



# Teacher Evaluation: Policy Issues in Brief

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## Summary

Teacher evaluation has historically been largely the responsibility of local school administrators working within broad rules set by state law and collective bargaining agreements. These rules generally identify the procedures and circumstances under which a teacher may be dismissed for poor performance and have little to do with conducting teacher evaluation. Until recently, only a handful of states had implemented statewide teacher evaluation policies and federal policy had been silent on the issue of evaluating teacher effectiveness.

In 2006, Congress authorized the Teacher Incentive Fund to support pay-for-performance programs that provide incentive pay to effective teachers. Regulatory guidance for this program (which was later enacted in statute) marked the federal government's first foray into teacher evaluation policy. The federal role in this area was further expanded through passage of the Race to the Top program in 2009, which required states to implement specific education reforms such as including student achievement in teacher evaluation systems. This action brought about a "sea change" in state-level policymaking. For example, between 2009 and 2012, the number of states requiring that student achievement be factored into teacher evaluation doubled from 15 to 30.

Congressional interest in teacher evaluation policy has continued through efforts to reauthorize the Elementary and Secondary Education Act (ESEA), last authorized by the No Child Left Behind Act of 2001 (P.L. 107-110). In the 113<sup>th</sup> Congress, committees of jurisdiction in both chambers reported ESEA reauthorization bills containing provisions on teacher evaluation. The House bill (H.R. 5, the Student Success Act) would make teacher evaluation reforms optional, and the Senate bill (S. 1094, the Strengthening America's Schools Act) would make teacher evaluation reforms mandatory. These reforms may (in the case of H.R. 5) or must (in the case of S. 1094) meet guidelines similar to the requirements for teacher evaluation in current federal policy. On July 19, 2013, the House passed H.R. 5 and referred the measure to the Senate. S. 1094 has not received floor debate.

Although there is general congressional interest in teacher evaluation reform, strong disagreement exists over whether these changes should be mandated or simply supported by the federal government. Moreover, some argue that no federal role is appropriate in this matter. Among those who think there is some appropriate federal role, there remain several areas of dispute, including the following: How much weight should student learning have in teacher evaluation? Which staffing decisions should be tied to teacher evaluation outcomes? Should evaluation reform include school leadership? Should federal funds be provided to support the development of evaluation systems and evaluator training? What role, if any, should teacher evaluation systems play in the accountability of teacher preparation programs? Should current federal requirements for the equitable distribution of teacher quality include an effectiveness component?

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## Introduction

The Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB, P.L. 107-110), requires that all core subject-matter teachers be *highly qualified*.<sup>1</sup> ESEA Section 9101(23) defines *highly qualified* as a teacher who has obtained a bachelor's degree, possesses full state certification, and demonstrated subject-matter knowledge.<sup>2</sup> This credentials-based approach has been the cornerstone of federal teacher policy for over a decade and has been criticized for setting a modest bar by using requirements for entry into the profession as a proxy for teacher quality rather than instituting performance goals to which teachers may aspire. A growing body of research has revealed such credentials to be weakly correlated with student achievement and has led some to recast “teacher quality” in terms of student progress.<sup>3</sup>

Meanwhile, congressional interest in teacher policy has shifted from a focus on inputs (i.e., quality) to outputs (i.e., effectiveness). Each Congress since the 109<sup>th</sup> has expanded the federal role with regard to rewarding teacher effectiveness and providing incentives for the reform of state and local teacher evaluation systems. The 113<sup>th</sup> Congress has continued this trend by moving legislation to reauthorize the ESEA and including provisions that support these reforms. Still, considerable disagreement exists among Members of Congress over the extent to which the federal government should mandate, encourage, or be involved in teacher evaluation reform.

## The Widget Effect

Teacher evaluation is largely the responsibility of local school administrators working within broad rules set by state law and collective bargaining agreements. These rules generally identify the procedures and circumstances under which a teacher may be dismissed for poor performance and have little to do with conducting teacher evaluation.<sup>4</sup> For example, state laws typically provide that a tenured teacher may not be dismissed without “just cause”—the standard which “has come to require evidence of a teacher’s insubordination, incompetence, or immorality.”<sup>5</sup> In many states, requirements like these mark the limited role state policymakers have historically played in delineating K-12 teacher evaluation systems.

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<sup>1</sup> ESEA, Section 9101(11) defines the term *core academic subjects* to mean “English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.”

<sup>2</sup> More information on the highly qualified teacher requirement may be found in CRS Report R42127, *Teacher Quality Issues in the Elementary and Secondary Education Act*, by (name redacted).

<sup>3</sup> Arnold F. Shober, *From Teacher Education to Student Progress: Teacher Quality Since NCLB*, American Enterprise Institute, Teacher Quality 2.0 Special Report 1, Washington, DC, August 2012.

<sup>4</sup> Saba Bireda, *Devil in the Details: An Analysis of State Teacher Dismissal Laws*, Center for American Progress, Washington, DC, June 2010, p. 1, <http://www.americanprogress.org/wp-content/uploads/issues/2010/06/pdf/sabateacherdismissal.pdf>. These requirements mostly apply to tenured teachers since school districts can decide not to renew a non-tenured teacher’s contract for any reason (so long as it is not an unlawful one).

<sup>5</sup> Michael J. Kaufman and Sherelyn R. Kaufman, *Education Law, Policy, and Practice*, 2<sup>nd</sup> ed. (New York, NY: Aspen Publishers, 2009), p. 940.

Until recently, only a handful of states had implemented statewide teacher evaluation policies.<sup>6</sup> The National Center on Teacher Quality (NCTQ) has conducted annual reviews of state laws, rules, and regulations that govern the teaching profession since 2007. In that year, NCTQ found that 34 states either had no statewide teacher evaluation policy or provided minimal guidance to school leaders on how evaluations should be conducted.<sup>7</sup>

The absence of state-level guidance, combined with the great complexity of measuring job performance and the high cost of dismissing a poor performing teacher,<sup>8</sup> has led to what some have called the “widget effect”—that is, “the tendency of school districts to assume classroom effectiveness is the same from teacher to teacher.”<sup>9</sup> This view does not necessarily imply that school leadership shares this assumption, but rather suggests institutional limitations hinder sensitivity to assessing variation in teacher effectiveness. Within these limitations, evaluation systems have evolved in which virtually every teacher receives a “satisfactory” rating. In a case study of 12 districts, 1% of teachers received an “unsatisfactory” rating whether the rating system was binary or involved more than two categories.<sup>10</sup> This finding is supported by data representing schools nationwide.<sup>11</sup>

## A Growing Federal Role

Until recently, federal policy had been silent on the issue of teacher effectiveness (i.e., evaluating their performance in the classroom). Instead, the federal role in K-12 teacher policy has historically been limited to issues of quality and quantity (i.e., workforce qualifications and supply). NCLB’s *highly qualified teacher* requirement was intended to raise quality by limiting the number of teachers with emergency, temporary, or provisional licenses. Prior to NCLB, the largest investment in the federal teacher portfolio was Class Size Reduction—a program designed to limit class size by providing schools with funds to hire more teachers.<sup>12</sup> Additional federal incentives exist, such as the Troops for Teachers and Student Loan Forgiveness programs, for hiring teachers in hard-to-staff schools.<sup>13</sup>

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<sup>6</sup> Thomas Toch and Robert Rothman, *Rush to Judgement: Teacher Evaluation in Public Education*, Education Sector, Washington, DC, 2008, p. 6.

<sup>7</sup> National Council on Teacher Quality, *2007 State Teacher Policy Yearbook*, Washington, DC, June 27, 2007, [http://www.nctq.org/stpy/reports/stpy\\_national.pdf](http://www.nctq.org/stpy/reports/stpy_national.pdf), Figure 25.

<sup>8</sup> According to one estimate, “Litigating a dismissal case can cost a district more than \$100,000 in legal fees.” Saba Bireda, *Devil in the Details: An Analysis of State Teacher Dismissal Laws*, Center for American Progress, Washington, DC, June 2010, p. 1, <http://www.americanprogress.org/wp-content/uploads/issues/2010/06/pdf/sabateacherdismissal.pdf>.

<sup>9</sup> Daniel Weisberg et al., *The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness*, The New Teacher Project, Brooklyn, NY, June 8, 2009, p. 4, <http://tntp.org/ideas-and-innovations/view/the-widget-effect>.

<sup>10</sup> *Ibid.*, p. 6.

<sup>11</sup> Analysis of a nationally representative survey of school districts reveals that the average school district employed 187 teachers in the 2011-2012 school year and, in the previous year, dismissed (or did not renew the contract of) only 1 teacher based on poor performance. Stephen Broughman et al., *Characteristics of Public School Districts in the United States: Results From the 2011-12 Schools and Staffing Survey (NCES 2013-311)*, U.S. Department of Education, National Center for Education Statistics, Washington, DC, July 2013, <http://nces.ed.gov/pubs2013/2013311.pdf>.

<sup>12</sup> This program was initially authorized and funded through the Omnibus Consolidated Appropriations Act of 1999 (P.L. 105-277).

<sup>13</sup> Troops to Teachers is authorized in ESEA, Title II-C, and Student Loan Forgiveness is authorized in Title IV of the Higher Education Act.

The federal government's first foray into teacher effectiveness policy can be traced to enactment of the Teacher Incentive Fund (TIF) in 2006.<sup>14</sup> That year, TIF was appropriated \$99 million to award competitive grants to about three dozen school districts to support pay-for-performance incentives for teachers. Although TIF authority did not initially prescribe a teacher evaluation component (as it has since 2009),<sup>15</sup> the underlying premise of the program has always been to reward effective teaching. The TIF program along with the federal role in teacher effectiveness was further expanded through the American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5). ARRA's Race to the Top (RTT) authority outlines five major elements of an approved teacher evaluation system. These same five elements (described below) are also required by the Secretary's ESEA waiver package.<sup>16</sup>

### **Federal Teacher Evaluation Requirements**

1. Teachers must be evaluated annually.
2. Teacher performance must be measured in significant part on growth in student achievement.
3. Evaluation procedures must include several classroom observations.
4. Systems of evaluation must differentiate teachers among multiple categories of effectiveness (as opposed to a binary satisfactory/unsatisfactory rating).
5. The results of teacher evaluations must inform important school staffing decisions (e.g., promotion and dismissal).

#### **Value-Added Modeling**

Evaluating a teacher's contribution to student learning is more difficult than it may appear. One method for doing so—*value-added modeling* (VAM)—is increasingly being used for teacher evaluation systems, particularly in large school districts like New York City, Chicago, and the District of Columbia. VAM measures the teacher's contribution in a given year by comparing the current test scores of their students to the scores of those same students in previous school years, as well as to the scores of other students in the same grade. Proponents argue that VAM is fairer than simply comparing students' achievement scores or gain scores without considering potentially confounding context variables like past performance or income. Critics say that the use of tests to evaluate individual teachers has not been scientifically validated, and much of the results is due to chance or conditions beyond the teacher's control, such as outside tutoring or out of school support.<sup>17</sup>

<sup>14</sup> This program was initially authorized and funded through the Labor-HHS-Education Appropriations Act, 2006 (P.L. 109-149). More information on TIF may be found in CRS Report R40576, *Compensation Reform and the Federal Teacher Incentive Fund*, by (name redacted).

<sup>15</sup> Appropriations legislation for each year since FY2009 (P.L. 111-8) has included teacher evaluation requirements for TIF projects; most recently the FY2012 appropriations act requires that grantees implementing "such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles" (P.L. 112-74).

<sup>16</sup> On September 23, 2011, the Secretary announced the availability of an ESEA flexibility package that would exempt states from various academic accountability requirements, teacher qualification-related requirements, and funding flexibility requirements that were enacted through the No Child Left Behind Act of 2001. In exchange, states are required to implement various reforms including approved teacher evaluation systems. For more information, see <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/index.html>.

<sup>17</sup> For more information on this issue see CRS Report R41051, *Value-Added Modeling for Teacher Effectiveness*, by (name redacted).

## State Policy Sea Change

According to NCTQ, between 2009 and 2012, a “sea change” occurred in state teacher evaluation reform with 36 states making changes to their policies.<sup>18</sup> **Table 1** displays the major reforms that took place during this time.<sup>19</sup> In 2009, 14 states required that all teachers be evaluated annually and by 2012 the number had risen to 23 states. In 2009, 15 states required that student achievement be factored into teacher performance and 30 states required classroom observation be included in teacher evaluation compared to 30 and 39 states, respectively, in 2012. When NCTQ first began collecting information on performance levels in 2011, 17 states required that evaluation systems differentiate teachers on multiple performance ratings (i.e., more than two); this number grew to 25 states in a single year. Finally, in 2009, no state required that teacher evaluation results be used to make tenure decisions; whereas in 2012, nine states had adopted this policy.

**Table 1. State Teacher Evaluation Policy Changes, 2009-2012**

Number indicates count of states that have each policy (includes the District of Columbia)

	2009	2012
Annual evaluations required for all teachers	14	23
Student achievement factored into teacher performance	15	30
Requires classroom observation be included in evaluation	30	39
Ratings must differentiate multiple performance levels	17 <sup>a</sup>	25
Evaluation results used to make tenure decisions	0	9

**Source:** National Council on Teacher Quality, *2009 State Teacher Policy Yearbook*, Washington, DC, January 28, 2010, <http://www.nctq.org/stpy09/>. National Council on Teacher Quality, *State of the States 2012: Teacher Effectiveness Policies*, Washington, DC, December 2012, [http://www.nctq.org/dmsStage/State\\_of\\_the\\_States\\_2012\\_Teacher\\_Effectiveness\\_Policies\\_NCTQ\\_Report](http://www.nctq.org/dmsStage/State_of_the_States_2012_Teacher_Effectiveness_Policies_NCTQ_Report).

a. This figure is for 2011; data for prior years are not available.

## ESEA Reauthorization

Both the 112<sup>th</sup> and 113<sup>th</sup> Congresses acted on bills to reauthorize the ESEA that included teacher evaluation provisions. During the 112<sup>th</sup> Congress, the House Committee on Education and Workforce reported the Encouraging Innovation and Effective Teachers Act (H.R. 3990), which would have required school districts to develop and implement teacher evaluation systems that met guidelines similar to the five requirements in current federal policy (discussed above).

<sup>18</sup> National Council on Teacher Quality, *State of the States 2012: Teacher Effectiveness Policies*, Washington, DC, December 2012, [http://www.nctq.org/dmsStage/State\\_of\\_the\\_States\\_2012\\_Teacher\\_Effectiveness\\_Policies\\_NCTQ\\_Report](http://www.nctq.org/dmsStage/State_of_the_States_2012_Teacher_Effectiveness_Policies_NCTQ_Report).

<sup>19</sup> It is important to note that because a practice is not required at the state level does not mean that it is not in place at the local level.

Meanwhile the Senate Committee on Health, Education, Labor, and Pensions reported the Elementary and Secondary Education Reauthorization Act (S. 3578), which would have made similar teacher evaluation reforms optional.<sup>20</sup> Neither of these bills received floor debate.

In the 113<sup>th</sup> Congress, both committees again reported ESEA reauthorization bills containing provisions on teacher evaluation. This time, the House bill (H.R. 5, the Student Success Act) would make teacher evaluation reforms optional and the Senate bill (S. 1094, the Strengthening America's Schools Act) would make teacher evaluation reforms mandatory.<sup>21</sup> These reforms may (in the case of H.R. 5) or must (in the case of S. 1094) meet guidelines similar to the five requirements for teacher evaluation in current federal policy (discussed above). On July 19, 2013, the House passed H.R. 5 and referred the measure to the Senate. S. 1094 has not received floor debate.

## Policy Issues

Although there is general congressional interest in teacher evaluation reform, strong disagreement exists over whether these changes should be mandated or simply supported by the federal government. Moreover, some argue that no federal role is appropriate in this matter. Among those who think there is some appropriate federal role, there remain several areas of dispute. Some of these issues are discussed here.

- How much weight should student learning have in teacher evaluation? The Teacher Incentive Fund, Race to the Top, and the ESEA waiver package all require that teacher evaluations be based “in significant part” on evidence of improved student academic achievement and growth (both S. 1094 and H.R. 5 also use this phrase). Although states and school districts have flexibility around how to incorporate student learning, some serious implementation challenges likely exist—particularly regarding measurement in non-tested grades and subjects.<sup>22</sup> It is unclear whether these challenges are best addressed by “letting a thousand flowers bloom” at the local level or through guidance and/or support at a federal or national level.
- Which staffing decisions should be tied to teacher evaluation outcomes? Recently, a handful of states have newly required that teachers demonstrate positive performance in order to receive and retain tenure.<sup>23</sup> States and school districts have also instituted performance pay, with and without TIF support. Some assert that evaluation reforms are too nascent for such high-stakes decisions and argue that evaluation results are better suited to provide feedback

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<sup>20</sup> As introduced, S. 3578 would have required school districts to implement teacher evaluation reforms, however, this requirement was removed during committee deliberation.

<sup>21</sup> As introduced, H.R. 5 would have required school districts to implement teacher evaluation reforms, however, this requirement was removed during committee deliberation.

<sup>22</sup> Michele McNeil, “Teacher Evaluation Plans Bedevil Waiver States,” *Education Week*, March 4, 2013, [http://www.edweek.org/ew/articles/2013/03/06/23waivers\\_ep.h32.html?qs=teacher+evaluation](http://www.edweek.org/ew/articles/2013/03/06/23waivers_ep.h32.html?qs=teacher+evaluation).

<sup>23</sup> Dan Goldhaber and Michael Hanse, *Using Performance on the Job to Inform Teacher Tenure Decisions*, Urban Institute, Calder Center, Brief 10, Washington, DC, May 2010, <http://www.urban.org/uploadedpdf/1001385-using-performance-calder-brief10.pdf>.



to teachers and inform professional development.<sup>24</sup> Others argue that basing such high-stakes decisions on teacher performance can be a needed catalyst for wider systemic reform.<sup>25</sup>

- Should evaluation reform include school leadership? In some ways, current school-level accountability provisions have laid the groundwork for principal evaluation reform. Turnaround models for low-achieving schools included in the ESEA waiver package may involve removing poorly performing principals. As the individual who may be most responsible for school-wide success, principal performance may be synonymous with school performance. Moreover, so-called *value-added models*, which face large implementation barriers and methodological challenges<sup>26</sup> with regard to individual teacher performance, may be better suited when applied to school-wide (or principal) performance.<sup>27</sup>
- Should federal funds be provided to support the development of evaluation systems and evaluator training? Several educational organizations have been contracting with states and school districts in this capacity for some time.<sup>28</sup> Federal endorsement of such partnerships might be an efficient and effective way to promote reform.
- What, if any, role should teacher evaluation systems play in the accountability of teacher preparation programs? Some argue that the success of these programs should be judged on the extent to which their graduates contribute to student academic achievement. As evaluation reform may build data linkages between student learning and teacher performance, in turn teacher evaluation could be linked to preparation program performance.<sup>29</sup> On the other hand, building such data systems across numerous school systems and educational levels may not be simple or inexpensive and possibly may not be feasible.
- Should current federal requirements for the equitable distribution of teacher quality include an effectiveness component? NCLB requires that states “ensure that poor and minority children are not taught at higher rates than other children

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<sup>24</sup> Linda Darling-Hammond, *Evaluating Teacher Effectiveness: How Teacher Performance Assessments Can Measure and Improve Teaching*, Center for American Progress, Washington, DC, October 2010, [http://www.americanprogress.org/issues/2010/10/pdf/teacher\\_effectiveness.pdf](http://www.americanprogress.org/issues/2010/10/pdf/teacher_effectiveness.pdf).

<sup>25</sup> National Council on Teacher Quality, *Restructuring Teacher Pay to Reward Excellence*, Washington, DC, December 2010, [http://www.nctq.org/tr3/docs/nctq\\_salary\\_combo.pdf](http://www.nctq.org/tr3/docs/nctq_salary_combo.pdf).

<sup>26</sup> Researchers who have explored the stability of teacher effectiveness estimates report mixed results. The results suggest that the correlation between the estimate of a teacher’s effectiveness from year to year is “modest,” see, Daniel Aaronson, Lisa Barrow, and William Sander, “Teachers and Student Achievement in the Chicago Public High Schools,” *Journal of Labor Economics*, vol. 25, no. 1 (2007), pp. 95-135 and Daniel F. McCaffrey, Tim Sass, and J.R. Lockwood, *The Intertemporal Stability of Teacher Effect Estimates*, National Center on Performance Incentives, Working Paper 2008-22, 2008.

<sup>27</sup> Gregory F. Branch, Eric A. Hanushek, and Steven G. Rivkin, *Estimating Principal Effectiveness*, The American Institutes for Research, Calder Center, Working Paper #66, Washington, DC, January 2012, [http://www.caldercenter.org/upload/CALDER-Working-Paper-32\\_FINAL.pdf](http://www.caldercenter.org/upload/CALDER-Working-Paper-32_FINAL.pdf).

<sup>28</sup> See for example the Teacher Advancement Program (<http://www.niet.org>) and the Danielson Group (<http://www.danielsongroup.org>).

<sup>29</sup> The National Council on Teacher Quality, *Teacher preparation program student performance data models: Six core design principles*, Washington, DC, April 2013, [http://www.nctq.org/dmsStage/Teacher\\_Preparation\\_Program\\_Student\\_Performance\\_Data\\_Models\\_NCTQ\\_Report](http://www.nctq.org/dmsStage/Teacher_Preparation_Program_Student_Performance_Data_Models_NCTQ_Report).

by inexperienced, unqualified, or out-of-field teachers.”<sup>30</sup> If credential-based teacher quality measures are replaced with performance-based measures, perhaps equity provisions should be amended similarly.

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<sup>30</sup> ESEA, §1111(b)(7)(C).

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