



# Devil in the Details

## An Analysis of State Teacher Dismissal Laws

---

Saba Bireda June 2010

# Introduction and summary

The teacher dismissal process, once largely unexamined, is quickly becoming a hotly debated area of education policy. Newspapers across the country regularly publish reports on the expense and time associated with dismissing teachers.<sup>1</sup> Steven Brill’s “The Rubber Room,” an exposé on the seemingly never-ending process of terminating teachers in New York City, brought the topic onto the national stage.<sup>2</sup>

Federal and state policymakers have also begun calling for reform. Both President Barack Obama and U.S. Secretary of Education Arne Duncan have discussed the need to make dismissal a more efficient process.<sup>3</sup> American Federation of Teachers President Randi Weingarten has also acknowledged the “glacial” speed of the dismissal process in many districts and committed her union to working on reform efforts.<sup>4</sup>

The push for dismissal reform comes as districts across the country focus on improving human capital systems. Districts recognize that an inability to dismiss poor-performing teachers undermines efforts to ensure that every student is taught by a highly effective instructor. As districts begin implementing more effective evaluation systems that better identify both low- and high-performing teachers, changes will have to be made to dismissal processes to exit those teachers in a fair and efficient manner.

Budget concerns also propel this discussion. Litigating a dismissal case can cost a district more than \$100,000 in legal fees. Most state tenure laws also provide compensation throughout the dismissal process, requiring districts pay the salaries of teachers they do not believe should be in the classroom for months, even years. More expedient dismissal hearings may mean significant savings, particularly in hard financial times when districts struggle to retain their best performing teachers.

The discussion of dismissal reform invokes a strong response from teachers and their unions. Dismissal reform involves the restructuring of due process procedures that teachers feel are their only protection against the whims of school

administrators. These fears are not always unfounded and due process procedures must remain in place that protect teachers from arbitrary and prejudicial management decisions. Dismissal reform should not be focused on eliminating due process for teachers but rather on creating more efficient methods of identifying and terminating the employment of those teachers who no longer belong in the classroom.

As school districts and unions begin to confront the issue of dismissal reform, it is important to note that the dismissal process does not begin and end at a hearing. Teacher dismissal occurs within a complicated web of school-level management techniques, evaluation systems, local district policies, collective bargaining agreements, and state tenure laws. An efficient dismissal process depends on strong school leaders who can identify poor performers, assist in remediation, and recommend termination. The process also requires high quality evaluation tools that provide fair notice to teachers of their insufficiencies, a framework and support for improvement, and reliable documentation of a teacher's performance over a period of time. The Center for American Progress has provided close analysis of the tenure process and other facets of the dismissal process in previous reports.<sup>5</sup>

The starting point for dismissal reform lies in the state laws that give teachers specific protections when they are dismissed. This report will explain how state law shapes the dismissal process, outline the dismissal process in several states, and analyze the provisions common in state law that make teacher dismissal difficult. The paper also suggests reforms such as:

- State laws should articulate different dismissal procedures that correspond to the particular performance issues for which the teacher is being dismissed.
- States should consider establishing a state-run system of selecting hearing officers to ensure efficiency and consistency of results.
- States should consider requiring districts and teachers to participate in non-binding mediation sessions to encourage alternative resolutions beyond those offered through the traditional disciplinary process.
- States should clarify vague legal terms and processes in state laws that contribute to inefficient hearings.
- State and district policymakers should work collaboratively with unions to create fair and efficient dismissal procedures that incorporate peer assistance and review programs.

---

---

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

---

---

Center for American Progress

