



Collective Bargaining Agreements in California School Districts: Moving Beyond the Stereotype

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POLICY BRIEF

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Despite the current budget crisis, the need for dramatic improvements in the performance of California's schools and students is as urgent as ever. Educators will need to become even more creative in the ways in which they use their resources and structure their school operations. Because every school district faces unique circumstances, each district will need to use its limited resources in targeted ways to meet its own highly specific needs. Local innovation is difficult, however, in an organization as severely constrained as California's system of public education. (See Brewer and Smith, 2007). Between state regulations covered in the California Education Code, federal regulations including the *No Child Left Behind Act*, and county regulations, school districts are left with very limited control over the operations of their own schools.

One key instrument for local innovation is the collective bargaining agreement (CBA), under which school districts and union officials can negotiate strategies to address specific local needs.

Ranging from two to 355 pages, these contracts regulate aspects of schooling as varied as teachers' salary schedules, instructional practices, professional development, leave time, and preparation time within the school

Executive Summary

Faced with a deepening fiscal crisis, California school districts must be ever more creative in their use of increasingly scarce resources. At present, however, state regulations covered in the California Education Code, federal regulations including the *No Child Left Behind Act*, and county regulations leave school districts with very limited control over the operations of their own schools. One key instrument for local innovation is the collective bargaining agreement (CBA), under which school districts and union officials can negotiate strategies to address the particular needs of students and teachers in their districts.

In this policy brief Katharine Strunk shows that contracts negotiated by local teachers' unions and district administrations allow for more flexibility than conventional views suggest. CBAs are quite varied in their contents, and many school boards and unions have used the flexibility inherent in contract negotiations to create inventive and targeted solutions for specific district problems. Although many districts are making good use of local autonomy, however, the high-need districts that might make the most beneficial use of flexibility are often those with contracts that include the most severe obstacles to departures from conventional policies.

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Executive Summary *continued*

This poses a dilemma for state policy-makers. Allowing school boards and unions the autonomy to negotiate district-specific solutions through their CBAs might provide the space for innovative and context-driven solutions at the local level. At the same time, however, independence from regulation brings with it the risk that such autonomy will lead to policies that are in the best interests of districts and/or teachers' unions, but not necessarily in the best interests of students.

Based on a careful review of data from four main contract areas (compensation, class size, evaluation, and transfer and vacancy provisions) in 464 California school districts, Strunk argues for the cautious relaxation of state-level regulations. She identifies three policy levers that the state can use to ensure that increased flexibility is used to advance the interests of students: dissemination of information about innovative "best practices" that have been negotiated in current CBAs; incentives to encourage local innovation on matters covered by CBAs; and sanctions for districts that abuse their newly increased autonomy.

Strunk concludes that enhanced local flexibility can help California school districts survive and flourish in this difficult period, as long as careful precautions are taken to ensure that the highest-need students benefit from increased local autonomy.

day and year. Given the breadth of issues covered in districts' CBAs, and the fact that they are collectively bargained at the district level rather than mandated by a higher governing entity, CBAs represent one of the few venues through which school boards and unions can take localized, specific action to address the particular needs of students and teachers in their own districts.

School boards and teachers' unions do not have complete freedom simply to set district policies via their CBAs, for two main reasons. First, restrictive state regulations can and do hamper boards and unions from bargaining over certain policies that may be better set at the district rather than at the state level. State-level regulations govern areas as varied as association rights, teacher compensation, class size, evaluations, grievances, layoffs, leaves, professional growth, retirement policies, and school calendar. With such expansive oversight, the California state government constrains the ability of school boards and unions to negotiate innovative and targeted solutions to local problems.

Second, requirements that were bargained into contracts early in a district's collective bargaining history or that are intended to protect certain groups of stakeholders over others can restrict district administrations from taking necessary actions to better the education of students in their districts. In fact, much of the recent literature on union-district contracts finds that

rights and regulations guaranteed in CBAs greatly inhibit district administrators' efforts to manage their districts and schools (See Moe, 2006 and Hess and Loup, 2008).

These two constraints leave state policy-makers in a bind. Allowing school boards and unions the autonomy to negotiate district-specific solutions through their CBAs might provide the space for innovative and context-driven solutions. However, independence from regulation also brings with it the risk that such autonomy will lead to policies that are in the best interests of the district and/or the teachers' unions, but not necessarily in the best interests of the students.

State policy-makers are consequently uncertain as to whether they should continue to restrain local governments' autonomy in making their own local decisions in order to protect the interests of students or relax their regulations in attempt to foster local innovation. This policy brief uses data from four main contract areas (compensation, class size, evaluation and transfer and vacancy provisions) in 464 California school districts to argue for the cautious relaxation of state-level regulations. I show that contracts negotiated by the local teachers' unions and district administrations allow for more flexibility than conventional views of such documents would suggest. They are, in fact, quite varied in their contents, and many school boards and unions have used the flexibility inherent in

TABLE 1. Contract Provisions Beyond the Stereotype

Contract Areas	Stereotypical Contract	Additional Contract Provisions
Compensation	Set salary schedule based solely on education credits and in-district experience	<ul style="list-style-type: none">Targeted incentives for sought-after teachersSalary credit offered for out-of-district teaching experience
Class Size	CSR-dictated class size ceilings	<ul style="list-style-type: none">Set time within which districts must balance class sizesActions districts can take if class size ceilings are exceeded<ul style="list-style-type: none">Additional preparation time for teachersAdditional teachers aideOverload compensation for teachers
Evaluations	Restricts number of evaluations and observations to minimums set in Education Code	<ul style="list-style-type: none">Additional number of evaluations or observations, over Ed Code-specified minimumsLength of observationsRight to have or not to have unannounced observations
Transfer/ Vacancy	Seniority rights	<ul style="list-style-type: none">Non-binding seniority rightsSeniority exemptionsOther considerations in transfer decision<ul style="list-style-type: none">Special skills/ qualificationsPerformance improvementMajor/ minor

contract negotiations and the resulting collective bargaining agreements to create inventive and targeted solutions for specific district problems. However, this brief carries with it a warning: although many districts are making good use of local autonomy, it appears that the high-need districts in which one would hope to see the most beneficial use of flexibility are often those with the contracts that include the most severe obstacles to increased local flexibility.¹

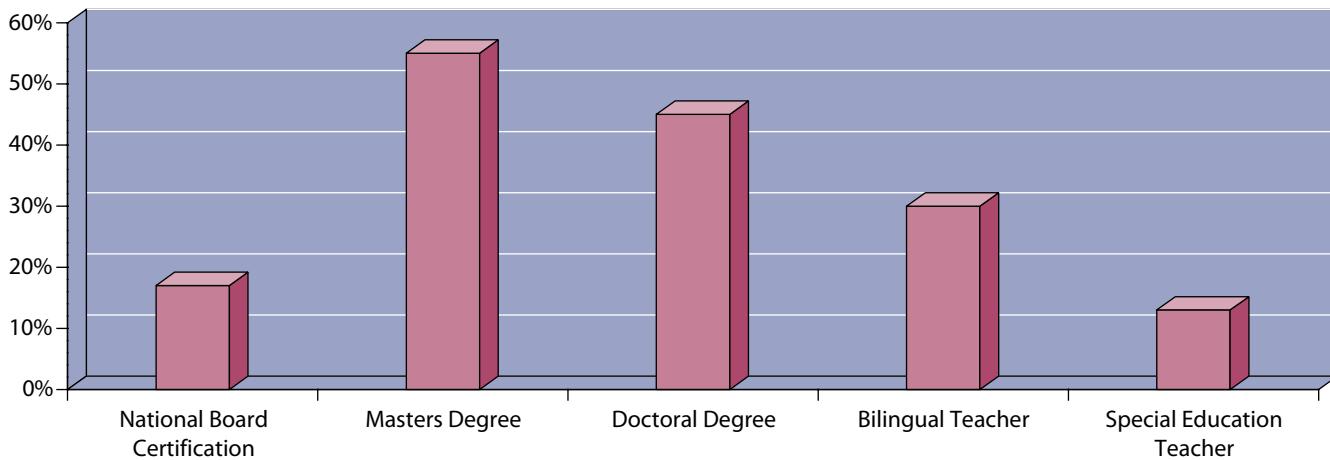
Collective Bargaining Agreements that go Beyond the Union Contract Stereotype

The stereotypical view of CBAs presented by many current researchers and policy-makers portrays CBAs as major obstacles to change in schools. This pits unions against district administrators and ignores the complicated negotiation and contract structure. Proponents of the stereotypical view assume that each area of a contract contains regulations that restrict districts and harm students in order to protect teachers' interests. For example, the over-simplified form

of a union contract asserts that teachers are paid strictly in accordance with salary schedules based solely on experience level and education credits, class size negotiations are limited to class size ceilings, evaluation provisions simply serve to limit district and school administrators' abilities to monitor the performance of their teaching staff, and transfer and vacancy regulations solely prescribe seniority rights. (See Table 1.)

The truth is that California contracts deviate a great deal from this stereotype. Districts and unions have negotiated significant flexibility around

FIGURE 1. Proportion of California School Districts with Specific Compensation Incentives



compensation, class size, evaluations and transfer and vacancy rules. The resulting contracts demonstrate that there is substantial space for flexibility in the negotiation process, and that within the highly constrained world of CBAs there exists quite a lot of local variation.

Figure 1 shows the wide variety of incentives that are currently being offered via CBAs in California school districts. School boards appear to be utilizing the freedom to set salaries at the district-level to negotiate with teachers' unions to build in "bonuses" for teachers with specific attributes. These bonuses may serve as incentives to attract and retain sought-after teachers.

School boards and unions are also finding ways to lessen the salary losses of experienced teachers when they move from one district to another.

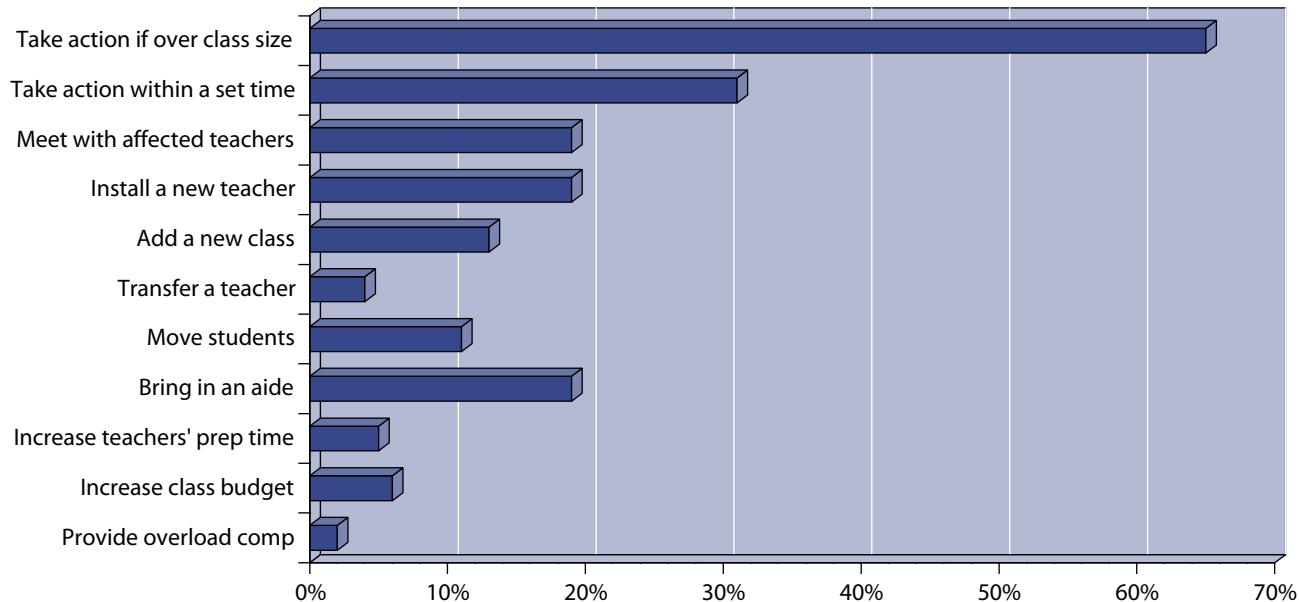
Approximately 85 percent of California contracts provide some credit for out-of-district teaching experience, and many for substantial amounts of time: 39 percent of such districts offer credit for over nine years of previous teaching experience. This is likely a recruiting mechanism meant to recompense experienced teachers for the decrease in compensation associated with changing districts.

Similarly, districts and unions are finding areas of flexibility within contracts' class size provisions even though class sizes themselves are highly regulated at the state level. The Class Size Reduction(CSR) incentive built into the California Education Code ([§41376-41378](#)) only releases funds to districts that cap kindergarten through third grade classes at 20 students, and it is easy to assume that contracts would simply regulate the maximum number of students

allowed in a given class as dictated by the state incentive policy. In fact, however, school boards and unions negotiate over many more provisions than just class size ceilings. For instance, of the 443 contracts in the sample (95.5 percent) that address class size, 35 percent require district administrations to meet the contractually-specified class size ceilings within a certain amount of time from the beginning of the school year or semester so that teachers can work with their classes without the continual disruptions of entering and exiting students. Of the districts with contracts that require such time limits, over three-quarters require classes to be balanced within four weeks, and 29 percent require classes to be balanced within two weeks of classes starting.

Many district contracts also require district administrators to take some action if class size limits are exceeded,

FIGURE 2. CBA-Specified District Actions if Negotiated Class Sizes are Exceeded



and delineate what those actions might be. Figure 2 outlines some of the actions school boards and unions have negotiated into California contracts to assist teachers when class size ceilings are exceeded.

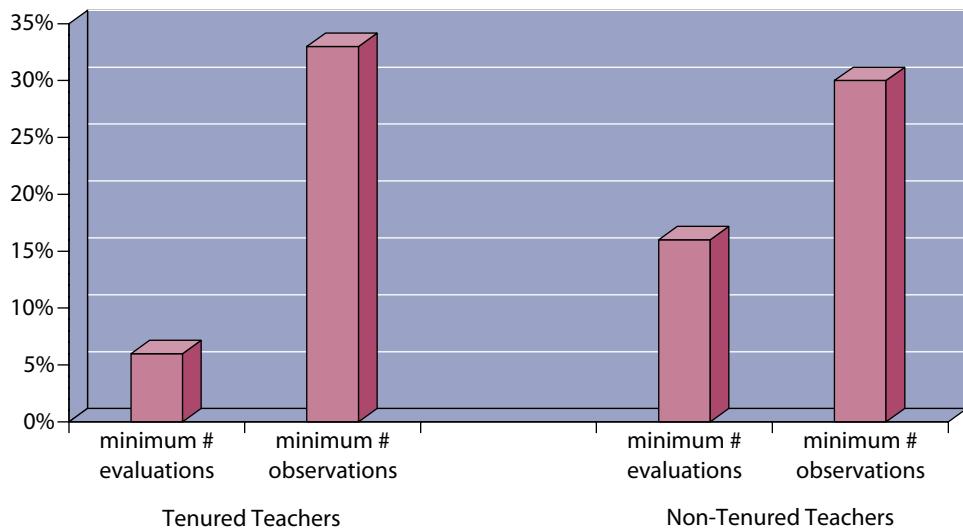
Evaluation and transfer and vacancy provisions also offer examples of

school boards' and unions' use of their limited flexibility to deviate from the stereotypical teachers' union contract. For instance, the California Education Code mandates the minimum number of times a school or district administrator must observe a teacher in the evaluation process, as well as

the minimum number of times an administrator must evaluate teachers each year (California Education Code §44664). Many school boards and unions negotiate a more rigorous observation and evaluation schedule. Figure 3 outlines the proportion of school district contracts that allow district and school administrators to evaluate and observe tenured and non-tenured teachers more than the Education Code-specified minimum number of times.

The seniority provisions in district contracts offer another example of districts' use of the flexibility possible in contract negotiations. The over-simplified view of district-union contracts asserts that the most senior teacher gets his or her first choice of vacant positions in voluntary transfers and that the least senior teacher gets transferred first in the case of involuntary transfers, but relatively

FIGURE 3. Proportion of Districts that Allow More Frequent Evaluation Procedures



**TABLE 2.** Proportion of Districts Offering Incentives

	Large	Small		High Wealth	Low Wealth		High Minority	Low Minority		Urban	Non-Urban	
National Board Certification	22.4%	13.8%	*	24.1%	11.2%	***	9.5%	19.0%	**	20.1%	11.4%	**
Masters Degree	37.1%	70.7%	***	62.1%	55.2%		44.0%	61.2%	***	47.3%	68.7%	***
Doctorate	57.8%	33.6%	***	62.9%	34.5%	***	36.2%	47.4%	*	51.0%	34.3%	***
Bilingual Teacher	32.8%	31.0%		12.1%	51.7%	***	50.0%	13.8%	***	25.5%	38.0%	***
Special Ed Teacher	15.5%	8.6%		6.9%	24.1%	***	26.7%	4.3%	***	14.4%	11.4%	
Longevity Bonus	80.2%	66.4%	**	75.0%	70.7%		72.1%	69.8%		76.2%	66.9%	**
Out-of-District Teaching Credit	89.7%	81.9%	*	83.6%	82.8%		85.6%	84.5%		85.6%	82.5%	

*** p<.10; ** p<.05; *** p<.01

few contracts fit this caricature view. Seniority is only the deciding factor in voluntary transfers in six percent of contracts, and in involuntary transfers in 15 percent of contracts. Approximately five percent of CBAs also maintain an important loophole that specifies that some groups of teachers are “exempt” from seniority provisions in involuntary transfer decisions. This clause theoretically allows administrators to refuse to transfer a high-need teacher or a teacher who is receiving unsatisfactory evaluations simply based on seniority rights.

These examples indicate that many California school boards and teachers’ unions are working within tight state-level regulations to negotiate district-specific provisions into their CBAs that often depart from the stereotypical view of highly restrictive contracts. Districts and unions would be likely

to make further use of these targeted negotiation strategies, which may help districts provide innovative solutions to context-specific problems, if they were given more leeway to do so.

The Use of Collective Bargaining Agreements to Set Targeted District Policies

Flexibility does little good unless it benefits students. If additional flexibility helps high-need districts attract better teachers or provide improved services to their students, then enhancing such flexibility via the lessening of state-level restrictions would seem to be good policy. Alternatively, if the highest-need districts are those that maintain stereotypical collective bargaining agreements, then there is cause for concern over what state policies will yield the greatest gains for students.

Innovative Use of Contract Flexibility

There are multiple examples of school boards and teachers’ unions working together to tactically use their CBAs to address the specific needs of their students and teachers. (See Text Box on following page.) For instance, districts with diverse demographic make-ups, and therefore presumably with diverse student needs, build incentives into their contracts to attract and retain different kinds of teachers.

Table 2 outlines the proportion of each type of district that offers a specific compensatory incentive to attract and retain certain kinds of teachers. It shows that more high-wealth, low-minority districts offer incentives to teachers with general education degrees and certifications (National Board Certifications, Masters Degrees and Doctorates), whereas more low-

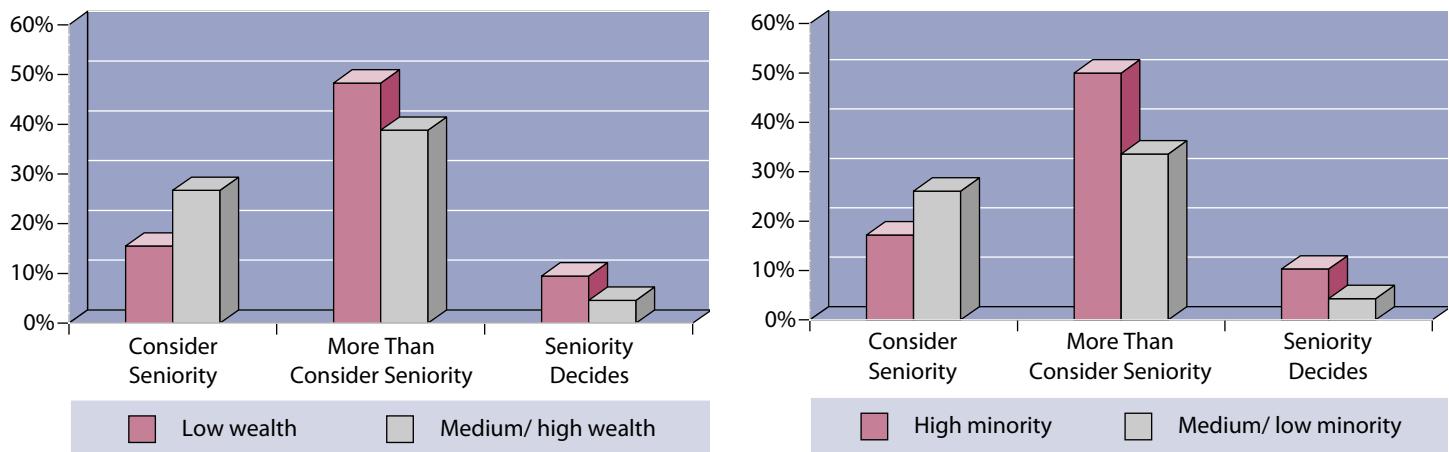
San Francisco's Proposition A: An Example of District-Union Cooperation

San Francisco County voters passed Proposition A, the "Quality Teacher and Education Act of 2008" on June 3, 2008. Proposition A requires San Francisco property owners to pay a \$198 annual parcel tax. The funds collected via Proposition A will go to the San Francisco Unified School District (SFUSD). Most of the new revenue (71.3%) will be used to pay for teacher training and support programs and for teacher recruitment and retention initiatives targeted at teachers who are most likely to exit the system.

Although many union critics would assume that the local union would vehemently oppose differential rewards for teachers, the United Educators of San Francisco worked together with SFUSD officials and the school board to create and implement a plan for the use of Proposition A funds. The goal of these programs is to help SFUSD to recruit and retain high quality teachers by paying them a competitive salary that is more in line with the cost of living in San Francisco, and to target incentives to teachers who are most at risk of leaving: new teachers and teachers in hard-to-staff schools and/or hard-to-fill subjects.

Supported Proposition A Activities:

Initiative	Cost of Incentive Program	Description
Additional Professional Development	\$40/ hour/ K-12 teacher	Provides each K-12 teacher with an additional 18 hours per year of continuing education to help teachers stay abreast of current methods and content.
Master Teachers	\$2,500/ master teacher	Pays up to 50 top-tier teachers to spend one-fifth of their time mentoring and assisting other SFUSD teachers.
Teachers in Hard-to-Staff Schools	\$2,000/ teacher in up to 25 hard-to-staff schools	Each full-time teacher who works at a hard-to-staff school will be rewarded for the extra effort and time required to work in high-turnover schools
Teachers of Hard-to-Fill Subject Areas	\$1,000/ teacher /year in up to five hard to fill subject areas	Each teacher who teaches in district and/or superintendent-identified hard-to-fill subject areas will receive an extra yearly stipend
Support for School Achievement Growth	\$30,000 school site block grants to the 20 schools that show the most improvement in API scores	The 20 schools that show the most improvement in school API scores will each receive \$30,000 to be distributed subject to a recommendation by the school site staff and the school site council.
Peer Assistance and Review (PAR)		The district will pay for up to five additional PAR coaches, and will change details of the PAR program to provide increased support for the development of teachers who need improvement.
Salary Increases for Early-Stage Teachers and for Teachers at Important Salary Schedule Placement	Varies by experience and education level	All SFUSD teachers' salaries will increase. However, the salaries of teachers in the early stages of their careers (generally the first seven years of in-district teaching) will increase by a greater proportion than most other teachers.

FIGURE 4. Voluntary Transfer Seniority Rights in High-Need Districts


wealth, high-minority districts provide incentives for teachers of Bilingual and Special Education classes. This may indicate that school boards and teachers' unions are using the flexibility inherent in the bargaining process to set district policy intended to provide incentives to attract and retain the specific kinds of teachers most needed in their districts.

Large and urban districts are significantly more likely than small and suburban districts to allow administrators to spend longer on each teacher observation, hopefully giving administrators more time to evaluate the efficacy of each teacher and provide them with helpful feedback. In addition, urban district contracts are more likely to require that probationary (pre-tenure) teachers are evaluated more often than the minimum required number of evaluations set by the California Education Code. (Ed Code §44664 requires that all non-permanent teachers are evaluated at least twice each year).

School boards and unions in high-need districts are also using contracts to promote non-standard transfer and vacancy regulations. For example, high-minority, urban districts are more likely to allow administrators to consider performance improvement in transfer decisions, and district administrators in large districts are more often given the right to consider a teacher's major or minor course of study and any relevant special skills when transferring a teacher. These flexibilities deviate from transfer and vacancy regulations that would only allow districts to transfer teachers based on their seniority status. It is also noteworthy that more poor, large and high-minority district contracts include the seniority exemption clause that enables administrators in those districts to refrain from transferring the most senior (or least senior, in the case of involuntary transfers) teacher if they believe such a transfer would not be in the best interest of the district or its students.

Failure to Exploit Contract Flexibility

Contract disparities between traditionally "high-need" and lower need districts also tell a cautionary tale. In many cases the flexibility available in contract negotiations is least evident in collectively-bargained agreements in districts that might benefit most from innovative practices.

For example, many of the most restrictive transfer provisions are found in traditionally high-need district contracts, as Figure 4 shows. Low-wealth and high-minority district contracts are significantly more likely to require that seniority be "more than considered" or be the deciding factor in voluntary transfer provisions, while fewer of these high-need districts simply consider seniority as one of many factors. High-wealth districts are more likely than other districts to have contracts that allow administrators to consider a teacher's major or minor, his or her qualifications, and his or her perfor-

mance improvement needs in transfer decisions. Contracts in low-wealth districts are also more likely than contracts in high-wealth districts to dictate that current district-employed teachers not only have the right to apply for, but also the right to fill open positions before the district can consider or interview new applicants.

Key evaluation provisions also exemplify disparities in contracts across districts. Over half of California contracts guarantee teachers advance notice of an official evaluator observation, and over half of these promise over two weeks advance notice. This prevents district administrators from evaluating teachers without their earlier knowledge, and guarantees teachers time to prepare for evaluations rather than allowing administrators to observe their usual practice. Districts that promise advance notice of observations have significantly higher proportions of students entitled to free or reduced price lunches and of black and Hispanic students. Low-wealth districts are also less likely to have contracts allowing for additional unannounced observations if these are deemed necessary by the evaluator.

Low-wealth and high-minority districts are also significantly less likely to have contracts that require more evaluations for tenured faculty than the state-mandated minimums established in the Education Code (§44664). In short, high-minority, high-poverty districts tend to have more lenient evaluation standards than do low-minority, high-wealth districts.

Class size provisions also differ for students in the highest-need districts. Students in poor, high minority, urban and large districts are more likely to have high class-size ceilings negotiated into their contracts. Moreover, contracts in large and high-minority districts that permit larger class sizes are less likely to require administrators to take specific actions once class size ceilings are exceeded. Large and high-minority district contracts less often require administrators to hire aides, give teachers extra preparation time, provide over-subscribed classrooms with higher instructional budgets, or provide teachers with overload compensation when classes exceed their mandated ceilings. Such compensatory class size provisions may help to ease the adverse effects of large classes on teachers and students, yet they are found least often in some of the traditionally highest-need districts.

Conclusion

California's collectively-bargained contracts between teachers' unions and school districts tell a story of a glass half-full—and half-empty. On the one hand, CBAs are clearly more flexible than they are typically understood to be. On the other hand, many of the most restrictive contract clauses are found in districts with the most disadvantaged students.

Potential gains from increased flexibility must therefore be balanced against the potential costs. State policy-makers, local teachers' union leaders and district officials must work together to increase and exploit the flexibility

possible in teachers' union contracts to best meet the needs of students.

California's district contracts provide numerous examples of innovative local initiatives that address specific district needs. There is no reason to believe that local actors will not continue to innovate if they are given increased flexibility to do so. This suggests that, consistent with the findings of the *Getting Down to Facts* studies and the Governor's Committee Report, there is room for the state government to ease some of its regulations over education in order to allow school boards and teachers' unions to continue working together to implement targeted district-level policies. Loosening some of the heavy constraints found in California regulations may allow school boards and unions the room to further implement district policies focused on their own particular district contexts. At the same time, the fact that the most restrictive contracts are found in the highest-need districts suggests that greater flexibility by itself will not address California's most urgent educational needs.

The state has at least three policy levers at its disposal to ensure that increased autonomy and flexibility benefit all of California's students. The first is to disseminate knowledge and provide more complete information. For example, the state can catalogue the provisions established in teachers' collective bargaining contracts, which would allow local teachers' unions and school boards to consult a compendium of CBA provisions for examples of innovative or novel alternatives to



standard contract language. By providing examples of “best practice” regulations the state can help local educators to consider new and alternative ways to address common workplace policies.

Second, the state can provide incentives for districts to develop innovative policies to address specific local needs. Following the lead of states and cities that are generating policies to induce districts to establish alternative career structures (Koppich, 2008), the California state government might choose to provide incentives to districts that provide new compensation arrangements above and beyond the multiple bonuses being used by districts today. The state might also provide incentives to districts that determine inventive ways to place teachers in the most appropriate positions within the district in a timely manner, or that generate new and effective evaluation procedures to benefit both teachers and their students.

Third, the state can enact sanctions for school boards and unions that abuse their newly increased autonomy. For instance, the state might utilize its newly-created intervention strategy for districts in year five or above of program improvement under *No Child Left Behind* to target low-performing districts and work with the unions and school boards in those districts to amend their contracts. This strategy would require significant investments of time and resources to develop local capacity to make beneficial use of any increased flexibility.

California school districts are embarking on increasingly difficult times. District and school administrators are being held accountable for their students’ learning and progress, while at the same time facing drastic budget cuts. District administrations and school boards should be given increased flexibility to implement the changes required by accountability programs that are now constrained by state regulations and decreased revenues. School boards and teachers’ unions are currently doing an admirable job of using what flexibility is available in a heavily regulated system to implement creative district-level policies. State policy-makers would be wise to allow for more local autonomy that would enable district actors to implement additional innovative policies. With careful precautions taken to help ensure that the highest-need districts benefit from increased local autonomy, we have reason to believe that increased local control can help our districts survive and flourish in this difficult period.

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Endnotes

¹ Data and Methods

The main source of data used in this policy brief is the collectively bargained district contracts themselves. Specifically, this study uses the collective bargaining agreements in place in the summer of 2006 from the 464 California districts with four or more schools that provided researchers with their contracts upon request. I limit the examination of contracts to those from districts with four or more schools because many contract provisions are not binding or feasible for districts and unions in smaller districts. These 464 contracts constitute 82 percent of school districts in California which have four or more schools, and represent approximately 85 percent of California students.

I link the contract data to the National Center for Education Statistics’ (NCES) 2004 Common Core of Data (CCD) and to 2000 United States Census data in order to assess differences in contract provisions among districts with varying demographic make-ups. The CCD data provide information on district characteristics, including urbanicity, enrollment, and district type. The 2000 United States Census data provide additional district demographic data including information on race/ethnicity and poverty status. The sample of 464 districts looks very similar to the universe of California districts with four or more schools. It should be noted that in any analyses using enrollment figures, I run the analysis without Los Angeles Unified School District (LAUSD) to avoid skewing the results due to LAUSD’s unusually high enrollment.

All analyses reported in this policy brief are simple comparisons of means, assessing whether or not there are statistically significant differences in policies between different kinds of districts. Districts classified as low-minority, low-wealth or small are those districts in the bottom quartiles of proportion of black and Hispanic student enrollment, proportion of students enrolled in free and reduced price lunch programs or district-wide median household incomes, and student enrollment, respectively. Districts classified as high-minority, high-wealth or large are those districts in the top quartiles of each measure. All significant results have p-values of .10 or lower.



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