

SEPTEMBER 28, 2005

PROPOSITION 74 ANALYSIS

ISSUES RELATING TO TEACHER TENURE AND TEACHER QUALITY

INSIGHTS FROM RESEARCH AND BEST PRACTICES

INTRODUCTION

Proposition 74, titled *Public School Teachers. Waiting Period for Permanent Status. Dismissal. Initiative Statute.*, is an initiative qualified for the November 2005 California special election ballot. The initiative, at its core, proposes to change the length of time necessary for teachers to be granted permanent status (read: tenure). The purpose of this analysis is to provide pertinent information to California voters as they consider this ballot initiative, including policy issues it is designed to address, research and best practices related to the issue, and potential economic, legal, and social impacts.

This analysis begins with a brief overview of the evolution of teacher tenure and California tenure policy followed by a summary of the major provisions of Proposition 74. The paper then offers a summary of arguments presented to the California Secretary of State's office by initiative proponents and opponents. Next, CPI presents the research and best practices relevant to the issues presented in the initiative. The final section of the paper explores potential impacts of implementing Proposition 74 in California.

BACKGROUND

More than 306,000 certificated teachers taught California's 6.3 million students in the 2004-05 school year.¹ According to state estimates, California school districts will hire more than 20,000 teachers in the 2005-06 school year.² The California Education Code contains the laws that govern California's system of public education, including the procedures for hiring, evaluating, and dismissing teachers. The state's Education Code also includes specifications by which teachers are granted permanent status in a school district.

Tenure

Teacher permanency—more commonly referred to as tenure—first came into being in California in 1921. The law was designed as a due process system to guard against political favoritism or arbitrary and capricious administrative actions in teacher hiring and dismissal. From 1927 to 1982, teachers in California were required to teach for three years in a district before earning tenure. In 1983, as part of California's omnibus education reform bill, the time to tenure was reduced to two years. In exchange for reducing the time to tenure, probationary teachers (those who have not yet gained tenure) no longer had the right to a due-process hearing before being dismissed.³

Probationary teachers—those in their first two years of teaching in California—can be dismissed without cause and without a hearing. In other words, first-year probationary teachers can simply be let go at the end of their year of teaching. Second-year

¹ California Department of Education, Educational Demographics Unit, *DataQuest* Website, <http://data1.cde.ca.gov/dataquest/>.

² California Department of Education, Educational Demographics Unit, Estimated Number of Teacher Hires During 2005-06 by Subject Area, Reported on October, 2004 CBEDS (The California Basic Educational Data System).

³ California State Education Code 44929.21.

probationary teachers must be notified by May 15 of their second year that the school board does not intend to renew their contract, though they are not entitled to a hearing. If the school board fails to notify the teacher of its intent-to-dismiss by the May 15 deadline, the teacher is awarded permanent status for the next school year.

California is one of nine states with a two-year probationary period for teachers. The majority of states require three years of probation for teachers before they gain permanent status. Three states have a one-year probationary period, while five states require four or five years.

The institution of tenure, itself, remains a topic of debate among education reformers and researchers who study issues of teacher quality:

The word “tenure” has taken on a life of its own in K-12 education. Often equated with a permanent guarantee of employment, tenure is cited by its critics as the reason poorly performing teachers cannot be dismissed. But tenure was never meant to be a lifetime employment sinecure. It was intended as a guarantee of due process, meant to serve as protection from arbitrary firing by requiring that a teacher who passes a probationary period the right to a hearing when the employer threatens dismissal for cause. Over time, a combination of cumbersome bureaucratic requirements and poorly designed and administered teacher evaluation procedures has added to tenure’s reputation as an iron-clad employment guarantee.⁴

The granting of tenure in a school district, coupled with the procedural requirements related to dismissal as defined by the Education Code, add to the complexity of the teacher quality issue.

Dismissal

Current law (California Education Code Section 44932) specifies the reasons for which teachers can be dismissed. These reasons are not negotiable by way of districts’ collective bargaining agreements. Permanent employees may be dismissed for one or more of the following reasons:

- Immoral or unprofessional conduct;
- Commission of a crime;
- Dishonesty;
- Unsatisfactory performance;⁵
- Evident unfitness for service;

⁴ Koppich, J. (2005) “Addressing Teacher Quality Through Induction, Professional Development, and Compensation: The Effects on Labor-Management Relations,” Educational Policy, 19:1.

⁵ Until 1995, the Education Code used “incompetence” rather than “unsatisfactory performance.” The Code was amended based on the belief that “unsatisfactory performance” was an easier standard to meet.

- Physical or mental condition unfitting him or her to instruct or associate with children;
- Persistent violation or refusal to obey state laws;
- Conviction of a felony or moral turpitude;
- Knowing membership in the Communist Party; and
- Alcoholism or drug abuse.

Permanent teachers (those three years and beyond) can be dismissed under current state law for any of the reasons cited above, but are entitled to an administrative hearing prior to dismissal.

The Dismissal Hearing Process

If the school board seeks to dismiss a teacher, the board must issue written charges specifying the reason(s) for the intended dismissal. If the reason is “unsatisfactory performance,” the teacher’s most recent evaluation must be attached to the notice of dismissal. The teacher then has 30 days to request a hearing. If no hearing is requested, the dismissal takes effect.

If the teacher requests a hearing, the procedure works something like this:

A three-member Commission on Professional Competence is convened. One member of the hearing panel is an Administrative Law Judge appointed by the State Office of Administrative Hearings (the agency that oversees teacher dismissals). One member is selected by the teacher and one is selected by the school district. Under the law, hearings are to be held within 60 days of the notice of request. However, hearings, which can take several weeks to complete, are often delayed because an Administrative Law Judge is not immediately available.

At the hearing, the district and the teacher, each of which is typically represented by legal counsel, has an opportunity to present evidence to the panel. After hearing all the evidence and deliberating, the panel issues a ruling by majority vote, deciding either to reinstate the teacher or uphold the dismissal. Either side has the right to appeal the panel’s decision to the State Court of Appeals.

PROPOSITION 74: SUMMARY PROVISIONS

Proposition 74 would amend the California Education Code in three primary areas. If enacted, the Proposition would:

1. Lengthen the probationary period for teachers;
2. Formally link evaluation and dismissal processes in the Education Code; and,
3. Change the dismissal process related to unsatisfactory performance.

Lengthening the Probationary Period for Teachers

Proposition 74 would modify section 44929.21 of the California Education Code by extending the probationary period for teachers to five years for teachers whose probationary period began in 2003-04 or after. That is, teachers hired beginning with the 2003-2004 school year would be granted tenure after five years rather than the current two years. There is no grandfather clause exempting those teachers who began in the 2003-04 school year and may have been granted permanent status after completing the two years of service specified under current law.

Linking Evaluation and Dismissal Processes

Proposition 74 defines unsatisfactory performance as the receipt of two consecutive evaluation ratings of “unsatisfactory.” The proposition, therefore, would modify section 44932 of the California Education Code to include this specific condition as a reason for dismissal of permanent employees.

Thus, Proposition 74 would directly tie teachers’ performance evaluations to teacher dismissals. Evaluation standards are specified in the California Education Code beginning with section 44660. Evaluation procedures are subject to collective bargaining between the school district and the local teacher union.

Teachers within the five-year probationary period would receive annual evaluations under Proposition 74 provisions. Currently, teachers receive two evaluations during their probationary period and then are evaluated at least once every other year after they attain permanent status. The change in law, as proposed by Proposition 74, would add two required evaluations within the first five years of a teacher’s career.

Proposition 74 would not change the required frequency of evaluations once teachers are granted tenure—at least once every other year and then once every five years for those teachers with 10 or more years of experience who have received at least a “satisfactory” rating on their last evaluation. Permanent teachers who receive an “unsatisfactory” rating are evaluated annually.

Changing Dismissal Process for Employees with Permanent Status

Under current law, teachers who receive notice of “unsatisfactory performance” on their evaluation are provided 90 days to correct the faults specified. Proposition 74 would eliminate the requirement that school districts provide teachers 90 days to improve their performance after their second consecutive “unsatisfactory performance.” The request for a hearing by a teacher would remain at 30 days following receipt of a notice of dismissal.

PROPOSITION 74: PROPONENT AND OPPONENT ARGUMENTS

This section presents a summary of the arguments put forth for and against Proposition 74 as found in the Official California Voter Information Guide published by the California Secretary of State's office.⁶ The language in this section is that of the proponents and opponents and does not reflect the opinions of the USC California Policy Institute.

Main Arguments in Support of Proposition 74

Signatories to the arguments in favor of Proposition 74 include Governor Schwarzenegger, George Schulz, Chair of the Governor's Council of Economic Advisors, and Karla Jones, Educator of the Year from Orange County. Their arguments are:

- California is one of a handful of states with an outdated "tenure" law that makes it almost impossible and extremely expensive to replace poor-performing teachers because of rules, regulations, and bureaucracy that protects unfit teachers.
 - One school district reportedly spent more than \$100,000 in legal fees and ultimately paid a teacher \$25,000 to resign while another district spent eight years and more than \$300,000 to dismiss an unfit teacher.
- By extending the probationary period to five years from two years, teachers are required to perform well over a longer period of time and with more opportunities to demonstrate expertise before they become eligible for permanent "guaranteed" employment. The extended probationary time provides principals with more time to evaluate teachers.
- Makes it easier to remove a tenured teacher after two consecutive unsatisfactory evaluations.
- Improves the quality of California teachers by rewarding the best teachers and weeding out problem teachers.

Main Arguments in Opposition of Proposition 74

Signatories to the arguments against Proposition 74 include Barbara Kerr, President of the California Teachers Association, Jack O'Connell, State Superintendent of Public Instruction, and Nam Nguyen, Student Teacher. Their arguments are:

- Proposition 74 is deceptive because it misleads people about how teacher employment works; teachers are not guaranteed a job for life, that is, they do not have tenure.
 - Teachers receive a right to a hearing before they are dismissed after a two-year probationary period.
- Existing law already gives school districts the authority to dismiss teachers for a variety of reasons, including unsatisfactory performance—no longer how long a teacher has been on the job.
- Proposition 74 hurts the state's ability to recruit and retain quality teachers while doing absolutely nothing to improve either teacher performance or student

⁶ California Legislative Analyst, "Proposition 74L Analysis by the Legislative Analyst" In Official Voter Information Guide: Special Statewide Election, published by the California Secretary of State, 2005.

achievement; the initiative will discourage young teachers from entering the teaching profession at a time when the state will need 100,000 new teachers over the next 10 years.

RESEARCH EVIDENCE AND BEST PRACTICES

Research and best practices from other states and localities provide insights into the various issues presented in Proposition 74. This section includes some of this evidence about:

- Teacher quality;
- Length to tenure;
- Teacher evaluation;
- Teacher dismissal; and,
- Teacher assignment.

Teacher Quality

There is considerable research about the importance of teacher quality in relation to student achievement.

A 2000 poll found that putting good teachers in classrooms was ranked by the highest percentage of Californians as the most important ingredient in helping students to succeed.⁷ Academic research substantiates the importance of teacher quality as it relates to student performance.

In the words of the 1996 report of the National Commission on Teaching and America's Future: "What a teacher knows and can do makes the crucial difference in what students learn."⁸ Study after study confirms that students who have high-quality teachers post significant and lasting achievement gains. Those with less effective teachers play a constant game of academic catch-up.⁹

Results of a Texas study showed that nearly half the variation in test scores between white and African-American students was attributable to differences in teacher quality.¹⁰ Another study found that the difference in annual achievement growth between students having more effective and less effective teachers was better than one grade level in terms of test performance.¹¹ And researchers in a longitudinal Tennessee study confirmed the

⁷ Baldassare, M. (2000). "Californians and Their Government," *Public Policy Institute Statewide Survey*. San Francisco: Public Policy Institute of California.

⁸ "What Matters Most: Teaching for America's Future" (1996). Report of the National Commission on Teaching and America's Future, New York, NY: Columbia University.

⁹ Koppich, J. (2001). *Investing in Teaching*. Washington, D.C.: National Alliance of Business.

¹⁰ Ferguson, R. (1991). "Paying for Public Education: New Evidence of How and Why Money Matters," *Harvard Journal on Legislation*, 28:475.

¹¹ Hanushek, E. (1992). The Trade-off Between Child Quantity and Quality," *Journal of Political Economy*, 1:100.

cumulative effect of teachers on student achievement. According to this study, after three years of ineffective teachers, students scored at levels significantly lower than their peers who had more effective teachers, and were rarely able to make up the difference.¹²

There is also considerable research on how to produce and sustain well-qualified teachers. Many studies have shown that teachers who are able to help their students learn to high standards know their subjects well and know how to teach these subjects to students; have mentoring and support in their initial years of teaching; have ongoing high quality professional development (or continuing education) throughout their careers; and undergo periodic professional evaluations.¹³

Length to Tenure

There is no research that suggests the optimum time to permanency.

Nearly every state has a statutory provision for teachers to achieve permanent status, sometimes called “tenure” or a “continuing contract.” In most states, the length of time to tenure is three years, somewhat longer than California’s two years, but not as long as the five years Proposition 74 proposes.¹⁴ Three years operates as a conventional and long-established “rule of thumb” for tenure statutes, but without any research studies to substantiate that one timeframe is to be preferred over another.

As it relates to teacher quality, there has been no research linking the time to tenure to measures of teacher quality. Some localities have experimented with alternative pathways to granting permanency to teachers. These programs are more aggressive at linking the ability of teachers to demonstrate core competencies of the profession to the granting of tenure or permanency.

¹² Sanders, W.L. and Rivers, J.C. (1996). *Cumulative and Residual Effects of Teachers on Future Student Achievement*. Knoxville, TN: University of Tennessee Value-added Research and Assessment Center.

¹³ See for example: Grossman, P. (1990). *The Making of a Teacher: Teacher Knowledge and Teacher Education*. New York: Teachers College Press; Darling-Hammond, L. (2000). “Solving the Dilemma of Teacher Supply, Demand, and Standards,” National Commission on Teaching and America’s Future; Little, J.W. (1994). “Teachers’ Professional Development in a Climate of Reform,” found on the web at ed.gov/pubs/EdReformStudies/SysReforms/little1.html; Duke, D. (1995). *Teacher Evaluation Policy*, New York: SUNY Press.

¹⁴ Two states (Indiana and Missouri) require 5 years for teachers to earn tenure.

Earning Tenure in Minneapolis

The Minneapolis Public Schools and the Minneapolis Federation of teachers have negotiated and implemented a unique Achievement of Tenure process. This three-year process has been in place since 1997.

Every teacher new to the Minneapolis schools is required to develop an Achievement of Tenure plan, which must be approved by the principal, a district-assigned mentor, and teacher colleagues. During the three-year probationary period, the teacher must complete 40 hours of professional development, a 20-hour cognitive coaching course offered by the district, and an action research project centered on a classroom-based problem. In addition, the new teacher must compile videotaped examples of teaching and results of annual surveys of the teacher's students and families (surveys developed by the district's professional development office). During probation, the principal and teacher colleagues evaluate the probationary teacher on the basis of Minneapolis' Standards of Effective Instruction.

Approximately three months prior to the end of probation, teachers seeking tenure present their professional portfolios (an accumulation of lesson plans, student work, evaluations, and professional development accomplishments) to their Achievement of Tenure team. If approved, a presentation is then made to other school colleagues, administrators, and district headquarters representatives. Final approval for (or denial of) tenure comes at this point.

There are no formal evaluations of Minneapolis' Achievement of Tenure process. However, teachers in Minneapolis who achieve tenure talk openly about how they believe they have accomplished something important. They are convinced they have passed a significant professional milestone and have earned tenure, not simply been granted it. Teachers who fail to successfully complete the tenure requirements lose their employment with the district.

Cincinnati and Continuing Teacher Contracts

The word "tenure" does not appear in Ohio law. But a negotiated agreement between the Cincinnati Public Schools and the Cincinnati Federation of Teachers provides the path to "continuing teacher contracts."

In Cincinnati, teachers move along a five-tier continuum. Tier 1, the Apprentice level, is for the first year of teaching. Tier 2, Novice, covers years two and three. The principal and specially trained experienced teachers evaluate probationary teachers in each of these years through classroom observations. Evaluation is based on 16 professional standards in four domains: knowing students well, planning for effective instruction, teaching and learning strategies, and professionalism.

After the third year (and before the fifth year), on the basis of a comprehensive evaluation in the four domains, a teacher can be promoted to the Career Level, which is renewable every five years. Any teacher who has not achieved Career status by year five can remain teaching on a “limited contract” and continue to try to earn Career status. That teacher is evaluated annually.

Teachers who achieve Career level can remain there for the life of their career, or, on the basis of high evaluation ratings, can move to the Advanced and Accomplished levels.

Teacher Evaluation

There are no studies of California teacher evaluation systems, but national studies point to cautions about teacher evaluation.

Like most states, California does not maintain information about the quality of school districts’ teacher evaluation systems—how rigorous they are, how effectively they’re implemented, how well trained the evaluators are, or the results they produce. Having this kind of information would contribute to sound judgments about the efficacy of California evaluation systems. But these data are not currently available.

Evaluation procedures (how the evaluation is conducted) are subject to negotiations between the local school board and local teachers’ union in California. However, the law requires that teachers be evaluated according to:

- Students’ progress toward state-adopted academic content standards;
- Instructional techniques and strategies used;
- The teachers’ adherence to curricular objectives; and
- The extent to which the teacher is able to establish and maintain a suitable learning environment.

The law specifically prohibits districts from using publishers’ norms on standardized tests as part of teacher evaluations. Current law also requires that a teacher’s evaluation include recommendations for improvement and that any permanent teacher who receives a rating of “unsatisfactory” be evaluated each year until performance improves. Proposition 74 would bypass this performance improvement option after two consecutive unsatisfactory evaluations; instead, the district could move directly to dismissal procedures.

Experts agree that good evaluation systems serve two purposes: improvement and accountability. The improvement aspect is designed to help teachers continuously ratchet up their professional skills. Accountability is meant to insure that teachers are meeting at least minimum standards of performance (and that those who aren't are removed from the classroom). Both aspects of evaluation are important.

Given the lack of information on the efficacy of California evaluation systems, national studies of teacher evaluation systems help to guide understanding of the issue. Results of these studies suggest that many teacher evaluation systems fall short because they:

- Are based on standards that are unclear or ill-defined;
- Apply the same teaching standards and criteria to all teachers regardless of years of experience;
- Rely on principals who are not well trained and/or do not have enough time to conduct thorough reviews of teachers' work; and
- Provide information that is neither helpful in improving instruction nor offers good indicators of how much students are learning.¹⁵

Again, available information does not allow determinations about the extent to which teacher evaluation systems in California suffer from these same issues or have overcome them.

Another Way of Evaluating Teachers: Peer Assistance and Review

A few California school districts (Poway in San Diego County, for example) use a teacher evaluation system called Peer Assistance and Review (PAR). The first PAR program in the country was launched in Toledo, Ohio in 1981. Poway's system (one of about 20 now operating around the country) has been in place for about 15 years.

Under PAR, experienced teachers, selected jointly by the district and the union, serve as both mentors and evaluators for first-year teachers (principals evaluate second-year teachers) and for under-performing tenured teachers. PAR programs combine the two functions of

¹⁵ For research on teacher evaluation, see, for example: Stodalsky, S.S. (1984). "Teacher Evaluation: The Limits of Looking," *Educational Researcher*, 13, 11-18; Haertle, E. (1986). "The Valid Use of Student Performance Measures for Teacher Evaluation," *Educational Evaluation and Policy Analysis*, 8:1, 45-61; Berk, R. (1988). "Fifty Reasons Why Student Achievement Gain Does Not Mean Teacher Effectiveness," *Journal of Personnel Evaluation in Education*, 3:17-30; Iwanicki, E.F. (1996). "The Role of Evaluation in Supervision as a Process of Inquiry," Manuscript prepared for the *Handbook of Research on School Supervision*; Millman, J. and Sykes, G. (1992). "The Assessment of Teaching Based on Evidence of Student Learning: An Analysis." Paper prepared for the National Board for Professional Teaching Standards.

evaluation—improvement and accountability. Teachers are provided intensive support and assistance to ensure they’re effective in the classroom, and are evaluated on the basis of standards of good teaching (standards such as those of the National Board for Professional Teaching Standards or the California Standards for the Teaching Profession). Those who don’t make the cut are out of teaching.

While it is difficult to secure data in the form of numbers (districts tend not to keep this information), we know anecdotally that PAR programs result both in more teachers improving their practice and in larger numbers of poorly performing teachers being dismissed than under traditional teacher evaluation systems.

The Prospect of Using Test Scores for Teacher Evaluation

A simple, and often-suggested, response to the dilemma of measuring teacher quality is: “The better teachers are the ones whose students score higher on standardized tests. So let’s just use student test scores.” But, as H.L. Mencken once remarked, “Every problem has a simple solution—and it’s usually wrong.”

Simply examining students’ scores on standardized tests from year-to-year does not provide complete or reliable information about teacher quality. Here’s why:

- *Test scores show patterns over time.* While they are valuable as longitudinal data to show growth and progress, single-year test scores do not provide much data that is reliable or useful.
- *Tests provide only a sample of student performance and a sample of teacher impact.* Standardized test results display performance only on a single, pencil and paper exam, but do not tap into other components of student learning (or the impact of teaching) that are not measured by the test.
- *Standardized tests are not available for all grades or subjects.* Tests are prepared for a selection of grade levels and a few subjects (usually the core subjects of English/language arts, mathematics, science, and social studies/history). Thus, even if standardized tests could be used as a reliable indicator of teacher quality, at best these data are available only for those teachers who teach at the particular grade levels or in the particular subjects tested.
- *Test scores can be misleading.* Statistical anomalies can distort test results. For example, extreme test scores—those that are especially high or especially low—tend, on retesting to “regress to the mean” (or move to the middle). This can result in weaker teachers’ students appearing to do as well as stronger teachers’ students.
- *Teaching is context-bound.* Many factors, including those beyond teachers’ control, influence student achievement and can thus influence students’ test scores. Socio-demographics—things like whether or not a child comes from a poverty household, the level of the parents’ education, race and ethnicity, and

students' proficiency with English—have been shown to affect achievement levels.¹⁶

The Value-Added Alternative

So it is not as easy as simply saying, “Let’s look at students’ test scores” to measure teacher quality. Of course, test scores can and do provide some useful information, including information about the quality of teaching. Under controlled conditions it is possible to use test scores as a *partial* indicator of teacher quality.¹⁷ But scores need to be calculated in a particular way—using a method called “value added”.

Value-added methods use a kind of statistical calculation that makes it possible to strip away those factors teachers cannot control, but which have been shown to influence test scores—factors such as socio-economic status, race and ethnicity, and English proficiency. Moreover, using value-added measures, each student is compared year-to-year to himself or herself, thus providing a more accurate picture of each child’s academic growth.

While value-added measurement is promising, the federal government, for purposes of No Child Left Behind (NCLB) accountability does not yet accept it, nor is it used in California’s own accountability system.

Teacher Dismissal

There is no data in California on the aggregate number of teachers who are dismissed or who leave voluntarily as a result of poor performance.

The state maintains no official records on the number of teacher dismissals or the number of teachers who leave the profession due to poor performance. District records (the only available data) are inconsistent and thus require caution be used in making comparisons among districts. Anecdotal reports suggest that many teachers resign or are counseled out before dismissal proceedings begin or are concluded, but no verifiable data substantiate these claims.

¹⁶ See, for example, Elliott, J. and Hall, R. (1985). “Indications of Performance: Measuring the Educators,” *Educational Measurements Issues and Practices*, 42:2, 6-9, Haertle, E. (1986). “The Valid Use of Student Performance Measures for Teacher Evaluation,” *Educational Evaluation and Policy Analysis*, 8:1, 45-61; Berk, R. (1988). “Fifty Reasons Why Student Achievement Gain Does Not Mean Teacher Effectiveness,” *Journal of Personnel Evaluation in Education*, 1: 345-364, Millman, J. and Sykes, G. (1992). “The Assessment of Teaching Based on Evidence of Student Learning,” Paper prepared for the National Board for Professional Teaching Standards; Soar, R.S., Medley, D.M., and Coker, H. (1983). “Teacher Evaluation: A Critique of Currently Used Methods,” *Phi Delta Kappan*, 64:2, 239-246

¹⁷ The value-added technology is still too new and experimental to use as the *only* indicator of teacher quality.

Additionally, there is no research evidence to guide policymakers as to what are the most effective dismissal policies and procedures. Teaching, like any profession, has its share of bad apples. But, like any profession, it's probably a relatively small number.¹⁸ The more critical issue, particularly with reference to issues raised by Proposition 74, is how and on what standards teachers are evaluated and how this ultimately might lead to potential dismissal. As the previous discussion suggested, national research on teacher evaluation is fairly critical regarding how evaluation is conducted and what these evaluations reveal about teacher quality.

Under current law, there is nothing to prevent a district from seeking to dismiss a teacher who receives one "unsatisfactory" evaluation, or receives more than one, but in staggered years. Proposition 74 would require two unsatisfactory evaluations and only in consecutive years as grounds for dismissal. Given that evaluation will continue to be bargained at the local school district level, evaluation procedures will continue to vary from district to district. However, as previously indicated, California lacks research evidence on teacher evaluation and has insufficient data on performance-related teacher dismissals and attrition to understand the extent of the problem.

Teacher Assignment

Inexperienced, under-prepared teachers are disproportionately found in schools with high concentrations of low-income and/or minority students. Remedying the situation would require a variety of policy fixes.

Teacher assignment provisions are negotiated at the local level between school districts and local teacher unions. They are not, as the introduction to Proposition 74 suggests, determined by "tenure rules" found in the Education Code.¹⁹

Contracts typically include provisions for both voluntary assignment (or reassignment) and involuntary (or forced) assignment. Typically, criteria for teacher assignment include such factors as seniority (the length of time a teacher has taught in a district) and credentials and qualifications (whether a teacher has the appropriate certification and preparation for a particular opening). Most teacher contracts include provisions for teachers to apply for open (available) positions and then be interviewed by the principal, or the principal with a team of teachers, before being selected and assigned.

In California, as in most districts across the country, the least experienced (or the least well-prepared) teachers are disproportionately assigned to the most challenging schools, those with high concentrations of minority students and students whose first language is not English. In part, this situation arises because more senior teachers who can transfer from difficult schools often choose to do so. An EdTrust-West report, for example,

¹⁸ This point is reinforced by recently released results of state standardized tests that show California students are making gains in nearly every subject and at nearly every grade level.

¹⁹ The language of "tenure rules" as it relates to teacher assignment is used in Section 2: Findings and Declarations of Proposition 74.

showcased discrepancies, primarily in the form of teacher salaries, between California low-income and high-income schools.²⁰ Most of this variation is attributable to high-income schools having more experienced teachers, whose salaries are higher since teacher salaries are based almost exclusively on years of experience and education level. While the number of years of experience, by itself, is not necessarily a good indicator of teacher quality beyond the first several years of teaching, it is the case that schools are advantaged by having teachers with a range of levels of experience.^{21,22}

As Figure 1 shows, the problem of under-prepared teachers, in particular, being assigned to challenging schools is especially acute in California high schools.

Figure 1: Out-of-Field and Under-Prepared Teachers in California High Schools, 2003-2004

SUBJECT	Fully Credentialed, but Teaching Out of Field	Under-Prepared	TOTAL
English	12%	8%	20%
Math	14%	11%	25%
Social Sciences	14%	6%	20%
Life Sciences	11%	9%	20%
Physical Sciences	23%	9%	32%

Source: "Teaching and California's Future: California's Teaching Force 2004, Key Issues and Trends," Center for the Future of Teaching and Learning.

The preamble to Proposition 74 refers to the need for "greater flexibility" in teacher assignment, inferring that moving more effective teachers to more challenging schools can ameliorate this problem. Yet there is little evidence that simply involuntarily reassigning more effective or more experienced teachers would accomplish the goal of improving student performance. Quite the opposite may be true. Involuntary assignment tends to trigger resentment among teachers and could have the effect of driving them out of the school district or out of the profession altogether.

Research shows that encouraging experienced, well-qualified teachers to choose difficult school assignments requires a variety of fixes:

²⁰ "California's Hidden Teacher Spending Gap: How State and District Budgeting Practices Shortchange Poor and Minority Students and Their Schools" (2005). Oakland, CA: EdTrust-West.

²¹ While experience does not necessarily translate into better teaching, there is some research that suggests there is a relationship. See, for example, Wilson, S., Floden, R., and Ferrini-Mindy, J. (2001). *Teacher Preparation Research: Current Knowledge, Gaps, and Recommendations*. Seattle, WA: University of Washington Center for the Study of Teaching and Policy.

²² For a summary of the research on the topic, see Rice, J.K., *Teacher Quality: Understanding the Effectiveness of Teacher Attributes*, Economic Policy Institute, August 2003, Washington, D.C.

- Ensuring that challenging schools are assigned excellent principals;
- Leveling the playing field in terms of working conditions (low-performing schools often have run-down school buildings and fewer instructional supplies);
- Allowing teachers to transfer into these schools as teams rather than singletons; and,
- Offering additional pay for this work.²³

Outside of California, districts and their teacher unions have negotiated a variety of criteria and procedures for teacher assignment. Many districts (such as Seattle, Washington; Columbus, Ohio; and Cincinnati, Ohio) use a general yardstick of “training and qualifications.” In these districts, seniority for teacher transfer and assignment applies only if two applicants for a single position are determined to be equally qualified. Nevertheless, even districts that no longer use seniority as the primary assignment criterion, find senior teachers tend to gravitate to higher performing, rather than lower performing, schools.

CALIFORNIA IMPACTS

The answers to the following questions may provide additional insights to voters as they consider Proposition 74 at the ballot box:

- If this proposed initiative were in place 10 years ago, what would have been the possible financial, economic, or social impacts?
- If the measure passed in November 2005, what would be the likely financial, economic, or social impacts over the next 10 years?

Teacher Supply

For the last decade, California has hired up to 20,000 teachers per year. The state has often had difficulty finding enough qualified teachers to fill available positions. It is known that, nationally, about 15 percent of teachers leave in their first year and nearly half leave by their fifth year.²⁴ Perhaps longer tenure requirements would have dissuaded teachers from accepting assignments in California or caused them to leave even sooner, but there is no research to guide a retrospective answer to this question.

According to the Center for the Future of Teaching and Learning, a nonprofit organization dedicated to California teacher issues, the state can expect an impending bulge in teacher retirements, resulting in the need to replace 60,000 teachers in the next five years, 100,000 in the next ten years. The gap between teacher supply and demand is not expected to peak until 2012-2013 when it will reach 52,000 teachers. Even allowing

²³ See, for example, Humphrey, D., Koppich J., and Hough, H. (2005). “Sharing the Wealth: National Board Certified Teachers and the Students Who Need Them the Most,” *Educational Policy Analysis Archives*, 13:18

²⁴ See, for, example, Ingersoll, R.M. and Smith, T.M., “The Wrong Solution to the Teacher Shortage”(2003). *Educational Leadership*, 60:8, 30-33.

for teaching interns (individuals who have not yet completed a teacher preparation program and do not have credentials), the gap will be 38,000 teachers.²⁵

Just as there is no research to suggest what would have happened to the teacher supply in California in the last decade had Proposition 74 been enacted 10 years ago, there is also no research to provide guidance about the impact on teacher supply in the next ten years should Proposition 74 pass in November 2005.

Fiscal Impacts

According to the California Legislative Analyst Office (LAO), Proposition 74 would likely affect costs relating to teacher compensation, performance evaluations, and other activities connected to the proposed measure.

The LAO presented potential scenarios in response to passage of Proposition 74 that would both decrease and increase teacher compensation costs to districts without a clear net effect. Longer probationary periods and modifications to the dismissal process might lead to greater turnover of teachers, particularly those more experienced teachers with higher salaries, thus lowering costs to school districts. Conversely, teacher compensation costs might increase for school districts as teacher salaries rise in response to a perceived less secure work environment. Compensation costs might also increase for those school districts that would have otherwise dismissed ineffective teachers after the first two years, but instead choose to keep them on staff for the full five years of the probationary period and then dismiss them.

With regard to performance evaluations, the LAO projects increased costs to school districts given that five evaluations must be performed over the course of the proposed probationary period compared to a minimum three required performance evaluations under current law. LAO estimates that costs could vary widely from district to district as evaluation procedures are bargained at the local level.

Projected administrative costs related to the proposed measure are unknown. Savings may accrue to districts given the altered process of dismissal related to unsatisfactory performance. However, increased costs may accrue if more teachers are identified for dismissal for unsatisfactory performance, more teachers appeal dismissal decisions, and more administrative hearings are required.

Additionally, district collective bargaining costs could increase given the tighter connection between the evaluation and dismissal processes set forth in Proposition 74. LAO projects increased costs associated with revising evaluation procedures and/or the definitions of unsatisfactory performance, costs ultimately borne by the state as it reimburses local districts for collective bargaining costs.

²⁵ “Teaching for California’s Future: California’s Teaching Force 2004, Key Issues and Trends” (2004). Santa Cruz, CA: Center for the Future of Teaching and Learning.

Finally, LAO anticipates changes in costs to local school districts for teacher turnover related to the measure.

CONCLUSION

Proposition 74 goes well beyond simply lengthening the time necessary for teachers to attain permanent status. The proposition also defines two consecutive ratings of “unsatisfactory” as grounds for dismissal, links the evaluation and dismissal processes in the state’s Education Code, and changes the dismissal procedures related to unsatisfactory performance.

As policy considerations, Proposition 74 raises at least the following issues:

- The extent to which five years to teacher tenure provides a better yardstick of teacher quality than the current two years;
- The efficacy of current teacher evaluation systems as the single criterion for teacher dismissal;
- The advisability of eliminating the requirement that teachers who are identified as needing improvement be given assistance in advance of dismissal; and,
- The soundness of assuming that involuntarily placing unwilling teachers in difficult teaching circumstance will contribute to improved education.

This paper has presented available research regarding each of these issues. It is hoped that this information will enable voters better to make an informed decision about Proposition 74 on the November 2005 ballot.

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