UNINTENDED CONSEQUENCES

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The Case for Reforming the Staffing Rules in Urban Teachers Union Contracts
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.¹

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.

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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. 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.” 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). 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.
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. 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. 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.

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.