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PRESENTATION ON TEACHER TENURE

to the

House Committee on Education

Senate Committee on Education

by

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In Louisiana, teachers who survive three years of teaching in the same school district and are hired for their fourth year are automatically granted tenure for life in that district. This basically guarantees a teacher a lifetime appointment to a teaching position in a district because of the very time consuming, paperwork intensive, and costly dismissal process required to remove a tenured teacher. Tenure is generally at odds with the concept of professionalism as it tends to discourage productivity, professional development, effectiveness and accountability.

While teachers should be protected from arbitrary and capricious treatment at the hands of principals or highly political school boards, it should also be possible to remove from the classroom inadequate and ineffective teachers at reasonable cost and within a reasonable period of time. This is especially important as state and federal accountability policies are requiring higher levels of student achievement. School accountability and tenure directly conflict in a system where teachers are assigned not on the basis of their effectiveness or the needs of the particular school but on seniority and tenure status. In addition, holding principals accountable for the performance of their schools while significantly tying their hands in regards to their control of the school's staffing creates a difficult and often untenable position.

Recently, several states have debated reforming or eliminating their tenure laws. Georgia was the latest state to eliminate tenure. Still, the vast majority of states have retained tenure, although some have instituted reforms to make it more workable. In spite of the problems inherent in maintaining tenure for teachers, it would be more productive at this time for Louisiana to improve its existing tenure law rather than attempt to discard the system for a number of reasons:

- Because most states still offer tenure, eliminating it would make Louisiana even less competitive in attracting quality teachers.

- Eliminating tenure would be a very contentious issue. A tenure battle would alienate teacher groups at a time when their attention should be focused on cooperating with efforts to improve teacher quality to meet accountability requirements.
- It is not clear that Louisiana has entirely outgrown its historical penchant for treating public jobs as political patronage.
- And, some sort of procedure is needed to protect teachers from arbitrary dismissal and assure them of due process.

The state's accountability system includes components of student, school and district accountability. In addition, an accountability program has been implemented for the state's colleges of education. The missing piece, teacher accountability, could, in large part, be addressed through tenure reform.

PAR has reviewed tenure reforms in other states and offers a list of recommendations designed to increase administrative flexibility, maximize teacher accountability, and minimize political involvement in personnel decisions while continuing to provide teachers reasonable job protection.

PAR RECOMMENDATIONS

- 1. Tenure decisions should be based on the attainment of minimum professional teaching standards within the first three- to five-years of employment.**

The current three year probationary period may not be appropriate in all cases. If there is a question regarding a teacher's development, the district should have the flexibility to postpone granting tenure. The extra time would allow for additional education, mentoring, monitoring and evaluation.

- 2. The authority to hire, fire, promote, demote, transfer or suspend teachers should be transferred from the school board to the superintendent.**

The position of superintendent as chief executive officer of the school district should be strengthened by making him or her fully responsible for personnel decisions. The often very large, unwieldy and political boards should not be making individual personnel decisions or even serving as the ultimate arbiter of such decisions. The role of the school board should be to hire a professional administrator to make those decisions and to hold him or her responsible. If the board loses confidence in the superintendent, it can refuse to renew the contract.

- 3. The statutory reasons for dismissal should be redefined in operational terms requiring a higher level of performance.**

Under current law, a tenured teacher may be dismissed only for willful neglect of duty, dishonesty, membership in an illegal group or incompetence. However, "incompetence" is not defined and the term implies a level of performance far below what should be the reasonably acceptable standard. California recently changed its basis for dismissal from "incompetence" to "less than adequate performance."

4. **Local school districts should be strongly encouraged to perform adequate teacher evaluations based on a statewide model incorporating, among other factors, the assessment of student achievement.**

The adequacy of the local teacher evaluation process continues to be questioned. A more rigorous evaluation process would include, among other forms of assessment, a measure of the improvement in pupil performance under the teacher's tutelage.

5. **Certification and tenure should be linked, lifetime certification should be replaced with periodic renewal and teachers should be made subject to dismissal if they lose their certification.**

Certification is a state level responsibility and tenure and dismissal are matters of local discretion. However, the state could establish reasonable requirements (e.g. continuing education, etc.), issue five-year renewable certificates and define the absence of a certificate as potential grounds for termination. This would leave the decision to dismiss an uncertificated teacher to the discretion of the local school district. However, it would provide a reasonable basis for dismissal and provide teachers with a strong incentive to meet the statewide requirements for certificate renewal.

6. **The dismissal process should be streamlined and an independent administrative law judge should be used to hear appeals of tenure decisions.**

Currently, the school board hears charges against teachers to determine if they are "guilty" of willful neglect, incompetence, dishonesty or prohibited membership. The board, a large body of locally-elected politicians, serves as prosecutor, judge and jury. The board's decision can then be appealed to the courts where the entire case can be heard again.

Under the revised process the superintendent would determine that a tenured teacher's behavior or performance has met the conditions necessary for dismissal. The charges would be heard by an independent administrative law judge. The decision could still be appealed to a court of competent jurisdiction. However, the entire case would not be heard again as the appeal would be limited to matters of law. The burden of proof would be shifted to the employee

to show that there was legal error, fraud or bias on the part of the administrative law judge.

7. The law should clearly indicate which personnel or positions are eligible for tenure and limit its application to those in instruction-related positions.

The tenure law currently defines the word "teacher" as any school board employee required to hold teaching certificates and school lunch supervisors with special certificates. The law should be more specific about the positions eligible for tenure coverage. Classroom teachers and certain instructional support personnel, such as librarians and counselors, should be included. School lunch supervisors should be excluded along with other non-instructional personnel.

8. School districts should be allowed the flexibility to grant immediate tenure to a newly hired teacher who has previously been granted tenure in another school district.

Currently, a tenured teacher moving from one school district to another must undergo another probationary period before being granted tenure in the new district. This makes little sense, particularly in a tight teacher market, if the hiring district can obtain sufficient information to assess the teacher's prior experience. The district should still be able to require a probationary period, on a case by case basis, if deemed appropriate.

9. The tenure laws should be standardized to apply equally to Orleans Parish and the rest of the state.

The separate tenure law for Orleans Parish replaces "dishonesty" with "immorality" as one of the grounds for dismissal. "Immorality" is an extremely broad and ill-defined concept. In addition, the parish and state laws differ somewhat in the process provided for dismissal.

10. The problem of accommodating the tenure law to potential school reconstitution needs to be recognized.

Under the state and federal accountability laws, school reconstitution could soon become a reality in Louisiana. Reconstitution could result in the removal of entire school faculties. Should tenured teachers removed from a failed school be automatically transferred to better performing schools in the district? Or, should they be dismissed, regardless of their seniority, under the assumption that their position has been eliminated? And, if tenure is considered a contract, can the school district be given a choice in the matter? These issues need to be addressed in advance of the implementation of reconstitution.