

Analysis of California Assembly Bill 5 (2011)



The Education Trust—West

The Education Trust—West, along with scores of advocates and researchers, knows that the single most important school-based factor in improving student academic performance is the quality of the teacher in the classroom. Effective teachers and school leaders not only raise achievement, but they also have the potential to close long-standing achievement gaps for the Latino and African-American students who are nearly 60 percent of our state's student population. Research makes it clear that students who have a series of strong teachers will soar academically, while those who have ineffective teachers simply fall further and further behind.ⁱ

Without a robust evaluation system that emphasizes the impact of a teacher in improving student performance, it is impossible to ensure that our highest-need students have access to effective teachers. It is also impossible to identify the outstanding teachers who consistently raise student achievement, and those teachers who are ineffective at their job. California needs to overhaul its laws governing teacher evaluation and require school districts to use the results of evaluations to support teachers' professional growth.

Assembly Bill 5 (2011) makes progress toward several of these goals. We agree with the bill's approach to direct all school districts statewide to adopt *best practices* teacher evaluation systems. We also agree that best practices teacher evaluation systems should be based on multiple measures, including evidence of teacher impact on student achievement and uniform observations conducted by trained observers.

However, our analysis of the language of AB 5 has raised a number of major concerns. First, we believe that aspects of the legislation would, if signed into law, constitute a step backwards from current law, further preventing California from achieving the goal of ensuring that all students are taught by effective teachers. Second, there are aspects of AB 5 that should be strengthened in order to protect the rights of students to be taught by effective teachers. Third, we recommend additional language be added to the bill in order to facilitate implementation.

We begin by highlighting those areas where the language of AB 5 would constitute a step backwards from current law, and therefore should be deleted:

- **Delete the condition that districts adopt and implement a best practices teacher evaluation system only in the year after the deficit factor is reduced to zero, because it connects two issues that have no relationship in practice.** Our state's students of color and low-income students simply can't wait for the budget to get fixed before implementing the evaluation system necessary to ensure an effective teacher in every classroom. A number of districts across the state are developing strong teacher evaluation systems, despite the budget crunch. Given the ongoing work in these districts, as well as in districts in other states facing similar fiscal challenges including Colorado, Florida and Illinois, it is clear that implementing a best practices teacher evaluation system is not a question of funding as much as a question of state guidance and local will. California's schools have long been, and unfortunately, will likely continue to be underfunded. Denying accrued COLA to which districts are entitled is a chronic problem that state policymakers should address outside of the discussion around AB 5.
- **Delete the requirement that pupil data used for the purposes of evaluation remain confidential because it creates a new "firewall" in state law between teacher and student data.** Inclusion of this clause in AB 5 would restrict access to important information about teacher effectiveness, equitable teacher assignment, and promising teacher training programs, thereby preventing research and state-level decision-making on these critical issues. Further, AB 5 removes flexibility at the local level for districts to share teacher effectiveness data with local stakeholders, when appropriate.

- **Delete the requirement that all aspects of a teacher evaluation system must be locally negotiated, which could substantially water down any “best practices”.** The bill should instead maintain the language in current law. The Stull Act currently requires districts to consult with employee groups on the evaluation system. The requirement in AB 5 to collectively bargain each element of a multiple measure evaluation system is likely to impede both the development and implementation of robust evaluation systems. The collective bargaining process could result in local school districts emphasizing certain measures of the evaluation over others. For example, a district could agree on a system that de-emphasizes “hard” data such as a teacher’s impact on student performance and instead emphasize “softer” evaluation measures such as contributions to school community. This scenario would allow students to continue suffering in schools where student performance is declining and the number of dropouts increasing, but where teachers receive great evaluation results for their regular attendance at meetings. We believe that a teacher’s impact on student academic achievement, as measured by student performance data, should play a principal role (see item 4 below).

The following are areas where the language of the legislation should be clarified in order to protect the rights of students to be taught by effective teachers:

- **Currently, the bill offers a “grab bag” of best practice evaluation elements with no weights assigned. The bill should require districts to prioritize the impact of a teacher on student achievement outcomes.** A multiple-measure teacher evaluation system should include, at minimum, two core elements: (1) Multiple classroom observations, which would measure a teacher’s effectiveness in engaging and supporting all students to learn at high levels, the teacher’s demonstrated subject-matter competence, the extent to which the teacher uses data to inform instruction, etc., and (2) Evidence of the teacher’s impact on student achievement outcomes.

It is important to weight these factors in statute to ensure that multiple measures of teacher performance are, in fact, included in the evaluation and that no single factor comprises the full evaluation. AB 5 should specify that the measure of a teacher’s contribution to student achievement outcomes should be the primary factor of the evaluation, in tested subjects. Of the total evaluation, at least 30 percent should be based on pupil academic growth, as measured by statewide standardized tests from one year to the next. Research has shown and the Stull Act already provides for the use of student progress on standardized assessments as a valid and reliable measure for teacher evaluation.ⁱⁱ We therefore recommend removing the language that makes use of statewide standardized tests conditional, depending upon whether districts deem them to be valid and reliable.

While at least 30 percent of the evaluation should be based on pupil academic growth data, an additional 20 percent should be based on student data that serves as evidence of a teacher’s contribution to academic performance. This 20 percent may be comprised of the other student performance measures articulated in the bill (classroom work, local academic assessments, presentations and performances, and projects and portfolios), or it may also be based on pupil academic growth data. In total, the majority of an evaluation should be based on student achievement outcomes, as this should be a minimal standard given that the fundamental job of a teacher is to improve their students’ knowledge and academic growth.

- **The bill should specify that performance evaluations of *all* teachers should be conducted at least once every school year.** This standard must apply to both probationary and permanent teachers, as well as more experienced teachers assigned to teach core courses required to be taught by Highly Qualified Teachers (as defined by NCLB). Annual performance evaluations are the only way to ensure that all teachers—regardless of their experiences, training, or instructional role—receive the ongoing feedback on their performance that all professionals need and deserve to improve their practice. Currently, many teachers, especially those with the most years of experience, might go many years without any meaningful feedback on their performance. This practice does not meet the needs of teachers, nor the students they educate.

- **It should state that a teacher receiving an overall unsatisfactory rating should have one year to improve his or her performance, with remediation provided, or return to probationary status.** A permanent teacher identified as unsatisfactory should enter into a comprehensive remediation plan to improve his/her instruction and performance, such as, but not limited to, the Peer Assistance and Review (PAR) Program, or other remediation programs. We recommend that the teacher would then have one year to enter the effective category or return to probationary status.

Given research showing teachers to be the most important in-school factor in improving student achievement, it is simply unconscionable for the state to allow students to be assigned to ineffective teachers year after year, and for their dreams of college and career success to be hindered as a result. The recommended language would provide at least two years for an ineffective employee to improve, more than enough time given the potential impact of an ineffective teacher on student outcomes.

Lastly, we believe additional language is necessary in order to facilitate implementation:

- **AB 5 should require that best practices teacher evaluation systems include ratings that meaningfully differentiate among teacher effectiveness using at least four categories (e.g. highly effective, effective, needs improvement/developing, unsatisfactory/ineffective).** The New Teacher Project has found that existing teacher evaluation systems yield overwhelmingly positive ratings and do little to differentiate between average and great teachers.ⁱⁱⁱ Asking districts to develop more than just two binary performance categories (such as “unsatisfactory” and “satisfactory”) will increase the likelihood that meaningful differences between teachers will be identified, will offer teachers a clear picture of their performance, and will create greater opportunity for teacher improvement over time.
- **AB 5 should make clear that while employees have the right to issue a grievance or response to the overall rating of his or her evaluation, the validity of the individual measures within the overall rating may not be disputed.** The assortment of “best practices” currently included in the bill could result in locally negotiated checklists of performance elements, where any negative rating on an individual performance measure would be subject to a challenge from a school employee, rendering the process for dismissal even more convoluted than it is currently. The bill should be clear that only the overall rating can be disputed.

ⁱ See, for example, Hassel, B., and E.A. Hassel. “Opportunity at the Top: How America’s Best Teachers Could Close Gaps, Raise the Bar, and Keep our Nation Great,” Chapel Hill, N.C.: Public Impact, 2010

ⁱⁱ “Learning about Teaching: Initial Findings from the Measures of Effective Teaching Project,” Bill and Melinda Gates Foundation, 2010

ⁱⁱⁱ Weisberg, Daniel, Sexton, Susan, Mulhern, Jennifer, Keeling, David. “The Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness,” The New Teacher Project, 2009