

# Curbing or Facilitating Inequality? Law, Collective Bargaining, and Teacher Assignment Among Schools in California

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## Getting Down to Facts

A research project designed to provide California's policy-makers and other education stakeholders with comprehensive information about the state's school finance and governance systems, and lay the groundwork for a conversation about needed reforms. The project was made possible by grants from the Bill & Melinda Gates Foundation, the William and Flora Hewlett Foundation, the James Irvine Foundation, and the Stuart Foundation.

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For the full text of the author's research report and the other studies in this project, see: [www.irepp.net](http://www.irepp.net)

For background on California's school finance system, see: [www.californiaschoolfinance.org](http://www.californiaschoolfinance.org)

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This study focuses on the legal, policy, and contractual structures in California that are designed to place highly qualified teachers in low-income, high-minority schools as well as those that may constrain efforts to get good teachers into more difficult teaching assignments. Prior studies document that teachers in California schools with high percentages of low-income, minority, and low-performing students tend to be less experienced and more likely to lack credentials than teachers in other schools. This study explores whether this teacher-qualifications gap among California schools exists despite or because of various legal and policy structures. Specifically, it addresses the following questions:

1. Do state laws curb or facilitate the teacher-quality gap in California?
2. Is there a relationship between highly prescriptive transfer rules in bargaining agreements and the average qualifications of a district's teachers?
3. Do districts with relatively prescriptive transfer and leave provisions have larger teacher-qualification gaps among schools?
4. What do district administrators report about the application of these contractual provisions in their districts?

## Summary of Key Findings

### California state laws do little to address teacher-quality gaps among schools, ceding responsibility to local district officials

The California Legislature has the authority to establish laws and regulations that control teacher hiring and assignment. The authors find, however, that current legislative efforts to close teacher-quality gaps among schools are modest. The state has effectively ceded responsibility to local districts to address this issue with their teachers' unions through collective bargaining agreements.

The Legislature, however, still exerts some influence over hiring, assignment, and teacher retention. Examples of its efforts include:

- Recent legislation (2006) that gives principals in low-performing schools greater authority to fill vacant positions and limits how long current district teachers can claim preference for those vacancies;

## Study Methods

The authors review the available literature on teacher preferences and assignment provisions and examine California laws and regulations that affect teacher hiring and assignment.

The authors also analyze 488 collective bargaining agreements out of the 565 California districts with more than three schools, coding them based on how strongly their transfer and leave provisions determine hiring and assignment decisions. They apply a regression analysis, hierarchical linear modeling, and other analytic techniques to explore the relationship between these provisions and various school district characteristics, including teacher-qualification measures. To examine the relationship between teacher characteristics at the school level and collective bargaining agreements (CBAs), which are negotiated at the district level, the authors use hierarchical linear modeling techniques.

Finally, to further illuminate their findings, the authors conducted 19 semistructured interviews with human resources directors from a stratified sample of California school districts.

- Modest incentives to encourage new teachers to enter the profession and/or teach in challenging assignments (e.g., the Assumption Program of Loans for Education);
- Grants for teacher induction programs, such as the Beginning Teacher Support and Assistance program (BTSA); and
- Targeted salary bonuses for teachers with certain advanced training to teach in hard-to-staff schools (the National Board for Professional Teachers Standards Certification Incentives Program).

In recent years, the state eliminated funding for several other programs created in the late 1990s that sought to place teachers in difficult assignments.

**Prior studies conclude that teacher-quality gaps among schools are associated with, or exacerbated by, prescriptive teacher assignment rules**

Collective bargaining agreements (CBAs) contain rules for teacher hiring and transfer, as well as for the reassigning of teachers who are “surplussed” from current teaching assignments. These CBAs frequently grant preference to teachers with seniority when schools have vacancies or are forced to reduce staff. A review of the relevant literature suggests that such seniority preference rules contribute to teacher-experience and credential inequalities among schools as teachers exercise their seniority rights to transfer out of high-minority, high-poverty schools. Some researchers find that contractual requirements for districts to first post open teaching positions internally hurt certain high-minority urban districts’ ability to compete for high-quality teachers. By the time those positions are opened to outsiders, the most experienced or highly credentialed teachers are often hired by

other districts. This set of problems would presumably be most apparent in larger districts, which research indicates have the most prescriptive teacher leave and transfer provisions.

**Contrary to prior research and conventional wisdom, districts with strong transfer provisions tend to have larger percentages of credentialed teachers**

This study finds that school districts with more determinative transfer and leave provisions tend to have larger percentages of credentialed teachers. These provisions, which allow more senior teachers to transfer to their preferred schools, might help districts recruit and retain higher-quality teachers. It is unclear, however, whether the stronger seniority provisions act to attract and retain teachers, or whether there are other attractive contractual provisions or district-level factors. Moreover, the authors note that the relationship may go the other way. Strong seniority preference provisions may be the result of more qualified teachers and stronger unions. The finding that districts with more determinative transfer and leave provisions have greater percentages of credentialed teachers persists even when the authors controlled for a wide range of other district characteristics.

**Strong district transfer and leave provisions have no systematic effect on teacher-quality gaps among schools**

Consistent with prior research, the authors find that schools with larger percentages of minority students, with more students, with enrollment growth, and with smaller average class sizes all have fewer certified and experienced teachers. They do not, however, find convincing evidence that this problem is greater in districts with strong transfer and

leave provisions. In other words, such strong provisions have no independent effect on the quality of teachers in schools within districts. There is also no compelling evidence that the transfer and leave provisions have an indirect effect on teacher distribution among schools by either strengthening or weakening the observed relationship between teacher quality and school characteristics (percentage of minority students, average class size, student enrollment, and school growth).

**District administrators report actions that circumvent some teacher transfer rules**

While cautioning against overgeneralization, the authors highlight a striking pattern in their interviews with 19 school district officials: all administrators report that they comply with the letter of CBA rules, but effective administrators are seldom hindered in teacher hiring and assignment practices by strong CBA language. Their reasons include:

- Negotiating for and exercising clauses in CBAs that let them make hiring and assignment decisions in the districts’ and students’ best interests regardless of seniority preferences;
- Developing strong working relationships with union leaders that let them mutually suspend or work around apparently strong contract language in the best interests of students; and
- Employing strategies to circumvent CBAs, such as “hiding” open positions until after the internal post-and-bid process is completed or refusing to select an in-district candidate and re-posting the position after the internal processes are completed.

In some instances, administrators and unions have developed policies to encourage the best candidates to teach in hard-to-staff schools. These

policies include hiring staff early, giving low-performing schools preference for those early hires, and requiring teachers with special training to remain in low-performing schools regardless of seniority.

### Authors' Conclusions

Past research shows that teachers prefer to teach in schools with better working conditions and with lower percentages of low-income, minority, and low-performing children. Consistent with prior research, this study finds that schools with higher percentages of minority students, schools that are growing, and larger schools all have lower percentages of credentialed and experienced teachers. Contrary to certain previous research and conventional wisdom, however, this study finds no persuasive and systematic evidence that the seniority preference rules in collective

bargaining agreements independently affect the distribution of teachers among schools or exacerbate the negative relationship between higher minority schools and teacher quality. While the qualitative analysis confirms that strict teacher-assignment provisions affect some districts' ability to hire the best-qualified teachers and result in inequalities among schools, this study suggests that the experience of those districts may be the exception. The authors' findings also imply a greater role for the state in creating incentives for teachers to work in difficult-to-staff schools. They indicate that merely changing the language of teacher-assignment provisions in collective bargaining agreements will do little to close the teacher-quality gap.

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