

Contracting for Performance

Teacher Union Contract Language in Massachusetts

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Executive Summary

Despite historic legislative efforts to effect meaningful school reform and laudable academic progress in some districts, many of the Commonwealth of Massachusetts' most troubled schools and districts have failed to improve student academic performance in recent years. In these schools and districts, which include urban, suburban, and rural communities across the state, MCAS results are low, dropout rates are high, and minority and poor students make up disproportionate percentages of the student populations.

One perceived reason for the continued failure of some schools and districts is the lack of autonomy that school and district leaders and school teachers have to make meaningful changes that affect the delivery of education; long and overly prescriptive teachers' union contracts prevent them from doing so. In many communities, teachers' union contracts prevent school and district leaders from hiring and firing staff as they see fit, from determining the length of the school day and the amount of time that faculty members should devote to important tasks, and from awarding higher salaries to high-performing or uniquely qualified teachers. Likewise, in many places across the Commonwealth, teachers are not held accountable for student performance, nor do they have the power to make important decisions that could positively impact student performance.

To determine the extent to which some teachers' union contracts in the Commonwealth limit autonomy and hamper the potential for improved student results and educational innovations, the Pioneer Institute examined major components of 25 collective bargaining contracts from a sample of high- and low-performing districts across the Commonwealth. After carefully assessing the language of individual contract clauses, researchers divided the contracts into those that adhere to a "professional model" of collective bargaining—a model that provides a comparatively great amount of autonomy to

school and district leaders and school teachers—and those that adhere to a "factory model" of collective bargaining—a model that limits the amount of autonomy that leaders and teachers have and that places little to no emphasis on accountability for student academic outcomes.

The results of this study show that factory model contracts are more likely to be found in the Commonwealth's lowest-performing school districts, many of which serve disproportionate numbers of poor and minority students. They suggest that if teacher collective bargaining contracts in these districts were designed to better adhere to the professional model of collective bargaining, school and district leaders and teachers may have the autonomy necessary to implement changes that could positively impact student performance. The results also suggest that the accountability for teacher performance provided in the professional model of collective bargaining could better enable low-performing districts to provide students with the most effective tool for improved learning: highly qualified and highly effective teachers. This policy brief concludes with six recommendations for actions that school districts can take to ensure that teacher collective bargaining contracts in the state of Massachusetts become better aligned with the professional model.

Introduction

In recent years, the Commonwealth of Massachusetts has made great strides in education reform. Policy makers, teachers, and parents alike have recognized the importance of accountability in education, and the state has implemented strong accountability reforms that are making a difference for students. The effectiveness of state level reforms, such as the Massachusetts Comprehensive Assessment System (MCAS), is evident as Massachusetts students, even those in some of the state's lowest performing districts, outperform the majority of their peers on national measures, such as the National Assessment for Educational Progress (NAEP). The students of

Massachusetts have also achieved very impressive results on international examinations, such as the Trends in International Math and Science Study (TIMSS).¹

Now is no time for the state to rest on its laurels, however. The achievement gap between minority/low-income students and their wealthier and/or white and Asian counterparts persists, which makes clear that, for many students, accountability reforms alone are not enough. Indeed, the intractable achievement gap is one reason why Massachusetts and the country as a whole must move toward a new era in education reform. In this new phase, reforms focused on accountability are balanced with those focused on providing school managers and teachers with the kind of autonomy they need to implement meaningful and lasting reforms at the local level. Evidence from the successful charter school movement in Massachusetts—which provides for dramatically increased local level autonomy coupled with accountability—supports the assertion that local level autonomy can lead to improvements in student outcomes.² Additionally, pressure from the federal level, especially in the form of competitions such as Race to the Top (RTT), is compelling Massachusetts to examine the amount of autonomy and flexibility that its school districts enjoy.³

One perceived barrier to providing district and school managers with the autonomy that they require to implement meaningful reforms is the collective bargaining process in which teachers' unions and school districts engage.⁴ During that process, school districts and local teachers' unions create collective bargaining agreements—or teachers' contracts—that are often lengthy, incredibly detailed, and filled with provisions that can restrict the decision-making powers of school-level actors. Some contracts can also ensure that it is difficult to hold teachers accountable for what students ultimately learn while in their charge. Although it is important to note that collective bargaining agreements can be invaluable tools for guaranteeing the rights of hardworking

teachers, the new climate of education reform in Massachusetts and the nation demands that these documents adapt to the changing needs of teachers, school managers, and, most importantly, students, if the state is to close the achievement gap between underperforming minority groups and their higher performing peers.

Problematically, the link between collective bargaining contracts and failed efforts at local school reform, though real in the minds of many education reformers, is not always easy to identify. This is in part because the content of collective bargaining contracts can vary greatly from district to district and in part because education researchers and others have not done a good job of identifying contract provisions and contract language conducive to providing principals and school district managers with the decision-making power and autonomy that they need.

The following policy paper attempts to fill this void in the general literature regarding the relationship between collective bargaining agreements and student and school performance. After giving a brief overview of the history of teacher unionization in the United States and its relevance to teacher unionization in Massachusetts, this brief goes on to describe recent state level reforms in education and how the realization of the goals of those reforms have, at times, been hindered by certain provisions found in collective bargaining agreements. Finally, before highlighting important content of some of the 25 Massachusetts teachers' contracts reviewed for this work, this brief explains the difference between contracts that promote a “factory model” of education and those that encourage a more “professional model,” one that allows for greater flexibility and autonomy for teachers, school managers, and school leaders.

The heart of this paper is a general review of the provisions and language found in teachers' union contracts in 25 Massachusetts school districts. The aim of the review is three-fold: 1) to describe

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some of the clauses commonly found in teachers' contracts and explain how those clauses can either encourage or prohibit the treatment of teachers as professionals and the treatment of students as the primary beneficiaries of teachers' contracts; 2) to assess the variety of language in 25 Massachusetts teachers' contracts; and 3) to identify which of those contracts, if any, contain provisions and/or language that provide school managers and leaders with the flexibility that they need to make important decisions while fairly holding teachers accountable for student learning.

Finally, this policy paper concludes with a discussion that aims to equip union and district leaders, teachers, and policy makers with some of the information necessary to create strong and innovative union contracts, or contracts which, through the language and provisions that they employ, aid in the creation of a district culture that focuses on improving students' academic results while treating teachers as the professionals that they are.

Methods for the Examination of 25 Massachusetts Collective Bargaining Contracts

In choosing the teacher collective bargaining contracts to include in this research, Pioneer focused first on including Massachusetts school districts that have been cited by state or federal authorities as in need of improving student performance. There was a strong desire to include such districts because one of the main objectives of this study is to determine whether a relationship exists between certain types of contract language and student performance, as measured by state standardized assessments (MCAS). An initial sample group largely comprised of districts included in Pioneer Institute's Middle Cities Initiative was chosen.⁵ The districts included in the Middle Cities Initiative are, in the main, post-industrial communities that confront similar financial and social challenges as they seek to rehabilitate their economies. They are

also districts that tend to have large numbers of students scoring in the "needs improvement" or "warning/failing" categories on MCAS.⁶

To round out this sample of relatively low-performing districts, the authors chose several high-performing school districts to include. These districts were chosen on MCAS scores alone, without regard to demographic make-up or other factors. They are, according to the Massachusetts Department of Elementary and Secondary Education (DESE), the top five performing school districts in the state (not including charter schools, which are considered their own districts). Because the resulting group of districts was largely urban/suburban, three additional districts were chosen for inclusion based on their status as rural districts. Of the rural districts included, one is a high-performer on MCAS, one is a low-performer on MCAS and one, like the Middle Cities, has been labeled "financially troubled," meaning that a majority of the district's funding for schools comes from Massachusetts Chapter 70 funding.

Finally, three miscellaneous districts were chosen for inclusion in the study. These districts were chosen because each is in some way unique. Boston was chosen not only because it is the state capitol, but also because it is the largest district in the state. In many ways, Boston sets a standard for the rest of the Commonwealth, thus Pioneer was interested to know what kind of standards Boston sets in terms of teachers' contracts. Chelsea was chosen because it was at one point in state receivership and was, for twenty years, managed through a unique partnership with Boston University. Lastly, Somerville was chosen because it employs performance measurement techniques and stat-based programs (Somerstat) to govern its municipality. Pioneer was interested in exploring the relationship, if any, between the City's educational contract structure and the use of this type of performance measurement management strategy.

Table I. Overview

CONTRACT MODELS: **F** Factory **P** Professional **H** Hybrid

School District	MCAS Performance*	Urban/Sub-Urban or Rural	Preamble/ Recognition Clause	Greivance Procedures	Core Teacher Requirements
Brockton	37%	Urban/Sub-Urban	F	F	F
Chicopee	44%	Urban/Sub-Urban	F	P	F
Fall River	38%	Urban/Sub-Urban	F	F	F
Fitchburg	37%	Urban/Sub-Urban	F	F	H
Holyoke	25%	Urban/Sub-Urban	H	F	H
Lawrence	31%	Urban/Sub-Urban	F	F	F
Leominster	54%	Urban/Sub-Urban	F	F	P
Lowell	40%	Urban/Sub-Urban	F	F	F
Lynn	40%	Urban/Sub-Urban	F	F	F
New Bedford	39%	Urban/Sub-Urban	F	F	F
Pittsfield	58%	Urban/Sub-Urban	F	F	F
Springfield	27%	Urban/Sub-Urban	P	H	P
Taunton	51%	Urban/Sub-Urban	P	F	F
Worcester	42%	Urban/Sub-Urban	F	F	H
Acton-Boxborough	87%	Urban/Sub-Urban	P	H	P
Weston	83%	Urban/Sub-Urban	H	F	P
Lincoln-Sudbury	95%	Urban/Sub-Urban	F	F	H
Winchester	84%	Urban/Sub-Urban	F	F	H
Lexington	86%	Urban/Sub-Urban	P	H	H
Athol-Royalston	42%	Rural	P	F	F
Harvard	82%	Rural	P	F	P
Southbridge	37%	Rural	P	F	F
Boston	40%	Urban/Sub-Urban	P	F	H
Somerville	42%	Urban/Sub-Urban	P	F	P
Chelsea	40%	Urban/Sub-Urban	F	H	H

*As percentage of scoring assessed at proficient level and above for mathematics, all grades - SY 2009-10

1) For the Preamble and recognition clauses, a contract was generally identified as factory model if it contained no or little language mentioning excellence in teaching and/or the primary importance of students and student learning. Moreover, if a contract does not contain some language aligning it with the goals of state and/or federal policy, it was generally classified as factory model. In the event (such as Weston) that a contract does one of these things very well but not the other, it was classified as hybrid.

2) For the grievance clause, a contract was classified as factory model if it allows broad discretion for what can be grieved and/or makes little effort to delineate 1) what cannot be grieved and/or 2) the extent to which grievances and the grievance process can impact teaching and learning time. A contract was classified as professional only if it makes some effort to limit the number of things that can be grieved AND limit the impact of grievances and the grievance process on classrooms and teaching/learning time. In the event that a contract does one of these things but not the other, it was classified as hybrid.

3) For the core teacher requirement/salary and benefit clause, a contract was classified as factory model if 1) it provided very prescribed core teacher requirements (the number of minutes in the work day, for example) with little to no flexibility for making reasonable exceptions in this vein and/or with little flexibility for the administration to request overrides to core teacher requirements if those overrides are in the best interest of students. Likewise, if a contract outlines a teacher evaluation process that contains little or no accountability for teacher/performance and/or a weak evaluation process (in terms of number of reviews per year and/ or an overly-teacher centered review process, it was classified as factory model. Contracts that allow for some flexibility with regard to prescribed core teacher requirements, especially flexible extensions to the work day that allow teachers to operate in the best interest of students AND if a contract outlined an evaluation process that implies some amount of accountability for teacher performance and/or a student-centered evaluation process, it was classified as professional. Contracts that have only one but not both of these elements were labeled hybrid.

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Contracts were collected over a period of several months and contract clauses were examined over a period of one year. To facilitate understanding of the major contract clauses examined (see page 4 for an explanation), interview data were solicited from all districts (only 11 districts agreed to participate in electronic mail and phone interviews). Furthermore, school superintendents and contract lawyers were consulted to assist the authors in understanding the nature, meaning, and impacts of the clauses examined.

Table I gives an overview of the 25 Massachusetts school districts that were included in the following review of teachers' contracts and designates each district, according to DESE data, as urban, suburban, or rural, and high- or low-performing. Additionally, Table I outlines three specific types of contract provisions and classifies those provisions as belonging to either the factory or professional association model of collective bargaining, in selected districts (the important differences between these two models of collective bargaining are described on pages 9-11).

Contract provisions and language included in the review and described in greater detail in the following pages are:

1. **Standard Contract Clauses**, including contract preambles and grievance procedures.
2. **Core Teacher Requirements**, including requirements for teaching hours/teaching load.
3. **Classroom Assignments and Accountability**, including requirements for seniority, promotions, transfers, "bumping" rights and reduction-in-force and **Salary and Benefits**, including requirements for teacher evaluation/improvement plans, compensation packages, and longevity and salary augmentation.

In the pages that follow, the authors explain the purported purpose of each contract provision listed above and provide examples of how these contract provisions can either enable or undermine education reforms that provide teachers and school and district managers with the autonomy necessary to produce positive student results. In addition, the authors aim to provide examples of common contract language and assess whether or not that language is weak or strong—where weak language conforms to the factory model of collective bargaining and strong language conforms to the professional association model. Finally, where applicable, the authors discuss how contract language and even contract provisions, on the whole, might be improved to produce contracts that are more student-centered and better aligned with the new goals of education reform—goals that are focused on treating teachers and school and district managers as autonomous professionals and on treating students as the most important beneficiaries of teachers' contracts and of teachers' work.

Working from the categorizations identified in Table I, the authors were able to draw *general* conclusions about the relationship between student performance and some of the language found in Massachusetts teacher collective bargaining contracts. Although this descriptive, comparative study did not attempt to control for other critical factors that affect student performance, such as factors related to students' family backgrounds, the findings detailed on the following pages suggest the existence of an important relationship between student performance and collective bargaining contracts—a relationship that the authors of this study believe warrants further investigation.

School Labor Negotiations in Historical and Contemporary Context

To fully understand the nature and content of teachers' unions contracts in 2010, it is first

necessary to understand the reasons for and trajectory of teachers' unionization, as well as some of the historical and contemporary forces that have defined how the parties involved arrive at the agreements embodied in teachers' contracts.

Prior to the 1960s, most educators belonged to the National Education Association (NEA)—one of two major teacher organizations—founded in 1857. Mid-century, the NEA could best be described as a professional organization that embraced the philosophy that unions and collective bargaining were not compatible with professional practice. This attitude shifted, however, in the 1960s, and the concepts of unionism and collective bargaining became priorities for the NEA.

Teacher collective bargaining...
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This attitudinal shift occurred in part because the majority female workforce that comprised the teaching profession came to realize that it was more powerless than powerful. Prior to the 1960s, teachers, the majority of whom were (and continue to be) female, worked under the heavy-hands of mostly male principals; although teachers did the difficult day to day work of educating students, they had little say in how schools were run, and they could be hired, fired, and promoted at the whim of the principal, superintendent, or school committee members. Unfortunately, many teachers operated in environments where they were victims of workplace abuses who received little to no professional protection. These realities, coupled with the creation of the American Federation of Teachers (AFT) and its earlier move to unionization, caused the NEA in the middle of the 20th-century to adopt new operating principles and become an advocate of organized labor.⁷

Known today as the counterpart to the NEA, the American Federation of Teachers was founded

in 1916. In the early part of the 20th-century the AFT's stance on teacher unionization was unpopular, however. As a result, the AFT enrolled few members and, especially in comparison to the NEA, held very little sway with politicians and with the general public. The AFT would increase in stature in the 1960s. Indeed, when in 1961, the AFT won a representation election in New York City, causing "AFT locals and other public sector unions to clamor for collective bargaining rights," it began a new era in teacher unionization, one that is defined by collective bargaining and the creation of state legislation to ensure collective bargaining as a right.⁸

In part because it required a model to build upon, teacher collective bargaining, or the process by which labor unions and employers agree upon pay, work conditions, work hours, and rules, quickly came to resemble that of industrial unions. The "factory model" of labor negotiations, developed through the late 19th and early 20th centuries, was structured to support factory workers, and its primary objective was to serve the personal and economic interests of employees (union members) working for private, profit-seeking companies. Many teacher collective bargaining agreements modeled industrial union contracts by borrowing language from the industry, especially those which addressed pay and working conditions.⁹

Collective bargaining agreements have
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learning in school districts.

In the 1960s, unionization, and therefore the need to develop an increasing number of contracts, was spurred by what would become an important change in the way some schools were funded. The Elementary and Secondary Education Act of 1965 (ESEA), a landmark piece of legislation, represented the first major financial commitment to K-12 education from the federal government. Designed to target federal funds to schools serving concentrations of students living in poverty, the ESEA ultimately triggered great debates about

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equality of school funding both within and across school districts and within and across states.¹⁰ Teachers and teachers' unions took an active role in those debates; within them they saw opportunity to lobby for increased funding for education in general and to shape federal and state education policies. Seizing such opportunities, in the 1970s an increasing number of males, some of whom were seeking to avoid the draft, became teachers. A larger number of these male teachers also ran for and were elected to local school boards and even state legislatures. As state contributions to education funding increased, these legislators used their power and influence to lay a new foundation for the collective bargaining structure in public education. In large part, that is the foundation on which many teachers' unions operate today.¹¹

Collective Bargaining in Massachusetts Today

In 2010, collective bargaining in public education is a school district-level activity that occurs within the scope of state collective bargaining laws and regulations. Each school district teacher contract is based on provisions that are collectively bargained for at the local district level. The provisions within each collective bargaining agreement can shape many aspects of the education policy in a school district; contracts address everything from how teachers are assigned to schools and classrooms, to the content of professional development and the frequency and nature of teacher evaluations. Because they address so many aspects of the provision and delivery of education, collective bargaining agreements have significant influence on the culture of learning in school districts across the country, and Massachusetts is no exception.

Teachers in Massachusetts school districts are represented by a local (state) affiliate of one of the two national unions. The Massachusetts Teachers Association (MTA), which has approximately 107,000 members and is the largest teachers' union in the Commonwealth, is an affiliate of the National Education Association.¹² The

Massachusetts Federation of Teachers (MFT), an affiliate of the American Federation of Teachers, has “thousands of members” in places such as “Boston, Lawrence, Lynn, Lowell, Salem, Billerica, Amesbury, Medway, Holliston, North Attleboro, and elsewhere.”¹³ Although teachers in Massachusetts may choose whether they would like to be formal members of their local union, all teachers are required to pay “representation fees,” or fees that cover the cost of collective bargaining. Those fees are usually less than, but sometimes equal to the formal dues stipulated in union contracts.

In student-centered contracts, teachers are given more flexibility and autonomy to make decisions.

While the contracts negotiated by each local union in Massachusetts are different, the provisions of one district contract may have an impact on the regulations and contract rules adopted in another district. Moreover, state collective bargaining laws and education laws and regulations may mandate or encourage local districts and unions to adopt a bargaining outcome that the state desires. On the other hand, the absence of effective state laws and regulations may encourage the development of contract provisions that are not aligned with state objectives for education policy.

Also important to note is that teacher collective bargaining agreements within states are similar to one another because local unions are usually affiliated with one of only two state unions. In many cases, the same union negotiator may assist more than one local union in creating bargaining agreements. Moreover, local unions are often supplied with contract bargaining handbooks that contain boilerplate language for various issues. This boilerplate language is often reflective of the affiliated state union's agenda.¹⁴

Since 1993, for example, state policy has increasingly focused on initiatives thought to raise student achievement, such as the development

of curriculum standards and a comprehensive state-level assessment (MCAS). In the absence of state collective bargaining laws that encourage unions to develop local agreements aligned with state priorities, unions and school districts can create agreements that do not conform to state education law. The relationship between the 1993 Massachusetts Education Reform Act (MERA) and some local union contract provisions provides an example of this potential for conflict.

Signed into law in June, 1993, the landmark MERA changed the state's role in public education by increasing oversight, guidance, and accountability of the local educational process. In part, MERA required the state board of education to develop curriculum frameworks—or learning standards in core academic (and vocational) areas—and to support local school districts in the required implementation of those standards through the alignment of curriculum and instruction.¹⁵

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Moreover, MERA mandated that all students in Massachusetts at certain grades be assessed on their knowledge of the curriculum frameworks through MCAS, which was administered state-wide to gauge student progress. The law also required that tenth grade students achieve a pre-determined score on MCAS tests to be able to graduate from high school. MERA and its components eventually became one model for the federal education reform known as *No Child Left Behind*. As of 2002, the latter law requires that all students in grades 3-8 be assessed on their knowledge of state-created curriculum standards.

But schools and districts have not successfully incorporated all components of MERA. The law also removed school principals from collective bargaining agreements, a move that

lawmakers intended would advance school-based management practices, or practices that gave principals greater authority over the day to day management of schools and hiring and firing practices. Institutional players at all levels, including superintendents, school committees, and unions have resisted the school-based management provision of MERA, however. In doing so, they have also resisted the additional layer of accountability that arguably would have followed.¹⁶

In addition to this institutional resistance to practices such as school-based management, the ability of MERA to impact teaching and learning within individual classrooms has been influenced by the language and provisions included in some collective bargaining contracts in Massachusetts and, perhaps more importantly, by the way those provisions and that language is implemented. Provisions that can prevent successful implementation are, for example, seniority and tenure rules that make hiring and firing the most and least qualified teachers difficult. Related contract components, such as salary schedules, can also serve as roadblocks that prevent localities from implementing innovative new programs that could not only hold teachers accountable for student learning but also reward teachers who help students to produce the greatest academic gains.¹⁷ These barriers sometimes arise despite the stated objectives of most teacher contracts to comply with the spirit and letter of MERA.

It is important to note that even institutional players, such as teachers, principals, and superintendents sometimes express frustration at the disconnection that can exist between contract provisions and wider education reforms. For example, in March 2008, over 40,000 Massachusetts teachers and administrators took part in the Teacher, Learning, and Leading Survey (TeLLS), which “assessed whether positive teaching and learning conditions are present in schools across the Commonwealth.” The survey had a high response rate, with an estimated 51 percent of public school educators participating.

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Findings from the survey suggest that educators desire the autonomy to make important decisions about students and instruction. They also suggest that teachers do not always feel that they are treated as the professionals that they are. Of the educators who participated in the survey, “less than half... (46 percent) believe that they are engaged in decision making in a meaningful way, ... just over half (55 percent) feel that they are recognized as educational experts, and slightly less than two thirds (63 percent) think that they are trusted to make decisions about instructional issues.” These findings support the assertion that even teachers do not always think that the contracts that bind them represent their best interests or the best interests of students.¹⁸

Of course, the failure of local collective bargaining agreements to support or even complement wider state and federal reforms is not unique to Massachusetts—it is an issue that has been identified in many states and by state and federal education authorities. Indeed, in the summer of 2009, U.S. Secretary of Education Arne Duncan challenged both the NEA and the AFT to become more open to school innovations that are thought to attract high quality candidates to the profession of teaching and encourage better teacher performance and greater teacher accountability for student learning overall.¹⁹

Among the innovations he proposed were the linking of a certain amount of teacher pay to performance and the reduction of job protections for tenured teachers that can prevent local districts from dismissing those teachers when they do not perform to a pre-determined set of expectations. Noting the perceived link between restrictive union contracts and weak student and school performance, Duncan told the two leading teacher organizations:

“I believe that teachers’ unions are at a crossroads...policies were created over the past century to protect the rights of teachers, but they have produced an industrial, factory model of education that treats all teachers like

interchangeable widgets...When inflexible seniority and rigid tenure rules that we designed put adults ahead of children, then we are not only putting kids at risk, we’re putting the entire education system at risk. We’re inviting the attack of parents and the public, and that is not good for any of us.”²⁰

The factory model of education that Secretary Duncan cited in 2009 is indeed embodied and encouraged within many collective bargaining agreements throughout the nation and throughout the state of Massachusetts. Increasingly, policy makers such as Duncan have come to view a reliance on the factory model as a barrier to the next wave of needed education reform and as part of an overwhelming effort on the part of teachers’ unions to maintain a status quo that is more focused on the needs of adults than on the needs of students, who are meant to be the beneficiaries of public education. To understand how teachers’ collective bargaining contracts can promote one brand of education versus another, it is first necessary to understand the different possibilities that exist when it comes to the creation of contract provisions and language. With such an understanding, it may be possible to ascertain the extent to which given contract models promote meaningful education reform while others impede such reform.

Factory Model and Professional Association Model Contracts

Recent studies of highly successful schools cite the relationship between student success and collective bargaining documents that can be characterized as student-as opposed to teacher-centered.²¹ Although it may seem counter-intuitive, studies of highly successful schools often find that contracts that can be characterized as student-centered are also more likely to treat teachers as the professionals that they are. In student-centered contracts, teachers are given more flexibility and autonomy to make decisions that are aligned with their educational experience and professional instincts.

Table II. Illustration

DIMENSION	Industrial Labor Union (Factory Model)	Professional Association Model
Primary Beneficiary	Teacher Membership	Individual Students
Union/Management Bargaining Style	Adversarial	Collaborative
Contract Monitoring	Compliance with Contract Provisions	Student Achievement Driven/Outcome Oriented
Basis for Financial Incentives	Educational Degrees and Seniority	Level of Demonstrated Expertise
Communication	Exclusionary/Closed to Public	Open/Carried Out More Publicly
Decision Making	Explicit/Contract Driven Authority of Position	Adaptable, Flexible Authority of Expertise
Management Treatment of Teachers	Rule-Driven/Highly Prescribed Uniform Treatment of All	High Individual Autonomy

A teacher-centered contract, on the other hand, is one that treats all teachers as part of a uniform whole and in which teacher authority and decision making is informed more by contract rules and provisions than by individual expertise. Table II outlines the difference between teacher contracts that are teacher-centered, or based on the “factory model,” and those that are student-centered, or based on the “professional association” model.

As Table II makes clear, teachers’ contracts that adhere to the factory model primarily focus on the uniform treatment of adults, adult economic advancement, procedural protections, and safeguards for teachers. In contrast, the professional association model is more concerned with the efficacy of teaching and improved student achievement. Contracts that can be classified under the professional association model treat teachers as skilled professionals accountable for their pedagogy and for student achievement. Within the education establishment, there is a long-standing discussion about the necessity of discarding a factory model approach. However, despite the rhetoric in which they often engage, institutional entities such as superintendents, school committees, and teachers’ unions continue to perpetuate this outdated structure.

The following review of 25 Massachusetts districts reveals that many low-performing (as defined by performance on the Massachusetts Comprehensive Assessment System examinations for the year 2009 and over time²²) school districts contracts mirror the factory model, specifically because they:

- Emphasize the role of union by-laws;
- Reward behavior that is rule-oriented and concerned with compliance with the collective bargaining agreement;
- Make it difficult to distinguish effective teachers from those who are mediocre;
- Fail to provide performance-based financial incentives; and
- Make teacher assignments on the basis of seniority and educational credits and fail to consider other important qualities—such as the ability to “add value” to the education of a student—that characterize a great teacher.

Given that Massachusetts’ low performing districts, many of which are also the state’s urban centers, disproportionately serve minority and low-income students who can be characterized as victims of the achievement gap, it stands to

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reason that union contracts that follow the factory model are, as detractors claim, doing little to help teachers to improve student achievement in schools. Although it would be impossible to claim that such contracts are the cause of student underachievement, it is in many cases clear that there is an important relationship between collective bargaining agreements and education reform. While a factory model contract places rigid limits on the ability of school leaders and teachers to change the status quo in their schools, professional association contracts can help to create environments that empower professional educators to use their training and skills to make improvements.

Perhaps, most importantly, it is increasingly clear that in the new era of education reform teacher contracts that adhere to a factory model, which the U.S. Department of Education openly criticizes, have no place. Indeed, if Massachusetts school districts are to be the beneficiaries of increasingly large amounts of federal education funding, it is time to consider how collective bargaining can become better aligned with the professional association model.

Examining Teachers' Contracts in Massachusetts

Standard Contract Clauses

Most teacher contracts begin with a preamble clause or a recognition clause, and some contracts include both. These two clauses, used singularly or together, affirm that the local union affiliate is the exclusive representative of teachers and other personnel, as stipulated in the local district contract. These clauses sometimes refer to a specific education or collective bargaining law and may incorporate, or outline, specific management rights of the school committee.

In some contracts, management uses these two clauses to set a positive or constructive tone or identify the primary beneficiary of the contract. Indeed, in some cases, preamble and/or recognition clauses can identify students as

the primary beneficiaries of teachers' contracts. Through both the tone that they set and the beneficiaries that they identify, these clauses in union contracts can provide interesting glimpses into different school district cultures, whether or not they serve a legal or enforceable purpose.

It is important to note, however, that in some contracts, preamble clauses are little more than "window dressing". That is, a district can insert boilerplate language into a preamble clause that is well aligned with the goals of specific education reforms and/or leads the reader to believe that the remainder of the contract will adhere to a professional association model style; however, other clauses within the contract may directly contradict the stated goals of the preamble clause in a manner that renders it meaningless.

Thus, strong preamble and recognition clauses are not only those that emphasize students as the primary beneficiaries of contracts and set a tone for the contract that suggests adherence to a professional association model. They are also clauses that are well aligned with other, more enforceable, clauses that appear later in the contract.

The Somerville Public Schools' contract contains both a preamble and recognition clause. These provisions are similar and, in many ways, comparable to provisions found in contracts in other districts. Somerville's contract uses language that is especially clear and concise, however. For example, Somerville's preamble clause states, in part:

Under the Education Reform Act of 1993, the superintendent of schools has responsibility for managing the system and for carrying out the policies so established...Under the Education Reform Act of 1993, the principals are the educational administrators and managers of their schools, and are responsible for supervising the operation and management of their schools and school property, subject to the supervision and direction of the superintendent and consistent

with the policies of the School Committee...
The teaching staff of the public schools of Somerville has responsibility for providing in the classrooms of the schools education of the highest quality...²³

The precise language used in Somerville's preamble clause is notable for a couple of reasons. First, reference to the Education Reform Act of 1993 ties Somerville and its administrators and teachers to the goals of that legislation. One of those goals, as mentioned in the clause, is to give principals greater authority to manage certain aspects of schools and schooling. Second, by referring to the responsibility of teachers to provide an education of "the highest quality," this preamble implies that teachers are accountable (though there is no mention of how or whether they will be held accountable) for what students learn.

The preamble and recognition clause components of the Somerville contract are important in that they set a tone for the contract as a whole that aligns the district, at least to some degree, with the goals of the state. Some preamble and recognition clauses not only seek to align the goals of teacher contracts with the larger education reform goals of the state but also recognize the important relationship between high quality teaching and learning. The Acton-Boxborough Regional School District (ABRSD) contract is an example of a "strong" contract in this regard. That contract states, in pertinent part:

In consummating this agreement, it has been the purpose of the parties to continue their harmonious relations, to promote mutual cooperation and understanding, to formulate rules, to define and resolve the proper interest of the teachers in their rights of compensation, hours and conditions under which they perform their duties, all with the goal of providing education of the highest possible quality for the children attending ABRSC and the APS (Acton Public Schools).²⁴

Of the contracts examined for this study, those of Somerville and Acton-Boxborough provide the best examples of preambles and recognition clauses that should be considered models for municipalities that seek to create contracts aligned with the professional association model. Both contracts emphasize the goals of the state, and seek to serve students through teacher accountability.

On the other end of the spectrum, some districts, such as Fall River and New Bedford, do not employ student-centered language in these areas. Neither the Fall River nor the New Bedford contract contains a preamble clause, which might be used to set a collegial and productive tone. Moreover, neither contract suggests a focus on students. Indeed, in the Fall River contract, the recognition clause simply identifies the Association (union) as the exclusive representative of the bargaining unit members; immediately following are stipulations regarding authorized payroll deductions.²⁵ This discussion is very helpful and insightful.

Although districts such as Somerville and Acton-Boxborough should be commended for preamble and recognition clause language that approximate the goals of MERA, including student achievement and teacher accountability, there are some ways in which the language employed in these contracts could be improved. In brief, model language for preamble and recognition clauses should achieve five goals:

1. The preamble, especially, helps to focus the rest of the contract upon providing the highest level of educational opportunities for students and sets a high level of expectation for students.
2. The language employed in both clauses recognizes students as the primary beneficiaries of the contract.
3. The language in one or both clauses clarifies that "effective" teachers will be employed by the district, suggesting that ineffective teachers will not.

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Table III. Cost of Arbitration

		Per Day & Year Cost
Average Teacher Salary	\$64,000 ²⁶ /185	\$346/day
Union President	\$70,000/185	\$377/day
Union Representative	\$64,000/185	\$346/day
Cost of Substitutes: 3 at \$100/day ²⁷		\$300/day
Legal Costs-Preparation and Attendance	16 hours @ \$175/day	\$2,800/day
Arbitrator, split evenly between union and management	\$400/day divided by 2	\$200/day
One Day Cost		\$4,370/day
Assume 100 complaints to arbitration*		\$437,000/year

*Reflects less than one out of five teachers filing one complaint.

4. All language employed in both clauses should suggest that the contract will adhere to the professional model, as opposed to the factory model.
5. Finally, the language of these clauses should not be undermined by provisions or language found elsewhere in the contract.

Of course, these goals are suggested as a starting point for improving collective bargaining contracts; they should not be interpreted as a single or an easy solution to the problems that currently exist with many contracts—some of which have been outlined above. Moreover, it is important to note that improving preamble and recognition clauses are only one small step in improving the quality of teachers’ contracts as a whole. Indeed, preamble and recognition clauses usually occur at the beginning of contracts, and they often signal only the beginning of a larger problem with contract language in general.

Grievance Procedures

Clauses that outline grievance procedures, like preamble or recognition clauses, are standard collective bargaining contract fare. The purpose of these clauses is to describe the process to be followed when a dispute arises with regard to the rights of employees covered in the

contract. Complaints, commonly referred to as “grievances”, often arise because of unclear contract language, which can lead to disputes concerning the contract intent and result in challenges from individual employees or the union as a whole.

Grievances can arise frequently in school districts, which is why every district contract contains very specific processes for addressing and resolving them. Indeed, the goal of most processes outlined in teachers’ contracts is to resolve any and all grievances at the school level, thus avoiding the involvement of district officials and other personnel and, to the extent feasible, limiting the impact of a grievance on students in the form of instructional time lost. Not all grievances are easily resolved at the school level, however, making it important to understand how contract language does or does not facilitate grievance processes that adhere to a professional model of collective bargaining.

It is not unusual, for example, for imprecise language or language that is contradictory from one section of a contract to another to result in a number of difficult to resolve and costly grievances lodged against a school committee. One of the most common causes of imprecise or contradictory language in teacher contracts is the practice of dealing with only certain

contract components from one contract cycle to the next. When certain sections of a contract are amended in one year without attention to unrevised sections of a contract that may contain language contradictory to new provisions, misunderstandings and grievances arise.

The ability of an employee (teacher) to challenge a school committee decision is a creature of contract. In other words, a union member or union can only grieve what a contract says it can. For this reason, it is in the interest of the school committee to define a narrow range for grievances and in the interest of the union to keep the range for possible grievance claims rather wide. Having a wide range for possible grievance claims, which can become costly and time consuming when grievances must be arbitrated, ensures that a contract is better aligned with the factory as opposed to professional association model of collective bargaining. This is in large part because arbitration is ultimately a costly endeavor, which keeps the focus of union and school processes on teachers instead of students. Table III shows some of the major costs associated with grievances that go to arbitration.

Clearly, the process of arbitration arising from grievances can be a costly one, both in terms of the resources needed to engage in arbitration and in terms of the instructional time that students lose when teachers and other personnel are away from the classroom and/or school. But just how often are grievances filed in Massachusetts school districts? Furthermore, once filed, how many grievances actually go through the lengthy process outlined in most teacher contracts to result in arbitration?

The answers to these questions are both complicated and revealing. Of the districts included in this study, many were unwilling to share the exact number of grievances filed in the previous school year and some indicated that they did not keep data on the number of grievances filed. On a more positive note, the districts that do keep data on grievance filings and were willing

to share such data reported very low numbers of grievances. During the 2009-10 school year, the Weston Public Schools reported that one grievance was filed.²⁸ Brockton reported three grievances for the same year.²⁹ On the one hand, such a low number of reported grievances in these two districts is good; the districts of Weston and Brockton are working to ensure not only that employee needs are met and that grievances, should they arise, are resolved quickly and at school levels but also that the grievance process and its impact on schools and students is comparatively transparent. On the other hand, the failure on the part of a majority of districts contacted for this study to collect and/or share data on the number of grievances filed raises questions about a) why districts would choose not to make such data available and b) why districts would choose not to collect data about processes that can have very real consequences for students and student learning. It stands to reason that, in the interest of good management and governance practices, such statistics should be collected and made available both to school committees and to the districts' constituents.

The process of arbitration arising from grievances can be a costly one, both in terms of the resources needed to engage in arbitration and of instructional time lost.

In addition to revealing a general lack of transparency with regard to the nature and frequency of grievances in school districts, this study of teachers' contracts further suggests that of all of three different clauses examined for this work there is the least variation among grievance clauses in teacher contracts. Most of the contracts examined use boilerplate language that clearly outlines the steps that a teacher should take if he or she feels his or her contract rights have been violated. In a majority of cases, teachers are required to follow a procedure that attempts to "secure, at the lowest appropriate administrative level, equitable solutions to the problems which

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may from time to time arise affecting the welfare or working conditions of teachers.”³⁰ In most instances, that involves first seeking resolution from the school principal, then the superintendent of schools, then a committee composed to address employee relations—all before the complaint goes to the school committee. Only when a complaint has not been resolved by any of these parties (including the school committee), does a grievance usually go to arbitration. Of course, even before arriving at arbitration, which is undoubtedly the most costly way to resolve a grievance, students may have already suffered some loss of instructional time from teachers and districts may have already incurred fees related to the payment of substitute teachers, etc. Although grievance procedures in most district contracts place strict constraints on the amount of time a grievance should be addressed at each level, it is clear that these constraints are meant to work in favor of the “aggrieved” teacher—that is, they ensure that a grievance is quickly pushed up the “chain of command” if the appropriate parties at each level do not respond in a timely fashion.

Districts that were successful in terms of student achievement tended to employ contract language regarding teacher workload and time in a more professional way.

To ensure that grievance processes are not only fair to all parties involved but also aligned with the professional model of collective bargaining, teachers’ contracts should move away from the boilerplate language currently in use and instead tailor language to more clearly outline what can and cannot be grieved. Furthermore, districts should make a much greater effort to understand the most common existing grievances and then work to resolve those grievances before more complaints of a similar nature are filed. The latter is difficult to do, however, without effective data collection and record keeping.

Of the teachers’ contracts examined for this study, most fall under the factory model of collective bargaining because they 1) make no effort to clearly outline what can and cannot be grieved (thus leaving almost anything open to complaint and arbitration); 2) do little to limit the negative effects of grievance processes and arbitration on instructional time and on students; and 3) contain no requirements for data collection and record keeping with regard to grievances. The Lynn Public Schools’ contract is a good example of factory model grievance procedures in that it does very little to limit what teachers can grieve. The school districts of Chicopee and Acton-Boxborough, on the other hand, stand out as districts that are taking some action to create grievance procedures that are better aligned with a professional model of collective bargaining.

The Chicopee Public Schools limits the number of personnel that can be released during the school day without loss of pay to participate in a grievance proceeding. This effectively gives the superintendent the ability to limit the impact of grievance proceedings on instructional time and on students, although it could be argued that Chicopee’s limit, which states that “not more than five (5) teacher representatives will be released without loss of pay for the time necessary to conduct the grievance hearing” is quite generous.³¹ Acton-Boxborough, like some of the other districts in this study (Chicopee included) makes some effort to outline complaints that will not be subject to grievance procedures and/or arbitration. The complaints outlined generally pertain to procedures for sick and vacation leave and/or retirement. While such specificity is a move in the right direction and better aligns Acton and districts like it with the professional model of collective bargaining, it stands to reason that there are other frequent grievances within districts that could be better solved with the help of clear and mutually agreed-upon contract language, as opposed to through the grievance process.

Core Teacher Requirements

Core teacher requirements are found in every teacher contract. They include, for example, provisions for the amount of time teachers will work in a day, week, or year and descriptions of the conditions under which teachers will work. These provisions are important not only because they can have a great impact on the daily operations of school systems, but also because they determine whether teachers are treated as professionals.

The core teacher requirements outlined in many district agreements are often criticized for adhering to the factory model style of collective bargaining. This is in part because contracts consider the minimum school day and school year requirements set by the state to be a ceiling rather than a floor; that is, although the Department of Elementary and Secondary Education encourages school committees to offer extended day and extended year programs that expand student learning opportunities, contracts tend to begin with the end in mind and rarely allow for teacher workloads to exceed minimums set by the state.³²

In part because of this outdated approach to bargaining, contract language often results in rigid limitations on teacher work time. Many Massachusetts contracts specify, for example, the number of hours teachers will and will not a) be on school premises before and after school, b) attend parent meetings and faculty conferences, c) participate in common planning time, d) spend time on review of student progress with colleagues, and e) participate in their own professional development. By contrast, individuals who are or who consider themselves to be professionals generally have flexibility in the workdays.

All of the activities mentioned above are part of a normal school day, and most teachers would likely consider these activities to be important to high quality teaching and learning. Of the 25 school district contracts examined for this study,

districts that were successful in terms of student achievement tended to employ contract language regarding teacher workload and time in a more professional way—with fewer absolute constraints on activities and time and more flexibility for both teachers and administrators with regard to the tasks outlined above. On the other hand, districts included in the examination that strictly adhere to the factory model style of collective bargaining—placing great emphasis on specific time frames and workload quantities that allow for little flexibility in teachers' schedules—tended to be lower performing.

Considering other structural innovations in education, this relationship is not necessarily surprising. Many of Boston's highest-performing charter schools attribute some of their success in producing student achievement outcomes that are better than their traditional public school peers to the autonomy and flexibility that they have to structure and expand the school day and year as they see fit. Likewise, many familiar with the effect of collective bargaining contracts on traditional public school systems cite a correlation between language that allows for a reasonable amount of flexibility when it comes to teacher time and workloads and improved student outcomes.³³

Examples of restrictive contract language abound, but the New Bedford Public Schools, a district that has struggled to produce even satisfactory student outcomes in recent years, provides one very clear example of factory model language with regard to teacher time and workload.³⁴ The New Bedford contract is highly specific about everything from the time at which teachers will report to the school building (five minutes prior to the start of the instructional day) to the dates and amount of time that teachers will devote to common planning (at the elementary level teachers meet on the first and third Wednesday of every month for 30 minutes). Additionally, the New Bedford contract places several restrictions on what school principals and the superintendent can expect of teachers. The contract reads, in part:

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...Professional employees shall not be required to attend general staff meetings or other after-school meetings called by the Superintendent of Schools more than once a year...Professional employees shall not be required to attend building meetings or other after-school meetings called by the principal of a school more than once a month, and such meetings shall not ordinarily last more than (1) one hour, but in no case shall meetings last more than (1) hour and fifteen (15) minutes.³⁵

When this language is compared to that of the Weston Public Schools contract, for example, the lack of flexibility enjoyed by teachers, principals, and the superintendent in New Bedford becomes clear. Section 4 of the Weston Public Schools teacher contract states, in part:

A teacher's work day on school premises will generally consist of eight continuous hours including lunch periods, as well as such reasonable and additional time may be required for activity supervision for which differentials are paid. Additional time required for activities such as conference with parents or back-to-school nights will be reasonable in light of past practices in Weston and the particular circumstances. Activities such as teacher meetings and workshops should generally be scheduled so that they are consistent with a day of eight continuous hours. When a teacher's presence is not required by a specific obligation, the teacher has freedom as to the use of his time.³⁶

The more flexible language employed in the Weston contract serves two ends: not only does it prevent principals and superintendents from abusing teachers, teachers are not, for example, required or expected to do anything beyond the scope of teaching and communicating with parents and school and district managers without receiving additional pay. They are also treated as and expected to behave as the professionals that they are; professionals who have the flexibility to deal with unforeseen situations as they arise

and who are not prohibited by contract from determining the best use of their own time, within reason.

Arguably, the more flexible contract language found in Weston with regard to teacher workload and time better serves the needs of both parties, employer and employee. Clearly, it better serves the needs of students. While it would be difficult to argue that the collective bargaining agreement currently in place in Weston is the sole or even a main factor for such achievement or for any reported job satisfaction, it stands to reason that the professional way in which Weston treats its employees is a factor that contributes to the district's success, and one that should not necessarily be overlooked in favor of concentrating solely on the affluent student population in Weston or the financial benefits that teachers can enjoy when they work in an affluent district. In brief, Weston's excellent schools help to make the district an attractive place to live, and it is clear that the type of teacher that Weston attracts, one who likely values his or her professionalism and relative independence, goes a very long way in making Weston's schools excellent. Moreover, teachers in Weston Public Schools make less, on average, than teachers in some of the state's large urban centers, such as Boston, where teachers' contracts do not adhere to the professional model. For FY2009, the average teacher salary in Weston was \$76,780. The average teacher salary in Boston during FY2009 was \$79,415.³⁷

The more flexible contract language found in Weston with regard to teacher workload and time better serves the needs of both parties.

While New Bedford and Weston provide two extreme examples of inflexible and flexible contract language, most of the teacher contracts examined for this work were not so easily placed into either the factory or professional model category. The Worcester Public Schools' contract,

for example, employs some industrial style limitations while at the same time allowing for certain flexibilities.

The Worcester contract prevents the Worcester School Committee from increasing the length of the school day from a state defined minimum unless the state defined minimum is raised by law. Furthermore, the contract is very specific about the times at which teachers are expected to arrive at work (10 minutes before the starting times for students) and that the length of a teacher’s work day should not be increased for any reason. On the other hand, and in somewhat contradictory fashion, the contract is relatively flexible in allowing teachers and principals to determine how much time a teacher may remain on site after the close of the school day. The contract states that “each teacher shall remain on duty after the close of school for a period of time, which he/she finds, or the principal instructs him/her, is necessary to take care of details usually connected with the closing of the daily session...”³⁸

Most of the contracts examined in this work contain some components that adhere closely to the factory style model of collective bargaining but others are more professional in their approach. This hybrid approach is likely the result of incremental contract negotiations resulting in small changes to teacher contracts over time but no large overhaul of the collective bargaining agreement on the whole. In other words, it became evident in the course of this research that many “new” contracts are negotiated by incorporating changes only as necessary or required by law. In this vein, many contracts now contain language that is the clear result of the MERA and/or of the ongoing oversight that the state requires of districts that are deemed low-performing. Problematically however, the addition of this “new” language to an otherwise outdated contract often results in the maintenance of the status quo when it comes to most aspects of schooling and somewhat meaningless changes that invoke the letter but not the spirit of state education law.

It is clear that desirable contract language—that which benefits all parties involved in the educational process, including students—takes an approach that adequately addresses the goals of state and even federal policies in a manner that is holistic, consistent, and conducive to the professional treatment of teachers. In this vein, the following language, suggested by the authors of this work, may serve as a model for districts seeking to change their contractual approach to teacher workload and time:

- The full time teachers’ workday shall be eight hours. A teacher’s workday will begin at least 15 minutes before the start of the students’ day. Teachers shall be required to remain after the close of their workday as long as is reasonably necessary to fulfill their obligations relating to special help for students, parent conferences, faculty meetings, and any other professional activities as may be assigned by the principals or superintendent. The eight-hour day is covered through the regular salary schedule.
- The full-time teacher’s work year shall be no more than 190 days including the day before school opens which shall be used for the purpose of attending faculty and departmental meetings and for general preparation. The 190 days are covered through the regular salary schedule.
- The school committee and union agree that the professional staff is, and should be, a major source of development and innovation in improving the educational programs that take place in the schools. Where activities of the foregoing nature are at variance with the terms of the Agreement, union consent will be sought and obtained.
- The superintendent shall have the discretion to schedule professional development and/or curricula development during the teachers’ work year, and/or to schedule and designate professional development topics

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in conjunction with principals in each school or department head with approval of the principal.

- Professional development shall be without additional compensation for teachers during the teachers' work year. Additional professional development beyond the one hundred and ninety day work year may be compensated if approved in advance for relevant content and payment, by the principal and superintendent.

Classroom Assignments and Accountability

In addition to some of the core teacher requirements outlined above, contract clauses that address how teachers are assigned to schools and classrooms and whether and how teachers will be held accountable for student performance are contentious components of collective bargaining contracts. Critics of unions and the constraints that collective bargaining agreements can impose on schools charge that classroom assignment and teacher accountability provisions in contracts too often adhere to a factory model of collective bargaining. With regard to teacher assignments, they point to the issue of seniority, especially.

In brief, contracts that reward teachers based on seniority (and most in Massachusetts do), allow for teachers who have accumulated time in the district not only to be compensated accordingly but also to have greater leeway to choose the classrooms and schools in which they will work. Giving senior teachers such preference can prevent superintendents and principals from hiring and placing the teachers whom they believe to be best qualified for a given position.³⁹ It can also prevent these school and district managers from rewarding talented young teachers in a manner that encourages them to stay and grow within the district and even within the profession.

More than most clauses found in collective bargaining contracts, seniority provisions and provisions that aim to hold teachers accountable for student outcomes seem to be the result of

private sector industrial bargaining practices being imposed upon the school collective bargaining context. Indeed, in this review of 25 teachers' contracts in Massachusetts, the vast majority of management and union representatives—even in the otherwise most “professional” contracts—have agreed upon seniority provisions that seem anything but focused on the needs of schools and students. In these contracts, years of service factor heavily into how teacher vacancies can be filled, regardless of the professional evaluations that senior teachers have received. Moreover, seniority also factors heavily into the order in which staff reductions will take place, and how school transfers are made and classroom assignments are determined.

If districts are prevented from having absolute control over which teacher is placed in which classroom, the state at least wants to ensure that every teacher is able to perform to the best of his or her ability.

State regulation provides that after three years of service a teacher has “professional status,” or tenure. Once a teacher has achieved tenure, he or she is well protected by union regulations, and it can become difficult and often very expensive to fire him or her, even if his or her evaluations are not considered satisfactory. Moreover, once a teacher has achieved tenure, he or she also has “bumping rights,” which means that in the event of a reduction in force at the school, the most senior teachers will be protected from job loss while those without tenure, regardless of their qualifications, are the most vulnerable.

As part of an effort to address the problems that an emphasis on seniority creates, federal and state legislators have begun to call for an educational model that requires school districts to, at the very least, evaluate teacher performance. In Massachusetts, for example, teacher evaluations are supposed to be performed in every district in

an effort to further the professional development of all teachers, improve pedagogy more generally, and better align state curricula with classroom instruction.⁴⁰ In brief, if districts are prevented from having absolute control over which teacher is placed in which classroom, the state at least wants to ensure that every teacher is assessed and given the tools to perform his or her job to the best of his or her ability.

Unfortunately, however, there is, at present, little understanding on either the state or federal level of what a strong teacher evaluation process looks like and so few Massachusetts districts consistently conduct teacher evaluations. Many contract provisions that address teacher evaluations are so vague as to be ultimately meaningless. This is in part because it can be difficult to assess what an “effective” teacher looks like or does, especially when effectiveness is not measured on the basis of student outcomes. Moreover, even if a contract grants a supervisor great flexibilities in carrying out teacher evaluations, there is always the possibility that the supervisor—who might be responsible for conducting hundreds of evaluations within a year—will do a poor job. Recognizing this, both unions and management have been slow to insert teacher evaluation provisions that are strong enough to truly hold teachers accountable for what students learn. One solution to this issue, currently being examined in some states and at the federal level, is the use of growth models to measure teacher effectiveness in producing improvements in student achievement. At present, however, these models remain controversial, as it is difficult to prove that they are accurate measures of what a single teacher has or has not contributed to the education of an individual student.⁴¹

Despite these noted problems with teacher evaluations, the fact remains that, when a teacher is clearly ineffective, most school supervisors and even other teachers are aware of the problem. Nonetheless, in many of the districts reviewed for this work, when a teacher is fairly evaluated and deemed to be ineffective, the evaluation process

has little effect on seniority provisions. In the Chelsea Public Schools, for example, during the 2008-2009 school year 10 teachers were rated “ineffective.” While Chelsea’s evaluation form does warn teachers that termination of employment can result following three years of “ineffective” ratings, there is no indication that these teachers are otherwise held accountable or, in the case of a reduction in force, prevented from “bumping” a less senior colleague.⁴²

Thus, as in most school districts in which teachers are protected by seniority clauses, in Chelsea there seems to be little incentive for teachers to maintain a high quality of teaching performance. According to Deputy Superintendent Mary Bourque, the system provides “no [performance] incentive [to teachers] other than to maintain one’s job.” Bourque imagines that maintaining a high level of performance is the “decision of the teacher” and asks: “is it not the moral and ethical responsibility and obligation of a teacher to maintain a high level of performance on behalf of students—isn’t that part of what we have to determine in the first three years of their employment with us—do they have the passion and the dedication—the calling? Does everything have to be an outside incentive in life to do what is right?”

In the context of restrictive collective bargaining agreements, the answer to this question might be “yes”. The details of collective bargaining agreements hold sway in the operations and management of school districts. This is a primary reason why unions have advocated for seniority clauses that provide protections for all teachers regardless of efficacy. According to some, tenure protection following three years of employment and the privilege of seniority cannot be the sole basis for building a team of dedicated, long-term staff.⁴³

Actual contract language regarding seniority and teacher evaluations in most of the 25 districts examined for this work is, in general, written loosely enough that in the event of a grievance

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an arbitrator is free to determine that seniority prevails. Additionally, most contract language does not reference professional status with regard to a particular teaching discipline, which implies that teachers of professional status may be utilized in classrooms where they might not be a good fit.⁴⁴ Typical contract language outlines, for example, when seniority status occurs and procedures for promotions and transfers (which include priority being given to senior teachers). It is not unusual for a district to adopt language such as that found in Chicopee, which states that “In filling...vacancies or new positions, first consideration will be given to qualified teachers already employed by the Committee...”⁴⁵

Also common is language such as that found in the Taunton Public Schools, which states in part, that “no teachers with professional status shall be laid off...if there is a teacher without professional status for whose position the covered employee is currently certified.” With regard to reduction in force and subsequent bumping procedures, the Taunton contract states that “...Teachers will be allowed to bump teachers with less seniority in other disciplines in which they are certified and have taught in the Taunton Public Schools within the last ten (10) years.” Moreover, in Taunton, “if the RIF’d [fired or terminated] teacher has taught in other disciplines in Taunton, but not within the last ten (10) years, the teacher may still be allowed to bump, if qualified. The Superintendent will determine qualifications based on actual evaluations.”⁴⁶

Interestingly, the Taunton contract and others like it in the state of Massachusetts are not well aligned with the Department of Elementary and Secondary Education’s regulations with regard to evaluations, which attempt to provide management with tools to determine the quality of teaching performance and to hold teachers accountable for student outcomes.⁴⁷ With regard to processes for layoffs, the Taunton Public Schools contract specifies that teachers will be laid off “in the inverse order of seniority.” One of the stated exceptions to this general rule is if

there is “a significant difference in the teacher’s performance as evidenced by evaluations from two (2) previous school years.” While this exception seems, at first blush, to be both reasonable and in line with DESE’s intentions, the Taunton contract goes on to explain that “...the Committee’s decision to exercise this exception shall be subject to a reasonableness standard.” By inserting this “reasonableness standard,” the contract undermines the authority of the school committee to exercise exceptions to the layoff procedure.⁴⁸

Although Taunton is certainly not alone in crafting contract language that gives clear advantage to teachers and strips management of an important degree of flexibility and decision-making power, some of the 25 districts examined in the course of this work do attempt to balance union interests with those of management when it comes to issues of seniority and evaluation. The Winchester Public Schools provides one such example of an attempt to find balance. Although in Winchester, seniority does determine the order of layoffs, the superintendent is given power to consider other factors, including 1) professional training, 2) experience within a given discipline, 3) history of teaching performance, 4) reasonable needs of the school system, and 5) total number of years of continuous service in the school system. The contract further states that “when, save for seniority, the foregoing factors are, in the judgment of the superintendent substantially equal, seniority shall govern within the discipline...The superintendent’s judgment should only be set aside when it was not made in good faith and/or was arbitrary/capricious.”⁴⁹ In giving such decision-making power to the superintendent, Winchester and districts like it are taking a step in the right direction toward a collective bargaining contract based on the professional model.

A truly professional contract, however, would go even further than districts such as Winchester by recognizing that the integrity and quality of teaching needs to be protected at every level

and that seniority protection can often result in keeping ineffective teachers in districts at the cost of letting effective teachers go. In this vein, a truly professional contract clause to address seniority and teacher evaluation should not use seniority to determine classroom assignments or to fill vacancies. Moreover, procedures for reductions in force should include a well-defined set of qualifications to the teacher seniority rule, as is present in the vast majority of districts. These measures give management the ability to place the right teachers in the right classrooms, which can enhance student achievement and create an environment in which teachers and districts can more fairly be held accountable for that achievement.

Salary Schedules or Compensation Grids

Although procedures for determining teacher time, working conditions, classroom assignments, and accountability are quite controversial in their own right, perhaps no topic in education has received as much press of late as that of teacher salaries and benefits. From new merit or differential pay programs in places such as Springfield, Massachusetts and Washington, D.C. to contract disputes over salaries and benefits throughout the country in these trying economic times, unions often find themselves pitted against education reformers who believe that it is time to dramatically overhaul the way that a majority of teachers in the country are paid.

By and large, teachers across the country are paid on a “step and lane” system. “Steps” represent years of service, and each year that a teacher teaches in a school system, he/she moves up one step on the step scale. Thus, a first year teacher is paid at step one, a second year teacher at step two, etc., moving up an established schedule that is created through collective bargaining efforts at the local level. In many cases, the salary schedule ends with step 10, meaning that a teacher who has been in the system for ten years will stay at that step for the rest of his or her career.

“Lanes” in the step and lane system refer to columns found on the salary schedule that increase the teacher’s salary according to higher education degrees and/or education credits that a teacher has earned. The federal *No Child Left Behind* Act and the Commonwealth of Massachusetts require that all teachers in core subjects possess at least a Bachelor’s Degree—many districts also require that teachers obtain a relevant Master’s Degree within a pre-determined period of time.⁵⁰ Lanes on the salary schedule may add additional compensation for 30 hours of earned education credits, for example; these are noted on the salary schedule as “Master’s + 30.” The reasoning behind the lane system is to reward teachers who enhance their skills through additional education with salary increases. The graphic on page 23 provides one example of a step and lane salary schedule.

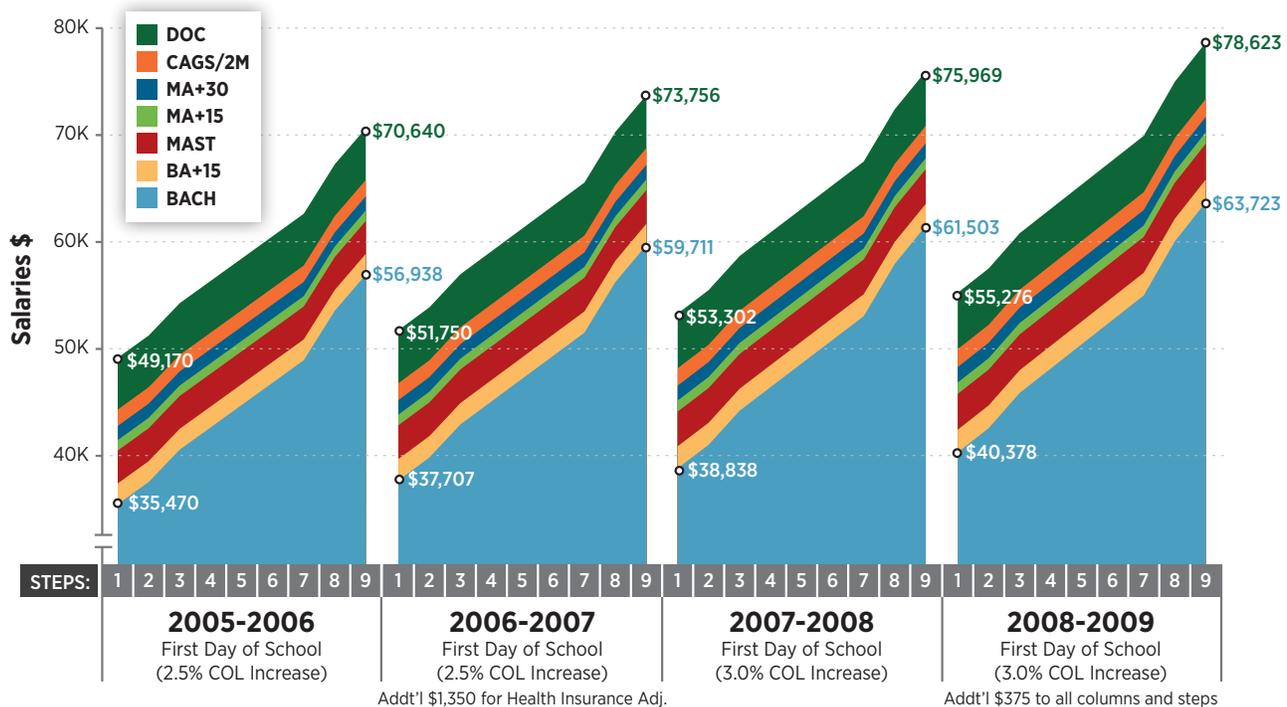
Springfield’s system most closely resembles the kind of pay for performance system that critics of the traditional salary schedule call for.

Salary increases, as a percent raise determined through collective bargaining, are received in addition to the annual increase that occurs as teachers move up the salary steps. Therefore, a teacher moving from step five to step six, for example, would receive his or her salary increase for spending an additional year in the district along with the 2.5 percent cost of living increase that is usually guaranteed by collective bargaining contracts. These increases may be augmented by reimbursements that teachers collect from a district for pursuing higher education, for example. Moreover, once a teacher has reached the final step on the salary schedule (which effectively “caps” his or her salary), he or she may become eligible for “longevity payments”, which are payments that are added annually to the cost-of-living percentage increase that all teachers receive.

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Worcester Public School Teacher Salaries

(Except Vocational School Trade Teachers & Vocational School Department Heads)



The salary schedules employed in most school districts today were created in the 1960s and 1970s as teachers (most of whom were female) reacted to decades of inadequate pay and benefits and to the unfair treatment that they received from many local school systems.⁵¹ Looking to industrial unions, which operated on the premise that the longer a person is employed in an industry the more experience and expertise he or she acquires, local district unions adopted salary schedules that rewarded teachers on the same basis.

From an operational perspective, there is little difference between the role of salary schedules and that of seniority in local school districts. Both presume that teachers are interchangeable—that is, teachers who have been in a district for the same amount of time are deemed equally qualified—and both present difficulties for management by restricting their ability to recruit, reward and retain outstanding teachers. This is because there is nothing within the seniority or step and lane system that rewards teachers based upon actual performance or results produced for students.

Although there have been moves in some districts, both in Massachusetts and across the country, to introduce teacher performance as one factor to be considered when teachers are compensated, such moves have been difficult to implement, at best.⁵² Contract language found in the course of this work that includes a pay for performance element commonly outlines how teachers cited for exemplary performance may move up the traditional salary schedule in a manner that allows them to bypass some of the conventions of the traditional step and lane system; excellent teachers may be moved up two steps within one year, for example. Likewise, such contract language also states that teachers who do not perform their duties to expectation may be “held back” or see their salaries frozen until performance improves. While it is encouraging that such language exists in some of the teacher contracts in Massachusetts, the extent to which these contract provisions are actually implemented in most districts remains unclear.

In the course of this work, the authors were only able to confirm that one of the districts examined has exercised its contractual right to freeze salary

increases as a result of unsatisfactory performance evaluations. Two years ago, the Springfield Public Schools adopted an improvement plan that it calls Springfield Teacher Evaluation and Development. According to Timothy Collins, President of the Springfield Teachers' Association, teachers who fail to meet individualized professional improvement goals are asked to participate in this professional development program.⁵³ The teacher's salary is frozen during the period of time that he or she is a designated participant and, following satisfactory completion of the program, he or she will be restored to the salary step he or she previously occupied upon receiving a poor performance evaluation. Of the 25 districts examined for this work, Springfield's system most closely resembles the kind of pay for performance system that critics of the traditional salary schedule call for.

In contrast to the innovation found in Springfield, other districts examined in the course of this work acknowledge that contract language that provides economic consequences for poor performance is rarely or never exercised. For example, the Harvard Public Schools' collective bargaining contract provides for salary adjustment and even termination of employment based on performance evaluations.⁵⁴ According to the district, this provision has been in place for nineteen years. However, in correspondence with the Harvard Public Schools, the authors learned that no teacher has ever been terminated or seen his or her salary frozen after receiving a poor performance evaluation; indeed, even when teachers are flagged for additional professional development following a less than satisfactory evaluation, the district continues to move teachers up the salary schedule in accordance with years of experience and education. Interestingly, the district is not willing to disclose the number of teachers who have been singled out for poor performance since this contract clause has been in place. Upon inquiry, the district informed the authors that such information is "not for public dissemination."⁵⁵

Springfield and Harvard represent two extremes of the effort to professionalize teacher salary schedules; of the 25 Massachusetts districts examined for this work many referenced the importance of performance evaluations to teacher compensation. However, contract language varies greatly in this regard and, as mentioned above, there is little indication that a majority of districts are actually implementing contractual provisions that allow for teachers to be financially rewarded or punished for poor performance.

The sentiment in many districts is that firing a teacher is either too harsh or an enormous drain on district resources.

It is important to note that the increased use of such contractual provisions signals an understanding that pay for performance compensation systems and programs that, at the very least, hold ineffective teachers accountable, can encourage good teachers to stay in the field and cause ineffective teachers to seek another profession.⁵⁶ Not only does new federal legislation encourage local districts to consider how pay for performance and accountability plans can be a boon to the profession, there is also evidence that some local teachers' unions have proactively sought to hold teachers accountable in the same manner as other professions.

In fact, as recently as 2007, the Leominster Teachers' Union approached that town's school department to establish a program that allows principals to identify and provide professional development to teachers who are identified as weak performers on evaluations. The same program allows principals, after professional development opportunities have been provided, to dismiss professional status teachers who fail to demonstrate improvement.⁵⁷

The Leominster Teachers' Union protects its members through a specific evaluation protocol that requires the teacher, an administrator, and, when necessary, a union representative

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to develop an improvement plan that “details corrective steps to be taken and a timeline for improvement.” Before a teacher is placed on an actual improvement plan, he or she must receive repeated negative evaluations and have worked with a mentor charged with helping the teacher to improve. In addition, schools track a teacher’s response to professional development while he or she is on an improvement plan; an administrator submits “at least two written reports” for “two full school quarters” during which a teacher can attempt to improve his or her performance. In brief, Leominster aims to provide teachers who demonstrate poor performance with many opportunities to improve before they are ultimately dismissed. According to Leominster Superintendent Nadine Binkley, during the 2008-2009 school year, two teachers were assigned to an improvement plan, and one of those teachers ultimately resigned.⁵⁸

While Leominster aims to implement some degree of teacher accountability in a way that provides school leaders with power to influence teacher improvement, other districts ensure that the evaluation process remains very teacher-centered. Boston, for example, provides professional development opportunities to teachers who have received less than satisfactory evaluations; however, teachers are permitted to choose whether or not they accept additional help. That is, teachers identified as poor performers can choose whether to enroll in the “Peer Assistance Program for Permanent Teachers” and receive a peer mentor. During the time in which teachers are enrolled in the program, teachers continue to receive both their regular salary but also any salary increases that they are due according to the salary schedule.

Teachers’ contracts in the 24 other districts examined for this work typically contained contractual remedies for poor teacher performance comparable to those found in Boston’s contracts. Most districts provide for professional support and development for teachers who are identified as needing improvement, but identification

as a “poor performer” rarely if ever results in termination or a reduction in salary. In the majority of districts, teachers identified for poor performance continue to move up the salary schedule and receive compensation accordingly; the authors of this report encountered very few districts that claim to terminate teachers for poor performance. Indeed, the Lexington School Department stated in correspondence with the authors that the district has not terminated anyone for poor performance and that poor performance has “definitely” not prevented any teacher from moving up the salary schedule.⁵⁹

As problematic as this apparent lack of accountability for teacher performance may be, it is perhaps more problematic that so few Massachusetts districts have done little to reward their highest performing teachers. By failing to do so, they provide no incentive for teachers to remain in the profession, or to strive for excellence. Singling out teachers for a strong or poor performance or for increasing or failing to increase student outcomes is taboo in the profession; even when contractual provisions for accountability and pay for performance exist, it appears that they are rarely implemented.

Developments in Lincoln-Sudbury support this contention. That district recently approved a new contract that provides for a \$2,500 stipend for all teachers who receive the districts’ highest evaluation rating; at first blush, this seems a bold move to reward teachers for excellent performance. However, according to the district’s Director for Finance Operations, “only a small number of experienced teachers (1 in 20) do not attain the highest rating and are therefore ineligible for this stipend.” The director further explains that the district has not had to “resort to firing teachers” who receive the lowest performance evaluations. Rather, it has “used a ‘counsel-out’ approach effectively.”⁶⁰ The sentiment in many districts is that firing a teacher is either too harsh or an enormous drain on district resources (union contracts usually ensure that termination processes are lengthy and costly).

As an undesirable corollary, school districts also hesitate to single out teachers who are truly excellent. The notion propagated in Lincoln-Sudbury that the vast majority of teachers are “the best” strongly suggests that it is difficult for districts to escape a “one size fits all” mentality when it comes to rewarding teachers.

Findings and Recommendations for Aligning Teacher Contracts with a New Era of Education Reform

The preceding analysis highlights clauses in teachers’ union contracts that are closely aligned with either the factory or professional model of collective bargaining. This analysis begins from the notion, supported by the current federal administration, that contract clauses that adhere closely to an outdated factory model of collective bargaining are harmful to the effort to provide equal educational opportunity to all students. This is because factory model agreements 1) fail to place the best interests of students above those of teachers and 2) fail to hold teachers accountable for performance, as measured in large part, by student outcomes. It goes on to present specific examples from 25 Massachusetts districts, examples that not only highlight the differences of language between contract clauses that adhere to factory and professional models but also speak to the powerful ways in which contract language can dictate action, or a lack thereof, in schools.

Perhaps more importantly, however, the preceding analysis details which of the district contracts examined employ the factory and professional models of collective bargaining, or some hybrid of the two. Where contract clauses have been classified as hybrid, it is apparent that the unions and school districts in question are working toward a model of contract negotiations, at least with regard to one or more contract clauses, that better responds to the needs of students and to the demands of federal and state regulations that are increasingly focused on student results and accountability for outcomes.

When viewed in relationship to student performance in each of the districts examined, the findings of the study reveal a very troubling and infrequently discussed reality about the nature of education in Massachusetts. For, while the achievement gap between low-income students and their wealthier counterparts is well known, and while the general performance differential between property rich and property poor districts in Massachusetts is well known, there is, at present, little discussion of how teacher collective bargaining agreements in the state of Massachusetts exacerbate these issues. An examination of the six highest performing and six lowest performing districts in this study, as measured by student outcomes on MCAS, reveals that teachers’ contracts in low-performing districts, at least with regard to the clauses examined in this study, disproportionately adhere to the factory model of collective bargaining. Alternatively, the highest performing districts included in this analysis disproportionately adhere to the professional model of collective bargaining (Table IV highlights these relationships).

The Springfield Education Association has worked closely with the district to craft new evaluation procedures for tenured teachers and to allow teachers the option to earn higher salaries by agreeing to have their work performance judged.

While the identification of this important relationship should not be interpreted as an attempt to dismiss various causes of student underachievement, including those related to family background and socio-economic status, they do suggest that lower-performing districts should strongly consider how professional model collective bargaining contracts can improve the culture of teaching and learning in a district and therefore affect the kinds of teachers that a district attracts and the impact of those teachers on overall student outcomes. There is clear evidence

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Table IV. MCAS Performance and Contract Model by District

CONTRACT MODELS: F Factory P Professional H Hybrid

	School District	MCAS Performance*	Percentage of Students Classified as Low-Income	Preamble/Recognition Clause	Greivance Procedures	Core Teacher Requirements
MCAS LOW PERFORMERS	Holyoke	24.5%	76.3%	H	F	H
	Lawrence	30.5%	87.1%	F	F	F
	Lowell	40.9%	67.6%	F	F	F
	Springfield	31.9%	77.8%	P	H	P
	Worcester	42.5%	65.8%	F	F	H
	Southbridge	42.0%	64.0%	P	F	F
MCAS HIGH PERFORMERS	Acton-Boxborough	88.5%	2.3%	P	H	P
	Weston	86.4%	2.4%	H	F	P
	Lincoln-Sudbury	93.1%	3.5%	F	F	H
	Winchester	87.5%	4.3%	F	F	H
	Lexington	87.5%	5.0%	P	H	H
	Harvard	81.9%	0.1%	P	F	P

*Percentage scoring proficient and above for all administered tests

that effective teaching is a major, if not the major, contributing factor to student performance, and the impact of effective teaching is even greater for students of underprivileged backgrounds.⁶¹ Considering this, it seems logical that districts should do everything in their power to recruit and retain the most effective teachers to the neediest classrooms. Making key changes to teachers' contracts, such as those outlined on pages 26-28 can be an important part of that effort.

As Table IV indicates, there are notable and important differences in the collective bargaining contracts of the six high-performing and six low-performing districts included in this study. Of the eighteen total contract clauses analyzed in the low performing districts, only two were identified as professional in nature and three were identified as hybrid, leaving thirteen clauses in these district contracts to be classified as factory model. Of the six high performing districts examined, the difference is clear: six professional

and six hybrid clauses were identified in these district contracts, leaving only six clauses with a factory model label. Assuming that professional model contracts facilitate and even elicit work from teachers that is more conducive to student achievement, the low-performing districts in this study would be well served to look to the contract language that has been adopted by their higher performing counterparts.

For, in addition to challenges associated with family background and resources, students in property poor districts face another major obstacle: They are learning from teachers who are constrained by rigid work rules that prescribe, often to the minute, where a teacher should be and what he or she should be doing. These work rules ensure that teachers have less flexibility to, for example, stay after school to help struggling students. Equally troubling is that the same districts that allow teachers little flexibility and/or professional discretion are often those that

fail to engage in rigorous teachers evaluations and/or to attach consequences to unsatisfactory evaluations.

Of course, the fact that troubled districts are more likely to be staffed with ineffective teachers is not new. Top education researchers have long pointed out that wealthy, high performing districts are more likely to be staffed by the most qualified teachers.⁶² However, the nature and role of collective bargaining agreements have not been fully examined as one of the many reasons that qualified, experienced teachers are more likely to teach in high performing districts. Indeed, it could be that experienced and qualified teachers are attracted to high performing districts not only because they can command a higher salary or because of the perception that high performing students are “easier” to teach. Some teachers might be attracted to higher performing districts because of the relative autonomy that they have under district contracts to behave like the professionals that they are. Comparatively teachers who operate under professional contracts are less bound by archaic work rules and meaningless evaluation procedures.

In this vein, it is interesting to note that districts such as Boston, which is disproportionately low-income and low performing, have made a commendable effort to attract high quality teachers by providing them with salaries on par with those they would command in more affluent districts. In 2009, the average teacher salary in Boston Public Schools was \$79,415,⁶³ with teachers on the highest quadrant of the salary scale commanding salaries of up to \$93,543.⁶⁴ Despite this, Boston Public Schools still struggles to retain highly qualified teachers. Research indicates that “47 percent of Boston public school teachers (leave) the system within their first three years of service.”⁶⁵ This statistic compares unfavorably with most districts in the state, which tend to mirror or do slightly better than national averages when it comes to teacher turnover—research indicates that, in the majority of districts, about 25 percent of teachers will leave the district

in which they began teaching within the first two years.⁶⁶ This anecdotal evidence supports the assertion that high salaries alone are often not enough to attract and retain the best teachers in the best districts, which means that it is all the more important for districts such as Boston to continue to innovate and work toward a model of collective bargaining that is more professional.

The teachers of Springfield, Massachusetts have taken this charge to heart. Like many other urban districts, Springfield serves a high percentage of low-income students; it is also a “low-performer,” as measured by MCAS results. However, in recent years, the Springfield Education Association has worked closely with the district to craft new evaluation procedures for tenured teachers and to allow teachers the option to earn higher salaries by agreeing to have their work performance judged, in part, on the basis of MCAS scores. In this sense, especially, Springfield has set the standard in moving its collective bargaining process from one aligned with the factory model to one that is more professional in nature.

Recommendations for Change

There are specific actions that school districts can take to ensure that teacher collective bargaining contracts in the state of Massachusetts become better aligned with a professional model. The recommendations outlined below focus specifically on the clauses examined in the preceding analysis.

Recommendation 1: All collective bargaining contracts should be examined by an outside party for clarity of purpose, consistency with the stated goals of the locality and of state and federal legislation, and general alignment among separate contract clauses.

As discussed at the outset of the paper, many Massachusetts teachers’ contracts contain factory model clauses that are unclear with regard to the ultimate purpose of a collective bargaining agreement, which should be, first and foremost, to provide the best education possible to students.

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All contracts should contain preamble or similar clauses that clearly outline contract goals and state how and why those goals are aligned with the goals of state and federal legislation.

Importantly, these clauses and stated goals should provide more than “window dressing.” Instead, they should act as a guiding principle around which all other aspects of the contract are organized. Clauses that in any way undermine or can result in actions not conducive to the effective implementation of the goals of the contract should be reevaluated and rewritten to support stated contract goals. Finally, all contract clauses should be evaluated for consistency with one another. Under no circumstances should one aspect of a contract conflict with or call into question the validity of another. This all too common problem with collective bargaining agreements can be avoided if districts solicit the help of an outside party to evaluate contracts for these specific features. Outside evaluation should also be sought in the event that only certain aspects of a contract, as opposed to the whole document, change from year to year or contract period to contract period.

Teacher evaluations are only meaningful if they are connected to a system of accountability.

Recommendation 2: Grievance clauses in teachers’ contracts should be evaluated to ensure not only that teachers have a clear and concise process to follow when they have a legitimate grievance to file but also to ensure that teacher absences are minimized.

Grievance processes should clearly limit a) the amount of time that a given teacher can be granted classroom leave to deal with grievance proceedings and b) the number of teachers and staff that can be granted classroom or school leave to support a colleague in a grievance proceeding. In the event that a grievance cannot be resolved in the time provided by the contract, contracts

should outline specific actions that teachers and districts can take to ensure resolution of the issue with no further disruption to students and/or student learning.

Moreover, to a reasonable extent, contracts should outline and limit what can and cannot be grieved. For example, some of the professional model contracts examined for this work succinctly state that certain matters related, for example, to leave and vacation may not be grieved. At the time of contract negotiations, unions and school committees should work closely to examine issues that commonly arise within the district but are not usefully solved with the help of a long and prescribed grievance process. By limiting the number of matters that can be grieved and by ensuring that contract clauses are consistent with one another, thereby not generating confusion that can result in unnecessary grievance filings, school districts can ensure that fewer teachers spend precious time outside of the classroom.

Recommendation 3: Core teacher requirements, most notably work rules that prescribe the specific amount of time that teachers will devote to specific tasks should be closely examined for unnecessary rigidity and, to the extent reasonable, allow for a greater degree of flexibility and choice on the part of the teacher.

Contracts may, for example, outline the length of the school day and year, of teacher preparation periods, and even of professional development meetings and other endeavors; however, all contracts should start from the premise that teachers are professionals who can determine for themselves the amount of time they would like to put into their school day, into professional development endeavors, and even into meetings with students and parents. The expectations outlined in collective bargaining agreements should be viewed as minimum commitments on the part of teachers; contracts should be written in a way that does not punish teachers who go beyond minimum requirements. Contract language can accommodate this needed flexibility for teachers

by outlining, for example, the general length of a teacher's average workday as opposed to listing the specific period of time or time that a teacher is expected to be in the school building.

Recommendation 4: All school districts should closely examine teacher evaluation processes to ensure alignment with the goals of state and federal legislation and to ensure that protocols for holding teachers accountable for performance are in place.

Teacher evaluations are only meaningful if they are connected to a system of accountability. This means that teachers who consistently receive poor evaluations are provided opportunities for professional development but that those opportunities come with a timeline and expectation for improvement. When improvement, as measured by some predetermined criterion (a), such as student test scores or additional evaluations, is not achieved, there should be a clear process in place for terminating even tenured teachers. Furthermore, any professional development program that is in place specifically to remediate ineffective teachers, regardless of tenure, should be mandatory and not "opt-in". Finally, while self-evaluations should be viewed as a useful complement to outside evaluations, they should not be the sole criteria for determining whether or not a teacher who has been deemed in need of improvement has actually improved.

Recommendation 5: Unions and districts should collaborate to create alternative career ladders for teachers who are willing to forego some of the traditional protections offered by collective bargaining agreements in exchange for the opportunity to receive salary increase based on some measure of performance, such as, but not limited, to student test scores.

Implementing this recommendation would not require an overhaul of the traditional collective bargaining structure but would entail the creation of a separate salary scale and/or career ladder for probationary or professional status teachers who are willing to participate in such a program.

Evaluation procedures for teachers willing to participate should be clearly outlined with the collective bargaining agreement and, as with all other parts of the contract, the goals of any alternative career ladder should align with the greater goals of the contract as a whole.

Recommendation 6: Districts and unions should engage in further research regarding the relationship between collective bargaining agreements and student performance.

Such research would require, for example, that districts and/or unions keep data on, for example, the number of and nature of grievances filed in a given year, the number and results of teacher evaluations in a given year, and the actions taken to help teachers receiving poor evaluations to improve. Keeping better data can help researchers and practitioners alike to better understand how the elements of and changes to collective bargaining agreements affect student and teachers. Moreover, making such data public can provide much-needed transparency in the collective bargaining process.

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Municipal Benchmarks for Massachusetts Middle Cities: A Look at Financial Management, White Paper, August 2010

Rhetoric and Reality: Pension Benefits for Retired Massachusetts State Workers, White Paper, August 2010

Endnotes

1. On the 2007 administration of NAEP, “Massachusetts’ fourth-grade students outscored their peers in all 49 states in reading and mathematics. At grade 8, students in Massachusetts scored first in mathematics, higher than students in the other 49 states, and tied for first in reading with three other states” (Massachusetts Department of Education, 2007 NAEP Tests: Summary of Results for Massachusetts, <http://www.doe.mass.edu/mcas/naep/results/default.html>); According to the results of the 2007 Trends in International Mathematics and Science Study (TIMSS), Massachusetts 4th graders ranked second worldwide in science achievement and tied for third in mathematics; the state’s 8th graders tied for first in science and ranked sixth in mathematics, <http://www.doemass.org/news/news.aspx?printscreen=yes&id=4457>

2. See Massachusetts Department of Elementary and Secondary Education, Massachusetts Charter School Achievement Comparison Study: An Analysis of 2001-2005 MCAS Performance, August 2006, p. <http://www.doe.mass.edu/charter/reports/datastudy/report.pdf> and The Boston Foundation, Informing the Debate, Comparing Boston’s Charter, Pilot, and Traditional Schools, January 2009 for descriptions of how charter schools are outperforming their traditional public counterparts.

3. Race to the Top is a competitive grant program that has been launched by the federal government, which emphasizes education reform in four areas: 1) Adopting standards and assessments that prepare students to succeed in college and the workplace and to compete in the global economy; 2) Building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction; 3) Recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are needed most; and 4) Turning around our lowest-achieving schools. Charter schools are seen as a possible means

of achieving these goals, especially the last, because they represent autonomous units that are typically free from system-wide collective bargaining restrictions. Massachusetts was awarded a Race to the Top Grant in August of 2010, the second round of the competition. See, <http://www.ed.gov/programs/racetothetop/index.html> and also Lupkin, Sidney, “State a finalist in federal school competition,” *The Boston Globe*, July 28, 2010.

4. Collective bargaining is the process by which teachers unions negotiate contract provisions, such as teacher hours, workloads, and salary requirements, on behalf of their members who are organized into a single collective bargaining unit. All members of the union—and in many states, such as Massachusetts, teachers are required to be union members or to at least pay “agency fees” to help defray the cost of negotiating contracts that govern their compensation—benefit from the collective bargaining process.

5. The criteria used to determine the Middle Cities is population, income per capita and equalized valuation—a measure of property value-per capita (EQV). The Middle Cities have populations greater than 40,000, income per capita of less than \$20,000, and EQV per capita of less than \$80,000.

6. Cities included in the Middle Cities Initiative are: Brockton, Chicopee, Fall River, Fitchburg, Holyoke, Lawrence, Leominster, Lowell, Lynn, New Bedford, Pittsfield, Springfield, Taunton, and Worcester.

7. Murphy, Marjorie (1990). *Blackboard Unions: The AFT and the NEA, 1900-1980*. New York: Cornell University Press.

8. Lieberman, Myron (1997). *The Teacher Unions: How the NEA and AFT Sabotage Reform and Hold Students, Parents, Teachers, and Taxpayers Hostage to Bureaucracy*. New York: The Free Press, p. 16.

9. Murphy, Marjorie (1990). *Blackboard Unions: The AFT and the NEA, 1900-1980*. New York: Cornell University Press.

10. Jennings, J. F. (2000). Title I: Its legislative history and its promise. *Phi Delta Kappan*, 81(7), 516-522

11. Lieberman, Myron (1997). *The Teacher Unions: How the NEA and AFT Sabotage Reform and Hold Students, Parents, Teachers, and Taxpayers Hostage to Bureaucracy*. New York: The Free Press, pp. 17-19.

12. <http://www.massteacher.org/inside/>

13. http://aftma.net/members_teachers.html

14. Personal correspondence, anonymous, January 21, 2009

15. Massachusetts General Laws, Chapter 71.

16. Massachusetts General Laws, Chapter 71. Also see: Massachusetts Department of Elementary and Secondary Education, “Education Reform: First Annual Implementation Report” doemass.org/edreform.

17. “Differential pay” programs, though in their infancy, in most US locales, have positively impacted student learning and teacher accountability for student outcomes in some U.S. cities and internationally as well. A 2007 analysis of the available literature on merit pay systems, both national and international, found that, in most cases, the “incentive regime was found to yield positive student achievement effects.” (See Podgursky, M. & Springer (2007), *Journal of Policy Analysis and Management*, vol. 26, 4, p. 909-949. Another recent study found that teachers in districts that offer merit pay make more money, on average, than their peers in districts that do not offer merit pay (see Oldhaber, D., et. al., *Why Do So Few Public School Districts Use Merit Pay?*. *Journal of Education Finance* v. 33 no. 3 (Winter 2008) p. 262-89).

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18. Hirsch, E., Freitas, C, Church, K., and Villar, “Massachusetts Teaching, Learning, and Leading Survey” (2009), New Teacher Center, University of California, Santa Cruz.
19. Partners in Reform. Remarks of A. Duncan to NEA, July 2, 2009. ed.gov/news/speeches/partners-reform, downloaded July 30, 2010.
20. *ibid.*
21. See, for example, Schmoker, Mike, “Results Now; Association for Supervision and Curriculum Development (2006); Center for Collaborative Education, Description of the Boston Pilot Schools Network, November, 2005; Teacher Contracts: Restoring the Balance, Volume III, 2007, The Education Partnership; Frederick Hess and Martin West, “A Better Bargain,” *Program on Education Policy and Governance* (March 2006), Harvard University.
22. All of the districts designated as low-performing in this report were low-performing in 2009 and have been classified as low-performers for at least one subject area and for at least one sub-group of students (special education students, minority students, and/or English language learners, for example) since 2001. Among the districts cited in this document, only Southbridge has no accountability status (denoting acceptable performance) for one academic area—English language arts. See <http://profiles.doe.mass.edu/search/search.aspx> for specific accountability information for each district.
23. Somerville Public Schools, 2008-2011
24. Acton-Boxborough Regional School District, 2005-2008
25. Fall River Massachusetts Educators’ Association, September 1, 2006-August 31, 2009.
26. <http://finance1.doe.mass.edu/schfin/statistics/salary.aspx?ID=999>
27. Substitute costs, legal counsel and arbitration costs are conservative and not based on specific information.
28. Electronic mail correspondence with Lisa Hollis, Human Resources Director, Weston Public Schools, August 3, 2010.
29. Electronic mail correspondence with Karen Batchelder, Administrative Assistant, Human Resources, Brockton Public Schools, August 4, 2010.
30. Agreement between the Chicopee School Committee and the Chicopee Education Association, August 2007 to August 2010
31. Agreement between the Chicopee School Committee and the Chicopee Education Association, August 2007 to August 2010, p. 11.
32. According to Massachusetts state regulation 603 CMR 27.02, school committees are required to schedule a minimum of 185 school days for teachers per school year but only *obligated* to provide 180 days of instruction. The regulation also stipulates that elementary school students receive a minimum of 900 hours per school year of instruction, which translates to a 5-hour day of structured learning time. Secondary students must receive 990 hours per school year or 5 hours and 30 minutes per day of actual instruction. Also see doe.mass.edu/redesign/elt for more information on the state’s encouragement of expanded learning time in schools, especially in schools designated as low performing.
33. Correspondence with Paul Hays, City On a Hill Public Charter School principal, Jan. 20, 2010.
34. Since 2001, New Bedford has failed to make adequate yearly progress for most sub-groups in math and English language arts in most years. http://profiles.doe.mass.edu/ayp/ayp_report/district
35. New Bedford Public Schools 2008-2011.

36. Weston Public Schools, 2007-2010

37. By comparison, the average teacher salary in Springfield, a larger urban district that does, in large part, adhere to the professional model of collective bargaining, was \$79,566. MDESE, Office of School Finance, FY04-FY09, Average Teacher Salaries, Massachusetts School Districts, <http://finance1.doe.mass.edu/schfin/statistics/salary.aspx>.

38. Agreement between the Worcester School Committee and the Educational Association of Worcester, September 1, 2006- August 31, 2009.

39. Indeed, even when two candidates for a position have been hired into the district on the same day, principals in many districts do not have the authority to choose between the two candidates based upon the quality, skills, or effectiveness of those candidates. Instead, many district contracts outline a random process for determining who should be hired.

40. Massachusetts General Laws 603 CMR 35:00, Evaluation of Teachers and Administrators

41. Growth models track student achievement over time, as opposed to providing only a “snapshot” of student performance. By understanding how much a student has improved from one year to the next, it is possible to measure how much a teacher has contributed to the growth of an individual student. See <http://www.ed.gov/news/pressreleases/2009/01/01082009a.html> for a description of growth models that have been approved by the federal government for use under *No Child Left Behind*.

42. Here it is important to point out that for 20 years Boston University was responsible for the day-to-day management of the Chelsea Public Schools. This arrangement existed under the Boston University/Chelsea Public Schools Partnership. During the time of the Partnership (1989 to 2009), Boston University’s Legal Counsel was responsible for negotiating teachers’ contracts in Chelsea. See, for example,

Candal, Cara, *Partnering for Progress: Boston University, the Chelsea Public Schools, and Urban Education Reform* (2009), Information Age Publishing, Charlotte, NC; also <http://www.chelseaschools.com/cps/district/bu-chelsea-partnership.htm>.

43. Loveless, Tom (Ed) (2000), *Conflicting Missions? Teachers Unions and Educational Reform.*; Brookings Institution Press, Washington, D.C., Hess, Frederick (2004), *Common Sense School Reform*, Palgrave MacMillan, New York.

44. Although *No Child Left Behind’s* highly qualified teacher provision attempts to curb this kind of “out of field” teaching by requiring that all teachers “demonstrate competence” in the subject that they teach, as of 2009, only one state, North Dakota, had fulfilled the highly qualified teachers requirement state wide, and the federal Department of Education notes that schools with high percentages of poor and minority students are less likely to be in compliance with the law’s highly qualified teacher provision. See: Sawchuck, Steven, “The Lastest on States’ Highly Qualified Teacher Counts”, Education Week, August 13, 2009; and <http://www2.ed.gov/programs/teacherqual/resources.html>.

45. Chicopee Public Schools, 2004-2007

46. Taunton Public Schools, 2007-2010

47. Massachusetts Education Laws 603 CMR 35:00, Evaluation of Teachers and Administrators

48. Taunton Public Schools, 2007-2010

49. Winchester Public Schools 2006-2009

50. *No Child Left Behind*, Title II-A, also see: http://www.doe.mass.edu/nclb/title_ii.html

51. Hess, Frederick, M. and West, Martin (2005) A better bargain: “Overhauling teacher collective bargaining for the 21st century,” working paper, Harvard Program on Education Policy and Governance

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52. Springfield, MA and Washington, D.C. have implemented merit pay programs. The Washington, DC program has proved especially controversial; see, for example, <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/02/AR2009030202785.html>
53. Electronic mail correspondence with Timothy Collins, May, 2009.
54. Contract of the Harvard School Committee and the Harvard Education Association, September 1, 2006 to August 31, 2009, Article VI.
55. Electronic mail correspondence with Harvard Public Schools, May, 2009.
56. See, for example, Greene, Jay and Forster, Greg, *Teacher Incentives and Merit Pay*, Center on Innovation and Improvement, 2008.
57. Interview with Leominster Superintendent Nadine Binkley, July 8, 2009
58. Agreement between the Leominster School Committee and the Leominster Education Association, September 1, 2007- June 30, 2011.
59. Electronic mail correspondence with Lexington School Department, May 20, 2009.
60. Judy Belliveau, Director of Finance and Operations, July 13, 2009.
61. Roza, M. and Hill, P. (2004) "How Within-District Spending Inequities Help Some Schools to Fail." In D. Ravitch (Ed.), *Brookings Papers on Education Policy 2004*. pp. 201-208.
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62. Roza, Marguerite & Hill, P (2004), *How Within-District Spending Inequities Help Some Schools to Fail*. Brookings Papers on Education Policy.
63. Boston Teachers Union, <http://www.btu.org/leftnavbar/downloadforms.html>, downloaded July 21, 2010.
64. Massachusetts Department of Elementary and Secondary Education, Average Teachers Salaries, FY 04- FY-09, <http://financel.doe.mass.edu/schfin/statistics/salary>
65. Birkeland, S. E., & Curtis, R. (2006). *Ensuring the Support and Development of New Teachers in Boston Public Schools*. Boston: Boston Public Schools.
66. Ingersoll, R. M. (2003). *Is There Really a Teacher Shortage?* Center for the Study of Teaching and Policy. University of Washington., p.13.

