



PANEL VIII

Legal and Political
Dynamics of Pay for
Performance

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3 Super-Terrific Papers

- Jane Hannaway and Andrew Rotherham: “Collective Bargaining in Education and Pay for Performance”
- Dan Goldhaber: “The Politics of Teacher Pay Reform”
- James E. Ryan: “A Legal Perspective on Performance-Based Pay for Teachers”



Overall Points

- Are the stars aligned for national move towards PFP?
 - Or, is all PFP politics really (state/) local?
- How to get around whatever political and legal barriers remain?
- “Softer discussion” than quantitative analyses, but each author harnesses some data or harder evidence to support their case



Hannaway and Rotherham Paper

- Teachers traditionally have, and report having, a lot of control over their work, even recently - accountability is pretty new
- Not used to being observed, measured, not part of the teaching culture
- Most prior evaluations – teachers almost never rated unsatisfactory, in any venue



Hannaway and Rotherham Paper

- Generally, at least two ways PFP could improve schools:
 - 1. Motivational effect of teachers working harder to get the reward
 - 2. Cultural effect of making teaching more professional and attractive as a career
 - Second could be as/more important than first



Hannaway and Rotherham Paper

- PFP failed in past, but in terms of technical barriers, today much more demand for better data, and better data are increasingly available
- Union's legitimate concerns (NEA more opposed than AFT)
 - non-tested teachers
 - distortions of instruction patterns (teach to the reward)
 - individual zero sum (COIN: “destructive competition”)
 - fairness of reward measures



Hannaway and Rotherham Paper

- Brief reviews of 5 PFP programs working now
 - Denver's ProComp, NYC, TAP, Toledo, Minnesota Q-Comp
- Import the ProComp process, not the plan itself
 - Unique local circumstances



Goldhaber Paper

- “Yet the politics of teacher reform pay are complicated”
- Concise review of trends, data – highlights loss of top people going into teaching due to salary compression, and lack of data showing the input credentials matter much
- Unions clearly can and do block PFP - the AFT is somewhat more favorable than NEA to “PFP lite” (e.g., hard to staff schools)



Goldhaber Paper

- His recent Washington state teacher survey found strong support from teachers for extra (“combat”) pay for working in touch schools, modest support for extra pay for accreditation or hard-to-fill subjects, and opposition to PFP for student achievement
- Teacher context (age, at-risk work, experience, perception of principal, grade level) all influence these views



Goldhaber Paper

- Local context matters a lot, both with teachers and with school boards
- Other studies find somewhat more PFP in weaker union areas (and of course in privates and charters)
- Strategies: reasonable teacher uncertainty about PFP more likely to be overcome by opt-in, positive sum, not top-down mandated programs



Goldhaber Paper

- Cautions: notes that technical design issues (individual vs. group; size of bonuses; measuring value-added; district infrastructure to assess and manage, etc.) are critical, and not well developed or understood
- Better systems, data are coming, and we should experiment
- But, certainly not free, and probably not cheap
- Implementation matters – single salary schedule was easy



Ryan Paper

- Generally, few or no legal barriers to PFP
- On most aspects of PFP, law and policy marching in similar directions
- Specifically, individual rights issues (procedural due process, substantive due process, anti-discrimination) are unlikely to be problems with properly designed PFP plans



Ryan Paper

- Law and precedents seem pretty clear that federal government can offer funding for state and districts to pursue PFP policies
 - Parallels to NCLB “unfunded mandate” issue
 - But, states and districts can refuse the money



Ryan Paper

- Critical issue - Does PFP have to be in collective bargaining, or can it be imposed?
 - Maybe, but depends on state and upon what “wages” mean.
- Lots of variation in state laws
 - Can make unilateral imposition of PFP problematic legally (but see FL case on bonuses OK)
 - “The question of whether performance-based pay must be subject to collective bargaining remains open and probably will continue to be the subject of disagreement among state courts.”
 - Safer legal bet, and perhaps better policy too, is to involve unions and teachers



Implications

- “Destructive competition” mentioned a lot
 - Individual vs. group needs to be addressed
 - Goldhaber notes no studies on efficacy of individual versus group programs (team production: is there a less than school size where free riding is not a huge problem?)
 - Denver pilot showed individual rewards not a problem, big step



More Implications

- Federal-State-Local roles
 - Like all education policy, really state/local
 - But federal \$ role can be important
 - State legal context will matter regarding collective bargaining question
 - And, most school board, union politics is local



Even More Implications

- Technical vs. political issue separation
 - (How) do technical solutions inform politics?
 - Does it make political sense to first support a “liter” version of PFP, that appeals more to teachers
- Are stars really aligned, and for how long
 - PFP history shows that reversals are possible, even with some current success
 - Implementation matters

