

## **Teachers' Unions and Collective Bargaining Agreements: Roadblocks to Student Achievement & Teacher Quality or Educational Policy Imperatives?**

Collective bargaining agreements (“CBA”) and teachers’ unions hold a precarious position in the debate over how to improve failing schools in America. While few would charge teachers’ unions as the root cause of educational failures in the United States (though some do), increasingly unions are accused by critics of obstructing educational reform measures aimed at improving teacher quality and student achievement (merit pay, charter schools, vouchers), and of bargaining for concessions at the expense of their students.<sup>1</sup> Some of these critics and reformers have thus sought to limit traditional labor and collective bargaining rights and dismantle unions as a means of implementing their reforms that focus on choice, competition, and the quasi-privatization of education.<sup>2</sup> Alternatively, teachers’ unions and their supporters make a twofold argument: first, that reform measures including merit pay/teacher evaluations based on standardized testing will not improve teacher quality and student achievement, and secondly, that limiting collective bargaining rights will exclude teachers from the educational policy-making process when they have valuable contributions to make.<sup>3</sup> Quantitative research and studies to date are inconclusive as to whether student achievement is higher in schools that engage in collective bargaining, versus in schools that do not.<sup>4</sup> Nonetheless, this policy paper advances the argument that collective bargaining is an educational policy imperative. First, because teachers are effective, competent policy makers that should be able to play a prominent role in policy making, and secondly, because teachers unions are the only significant resistant force to unsubstantiated reform measures focused on injecting laissez faire market principles into the educational marketplace that will not

improve student achievement, but will create other new harms - particularly when policy-makers seek to dismantle teachers unions as a conduit to implementing their reforms. In areas where reasonable reform *is* desirable, policies that encourage voluntary cooperation between unions and school boards are a more effective, appropriate alternative.

This policy paper will demonstrate that that teachers' unions and collective bargaining agreements are imperative to student achievement in the context of the current education reform movement by demonstrating that collective bargaining is not a zero-sum "rent seeking" activity that singularly benefits teachers, but has significant positive influence on student achievement. I will also establish the vital importance of unions and bargaining rights to education policy-making by showing that a reform measure teachers' unions have vehemently opposed - teacher evaluations/merit pay based on student test scores - is a misguided, ineffective reform measure. Together, these arguments will firmly show that teachers' unions and their rights to collective bargaining are not categorical roadblocks to student achievement and teacher quality, but are vital to education policy and should not be dismantled in the name of reform.

### Introduction

Teachers' unions use collective bargaining agreements to regulate the employment relationship between their members and the school district. CBA themselves are legal contracts negotiated between the teachers via their union and the school district via the school board. While the National Labor Relations Act governs and protects collective agreements and unions in the private sector, it does not afford state public employees the same protections.<sup>5</sup> Instead, many state legislatures have granted public employees rights to bargain collectively.<sup>6</sup> This legal framework makes most teachers

(excluding private school and many charter school teachers) subject to their state's laws governing collective bargaining rights for public employees because they are employed by the state. Because public employee collective bargaining rights are left largely to state governance, there is significant legal variety between states. The fact that bargaining rights are determined on a state level has become increasingly significant politically since the 2008 global economic crisis as many states have sought to limit bargaining rights as a way to cure budget and pension reform issues; this has the consequence, explicit or in some cases unintended of removing teachers from policy-making.

When teachers began to organize unions around the 1960's and bargain together for new employment contracts, the contract negotiations centered on fair treatment and prevention of administrative abuse in hiring and firing.<sup>7</sup> Teachers demanded protection through their unions from arbitrary and sexist treatment by administrators, and received pay raises and increased benefits.<sup>8</sup> But today, CBA encompass far more than grievance policies and compensation structures. CBA are extensive documents setting out detailed working conditions, teacher evaluation procedures, professional development requirements, class size restrictions, rights to participate in curriculum decisions, and other important educational policies.<sup>9</sup> CBA are one of the chief vehicles through which teachers can participate in educational policy making.<sup>10</sup>

Are teachers desirable, or competent policy makers? Teachers, and as a proxy, teachers' unions, are competent educational policy makers because they have information, education, and experience on the nuanced and complex issues of educational policy. Indeed, they are far more competent policy makers than local school board members with whom they must negotiate their contracts. School boards are typically five

to seven member elected boards, comprised of community members with occupations outside education, and which “have little or no experience in educational matters.”<sup>11</sup> The same or similar can also be said for legislators at both the state and federal level, few of which have a background in teaching and can say from experience what policies will work in a classroom. The collective education qualifications and experience of even a small teachers’ union thus far surpasses the competency of a school board or perhaps even a state legislature to craft workable, efficient policies.

### Teachers’ Unions and Collective Bargaining

Despite teacher competency on the subject of education, there is significant debate on the use of collective bargaining as an education policy-making tool. Specifically, whether collective bargaining negatively affects teacher quality, and whether bargaining ultimately helps or hurts student achievement. As previously noted, quantitative research is inconclusive as to the effect of collective bargaining on student achievement. Studies by Steelman, Powell, and Carini (2000), and by Eberts and Stone (1984), found positive relationships between bargaining and student achievement.<sup>12</sup> On the other hand, Moe (2007), Hoxby (1996), and Kurth (1987), found a negative relationship.<sup>13</sup> Lovenheim’s (2009) study found only a negligible relationship.<sup>14</sup> Lacking conclusive empirical proof to prove either conclusion, both sides of the debate have marshaled additional competing evidence and claims both qualitative and circumstantial to support their positions. For example, union advocates have observed that right-to-work states and those that prohibit teacher collective bargaining including South Carolina, Georgia, Texas, North Carolina, and Virginia are at the bottom of student performance

measured by ACT/SAT scores, while heavily unionized states like Minnesota and Massachusetts consistently score among the top in student achievement.<sup>15</sup>

A key contention against collective bargaining is the argument that teachers and teachers' unions cannot be trustworthy policy makers because they have interests that run contrary to students.<sup>16</sup> Critics argue that this creates a moral hazard, or conflict of interest, and that as a consequence teachers will help themselves at the expense of students if presented with a choice between protecting/advancing their interest or protecting/advancing their students' interests when doing so would hurt their own interests.

This characterization obscures the nuanced and complex nature of collective bargaining, and misses the fact that teachers' needs are bound-up with the needs of the students in a way that primarily *joins* both parties in interest. Accordingly, when teachers bargain for concessions, those concessions nearly always confer benefits for both the students and teachers. When bargaining is restricted, students lose a valuable ally in protecting their interests. Although collective bargaining has the potential to create conflicts of interest (for example, increased teacher compensation at the expense of student activity budgets; complex and burdensome procedures for removing a poorly performing teacher), it is important to balance the potential negative outcomes against the positive ones associated with most CBA. Taken together the cumulative effect of bargaining, though an imperfect practice, reveals that teachers largely bargain for policies (detailed below) that have a positive effect on teacher quality and student achievement.

First, school districts with collective bargaining are more likely to have class size caps and smaller class sizes, a policy beneficial to both students and teachers.<sup>17</sup> It is easy

to see the dual interest in small class size; teachers benefit from having a manageable number of students in their classroom, and students benefit from receiving more individualized attention. Academic research corroborates the notion that students benefit from smaller class size. “Class size reduction appears to be an intervention that increases achievement levels for all students while simultaneously reducing the achievement gap.”<sup>18</sup>

Secondly, schools with collective bargaining also tend to maintain more competitive teacher salaries and benefits, which ensures high teacher quality.<sup>19</sup> Competitive teacher salaries help to ensure that intelligent, driven undergraduates will more likely elect to become a teacher, which directly effects teacher quality (although a competitive salary alone is not a sufficient guarantee that the pipeline of undergraduate teachers is of quality, nor does it bear on whether the undergraduate curriculum is sufficiently rigorous to create quality teachers). A competitive salary also helps to guarantee that once a teacher begins work, he/she will not be tempted to leave for the private sector to make more money. Benefits included in CBA ensure that teachers have access to healthcare so that they can be physically and mentally healthy, and able to cope with the stresses of teaching. The stable environment a competitive salary package creates, coupled with the quality it helps to ensure, confers a direct benefit on students.

To further corroborate this point, states that have passed right-to-work legislation aimed at weakening unions by permitting “free riders” have seen an overall decline in worker pay by an average of \$1,500 per year.<sup>20</sup> The weakening of unions using this legislation is intended to have the effect of improving the economy by lifting labor and wage restrictions and decreasing the power of unions to fight education and pension

reforms. Though right-to-work laws have increased private sector pay in many states, the laws have not been able to improve public sector pay, which is likely why right-to-work states have seen an overall decline in pay because the losses in public sector pay have not been made up by the increases in private sector pay.<sup>21</sup> Publically employed teachers who are deprived of the full force of their bargaining rights under right-to-work laws are arguably more likely to leave the teaching profession when experiencing stagnant or declining pay. On the other hand, public employees with strong unions are likely to maintain competitive salaries commensurate with the private sector (though this is a broad generalization). Further, even if overall pay were to increase in right-to-work states, there is no evidence that the increased pay would be able to offset the longer hours and increased health costs that come with weak or inept union representation.<sup>22</sup>

Circumstantially, in bargaining states there is likely a stronger monetary incentive to both become a teacher and remain one due to union representation and collective bargaining.

Teachers also consistently bargain for better facilities, better working conditions, increased professional development, and for more resources so that they can provide their students with the best possible learning materials without requiring students to pay for class materials out of pocket.<sup>23</sup> These objectives all clearly benefit both teachers and students. Teachers set the tone in a classroom, and when they are teaching in unworkable conditions, it negatively affects their students. Facilities that are unsafe, or in a state of disrepair, also directly affect student well being and performance; both students and teachers benefit from a quality school environment. School board members on the other hand may believe that facility updates, like a new library or an air conditioning unit, for example, would be too expensive and affect the district budget. Unlike the teachers,

school board members do not work in the school daily, and are unable to understand student needs as well as the teachers can. Teachers have a vested interest in the facility and can provide students with an assertive voice to the school board where their voices may not otherwise be heard.

The fact that teachers prefer fair compensation, small class size, and a comfortable work environment does not mean that these needs conflict with the needs of their students. Nor does it mean that their hard-won concessions earned from collective bargaining have resulted from a zero-sum game in which teachers are the winners, and the students, school district, and parents are the losers. Critics fail to recognize that a teacher's interests are tightly bound up with their students, and that like in the above examples, teachers bargain for concessions that serve the interest of their students.

Nonetheless, critics of collective bargaining argue that it restricts the use of monetary compensation to reward the 'best' teachers (merit pay), it prevents the removal of teachers on the basis of poor performance, and limits teacher accountability for student performance.<sup>24</sup> Each of these claims relates to the issue of teacher quality and perceived union obstructionism. Many of these critics and reformers advocate for the wholesale weakening of teachers' unions in any way legally possible, and advance reforms aimed at improving teacher quality like merit pay based on standardized tests, vouchers, and charter schools.<sup>25</sup> Below, I will address and dispose of the remaining claims against collective bargaining as it relates to teacher quality, and will also dispose of the proffered reform solution to improving teacher quality - teacher evaluations based on student test scores - as an untenable solution that is unsubstantiated by quantitative research.



## Teacher Quality

A centerpiece of collective bargaining criticism is teacher quality, and the notion that unions protect bad teachers from being fired, and retain teachers based on seniority and not quality. Critics argue that unions should be weakened, or that at the least the strength of the protections in their contracts should be diminished because it is difficult to fire a teacher who has acquired tenure and union protections, and because teachers and unions are resistant to merit-pay/teacher evaluations based on student test scores.<sup>26</sup> The argument that restrictive CBA are harmful because they restrict bad teachers from being fired is perhaps the only valid argument against the use of collective bargaining. The protections that teachers are afforded through their contracts are extensive; once tenure is acquired, it can be difficult and expensive to remove a teacher. But this problem-area in CBA alone does not justify the destruction of teachers' unions and collective bargaining rights through right-to-work, anti-union legislation. In the instances where restrictive CBA prevent the flexibility necessary to implement potentially beneficial educational reform policies, legislation that incentivizes unions to adopt less restrictive CBA, like the recent *Race to the Top* initiative, are a better solution to implementing reforms because they allow legislators to achieve the reforms they want without destroying the beneficial educational, societal, and political qualities of a robust teachers union.<sup>27</sup>

The claim that unions protect bad teachers because they resist teacher evaluation reforms is wholly without merit. While everyone agrees that teacher quality is vital, and indeed "highly qualified teachers" are mandated by No Child Left Behind ("NCLB"), there is fierce disagreement about how to measure teacher quality.<sup>28</sup> Teachers' unions resist certain teacher evaluation reforms not because they want to protect poorly

performing teachers, but because they disagree with the use of student test scores as the primary metric to measure teacher quality. The contention that collective bargaining protects bad teachers because unions resist teacher evaluation reforms is thus misleading and incorrect because unions have resisted many contemporary reform measures aimed at firing poorly performing teachers on the basis that the methods used to measure teacher effectiveness are flawed and will result in unjust job losses, particularly in low-income school districts.<sup>29</sup>

The education reform movement in the U.S. that began with President Bush and NCLB and that has continued through President Obama and his Secretary of Education Arne Duncan, New York Mayor Michael Bloomberg, Chicago Mayor Rahm Emmanuel, and others rests on the premise that teacher quality can only or at least should primarily be measured by student achievement.<sup>30</sup> They therefore advance the use of high stakes standardized tests to measure teacher quality; this is because of the relative cost effectiveness of standardized tests, (though they are by no means inexpensive) and because their theory of teacher effectiveness is that students who do well on standardized tests have quality teachers.

The method of using student scores on standardized tests as the primary basis for teacher retention, pay, and as a proxy for measuring teacher quality is deeply flawed.<sup>31</sup> First, there is widespread consensus among statisticians and economists that student test scores, even when adjusted by value added modeling (“VAM”), are not reliable or valid indicators of teacher effectiveness.<sup>32</sup> Studies have shown that teacher ratings have fluctuated wildly from year to year, and that a teacher who ranks “ineffective” can dramatically improve the following year, and vice-versa.<sup>33</sup> These fluctuations are caused

by differences in students from year to year, small and/or unrepresentative samples (particularly where a school serves disadvantaged and/or mobile children), tests poorly aligned with curriculum, availability of tutors, the effectiveness of the previous teacher, and other factors.<sup>34</sup> The numbers are so unreliable that the research community has cautioned strongly against the use of these numbers for teacher pay and firing decisions.<sup>35</sup> For example, according to the Educational Testing Service, the largest non-profit educational testing organization in the world, “VAM results should not serve as the sole or principle basis for making consequential decisions about teachers. There are many pitfalls to making casual attributions of teacher effectiveness on the basis of the kinds of data available from typical school districts. We still lack sufficient understanding of how seriously the different technical problems threaten the validity of such interpretations.”<sup>36</sup> Despite this, some states are considering adopting teacher evaluation procedures that would attribute up to 50% of the total teacher quality score to student test scores.<sup>37</sup> According to studies, these systems are likely to misidentify good and bad teachers.

In addition to the dangers of using this inherently flawed data set to make hiring and personnel decisions, adopting a merit pay system based on student test scores encourages teachers to “teach to the test” and minimize untested topics that are of equal value to a student’s education like science, history, the arts, civics, and foreign language.<sup>38</sup> There is also no evidence that there would be more effective teachers to replace departing teachers, no evidence that the departing teachers would be the weakest teachers, and no evidence that teachers would be more motivated to improve student achievement if they were evaluated and rewarded with compensation for improving

student test scores.<sup>39</sup> Based on empirical research, it is unsurprising that teachers' unions are extremely resistant to evaluations based on student scores and merit pay.

The policy of incorporating student test scores in teacher evaluations has roots in NCLB, which first used student test scores to evaluate schools.<sup>40</sup> But the idea to use test scores as a way to remove teachers and improve teacher quality gained national exposure from President Obama's endorsement, and from the "manifesto" on teacher quality published in the *Washington Post* written by Michelle Rhee, former chancellor of Washington, D.C.'s Public Schools, Joel Klein, chancellor of the New York City Public Schools, and signed by fourteen other school superintendents.<sup>41</sup> Their central claim, that teacher quality is the single most important factor in determining student achievement, is the impetus for their charge to remove incompetent teachers and improve schools.<sup>42</sup> But their central claim is misconstrued and misleading; while teacher quality has been designated the most important *in school* factor to determine student achievement, *non-school* factors account for two-thirds of the variation in student achievement.<sup>43</sup> Student test score gains are heavily influenced by the availability of non-school learning experiences in the home, supportive, well-educated parents, and family resources.<sup>44</sup> Factors like hunger and malnutrition, psychological and mental stress of home life, violence, poor health, and other socio-economic factors are much larger threats to academic success than poor teacher quality.<sup>45</sup>

The misguided focus on blaming teachers for student failures ignores these crucial non-school factors that are likely more important to student achievement yet difficult to remedy, and presents stake holders in educational policy and voters with a false choice to either reform teacher evaluations and give administrators more power to fire bad teachers

(by union busting and other measures), or risk educational collapse. This artificial choice neglects other crucial in-school factors that need to be addressed and improved including curriculum, leadership, and teacher collaboration.<sup>46</sup> Teachers and teachers' unions with their hands on experience dealing with these challenges understand the complex formula necessary for student success, which is precisely why they resist misleading, oversimplified, ineffective policies like teacher evaluations based on student test scores. When policy-makers ignore teachers and choose to exclude them from the policy-making process, they lose the necessary teacher perspective. The debate surrounding student test scores and teacher evaluations demonstrates that teachers' unions who overwhelmingly resist these measures are integral to effective education policy making.

The recent Chicago Teachers Union ("CTU") strike in September 2012, demonstrates the vital role that strong unions and collective bargaining agreements can play in resisting unsubstantiated reforms. A key contention between the Chicago Public Schools ("CPS") board and CTU that lead to an impasse in the negotiations and ultimately to the strike, was a new teacher evaluation system based on student achievement devised by Mayor Rahm Emmanuel and his appointed CPS board.<sup>47</sup> The CTU strike was the first since 1987, and garnered national attention.<sup>48</sup> The eight-day strike that occurred resulted in what many have called a relative victory for the CTU on the issue of teacher evaluations.<sup>49</sup> Instead of student achievement growth scores accounting for 45% of the overall teacher evaluation score (as proposed by CPS), the contract states that student scores will only account for 25% of the overall teacher evaluation score.<sup>50</sup> Like most teachers unions that recognize the absurdity of using test scores as the primary way to evaluate teachers, CTU advocated for a more holistic

approach to teacher evaluations that takes into account teacher observations focused on gauging teacher planning and preparation, the classroom environment, instructions, and professional responsibilities.<sup>51</sup>

The CTU strike victory illustrates the importance of teachers' unions in developing sound educational policy. It also demonstrates that the ability to strike is an important bargaining chip for teachers and likely contributed to the CTU's success in negotiations. The success of the strike however illustrates to reformers that a key roadblock to their reform measures is a strong, active teachers union. Unfortunately, teachers unions will likely continue to be targeted with various labor restrictions until they can change the public dialogue on education reform measures and suggest viable alternatives that legislators and voters will accept.

### Conclusion

This policy paper demonstrates the vital importance that unions play in education policy-making. Collective bargaining and CBA are an imperfect way for teachers to engage in policy-making, and at times, their restrictiveness impedes reform measures. However, excluding teachers from policy-making is dangerous because teachers have vital experience and knowledge and should play a prominent role in policy-making. Teachers are also essential advocates for their students because their needs are bound up with the needs of their students to the extent that concessions for teachers benefit students and enhance teacher quality and student achievement. When teachers are ignored and excluded from the negotiating table, ineffective corporatized policies like merit pay and teacher evaluations based on student test scores emerge and threaten the integrity of our schools. Unions that engage in collective bargaining are imperative to education policy-

making because unions have been the only significant resistant force to these kinds of measures. Excluding and weakening unions will clear the way for these unacceptable new policies and have a negatively impact on our public schools.

### Citations

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<sup>2</sup> *Teachers' unions/Collective Bargaining: State and Local Laws*, FINDLAW (2013), available at <http://education.findlaw.com/teachers-rights/teacher-s-unions-collective-bargaining-state-and-local-laws.html>

<sup>3</sup> Nina Bascia & Pamela Osmond, *Educational Reform: A Research Review*, NATIONAL EDUCATION ASSOCIATION, (2012), available at <http://216.78.200.159/Documents/RandD/NEA/Teacher%20Unions%20and%20Educational%20Reform.pdf>

<sup>4</sup> Joshua M. Cowen, *Teacher Unions and Teacher Compensation: New Evidence for the Impact of Bargaining*. JOURNAL OF EDUCATION FINANCE, Vol. 35, No. 2, (2009) available at <http://www.jstor.org/stable/pdfplus/40704384.pdf?acceptTC=true>

<sup>5</sup> National Labor Relations Act, 29 U.S.C. §§ 151-169, available at <http://www.nlr.gov/national-labor-relations-act>.

<sup>6</sup> See note 2.

<sup>7</sup> See note 1 at 15.

<sup>8</sup> Katharine O. Strunk & Jason A. Grissom, *Do Strong Unions Shape District Policies?: Collective Bargaining, Teacher Contract Restrictiveness, and the Political Power of Teachers' Unions*. EDUCATIONAL EVALUATION AND POLICY ANALYSIS, Vol 32, No. 3, (2010), available at [http://www.usc.edu/dept/education/cegov/focus/teacher-lm&p/publications/journals/Unions\\_Shape\\_Policies\\_Strunk\\_sept10.pdf](http://www.usc.edu/dept/education/cegov/focus/teacher-lm&p/publications/journals/Unions_Shape_Policies_Strunk_sept10.pdf)

<sup>9</sup> See note 1 at 9.

<sup>10</sup> See note 3 at 1.

<sup>11</sup> Michael J. Kaufman & Sherelyn R. Kaufman, *Education Law, Policy, and Practice*, 2nd ed. (2009), at 492.

<sup>12</sup> See note 4 at 175.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Adam Urbanski, *Improving Student Learning Through Collective Bargaining*. HARVARD EDUCATION LETTER, Vol. 27, No. 3, (2011), available at <http://hepg.org/hel/article/500>

<sup>16</sup> See note 1.

<sup>17</sup> See note 15.

<sup>18</sup> Spyros Konstantopoulos et al., *What Are the Long-Term Effects of Small Classes on the Achievement Gap? Evidence from the Lasting Benefits Study*. AMERICAN JOURNAL OF EDUCATION, (2009) available at <http://news.msu.edu/media/documents/2009/10/4dc7ac16-dcd4-4525-9f1d-c324a4385f0f.pdf>

<sup>19</sup> See note 15; See also note 4, empirical evidence demonstrates that bargaining districts spend more money on teacher compensation.

<sup>20</sup> James Crotty, *Right-To-Work: Does It Improve Teacher Quality?* FORBES, December 13, 2012, available at <http://www.forbes.com/sites/jamesmarshallcrotty/2012/12/13/4-of-detroit-public-school-8th-graders-are-proficient-in-math-is-michigans-right-to-work-law-the-answer/>

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See note 3.

<sup>24</sup> See note 1 at 2.

<sup>25</sup> Steven Greenhouse, *In Standoff, Latest Sign of Unions Under Siege*, NEW YORK TIMES, September 10, 2012, available at [http://www.nytimes.com/2012/09/11/education/in-chicago-teachers-strike-signs-of-unions-undersiege.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/09/11/education/in-chicago-teachers-strike-signs-of-unions-undersiege.html?pagewanted=all&_r=0)

<sup>26</sup> Dan Goldhaber et al., *Why Do So Few Public School Districts Use Merit Pay?* JOURNAL OF EDUCATION FINANCE, Vol. 33, No. 3, (2008), available at <http://www.jstor.org/stable/pdfplus/40704329.pdf>

<sup>27</sup> See note 3; although *Race to the Top* does in many ways undermine union strength.



<sup>28</sup> Jennifer King Rice, *Teacher Quality: Understanding the Effectiveness of Teacher Attributes*. ECONOMIC POLICY INSTITUTE, (2003), available at [http://www.epi.org/publication/books\\_teacher\\_quality\\_execsum\\_intro/](http://www.epi.org/publication/books_teacher_quality_execsum_intro/)

<sup>29</sup> See note 26 at 263.

<sup>30</sup> Eva L. Baker, et al., *Problems With The Use of Student Test Scores to Evaluate Teachers*. ECONOMIC POLICY INSTITUTE, (2010), available at <http://www.epi.org/publication/bp278/>

<sup>31</sup> *Id.* at 1.

<sup>32</sup> *Id.* at 2.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 3.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 2.

<sup>38</sup> *Id.* at 4.

<sup>39</sup> *Id.* at 5

<sup>40</sup> *Id.*

<sup>41</sup> Richard Rothstein, *How to Fix Our Schools: It's More Complicated, and More Work, Than the Klein-Rhee 'Manifesto' Wants You to Believe*. ECONOMIC POLICY INSTITUTE, (2010), available at <http://www.epi.org/page/-/pdf/ib286.pdf>

<sup>42</sup> Joel Klein, et al., *How to Fix Our Schools: A Manifesto by Joel Klein, Michelle Rhee and Other Educational Leaders*, WASHINGTON POST, October, 10, 2010, available at <http://www.washingtonpost.com/wpdyn/content/article/2010/10/07/AR2010100705078.html>

<sup>43</sup> See note 41.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> Michael Pearson, *Wins, Losses and Draws in Chicago School Strike*, CNN, September 19, 2012, available at <http://www.cnn.com/2012/09/19/us/illinois-chicago-teachers-strike>

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> CHICAGO TEACHERS UNION, *Teacher Evaluation*, (2012), available at <http://www.ctunet.com/quest-center/research/teacher-evaluation/pera-faq>

<sup>51</sup> *Id.*