

# Rethinking Layoff Policy to Protect Teacher Diversity



“Having teachers of color that looked like me changed the way I thought about school. I felt cared about in a different way, and now I am studying to be a teacher so that I can inspire students the way my teachers of color inspired me.”

ALAYSHA, recent Minneapolis Public Schools graduate



# Introduction



Students across the country are still reeling from the effects of COVID-19. It is clear there is a national crisis in terms of both academic progress and mental health—and that historically marginalized students, particularly students of color and students experiencing poverty, have been most affected. This has further exacerbated generations-old inequities.

**To help students recover from the devastating social-emotional and academic impacts of the pandemic—and to begin to dismantle the long-standing inequities that existed well before that—we need policies that support a diverse, high-quality teacher workforce.** The research is clear—teachers of color benefit all students, in the form of greater classroom engagement, higher academic achievement, and increased cross-cultural interactions.<sup>1</sup> Students with the same race as their teachers see even more benefits: They are more likely to complete high school and go to college, more likely to be referred to gifted programs, and less likely to be suspended.<sup>2</sup> Yet while more than half of all public school students identify as people of color, only 20% of teachers do.<sup>3</sup> In 40% of all public schools, students do not have a single teacher of color.<sup>4</sup>

Recognizing this, governments at all levels of the system have invested in diversifying the teacher workforce. These investments have led to some progress: Teachers of color have grown from representing only 13% of the teaching workforce in 1988 to 20% today.<sup>5</sup> But with public school enrollment declining nationwide, the upcoming expiration of federal COVID-19 relief dollars, and a potential recession looming, teacher layoffs are a very real possibility. And since districts commonly use seniority to determine which teachers to lay off, early-career teachers—who are more likely to identify as people of color—will be most likely to be let go. Without an explicit focus on retaining these educators, all the efforts to recruit diverse educators will end up meaning very little for our nation’s students.

**Thus, states and districts must reform their layoff policies to protect students’ access to diverse teachers.** Thankfully, doing so does not require a one-size-fits-all approach and, in fact, should be carefully tailored to local circumstances. School systems across the country have implemented creative solutions to ensure that policies support the elevation and diversification of the profession and, ultimately, improved student outcomes. By grounding layoff decision-making in the evidence on what supports student learning, states and districts can protect recent progress to diversify the educator workforce—and help build a stronger, more equitable public education system.

# Recent Progress in Diversity

In recent years, systems have heeded the call for educator diversity—and have made significant progress. U.S. Secretary of Education Miguel Cardona affirmed in June 2022, “We are committed to building a path to teaching for diverse populations so that our schools have leadership that reflects our commitment to equity and inclusion.”<sup>6</sup> The Education Trust’s recently updated 50-state teacher diversity and equity policy scan highlights the significant investments states nationwide have made to recruit a diverse workforce, including “Grow Your Own” programs in 26 states and specific scholarship and loan forgiveness programs in 19.<sup>7</sup> By our calculation, states and districts have invested nearly \$100 million in workforce diversity since 2010.<sup>8</sup>

As illustrated in the following table, these investments are working. We requested data from all 50 states



Students really thrive when they see themselves in you.

LEONA FOWLER, assistant principal, Queens, NY

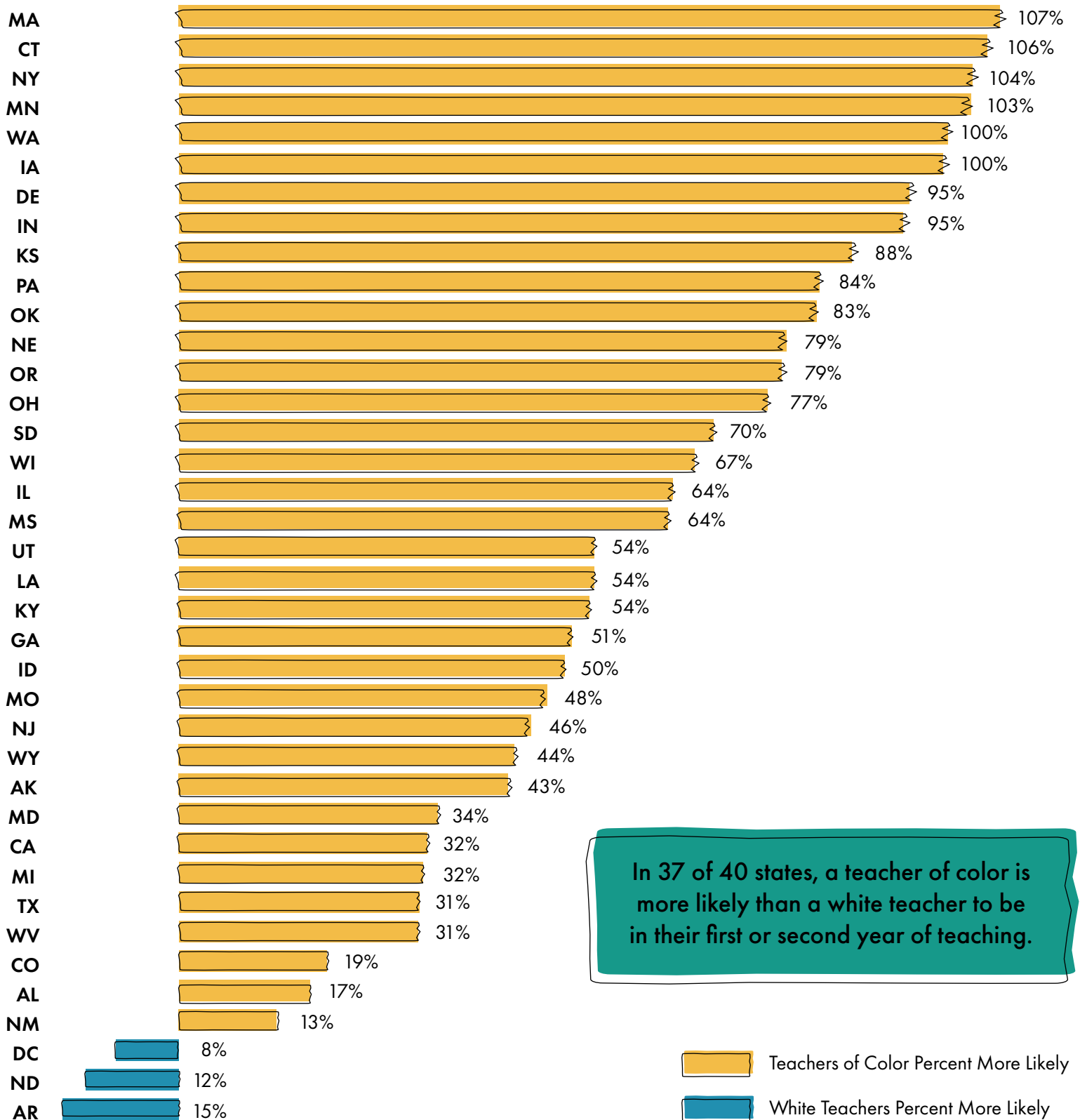


and Washington, D.C., on their number of teachers by years of experience and by race and gender. **Nationally, teachers of color are nearly 50% more likely to be in their first or second year than are white teachers. That percentage holds true in almost all states and grows to more than 100% in several, including Massachusetts and New York.**

In other words, we are seeing very real results from these investments in educator diversity. However, while the teaching profession is diversifying, the student population has diversified much more rapidly, widening the gap between teachers of color and students of color nationally.<sup>9</sup> This indicates both that efforts to diversify the profession must be staunchly defended and that there is still much work to be done.



# Early-Career Teacher Diversity: Relative Likelihood of Being In First or Second Year of Teaching



Data is sourced from public information requests from 31 state departments of education; nine states make teacher race/ethnicity and years of experience data publicly available on their websites. CO, DC, ID, IL, MA, NY, and UT define "early career" as those teachers in their first, second, or third year of teaching; MD defines it as those in their first year only. For all other states, "early career" means teachers in their first or second year of teaching. States where the number of teachers with unknown race is within 20% of the number of teachers that identify as teachers of color are excluded from the chart: MT and RI. Teachers of color are those who identify as a race other than white or identify as having Hispanic ethnicity. For most states, teachers are defined as those who are certified, with at least 75% of their employment allocated to teaching in a classroom setting. Nationally, 99,000 out of 571,000 teachers of color (17.3%) are early in their teaching careers; 255,000 out of 2.18 million (11.7%) white teachers are early in their teaching careers. To compute the "likelihood ratio" above, the greater of the two percentages is divided by the smaller, minus 1. Nationally, this equates to 17.3% divided by 11.7%, minus 1, which equals 48%.

# Progress at Risk



I'm the only Black male teacher on staff at my school. Regardless of whether I work directly with a student, they know my name. I impact them just through my presence.

MARK MORRISON, fourth-grade teacher, Stratford, CT



Unfortunately, this progress could be at risk; because teachers of color are more likely to be new to teaching, they are also more likely to lose their jobs if layoffs occur. While layoffs are not guaranteed—and could be prevented with increased funding—several current factors increase the possibility of budget-induced layoffs in the coming years:

- **Student enrollment declines.** Public school enrollment has been decreasing in many places for years, and the COVID-19 pandemic accelerated those declines.<sup>10</sup> While many states have held districts harmless for these declines thus far, these policies are temporary, some having already expired at the end of 2022 and the rest set to run out at the end of 2023 or 2024. If students don't return to public schools, states will either need to explicitly commit to maintaining lower student-teacher ratios and allocate significant funds to pay for it or cut costs. Because salaries and benefits typically make up around 70% of total school spending, districts may need to consider layoffs as an option to do so.
- **Expiration of federal ESSER dollars.** The federal government made a historic investment of close to \$200 billion in K-12 schools during the pandemic through the Elementary and Secondary School Emergency Relief (ESSER) Fund. However, the dollars from this one-time investment are set to expire in early 2024. Districts that used this money

to pay teacher salaries,<sup>11</sup> add teaching positions, or pay other recurring costs could face budget shortfalls that necessitate layoffs.

## How can there be layoffs when we hear about teacher shortages?

While there were fears of widespread teacher shortages in the wake of the pandemic, there is no evidence that teachers have been leaving the classroom with more frequency than before. In fact, the National Center for Education Statistics reports that student-teacher ratios across the country have fallen faster than at any point since WWII, due almost entirely to rapidly declining student enrollment.<sup>12</sup> Teacher shortages are almost always geographic and subject specific. For example, in large urban districts, a teacher shortage may not mean that there aren't enough teachers but, rather, that there aren't enough secondary math or science teachers. Even within a district, some schools may struggle to fill vacancies while others do not, due to school-level factors impacting recruitment, hiring, and retention. Layoffs due to statewide budget shortfalls must take place at the district level and can coexist with more localized and subject-specific teacher shortages. In fact, at least one state (Nevada) already carves out teachers in "hard-to-staff" positions and schools from its layoff policy.

- Potential recession.** Many analysts fear that a recession is looming. Recessions reduce the money available to state and local governments because of a lower tax base. During the last significant recession in 2008, the K-12 education system lost nearly 300,000 jobs in the succeeding four years, including over 120,000 elementary and secondary teachers.<sup>13</sup>

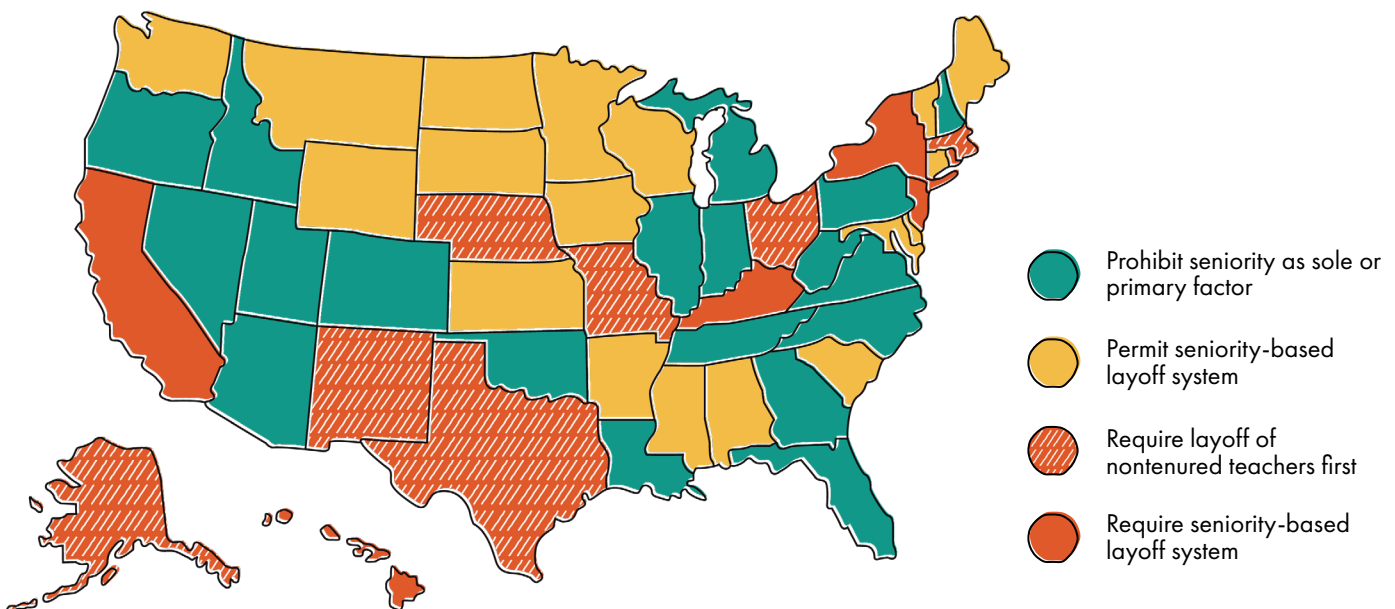
Why does this threaten our progress on educator diversity? Across the U.S., seniority is among the most common factors districts use to determine which teachers to lay off. As a result, the teachers who were most recently hired are typically the first who are fired; this is known as “last-in, first-out,” or LIFO. Thirteen states require some form of LIFO, either through explicit state law or a requirement that teachers without tenure be laid off first. Another 19 leave the decision to districts—many of which include LIFO in their collective bargaining agreements. In a 2023 scan of layoff policies in the country’s 148 largest urban districts, the National Council on Teacher Quality found that 31

percent still use seniority as the sole or primary factor in layoff decision-making.<sup>14</sup>

LIFO forces schools to make layoff decisions regardless of the impact on students. Years of experience alone is not an accurate proxy for effectiveness.<sup>15</sup> In schools across the country, there are newer teachers who are having a more positive impact on students than some veteran teachers. In fact, some studies estimate that only 1 in 5 teachers would be laid off both under a seniority-based system and under a performance-based system and that laying off those more effective teachers under the seniority-based system ultimately leads to lower academic achievement.<sup>16</sup> LIFO policies force districts to lay off even the strongest teachers—including several state and districtwide teachers of the year—regardless of the impact that they are having in the lives of their students.<sup>17</sup>

LIFO also disproportionately affects students in the most systematically underserved schools, who stand to gain the most from increased continuity but whose teachers are more likely to be early career and teachers of color.<sup>18</sup>

## State Layoff Policies and Seniority



LIFO policies can also hurt teachers and students even if layoffs ultimately don't prove necessary. State law often requires districts to issue "Reduction in Force" (RIF) notices—or "pink slips"—to teachers in the spring ahead of a potential layoff event, before state and district budgets are set. Districts generally overissue these notices because predicting student enrollment and, thus, revenue for the following school year can be difficult. Research shows that receiving a RIF notice, even if layoffs are avoided, can negatively affect teacher morale and increase teacher churn.<sup>19</sup>

Because teachers of color are more likely to be newer in their careers, they are more likely to receive these notices, experience the negative consequences, and potentially leave the profession as a result.

Similarly, many districts, such as New York City, utilize a practice called "excessing," in which teachers are removed from their school buildings but are still



retained by the district with the expectation that they will fill a position elsewhere in the fall once the district better understands student enrollment and summertime attrition. This shuffling of new teachers—and by extension, teachers of color—has similar negative impacts on student learning as does actually laying off teachers, despite the teacher retaining a paycheck.

In both scenarios, the impact of the policy is most strongly felt by historically marginalized students, who are more likely to be taught by less experienced teachers.

Ultimately, these policies risk deprofessionalizing teaching and perpetuating a cycle by making it harder to recruit new teachers, particularly teachers of color, who see they could experience significant job insecurity regardless of their performance or contributions to the school community.

**Seniority-based systems have forced districts to lay off countless teachers of the year and honorees, including Qorsho Hassan, Minnesota's 2020 Teacher of the Year. In addition to Hassan, additional teachers of the year in New Jersey, Minnesota, and California were also reported to have been laid off, despite receiving this honor.**



# Recommendations

States and districts must modify their layoff policies to protect teachers who are making the biggest difference for students, including early-career teachers of color. Fortunately, changing layoff policy isn't a one-size-fits-all approach; several approaches would do a better job than the status quo. Advocates should pursue the one that best fits their local context and circumstances. For example, the change you seek will depend on whether your state sets layoff policy in statute—in which case you will need to seek a change to state law—or whether your state offers districts the flexibility to set or negotiate this policy through collective bargaining. Ultimately, any change away from a policy that primarily or exclusively uses seniority would benefit students, teachers of color, and the teaching profession. And even if layoffs do not occur in the near future as predicted, this change is needed to ensure we continue to maintain and expand our diverse teacher workforce indefinitely moving forward.



“If someone has been teaching for 25 years, that should matter. But it shouldn't be the only thing.”

CARLOTTA POPE, high school English teacher, Brooklyn, NY



**1. Decide what criteria are relevant and worth prioritizing in your local context.** All states and districts should update their layoff policies to include criteria besides seniority. Like in the vast majority of other professions, experience is a meaningful factor to take into account, but it should not be the only one. Teacher effectiveness is an option, though debates continue around the best way to measure it. Other evidence-based factors that are highly correlated with both teacher diversity and improved student outcomes exist and have been leveraged in districts or states across the country. While policies can't explicitly exclude teachers of color from layoffs for constitutional reasons, the following table lists several criteria that states and districts have implemented to accomplish similar ends by reflecting the benefits diverse teachers provide to all students and the school community.





## Cultural or linguistic expertise

### Location

Oregon<sup>20</sup>

### Why it matters

This research-based criterion reflects the importance of serving historically underserved students as well as diversity across broader measures. While this criterion does not solely apply to teachers of color, it would carve out layoff protections for teachers who are often teaching high-need subject areas and who possess important skill sets for teaching students.

## Teachers from Grow Your Own certification programs

### Location

Minneapolis, MN<sup>22</sup>

### Why it matters

Local Grow Your Own teacher preparation programs work to strengthen the diversity of the teaching workforce and enable districts to address broader staffing challenges;<sup>21</sup> this measure also prioritizes community connection and is a key strategy for pipeline/recruitment efforts.

## Unique skills or other contributions to the school

### Location

Washington, D.C.<sup>23</sup> | Michigan<sup>24</sup>

### Why it matters

Protecting teachers with unique skills or other contributions to the school includes formal activities, such as club leadership or athletic coaching, but it could almost certainly include the extra, more informal work we know teachers of color are asked to do to support students of color every day, which researchers call the “invisible tax.”

## Hard-to-staff positions and schools

### Location

Nevada<sup>25</sup>

### Why it matters

The opposite of what usually happens with seniority-based layoffs; students in hard-to-staff schools deserve, and stand to gain the most from, continuity. This could also counter shortages concentrated in subject areas such as science, math, foreign language, English as a second language, special education, and more.

## Teachers from underrepresented populations

### Location

Minneapolis<sup>26</sup>

### Why it matters

Research demonstrates the benefits to students of having teachers who look like them, particularly those from underrepresented backgrounds.

Any—or all—of these factors could be incorporated into any state or district layoff policy, including those that already de-emphasize seniority.

**2. Determine how to incorporate those factors into a new or existing system.** The following four approaches for rethinking layoff policies represent the range of options that have been adopted and implemented in states and districts across the country and could serve as a model for change in the places where some form of seniority-based layoffs are still required. For states and districts that no longer rely primarily on seniority, the final two approaches could be used to incorporate one or more of the factors outlined above.

- **Clarify at the state level that seniority may not be used as the primary factor, but leave the actual decision to districts or principals.** States like Arizona<sup>27</sup> and Virginia<sup>28</sup> specify that seniority may not be used as a factor in making layoff determinations but do not otherwise establish a statewide system for laying off teachers. This prevents districts from relying solely or primarily on seniority, given the known negative impacts, but allows local communities to determine the most effective criteria in their own local contexts. In this scenario, districts should be encouraged to consider one or more of the factors outlined above. For example, a district with a large population of multilingual students may want to specifically prioritize linguistic expertise, both because it is highly correlated with diversity and because it recognizes specific, needed expertise.
- **Replace a seniority-based system with one more closely tied to student outcomes.** Many states, including Florida<sup>29</sup> and Indiana,<sup>30</sup> took this approach in 2011, opting to implement a system based solely on teacher performance. This could also be done in a district that has the ability to negotiate its own layoff policy. Given that teacher quality is the most significant in-school factor for determining student success, it is easy to see why

states and districts with robust evaluation systems have opted to use some measure of quality as the primary basis for making decisions about which teachers to lay off.

- **Use multiple factors to make layoff determinations.** Washington, D.C., has implemented a multiple measure system that includes seniority but gives it less weight.<sup>31</sup> It assigns a different amount of points to each teacher based on factors such as prior-year final evaluation scores (up to 50 points), unique skills and qualifications (up to 20 points), other contributions to the educational program (up to 20 points), and length of service (up to 10 points). Any state or district, regardless of whether it chooses to incorporate seniority, could build a system like this based on the factors most important for its students.
- **Keep LIFO in place, but specifically protect one or more non-seniority factors.** If your state or district has identified clear priorities that could be put at risk by budget-related layoffs, then layoff policy should be leveraged to protect teachers that meet those needs. This could be true even in a jurisdiction that strongly supports seniority-based layoffs. At the state level, Oregon took this approach in 2021 with a new law that keeps LIFO in place but that specifically carves out teachers with “cultural and linguistic expertise.”<sup>32</sup> In 2022, the Minneapolis Federation of Teachers and Minneapolis Public Schools negotiated a list of exceptions to its seniority-based layoff system that includes several of the factors listed in the table.<sup>33</sup> For more information about the policies and change-making process in Oregon and Minnesota, including interviews with some of the advocates in Minneapolis, please visit [www.SoAllStudentsThrive.org](http://www.SoAllStudentsThrive.org).



# Conclusion

Inequity has always been a feature of our public school system, and the pandemic has only exacerbated the problem. The lack of emphasis on educator diversity—clear in the persistent gap between educators and students of color—is but one example of this inequity.

Many states are making significant progress in diversifying their teacher workforces—a development

that research shows will positively impact students, particularly students of color. But without changes, outdated layoff policies could threaten to undo this progress. We hope stakeholders across the country take this opportunity to examine policies in their own states and districts and advocate for necessary reforms. As the examples in this paper show, reforms that prioritize our students' needs are possible.

TNTP's mission is 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.



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## Appendix: State Layoff Policy & Citations

STATE	CITATION	LAYOFF POLICY
Alabama	Ala. Code § 16-1-33	Permits seniority-based layoff system
Alaska	Alaska Stat. Ann. § 14.20.177	Requires layoff of nontenured teachers first
Arizona	A.R.S. § 15-502(h)	Prohibits seniority as sole or primary factor
Arkansas	Ark. Code Ann. § 6-17-2407	Permits seniority-based layoff system
California	Cal. Educ. Code §§ 44955-44957	Requires seniority-based layoff system
Colorado	Colo. Rev. Stat. Ann. § 22-63-202	Prohibits seniority as sole or primary factor
Connecticut	Conn. Gen. Stat. Ann. § 10-151	Permits seniority-based layoff system
Delaware	Del. Code Ann. Title 14, § 1411	Permits seniority-based layoff system
District of Columbia	Collective Bargaining Agreement between District of Columbia Public Schools and the Washington Teachers' Union, Sections 4.5 and 39.1	Permits seniority-based layoff system
Florida	Fla. Stat. Ann. §§ 1012.33 & 1012.335	Prohibits seniority as sole or primary factor
Georgia	Ga. Code Ann. § 20-2-948	Prohibits seniority as sole or primary factor
Hawaii	Haw. Rev. Stat. Ann. § 302A-609	Requires seniority-based layoff system
Idaho	Idaho Code Ann. § 33-522A	Prohibits seniority as sole or primary factor
Illinois	105 Ill. Comp. Stat. Ann. 5/24-12	Prohibits seniority as sole or primary factor
Indiana	Ind. Code § 20-28-7.5-1	Prohibits seniority as sole or primary factor
Iowa	N/A	Permits seniority-based layoff system
Kansas	N/A	Permits seniority-based layoff system
Kentucky	Ky. Rev. Stat. Ann. § 161.800	Requires seniority-based layoff system
Louisiana	La. Stat. Ann. § 17:81.4	Prohibits seniority as sole or primary factor
Maine	Me. Rev. Stat. Title 20-A, § 13201	Permits seniority-based layoff system
Maryland	N/A	Permits seniority-based layoff system
Massachusetts	Mass. Gen. Laws Ann. Ch. 71, § 42	Requires layoff of nontenured teachers first
Michigan	Mich. Comp. Laws Ann. § 380.1248	Prohibits seniority as sole or primary factor
Minnesota	Minn. Stat. Ann. § 122A.40	Permits seniority-based layoff system
Mississippi	N/A	Permits seniority-based layoff system
Missouri	Mo. Ann. Stat. §§ 168.124 & 168.221	Requires layoff of nontenured teachers first
Montana	N/A	Permits seniority-based layoff system
Nebraska	Neb. Rev. Stat. Ann. § 79-846	Requires layoff of nontenured teachers first
Nevada	Nev. Rev. Stat. Ann. § 288.151	Prohibits seniority as sole or primary factor
New Hampshire	N.H. Rev. Stat. Ann. § 189:14-a	Prohibits seniority as sole or primary factor
New Jersey	N.J. Stat. Ann. § 18A:28-10	Requires seniority-based layoff system
New Mexico	NMAC 6.67.3.8; Ch. 22, Article 10A NMSA 1978	Requires layoff of nontenured teachers first
New York	N.Y. Educ. Law § 3013	Requires seniority-based layoff system
North Carolina	N.C. Gen. Stat. Ann. § 115C-325.4	Prohibits seniority as sole or primary factor
North Dakota	N.D.C.C. § 15.1-15-05	Permits seniority-based layoff system
Ohio	Ohio Rev. Code Ann. § 3319.17	Requires layoff of nontenured teachers first
Oklahoma	Okla. Stat. Ann. Title 70, § 6-101.31	Prohibits seniority as sole or primary factor
Oregon	Or. Rev. Stat. Ann. § 342.934	Prohibits seniority as sole or primary factor
Pennsylvania	24 Pa. Stat. Ann. §§ 11-1124 & 11-1125.1	Prohibits seniority as sole or primary factor
Rhode Island	16 R.I. Gen. Laws Ann. § 16-13-6	Requires seniority-based layoff system
South Carolina	S.C. Code Ann. § 59-25-415	Permits seniority-based layoff system
South Dakota	S.D. Codified Laws § 13-43-6.4	Permits seniority-based layoff system
Tennessee	Tenn. Code Ann. § 49-5-511	Prohibits seniority as sole or primary factor
Texas	Tex. Educ. Code Ann. § 21.157	Requires layoff of nontenured teachers first
Utah	U. C. A. § 53G-11-516	Prohibits seniority as sole or primary factor
Vermont	N/A	Permits seniority-based layoff system
Virginia	Va. Code Ann. § 22.1-304	Prohibits seniority as sole or primary factor
Washington	Wash. Rev. Code Ann. § 28A.405.100	Permits seniority-based layoff system
West Virginia	W. Va. Code Ann. § 18A-4-7a	Prohibits seniority as sole or primary factor
Wisconsin	Wis. Stat. Ann. § 118.23	Permits seniority-based layoff system
Wyoming	Wyo. Stat. Ann. § 21-7-111	Permits seniority-based layoff system

# Endnotes

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- <sup>8</sup> A search on USAspending.gov for federal Department of Education contracts and grants matching keywords "teacher diversity," "minority recruitment," "grow your own," "teacher residency," or "alternative certification" totals \$97,254,985 spent since 2010. Though not exclusively teacher diversification efforts, Grow Your Own programs and teacher residency and alternative certification are widely understood to be best practice strategies for growing and retaining teachers of color. Garcia, A. (2020). Grow Your Own Teachers: A 50-State Scan of Policies and Programs. *New America*. [https://d1y8sb8igg2f8e.cloudfront.net/documents/Grow\\_Your\\_Own\\_Teachers.pdf](https://d1y8sb8igg2f8e.cloudfront.net/documents/Grow_Your_Own_Teachers.pdf); Murdock, M. (November 9, 2022). Breaking Down the Walls to Teaching: Alternative Pipelines Boom. *The 74*. <https://www.the74million.org/article/breaking-down-the-walls-to-teaching-alternative-pipelines-boom/>; King, J. E., & Yin, J. (2022). The Alternative Teacher Certification Sector Outside Higher Education. *Center for American Progress*. <https://www.americanprogress.org/article/the-alternative-teacher-certification-sector-outside-higher-education/>
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- <sup>25</sup> Nev. Rev. Stat. Ann. § 288.151
- <sup>26</sup> Tentative Agreement for the 2021-2023 Teacher Chapter Contract, Section 15.10.12, p. 5. [https://www.nctq.org/dmsView/Minneapolis\\_Teacher\\_Tentative\\_Agreement\\_3-25-22](https://www.nctq.org/dmsView/Minneapolis_Teacher_Tentative_Agreement_3-25-22)
- <sup>27</sup> A.R.S. § 15-502(h)
- <sup>28</sup> Va. Code Ann. § 22.1-304
- <sup>29</sup> Fla. Stat. Ann. §§ 1012.33, 1012.335, 120.68
- <sup>30</sup> Ind. Code § 20-28-7.5-1
- <sup>31</sup> Collective Bargaining Agreement Between the Washington Teachers Union Local #6 of the American Federation of Teachers and the District of Columbia Public Schools, Sections 4.5 and 39.1. [https://www.nctq.org/dmsView/DCPS\\_2017\\_-\\_2019\\_tentative](https://www.nctq.org/dmsView/DCPS_2017_-_2019_tentative)
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