required remediation was successful or to conduct an independent evaluation of whether the remediation was successful. *Id.* If the second evaluator is used to determine if the required remediation was successful (rather than to conduct an independent assessment) and the second evaluator concludes that it was, the teacher is retained. The second evaluator is chosen from a list maintained by the district of evaluators who meet certain criteria (including teacher evaluators selected by the teachers’ representative) through a process that the district must establish by working in good faith cooperation with the teachers’ representative. *Id.*

A district must give a teacher notice that it intends to proceed with an evaluative dismissal and include with the notice a copy of each performance evaluation at issue. The subsequent hearing is conducted in accordance with the standard hearing rules except:

- ▶ Hearing officers for such cases must receive additional training by the State Board of Education;
- ▶ The scope of the hearing is limited to determining if the school district can demonstrate that;
 - the unsatisfactory rating was arrived at in accordance with the standards and requirements of the district’s evaluation plan;
 - the remediation plan complied with all applicable requirements;
 - the teacher failed to complete the remediation plan satisfactorily;

¹⁶ For that very reason, NEA strongly supports the continuation of teachers in pay status through the resolution of any teacher termination case. Most state laws do not reflect that policy, however, and do not provide any pay to teachers with certain types of misconduct (“moral turpitude” offenses) and limited pay in other types of cases (e.g., pay only for the first 100 days or pay only through the initial hearing on a teacher termination charge).

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- if the second evaluator disagreed and found that the teacher did complete the remediation plan satisfactorily, that the first evaluator’s assessment of the teacher’s performance “is a more valid assessment” than that of the second evaluator.
- ▶ The teacher may challenge the substantive and procedural aspects of the unsatisfactory performance evaluation, the remediation plan and the final remediation evaluation. If the teacher challenges procedural aspects, the teacher must demonstrate how the defect “materially affected the teacher’s ability to demonstrate a level of performance necessary to avoid remediation or dismissal or successfully complete the remediation plan.” *Id.*
- ▶ The hearing is limited to 2 days per side (as compared to the 3 days that applies in other termination cases).
- ▶ Subsequent judicial review is available but limited. If the hearing officer recommends dismissal, and the school board concurs, the board may be reversed only upon a finding that its decision was arbitrary, capricious, an abuse of discretion or not in accordance with law. *Id.* If the hearing office recommends retention, and the school board overrules, the board may be reversed upon a finding that its decision was contrary to the weight of the evidence. Only school board members who have had special training can participate in decisions on such cases. *Id.*

The Illinois model is the most nuanced version of a different dismissal process for unsatisfactory performance terminations that has been developed to date. There have been proposals along these lines made in general terms by, among others, Saba Bireda in the June 2010 Report for the Center for American Progress entitled *Devil in the Details: An Analysis of State Teacher Dismissal Laws*. In that report, Bireda argued that “the procedures set out in most dismissal laws are best used to address the most severe violations where extensive examination of the district’s allegations is necessary,” but are “ill-suited for other document-based offenses, including underperformance.” *Devil at 14*. Unlike the Illinois law,

however, Bireda’s vision appears to call for a stripped down hearing process for unsatisfactory performance evaluations on the premise that the evaluations themselves establish that a teacher’s performance has been unsatisfactory within the meaning of state law. Bireda posits that, in a fair and functioning evaluation system, the evaluations “establish” the facts for termination, and the hearing process should therefore simply “provide a check for basic fairness but not seek to overturn a decision based on professional expertise.” *Id.*

Along similar lines, the AFT has called for the “Alignment of Teacher Evaluation and Due Process – A Three Step Process” The AFT document appears to call for a different hearing process for unsatisfactory performance terminations but the contours of that process are not well defined. According to the AFT document, after a teacher has been fairly evaluated, and given an opportunity to improve, the district must make a determination as to whether the teacher is performing up to standard. If a peer review process is involved, the peers are called on to make that judgment as well. Those recommendations are then forwarded to an impartial third party to “use the appropriate policies and procedures in reviewing the recommendations” to ensure the evaluation was “fair and accurate; that appropriate support was provided; and that” the agreed upon standards for evaluation and remediation were followed. Nothing in the AFT proposal specifies that the appropriate policies and procedures include a hearing before the impartial third party. AFT, *Alignment of Teacher Evaluation and Due Process – A Three Step Process*.

Because a hearing provides a critical check on the overall fairness of the evaluation and remediation process, proposals to eliminate hearing rights for teachers struggling with performance issues should be opposed. Teachers struggling with performance issues need to retain the right to a hearing on the charges against them that provides them with a full and effective opportunity to challenge the initial evaluation,

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the remediation process, and the concluding evaluation so that unfair evaluations are not insulated from challenge (as Bireda has proposed). In determining the length of hearing that may be required, it bears considering that if evaluations are based in significant part on student test scores, the factual issues underlying the fairness of the evaluation rating will be complex and likely will require more, not less, time to thoroughly probe than would be required in an ordinary teacher misconduct case.

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Fair Dismissal: *Research & Resources*

There are few contemporary analyses of tenure and its impact, but the studies below are all relatively recent reports that delve into the issue. These studies are in no way endorsed by NEA and are listed here only because they are reports that any state will likely confront in any discussion over tenure reforms.

Joan Baratz-Snowden, *Fixing Tenure – A Proposal for Assuring Teacher Effectiveness and Due Process*, Center for American Progress (June 2009) Paper by former AFT staffer arguing for collectively bargained reforms of the process for attaining career status and for removing ineffective teachers from the classroom and providing a few examples of such contract provisions from Toledo, Ohio, Minneapolis, Minnesota and the Green Dot schools in Los Angeles.

Saba Bireda, *Devil in the Details: An Analysis of State Teacher Dismissal Laws*, Center for American Progress (June 2010) Arguing for a slate of tenure reforms including developing different dismissal procedures for different types of dismissal cases, establishing a state run system of hearing officers to ensure efficiency and consistency of results, requiring districts and teachers to participate in nonbinding mediation sessions to encourage alternative resolutions, clarifying vague legal terms in dismissal laws and collaboration by labor and management over other reforms. Paper includes summary of existing grounds for termination under state tenure laws as of June 2010 and of the special procedural rules for teacher terminations that exist under each of those laws.

Patrick McGuinn, *Ring the Bell for K-12 Teacher Tenure Reform*, Center for American Progress (February 2010) Arguing that tenure statutes should be reformed to directly tie the acquisition of tenure, continued employment status and licensure to a teacher’s effectiveness as measured on evaluations and for funding and development of evaluation systems that measure teacher effectiveness. Also calling

on teachers unions to “embrace efforts to streamline the removal process for ineffective teachers.”

Harold Kwalwasser, *Overselling the Myth of the Bad Teacher and Tenure*, School Administrator Magazine (January 2011) Short article by former LAUSD general counsel arguing that calls for elimination of tenure have “little to do with [creating the conditions for] success on the ground” in schools.

Brian Jacob, *Closup Working Paper Series No. 20, Do Principals Fire the Worst Teachers?* (February 2010). Research paper that supports need for career status protections given “evidence that several teacher demographic characteristics are associated with the probability of dismissal. Principals are more likely to dismiss male teachers, even after controlling for other demographics, prior absences, formal evaluations and teacher value-added. Older teachers are more likely to be dismissed, particularly those working in buildings with young principals.”

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Fair Dismissal & Layoff Criteria: *An Overview*

Layoffs – Changes in Layoff Criteria and/or the Ability to Bargain Those Criteria An Overview of a Growing Trend

In the last two years, ten states (Colorado, Florida, Idaho, Illinois, Michigan, Ohio, Oklahoma, Utah, Tennessee and Nevada) have enacted laws changing the criteria that the state uses for layoffs. These laws fall into three broad categories: (1) prohibitions against any consideration of seniority in making layoff decisions; (2) prohibitions against making layoff decisions solely based on seniority; or (3) specific statutory criteria for layoff determinations. These new laws are described briefly below in the interests of providing states with an overview of the significant new developments in this area. Some helpful policy bases for arguments against such legislative initiatives can be found in the Policy Brief, *What's Missing From the Debate on Seniority?*, recently published by the Annenberg Institute (2011), 1 http://annenberginstitute.org/sites/default/files/product/365/files/PolicyBrief_Web_low.pdf. In addition to these policy arguments, there are substantial practical considerations that should provide a basis for building common cause with school administrators around calls to base layoff decisions on evaluations first, and seniority second, as they should be sympathetic to the argument that layoff hearings should not be transformed into lengthy, individual dismissal hearings for unsatisfactory performance.

1. Prohibitions Against Any Consideration of Seniority

Arizona – Arizona began the trend of eliminating or limiting the role of seniority in layoff policies with the passage of H.B. 2011 in 2009, which prohibits school districts from using tenure or seniority as factors in determining the order of layoffs. Ariz. Rev. Code §15-502(H).

Idaho – Last spring Idaho amended its layoff law to give

school boards sole discretion over layoffs except school boards may not consider employee seniority or contract status in making layoff decisions. Idaho Code § 33-522.

Indiana – Last spring Indiana amended its layoff law to require that all layoff decisions made after June 30, 2012 to be on the basis of performance rather than seniority. Ind. Code § 20-28-7.5-1. The new law also provides that the order of layoffs within the same performance category may be decided by a consideration of the following other factors: number of years of experience, evaluation results, education, leadership roles, and academic needs. Ind. Code § 20-28-7.5-1, 20-28-9-1.

Utah – Last spring Utah enacted legislation expressly prohibiting a school district to use a “last-hired, first-fired” layoff policy. The new statute, which went into effect last May, provides that a school district “may consider” performance evaluations and a school’s personnel needs in making layoff decisions. S.B. 7 was signed by the governor on March 30, 2011, and went into effect on May 10, 2011.

2. States Prohibiting Layoffs Based Solely on Seniority

Colorado - Under S.B. 10-191, which was enacted in May of 2010, a layoff policy must be established in either a collective bargaining agreement or in a school board policy. Col. Rev. Stat. § 22-63-202(3). The law requires that as of February 15, 2012, any layoff policy must first consider performance evaluations in making layoff decisions. Seniority may be considered only as a second criteria and only if the policy is in the best interest of the students.

Nevada – Nevada recently added a provision prohibiting a layoff policy based solely on seniority. A.B. 229 was signed by the governor on June 15, 2011 and the relevant provision went into effect on July 1, 2011. The statute does not

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prohibit the consideration of seniority, but provides that “the decision to lay off a teacher or administrator must not be based solely on . . . seniority.” The statute identifies several factors that the board of trustees may consider without limitation: (1) whether the employee is employed in a position which is hard to fill; (2) whether the employee has received a national board certification; (3) performance evaluations; (4) disciplinary record; (5) criminal record; (6) licensure; (7) type of degree attained by the employee and whether it is in a subject area that is related to the position. A.B. 229 (Nev. 2011).

New Hampshire – The New Hampshire legislature recently enacted S.B. 196, which amended its laws regarding teacher retention and grievance procedures. In addition to requiring that school boards maintain a performance evaluation policy, the new law prohibits school boards from basing layoff decisions solely on seniority.

Oklahoma – In 2010, the Oklahoma legislature passed S.B. 2033 which provides that teacher performance ratings must be the primary basis for layoff decisions. 70 Okla. Stat. § 6-101.31.

Tennessee – S.B. 113, which was signed by the governor on June 1, 2011, and went into effect immediately, prohibits any agreement that requires personnel decisions to be based on tenure, seniority, or length of service.

3. States that Enacted Very Specific Layoff Policy Requirements that Leave the School Board with Little to No Discretion.

Florida – Florida recently enacted legislation that prohibits school districts from using LIFO policies. S.B. 736 signed by

the governor on March 24, 2011 and took effect on July 1, 2011. Previously school district boards had the freedom to set their own layoff policy or to collectively bargain over the terms of the layoff procedure. Under the amended statute, a school district board is prohibited from “prioritiz[ing] retention of employees based upon seniority.”

The statute specifies that a school district’s retention policy must be based upon “educational program needs and performance evaluations.” After identifying the program that needs to be reduced, the school board must release teachers in order of the lowest evaluation scores first. Once the educational program requiring reduction has been identified, the statute leaves no room for retention of an employee with the lowest score. Fla. Stat. § 1012.33(5).¹⁷

Illinois – recently enacted a provision in S.B. 7 specifying the order of dismissal for layoffs. This statute went into effect on June 13, 2011. The statute clarifies that any contract provisions dealing with layoff policies would remain in effect up until June 30, 2013 so long as the contract was entered into on or before January 1, 2011.

The new Illinois statute provides a very specific order of dismissal for layoffs that is based on performance evaluations and continuing contract length. The statute first requires that each teacher be categorized in to one or more positions based on their qualifications. Then all teachers eligible to hold a particular position are grouped into one of four categories: (1) teachers not in contractual continued service who have not received a performance evaluation rating; (2) teachers with a “needs improvement” or “unsatisfactory performance” rating; (3) teachers with a “satisfactory” or “proficient” rating; (4) teachers with an “excellent”

17 “Within the program areas requiring reduction, the employee with the lowest performance evaluations must be the first to be released; the employee with the next lowest performance evaluations must be the second to be released; and reductions shall continue in like manner until the needed number of reductions has occurred.” Fla. Stat. § 1012.33(5).

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Fair Dismissal & Layoff Criteria

rating. The teachers are then dismissed in the order of their groupings, with teachers in category one being dismissed first and teachers in category four being dismissed last.

The statute also specifies the order of dismissal within each grouping. For group one, the order of dismissals is at the discretion of the school board. Teachers in group two must be dismissed based on their evaluation scores. If two teachers in group two have the same evaluation score, the teacher with the shorter contract length is dismissed first unless a collective bargaining agreement or employment contract specifies an alternative method for determining the sequence of dismissal. For groups three and four, teachers are dismissed based on their contract length unless an agreement specifies an alternative method for determining the sequence of dismissal. 105 Ill. Comp. Stat. 5/24-12.

APPENDICES**SETTLEMENT AGREEMENT****By and between the****CUMBERLAND TEACHER’S ASSOCIATION (“UNION”)****And the****CUMBERLAND SCHOOL COMMITTEE (“COMMITTEE”)****Re: GR 09-10-6/ LRC Case No. 34-10: Plans of Assistance**

This Agreement is made and entered into this ____ day of _____ 2011 by and between the Cumberland School Committee (“Committee”) and the Cumberland Teachers’ Association/NEARI/NEA (“Union”).

WHEREAS the Union filed a grievance on or about May 11, 2010, alleging a violation of the provisions of the existing Collective Bargaining Agreement (“CBA”) between Committee and the Union, and more particularly, that the Committee had violated the parties’ CBA by unilaterally and improperly requiring several bargaining unit members to have a Plan of Assistance (“POA”). The Union has demanded that the Committee cease and desist said action and that all similarly affected teachers have all POAs and related notes expunged from their personnel files and the original and all copies be given to said teachers; and

WHEREAS the Administration/Committee denied the grievance; and

WHEREAS the grievance was submitted to arbitration for trial in Labor Relations Connection Case No. 34-10; and

WHEREAS, until the parties agreed to a postponement, the trial of the aforementioned arbitration case was scheduled to be heard on July 6, 2011 before Arbitrator Michael Ryan, Esq; and

WHEREAS notwithstanding their conflicting positions, it is the intention of the Union and the Committee to fully resolve their disputes and thereby avoid and further costly and time-consuming arbitration and/or litigation, which would inevitably ensue in the event that the disputes underlying the grievance are not, resolved.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the sufficiency of which is expressly acknowledged by the Union and the Committee; and, intending to be legally and equitably bound hereby, the Union and Committee agree as follows:

1. Pursuant to the conditions set forth herein, a teacher may be identified to engage in a Professional Development Plan that shall allow said teacher to improve his/her teaching techniques.

The principal shall reduce to writing the reasons and evidence for recommending said teacher to engage in a Professional Development Plan.

2. Said Professional Development Plan shall be separate and apart from the formal evaluation process contained in the parties' CBA, Article 8, Teacher Evaluation. Further, the purpose of this process shall be to improve instruction and shall not be used for disciplinary purposes.

3. The teacher shall be notified in writing that he/she has been identified to engage in a Professional Development Plan, with a copy to the CTA President.

4. The teacher's Principal shall provide the teacher with a proposed draft of the Plan. The teacher will be entitled to propose changes or deletions from the Plan, and if he/she elects to propose changes, shall submit them in writing to the Principal within 10 school days of receipt of the proposed Plan from the principal.

5. If the Principal and the teacher do not agree on the content of the Professional Development Plan, the Principal's proposal and the teacher's proposal shall be submitted to a Professional Development Plan Review Committee.

6. The Professional Development Plan Review Committee shall be comprised of Seven (7) persons; three (3) appointed by the Union President; three (3) administrators appointed by the Superintendent, and, if necessary, one (1) neutral person.

7. None of the three (3) administrators on a Review Committee shall be from the same school as the teacher.
8. The teacher, with the support of the Union, and the principal shall each make a presentation to the six members of the Review Committee. By majority vote, the Committee shall select either the proposal of the Principal or the teacher, or develop its own version.
9. In the event the Review Committee is unable to reach a majority decision, the neutral member of the Committee shall cast the deciding vote.
10. The neutral member of the Committee shall be agreed upon by the Review Committee. If the Review Committee is unable to agree upon the neutral member, the neutral member shall be Vincent F. Ragosta, Jr., Esq.
11. Once the Review Committee has determined the content of the Professional Development Plan, if the teacher disagrees with the Plan, he/she may submit the matter to arbitration pursuant to Article 21, Grievance Procedure, of the parties' CBA.
12. All teachers who are currently have a POA that is not in accordance with Article 8, Evaluation, as well as the parties' evaluation process, including the current evaluation instrument, shall have immediate access to said Review Committee, per subparagraph 8, above.
13. Upon the execution of this Settlement Agreement, which shall include ratification by the parties, the Union shall notify the Labor Relations Connection, in writing, that it is withdrawing Labor Relations Connection Case No. 34-10. A copy of said withdrawal shall be sent to the Superintendent and Director of Administration.
14. This Settlement Agreement is entered into by the Union and the Committee for the sole purpose of compromising and settling the issues involved in the disputes referred to herein; and it is expressly understood that it shall not constitute nor be construed to be an admission by the Committee of any violation of law or the applicable Collective Bargaining Agreement, or that unilaterally and improperly required several bargaining unit members to have a Plan of Assistance; nor shall it be construed as evidencing or indicating to any degree or to any extent the truth, correctness, viability or arbitrability of any grievance, claim or cause of action asserted by the Union against the Committee.
15. The Committee and Union agree that entry into this Settlement Agreement shall not constitute nor shall it be considered as a past practice between the Committee and the Union, and further, that the disposition of the grievance referenced herein

as evidenced by this Settlement Agreement may not be used by either party for any purpose except enforcement of the obligations created herein.

For the Committee: _____ **Date:** _____

For the Association: _____ **Date:** _____

808 09-10-6 GR/LRC Case No. 34-10: Improper Plans of Assistance: SIGNATURE VERSION
Settlement Agreement 8/24/11

Washington Evaluation Law Revisions (HB 6696)

Use of Data in Evaluation

The new legislation creates a requirement for a four-tier teacher rating structure, and states conditions for the use of student growth data. It does not, however, require that student data be included. It defines student growth as a change in achievement over time.

6696 SAYS:

202 (2)(c)

The four-level rating system used to evaluate the certificated classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, “student growth” means the change in student achievement between two points in time.

BARGAINING CAN DEFINE:

Again, the evaluation process is subject to bargaining. Whether student growth data is used at all is a negotiable point and locals should reject its use. Note that 6696 describes how the data is to be used, but does not say it must be used. The phrase “If available and relevant to the teacher...” is significant. Since value-added models are not reliable, and certainly not over the course of a one-year evaluation cycle, then that information is NOT relevant to the teacher. What is relevant is the use of student growth data to inform instruction, and locals may find the use of student scores to be relevant as a guide to planning and preparation.

The new law also references multiple measures. Since data is used by the teacher to inform instruction, an emphasis on “classroom-based” assessment is important. Steer away from the state test. Those measures “can include,” but are not limited to, anything on the list. Locals may want to point out that many teachers give instruction in non-tested subjects, and therefore a reliance on math and reading scores cannot be the basis of a fair and consistent system that must apply to teachers of all subjects.

SIG Schools:**Student Growth Data**

SIG schools have all of 6696 requirements plus additional requirements. OSPI has said that all the guidance for additional requirements can be found in the June 29, 2010 Federal SIG Guidelines.

The SIG GUIDELINES SAY: “Student growth means the change in achievement for an individual student between two or more points in time. For grades in which the state administers summative assessments in reading/language arts and mathematics, student growth data must be based on a student’s score on the State’s assessment. A State may also include other measures that are rigorous and comparable across classrooms.”

BARGAINING CAN DEFINE:

1. **Student achievement** is not defined as solely academic achievement. We should be able to include other variables that determine student achievement such as reduction in discipline referrals, increase in attendance rates, decrease in the dropout rate, increase in parental attendance for parent conferencing, increase in GPA, number of students applying for post-secondary education/training or any number of research based, culturally based or community based factors that affect student achievement. The percentage of these variables vs academic variables is not defined in the guidelines.
2. **Between two or more points in time** does not have to be annual. Because the guidelines require use of the Washington state math, reading and perhaps writing summative assessments, which gets administered in one academic year with the results returned to the teacher in the next academic year, the two points should minimally be two years.
3. **Student growth data must be based on a student’s score on the state assessment** does not define by how much.

THE SIG GUIDELINES SAY: “In the transformation model, the LEA (district) must use rigorous, transparent and equitable evaluation systems that take into account data on student growth as a significant factor. Those systems must take into account other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high school graduation rates.”

BARGAINING CAN DEFINE:

1. That this definition doesn’t apply to schools who used the Turnaround or Closure intervention models.
2. **The district must use rigorous....evaluation systems that take into account data on student growth** does not say information should appear on the final evaluation document. It says the system should take it into account which allows for the process to take it into account vs the final document reflecting student growth increases. Bargaining that one of the post observation conferences must be about the teacher’s student growth data would meet the SIG guideline.
3. **The LEA (district) must use a rigorous, transparent and equitable evaluation system** requires that we bargain equity into the use of student growth data in evaluations.

That will be critical when student data from state assessments is used for some teachers and not others.

4. **Those systems must take into account other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and high school graduation rates.** The language requires multiple measures but is permissive about what they are so we can bargain them. It also allows for the increase of principal observations from the current state statute of two to additional observations – it says multiple.

THE SIG GUIDELINES SAY: In the Transformation Model, the District must use the evaluation system to **Identify and reward school leaders, teachers and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so.. . Districts have the flexibility to determine both the type and number of opportunities for staff to improve their professional practice before they are removed from a school implementing the transformation model. Examples of such opportunities include professional development in such areas as differentiated instruction and using data to improve instruction, mentoring or partnering with a master teacher or increased time for collaboration to improve instruction.**

BARGAINING CAN DEFINE:

1. That the language does not apply to schools who used the Turnaround or Closure Models.
2. How the District **identifies** teachers and other staff.
3. What the **reward** is for teachers and other staff. It doesn't have to be monetary. It doesn't have to be rewarded to individual teachers and other staff.
4. What **remove those** means. It can be transfer. Small locals with limited transfer possibilities due to certification/endorsement/highly qualified issues will need to invoke the state statute that allows for a teacher to work out of endorsement as long as a professional support plan is put into effect.
5. **Ample opportunity** is bargainable. The District will bear the burden of providing ample opportunities. Current CBA language on probation/pre-probation processes should be reviewed.
6. The list of example of opportunities in the guidelines is good, but not exhaustive and only listed as examples.
7. **Remove those who, after ample opportunities have been provided to them to improve their professional practice, have not done so.** We have questions about whether it would be best to tie everything that measures **improvement in professional practice** to only evaluation or should other criteria be considered.



New Policy Statement on Teacher Evaluation and Accountability - Adopted as Amended

The full text of the Policy Statement follows. See also:

- [*Educators Approve Teacher Evaluation and Accountability Policy Statement*](#)
- [*RA Delegates Adopt NEA Policy Statement on Teacher Evaluation and Accountability*](#)

Adopted as Amended

Consistent with NEA’s belief that the “teaching profession is a cornerstone of society,” “composed of individuals who meet the highest standards” of “evaluation” and “accountability,” (NEA Resolution D-1), and recognizing that evaluation and accountability systems too often leave teachers without the feedback or support needed to enhance practice and advance student learning, NEA sets forth below the criteria for the types of teacher evaluation and accountability systems necessary to ensure a high quality public education for every student.

I. High Quality Teacher Evaluation Systems

NEA believes that our students and teachers deserve high quality evaluation systems that provide the tools teachers need to continuously tailor instruction, enhance practice and advance student learning. Such systems must provide both ongoing, non-evaluative, formative feedback and regular, comprehensive, meaningful and fair evaluations. Such systems must be developed and implemented with teachers and their representatives, either through collective bargaining where available, or in partnership with the affiliate representing teachers at the state and local level.

- a. All teachers should be regularly evaluated by highly trained evaluators on the basis of clear standards as to what teachers should know and be able to do. Such standards should be high and rigorous and define the rich knowledge, skills, dispositions and responsibilities of teachers. Such standards may be based on national models such as the NEA Principles of Professional Practice, the Interstate Teacher Assessment and Support Consortium Model Core Teaching Standards, the Standards developed by the National Board for Professional Teaching Standards, or statewide standards for the teaching profession.

- b. Evaluations must be comprehensive – based on multiple indicators to provide teachers with clear and actionable feedback to enhance their practice – and must include all three of the following components:
- i. **Indicators of Teacher Practice** demonstrating a teacher’s subject matter knowledge, skill in planning and delivering instruction that engages students, ability to address issues of equity and diversity, and ability to monitor and assess student learning and adjust instruction accordingly. Such indicators may include the following indicators or others chosen by a local or state affiliate: classroom observations, proof of practice (e.g., lesson plans, curriculum plans, student assessments, minutes from team planning meetings, curriculum maps, and teacher instructional notes), teacher interviews and self-assessments.
 - ii. **Indicators of Teacher Contribution and Growth** demonstrating a teacher’s professional growth and contribution to a school’s and/or district’s success. Such indicators may include the following indicators or others chosen by a local or state affiliate: completion of meaningful professional development that is applied to practice; structured collaboration with colleagues focused on improving practice and student outcomes (e.g., by way of professional learning communities and grade or subject teams); evidence of reflective practice; teacher leadership in the school, district or educational community; collaborative projects with institutions of higher education; and positive engagement with students, parents and colleagues.
 - iii. **Indicators of Contribution to Student Learning and Growth** demonstrating a teacher’s impact on student learning and growth. Such indicators must be authentic, reflect that there are multiple factors that impact a student’s learning beyond a teacher’s control, and may include the following indicators or others chosen by a local or state affiliate: student learning objectives developed jointly by the teacher and principal/evaluator; teacher-created assessments; district or school assessments; student work (papers, portfolios, projects, presentations); teacher defined objectives for individual student growth; and high quality developmentally appropriate, standardized tests that provide valid, reliable, timely and meaningful information regarding student learning and growth. Unless such tests are shown to be developmentally appropriate, scientifically valid, and reliable for the purpose of measuring both student learning and a teacher’s performance, such tests may not be used to support any employment action against a teacher and may be used only to provide non-evaluative formative feedback.
- c. Evaluations must be meaningful, providing all teachers with clear and actionable feedback linked to tailored professional development. Such feedback should include regular non-evaluative formative feedback – meaning feedback that serves only to inform practice and that does not contribute to formal evaluation results – as such feedback is often the most effective way to improve teacher practice. Such non-evaluative feedback may include self-reflection, peer observation and/or teacher approved surveys of students to assess engagement and learning behaviors.
- d. Evaluations must be fair, conducted by highly trained and objective supervisors or other evaluators as agreed to by the local affiliate, whose work is regularly reviewed to ensure the validity and reliability of evaluation results. If an evaluation will be the basis for any action relating to a teacher’s employment, ratings by more than one evaluator must be provided in support of the action. Where a teacher believes an evaluation does not

accurately reflect his or her level of practice, the teacher must have the right to contest the evaluation, and have access to the information necessary to do so.

- e. To satisfy these requirements, evaluation systems must be adequately funded and staffed, and fully developed and validated, including by training all teachers on the new systems, before they are used to make any high stakes employment decisions. NEA recognizes that our schools do not currently have enough staff trained to provide meaningful evaluative and non-evaluative feedback to teachers. To expand the number of people who can do so, the Representative Assembly directs NEA to examine existing mentorship, peer assistance and peer assistance and review programs, and report back to the October 2011 NEA Board meeting regarding those programs, their compliance with the requirements set forth in D-10 (Mentor Programs) and D-11 (Peer Assistance Programs and Peer Assistance & Review Programs), and to make programmatic recommendations as to whether to expand such programs or develop others in partnership with state and local associations.

II. High Quality Teacher Accountability Systems

NEA believes that teachers are accountable for high quality instruction that advances student learning. High quality teacher accountability systems, developed and implemented with teachers and their representatives either through collective bargaining where available, or in partnership with the affiliate representing teachers at the state and local level, should be based on the following principles.

- a. All teachers are responsible for providing a high quality education to students and supporting the efforts of colleagues and their school as a whole to do the same. To fulfill that responsibility, teachers have the right to a safe and supportive working environment including ongoing non-evaluative feedback on their practice that supports teachers' efforts to innovate and the right to regular, confidential evaluations.
- b. All teachers have the responsibility to continually enhance their practice and to stay current in subject matter and pedagogical approaches by reflecting and acting on feedback received, accessing professional development opportunities provided and collaborating with colleagues to enhance instruction. To fulfill that responsibility, teachers have the right to increased autonomy over instructional practices, time during the school day for collaboration with colleagues, a decision-making role in professional development, and the right to have such development tailored to enhancing skills identified as needing improvement in both non-evaluative feedback and in evaluations, as well as the ability to pursue advanced coursework and degrees as part of professional development.
- c. If, through a high quality evaluation system, a teacher's practice fails to meet performance standards, a teacher should be provided with clear notice of the deficiencies and an improvement plan should be developed by the teacher, local association and employer. The improvement plan should provide the teacher with a reasonable opportunity – including time, high quality professional development and support – to meet expectations. In addition, the teacher should receive regular and frequent feedback from the district and the local association regarding his or her progress during the support program period. What constitutes a reasonable opportunity will depend on the nature of the deficiencies identified, but in no event should an improvement plan exceed one school year. During the period in which a teacher is implementing an improvement plan, the district shall provide a support program mutually agreed upon by the district and the

local association, which shall include the assignment of an accomplished teacher to assist the teacher not meeting performance standards in improving his or her practice and to ensure a quality education for that teacher's students.

- d. If a teacher fails to improve despite being given a reasonable opportunity to do so, or otherwise fails to meet expectations, the teacher may be counseled to leave the profession or be subject to fair, transparent and efficient dismissal process that provides due process. Such a process should include: notice to a teacher of the basis for the dismissal; early disclosure of all evidence on which the dismissal is based; an early mandatory meeting between the teacher, employer and the teacher's representative to discuss possible resolution; and, failing such resolution, a prompt hearing before an impartial decision maker on the charges.
- e. NEA believes that it is appropriate and fitting for accountability systems to continue to differentiate between the rights and responsibilities of probationary teachers, meaning those teachers in their initial years of employment who may be non-renewed upon notice at the end of a school year, and career teachers, meaning those teachers who have successfully served through the probationary period and may be dismissed only for cause as defined by state law or local agreement or policy.
 - o Probationary teachers should receive ongoing support for at least the first two years of their employment from locally developed and fully supported induction programs. The focus of such induction programs should be supportive and non-evaluative, designed to provide beginning teachers with the support they need to learn and thrive in the teaching profession. Districts should be encouraged to partner with colleges and universities to develop joint induction programs. No beginning teacher should go for weeks, much less years, without receiving any feedback on their practice.
 - o Probationary teachers should become career teachers if they meet or exceed expectations at the conclusion of their probationary employment period as defined by state law. A probationary teacher should have the right to require that the school district conduct the necessary evaluations within this time period, so that an appropriate determination can be made as to career status.
 - o Probationary teachers who meet or exceed expectations at the conclusion of their probationary employment period as defined by state law, and who are not granted career status, should have the right to contest that denial before an impartial decision-maker.
 - o Once a probationary teacher has attained career status, that status should not be lost and should be portable from one school district to another within a state. If a career teacher's performance fails to meet expectations, the teacher may be counseled out of the profession or dismissed pursuant to a fair, transparent and efficient dismissal procedure that provides due process.
 - o Career teachers have the responsibility to reflect upon and enhance their own practice and to support and enhance the practice of their colleagues, particularly probationary teachers. NEA encourages local affiliates to institutionalize opportunities for career teachers to provide such support and enhance the practice of their colleagues by way of including in collective bargaining agreements or local policies provisions supporting professional learning communities, partnerships with local/regional institutions of higher education, mentorship and peer assistance programs.

III. The Role of the Association in High Quality Evaluation and Accountability Systems

The development, implementation and enforcement of high quality evaluation and accountability systems are top priorities of NEA and its affiliates, presenting new opportunities and work for the Association and its affiliates. The Representative Assembly therefore directs that NEA support that work by providing the training, resources (including model fair dismissal procedures and other model language) needed to develop, implement and enforce high quality evaluation and accountability systems that enhance instruction and improve student learning.

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CALIFORNIA TEACHER ASSOCIATION CONTRACT REFERENCE MANUAL

MAY 2000

Article 15. PROFESSIONAL RIGHTS

EVALUATION is one of the key Articles in the establishment of due process. It provides procedures to protect unit members from arbitrary and capricious disciplinary actions which could have the effect of an arbitrary transfer, freezing on the salary schedule, entering derogatory or defamatory materials into personnel files, and other types of harassment which are not justified by the actions of the unit member.

TOPIC: EVALUATION PROCEDURE

This provision establishes a procedure of systematic appraisal of an employee's work performance on a regular basis. The primary purpose of any employee evaluation is to improve the educational process of the District and to develop the highest professional competence on the part of each employee.

SAMPLE LANGUAGE

15.1 Evaluation Procedure

15.1.1 It is recognized that a system of periodic evaluation is essential to assist teachers in developing competency and realizing their potential. It is further recognized that information gathered through such a system will enable Board of Education decisions, for which a unit member's competence is relevant, to be made in a just and equitable manner.

15.1.2 Probationary and temporary unit members shall be evaluated each school year. Permanent (tenured) unit members shall be evaluated every other school year. If a unit member is scheduled to be evaluated during a particular school year, but is granted a leave of absence for one (1) semester or longer, such evaluation shall take place during the first year of return to duty.

15.1.3 Unit members to be evaluated during a particular year shall be furnished a copy of the evaluation procedures, advised of the criteria upon which the evaluation is to be based, and notified of the identity of their evaluator no later than October 1 of the year in which the evaluation is to take place.

15.1.4 The unit member being evaluated and the evaluator shall meet no later than October 15 to discuss:

15.1.4.1 Objectives and standards to be achieved during the evaluation period.

15.1.4.2 A schedule of observations, conferences and final evaluation date.

In the event of a disagreement over the objectives, standards and/or evaluation schedule, the unit member and the evaluator shall:

15.1.4.2.1 Make a good faith effort to resolve the differences themselves.

15.1.4.2.2 If the disagreement persists, the parties may invite a third party to assist in resolving the differences. The third party shall recommend alternatives to the unit member and evaluator.

15.1.4.2.3 If either the unit member or evaluator reject the proposed alternatives, each shall have the opportunity to state their

position on the matter(s) in dispute, and to have a written statement attached to the evaluation form.

CTA/NEGOTIATIONS & ORGANIZATIONAL DEVELOPMENT DEPARTMENT BARGAINING ADVISORY

Teacher Evaluation | Bargaining Strategies: 10/15/2010 Page 1 of 4
Responding to Proposals to Use Student Growth Data in Teacher Evaluation
Strategies for Local Bargaining Tables

Background

Recent federal and state policy initiatives have focused on teacher evaluation systems as a key element in school reform strategies. The renewed attention may prompt districts to avail themselves of the Stull Bill language regarding the use of student growth data, and to make proposals at the bargaining table to change how student data is used in teacher evaluations.

In addition, California currently is planning to develop new assessments to align with the newly SBE approved Common Core State standards that will link outcomes to individual teacher performance, making it easier, and likelier, for districts to want to use them in evaluation.

Amidst all of these policy changes, we stand firm that the primary purposes of evaluation should be to inform instruction and improve professional practice. That is not to say, however, that existing teacher evaluation systems are without flaws. Evaluations can be incomplete, superficial, inadequate, fleeting, punitive, disconnected to instruction, and used by administrators as a means of control. For these reasons, we want to ensure that all teacher evaluation systems are fair, just, and adequate.

Collective Bargaining Framework

Existing Education Code (the Stull Act) states that:

(a) governing boards "...shall establish standards of expected pupil achievement at each grade level in each area of study;" and shall

(b) "...evaluate and assess certificated employee performance as it *reasonably relates to* [emphasis added]:

(1) The progress of pupils toward the standards established pursuant to subdivision (a) and, if applicable, the state adopted academic content standards as measured by state adopted criterion referenced assessments." [EC 44662 (a) – (b) (1)]

(e) The evaluation and assessment of certificated employee performance pursuant to this section shall not include the use of publishers' norms established by standardized tests. [EC 44662 (e)]

Simi Valley Unified School District

PROFESSIONAL ACCOUNTABILITY

The purpose of the professional accountability program in the Simi Valley Unified School District is to provide a formal **communication** tool for dialogue and reflection between certificated employees and their supervisors leading to **improved performance, personal growth and professional esteem**.

The District is committed to ongoing continuous improvement. Improving the accountability process is a shared District/SEA goal. Another priority is to make professional accountability for the educator **more fulfilling, productive and individually relevant** while supporting the SEA contract agreement.

The goals of professional accountability are:

1. **To maximize effectiveness and performance.**
2. **To stimulate professional growth.**
3. **To promote student success and the overall improvement of the school and the instructional delivery to students.**
4. **To assess progress towards organization and school goals.**
5. **To provide a formal communication process for building trusting relationships.**

The professional accountability plan provides a formal procedure for the educator to demonstrate commitment to professional development to achieve the District's purpose, mission and goals by translating the commitment into written focused goals. The professional development plan:

1. **Is to be derived from the mission.** It is the fundamental strategy.
2. **Must be operational**—the basis as well as the motivation for work.
3. **Make possible the concentration of resources and effort.**
4. **Must balance a variety of needs and goals.**
5. **Must generate into work—must be measurable, time framed and accountable.** The professional development plan is an opportunity to **risk**. You are allowed to try and fail. It is desired that professional accountability be a positive, trust building, and relationship building process. The goal of the professional accountability program is to encourage professional educators to perform to their maximum capabilities, to use their strengths to maximum efficiency, to share their strengths with others and to promote the professional development of certificated employees toward the goal of improving student success.

Contract of Agreement between the Simi Valley USD and the Simi Educators Association

Article XIV

PROFESSIONAL ACCOUNTABILITY

A. Preamble

The Association and the District agree that unit members' knowledge, skills and practices develop throughout their professional careers. The nature of teaching requires continuous growth in order to engage and challenge increasingly diverse students in a rapidly changing world. Unit members are never "finished" as professional learners, no matter how extensive or excellent their formal education and preparation. If unit members' expertise, capabilities, and accomplishments are to be enriched over time, unit members must become reflective practitioners who actively seek to strengthen and augment their professional skills, knowledge, and perspectives throughout their careers. This program of professional accountability is designed to assist the unit member in professional development.

B. The Peer Assistance and Review (PAR) Council will monitor and assess this professional accountability program annually.

1. The PAR Council will convene on a regular basis for the purpose of monitoring the effectiveness of the professional accountability program. The PAR Council, at its discretion, shall have the authority to make recommendations regarding modifications or refinements to the program.
2. Any change to this program shall be made by mutual agreement of SEA and the District.

C. The District and SEA agree to adopt for the purposes of this program the California Standards for the Teaching Profession (CSTP). The CSTP provides a common language on teaching that will be used by unit members to prompt reflection about teaching and learning; develop professional goals; and guide, monitor and assess the progress of the unit member's practice toward their professional goals. The CSTP will guide unit members as they define and develop their practice. The CSTP shall establish the guidelines for analyzing satisfactory performance of certificated employees.

1. Standards for regular classroom teachers shall be the six standards of teaching practice contained in the CSTP document.
2. Additional elements shall apply to Special Education Teachers in two standards.
3. Standards for Nurses and Librarians shall be established, defining satisfactory levels of performance, in the same format as the Standards for the Teaching Profession.

D. Administrators and all certificated staff shall be responsible for maintaining and modeling Professional Standards at all times. As administrators observe in classrooms or work settings, they have the responsibility to identify any concerns related to the Professional Standards and to communicate those concerns to the unit member.

E. Self Assessment

Each year, all unit members shall conduct a Self-Assessment. The Self-Assessment instrument shall be in the Continuum of Teacher Abilities, which is a continuum of the standards and elements of the CSTP. Using the Continuum, each unit member shall establish goals and objectives focusing on his/her own performance for the year.

1. Unit members shall not be obligated to share their Self-Assessment with anyone.
 - a. Unit members shall sign the Self Assessment completion form each year, stating they have completed the self assessment outlining their goals and objectives for the year.
 - b. It is the responsibility of administrators to monitor and provide support to unit members with respect to their goals and objectives.

F. Professional Accountability Options

1. The formal, professional accountability program for unit members will consist of four (4) options. A list of timelines/deadlines, and materials detailing the professional accountability process shall be distributed to all unit members at the beginning of the school year. This professional accountability program has four goals:

- a. To Improve Instruction
- b. To Maintain and Exceed Professional Standards
- c. To Benefit Students and Teachers
- d. To Promote Ongoing and Significant Professional Growth

2. The underlying intent of the program is that student outcomes will improve if student work is the focus of professional collegial interactions. The program has four options designed to allow

unit members an opportunity to select a support system for their professional accountability. The options are:

a. Administrative-Mandated Option - This option is for probationary, temporary, interns, or categorical (non-permanent) unit members and requires the unit member and an administrator to jointly develop goals generated from analysis of a self-assessment of the Continuum Of Teacher Abilities. Probationary, temporary, interns, or categorical (non-permanent) employees will be evaluated annually on the Administrative Option for their first two years. The Administrator will complete a formative assessment each year. Administrators shall be responsible, by March 1, of the second year, for certifying that the employee has met the Professional Standards in each domain applicable to them. Employees unable to meet each of the standards shall not be granted tenure.

1. The evaluation process shall be completed in sufficient time so that each teacher shall receive his/her evaluation no later than March 15.

2. The evaluator shall make a minimum of two formal observations of not less than 40 minutes.

3. Probationary and temporary employees with less than two years of teaching experience shall be required to participate in the District's Beginning Teacher Support and Assessment Program (BTSA).

b. Administrative-Choice Option - This option is where a permanent unit member chooses to investigate student work, abilities, and behaviors in partnership with an administrator.

c. Portfolio Option - This option is based on an area of investigation where the unit member develops a portfolio with reflections to validate professional development. The portfolio for this option is not a "showcase" or "best work" portfolio. It is a learning/working portfolio.

d. Partner Option - This option is a peer coaching model in which teachers collaborate and coach each other to determine success of professional development goals.

G. Assistance

Any tenured unit member identified as performing below the Professional Standards by the Site Administrator or designee shall be placed on an Assistance Program. The primary purpose of assistance is to improve the quality of classroom instruction and promote higher student achievement.

1. Placement on Assistance shall be done in two phases.

a. Phase I: Pre-Assistance

The duration of Pre-Assistance shall be ten (10) weeks. Before a teacher is placed on Pre-Assistance, the evaluator will use the following procedure to notify the teacher that there is/are problem(s) with the unit member's performance. A written notice will be given to the unit member which includes the following information:

1. A statement of the problem, including the Professional Standard the program addresses.

2. A statement of the desired behavior.

3. Date(s) the problem occurred.

4. Date by which the problem is to be resolved.

5. Recommendations and assistance that will be provided to the unit member. After the written notification is given to the unit member, follow-up observations and conferences between the unit member and the evaluator will take place. The conferences will result in one of the following actions:

1) Problem resolved, return to current evaluation option; 2) Placement on Assistance; 3)

Continue observations and conferences. If the problem is resolved, then no written record of the Pre-Assistance shall be placed in the unit member's permanent personnel file. A unit member

placed on a Pre-Assistance Plan for the second time will have all documentation forwarded to the permanent personnel file.

b. Phase II: Assistance.

1. Duration of Assistance shall be a minimum of twenty weeks. Unit members on assistance are not eligible for transfer. Assistance includes being placed as a Referred Teacher in the PAR program. This program will provide specific guidance and support, and a written Assistance Plan. The Assistance Plan shall include the following, and shall become a part of the unit member's permanent personnel file:

- a.** A statement of the problem and existing conditions.
- b.** Specific objectives for the Referred Teacher.
- c.** Specific methods and resources which the Referred Teacher will use to remedy the problem.
- d.** Specific guidance that will be offered to the Referred Teacher.

2. Formal assistance is generally assigned for the entire school year. If, however, a unit member has corrected noted problems, he/she could be taken off Assistance at the determination of the PAR Council.

3. If a unit member does not agree with placement on an Assistance Plan, the unit member may appeal to the PAR Council.

2. Unit members currently on a Performance Plan under the existing evaluation program shall remain under the stipulations of that plan and be evaluated under the Administrative Option (Mandated).

H. A unit member who transfers shall take his/her evaluation option with them.

I. The list of documents associated with this Evaluation Procedure are cited and incorporated in the Certificated Teachers Handbook. Any changes in these documents must be done by mutual agreement between the District and the Association and will be reviewed annually.

Simi Valley Unified School District Certificated Professional Development and Accountability

Goals for the Simi Valley Unified School District Professional Accountability Process:

- **To Benefit Teachers and Students**
- **To Maintain High Expectations**
- **To Promote Ongoing and Significant Professional Growth**
- **To Improve Instruction**

OVERVIEW

The State of California has, during the past several years, developed STANDARDS for various curricular areas. In conjunction with this effort, **PROFESSIONAL STANDARDS** have been established for teachers to define and support effective teaching throughout the state. The Professional Standards are a description of expectations for professional educators. The Standards function as a guide for administrators and teachers in many areas including professional development and teacher accountability.

The Professional Standards address six standards which describe various areas essential to effective teaching. Each standard consists of several elements delineating critical elements

teachers must demonstrate. The Standards have been further defined in the Continuum of Teacher Abilities developed by the UCSC Santa Cruz New Teacher Project. This document defines five levels of professional development for each of the six standards. Descriptors are used to illustrate each of the five levels; **Beginning, Emerging, Applying, Integrating and Innovating.**

The Accountability Process described in this document uses the Professional Standards and the Continuum of Teacher Abilities as the basis for accountability of certificated personnel in Simi Valley. Each year teachers will use the continuum to assess themselves as to their developmental level of performance relative to the Standards. This self assessment will be used to guide staff in establishing professional growth goals for the current school year. Depending on the employment status of the teacher, he/she must complete one of the accountability options described in this document. Teachers who have not yet received tenured status must complete the Administrative Mandated Option yearly until tenured status is achieved. Teachers who have achieved tenured status will select from the Options as outlined on the following pages.

Each certificated staff member will be provided a copy of the Developmental Continuum to use when completing the self assessment. The Continuum is for the teacher's use and does not need to be shared with administration. Teachers will use the same continuum yearly thus enabling him/her to document growth over time. Please keep in mind that teaching is both an art and a craft and good teachers are continually growing and perfecting their skills. An individual teacher may be at a beginning or emerging level of practice in some places on the Continuum and at advanced levels in some others, no matter how many years she/he has been in the profession. The goal, however, is to continue to reflect on ourselves as educators and never lose sight of the goal of supporting our students' learning in ever more effective and meaningful ways.

Defining the Portfolio

The portfolio for the accountability option is not a "showcase" or "best work" portfolio. It is a "learning" or "working" portfolio. In a learning/working portfolio certificated staff gather and reflect on selections of student work, assessments, etc., in order to guide professional decision making regarding next steps for improvement at the time of the selection. The first selection represents initial information regarding the identified goals. The reflection on that first selection should guide decision making for adaptations or improvements. The remaining selections and reflections throughout the year continue that same process. Collectively, at the end of the year, the selections and their accompanying, written reflections show learning and growth over time. This is a learning/working portfolio.

The Portfolio includes:

1. A Professional Development Plan

2. Teacher selection of and written reflection on at least two artifacts throughout the year in support of the Professional Development Plan. (See "*Professional Standards and Portfolio Selections*" and "*Reflection on the Portfolio Selection.*"
Feel free to copy more reflection forms as needed.)

3. A meeting with administrator and/or peers after the first selection to discuss the selection and the accompanying reflection.

The purpose of the meeting is to facilitate:

- analyzing the first selection for the portfolio in order to get a deeper

understanding of it through dialogue and to get additional ideas for new strategies or improvements

- adding to or revising the first written reflection based on the analysis and dialogue

- making connections with other teachers regarding your process and topic

4. A Final Accountability Summary – Self-Assessment

Certificated staff write their own self assessment as a final accountability summary. The administrator will add comments.

PROFESSIONAL STANDARDS for the TEACHING PROFESSION

The Professional Standards provide a common language and a vision of the scope and complexity of teaching by which all teachers can define and develop their practice. The *Standards* are to be used by teachers to prompt reflection about teaching and learning; develop professional goals; and guide, monitor and assess the progress of the teacher’s practice toward their own professional goals. The *Standards* address the diversity of the student population in California schools today.

Standard 1: *Engaging and Supporting All Students in Learning*

- 1.1 Connecting students’ prior knowledge, life experience and interests with learning goals.
- 1.2 Using a variety of instructional strategies and resources to respond to students’ diverse needs.
- 1.3 Facilitating learning experiences that promote autonomy, interaction, and choice.
- 1.4 Engaging students in problem solving, critical thinking and other activities that make subject matter meaningful.
- 1.5 Promoting self-directed, reflective learning for all students.

Standard 2: *Creating and Maintaining Effective Environments for Student Learning*

- 2.1 Creating a physical environment that engages all students.
- 2.2 Establishing a climate that promotes fairness and respect.
- 2.3 Promoting social development and group responsibility.
- 2.4 Establishing and maintaining standards for student behavior.
- 2.5 Planning and implementing classroom procedures and routines that support student learning.
- 2.6 Using instructional time effectively.

Standard 3: *Understanding and Organizing Subject Matter Knowledge for Student Learning*

- 3.1 Demonstrating knowledge of subject matter content and student development.
- 3.2 Organizing curriculum to support student understanding of subject matter.
- 3.3 Integrating ideas and information within and across subject matter areas.
- 3.4 Developing student understanding through instructional strategies that are appropriate to the subject matter.
- 3.5 Using materials, resources and technologies to make subject matter accessible to all students.

Standard 4: *Planning Instruction and Designing Learning Experiences for All Students*

- 4.1 Drawing on and valuing students’ backgrounds, interests, and developmental learning needs.
- 4.2 Establishing and articulating goals for student learning.
- 4.3 Developing and sequencing instructional activities and materials for student learning.

- 4.4 Designing short-term and long-term plans to foster student learning.
- 4.5 Modifying instructional plans to adjust for student needs.

Standard 5: Assessing Student Learning

- 5.1 Establishing and communicating learning goals for all students.
- 5.2 Collecting and using multiple sources of information to assess student learning.
- 5.3 Involving and guiding all students in assessing their own learning.
- 5.4 Using the results of assessments to guide instruction.
- 5.5 Communicating with students, families and other audiences about student progress.

Standard 6: Developing as a Professional Educator

- 6.1 Reflecting on teaching practice and planning professional development.
- 6.2 Establishing professional goals and pursuing opportunities to grow professionally.
- 6.3 Working with communities to improve professional practice.
- 6.4 Working with families to improve professional practice.
- 6.5 Working with colleagues to improve professional practice.
- 6.6 Balancing professional responsibilities and maintaining motivation.

GUIDE TO SELF ASSESSMENT using the CONTINUUM OF TEACHER ABILITIES

Who does self assessment?

All Certificated staff self assess on the Continuum of Teacher Abilities every year. Each year the Continuum will be given to new certificated employees. Continuing certificated employees are expected to use the same Continuum to self assess each year during their employment in the Simi Valley Unified School District unless it has been revised and reprinted for all employees.

Why do I self-assess?

- # The Continuum of Teacher Abilities is meant to be used by certificated staff to guide ongoing professional growth.
- # The purpose of the first self-assessment is to create a baseline. Subsequent self assessments are used to analyze and reflect on professional growth and to answer the question, “What is the next step in my professional growth?”

When do I self-assess?

Certificated staff are required to do a self assessment at the beginning of each school year, but are not required to share the assessment with an administrator. Each staff member is required to sign the *Professional Accountability Status* form (14).

Please note: *Administrators and all certificated staff are responsible for maintaining Professional Standards at all times. Consequently, as administrators observe in classrooms or work settings they also have the right and responsibility to identify any concerns related to the Professional Standards while they are observing formally or informally. In addition,*

administrators always have the right and the responsibility to observe classrooms or work settings at any time.

How do I self-assess?

Using your copy of the Continuum of Teacher Abilities, read each Standard, row by row.

On each row mark and date the box that best describes where you are currently.

Notice and reflect upon your strengths and identify areas for professional growth.

As you do your self assessment, you may want to reflect in writing on your perceptions regarding your level of development on the Continuum. One way to do this would be to keep a professional journal or log along with your Continuum during your employment in the Simi Valley Unified School District. These notes, along with your Continuum, are for your personal use only.

The following page shows an example of marking a self assessment.

For each row of the rubric, read across to choose the box that best describes where you see yourself at this time. Use this information in writing your professional development plan for the current school year.

**SAMPLE
CONTINUUM OF TEACHER ABILITIES**

STANDARD 1 - ENGAGING AND SUPPORTING ALL STUDENTS IN LEARNING

1. Connecting students' prior knowledge, life experience, and interests with learning goals.

Beginning	Emerging	Applying	Integrating	Innovating
Teacher recognized the value of students' prior knowledge. Opens lesson to capture students' attention and interest.	Asks questions that elicit students' prior knowledge and helps them connect learning to their own experiences and understandings.	Implements activities and elicits questions that help students make connections between what they know and new concepts. 9/04 9/05	Implements activities and elicits questions that help students construct a new understanding of concepts in relation to learning goals.	Uses questions to revise activities and extend student ability to synthesize what they know to achieve learning goals.

1.2 Using a variety of instructional strategies and resources to respond to students' diverse needs.

Beginning	Emerging	Applying	Integrating	Innovating
Teacher uses a few instructional strategies and recognizes the need to support learning with materials, resources and technology.	Uses instructional strategies to introduce, explain and restate subject matter concepts and processes, and to support student understanding, language development and participation. 9/04	Builds a repertoire of instructional strategies and resources that are appropriately matched to subject matter and are based on knowledge of individual student needs.	Uses a repertoire of appropriate strategies and resources that make the complexity and depth of subject matter understandable to all students. 9/05	Consistently draws on a extensive repertoire of appropriate strategies and resources. Adapts and refines strategies while teaching in response to students' needs.
Teacher recognizes the need to model accurate use of written and oral language to support student understanding. 9/04	Uses instructional strategies to introduce, explain and restate subject matter concepts and processes, and to support student understanding, language development and participation.	Uses a variety of oral, visual and demonstration strategies to present concepts and to support student understanding, participation and language development.	Builds a repertoire of oral, visual and demonstration strategies to ensure participation and promote language development for all students. 9/05	Uses a repertoire of oral, visual and demonstration strategies to extend language development and to ensure each student's full participation.

X = The description in the box best describes where you see yourself at the time of the assessment
9/05 = Date of self-assessment

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Professional Development Plan

Teachers are to develop one or two goals and corresponding objectives related to identified focus areas/elements from the Developmental Continuum of Teacher Abilities aligned with the California Standards for the Teaching Profession.

Goals—The goals should define where the teacher wants to grow professionally to enhance student achievement. Goals should focus on Content Standards. Identify **standard** and the **element(s)** you want to study and why.

Desired Outcomes—These are objectives. Objectives should be “**SMART**”—**S**pecific, **M**easurable, **A**ttainable, **R**elevant and **T**rackable.

--What do you plan to do to achieve your goals?

--What specifically do you want to gain from this endeavor and why?

--What teaching strategies and decisions will you employ to achieve your goals?

--As you envision your strategy, how will you consider content, time constraints, grouping/structuring, sequencing learning activities, repertoire of instructional behaviors, materials?

Evaluation—Your assessment can be of any form that you feel will accurately reflect your endeavor. At the final evaluation conference the teacher should be prepared to share student data that demonstrates progress towards or provide evidence of accomplishment of the goals.

--How will you know when you have accomplished the identified goal?

--By what indicators (data) will you assess progress towards the accomplishment of your goals?

--What specific student behaviors demonstrate success?

--How will accomplishment of goals benefit you and your students?

Simi Valley Unified School District
Certificated Professional Development and Accountability

PROFESSIONAL ACCOUNTABILITY STATUS

“ON CYCLE” TEACHERS

Name _____ Date _____

School _____

I have completed the self-assessment using the Professional Standards Continuum:

_____ Date _____
Certificated Employee's Signature

Accountability Option (please circle):

Partner *Portfolio* *Adm. Choice* *Adm. Mandated*

PROFESSIONAL DEVELOPMENT PLAN

- 1. Goals:**
Based on your self-assessment on the Professional Standards Continuum, outline your professional growth goal(s) for the year. Each goal should specifically indicate what you would like to improve or enhance and why.

Standard:

Element:

2. Assessment of Progress:
How will you assess progress towards the accomplishment of your goal(s)?

_____ Date: _____
Certificated Employee's Signature

_____ Date: _____
Administrator's Signature

PROFESSIONAL DEVELOPMENT AND ACCOUNTABILITY

TIMELINE AND CHECKLIST FOR PERMANENT TEACHERS

<p style="text-align: center;">Deadlines</p> <p style="text-align: center;">Teacher/Administrative Meeting by Last Friday in October</p>	<ul style="list-style-type: none"> ___ 1. Permanent teacher completes self-assessment using the Professional Standards Continuum ___ 2. Permanent teacher selects teaching standard(s) and accompanying element(s) for emphasis ___ 3. Permanent teacher selects a process portfolio - partner - administrative choice ___ 4. Permanent teacher completes Professional Development Plan - Page D-14
<p style="text-align: center;">MID-YEAR DEADLINE</p> <p style="text-align: center;">Partner and/or Administrative Meeting by 3rd Friday in January</p>	<ul style="list-style-type: none"> ___ 1. Permanent teacher completes meaningful steps related to the selected process <ul style="list-style-type: none"> • Portfolio - collection of work related to teaching standard(s) and element(s) selected • Partner - observation - consultation • Administrative choice ___ 2. Permanent teacher completes the mid-year reflection - Page D-20
<p style="text-align: center;">Administrative/Teacher Summative Meeting by 1st Friday in May</p>	<ul style="list-style-type: none"> ___ 1. Permanent teacher completes Final Self-Evaluation Summary - Page D-21

*Simi Valley Unified School District
Certificated Professional Development and Accountability*

PROFESSIONAL ACCOUNTABILITY STATUS

“OFF CYCLE” TEACHERS

Name _____ Date _____
School _____

I have completed the self-assessment using the Professional Standards Continuum:

Certificated Employee’s Signature

Date _____

Administrator’s Signature

Date _____

PROFESSIONAL ACCOUNTABILITY OPTIONS

Every year each probationary, intern, or temporary staff member will:

- ▶ Focus on all of the Professional Standards throughout the year and jointly develop a learning/working portfolio with the administrator- **Administrative Mandated**

Every other year each permanent certificated staff member will participate in a formal accountability process. Staff members on:

- ▶ **Partner; Portfolio; Administrative Choice** will:
Write a professional development plan that will move your teaching practice forward based on your self assessment.
- ▶ After 10 years of satisfactory evaluations, each permanent certificated staff member will be on a 5 year evaluation cycle.

How do I know on which accountability option I should be?

If you are: Non-permanent
(Probationary, Intern, or Temporary Teachers)
First 2 years: Administrative Mandated
and every year thereafter until tenured status is achieved

If you are: Permanent - First year after non-permanent status
or permanent and on an "Option" (Accountability) Year

Partner Option
Portfolio Option
Administrative Choice

If you are: Permanent
and last year you were on
Partner, Portfolio or Administrative Choice
You are on a self assessment year

If you are: Permanent and Placed on Pre-Assistance or Assistance

Administrative Mandated

PROFESSIONAL ACCOUNTABILITY OPTIONS MATRIX

FOR PERMANENT TEACHERS

Option	Partner	Portfolio	Administrative Choice
Goals	Goals Are Teacher Identified Designed to move teaching practices forward based on self assessment of Professional Standards		
Initial Meeting by Last Friday in October	Teacher/Administrator Meeting For teacher to present, discuss and agree upon the Professional Development Plan		
<u>Mid-Year Deadlines</u> Meeting by Third Friday in January	Partner Observation- Consultation Observation - Consultation tools designed by partners. One observation-consultation by each partner. One post-conference by each partner. Administrator receives written copies of the mid-year reflection form.	Reflection One collaboration between teacher on portfolio option and administrator to share and discuss portfolio selection/ reflection. Administrator receives written copies of the mid-year reflection form.	Conference Observation tools designed by teacher and administrator. One pre-conference, and post-conference with administrator. Administrator receives copies of the mid-year form.
All Certificated staff regardless of accountability option are encouraged to gather evidence to support their identified goals and to share those selections with the administrator to develop a more complete picture of progress.			
Summative Meeting by 1 st Friday in May	Teacher/Administrator Meeting Teacher writes self assessment. Administrator adds comments. (Completed according to dates on timeline.)		

Simi Valley Unified School District
Certificated Professional Development and Accountability

**MID-YEAR PORTFOLIO OR PARTNER OBSERVATION -
CONSULTATION REFLECTION**

Name: _____ Date: _____

<ol style="list-style-type: none"> 1. Where and when did the portfolio selection or partner/observation-consultation take place and who was involved? (Describe the setting or context.) 2. What were you looking for or expecting to discover? (Describe what work, behaviors, interactions, etc., demonstrated progress toward your goals.) 3. What does this portfolio selection or partner/observation-consultation show about what your students know or are learning? (Describe what your students were able to do at this point related to your goal.) 4. What helped and what hindered student progress and why? (Identify what supported progress and what didn't. Some things to think about might be the lesson design, curriculum design, the test design, the process, the materials, the room arrangement, the grouping, the student interactions, the interactions with your students, the clarity of procedures, the movement patterns, the pacing, etc.) 5. What will be your next steps? Improvements? Or New Strategies? (Describe what you will do next to further support your goals.)

Administrator Comments Related to the Goal:

Certificated Employee's Signature

Date: _____

Administrator's Signature

Date: _____

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Simi Valley Unified School District
Certificated Professional Development and Accountability

MID-YEAR ADMINISTRATIVE CHOICE REFLECTION

Name: _____ Date: _____

School: _____

Goal(s): _____

1. Pre-Conference:

Identify the specific student-teacher behaviors that will demonstrate achievement of the identified goal(s). State specifically what will be observed and how the data will be collected.

2. Post-Conference:

After sharing of the observation data, compare what happened with what was desired. Reflect on what helped, what hindered and why.

3. Next Steps:

Explain modifications, improvements, new strategies or steps that will be implemented next.

Administrative Comments Related to the Goal:

Certificated Employee's Signature

Date: _____

Administrator's Signature

Date: _____

Simi Valley Unified School District
Certificated Professional Development and Accountability

PERMANENT TEACHER
FINAL ACCOUNTABILITY SUMMARY - SELF ASSESSMENT

Name: _____ Date: _____

School: _____

Option (please circle): Partner Portfolio Administrative Choice

1.	Goal: Standard: Element:
2.	Data Analysis Summarize data collected and share insights regarding progress towards the accomplishment of the goal.
3.	Professional Development Plan Accomplishments: Explain how your activities related to your goal have benefitted you and your students. What helped and/or what hindered student progress and why?
4.	Ideas or Suggestions for Next Steps:

Administrative Comments and Recommendations Related to the Goal:

Certificated Employee's Signature

Date: _____

Administrator's Signature

Date: _____

**PROFESSIONAL ACCOUNTABILITY
OPTIONS MATRIX**

**ADMINISTRATIVE MANDATED
FOR NON-PERMANENT TEACHERS**

Option	Administrative Mandated
Goals	Professional Standards Teacher/Administrator jointly develop working portfolio demonstrating growth.
Initial Meeting By Last Friday in October	Teacher/Administrator Meeting To review professional standards and agree upon the development of working portfolio.
Conference Deadlines First Friday in December First Friday in March.	Two Conference Cycles Observation tools designed by teacher and administrator. Two pre-conferences, two observations and two post-conferences with administrator.
Summative Meeting Prior to 1 st Friday in May.	Teacher/Administrator Meeting Administrator writes assessment. Teacher adds comments. (Completed according to dates on timeline.)

Simi Valley Unified School District
Certificated Professional Development and Accountability

**NON-PERMANENT ADMINISTRATIVE MANDATED
 TEACHER PRE-OBSERVATION FORM**

Name: _____ Observation Date/Time: _____

School: _____

1. Content Standards _____

2. Lesson Objective: _____

3. What will you be doing? _____

4. What will the students be doing? _____

5. How will you assess your students' understanding? _____

6. How will you know if the objective was met? _____

7. How does this lesson "fit" into your instructional program? _____

8. How does this lesson relate to your goal from the California Standards for Teaching Profession? _____

9. Anything in particular you want me to look for during the observation? _____

ADMINISTRATIVE MANDATED NON-PERMANENT ASSESSMENT OF TEACHING PERFORMANCE

Teacher: _____ Grade/Subject: _____

School: _____

1 - Meet Standards
2 - Does Not Meet Standards

STANDARD I - Engaging and Supporting All Students In Learning	1	2
1.1 Connecting students' prior knowledge, life experience, and interests with learning goals.		
1.2 Using a variety of instructional strategies and resources to respond to students' diverse needs.		
1.3 Facilitating learning experiences that promote autonomy, interaction, and choice.		
1.4 Engaging students in problem solving, critical thinking, and other activities that make subject matter meaningful.		
1.5 Promoting self-directed, reflective learning for all students.		
STANDARD II - Creating & Maintaining Effective Environments for Student Learning	1	2
2.1 Creating a physical environment that engages all students.		
2.2 Establishing a climate that promotes fairness and respect.		
2.3 Promoting social development and group responsibility.		
2.4 Establishing and maintaining standards for student behavior.		
2.5 Planning and implementing classroom procedures and routines that support student learning.		
2.6 Using instructional time effectively.		
STANDARD III - Understanding & Organizing Subject Matter for Student Learning	1	2
3.1 Demonstrating knowledge of subject matter content and student development.		
3.2 Organizing curriculum to support student understanding of subject matter.		
3.3 Interrelating ideas and information within and across subject matter areas.		
3.4 Developing student understanding through instructional strategies that are appropriate to the subject matter.		
3.5 Using materials, resources and technologies to make subject matter accessible to students.		
STANDARD IV - Planning Instruction & Designing Learning Experiences for All	1	2
4.1 Drawing on and valuing students' backgrounds, interests, and developmental learning needs.		
4.2 Establishing and articulating goals for student learning.		
4.3 Developing and sequencing instructional activities and materials for student learning.		
4.4 Designing short-term and long-term plans to foster student learning.		
4.5 Modifying instructional plans to adjust for student needs.		
STANDARD V - Assessing Student Learning	1	2
5.1 Establishing and communicating learning goals for all students.		
5.2 Collecting and using multiple sources of information to assess student learning.		
5.3 Involving and guiding students in assessing their own learning.		
5.4 Using results of assessments to guide instruction.		
5.5 Communicating with students/families/others about student progress.		
STANDARD VI - Developing as a Professional Educator	1	2
6.1 Reflecting on teaching practice and planning professional development.		
6.2 Establishing professional goals and pursuing opportunities to grow professionally.		
6.3 Working with communities to improve professional practice.		
6.4 Working with families to improve professional practice.		
6.5 Working with colleagues to improve professional practice.		
6.6 Balancing professional responsibilities and maintaining motivation.		

Teacher Signature: _____ Date: _____

Principal Signature: _____ Date: _____

Comments:

*Simi Valley Unified School District
Certificated Professional Development and Accountability*

**ADMINISTRATIVE MANDATED
NON-PERMANENT
FINAL ACCOUNTABILITY SUMMARY**

Name: _____ Date: _____

School: _____

Areas of progress that meet the Professional Standards:

Future Focus (circle one):

Area(s) of Concern or Ideas or Suggestions for Next Steps

Certificated Staff Comments/Reflections:

Administrative Comments and Recommendations:

Certificated Employee's Signature

Date: _____

Administrator's Signature

Date: _____

PROFESSIONAL ASSISTANCE

Partner, Portfolio, Administrative Choice

Certificated staff on these options meet and exceed the Professional Standards. However, if at any time there is a need by the supervising administrator to identify elements within the Professional Standards that are not being maintained and that require support, Pre-Assistance will be initiated. The duration for Pre-Assistance is a ten week period. If needed, Assistance will follow Pre-Assistance for a duration of twenty weeks.

Pre-Assistance and Assistance

Pre-Assistance is considered to be a signal to certificated staff that additional guidance and support is needed in maintaining Professional Standards in a particular element(s) of a Standard. When Pre-Assistance is initiated by the supervising administrator, it is the joint responsibility of the administrator and certificated staff:

1. To identify the specific problem in relationship to the Professional Standards.
2. To develop and implement a plan for improvement within a period of ten weeks.
3. To gather selections to show evidence of improvement in the identified Professional Standards.

Throughout Pre-Assistance the administrator makes a commitment to certificated staff to support the implementation of the improvement plan. The early and frequent use of Pre-Assistance is viewed as positive support for certificated staff who find themselves with important and/or difficult challenges in their teaching or professional responsibilities.

When a certificated staff member is placed on Pre-Assistance, there is no record submitted to the personnel file. Only when a certificated staff member is placed on Assistance is a record submitted to the permanent file. The period for Pre-Assistance is ten weeks. While on Assistance, certificated staff are not eligible to transfer.

Initiation of the Pre-Assistance Plan:

The supervising administrator will give a written notice to the teacher regarding:

- A statement of the problem in relationship to the Professional Standards
- A statement of the desired behavior in relationship to the Professional Standards
- Date(s) that the problem has occurred or has been observed
- Date when the problem is to be resolved; and
- Recommendations and assistance that will be given to the teacher
- After the written notification is given to the teacher, follow-up observations and conferences between the teacher and the evaluator will take place. The conferences will result in one or more of the following actions:
 - Problem resolved and Professional Standards met, return to current accountability option
 - Placement on Assistance
 - Continue observations and conferences
 - Possible recommendation to the PAR Council for Peer Review intervention

If goals of the Pre-Assistance Plan are not met, the certificated staff member is then placed on Assistance and Administrative Mandated Option. The certificated staff member will remain on the Administrative Mandated for one year following removal from Assistance.

Components of the Written Assistance Plan:

The supervising administrator will give a written notice to the teacher regarding:

- A statement of the problem and existing conditions in relationship to the identified Professional Standards.
- Specific objective(s) for the evaluatee in relationship to the identified Professional Standards.
- Methods and resources which the evaluatee will use to remedy the problem and meet the identified Professional Standards.
- Specific guidance and assistance will be offered to the evaluatee.

An Interim Report is written by the administrator and shared with the teacher by the end of the tenth week of the Assistance period. A final report is written by the administrator and shared with the teacher at the end of the twentieth week of the Assistance period.

See the next page.

SIMI VALLEY UNIFIED SCHOOL DISTRICT

PRE-ASSISTANCE

Name: _____ Date: _____

Area of concern(s) related to the Professional Standards for the Teaching Profession
(Identify Standard and Element)

Date(s) concern was previously discussed: _____
Previous conference summary and/or meeting:

Desired behavior in relation to the Professional Standard:

Recommendation & Suggestion(s) for Improvement:

- Initial Meeting
- Goals Met
- Goals in Progress
- Goal Not Met

Next Meeting Date: _____

The teacher has received page D-10 on the Professional Standards for the Teaching Profession and pages D-26 and D-27 regarding professional assistance.

Administrator's Signature Date Certificated Employee's Signature Date

Your signature does not indicate agreement with the content, only that you have received this memo. You have five (5) working days if you choose to include a written response.

Iowa State Education Association

Sample Teacher Quality Legislation –Peer Assistance

Career Teacher Assistance

Career Teacher Assistance is designed to provide clear intervention and remediation for experienced teachers whose job performance has been determined to not meet Iowa Teaching Standards. The procedures identified within this section are meant to provide a structured process for teachers who have been identified as needing additional assistance and support in order to maintain an acceptable level of performance.

Awareness Phase

Procedures:

1. Throughout a teacher's employment with the district, evaluators will monitor the performance of all teachers and will address concerns with teachers as they arise. It is expected that most performance concerns will be resolved in a professional, collaborative manner at this phase.
2. An evaluator determines a teacher has a performance problem related to the Iowa Teaching Standards, and this situation is not resolved to the evaluator's satisfaction by informal discussions, a formal meeting will be scheduled to discuss the situation or incident. This formal meeting will be considered the beginning of the Awareness Phase.
3. During this meeting the evaluator will convey to the teacher, in writing, the specific behaviors that do not meet the Iowa Teaching Standards including the information and evidence used as the basis for the judgment. The evaluator will give to the teacher an *Identification of Concern – Awareness Phase* (Form G) which the teacher and evaluator will complete together. The teacher will discontinue his/her individual career development plan.
4. The teacher may also seek assistance from other staff members on a voluntary basis. Strict confidentiality will be maintained these other staff members and comments, observations, or other information obtained by them are not to be reported to the evaluator, and shall not become part of the teacher's evaluation. The assistance provided is targeted solely at helping the teacher improve her or his performance in relation to the Iowa Teaching Standards.

5. The duration of the Awareness Phase shall be no less than one month and no more than three months. During that time, the evaluator and teacher will review the teacher's progress referring to the *Identification of Concern - Awareness Phase* (Form G).
6. At the conclusion of the Awareness Phase, the evaluator shall make one of the following recommendations using the *Final Summary - Awareness Phase* (Form H):
 - a. Concern resolved, the teacher is returned to her/his individual career development plan
 - b. Concern not resolved, the teacher is placed in the Career Teacher Assistance Phase
7. The evaluator shall share with the teacher the completed *Final Summary - Awareness Phase* (Form H) including the information and evidence used to make this recommendation.
8. Awareness Phase forms shall be included in the teacher's personnel file only if the concern is not resolved.

Assistance Phase

Procedures:

1. The teacher may have a representative at this or any meeting with the evaluator during this phase.
2. The Assistance Phase will begin with a formal meeting between the evaluator and the teacher. During this meeting, the evaluator will convey to the teacher, in writing, the specific behaviors that do not meet the Iowa Teaching Standards and will review documentation supporting this conclusion. The evaluator will present to and discuss with the teacher the *Plan of Assistance - Assistance Phase* (Form I) which identifies actions for the teacher to complete for the purpose of improving performance in areas identified as unsatisfactory.

3. The *Plan of Assistance - Assistance Phase* (Form I) will require, but is not limited to, conferencing with the teacher, observations, a timeline, and follow-up activities. The plan must include strategies designed to remedy the documented unsatisfactory performance.
4. With the agreement of the teacher or at the request of the teacher an Assistance Team consisting of persons who have experience or expertise in the performance area(s) in which the teacher is in need of improvement shall be created. Membership on the Assistance Team shall be voluntary. The evaluator and the teacher shall mutually select the members of the team.
5. The evaluator shall convene the Assistance Team for the initial meeting with the teacher. The role of the Assistance Team is to use data and information provided by the evaluator and the teacher to assist in developing a planned approach to help the teacher meet the Iowa Teaching Standards. Strict confidentiality will be maintained by members of the Assistance Team. Observations and comments made by members of the Assistance Team are not presented in writing, are not reported to the evaluator, and do not become part of the teacher's evaluation. The assistance provided is targeted solely at helping the teacher improve her or his performance in relation to the Iowa Teaching Standards.
6. The duration of the Assistance Plan will vary, depending upon the needs of the teacher; however, it may not be for less than six regular school session months or for more than twelve months. The plan may be discontinued early if concerns have been remedied.
7. After the Assistance Plan has been completed, or upon receipt of a written request from a teacher to discontinue the process, the evaluator will complete *Final Summary – Assistance Phase* (Form J), and make one of the following recommendations:
 - a. Concern resolved, the teacher returns to the individual career development plan.
 - b. Progress noted, a new assistance plan is developed.
 - c. Concerns not resolved, no progress noted, a recommendation is made for the non-renewal of contract.
8. The evaluator shall share with the teacher the completed *Final Summary – Assistance Phase* (Form J) including the information and evidence used to make this recommendation.

Right to Grieve

All employee evaluations are to be fair and accurate. An employee or the Association as the employee's representative has the right to utilize the contract's grievance procedure to challenge an evaluation as unfair, unjust or inaccurate.

**IOWA STATE EDUCATION ASSOCIATION
Teacher Quality Language**

A. Teacher Quality Orientation Procedures

1. The district shall provide all employees with at least 16 hours of training on the Iowa Teaching Standards, criterion, and district-adopted descriptors prior to the district's implementation of the Individual Career Development Plans and/or Performance Reviews.
2. For those individuals developing Individual Career Development plans, orientation to the procedures shall be conducted by September 15 by the superintendent/designee.
3. For those individuals completing Performance Reviews, orientation to the procedures shall be conducted by September 15 by the superintendent/designee.

B. Individual career development plans

1. The District shall support individual career development plans with work time during the regular contract day(s) and financial resources to complete the plan.
2. Each teacher shall draft an individual career development plan using the Individual Career Development Plan (Form A) by October 15 of the school year following the conclusion of his/her previous plan.
3. The individual career development plan may be individual or connected with a collaborating group.

4. The evaluator will meet with the teacher to review the plan, jointly modify the plan as needed, and approve the plan within 20 school days of its submission. Both the teacher and evaluator will have a copy of the plan. In those few cases where a teacher and evaluator cannot fully agree on the plan, it will be resolved through discussions with a representative from the district and one selected by the teacher. If there is still disagreement, the evaluator makes the final decision.
5. Informal discussions of the progress being made toward completing the plan may be initiated by either the teacher or the evaluator at any time.
6. If, during the term of the plan, a teacher wishes to make modifications, the teacher will meet with the evaluator to discuss proposed changes and submit a revised plan with any agreed-upon changes. The teacher and evaluator shall sign and date the modification.
7. The evaluator and the teacher shall establish a mutually agreed upon time for an annual conference to review progress in meeting the goals in the plan, to review the collaborative work with other staff on student achievement goals, and/or to modify the plan as necessary. The teacher will provide the evaluator with a copy of the Annual Update - Individual Career Development Plan (Form B) at least one day prior to the meeting. At the conclusion of the meeting a copy of the Annual Update (Form B) shall be signed and dated prior to being placed in the teacher's personnel file.
8. The teacher shall retain all materials created as part of the individual career development plan.
9. The Performance Review Report Individual Career Development Plan (Form C) shall be discussed as part of the performance review.

C. Performance Review

1. Each career teacher shall have a performance review once every three years. When a teacher is assigned to more than one building, the teacher shall be assigned one evaluator.

2. Career Development
 - a) The evaluator shall contact the teacher to establish a mutually agreed upon time to discuss the Performance Review Report Individual Career Development Plan (Form C). The teacher shall complete the questions on the Performance Review Report where applicable, and provide the evaluator with a copy of the report at least one day prior to the meeting.

 - b) The Performance Review Report (Form C) shall be reviewed at the teacher's performance review meeting. The primary criteria of reviewing this report are effort, progress, and involvement in the work and in the products of that work. Comments may be added to the report. The evaluator shall sign and date the report. The teacher shall sign as having been given the opportunity to review the plan. This form is placed in the teacher's personnel file. The teacher shall have the right to attach a written response to the report.

3. Classroom Observation
 - a) All observations shall be conducted between October 1 and April 20. No observation shall be conducted the day before or after a day of vacation. Observations shall be for a continuous length of time no shorter than 30 minutes or longer than 90 minutes.

 - b) During the school year of the teacher's performance review, the evaluator and teacher shall mutually agree upon dates for a pre-conference, observation and post-conference. The pre-conference must be at least two days prior to the observation. The post-conference must be no later than 5 days following the observation. The Pre-Observation Form (Form D) and Observation Form (Form E) shall be used for these meetings.

- c) The evaluator's written observation comments shall be reviewed at the post-conference using the Observation Form (Form E). The evaluator shall sign and date the comments. The teacher shall sign as having been given the opportunity to review the comments and date the comment sheet. The teacher's signature does not necessarily mean agreement with the comments. The teacher shall be provided a copy of the observation comments.
4. Summative Performance Review
 - a) The evaluator and the teacher shall establish a mutually agreed upon date for the teacher's performance review meeting.
 - b) The evaluator shall complete the Career Performance Review (Form F) and arrange a mutually agreed upon date with the teacher to discuss the review. The evaluator shall provide the teacher with a copy of the completed Career Performance Review (Form F) at least one day prior to the meeting.
 - c) If the teacher is meeting the Iowa Teaching Standards, the evaluator and the teacher will begin discussion of future career goals that might be included in the next career development plan. This conference can be included as part of the post-observation conference in those situations when the evaluator has no major concerns regarding the teacher's performance.
 - d) If an evaluator indicates that the teacher is not meeting the expectations of the Iowa Teaching Standards, then those standards not being met must be identified. The information and evidence used to make this decision will be provided the teacher. The evaluator and teacher shall discuss future steps. While a joint decision is preferable, the evaluator will ultimately recommend: A new career development plan is created that focuses only on the Iowa Teaching Standards not met with a performance review held within twelve months, using Identification of Concern – Awareness Procedure (Form G).

- e) Both the evaluator and teacher shall sign and date the form. This form shall be placed in the teacher's personnel file. The teacher shall have the right to attach a written response to this form.
5. The teacher may have a representative present at any meeting involving the performance review or other evaluation.

D. Awareness Procedure

1. Throughout a teacher's employment with the district, evaluators will monitor the performance of all teachers and will address concerns with teachers as they arise. It is expected that most performance concerns will be resolved in a professional, collaborative manner at this phase. The following procedure shall apply in those circumstances when an evaluator has a concern that a career teacher may not meet the Iowa Teaching Standards prior to the development of an individual career development plan.
2. If an evaluator determines a teacher has a performance problem related to the Iowa Teaching Standards, and this situation is not resolved to the evaluator's satisfaction by informal discussions above, a formal meeting will be scheduled to discuss the situation or incident. This formal meeting will be considered the beginning of the awareness process. The evaluator shall schedule this formal meeting no later than October 15th.
3. During the meeting, the evaluator shall identify in writing all of the alleged deficiencies of the teacher pertaining to the Iowa Teaching Standards. The evaluator shall include information, data or evidence used in making this judgment. The teacher and evaluator shall develop a written plan of remediation which, if followed would eliminate the alleged deficiencies. Said plan shall include, but not be limited to, specific actions and behaviors to be implemented, other specific corrective measures, and a timeline of planned classroom observation(s) and a proposed date for a performance review. The plan will have a minimum duration of six (6) months and a maximum duration of one year. The

Identification of Concern –Awareness Procedure (Form G) shall be utilized by the evaluator. This plan becomes the teacher’s individual career development plan.

4. The teacher may also seek assistance from other staff members on a voluntary basis. Strict confidentiality will be maintained by these other staff members. Comments, observations, or other information obtained by them are not to be reported to the evaluator, and shall not become part of the teacher’s evaluation. The assistance provided is targeted solely at helping the teacher improve her or his performance in relation to the Iowa Teaching Standards.

5. Classroom Observation(s)
 - a) During the awareness process, the evaluator and teacher shall mutually agree upon dates for pre-conference(s), observation(s) and post-conference(s).

 - b) All observations shall be conducted between November 1 and April 20. No observation shall be conducted the day before or after a day of vacation. Observations shall be for a continuous length of time no shorter than 30 minutes or longer than 90 minutes. There shall be at least 20 work days between each observation.

 - c) The pre-conference must be at least two days prior to the observation. The post-conference must be no later than 5 days following the observation. The Pre-Observation Form (Form D) and Observation Form (Form E) shall be used for these meetings.

 - d) The evaluator’s written observation comments shall be reviewed at the post-conference using the Observation Form (Form E). The teacher’s progress shall be noted on the form. The evaluator shall sign and date the comments. The teacher shall sign as having been given the opportunity to review the comments and date the comment sheet. The teacher’s signature does not necessarily mean agreement with the comments. The teacher shall be provided a copy of the observation comments. The teacher shall have the right to attach a written response to the observation form.

6. Awareness Summary

- a) The evaluator and teacher shall establish a mutually agreed upon date for the awareness summary meeting.
- b) The evaluator shall complete the Awareness Summary Report (Form H) and provide the teacher with a copy at least one day prior to the meeting. The Awareness Summary Report (Form H) shall be reviewed at the awareness summary meeting.
- c) At the conclusion of the awareness process, the evaluator shall make one of the following recommendations using the Awareness Summary Report– (Form H):
 - i Concern resolved, the teacher is returned to her/his individual career development plan
 - ii. Concern not resolved, the teacher is placed in the Career Teacher Assistance Phase
- d) The evaluator shall share with the teacher the completed Awareness Summary Report (Form H) including the information and evidence used to make this recommendation.
- e) Awareness forms shall be included in the teacher’s personnel file only if the concern is not resolved.

E. Career Teacher Assistance

1. Career teacher assistance is designed to provide clear intervention and remediation for experienced teachers whose job performance has been determined to not meet the Iowa Teaching Standards. The procedures identified within this section are meant to provide a structured process for teachers who have been identified as needing additional assistance and support in order to maintain an acceptable level of performance.

2. Assistance Procedures
 - a) The teacher may have a representative at this or any meeting with the evaluator during this process.

 - b) The assistance procedures will begin with a formal meeting between the evaluator and the teacher. During this meeting, the evaluator will convey to the teacher, in writing, the specific behaviors that do not meet the Iowa Teaching Standards and will review documentation supporting this conclusion. The evaluator will present to and discuss with the teacher the Plan of Assistance - (Form I) which identifies actions for the teacher to complete for the purpose of improving performance in areas identified as unsatisfactory.

 - c) The Plan of Assistance - (Form I) will require, but is not limited to, conferencing with the teacher, observations, a timeline, and follow-up activities. The plan must include strategies designed to remedy the documented unsatisfactory performance.

 - d) With the agreement of the teacher or at the request of the teacher an Assistance Team consisting of persons who have experience or expertise in the performance area(s) in which the teacher is in need of improvement shall be created. Membership on the Assistance Team shall be voluntary. The evaluator and the teacher shall mutually select the members of the team.

 - e) The evaluator shall convene the Assistance Team for the initial meeting with the teacher. The role of the Assistance Team is to use data and

information provided by the evaluator and the teacher to assist in developing a planned approach to help the teacher meet the Iowa Teaching Standards. Strict confidentiality will be maintained by members of the Assistance Team. Observations and comments made by members of the Assistance Team are not presented in writing, are not reported to the evaluator, and do not become part of the teacher's evaluation. The assistance provided is targeted solely at helping the teacher improve her or his performance in relation to the Iowa Teaching Standards.

- f) The duration of the Assistance Plan will vary, depending upon the needs of the teacher; however, it may not be for less than six regular school session months or for more than twelve months. The plan may be discontinued early if concerns have been remedied.
- g) After the Assistance Plan has been completed, or upon receipt of a written request from a teacher to discontinue the process, the evaluator will complete the Assistance Final Summary – (Form J), and make one of the following recommendations:
 - i. Concern resolved, the teacher returns to the individual career development plan.
 - ii. Progress noted, a new assistance plan is developed.
 - iii. Concern not resolved, no progress noted, a recommendation is made for the non-renewal of contract.
- h) The evaluator shall share with the teacher the completed Assistance Final Summary – (Form J) including the information and evidence used to make this recommendation. This form will be placed in the teacher's personnel folder. The teacher has the right to respond to the recommendations in writing.

F. Right to Grieve

All employee evaluations are to be fair and accurate. An employee or the Association as the employee's representative has the right to utilize the contract's grievance procedure to challenge an evaluation as unfair, unjust or inaccurate.

**Agreement between the LINCOLN PARK EDUCATION ASSOCIATION
AND THE BOARD OF EDUCATION OF LINCOLN PARK, County Of Morris, NJ**
Effective date: July 1, 2008; Ending date: June 30, 2011

ARTICLE III EMPLOYEE RIGHTS

- F. Any complaints regarding an employee, made to any member of the Administration by a parent, student, or other person, and which may be used in any manner in evaluating an employee shall be brought to the attention of the employee. The employee shall be given the opportunity to respond in advance of any written evaluation.

ARTICLE XV EMPLOYEE EVALUATION

A. Teacher Evaluations

The District will be bound by its policies and the provisions of N.J.A.C. 6:3-4.1 Supervision of Instruction: Observation and Evaluation of Non-tenured Teaching Staff and N.J.A.C. 6:3-4.3 Evaluation of tenured teaching staff members. For the purpose of this section, the term "observation" shall be construed to mean a visitation to an assigned work station by a certified supervisor of the Board for the purposes of formally collecting data on the performance of a teaching staff member's assigned duties and responsibilities. In the Traditional Evaluation Model, the term "evaluation" shall be construed to mean a written evaluation prepared by the administrative or supervisory staff member who visits the work station for the purpose of observing a teaching staff member's performance of the instructional process. In the Alternate Evaluation Model, tenured teachers and administrators shall work collaboratively to implement self-evaluative measures for professional development where teachers and administrators maintain specific roles. Upon administrative approval, a tenured teacher shall formulate a specific project for professional growth, self-evaluate the progress of his/her project, be formally observed once during the school year and formally meet with his/her administrator to review their professional performance and project implications. Observations and evaluations shall relate only to school related activities and responsibilities.

- (1) All monitoring or observation of the work performance of a teacher shall be conducted openly and with full knowledge of the teacher. The use of public address, audio-visual systems, and similar devices shall be made known to the teacher before such use.
- (2) Teachers shall be evaluated only by persons certified by the New Jersey State Board of Examiners to supervise instruction. The required evaluation is to be signed by the person rendering the report and by the teacher on the day of the evaluation

conference. The signature of the teacher does not imply agreement with the report, but simply that the required report has been reviewed with the teacher by the person making the report.

- (3) The teacher shall be given an opportunity for a post-observation conference, if he/she wishes one, prior to the preparation of the evaluation report by his evaluators.
- (4) A teacher shall be given a copy of any class visit or evaluation report prepared by his/her evaluators at least one (1) day before any conference to discuss it. No report shall be submitted to the central office, placed in the teacher's file or otherwise acted upon without prior conference with the teacher. No teacher shall be required to sign a blank or incomplete evaluation form.
- (5) Pursuant to N.J.S.A. 18A: 27-3.1 each of the observations and evaluations required shall be followed within a reasonable period of time, but in no instance more than ten (10) working days, by a conference between the administrative or supervisory staff member who has made the observation or evaluation and written evaluation, and the teaching staff member. Both parties to such a conference will sign the written evaluation report and retain a copy for his/her records. The teaching staff member shall have the right to submit his/her written response to such evaluation within ten (10) working days following the conference and such response shall be attached to each party's copy of the evaluation report.
- (6) Observation and Evaluation reports shall be written in narrative form, according to Policy 3221 and Regulations 3221.1 and 3221.2, and shall include when pertinent:
 - a. Strengths of the teacher as evident during the period since the previous report.
 - b. Weaknesses of the teacher as evident during the period since the previous report.
 - c. Specific suggestions as to measures that the teacher might take to improve his/her performance in each of the areas wherein weaknesses have been indicated.
- (7) Frequency of observations and evaluations shall be as follows:
 - a. Each non-tenured teacher shall be observed a minimum of three (3) times per year and receive a written evaluation two times per year. Each observation shall last for one (1) entire teaching episode or a minimum of thirty (30) minutes.
 - b. Each non-tenured teacher not assigned to regular classroom teaching duties shall be observed a minimum of three (3) times per year and receive a written evaluation two (2) times per year. Each observation shall last for a minimum of thirty (30) minutes.
 - c. Tenured teacher observations and evaluations shall comply with the terms and conditions of either the Traditional Evaluation Model or the Alternate Evaluation Model. Each tenured teacher shall have a choice in determining the model used

for his/her observations and evaluations with prior approval of his/her administrator or supervisor.

(1) Each tenured teacher who elects the Traditional Evaluation Model shall be observed a minimum of one (1) time per year and receive a written annual evaluation one time per year. Each observation shall last for one (1) entire teaching episode or a minimum of thirty (30) minutes.

(1) Each tenured teacher not assigned to regular classroom teaching duties who elects the Traditional Evaluation Model shall be observed a minimum of one (1) time per year and receive a written annual evaluation one (1) time per year. Each observation shall last for a minimum of thirty (30) minutes.

(2) Each tenured teacher who elects to participate in the Alternate Evaluation Model shall have prior approval of his/her administrator or supervisor. Administrators or supervisors who exercise their prerogative to maintain certain tenured teachers in the Traditional Evaluation Model shall be required to meet with said teacher(s) and to give specific reason for this decision.

(a) Each tenured teacher participating in the Alternate Evaluation Model shall select one (1) of the five (5) Board approved evaluation models and shall meet with his/her administrator or supervisor between May 15th and the last school day in June to share his/her specific professional project. Final approval for independent or collaborative concepts shall be accomplished by September 30th in any given school year. Alternate Evaluation Models shall be developed independently or within a collaborative team and shall be selected from one (1) of the following models.

- Peer Coaching
- Mentoring
- Action Research
- Portfolio Assessment
- New Directions: A teacher or collaborative team develops a project, program, or teaching technique that does not fall within the model designations listed above.

(b) Each tenured teacher participating in the Alternate Evaluation Model shall have at least one (1) written Checkpoint Review per year wherein the administrator or supervisor confers with the teacher or team of teachers about the professional project, with a formal observation being part of the checkpoint review. The administrator or supervisor shall be

required to specifically observe the project at least one (1) time per year by invitation of the teacher being observed. The administrator or supervisor may require ongoing revisions of the project, and he/she shall record observations and recommendations in the "comments" section on the Checkpoint Review or formal observation form. A written annual Evaluation Report-Alternate Evaluation Model shall be completed one (1) time per year.

- (c) Multi-year projects may be considered by individuals or collaborative groups with the approval of the administrator or supervisor and shall have checkpoint reviews as stated in sub paragraph c.3.b. The written Annual Evaluation Report-Alternate Evaluation Model for the school year shall be completed as to the status of the project.
- d. Once during each year, the tenured teaching staff members shall receive a written annual evaluation. An annual summary conference between the supervisors and the teaching staff member shall be held before the written performance report is filed.
- e. Once during each year, the tenure and non-tenured teaching staff members shall receive an "Individual Professional Improvement Plan." This plan is a written statement of action developed by the supervisor and the teaching staff member to correct deficiencies or to continue professional growth, timelines for their implementation, and the responsibilities of the individual teaching staff member and the district for implementing the plan.

- (8) Evaluation Forms and Policies Any amendment of evaluation policy and/or procedures shall be distributed to each teaching staff member within ten (10) school days after adoption.

B. Support Staff Evaluations

Support staff employees shall receive a minimum of one (1) written evaluation yearly by appropriate supervisory personnel, and such evaluations shall be reviewed by the employee before being placed in his file. All monitoring or observations of the work performance of an employee shall be conducted openly and with knowledge of the employee. An employee shall be given a copy of any evaluation report prepared by his evaluators and shall initial both original and copy to signify receipt, but not approval thereof.

- (1) Evaluations shall include a written narrative which may include, when pertinent:
 - a. Strengths of the employee as evidenced during the period since the previous evaluation.

- b. Weaknesses of the employee as evidenced during the period since the previous evaluation.
- c. Specific suggestions as to the measures which the employee might take to improve his performance.
- d. The final decision regarding evaluation of cafeteria workers employed by the Lincoln Park Board of Education shall rest with the Superintendent of Schools.
- e. Any employee disagreeing with any point of an evaluation, shall have the right to respond in writing, within 10 working days of signing the evaluation, to the points of disagreement and will have a copy of such disagreement attached to the evaluation before placing the evaluation in his file.

ARTICLE XXVIII MENTORING CLARIFICATIONS

The state mandated mentoring program, in which a mentor teacher is assigned to work for one year with a new teacher who holds provisional certification, will operate as designated by the State of New Jersey. Any changes in the state guidelines will take precedence over those stated in the teacher's contract.

The mandated mentoring program requires that the district establish a support team that must include the principal and "an experienced mentor teacher." The support team may include a supervisor from the district or a college. It is the obligation of the principal and/or certified supervisor to observe and evaluate the new teacher at least three times during the initial mentoring year. The mentor teacher will participate in a collaborative conference between the provisionally certified teacher and the district support team at the start and at the end of the mentoring process, providing that this conference is not evaluative. Required support of at least nine interactions between the new teacher and members of the district support team must be evidenced. Those nine interactions may include, but not be limited to:

- (1) visitations to the classroom of the teacher by the mentor for the purpose of observation and/or informal coaching. The mentor teacher shall not share any evaluative feedback with administrators or supervisors;
- (2) scheduled meetings before school, after school, and/or during prep times;
- (3) the collaborative conferences between the provisionally certified teacher and the district support team at the start and end of the mentoring process;
- (4) other meetings such as those for the purpose of developing plan books, lesson plans, acquiring support materials, planning activities and projects, and/or coaching related to parent interactions.

Postings of all available mentoring opportunities will be made if the teacher who requires mentoring is hired by the district ten days or more before the end of the school year. If the teacher who requires mentoring is hired during the summer or when school is not in session, the

principal or responsible administrator may select a mentor teacher based on a list of those who have indicated interest in becoming mentors. The LPEA will be given a copy of the list; the list shall be reissued annually.

The mentor teacher will receive payment for services from the provisional/alternate route teacher based on the state-approved rates. This payment will be done through the district payroll department. Appropriate deductions will be made from the provisionally certified teacher's pay to cover the payment of the mentor, the amount of that payment being designated by the State. The Board of Education will incur the administrative costs of facilitating this process.

Since the State guidelines for mentoring stipulates that a mentor teacher may serve more than one provisionally certified teacher, a mentor may serve more than one client. However, every effort will be made to tap all professional expertise of the staff members who are available and willing to serve as mentor teachers.

In the selection of a mentor teacher, preferences may be given to a staff member who works in the same school, grade level, and/or subject area as the provisionally certified teacher.

The mentor teacher shall not write formal evaluations or give verbal evaluations of a mentored teacher.

MINNESOTA: Bargaining Teacher Evaluation and Peer Coaching

The Education Omnibus Bill passed by the 2011 Legislature in special session amended Minnesota Statute Chapter 122A.40, Subdivision 8 to provide for the development of evaluation and peer coaching for continuing contract teachers. This amendment is a mandate for school boards and exclusive representatives of teachers to develop an annual teacher evaluation and peer review process. In the event that the union and employer fail to reach agreement, the new law requires the state to develop an evaluation process that will be implemented. The evaluation and peer review process must be in place at the start of the 2014-2015 school year.

Education Minnesota strongly recommends the following for ALL LOCALS in the state:

- Locals should bargain either contract language or a Memorandum of Agreement during the negotiations of the 2011-2013 contract that establishes a joint union-district evaluation and review design team or committee.
- This agreement must CLEARLY ESTABLISH the process and procedures the design team is to follow
- This team will be explicitly responsible for studying, planning, developing and implementing the statutory requirements for the evaluation and peer review plan.
- Both the agreement to jointly design the evaluation system AND the resulting evaluation system should be contractually binding via ratification by both the school board and union.

The agreement should establish the composition of the design team and the operating procedures to be followed while drafting the plan for evaluation and review. This should include but not be limited to determining the number of representatives from each party, who will convene the first meeting and when it will be held as well as who will serve as chair or co-chairs of the design team.

Additionally, the scope of authority of the team must be established in the contract or MOU including the components that must be included in the final plan and how the final report of the team will be ratified by the parties before implementation in 2014.

The following sample language can be used to establish the Joint Union-District Teacher Evaluation and Peer Coaching Design Team or Committee:

Sample Language

In order to develop a teacher evaluation and peer review plan for the 2014-2015 school year, the *(Union)* and *(District)* agree to establish a Joint Union-District Teacher Evaluation and Peer Review Design Team (the Team). The Team is responsible for the development of a teacher evaluation and peer review plan for probationary and continuing contract teachers that complies with the requirements of Minnesota law.

In the event the Team determines that existing evaluation or peer review plans, processes and/or procedures meet all or part of the statutory requirements, the Team may incorporate these existing elements into the proposed evaluation plan.

- I. The Team will consist of:
 - a. **(Number)** representatives of the teachers appointed by the president of **(the Union)**
 - b. **(Number)** representatives of the school district appointed by the Superintendent or his designee.
- II. The Superintendent will convene the first meeting of the Team no later than October 1, 2011. The agenda of the first meeting will include the establishment of a regular meeting schedule.
- III. The president of the Union or a designee and the Superintendent or a designee will serve as co-chairs of the Team.
- IV. The Team will establish practices and procedures for its operation.
- V. The district shall supply the necessary resources, including but not limited to secretarial support, to allow for the completion of the Team's responsibility.
- VI. The elements to be considered in the development of the plan shall include but not be limited to:
 - a. The processes and timelines that will be used in the three (3) year evaluation cycle.
 - b. Identification of multiple measures of teacher effectiveness.
 - c. Staff development opportunities aligned with the evaluation process established under M.S. §122A.60 and §122A.61.
 - d. Qualifications and training of mentors and evaluators, including:
 - i. Training and use of induction mentors for probationary teachers.
 - ii. Training and use of peer mentors for continuing contract teachers.
 - iii. Orientation for mentee teachers with regard to working effectively with a mentor.
 - e. Assistance plans and procedures for teachers identified through the evaluation and peer review processes as not meeting the performance standards established in the evaluation process.
 - f. An evaluation and peer review implementation schedule that includes:
 - i. Timeline for ratification of contract language implementing the established evaluation and peer review system by both the Union and District.
 - ii. Timeline for implementation.
 - iii. Timeline for training of mentors and evaluators in advance of the 2014 implementation date.
 - iv. Notification in advance of observations and evaluations to teachers being observed or evaluated. The Team shall determine the manner and timing of this notification.

The final draft of the plan shall be approved by a majority vote of the Team and reported to the Union and District no later than July 1, 2013. Each party shall, before October 1, 2013 vote “Yes” or “No” on the proposed plan without amendment. In the event of a “No” vote, the party rejecting the plan must report their specific objections back to the Team within 10 days of the vote and the Team will attempt to amend the plan in an effort to gain the approval to the parties. This reconciliation must be completed within 10 days after the receipt of the objections and resubmitted for a final vote no later than November 1, 2013. In the event the amended plan is rejected the plan established by the State of Minnesota will be adopted. After final adoption of the plan, the Team will ensure that contractual language implementing the plan is written and ratified prior to July 1, 2014.

Edina-Education Minnesota - Sample Observation and Evaluation Cycle

Section 7: Observation Cycle

Subsection 7.1: Scope and Duration

For the duration of this agreement, the goal setting, observation practices and procedures, and teacher

evaluation methods described in this agreement shall take the place of the Teacher Performance Appraisal

(TPA) system used by the District. If this agreement is terminated, the District shall return to the TPA system.

Subsection 7.2: Philosophy

Edina Public Schools are committed to providing the best possible educational opportunities for all students.

Learning can best be achieved by increasing teacher and administrator effectiveness through performance

appraisal that emphasizes a cooperative working relationship among colleagues. Because full utilization of the

talents of the staff is essential, the District encourages a dynamic and continuous effort to enhance the human,

technical, and conceptual skills of all its employees.

The two-fold purpose of the Professional Growth Plan is to assure quality performance through formal

observations of both probationary and non-probationary continuing contract teachers and to support

professional learning and continued growth for all teachers per Minnesota Statute.

Teacher Professional Growth Plans should seek to improve our delivery service to meet the needs of all our

students. Such plans should be continuous, constructive, and cooperative endeavors.

Subsection 7.3: Cycles of Observations

1. Each teacher will participate in a minimum of three observations each year.

2. Probationary teachers will be observed for three consecutive years by administrators before receiving

non-probationary continuing contract status, unless the teacher has obtained non-probationary continuing contract status in another Minnesota school district; if so, the probationary teacher

will be

observed for one year by administrators before obtaining non-probationary continuing contract status.

3. Non-probationary continuing contract teachers will be observed on a four-year cycle to assure continuing quality performance and professional growth. For each of the first three years of the cycle, atleast two observations will be conducted by instructional coaches. Generally, the third observation shallbe completed by an instructional coach, administrator, or peer. However, a teacher and instructionalcoach may propose another option for the third observation; this option must be approved by theDirector of Teaching and Learning and the Alt Comp Facilitator prior to implementation. During the

fourth year of the cycle, teachers must be observed once by an administrator and twice by instructional

coaches. The four-year cycle will continue the cycle in place during the 2007-08 school year.

4. If an administrator has concerns about a teacher's performance, the administrator may provide additional

levels of assistance for the non-probationary continuing contract teacher.

5. Instructional coaches shall be assigned to teachers by the Alt Comp Facilitator. A teacher may request a

different instructional coach through the Alt Comp Facilitator. The Alt Comp Facilitator shall attempt to

honor these requests but may deny them due to staffing needs or insufficient rationale. A teacher may

appeal a denied request to the Alt Comp Appeals Committee (see Section 9).

Subsection 7.4: Stages and Guidelines of the Formal Observation Process for Professional Growth Plans

The annual observation cycle for Professional Growth Plans (Alt Comp) comprises:

- An initial planning conference, which includes (1) the identification of the individual teacher's Professional Growth Plan, and (2) the development of the individual teacher's Student Learning Goals
- A minimum of three observations

HELENA EDUCATION ASSOCIATION AND HELENA SCHOOL DISTRICT NUMBER 2011-2013

ARTICLE XIV—TEACHER EVALUATION

14.1 Purpose

The primary goal of the District and its professional staff is to promote the personal growth of the students they serve. This common goal is supported by a personnel evaluation program that seeks to develop as competent a teaching staff as possible. Staff development is accomplished through evaluation used primarily to support the professional growth and improve the performance of teachers, and secondarily to make valid decisions related to assignments, retention, and termination.

Both the District and HEA have agreed upon the following provisions with respect to the purpose, management and implementation of the Teacher Evaluation.

- 1) The District and HEA agree that the specific provisions and requirements of Teacher Evaluation will be part of a governance document that is separate from this negotiated agreement, but will hold the same standing and status as other language contained in this negotiated agreement.
- 2) Labor/Management Committee (formerly “The Transition Team) The Labor/Management Committee shall be authorized to clarify and interpret the Teacher Evaluation document and facilitate other issues related to the Teacher Evaluation. The Labor/Management Committee shall make recommendations for revisions of the Teacher Evaluation document to the HEA Board of Directors and the District's Board of Trustees for approval. The Labor/Management Committee shall be allowed to adjust the wording and structure of the Teacher Evaluation document as long as the original intent and philosophy remain intact. All changes made in the Teacher Evaluation document will be reviewed with the Board of Trustees and the HEA Board of Directors on an annual basis.

14.2 Mandatory Improvement Plan and Plan of Assistance

If the evaluator considers a teacher's performance to be substandard the evaluator shall inform the teacher in writing of the substandard performance. At this time the evaluator shall discuss the problem area(s) with the teacher. The administration, at their sole discretion, may choose to place a teacher on a Mandatory Improvement Plan. If a Mandatory Improvement Plan is implemented the plan must cover no less than forty-five (45) school days.

In the Mandatory Improvement Plan, the evaluator shall state specific weaknesses and, in consultation with the teacher, shall outline the Plan of Assistance the evaluator and the District shall provide the teacher to help correct the weaknesses. In turn, the teacher has the obligation to actively address and comply with the terms of the Plan of Assistance, as well as to explore other avenues to correct the weaknesses, as stated in the Mandatory Improvement Plan. The evaluator shall identify methods of evaluation and establish review dates.

At the end of the Mandatory Improvement Plan, the evaluator shall submit a written evaluation of the teacher's performance during the Mandatory Improvement Plan. The evaluation shall include a recommendation of retention or termination and shall be reviewed with the teacher. After discussion with the evaluator, the teacher shall have five (5) school days to provide written comment regarding the written evaluation. A signed copy of the written evaluation shall be given to the teacher; another copy shall be placed in the teacher's official personnel file in the District office. This section shall not preclude the District's legal right (20-4-207, M.C.A.) to dismiss teachers under contract and shall not be construed to require a Mandatory Improvement Plan before any such dismissal can be effected.

NJEA

Support on Site (SOS)

From www.njea.org



NJEA is offering its latest new member initiative to support and engage our newer teachers. The NJEA SOS – Support on Site – program can build positive relationships between the administration and the association; eliminate the teacher turnover in a district; rejuvenate veteran teachers; and motivate nontenured members to become involved in their association.

If you are interested in the NJEA SOS program, please contact your NJEA regional UniServ representative. The UniServ representative can help you customize the program to fit the particular needs of your association and school district.

Check out the resources below, and then contact your UniServ rep to get started.

A Brief History

The Support on Site (SOS) program was initiated by Camden County Teacher of the Year Marlene Rubin at the Charles W. Lewis Middle School in the Gloucester Township School District in Camden County in September 2002.



The first official SOS group attained tenure in September 2005. All of the participants remain educators and one has already been recognized as a Teacher of the Year.

The initial purpose of establishing this support group was two-fold. First, C.W. Lewis Middle School hired a large number of novice teachers that particular school year. Second, it was believed that although a personal one-on-one mentor is a valued necessity for a novice teacher, the group support was a missing component of the induction process for new teachers. The support group resulted in many positive outcomes.

The building principal was elated that her new staff was progressing so well and appeared well adjusted and a vital addition to the learning community. Additionally, the novice teachers began to attend and share professional development opportunities. Veteran teachers heard about the “good things” happening at the meetings and they became reenergized. The enthusiasm was contagious and the program began to spring up in other buildings with the support of the local association and administration.

The district adopted the program as a Gloucester Township Novice Teacher Support Group and the program was officially named, SOS – Support On Site. A facilitator was selected for each of its 11 schools. The participants included all first-, second- and third-year teachers, as well as any teachers new to the district, and were invited to participate and attend ten monthly SOS meetings.

Every year the program has grown in the number of teachers who attend; not just novice and nontenured teachers, but veterans who are looking to share in the camaraderie and reenergize themselves.

During its four years in operation, the SOS Program has become a lifesaver for the teaching profession in Gloucester Township. In the spring of 2006, the program was featured on the NJEA Emmy award-winning television show, *Classroom Close-Up, NJ*.

NJEA adopted the SOS program as a statewide new member initiative so that other local associations and school districts could reap the benefits of the successful program created by the staff of Gloucester Township School District. The NJEA version of the SOS program was officially launched at the 2006 NJEA Summer Leadership Conference.

Agreement between the Ojai Federation of Teachers and the Ojai Unified School District

Ojai Peer Assistance and Review Program (OPAR)

A. Preamble

The Ojai Unified School District and the Ojai Federation of Teachers strive to provide the highest quality of education to the students of the Ojai Unified School District. Both parties agree that optimum student performance requires fully qualified teachers in every classroom. In order for students to succeed at learning, teachers need to succeed in teaching. Both parties agree that all teachers must focus on continuous improvement in their professional practice. Therefore, both parties agree to collaboratively design and implement a professional development program based on the California Standards for the Teaching Profession to improve the quality of instruction through expanded and improved professional growth, peer assistance and professional accountability.

B. Ojai Peer Assistance and Review Joint Committee (OPARJC)

1. The OPARJC will consist of seven (7) members. Members of the OPARJC will include four (4) tenured certificated teachers selected by the Federation, one (1) high school, one (1) junior high school, one (1) elementary, one (1) OFT Board member, the Superintendent or designee, and two (2) administrators selected by the District. The OPARJC will establish the operational procedures of the committee, including the method of selection of a chairperson. Term of service shall be two years. The numerical make-up of the OPARJC will be revisited at the end of the first year. The OPARJC shall have the option of extending the term of service of half of the members for an additional year to provide continuity.
2. The OPARJC will establish the meeting schedule. To hold meetings, six of the seven members of the OPARJC must be present. Such meetings may take place during the regular workday, in which event teachers who are members of the OPARJC will be released from their regular duties without loss of pay. Total administrative expenses of the Joint Committee shall not exceed 5% of the total funds available for PAR.
3. The OPARJC will be responsible for the following:
 - a. Adopting program protocols/procedures.
 - b. Overseeing and annually evaluating the OPAR program.

- c. Establishing the need for PAR services for teachers and the District, and establishing clear priorities for participation.
 - d. Submitting written notification of participation in the PAR program to the Participating Teachers (PT), the Consulting Teachers (CT), and the site principals.
 - e. Selecting CTs. Guidelines for CTs will be developed by OPARJC.
 - f. Evaluating the CTs' responsibilities and roles for maximum benefit.
 - g. Providing training for Committee Members and CTs.
 - h. Assigning CTs to PTs. Describing, facilitating, and communicating the selection and matching process of CT and PT. PTs will have the right to meet with the OPARJC to discuss the assignment of the CT.
 - i. Reviewing CTs' final reports.
 - j. Determining when a Joint Committee Member should not participate in making a decision because he/she has a disqualifying interest in it. The determination must be accompanied by disclosure of the disqualifying interest.
 - k. Forwarding to the Board of Education, as recommendations for termination, the names and supporting documentation of the PTs with unsatisfactory evaluations who, after sustained assistance, are unable to demonstrate satisfactory improvement.
 - l. Providing an annual report to the Board of Education and the Ojai Federation of Teachers regarding the program's impact and improvements to be made in the program.
 - m. Selecting trainers and providing training programs (including, but not limited to BTSA), for the CT and the PT.
 - n. Administering the budget available to the program.
- 4.** Program protocol/procedures adopted by consensus or majority vote of the OPARJC will be consistent with the provision of the law, OFT Agreement, and Board policy. OPARJC will submit the program protocol/procedures to the District and the OFT for review and approval.
- 5.** It is intended that all documentation and information related to the participation in the OPARJC program be regarded as a personnel matter. As such, both are subject to the personnel record exemption in Government Code 6250 et seq. and the Agreement, Article 11.

C. Participating Teachers (PT)

A PT is a unit member who receives assistance and coaching to improve instructional skills, classroom management, knowledge of subject, and related aspects of teaching performance. There are three categories of PTs.

1. Beginning Participating Teacher (BPTs): Teacher with year 1 or 2 employment status in the District.

- a. All newly-hired teachers will be required by the OPARJC to participate in the program provided there is sufficient funding.
- b. The purpose of such participation is to provide peer assistance, and as such will play no role in the evaluation of the BPT.
- c. The OPAR program for BPTs will be in the form of a beginning teacher assistance program which may include BTSA (Beginning Teacher Support and Assessment).
- d. The BPT will submit feedback about the PAR program to OPAR.

2. Referred Participating Teacher (RPT): Tenured teacher who has been referred to the Peer Assistance and Review Program for support because of an unsatisfactory evaluation as defined in 2a.

- a. Permanent teachers who exhibit serious job-related deficiencies, and have received an "Unsatisfactory" rating by the administrator on the Certificated Evaluation Instrument Summary will be required to participate in the OPAR program. All evaluation during the RPT's participation in the OPAR program will be carried out by the CT. Progress on the OPAR Action Plan will be monitored by the administrator and the OPARJC.
- b. The purpose of participation in the OPAR program is to help correct job-related deficiencies as defined in 2a, to assist the teacher in improving performance and to evaluate the teacher's progress toward the correction of the deficiencies.
- c. The decision of the principal to refer a permanent unit member to the OPAR program will not be subject to the grievance procedure presented in Article 14 of the OFT master contract.
- d. Upon referral, the RPT will have the opportunity to appear before OPARJC.
- e. The RPT will continue participating in the PAR program until OPARJC determines the teacher is no longer benefiting from participation in the program, or the teacher receives a satisfactory evaluation, or the teacher is separated from the District.

- f. A final report will be submitted by the CT to the OPARJC and the principal.
- g. The RPT will have the right to submit a written response and or request a meeting with OPARJC and will have the right to representation concerning the CT's final report.
- h. The RPT will have the right to representation per Article 5 of the OFT master contract.
- i. The OPARJC will forward recommendations for dismissal of the RPT to the Board of Education.
- j. The results of the referred RPT's participation in the OPAR program shall be used in the evaluation of the teacher pursuant to Education Code Section 44660 and 44662(d) et seq.
- k. The RPT will submit feedback on the PAR program to OPARJC.

3. Volunteer Participating Teacher (VPT): Tenured teacher who voluntarily requests the services of Peer Assistance and Review program to improve in a focused, self-selected area of professional growth based on the California Standards for the Teaching Profession.

- a. A permanent unit member who seeks teaching performance improvement may request the OPARJC to assign a CT to provide peer assistance.
- b. The purpose of such participation is to provide peer assistance, and as such will play no role in the evaluation of the VPT.
- c. The VPT may terminate his/her participation in the OPAR program at any time with a written reason.
- d. Unless requested by the VPT, information obtained by the CT while providing assistance cannot be utilized in the evaluation process and/or as a basis for mandatory participation in the OPAR program.
- e. The VPT will submit feedback on the OPAR program to OPARJC.

D. Consulting Teachers (CT)

- 1. A CT is a permanent unit member who provides assistance to a PT pursuant to the OPAR program. CTs will possess the following qualifications:
 - a. Currently a teacher in the District with at least five (5) years of permanent teaching status.
 - b. Demonstrated exemplary teaching ability in accordance with the California Standards for the Teaching Profession.

c. Extensive knowledge and mastery of subject matter, teaching strategies, instructional techniques, and classroom management strategies necessary to meet the needs of pupils in different contexts.

d. Demonstrated leadership ability.

e. Demonstrated interpersonal skills.

f. Demonstrated ability to work cooperatively and effectively with other teachers and administrators.

g. Demonstrated commitment to their own professional growth and learning.

h. Willingness to engage in a formative (ongoing) assessment process.

i. Ability to communicate effectively both orally and in writing.

j. Ability to work within established timelines.

2. The CT will be ineligible for an administrative position for a period of two years after service as a CT. This ineligibility may be waived by the OPARJC should extenuating circumstances arise.

3. CTs will be trained to offer both peer assistance and to understand the specific functions of the OPAR program.

4. CTs provide assistance to PTs in improving instructional performance in the areas of subject matter knowledge, teaching strategies, classroom management, or teaching methods and instruction and other areas as defined by the California Standards For The Teaching Profession. Duties will typically include:

a. Setting and discussing performance goals with the BPT and RPT and the principal in accordance with Education Code 44664(a). The CT's role is to help the RPT and BPT improve in the areas the principal has identified, if applicable.

b. Observing the Participating Teacher several times during periods of classroom instruction.

c. Meeting and consulting with the principal or designee of a PT, if applicable.

d. Demonstrating good teaching practices to the PT.

e. Using District resources to assist the PT.

f. Monitoring the progress of the RPT and maintaining a written record. On a timeline determined by the OPARJC, the CT shall complete a written report documenting the teacher's participation in the program consisting of:

- 1) a description of the assistance provided to the RPT
- 2) a description of the results of the assistance in the targeted areas.
- 3) a recommendation as to whether the RPT will or will not benefit from further participation in the program. This report shall be submitted to the OPARJC with copies also submitted to the RPT and the principal.

g. Monitoring the progress of the PT and maintaining a written record. On a timeline determined by the OPARJC, the CT shall complete a written report to the OPARJC of the teacher's participation in the Program consisting of a description of the assistance provided to the PT.

h. Making status reports to the OPARJC and the principal concerning an RPT's progress.

i. Establishing a cooperative relationship with the evaluating principal and coordinating the assistance provided to the PT.

j. Providing other services as directed by the OPARJC.

k. Providing Subject Specialists (SSs), if necessary, with the approval of the OPARJC chairperson or designee, to support PTs in content areas or grade levels. SSs will be selected by the consulting teacher based on experience, willingness and content expertise. Each SS will receive a stipend as determined by the OPARJC for sharing content subject area, course, or grade level expertise and materials. Stipends will be paid once in June at the completion of the assignment.

5. In order to fill a position of CT, a notice of vacancy will be posted at all sites and in the District Office. In addition to submitting an application form, each applicant is required to submit at least three references from individuals who have direct knowledge of the applicant's abilities to be a CT, including a reference from an administrator, a reference from a Federation representative, and a reference from a classroom teacher. All applications and references shall be treated with confidentiality.

6. CTs will be selected by consensus of the OPARJC after two representatives of the OPARJC, one teacher representative and one District representative, have conducted a site visitation and a classroom observation of all final candidates. If consensus cannot be reached, then a majority vote will be used. The term of a CT will be three (3) years.

7. CTs will have a caseload determined by a ratio of CTs to PTs. PTs include BPTs, RPTs, and VPTs. This ratio is dependent on the amount of intervention time required, as determined by the OPARJC and CTs.

8. The OPARJC may remove a CT from the position at any time because of the specific needs of the OPAR Program, inadequate performance of the CT or other just cause. If the OPARJC determines that a CT is to be removed, then the CT will be provided a written statement of the reasons for the removal. At the request of the CT the OPARJC will meet with him/her to discuss the reasons.

9. In addition to regular salary:

a. A CT will receive a stipend of between \$1,000 and \$4,000 as determined by the OPARJC for additional responsibilities during the regular work year.

b. In the event that a CT is required to work with a PT prior to or after the regular work year, the CT will be paid the hourly rate stated in the current certificated salary schedule. All such time shall be pre-approved by the OPARJC chairperson or designee.

10. Upon completion of his/her service as a CT, a teacher will have the right to return to his/her previous employment equivalency. CTs will be guaranteed a teaching position for which they are credentialed or legally authorized. Every effort will be made to return the CT to his/her previous assignment.

11. At the written request of the PT or the CT, the OPARJC may assign a different CT to work with the PT at any time during the year.

12. Other Provisions:

a. Functions performed by unit members under this document shall not constitute either management or supervisory functions as defined by Government Code Section 3540.1(g) and (m).

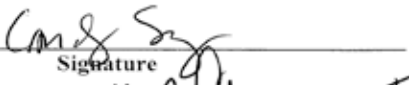

b. Unit members who perform functions as CTs or OPARJC members under this document shall have the same protection from liability and access to appropriate defense as other public school employees pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the California Government Code.

Poway Federation of Teachers and Poway Unified School District, 2010-2011

**Memorandum Of Understanding
Between the
Poway Unified School District And the Poway Federation Of Teachers
Agreement on
Peer Assistance and Review (PAR) and Poway Teacher Intervention Program (PTIP)
2000/2001 School Year (Updated 2010-11)**

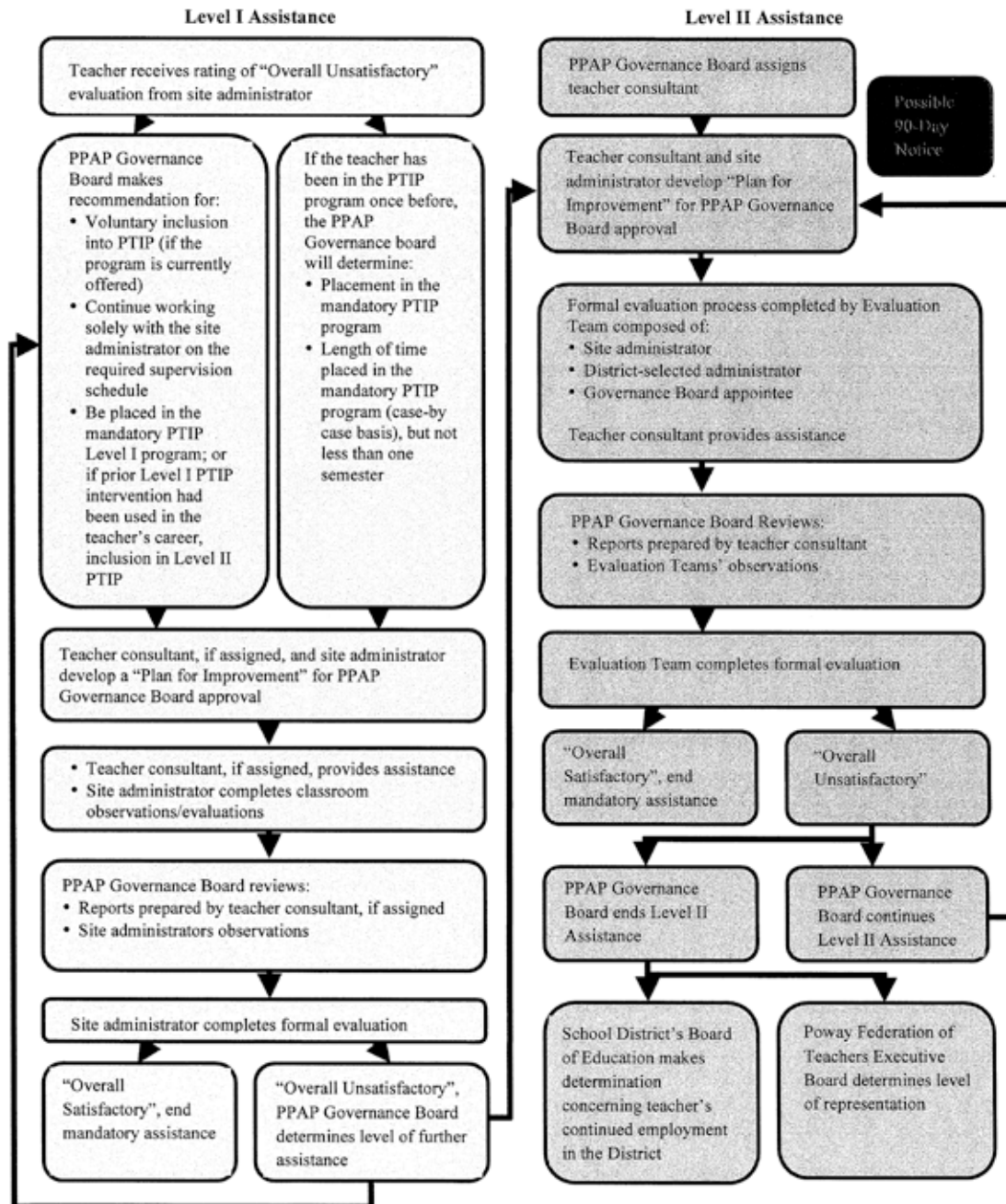
The Poway Federation of Teachers and the Poway Unified School District agree to a PAR/PTIP program. The outline of the program is given below.

1. The Joint Committee as defined in the law will be the PPAP Governance Board. The PPAP Governance Board will have responsibility for governing the entire program, including budgetary responsibilities and making recommendations to the Superintendent.
2. The PPAP Governance Board will oversee a PAR/PTIP program.
3. The parties have established a system to manage assistance provided to permanent teachers employed by the District who have been identified as having classroom performance which places them in serious professional jeopardy.
4. A permanent teacher's overall unsatisfactory evaluation from the site evaluator will initiate a recommendation to the teacher and the PPAP Governance Board. The PPAP Governance Board will make a recommendation from the listed options: voluntary inclusion into PTIP to include the assistance of a teacher consultant with the site evaluator, if such a program is currently being offered; to continue working solely with the site evaluator on the required supervision schedule; be placed in the mandatory PTIP program; or if prior Level I PTIP intervention had been used in the teacher's career, inclusion in Level II PTIP. The evaluation process will be on-going with the next evaluation due no later than the end of the subsequent school semester.
5. When a permanent teacher receives an overall unsatisfactory evaluation from the site evaluator after having been in the PTIP program once before, the PPAP Governing Board will determine the teacher's placement in the Mandatory PTIP process. The length of time the teacher is placed in the mandatory assistance program will be determined by the PPAP Governing Board on a case-by-case basis but will not be less than one semester.
6. The PPAP Governing Board shall review peer reports prepared by consulting teachers and site principals. If after sustained assistance, teachers in the PTIP program are not able to demonstrate satisfactory improvement, the PPAP Governing Board will make a recommendation to the Board. At that time, The School District's Board of Education will make the determination concerning the teacher's continued employment in the District.
7. Supporting document, "Permanent Teacher Intervention Program (PTIP) Flow Chart" is attached to this MOU.
8. The agreement may be changed by mutual consent. The agreement expires June 30, 2013 unless extended by mutual agreement.

For the Federation	 _____ Signature	03.15.11 _____ Date
For the District	 _____ Signature	3/21/11 _____ Date



**Poway Professional Assistance Program
Permanent Teacher Intervention Program (PTIP)
Flow Chart**



**SAN JUAN TEACHERS ASSOCIATION AND SAN JUAN UNIFIED SCHOOL
DISTRICT COLLECTIVE BARGAINING CONTRACT, JULY 1, 2009 – JUNE 30, 2011**

Article 3. EVALUATION

3.01 District Evaluators

The evaluation of members of the bargaining unit shall be the responsibility of management. Members of the bargaining unit shall not be required to participate in evaluation or observation of other members nor shall members in Option A be required to assess their own performance. Any official District forms used for evaluation shall be mutually agreed upon by the District and the Association. An annual evaluation shall occur for each member. An annual evaluation shall occur for each temporary and probationary member, and at least every two (2) years for permanent members.

3.02 Plans to Achieve Student Progress/Professional Growth—Option A

Each member shall, within the program appropriate to his/her students and consistent with the resources available, formulate plans to achieve student progress and the manner in which attainment of this progress will be measure. These specific plans shall be consistent with District goals and program objectives developed for a member's area of responsibility.

3.02.1 Option A applies to all teachers except those under Option B.

The evaluator shall schedule the Professional Evaluation Conference and meet with the member to complete Part I of the Professional Evaluation Report, in accordance with the following timelines:

- a. A member returning to the same site/program as the previous school year—five (5) weeks following the beginning of the instructional program.
- b. A member assigned to a new site/program different from the previous school year and newly hired members—six (6) weeks following the beginning of his/her instructional program.
- c. A member transferred after the instructional program has begun—four (4) weeks after beginning of his/her new assignment.
- d. These timelines (a, b and c) may be extended by the evaluator, as dictated by program need, but in no case shall the objectives be submitted later than seven (7) weeks after the member's instructional assignment has begun.

3.02.2 A disagreement which arises over any aspect of the member's Plans to Achieve Student Progress shall be mediated:

- a. By a mutually acceptable site or District administrator, not later than two (2) weeks after receiving the dispute.
- b. Or lacking mutually acceptable administration, by the Superintendent/designee, not later than three (3) weeks after receiving the dispute. In either case, the decision shall be final.

3.02.3 Observation—Option A

Formal Observation: An administrator shall complete a formal observation using Part II of the Professional Evaluation Report as follows:

- a. Each temporary member's class at least once during his/her current specified period of employment.
- b. Each probationary member's class/assignment at least once a year.

- c. Each permanent member who has taught fewer than five (5) years in the District or who has been on an improvement plan within the past three (3) years, at least once a year. All other permanent members, at least every two (2) years.
- d. A member who has taught five (5) years or more in the District and who has received all “Meets or Exceeds Standards” on his/her evaluation for the past three (3) years, but who chooses to use Option A, shall be formally observed at the principal’s discretion. In such event, all other guidelines in this section shall remain in effect.
- e. Each formal observation must be at least forty (40) minutes long and the evaluator must complete the Classroom Observation Form. The initial formal observation must occur no later than February 15.
- f. At least two (2) working days prior to the initial formal observation, the evaluator shall schedule a pre-observation conference with the member. The conference and/or the two (2) day notice may be waived by the member in writing.
- g. The member shall be given a copy of the written observation report within ten (10) work days of the formal observation, an opportunity to discuss the observation with the evaluator, and an opportunity to attach to the observation report any comments that the member may wish to prepare.
- h. If a member receives an objectionable written observation report, he/she shall be entitled to not less than one (1) additional observation and conference other than those provided elsewhere in this section. Within five (5) work days of receiving the initial written observation report, the member may request, in writing, the additional observation and conference. The evaluator shall make a reasonable effort to conduct the additional observation and conference within ten (10) work days after receiving said request from the member.
- i. Each member shall sign the Classroom Observation Form. However, such signature does not constitute agreement with the judgment of the evaluator.
- j. A reasonable number of additional classroom observations, formal or informal, with or without notice, may be conducted for any reasonable period of time at the discretion of the evaluator. When such additional observations are reduced to writing, a conference shall follow and the member shall have the right to attach a written response.
- k. As appropriate, the member’s evaluator shall make specific recommendations as to how to correct any deficiencies noted in the Classroom Observation Form.
- l. The evaluator shall complete Part II of the Professional Evaluation Report.

Informal Observation:

- a. Informal observations are defined as drop-ins, visits, or pass-throughs. These are usually short visits, but have no time restrictions. Informal observations may occur in Option A and Option B.
- b. The administrator may leave a note, or a memo on school stationery. If a suggestion or recommendation for improvement is reduced to writing, the member shall be given the opportunity for a conference with the evaluator, unless waived by the member in writing.

3.02.4 Pilot Program for Option A

The District and the Association agree to implement a pilot program for 1999-2000 which modifies the current Part II observation form in the following ways:

- a. An “Approaching Standards” column will be added to the form. The purpose of this addition is to distinguish between a serious deficiency and a slight deficiency. It should not be used to distinguish between someone who meets the standard and those who exceed the standard.

Improvement and Support to Meet Standards to be completed during or after the Post Observation conference.”

The Pilot Program shall be implemented across the District in the first full year following the ratification of the contract. Inservicing of these changes will be determined jointly by the District and the Association.

3.02.5 The Classroom Observation Form used in the Option A process shall not be used for Option B.

3.03 Plans to Achieve Student Progress/Professional Growth—Option B

3.03.1 Description: The program is an individual exploration of alternatives to the traditional process of evaluation. The program is based on the premise that professional educators are capable of setting meaningful goals which will serve as a focus for their professional growth for that year. That individual’s professional growth becomes the focus for the evaluation for that year. Participants are permanent members with a minimum of four (4) years of successful experience in the San Juan Unified School District. Members must have demonstrated competence by receiving all “Meets or Exceeds” in the member performance areas of the Summary Evaluation during the previous four (4) years.

Members participating in the program are still responsible for meeting the current District standards of performance (see page 6, Part III of the Summary Evaluation instrument). Participation in this program is voluntary.

3.03.2 Participants in Option B will adhere to the provisions of Exhibit “J” as modified, (e.g., change date of final evaluation to May 1, name for “Plans to Achieve Student Progress/Professional Growth—Option B”), including time lines and other provisions.

3.03.3 Administrators may conduct informal observations as provided in Exhibit “J”.

3.03.4 Removal from Option B: A teacher may be removed from Option B upon admittance to PAR program or if the member does little or not work toward the agreed upon Option B goals. If a member on Option B fails to meet one standard and is not admitted to PAR, the administrator and teacher shall create an improvement plan for that single standard to be incorporated into the Option B goals for the following year.

3.03.5 Return to Option B: A member may return to Option B after completing two (2) successive years of “Meets or Exceeds Standards” on the Option A Summary Evaluation.

3.04 Evaluations

3.04.1 The Summary Evaluation Form, or the computer generated form, shall be used for the evaluation of each member on Option A at least once each school year. The Professional Growth Plan Final Form, or the computer-generated form, will be used for the evaluation of each member on Option B at least once each school year.

3.04.2 A member's evaluation shall be based on the member's performance of instructional and non-instructional duties, and the member's professional conduct within the scope of his/her assignment.

3.04.3 Any information used on evaluation forms, other than that obtained through observation by the evaluator, shall be identified as to source.

3.04.4 A member shall not be held accountable for any aspect of the education program or factors over which he/she has no authority or control.

3.04.5 If a member is evaluated in an area outside of his/her teaching credential, the evaluation form shall so state.

3.04.6 As appropriate, the member's evaluator shall make specific recommendations as to how to correct any deficiencies noted in the Summary Evaluation Form.

3.04.7 No later than April 1, the evaluator shall meet with the member to complete and discuss Part III of the Professional Evaluation Report.

3.04.8 Each member may prepare and attach any comments he/she feels appropriate.

3.04.9 The substance of employee evaluations for competency is not arbitrable. Commentary alleging a disciplinable offense as defined in this agreement, if included in such evaluations shall be considered the same as a written warning.

3.04.10 Alternate Year Procedures

During the alternate year, when no formal evaluation is being conducted, the member is not responsible for writing goals or meeting with the administrator at the beginning and end of year related to such goals. However, the alternate year status does not prohibit the evaluator from conducting informal observations. In such cases, it is the evaluator's responsibility to communicate throughout the year with the member regarding any concerns related to their performance. When an administrator determines that a consecutive year evaluation will be conducted, it is the responsibility of the administrator to notify the member(s) prior to the end of the previous school year. Such notification shall include purpose and rationale to support consecutive year evaluations.

3.05 Personnel Files

3.05.1 A member's personnel file shall be treated as confidential.

3.05.2 Materials in personnel files of members which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

3.05.3 Such material is not to include ratings, reports, or records which were obtained prior to the employment of the person involved.

3.05.4 Each member shall have the right to inspect such materials, and copy such materials upon request, provided that the inspection is made at a time when such person is not actually required to render services to the employing district.

3.05.5 Material of a negative or derogatory nature shall not be placed in a personnel file unless and until the member is given notice and an opportunity to review it and attach his/her comments thereto. Such review shall occur, upon the member's request, during the member's work day, without salary reduction. Upon request by the member, the Personnel Director shall review the appropriateness of the material.

3.05.6 Upon written authorization by the member, a representative of the Association shall be permitted to examine and obtain copies of the materials in such member's file.

3.05.7 Any person who drafts, receives, or places materials in a member's file shall sign and date the material.

3.05.8 A member shall have the right to request the Personnel Director to place appropriate material of a positive nature in his/her personnel file.

3.05.9 Derogatory materials in a personnel file that are at least four (4) years old shall, upon an employee's written request, be removed from the personnel file and placed in a separate sealed file. Neither the Professional Evaluation Report nor the Summary Evaluation Form may be removed from the personnel file under this section.

3.06 Public Charges

3.06.1 Any anonymous or unsubstantiated public complaint shall not be used in a member's evaluation or included in a member's personnel file. If the administration decides that a complaint received about a member is not serious enough to warrant a meeting with the member, subsequent evaluations shall contain no reference to the complaint.

3.06.2 If the administrator believes a complaint is serious enough to bring to the attention of the member, the member may request the administrator to schedule a meeting of the member, the complainant, and the administrator. If, in the judgment of the administrator, such a meeting would be counter-productive, the meeting may not be scheduled. The reasons for that judgment shall be given the member upon request. If no meeting is held, or if a meeting is held without the opportunity for the member to be present, subsequent evaluations shall contain no reference to the complaint.

3.07 Controversial Materials

3.07.1 When complaints are received from citizens relative to the use of allegedly controversial instructional material which, in the judgment of the site/program administrator, are serious enough to adversely affect a member's evaluation, the complaints shall be handled as follows:

- Complaints shall be referred to the site/program administrator who shall review the complaint.
- The site/program administrator shall review the complainant with the member in question and shall attempt to resolve the issue at that level.

c. If a resolution is not reached at this level, the complainant shall be requested to state his/her case in writing and shall be informed that the statement shall include the name of the member, date, place and full description of the episode or material in question and, in the case of printed material, the name of the author, title, publisher and objections by page and items or, in the case of other material, specific information in order to locate the objectionable phrase or aspect and any other specific information which might be pertinent. Upon receipt of the above, the site/program administrator shall review the complaint with the member in question and shall subsequently hold a conference with the complainant and the member in an attempt to resolve the issue at that level.

d. If the issue is not resolved at the initial level, the matter shall be referred to the Superintendent/designee for resolution.

3.08 The Peer Assistance and Review Program (PAR)

3.08.1 Description of the program:

a. Effective July 1, 2000, the California Peer Assistance and Review Program for teachers shall become fully operational. The California Peer Assistance and Review Program shall establish a teacher peer assistance and review process as a critical resource mechanism that allows Consulting Teachers to assist Participating Teachers in gaining knowledge in subject matter and/or teaching strategies.

b. Effective upon ratification of this agreement, the Peer Assistance and Review Panel will be responsible for administering the District's BTSA program to provide peer assistance including method of delivering services, training and type of support and making recommendations to the school board on program design.

c. Effective July 1, 2000, Article 15 of the contract describing the California Mentor Program shall be deleted.

d. The parties agree to review the impact of SB 2042 (induction program for new teachers) and create options for collaborative design and implementation.

e. The parties agree to jointly provide on-going support and awareness level training for PAR.

3.08.2 Definition of terms:

a. Peer Assistance: Both new and experienced teachers benefit from professional support provided by other classroom teachers. For the purpose of this article, peer assistance describes activities planned and implemented by the Consulting Teacher in collaboration with the Participating Teacher and the supervising administrator. The activities shall be designed to strengthen the Participating Teacher's skill and expertise in accordance with the California Standards for the Teaching Profession in the following areas: mastery of content, instructional skills and techniques, alignment to District approved goals and objectives, classroom management, planning and designing lessons for all children, assessment of student progress toward established standards, appropriate learning environment.

b. Peer Review: For the purpose of this article, peer review describes a process by which the Consulting Teacher shall monitor, guide and support the progress of his/her assigned Referred Participating Teacher toward a satisfactory level of classroom performance. The review process shall include the following:

ii. Collaboration between the Consulting Teacher, the Referred Participating Teacher, and the principal in developing a mutually agreed upon plan for the Referred Participating Teacher. Any dispute that may result shall be resolved by the PAR panel.

- iii. Written reports to the Referred Participating Teacher which shall be shared with the Peer Assistance and Review Panel and the supervising administrator.
- iv. A cooperative relationship between the Consulting Teacher and the principal with respect to the process and content of Peer Assistance and Review.
- v. A Summary Evaluation prepared by the consulting teacher shall be provided to the Referred Participating Teacher, the Peer Assistance and Review Panel, and the supervising administrator. A copy of the Summary Evaluation shall be placed in the personnel file of the Referred Participating Teacher and the Summary Evaluation shall be reflected in the final recommendation of the Referred Participating Teacher.

c. Peer Assistance and Review Panel: The Peer Assistance and Review Panel shall be comprised of seven (7) members, the majority of who shall be teachers.

d. Referred Participating Teacher: A Referred Participating Teacher is a teacher who has achieved permanent status and who, as a result of an evaluation in which two or more ratings of unsatisfactory have been earned, demonstrate a need for assistance as outlined in the performance areas of section A and B of the Summary Evaluation. A permanent teacher with one unsatisfactory rating may be referred to PAR Panel for intervention. The PAR Panel shall have authority to accept or reject such referrals. A Referred Participating Teacher shall participate in both the peer assistance and peer review components of this program.

e. Volunteer Participating Teacher: A Volunteer Participating Teacher is a teacher who has achieved permanent status or an experienced teacher new to the District who seeks to improve his/her teaching performance and requests the Peer Assistance and Review Panel to assign a consulting Teacher to provide peer assistance. A Volunteer Participating Teacher shall be involved only in the peer assistance component of this program.

f. Beginning Participating Teacher: Newly employed classroom teachers possessing a preliminary credential with fewer than two years of fully credentialed teaching experience will participate in the District PAR program. In addition, classroom teachers who possess a pre-intern certificate, an intern credential, or an emergency permit may also participate in the District PAR program. Beginning Participating Teachers shall only be involved in the peer assistance component of this program. Within six (6) weeks of ratification of this successor agreement, a joint committee will explore the possibility of the Consulting Teacher assisting and reviewing the Beginning Participating Teacher.

g. Consulting Teacher: A Consulting Teacher is a permanent teacher selected by the Peer Assistance and Review Panel to provide support to a Participating Teacher and/or to assume additional responsibilities determined as appropriate by the Peer Assistance and Review Panel. The Consulting teacher shall be released on a full-time basis. The responsibilities may include:

- ii. Assistance and guidance to Beginning Participating Teachers.
- iii. Formative and summative evaluation of Referred Participating teachers.

3.08.3 Peer Assistance and Review Panel

a. The PAR Panel shall consist of seven (7) members, the majority of whom shall be certificated classroom teachers who are chosen to serve by the Association. The District shall choose the administrators of the Joint Panel. Consensus is the preferred decision making model. However, when consensus cannot be reached, a simple majority is needed for all decisions related exclusively to the Peer Assistance and Review Program and five (5) votes shall be required for all other decisions.

b. The PAR Panel will establish its own standing rules and meeting schedule. To meet, five (5) members of the PAR Panel must be present. Teachers who are members of the PAR Panel shall be released from their regular duties to attend PAR Panel meetings.

- c. The PAR Panel shall be responsible for the following:
- ii. Reviewing peer review reports prepared by Consulting Teachers and making recommendations regarding permanent teachers to the District governing board.
 - iii. Annually recommending, in consultation with the Superintendent and/or his/her designee, a budget for the PAR/BTSA Program that shall be subject to final review and approval by the Superintendent and school board.
 - iv. Annually evaluating the impact of the program in order to continually improve the program using evaluation criteria developed at the inception of the program. Establishing its own procedures, including the method for selection of a Chair or Co-Chairs.
 - v. Providing the necessary annual training for the Joint panel members.
 - vi. Selecting and evaluating the Consulting Teachers who are not performing effectively.
 - vii. Selecting trainers and/or training providers.
 - viii. Providing ongoing training for Consulting Teachers.
 - ix. Distributing, at the beginning of each school year, a copy of the description and guidelines governing the program to all bargaining unit members, administrators and school board.
 - x. Making all decisions about eligibility for the program consistent with this agreement.
 - xi. Determining the number of Consulting Teachers in any school year based upon participation in the PAR program, the budget available and other relevant considerations.
 - xii. Approving assignment of additional staff to provide instructional and curricular support to Participating Teachers.
- d. Bargaining unit members of the PAR Panel shall be paid their per diem rate for up to ten (10) extra days per year if required for the program. Bargaining unit members shall receive an annual stipend (see Exhibit “D-8”).
- e. All proceedings and materials related to evaluations, reports and other personnel matters shall be strictly confidential. Therefore, PAR Panel members, Consulting Teachers, and principals may disclose such information only as necessary to administer this article.
- f. A PAR Panel member shall neither participate in discussion nor vote on any matter in which he/she has a professional or personal conflict of interest with regard to a program participant.
- g. The District shall indemnify and hold harmless members of the PAR Panel from any lawsuit or claim arising out of the performance of their duties under this program.

3.09 Participating Teachers

3.09.1 Referred Participating Teacher

- a. A Referred Participating Teacher is a teacher with permanent status who has been referred to receive assistance to improve his or her instructional skills, classroom management, knowledge of subject, and/or related aspects of his or her teaching performance as a result of an unsatisfactory Summary Evaluation.
- b. The Referred Participating Teacher shall have the right to submit a written response within twenty (20) days of receipt of the Summary Evaluation and have it attached to the final report. The Referred Participating Teacher shall also have the right to request a meeting with the PAR Panel and to be represented at this meeting by the Association representative of his or her choice.
- c. The Referred Participating Teacher has the right to be represented throughout these procedures by the Association representative of his or her choice.

3.09.2 Volunteer Participating Teacher

- a. A Volunteer Participating Teacher is a teacher with permanent status who volunteers to participate in the PAR Program. A Volunteer Participating Teacher may terminate his/her participation in the PAR Program at any time.
- b. All communication and documentation between the Consulting Teacher and a Volunteer Participating Teacher shall be confidential and, without the written consent of the Volunteer Participating Teacher, shall not be shared with others including the site principal, the evaluator, or the PAR Panel.
- c. Any such documentation produced while the teacher is a Volunteer Participating Teacher shall be the property of the Volunteer Participating Teacher and shall not be placed in the personnel file.

3.09.3 Beginning Participating Teacher

- a. A Beginning Participating Teacher shall receive assistance from a Consulting Teacher as part of the Beginning Teacher Program. The Consulting Teacher shall not participate in an evaluation of the Beginning Participating Teacher. Beginning teachers shall participate in the program for two (2) years.
- b. Short-term (less than 75%) contract teachers shall be provided assistance as determined by the PAR Panel and the availability of resources. The PAR Panel shall have the authority to reject or accept such candidates.

3.09.4 Consulting Teachers

- a. A Consulting Teacher is a teacher who provides assistance to a Participating Teacher pursuant to the Peer Assistance and Review Program. The following shall constitute minimum qualifications for the Consulting Teacher:
 - ii. A credentialed classroom teacher with permanent status.
 - iii. Five (5) years of recent experience in classroom instruction.
 - iv. Demonstrate exemplary teaching ability, as indicated by, among other things, effective interpersonal communication skills, subject matter knowledge and mastery of a range of teaching strategies necessary to meet the needs of pupils in different contexts.
 - v. Submit two (2) references from individuals with specific knowledge of his or her expertise as follows:
 - a). Reference from a building principal or immediate supervisor.
 - b). A reference from another classroom teacher.
- b. All applications and references shall be treated with confidentiality.
- c. Consulting Teachers shall be selected by the PAR Panel in accordance with section 3.08 of this agreement.
- d. The term of the Consulting Teacher shall be four (4) years, and a teacher may not serve in the position for more than one (1) consecutive term. For the year of selection, terms will be staggered at three (3), four (4) and five (5) years as determined by lottery. The Lead Consulting Teacher may serve up to a 7-year term. The extension must be approved by the PAR/BTSA Governance Panel on a year-by-year basis. In order to preserve the integrity and fulfill the intent of this Peer Assistance and Review Program, applicants must agree not to enter an administrative training program during his or her term nor be appointed to an administrative position during such a term nor be appointed to any such a position for one school year following their term.
- e. Consulting Teachers shall provide support on a full-time basis for the purpose of observing Participating Teachers and meeting with them to plan and provide support and assistance. In addition, the PAR Panel may authorize additional support appropriate to meet the needs of the Participating Teacher.

f. Functions and other PAR responsibilities as defined by subdivisions g and m of 3540.1 of the Government Code and Education Code, Article 4.5, section 44503(b) performed pursuant to this Article by bargaining unit members shall not constitute either management or supervisory functions. The Consulting Teacher shall retain all rights of bargaining unit members. In addition to the regular salary, a Consulting Teacher shall have a work year that includes an additional five (5) days. Up to an additional five (5) days may be assigned at per diem rate based on program needs. The Consulting Teacher shall receive an annual stipend (see Exhibit “D-8”). This stipend may be prorated if the service is less than one (1) year. Stipends are contingent on continued state funding of the PAR Program.

g. Upon completion of his/her service as a full-time released Consulting Teacher, a teacher has a right to return to his/her original site.

h. The District shall indemnify and hold harmless individual Consulting Teachers from any lawsuit or claim arising out of the performance of their duties under this program.

i. Consulting Teachers shall assist Participating Teachers by demonstrating, observing, coaching, conferencing, referring or providing other activities that, in their professional judgment, will assist the Referred Participating Teacher.

j. The Consulting Teacher shall meet with the Referred Participating Teacher and the principal to discuss the performance goals, develop the improvement plan and develop a process for determining successful completion of the PAR program.

k. The Consulting Teacher shall conduct multiple observations of the Referred Participating Teacher during classroom instruction, including periodic pre-observation and post-observation conferences.

l. The Consulting Teacher shall monitor the progress of the Referred Participating Teacher as it relates to the California Standards for the Teaching Profession, and shall provide periodic written reports to the Referred Participating Teacher and principal for discussion and review. A copy of each of the Consulting Teacher’s reports shall be submitted to and discussed with the Referred Participating Teacher to receive his or her signature before it is submitted to the PAR Panel. The Referred Participating Teacher’s signing of the report does not necessarily mean agreement, but rather that he or she has received a copy of the report. The Consulting Teacher shall submit the summary Evaluation to the PAR Panel.

m. The Consulting Teacher shall complete the referred teacher summary evaluation form (year-1) and the form shall be signed by the Consulting Teacher, the principal. Should the principal be in disagreement with the summary evaluation written by the Consulting Teacher, the principal shall prepare a separate summary evaluation (year-2) using the Referred Teacher Summary Evaluation Form for Administrators. This form shall be signed by the principal, the Referred Teacher, and the Consulting Teacher.

3.09.5 Referred Teacher Intervention Program.

a. The primary purpose of this program is to provide assistance and remediation to those teachers who have received unsatisfactory evaluations.

b. Assistance and remedial efforts shall be preceded by a conference in the spring of the year the teacher receives the unsatisfactory evaluation. The conference shall involve the teacher being referred, the evaluator who evaluated the teacher, and the Consulting Teacher or the Coordinator of the PAR Program. The teacher may request SJTA representation at the conference.

c. During the period of assistance, the referred teacher’s performance relative to the PAR Program guidelines shall be the joint responsibility of the PAR Panel and Consulting Teacher, in collaboration with the principal.

d. Communication and consultation with the principal shall be ongoing. The Consulting Teacher shall share all written evaluation reports during a conference with the Referred Participating

Teacher at least every six (6) weeks. Copies of the written reports will be provided to the principal and the PAR Panel.

e. If at any time during the period of assistance, the PAR Panel determines that the Referred Participating Teacher is unwilling or unable to meet the standards of performance, the PAR Panel may recommend to the Superintendent/designee an issuance of a notice of unsatisfactory performance per Education Code Section 44938.

f. At the conclusion of the year of remediation, the PAR Panel shall determine that:

ii. The Referred Teacher is now proficient according to California Standards for the Teaching Profession, or

iii. The intervention may be extended to a second year if the PAR Panel believes progress is being made and the teacher has a reasonable opportunity to meet the standards with an additional year of support, or

iv. Further assistance and remediation will not be successful with reasons in support of this conclusion. The School Board may at such time initiate dismissal proceeding.

g. The deliberation of the PAR Panel shall be closed and confidential. All decisions shall be based upon the information provided by the Consulting Teacher, the principal, the Referred Teacher and/or the SJTA representative.

h. The results of the Referred Participating Teacher's participation in the PAR Program shall be made available for placement in his or her personnel file and shall be used in the evaluation of the Referred Participating Teacher.

3.09.6 Referred Participating Teacher Due Process Rights

a. The Referred Participating Teacher shall be entitled to review all reports generated by the Consulting Teacher prior to their submission to the PAR Panel. The member shall be given the opportunity to attach his/her comments to any report submitted to the PAR Panel. The member shall receive copies of such reports at least five (5) working days prior to any such meeting.

b. The Referred Participating Teacher shall have the right to be represented by SJTA in any meeting of the PAR Panel that the Referred Participating Teacher is entitled to attend and shall be given a reasonable opportunity to present his/her view concerning any report being made.

c. Disagreements regarding the procedures in preparing the annual evaluation, which is used as the basis for a referral, shall be subject to an expedited grievance procedure, which shall be concluded prior to the beginning of the next school year. Consistent with 3.04.9 of the Collective Bargaining Contract, the substance of the employee's evaluation for competency is not arbitrable.

d. Upon the teacher's written request, all materials at least four (4) years old that are related to the Referred Participating Teacher Intervention Program, shall be removed from the personnel file and placed in a separate, sealed file, consistent with 3.05.9 of the Collective Bargaining Contract. The PAR Panel in no way diminishes the legal rights of District or bargaining unit members.

EXHIBIT J

PROFESSIONAL GROWTH/EVALUATION—OPTION B

GOAL: This evaluation program encourages members to continue their professional development and personal growth. The program offers to members who have consistently demonstrated a high degree of competence an alternative within the evaluation process. The

program is flexible to encourage members to grow in self-chosen areas of interest that promote student learning, instructional leadership, and other student-related outcomes. The program also hopes to strengthen collegial relationships and cooperation and to decrease member isolation.

DESCRIPTION: The program is an individual exploration of alternatives to the traditional process of evaluation. The program is based on the premise that professional educators are capable of setting meaningful goals which will serve as a focus for their professional growth for that year. That individual professional growth becomes the focus for the evaluation for that year. Participants are permanent members with a minimum of four (4) years of successful experience in the San Juan Unified School District. Members must have demonstrated competence by receiving all "meets or exceeds" in the member performance areas of the Summary Evaluation during the previous four years. Members participating in the program are still responsible for meeting the current District standards of performance (see page 6, Part III of the Summary Evaluation Instrument). Participation in this program is voluntary.

INITIAL GOAL SETTING CONFERENCE: The member develops goals that become the focus for her/his professional growth and evaluation for the school year. At a conference held early in the fall, the member and administrator meet to discuss these goals. These goals must be consistent with the overall educational vision of the school. The member and administrator establish the criteria and the option to be used for the evaluation of these goals (see goals form). They also need to schedule approximate dates for two interactive sessions throughout the year.

The purpose of these brief sessions will be to discuss the member's progress on her/his goals. Administrators are expected to make informal classroom visits (at least 4) to program participants in lieu of the single classroom observation required in the current evaluation process. It would be in the best interest of the program and the member/administrator relationship that at least the same amount of time be spent in these visits as was spent in the old observation process.

INTERACTIVE SESSIONS: One goal of the program is to decrease the isolation of members. The need for collegial dialogue about the practice of education and each member's goals is an important factor toward meeting that goal. Consequently, included in every evaluation option will be a plan of at least two scheduled interactive sessions throughout the year. The participants of these interactions may vary from member to member. Some possible activities that would meet this requirement include:

- Two meetings during the year with all the program participants from the school site. The professional growth/evaluation would be the sole focus of these meetings. They could, for example, include the principal, therefore satisfying the requirement of two member/administrator conferences that are part of this evaluation process for all participants.
- Members from different sites and even different grade levels could meet for regular, structured interactions (see Collaborative Groups as an evaluative option). These members could discuss like curriculum (e.g., several mathematics teachers from high school and middle school) or just have a discussion on the progress toward completion of each of the members' goals.
- Peer coaching or classroom visitations would meet the criteria for these interactions.
- The two scheduled member/administrator sessions could be sufficient to meet this interactive goal.

END OF YEAR SUMMARY CONFERENCE - Not later than May 1, the member and administrator will meet to review the member's work (see Professional Growth/Evaluation Final Form - 1993/94). The member will provide a written self-analysis on the progress toward meeting the established goals. Included in this summary will be the member's evaluation of her/his goals, reflection on the goals' effect on her/his classroom performance and plans for subsequent growth. The administrator may provide her/his own written summary on the member's goals for that year and may also review the member's performance in meeting the district standards of performance. Continuation in the program is contingent upon the member's continued successful teaching experience.

EVALUATION OPTIONS: Members are encouraged to be creative in developing an evaluation alternative that will best support the member's goals. The following are only examples of the type of creative alternatives that members could incorporate in their plans:

- **Member-generated options** - Members are encouraged to be creative in developing new or innovative options for use as evaluative tools.
- **Collaborative groups** - Participants will meet for regular, structured interactions between peer groups of inter/intra disciplinary or grade levels. The groups may focus on a particular educational growth area or curricular program. The groups will meet at scheduled times not only to discuss each member's personal goals, but to discuss commonalities in instruction or service.
- **Portfolios** - Portfolios will serve as a compilation of materials selected by the member to create a “photo album” of progress made in meeting her/his goals. Sample items may include a log of activities, student work, examples of assignments or curriculum, photographs, video tapes or student evaluations of activities.
- **Peer coaching** - A peer coach will be mutually selected by the member and administrator. The purpose of the peer coach is to provide focus through reflective feedback on progress toward completion of the member's goals. This will be accomplished through four to six meetings which may include pre-conferencing, observations, modeling and discussion.
- **Action research** - The member will select and outline a specific concept, instructional strategy or learning theory to be researched and implemented. This will entail documentation of the in-depth study, practices implemented, and a determination of the validity of the concept researched. This may be completed in conjunction with graduate course work or mentor projects.
- **Attendance and implementation of staff development strategies** - The member may select a specific strategy presented through professional staff development programs. Focus will be on the implementation and evaluation of the impact of this strategy. A self-reflective journal may be used as an evaluation criteria tool.
- **Modification of current evaluation process** - A schedule of classroom observations focusing on the designated goals will be agreed upon by the member and administrator. Increased dialogue, pre- and post-conferences and self-evaluation by the member will receive greater emphasis than the written form.

Montgomery County Education Association and the Board of Education of Montgomery County Collective Bargaining Agreement for the School Years 2011-2014

ARTICLE 14

Professional Development

A. Developing and Retaining Highly Qualified Teachers

MCEA and MCPS agree that quality teaching is a complex job that requires knowledge, skill, preparation, and commitment. The Elementary and Secondary Education Act (No Child Left Behind Act of 2001) (NCLB) now requires that all school districts employ only “highly qualified” teachers, as defined by the Act. The Elementary and Secondary Education Act also imposes additional specific “quality” requirements on elementary and secondary teachers.

To meet the federal quality standards, particularly with regard to schools of greatest need, we agree that a focus on effective teaching must be a top priority of MCEA and MCPS. To be effective with a diverse and challenged student population, teachers need a significant repertoire of skills, strategies, and practices derived from research about teaching and student learning and the knowledge to match these skills to student instructional needs. We acknowledge that incentives may be needed to encourage highly qualified teachers to join or remain in the workforce at our high needs schools. One of the best incentives for teachers is to understand that they will be joining a professional learning community, working with colleagues who are willing and able to collaborate with them and support their growth. MCEA and MCPS recognize the significant leadership that teachers provide in the improvement of instructional practice and school quality. Teachers work collaboratively with colleagues and administrators to design job-embedded professional development which is focused on student achievement, their own professional growth, and the advancement of their profession. We will develop and encourage innovations in professional development and teacher leadership that allow our best teachers to lead and coach colleagues for educational improvement.

Lastly, we acknowledge that National Board for Professional Teaching Standards Certification—the teaching profession’s highest distinction—is one of the ways that new and experienced teachers can demonstrate that they meet NCLB’s definition of “highly qualified.” We commit to developing a support system that will encourage and sustain applicants and reward recipients of National Board Certification.

Improving student learning and achievement is the goal for all educators as teachers, principals, and other administrators collaboratively plan professional development. All training and development activities are directly aligned to support student outcomes and system goals. The best strategy for improving teaching and learning is building the capacity of a school to function as a learning community in which professional development is job embedded and is supported with sufficient time and resources. This comprehensive professional program, collaboratively designed, implemented, and assessed, becomes the cornerstone of all district operations.

B. Professional Development Collaboration

1. The Professional Growth System

The parties commit to maintain the comprehensive professional growth system that has been jointly designed and implemented. Through the Professional Growth System (PGS), MCPS and MCEA aspire to achieve the highest performance possible of every student and educator by raising the quality of instruction in the schools. The Professional Growth System acknowledges that peers provide valuable support in establishing and expanding good teaching practices.

a. Elements of PGS

The Professional Growth System is a multi-dimensional approach to supporting and improving the quality of teaching in MCPS. The essential elements of the system are as follows:

- (1) Standards for performance
- (2) Training for evaluators and unit members
- (3) A professional growth cycle that integrates the formal evaluation year into a multi-year process of professional growth
- (4) A job-embedded professional development program utilizing best practices of professional growth, such as school-based staff development teachers
- (5) Time to allow teachers to participate in professional development activities during their work day

b. Governance of PGS Implementation

The Professional Growth System is governed by the collaborative PGS Implementation Team that includes representatives of MCEA, the MCPS Office of Human Resources and Development, and the MCPS Office of School Performance. Ongoing program evaluation of this complex initiative will continue through the PGS Implementation Team, a multi-stakeholder team that designs and oversees the collaborative program evaluation of the PGS and makes recommendations for improvements in the system.

The role of the PGS Implementation Team is to problem solve around issues related to the entire professional growth system. If changes need to be made to the evaluation component, including the instrument, and processes, changes shall not be made without following the procedures set out in Article 15.

c. PGS Handbook

The Professional Growth System is described in detail in an official handbook that is written by the PGS Implementation Team and reviewed and revised by the Implementation Team annually.

d. Reflection on Teaching and Learning in a Professional Learning Community

Intrinsic to the concept of continuous improvement is self-reflection on knowledge, skills, strategies, and practices. Observations by others are supportive of this reflection. All teachers may be observed formally and/or informally at any time. During professional development years, formal observations are not required. However, administrators, resource teachers (RTs), middle school content specialists, or interdisciplinary resource teachers (IRTs) are expected to do a minimum of two informal observations each professional development year in order to be familiar with teachers' classroom practices. Recognizing that each professional staff member must constantly seek ways to improve his/her effectiveness, a program of 360-degree feedback will be implemented for all unit members. This practice of 360-degree feedback will include classroom teachers, counselors, media specialists, pupil personnel workers, and other unit members working with students by students; and assistant principals and principals by teachers.

All feedback will be confidential and for the sole use of the unit member seeking the feedback. Unit members are encouraged to share the results of the data and their plans for improvement with those individuals who have participated with them in the feedback process.

C. Peer Assistance and Review Program

1. MCEA and MCPS agree to jointly operate a Peer Assistance and Review (PAR) Program. The PAR Program is a mechanism for maintaining systemwide quality control and ensuring that all MCPS teachers responsible for teaching students are functioning at or above the high MCPS standards of performance. It provides intensive assistance for any teacher who has not yet achieved that standard or who falls below acceptable standards. Assistance and review are provided to both experienced MCPS teachers in need of significant improvement and teachers in their first year of teaching.
2. The PAR Program shall operate in accord with the procedures enumerated in the Teacher Evaluation Handbook. PAR operational guidelines will be established by the Panel, in accord with the Handbook.
3. The PAR Program shall be run by a PAR Panel. The Panel shall consist of at least 12 members appointed by the superintendent, an equal number being teachers recommended by MCEA, and school-based administrators recommended by MCAAP.
4. The PAR Program has consulting teachers who provide instructional support to novice teachers (teachers new to the profession) and those not performing to standard.
5. The parties agree to design and oversee jointly evaluation of the PAR Program.
6. PAR is, by definition and design, a collaborative effort between MCEA and MCPS. In the event that one of the parties determines that the PAR Program fails to live up to the purposes and collaborative principles for which it was established, the PGS Implementation Team will meet with the superintendent and the president of MCEA to review options and attempt to address concerns. If consensus cannot be reached, MCEA can discontinue its involvement in the program with 90 days notice. MCPS may continue to fund positions in the budget associated with the evaluation system, but it may not refer to the program as PAR.

7. PAR Panel Recommendations

a. Probationary Teacher

If the PAR Panel recommends contract nonrenewal for a probationary teacher, the teacher will be given the opportunity to appear before the PAR Panel. If the teacher chooses to appear before the PAR Panel, the principal also will be given the opportunity to present information to the PAR Panel. If the PAR Panel affirms its original recommendation for nonrenewal, that recommendation is forwarded to the superintendent. A majority vote of the PAR Panel shall be required to overturn its preliminary recommendation and uphold the teacher who has submitted the information.

b. Tenured Teacher

If the PAR Panel recommends contract termination for a tenured teacher, the teacher will be given the opportunity to appear before the PAR Panel. If the teacher chooses to appear, the principal also will have the opportunity to present information. A majority vote of the PAR Panel shall be required to overturn its preliminary recommendation and uphold the teacher. If the PAR Panel affirms its original recommendation for dismissal, that recommendation will be forwarded to the superintendent. Tenured teachers retain due process rights afforded them by the MCEA collective bargaining agreement and/or state law.

8. Rights and Responsibilities of Teachers in the PAR Program

- a. Nothing in this Article or the PAR Program shall diminish the rights granted to teachers under Section 6-202 of the Education Article of the Annotated Code of Maryland, relative to suspension and dismissal, and the right to appeal such personnel actions.
- b. MCEA unit members participating in the PAR Program, as consulting teachers or as members of the PAR Panel, shall be indemnified and held harmless by the Board against any and all claims arising as a result of their actions within the scope of their duties.

D. Professional Development

1. Principles—Professional development is the process by which educators individually and jointly enhance and update their knowledge of curriculum, content, and process, and improve their instructional skills and strategies. Enhanced professional development increases effectiveness, builds confidence, morale and commitment, and subsequently, the ability to improve the quality of education of all students in MCPS. The parties agree on the following assumptions about professional development:

- Successful professional development programs, activities and plans must be focused on student learning and achievement.
- Professional development should be continuous, focused on research-based best practices, and include job-embedded opportunities,
- School climates that promote professional learning and growth provide opportunities for collaboration and dialogue around student and teacher work for the purpose of improving student achievement.
- The professional learning community is responsible for collegial growth and support with the understanding that professionals have each other's best interest at heart.

2. Choice of Professional Development Activities

Professional development can take many forms, depending on the Professional Development Plan (PDP) of the individual educator. Examples of professional development options are provided in the PGS Handbook. MCEA unit members, in collaboration with their administrators and staff development teacher, will determine the forms of professional growth and development appropriate for meeting the goals of the PDP.

3. Graduate Coursework for Professional Development

Tuition Reimbursement Program

The Board agrees to provide a tuition reimbursement program for full-time and part-time unit members who complete graduate courses that enable them to continue their professional development and to maintain or increase their skills as education professionals in their employment with MCPS. Unit members may request tuition reimbursement for graduate university and college courses. Courses must be approved by MCPS.

- (1) The unit member must achieve a grade of "B" or better. Documentation must be submitted (report card and proof of payment) within 60 days of the end of the course.
- (2) Reimbursement shall cover actual tuition only and not the cost of books or other materials.
- (3) Reimbursement shall be for 50 percent of the current cost of in-state tuition at the University of Maryland, College Park, up to a maximum of nine hours credit per fiscal year for graduate courses not currently offered by the in-service program.
- (4) The nine-credit hour limitation may be waived for a specific year or years under the following conditions:

- (a) Completion of the requirements of an approved program requires enrollment in more than nine credits during one or more years of the program, or MCPS approves enrollment in more than nine credits in order to meet a specific school system need.
- (b) No reimbursement for additional credits outside the approved program will be approved until the total reimbursement from the first year of excess credits is less than an average of nine credits per year.
- (c) If the employee retires or resigns prior to the time the average reduces to nine credits per year the employee will be required to repay MCPS for any excess reimbursement beyond the average of nine credits per year from the first year of excess reimbursement.
- (d) In no event may the employee be reimbursed for more than 45 credits in the five year period beginning with the first year of excess reimbursement.
- (5) The Board will reimburse 50 percent of the cost of tuition for the equivalent of one credit hour, up to the maximum of nine credit hours per year, for completion of Continuing Education Unit (CEU) or Continuing Professional Development (CPD) courses not offered by the in-service program (see below). Reimbursement requests must be submitted with proper documentation verifying completion of CEUs or CPDs that have been approved through a State-accepted accrediting agency.

4. MCPS/MCEA CPD Course Partnership

Unit members have an interest in expanding the availability of courses, which will enhance their professional development and potentially lead to salary and career advancement. MCPS has an interest in offering professional development opportunities designed to achieve system goals and priorities. In this collaborative spirit, MCPS and MCEA will jointly plan, design, implement and assess courses carrying CPD. MCPS and MCEA will design and implement courses that address system and unit member needs. The intention of this plan is to widen the variety of courses available to teachers and to facilitate training on MCPS priorities. This joint enterprise will be self-supporting; tuition will cover fees, salaries, and overhead.

E. Time and Resources for Professional Development

1. Recognizing the need for maximizing available instructional time for students, time for professional development is provided using a variety of options either within the work day or beyond the work day, as collaboratively determined by the school leadership team.
2. When the professional development activities take place during the work day, time may be provided by—
 - Flexible grouping and scheduling
 - Use of technology, e.g., distance learning with use of video and TV transmissions
 - Use of substitutes
 - Team or department meeting times
 - Staff meeting times
 - Other options as determined by the local school leadership team
3. When professional development activities take place outside the work day, compensation can be provided in the form of—
 - University credit
 - Stipends
 - CPD (in-service)
 - Fulfillment of professional development plan objectives
 - Other options as determined by the local school leadership team

4. Funds available for local school professional development will be allocated to the local school with no less than a \$2000 base and half (.5) of the substitute cost for each member of the school's professional staff to come from allocated funds. The allocation of these funds will be reported to the school leadership team.

5. For the term of this Agreement, the Board agrees to budget funds for the purchase of books, equipment, and other educational resource materials it determines to be necessary for use by the professional staff.

6. The Board is committed to continuous improvement through job-embedded professional development and agrees to fund support for activities that may include the following:

- a) School-based staff development teachers
- b) Necessary resources, materials, and equipment to be used specifically to support local school, field office and district-wide staff development activities and programs, including the training of staff development leadership
- c) Ongoing assessment of the effectiveness of the Professional Growth System and programs offered by the Office of Human Resources and Development

7. MCPS will provide for the assignment of staff development substitute teachers to schools to allow teachers to participate in professional development and growth during their normal school day. Each school develops its own procedures for assuring that educators have an opportunity to utilize the substitute to make time available for work on professional growth, including Professional Development Plans (PDPs).

F. Teacher Leadership

The parties agree on the following assumptions about teacher leadership:

- We face a pressing challenge to increase the number of experienced, highly skilled teachers teaching in our neediest schools
 - Skillful teachers have a profound and positive impact on improving the practice of peers
 - Many of our most skilled and experienced teachers desire to provide leadership in their schools without leaving classroom teaching
- Given those assumptions, MCEA and MCPS are committed to creating a variety of opportunities to recognize, reward, and encourage mastery and leadership in teaching and to encourage our master teachers and teacher leaders to contribute to the improvement of our schools, especially our highest needs schools.

1. Support for National Board Certification

Certification by the National Board for Professional Teaching Standards is recognition of high levels of knowledge and skills, the ability for self-reflection and continuous improvement and the ability to use a variety of teaching strategies to meet the needs of a diverse student population. It is in the interest of MCPS and MCEA to support unit members in the certification process. To that end, the Board agrees to the following:

- Provide for communication to administrators, parents, content teacher specialists, and teachers about the process and what it means
- Allow for local school material resources (videocameras, microphones, etc.) to be used by candidates in the process
- Allow for process-related tasks to be done within the context of professional development
- Provide support from the Office of Human Resources and Development
- Permit use of tuition reimbursement funds to pay the cost of National Board for Professional Teaching Standards certification renewal fees, "Take One" test fees, and successful retakes of

National Board unit exams, provided the total cost for this and credit reimbursements does not exceed the maximum available per individual.

2. Supervising Student Teachers

Participation by supervising unit members in the training of student teachers or graduate interns in an education program shall be voluntary and shall be based on criteria established by the Office of Human Resources and Development. The teacher and principal will receive a copy of the assignment, programs, and work schedules for approval. The Board shall support a systematic program of training for those unit members who wish to train personnel from approved teacher training programs in accredited institutions.

G. Career Lattice Program

1. MCEA and MCPS are committed to ensuring that there are high-quality educators throughout every level of MCPS. This initial design will focus on school-based teachers and teacher specialists. A second phase will consider lead teacher status for other unit members. These commitments emphasize the importance of having structures and processes in place to attract, recruit, hire, mentor, develop, evaluate, recognize, and retain high-performing teacher professionals. MCEA and MCPS believe that excellence in teaching is critical to student learning.
2. There are three developmental stages in a teaching career, which include induction, skillful teaching, and leadership in teaching (referred to as the lead teacher). To be successful in MCPS a teacher must reach the skillful teaching stage. Some professionals will choose to become teacher leaders and enter into the leadership in teaching stage. Teachers in this stage serve through leadership in their schools and classrooms and seek even greater responsibility. At this stage, the teacher takes on new challenges to support, coach, mentor, and lead colleagues in instructional and school improvement which result in increased student learning. The Career Lattice is a framework that includes definitions of leadership responsibilities; processes for application, identification, and evaluation of teacher leaders; and a compensation structure that is aligned to the leadership responsibilities.
3. Educators with lead teacher status are eligible for a variety of teacher leadership roles, such as resource teachers, consulting teachers, instructional specialists, and staff development teachers. At this time, the lead teacher opportunities consist of specific leadership positions and project leadership.
4. Classroom teachers who achieve lead teacher status can apply for teacher leadership positions designated in the Career Lattice Handbook or carry out school-based improvement projects. They may be eligible for additional responsibilities and additional compensation.
5. The Career Lattice is collaboratively designed by the Career Lattice Design Team to provide a structure for career planning that expands professional opportunities for teacher leaders while allowing them to continue to have direct responsibility for student learning.
6. The Career Lattice program shall operate in accord with the procedures enumerated in the Career Lattice Handbook, which is reviewed and revised annually collaboratively by the Career Lattice Joint Panel and the Teacher PGS Implementation Team.

7. The Career Lattice Joint Panel will provide leadership for the implementation of the Career Lattice. This panel is comprised of equal numbers of teachers and administrators who are recommended by MCEA and MCAAP/MCBOA and appointed by the superintendent. MCPS will be represented by the associate superintendent for the Office of Human Resources and Development (or his/her designee).

8. The Career Lattice Joint Panel is responsible for the following:

- a. Lead teacher application process
- b. Lead teacher identification process
- c. Lead teacher recertification process
- d. Data collection about the cadre of lead teachers (demographic, educational, etc.) as well as data needed to track results for continuous improvement
- e. Career Lattice revisions and improvement recommendations
- f. Working with the Department of Shared Accountability to provide input for the evaluation of the Career Lattice Program

9. The Career Lattice Joint Panel will report to the Teacher PGS Implementation Team which will review and revise procedures as necessary. The Teacher PGS Implementation Team will provide quarterly reports to the MCEA/MCPS LMCC. Unresolved issues will be submitted to the LMCC to Joint Associations Deputies Committee.

10. The parties agree to jointly evaluate the Career Lattice program. The evaluation process will be developed by the Career Lattice design team. The evaluation will include the quantitative and qualitative indicators such as student achievement data, teacher satisfaction and other measures that will be identified by the design team. The evaluation will consist of a yearly analysis of the effectiveness of the program.

11. In the event that one of the parties determines that the Career Lattice fails to live up to the purposes and collaborative principles for which it was established, the Teacher PGS Implementation Team will meet with the superintendent and the president of MCEA to review options and attempt to address concerns. If consensus cannot be reached, either party can discontinue its involvement in the program with 90 days notice.

ARTICLE 15

Evaluation

A. In the PGS, the formal evaluation process is seen as a tool for continuous improvement. During the formal evaluation year, both the educator and evaluator gather data from the professional development years as well as from the evaluation year. This data serves as point of reference for the collaborative evaluation process. The evaluation year is a time when the teacher and evaluator reflect on progress made and potential areas for future professional growth. Formal evaluations are not required during professional development years of the professional growth cycle. However, the principal must complete the *Yearly Evaluation Report for MSDE Certification Renewal* annually to verify to the Maryland State Department of Education (MSDE) that the certificate holder's performance is satisfactory ("meets standard").

The details of the evaluation processes are included in the Professional Growth System Handbook. Refer to this document for frequency/schedule and definitions.

B. Evaluation Report

The final evaluation report is completed by the principal or assistant principal. It includes an examination of the cumulative performance for an entire professional growth cycle and reviews the educator's overall performance on each of the MCPS performance standards. Data for this report is gathered from formal and informal observations, and should also include a variety of other sources. Some examples of these include samples of student work, student achievement, lesson plans, parent communication, and student and parent surveys.

C. The Formal Observation Process

Formal observation data must be included in the final evaluation report. After the observation conference, the observer prepares a written narrative summary of the class and the conference called the *Post-Observation Conference Report*. This report contains an analysis of the lesson, including evidence from the lesson and information about the effect of the lesson activities on students. The report includes a summary of the discussion with the educator as well as any decisions or recommendations that resulted from the conference. The educator is expected to review and return a signed copy of the *Post-Observation Conference Report*. The educator's signature indicates that s/he has received and read the conference report but does not necessarily indicate agreement with the contents of the report.

D. Due Process Rights During Evaluation

1. Upon request, unit members will be given a copy of any evaluation report prepared by their administrator or supervisor at least one day before a conference is held to discuss it. Unit members will be required to sign the evaluation report as evidence that they have seen it. They will not be required to sign a blank or incomplete evaluation form. Unit member's signature does not signify acceptance of the rating.
2. Upon request, a teacher in the PAR Program will be given a copy of the mid-year and/or summative report of the consulting teacher at least one day prior to a conference to discuss it. Unit members will be required to sign the mid-year and summative reports as evidence that they have seen them.
3. All observation of the work of a unit member, either by an administrator/supervisor or consulting teacher, will be conducted openly and with the observer visible to the unit member.
4. Upon request, unit members will be given a copy of any class visit notes/draft observation report prepared by their administrator, supervisor, or consulting teacher at least one day before a conference is held to discuss it, unless the observation and conference occur on the same day.
5. No class visit/observation report will be submitted to the central office, placed in the unit member's file, or otherwise acted upon before the conference with the unit member, unless the unit member is not available for a timely conference. Unit members will be required to sign the class visit/observation report.
6. Unit members will have the right, upon written request on the appropriate form, to review the contents of their personnel file. If a unit member wishes to be accompanied by another person or a representative of the Association during such a review, that request must be entered on the request-to-review form. Confidential records such as application references and promotional references will not be made available to a unit member.

7. Non-confidential complaints about, or material derogatory to, a unit member's conduct, service, character, or personality may be placed in his/her personnel file only if—
 - a. the unit member has had an opportunity to review the material and been given a copy,
 - b. the appropriate administrator has investigated the allegations, and
 - c. the appropriate administrator has concluded that the allegations are true.
8. The unit member will acknowledge that he/she has had the opportunity to review such material by affixing his/her initials to the copy to be filed, with the expressed understanding that such initialing in no way indicates agreement with the contents. The unit member shall be permitted to attach his/her comments related to the derogatory material.
9. Complaints regarding a unit member made to an administrator that are used in the unit member's evaluation will be called to his/her attention. If the complaint is in writing, the unit member will be given a copy. The unit member will be required to initial the material indicating that he/she has read it. He/ she will be permitted to attach his/her comments related to the complaint. Reprisals taken by the unit member against any student, any class, or any person will be cause for immediate investigation that may result in dismissal proceedings being activated.
10. The principal or immediate supervisor of a unit member will discuss the unit member's work performance with that person prior to a formal evaluation of that performance.
11. Final evaluation of a unit member upon termination or retirement will be concluded prior to severance, and no document or other material will be placed in the personnel file of such unit member after severance except in accordance with the procedures set forth in this Article.
12. Evaluation of unit members during their probationary period of employment is of high importance to the unit member and the school system. Cooperative efforts will be made to work for his/her success but if, after one or two years, success does not seem possible, he/she will not be continued in employment. Upon receiving notice of non-renewal of a provisional or regular contract, probationary unit members may, within 10 days of that notice, request a hearing by the superintendent. The unit member, upon request, will be given adequate notice of the hearing date. Reasons for the proposed action will be given to the unit member upon request. The unit member will be entitled to be represented by the Association and/or counsel of his/her choice and will be granted an opportunity to defend himself/ herself, presenting arguments and/or evidence. The decision of the superintendent shall be in writing, stating the reasons for the determination.

E. Process for Changing the Evaluation System

The current unit member evaluation system, including the instrument and the teacher evaluation system booklet of the Montgomery County Public Schools, Rockville, Maryland, (also known as the Professional Growth System Handbook) shall not be changed without following the procedures set out below:

1. Preceding the proposed implementation of any proposed changes, the Board shall notify MCEA of its desire to change the evaluation system.
2. Thereafter, the parties shall confer in good faith over the content of any proposed changes in the evaluation system, until agreement is reached, or until 90 days following receipt by MCEA

of notification that the Board desires to change the evaluation system. The conferring teams shall be headed by the chief negotiator for each party.

3. If no agreement is reached within 90 days following receipt by MCEA of notification that the Board desires to change the evaluation system, the Board may unilaterally implement changes in the evaluation system.

AGREEMENT BETWEEN ROCHESTER TEACHERS AND ROCHESTER CITY SCHOOL DISTRICT

SECTION 53

INTERVENTION, REMEDIATION AND PROFESSIONAL SUPPORT

1. The Intervention and Remediation component of the CIT Plan is designed to offer all available resources to help improve the performance of experienced teachers who are having serious difficulties in the performance of their professional duties.

2. A teacher can be recommended in writing for Intervention and Remediation by a building principal, other appropriate supervisor or teacher constituency of the School-based Planning Team meeting as a separate group. Such written recommendation is appropriate when a teacher's performance is less than satisfactory. It is expected that such recommendation shall be initiated after reasonable efforts have been made to assist the teacher. The referral for Intervention and Remediation may contain a recommendation as to a plan for remediation and indicate whether a withhold of all or part of the total next salary increase or any other action is warranted.

3. In acting upon the written referral, the Panel may avail to the referred teacher, and to the building principal and/or other appropriate supervisors, an opportunity to appear before the panel or its representatives to provide information germane to the recommendation.

4. The CIT Panel shall vote to accept or reject the referral for Intervention within thirty days of receipt of the referral and state its reasons therefore. If the Panel votes to accept the referral, the Panel shall prescribe a plan of remediation which may include, but is not limited to, assistance by a Lead Teacher, mandatory inservice, or other professional studies, participation in the EAP, etc. Independent of the authority of the Superintendent of Schools in Section 46, the Panel shall have the authority to impose full or partial salary withhold during the period of intervention and remediation. When a referral of a teacher rated "Unsatisfactory" is supported by the CIT Panel review, full salary withhold shall be automatic. The Panel's determination relating to full or partial salary withhold and/or any sanction shall be subject to the grievance procedure contained in Section 14.

5. The determination, reasons therefore, the remedial plan, and the decision concerning salary withhold shall be provided in writing to the Superintendent of Schools, the teacher, and to the building principal, or appropriate supervisor.

6. The plan for remediation will be implemented under the direction of the CIT Panel. The plan will provide for the development of specific performance and professional goals.

7. Teachers participating in Intervention and Remediation will continue to receive assistance until the CIT Panel determines that no further assistance is needed or would be productive, or until the teacher in Intervention and Remediation no longer wishes to participate. The duration of the Intervention and Remediation program for any one teacher shall not extend beyond the start of the third full semester from the date of the initiation of the assistance program.

8. Teachers in Intervention and Remediation shall receive copies of all status reports and will have the right to attach and submit a written reply to the status report forms submitted to the CIT Panel by the lead teachers.

9. The CIT Panel will review all status reports and other information that may be submitted to the Panel. If the determination of the CIT Panel is that Intervention and Remediation was successful, the CIT Panel will issue a report, in writing, to the Superintendent, the RTA President, and the teacher in Intervention.

10. Participation in Intervention and Remediation is voluntary on the part of the referred teacher. If a teacher refuses Intervention and Remediation, nothing herein shall prohibit the District from proceeding with further disciplinary action after that refusal.

11. If the determination of the CIT Panel is that Intervention is not successful, the CIT Panel will issue a report, in writing, to the Superintendent, the RTA President, and the teacher in Intervention. Evaluation and/or discipline procedures, as outlined in sections of the current Contractual Agreement, may then be instituted.

12. Any determination or report of the CIT Panel with respect to a referral for, or the outcome of, Intervention and Remediation, and any reasons therefore, as well as those documents referenced in the CIT “Handbook for Intervention and Professional Support,” shall be evidence admissible through exhibits and testimony in any arbitration or a proceeding pursuant to Section 3020-a of the Education Law; provided, however, that any communications, oral or written, between Lead Teachers and teachers in Intervention on matters relevant to Intervention, shall be privileged.

13. The Panel shall develop written procedures for this referral, intervention, and remediation program.

14. If a unit member has been recommended by the CIT Panel for Intervention, and the Board of Education determines probable cause exists to discharge the unit member after the unit member either has refused to participate in Intervention and Remediation or the Panel’s Final Report finds that the Intervention has not been successful, and the teacher then elects to contest the charges by submitting the matter to arbitration (Section 38.3), arbitration shall be before a panel consisting of the Superintendent of Schools, the RTA President, and a neutral third person familiar with the arbitration process selected by the Superintendent and the President. Arbitration shall be conducted in accordance with the provisions of CPLR Article 75, except that the cost, if any, for the services of the third person shall be borne equally by the parties.

15. Professional Support

The District and the Association recognize the need for more accessible and more immediate peer assistance and support. To that end, the parties agree to establish a formal Professional Support program with the following features:

- a. Professional Support may be recommended by a colleague, a building representative, or a building administrator but access to Professional Support is by self referral only. Participation would be voluntary.
- b. Participation in Professional Support activities will not be reflected in any personnel materials unless the teacher includes such references.
- c. Support shall be provided by other Professional and Lead Teachers as indicated by the CIT Panel.
- d. Support may include, but shall not be limited to, counseling, observations of others' classes, demonstration lessons by lead teachers, in-service courses, workshops and conferences.
- e. Participation in Professional Support activities shall not prevent referral for Intervention Services.
- f. Formal participation in Professional Support activities shall be limited to two full semesters.

COLUMBUS EDUCATION ASSOCIATION AND THE COLUMBUS BOARD OF EDUCATION COLLECTIVE BARGAINING AGREEMENT TO BE EFFECTIVE UNTIL AUGUST 20, 2011

Chapter 400

Article 401

Teacher Evaluation

401.01

A. The following number of evaluations shall be conducted by the building administrators based upon continuous experience in the Columbus City Schools:*

- | | |
|----------------------------------|--|
| 1st and 2nd years | 2 evaluations |
| 3rd year | 1 or 2 evaluations at administrator's option |
| 4th and 5th years | 1 evaluation |
| Subsequent years | 1 evaluation every second year, commencing with the seventh year |

*"Continuous experience" shall not include the consideration of a school year during which there was a leave of absence in excess of sixty-one (61) days.

B. The second regular evaluation required in this section shall not be required as long as Peer Assistance and Review is in operation.

401.02 The following directives outlined in paragraphs (A), (B) and (C) below shall serve as guidelines to the joint committee on evaluation as described in Paragraph (D) below:

A. Evaluations provided for in Section 401.01 of this article shall be for the major purpose of assisting the teacher toward improved instruction. “Goals for Improvement,” “Professional Growth Activities,” and “General Statements” sections must be completed by the professional and the evaluator if one or more of the ratings of unsuccessful are recorded.

B. If the evaluator recommends performance improvements(s) for a teacher or professional development consistent with the school’s All School Improvement Plan (ASIP), the teacher must utilize professional development at the teacher’s next opportunity or otherwise within a specified time period.

C. If a teacher is identified by the District as needing to make progress towards becoming a Highly Qualified Teacher (HQT), the teacher must, as a priority, utilize and complete professional development towards attainment of HQT status.

D. The parties shall review the evaluation process and forms and create any new replacement procedures and forms under the Agreement between the Superintendent and the President of the Association from April 2009.

401.03 Special Evaluation

A. When the Board or any of its administrative agents deem that a teacher’s performance may be seriously unsatisfactory and it is their intention to recommend involuntary transfer, non-renewal of contract, or termination of contract or investigate further with the possibility of making any of the aforementioned recommendations, the building administrator shall notify such teacher of his/her intent in writing on a form mutually agreeable to the Board and the Association.

Such notification shall set forth the specific areas of alleged unsatisfactory performance. Following such notification, the administrator shall evaluate the teacher’s performance, observing all stipulations of this article except Section 401.01. The administrator will observe the teacher at least twice. Each observation will be for at least thirty (30) minutes. A conference shall be held between the administrator and the teacher to discuss the teacher’s performance prior to any final action by the administrator. The teacher may be accompanied or represented by an Association representative at such conference and shall have three (3) days prior notification of the conference. In such conference, the principal may be accompanied by a Board representative if the teacher is accompanied in such conference. Final administrative action in regard to the alleged unsatisfactory performance shall not conflict with any provision of this Agreement.

B. Unusual Condition—Written evaluations provided in Section 401.01 above, except the second evaluation for first and second year teachers, shall be performed before any special evaluation as required by this Agreement, except when conditions threaten the physical or emotional well-being of pupils or when conditions result in a significant disruption of, or threat to, the educational program or the well-being of the school. When such an unusual condition exists: (1) the classroom observations provided in Sections 401.03(A) and 401.04 shall not be required if such observations would not substantively contribute to an evaluation of such unusual condition; (2) the Notice of Special Evaluation issued as a part of the special evaluation process shall be accompanied by a written statement identifying the unusual condition, and if applicable, indicating the reason(s) classroom observations would not substantively contribute to an evaluation of such condition.

401.04 Classroom observations of the work performance of a teacher for the purpose of a formal written evaluation shall be conducted openly with the observer visible to the teacher. A minimum of one (1) and a maximum of three (3) such observations shall be accomplished through prior arrangement with the teacher. In addition, a maximum of three (3) such observations may be accomplished at the convenience of the building administrator provided the number of such observations does not exceed the number of observations accomplished through prior arrangement. At least one (1) such classroom observation shall be for a minimum of fifteen (15) minutes in duration.

401.05 A pre-evaluation conference may be requested by either the teacher or evaluator and shall occur if requested by either party. If held, the primary purpose of the conference shall be to discuss procedural matters related to the evaluation process and questions related to that process. The conference may provide the teacher and the evaluator an opportunity to discuss their philosophies as educators, and to give the teacher and the evaluator an opportunity to discuss their short- and long-term goals. No written requirements may be attached to this conference, but either party may summarize the conference in writing and may provide a copy of such summary to the other party. Failure to request a pre-evaluation conference does not constitute a procedural violation of the evaluation process.

401.06 A teacher shall be given a copy of any written evaluation or report on an observation. No evaluation or report on an observation will be placed in the teacher's permanent file or otherwise acted upon without a prior conference with the teacher.

401.07 All evaluations or reports on an observation must be dated and signed by the teacher. Such signature shall not necessarily indicate agreement with the evaluation.

401.08 Teachers shall be permitted to affix comments to any evaluation or report on an observation prior to placement of the evaluation or report in the teacher's permanent file.

401.09 The factors to be used in evaluations conducted by the building administrators shall be jointly developed by the Association and the Board.

401.10 The factors, forms and procedures used in all evaluations of teachers shall be mutually developed and agreed to by the Board and the Association. The parties recognize that standardized test scores, by themselves, are not a sound basis for evaluating a teacher's performance.

401.11 A teacher shall not be represented or accompanied by a representative of any other employee organization at any conference required in Section 401.03(A) of this article.

401.12 No member of the bargaining unit shall have his/her limited contract non-renewed without accomplishment of a special evaluation and without accomplishment of such regular evaluations as are required by this article, provided that nothing in this Agreement shall require accomplishment of such evaluations in order (1) to non-renew limited contracts or to suspend limited contracts and/or continuing contracts, in accordance with Article 704 entitled "Reductions in Personnel;" (2) to terminate a limited contract or continuing contract, in accordance with the Ohio Revised Code; (3) to non-renew a limited contract teacher providing

service under a temporary certificate unless such teacher possesses a regular certificate in another teaching area and has previously provided service under such regular certificate in the Columbus City Schools; (4) to non-renew a limited contract teacher advised prior to employment that such non-renewal may occur due to the special nature of the specific assignment for which such teacher is being employed.

401.13 No member of the bargaining unit shall be denied a positive recommendation by the administrator of Human Resources, to the Ohio Department of Education for the renewal or upgrading of a teaching certificate as a result of an evaluation rating given on an evaluation conducted within the provisions of Article 401.01.

401.14

A. The evaluation and any related actions involving teachers during the period of assignment to the Peer Assistance and Review Program (PAR Program) shall be in accordance with the procedures established by the PAR Program Panel rather than in accordance with the provisions contained in this Article 401. Such related actions shall include action by the Board based on recommendations by the PAR Program Panel regarding intern teachers and action by the Board based on reports by the PAR Program Panel regarding teachers who have been previously assigned to the PAR Program for intervention.

B. The provisions of this Article 401 shall apply to teachers assigned to the PAR Program only in the event of administrative action which is not in accordance with the PAR Program Panel procedures. Such administrative action shall only be initiated where the basis for such action is primarily related to concerns other than classroom teaching performance.

C. Any teacher may request to be assigned to the PAR Program by submitting a written request to the Association President. If the teacher requesting assignment to the PAR Program has been given a Notice of Special Evaluation and has more than five (5) years of continuous Columbus teaching experience, such teacher shall be accepted into the intervention phase of the PAR Program. The final determination of whether to admit a teacher with five (5) or less years of continuous Columbus teaching experience to the PAR Program will be made by the PAR Panel.

D. Teachers who have all successful ratings on their most recent evaluation form shall not be recommended for PAR Intervention by an administrative-initiated referral unless the following has been provided:

1. A serious concern(s) has been identified by the principal or evaluating supervisor and a conference has been held with the affected teacher where the serious concern(s) is identified and discussed with said teacher.
2. The principal or evaluating supervisor has provided suggestions and/or assistance to the affected teacher to correct the serious concern(s).
3. If the serious concern(s) has not been resolved, a follow-up conference has been held with the affected teacher to so inform said teacher and, if it is the intention of the principal or evaluating supervisor to recommend the teacher for PAR Intervention, to so inform the teacher during this conference.
4. A teacher shall not be represented or accompanied by a representative of any employee organization in any conferences required in 401.14(D) above.

401.15 In the event a teacher performs work under the supervision of more than one (1) supervisor, one (1) supervisor shall be designated as the evaluating supervisor.

401.16 Teachers eligible for continuing service status shall be those teachers qualified as to certification/license, who within the last five years have taught for at least three years in the District, and those teachers who, having attained continuing contract status elsewhere, have served two years in the District, but the Board upon the recommendation of the Superintendent, may at the time of employment or at any time within such two-year period, declare any of the latter teachers eligible. Continuing contracts shall be granted only to a teacher with the following certification or licensure status:

A. Any teacher holding a professional, permanent or life teaching certificate;

B. Any teacher holding a professional educator license who has completed the applicable one of the following:

1. If the teacher did not hold a master's degree at the time of initially receiving a teaching certificate under former law or an educator license, thirty (30) semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt;
2. If the teacher held a master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, six (6) semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt.

C. Upon the recommendation of the Superintendent that a teacher eligible for continuing service status be reemployed, a continuing contract shall be entered into between the Board and such teacher unless the Board by a three-fourths (3/4) vote of its full membership rejects the recommendation of the Superintendent. The Superintendent may recommend reemployment of such teacher, if continuing service status has not previously been attained elsewhere, under a limited contract for not to exceed two years, provided that written notice of the intention to make such recommendation has been given to the teacher with reasons directed at the professional improvement of the teacher on or before April 30, and provided that written notice from the Board of its action on the Superintendent's recommendation has been given to the teacher on or before April 30, but upon subsequent reemployment only a continuing contract may be entered into.

If the Board does not give such teacher written notice of its action on the Superintendent's recommendation of a limited contract for not to exceed two years before April 30, such teacher is deemed reemployed under a continuing contract at the same salary plus any increment provided by the salary schedule. Such teacher is presumed to have accepted employment under such continuing contract unless the teacher notifies the Board in writing to the contrary on or before June 1, and a continuing contract shall be executed accordingly.

D. A teacher eligible for continuing contract status employed under an additional limited contract for not to exceed two years pursuant to written notice from the Superintendent of the Superintendent's intention to make such recommendation is, at the expiration of such limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless the Board, acting on the Superintendent's recommendation as to whether or not the teacher should be reemployed, gives such teacher written notice of its intention not to reemploy the teacher on or before April 30. Such teacher is presumed to have

accepted employment under such continuing contract unless the teacher notifies the Board in writing to the contrary on or before June 1, and a continuing contract shall be executed accordingly.

E. A limited contract may be entered into by the Board with each teacher who has not been in the employ of the Board for at least three years and shall be entered into, regardless of length of previous employment, with each teacher employed by the Board who holds a provisional or temporary certificate/license.

F. Any teacher employed under a limited contract, and not eligible to be considered for a continuing contract is, at the expiration of such limited contract, deemed reemployed under the provisions of this section at the same salary plus any increment provided by the salary schedule unless the Board, acting on the Superintendent's recommendation as to whether or not the teacher should be reemployed, gives such teacher written notice of its intention not to reemploy the teacher on or before April 30. Such teacher is presumed to have accepted such employment unless the teacher notifies the Board in writing to the contrary on or before June 1, and a written contract for the succeeding school year shall be executed accordingly. The failure of the parties to execute a written contract shall not void the automatic reemployment of such teacher.

The failure of the Superintendent to make a recommendation to the Board under any of the conditions set forth in this section, or the failure of the Board to give such teacher a written notice pursuant to this section shall not prejudice or prevent a teacher from being deemed reemployed under either a limited or continuing contract as the case may be under the provisions of this section.

401.17 Supersession/Applicability of 117th Ohio General Assembly Am. Sub. H.B. No. 330

A. Subject to Section 401.17(B) of this article, because of the terms of this and other articles of this Agreement, all provisions of 117th Ohio General Assembly Am. Sub. H.B. No. 330, and any subsequent law amending those provisions, shall be superseded by this Agreement and inapplicable to members of the bargaining unit.

B. Notwithstanding Section 401.17(A), and subject to Section 401.17(C), of this article, from the time that any cancellation of the PAR Program by the Board becomes effective (1) Am. Sub. H.B. No. 330 and any subsequent law amending the provisions of same shall be fully applicable to the Board except as manifestly inconsistent with this Agreement, and (2) Sections 401.01, 401.02, 401.03, 401.04, 401.05, 401.06, 401.12, 401.14, and 401.16 of this article and Sections 404.04 and 404.05 of Article 404 shall be negated and inoperative.

C. In the event that Section 401.17(B) of this article becomes operative, then, notwithstanding Sections 3319.11(B)(3), 3319.11(C), 3319.11(D), 3319.11(E), 3319.11(G), and 3319.111 of the Ohio Revised Code as enacted by Am. Sub. H.B. No. 330, or any subsequent amendment thereto, the limited or extended limited contract of a teacher may be nonrenewed by the Board without evaluations, hearing, or written Board decision or order thereafter if the written statement describing the circumstances that led to the intention of the Board not to reemploy the teacher provided to the teacher pursuant to Ohio Revised Code Section 3319.11(G)(2) or otherwise recites as a basis for non-renewal (1) a reason for a reduction in personnel or the non-renewal of a limited contract set forth in Article 704 of this Agreement, (2) that the teacher's current contract entails service being provided under a temporary certificate without the teacher's possessing a regular certificate in another teaching area under which the teacher has previously

provided service in the Columbus City Schools or (3) that the teacher has been advised prior to employment that such non-renewal may occur due to the special nature of the specific assignment for which such teacher was employed.

NEA RESOLUTION D-20. Education Employee Evaluation

The National Education Association believes that formal performance-based evaluations must be augmented by formative evaluation components in order to assure the continuing competency of all education employees in their respective fields.

Effective evaluation procedures supported by professional development programs will enable all education employees to keep abreast of developments in their areas of specialization. Such procedures, with sufficient resources, can help ensure job competency, identify deficiencies in performance, and provide options such as counseling, training programs, a remediation plan, and opportunities to observe peers.

The Association also believes that evaluations of teachers must be comprehensive—based on multiple indicators that provide teachers with clear and actionable feedback to enhance their practice—with components that include indicators of teacher practice, teacher contribution and growth, and contribution to student learning and growth.[†]

If, following such an evaluation, a teacher's practice fails to meet performance standards, a teacher should be provided with clear notice of the deficiencies and an improvement plan should be developed by the teacher, local association, and employer. After being given sufficient time, training, and opportunity for improvement, a person is then formally reevaluated, and if incompetence can be documented, dismissal proceedings with guaranteed due process may be instituted. Such proceedings must be implemented by administrators/evaluators who are properly trained and held accountable for appropriate and fair evaluation systems. An administrator must complete evaluations in accordance with the timeframe prescribed by laws, contracts, agreements, and memoranda of understanding. An administrator's failure to complete an evaluation must not negatively impact an education employee.

The Association further believes that classroom teachers, without fear of discipline or negative evaluation, must be given the discretion to modify the pace of predetermined progress rates, dictated pacing guides, and mandated scripted lesson pacing charts.

The evaluation procedure should be cooperatively developed and maintained in conjunction with representatives selected by the local affiliate and should include—

- a. Clear performance expectations that are specific to the job description
- b. Regular observation of job performance with advance notice and discussion of evaluation visits and a timely consultation after each visit

[†] See the *NEA Handbook* for the Policy Statement on Teacher Evaluation and Accountability adopted by the 2011 Representative Assembly.

- c. A written evaluation report to be provided to the person being evaluated
- d. Opportunity for a written response prior to the placement of the evaluation in the personnel file
- e. An employee improvement plan that will not interfere with any earned pay increase or longevity credit
- f. A provision for an alternative evaluator and/or an opportunity for an alternative evaluation report to ensure a fair and unbiased evaluation of the education employee
- g. An unbiased appeals process with an evidentiary hearing under oath.

The Association further believes that procedures for evaluation of administrators should include evaluations by education employees who are directly supervised by them.

By participating in an evaluation process, an education employee shall not waive his or her right to due process in any subsequent contractual or legal proceeding. (1969, 2011)

Teacher Evaluation Frameworks

	Danielson Framework	Marshall Framework	Marzano Causal Teacher Evaluation Model	McREL Evaluation System
Number of Domains/Standards	4 Domains <ul style="list-style-type: none"> • Preparation and Planning • Classroom Environment • Instruction • Professional Responsibilities 	6 Domains <ul style="list-style-type: none"> • Planning and preparation for learning • Classroom management • Delivery of instruction • Monitoring, assessment, and follow-up • Family and community outreach • Professional responsibilities 	4 Domains <ul style="list-style-type: none"> • Classroom Strategies and Behaviors • Planning and Preparing • Reflecting on Teaching • Collegiality and Professionalism 	5 Standards <ul style="list-style-type: none"> • Teachers Demonstrate Leadership • Teachers Establish A Respectful Environment for Diverse Population of Students • Teachers Know the Content They Teach • Teachers Facilitate Learning For Their Students • Teachers Reflect on Their Own Practice
	4 point scale Unsatisfactory Basis Proficient Distinguished	4 point scale 4 - Expert 3 - Proficient 2 - Needs Improvement 1 - Does Not Meet Standards	5 point scale 4 - Innovating 3 - Applying 2 - Developing 1 - Beginning 0 - Not Using	5 point scale Developing Proficient Accomplished Distinguished Not Demonstrated

	Well established	Recently established	Recently established	Recently established
	Widely implemented	Limited implementation	Limited implementation	Limited implementation
	Provides tailored technical support and training for implementation	Provides recommendations for implementation	Provides technical support and guidance and training for implementation	Provides tailored technical assistance and training to states and locals

Minnesota: Bargaining Teacher Evaluation and Peer Coaching

The Education Omnibus Bill passed by the 2011 Legislature in special session amended Minnesota Statute Chapter 122A.40, Subdivision 8 to provide for the development of evaluation and peer coaching for continuing contract teachers. This amendment is a mandate for school boards and exclusive representatives of teachers to develop an annual teacher evaluation and peer review process. In the event that the union and employer fail to reach agreement, the new law requires the state to develop an evaluation process that will be implemented. The evaluation and peer review process must be in place at the start of the 2014-2015 school year.

Education Minnesota strongly recommends the following for ALL LOCALS in the state:

- Locals should bargain either contract language or a Memorandum of Agreement during the negotiations of the 2011-2013 contract that establishes a joint union-district evaluation and review design team or committee.
- This agreement must CLEARLY ESTABLISH the process and procedures the design team is to follow
- This team will be explicitly responsible for studying, planning, developing and implementing the statutory requirements for the evaluation and peer review plan.
- Both the agreement to jointly design the evaluation system AND the resulting evaluation system should be contractually binding via ratification by both the school board and union.

The agreement should establish the composition of the design team and the operating procedures to be followed while drafting the plan for evaluation and review. This should include but not be limited to determining the number of representatives from each party, who will convene the first meeting and when it will be held as well as who will serve as chair or co-chairs of the design team.

Additionally, the scope of authority of the team must be established in the contract or MOU including the components that must be included in the final plan and how the final report of the team will be ratified by the parties before implementation in 2014.

The following sample language can be used to establish the Joint Union-District Teacher Evaluation and Peer Coaching Design Team or Committee:

Sample Language

In order to develop a teacher evaluation and peer review plan for the 2014-2015 school year, the *(Union)* and *(District)* agree to establish a Joint Union-District Teacher Evaluation and Peer Review Design Team (the Team). The Team is responsible for the development of a teacher evaluation and peer review plan for probationary and continuing contract teachers that complies with the requirements of Minnesota law.

In the event the Team determines that existing evaluation or peer review plans, processes and/or procedures meet all or part of the statutory requirements, the Team may incorporate these existing elements into the proposed evaluation plan.

- VII. The Team will consist of:
 - a. ***(Number)*** representatives of the teachers appointed by the president of ***(the Union)***
 - b. ***(Number)*** representatives of the school district appointed by the Superintendent or his designee.
- VIII. The Superintendent will convene the first meeting of the Team no later than October 1, 2011. The agenda of the first meeting will include the establishment of a regular meeting schedule.
- IX. The president of the Union or a designee and the Superintendent or a designee will serve as co-chairs of the Team.
- X. The Team will establish practices and procedures for its operation.
- XI. The district shall supply the necessary resources, including but not limited to secretarial support, to allow for the completion of the Team's responsibility.
- XII. The elements to be considered in the development of the plan shall include but not be limited to:
 - a. The processes and timelines that will be used in the three (3) year evaluation cycle.
 - b. Identification of multiple measures of teacher effectiveness.
 - c. Staff development opportunities aligned with the evaluation process established under M.S. §122A.60 and §122A.61.
 - d. Qualifications and training of mentors and evaluators, including:
 - i. Training and use of induction mentors for probationary teachers.
 - ii. Training and use of peer mentors for continuing contract teachers.
 - iii. Orientation for mentee teachers with regard to working effectively with a mentor.
 - e. Assistance plans and procedures for teachers identified through the evaluation and peer review processes as not meeting the performance standards established in the evaluation process.
 - f. An evaluation and peer review implementation schedule that includes:
 - i. Timeline for ratification of contract language implementing the established evaluation and peer review system by both the Union and District.
 - ii. Timeline for implementation.
 - iii. Timeline for training of mentors and evaluators in advance of the 2014 implementation date.
 - iv. Notification in advance of observations and evaluations to teachers being observed or evaluated. The Team shall determine the manner and timing of this notification.

The final draft of the plan shall be approved by a majority vote of the Team and reported to the Union and District no later than July 1, 2013. Each party shall, before October 1, 2013 vote “Yes” or “No” on the proposed plan without amendment. In the event of a “No” vote, the party rejecting the plan must report their specific objections back to the Team within 10 days of the vote and the Team will attempt to amend the plan in an effort to gain the approval to the parties. This reconciliation must be completed within 10 days after the receipt of the objections and resubmitted for a final vote no later than November 1, 2013. In the event the amended plan is rejected the plan established by the State of Minnesota will be adopted. After final adoption of the plan, the Team will ensure that contractual language implementing the plan is written and ratified prior to July 1, 2014.

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Alabama	SB 310	1939	Expands causes for dismissal, streamlines hearing process. Prohibits dues deduction for "political activities."
Colorado	SB 10-191	1921	<p>Career status can only be obtained if teacher has met performance standards in addition to serving the required number of years. If teacher falls below effective rating for two consecutive years, career status is lost.</p> <p>Teacher evaluations must be tied at least 50% to student performance on standardized tests. In making layoff decisions, performance criteria must come first. Then, as a second criteria, the board may consider seniority.</p>
Florida	SB 736	1937 (Orange County)	<p>Abolishes career status protections for teachers hired after July 1, 2011.</p> <p>Reduces protections for teachers with career status by changing the definition of "just cause" to include substandard performance on annual evaluations. Teacher evaluations and pay must be tied at least 50% to student performance on standardized tests.</p> <p>Prohibits the use of seniority as a factor in determining order of layoffs.</p>
Idaho	SB 1108	1963	<p>Abolishes career status prospectively by prohibiting the state from entering into contracts that would result in the vesting of tenure or a property right in employment. Prohibits consideration of seniority or contract status as a factor in making termination decisions.</p> <p>Teacher contracts cannot last for more than one year, or two years at the discretion of the school district.</p> <p>Teacher evaluations must be tied at least 50% to "objective measures of growth in student achievement."</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Illinois	SB 7	1919 (Chicago)	<p>Adds performance requirements in order for teachers to obtain career status. Probationary period is still 4 years, but it can be accelerated to 3 years if the teacher receives “excellent” ratings each year.</p> <p>Career status is no longer primary factor in determining order of layoffs. Certification is first, performance is second, and seniority is third. Non-tenured teachers can be retained over tenured teachers if their performance is higher.</p> <p>Existing CBAs with last-in-first-out provisions are grandfathered in.</p> <p>Dismissal process for career status teachers is streamlined.</p>
Indiana	SB 575; SB 1	1927	<p>Career status eliminated for teachers who have not obtained it by June 30, 2012.</p> <p>Career status can be lost based on performance ratings.</p> <p>Due process protections are reduced, such that even career status teachers are entitled only to “private conferences” with the superintendent at which they can bring a “representative” rather than a full hearing upon termination.</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Maine	HP 720	1959	Probationary period for career status extended from two years to three.
Michigan	PLs 100 to 103	1937	<p>Substantially expands list of prohibited bargaining topics to include: placement of teachers, order of layoffs during RIFs, the timing and format of classroom observations of individual employees, decisions about how performance evaluations are used to determine compensation, or the impact of any of the above decisions the bargaining unit. (PL 103)</p> <p>Probationary period extended from four years to five for teachers who have not obtained career status as of the effective date of the new laws. In addition to serving for five years, probationary teachers must receive “effective” or “highly effective” ratings on performance evaluations in the three consecutive years preceding the year in which they would be eligible for tenure.</p> <p>Due process proceeding for career status teachers has been shortened by 30 days.</p> <p>Changes the standard for discharge of a career teacher from “reasonable and just cause” to “arbitrary and capricious.”</p> <p>Career status can no longer be used as the primary factor in making certain personnel decisions, such as the order of layoffs during RIFs. Instead, “effectiveness” (based largely on student test scores) under new evaluation system is used.</p> <p>Teacher evaluations must be tied at least 50% to student achievement (phased in by 2013-2014).</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Nevada	AB 229; AB 222; SB 98	1969	<p>Probationary period expanded from two years to three years.</p> <p>Teacher evaluations tied at least 50% to student achievement, including test scores and graduation rates. Student achievement cannot be the “sole factor” upon which to base an evaluation.</p> <p>If a probationary employee receives three “highly effective” or “effective” evaluations during his or her first year, the superintendent of schools will waive the second year probation and the employee will obtain career status. Teachers with career status who are rated below average for two consecutive years under the old evaluation system, or are rated “minimally effective” during one year of a two year consecutive period and “ineffective” during the other year of the period under the new evaluation system, are returned to probationary status and must serve an additional full probationary period in order to regain career status.</p> <p>Evaluation scores are also tied to whether probationary contracts are renewed, and may be considered as a factor in layoffs.</p> <p>Seniority cannot be the sole factor in determining the order of layoffs.</p>
New Hampshire	SB 196; SB 1	1905	<p>Probationary period extended to 5 consecutive years for teachers moving between districts in the state and to 3 consecutive years if remain in one district. Formerly the teacher needed 3 consecutive years in any district in the state or 2 consecutive years in one district.</p> <p>Last-in-first-out prohibited as a policy for determining the order of layoffs.</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Ohio	SB 5	1941	<p>Places such extensive restrictions on topics of bargaining for employees of local governments and school districts that bargaining is all but destroyed. For example, employees may no longer bargain the order of layoffs, class size, starting and quitting time of employees, work standards, contracting out of the employer's work, and criteria for hiring, firing, promotion, retention, suspension or discipline of employees.</p> <p>Eliminates collective bargaining for state employees and employees of state institutions of higher education.</p> <p>Restricts contract length to one year, if entered into on or after effective date of the bill.</p> <p>Career status eliminated for teachers who do not meet all of its requirements before effective date of the bill.</p> <p>Seniority cannot be the only factor in a RIF. Must be principally based on "performance."</p> <p>Teacher evaluations must be tied at least 50% to student achievement.</p> <p>NOTE - ALL OF THESE CHANGES WERE REJECTED BY THE VOTERS IN THE NOVEMBER 2011 ELECTION</p>
Oklahoma	SB 1; SB 2033	1937 (some counties; later invalidated as a "local or special law")	<p>Removes "career teacher pre-termination hearing" requirements related to the Teacher Due Process Act of 1990; strikes the term "probationary," making all teachers subject to the same disciplinary process.</p> <p>Eliminates de novo trial following board hearing.</p> <p>Teacher evaluation ratings, not seniority, must be the primary basis used in making layoff terminations.</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Tennessee	HB 0130; SB 1528	1937 (Knox County only); 1951 statewide	<p>Collective bargaining no longer exists. "Collaborative conferencing" will take its place, under which "memoranda," not contracts, may be reached. The "memoranda" merely memorialize conclusions reached during conferencing. Employers are required to conference with certified representatives, but do not have to sign memoranda. Parties may not even conference, however, over differentiated pay plans, expenditure of grant money, evaluations, staffing decisions relating to innovation programs, order of layoffs in RIFs, and dues deductions to be used for "political activities."</p> <p>Exclusive representation has been eliminated. Employees who vote "no" to representation may designate the organization they would choose if the "yes" votes were to win the election. Employees can also choose to be "unaffiliated." The "unaffiliated" employees are themselves considered a "labor organization," which is entitled to be represented on the conferencing panel if it makes up large enough percentage of the votes.</p> <p>Redefines career status, stating that teachers have "no property right" in that status and career status can be taken away if teachers fail to maintain a prescribed level of performance. Law no longer distinguishes between "limited tenure" and "permanent tenure."</p> <p>Teacher evaluations must be tied at least 50% to student achievement.</p> <p>Definition of "inefficiency" is expanded so that teachers may be fired for being evaluated at a level that is "below expectations."</p> <p>Probationary period extended from three years to five years. Teachers are not eligible for career status unless they also receive "above expectations" ratings or better in preceding two years.</p> <p>Recall based on performance evaluations, not seniority.</p>

Revisions to State Fair Dismissal Laws for Teachers Since 2010

State	Bill No.	Year Tenure Law First Enacted	Summary of Revisions
Wisconsin	Act 10	1921 (Milwaukee)	<p>For “general” employees other than a favored group of “public safety” employees, the following restrictions apply:</p> <ul style="list-style-type: none"> • Bargaining is only permitted with respect to “total base wages,” which excludes overtime, premium pay, merit pay, performance pay, supplemental pay, pay schedules and pay progressions. Bargaining on other topics - including fair dismissal protections - is prohibited; • Must secure votes of 51% of total unit (as opposed to those voting) annually to represent a unit of employees; • Term of CBAs limited to one year; • Union dues deductions for general employees are prohibited; • Fair-share agreements are prohibited; and • Employees must make increased contributions to health care and retirement.
Wyoming	SF 146; SF 70	1957	<p>Probationary period still three years, but teachers must also meet performance standards in order to obtain career status. Just cause broadened to cover ineffective performance on evaluations.</p>

Recent Real Life Examples of Good Teachers Being Fired for Bad Reasons Because They Did Not Have Career Status¹

- A probationary teacher from New York was fired for filing a grievance challenging his principal's decision not to discipline a student who had thrown books at the teacher during class.²
- A probationary teacher from Ohio was fired for selecting controversial books—Fahrenheit 451 and Siddhartha—for her high school English class.³
- A probationary teacher in Illinois was fired because she expressed her opposition to the war in Iraq; her statement was made in response to a student's question during a high school class discussion of current events.⁴
- In Alabama, a probationary high school teacher was terminated for expressing concerns about the fairness of cheerleader tryouts.⁵
- A probationary special education teacher who worked for a New York charter school was fired because she complained about discriminatory and illegal conduct toward the school's special needs students.⁶
- In Michigan, a probationary special education teacher was fired for complaining about the size of her teaching caseload.⁷
- A special education counselor from New York was denied nonprobationary status and forced to resign upon threat of termination because of her repeated complaints to the school administration about the violent and threatening behavior of a special education student.⁸
- In Georgia, a probationary Head Start employee was fired for reporting financial improprieties by the Head Start director.⁹
- A probationary special education teacher from Alabama was fired in retaliation for complaining about the school district's violations of the Individuals with Disabilities Education Act.¹⁰
- In Delaware, a probationary school psychologist was fired in retaliation for complaining about the school's violations of the Individuals with Disabilities Education Act.¹¹
- In Mississippi, a probationary school secretary was fired on the spot when she complained to the school superintendent that her son had been suspended from school without adequate due process.¹²
- A probationary community college instructor from North Carolina was dismissed in retaliation for distributing publicly-available salary information regarding all college instructors.¹³
- A probationary college administrator from Florida was terminated for voicing concerns about a number of unethical or illegal behaviors by the college president.¹⁴

- In Georgia, a probationary university employee in the Office of Financial Aid was fired for disclosing to university administrators evidence that the head of the financial aid office had knowingly submitted false or fraudulent claims to the U. S. government.¹⁵
- A probationary school scheduler from New Jersey was demoted for reporting an alleged grade fixing scheme.¹⁶
- A probationary employee of the Detroit Board of Education was fired in retaliation for complaining to her superior and a newspaper reporter about the school's alleged misuse of federal Title I funds.¹⁷
- A probationary school bus driver from Pennsylvania was nonrenewed because he reported to public school district officials regarding disruptive behavior of disabled students on his bus.¹⁸
- In New York, a probationary school custodian was fired for reporting to his superiors that fallen insulation materials in the gymnasium might contain asbestos and that the area should be tested.¹⁹

(Endnotes)

- 1 In each of these cases, the courts assumed, without deciding, that the school employee's claim of retaliation was true.
- 2 *Weintraub v. Board of Educ. of City School Dist. of City of New York*, 593 F.3d 196 (2d Cir. 2010).
- 3 *Evans-Marshall v. Board of Educ. of Tipp City Exempted Village Sch. Dist.*, 624 F.3d 332 (6th Cir. 2010).
- 4 *Mayer v. Monroe County Community School Corp.*, 474 F.3d 477 (7th Cir. 2007).
- 5 *Gilder-Lucas v. Elmore County Bd. of Educ.*, 186 F. App'x 885 (11th Cir. 2006).
- 6 *Rodriguez v. International Leadership Charter School*, 2009 WL 860622 (S.D.N.Y. 2009).
- 7 *Fox v. Traverse City Area Public Schools Bd. of Educ.*, 605 F.3d 345 (6th Cir. 2010).
- 8 *Woodlock v. Orange Ulster B.O.C.E.S.*, 281 F. App'x 66 (2d Cir. 2008).
- 9 *Dennis v. Putnam County Bd. of Educ.*, 260 F. App'x 171 (11th Cir. 2007).
- 10 *Miller v. Houston County Bd. of Educ.* 2008 WL 696874 (M.D. Ala. 2008).
- 11 *Houlihan v. Sussex Technical Sch. Dist.*, 461 F. Supp. 2d 252 (D. Del. 2006).
- 12 *Harris ex rel. Harris v. Pontotoc County School Dist.*, 2011 WL 814972 (5th Cir. 2011).
- 13 *Munn-Goins v. Board of Trustees of Bladen Community College*, 658 F. Supp. 2d 713 (E.D.N.C. 2009).
- 14 *Vila v. Padron*, 484 F.3d 1334 (11th Cir. 2007).
- 15 *Battle v. Board of Regents for Georgia*, 468 F.3d 755 (11th Cir. 2006).
- 16 *Veggian v. Camden Bd. of Educ.*, 600 F. Supp. 2d 615 (D.N.J. 2009).
- 17 *Omokehinde v. Detroit Bd. of Educ.*, 563 F. Supp. 2d 717 (E.D. Mich. 2008).

18 *Isler v. Keystone School Dist.*, 335 F. App'x 200 (3d Cir. 2009).

19 *Morey v. Somers Cent. School Dist.*, 2011 WL 441323 (2nd Cir. 2011).

NEW JERSEY PROPOSED TENURE, RESIDENCY AND MENTORING BILL
[EXCERPTS WITH KEY CHANGES HIGHLIGHTED]

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. N.J.S.18A:6-9 is amended to read as follows:

18A:6-9. The commissioner shall have jurisdiction to hear and determine, without cost to the parties, all controversies and disputes arising under the school laws, excepting those governing higher education, or under the rules of the state board or of the commissioner. For the purposes of this Title, controversies and disputes concerning the conduct of school elections shall not be deemed to arise under the school laws.

Notwithstanding the provisions of this section to the contrary, an arbitrator shall make the final determination on a controversy and dispute arising under subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes (C.18A:6-10 et seq.).
 (cf: P.L.1995, c.278, s.24)

2. N.J.S.18A:6-10 is amended to read as follows:

18A:6-10. No person shall be dismissed or reduced in compensation,

(a) if he is or shall be under tenure of office, position or employment during good behavior and efficiency in the public school system of the state, or

(b) if he is or shall be under tenure of office, position or employment during good behavior and efficiency as a supervisor, teacher or in any other teaching capacity in the Marie H. Katzenbach school for the deaf, or in any other educational institution conducted under the supervision of the commissioner;

except for inefficiency, incapacity, unbecoming conduct related to the employee's office, position, or employment, or other just cause, and then only after a hearing held pursuant to this subarticle, **[**by the commissioner, or a person appointed by him to act in his behalf,**]** after a written charge or charges, of the cause or causes of complaint, shall have been preferred against such person, signed by the person or persons making the same, who may or may not be a member or members of a board of education, and filed and proceeded upon as in this subarticle provided.

Nothing in this section shall prevent the reduction of the number of any such persons holding such offices, positions or employments under the conditions and with the effect provided by law.

(cf: N.J.S.18A:6-10)

3. N.J.S.18A:6-14 is amended to read as follows:

18A:6-14. Upon certification of any charge to the commissioner, the board may suspend the person against whom such charge is made, with or without pay, but, if the determination of the charge by the **[**Commissioner of Education**]** arbitrator is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary (except for said 120 days) of such person shall be paid beginning on the one hundred twenty-first day until such determination is made. Should the charge be dismissed, the person shall be reinstated immediately with full pay from the first day of such suspension. Should the charge be dismissed and the suspension be continued during an appeal therefrom, then the full pay or salary of such person shall continue until the determination of the appeal. However, the board of education

shall deduct from said full pay or salary any sums received by such employee or officers by way of pay or salary from any substituted employment assumed during such period of suspension. Should the charge be sustained on the original hearing or an appeal therefrom, and should such person appeal from the same, then the suspension may be continued unless and until such determination is reversed, in which event he shall be reinstated immediately with full pay as of the time of such suspension.
(cf: P.L.1971, c.435, s.2)

4. N.J.S.18A:6-16 is amended to read as follows:

18A:6-16. Upon receipt of such a charge and certification, or of a charge lawfully made to the commissioner, the commissioner or the person appointed to act in the commissioner's behalf in the proceedings shall examine the charges and certification. The individual against whom the charges are certified shall have 15 days to submit a written response to the charges to the commissioner. Upon a showing of good cause, the commissioner may grant an extension of time. The commissioner shall render a determination on the sufficiency of charges as set forth below within 15 days immediately following the period provided for a written response to the charges.

If, following receipt of the written response to the charges, the commissioner is of the opinion that they are not sufficient to warrant dismissal or reduction in salary of the person charged, he shall dismiss the same and notify said person accordingly. If, however, he shall determine that such charge is sufficient to warrant dismissal or reduction in salary of the person charged, he shall within 10 days of making that determination refer the case to **the Office of Administrative Law** an arbitrator pursuant to section 6 of P.L. , c. (C.) (pending before the Legislature as this bill) for further proceedings, except that when a motion for summary decision to dismiss the charges has been made by the person charged prior to that time, the commissioner may retain the matter for purposes of deciding the motion.

(cf: P.L.1998, c.42, s.2)

5. N.J.S.18A:6-20 is amended to read as follows:

18A:6-20. Any party to any dispute or controversy or charged therein, may be represented by counsel at any hearing held in or concerning the same and shall have the right to testify, and produce witnesses to testify on his behalf and to cross-examine witnesses produced against him, and to have compulsory process by subpoena to compel the attendance of witnesses to testify and to produce books and documents in such hearing when issued by (a) the president of the board of education, if the hearing is to be held before such board, or (b) the commissioner, if the hearing is to be held before him or on his behalf, or (c) the president and secretary of the State board, if the hearing is to be held before such board or before one of its committees, or (d) the chairman of the board of trustees of the State or county college or industrial school, if the hearing is to be held before such board , or (e) an arbitrator, if the hearing is to be held before such person.

The subpoena shall be served in the same manner as subpoenas issued out of the Superior Court are served.

(cf: P.L.1994, c.48, s.50)

6. (New section) a. **The Commissioner of Education shall maintain a panel of 20 permanent arbitrators to hear matters pursuant to N.J.S.18A:6-16 and N.J.S.18A:6-18. Of the 20 arbitrators, 10 arbitrators shall be designated by the New Jersey Education Association**

and 10 arbitrators shall be designated by the New Jersey School Boards Association. All arbitrators designated pursuant to this section shall serve on the American Arbitration Association panel of labor arbitrators and shall be members of the National Academy of Arbitrators. Arbitrators on the permanent panel shall be listed in alphabetical order and shall be assigned by the commissioner in that order to hear cases. When an arbitrator is assigned, the Commissioner of Education shall notify the American Arbitration Association of the assigned arbitrator.

b. The following provisions shall apply to a hearing conducted by an arbitrator pursuant to N.J.S.18A:6-16 and N.J.S.18A:6-18:

(1) The hearing shall be held before the arbitrator within 60 days of the assignment of the arbitrator to the case;

(2) The costs and expenses of the arbitrator and any administrative costs for the services of the American Arbitration Association shall be borne by the State of New Jersey; and

(3) Upon referral of the case for arbitration, the employing board of education shall provide all evidence including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employee or the employee's representative. The employing board of education shall be precluded from presenting any additional evidence at the hearing, except for purposes of impeachment of witnesses. At least 10 days prior to the hearing, the employee shall provide all evidence upon which he will rely including, but not limited to, documents, electronic evidence, statements of witnesses, and a list of witnesses with a complete summary of their testimony, to the employing board of education or its representative. The employee shall be precluded from presenting any additional evidence at the hearing except for purposes of impeachment of witnesses.

c. The arbitrator shall determine the case under the American Arbitration Association labor arbitration rules. In the event of a conflict between the American Arbitration Association labor arbitration rules and the procedures established pursuant to this section, the procedures established pursuant to this section shall govern.

d. Notwithstanding the provisions of N.J.S.18A:6-25 or any other section of law to the contrary, the arbitrator shall render a decision within 30 days of the close of the hearing.

e. The decision of the arbitrator shall be final and binding and may not be appealed to either the Commissioner of Education or the State Board of Education. The decision of the arbitrator shall be subject to judicial review and enforcement as provided pursuant to N.J.S.2A:24-7 through N.J.S.2A:24-10.

7. (New section) Any tenure charge received by the Commissioner of Education pursuant to N.J.S.18A:6-16 prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill), shall be determined in accordance with the provisions of subarticle B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes, as the same read prior to the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

8. The following sections are repealed:

N.J.S.18A:6-17;

Section 1 of P.L.1998, c.42 (C.52:14B-10.1).

9. This act shall take effect immediately.

STATEMENT

This bill will require binding arbitration for contested cases involving the dismissal or reduction in compensation of tenured employees of a school district. The Commissioner of Education will continue to determine whether or not there is a contested case. If a determination is made that there is a contested case, an arbitrator will be assigned by the commissioner to hear the case and make a final determination. These contested cases will no longer be referred to Administrative Law Judges, and the final determination on the case will no longer be made by the Commissioner of Education, which is the process under current law.

Under the bill the arbitrators will be chosen from a panel of 20 permanent arbitrators maintained by the Commissioner of Education. These arbitrators will serve on the American Arbitration Association panel of labor arbitrators and be members of the National Academy of Arbitrators. Of the 20 arbitrators, 10 will be designated by the New Jersey Education Association and 10 by the New Jersey School Boards Association.

The bill provides that the hearing before the arbitrator will be held within 60 days of the assignment of the arbitrator to the case and that the arbitrator will render a decision within 30 days of the close of the hearing. The decision of the arbitrator will be deemed final and binding, and will not be appealable to the Commissioner of Education or State Board of Education. The bill provides for a limited number of instances in which the decision of the arbitrator will be subject to judicial review, enforcement, or vacation.

The bill also alters the reasons for which a person under tenure may be dismissed or reduced in compensation. The reasons currently stated in law (inefficiency, incapacity, conduct unbecoming, or other just cause) remain, but if the reason is “conduct unbecoming,” that conduct must now be related to the public school employee’s position.

Thomas J. Donaldson
Dyer-Lawrence Law Firm
Carson Nevada
NOLEA, May 2011

EXPEDITED ARBITRATION PROCESS FOR TERMINATIONS

1. There shall be a single panel of arbitrators established who shall conduct hearings and render final and binding awards with regard to terminations involving Association members. For purposes of this Agreement a "termination" shall be deemed to be any separation from employment with the District which would entitle the affected employee to a hearing process established by statute or by the provisions of a collectively bargained agreement. The parties shall request and obtain from each of the arbitrators on the panel a written agreement to abide by the time lines and procedures set forth in this Agreement. Any arbitrator who is unwilling to execute such an agreement shall be removed from the panel and shall be replaced in accordance with the negotiated agreement with an arbitrator who will agree to abide by the time lines and procedures.

The parties shall request and obtain from each of the panel members dates on which the arbitrators are available to conduct hearings pursuant to this Agreement. Each arbitrator shall provide either one (1), two (2) or three (3) consecutive days per month for a period of at least six (6) months. A procedure shall be established by the District and the Association, after obtaining input from the panel members, which shall require each panel member to provide the requested available hearing days on a rotating basis. The District/Association will request, from each of the arbitrators on the panel, available dates for each successive month on the Master Calendar thereafter, in accordance with this procedure. The District/Association will be responsible for maintaining the Master Calendar reflecting the dates obtained from the arbitrators and the matters being heard on the given dates. The Master Calendar will be utilized primarily for setting termination arbitrations. However, upon mutual agreement of the District and the Association, dates on the Master Calendar may be utilized for setting arbitrations involving matters other than terminations. The parties shall set arbitrations in the following priority: 1) terminations; 2) suspensions; 3) grievances, in chronological order, except for class action grievances, which may be set out of chronological order.

3. The Master Calendar dates shall be used for scheduling hearings involving terminations, pursuant to the negotiated agreement. All pending matters that have not been scheduled for arbitration as of the date of this Agreement shall be scheduled as soon as practicable with the oldest matters being set first. Within five (5) days of the setting of the hearing date, the District will issue a notice of hearing to the arbitrator with a copy to the employee and the Association. Pending discipline (such as admonitions and suspensions) which supports the matter being set, shall be consolidated into the termination hearing.
4. No later than fourteen (14) calendar days from receipt of a written release signed by the employee, the District shall provide to both the Association's counsel and the Association a copy of the employee's personnel file and all other documents in the District's possession which have been relied upon or reviewed by counsel for the District in connection with the termination action or any pending discipline which supports the termination and that are not otherwise privileged. The document production required by this paragraph is not to be interpreted as being in place of or as a limitation on the provisions of the negotiated agreement.

5. The attorneys or other representatives who are assigned to a particular matter shall schedule a conference to be held no later than thirty (30) calendar days from the date that the documents referenced in Section 4 are sent. At the conference, the attorneys or other representatives shall discuss any matters related to the action; agree upon the number of days necessary for the arbitration; and, set the arbitration based upon dates available on the Master Calendar. Prior to the conference, the attorneys or representatives shall determine whether there is a possibility that the matter can be resolved through settlement discussions. The attorneys or representatives may conduct the conference telephonically or in person. If the parties mutually agree to an in-person conference, with the intent of attempting to reach a settlement, the attorneys or representatives with authority to settle the matter, the employee and a representative of the District with authority to settle the matter will attend the conference. If, at the conference, the parties are unable to finalize a written settlement agreement, the attorneys or representatives will discuss any other matter related to the action, agree upon the number of days necessary for the arbitration and set the arbitration based upon those dates available on the Master Calendar. The parties may, by agreement, delay the setting of the arbitration to produce and execute a final written settlement agreement.
6. The date set for arbitration shall not be more than four (4) months from the date of the issuance of the termination notice or document, unless the District and Association mutually agree, in writing, to a later date or all the available dates on the Master Calendar are filled. If the arbitration is estimated to require more than the number of days available on the Master Calendar in a single block, the parties may combine smaller blocks of days or contact the selected arbitrator for additional days. The District and Association agree that they will utilize their best efforts to schedule the arbitration date of a matter no later than four (4) months from the date of the termination notice.
7. The cancellation period applicable to all dates provided by the panel arbitrators is thirty (30) calendar days, which will apply to all dates that are confirmed for a dismissal, suspension or grievance hearing. Any date that is not confirmed for a hearing at least thirty (30) calendar days before that date will be removed from the Master Calendar and automatically released to the particular arbitrator. The parties will not incur a cancellation fee for any of the released dates. The District/Association may provide the arbitrators courtesy notice of released dates. However, failure to provide such notice will not result in the imposition of a cancellation fee.
8. At the arbitration:
 - (a) A certified court reporter will be present arranged by the District. However, no transcript of the proceeding shall be prepared by the court reporter and no written closing briefs shall be prepared, unless the parties' attorneys or representatives mutually agree; and,
 - (b) All matters will be submitted on oral closing arguments, unless an attorney or representative requests to submit a written closing statement. Any such written closing statement (i) shall be in the form of a closing argument; (ii) is to be prepared without reference to a transcript of the proceeding; and, (iii) shall contain no citation of authority which is not a part of the evidentiary record. The closing statement shall be postmarked no later than ten (10) calendar days after the conclusion of

the hearing, except by agreement of the attorneys or representatives. This provision does not apply to closing statements for multi-day hearings.

- 9. Within twenty (20) days of the close of the arbitration hearing or the submission of written closing statements or briefs pursuant to the preceding section, the arbitrator shall issue a written decision, which shall not be published, and which shall include only the following:
 - (a) A statement of the issue(s) to be determined by the arbitrator;
 - (b) The findings of fact determined by the arbitrator;
 - (c) The arbitrator's analysis of the case, including any conclusions of law; and,
 - (d) An award.
- 10. Nothing in this Agreement prevents the parties from mutually agreeing to engage in informal settlement discussions or from utilizing any other process mutually agreed upon by the parties, prior to initiating the instant arbitration scheduling procedure established by this Agreement.

District

Association

Termination Arbitration Time Line

	2	3	4	5	6	7	8	9	10
Date of dismissal notice	District receives release	District sends discovery	Mandatory attorney meeting	Hearing notice mailed	Deadline to cancel hearing	First day of hearing	Final day of hearing	Closing briefs (if agreed)	Arbitrator Issues award
		14 days after #2	30 days after #3	5 days after	30 days before #7	less than 4 months after #1		10 days after #8	20 days after #8 or #9

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OF COUNSEL
MARGARET A. TWEDT*
HON. MICHAEL E. FONDI*

April 26, 2011

Thomas Adams
Arbitrator
100 A Ave.
Reno, NV 89501

Re: Arbitrations between the District and the Association

Dear Mr. Adams:

You will note that this letter is jointly prepared by counsel for the District and counsel for the Association. The purpose of the letter is to advise you of changes in the arbitration process between the Association and the District.

The District and the Association have been working to attempt to expedite the arbitration process with respect to Dismissal and Non-Renewal (jointly referred to as termination) arbitrations. Unfortunately, a significant backlog of termination arbitrations has developed and the time required to move a termination arbitration through the process has reached the point where it is not unusual for the Arbitrator's Award in a termination proceeding to be issued a year or more from the date of the initiation of the termination process. We hasten to add that we do not fault the Arbitrators involved in the process for this delay.

In order to attempt to remove the backlog and develop a process in which a termination arbitration award can be received within four to six months of the initiation of the termination process, the parties have entered into the enclosed Agreement.

In summary form, the Agreement provides that the parties will establish a Master Calendar for scheduling termination arbitrations. It is understood between the parties that only one Master Calendar will be utilized. Thus, there will be a single Master Calendar for scheduling termination arbitrations involving Association members.

In order to allow the Master Calendar to be established and maintained, each arbitrator will be required to provide either two, three, or five consecutive days per month for a period of at least six months. Once the initial six month calendar is established it will be updated on a monthly basis by obtaining additional dates from each arbitrator. The designation of which arbitrator will be requested to provide either two, three, or five day blocks will be rotated. If a date which an arbitrator has reserved for the Master Calendar is not scheduled for arbitration at least thirty (30) days prior to the calendared date, the date will be considered released back to the arbitrator without penalty to the District or to the Association. We believe that a 30-day cancellation period is reasonable and fair.

Mr. Thomas Adams
April 2011
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The process also envisions a significant change in the manner in which arbitrations will be conducted. Specifically, while a court reporter will be present, no transcript of the proceedings will be prepared by the court reporter, and no written closing briefs will be prepared, unless the parties' attorneys mutually agree otherwise. Matters will be submitted upon oral closing arguments, unless an attorney requests to submit a written closing statement. However, any such written closing statement will have to be in the form of a closing argument, be prepared without reference to the transcript of the proceeding, and will contain no citation of authority which is not part of the evidentiary record. The closing statement will be postmarked no later than ten (10) calendar days after the conclusion of the hearing, unless agreed otherwise by the parties' attorneys.

The parties will require a written decision from the arbitrator within twenty (20) days after the close of the arbitration hearing or the submission of written closing statements or briefs, if so agreed. Written decisions will contain only a statement of the issues to be determined by the arbitrator; findings of facts determined by the arbitrator; the arbitrator's analysis of the case, including any conclusions of law; and, the award. The parties agreed that no termination arbitration award or decision will be published.

If you advise us that the terms of the new arbitration process are acceptable to you, you will be contacted in the near future to provide dates for the building of the initial Master Calendar. We understand that your calendars for the next few months are likely to be full, and we intend to work around that issue with an eye toward building a six-month advance Master Calendar as quickly as possible.

In closing, we wish to, again, emphasize that no party has any dissatisfaction with the services provided by the arbitrators on the hearing panel. We sincerely hope that you will continue to be part of the panel. However, the parties are in total agreement that we must resolve the backlog and the delay which has developed in termination proceedings between the parties. To that end, we are asking that you participate in this program in order to assist us in attempting to resolve the backlog and delay.

You will note in reading the Agreement that we have also expedited the aspects of the process which are within the parties' control, such as through early discovery and meetings of counsel. We look forward to your working with us to develop a procedure which will ensure the prompt determination of the status of an employee's continued employment.

Please confirm your willingness to conduct District termination arbitrations in accordance with the Agreement signed by the parties by signing and dating this letter in the spaces provided below. Please return the original of this letter in the enclosed envelope and retain the enclosed copy of this letter for your records. If we do not receive a signed letter from you by **Friday, July 1, 2011**, we will conclude that you do not wish to continue to hear District termination arbitrations and will remove your name from our panel of arbitrators who hear our termination cases.

Mr. Thomas Adams
April 26, 2011
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Should you have any questions pending receipt of a more detailed explanation concerning development of the Master Calendar, you are encouraged to raise those questions via email to both of the undersigned. We have included our email address for your convenience, as well as our phone numbers.

Sincerely,

C.W. Howard
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(775) 555-5555

Michael W. Dyer
mdyer@dlpfd.com
(775) 885-1896

Enclosures

Thomas Adams

Date