

# FOCUS *on Teacher Reform Legislation in SREB States: Tenure, Dismissal and Performance Pay Policies*

## SREB

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Due to state budget challenges over the last several years, some states used federal funding from the American Recovery and Reinvestment Act (ARRA) and the Race to the Top (RTTT) competitive education program as incentives to alter their education policies. Both pieces of legislation required states to meet a list of minimum criteria that included maintaining state funding to education programs and revising state education statutes and policies. Six SREB states (Delaware, Florida, Georgia, Maryland, North Carolina and Tennessee) won RTTT funding, and most SREB states accepted ARRA funds. Policy-makers in many of these states used their share of federal funds to reform education policies specifically affecting teachers.

This *Focus* report, SREB's second recent report on teacher reforms, highlights changes that SREB states made to teacher tenure, dismissal and performance pay policies in the last few years. **Twelve SREB states made statutory changes to their teacher tenure, dismissal or performance pay policies from 2009 to 2011.**

- Teacher tenure statutes were modified or created in five of the 12 states: Delaware, Florida, Maryland, Oklahoma and Tennessee.
- Dismissal policies were amended or newly established in eight: Alabama, Arkansas, Florida, Louisiana, North Carolina, Oklahoma, Tennessee and Texas.
- Policy-makers made statutory changes to performance pay policies in five: Florida, Georgia, Maryland, Oklahoma and Virginia.

## What teacher tenure involves

Most states organize teachers into two categories: probationary (or beginning) and tenured (also called non-probationary or career). In general, tenure is a career status that a teacher may earn after completing a probationary period — a required consecutive number of years of service. Once a teacher is granted tenure, the local school district holds or keeps a position for the teacher from year to year. As defined in the Center for American Progress report *Fixing Tenure*, tenure “means that a teacher gains permanent employment status after successfully completing a probationary period — usually three years of teaching — and may not be fired or disciplined without just cause and due process.”

Over the last two years, Delaware, Florida, Maryland, Oklahoma and Tennessee altered their probationary period statutes in an effort to improve teacher performance and quality by tying

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*The previous Focus report on teacher reform measures, which includes a complete summary of teacher evaluation policies adopted in SREB states in 2010 and 2011, is available at [www.sreb.org](http://www.sreb.org).*

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teacher evaluations to tenure decisions. In fact, the amended state statutes in four of the states — Delaware, Florida, Oklahoma and Tennessee — require that teachers fulfill a list of assessment conditions, plus complete a probationary period, prior to earning tenure (or an annual contract in Florida). (See Table 1.)

## Legislative changes to tenure policies

Prior to the passage of Senate Bill 263 in Delaware, teachers generally were considered “tenured” after three years of service. Now, teachers must show at least two years of “satisfactory” student growth in the three-year probationary period to receive tenure. Student growth is defined by the state Department of Education as the change in student achievement data for an individual student over time. It also may include other measures that are rigorous and comparable across classrooms, such as standardized test scores.

The Student Success Act (Senate Bill 736) eliminates the teacher tenure track for new hires in Florida. The bill decreases the probationary period from three years to one year and provides that only annual contracts are available for teachers hired after June 30, 2011. In addition, a teacher may not work under a probationary contract more than once.

To receive an annual contract, Florida teachers must meet three criteria. Each teacher must hold an active teaching certificate and have the recommendation of a local district administrator for an annual contract or contract renewal. In addition, the teacher must not have: two consecutive “unsatisfactory” annual performance evaluations, two “unsatisfactory” annual performance evaluations in three years, three consecutive “needs improvement” evaluations, or any combination of “needs improvement” and “unsatisfactory” annual evaluations in three years.

Table 1  
Changes to Probationary Period in SREB States, 2010 and 2011

State	Bill Number	Year	Previous Probationary Period	New Probationary Period
Delaware	Senate Bill 263	2010	3 years	2 years of “satisfactory” student growth in a 3-year probationary period
Florida	Senate Bill 736	2011	3 years	1 year (All new hire teachers operate on annual contracts.)
Maryland	House Bill 1263	2010	2 years	3 years
Oklahoma	Senate Bill 2033	2011	3 years	3 years if teacher is rated as “superior” or 4 years if teacher is rated as “effective” on teacher evaluation
Tennessee	House Bill 2012 and Senate Bill 1528	2011	3 years	5 years and the teacher should have a rating of “above expectations” or “significantly above expectations” during the last two years of the probationary period

Sources: SREB state legislation and state statutes.

The Education Reform Act (House Bill 1263) passed by the **Maryland** Legislature in 2010 extended the probationary period from two years to three years for non-tenured teachers hired on or after July 1, 2010. A teacher can retain tenure after moving to another school district in the state, if after one year of probationary employment in the new district the teacher's contract is renewed, provided that the final evaluation rating from the previous district was "satisfactory" or better, and there was no break in the teacher's service of longer than one year.

To earn tenure, Senate Bill 2033 in **Oklahoma** requires probationary teachers hired after June 30, 2012, to meet one of three performance evaluation rating choices. One option is that a teacher must have three consecutive school years in one school district and receive evaluation ratings of "superior" for at least two of three school years, with no rating below "effective." The teacher also may qualify with four consecutive years in one school district and an average rating of "effective" over the four-year period, with a rating of at least "effective" for the last two years of the period. Or, after petitioning the local superintendent, the teacher must receive petition approval from the local school board to earn tenure after four or more consecutive years of teaching.

Senate Bill 2033 redefines Oklahoma probationary teachers either as those employed during the 2011-2012 school year who have not completed three years of service, or as those hired after June 30, 2012, who have not met the requirements for tenure. Currently (until July 1, 2012), probationary teachers are those who have not completed three consecutive years of service in one school district.

House Bill 2012 and Senate Bill 1528 connect **Tennessee** teacher performance and tenure. The bills increase the probationary period for teachers from three years to five years. To attain tenure, a teacher hired after July 1, 2011, must complete a five-year probationary period and achieve a performance effectiveness rating of "above expectations" or "significantly above expectations" during the last two years of the probationary period.

The bills also require that a Tennessee teacher return to probationary status if, after attaining tenure, the teacher receives an evaluation rating of "below expectations" or "significantly below expectations" for two consecutive years. The teacher will remain in probationary status until receiving two consecutive years of "above expectations" or "significantly above expectations" evaluation ratings. After these two consecutive years of high performance, the teacher is again eligible for tenure.

A Tennessee teacher who attains tenure and later resigns must serve a two-year probationary period upon reemployment by the same school system, unless the probationary period is waived by the local Board of Education at the request of the district superintendent. Once the teacher completes the probationary period, the teacher is eligible for tenure and must receive a recommendation from the district superintendent, either for tenure or nonrenewal.

## **What teacher dismissal and grievance procedures entail**

In many states, fair dismissal policies exist to provide teachers with a process for disputing termination. Local districts and teacher unions typically negotiate dismissal policies in a contract, known as a collective bargaining agreement. According to the "Teacher Rules, Roles and Rights" 2011 database created by the National Council on Teacher Quality, collective bargaining is required in four SREB states (Delaware, Florida, Maryland and Tennessee). However, Tennessee's 2011 legislation eliminates collective bargaining

in favor of “collaborative conferencing.” Seven SREB states — Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma and West Virginia — permit collective bargaining. Collective bargaining explicitly is illegal in the remaining five SREB states (Georgia, North Carolina, South Carolina, Texas and Virginia).

In general, collective bargaining agreements address the procedures (established by state statutes and state Board of Education regulations) for evaluating teachers, salary schedules and benefits, professional development, termination, grievances (disputes and appeals) and other issues. In states without collective bargaining, state statutes and state Board policies directly regulate most matters, including teacher evaluations, tenure, salaries and dismissal procedures. If a teacher is recommended for dismissal but disagrees with the termination decision, the teacher may dispute the decision by making use of the grievance process set forth in state statutes and state Board rules.

Typically, the procedure for dismissing a probationary teacher or revoking a teacher’s tenure is comprised of the following steps: notification of dismissal, impartial hearings and an appeals process. The venue for hearings and appeals varies from state to state. Some states hold hearings before a hearing committee or commission, while appeals are held in state Superior Court or district court. In other states, hearings are before the local board or an administrative law judge, while appeals are brought before the state Board or an arbitrator.

From 2009 to 2011, eight SREB states passed legislation that modified teacher dismissal provisions. Five of the eight states made statutory changes to grievance policies. Tennessee was the only state that modified its collective bargaining statutes. (See Table 2.)

**Table 2**  
**Teacher Dismissal and Grievance Legislation in SREB States, 2009, 2010 and 2011**

State	Dismissal Bill Number, Year	Grievance Bill Number, Year
Alabama	Senate Bill 310, 2011	Senate Bill 310, 2011
Arkansas	House Bill 2178, 2011	
Florida	Senate Bill 736, 2011	
Louisiana	House Bill 1033, 2010	House Bill 1033, 2010
North Carolina	House Bill 1377, 2010 Senate Bill 466, 2011	Senate Bill 962, 2009
Oklahoma	Senate Bill 2033, 2010	House Bill 1380, 2011
Tennessee	House Bill 2012 and Senate Bill 1528, 2011	House Bill 7010 and Senate Bill 7005, 2010  House Bill 130 and Senate Bill 113, 2011
Texas	Senate Bill 8, 2011	

Sources: SREB state legislation and state statutes.

## Legislative changes to teacher dismissal and grievance policies

Alabama's Senate Bill 310 streamlines the process for dismissing probationary teachers and changes the grievance and hearing procedures for terminating tenured teachers. For tenured teachers, the local superintendent may recommend termination by written notice. The notice must state the reasons for the proposed termination and contain a short statement of the facts showing that the termination was due to a decrease in the number of positions, incompetency, insubordination, neglect of duty, immorality, failure to perform duties in a satisfactory manner, or for another good and just cause.

If recommended for dismissal, an Alabama tenured teacher may file a written request for a hearing within 15 days of receiving the termination notice. The teacher must receive a hearing in 30 to 60 days from the date of the local school superintendent's written notice for termination, instead of the previous 20- to 30-day period. The local superintendent who requested the dismissal bears the burden of proof at the hearings. If the local board decides to dismiss the teacher, the teacher may appeal to the state superintendent within 15 days of the termination notification.

The state superintendent will refer the appeal to the executive director of the state bar association, who will serve as the administrator of the hearing officer selection process. The selected hearing officer will come from a panel of five retired state dispute-resolution judges. (Previously, appeals were handled by independent federal arbitrators.)

Previously, a local superintendent (with approval from the local board) could suspend an Alabama teacher without pay for seven days. The legislation extends the maximum suspension period to 20 days and allows the superintendent to suspend the teacher either with or without pay. If a tenured teacher is suspended without pay for longer than 20 days, the teacher may challenge the suspension, using the termination hearing and appeals process.

During the hearing process, a suspended or terminated tenured teacher may continue to receive compensation and benefits until a final ruling is reached by the hearing officer or 75 calendar days have elapsed, whichever occurs first. But in cases of termination based on an act of moral turpitude, immorality, abandonment of job, incarceration or neglect of duty, the teacher will not receive any compensation or benefits. Previously, the teacher continued to receive compensation.

A local superintendent (with the approval of the local board) may transfer or reassign an Alabama teacher, at any time, to any position, grade or work location within the same feeder system of elementary and secondary schools for which the teacher is qualified. Tenured teachers may challenge a transfer or reassignment only under limited situations. The legislation also limits the ability of teachers to challenge: reductions to compensation or benefits, changes to the length of the work or school year, and unavoidable work force reductions beyond normal attrition due to decreased student enrollment or a shortage of revenues.

The **Arkansas** Legislature approved House Bill 2178, establishing the Teacher Excellence and Support System. Beginning with the 2014-2015 school year, public schools will conduct annual evaluations for all teachers. Teachers who receive a rating of "unsatisfactory" in any one evaluation category or, "unsatisfactory" or "basic" in a majority of evaluation categories, will work under intensive-support status.

While under intensive-support status (for no more than two consecutive semesters unless otherwise required), an Arkansas teacher must achieve certain goals and complete tasks that correlate both to evidence-based research in the evaluation category of underperformance and to a professional learning plan developed specifically for the teacher, based on the evaluation results. At the conclusion of intensive-support status, the evaluator will determine if the teacher has met the goals and tasks developed and will notify the teacher of removal from intensive-support status. However, if the teacher fails to meet the necessary goals of that status, the evaluator will notify the local superintendent, who must recommend termination or nonrenewal of the teacher's contract.

As a result of Senate Bill 736, **Florida** teachers who have two "unsatisfactory" performance evaluation ratings within a two- or three-year period, or who have three consecutive "needs improvement" or "unsatisfactory" evaluation ratings, will not receive an annual contract or a contract renewal (if hired before July 1, 2014). In addition, unless a teacher has a performance rating of "effective" or "highly effective," a Florida principal may refuse to accept the placement or transfer of the teacher into the school.

If work force reduction becomes necessary, Florida local districts are required to keep teachers based on educational program needs and performance evaluation ratings. Those teachers with the lowest performance evaluations will be the first released from their contracts. Local boards may not prioritize teacher retention based on seniority.

In 2010, the **Louisiana** Legislature passed House Bill 1033. If a teacher's evaluation results do not meet state Board performance effectiveness standards for three years, the state Board will not issue a certificate or renewal. The governing body of a charter school will terminate charter school teachers found ineffective for three consecutive years. In addition, if a teacher is found ineffective after completing an intensive-assistance program (a program for teachers who fail to meet performance effectiveness standards, designed to address the complexity of the teacher's deficiencies) and receiving a re-evaluation, the local board must initiate dismissal proceedings.

Like teachers in most states, Louisiana teachers have a right to exercise the grievance process. House Bill 1033 requires the state Board to develop and adopt grievance procedures for any teacher aggrieved by the results of a local board's teacher evaluation. At a minimum, the process must ensure: that the teacher receives a copy of the evaluation, the evaluators' data recording forms and any related documentation; that the teacher receives due process, including representation in all aspects of the evaluation grievance process; and that the local board administers the evaluation in a fair, objective and consistent manner and complies with all rules and regulations adopted by the state Board.

**North Carolina's** Senate Bill 962 of 2009 provides that a probationary teacher receive notice by May 15 of the local superintendent's intent to recommend the teacher's dismissal. Within 10 days of receiving the superintendent's recommendation, the probationary teacher has the right to request and receive written notice of the reasons for the recommendation and the information that the superintendent may share with the local board to support the recommendation, as well as to request a hearing. If the probationary teacher is eligible for tenure but recommended for dismissal instead, the teacher may request a hearing before the local board, unless the dismissal is the result of a work force reduction. If, after a hearing, the board decides not to renew the probationary teacher's contract, the board must notify the teacher by July 1 or an agreed-upon later date. Probationary teachers who did not request a hearing must receive notification of termination from the board by June 15.

North Carolina's Safe Schools Act of 2010 (House Bill 1377) allows a tenured teacher who is recommended for dismissal to resign without a written agreement from his or her school system superintendent. This bill prevents a tenured teacher from resigning and looking for employment with another local school district prior to completing the dismissal process. A teacher who resigns under this provision is considered to have voluntarily surrendered his or her teaching certificate for up to 45 days while the state Board of Education determines whether to suspend or revoke that certificate.

In 2011, North Carolina lawmakers addressed the dismissal or demotion of teachers in low-performing schools and teachers in schools that are not low-performing by approving Senate Bill 466. Although the procedures vary for inadequately performing teachers and for teachers in low-performing schools, the bill defines inadequate performance, establishes mandatory improvement plans, and institutes procedures for the dismissal of teachers whose performance does not satisfy their mandatory improvement plans.

If a North Carolina teacher in a low-performing school obtains a "below-proficient" or "unsatisfactory" performance rating on his or her evaluation, the teacher must participate in a mandatory improvement plan, or receive a dismissal or demotion recommendation. If the teacher then fails to achieve proficiency on any performance standard required for improvement in the plan, the superintendent must recommend the teacher's dismissal or demotion.

A North Carolina teacher in a school that is not low-performing may receive a recommendation to participate in a mandatory improvement plan, if the teacher obtains a rating of "below-proficient" or "unsatisfactory" on an evaluation and if the superintendent determines that a growth plan will not adequately address the deficiencies. If the teacher fails to attain proficiency or to demonstrate sufficient improvement in the areas identified by the plan, then the superintendent may recommend dismissal or demotion. A superintendent has the option to dismiss a teacher in a school not designated as low-performing without requiring the teacher to participate in a mandatory improvement plan.

A local board may rehire a North Carolina teacher who was dismissed for any reason other than work force reductions. The superintendent must develop a mandatory improvement plan for the rehired teacher. If the teacher receives a "below-proficient" rating after completing the plan, the state Board will begin the process of revoking the teacher's license. If the teacher receives a "developing" rating, the teacher must raise his or her rating to "proficient" within one year or the state Board must initiate the license revocation process.

In **Oklahoma**, Senate Bill 2033 of 2010 also amends teacher dismissal provisions. The legislation requires the dismissal of a career teacher who receives an evaluation rating of "ineffective" for two consecutive school years. School systems also are required to dismiss a career teacher who receives a "needs improvement" or lower rating for three consecutive years, or who averages a rating that is below "effective" for a five-year period. School systems must dismiss probationary teachers who have not attained career teacher status within four years or who were rated "ineffective" for two consecutive years. In addition, schools identified by the state as underperforming may choose from four intervention models, which may include replacing a significant portion of the school's staff or closing the school.

In 2011, Oklahoma passed House Bill 1380, which ends the practice of "trial de novo" — a teacher's right to appeal to a district court after a school board's final ruling to terminate the teacher. The elimination of this procedure allows a local school district to terminate a teacher without an appeals process.

Tennessee legislators passed House Bill 7010 and Senate Bill 7005 in 2010. Due to the passage of these bills, all tenured teachers may demand an impartial hearing on suspension or dismissal charges, as well as appeal the hearing decision. Previously, local boards of education conducted hearings to suspend or dismiss tenured teachers, except in metro Nashville and Memphis, where impartial third-party officials conduct these hearings.

In addition, House Bill 2012 and Senate Bill 1528 of 2011 require that any tenured teacher (who acquired tenure after July 1, 2011) who receives two consecutive years of “below expectations” and “significantly below expectations” as the overall performance rating on evaluations will return to probationary status. The teacher will remain in probationary status until receiving two consecutive years of “above expectations” or “significantly above expectations” on his or her evaluations. However, if the teacher is not granted tenure after the probationary period, the teacher’s contract will terminate.

The law also changes the date by which a local district must notify a teacher of reemployment from May 15 to June 15. After a work force reduction (such as layoffs or position closures), a district superintendent must consider a dismissed tenured teacher’s most recent evaluations as a factor in determining whether to rehire the teacher to fill a position vacancy.

Texas legislators passed Senate Bill 8 during the 2011 special session. The legislation provides that local school districts may dismiss probationary teachers 10 days prior to the end of an instructional term. Previously, districts were required to give probationary teachers at least 45 days’ notice. The bill also allows districts to suspend a teacher without pay, pending termination or instead of termination for good cause. In cases where a work force reduction is necessary, a district may terminate tenured teacher contracts primarily based on teacher evaluations, rather than seniority.

## **Tennessee’s groundbreaking teacher reform legislation**

In 2011, House Bill 130 and Senate Bill 113, known as the Professional Educators Collaborative Conferencing Act, passed in Tennessee. Tennessee is the first SREB state to modify its collective bargaining structure. The legislation replaces negotiations of teachers and local boards of education through collective bargaining with collaborative conferencing between local boards of education and representatives of the teachers’ choice. Collaborative conferencing is defined as the process by which representatives of the local board and teachers meet to confer, consult and discuss and to exchange information, opinions and proposals on matters relating to the terms and conditions of teacher service, using the principles and techniques of interest-based, collaborative problem-solving.

Beginning on January 1 of each year, the two parties may collaboratively conference on the same matters previously negotiated (which include salaries, insurance, working conditions, leave and fringe benefits), except student discipline procedures. The Tennessee law prohibits certain subjects (which include differentiated pay plans and other incentive compensation programs, evaluations, staffing decisions and employee assignments) from conference discussions, although previous law did not have any prohibitions.

The law permits Tennessee district superintendents, expressly, to communicate with teachers about any subject relevant to the operation of the school system, including matters under collaborative conferencing. If the majority of teachers vote to collaboratively conference, then the teachers will select seven to 11 teacher representatives by December 1 from either or both of the following categories: teacher organizations or rep-



representatives unaffiliated with an organization. However, only those professional organizations receiving 15 percent or more of votes from teachers are entitled to represent teachers. Similarly, 15 percent or more of all teachers may vote to have unaffiliated representatives at the conference. In both cases, the number of representatives from each category is selected based on each organization's and unaffiliated representative's proportional share of votes from all teachers.

The local board will have an equal number of representatives from management (such as principals, assistant principals and supervisors). Both groups of representatives will serve on the collaborative conferencing panel for three-year terms. The terms may occur more frequently if desired and agreed to in the memorandum of understanding between the teachers and local board. If the parties reach an agreement, they will jointly prepare a proposed memorandum of understanding, which the local board may agree to for up to a three-year period. Once approved by the local board, the memorandum is binding. Absent an agreement and memorandum of understanding specified for collaborative conference, the board is authorized to address those specific terms and conditions of employment through board policy.

The Tennessee law eliminates mediation and arbitration, and it prohibits strikes, as did the collective bargaining act this law replaces. Any collective bargaining agreements in effect prior to the effective date of the law will remain in full force until they expire. The law requires filing any complaints of unlawful acts with the local board within three months of the occurrence. If a reasonable resolution is not reached, then the parties may file the complaint with the courts.

## How states link teacher effectiveness and teacher evaluation results

Over the last few years, some state legislators have embraced The New Teacher's Project's assessment that teacher effectiveness is "the most important factor for schools in improving student achievement." As a result, some SREB states have revised their statutes to provide more teacher assistance and training to improve teacher effectiveness, which may in turn decrease the likelihood for teacher dismissal. These methods are aimed at assisting beginning, probationary and underperforming teachers and seek to improve teacher performance with more frequent performance evaluations.

In 2010 and 2011, five SREB states instituted policies that provide mentors and professional development to help beginning teachers and teachers whose evaluation results were "unsatisfactory" or "below proficient" meet critical effectiveness standards. Policy-makers in these states — Arkansas, Louisiana, Maryland, North Carolina and Oklahoma — passed teacher reform legislation that included at least one of the policies emphasizing professional development, mentoring and improvement plans for underperforming teachers. (See Table 3.)

In addition, Florida, Louisiana and Tennessee adopted policies that require more frequent teacher evaluations of beginning and probationary teachers as a means of developing the skills of these teachers, improving student outcomes and creating a supportive environment.

Every **Arkansas** teacher with less than one year of teaching experience now will receive mentoring and training, due to House Bill 2178. The aim is to increase the retention rates of new teachers, establish norms of professionalism and improve student achievement by increasing effective teaching performance.

Table 3  
**Provisions to Support the Development of Effective Teachers  
in SREB States, 2010 and 2011**

State	Bill Number	Legislation Addresses			
		Professional Development	Mentoring	Improvement Plan	More Frequent Evaluations
Arkansas	House Bill 2178, 2011	✓	✓	✓	
Florida	Senate Bill 736, 2011				✓
Louisiana	House Bill 1033, 2010	✓		✓	✓
Maryland	House Bill 1263, 2010	✓	✓		
North Carolina	Senate Bill 466, 2011			✓	
Oklahoma	Senate Bill 2033, 2010	✓		✓	
Tennessee	House Bill 7010 and Senate Bill 7005, 2010				✓

Sources: SREB state legislation and state statutes.

The state will implement “interim teacher appraisals” to support teachers on an ongoing basis throughout the school year. An interim teacher appraisal is a form of evaluation (though not the evaluation required as part of the Teacher Excellence and Support System) that provides support for teaching practices and uses standards for teacher growth and performance that are consistent with the performance rating designations from teacher evaluations. The Arkansas appraisals are designed to give teachers immediate feedback about their teaching practices, engage them in a collaborative and supportive learning process, and help the teachers adapt their teaching practices to student progress. The interim teacher appraisal process may be guided in whole or in part by an evaluator, another teacher, an instructional facilitator, a curriculum specialist or an academic coach for the teacher’s content area.

Another method of supporting teachers in Arkansas is to require the development of a professional learning plan by an evaluator and the evaluated teacher. The professional learning plan must identify professional learning outcomes that advance the teacher’s professional skills, and it must clearly link professional development activities and the teacher’s individual professional learning needs identified in the teacher’s evaluation. At least one-half of a teacher’s professional development hours must directly relate to one or more of the following: the teacher’s content area, instructional strategies relevant to the teacher’s content area, or the teacher’s identified needs. Teachers under intensive-support status must meet the goals and complete the tasks stipulated in their professional learning plans to prevent termination.

In **Florida**, Senate Bill 736 requires at least two performance evaluations in the first year for newly hired teachers and an annual performance evaluation for all other teachers. Previously, all teachers were evaluated at least once a year. These additional evaluations will help beginning teachers understand the teaching standards and outcomes required by the local district and state, while also providing management with an opportunity to consistently communicate and provide professional support to these teachers.

In **Louisiana**, any teacher who fails to meet performance effectiveness standards, set by the state Board, will participate in an intensive-assistance program designed to address the complexity of the teacher's deficiencies. After completing the program, a teacher must receive a formal re-evaluation.

In addition, Louisiana teachers must receive professional development. Specifically, House Bill 1033 requires that the local board provide beginning teachers, during their first three years of employment, with targeted professional development opportunities and assistance designed to enhance teaching competencies. Continuing teachers (teachers who are not beginning teachers) must receive professional development to address deficiencies identified in the evaluation process.

Tenured teachers in Louisiana will undergo more frequent evaluations. Prior to the passage of House Bill 1033, evaluations were conducted once every three years for teachers with more than three years of experience, and probationary teachers were evaluated every year. Beginning in the 2011-2012 school year, every teacher is required to have an annual evaluation. Also, during the beginning of each evaluation period, a teacher and evaluator collaboratively must develop a professional growth plan, which is designed to assist each teacher in meeting effectiveness standards by addressing the social, developmental and emotional needs of students and maintaining a classroom environment that is conducive to learning.

Probationary teachers in **Maryland** must have a mentor promptly assigned to them if they are not on track to qualify for tenure at any formal evaluation point. House Bill 1263 also requires that such a probationary teacher receive additional professional development. A local board can assign a mentor to a probationary teacher at any time during the teacher's employment. The state Board is responsible for ensuring that mentoring programs are focused, systematic, ongoing, of high quality, geared toward the needs of the employee, and include observations and feedback.

Mandatory teacher improvement plans as detailed in Senate Bill 466 in **North Carolina** directly connect teacher evaluation results and dismissal. A mandatory improvement plan is designed to improve a teacher's performance by highlighting the specific performance areas where substantial deficiencies lie and providing a set of strategies that will allow a teacher to satisfactorily resolve such deficiencies in a reasonable period of time.

A teacher in a low-performing school who receives a performance evaluation rating of "below-proficient" or "unsatisfactory" must participate in a mandatory improvement plan, or receive a dismissal or demotion recommendation. A teacher in a school that is not low-performing may participate in a mandatory improvement plan if the teacher's performance evaluation rating is "below-proficient" or "unsatisfactory" and if the superintendent determines that a growth plan will not adequately address the deficiencies. Local boards that rehire dismissed teachers must develop an improvement plan to help the teacher progress.

In **Oklahoma**, Senate Bill 2033 requires that a teacher rated as "needs improvement" or "ineffective" on an annual performance evaluation receive a comprehensive remediation plan and instructional coaching from the local school district.

In **Tennessee**, annual evaluations of all teachers are required as a result of the passage of House Bill 7010 and Senate Bill 7005. Previously, probationary teachers were evaluated at least once a year, while tenured teachers were evaluated twice within a 10-year period.

## Teacher performance pay programs

The most common form of teacher compensation remains the uniform salary schedule, which is based on educational level and years of service. For more than 25 years, however, states have experimented with various forms of performance or incentive pay; for example, the career ladder experiments of the early to mid-1980s evolved into schoolwide performance programs by the mid-1990s. Later efforts put more focus on incentives for teachers to accept difficult assignments. Although these types of alternative pay programs may be a good idea, many states have found the programs difficult to implement and administer. With an emphasis on shifting from inputs to student outcomes tied to individual teachers, the discussion in the states is changing.

Over the last few years, some SREB states that have worked to link student achievement growth to the evaluation of individual teachers have gone a step further and are tying those results to teacher pay, in addition to implementing other forms of alternative pay. The idea is to influence teachers to improve their classroom practices and professional development, focus on student achievement, and take on new or different roles in schools. The alternative compensation plans today most commonly involve:

- market-based pay for teaching in hard-to-staff schools or in fields where there are teacher shortages, such as in math, science or special education.
- pay for knowledge and skills such as earning master teacher or advanced certification or a relevant advanced degree, or completing relevant professional development.
- pay for improved teacher performance based on evaluations that include classroom management skills and teaching strategies.
- performance pay to individual teachers or on a school-wide basis, based on student growth or high student performance.

In 2009, Georgia passed legislation that created a performance pay program for certified math and science teachers. In 2010, Maryland and Oklahoma passed performance pay programs that rewarded certain teachers for above-average performance. In 2011, Florida and Virginia created their own styles of performance pay programs.

## Legislative changes to performance pay programs

The 2011 Student Success Act in **Florida** creates a new performance pay program wherein districts will develop two salary schedules: a “grandfathered” salary schedule and a performance salary schedule. The law prohibits districts from using advanced degrees in setting salaries for those hired after July 1, 2011, unless the advanced degree is in the individual’s area of certification. Instructional personnel hired before July 1, 2014, may participate in the “grandfathered” schedule, which will base a portion of each employee’s compensation on performance and also will provide differentiated pay based on district factors, including additional responsibilities, school demographics, critical shortage areas and the level of job performance difficulties.

Under the performance salary schedule, teachers hired after June 30, 2014, and previously employed teachers who choose to opt into this new salary schedule will receive performance salary adjustments only if they earn teacher evaluation ratings of “highly effective” and “effective.” (Employees receiving a rating other

than “highly effective” or “effective” will not receive a salary adjustment.) Performance salary adjustments for teachers with “highly effective” evaluation ratings will exceed the highest salary adjustments under the “grandfathered” salary schedule. In addition, teachers compensated under the performance salary schedule can earn salary supplements for teaching in Title I schools, underperforming schools and critical shortage areas, and for taking on additional academic responsibilities.

In 2009, the **Georgia** Legislature passed an incentive pay program to ease the shortage of math and science teachers. The legislation (House Bill 280) allows new, fully certified secondary math and science teachers to begin at the salary level of a fifth-year teacher — roughly \$4,000 above the pay of other beginning teachers. The program also provides an annual \$1,000 bonus to elementary grade teachers who have a math or science endorsement from the state Professional Standards Commission.

House Bill 1263 in **Maryland** (the 2010 Education Reform Act) requires the state Board of Education to establish a program to support locally negotiated incentives for highly effective teachers who teach in certain low-performing schools, Title I schools, and schools with the highest proportion of students eligible for free and reduced-price meals.

Senate Bill 2033 permits local school districts in **Oklahoma** to implement new types of performance pay plans that reward teachers for increasing student and school achievement, as measured by a locally adopted evaluation system. Beginning with the 2012-2013 school year, teachers achieving either a “superior” or “highly effective” evaluation rating, as well as grade-level, subject-area or school-level performance success, will receive an annual incentive award. Local districts may develop incentive pay systems that reward teaching in critical shortage areas; in underperforming schools; in the science, technology, engineering and math subject areas; and in “hard-to-staff” schools.

House Bill 2302 revamps the Academic Achievement Award program in Oklahoma. The program awards bonuses of \$250 to \$2,000 to specific certified employees at certain high-achieving schools, based on a three-year performance average. Previously, the program allowed the top four schools with high achievement in specific categories to receive an award of up to \$3,000.

**Virginia** also addressed pay-for-performance policies. The General Assembly approved \$3 million in state funding for 2011-2012 to establish the Virginia Performance-Pay Incentives program, which awards teachers in schools deemed as “hard to staff” with up to \$5,000 in performance pay. The governor invited school districts that “may have difficulty attracting, retaining and rewarding experienced, fully licensed teachers” to apply.

A Virginia school must meet at least four of eight eligibility requirements to participate in the program. These requirements are related to specific factors, including accreditation, average attendance, number of first-year teachers in a critical shortage area, and the percentage of teachers with provisional licenses. In addition, schools must implement a comprehensive teacher evaluation system, approved by the state Board, in which at least 40 percent of a teacher’s evaluation is based on student academic growth, which may include student scores on the state’s Standards of Learning standardized testing system. Schools may begin participating in the program in the 2011-2012 school year.

## Summary

As a result of federal funding incentives and a desire to better measure a teacher's performance and effectiveness in raising student achievement, 12 of the 16 SREB states passed teacher reform legislation over the last three years. These revamped and new teacher evaluation programs provide clear standards and expectations for teachers to earn tenure and receive professional development, and for local districts to terminate teachers and provide a grievance and hearings process. In addition, administrators and local boards in some SREB states are relying on teacher performance evaluation results and a teacher's willingness to educate students in hard-to-staff schools or to teach in key fields as a system for rewarding performance pay and salary supplements.

The ultimate goal of teacher reform legislation is to improve student achievement by increasing teacher effectiveness and enhancing teacher performance. Some states are using funding incentives from the federal government as an impetus to overhaul teacher tenure, dismissal and grievance policies, while implementing programs to develop, support and reward effective teaching.

## References

- Baber, Angela. *Teacher Evaluation in Diversified Teacher Compensation Systems*. Education Commission of the States, 2007.
- Baratz-Snowden, Joan. *Fixing Tenure: A Proposal for Assuring Teacher Effectiveness and Due Process*. Center for American Progress, 2009.
- Chesley, Gary M. "How to Redefine Teacher Tenure." *Education Week*, April 26, 2011. Accessed at — <http://www.edweek.org/ew/articles/2011/04/27/29chesley.h30.html?r=1278431240>.
- Christie, Kathy, and Jennifer Dounay Zirth. *Teacher Tenure or Continuing Contract Laws*. Education Commission of the States, 2011.
- Dixon, Asenith. *Focus on Teacher Reform Legislation in SREB States: Evaluation Policies*. Southern Regional Education Board, June 2011.
- Hess, Frederick M., and Martin R. West. *A Better Bargain: Overhauling Teacher Collective Bargaining for the 21st Century*. Harvard University, 2006.
- Koppich, Julia. *Toward a More Comprehensive Model of Teacher Pay*. Vanderbilt Peabody College, 2008.
- More on Pay-for-Performance: new developments in the field provide insights for policymaking*. Education Commission of the States, October 2011 — <http://www.ecs.org/clearinghouse/97/02/9702.pdf>.
- "Race to the Top Fund." United States Department of Education — <http://www2.ed.gov/programs/racetothetop/index.html>.
- Stonefield, Carol. *Teacher Pay: Diversified Compensation Plans*. Legislative Counsel Bureau, 2010.

“Teacher Rules, Roles and Rights.” National Council on Teacher Quality TR3 database, 2011. Accessed at — <http://www.nctq.org/tr3/home.jsp>.

Weisberg, Daniel, and Susan Sexton, Jennifer Mulhern and David Keeling. *Widget Effect: Our National Failure to Acknowledge and Act on Differences in Teacher Effectiveness*. The New Teacher Project, 2nd edition, 2009.

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