

VALUING OUR
BEST:
RETHINKING MINNESOTA'S
TEACHER
LAYOFF LAW

A MINNCAN ISSUE BRIEF



VALUING OUR BEST

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Introduction and summary

Twenty-five years ago, *The New York Times* published a story about Cathy Nelson, a Fridley, Minnesota, teacher. Something remarkable happened to Ms. Nelson: she was laid off, and then, almost simultaneously, she received Minnesota’s Teacher of the Year award. Because she was the least senior social studies teacher at the only local high school, the district, undergoing budget cuts, was forced let go of its all-star teacher due to Minnesota’s antiquated “last-in, first-out” (LIFO) layoff law. Ms. Nelson told the paper that it was hard to accept being laid off, and then noted, “But in truth, many good teachers are laid off.”¹

These words ring just as true today. Despite losing scores of great teachers to seniority-based layoffs—including at least two other educators who, after being laid off and rehired, went on to win the Teacher of the Year award³—Minnesota continues to uphold an outdated policy that has been proven to harm student achievement. Meanwhile, peer states across the country are changing their layoff laws to ensure their best teachers stay in the classroom. Minnesota’s LIFO law ties the hands of school leaders and prevents them from making smart staffing decisions when events such as budget cuts, school consolidations and declining enrollment necessitate layoffs. Instead, administrators are forced to lay off teachers in the inverse order of seniority within their licensure area—and, when budgets are restored, to reinstate teachers in order of seniority—regardless of teachers’ effectiveness in the classroom.⁴

Negotiating an alternative to LIFO is allowed, but not required. Both the district and the collective bargaining unit must agree to put the issue on the table, and fewer than 50 percent of districts take the time to negotiate this important policy.⁵ In districts that have made changes, teacher performance is not considered.⁶ Instead, contracts include minor revisions, such as detailing how seniority is defined and how to break ties when two teachers have equal seniority. Many of these revisions only serve to highlight the arbitrary nature of quality-blind layoffs: in Milaca Public schools, for example, the district must flip a coin to determine who loses their job when two teachers with equal seniority are under layoff consideration and other tiebreakers have failed.⁷

Although our quality-blind layoff system affects teachers, it is students who most suffer the consequences. LIFO is bad for students because it:

- gives districts no way to keep their most effective, but potentially less senior teachers;

“...laws that place seniority above performance in evaluating teachers are no longer in the best interest of school children.”²

—Star Tribune editorial board

A NOTE FOR READERS:

Although they’re sometimes confused, LIFO and tenure are not the same. Reforming LIFO means altering the process for determining who will be laid off during a reduction in force. Teachers still retain tenure and due process rights regardless of what this looks like. With or without LIFO, our tenure laws remain in place to determine how and when to award teachers continuing contract status, and what conditions merit removal of continuing contract status on an individual basis.

- disproportionately harms students in high-poverty schools, which tend to employ the least experienced teachers;
- incentivizes teachers to teach out of their subject area of expertise through “bumping;”
- causes a larger reduction in the teaching force than necessary; and
- may undermine new and innovative efforts to increase teacher diversity.

For these reasons and more, states across the nation are moving toward systems based on effectiveness, and public opinion polls show that Minnesotans want the same standard for our schools. To wit:

- more than 90 percent of Minnesotans believe we should look at teacher effectiveness first when forced to make layoffs,⁸ and
- only ten other states require seniority-based layoffs.⁹

It’s time for Minnesota to build a system that gives schools the flexibility they need to keep the best teachers in front of our kids. Requiring districts to consider effectiveness, but allowing bargaining units and districts to negotiate terms that make the most sense in the local context, would be a win for schools, students and educators alike.

Reforming the layoff process is not a silver bullet for strengthening our schools. A comprehensive solution must address many other priorities, including improving teacher preparation, supporting educators through targeted, high-quality professional development and giving administrators flexibility to make personnel decisions in the best interests of their students. However, when layoffs are necessary—which they sometimes are, for reasons beyond districts’ control—students deserve a policy that keeps their best teachers in the classroom.

“...if your interest is in promoting student achievement, then laying off teachers based on a seniority criterion that doesn’t consider quality doesn’t make a lot of sense.”¹⁰

—Dr. Daniel Goldhaber,
University of Washington, Bothell

Why outdated layoff laws are bad for students

Minnesota lawmakers established the current layoff process in a different era. Not only has the teaching profession evolved since 1959, so have national legal protections against discriminatory staffing practices.¹¹ At the time they were established, seniority-based layoffs safe-

guarded against discrimination and provided a predictable process for determining which teachers were laid off first.

But we've come a long way since 1959. National laws now protect teachers against discrimination,¹² and we now know that teachers are not interchangeable: they are the most important in-school factor driving student success,¹³ and regardless of experience level, some teachers get better results for kids than others.¹⁴ Furthermore, Minnesota districts are now required to implement evaluation systems that help identify our most effective teachers. In this new reality, quality-blind, seniority-based layoffs are outdated.

Worse, we know that seniority-based layoffs work against students' interests. The following sections explain why this is true, and why we need a new layoff policy that keeps our greatest teachers in the classroom and gives our kids the best chance to succeed.

LIFO gives districts no way to keep their most effective, but potentially less senior teachers

Great teachers are powerful. Our best educators can help students not only keep pace, but achieve as much as a year and a half of learning in a single year.¹⁵ For low-income students, assignment to a great teacher for four or five consecutive years can mean overcoming the achievement gap.¹⁶ In a world that places an ever-increasing premium on knowledge—and in a state where 81 percent of job openings this decade will require education beyond a high school diploma¹⁷—great teachers are more important than ever.

Seniority, however, is no guarantee of effectiveness. As in any profession, experience can help, but common sense—and a wealth of research—tells us that it's far from the only factor that matters. Dozens of studies show that the correlation between experience and effectiveness is weak, and after a teacher's first few years on the job, the impact of additional experience generally plateaus.¹⁸

Yet quality-blind layoffs force schools to dismiss newer teachers categorically, even if they have proven themselves more effective in the classroom. Studies have looked at who would remain in the classroom under a system based on effectiveness rather than seniority, and the results are startling. The vast majority of teachers laid off under a seniority-only system would remain in the classroom if effectiveness were considered. In fact, more than 80 percent of teachers laid off under LIFO are more effective than the lowest performing teachers who continue teaching.¹⁹

“The seniority system created a culture at my school where many teaching decisions were based solely on order of seniority, even when one colleague was literally hired just minutes before another colleague. In my early years of teaching at a high school, the least senior teachers were teaching the highest loads and most number of preps, simply because no one had a thoughtful conversation about what the implications might be for students. This is the culture that LIFO fuels.”

—Anonymous Minnesota teacher

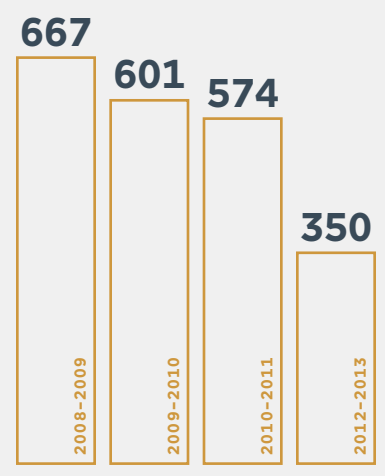
Five out of six teachers removed under LIFO would have remained in the classroom under an effectiveness-based system²⁰



Teachers laid off under a seniority-based system would produce an extra 2.5 to 3.5 months of learning for students, on average, compared to teachers who would have been laid off under an effectiveness-based system²¹



Number of Minnesota teachers laid off, by year²²



For kids, the impact of losing effective teachers is substantial. A recent study concluded that teachers laid off under a seniority-based system would produce an extra 2.5 to 3.5 months of learning for students, on average, compared to teachers who would have been laid off under an effectiveness-based system.²³ This has big consequences for students over the long run. According to Harvard economist Raj Chetty, every time a district retains the most effective teacher rather than just the most senior, the district's students will gain \$2.1 million in collective lifetime earnings.²⁴

Think layoffs are too infrequent to matter? Think again. Minnesota districts lay off hundreds of teachers each year. Between 2008 and 2013, roughly 2,200 Minnesota teachers were laid off. In a 2014 Minnesota Department of Education survey, 48 percent of districts said they are somewhat or very likely to reduce their existing teacher workforce due to funding constraints in the next five years.²⁵

The stakes are even higher when a school and its students lose a top-performing teacher. A recent study of 2.5 million children found that being placed with a top-performing teacher for only one year increases a student's likelihood of attending college and earning a higher salary, and decreases the likelihood of teen pregnancy.²⁶ Removing that teacher is an enormous loss for students. Moreover, if budgets are eventually restored and the school is able to hire a replacement, only one in six candidates will be as effective as the top-performer who was laid off.²⁷

LIFO disproportionately harms students in high-poverty schools, which tend to employ the least experienced teachers

Quality-blind layoffs are bad for all children, but they are especially hard on low-income students and students of color. Data show that high-poverty schools tend to employ the least experienced teachers.²⁸ In Minneapolis, for example, the average teacher at Bethune Elementary School, the highest-poverty school in the district, has about eight years of teaching experience. At Hiawatha Elementary, a low-poverty school, the average teacher has almost 19 years of experience.²⁹ When layoffs occur, Bethune's less senior teachers are among the first let go within each licensure area.

This is a double-whammy for Minnesota's most vulnerable students. First, research shows that teacher turnover has a disruptive effect on schools, and in particular on schools serving predominantly students of color and students behind grade level.³⁰ Second, if a high-poverty, low-performing school loses a top-tier teacher due to quality-blind layoffs, it is less likely than other schools to find an equally effective replacement when budgets are restored. Only one in eleven candidates for the open teaching position will be as effective as the top-performer who was laid off.³¹

QUESTION:
Can't we fix this problem by reallocating experienced teachers to high-poverty schools?

ANSWER:
Fixing teacher distribution inequities should be a top priority for Minnesota. But for a number of historical and structural reasons, including seniority-based transfer rights that give experienced teachers their first choice of schools when openings occur,³² this is a persistent problem that will continue to be relevant to the discussion about a layoff system that works best for kids.

When a highly effective teacher is laid off from a low-performing school, only one out of 11 replacement candidates will be as effective as the laid off teacher³³



LIFO incentivizes teachers to teach out of their subject area of expertise through “bumping”

Under current law, teachers can accumulate seniority in each of their licensed subject areas, even if they are only teaching in one subject area. For example, a teacher licensed in both elementary math and 5–12 math, but only teaching elementary math, can still acquire seniority in 5–12 math. If laid off due to a reduction in force in elementary math, the teacher can exercise seniority to move into his or her secondary licensure area, thereby “bumping” another less senior teacher out of their primary position.³⁴ The more “senior” teacher ends up teaching a subject with which they are less familiar, or sometimes have never taught as the teacher of record.

Although teachers exercising seniority may be good teachers in their primary field, there is no way to tell how effective they will be in their new subject area. Furthermore, in many instances, school administrators hire teachers to teach specific subjects. This law undermines school administrators who are working to structure a strong school for kids. The way to ensure that districts keep their greatest teachers—in the fields to which they are best suited—is to eliminate quality-blind layoffs and prevent the unfair practice of bumping.

LIFO causes a larger reduction in the teaching force than necessary

Not only do quality-blind layoffs mean losing some of our best teachers; they also mean losing more teachers overall. LIFO requires districts to lay off their least experienced teachers first. Because these teachers have the lowest salaries, districts are forced to eliminate the largest number of positions possible to make budgetary ends meet. A layoff system based on effectiveness, by contrast, lets go of districts’ least effective teachers first, irrespective of experience level. This means that a combination of less experienced teachers with lower salaries and more experienced teachers with higher salaries are laid off.

The resulting difference in the quantity of layoffs is significant. One analysis found that reducing district salary expenditures by 5 percent requires laying off only 5 percent of the teacher workforce under an effectiveness-based system, compared to 7.5 percent of the teacher workforce under a seniority-only system.³⁵ Other studies have found that an effectiveness-based layoff system results in 10 to 25 percent fewer layoffs than a seniority-based system.³⁶

QUESTION:

If Minnesota repeals LIFO, how can we be sure that teachers will not be laid off based on their salary level?

ANSWER:

An effectiveness-based layoff system does not allow this; teachers are laid off based on their effectiveness, not their salary level. A new layoff law should also explicitly prohibit districts from considering teacher salaries during layoffs in order to provide an extra layer of protection against discrimination.

To be clear, an effectiveness-based system in no way targets senior teachers with higher salaries for layoffs. But, because the correlation between experience and effectiveness is weak, an effectiveness-based system results in teachers of all experience and salary levels being laid off.

LIFO may undermine new and innovative efforts to increase teacher diversity

Research is clear that students of color benefit from having a teacher of color.³⁷ Yet despite students of color making up nearly one-third of Minnesota's student body,³⁸ 96 percent of our teachers are white.³⁹

Stakeholders across Minnesota recognize that we have a teacher diversity problem. That's why officials in districts such as Minneapolis, Osseo and Austin are implementing initiatives to recruit more teachers of color,⁴⁰ and why the St. Paul Federation of Teachers recently invested \$250,000 in teacher diversity initiatives.⁴¹ The state of Minnesota also invests about \$780,000 per year in teacher diversity recruitment. The Collaborative Urban Educator grant program provides funding to Concordia University of St. Paul, Hamline University, Augsburg College and the University of St. Thomas to address the shortage in teachers of color.⁴²

If these efforts succeed—and if Minnesota makes new investments to improve teacher diversity—a growing percentage of our least senior teachers will be teachers of color. It would be unwise to undermine these efforts by continuing an outdated policy that places these teachers at the front of the line for layoffs, with no consideration for their effectiveness in the classroom.

Minnesota's quality-blind system is out of step

Voters and lawmakers are paying close attention to the negative impact that seniority-based layoffs have on kids. Even though LIFO remains the status quo in Minnesota, it is no longer in the political mainstream, either locally or nationally.

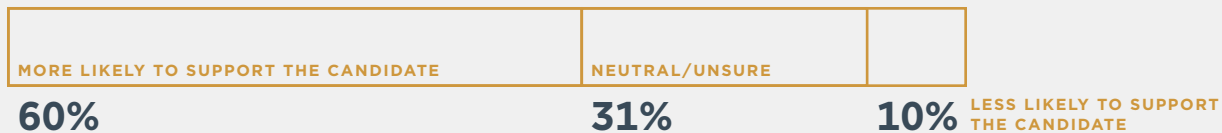
“Another example of the ridiculous circumstances that LIFO creates is when a talented colleague of mine was pink-slipped. She was later re-hired at only .8 teaching time, rather than full time, because that was what was left over after the more senior teachers were slotted into positions. The great irony was that a few weeks into the school year, the more senior teacher who took her full-time position was struggling so mightily that our principal decided to increase my colleague's time back to 1.0 so that she could have .2 of her job to mentor the more senior teacher who took her job. This actually happened!”

—Anonymous Minnesota teacher

Minnesota voters: How important should student learning progress be in determining which teachers are laid off first?⁴³



Minnesota adults: If a political candidate supports educator performance more than seniority in determining which teachers to lay off, how does that affect your support for him or her?⁴⁴



Totals exceed 100% due to rounding

Nearly all Minnesotans support a layoff policy based on teacher effectiveness

Recent polls show that overwhelming majorities of Minnesotans support scrapping our seniority-only layoff system. A 2011 survey of 1,000 registered Minnesota voters found that 96 percent of voters agree student learning progress should be an important factor in determining which teachers are laid off first. Ninety-one percent agree that the primary factor in determining layoff decisions should be teacher performance. Only one percent of voters said that student learning progress should be “not at all important” in determining which teachers are laid off first.⁴⁵ Furthermore, a February 2015 KSTP poll, although worded differently, mirrored these findings. The poll revealed that 80 percent of Minnesotans believe teacher layoffs should be based on “quality,” not “seniority.”⁴⁶

A 2014 poll found similar trends: 60 percent of Minnesotans said they would be more likely to support a political candidate if the candidate “supports educator performance more than seniority in deciding

whom to lay off, if and when layoffs occur.” Only 10 percent said they would be less likely to support the candidate.⁴⁷

These findings track national polling. In a 2011 Gallup survey, 87 percent of respondents said that a principal’s evaluation of teachers should be very or somewhat important in deciding which teachers are laid off first during a reduction in force. This outweighed every other factor, including experience level.⁴⁸

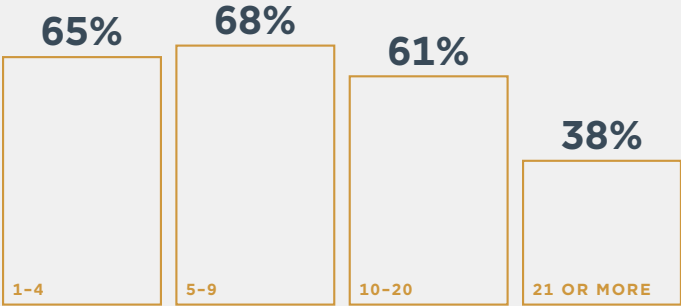
Minnesota’s educators agree. In a 2012 poll of Minnesota public school teachers, 53 percent agreed or strongly agreed that, “If teacher layoffs are required, seniority should be considered, but the primary factor in deciding which teachers to lay off should be based on teacher effectiveness.” When the results are narrowed to teachers with fewer than ten years of experience, support jumps significantly: roughly two-thirds of teachers with one to nine years of experience agree that the primary factor in determining layoffs should be teacher effectiveness.⁴⁹

Distinguished education leaders are also coming out in support of changing our teacher layoff law. Recently retired Minneapolis Public Schools superintendent Bernadeia Johnson said that she worked so hard with teachers to craft the district’s widely lauded teacher evaluation system partly in response to LIFO. She added, “If you have last in first out then you are not looking at quality, you’re just looking at a seniority number.”⁵⁰

“If you have last in first out then you are not looking at quality, you’re just looking at a seniority number.”

—Bernadeia Johnson, retired Minneapolis Public Schools superintendent

Minnesota public school teachers: Do you agree that seniority should be considered, but that the primary factor in determining layoffs should be based on teacher effectiveness? (percent who agree)⁵¹



YEARS OF EXPERIENCE

Only ten other states require seniority-based layoffs

When the evidence is stacked so clearly against quality-blind layoffs, it is no wonder that few other states require districts to implement this antiquated system. Only eleven states (including Minnesota) require seniority-based layoffs for some or all districts.⁵² On the other hand, 20 states, including Colorado, Illinois, Massachusetts, Michigan and Ohio, prohibit districts from using seniority as the primary criterion in layoff decisions.⁵³ These states recognize the importance of keeping great teachers, even when budgets are tight.

Creating a layoff system that works for kids

Minnesota's current approach to layoffs is detrimental to schools and kids. The good news is that creating a layoff system that keeps our best teachers in the classroom is simple and straightforward. We have the tools to do it.

For many years, we heard that a better system was out of reach because we lacked the data needed to fairly consider teacher effectiveness. This is no longer the case. Districts across Minnesota have implemented locally designed evaluation systems that meet the state's robust standards, which were in turn rooted in recommendations from years of rigorous academic research.⁵⁴ These standards require districts to use multiple measures of effective teaching to evaluate and support teachers, including student growth and professional teaching standards.⁵⁵

In short, changing our layoff policy to incorporate teacher effectiveness is no longer premature. We should join peer states like Massachusetts and Colorado that have recently passed laws establishing layoff systems that require consideration of a teacher's impact in the classroom.⁵⁶ It is time to do what is right for students and repeal our outdated quality-blind layoff law.

Conclusion

It is a promising time for Minnesota's students. Our state is doing more than ever before to improve educational opportunities and educational outcomes for every child, and changing-the-odds public schools across the state are proving that all kids can succeed.

Yet there is still much more to do. Minnesota is still home to some of the largest achievement gaps in the nation, resulting in unacceptable high school graduation rates for students of color.⁵⁷ Although protecting our best teachers from layoffs is only one part of the solution, it is an important one. It is the right first step toward a comprehensive solution—one that should include improved teacher preparation, better professional development for teachers and more administrator flexibility to retain the most effective educators—to ensure that every child has a great teacher leading the classroom.

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About MinnCAN

Launched in 2011, MinnCAN: The Minnesota Campaign for Achievement Now is an education advocacy nonprofit. MinnCAN is a movement of 11,000 Minnesotans—and growing—dedicated to creating the political will to enact smart public policies to ensure that every Minnesota child has access to a great public school.

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