



**EDUCATOR QUALITY FOR THE 21<sup>ST</sup> CENTURY:  
A COLLABORATIVE EFFORT OF  
THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS AND  
THE AMERICAN FEDERATION OF TEACHERS**

**PROLOGUE**

**“The quality of an education system cannot exceed the quality of its teachers and principals, since student learning is ultimately the product of what goes on in classrooms.”**  
*PISA 2009: What Makes a School Successful?*

**Introduction**

Education is essential to keeping our democracy vibrant and our economy strong. The demands on public education in the United States have changed dramatically in the last several decades. Not only has there been an increase in the diversity of the student population, the number of children who enter as non-native English speakers and the number of students living in poverty,<sup>i</sup> but also the demands on what students must know and be able to do has expanded exponentially as we have transitioned to a knowledge economy.<sup>ii</sup> Furthermore, as other countries in the last decade have increased their investment in education by creating highly selective teacher education programs, subsidizing tuition for teacher candidates and elevating the teaching profession in general, the United States has lost its footing as No. 1 in the world for the educational opportunity and advancement of its citizens.<sup>iii</sup>

By focusing on the quality of teaching in every classroom, we can make a promising investment in the education of our children. Our collective goal must be to rank among the top five countries in the world by the year 2020 in terms of our students’ educational achievement. This will require that all students have access not only to great educators, but also to rich and meaningful curriculum, health and social services, and an array of cultural experiences in their local communities and beyond. In addition, we must confront serious structural challenges that are holding back our achievement levels, such as an outdated schooling model based on a bygone industrial economy, a widespread disrespect for educators in general and teachers in particular, and an unacceptable level of childhood poverty.

This framework, which is the product of a collaboration between the American Association of School Administrators and the American Federation of Teachers, addresses only one critical issue in reforming our current system—the continual support and development of the educator workforce. We want to create world-class school systems that systematically recruit, develop and retain exceptional educators. In order to succeed in this endeavor, we will need to work together and draw on the expertise of educators. As Dan Domenech, the executive director of AASA, emphasizes, “It is those of us who have long worked within the

system who know it best and can bring about the changes that will lead to a high-quality education for all of our children.”

### A Shared Vision

The AASA and the AFT are proposing a new model of educator quality—a continuous improvement model, based on what the most successful countries in the world use to develop and sustain a highly trained and well-supported educator workforce. Through shared goals and labor-management cooperation, we believe we can ensure that meaningful reforms will strengthen our public education system and significantly raise student achievement, particularly for those students who face the greatest challenges and have the greatest needs.

Our model grows out of a careful examination of the most effective education systems both in the United States and around the world.<sup>iv</sup> While the lessons learned were easy to identify, they will be challenging to implement. Success will require not only the commitment of our two organizations, but support from other key stakeholders and advocacy organizations; federal, state and local policymakers; and the public. We will need to get serious about teacher selection, preparation, development and evaluation—from recruitment into teacher education, to rigorous preparation, to on-the-job training and support throughout an educator’s career. We cannot focus our efforts only on struggling teachers. We must create an approach that develops and improves the practice of all teachers throughout their careers.

An investment in educators *is* an investment in students. Teaching quality is widely recognized as the most essential in-school factor affecting student learning.<sup>v</sup> Improving teaching quality begins by attracting the best to the profession. One way to do this is to ensure that the teaching profession is respected. The responsibility we entrust to educators and their influence on our country’s future are too great to allow a public discourse that denigrates educators and belittles the profession. Both in policy and in public rhetoric, we need to treat teaching as a respected profession and all educators as the experts in their profession.

In addition to attracting strong candidates to the profession, we also must focus on the preparation, practice and performance of all educators. We need to dramatically increase the quality of teacher preparation programs, which, at a minimum, must emphasize both subject-matter knowledge and pedagogy, provide a meaningful clinical experience, and institute rigorous and relevant exit and licensure exams. Preparation programs should be held accountable for providing prospective teachers with the skills and knowledge they will need to succeed in their classrooms. Without this upfront focus on teachers—recruiting high-quality candidates and providing them with a rigorous program of study—we are unlikely to improve teaching quality or increase student learning.

Furthermore, to do their best work with students, educators need supportive working conditions that maximize their opportunity to be effective. A supportive, respectful and healthy school environment is one where safety is a priority; where school staff significantly influence and take responsibility for decisions that affect their school and its programs; and

where teachers are supported by their leaders and have opportunities to develop professionally.

Ultimately, students pay the price when promising teacher candidates do not enter the profession or when great teachers leave it prematurely. Poor working conditions make it difficult to attract skilled educators to the profession and lead to reduced staff and teacher retention, especially in schools that serve the neediest children.<sup>vi</sup> Supportive and collaborative working conditions are essential to creating schools where teachers and administrators want to work.<sup>vii</sup> Therefore, we must improve the conditions under which many teachers teach and students learn.

### Our Framework

In this paper, the AFT and the AASA offer a two-pronged approach to educator quality that respects and builds on the expertise of educators. First, we focus on designing and implementing high-quality teacher development and evaluation systems. Second, we present a fair, efficient and expedient process for addressing poor performance and misconduct. These two focuses—cultivating excellence and addressing concerns efficiently—are crucial; we cannot have one system without the other. A robust and rigorous system of development, support and evaluation is the foundation for a continuous improvement model for instruction. As Randi Weingarten, president of the AFT, observes: “If all we do is dismiss bad teachers, we will not significantly improve public education. You can neither hire nor fire your way to better schools.”

### High-Quality Teacher Development and Evaluation

We propose a continuous improvement model for teacher development and evaluation that is research- and standards-based, and includes five critical components:

- **Professional teaching standards** that advance a common vision of the profession and communicate a shared belief about what is important for teachers to know and be able to do;
- **Standards for assessing teacher practice** that are based on evidence of both good teaching practice and student learning;
- **Implementation standards** that address the important details of evaluation, such as how teachers are involved, who evaluates them, how often evaluation takes place, how the results of the evaluation will be used, and how the results are communicated to teachers;
- **Standards for professional context** that describe a school’s teaching and learning conditions. These conditions include both physical and structural elements of schools as well as elements that influence a school’s culture and climate; and
- **Standards for systems of support** that must be available throughout a teacher’s career. While all teachers must have genuine opportunities to improve their practice, it is particularly important that a system for continuing development include sufficient and meaningful opportunities for teachers who have been identified as not meeting teaching standards.

## Aligning Due Process with Evaluation

A rigorous and robust teacher development and evaluation system also must address the issue of poor performance. Teachers whose work is found to be unsatisfactory or less than proficient must be provided with targeted assistance as well as the appropriate resources needed to improve performance. If a teacher's performance does not improve after receiving the necessary support and resources, then the teacher should be dismissed. We have identified a three-step process for guaranteeing fair and efficient procedures for poorly performing teachers:

- Evaluation—Teachers will be evaluated on standards, measures and protocols developed by labor and management. They must be notified within a few days of being observed if they are deemed unsatisfactory, and that status will be confirmed by an improvement team. An improvement plan will be created within a week to address concerns in the evaluation report and how the teacher will improve.
- Support—A teacher must be given sufficient time, not to exceed one school year, to demonstrate improvement in all areas that were deemed unsatisfactory.
- Hearing—An administrator, along with input from peer evaluations, if used, will make a recommendation about the plan's success at the end of the improvement period. An impartial third party, or a jointly constituted local panel, will review the recommendations and determine whether each step was handled properly and due process was followed.

The timelines associated with dismissal should reflect the nature of the teacher's identified area of unsatisfactory performance. For example, a teacher who is identified as needing to improve in the area of record keeping will need less time to improve than a teacher who needs to improve classroom management skills. However, we firmly believe that the time allotted for improvement should not exceed one school year regardless of the identified area of need.

## Teacher Misconduct

In the rare instances when there are allegations of teacher wrongdoing, such as criminal offenses in the classroom, abusive practices toward students, or discrimination, we propose a procedure for discipline to resolve matters in a period of no more than 100 calendar days from the time the teacher receives notice of the allegations. We believe it is essential to expediently yet fairly address these serious offenses for the welfare of our children and the betterment of the profession.

- First, objective criteria must trigger the process. Identifying objective criteria will eliminate disciplinary actions resulting from vague and subjective allegations.
- Second, procedures—including notice and specificity of the complaint, preliminary procedures to help avoid a hearing, and a schedule allowing for a maximum of 100 days from filing of the complaint to completion of the hearing—must be followed in order to ensure the process is both fair and efficient.

In cases of either poor performance or teacher misconduct, the arbitrator or hearing examiner will determine if the procedures and processes have been followed. This makes the hearing and dismissal process for poor performance and teacher misconduct similar. In cases of alleged incompetence, the arbitrator will not “retry” the facts of the professional judgment. However, in the case of alleged misconduct, the hearing examiner will issue a decision that includes the findings of fact and conclusions of law that form the basis for any possible sanctions.

### Conclusion

Developing a high-quality teacher development and evaluation system is at the heart of the joint work proposed by the AASA and the AFT. Dismissal of teachers for poor performance rests on such a system, but more importantly, strengthening the skills of *all* teachers depends on professional development linked to educator needs identified through such a comprehensive evaluation system.

Developing our proposed comprehensive system with the five components addressed earlier is neither easy nor inexpensive. It requires a thoughtful process, and meaningful labor-management collaboration must be the foundation for that process.

While the joint ASAA-AFT proposals for addressing teacher development and evaluation, due process, and misconduct provide the overarching principles for a comprehensive quality teaching system, specific details need to be developed jointly by the union and the administration in accordance with the applicable laws and regulations of the local school district. These details must be developed either through the collective bargaining process, or where bargaining does not exist, in consultation with the local teachers’ representatives. Such a collaboration not only will ensure that the expertise of educators is reflected in the new system, but also will assure teachers that the new system represents their voice and is being developed with them, not imposed on them.

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<sup>i</sup> Census 2010, <http://2010.census.gov/2010census/>.

<sup>ii</sup> Conley, D.T. (2007). *Toward a more comprehensive conception of college readiness*. Eugene, OR: Educational Policy Improvement Center; Darling-Hammond, L. (2010). *The flat world and education: How America’s commitment to equity will determine our future*. New York, Teachers College Press.

<sup>iii</sup> McKinsey & Company (2010). *Closing the talent gap: Attracting and retaining top-third graduates to careers in teaching*. New York: Author; McKinsey & Company (2007). *How the world’s best-performing school systems come out on top*. New York: Author; Fleischman, H.L., Hopstock, P.J., Pelczar, M.P., and Shelley, B.E. (2010). *Highlights from PISA 2009: Performance of U.S. 15-Year-Old Students in Reading, Mathematics, and Science Literacy in an International Context* (NCES 2011-004). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

<sup>iv</sup> Darling-Hammond, L., & Rothman, R. (eds.). (2011). *Teacher and leader effectiveness in high performing countries*. Washington DC: Alliance for Excellent Education & Stanford, CA: Stanford Center for Opportunity Policy in Education.

<sup>v</sup> Hanushek, 1992; Kane et al., 2006; Clotfelter, Ladd & Vigor, 2006; Nye, Konstantopulous & Hedges, 2004.

<sup>vi</sup> Teachers are twice as likely to want to remain working in schools where there is an atmosphere of trust and they feel supported by school leadership (Hirsch 2010—findings consistent in MD, CO final reports and NC forthcoming). “Working conditions emerge as highly predictive of teachers’ stated intentions to remain in or leave their schools, with leadership

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emerging as the most salient dimension. Teachers' perceptions of their working conditions are also predictive of one-year actual departure rates..." (Ladd, 2009).

<sup>vii</sup> According to the latest McKinsey & Company study, "better working conditions and school leadership will do more for retention of current teachers than competitive pay, particularly in high needs schools. McKinsey & Company (2010). Closing the talent gap: Attracting and retaining top-third graduates to careers in teaching.

## Appendix A

# **AFT & AASA'S CONTINUOUS IMPROVEMENT MODEL FOR TEACHER DEVELOPMENT AND EVALUATION**

### **Introduction**

What the American Association of School Administrators (AASA) and the American Federation of Teachers (AFT) are proposing is an evaluation system that is designed to help *all* teachers improve their practice, and to support, in particular the development of novice teachers—one that not only improves the teaching in the system, but can be used to improve human resource decisions such as retention, promotion, and professional development. The system is predicated on high standards of teaching excellence—standards that are understood by all teachers and administrators, standards that reflect the complexity of teaching and learning and that include both instructional efforts and learning outcomes and high quality, accessible professional development, imbedded in the work day where possible and informed by a culture that is respectful of teaching and learning.

Teacher evaluation must be improved, and must be meaningful and part of a system of continuing support and development of teachers and teaching. In far too many districts today, teacher evaluation is still perfunctory at best. Often the evaluation process is a *pro forma*, drop-in observation.<sup>1</sup> Not only are the processes trivial but the results frequently have no consequences. As the “The Widget Effect” demonstrated: in general, no action is taken on evaluation findings; teachers are rarely found to be incompetent, and in fact, the vast majority are identified as good or great; there is neither a recognition of great teaching nor attention to poor performance; nor is any special attention given to novices. And most importantly, there is an inadequate tie of evaluation results to professional development needs. Not surprisingly, given the poor quality of the evaluations, findings are rarely used for important human resource decisions relating to recruitment, hiring, placement, professional development, tenure, retention or layoffs—all areas where tools are needed to guide system improvement.<sup>2</sup>

Further, AASA and AFT propose a “smart” teacher development and evaluation framework—one that continually improves : (1) as new and better research becomes available about teacher development and evaluation; (2) as data (including student outcomes) at the classroom, school and district levels are generated and analyzed; and (3) as the district builds its capacity to increase teacher quality.

Strategic planning around teacher evaluation must address how to build the capacity of school systems and school personnel to implement all the components of a comprehensive teacher evaluation system whose purpose is to grow and develop teachers to improve student learning.

The framework is based on 10 critical principles that we believe must guide the design and implementation of any teacher development and evaluation system. Such systems must:

1. Have as their primary goals strengthening the individual and collective practices of teachers and schools to improve student learning;
2. Be developed and implemented collaboratively with teachers, not imposed on them;
3. Focus on providing continuous professional development and growth for teachers by addressing the skills, knowledge and needs of teachers depending on where they are on a career continuum (e.g., novice, midcareer, veteran);
4. Promote teacher leadership;
5. Be both formative and summative;
6. Be based on a set of standards of practice that takes into account the complexities of teaching;
7. Include evidence of teaching and student learning from multiple sources;
8. Address how to build the capacity of districts and schools to implement high-quality teacher development and evaluation systems;
9. Consider the context in which teaching and learning takes place; and
10. Be subject to continuous updating of instruments and processes as research on practice leading to valued student outcomes becomes available.

It is essential that districts and their unions measure to what extent the evaluation system is being implemented with fidelity, to what extent it meets the purposes for which it was designed, and in what ways the evaluation influences teaching and learning. Collecting data on these questions will allow a district that has adopted a comprehensive teacher development and evaluation system to monitor, adjust and improve the system as necessary.

### **The Organization of the Framework**

The framework is organized into two main sections.

- First, we discuss the purposes of teacher evaluation, and distinguish between evaluation for continuous development and evaluation for decision-making.
- Second, we identify the components of a comprehensive teacher development and evaluation system that supports both continuous improvement and personnel decision-making.

## **PURPOSES OF EVALUATION**

Prior to designing a teacher evaluation system, the most important question to answer is: Why evaluate teachers? The purposes of evaluation drive the design of the system. An effective teacher evaluation can serve multiple purposes. It can be used to:

1. Improve the overall quality of the teacher workforce by identifying and building upon individual and collective teacher strengths, and by improving instruction and other teacher practices to improve student learning;
2. Identify exemplary teachers who might serve as mentor and/or master teachers;
3. Identify ineffective teachers and develop a system of support to remediate their skills; and
4. Ensure fair and valid employment decisions, including decisions about rehiring, dismissal, career paths and tenure.

To accomplish these multiple purposes, two types of evaluation are necessary: formative and summative evaluation.

- *Formative evaluation* supports continuous growth and development. It provides teachers with feedback on how to improve their craft to promote student learning. It is a critical component of career professional growth. Data from formative evaluation also can identify specific professional development opportunities for teachers that will facilitate student learning (e.g., instructional techniques that meet the needs of diverse learners, effective classroom management strategies, and use of student assessments).
- *Summative evaluation* is used to judge whether a standard has been met. It is used for tenure decisions, intensive assistance decisions, dismissal decisions, career path decisions and compensation decisions.

To ensure due process, formative evaluation, with opportunity for improvement, must always precede a summative evaluation.

## COMPONENTS OF A TEACHER EVALUATION SYSTEM

There are five components of a comprehensive development and evaluation system that meet the formative and summative purposes of evaluation. As part of this framework, we lay out the standards for each component. Included are professional teaching standards as well as standards for measuring teaching practice (including student learning), implementation, professional contexts, and systems of support.

### 1. Professional Teaching Standards

Professional teaching standards advance a common, comprehensive vision of the profession. They communicate a shared understanding about what is important for teachers to know and be able to do to promote student learning and professional growth. Professional teaching standards are key to defining the practices that good teachers use to facilitate student learning. Professional teaching standards should take into account the importance of pedagogical content knowledge. Good teaching requires more than just knowing the required content knowledge. It also requires knowing how to effectively teach subject specific content to students.<sup>3</sup>

Professional teaching standards should be developed by teachers in collaboration with other stakeholders.<sup>4</sup> Teachers not only must be familiar with the standards by which their practice is evaluated, but also must understand how those standards are applied (e.g., what excellent, acceptable and less-than-competent performance on a standard looks like).

Professional teaching standards are essential to the development of high-quality, performance-based assessments (see Box 1 for examples of professional teaching standards). In addition, professional teaching standards can be the centerpiece for professional learning communities, encouraging teachers to reflect on their practice and share that knowledge with their colleagues, thereby fundamentally reshaping the culture of schooling and reducing the isolation of teachers.

Professional teaching standards must:

- Communicate a shared vision of good teaching practice;
- Promote teacher leadership;
- Identify indicators or competencies of teacher performance;
- Address the complexity of teaching<sup>5</sup> and student learning;
- Encourage teachers to be reflective practitioners;
- Attend to the collaborative and reflective nature of teachers' work; and
- Include all classroom teachers across all grades and subjects (e.g., they should reflect differences for various content areas and specialists).

Box 1. Examples of Professional Teaching Standards

- Charlotte Danielson's Framework for Teaching
- North Carolina Professional Teaching Standards
- National Board for Professional Teaching Standards

## 2. Standards for Assessing Teacher Practice

An evaluation system focused on improving teaching and learning must include evidence of both good teaching practice and student learning; the system must consider the weight it gives to the evidence of each—teaching practice *and* student learning. For example, an evaluation system that values standardized student test scores more than demonstration of good teaching practice will result in undesirable teaching practices, such as narrowing the curriculum to tested subjects only or excessive test preparation. Conversely, a system that does not focus sufficiently on student learning cannot make crucial connections between teaching and learning.

### *Assessing Teacher Practice*

When assessing teacher practice, it is necessary to:

- Use valid and reliable measures;
- Include performance standards that are appropriate for the developmental level of the teacher—novice, midcareer and veteran; and
- Incorporate a variety of evaluation techniques to capture the breadth of good teaching and professional practice, including classroom observations, review of lesson plans, self-assessments, teaching artifacts and portfolio assessments.

### *The Role of Student Learning and Other Student Outcomes*

Student learning is at the heart of the teaching profession and must be included in any credible teacher evaluation. Several principles should guide the use of student learning in teacher evaluation:

- *Student learning should include evidence of growth in knowledge and skills based on multiple measures.* Just as no one measure can evaluate teacher performance, no one measure can or should account for student learning. Examples of evidence of student learning are: student written work, performances, group work or presentations scored using a rubric, writing samples, scores on locally designed assessments, student learning objectives (see Box 2) or student “capstone” projects (e.g., graduation, end-of-course, research or thesis paper, portfolios of art work). Teachers should

document students' progress toward mastery—their breakthroughs along with their struggles with concepts and skills—using both informal and formal tools such as written observations, surveys, rubrics, task charts, self-reflections, teacher-student conferences and individualized education or learning plans. Progress in student learning is an indicator of student success that both teachers and parents value.

- *Progress on standardized test scores may be considered as part of an overall evaluation system when the measures are valid and reliable. But progress on standardized test scores must not be the single or predominant measure of student learning.*<sup>6</sup> A number of practical and methodological issues exist, including:
  - Many tests do a poor job of measuring student performance for both high-achieving and low-achieving students because they test a very narrow range of student learning;
  - Standardized student tests that are currently in use have never been validated to measure teacher effectiveness;<sup>7</sup>
  - Various forms of measurement error are inherent in value added and other measures of growth, and the results must be used with statistical measures of accuracy such as confidence intervals; and
  - Value added is susceptible to error due to the inherent limitations of tests for capturing the complexity and breadth of student learning and the limitations of value-added methodologies.<sup>8</sup>

Further, where value-added models are used to measure growth in standardized test scores, they must use “best practices” in (1) the design of the model, (2) the assessment of its validity and reliability, and (3) the use of the outcomes.

Given these limitations, we recommend that progress on test scores be used only in context with a great deal of other information about teachers. We also recommend that value-added data be interpreted with expert help, used for formative purposes in teacher evaluation, and used to address whole-school accountability issues.

- *Other student outcomes, in addition to student achievement, matter.* Outcomes such as attendance, persistence and engagement have a relationship to student learning. Further, outcomes demonstrating that students have acquired habits and behaviors which lead to success in school and in life are important. Are students able to interact appropriately with their peers and adults? Can they collaborate? Can they demonstrate empathy for others? These skills are crucial to a thriving democracy and economy and should be considered in any teacher evaluation system.

## Box 2. Student Learning Objectives<sup>9</sup>

### **What Are Student Learning Objectives (SLO)?**

One way to measure student learning is for teachers to create rigorous student learning objectives. Student learning objectives are annual targets for growth that a teacher sets at the beginning of the year and strives to attain by the end of the year (or at the end of a semester if appropriate). They are based on a student needs assessment and aligned to the school's standards and curricula. In addition, SLOs must be (1) based on outcomes (not activities), (2) rigorous, and (3) measurable.

Unlike standardized test scores, student learning objectives can be developed for any teacher in any subject area or grade level. Baseline data can be collected to inform student growth targets. Assessments can be standardized or teacher-developed.

The successful use of student learning objectives requires that teachers have resources and supports. Teachers need ongoing, dedicated time to assess and monitor student learning. They also need to know how to interpret data in order to adjust instruction and/or curriculum.

### *Putting It All Together*

Determining teacher quality requires that the diverse evidence—classroom observations, parent surveys, student test scores, other evidence of student learning, etc.—be assembled into a single system to create a profile of teacher accomplishment. Measurement must consider issues such as weighting, standard setting and overall scoring.

- **Weighting:** For example, are all evaluation criteria equally important? How much consideration should be given to classroom observation data? To parent and student surveys? To student work samples and/or test data?
- **Overall scoring:** For example, what is the intent or use of an overall score or rating? Should teachers receive a rating at all? Are scores from various standards of teacher quality averaged? Is there a floor that must be reached for each standard? Can excellence on one measure compensate for weakness on another?
- **Standard setting:** For example, what does exemplary, good, acceptable and unacceptable/needs-improvement performance on a standard look like?

Ultimately, the evaluation of teacher performance requires clear definitions of what is good enough, what is exceptional, what is unacceptable, etc.

### **3. Implementation Standards**

Implementation standards should address the important details of evaluation, such as how teachers are involved, who evaluates them, how often evaluation takes place, how the results of the evaluation will be used, and how the results are communicated to teachers. The purposes of evaluation must be considered when answering these questions.

The guidelines below should be followed for effective teacher evaluation:

- Teachers must know the standards against which they are assessed, and what constitutes excellent, acceptable and less-than-competent performance on these standards.
- Evaluators can be peers/expert teachers, and/or administrators and self.<sup>10</sup>
- Formative evaluations must be conducted frequently.<sup>11</sup>
- Evaluators must have formal training and demonstrate ability to assess teaching fairly and accurately.<sup>12</sup>
- Evaluators must be able to interpret the findings of an evaluation in order to assist teachers in designing high-quality differentiated professional development plans.<sup>13</sup>
- A process for data collection and feedback must be developed.
- Standards for student achievement data quality and use must be developed.
- Systematic communication about the evaluation must take place with teachers prior to and after the evaluation process.<sup>14</sup>
- Ongoing professional goals must be collaboratively developed by the teacher and evaluators as part of a formative evaluation process.
- Evaluation data must inform professional development opportunities for teachers.

#### 4. Standards for Professional Contexts

A positive professional context is essential for good teaching practice, teacher success and satisfaction, and ultimately student learning.<sup>15</sup> Professional context describes a school's teaching and learning conditions. Teachers and students will not thrive in an environment that is not conducive to teaching and learning. These conditions include both physical and structural elements of schools, as well as elements that influence a school's culture and climate. Measures for assessing teaching and learning conditions should consider the following factors: time, facilities and resources, teacher empowerment, leadership, professional growth, and school climate and safety.<sup>16</sup>

- **Time** refers to the opportunities teachers have to meet the needs of their students, given school schedules, non-instructional duties, paperwork and availability (or inaccessibility) of structured avenues for collaboration with colleagues (such as common planning time, lesson study and professional learning communities).
- **Facilities and resources** refer to teachers' access to the people, materials and tools they need to support their teaching. It also refers to the extent to which their schools are well-maintained and have adequate environmental conditions (such as space, lighting and ventilation).
- **Empowerment** refers to the opportunities for teachers to develop as professionals, be recognized as instructional experts, and meaningfully participate in decisions about school policies, procedures and programs that affect them.
- **Leadership** refers to how administrators and teacher leaders collaboratively shape a shared vision for success, enhance school climate, enforce norms and recognize good teaching.
- **Professional growth** refers to the quality and frequency of teachers' formal opportunities to learn what they need to know and do to be successful with the students they teach.
- **School climate and safety** refer to the quality and character of school life.<sup>17</sup> Do teachers and students in a school feel that they belong? Do they feel safe and supported? Do they know and value one another?

Standards for positive professional contexts that support teaching and learning should be developed collaboratively by a school's staff to reflect the conditions needed to create a supportive teaching and learning environment. *A procedure for assessing a school's professional context also must be developed, and data should guide decisions about how to improve a school's teaching and learning*

*conditions.* Collectively, all members of the school community—school board members, superintendents, principals, teachers, and other school and district staff—are responsible for ensuring that a school’s teaching and learning conditions promote student academic success, and teachers’ and students’ social and emotional well-being.

Box 3. Sample Standards for Professional Contexts<sup>18</sup>

*Standards for Working Conditions in North Carolina Schools*

- Twenty-nine standards in five distinct areas—time, empowerment, professional development, leadership, and facilities and resources—serve as guidance for schools to understand positive working conditions.  
<http://www.ncptsc.org/>

*Ohio School Climate Guidelines*

- Nine guidelines are presented in areas such as engaging in school-community partnerships, conducting regular and thorough assessments toward continuous improvement, providing high-quality professional development for school leaders and staff, and engaging parents.  
<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEPrimary.aspx?page=2&TopicRelationID=433>

**5. Standards for Systems of Support**

Systems of support must be available throughout a teacher’s career, from initial hiring through advancement, and must include a system whereby teachers identified as not meeting teaching standards are provided sufficient opportunity to improve their teaching. We discuss both systems of support for veteran, novice and struggling teachers below.

*Support for Veteran Teachers*

Teaching is a lifelong learning profession. The key to assuring a high quality teaching force is continuous improvement of all teachers, not just for those deemed to be inadequate in meeting the standards, but *all* teachers, even those deemed to be the very best. School districts must develop a culture of learning and continuous exploration and growth among faculty and administrators. High quality professional development must be available to all teachers, with particular attention to the priority areas that teachers and administrators identify as goals for their districts.

*Support for New Teachers and Struggling Teachers*

The turn-over rate of new teachers is unacceptably high, and among other reasons, a product of lack of system-wide support and meaningful professional development in their first few years. Research has shown that this turnover rate costs districts cumulatively millions of dollars<sup>19</sup>. Serious mentoring programs that provide opportunities for new teachers to discuss their experiences with expert teachers in their field, to visit expert teacher classrooms and to get help with the specific issues with which they are struggling not only improves teaching and learning but also improves retention of high performing novice teachers.

Systems of support must:

- Provide a continuum of teacher support based on (1) a teacher’s ability to meet teaching standards and (2) the career stage of the teacher (i.e., novice, midcareer and veteran teachers should receive support that reflects their knowledge and skills);<sup>20</sup>

- Be aligned with the professional teaching standards;
- Focus on teachers' work with students;
- Use and be informed by teacher evaluation data;
- Be intensive and ongoing; and
- Give teachers a say in improving the system based on regular and timely feedback.

Some examples of systems of support include:

- Ongoing, high-quality and relevant professional development (individual and whole-school)—evaluation results should inform professional development opportunities available to teachers;
- Induction;
- Mentoring/consulting;
- Professional learning communities;
- Lesson study; and
- Coaching.

#### Box 4. Examples of Systems of Support Embedded in Teacher Evaluation Systems

- *Cincinnati Public Schools Peer Assistance and Evaluation Program.* This program seeks to assist teachers in their first year in the Cincinnati Public Schools (CPS) in refining their teaching skills and orienting them to CPS, including its goals, curriculum and structure. The program also assists experienced teachers who demonstrate instructional deficiencies. Expert peer teachers work with these teachers to improve their instructional skills and bring them to the proficient level of performance as defined by CPS professional teaching standards.
- *Minneapolis Public Schools Professional Development Process.* The professional development continuum for teachers depends on systemic support, beginning with initial training and collaboratively supported practices, evolving into independently and collegially facilitated growth, and continuing throughout the teaching career with ongoing reflection and leadership. The Minneapolis Standards of Effective Instruction apply to all teachers and assist them as they move through the professional development continuum. These standards are expected to be used as a guide toward planning and implementing staff/professional development to support teaching quality and student achievement. They are also an effective tool in coaching, mentoring and teaming as a part of the professional development process.

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<sup>1</sup> American Federation of Teachers, (1998) "Survey of State Policies on Teacher Evaluation," *Educational Issues Policy Brief*, AFT: Washington, DC; Weisberg, D., Sexton, S., Mulhern, J. & Keeling, D. *The Widget Effect*. (2009) The New Teacher Project: NYC, NY.

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<sup>3</sup>Ball, D.L., & Hill, H. C. (2009). Measuring teacher quality in practice. In D. Gitomer (Ed.), *Measurement issues and assessment for teaching quality* (pp. 80-98). Washington, DC: Sage Publications.

<sup>4</sup>Research highlights the importance of including teachers in both the design and implementation of the evaluation system. For a discussion of this, see Joint Committee on Standards for Educational Evaluation (1995). *The program evaluation standards (2nd ed.)*. Thousand Oaks, CA: Sage; and Kyriakides, L., Demetriou, D., & Charalambous, C. (2006). Generating criteria for evaluating teachers through teacher effectiveness research. *Educational Research*, 48(1), 1-20. doi:10.1080/00131880500498297

<sup>5</sup>Green, T.F. (1971). *The activities of teaching*. New York, NY: McGraw-Hill.; and Pacheco, A. (2009). Mapping the terrain of teacher quality. In D. Gitomer (Ed.), *Measurement issues and assessment for teaching quality* (pp. 160-178). Washington, DC: Sage Publications.

<sup>6</sup>Stein and Matsumura argue that “given its prominence in teacher quality discussions today, it is important to articulate why student scores on achievement tests alone cannot shoulder the burden of the improvement agenda” (p. 199). They offer several reasons for not basing teacher quality judgments solely or predominantly on student scores on achievement tests: “achievement scores are indicators ... [and] provide little insight into the mechanics of how to improve instruction.... standardized achievement tests ... are not designed to test the range of content and skills that students need to learn over the course of an academic year, and standardized achievement tests also tend to focus on lower-level skills” (p. 199). Further, Stein, and Matsumura contend that measuring teacher quality using student standardized test scores does not address all the skills and knowledge needed for teachers to teach and students to learn.

<sup>7</sup> According to the AERA, NCME, APA (1999) standards for educational and psychological testing, all assessments should be validated for their intended purposes. For more information see American Educational Research Association, American Psychological Association, and National Council for Measurement in Education (1999). *Standards for Educational and Psychological Testing*. Washington, D.C.: American Research Association.

<sup>8</sup>Research shows us that even the best value-added models provide measures of student learning that vary enormously from year to year, especially for individual teachers (versus whole school), and even more so for teachers in small classes and small schools. Reasons for the annual instability include:

- substantial statistical “noise” in both the pre- and post-test years from small sample size, test measurement error, sampling error, and changes in the classroom and school environment outside the teacher’s control;
- tests with inadequate floors and ceilings, thus hiding actual student progress;
- testing periods that include two teachers—but with the results attributed to only one teacher—when tests are administered before the end of the school year;
- non-random assignment of students to teachers;
- bad data systems and mismatching of students to teachers; and
- failure in some value-added models to include student background and the fade-out of prior teacher effects.

<sup>9</sup>Austin Independent School District. (2009). AISD REACH: Program overview. Retrieved from <http://www.austinisd.org/inside/initiatives/compensation/overview.phtml>.

<sup>10</sup>Research shows that teachers are more receptive to and incorporate instruction and advice from those who have significant knowledge of curriculum, instruction and academic content, such as expert teachers. For a discussion of this, see Stiggins, R. J., & Duke, D. L. (1988). *The case for commitment to teacher growth: Research on teacher evaluation*. Albany, NY: State University of New York Press.; and Wise, A. E., Darling-Hammond, L., McLaughlin, M. W., & Bernstein, H. T. (1984). *Case studies for teacher evaluation: A study of effective practices*. Santa Monica, CA: RAND Corporation. Retrieved from <http://www.rand.org/pubs/notes/2007/N2133.pdf>.

<sup>11</sup>Multiple observations are essential to a fair evaluation process as well as the improvement of practice. Current research suggests including at least four or five observations in an overall single evaluation. For a discussion of this, see Blunk, M. (2007, April). *The QMI: Results from validation and scale-building*. Paper presented at the annual meeting of the American Research Association, Chicago, IL.

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<sup>12</sup>Research points to the importance of systematically training classroom observers and evaluators. For a discussion of this, see Joint Committee on Standards for Educational Evaluation. *The program evaluation standards* (2nd ed.). Thousand Oaks, CA: Sage; and Little, O., Goe, L., & Bell, C. (2009). *A practical guide to evaluating teacher effectiveness*. Washington, DC: National Comprehensive Center for Teacher Quality. Retrieved from <http://www.tqsource.org/publications/practicalGuide.pdf>.

<sup>13</sup>Stein and Matsumura (2009) maintain that “just as teachers benefit from knowing the variety of ways in which students might arrive at a wrong answer, it would be important for assessors of teachers to be able to spot typical missteps that teachers make” (p. 189).

<sup>14</sup>Communication prior to, during and after the evaluation is essential. For a discussion of this, see Joint Committee on Standards; Mathers, C., Oliva, M., & Laine, S. (2008). *Improving instruction through effective teacher evaluation: Options for states and districts*. Washington, DC: National Comprehensive Center for Teacher Quality; and Wise, Darling-Hammond, McLaughlin, & Bernstein (1984).

<sup>15</sup>Various studies have linked teacher working conditions and school climate to increased student academic achievement, including: Bryk, A. S. & Schneider, B. (2002). *Trust in schools: A core resource for improvement*. New York, NY: Russell Sage Foundation; Hirsch, E. & Emerick, S. (2007). *Teacher working conditions and student learning conditions: A report on the 2006 North Carolina Teacher Working Conditions Survey*. Hillsborough, NC: Center for Teaching Quality.; Sherbloom, S. A., Marshall, J.C., & Sherbloom, J. C. (2006). The relationship between school climate and math and reading achievement. *Journal of Research in Character Education*, 4(1&2), 19-31; and Whitlock, J. L. (2006). Youth perception of life in school: Contextual correlates of school connectedness in adolescence. *Applied Developmental Science*, 10, 13-29.

<sup>16</sup>Adapted from the Center for Teaching Quality and the New Teacher Center’s survey work on teaching and learning conditions. See Berry, B., Fuller, E., & Williams, A. (2008). *Final report on the Mississippi Project CLEAR Voice teacher working conditions survey*. Washington, DC: Center for Teaching Quality; and Hirsch, E., Freitas, C., Church, K., & Villar, A. (2008). *Massachusetts Teaching, Learning and Leading Survey: Creating Conditions Where Teachers Stay and Students Thrive*. Santa Cruz, CA: New Teacher Center.

<sup>17</sup>Cohen, J., McCabe, E. M., Michelli, N. M., & Pickeral, T. (2009). School climate: Research, policy, practice and teacher education. *Teachers College Record*, 111(1), 180-213.

<sup>18</sup>Hirsch, E. (2008). *Identifying professional contexts to support highly effective teachers*. Washington, DC: National Comprehensive Center for Teacher Quality.

<sup>19</sup> Alliance for Excellent Education. (2005). Teacher attrition: A costly loss to the nation and to the states. Retrieved April 12, 2011 at <http://www.all4ed.org/files/archive/publications/TeacherAttrition.pdf>.

<sup>20</sup>Stein and Matsumura assert that assessment ought to be educative; in other words, measures of instruction should “provide information about the next step that teachers must take to continue to improve and develop” (p. 189). These measures should “be based on articulation of a developmental trajectory of teacher learning” (p. 189). The authors argue that even though the empirical research base for this needs strengthening, we can “begin to think about ways in which measures could point the way toward what a teacher would have to do to get to the next level ... [and could also be] sensitive to how things can go wrong in practice” (p. 189).



## **Process to Align Teacher Development and Evaluation with Due Process**

Alignment of due process and evaluation is designed, first and foremost, to provide teachers whose work is identified as “in need of improvement” the support and resources they need to improve. However, if such a teacher is unable to improve, this system helps ensure that the teacher was afforded due process and would be removed for just cause.

Dismissal for poor performance should not be a long drawn-out process, nor should it be done without assurances of due process protections. We propose a framework that builds due process into the development and evaluation system. It is built on three basic principles:

1. The evaluation is conducted by trained evaluators who apply the system with fidelity;
2. Teachers whose work is identified as “in need of improvement” get the support they need; and
3. The recommendation for dismissal is reviewed by a third party to ensure the process was properly followed.

If, as a result of evaluation, any teacher’s work is rated “unsatisfactory,” there must be a system that provides immediate and targeted assistance as well as the appropriate resources needed to improve the teacher’s performance. Here are the key points that AFT and AASA have identified to ensure due process rights for unsatisfactory performing teachers\*:

### **1. EVALUATION**

- a. All teachers and evaluators (including any jointly selected peer experts) have access to high-quality, written information *and* training on their district’s teacher evaluation system prior to implementation, preferably before the start of the school year (see Appendix A). This training is based on the mutually (labor/management) developed standards, measures and protocols that will be used to assess teacher performance.
- b. Any teacher whose work is deemed unsatisfactory must be notified in writing of the specific concerns regarding his or her performance within a few days of the observation. These notifications must be consistent with the procedures prescribed by the evaluation system. Within a few days following notification of unsatisfactory performance, the teacher meets with the evaluator.
- c. An "improvement team" (preferably peer instructional experts) reviews the evaluator's evidence and interviews and/or conducts their own observation

of the teacher within a few days to confirm unsatisfactory performance. The team makes recommendations for the teacher's "improvement plan."

- d. Working together and within a week, the teacher, the evaluator, union and peer improvement experts (if applicable) jointly develop an "improvement plan" that addresses the specific concerns in the evaluator's written report. The improvement plan must deal with all areas the evaluator has rated as unsatisfactory. The plan must provide clearly articulated measures of success, necessary timelines and support needed.
- e. All parties should sign off on the plan within two weeks. If the union does not believe the support is sufficient, it should offer suggestions to improve the plan.

## 2. SUPPORT

- a. The support provided must be available throughout the teacher's improvement plan and must include a sufficient opportunity to improve their teaching. Depending on numerous factors, not least of which is the date the improvement plan is implemented, a teacher must be given sufficient time to demonstrate improvement.
- b. During this period, it is the joint responsibility of the district and the union to ensure that the teacher has all the resources and support articulated in the improvement plan and to conduct periodic reviews. However, no improvement plan can continue for more than the equivalent of one school year.
- c. This support must provide a continuum of resources based the teacher's ability to meet teaching standards and the career stage of the teacher. The support should focus on teachers' work with students; be intensive and ongoing, and provide the teacher a say in improving the improvement process based on regular and timely feedback.
- d. Some examples of support may include high-quality and relevant professional development, intensive mentoring by expert teachers, or participation in professional learning communities. Regardless of the form, the support must be ongoing and continuous. It is the joint responsibility of the school district and local union to ensure these resources are provided in accordance with the improvement plan and in a timely manner.
- e. At the end of the improvement period, the administrator makes his recommendation about whether the plan was successful and whether the teacher is performing up to the standard. Where there is a peer process, the peer experts may join the administrator's recommendation or make a separate recommendation. These recommendations are forwarded to the school district within two days for review by a neutral third party.

### 3. HEARING

- a. The impartial third party (or predetermined committee, such as a joint labor/management board that oversees the entire process) uses the appropriate policies and procedures in reviewing the forwarded recommendations. This party makes sure that the entire evaluation was fair and accurate; that the appropriate support was provided; and that it followed with the system's agreed-upon standards for implementation. Based on all these factors, the third party quickly rules on the recommendations.

### 4. TIMELINE (in school days)

#### a. Notice

- i. Teacher is notified in writing of concerns regarding performance within a few days of the observation. Day 1.
- ii. Teacher meets with evaluator. Completed by day 4.
- iii. Improvement team is created and reviews evaluator's evidence and interviews and/or conducts their own observation of the teacher to confirm unsatisfactory performance. Completed by day 7.

#### b. Support

- i. Development of an improvement plan. Completed by day 14.
- ii. All parties sign off on improvement plan. Completed by day 28.
- iii. Teacher receives support, implements improvement plan. Completed in less than one school year from the date of notification. Completed no later than day 180.
- iv. Administrator forwards recommendations to school district for review by third party. Completed by day 181.

#### c. Hearing

- i. Third party reviews recommendations, and rules on the recommendations. Completed by day 220.

\*The specific details of any development and evaluation must be negotiated through either collective bargaining or the appropriate consultation procedures.



**Procedure for Teacher Misconduct**

- 1) **Substantive Criteria.** It is essential to formulate objective criteria that trigger the process. These criteria must be specific to limit the potential for disciplinary procedures resulting from vague and subjective allegations. This process would only be triggered by the specific objective criteria, consistent with state legislation, set forth below that are designed to provide more specific notice to the teacher, thereby limiting arguments that the allegations are so vague that more time is needed for discovery or clarification.
  - i) Conviction of a felony or other crime involving moral turpitude.
  - ii) Indictment or information charging a felony or other crime involving moral turpitude.
  - iii) Improper use of physical force against students including excessive student discipline.
  - iv) Inappropriate physical contact with students.
  - v) Sexual abuse or harassment of any individual regardless of the form of communication utilized (e.g., texting, emailing, internet networking, and other forms of electronic communication).
  - vi) Continued and repeated violation of or refusal to obey duly adopted state, local and school district rules and regulations.
  - vii) Racial, gender, religious and other forms of discrimination.
  - viii) Alcohol or drug abuse which makes the teacher unfit to instruct or associate with children.
  - ix) Health violations that make the teacher unfit to instruct or associate with children.
  
- 2) **Procedural Due Process.** The following procedures are designed to make the process both fair and efficient.
  - a) **Filing a Complaint:**
    - i) **Authority to File a Formal Complaint.** Teachers, students, parents, and other interested parties make an allegation that is brought to the attention of the building principal. The principal determines whether to file a Complaint with the superintendent.
  
    - ii) **Notice.** On the date the Complaint is filed with the superintendent, the teacher will be sent notice of the filing of the Complaint by certified or registered mail, return receipt requested or by personal delivery to the teacher. Unless the teacher requests that the local union not be notified, the local union shall be notified of the filing of the Complaint by certified or registered mail within three days of the filing of the Complaint. If the teacher requests that the local union not

receive notification of the Complaint, the local union will not implement representation.

- iii) **Limitations Period.** If allegations of teacher wrongdoing are raised for the first time more than one year after the teacher conduct in question, the allegations will be considered untimely and a Complaint will not be filed. However, a Complaint may be filed more than one year, but less than three years, after the conduct in question if the complainant can demonstrate good cause for the delay in making the allegations in question. A Complaint alleging a felony or other crimes involving moral turpitude may be filed at any time.
- iv) **Specifics of the Complaint.** A Complaint must include sufficient allegations and facts regarding the alleged wrongdoing to provide adequate notice to the teacher regarding both the allegations and the alleged facts supporting the allegations. The Complaint must include (taking into consideration the appropriate state shield laws):
  - (1) The specific criteria that trigger the process.
  - (2) The facts that establish the criteria, including the name of the complainant, the dates the conduct occurred, the dates the allegations were made, and sufficient information to establish the wrongful conduct.
  - (3) A summary of the evidence supporting the facts including names of witnesses or reference to documents establishing facts.
- v) **Request for Particularity.** If the Complaint is not sufficiently particular, as required by B.1.d., the teacher may request that the Complaint be supplemented with additional facts. Particularity early in the process is critical to give the teacher (and the local union) sufficient information to formulate (and advise in the formulation of) an early response and resolution of the Complaint. The teacher should request that the Complaint be supplemented with additional facts no later than five days after the filing of the Complaint and the superintendent should provide such additional facts no later than three days after receipt of the Request for Particularity. These deadlines are designed to ensure that the teacher and the local union have sufficient information to engage in a meaningful exchange during the preliminary process (see B.2. below). If additional facts sufficient to support the Claim are not provided in accordance with the above time requirements, the Claim should be dismissed.
- vi) **Confidentiality.** No document or information relating to the process, including but not limited to the Complaint and supporting documentation, shall be disclosed to any person or entity (unless the person or entity has a need to know for purposes of administering the process) until five days after the information required to be disclosed has been exchanged pursuant to the discovery requirements of 2(d) below.

b) Preliminary Process:

- i) The preliminary process should include both an initial screening process to quickly resolve meritless complaints without the necessity of a full-blown hearing and an early review procedure to resolve meritorious Complaints informally, again, without the necessity of a full-blown hearing. The preliminary process is a critical stage where most Complaints will be resolved either through dismissal of the Complaint or informal resolution in cases of merit.
  - (1) The Screening Process. The screening process should be concluded within 14 days to ensure that the teacher is not subject to the stigma of a meritless claim that can and should be quickly dismissed.
  - (2) Resolution without Formal Hearing. The first 20 days after the filing of a Complaint should be used to resolve meritorious claims informally without the necessity of a full-blown hearing. It is essential that during this period the teacher and the local union are provided sufficient information to aid in the resolution of the Complaint. (See B.1.e. above regarding the specificity of the Complaint and the teacher's right to request and receive adequate particularity in a timely manner.)
- c) Triggering a Hearing:
  - i) If the Complaint is not resolved informally within 30 days, a formal hearing should be scheduled leading to a series of important due-process issues:
    - (1) The Right to Representation. The teacher is entitled to be represented. When a union is the exclusive representative, the right to be represented, including costs associated with such representation, shall be determined by the local union consistent with its procedures for providing such representation. If the allegations against the teacher are ultimately dismissed, the school district should reimburse the union/teacher for expenses and fees for representation.
    - (2) The Presiding Officer.
      - (a) Selection. For purposes of credibility and skill in presiding at the disciplinary hearing, it is important that a national training program be implemented by the Program Administrator who will select and train a national panel of regionally-based Hearing Examiners. These Hearing Examiners would then be made available to preside over local disciplinary hearings. The School District/Complainant and the teacher would agree to choose a Hearing Examiner from the regional list of panelists. If they were unable to agree to a Hearing Examiner, they could, by consent, choose an alternate. Finally, if they were unable to agree on a designated Hearing Examiner, the Hearing Examiner would be chosen by the Program Administrator. A Hearing Examiner must be selected within seven days after a formal hearing is scheduled.

(b) Payment. The Hearing Examiner would be compensated by the School District.

(c) Training. The Hearing Examiners must have instant credibility so that the perception of fairness is unquestioned. The Program Administrator would ensure that the Hearing Examiners are adequately trained in understanding issues of due-process and efficiency central to the Program.

d) Prehearing Discovery and Exchange of Information:

i) Before the hearing commences, a pre-hearing exchange of information is required. This exchange must occur within 60 days of the filing of the Complaint. This information should include all evidence, documents, or information relating to the Complaint, including but not limited to the personnel file, a list of witnesses, documents/evidence that will be presented at the hearing, and any exculpatory material. Neither the teacher nor other witnesses should be subject to examination prior to the hearing.

e) Questions of Proof:

i) The School District/Complainant must clearly establish proof of the allegations in the Complaint.

- (1) Burden of proof. The School District/ Complainant would have the burden of proof.
- (2) Standard of proof. The standard of proof would be a preponderance of the evidence.
- (3) Shifting of burden. The burden of proof would remain with the School District/Complainant throughout the process.

f) Time:

i) The period of time allowed from the filing of a Complaint until completion of the hearing is critical in order to avoid excessive delay in resolving cases. The total time allotted from the filing of the Complaint until issuance of a written decision under the proposed schedule should be 100 calendar days. The Hearing Examiner would not be able to extend the deadlines set forth below. The Hearing Examiner would have the authority to order monetary penalties if either the School District or the teacher fail to comply with the deadlines set forth below.

- (1) Complaint filed and teacher receives Notice. Day 1.
- (2) Local union receives Notice. Completed by day 3.
- (3) Teacher Request for Particularity. Completed by day 5.
- (4) Response to Request for Particularity due within three days after teacher's Request for Particularity. Completed by day 8.
- (5) Screening Process. Completed by day 14.
- (6) Period to attempt informal resolution. Completed by day 20.
- (7) Scheduling of Formal Hearing. Completed by day 30.

- (8) Period for appointment of a Hearing Officer. Completed by day 37.
- (9) Prehearing discovery and exchange of information. Completed by day 60.
- (10) Period of confidentiality ends five days after completion of discovery completed by day 65.
- (11) Period to schedule and complete the formal hearing. Completed by day 90.
- (12) Period for the Hearing Examiner to issue a written decision. Completed by day 100.

g) Teacher Status:

- i) Continuation of pay. It is important for purposes of ensuring a fair resolution process that the teacher continues to receive pay during resolution of the dispute either through informal resolution or a formal hearing and decision, except in cases where formal charges of a felony or other crime involving moral turpitude are filed.
- ii) Suspension.
  - (1) Immediate suspension without pay where indictment or information charging a felony or other crime involving moral turpitude is filed.
  - (2) As to all other charges, there would be no suspension. The teacher may be removed from the classroom at the discretion of the superintendent. If a teacher is removed from the classroom, the teacher will be provided with and expected to engage in meaningful work. Pay continues during resolution of the dispute either through informal resolution or a formal hearing and decision.

h) Hearing Procedures:

- i) The role of the Hearing Examiner is vital to ensure a fair hearing, to promote efficiency, and to prevent the hearing from evolving into a full-blown trial with lawyers assuming control of the process.
  - (1) Place of Hearing. The place and time of the hearing should be at a venue in the School District.
  - (2) Transcript. A recording of the hearing would be made and not transcribed, unless a party requests the transcription. The party requesting a transcript would bear the costs of transcription.
  - (3) Rules of Evidence. The formal rules of evidence should not apply. However, hearsay would not be admissible unless the Hearing Examiner, in his or her discretion, specifically determined that the hearsay evidence is reliable and trustworthy. This rule is necessary to assure the credibility and fairness of the hearing, and in order to avoid serious damage to the teacher's reputation due to innuendo, gossip, or character assassination. The probative value of the hearsay evidence - or any other admissible evidence - must outweigh the danger of unfair prejudice.
  - (4) Witnesses.
    - (a) The parties should have the right to call witnesses to testify under oath.

(b) The parties should have the right to cross-examine the witnesses.

(5) Documentary Evidence. The parties should have the right to offer documentary evidence. No documents may be offered unless disclosed in a timely manner pursuant to 2(d).

i) Final Decision:

i) Written Opinion. The Hearing Examiner should prepare and render a final opinion in writing and specify the reasons for the decision. The opinion should have findings of fact as to each charge supporting the opinion of the Hearing Examiner. In the case of dismissal of the charges, the opinion should state whether or not the Complaint should be expunged from the teacher's personnel file.

ii) Sanctions. The following sanctions should be available in appropriate cases. In addition, the Program Administrator, in consultation with national and regional representatives of school districts, teachers and unions should promulgate guidelines regarding appropriate sanctions for specific violations. These guidelines would be designed to avoid the imposition of inconsistent sanctions and would be advisory only.

(1) Termination

(2) Suspension

(3) Imposition of fines

(4) Imposition of conditions on employment, including remedial action designed to address the problem.

(5) Referral to the state Department of Education controlling licensing for denial of statewide certification.

(6) Letter of reprimand.

iii) Dismissed Charges. In the event of dismissal of the charges, the teacher should be reimbursed for any back pay, as well as any other economic damages that the teacher can demonstrate he or she has incurred as a result of the charges, and returned to the classroom. In addition, it should be noted in the teacher's personnel file that the allegations were dismissed (with a copy of the Hearing Examiner's report). If the allegations were dismissed in the screening process, or the Hearing Examiner concluded that expungement was appropriate, all mention of the incident should be expunged from the teacher's file.

j) Appeal:

i) This procedure for teacher discipline does not provide for an appeal by either party from the decision of the Hearing Examiner. For purposes of the process, the Hearing Examiner's decision is final. Instead, the availability of an appeal is left to applicable state law. The vast majority of states provide for an appeal process.