



**Implementing Colorado Senate Bill 10-191:
School District Guidance on Mutual Consent Hiring for Teachers**

Prepared in partnership with:



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Background: The Colorado Legacy Foundation's Support for School Districts in Implementing Colorado Senate Bill 10-191

In 2010, the state of Colorado enacted the *Ensuring Quality Instruction Through Educator Effectiveness Act* (Senate Bill 10-191), which made sweeping reform to how school districts evaluate educators for effectiveness and requires districts to use data on educator effectiveness to make key human capital management decisions. S.B. 10-191 includes provisions related to how teachers are hired and obtain placements at schools, including the requirement that teachers can only be permanently assigned to schools through *mutual consent hiring*. Mutual consent hiring is a process in which teaching positions are filled at schools based upon the agreement by both the teacher and the principal (with input from other teachers at the school) that the teacher and the school are a good match that aligns well with the teacher's qualifications, experience, and demonstrated effectiveness. It represents a shift from teacher hiring and placement practices traditionally used by some districts, in which teachers are "force-placed" into schools by the district central administration without the ability of principals to interview and select those teachers, or for teachers to accept positions at schools that they believe will be a good fit for them.

Through a grant awarded by the Bill & Melinda Gates Foundation, the Colorado Legacy Foundation (CLF) is providing support to Colorado school districts in implementing S.B. 10-191 by developing models, convening district practitioners to share their experiences in implementing the law, and disseminating best practices. CLF has engaged The New Teacher Project (TNTP), a national non-profit dedicated to ensuring that all students get outstanding teachers, to provide resources and direct support to Colorado school districts in implementing the provisions of S.B. 10-191 that pertain to teacher hiring and placement, including mutual consent hiring. (See Appendix for more information on CLF and TNTP.)



Document Overview

Developed by The New Teacher Project (TNTP) through its partnership with the Colorado Legacy Foundation (CLF), this document provides guidance to Colorado school districts in establishing a system of effective mutual consent hiring for teachers. The information and recommendations provided in this document are based on the provisions of S.B. 10-191 requiring mutual consent hiring, and on the experiences and lessons learned by TNTP in implementing mutual consent hiring in school districts across the United States. This guidance is not intended to be legal advice to school districts; rather, CLF and TNTP believe this document can serve as a practical road-map for school districts in how to go about evaluating and revising their current teacher hiring policies and practices as they plan for implementation of mutual consent hiring.

CLF and TNTP hope that this document can serve as a complementary resource to the other valuable resources provided by organizations in Colorado for school districts to review and consider as they adopt mutual consent hiring for teachers, including the guidance and resources provided to their members by organizations such as the Colorado Association of School Boards (CASB), the Colorado Association of School Executives (CASE), and the Colorado Education Association (CEA). In spring 2011, CASB will release sample board policies for Colorado school districts on mutual consent hiring for teachers. For more information on CASB's sample board policies, please contact Jeri Hodgson-Fleuter at jhodgson@casb.org.

How to Use this Document

School boards, administrators and educators: Read the introduction for an overview of mutual consent hiring and its implications for you and your district.

Human resource directors, Association/Federation leaders and others interested in more detail: Review the "Steps for Implementing Mutual Consent" for guidance on specific steps to take in planning for mutual consent implementation in your district.

All readers: CLF would like to collect and share best practices. If you or your school district have experiences with implementing mutual consent that others should consider or avoid, we encourage you to share those with CLF staff so we can improve our resources.

Issues and questions: As issues or questions arise in your implementation of mutual consent hiring, please share them with Chris Casarez, TNTP Project Director, at ccasarez@tntp.org or Nina Lopez, CLF Director of Educator Effectiveness, a nlopez@colegacy.org. The goal of this work is to help districts address implementation challenges and share lessons learned with other districts across the state.



Implementing Colorado Senate Bill 10-191: School District Guidance on Mutual Consent Hiring for Teachers

Introduction: Mutual Consent Hiring for Teachers

What is mutual consent hiring?

Mutual consent hiring is a process through which teaching positions are filled at schools based upon the agreement by both the teacher and the principal (with input from other teachers at the school) that the teacher's qualifications, experience, and demonstrated effectiveness are a successful match for the school. Mutual consent hiring ends the practice of "forced placement" of teachers into schools, in which teachers are assigned to schools by the central school district administration, without the ability of principals to interview or select them or the ability of teachers to accept job offers from schools in which they would like to work and believe they will be successful.

When full mutual consent hiring is implemented in a school district and forced placement is abolished, the result is a system of *open-market hiring for teachers*. In this system, the roles of teacher candidates, principals, schools, and the central school district administration must shift from the roles they may have traditionally played.

- ***Internal and external candidates for teacher vacancies must be active job-seekers*** who access information on school-level vacancies, apply for open positions, and participate in school interviews and other selection activities.
- ***School principals and teachers involved in the hiring process must actively seek the teachers to fill their vacancies that best meet their school's needs*** by posting known

Mutual Consent Hiring: Benefits to Teachers and Schools

Research by TNTP in multiple school districts has consistently demonstrated that mutual consent hiring increases teacher satisfaction and supports the ability of schools to build strong instructional teams.

- **Chicago Public Schools (CPS)** has had full mutual consent hiring since 1995. In a 2007 TNTP study, 92 percent of CPS principals agreed that the hiring and transfer process allowed them to create the best possible instructional teams for their schools; and 78 percent of teachers were satisfied with the transfer process.
- In a 2008 TNTP study of **Pueblo City Schools (PCS)**, transferring teachers who secured new placements through mutual consent hiring were 24 percent more likely to be satisfied with their new schools than teachers who had been force-placed.
- In a 2009 TNTP study of the **San Francisco Unified School District (SFUSD)**, displaced teachers who had secured new placements through mutual consent were more than twice as likely as force-placed teachers to be satisfied with their new school placements. TNTP also surveyed SFUSD principals, including those at a subset of schools with special authority to fill almost all of their vacancies through mutual consent, unlike most schools that were subject to forced placement of teachers. Fifty percent of principals at the schools with mutual consent hiring agreed that the hiring and transfer process allowed them to create the best possible instructional teams for their schools, compared with only nine percent of principals at schools who received forced-placements.

Source: *Teacher Hiring, Assignment, and Transfer in Chicago Public Schools* (TNTP, 2007); *Teacher Hiring, Transfer, and Evaluation in Pueblo City Schools* (TNTP, 2008); *Teacher Hiring, Assignment, and Evaluation in San Francisco Unified School District* (TNTP, 2009)



vacancies in a timely way, actively recruiting and cultivating candidates, defining the skills and competencies most needed for success in their schools, and making rigorous selection decisions.

- *The school district administration must facilitate good matches between teachers and schools* by communicating expectations in the process for teachers and schools, supporting schools in the timely identification of vacancies, providing teachers with timely, accurate data on available vacancies, providing schools with timely, accurate data on the pool of available candidates, and efficiently processing school selection decisions.

How does mutual consent hiring differ from hiring practices traditionally employed by some school districts?

Mutual consent hiring differs from a more centralized approach to teacher hiring and placement traditionally implemented by some school districts. In particular, the following practices that may currently be employed by school districts are not compatible with mutual consent hiring.

- **Hiring timeline restrictions that prevent schools from considering external teacher candidates before internal transferring teachers or processes that segregate external candidates from being considered equally alongside internal candidates.** Under mutual consent hiring, schools should be allowed to consider internal and external candidates equally for every vacancy, without timeline restrictions or requirements to consider internal candidates before external ones. (Note: As described below, under S.B. 10-191, displaced non-probationary teachers must be provided with information on vacancies for which they may be qualified and the first opportunity to interview for vacancies. However, these provisions do not restrict the ability of schools to consider external candidates equally with internal candidates for all vacancies. In addition, collective bargaining agreements in some school districts may contain provisions prohibiting districts from hiring external candidates during a reduction-in-force (RIF). Such provisions would require modification to align with the mutual consent requirements of S.B. 10-191.)
- **Processes for filling vacancies that allow displaced non-probationary teachers to select new positions in seniority order, without applying and interviewing for positions with schools.** While this practice provides teachers with consent in selecting their new positions, it overrides the ability of schools to select the best possible teacher for each vacancy.
- **Processes for filling vacancies in which principals select displaced non-probationary teachers to fill vacancies at their schools from a list of names, without interviewing those teachers or considering them equally with external candidates.** While this practice may represent an element of “passive consent” on the part of the principal, it does not allow schools to rigorously consider the qualifications and experience of teacher candidates, and it does not provide the teacher with the ability to select the school that is the best fit for him/her.
- **Processes for filling vacancies in which the district central administration or office of Human Resources assigns teachers directly to schools without the involvement of the teacher or the school.** This practice does not allow schools to make active selection



decisions or teachers to find a school and position that they believe will be a good fit for them.

- **Processes for filling vacancies in which principals select teachers to fill vacancies at their schools based on personal bias or other factors not related to the teacher’s qualifications, experience, and demonstrated effectiveness.** If principals have discretion over which teachers to hire, but their selection decisions are not aligned to criteria for identifying teachers who will be effective in their schools, then the value of mutual consent is lost.

It is important to note that many school districts may have employed practices like those listed above because of an earlier requirement under Colorado state law that non-probationary teachers who are displaced from one school must be guaranteed continual employment in the school district, unless the district was in a true lay-off situation and all probationary teachers in the district had already been laid off. Under this requirement, school districts were obligated to provide non-probationary teachers with new permanent placements, and so practices like those listed above were means of fulfilling this obligation. *As described below, S.B. 10-191 eliminated the requirement that a non-probationary teacher who is displaced from one school be guaranteed a permanent placement at another school, making practices like those listed above unnecessary.*

What are the provisions in S.B. 10-191 that pertain to mutual consent hiring?

S.B. 10-191 aims to improve student outcomes across Colorado through increased educator effectiveness, the most important school-based factor influencing student achievement. The law is grounded in the key principle that adequate mechanisms for measuring and acting upon educator effectiveness are essential tools for improving student outcomes, and educator effectiveness should play a primary role in human capital decision-making at the district- and school-levels. In order to be effective, teachers must have the opportunity to obtain teaching placements that they believe will allow them to be successful, and school principals must have the opportunity to select teachers to fill vacancies at their schools, as informed by the input of other teachers at the school.

S.B. 10-191 requires that all school districts in Colorado implement mutual consent hiring for

Mutual Consent Hiring in Small Districts

In some of Colorado’s smallest school districts, implementing mutual consent hiring will present unique challenges that will require creative solutions. In applying the mutual consent hiring provisions of S.B. 10-191, we encourage small districts to faithfully interpret the spirit of the law, by empowering principals to form strong instructional teams by engaging input from their faculty and making affirmative selection decisions for the teachers in their schools. District policies or practices that directly or indirectly limit the ability of principals to select their teachers are not compatible with mutual consent hiring or with the requirements of S.B. 10-191 that principals be evaluated based in part on the performance of their teachers.

In 2011, CLF and TNTP will provide direct support and technical assistance in implementing mutual consent hiring to a subset of Colorado school districts, including small, rural districts, and the lessons learned from this initiative will be disseminated statewide in fall 2011.



teachers¹ and includes detailed provisions should non-probationary teachers be unable to secure a mutual consent assignment. These provisions are highlighted below.

- **Mutual consent hiring.** Assignment of a teacher to a school must be based on the consent of the principal, the input of at least two teachers at the school who have been selected by the faculty to represent them, and a review of the teacher's demonstrated effectiveness, qualifications and experience to demonstrate that they support the instructional program of the school.
- **Priority hiring pool.** Active non-probationary teachers with satisfactory or effective evaluation results who do not secure new positions through school-based hiring are placed in a priority hiring pool where they are given the first opportunity to interview for available positions in the school district for which they are qualified.
- **Unpaid leave and temporary assignment.** Non-probationary teachers who do not secure a new position through school-based hiring within twelve months or two hiring cycles will be placed on unpaid leave, although school districts may assign non-probationary teachers to schools on a temporary basis.

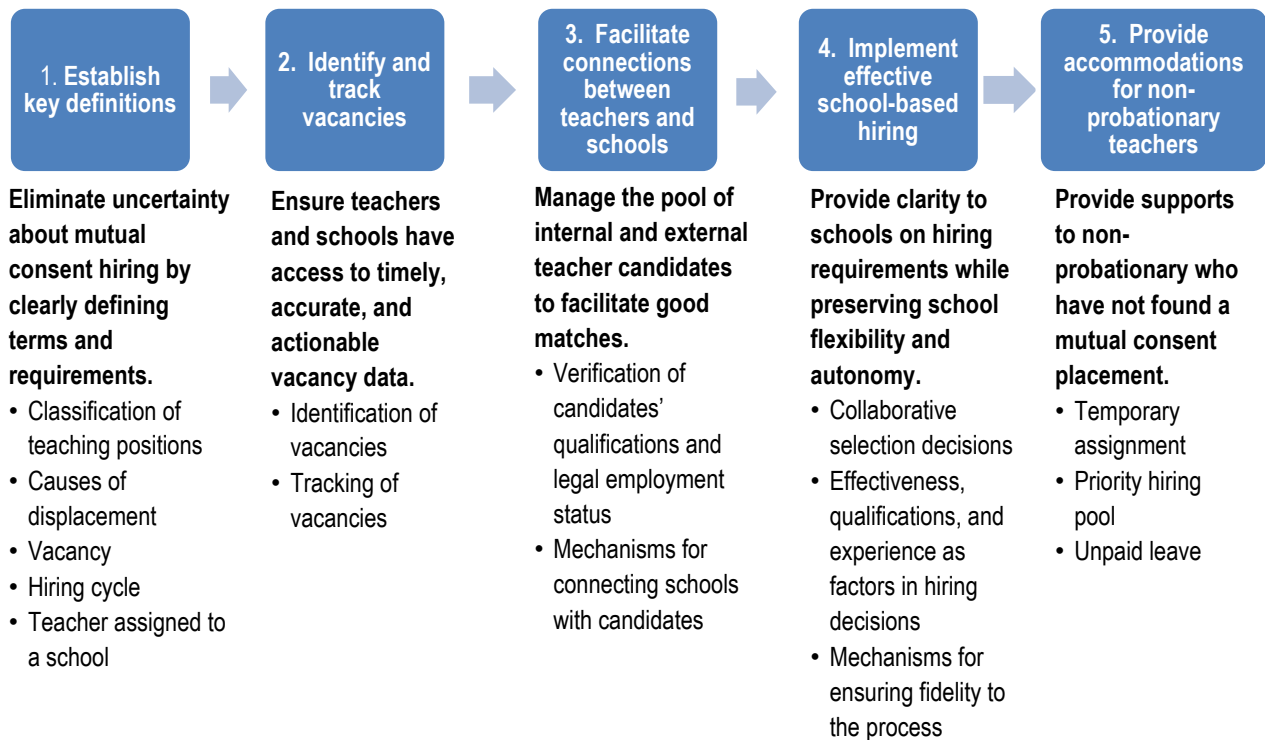
¹ S.B. 10-191 requires full mutual consent hiring for teachers and does not specify how positions for other licensed personnel should be filled. In this document, we provide guidance relevant to hiring for teachers, although many of the concepts and practices can be generalized to other licensed personnel in school districts that wish to establish mutual consent hiring for those positions as well.



Implementing Mutual Consent Hiring: Steps for District Implementation

School districts should begin by reviewing their current hiring policies to identify areas that may need to be changed and/or clarified in order to implement the mutual consent hiring provisions of S.B. 10-191. S.B. 10-191 requires districts to work with their local teachers associations to develop policies for the local school board to adopt. If no association exists in the school district, the district is required to create an eight person committee consisting of four school district members and four teachers to develop mutual consent hiring policies. The following steps provide a framework for districts working with their teachers to review current policies and practices and to implement mutual consent hiring.

District Implementation Framework for Mutual Consent Hiring



1. Establish Key Definitions

A system of full mutual consent hiring as required by S.B. 10-191 will represent a significant shift for many school districts. Principals, teachers, and central district staff will likely have questions about what the changes mean and what will be expected of them in the new system. By establishing clear definitions of key terms and requirements, school districts can eliminate this uncertainty and ensure that practitioners have a common understanding of what the changes will entail and how to apply them.



Classification of teaching positions: Implementing the mutual consent provisions of S.B. 10-191 will be simplified if a school district has a system for classifying teaching positions based on how positions can be created and filled. Key questions for school districts to consider in creating such a system for classification include the following.

- Does our school district differentiate between temporary teaching positions and positions that are filled on a continuing or permanent basis? For example, a teaching position that becomes vacant for a few months due to a teacher's medical leave might be considered a temporary position, while a position that becomes vacant due to a teacher's resignation could be considered a permanent position.
- Does our school district have centrally-based teaching positions, or are all teaching positions in our district school-based?
- Does our school district have full- and part-time teaching positions?
- Does our school district treat the positions of other licensed personnel (e.g., guidance counselors, school psychologists, etc.) in the same way as teaching positions, or are positions of other licensed personnel subject to policies and processes not in place for teachers?

Causes of displacement: S.B. 10-191 lists specific causes for a teacher's displacement from a school that qualify him/her for the considerations provided in the law:

- drop in enrollment;
- turnaround;
- phase-out;
- reduction in program; or
- reduction in building, including closure, consolidation, or reconstitution.

For the purposes of developing policies related to mutual consent hiring, a school district should clearly define each of these causes for displacement, and any other applicable causes (e.g., changes in program) which the school district would like to make qualifying circumstances for the considerations of S.B. 10-191. Once mutual consent hiring is actively in place in a school district, when a teacher is displaced from a school, the district should declare whether the displacement is due to one of these qualifying causes, and data on the cause of displacement should be tracked.

Vacancy: Under S.B. 10-191, when non-probationary teachers are displaced from a school, they must be given a list of vacancies that they are qualified to teach. To implement this provision, a school district should have a clear definition of a vacancy and a process for providing displaced teachers with a list of vacancies.

TNTP sample definition: *A vacancy is a school-level teaching position that is currently vacant or expected to become vacant within the current hiring cycle. Vacancies can be created by the separation of current teachers from their positions (including teachers giving notice of intent to resign or retire) or the creation of new positions due to changes in enrollment and/or funding.*

Hiring cycle: For the purposes of determining when non-probationary teachers that do not secure mutual consent placements must be placed on unpaid leave, school districts must define



“hiring cycles.” S.B. 10-191 requires that teachers will be placed on unpaid leave if they do not secure mutual consent placements within **12 months or two hiring cycles, whichever is longer**. Some districts may already have defined hiring cycles, and in those cases, the district should align their mutual consent hiring policies with established hiring cycle definitions. In considering how to define their hiring cycles, school districts may want to consider the following questions.

- When during the year does our district hire external candidates? Are external candidates hired to fill vacancies that occur mid-year?
- When during the year does our district conduct excessing or displacement of teachers due to reduced enrollment, funding, or changes in program? Does teacher displacement occur only in the spring, or does teacher displacement occur in the fall too?
- When during the year does our district fill vacancies on a permanent basis? Are vacancies that may be filled during the school year considered permanent or temporary placements?
- When during the school year do schools conduct an active selection process for new hires?

For school districts without established hiring cycles, we provide the following sample framework.

TNTP sample framework for two hiring cycles:

Hiring Cycle 1: A spring/summer hiring cycle for vacancies for the start of an academic year

This hiring cycle begins in the spring of a given academic year (e.g. on or around February 15) and concludes within the first few weeks of the following academic year (e.g., on or around September 1).

Hiring Cycle 2: A mid-year hiring cycle for vacancies that occur during the academic year

This hiring cycle begins within the first few weeks of a given academic year (at the conclusion of the spring/summer hiring cycle and on or around September 1), and concludes when the spring/summer hiring cycle for the following academic year begins (e.g., on or around February 15).

Under this sample framework, a teacher who is displaced during Hiring Cycle 1 in spring 2011, for example, would have until spring 2012 to secure a mutual consent placement before being placed on unpaid leave. (Note: If a teacher secures a mutual consent placement in spring 2012 for the start of the 2012-13 school year, that teacher should not be placed on unpaid leave, even though the effective date of the mutual consent placement technically falls after the one-year period.) Similarly, a teacher who is displaced during Hiring Cycle 2 in fall 2011 would have until fall 2012 to secure a new placement.

School districts should adopt definitions of hiring cycles with specific dates, even if the policy specifies that dates may be subject to change.



In some cases, a school district may only have one hiring cycle each year – the period beginning in spring and extending through summer in which vacancies for the coming school year are filled. In these cases, a teacher who was displaced in spring 2011, for example, would have through summer 2012 to obtain a mutual consent placement before being placed on unpaid leave.

Assigned to a school: The mutual consent provisions of S.B. 10-191 are tied to the action of a teacher being assigned to a school. As a result, school districts must clearly define what it means for a teacher to be assigned to a school, and how that may differ from a teacher providing instruction in a school on a temporary or itinerant basis.

TNTP sample definition: *A teacher is considered as assigned to a particular school if that teacher fills a continuing or permanent position and as at least 0.5 FTE.*

One important note: school districts should identify one (or more) specific individuals responsible for hiring itinerant and other teachers assigned to central departments. Those hiring managers should also have mutual consent authority to recommend the best possible teacher for each vacancy, thereby ensuring the same principles of demonstrated effectiveness and fit for those positions.

2. Identify and Track Vacancies

Establishing a clear process for how vacancies are identified and tracked is critical to the effective functioning of the mutual consent hiring provisions of S.B. 10-191. Accurate and timely vacancy data will support teachers and schools in making good hiring matches.

Identification of vacancies: The smooth functioning of a system of mutual consent hiring depends upon the ability of teachers and schools to know with certainty which vacancies exist and the details associated with those vacancies. Policy elements for an appropriate system for identifying vacancies should include the following:

- A defined process for vacancy identification, including clear responsibility and accountability for schools (identifying and reporting vacancies in a timely manner to the district) and the school district administration (collecting, reporting, and monitoring vacancies).
 - The process should detail activities, timelines, and roles, and should include accountability for accuracy and timeliness.
 - School districts should examine policies for teacher notification of resignation and retirement to ensure that they are supportive of teachers giving early notification. For example, any disincentives (e.g., loss of health benefits) for early notification should be eliminated, policies should contain a deadline for notification, and, if possible, districts should offer incentives for early notification.
- Requirements for the data points associated with each vacancy, including:
 - Subject area, grade level, and any other data necessary to determine the qualifications required for a teacher to fill the vacancy.



- Reason that the vacancy was created, such as the separation of a specific teacher or the enrollment or funding changes that allowed for the creation of the vacancy.
- Effective date of the vacancy.
- Classification of the teaching position associated with the vacancy, including whether it is a temporary or permanent position.
- A system of position control, which links funding sources to staffing plans and staffing plans to individual employees.

Tracking of vacancies: District mutual consent hiring policies should include a reliable and transparent mechanism for tracking vacancies to ensure that displaced teachers are not disadvantaged by unavailable or inaccurate vacancy data. Policy elements for an appropriate system of tracking vacancies should include the following:

- Identification of the best available tool for vacancy tracking, which should ideally be computerized.
- Required periodic reporting by the district on the number of open vacancies, the number of vacancies filled or closed, and the number of new vacancies created, which should allow for a simple accounting to ensure data accuracy and completeness. Note: In larger school districts, this reporting may be as frequently as weekly or bi-weekly.
- Consequences for schools that submit hiring requests for vacancies that were not formally declared and reported.

3. Facilitate Connections Between Teachers and Schools

Under full mutual consent hiring, the human resource role of the school district administration shifts from directly assigning teachers to schools to supporting teachers and schools in making good matches. In addition to the critical work of identifying and tracking vacancies described above, the school district administration should manage the pool of internal and external candidates to ensure that schools have timely access to candidates who meet all legal requirements for employment.

Verification of candidates' qualifications and legal employment status: District mutual consent hiring policies should preserve for the school district administration the responsibility of verifying candidates' credentials and legal employment status, whether these checks are done before or after the school hiring decision. This responsibility should include criminal background checks, verification of immigration status, and verification of teacher certification.

Mechanisms for connecting schools with candidates: Effective mutual consent hiring depends upon schools having not only the authority to select the best teachers for their vacancies but also efficient access to the pool of qualified candidates. In particular, school district policy should establish the following elements.

- Rather than segregating internal and external candidates into two separate pools, districts should provide schools with access to a unified pool of all qualified candidates for a vacancy, so that schools can compare internal and external candidates side-by-side and make the best possible selection decisions. While slightly different processes may



be necessary for internal candidates and to facilitate the priority hiring pools described in Section 5 below, schools' access to internal and external candidates should be as seamless as possible.

- The school district administration should provide schools with a means of advertising their teacher vacancies and recruiting high-quality candidates.
- Districts should articulate a clear process and platform for schools to access information on candidates, and they should give schools as much information as they can on teachers' qualifications, experience, and effectiveness. The ability of schools to make well-informed selection decisions is critical to the success of mutual consent hiring practices.

4. Implement Effective School-Based Hiring

School districts should create a system of active school-based selection, in which the central administration provides resources and support to schools in filling vacancies, and the decision of which qualified teacher to recommend for a particular position rests with the school. There are two critical elements to the vision of school-based selection established in S.B. 10-191: *teacher input in selection decisions* and *consideration of effectiveness, qualifications, and experience as primary factors*. School districts must establish appropriate policies to support each of these elements.

Teacher input in selection decisions: S.B. 10-191 requires that final teacher hiring decisions rest with the principal, but decisions must be reached with input from at least two teachers chosen by their colleagues to represent them. In this area, district policy should articulate how teachers may be chosen to participate in the hiring process and how teacher input on hiring decisions should be elicited and considered by the principal.

School district policy in this area should not create cumbersome processes or undue restrictions aimed solely at preventing worst case scenarios. Instead, district policy should provide clear guidance to schools on how to meaningfully involve teachers in the hiring process while giving principals reasonable flexibility to make timely decisions about the best possible teacher to fill each vacancy, including the following elements:

- A clear requirement that every school hiring recommendation must include the names of two teachers, selected by their colleagues to represent them, who provided input on the hiring decision.
- Flexibility for schools in determining how teachers will be selected by their colleagues to represent them in the hiring process, rather than a district-prescribed selection process.
- Flexibility for schools to identify more than two total teachers who will give input in the hiring process, allowing, for example, schools to identify teachers who will give input on the hiring process for vacancies only in their subject area, or for schools to identify teachers who will rotate in giving input, depending upon the time of year.
- A clear articulation of what will be expected of teachers that have the responsibility of providing input on the hiring process, including time before and after school and during school vacations. Policy should establish whether teacher time spent on the hiring process will be paid or unpaid, and if it is paid, what funding source will be used.



- A clear articulation of the types of activities that will be considered as providing input on the hiring process, such as participation in writing job descriptions, reviewing candidate resumes and applications, and/or conducting interviews. For example, a committee of teachers might review resumes of available internal and external candidates for a vacancy and provide recommendations to the principal on whom to interview.

Consideration of effectiveness, qualifications, and experience as primary factors: S.B. 10-191 requires that hiring decisions should be based on an assessment of the teacher’s demonstrated effectiveness and the teacher’s overall fit with the school and its instructional program. There are three essential pieces of school district policy that should be put into place to ensure that hiring decisions align with these critical criteria.

- **Effectiveness.** Over time, with the implementation of the statewide performance evaluation system established in S.B. 10-191, schools will have reliable, objective data on teacher effectiveness. Prior to the availability of effectiveness data from the new evaluation system, school district policy should give schools guidance on the types of evidence that they can consider in assessing a teacher’s demonstrated effectiveness, such as the following:
 - Student performance data provided by the teacher that demonstrates past success in achieving adequate student growth.
 - References provided by the teacher’s former supervisors, colleagues, students, and parents of students attesting to the teacher’s effectiveness.
 - Teacher skill in using effective instructional strategies, as demonstrated through a sample teaching lesson, teacher responses to interview questions, evidence from the teacher’s prior performance evaluations and observations, or a candidate exercise in analyzing student performance data and identifying appropriate instructional interventions.
- **Qualifications & experience.** School district policy should establish broad definitions of “qualifications” and “experience” as they are to be considered by schools in making selection decisions. At a minimum, district policy should ensure that all teachers meet federal “highly qualified” requirements.
- **Training on effective interviewing & selection.** School district policy should require training for principals and school hiring teams on effective interviewing and selection techniques.

Mechanisms for ensuring fidelity to the process: The success of mutual consent hiring will depend upon transparency in the hiring process, accountability for both schools and the central administration, and good-faith efforts by all involved to make the best possible matches between teacher and school. If teachers do not believe that they will receive fair consideration for vacancies or if principals attempt to “game” the system, then the fundamental principles underlying mutual consent will break down and schools will not experience an increase in teacher or leader effectiveness. The following steps are recommended mechanisms for ensuring fidelity to the process.

- **A high degree of transparency in how schools report vacancies and make selection decisions.** For example, in its regular reporting on vacancies, the school district



administration could include information such as date the vacancy was created, date it was filled, and how many applicants (both internal and external) were considered by the school, and whether the teacher selected to fill the vacancy was an internal or external candidate.

- **Ability for teachers participating in the hiring process to give feedback on it.** School districts should provide easy mechanisms for teachers to give real-time feedback on the hiring process and teachers should be surveyed at the conclusion of the hiring process to assess the overall quality of communications, customer service, and fidelity to process by both schools and the school district administration.
- **Consequences for schools that circumvent the process.** If it is discovered that a school has failed to report its vacancies in a timely way, to provide appropriate consideration to teachers in the priority hiring pool, or to apply the correct criteria in selecting teachers to fill vacancies, the principal's manager should implement consequences as s/he would in other instances in which proper procedure was not followed.

5. Provide Accommodations for Non-Probationary Teachers

S.B. 10-191 creates special accommodations for non-probationary teachers to ensure that they have multiple opportunities and ample time to secure new mutual consent placements before being placed on unpaid leave. Carefully constructed district policy will be essential to ensure that these accommodations provide non-probationary teachers with their intended benefits, and that they do not unintentionally create hiring barriers for schools.

Creation of a priority hiring pool: Non-probationary teachers who receive “satisfactory” or better ratings prior to the implementation of the new statewide performance evaluation system and those who receive ratings of “effective” or better under the new performance evaluation system, and who were unable to secure a position through school-based hiring, will be placed in a priority hiring pool. Teachers in this pool must have first opportunity to interview for a reasonable number of vacancies for which they are qualified. District policy establishing these hiring pools should contain specific information on the following points:

- Broadly define what it means for a teacher to be “qualified” for a vacancy to go beyond certification to other special skills and experiences, to ensure that schools can define the qualifications associated with a vacancy posting as determined by their needs. For example, it should be acceptable to include competencies such as fluency in a particular language, skill and prior experience with a particular instructional technology platform, or experience working with special student populations as required or preferred qualifications for a vacancy.
- Establish a reasonable number of interviews that the district will attempt to provide to a non-probationary teacher. For example, district policy could state that the district will attempt to provide at least three² opportunities for a teacher to interview, but that number may be fewer depending upon the number of vacancies.

² Three interviews are meant to serve as an illustrative example, and not a reference to a numeric requirement from S.B. 10-191.



- Clearly state that it is the non-probationary teacher's responsibility to apply for vacancies of interest to him or her and to establish his/her qualifications for the vacancy through the application process.
- Utilize data tracking systems to provide information on which vacancies a non-probationary teacher may be qualified for, and monitor and assist schools in their consideration of teachers in the priority hiring pool.

Temporary assignment for non-probationary teachers: S.B. 10-191 gives school districts the flexibility to place a non-probationary teacher who has not secured a mutual consent placement in a twelve-month or other limited-term assignment, including a teaching assignment, substitute assignment or instructional support role while the teacher is attempting to secure a mutual consent placement. The district's hiring and placement policies should outline the parameters for these limited-term placements.

- Identify conditions, including timing, under which temporary assignments will be made, and identify the person(s) responsible for making those assignments and the factors to be considered in doing so.
- To the extent possible, delay the use of temporary assignments as long as feasible to ensure that schools have maximum opportunity to select a teacher to fill a vacancy through mutual consent.
- To the extent possible, structure temporary assignments so that the teachers filling them have a good likelihood of being effective and satisfied in their new positions. Do not utilize these assignments so as to be punitive to teachers or to induce them to resign.
- Track the use of temporary assignments and set district-wide goals to reduce use of such assignments.

It is important to note that placement in a temporary assignment does not interrupt or delay the 12 month/2 hiring cycles period, and that after 12 months or two hiring cycles in a temporary assignment, a non-probationary teacher who has not secured a mutual consent placement must be placed on unpaid leave.

Putting non-probationary teachers on unpaid leave: Finally, school districts must establish clear policy for putting non-probationary teachers who do not secure mutual consent placements within 12 months or two hiring cycles on unpaid leave. Policy in this area should include elements such as:

- When and how non-probationary teachers will be notified that they are being placed on leave;
- Procedures for teachers to challenge their leave if they believe it was in error; and
- Procedures for teachers to return to paid status with the district upon future attainment of a permanent placement through mutual consent.



Conclusion

CLF and TNTP hope that the guidance provided above will help districts take their first steps in implementing full mutual consent hiring for teachers, expanding the ability of schools to build strong instructional teams, and increasing teacher and principal satisfaction with the hiring process. Future resources from CLF and TNTP will include practical tools for districts to use in implementing mutual consent, including interview tools, selection rubrics, and examples of best practice from other school districts.

For more information about this document or how districts can implement mutual consent hiring, please contact Chris Casarez, TNTP Project Director, at ccasarez@tntp.org. For more information on CLF's support for Colorado school districts in implementing S.B. 10-191, please contact Nina Lopez, CLF Director of Educator Effectiveness, at nlopez@colegacy.org.



Appendix

ABOUT THE COLORADO LEGACY FOUNDATION

The Colorado Legacy Foundation is a privately funded nonprofit that can move quickly to address emerging educational issues and spark innovation in schools throughout Colorado.

Founded in 2007, the Colorado Legacy Foundation is governed by an independent board of trustees that develops initiatives to support the department's work – innovation, entrepreneurship, 21st-century teaching and learning, and the dissemination of best practices.

We help the department leverage limited resources, convene education groups for dialogue and collaboration, and provide recommendations for sustainability and continuous improvement.

Current initiatives focus on enhancing educator effectiveness and promoting student health and wellness.

For more information about the Colorado Legacy Foundation, please visit www.colegacy.org.

ABOUT THE NEW TEACHER PROJECT

The New Teacher Project (TNTP) strives to end the injustice of educational inequality by providing excellent teachers to the students who need them most and by advancing policies and practices that ensure effective teaching in every classroom. A national nonprofit organization founded by teachers, TNTP is driven by the knowledge that effective teachers have a greater impact on student achievement than any other school factor. In response, TNTP develops customized programs and policy interventions that enable education leaders to find, develop and keep great teachers. Since its inception in 1997, TNTP has recruited or trained approximately 43,000 teachers - mainly through its highly selective Teaching Fellows programs - benefiting an estimated 7 million students. TNTP has also released a series of acclaimed studies of the policies and practices that affect the quality of the nation's teacher workforce, including *The Widget Effect* (2009) and *Teacher Evaluation 2.0* (2010). Today TNTP is active in more than 25 cities, including 10 of the nation's 15 largest. For more information, please visit www.tntp.org