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NCTQ Databurst

Walking the tightrope: Teacher effectiveness and personnel policies

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Letting a teacher go is among the most difficult decisions school leaders have to make. No one wants to be responsible for depriving a teacher of his or her livelihood, even when the facts or fiscal health of a school district mandate it. This reluctance travels up the line from school principal to the school district and even to the state. State-level laws and regulations surrounding dismissal tend to impose a heavy burden of proof on any attempt to dismiss a teacher, particularly a teacher whose primary problem is instructional ineffectiveness, as opposed to a moral or legal infraction. General discomfort over tough personnel calls also helps to explain why many states and districts gravitate to the most unambiguous set of rules possible for carrying out layoffs, such as teachers' years of service.

Policies designed to achieve greater balance between teachers' interests and the needs of students have gained traction in recent years. For example, since 2011, 10 states have made changes to their dismissal laws and eight states have altered their laws to explicitly require that layoff decisions consider evidence of effectiveness.

Still, deciding under what circumstances teachers are laid off during a reduction in force or dismissed will always be a tightrope. Teachers deserve a fair process and one that respects their contributions to a school district, just as every student deserves competent teachers. Given the outsize impact that great teaching has on students' learning and lives, instructional competence is particularly important for our most vulnerable students.

This NCTQ Databurst looks at how states approach these two tough issues, examining if states are achieving an appropriate balance of interests between teachers and students. Achieving that balance requires first and foremost that states require an evaluation system that includes measures of teacher effectiveness. If they do (and all but 12 now do, representing an increase of 16 states since 2011), we then ask if what is possible is what is practiced: Do states require districts to consider this effectiveness data when making layoff and dismissal decisions?

Currently, fewer than half of all states explicitly require their districts to use effectiveness data when making dismissal decisions (22) or deciding which teachers to lay off (19).

"Colorado is committed to developing a strong pipeline of high-quality teachers and principals, and providing deeper support for school and district leaders. By developing, deploying, and supporting talent management and human capital development strategies for districts and schools, Colorado can ensure that every classroom has an effective educator and all students are prepared for college, career, and life."

-Katy Anthes, Ph.D.
Commissioner, Colorado
Department of Education

Promising State Policies

LAYOFFS/REDUCTIONS IN FORCE

A number of states require that effectiveness in the classroom be considered during a reduction in force. In **Colorado** and **Georgia**, effectiveness is the top criterion districts use in determining which teachers are laid off during reductions in force. Other factors, such as tenure status and experience, may only be considered after effectiveness is considered. **Louisiana** requires that all layoff decisions be based "solely upon demand, performance, and effectiveness," as determined by the state's performance evaluation system. Louisiana's least effective teachers are laid off first, with any subsequent layoff decisions proceeding in order of effectiveness rating until the appropriate staffing levels are reached.

For more information, see: <https://www.nctq.org/yearbook/national/Layoffs-79>.

DISMISSAL

A few states have articulated meaningful dismissal policies that occur in a timely manner. **Florida** grants new teachers annual contracts, and it does not allow teachers who earn *unsatisfactory* ratings to continue to renew their contracts. Teachers may contest their dismissal by requesting a hearing with the district school board, which must take place within 60 days. The board's decision is final. **Indiana**'s teachers who earn an *ineffective* rating on two consecutive performance evaluations, or a *less-than-effective* rating for three of five years, are deemed "incompetent." The state's streamlined appeals process ensures a decision within 60 days, and the decision of the school corporation's governing body is final.

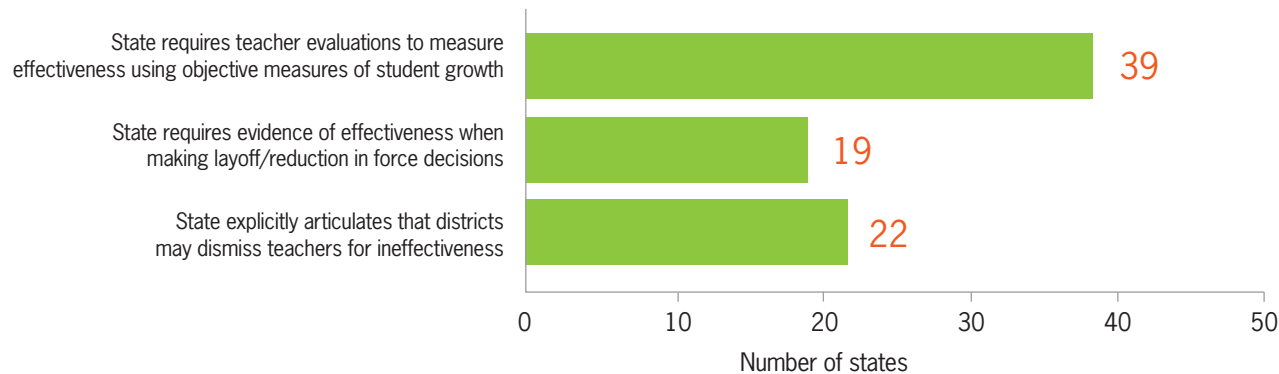
For more information, see: <https://www.nctq.org/yearbook/national/Dismissal-79>.

	EVALUATION	LAYOFFS	DISMISSAL				
STATE	Evaluations must include evidence of effectiveness ¹	Layoff or reduction in force decisions must include evidence of effectiveness ¹	State explicitly articulates that districts may dismiss teachers for ineffectiveness ¹	Explicit time limits are imposed for the dismissal process	Timeframe for the dismissal process	Every dismissal decision throughout the appeals process must be made by educators	Dismissal decisions can ultimately be appealed to:
AL	YES	NO	NO	NO	No definitive timeframe	NO	Court of Civil Appeals
AK	NO	NO	NO	NO	No definitive timeframe	NO	Superior Court
AZ	YES	NO	YES	NO	No definitive timeframe	NO	Superior Court
AR	NO	NO	NO	NO	No definitive timeframe	NO	County Circuit Court
CA	NO	NO	NO	NO	No definitive timeframe	NO	Court of Competent Jurisdiction
CO	YES	YES	YES	YES	N/A	NO	Court of Appeals and Supreme Court
CT	YES	NO	YES	NO	No definitive timeframe	NO	Superior Court
DE	YES	NO	YES	NO	No definitive timeframe	NO	Superior Court
DC	YES	NO	NO	No state policy in this area	No state policy in this area	No state policy in this area	No state policy in this area
FL	YES	YES	YES	YES	Within 60 days	YES	District School Board
GA	YES	YES	YES	NO	No definitive timeframe	NO	Superior Court
HI	YES	NO	YES	YES	Within 60 days	NO	Performance Judge
ID	YES	NO	NO	NO	No definitive timeframe	NO	District Court
IL	YES	YES	YES	NO	No definitive timeframe	NO	Appellate Court
IN	YES	YES	YES	YES	Within 60 days	YES	Governing Body of School Corporation
IA	NO	NO	NO	NO	No definitive timeframe	NO	District Court
KS	NO	NO	NO ⁶	N/A ⁷	N/A	N/A	N/A
KY	NO	NO	NO	NO	No definitive timeframe	NO	Circuit Court
LA	YES	YES	NO	NO	No definitive timeframe	NO	Court of Competent Jurisdiction
ME	YES	YES	YES	NO	No definitive timeframe	YES	School Board
MD	YES	NO	NO	NO	No definitive timeframe	NO	Circuit Court
MA	YES	YES ³	YES	NO	No definitive timeframe ⁹	NO	Arbitrator
MI	YES	YES	YES	NO	No definitive timeframe	NO	Court of Appeals
MN	YES	NO	NO	NO	No definitive timeframe	NO	Court of Appeals
MS	YES	NO	NO	NO	No definitive timeframe	NO	Chancery Court and Supreme Court
MO	YES	YES	NO	NO	No definitive timeframe	NO	Circuit Court and Appellate Court
MT	NO	NO	NO	NO	No definitive timeframe	NO	District Court, Arbitrator
NE	NO	NO ⁴	NO	NO	No definitive timeframe ⁹	NO	Unclear
NV	YES	YES	YES	YES	Within 60 days	YES	State Board
NH	NO	NO	NO	NO	No definitive timeframe	NO	Arbitrator
NJ	YES	NO	YES	YES	90+ days	NO	Arbitrator
NM	YES	NO	NO	NO	No definitive timeframe	NO	Arbitrator
NY	YES	NO	YES	YES	30-90 days	NO	Hearing Officer
NC	NO ²	NO	NO	NO	No definitive timeframe	NO	District Superior Court
ND	YES	NO	NO	NO	No definitive timeframe	NO	District Court

OH	YES	YES	YES	NO	No definitive timeframe	NO	Court of Common Pleas and Appellate Court
OK	NO	NO ⁵	NO	YES	60 days	YES	School Board
OR	YES	NO	NO	NO	No definitive timeframe	NO	Court of Appeals
PA	YES	YES	YES	YES	135+ days	NO	Court System
RI	YES	YES	NO	NO	No definitive timeframe	NO	Superior Court
SC	YES	NO	NO	NO	No definitive timeframe	NO	County Court of Common Pleas
SD	YES	NO	NO	NO	No definitive timeframe	NO	Circuit Court and Supreme Court
TN	YES	YES	YES	YES	N/A ¹⁰	N/A	N/A
TX	YES	YES	NO	NO	No definitive timeframe	NO	District Court
UT	YES	YES	NO	NO	No definitive timeframe ¹¹	NO	Unclear
VT	NO	NO	NO	YES	Within 30 days	YES	School Board
VA	YES	YES	YES	NO	No definitive timeframe	NO	Appellate Court
WA	YES	YES	YES	NO	No definitive timeframe	NO	Appellate Court
WV	YES	NO	YES	NO	No definitive timeframe	NO	Circuit Court
WI	YES	NO	NO	YES	Within 30 days	YES	Governing Body of the School System
WY	YES	NO	YES	NO	No definitive timeframe	NO	District Court

- Effectiveness is defined as being determined, in part, by objective evidence of student learning and growth.
- Student growth is tracked by the state but used only to drive professional development, and for school, district, and state reporting.
- Performance must be considered between two teachers with like tenure status.
- Performance is explicitly allowed.
- Oklahoma requires performance (not evidence of effectiveness) to be the primary factor.
- Kansas has repealed the law that gave teachers who faced dismissal after three years in the classroom the right to an independent review of their cases.
- Kansas teachers enter into yearly contracts.
- For Massachusetts teachers in schools declared underperforming, an expedited hearing with an arbitrator is available, and this must be completed within 20 days of the teacher's receipt of notice of dismissal. The state does not articulate whether an appeal is possible.
- After written notice, Nebraska teachers have seven days to file an appeal, and the hearing must take place within 30 days after the appeal is received. No specification as to whether the decision of this appeal is final or if a second appeal is possible.
- Tenured teachers must return to probationary status if they receive two consecutive years of less-than-effective ratings. If tenure is not granted, the teacher is dismissed.
- After 30 days notice, Utah teachers have 15 days to request a hearing; there are no timelines specified for resolution.

Using teacher effectiveness to drive personnel decisions



Missed Opportunity: Although a substantial number of states require evaluations to measure effectiveness using objective measures of student growth, far fewer utilize that data to make meaningful personnel decisions. Of the 39 states that adequately measure teacher effectiveness in the classroom, only 19 of these states require evidence of effectiveness when making layoff/reduction in force decisions, and only 22 of these 39 states explicitly include ineffectiveness as a reason for dismissal.

For more information on state policies regarding measures of student growth, layoffs/reductions in force, or dismissal, see: <https://www.nctq.org/yearbook/national/Measures-of-Student-Growth-77>, <https://www.nctq.org/yearbook/national/Layoffs-79>, and <https://www.nctq.org/yearbook/national/Dismissal-79>.

Noteworthy Policies by Region

Pacific

Unfortunately, no states in the Pacific region — **Alaska, California, Hawaii, Oregon, and Washington** — stand out for strong policies in this space. Neighboring **Nevada** offers the closest model for promising policies and practices.

Mountain

Among states in the Mountain region — **Arizona, Colorado, Idaho, Montana, New Mexico, Nevada, Utah, and Wyoming** — **Nevada** stands out for its policies. The state links dismissal to ineffectiveness by requiring that all postprobationary teachers who receive two consecutive *less-than-effective* evaluations revert to probationary status. Nevada's dismissal process occurs in a timely fashion — within 60 days — and the decision of the state board is final. No further appeals are allowed. In addition, reductions in force must be based solely on a teacher's effectiveness as measured by the state's evaluation system. *Ineffective* teachers must be laid off first, then developing ones, followed by, respectively, those rated effective and highly effective.

South

Among states in the Southern region — **Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas** — **Tennessee** does the best job ensuring that teacher effectiveness plays a meaningful role. The state explicitly makes teacher ineffectiveness grounds for dismissal by defining "inefficiency" as having an overall *less-than-effective* performance effectiveness level. In addition, tenured teachers in Tennessee who earn ratings of *less than effective* for two consecutive years revert to probationary status, and then are dismissed if tenure is not earned. Further, when a reduction in force is necessary, Tennessee's districts have the authority to dismiss teachers based on their level of effectiveness, thereby ensuring that seniority and tenure status are not the sole factors used by districts to determine which teachers are laid off.

South-Atlantic

Among states in the South-Atlantic region — **Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, and West Virginia**, along with the **District of Columbia** — **Florida's** policies ensure that teacher effectiveness plays a meaningful role in dismissal and layoff decisions. The state ensures that ineffectiveness is grounds for dismissal by placing all new teachers on annual contracts, and only allowing renewal of that contract if the teacher has not received explicit evaluation combinations, such as two consecutive *unsatisfactory* ratings. Florida's dismissal process occurs in a timely fashion — within 60 days — and the district school board's decision is final. No further appeals are allowed. In addition, when reductions in force are necessary, teachers with the lowest performance evaluations are the first to be released. Florida also explicitly disallows districts from prioritizing retention based on seniority.

Midwest

Among states in the Midwest region — **Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin** — **Indiana** stands out for its policies. The state specifically identifies classroom ineffectiveness as grounds for dismissal by defining "incompetence" as earning two consecutive *ineffective* ratings or *less-than-effective* ratings for three of five years. The dismissal process occurs in a timely fashion — within 60 days — and the decision of the governing body of the school corporation is final. No further appeals are allowed. In addition, when reductions in force are necessary, teacher effectiveness — not seniority — must be the top criterion used by districts to determine which teachers are laid off first.

Mid-Atlantic

Unfortunately, no states in the Mid-Atlantic region — **New Jersey, New York, and Pennsylvania** — stand out for strong policies in this space. Given the lack of strong policies in this region, states from the Mid-Atlantic region should look to states in neighboring regions for promising policies and practices.

New England

Unfortunately, no states in the New England region — **Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont** — stand out for strong policies in this space. Given the lack of strong policies in this region, states from the New England region should look to states in neighboring regions for promising policies and practices.

Recommendations

To help ensure that their talent management decisions reflect whether a teacher is successful at his or her most important job — positively impacting student learning and growth — states should:

- Develop, implement, and maintain teacher evaluation and support systems that include objective measures of student learning and growth;
- Eliminate any existing policies that require seniority to be the only or predominant factor in making layoff decisions, and ensure that evidence of effectiveness is a top criterion in determining which teachers are laid off during a reduction in force; and
- Ensure that teachers may be dismissed for ineffective classroom performance, as adjudged by those with educational expertise, subject to due process rights that facilitate an efficient and expedited (e.g., not longer than 90 days) process.

Ultimately, all states should maintain cohesive and coherent talent management policies and procedures that establish teacher effectiveness as the most important criterion used in key decision points. States should also routinely monitor and review implementation of such policies to ensure that they are achieving the desired results.



National Council on Teacher Quality

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