

# UNINTENDED CONSEQUENCES

The Case for  
Reforming the  
Staffing Rules in  
Urban Teachers  
Union Contracts

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## FOREWORD

In our 2003 report *Missed Opportunities: How We Keep High-Quality Teachers Out of Urban Classrooms*, The New Teacher Project documented how delayed hiring in urban school districts resulted in the loss of significant numbers of new teacher applicants, particularly the most qualified, to other districts that hired earlier. The report identified three policy barriers to early hiring: 1) vacancy notification policies; 2) staffing rules in teachers union contracts; and 3) late budget timetables.<sup>1</sup>

Following the release of *Missed Opportunities*, The New Teacher Project collaborated with several districts to develop solutions to the problems identified in the report. At the same time, we focused our research and policy activities on understanding better each of the three policy barriers individually and identified the contractual staffing rules as our starting point.

As we sought to understand the effects of these rules, we were struck by the degree to which they profoundly influence not only new teacher hiring but also the overall ability of urban schools to staff their classrooms effectively. We began collecting data in five urban districts on these impacts, work that culminated in this report.

We hope that this report will initiate a discussion not on the merits of collective bargaining as a whole (which we support), but on the effects of the specific contractual requirements governing school staffing. When these rules were adopted in the 1960s by newly formed teachers union locals and school boards, they were an important and legitimate response to widely perceived arbitrary and poor management. Based on the now four decades of experience with these provisions, however, we believe it is time to find a new balance between protecting teachers from past abuses and equipping schools with the necessary tools to achieve excellent results for their students. Supporting, rather than undermining, the ability of urban schools to hire and staff effectively may well be the remedy needed to put the education of urban students on par with their suburban counterparts.

Michelle Rhee  
Chief Executive Officer  
The New Teacher Project  
November 2005

# EXECUTIVE SUMMARY

Nearly everyone involved in the enterprise of schooling understands the profound importance of building and sustaining a high-quality team of teachers. Moreover, the research is clear: the single most important school-based determinant of student achievement is the quality of the teacher in the classroom.<sup>2</sup> Yet, urban schools must often staff their classrooms with little or no attention to quality or fit because of the staffing rules in their teachers union contracts.

This report focuses on the contractual staffing rules governing “voluntary transfers” and “excessed teachers.”<sup>3</sup> Voluntary transfers are incumbent teachers who want to move between schools in a district, while excessed teachers are those cut from a specific school, often in response to declines in budget or student enrollment.

To better understand the impact of the voluntary transfer and excess rules on urban schools, The New Teacher Project studied five representative urban districts (we identify them as the Eastern, Mid-Atlantic, Midwestern, Southern, and Western districts).<sup>4</sup> Within each district, we extensively analyzed data for internal teacher movements and new teacher hires. We complemented our data analyses with principal surveys in the Eastern and Western districts, and interviews of school and central staff in all districts. Our findings demonstrate the extent to which these rules undermine the ability of urban schools to hire and keep the best possible teachers for the job.

In focusing our report on the adverse effects of the current transfer and excess rules, we are not minimizing the unfair practices that led to their adoption or the other staffing barriers urban schools face, in such areas as school leadership, human resources, and budgeting. We will argue, however, that without significant change to these staffing rules, another generation of urban students will bear the cost of well-intentioned, but ultimately inadequate, school improvement efforts.

**Our findings demonstrate the extent to which the voluntary transfer and excess rules undermine the ability of urban schools to hire and keep the best possible teachers for the job.**

## TRANSFER AND EXCESS RULES UNDERMINE EFFECTIVE STAFFING IN URBAN SCHOOLS IN FOUR WAYS

### 1) Urban schools are forced to hire large numbers of teachers they do not want and who may not be a good fit for the job and their school

The most detrimental impact of the transfer and excess rules is the widespread forcing of incumbent teachers on schools regardless of students' needs. Voluntary transfer rules often give senior teachers the right to interview for and fill jobs in other schools even if those schools do not consider them a good fit. In addition, schools generally are required to hire excessed teachers without any selection process at all. As a result, across the five districts, in one hiring season:

- 40 percent of school-level vacancies, on average, were filled by voluntary transfers or excessed teachers over whom schools had either **no choice at all** or **limited choice**.

Moreover, principals report that they do not want to hire many of these teachers. For example, 47 percent of Western district principals said they have attempted to hide their vacancies from central staff to avoid hiring voluntary transfers and excessed teachers; and 64 percent of those who hired such teachers in 2004–05 said that they did not wish to have one or more of them in their school.

### 2) Poor performers are passed around from school to school instead of being terminated

While the quality of voluntary transfers and excessed teachers spans the continuum, it is clear these processes are often functioning as a mechanism for teacher removal. In fact, almost two in five principals in the Eastern district and one in four in the Western district admitted to encouraging a poorly performing teacher to transfer or to placing one on an excess list. While passing poor performers to other schools seems like a terrible management practice, teacher termination data suggest this may be the only rational course of action at the individual school level. Labor relations staff in each district reported that only one or two tenured teachers are formally terminated for poor performance every year.<sup>5</sup> Principals are often blamed for failing to initiate dismissal proceedings, but even when they try to formally terminate a teacher, the data show they face a very limited likelihood of success.

### **3) New teacher applicants, including the best, are lost to late hiring**

Only after the forced placements of voluntary transfers and excessed teachers occur are schools typically allowed, by contract, to place new hires, including seasoned veterans from other districts. By then, however, it is too late to compete with neighboring districts for the best new teacher talent. Significantly, with only one month to go before the start of school, the studied districts still had to hire and place between 67 and 93 percent of their new teachers.<sup>6</sup> Our previous research showed that urban districts that hire teachers after May 1 lose large numbers of applicants, including the best, to districts that hire earlier.<sup>7</sup>

### **4) Novice teachers are treated as expendable regardless of their contribution to their school**

Even once schools manage to hire new teachers, the transfer and excess rules place their jobs in constant jeopardy. Novice teachers are, by default, the first to be excessed and, in many districts, can be “bumped” from their positions if a more senior teacher needs or just wants their job. For example, in three of the districts, anywhere from 10 to 50 percent of novice teachers, often with a full year of experience at their school, were at risk of losing their jobs if other more senior teachers simply wanted to transfer into them. Almost one-quarter (23 percent) of Eastern district principals reported having at least one new hire or novice teacher bumped from their school the prior year. We recognize that the talent of most new and novice teachers is either unknown or not fully developed, but these rules treat all novice teachers as expendable, including those who are capable or show promise.

## **SCHOOLS, SYSTEMS, AND STUDENTS PAY THE PRICE**

Taken together, these four effects significantly impede the efforts of urban schools to staff their classrooms effectively and sustain meaningful schoolwide improvements. Forced to take teachers who may either be poor performers or ill suited to the specific school context and culture, prevented from hiring many of the best new teacher applicants, and unable to adequately protect teachers they hope to keep, urban schools cannot exert sufficient control over the most important school-based factor that influences student learning.

The damage, however, extends beyond individual schools; the overall operation of entire urban districts suffers. The transfer and excess processes require excessive centralization of hiring decisions. These staffing rules also hold every school hostage to staffing

changes in other schools and ensure that one school's gain is often another's loss—providing, we believe, at least a partial explanation for the persistent difficulty in taking pockets of excellence to scale in urban school systems.

Ultimately, it is the students who lose the most as the transfer and excess rules place hundreds, and sometimes even thousands, of teachers in urban classrooms each year with little regard for the appropriateness of the match, the quality of the teacher, or the overall impact on schools. Perhaps most important, our data show that in the five studied districts, these rules negatively affect all schools regardless of poverty level, indicating the need for a systemic solution to this systemic problem.

## RECOMMENDATIONS FOR CHANGE

The recommendations we present in the final chapter of this report are designed to provide a substantive road map for reforming the transfer and excess rules in urban contracts to address the above problems. They strive to maintain key protections for more senior teachers while also enabling the best match of teacher to school and classroom.

Toward this end, we recommend that voluntary transfers and excessed teachers receive an early preferential review for available positions and numerous opportunities to receive satisfactory placements. At the same time, our proposed transfer and excess reforms are designed to:

- Ensure that the placements of voluntary transfers and excessed teachers are based on the **mutual consent** of the teacher and receiving school
- Permit the **timely hiring** of new teachers
- Better **protect novice teachers** who are contributing to their current school

We recognize that the reforms we propose will not magically resolve all of the barriers urban schools face in filling their classroom vacancies effectively and with high-quality teachers. Nevertheless, without the ability to build and maintain as strong a team as possible, there is little hope of closing the achievement gap, the remedy for which rests so squarely on the ability of the teacher in front of students.

**These rules place hundreds, and sometimes even thousands, of teachers in urban classrooms each year with little regard for the appropriateness of the match, the quality of the teacher, or the overall impact on schools.**

# TEACHER TRANSFER AND EXCESS RULES IN URBAN CONTRACTS: HOW THEY WORK

If a school system were oriented to finding and keeping the best possible teachers, one could imagine what its process for filling vacancies would look like: Central staff and schools would recruit as aggressively as possible to create a strong applicant pool of new teachers and experienced teachers from other districts. Then principals and school staff members together would interview applicants from within and outside of the system and hire the teacher most likely to succeed in the specific job. The school would commit to that teacher early in the hiring season and provide ample induction. Because of the current transfer and excess rules in urban collective bargaining agreements, however, the exact opposite generally happens.

## A. VOLUNTARY TRANSFERS: VOLUNTARY OFTEN ONLY FOR TEACHERS

Imagine you are a principal with vacancies for the coming year. Sometime in the spring, you are required by your school system's collective bargaining agreement to publicize those vacancies districtwide. At this point, however, you and your staff cannot interview and hire the teacher you believe would be best for the job. Instead, as mandated by contract, you typically first have to consider those incumbent teachers known as voluntary transfers—teachers in your district who *want* to leave their current schools.

It certainly would be reasonable to require you to consider those teachers who are interested in switching schools; however, if you are a principal in four of the five districts (except for the Mid-Atlantic) studied in this report, you are obligated by contract to hire voluntary transfers. In some situations, you have *no choice* over which teacher transfers into your building: you are assigned a specific voluntary transfer applicant, usually the

most senior, without any selection process. Sometimes, you have what we are calling *restricted choice*: you typically can choose from among a group of voluntary transfer applicants but must hire one of them even if none are right for the job. Moreover, in some districts, to give voluntary transfers even more vacancies from which to choose, they can take the jobs of certain novice teachers who often have been teaching for a full year in your school.

## B. EXCESSING REQUIREMENTS: FORCED PLACEMENTS WITH NO MATCHING

Voluntary transfers, however, are not the only incumbent teachers with rights to your openings. A second group, known as excessed teachers, also must be placed before you can choose freely among internal or external candidates. Excessed teachers are those cut from their school when a position has to be eliminated, and, by contract, typically must be the least senior in the subject area affected by the cuts unless a more senior teacher volunteers to leave.

It is, of course, essential that excessed teachers have significant protections and every opportunity to find a new job. But collective bargaining agreements go much further by guaranteeing excessed teachers a school placement, whether or not they are considered a suitable hire. In four of the five districts, schools generally have *no choice* over excessed teachers and must hire them without a selection process. In the fifth district, although there is some attempt to place excessed teachers based on mutual consent, those who are not hired are ultimately forced on a school.

As a principal, you might try to plead with HR to send an excessed teacher elsewhere. In some instances, you may succeed. But in all five districts, you cannot reject an excessed teacher who needs a placement, even if you do not believe that teacher will succeed in the job and your school.

**In all five districts, you cannot reject an excessed teacher who needs a placement, even if you do not believe that teacher will succeed in the job.**

## C. PLACEMENT RIGHTS OF VOLUNTARY TRANSFERS AND EXCESSED TEACHERS TRUMP NEW TEACHER HIRING

Only after voluntary transfers and excessed teachers have received school placements can you, as a principal, typically offer jobs in your school to new hires. In many contracts, however, timetables governing the transfer and excess processes often appear to have been established without adequate consideration for their impact on new teacher hiring.

**“The process is not about the best-qualified candidate but rather satisfying union rules.”**

–Urban Principal

For example, the Western contract mandates three voluntary transfer “post-and-bid” periods, with the last one on July 10th. Although contracts do not always require that all excessed teachers be placed in a school before new teacher placement begins, in practice HR departments wait to place the majority of new teachers because they know that they are contractually required to place every excessed teacher—even if it means bumping a newly hired teacher.<sup>8</sup> As HR works to comply with the transfer and excess rules, a principal’s ability to hire a new teacher is delayed until well into the summer or even after school starts—far too late to hire the best applicants.<sup>9</sup>

The above review is not meant to suggest that the transfer and excess rules in each of the five districts are identical; they are not, and Appendix A provides a more detailed discussion of the specifics in each district. But the similarities in the contractual staffing rules across these districts—and across urban districts more generally—are far more striking than their differences. Moreover, even urban districts in non-collective bargaining states tend to follow many of the same staffing rules because they have been codified in district and state policies.

In the next chapter, we turn to quantifying the far-reaching effects of these staffing rules on urban schools and their students, while the final chapter of the report presents a specific road map for reform.

## UNDERSTANDING THE ORIGINS OF THE TRANSFER AND EXCESS RULES

At the core of these transfer and excess rules is a single principle: every incumbent teacher is guaranteed a job in a school, frequently in seniority order, even if no school wants to hire him or her. An appreciation of this approach's origin is essential to understanding its evolution and impact.

Teachers first gained the rights to bargain collectively in the 1960s. Before gaining this right, teachers too often fell victim to the arbitrary actions of poor management.<sup>10</sup> Teachers were underpaid and had minimal benefits. In developing collective bargaining agreements, union leaders and school boards adopted the industrial model labor agreement of the time and applied it to schools.<sup>11</sup>

Early collective bargaining efforts resulted in real improvements for teachers in many areas. On average, teacher salaries and fringe benefits rose with unionization.<sup>12</sup> Many unions also advocated for and received limits on class size and protections for academic freedom. These gains were important and advanced teacher professionalism.

At the same time, by adopting factory model protections, these efforts codified an important set of assumptions that structures the work and culture of urban schools to this day. These early contracts determined that job protections and teacher movements would occur according to seniority and required that all teachers be treated as if they were interchangeable in every other respect.<sup>13</sup> They also consolidated decision-making and power away from schools, a move that benefited both central district management and the union.

It is important to recognize that the contractual transfer and excess rules were not imposed on urban districts by teachers unions. School boards and superintendents willingly signed off on these rules, at least in part because they appeared to have no economic cost. Although at the time no one could have estimated the effect of applying a factory model of labor to education—a highly decentralized system comprising scores, if not hundreds, of schools—we are now in the position to assess the impact.

# THE IMPACT ON URBAN SCHOOLS

The data presented in this chapter demonstrate the extent to which the current transfer and excess rules undermine the ability of urban schools to hire and keep the best possible teachers for the job. While these staffing rules impose an enormous cost on schools, teachers, and the entire system, in the end students are the ones who pay the highest price in terms of the quality of teachers in front of their classrooms daily.

## A. SCHOOLS ARE FORCED TO HIRE LARGE NUMBERS OF TEACHERS THEY DO NOT WANT AND WHO MAY NOT BE A GOOD FIT FOR THE JOB

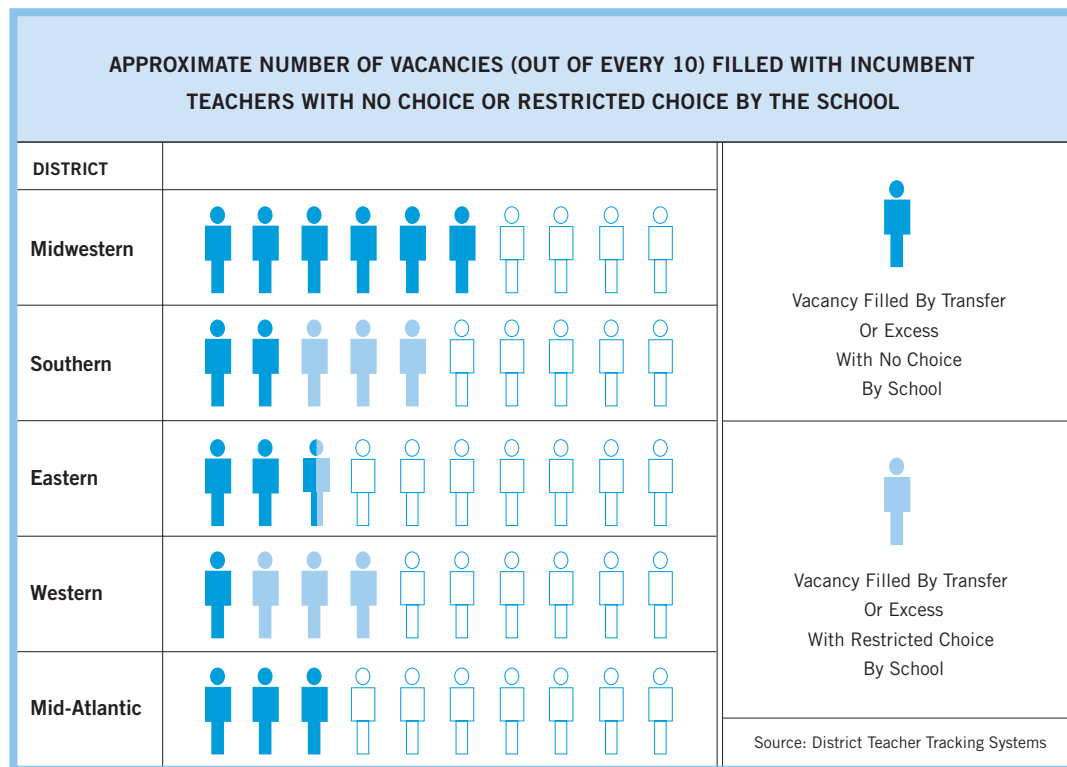
Because of contractual staffing rules, two out of five teacher vacancies, on average, were filled by an incumbent teacher with little or no say from schools.

The most detrimental impact of the transfer and excess rules on urban schools is the sheer volume of voluntary transfers and excessed teachers forced on them with no choice or restricted choice, regardless of their fit for the job. In one hiring season, across the five districts we studied:<sup>14</sup>

- 40 percent of vacancies, on average, were filled by voluntary transfers or excessed teachers over whom schools had either **no choice at all** or **restricted choice**.<sup>15</sup>

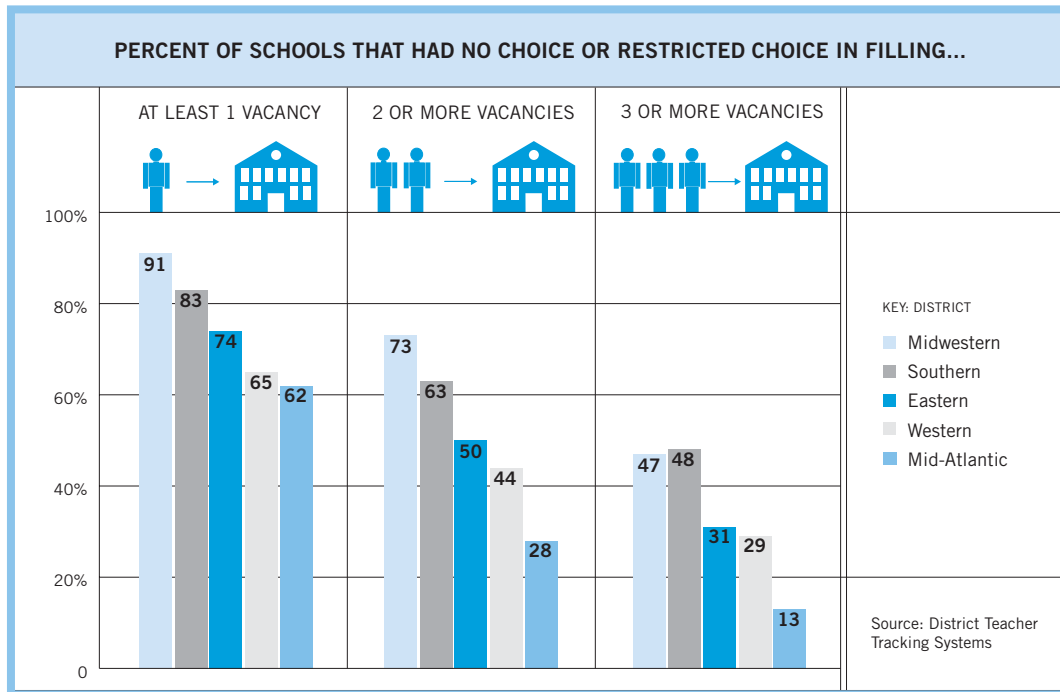
The phenomenon of forcing incumbent teachers on schools with no choice was the worst in the Eastern, Midwestern, and Mid-Atlantic districts, where anywhere from one-quarter (Eastern) to three-fifths (Midwestern) of school-level vacancies were filled with no choice by the receiving school. Translating this from the abstract to the concrete, more than 8,000 Mid-Atlantic students, 20,000 Midwestern students, and 150,000 Eastern students were taught by an incumbent teacher imposed on their schools the prior year with no consideration for quality or fit.<sup>16</sup>

While the percentage of vacancies filled with no choice was lower in the Southern and Western districts (19 percent and 10 percent, respectively),<sup>17</sup> the difference is more than made up for by the number of additional vacancies in both districts filled with restricted choice—a process in which schools generally are required to choose from a group of transfer applicants. In fact, two out of five vacancies in the Western district and almost half of the vacancies in the Southern district were filled through either no choice or restricted choice on the part of the receiving school.



As a result, a majority of schools in every district were forced to fill at least one vacancy, if not two, three, or more, through no choice or restricted choice processes. For example, in one hiring season, almost half of all schools in the Midwestern district and more than one-quarter of schools in the Eastern district were forced to hire three or more incumbent teachers with no choice. In the Southern district, almost half of all schools filled three or more vacancies with no choice or restricted choice over the teacher.

Moreover, the aggregate effect of years of forcing is often significant. In the Midwestern district, for example, forced placements came to represent at least one-quarter of the faculty in almost half of all schools in the course of three years.<sup>18</sup>



Whether teachers are strong or weak performers, forcing them on schools undermines every effort to place the right person in the right role, one of the most fundamental tenets associated with effective management and highly performing organizations.<sup>19</sup> “The process,” explained one principal, “is not about the best-qualified candidate but rather satisfying union rules.”

Imagine, for a moment, that your organization or company was required to fill its job openings in the manner required of urban schools. This would mean that for roughly two out of five of your available positions, you would be directed to hire a specific person or to select a candidate from a small predetermined group, regardless of their quality or fit for the job. You probably would not accept being told which applicant to hire, even if you were assured of his or her competence. And, undoubtedly, if you had another applicant who would be better for the job, you would most likely insist on pursuing him or her instead.

Not surprisingly, urban principals feel the same way. One Western district principal explained the devastating effect on his school of his lack of choice over teachers:

Selecting the right teachers for my school is my greatest responsibility as a principal. . . . It is unfair to hold principals accountable for student achievement when they do not have the ability to choose teachers. I work hard at professional development and building collaborative teams at each grade level and often must accept someone for a position who I know will not contribute to the work of the grade-level team and will, in many cases, be a detriment to children.

## **B. POOR PERFORMERS ARE PASSED ALONG FROM SCHOOL TO SCHOOL INSTEAD OF BEING TERMINATED**

Compounding the problem of forced hiring is the fact that a subset of the voluntary transfers and excessed teachers forced on schools appears to be poor performers, passed along from other schools because of the absence of a viable evaluation and dismissal system.

### **1) Problems in quality of voluntary transfers and excessed teachers**

By all accounts, there are significant problems with the quality of the incumbent teachers passed from school to school through the transfer and excess processes.

- Almost two-thirds (64 percent) of Western district principals and more than half (55 percent) of Eastern district principals who took voluntary transfers or excessed teachers during a hiring season said that they did not wish to have one or more of them.
- In the Western district, where we were able to survey principals directly about their perceptions of the transferred and excessed teachers who had moved to their schools, we found the following:
  - More than one-quarter (26 percent) of principals reported that all or almost all of the excessed teachers placed in their schools have been unsatisfactory. Nearly one-third of principals (30 percent) reported that at least 75 percent of them have been unsatisfactory.
  - More than one-fifth (21 percent) of principals reported that more than half of the voluntary transfers they received through the post-and-bid process were unsatisfactory.<sup>20</sup>

**“Nine out of 10 times, the person that is coming is not succeeding in his or her school... [E]veryone wants to keep their good teachers.”**

–Urban Principal

According to one Western principal, teachers often seek to be excessed or receive a voluntary transfer because “they know it is a contractual right and they are in trouble in their schools.” An Eastern district principal echoed this: “Nine out of 10 times, the person that is coming is not succeeding in his or her school...[E]veryone wants to keep their good teachers.” On a similar note, one Mid-Atlantic principal complained, “I’ve never gotten a good excessed teacher; it would be better to open with a vacancy.”

Conversations with district staff members echo these sentiments. One HR staffer explained, “At least 50 percent of the excesses are not strong, but there is no way for us to document this.” An HR staffer in another district concurred: “Fifty percent are brand new, so we don’t know their quality. But 50 percent of teachers that are excessed out of buildings with seniority are lousy, especially those excessed out of high schools. I sympathize with principals that have to take an excessed science teacher, because that person is low quality.”

Principals’ widely acknowledged practice of hiding upcoming vacancies from HR to avoid having to take voluntary transfers and excessed teachers provides strong additional evidence that these pools are rife with underperformers, as well as satisfactory performers who just may not be a good match for a specific vacancy.

- Nearly half of principals surveyed in the Western district (47 percent) reported that they have attempted to hide a vacancy from HR in order to avoid having to post that position to voluntary transfers and excessed teachers.<sup>21</sup>

We do not present these data to suggest that all teachers in the transfer and excess pools are poor performers. There is a range of performance in both. For example, the excess pools typically include entire staffs from reconstituted schools; teachers in reorganized job classifications whose quality, we imagine, spans a wide range; and large numbers of newly hired teachers who are the default option for excessing and whose quality is still untested. We believe the presence of these teachers accounts, at least in part, for the fact that 33 percent of principals in the Western district reported that few to none of the excessed teachers they received were unsatisfactory. Moreover, nearly one-half of the

Western principals (45 percent) said they were generally satisfied with the quality of voluntary transfers they received through the post-and-bid process, reflecting the presence of satisfactory performers seeking new professional opportunities.

## 2) Transferring and excessing teachers: The “de facto” removal process

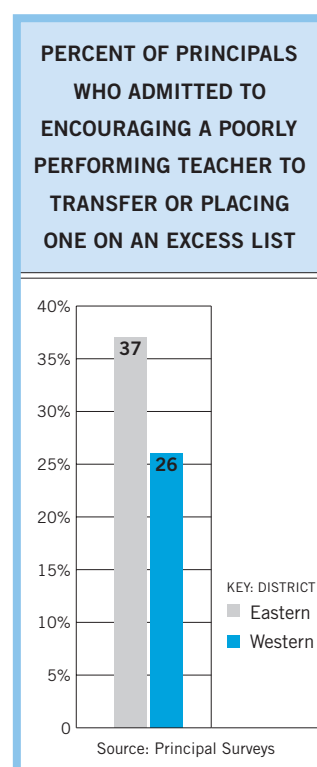
Nevertheless, while there is a mix of talent levels in the transfer pools and even among the excessed teacher pools, it is clear that these processes are a mechanism used by principals to remove teachers from their schools.

Principals admit as much:

- 37 percent of the principals surveyed in the Eastern district and 26 percent in the Western district reported that they either had encouraged a poorly performing teacher to transfer or had placed one on an excess list.

Numerous HR staff members detailed how this is done: A principal may tell a teacher to apply for a voluntary transfer to another school to avoid an unsatisfactory rating.<sup>22</sup> Or, “when the school’s budget is cut, the principal picks the weakest teacher to excess, even if it isn’t the least senior.” That over one-third of excessed teachers, on average, had 10 or more years of seniority in their subject area certainly provides additional evidence of this phenomenon.<sup>23</sup>

Although passing poor performers to other schools seems like a terrible management practice, teacher dismissal data suggest that this may be a rational response to the absence of a viable pathway for legitimately dismissing poorly performing tenured teachers. While often not rigorously tracked, the termination data provided by labor relations staff in the five districts suggest that every year, on average, only one or two tenured teachers are formally terminated for performance.



**NUMBER OF TENURED TEACHERS FORMALLY TERMINATED FOR PERFORMANCE  
AND OTHER CAUSES<sup>24</sup>**

| DISTRICT              | NUMBER OF TENURED TEACHERS | YEAR    | TERMINATIONS FOR POOR PERFORMANCE / INCOMPETENCE | TERMINATIONS FOR OTHER CAUSES |
|-----------------------|----------------------------|---------|--|-------------------------------|
| Eastern <sup>25</sup> | 55,000                     | 2002–03 | 1  | 17                            |
| Mid-Atlantic          | 4,000                      | 2003–04 | 2  | 12                            |
| Midwestern            | 2,000                      | 2003    | 0  | 2                             |
| Southern              | 6,000                      | 2004–05 | 1  | 5                             |
| Western               | 7,600                      | 2003    | 0  | 3                             |

Source: District Labor Relations Departments

**“What rational person would invest 15 percent of her time for two years just to get the teacher back in her building? It is taken as a given that when it comes to incompetent tenured teachers, the best you can do is to tell them to go to another school.”**

– Legal Counsel

We emphasize that these data reflect those tenured teachers *formally terminated* through a termination proceeding. Clearly some teachers are pressured to leave the system before the start of a termination proceeding or resign or retire during the course of proceedings to avoid a formal termination ruling. For example, in the Eastern district, in addition to the one formal termination for poor performance, another nine tenured teachers received an irrevocable resignation or retirement for poor performance. Nevertheless, by all accounts, the number of teacher removals remains negligible.

It is argued that many principals need to take far more responsibility for removing poor performers through approved channels. The lengthy and burdensome requirements, coupled with the low likelihood of successful removals, however, indicate why principals are reluctant to pursue dismissals.

For example, state law and the local contract governing the Western district practically dictate that the evaluation process will take a year and easily 100 hours of observation and documentation. In the Eastern district, it takes two years of observations and write-ups—and, according to legal counsel, approximately 10 to 15 percent of a principal’s time—just to bring a termination case to a hearing.

| SUCCESS RATE FOR DISMISSALS IN THE WESTERN DISTRICT |                         |            |
|---|-------------------------|------------|
| YEAR  | TOTAL ACTIONS INITIATED | DISMISSALS |
| 2000  | 23                      | 8          |
| 2001  | 25                      | 4          |
| 2002  | 62                      | 3          |
| 2003  | 20                      | 3          |

Source: District Labor Relations Staff

In addition, as the chart at left illustrates, even when principals initiate a dismissal action, they face a very limited likelihood of success.<sup>26</sup>

Reflecting on this situation, one legal counsel asked: “What rational person would invest 15 percent of her time for two years just to get the teacher back in her building? It is taken as a given that when it comes to incompetent tenured teachers, the best you can do is to tell them to go to another school.”

Moreover, it appears that many parties are involved in this practice. One principal described what happened when she gave an unsatisfactory rating to a teacher with significant seniority who had transferred to her school the prior fall. A union representative told the principal, “If you reverse her unsatisfactory rating, then we will transfer her out and then you won’t have the headache.” In the absence of a viable termination process, this kind of offer becomes far harder for principals to refuse.

**EVALUATION AND DISMISSAL REFORM: NOT A SILVER BULLET**

In light of these findings, it would be tempting to believe that reforming the evaluation and dismissal systems would resolve the problems created by the forcing of incumbent teachers on schools. After all, if you can dismiss incompetent teachers, how bad can forcing be? There are two problems with this position.

First, this idea assumes that as long as a teacher is competent, he or she can be a good fit for any school and position. We know this is not true, and that fit depends not only on whether a teacher’s certification area matches the job opening, but also on the teacher’s prior experiences, skills, and commitment to a school’s mission and programs.

Moreover, we believe that meaningful evaluation and dismissal reforms are unlikely to occur unless the forced placement of incumbent teachers is eliminated. Right now, principals are able to pass on their poor performers because the transfer and excess rules require other schools to hire them. This escape hatch, however, minimizes the impetus for the system to invest the time and political capital to achieve meaningful evaluation and dismissal reform. Eliminating the forcing of poorly performing teachers on other schools could provide the necessary incentive for the system to reform dismissal processes once and for all.

## C. NEW TEACHER APPLICANTS ARE LOST, INCLUDING THE BEST

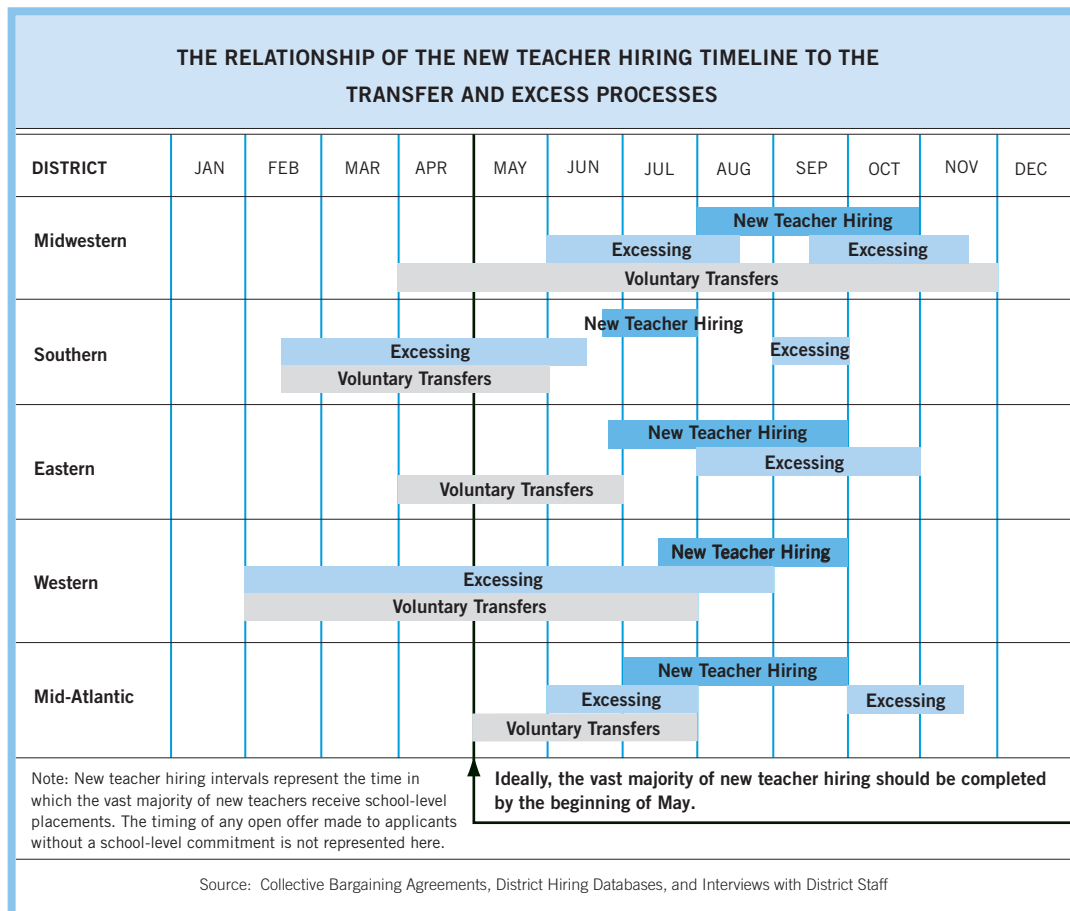
As schools are forced to take voluntary transfers and excessed teachers, contracts typically forbid them from giving job offers and specific placements<sup>27</sup> to new teachers because vacancies must be held for incumbent voluntary transfers and excessed teachers. When schools are finally allowed to hire, it is so late in the hiring season that many of the best new teacher applicants have accepted jobs in surrounding districts, dramatically limiting the pool from which principals can choose. The staffing crunch that then ensues undermines not only an adequate matching process for new hires, but also their ability to effectively prepare for their new positions.

### 1) Late hiring causes the loss of the best teacher applicants

Our first report, *Missed Opportunities: How We Keep High-Quality Teachers Out of Urban Classrooms*, showed that, by failing to make job offers to teacher candidates until mid-to late summer, urban districts lost from 30 to 60 percent of teacher candidates, often to suburban districts that typically hire earlier. Fifty to 70 percent of these applicants cited the late hiring timeline as a major reason they took a job elsewhere.

The candidates lost by urban districts are generally higher in quality than those eventually hired. Our research found that applicants who withdrew from the hiring process had significantly higher undergraduate GPAs, were 40 percent more likely to have a degree in their teaching field, and were significantly more likely to have completed educational coursework than those who were eventually hired. Equally significant, between 37 percent and 69 percent of the known withdrawers were candidates for hard-to-fill positions.<sup>28</sup>

As discussed in *Missed Opportunities*, the transfer and excess requirements, while not the only factor, are primary drivers of the late hiring timeline in urban districts. The chart on the next page illustrates the interaction of the hiring timelines with the transfer and excess processes.



Significantly, our prior data showed that to hire the best new teacher applicants, urban districts must *complete* the vast majority of their new teacher hiring (including school-level placements) by May. Yet, as the chart above shows, the vast majority of hiring in the five districts studied for this report happens in July or later.

In the Midwestern, Southern, and Mid-Atlantic districts where we were able to obtain the exact placement dates for new teachers, we found the following:

- In each district, more than 80 percent of hiring occurred after June 1 — already too late to get the best new teachers.
- With only one month to go before the start of school, these districts still had to place from 67 percent to 93 percent of new hires.
- Anywhere from 10 to 30 percent of teachers who filled summer vacancies were hired *after school started*.<sup>29</sup>

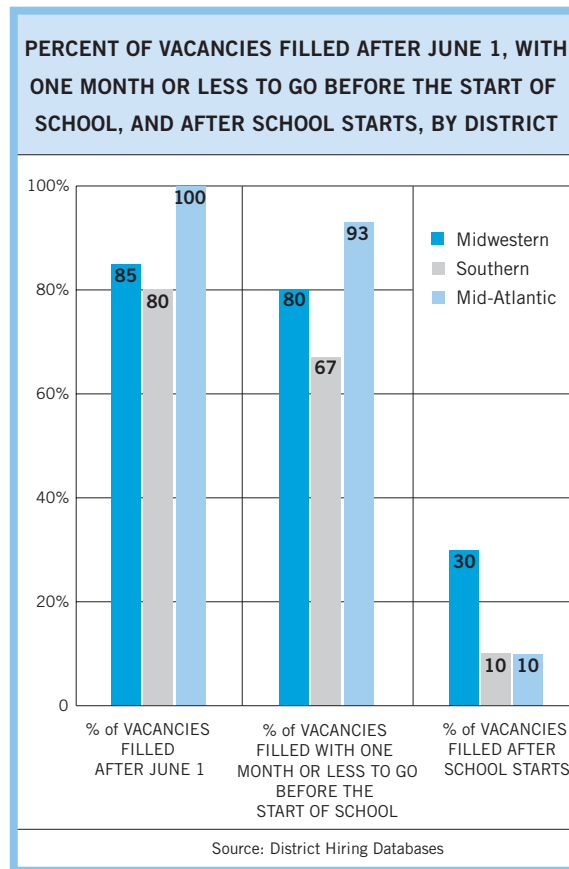
These late hiring patterns not only dramatically weaken the applicant pool, but also deprive schools of an effective matching process over the remaining pool.<sup>30</sup> With so little time for interviews before school starts, HR departments often are left with little choice but to assign new hires into vacancies, increasing the number of teachers placed in schools with little or no selection process. Moreover, once teachers are finally hired, they have little or no time to prepare for the year ahead with their new colleagues.

In describing the transfer and excess rules as the “biggest impediment” to effective staffing, one HR staffer lamented, “We spend a lot of time talking to schools about best hiring practices and selection models, but then we have to deal with all those rules regarding the placement of our own employees. . . . We are always behind . . . and can never give schools a choice up front.”

## 2) Deception can pay but it comes at an enormous price in terms of time and energy

Of course, many principals will do whatever it takes to hire the teachers they believe are best for the job, but as one principal explained, hiring a teacher outside of the contract’s strictures is no simple task:

If you are smart enough, you hide your vacancies. You say to the HR staffing liaison, “I don’t anticipate that I will need another English teacher.” At the same time, you have already identified the teacher you want for the position. You say to the teacher, “If you can hang in there and not start officially teaching



until late September, but remain as a substitute until then, I will do everything to try to hire you.” Then, you call the liaison back when you know all of the excessed teachers have been placed someplace else, and say, “Oh I actually do need someone.” You say, “I have some resumes” and pretend to just find someone for the slot even though I had them all along. If you are a smart principal, you do this all of the time. But it is very hard to do this where there are a lot of excessed teachers, like in social studies.

But as a principal in another district said, the game-playing necessary to hire the best possible teacher is exhausting. “The energy it takes to do something deceptively versus by the book is such a waste.”

## D. NOVICE TEACHERS ARE TREATED AS EXPENDABLE REGARDLESS OF THEIR CONTRIBUTION TO THE SCHOOL

Finally, even once a school hires its new teachers, including teachers who may have many years of experience in another district, their positions are in constant jeopardy. In fact, in their effort to accommodate the placement rights of more senior teachers, the transfer and excess rules send novice teachers one message: *you are expendable no matter how good you are and how much your school wants to keep you.*

In emphasizing this effect, we are not minimizing the importance of teacher experience. The research is clear that experience matters, particularly the experience gained during a teacher’s initial years in the classroom,<sup>31</sup> and schools without experienced teachers suffer. Nevertheless, building an effective team depends on maintaining the stability of a staff—both the high performers and those with significant potential—regardless of their seniority. Moreover, given the intense competition for high-quality new teachers and the retention problems urban districts face, they can ill afford to disadvantage new and novice teachers in the ways mandated by their contracts.

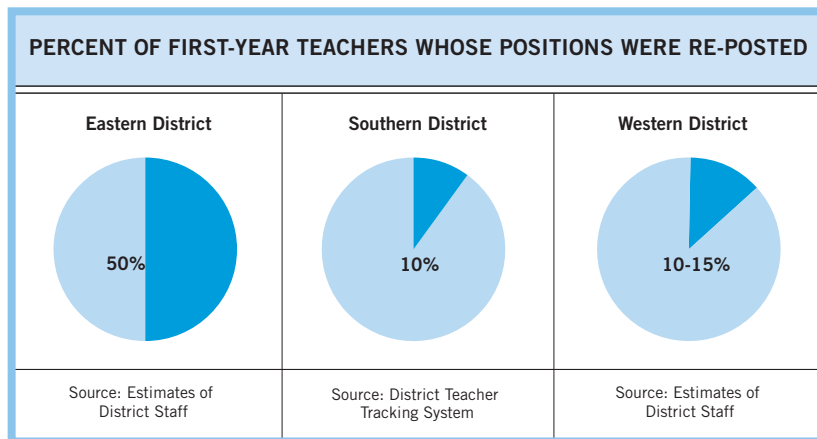
**Given the intense competition for high-quality new teachers and the retention problems urban districts face, they can ill afford to disadvantage new and novice teachers in the ways mandated by their contracts.**

### 1) Novice teachers can be bumped if a more senior teacher *wants or needs* their job

In three of the districts, a subset of novice teachers can be stripped of their jobs if more senior incumbent teachers want their positions. This happens through a contractually mandated practice known as “re-posting”—where the positions of novice teachers, depending on when and how they were hired, are listed as vacancies that voluntary transfers can fill even though the novice teachers often have been in those positions for a full school year and may have become crucial members of their school’s team.

In the Eastern district, positions held by first-year teachers that were not made available for voluntary transfers to fill the prior hiring season—typically all positions filled after the month of June—are made available for voluntary transfers to fill the following hiring season. In the Southern district, any position filled after September 1 must be posted as a vacancy for voluntary transfers the next spring. In the Western district, participants in alternative certification programs have their positions posted for voluntary transfers upon completion of the program—even though by this point they are newly certified and full-time teachers typically in high-need subject areas. In all three districts, if a more senior voluntary transfer wants one of these positions, he or she can bump the novice teacher who must start over again in a new school.

- The Eastern district central staff estimates that the positions of 50 percent of all teachers at the end of their first year—approximately 3,500 teachers—were re-posted to make them available to voluntary transfers.<sup>32</sup>



- In the Southern district, 10 percent of first-year teachers—or 65 teachers—were placed at risk of losing their positions, and half of these teachers were subsequently bumped by incumbent transfers.
- Ten to 15 percent of the Western district’s novice teachers—more than 100 teachers—had their positions posted as vacancies for transfers.

In addition to being bumped from their placements through these kinds of re-posting requirements, in some of the studied districts, novice teachers can also lose their position if a more senior excessed teacher needs a job but no vacancy exists for him or her. In the Eastern district, for instance, if a vacancy is not available for an excessed teacher to fill within his or her regional division, that teacher may bump a teacher with less seniority who will then be placed in another division.

Although districts generally do not track the magnitude of the bumping problem, our survey of Eastern district principals sheds some light on it:

- Almost one-quarter (23 percent) of Eastern district principals reported having at least one new hire or novice teacher bumped from their school the previous year.

## **2) Novice teachers are the default option for excessing**

Novice teachers also remain most vulnerable to the excessing that results from school-level cuts. In the Midwestern district, the only district we studied in which the excessed teacher must always be the least senior teacher in the program area being cut, excessing has a devastating impact on first-year teachers. Our data show that within one year of being hired, 13 percent of the district’s new teachers were excessed. This means that one in eight new teachers involuntarily had to switch schools, principals, and colleagues.

In the other four districts, as discussed earlier, schools may seek volunteers for excessing.<sup>33</sup> Yet even with these volunteer provisions, novice teachers are the default option for excessing and anywhere from 26 to 46 percent of excessed teachers were in their first three years in the district.

The ability to seek more senior volunteers ensures that high-quality novice teachers in these four districts are much less hard hit by the seniority-driven excessing rules than they otherwise would be. However, principals are still forced to give up at least some novice teachers they want to keep.

- More than 60 percent of Western principals reported that they frequently (28 percent) or occasionally (33 percent) have had to excess a teacher whom they wished to keep in their school.

### 3) No choice when layoffs occur

Finally, in all five districts, when a districtwide reduction is necessary, the least senior teachers systemwide in affected subject areas are, by contract, automatically the first to go. Although layoff provisions are largely beyond the scope of this report, it is worth noting that in only the Mid-Atlantic district can quality even be considered in addition to seniority. Otherwise, there is no appeals process for exceptional contributions or efforts. The district office simply looks at its seniority rolls and eliminates all of the teachers hired after the date necessary to achieve the requisite reduction in the teaching force.

### 4) Chronic job instability and inattention to matches undermine satisfaction and retention of novice teachers

In discussing the chronic job insecurity experienced by his novice teachers, one principal lamented, “I’m at a loss to explain why if you have the right person for the right job...the person can be transferred or laid off.” One former teacher in the Midwestern district, who was excessed in her first year and then laid off at the end of her second year despite her significant contribution to her school, summed it up in the following way: “It’s all seniority and I don’t have seniority.”

For novice teachers, the fallout of the contractual requirements, however, extends beyond chronic job instability and disruption to how teachers receive their initial and subsequent placements. Teachers hired late in the summer, and those losing their jobs through re-posting, bumping, or excessing, will typically receive their next position with little attention to fit and perhaps even without meeting their principals or future colleagues. Significantly, separate research on novice teachers done by The

New Teacher Project showed that teachers *assigned* to their positions were significantly less satisfied with their teaching positions and were significantly more likely to plan to quit than those who got their positions through interviews or placement events.<sup>34</sup> Additionally, it is simply common sense that teachers will not develop to their potential if they do not feel a fit or connection with their principal and school.

**“I’m at a loss to explain why if you have the right person for the right job...the person can be transferred or laid off.”**

–Urban Principal

## E. SCHOOLS, SYSTEMS, AND STUDENTS PAY THE PRICE

### 1) Schools cannot build an effective staff, attract better leadership, or sustain meaningful improvements

As a result of these four effects, urban schools are not allowed to hire and keep the teachers they believe are the best possible ones for the job, and are often forced to hire teachers they know are wrong for the job. As such, the transfer and excess rules continually frustrate the efforts of urban schools to staff their classrooms effectively and build strong instructional teams organized in pursuit of a common mission. Reflecting on these effects, one urban superintendent concluded, “We will never get stability and significant improvement in our schools without changing these rules.”

Moreover, even when a school is able to make progress, these staffing rules increase the likelihood that it will be short lived. Several principals explained how, the moment they start building a strong staff and making improvements in their schools, senior teachers apply to transfer into them. And, if the rules accord transfers the right to fill positions whether or not the receiving principal wants them, the result can be an influx of potentially poor performers. As a Western district principal cautioned, “High-performing schools will not remain high performing, if every year poorly matched teachers are forced on them.”

We recognize that many urban principals need to become better at judging quality and hiring the best teachers. However, the current rules negate the ability of any principal, even those who are effective leaders, from working with their staff to hire teachers based on quality and fit.

Moreover, urban school systems will never be able to attract and retain a better pool of principals, nor hold them accountable for outcomes, when principals cannot hire teachers whom they regard as the right matches for their school. One principal articulated why:

Many of the provisions in this contract go against any logic in effective management. You cannot say, “We need to see results” and not let us have the people in place to do it. It is impossible and doesn’t work. I am being evaluated on what I am able to get my team to produce but I can’t pick who is on my

**“We will never get stability and significant improvement in our schools without changing these rules.”**

–Urban Superintendent

team and where they go. I am always risking a poor evaluation for things outside of my control. This is the biggest reason people like me go to charters. I know what needs to be done and know this teacher can't do it, but I am not able to change the situation for at least two years.

## 2) Adverse systemic effects

The transfer and excess rules also undermine the effective operation of entire urban school systems. First, the rules result in excessive centralization; in fact, as one HR staffer explained, central staff has little choice but to become the “policer” of the contract and control the hiring process to ensure that every school follows the rules. But in playing the role of contract enforcer, HR departments forfeit principals’ willingness to collaborate with them and their ability to truly support schools.

Paralyzing interdependence is another systemic effect. By requiring that jobs be made available for every existing teacher in the system, typically in a specific preferential order and before other staffing decisions can be made, the contract ensures that each staffing decision hinges on every other decision and has a ripple effect across the system. As a result, even if individual schools are in a position to make staffing decisions (because they know their specific vacancies and ultimate budget), they are held hostage to staffing and budget changes in every other school and the system as a whole.

Equally serious, the staffing gains of one school frequently come at the expense of another, providing, we believe, at least a partial explanation for the persistent difficulty in urban districts of spreading pockets of excellence to more schools and ultimately taking reforms to scale. This

“zero-sum” game can be found, for example, when districts and their unions agree to exempt a subset of new or reconstituted schools from existing staffing rules. These are important initiatives that give school leaders and their staff the hiring authority they need to significantly improve their schools. However, an unintended consequence can be an increase in forced placements on other schools, if the contract requires those other schools to hire the large number of excessed teachers that are typically a byproduct of these initiatives.<sup>35</sup> The burden often merely shifts, illustrating how the existing transfer and excess rules may thwart systemic improvements.

**“Many of the provisions in this contract go against any logic in effective management. You cannot say, ‘We need to see results’ and not let us have the people in place to do it.”**

–Urban Principal

### 3) Urban students lose the most: What the research shows

The effects of the transfer and excess rules are most pernicious in their impact on children. They do not work to ameliorate the achievement gap or provide a bulwark against other policies that disadvantage urban school students (from budgeting timelines and funding inequities to decrepit buildings and overcrowded classrooms). Instead, these policies serve to further disadvantage the very students who are already asked to compete on an uneven playing field.

First, urban students, in need of the highest-quality teachers, bear the loss of the best teacher applicants to surrounding districts that can hire earlier. Those new teachers who are finally hired are not able to be best matched to a school and classroom or prepared for their new responsibilities. In fact, students start the year with, at best, unprepared new teachers and, at worst, a pool of revolving substitutes.

Further, as new teachers get moved from school to school, the chance of their staying in the districts that need them the most diminishes, and the chance that students will have yet another brand new teacher increases. That increases the probability that students will learn less as study after study has proven that teachers are better in their second year than they are in their first year.<sup>36</sup> Finally, urban students must endure the widespread mismatches between teacher skill and school need and are caught in the crossfire as poor performers who cannot be legitimately removed get passed from one school to another.

The long-term effects of having a poor teacher are well documented and surprisingly strong. Rivers and Sanders estimate that a student who has three ineffective teachers in a row will perform 50 percentile points lower on a standardized test than a demographically similar peer with similar past performance who has benefited from three years of effective teachers. This same research shows that the impact of even a single ineffective teacher can be measured for four years after the student has left that teacher's classroom.<sup>37</sup> Truly, lifetimes of learning for thousands of children are being put at risk by the contractual transfer and excess rules, which place hundreds, and sometimes even thousands, of teachers in classrooms each year with near total disregard for the appropriateness of the match, the quality of the teacher, or the overall impact on schools.

**The effects of these rules are most pernicious in their impact on urban children. They do not work to ameliorate the achievement gap, but further disadvantage the very students who are already asked to compete on an uneven playing field.**

**THE REAL EQUITY ISSUE:  
URBAN VERSUS SUBURBAN HIRING AND STAFFING RULES**

**ALL SCHOOLS IN URBAN DISTRICTS SUFFER** Although it is widely believed that, within a large urban district, only the poorest schools suffer from the voluntary transfer and excess rules, our data show that every school is negatively affected, regardless of poverty level. In each district, excessed teachers were forced on schools of every poverty level. In fact, the poverty distribution of schools that received excessed teachers was identical or nearly identical to the poverty distribution of the district as a whole. In addition, while a majority of teachers using the formal voluntary transfer process moved to a less impoverished school, approximately one-quarter of them moved to schools that were poorer than their previous schools.<sup>38</sup>

Our data also refute the general belief that less impoverished schools always benefit when they fill a vacancy with a senior voluntary transfer; as we have seen, in the many districts where voluntary transfers are guaranteed their new placements in other schools, those schools do not want at least a subset of these teachers.

As important, a close examination of school poverty data leads to only one conclusion: there are nearly no “wealthy” schools in the districts we studied. In our analysis, not even 3 percent of schools had less than 10 percent economically disadvantaged enrollment. At most, 14 percent of the schools had 25 percent or less economically disadvantaged enrollment. Comparing the effects on the poor to the slightly less poor, we believe, is a perverse baseline. Instead, we believe the true comparison is between the staffing rules in urban and suburban districts.

**URBAN VERSUS SUBURBAN HIRING AND STAFFING RULES** In fact, it is in the comparison of transfer and excess rules in urban districts to their suburban counterparts that the starkest differences generally emerge. From our initial review of the contracts for districts surrounding the cities we studied, we found that none of them requires schools to hire voluntary transfers they do not want. Moreover, excessing generally is not driven by seniority—both in identifying the teacher to be excessed and in subsequently finding a placement for them. As one principal in the Western district explained, “I have been a principal in another district, where the teachers union contract was not as restrictive as ours. In my former district, if teachers within the district applied for a position at another school, they were entitled to an interview—not the job.”

Clearly more study is needed on the differences between the teacher staffing rules in urban versus suburban districts, the impact of those differences, and why they exist. What is clear is that urban students who most need policies that promote their learning and put them on an even footing to compete with their suburban peers are, in fact, further disadvantaged by their district’s transfer and excess rules.

# RECOMMENDATIONS FOR CHANGE

These findings have led us to conclude that urban schools desperately need a new contractual framework in the areas of teacher staffing and hiring. The recommendations below are “model contract” policies—designed to provide a substantive map for urban districts that want to combat the problems described in this report and staff their classrooms effectively.

Our proposed reforms focus on five areas: 1) voluntary transfer rules, both how and when they happen; 2) excess rules, including how and when they happen; 3) the provisions within the transfer and excess rules that currently disadvantage novice teachers; 4) evaluation and dismissal procedures; and 5) new rewards for effective senior teachers.

Our recommendations advocate for neither limitless principal hiring authority nor the elimination of all protections and preferences for more senior teachers. At the same time, we believe the placement rights of incumbent teachers must be better balanced with the needs of students and schools and have crafted our transfer and excess reforms to achieve the following three essential results:

- Ensure that transfer and excess placements are based on the mutual consent of teacher and receiving school
- Permit the timely hiring of new teachers
- Better protect novice teachers who are contributing to their school

Although our proposed transfer, excess, and evaluation reforms are a necessary precondition to turning around urban schools, also needed are major improvements in school leadership, human resources departments, budgeting, and overall planning. By the same token, we will argue that reforms in these other areas will only be effective if they occur in concert with the contractual reforms we recommend.

**Our recommendations do not eliminate all protections and preferences for more senior teachers, but better balance those protections with the needs of students and schools.**

## RECOMMENDATION 1: VOLUNTARY TRANSFER REFORMS

### SUMMARY

- Provide voluntary transfers a two-week period of preferential review (and an ongoing right to file review), but allow schools to consider internal and external candidates equally after April 15
- Eliminate requirements that give voluntary transfer applicants the right to a job in another school

#### Right of preferential review

Incumbent teachers should always have the opportunity to voluntarily leave their school for another school in the district, and when they decide to do so, they deserve full consideration for any vacancies that arise. Toward this end, schools should have the obligation to review the files of transfer applicants. Moreover, before the start of the new teacher hiring season, there should be a two-week period when schools give preferential review to voluntary transfer applicants. This preferential review period, however, should end by April 1 so that new teacher hiring and placement can begin no later than April 15.<sup>39</sup> After April 15, schools should be allowed to consider internal and external hires equally.

#### No right to a different placement

As long as there is preferential review, teachers who want to leave their school should not have the right to a placement in another school if the school does not want to hire them. Therefore, we recommend the elimination of all transfer provisions that require or allow voluntary transfers to be forced onto schools, including restricted choice rules that require principals to choose from a group of voluntary transfer applicants. Schools must be able to hire a less senior transferring teacher over a more senior one without meeting a contractually mandated burden of proof, and ultimately must be able to reject all voluntary transfer applicants in favor of a new hire.

Some might agree with the need to eliminate outright forcing of voluntary transfers, but still want to maintain restricted choice. Although in some cases restricted choice may not be as damaging as outright forcing, a system of restricted choice can quickly approach a system of no choice, depending on the number of bidders for a particular position and their quality. More important, since matching teacher skill and school need matters, the interests of schools, students, and teachers cannot be served by a system that makes the outcome a matter of chance rather than of careful planning and deliberate decision-making.

## RECOMMENDATION 2: EXCESSING REFORMS

### SUMMARY

- Provide every opportunity for excessed teachers to receive a satisfactory placement in another school, including:
  - The right to apply for positions during the preferential review period for transfers
  - The right to participate in an early April job fair for excessed teachers
  - Ongoing opportunities to interview for vacancies, with continued support from HR to find a job
  - Three weeks before the start of school, HR can start matching excessed teachers to vacancies contingent upon principal acceptance
- End the forcing of excessed teachers on schools that do not believe they are a good fit for the job

### Ongoing opportunities to receive a new job placement

Budget uncertainties and urban student mobility necessitate the creation of a fair and deliberate process for placing excessed teachers. Our proposal is designed to provide numerous opportunities for excessed teachers to receive a satisfactory placement in another school—in fact, far more opportunities than they currently have to interview for new placements and find a match that is mutually agreeable to them and the receiving school.

In this new system, excessed teachers would apply for positions along with voluntary transfers during the two-week preferential review period and, after that, could interview to fill vacancies during an excess fair. Moreover, although principals would be able to start filling their vacancies with internal or external hires beginning April 15, HR would continue to help excessed teachers locate a job. Finally, starting three weeks before school begins, HR would start matching excessed teachers to remaining vacancies, as long as the receiving school fully consents.

### **No forcing of those excessed teachers unable to find a placement**

We believe that with these significant placement opportunities, most excessed teachers will find a job in another school. Nevertheless, there will likely be some excessed teachers who are not placed once school has begun. Under our proposal, excessed teachers would not be forced on any school that does not want them.

We recognize that constructing a fair, affordable, and politically palatable policy for dealing with unplaced excessed teachers will be the most challenging, and controversial, aspect of our proposed reforms. We believe the best approach is to give those unplaced teachers the right to serve in a reserve pool for a specified period of time, at existing salary and benefit levels. While the ideal period of time would be one year from the date of identification for excessing, we recognize that financial constraints may necessitate a somewhat shorter period. Teachers in this reserve pool could be deployed to serve a variety of functions, including substitute teaching and the provision of supplemental services.

During this period, HR would continue to work to find permanent, consensual placements for these excessed teachers. Moreover, it would require those principals who opt to maintain a vacancy rather than hire a specific excessed teacher to explain both why that teacher is not qualified for the job and how they plan to fill the vacancy effectively. At the end of the specified period in the reserve pool, however, any excessed teacher who has not found a job could be released from service.

We believe the financial and political commitments necessary to implement this proposal, while considerable, would prove less onerous than the educational toll borne by the entire school system, individual schools, and students when teachers are forced on schools that do not consider them a qualified fit.

**The placement of voluntary transfers and excessed teachers must be based on the mutual consent of teacher and receiving school.**

## RECOMMENDATION 3: ELIMINATE THE CONTRACTUAL REQUIREMENTS THAT TREAT NOVICE TEACHERS AS EXPENDABLE

### SUMMARY

- Eliminate re-posting requirements and end all bumping of newly hired or novice teachers
- Allow schools to consider need, quality, and contribution to the school, in addition to seniority, in determining whom to excess, but establish safeguards to minimize potential abuses

### Eliminate all re-posting and bumping requirements

All re-posting requirements should be eliminated. The right of a senior teacher who already has a job to take another job should never trump the interest of a school in holding on to an existing teacher if the school wants to keep the teacher and the teacher wants to stay.

Similarly, bumping should be prohibited—the bumping not only of novice teachers but also of new hires who have already received confirmed placements before the school year has begun. Fortunately, the implementation of the excess reforms described earlier would negate the need for bumping in either of these two situations.

### Identifying excessed teachers

If a school needs to cut a position, it should not automatically have to cut its most junior teacher, even if no one else volunteers. At the same time, while schools should be able to consider need, quality, and contribution to the school in determining whom to excess, there should be significant safeguards to minimize abuse.

We advocate that every school designate a staff committee, with significant teacher representation, to be in charge of recommending whom to excess. While the principal should retain the ultimate authority in this area, such a committee could provide a significant check on the principal's final decision.

While this recommendation would better protect those novice teachers who are high performing, it could increase the excessing of problematic teachers unless meaningful evaluation and dismissal reforms are also enacted. The elimination of forcing, coupled with the dismissal reforms described below, however, would ensure that other schools no longer pay the price of having to hire excessed teachers who are poor performers or poor matches for the school.

## RECOMMENDATION 4: REFORM OF TEACHER EVALUATION AND DISMISSAL

### SUMMARY

- Implement more efficient, effective evaluation and removal procedures and judge them, at least in part, by their rate of success and other outcome-based measures

Any effective teacher evaluation system must at least:

- Encourage and nurture high performers
- Facilitate the improvement of teachers who are not performing up to their potential
- Document evidence for the removal of, and ultimately remove, chronically poor performers who should not be teaching at all

Although the first two functions are beyond the scope of this paper, we have seen a great deal of evidence regarding the failure of current evaluation systems to remove poor performers.

Local contracts are not solely responsible for this situation since their rules and their interpretation are often codified in state and local law. Therefore, it is imperative that a wide range of actors—including state and local union leaders, legislators, district officials, and the best academic minds in this field—make this issue a priority and commit to fixing the evaluation and dismissal system in a way that provides ample protection and due process to teachers but not to incompetence.

As part of these reforms, districts need to take far more advantage of the opportunity to remove poorly performing novice teachers while the requirements are less burdensome. Moreover, the success of any new evaluation and dismissal procedures must be judged, at least in part, by a meaningful change in the rate of successful removals and other outcome measures.

The weight we put on this recommendation is not meant to suggest that large numbers of teachers are incompetent and should be dismissed, only that there needs to be a viable process for removing poor performers. Without such a process, students of those teachers will continue to suffer unfairly, and the school system as a whole will continue to bear the burden of the illegitimate voluntary transfers and excessed teachers that result.

## RECOMMENDATION 5: MEANINGFUL REWARDS FOR EXPERIENCE AND SERVICE

### SUMMARY

- Develop new ways to reward senior teachers for effective service

All effective organizations understand the value of their experienced staff members since typically they are among their best employees. Therefore, every urban district stands to benefit significantly from conscientious efforts to leverage the skills and perspectives of their experienced teachers. Toward this end, urban districts must engage far more seriously in efforts to craft meaningful rewards that recognize teachers for effective service. In addition to meaningful transfer opportunities based on mutual consent, significant attention must be paid to advantaging talented senior teachers in new ways, such as rewarding them with a career ladder that offers different roles other than those that lead to an administrative position; increased responsibility; improved status; and higher salaries.

## OTHER AREAS OF NECESSARY CHANGE

To realize the full effect of these reforms and significantly improve urban school staffing, reforms in school leadership, human resources, and budgeting are also critical. Nevertheless, as we will explain below, these latter reforms also depend, in part, on the transfer and excess reforms recommended earlier.

### 1) Leadership reform and accountability

Leadership development and accountability are essential companions to meaningful collective bargaining reforms. Urban districts must recruit and select the best possible cadre of principals and provide them with the training necessary to assist them in selecting and keeping the highest-quality teachers.

In addition, greater hiring authority must be coupled with greater principal accountability, including:

- An annual superintendent's review of key hiring and staffing outcomes in each school, including the number of school-year vacancies, percentage of highly qualified teachers, excess and dismissal rates, and teacher retention rates.
- A meaningful role for teachers and other school staff in staffing decisions.
- A formal annual role for teachers' upward feedback to the superintendent on their principal's performance, including a teacher vote of confidence that serves as part of the upward feedback process in the principal's third year.
- Performance contracts for principals and mechanisms for removing poorly performing principals.

Ideally, these leadership reforms would happen before the transfer and excess reforms, but, as we explained in Chapter Two, they cannot. As long as principals lack control of their staff, urban school systems can neither attract and retain a better pool of them, nor hold them accountable for results.

**Reforms in school leadership, human resources, and budgeting, while critical, depend, in part, on the transfer and excess reforms recommended in this report.**

## 2) Human resource reform

*Missed Opportunities* discussed at length the need for urban districts to revamp their HR departments and create more efficient HR systems for receiving, processing, tracking, and placing applicants.<sup>40</sup> Therefore, some might argue that HR should “fix its own house” before a district demands contractual reform.

Reforming HR departments, however, depends, in part, on reforming the transfer and excess rules. First, as primary enforcers of the contract, urban HR departments have little time to play the roles principals and schools need them to play: supporting their efforts to recruit and select high-quality teachers. Moreover, by playing enforcer, HR departments inevitably alienate the very customers they are supposed to be serving: principals and schools. Finally, the current contractual rules will undermine any attempt to give schools a greater hiring role because HR will need to continue to control hiring to ensure the proper placement of all incumbent teachers in the priority order required by the contract.<sup>41</sup>

## 3) Reforms of budget timelines and overall planning processes

In *Missed Opportunities*, we also described how the late budget timelines, and inadequate budget and enrollment forecasting contribute to urban hiring delays.<sup>42</sup> District policy-making and planning often compound the problem as plans to create or eliminate programs and reconstitute schools are typically announced in the summer, in a vacuum from hiring considerations.

As serious, late budgets, bad planning, and poor enrollment forecasting often delay the identification and placement of many excessed teachers until the summer. Moreover, in a practice that devastates instruction, a sizable number of teachers often are excessed in the fall and moved to a different school if actual student/staffing ratios do not meet projections and union requirements.

To ensure early hiring and the timely identification of excessed teachers, districts must improve their budgeting and forecasting processes, and announce school improvement efforts far earlier. However, we believe that improving urban budgeting and forecasting processes also will depend on the transfer and excess reforms described earlier. As long as every school’s staffing depends on every other school’s, a large and complex school system will never produce sufficient budget and enrollment certainty across every school to enable any of its schools to hire earlier and more effectively.

# CONCLUSION

Systems fail when the rules by which they operate begin to eclipse the purposes for which they were established. Our data reveal that this is precisely the predicament confronting urban schools, as the transfer and excess rules undermine their efforts to hire and keep the teachers they believe can best meet the needs of their students. Moreover, these provisions, constructed so carefully to protect teachers, in fact, do a disservice to many. In so doing, these rules overshadow what should be the most basic aim of our school systems: the education of our children.

Therefore, national and local education leaders must take up these reforms. Their adoption, however, will depend on our ability to rise above partisan ideology and build a broad base of support that lies beyond a single organization or stakeholder, and, in fact, rests with everyone who aspires to improve outcomes for students. Obviously, teachers unions, school boards, and legislatures must ultimately enact these changes. However, education advocates, community leaders, parents, and foundations also have a vital role to play in advocating for change.

If these reform efforts are successful, we believe urban schools and school districts across the country will be positioned to hire and keep the best possible teachers for all their students, thereby opening the door to a new era of educational equity and improved student achievement. We hope there is sufficient courage to move beyond current paradigms and work toward a much more promising future.

## HOW THE FIVE DISTRICTS PLACE VOLUNTARY TRANSFERS AND EXCESSED TEACHERS

| RULES FOR PLACING... |  |   |
|----------------------|--|---|
| DISTRICT             | VOLUNTARY TRANSFERS  | EXCESSED TEACHERS   |
| <b>Eastern</b>       | The Eastern district accords extensive rights to voluntary transfers. The majority of schools have <i>no choice at all</i> over who transfers in. They must accept the most senior transfer applicant, without an interview or right of refusal. Other specially designated schools have <i>restricted choice</i> —they can reject the most senior transfer applicant if a less senior one has “extraordinary qualifications.” | HR typically assigns excessed teachers into vacancies with no selection process.  |
| <b>Mid-Atlantic</b>  | Voluntary transfers have no right to a placement, only to an interview.  | HR typically assigns excessed teachers into vacancies with no selection process.  |
| <b>Mid-western</b>   | Principals can reject the majority of voluntary transfers after interviewing them. But, a significant number of transfers who opt to leave their schools because of significant school pedagogical changes are, by contract, generally placed in other schools without selection or consent.   | Excessed teachers choose from available vacancies in seniority order. Schools have no right of interview or refusal.  |
| <b>Western</b>       | The Western district implements the restricted choice approach to voluntary transfers through a “post-and-bid” process. A school must hire one of the five most senior transfer applicants who “bid” on a posted position. While a school is not always required to hire the most senior, it must fill a posted vacancy with a voluntary transfer applicant, even if only one or two apply.                                    | Excessed teachers can apply to fill vacancies posted during the post-and-bid transfer periods. If they do, the principal must hire the most senior excessed applicant. HR assigns to schools those excessed teachers without a placement at the end of the transfer periods.  |
| <b>Southern</b>      | The Southern district implements the restricted choice approach to voluntary transfers through a post-and-bid process. Schools must interview the five most senior transfer applicants, but can use carefully established posting criteria to reject all five bidders and hire a less senior transfer applicant in many circumstances. <sup>43</sup>   | As required by contract, HR traditionally has offered an excessed teacher the choice of three vacancies. But last summer, HR and the union tried to create a better matching process; HR forced on schools only those excessed teachers who were not hired during the voluntary transfer process or a placement fair, as well as those teachers excessed in the fall. |

## WHAT HAPPENS IN YOUR DISTRICT: A PRIMER

This primer is designed to enable all stakeholders in an urban community—including parents, teachers, administrators, and school board members—to better understand the influence of the transfer and excess rules in their district. To learn more, you can turn to three major sources—the contractual rules themselves, interviews with central and school staff, and quantitative data. The chart below provides a list of some of the key questions to ask and data to obtain.

| CATEGORY                          | KEY QUESTIONS TO ASK WHEN READING YOUR CONTRACT AND CONDUCTING INTERVIEWS   | KEY DATA  |
|-----------------------------------|---|---|
| <p><b>Voluntary transfers</b></p> | <p><b>Timeline for voluntary transfers:</b> Does the contract specify dates for one or more voluntary transfer periods? If so, what are they?</p> <p><b>Obligation of schools to hire voluntary transfers:</b> What are the obligations of schools to hire voluntary transfers? (Must they hire voluntary transfers with no choice? Does the contract mandate a post-and-bid period in which schools must hire from a small group of the most senior voluntary transfers?) Even if the contract does not oblige schools to hire voluntary transfers, does this obligation exist in practice? Are there other categories of transfers that schools must hire with no choice?</p> | <ul style="list-style-type: none"> <li>■ # of voluntary transfers</li> <li>■ placement dates for voluntary transfers</li> <li>■ profile of sending and receiving schools (by poverty, achievement)</li> <li>■ # of voluntary transfers placed with full, restricted, or no choice by receiving school</li> <li>■ # of grievances made if most senior bidder is not hired, and grievance success rate</li> <li>■ quality of voluntary transfers (principal survey and other measures, if available)</li> </ul> |
| <p><b>Excessed teachers</b></p>   | <p><b>Obligation of schools to hire excessed teachers:</b> How much placement choice exists for schools receiving excessed teachers and for the excessed teachers themselves? (Is there a matching process in placing excessed teachers? Do excessed teachers have a right to interview for new jobs? Can schools reject an excessed teacher? Do the same rules apply for teachers excessed due to reconstitutions and the creation of new schools?)</p> <p><b>Right of excessed teachers to a job:</b> Does the contract specify that all excessed teachers are entitled to a job? In practice, must all excessed teachers be placed in a school?</p>                          | <ul style="list-style-type: none"> <li>■ # of excessed teachers</li> <li>■ placement dates for excessed teachers</li> <li>■ profile of sending and receiving schools (by poverty, achievement)</li> <li>■ # of excessed teachers placed with full, restricted, or no choice by receiving school</li> <li>■ seniority of excessed teachers</li> <li>■ quality of excessed teachers (principal survey and other measures, if available)</li> </ul>  |

| CATEGORY   | KEY QUESTIONS TO ASK WHEN READING YOUR CONTRACT AND CONDUCTING INTERVIEWS   | KEY DATA  |
|--|---|---|
| <p><b>Total vacancies filled with no choice or restricted choice</b></p> |   | <ul style="list-style-type: none"> <li>■ total percentage of vacancies across district filled by transferring or excessed teachers with no choice on the part of the receiving school? With only restricted choice? (examine vacancies filled for one hiring season, at least through the fall excessing period)</li> </ul> |
| <p><b>New teacher hiring</b></p>   | <p><b>Hiring timeline:</b> Does the contract require the delay of new teacher hiring until the voluntary transfer period is completed? Until all excessed teachers have a job? If not, is hiring delayed, in practice, until these processes are complete? What are the results of these hiring delays?</p>   | <ul style="list-style-type: none"> <li>■ # of new hires</li> <li>■ month when each new hire is placed in a school</li> <li>■ % of applicants who withdraw from hiring process</li> </ul>  |
| <p><b>Treatment of novice teachers</b></p>                               | <p><b>Identifying excessed teachers:</b> How are excessed teachers identified? (Is it the least senior teacher? Can more senior teachers volunteer? Can quality be a factor in identifying excessed teachers?)</p> <p><b>Re-posting:</b> Does the contract require the positions of certain novice teachers to be re-posted as vacancies to allow voluntary transfers to bid on them? If so, which positions and when?</p> <p><b>Bumping:</b> Can excessed teachers bump less senior teachers from their jobs? If so, when?</p> <p><b>Layoffs:</b> What are the rules governing layoffs? If layoffs are exclusively by seniority, is it systemwide or schoolwide seniority?</p> | <ul style="list-style-type: none"> <li>■ # of teachers, if any, whose positions are re-posted for transfers, and number who ultimately lose their positions</li> <li>■ # of teachers, if any, bumped from their jobs by excessed teachers</li> <li>■ retention rates of excessed and bumped novice teachers</li> </ul>      |

(continued on next page)

| CATEGORY                                       | KEY QUESTIONS TO ASK WHEN READING YOUR CONTRACT AND CONDUCTING INTERVIEWS   | KEY DATA  |
|--|---|---|
| <b>Evaluation &amp; dismissal</b>              | <p><b>Contractual mandates:</b> Does the contract address teacher evaluation and dismissal? If so, what are the requirements?</p> <p><b>Other sources:</b> In addition to the contract, what state and local sources affect the process and rules for evaluating and dismissing teachers?</p> <p><b>Passing on poor performers:</b> Are the transfer and excess processes used to pass poor performers from school to school?</p> | <ul style="list-style-type: none"> <li>■ # of formal termination actions initiated overall and for poor performance</li> <li>■ # of successful termination proceedings</li> <li>■ # of teachers resigning or retiring short of a formal termination decision</li> </ul> |
| <b>Rules in neighboring suburban districts</b> | <p><b>The rules:</b> What are the rules that govern voluntary transfers and excessed teachers in neighboring suburban districts? How do they compare to the rules in your city?</p> <p><b>The extent of forcing:</b> To what extent are schools in these other districts forced to fill their vacancies with no choice or restricted choice?</p>  |   |

## METHODOLOGY

The data for this report come from five geographically diverse large urban school districts, one each in the Eastern, Mid-Atlantic, Midwestern, Southern, and Western areas of the United States. Fifty-six to 100 percent of the students are economically disadvantaged, as defined by the U.S. Department of Education. The districts fill from 700 to 12,000 vacancies each year with both new and incumbent teachers.

### Sources of Quantitative Data

Each district provided us with basic teacher and student demographic information, including teacher seniority and student socioeconomic status. The districts also provided us with data from their respective teacher tracking systems, from which we created databases of internal teacher movement. For each instance in which an incumbent teacher moved between schools in a district, we were able to identify the sending and receiving schools, the date of the move, and the seniority of the teacher involved. We were also able to determine the type of transfer or excess and the mechanism by which the teacher received his or her new placement, as well as, in the Southern district, how often a novice teacher lost his or her placement as a result.

In every district but the Western district, we examined teacher vacancies filled during the hiring season (including the fall excessing period). In the Western district, we were unable to obtain fall excessing data.

We also conducted surveys of active school principals in two districts: Eastern and Western. In the Eastern district, we surveyed 31 percent of all principals (n=434) who completed an anonymous paper survey about their experiences in staffing their schools for the 2003–04 school year. In the Western district, principals completed an anonymous online survey about their experiences in staffing their schools for the 2004–05 school year (n=140, a response rate of 79 percent).

### Sources of Qualitative Data

Our report is based on an analysis of the most current version of each district's collective bargaining agreement. To fully understand how each agreement is implemented, we conducted interviews with human resources staff members, legal counsel, labor relations specialists, union representatives, school principals, and teachers.

## ACKNOWLEDGEMENTS

**The New Teacher Project (TNTP)** is a national nonprofit organization dedicated to partnering with educational entities to enhance their capacity to recruit, select, train, and support new teachers effectively. With the conviction that the recruitment and retention of effective new teachers must be an integral aspect of any school reform movement, The New Teacher Project is committed to ensuring that all schools are staffed with “highly qualified” teachers.

Formed in 1997 to address the growing issues of teacher shortages and teacher quality throughout the country, TNTP is comprised of a diverse staff of over 100 people, including former educators, education policy experts, and strategy consultants from top-tier private sector firms. Since its inception, it has worked with school districts and state departments of education to significantly improve the quality of their teaching forces. Over the past eight years, TNTP has attracted and prepared over 13,000 new, high-quality teachers and launched more than 40 programs in 20 states.

**The Annie E. Casey Foundation (AECF)** has worked since 1948 to build better futures for disadvantaged children and their families in the United States. The primary mission of the Foundation is to foster public policies, human service reforms, and community supports that more effectively meet the needs of today’s vulnerable children and families.

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## ENDNOTES

- <sup>1</sup> Jessica Levin and Meredith Quinn, *Missed Opportunities: How We Keep High-Quality Teachers Out of Urban Classrooms*, (The New Teacher Project, 2003).
- <sup>2</sup> Linda Darling-Hammond, “Teacher Quality and Student Achievement: A Review of State Policy Evidence,” *Education Policy Analysis Archives*, 8 (1) (2000); Kati Haycock, “Good Teaching Matters...A Lot,” *Thinking K-16*, 3 (2), (The Education Trust, 1998), 1–5.
- <sup>3</sup> Some contracts refer to excessed teachers as “involuntary transfers” or “surplused teachers.”
- <sup>4</sup> For additional characteristics of the five districts, see Appendix C: Methodology.
- <sup>5</sup> Although generally not tracked, clearly some teachers are pressured to leave the system before the start or culmination of a formal proceeding. Nevertheless, the number of teacher removals remains negligible.
- <sup>6</sup> New teacher placement dates were only available for three of the five districts (the Midwestern, Southern, and Mid-Atlantic districts), and the Southern district only had placement dates for 66 percent of its new teacher hires.
- <sup>7</sup> Our prior research found that applicants who withdrew from the hiring process had significantly higher undergraduate GPAs, were 40 percent more likely to have a degree in their teaching field, and were significantly more likely to have completed educational coursework than those who were eventually hired. Levin and Quinn, 16–17.
- <sup>8</sup> Human Resources staff often will give at least a subset of new teacher candidates “open offers”—a general commitment to the district without a specific school-level placement.
- <sup>9</sup> In addition to the transfer and excess rules, other causes of urban hiring delays, described at length in *Missed Opportunities*, are late or nonexistent vacancy notification policies for retiring and resigning teachers, budget timetables, and human resources process inefficiencies. Levin and Quinn, 18–27.
- <sup>10</sup> Jack Schierenbeck, “Class Struggles: The UFT Story.” [http://www.uft.org/about/history/uft\\_story\\_part1](http://www.uft.org/about/history/uft_story_part1). (Posted 2005).
- <sup>11</sup> Susan Moore Johnson and Susan M. Kardos, “Reform Bargaining and School Improvement,” in *Conflicting Missions: Teachers Unions and Educational Reform*, ed. Tom Loveless, (Washington, D.C.: The Brookings Institution, 2000), 8.
- <sup>12</sup> Joe A. Stone, “Collective Bargaining and Public Schools,” in *Conflicting Missions*, ed. Tom Loveless, 49–51.
- <sup>13</sup> Moore Johnson and Kardos, 17.
- <sup>14</sup> Our data for each district are from the most recent year for which representative data are available (2004 in the Eastern and Southern districts; 2003 in the Midwestern and Western districts; and 2003 and 2004 in the Mid-Atlantic district). In every district but the Western district, we examined teacher vacancies filled during the hiring season, including the fall excessing period (there is typically a round of excessing prior to the start of the new school year and another round in the fall to adjust for actual school-level enrollment numbers). In the Western district, we were unable to obtain fall excessing data.

- <sup>15</sup> In determining the percentage of vacancies filled by no choice, we counted any vacancy filled through a process that, by contract, does not provide the principal with the opportunity to select the incumbent teacher placed into his/her school. Although, undoubtedly, there are times when a principal, given the opportunity, might not have rejected one of these teachers, we were only able to determine the lack of affirmative selection, not the degree of principal acceptance.
- <sup>16</sup> Calculated from state average elementary and secondary class sizes at <http://nces.ed.gov/programs/digest/d03/tables/dt068.asp>. Since a secondary student may be taught by more than one teacher forced on the school, over-counting of secondary students may have occurred.
- <sup>17</sup> The data for the Western district undercount the percentage of teachers placed with no choice by the receiving school since they do not include the forcing on schools of teachers excessed after school starts. The Western district does not track these data.
- <sup>18</sup> The Midwestern district was the only district for which we were able to gather this kind of cumulative impact data. During part of this period, the Midwestern district experienced significant enrollment declines, and thus a reduction in new teacher hiring.
- <sup>19</sup> See, for example, Jim Collins, *Good to Great: Why Some Companies Make the Leap and Others Don't*, (New York City: Harper Business, 2001), 41–63.
- <sup>20</sup> The Western district was the only district where we were able to survey principals directly about the quality of the voluntary transfers and excessed teachers they received.
- <sup>21</sup> Our survey of Eastern district principals did not include this question, but anecdotally we have been told this is a frequent practice there, as well.
- <sup>22</sup> When a principal uses the transfer or excess process as the “escape hatch,” he or she generally will rate the teacher as “satisfactory” because the contract usually forbids “unsatisfactory” teachers to be excessed or permitted a voluntary transfer.
- <sup>23</sup> These seniority data are for the four districts that do not just automatically excess the least senior teacher in the affected subject area, but also accept “volunteers” for excessing.
- <sup>24</sup> This chart includes the most recent termination data we were able to gather for each of the five districts. These numbers are consistent with any data from prior years that we were able to obtain.
- <sup>25</sup> Of the 17 teachers listed under “termination for other causes,” three of them were terminated for poor performance in conjunction with misconduct or attendance problems.
- <sup>26</sup> Dismissal cases seem to fail for several reasons. Highly technical requirements with numerous filing deadlines, strict formats for observations and write-ups, and a grievance culture together result in even the slightest misstep leading to the whole process being dismissed. Moreover, at least in some districts, the hearing officers often consider incompetence cases to be relatively “minor offenses” that do not warrant removal unless, as one legal counsel explained, the teacher is “totally irredeemable.”
- <sup>27</sup> In *Missed Opportunities*, we showed that a general commitment of a job in some school in an urban district, without a specific school placement, will often not prevent the best applicants from withdrawing from the hiring process. Levin and Quinn, 35.

- <sup>28</sup> Levin and Quinn, 10–17.
- <sup>29</sup> We were unable to obtain data on teacher placement dates after the start of school in the Eastern and Western districts, although HR staff in the Western district estimated that nearly 20 percent of hiring occurred after school starts.
- <sup>30</sup> Ellen Guiney and Maria McCarthy, *Building a Professional Teaching Corps in Boston: Baseline Study of New Teachers in Boston's Public Schools*, (Boston Plan for Excellence, 2004), 20–21.
- <sup>31</sup> According to one recent review of the literature: “While research indicates that there is a relationship between student achievement and teacher experience, at the elementary level of education it appears that the relationship is most evident in the first several years of teaching, with some evidence of vintage effects for very experienced teachers. Estimates of the effect of teacher experience on high school student achievement suggest that experience has a more sustained effect that continues later into teachers’ careers.” J.K. Rice, *Teacher Quality: Understanding the Effectiveness of Teacher Attributes*, (Washington, D.C.: Economic Policy Institute, 2003), 19. According to one recent study, “[T]here is significant learning about the craft of teaching in the first few years of teaching. The largest impact is in the first year of experience, and experience effects disappear quickly after the first year.” Eric A. Hanushek, John F. Kain, D. O’Brien, and Steven G. Rivkin, “The Market for Teacher Quality,” *NBER Working Paper No. 11154* (2005), 29.
- <sup>32</sup> The Eastern district does not track the number of novice teachers whose positions are re-posted for transfers or those subsequently bumped. Significantly, these re-posting requirements do not just impact first-year teachers. The positions of 879 “administrative transfers”—the Eastern district’s truly voluntary transfers on the part of the teacher and the receiving school—were also re-posted because they were not formally posted for the seniority-based voluntary transfers the prior year.
- <sup>33</sup> Principals in the Mid-Atlantic district can also consider “experience” and “curricular needs” in identifying excesses.
- <sup>34</sup> Even when controlling for GPA, feelings of overall support, connection to staff at their schools, and their school’s academic status, teachers who were assigned to their positions were still significantly less likely to plan on staying in their schools and in their districts than teachers who were not assigned to their position.
- <sup>35</sup> Collective bargaining rules also limit the ultimate effectiveness of these initiatives by often exempting participating schools from the standard transfer and excess provisions for only a few years.
- <sup>36</sup> Hanushek, et al., 2005; Rob Greenwood, Larry V. Hedges, and Richard D. Laine, “The Effect of School Resources on Student Achievement,” *Review of Educational Research*, 16 (3) (1996), 361–396; John Kain and Kraig Singleton, “Equality of Educational Opportunity Revisited,” *New England Economic Review*, May/June (1996), 87–111.
- <sup>37</sup> June C. Rivers and William L. Sanders, “Teacher Quality and Equity in Educational Opportunity: Findings and Policy Implications,” in *Teacher Quality*, ed. Lance T. Izumi and Williamson M. Evers, (Palo Alto, CA: Hoover Institution Press, 2002).
- <sup>38</sup> Poverty data for sending and receiving schools were available for roughly 85 percent of the voluntary transfers in each district. Seventy-five percent of these teachers moved to a less impoverished school.

<sup>39</sup> For a more complete discussion of the necessary hiring timeline, see Levin and Quinn, 34. Note, the dates presented in this section are appropriate for a district that starts after Labor Day; other districts that begin school earlier in August should adjust their own dates accordingly.

<sup>40</sup> Levin and Quinn, 43–49.

<sup>41</sup> For a thorough analysis of how current contracts can stymie the efforts of even a highly effective HR department to move up hiring timelines and improve hiring outcomes, see Victoria Van Cleef, “Half Empty or Half Full? Challenges and Progress in Hiring Reform,” in *Urban School Reform: Lessons from San Diego*, ed. Frederick M. Hess, (Cambridge, MA: Harvard Education Press, 2005).

<sup>42</sup> Levin and Quinn, 40–42.

<sup>43</sup> The Southern district’s contract has a provision that allows for a vacancy to be filled at the discretion of the school board if no transfer applicant meets the posting criteria for the vacancy. In practice, posting criteria must be objective and a considerable burden of proof is placed on the school to interview each transfer applicant in seniority order and show that none meets the posting criteria. As such, it appears that schools are allowed to reject all transfer applicants in favor of a new hire very rarely, if at all.



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