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## Why It's Too Hard to Fire Bad Teachers

*Think your child's school has teachers that deserve the heave-ho? Good luck. In Chicago and in many other cities, it almost takes a felony conviction to get a teacher fired. And sometimes, even that isn't enough.*

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This selection first appeared in *The Washington Monthly's* November 1994 issue. Maribeth Vander Weele is inspector general of the Board of Education of the City of Chicago. This article was adapted from her book, *Reclaiming Our Schools: The Struggle for Chicago School Reform*.

At one Chicago school, a teacher locked a special education kindergartner in a closet for hours for defecating in his pants. Another teacher repeatedly used emergencies as excuses for being late, arriving minutes before 10 A.M.—the magic hour before which, under union contract, she could not be marked absent and be docked pay.

The principal of these teachers' school got rid of them the best way he knew how: He transferred them to other schools.

The alternative to such transfers is dismissal hearings that can take years to complete, soaking up a principal's critically needed time and tens of thousands of dollars in legal fees from the school system. And even then, success is not guaranteed.

Public school officials throughout the nation complain about a shared problem: the Byzantine process required to fire inadequate teachers. Although good teachers are the single most essential ingredient in improving education, union power and legislatures have all but completely protected the tenures of the teachers who fail at their jobs.

The catch is that even small numbers of ineffective—and downright dangerous—teachers harm thousands of children for life. “Even if only five percent of the teachers in public elementary and secondary schools are incompetent, the number of students being taught by these teachers exceeds the combined public school enrollments of the five smallest states,” Stanford Professor Edwin M. Bridges wrote in *Education Week*.

In one New York City case, the issue went beyond competence and into criminality. In 1990, Jay Dubner, a special education teacher, was

convicted of selling \$7,000 worth of cocaine and was sent to prison. But it was another two years before the New York City Board of Education finally fired the teacher after a year-long hearing that cost \$185,000. The teacher argued that he should retain his job because he was rehabilitated, and a civil court decision overturned his dismissal. Even after years in jail, Dubner continued to collect pay checks. At one point, he worked a school job during the day while spending weekend nights in jail on a work-release program.

School districts across New York spend on average nearly \$200,000 and 476 days on each teacher dismissal hearing—more, in some cases, than it takes to convict someone of a crime in the courts, according to a 1994 survey by the New York State School Board Association. “You have to provide documentation on top of documentation on top of documentation,” said Erica Zurer, vice president of New York City’s Community School Board 13, which oversees one of 32 subdistricts in the nation’s largest school system. As a result of publicity and a few flagrant cases involving drug and sex crimes, the New York State Legislature streamlined the process this year. As of September 1, school districts are permitted to suspend without pay any employee convicted of drug crimes or of abusing a minor, either physically or sexually.

In Illinois, the legislature set up an unwieldy process that in 1992 resulted in dismissals of seven (out of 26,000) tenured Chicago public school teachers. Far more should have been fired. According to a study by the Consortium on Chicago School Research, an astounding number of principals—more than two-thirds—said they would fire 6 to 20 percent of their teachers if they could bypass the hearings.

The criteria for firing a teacher, however, depend on more than the judgment of the principal. Chicago teachers cannot be dismissed unless they have failed to improve after a remediation period of 45 days, or are deemed “irremediable.” In such a situation, the school system has to prove that a teacher’s conduct caused damage to the students, the faculty, or the school, that could not have been prevented had the teacher been forewarned.

But even that understates the obstacles placed in the way of ensuring that students have good, or at least not dangerous, teachers. At Truth Elementary School on the West Side of Chicago, Principal Pernecie Pugh and school board lawyers worked unsuccessfully for more than two years to dismiss Sheila Golub, a 21-year veteran of the

Chicago system whose alleged abuse of a third-grader sent the youngster to seek medical attention for a head injury in September 1990.

Although Golub claimed she was trying to prevent the child from spinning out of control, the Illinois Department of Children and Family Services investigated the incident and found the charge of abuse legitimate. Meanwhile, parents petitioned to remove the teacher, who they charged had hit students before and had on occasion come to class with urine and feces stains on her clothing. Pugh testified she also confronted Golub about menstrual stains and accused the teacher of excessive absenteeism, tardiness, and smoking in school.

The school board issued a formal warning to Golub in December 1990, saying that if she did not correct her behavior, she would be dismissed. Five months after the first incident, however, Golub was accused of pushing, grabbing, and hitting five more children and slamming another child's hand in a book. The school board dismissed her the following March. In her dismissal hearing, Golub denied abuse allegations made by the seven children, two parents, and Pugh. She also denied that Pugh warned her against using corporal punishment. In January 1992, hearing officer Julius Manacker upheld the board action.

But it didn't end there. Golub appealed to the Circuit Court and, in April 1993, was reinstated with two years' back pay. Judge Mary Jane Theis ruled her actions were not "irremediable" because the second set of injuries was not especially severe, despite a system-wide policy against the use of corporal punishment. Theis wrote: "The incidents in the third-grade classroom of Miss Golub could not be termed severe or premeditated. The principal observed no injuries to any of the children and no medical treatment was sought."

It didn't help that previous principals had rated the teacher satisfactory or excellent. And what's more, Theis sympathized with the teacher: "The children's testimony before the hearing officer reveals a classroom totally out of control. Maintaining discipline in that setting would have been difficult for the most able teacher."

The community was so outraged that Pugh feared for Golub's safety and successfully won her a transfer to a non-teaching job in a subdistrict office, where she waited for an assignment for another position. After the nearly four-year process was finally over, Pugh was indignant, and more discouraged than ever. "It is hard to get rid of a teacher—even when they are hurting children. It is hard."

And with all the protections for teachers and extensive appeal opportunities, firing sometimes isn't enough. Laura Ward Elementary School teacher Eli Johnson, who was fired in 1986 for allegedly pushing a fourth-grader into a wall and throwing him onto the floor, was reinstated with back pay in 1988. Hospital x-rays revealed the child suffered a bruised rib. Hearing officer George Edward Larney agreed that the evidence, including testimony from the boy's classmates, indicated that the teacher had physically shoved the child. But while the hearing officer said he deplored the physical force used on the boy, he found insufficient evidence to prove the student's injuries that day were the result of the teacher's abuse. "For all anyone knows, the child could have fallen down the stairs or had been hit by the door as he left the classroom," Larney wrote. "Besides, although the boy had above average reading scores, he had an explosive temper and frequently disrupted class."

Johnson had an otherwise unblemished record and, Larney wrote, had already "endured a certain amount of anguish" in connection with the case. Larney continued to state that there was no evidence that Johnson was unable to correct his behavior, a criteria required by law.

Johnson returned to his school in 1990 only to receive another unsatisfactory work notice in 1991 for improper classroom behavior and for verbally abusing students, after which he took a year's leave of absence. He returned once more and received yet another notice, again for verbally abusing students. In March 1991, the school board issued a formal warning stemming from a report charging that Johnson pushed four children. And in June 1991, he was accused of grabbing yet another student by the throat and pushing her across the classroom.

The teacher's seventh-grade classroom was out of control. Fights erupted regularly, including one in which a child hit another with a window shade. Moreover, Johnson, who had taught in the public school system for 29 years, apparently had no concept of how to teach and assigned little, if any, homework. He conceded in his testimony that he "did not make a teaching program, nor keep a record of attendance or grades of his students," but he blamed the principal for never telling him to do so. His dismissal was upheld by hearing officer Thomas R. McMillan in December 1992, more than six years after the first recorded incident.

Problem teachers influence the entire system. It is not only their ghastly effect on children, who may forever miss out on the multiplication tables or key grammar lessons, or who may learn to detest school so fiercely that they drop out. But their behavior also casts a pall on good

teachers, true heroes who because of their commitment to city children refuse to leave for better-managed and amply supplied suburban schools.

A 1993 survey of Chicago Teachers Union delegates shows that teachers understand the injury caused by incompetent colleagues as well as anyone. Seventy-nine percent of the union's own delegates consider the obstacles to removing poor teachers a problem, according to the Chicago magazine *Catalyst*. The only problem teachers consider more serious than dismissing poorly performing teachers was insufficient teaching materials.

To be sure, the protections for teachers do have some positive aspects, notably protection for whistle blowers. Take the case of Marsha Niazmund, a counselor who was transferred from her school for reporting sexual advances her principal, James G. Moffat, had made on students. Moffat at one time was the deputy superintendent of school management services, the second-highest position in the system. He was demoted to the position of principal of Kelvyn Park High School on the Northwest Side during a change of administrations in 1980.

Niazmund was counseling a Kelvyn Park student one day when the girl complained that Moffat had propositioned her. Weeks later, the girl again complained, alleging that the principal had kissed her and removed her bra. Niazmund complained, but the administration apparently did nothing, assuming the charges could not be proven.

When Niazmund persisted, Moffat transferred her out of Kelvyn Park High School in January 1985 to shut her up. Niazmund hired an attorney and tracked down other victims, taking affidavits that led to Moffat's conviction years later.

Meanwhile, the board instituted dismissal hearings—which apply to principals as well—but was unsuccessful when state hearing officer John W. Schelthoff overruled the board: “The hearing officer does not feel that a 30-year distinguished career devoted to education of the community's young should be destroyed on the basis of uncorroborated statements of self-acknowledged sexual miscreants, drug abusers or a few disaffected teachers with obvious personal motives.”

In 1987, Moffat was sentenced to 15 years in prison for pressuring five male and female students into having sex with him in his office at Kelvyn Park High School.

Besides defending the dismissal process on behalf of the whistle blowers, the Chicago Teachers Union—whose attorneys were provided with a summary of the findings in this article and declined to comment

on the specific cases they handled—argues that the job of every union is to protect its members. And, it correctly notes, it is not the one hiring incompetents. The impossible-to-fire syndrome is only true for “administrators who are either too arrogant or too incompetent to follow a simple due-process procedure,” says Whitney Young Magnet School union delegate Robert Mijou. “In my 23 years as a teacher in the Chicago school system, one thing has remained constant: poor management. Education in Chicago is provided in spite of, not because of, management policy. The bureaucracy is more concerned with politics and self-serving image building than with education.”

Clearly, school systems need to make sure poor teachers (not to mention convicted felons) do not enter the classroom. Meanwhile, administrators must reserve the right to remove inadequate teachers who slip through the cracks. Here are some suggestions that would immediately improve the quality of teachers and give schools the ability to get rid of the bad apples.

Require teachers to take a competency exam or undergo classroom evaluation periodically. That would assure the public that teachers who received their own educations decades ago keep abreast of changes in the fields they teach.

Require police departments to notify school districts when they learn that they have arrested a school employee for offenses involving sex, violence, or narcotics. State law should provide for automatic dismissal or unpaid suspension of any public school employee convicted of such a crime.

Deprive fired teachers and principals of their state teaching certificates, either permanently or temporarily, so they may not be employed by other districts.

Allow school boards and unions to negotiate their own dismissal process. For example, one principal suggested placing teachers who do not receive “excellent” or “superior” ratings on probation. After three years with such a status, they would lose seniority rights and tenure.

Provide avenues—such as strong inspector general offices—to address corruption. This is necessary to assure whistle blowers and other staff that corrupt administrators, not whistle blowers, will be penalized under streamlined dismissal procedures.

The strength of the public school system depends on the quality of its teachers. But by admitting and maintaining poor or even dangerous teachers, the students, the schools, and the teaching profession itself is put in harm’s way.