

## **Analysis of Superintendent Survey Responses Regarding Teacher Tenure**

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### **Abstract**

This paper presents the results of a survey of 192 public school superintendents in Missouri on the topic of teacher tenure. Overall, superintendents indicated the current teacher tenure laws are somewhat onerous, with 73 percent indicating it was “somewhat” or “very difficult” to remove a tenured teacher for their performance in the classroom. Superintendents noted time and paperwork are the biggest obstacles to removing a tenured teacher. Approximately, 92 percent of superintendents indicated they would be supportive of some type of teacher tenure reform.

### **Introduction**

Of all the decisions an employer must make, none may be as important as staffing. This does not just include who they hire, but also who they fire. An effective leader should be able to identify those who are not performing at an acceptable level, work with that individual to help them improve, and terminate him or her when necessary. But what if state law does not provide such flexibility? What if the employer is required to give the employee 90 working days to improve before finally being able to dismiss the employee and replace him or her with a higher-quality employee? That type of regulation does not seem optimal for a business’ success, but it is exactly the position in which Missouri school leaders find themselves because of teacher tenure laws.

Missouri statutes are prescriptive about how school leaders must handle teacher contracts and dismissals, and the debate surrounding these state mandates can become very heated. On one side, opponents of teacher tenure say it is nearly impossible to remove a tenured teacher based on his or her performance in the classroom. To the contrary, supporters of teacher tenure suggest that it is easy to remove tenured teachers; it just has to be accomplished according to the guidelines in the state statutes. They suggest these guidelines are needed because they limit potential abuses of power from principals, superintendents, or school board members who seek to capriciously target teachers for dismissal. The reality may actually be somewhere in the middle, between impossible and simply a matter of following the rules. This paper explores this question by surveying the individuals who should know the most about the topic – public school superintendents.

### **Literature Review**

As President Barack Obama said in a town hall meeting in 2009, the “single most important factor in the classroom is the quality of the person standing at the front of the classroom.” On this matter, the president is absolutely correct. He expanded on this point in his 2012 State of the Union address: “We know a good teacher can increase the lifetime income of a classroom by over \$250,000. A great teacher

can offer an escape from poverty to the child who dreams beyond his circumstance.” The president was citing a study in which researchers were able to link tax records to student achievement of more than 2.5 million children (Chetty, Friedman, & Rockoff, 2011). The authors found significant relationships between a teacher’s ability to improve student achievement and his or her students’ outcomes later in life.

Indeed, a growing body of evidence demonstrates that teachers can have an incredible impact on students (Aaronson, Barrow, & Sander, 2007; Goldhaber & Hansen, 2010). Hanushek and Rivkin (2006) note that the difference between a good teacher and a bad teacher is as much as a year’s worth of learning. As a result, a student in a low-performing teacher’s classroom will learn a full year less worth of material than his or her counterparts in a high-performing teacher’s classroom. If a student happens to be so unfortunate as to have a low-performing teacher two years in a row, he or she would be an entire grade level behind his or her average classmate.

Because teachers can have a tremendous impact on student learning, it makes sense that policymakers and school leaders would seek ways to improve teacher quality. There are a number of ways to improve the quality of the average teacher. One potential method is to evaluate teachers and remove the lowest-performing ones. By simply removing the worst teachers, the average quality increases. In fact, Hanushek (2011) suggests that replacing the bottom 5 percent of teachers with a teacher of just average quality could improve our educational system to the level of the highest-performing countries in the world. This bottom five percent may include both tenured and non-tenured teachers. Of course, replacing these teachers with a teacher of average quality implies that the labor market has a sufficient number of individuals seeking employment as a teacher.

Two major obstacles make this type of policy for improving teacher quality difficult. First, administrators traditionally have not done a good job of evaluating teacher performance (Weisberg et al., 2009). There may be many reasons for this. For starters, classroom observations require training for observers and time. To do them well, it can be a very costly process. Moreover, school leaders receive very little training in this area. In a review of syllabi from school administration programs, Hess and Kelly (2005) found that 20 of 31 programs reviewed failed to mention termination of ineffective teachers and few focused on rigorous evaluation of teachers.

Understandably, it is difficult to objectively evaluate teachers. Some suggest that value-added measures of teacher effectiveness may alleviate this problem (Glazerman et al., 2010, Ritter & Shuls, 2012). However, this method has been criticized as producing biased estimates of teacher effectiveness (Rothstein, 2009). Even if the difficult task of evaluating teachers is ignored, there is another major obstacle to removing ineffective teachers – teacher tenure laws.

In recent years, many states have revisited their teacher tenure laws. According to Thomsen (2014), “16 states require the results of teacher performance evaluation be used in making decision about granting tenure or non-probationary status.” Seven states have laws that convert teachers who have been rated as ineffective back to probationary status. Missouri has yet to join other states in enacting tenure reform. Indeed, a ballot measure that would have mandated the use of teacher performance in personnel decisions and eliminated teacher tenure via a constitutional amendment was soundly defeated at the ballot box in November 2014.

### **Survey of Missouri Superintendents**

In addition to the fair dismissal laws that protect all employees from discrimination, there are specific state laws that provide teachers even more protection. These regulations mandate a process to remove

a teacher from the classroom based on his or her performance. Once a teacher becomes tenured after five years, it is not only difficult to remove him or her within a year, but also from one year to the next. This, of course, is because his or her contract is not an annual contract like a probationary teacher; it is a permanent contract. This, however, is not a problem if the laws protect good teachers and do not hamper efforts to remove low-performing ones.

To assess the impact of current tenure laws, an electronic survey regarding teacher tenure was sent via email to 522 public school superintendents. A total of 192 completed surveys were received, for an overall response rate of 36.6 percent. As with any survey, there is the potential for possible selection effects. That is, the superintendents who chose to participate in the survey may be markedly different from those who did not choose to participate. It is not possible to estimate the unobservable reasons superintendents chose to participate. However, it is possible to examine the observable characteristics of the school districts.

In terms of observable characteristics, the districts of superintendents who chose to participate in the survey are very similar to those of non-participants (Table 1). Using data from the Missouri Department of Elementary and Secondary Education (DESE), the two groups of districts were compared on seven measures. In all seven areas, the two groups were not significantly different from one another. Thus, on observable characteristics, the superintendents in this survey represent districts that are very similar to the districts of non-participating superintendents.

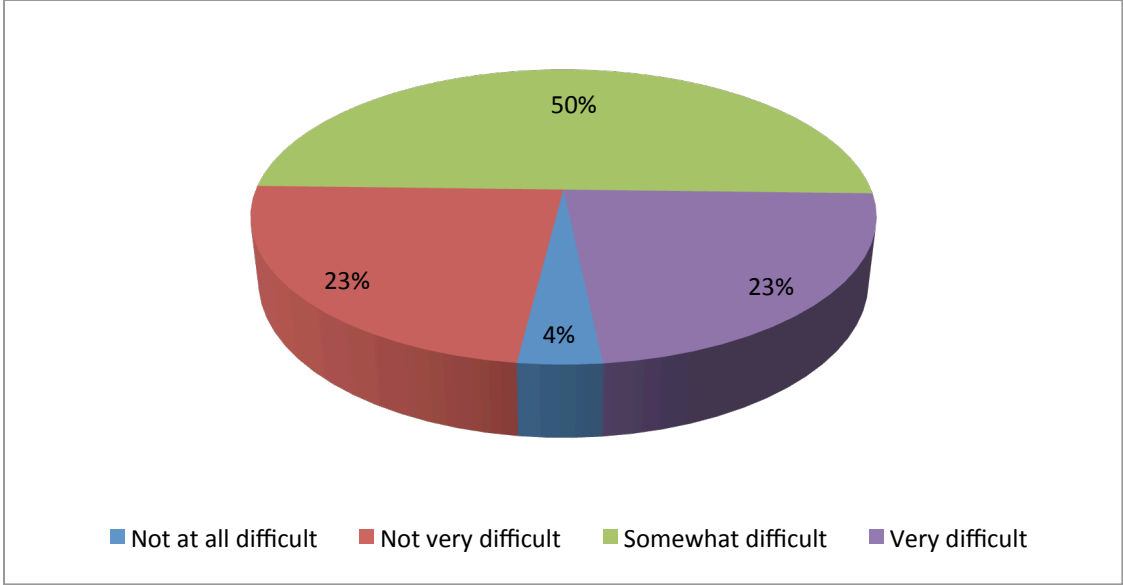
Table 1  
Demographic Information of Districts with Participating and Non-Participating Superintendents

District Characteristic	Participating	Non-Participating
Full-Time Equivalent Teachers	128	122
Students Per Classroom Teacher	15.3	15.3
Full-Time Equivalent Administrators	8.4	8.4
Avg. Regular Term Teacher Salary	\$37,781	\$37,632
Avg. Years of Teacher Experience	12.3	12.4
Percent of Teachers with Master's Degree	48.3%	47.3%
Average Enrollment	1,636	1,661

### Difficulty of removing a tenured teacher

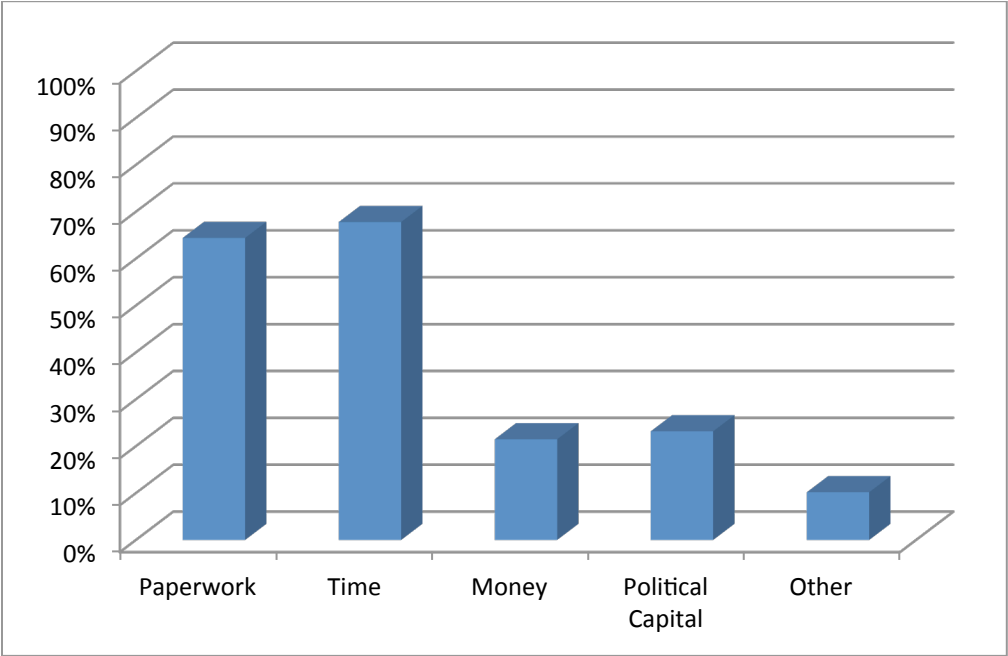
As previously noted, much has been made about the difficulty of removing a tenured teacher. The most ardent supporter of tenure will suggest that it is not difficult to remove a tenured teacher, while the most passionate opponent of tenure might say it is impossible. In this survey superintendents were asked, "How difficult is it to remove a low-performing, tenured teacher based on their performance?" Four possible responses were provided: "Not at all difficult," "Not very difficult," "Somewhat difficult," and "Very difficult." Just 4 percent of superintendents indicated that removing a tenured teacher for his or her performance in the classroom was "not at all difficult," 23 percent indicated that it is "not very difficult," 50 percent chose "somewhat difficult," and 23 percent "very difficult." These figures are very similar for superintendents who are new to their position and those who have been serving in that capacity for many years.

Figure 1  
How difficult is it to remove a low-performing, tenured teacher based on his or her performance?



According to the superintendents’ responses, removing a tenured teacher is not impossible, but it certainly is not easy. To better understand which requirements or restrictions provide the greatest barrier to removing a teacher, superintendents were asked, “What are the biggest obstacles to removing a tenured teacher?” Open responses were accepted and organized into five categories. Sixty-eight percent of superintendents reported that time is the biggest obstacle to removing a teacher, followed closely by paperwork (64 percent). It makes sense that these two would be reported at similar levels because they are highly correlated. Administrators are required to meticulously document the performance of tenured teachers who they wish to remove. Conducting observations and completing the paperwork can take a significant amount of time.

Figure 2  
What are the biggest obstacles to removing a tenured teacher?



In addition to taking an inordinate amount of time to complete the necessary documentation, removing a tenured teacher takes political capital. This includes navigating the process with the teachers' union, but can be much more than that. As one respondent noted, navigating the "community politics" can be the most daunting aspect of removing a tenured teacher. It is important to remember, principals and superintendents answer to elected boards. If they fire a teacher, they run the risk of upsetting school board members or others in the community who may run for the board. This could put their jobs in jeopardy. Thus, administrators must assess the impact removing a tenured teacher will have on their future employment or even the climate of the school building. Moreover, the burden of proof is on the administrator. That is, they must be able to demonstrate that the teacher is not performing up to par. In the absence of value-added student achievement, this often limits the evidence to subjective teacher performance reviews, which require much documentation on the part of the administration. All of these are important considerations.

### **The cost of removing a tenured teacher**

Removing a tenured teacher can also be very costly, especially when school districts must retain a lawyer. In Illinois and New York, it reportedly costs more than \$200,000 to remove a tenured teacher (Reeder, 2005; The Associated Press, 2008). According to interviews conducted by the author, the cost of firing a tenured teacher is less in Missouri, but can still be quite substantial. Roger Kurtz, executive director of the Missouri Association of School Administrators, says the cost really depends on the specifics of the case. If a principal has done a good job of documenting all the facts of the case or if the teacher does not appeal, the cost is much lower.

Tom Mickes, whose firm Mickes, Goldman, O'Toole represents more than 300 school districts in the state, estimates that a hearing before the school board will cost a school district between \$10,000 and \$15,000 in lawyer fees. If the case is taken to the circuit court, school districts can expect to pay another \$5,000 to \$7,000. If the teacher seeks an appeal, it could cost the school district another \$15,000.

Over one-fifth of superintendents cited money as a considerable obstacle to removing a tenured teacher. In a subsequent question, superintendents were asked approximately how much it costs to remove a tenured teacher. Respondents noted these costs could range from almost nothing in cases where the documentation has been carefully collected and the case is open-and-shut. In more drawn-out cases, where the teacher appeals, the cost can be considerably higher. Some superintendents reported the cost could be as much as \$100,000. Although, many indicated they were unsure of the exact cost because they did not have first-hand experience.

Some superintendents were unsure if they should include the principal's time in the cost estimates. On one hand, the time involved for a principal is substantial and requires them to take time away from other tasks. One superintendent commented, "[T]here are many, many hours involved in the process." Other superintendents, however, noted that this is part of the principal's job. They are expected to evaluate teachers, provide detailed reviews, and remove ineffective ones. Therefore, including their time in an estimate of the costs involved may be inappropriate.

### **The number of terminated tenured teachers**

Superintendents were asked to indicate how many tenured teachers they had removed for performance in the past year. Most superintendents, 75 percent, had not removed a single tenured teacher. Three superintendents indicated they had removed five tenured teachers. In all, it was reported that 80 tenured teachers had been removed in the previous school year. There were a total of 24,076 full-time equivalent teachers in the districts represented by the participating superintendents. That means approximately 3/10ths of 1 percent of teachers were removed.

Although the number of tenured teachers terminated is small, these numbers do not tell the entire story. Effective administrators do not allow low-performing teachers to actually reach the point of tenure. As one superintendent stated, “We don’t let poor teachers get to five years.” It is not possible to obtain exact estimates on the number of teachers who might get their contract non-renewed in the first five years or who quit prematurely because they are ineffective. Counting non-renewed teachers in estimates would certainly increase the percentage of teachers removed for ineffectiveness. Regardless, there are undoubtedly some ineffective teachers reaching the point of tenure or some effective teachers whose performance declines once they have obtained tenure.

Just as the termination figures do not capture the number of ineffective teachers who are weeded out before receiving tenure, they also do not fully account for the number of teachers who are removed for their performance. The termination process can be long and drawn out. This can be taxing, not just for administrators but also for the teacher. Thus, many principals simply counsel low-performing teachers into leaving. Several superintendents referred to this as being “coached out.” According to the superintendent responses, it seems more teachers leave on their own accord prior to being terminated. One superintendent stated, “In my 38 years in administration, I’d say that the majority of tenured teachers facing termination proceedings choose to resign.” This was a sentiment that other superintendents repeated; to be exact, 23 commented that tenured teachers typically resign rather than face termination. Here are two of their comments:

- *“Our effort did not actually result in termination, they seldom do. The teachers have always chose to resign first. The result is the same.”*
- *“We counsel our poor teachers to resign rather than go through a termination process.”*

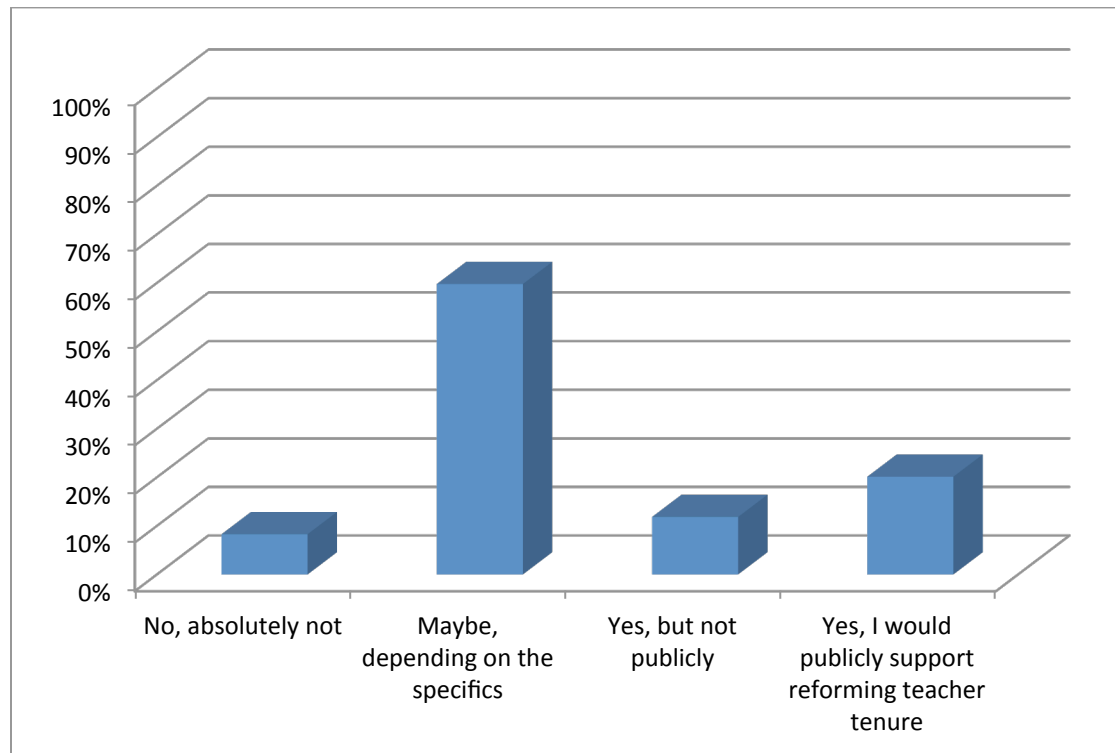
Teachers have a significant incentive to resign prior to being terminated. Even if they are able to improve or somehow avoid the termination, there is a stigma that comes from this process. This stigma may create an unsatisfactory working environment for the teacher. Additionally, applications for teaching positions usually ask if the applicant has ever been terminated or had a contract not renewed. If a teacher does not resign and ends up being terminated, this significantly harms his or her potential for future employment. If the teacher resigns, however, he or she will not have this label. This may be part of the conversation that superintendents have during the “coaching out” period, although none mentioned it in their comments.

### **Support for tenure reform among superintendents**

The final survey question asked whether superintendents would be supportive of efforts to reform teacher tenure. Only eight percent of the superintendents in the survey indicated they absolutely would not support teacher tenure reform while nearly 63 percent indicated they may support tenure reform depending on the specifics of the reform. A total of 32 percent indicated they would support tenure reform, either privately or publicly.

Figure 3

Would you personally support reforming tenure laws to make it easier to remove low-performing teachers from the classroom?



Two recurring themes appeared among the comments on this question. While many indicated that teacher tenure laws are restrictive, some indicated that the laws are not the greatest cause of all the problems. Many superintendents recognized that it is possible to remove a low-performing teacher or to counsel them out of the classroom. They note that it is the principal's job to identify low-performing teachers, to help them improve, and to ultimately remove them if they fail to do so. In other words, if a low-performing teacher remains in the classroom, it is the result of feckless leadership, not an overly burdensome tenure law. However, not all superintendents agreed to the sentiment that tenure is not an issue. A few noted that teacher tenure provides protection for "incompetent teachers to the detriment of children." One superintendent went as far as saying, "Teacher tenure is the greatest restraint to student performance!"

The other recurring theme among the comments to this question was on the topic of job protection. Even among those who said they would support tenure reform, many stated that teachers need some job protection. They pointed out that district schools are much different than the private marketplace because district schools are democratically controlled. This means elected school boards are in control. Polka and Litchka (2008) highlight many examples of school board members who seem to unfairly target a school leader for dismissal. There is potential for the same phenomenon to happen to teachers. One superintendent noted that teachers need protection from these types of board members "who have axes to grind." Certainly, board politics can be a tricky game.

Superintendents offered several suggestions for how teachers might be given some job protection while also making it easier to remove low-performing teachers. An oft-cited recommendation was to offer veteran teachers multi-year contracts. This would provide some protection from being targeted for an

off year. Ultimately, it seems most superintendents would be supportive of a system that provides protection for high-performing teachers while making it much easier to remove ineffective teachers.

### **Conclusion**

Although Missouri's teacher tenure laws may not be as restrictive as some other states, there is some desire from public school superintendents for reform. Indeed, 73 percent of superintendents stated that it is somewhat or very difficult to remove a tenured teacher. They note that the process of removing a teacher based on his or her performance in the classroom takes much effort and could cost a significant amount of money. For these reasons, among others, approximately 92 percent of the superintendents stated they would be supportive of some type of tenure reform.

Despite the restrictions, many superintendents have figured out how to work within the system. They have remarked that a good school leader does not allow an ineffective teacher to obtain tenure. They have also noted that they often "counsel out" low-performing teachers in lieu of seeking a formal dismissal. Still, public school superintendents in Missouri overwhelmingly believe it should be easier to remove low-performing teachers. What type of reform they would coalesce around, however, is not clear.

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