Teacher Dismissal in the District of Columbia

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Executive Summary

The District of Columbia Public Schools (DCPS) has one of the most streamlined teacher evaluation, promotion, and dismissal systems in the United States. Using a process originally implemented in 2009, called IMPACT, DCPS assigns teachers a numeric score based on multiple administrator observations, student test scores, and teaching practices. If teachers do not meet a minimum score threshold, they are fired at the end of the school year, and they have limited ability to contest the decision. On the other hand, high-performing teachers may receive bonuses and increases in base pay.

Like other American school districts, teachers in DCPS are also covered by local civil service protections in municipal code and by a collective bargaining agreement with the district’s teachers’ union. These processes can take close to a year to wend through a judicial process. IMPACT’s timeline is clear and short. What makes DCPS’s situation unique, however, is that the two more traditional mechanisms have been largely supplanted by IMPACT except in cases of illegal activity.

Although IMPACT makes headlines for its focus on student performance, the system provides teachers with a core focus on classroom practice and multiple opportunities for feedback on their teaching. The stress of IMPACT evaluation has not noticeably reduced teacher retention in the district. Some studies suggest that student performance has meaningfully improved for some students as a result. Even critics of the program have credited IMPACT with driving DCPS to focus on student achievement, and it seems that students have come out ahead.
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DCPS’s teacher dismissal process was revolutionary as one of the most stringent applications of a workforce theory of student improvement. The theory suggests that removing low-performing teachers is among the fastest practical ways to improve students’ academic performance. For eight years, DCPS has been a real-world test of this hypothesis. Early assessments of the experiment suggest that IMPACT has meaningfully improved student learning in DCPS schools. Although IMPACT is not the only way for a DCPS teacher to lose his or her job, it has become the primary one. This paper reviews the processes through which DCPS may dismiss a teacher and teachers may appeal DCPS decisions.

Before IMPACT, hiring and firing in DCPS was governed by municipal law that applied to any government employee and was supplemented by a collective bargaining agreement (CBA) negotiated with the Washington Teachers’ Union (WTU). The CBA created a teacher tenure system that protected all but new hires (known as probationary employees) from removal for anything except just cause, and even then, the CBA mandated a lengthy review and grievance process that could take a year or more. This system resembled the process in many other urban school districts, including in the length of time required to dismiss a teacher. These procedures remain available in DCPS.

Two federal laws upended this system. The first, the 2005 District of Columbia Omnibus Authorization Act, specified that DCPS should create a teacher assessment system free from the strictures of collective bargaining. This became IMPACT. The second, the 2007 Public Education Reform Amendment Act (PERAA), took control of DCPS away from the school board and gave it to the mayor.

What was different were the two brash, contrarian leaders who held the reins in DC school politics, DC Mayor Adrian Fenty and DCPS Chancellor Michelle Rhee. During his 2006 campaign, Fenty had argued that mayoral control was the best way to improve DCPS schools because he would ultimately be responsible for performance—providing voters a high-profile target if things went badly—and that he should appoint a chancellor to oversee DCPS who could make the rapid, necessary changes that the school board had not. Once he was elected, the city council approved his plan, and Congress passed PERAA the following...
month. He then appointed Teach for America veteran Michelle Rhee as chancellor.

Although Rhee had no experience with district administration, she brought an impatience with bureaucracy, an abiding contempt for “congratulating mediocrity,” and a firm belief that teachers’ interests were secondary to students’ needs. Rhee moved quickly to eliminate as many low-performing teachers as possible. She also led the design of the performance-based IMPACT system that PERAA had authorized. Before IMPACT was completed, Rhee fired teachers using DC’s municipal code, which allows teachers to be terminated through a reduction-in-force (RIF) if financial conditions require it. These attempts proved highly contentious, and some teachers were reinstated by the courts. After Adrian Fenty lost his bid for reelection in 2010, Rhee left DCPS, but their efforts at boosting student achievement by improving the teacher workforce continue to shape DCPS policy. IMPACT allowed Rhee and future chancellors to evaluate teachers directly on performance, without resorting to possibly dubious arguments about the state of the school district’s finances. However, IMPACT did not replace the existing system, and teachers retain some grievance rights through other avenues.

**Municipal Code and Regulations**

At first glance, the District of Columbia’s municipal code appears to give substantial leeway to DCPS administration in hiring and firing staff. Its provisions give the chancellor control over personnel issues, among other things, and DC regulations specify a lengthy list of causes for termination, including dishonesty, inefficiency, “inability or failure to perform satisfactorily,” and anything that would discredit the school district. The regulations require annual performance reviews for teachers, and if teachers are to be terminated, DCPS must notify them of the reasons 10 days before it goes into effect. Teachers may appeal, but they cannot keep their job while appealing. In other words, they appeal to have their job restored. The city’s regulations allow for appeals through the city’s Office of Employee Appeals, but collective bargaining supersedes the regulations.

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**Mayoral control has been used in several large cities, with mixed results, and districts around the country, including the District of Columbia, have tinkered with teacher assessment for decades.**

However, municipal code exempts two important classifications from collective bargaining. The first is probationary teachers, typically those in their first two years of teaching. The second are those let go due to RIFs. RIF regulations allow DCPS to remove employees due to budgetary reasons, reduction of work, school reorganizations, or “other compelling reasons.” DCPS used an RIF in 2009 to remove 266 teachers. Rhee told the magazine Fast Company that she “got rid of teachers who had hit children, who had had sex with children, who had missed 78 days of school.” Her comments attracted the attention of then-councilman (and later mayor) Vincent Gray, who asked for evidence. Rhee’s office provided him with a list of teachers accused of corporal punishment after 2007, but it showed that only nine of those 67 teachers had been let go in the 2009 RIF. Clearly, the RIF netted employees DCPS found ineffective for other reasons. Nevertheless, most teachers are covered by the appeals procedure in the CBA rather than those in municipal code.
Collective Bargaining

The formal legal process is quite brief—only a few printed pages—but it is supplemented by a significantly more detailed CBA. At its outset, the CBA is clear that employment in DCPS is not at-will, even for probationary teachers. Instead, permanent teachers may only be disciplined for just cause, which means that DCPS must show the teacher fell afoul of a list of causes specified in DC’s regulations. These causes include intoxication, fraud, dishonesty, illegal drug use, insubordination, felony, and sometimes misdemeanor convictions. Probationary teachers have fewer protections, but even they cannot be fired for arbitrary or capricious reasons.13

Probationary teachers were at issue when DCPS let 75 of them go in 2008. These included a teacher who had “24 tardies and 20 days of absences after returning from two months of sick leave . . . most . . . on Mondays and Fridays,” one who “often [sent] mass emails rebuking her supervisors to the entire staff,” and one who told students “to go to h-e-l-l” and used other “inappropriate language.”14 The arbitrator overseeing the appeals hearing suggested that these evaluations “would warrant termination” but nevertheless ordered that DCPS reinstate all 75 of the teachers in the grievance. Why? The arbitrator found that DCPS had not properly informed the teachers why they were fired and therefore had offered them no realistic opportunity to defend themselves.15

This situation illustrates the CBA’s defining feature. The CBA asserts that teacher discipline be progressive, supportive, and restorative rather than punitive.16 In practice, it means that any teacher discipline will be accompanied by multiple meetings during the school year with the goal of retaining the teacher. In situations in which a teacher falls afoul of a principal or of school district regulations, the CBA encourages the parties to resolve the issue outside the formal system first, but despite that informality, the CBA specifies that teachers have an opportunity to respond to complaints and should expect that DCPS will investigate the incident.

If the teacher is cleared or is otherwise satisfied with the outcome of the informal process, the matter ends. If not, the teacher, union, principal, and DCPS begin a formal, five-step grievance process that may be appealed to an outside arbitrator. The process is designed to give teachers the maximum opportunity to respond and multiple opportunities to keep their jobs.

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The first step requires a teacher to provide specific information (including the names of any school personnel involved) about their grievance within 14 school days—just under three weeks—of discovering the disagreement. The school has five school days to respond informally, although the teacher may have a union official present and the principal may call in assistance from DCPS. If the matter is not settled in the first step, the teacher (or a union official) has 10 school days to meet with one of DCPS’s superintendents. If this does not result in a satisfactory resolution, up to 10 more school days may pass before the teacher or union official meets with DCPS’s Office of Labor Management and Employee Relations. Should this fail, as a fourth step, the grievance goes to mediation between the chancellor’s office on the one side and the union and teacher on the other within 10 school days. A decision must be reached within 10 more days (presumably school days, although the CBA does not specify).

Finally, if either side is unsatisfied, it may seek binding arbitration within 30 school days. A hearing, scheduled by the arbitrator, is the final stop for teachers and DCPS. The arbitrator must reach a decision within 30 days, at which point the matter is settled. However, court or other challenges remain possible.
For example, when DCPS fired a teacher on September 26, 2011, the matter went through arbitration and was subsequently appealed to the District of Columbia Public Employee Relations Board for a July 29, 2013, decision.\(^\text{17}\)

With these deadlines in place, a teacher complaint may take up to 89 school days plus 30 days for the arbitrator’s decision—almost two-thirds of the school year. Further, the arbitrator is prohibited from deciding more than one grievance at a time, so neither DCPS nor the union can efficiently settle complaints about similar situations unless they stem from the same incident.\(^\text{18}\) There is small wonder at Rhee’s impatience when she wanted to terminate teachers whom she judged ineffective.

At this point, it is important to distinguish between termination for performance and termination for just cause. Termination for causes other than performance may always go through this disciplinary grievance process. For performance cases, the CBA explicitly states that only “the evaluation process, and not the evaluation judgment,” may be grieved.\(^\text{19}\) Said another way, teachers must show that principals or DCPS did not follow the process for evaluating them, and they cannot appeal a DCPS decision to rate them ineffective through the CBA.\(^\text{20}\) This unquestionably gives DCPS a strong position. For example, a school psychologist objected to his removal in 2013, arguing that DCPS’s evaluation of him was “subjective and contradictory.” The judge wrote that because evaluation was “subjective in nature,” the evaluation itself was not at issue.\(^\text{21}\) Further, the judge found that because DCPS had conducted multiple observations and provided substantial written feedback in a timely fashion, the psychologist knew what his evaluation was likely to be.\(^\text{22}\)

The advent of IMPACT has made grievances over performance cases far less likely. Although DCPS pledged to consult with the WTU on measuring teacher performance in the 2004 and 2007 CBAs, DCPS has zealously defended its right to make and amend the IMPACT evaluation system on its own.\(^\text{23}\) IMPACT now covers a wide scope of the teaching profession beyond student performance, including teacher behavior measures—notably professionalism, which includes arriving to school on time, working with others respectfully, and “promot[ing] behavioral expectations.”\(^\text{24}\) While the CBA-specified grievance process remains an important part of teacher dismissal practices, IMPACT has made it far easier to terminate teachers who exhibit poor professionalism or poor discipline without following the traditional teacher-removal process.

### IMPACT

IMPACT was unveiled in 2009 as the core of DCPS’s teacher dismissal system. Since then, the district has tinkered with the system, but its goals and primary emphasis on student performance have remained consistent. Although its ostensible goal was to “create a culture” of excellence, constructive feedback, and teacher support, the practical effect was to dismiss low-performing teachers quickly.\(^\text{25}\)

**IMPACT has a strict observation schedule and incorporates formal feedback multiple times during the year.**

For example, in 2010–11 DCPS retained low-performing teachers at about half the rate of other urban school districts. Some 55 percent of lower-performing teachers in DCPS were dismissed or left voluntarily that year.\(^\text{26}\) Despite the stress of systematic evaluation, the approximately 80 percent of teachers who are effective were at least as likely to stay as before IMPACT. Between 2009–10 and 2011–12, DCPS retained between 82 and 89 percent of effective and highly effective teachers.\(^\text{27}\) Between 2012–13 and 2016–17, DCPS retained 90 to 92 percent.\(^\text{28}\)

Further, by some accounts, teacher retention may have actually improved in DCPS. Research
by Mathematica Policy Research found that half of DCPS’s schools keep more than 80 percent of their teachers year after year since 2009–10. Before IMPACT, about one-third of schools kept more than 80 percent. Overall, some 500 to 600 DCPS teachers leave in a given year, and about 15 percent of those are terminated or resign due to low IMPACT scores.

Although DCPS’s IMPACT itself is exempt from the grievance process, the CBA deeply influenced its design. Before IMPACT, administrators could observe teachers, but the system was not nearly as routinized. In 2009, DCPS even admitted to an arbitrator that it did not use principals’ feedback consistently when terminating probationary teachers. Now, IMPACT has a strict observation schedule and incorporates formal feedback multiple times during the year. Not only does this defend DCPS against process grievances, but it also gives teachers and other employees substantial notice of poor or excellent performance.

All teachers receive IMPACT ratings annually. For 2016–17, the rating is a composite of scores based on five major elements: student achievement data (when available), “essential practices” (nine standards relating to classroom instruction), student surveys, commitment to the school community, and professionalism. Since IMPACT was introduced in 2009, student achievement has accounted for half of the overall rating, although the components within each element have changed. In 2009, DCPS calculated the entire student achievement score from growth on standardized tests. In 2016–17, 35 percent of the overall IMPACT measure was drawn from student growth on Common Core-aligned Partnership for Assessment of Readiness for College and Careers (PARCC) tests, and 15 percent came from school-level assessments. (If student achievement data are not available, the essential practices standards take their place.)

An important feature of IMPACT is that teachers do not evaluate themselves or their peers. Administrators, who are usually building principals, evaluate teachers’ professionalism, rate their community commitment, and conduct classroom observations. They also approve the non-PARCC assessments that go into the student achievement component. Teachers can expect one to three 30-minute observations by an administrator, depending on their prior IMPACT performance. Teachers receive in-person and written feedback from the observer within 15 days.

Four of the IMPACT components are scaled to a 1.0 to 4.0 range. They are then weighted and added together. (For example, student test scores account for 35 percent of a teacher’s IMPACT score. A 4.0 rating would translate into $4.0 \times 35 = 140$ points.) The fifth component, core professionalism, only deducts points and only does so if a teacher does not meet the standard for core professionalism. The deduction may be up to 20 points. From these five components, the IMPACT system generates a teacher evaluation score and rating, shown in Table 1. A teacher may appeal the rating to the chancellor’s office, but the decision made there is final.

IMPACT has generated its share of controversy. After its initial rollout, DCPS received complaints about the system’s ambiguity and inflexibility, both of which were tied up in its heavy reliance on

<table>
<thead>
<tr>
<th>Score</th>
<th>Rating</th>
<th>Teacher Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>350–400</td>
<td>Highly Effective</td>
<td>May be eligible for bonus</td>
</tr>
<tr>
<td>300–349</td>
<td>Effective</td>
<td>All teachers are expected to maintain this rating</td>
</tr>
<tr>
<td>250–299</td>
<td>Developing</td>
<td>Has two years to become effective or face dismissal</td>
</tr>
<tr>
<td>200–249</td>
<td>Minimally Effective</td>
<td>Has one year to become effective or face dismissal</td>
</tr>
<tr>
<td>100–199</td>
<td>Ineffective</td>
<td>Dismissed at end of school year</td>
</tr>
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standardized test scores. And the consistent firing has prompted the WTU to make teacher churn a rallying cry in its quest for a new contract (the previous contract expired in 2012 but continues in force). In response, by 2011, IMPACT’s official focus began to emphasize increased teacher improvement and collaboration, and the district began to release “Reality PD” professional development videos for teachers to study. The district also provided coaching for lower-performing teachers. In 2016-17, the district increased its emphasis on new teacher training.

Although IMPACT is most associated with removing teachers, the system does provide bonuses for high-performing teachers under the name “IMPACT-plus.” Teachers who receive a highly effective rating are eligible to receive a $2,000 to $25,000 annual bonus. The $25,000 bonus is available to teachers in high-poverty, low-performing schools. (DCPS considers 90 of its 113 schools to be high poverty. It has also targeted 40 schools as low performing.) Highly effective teachers in low-poverty schools may receive a $2,000 to $3,000 bonus. Effective and highly effective ratings also contribute to an accelerated increase in base pay. For example, a teacher who received highly effective ratings for six consecutive years in a high-poverty school would earn an expert-teacher designation, a five-year service credit, and a shift to the Ph.D.-lane pay scale. This means that the teacher’s salary would be calculated as if the teacher had a Ph.D. and had been teaching for five additional years. In the best combinations, IMPACTplus could give a teacher a $144,296-a-year salary in their ninth year of teaching.

Conclusion

Firing teachers is not IMPACT’s ultimate goal—raising student performance is. Although DCPS has not solved low academic performance in its schools, research based on the first few years of IMPACT data suggests that the system has made a meaningful difference. Even critics recognized the district’s “burgeoning focus on higher academic standards” that coincided with IMPACT. Stanford researchers found that students in newly hired teachers’ classrooms had better reading and mathematics scores than students in classrooms of teachers dismissed for low IMPACT ratings. The National Assessment of Educational Progress’ Trial Urban District Assessment also showed that between 2009 and 2015 DCPS was among the fastest-gaining urban school district in the country in fourth-grade math and reading and had improvements above the national average for eighth-grade math.

IMPACT has meaningfully improved chances for many of the district’s lowest-performing students and values high-performing teachers.

Rhee and Fenty became political casualties of IMPACT’s rollout, but their faith in the power of changing the teaching workforce has borne fruit. It helps that DCPS has been willing (and able) to tinker with IMPACT and incorporate teacher feedback into revisions since 2009. Those changes made the system more flexible and less time-consuming without surrendering a focus on achievement.

Although the dismissals make headlines, the system also has significant benefits for the many other teachers in DCPS. The district has provided additional professional development and is investing in additional new teacher training. High-performing teachers have a clear path to significant financial bonuses. IMPACT has also clarified that the traditional grievance process is a way to protect
teachers from capricious administrators. IMPACT has meaningfully improved chances for many of the district’s lowest-performing students and values high-performing teachers. Although Washington, DC’s, particularities—a geographically bounded city-state with a robust school choice market—make it a difficult model to emulate, its efforts show that relentless attention to teacher performance yields dividends for students.

About the Author


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3. The law also applied to the predecessor to IMPACT, the Professional Performance Evaluation Process (PPEP), but DCPS never used PPEP systematically. See Samir Bolar and Erik Brown, DC Public Schools’ Plan for Teaching Excellence (Berkeley, CA: University of California at Berkeley, 2009).
15. Ibid., 24.
20. Ibid. Teachers may appeal a below-average or unsatisfactory rating to the chancellor’s office through the municipal code. DC Mun. Regs. tit. 5–E § 1306.8–1396.13 (1980).
22. DC Public Schools v. Washington Teachers’ Union (Arrigo, Arb.).
29. Walsh and Dotter, “Longitudinal Analysis,” 11. They are careful to note that pre-IMPACT data are less reliable.