



The California Impasse Process's Failure To Prioritize Students.

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I. EXECUTIVE SUMMARY

California's mechanism to prevent teacher strikes is indirectly facilitating them. The lack of a binding mechanism in the pre-strike process, or the impasse process, allows districts and unions to essentially disregard the process, damaging student outcomes – the SFUSD strike led to 50,000 students missing a week of school. Students pay the price for a system that was designed for the worst case but has become commonplace. This brief will cover how the impasse process indirectly allows for strikes, and how policy reforms can amend the impasse process to prioritise students.

II. OVERVIEW

The California Teacher Impasse is intended to prevent strikes, yet it may be doing the exact opposite. The process, declared by the district or union when deadlock happens, has 2 key parts: mediation, and non-binding fact finding. Strikes are illegal until the impasse process is completed. PERB, the California Public Employment Relations Board, is California's labor agency which appoints a neutral state mediator to facilitate negotiations. If mediation fails, the process moves to non-binding fact finding. The process being entirely non-binding allows for unions or districts to stonewall reasonable demands, risking student wellbeing. California's

public education is key to student outcomes – yet strikes directly hurt students and put districts at financial risks. This phenomenon is happening throughout California alongside financial deficits. The California funding formula, tied with decreasing student enrollment, puts districts' finances at risk, putting districts into a 'double bind'. This paper examines the underlying causes of strikes with an examination of the California Funding Formula and failures of non-binding mediation with their impact on student outcomes. Then, it analyzes binding arbitration precedent in comparable professions. Finally, it proposes reforms to the current impasse process to allow districts and unions to prioritize student success.

A. Relevance

Recently, across California, teacher strikes have been occurring with increasing frequency. San Francisco Unified School District had a historic 4 day teacher strike which led to a \$182 million payout to the union. However, SFUSD is facing a \$102 million deficit, and is being forced to pink slip teachers – the result wasn't a win for the district or union. The strike paused student instruction for over 50,000 students. SFUSD is not unique – recently, the union at Little Lake City School District in Los Angeles went on strike, joining a broader trend of unions across California. Even with strikes that were prevented, such as the averted strike in LAUSD, the district

is facing unsustainable demands, yet the prospect of a strike would essentially cripple the district, putting them into a double bind where the students suffer the most. The impasse process was designed to prevent strikes before they happen. The evidence suggests it failed.

III. HISTORY

A. Current Stances

The Rodda Act, signed by Governor Jerry Brown in 1975, established collective bargaining rights for public school employees in California. It created PERB, the Public Employment Relations Board, to oversee employer relations. Further, the act allowed California teachers to strike over contract issues.

This led to the current-day impasse process. The impasse process currently consists of 2 key branches: mediation by a state-appointed mediator, and then non-binding fact finding, which consists of suggestions and a report. PERB appoints a mediator for the mediation stage, but the mediator has no real authority. However, only the mediator can terminate mediation and send the parties to fact finding. Fact finding has a panel of 3 – one neutral assigned by PERB, and 2 representatives chosen from either side. The fact-finding report, which has no binding effect, is released to the public 10 days after drafted. Only once the process of fact-finding has occurred is a teacher/union strike legal and permitted. One of the main reasons for strikes is funding within school districts – especially related to teacher pay and benefits. Regarding funding for districts, Proposition 98 in California, which passed in 1988, guarantees an annual minimum funding level for K-14 education. Historically, this level has been around 40% of the state's

annual budget. The money is then divided to districts through the LCFF. The LCFF, or the Localized Control Funding Formula, was enacted in 2013–2014, and determines how much state funding districts receive. The LCFF has 3 main grants which represent most of the money: The Base Grant; The Supplemental Grant; The Concentration Grant. The Base grant is the uniform grant for all school districts based on grade span of pupils, multiplied by the district's average daily attendance (ADA). The Supplemental grant is equal to 20% of the base grant multiplied by the ADA, and the percentage of targeted disadvantaged pupils – Targeted pupils are English learners, those who meet income based requirements for free or reduced-price meals, and foster youth. The Concentration grant is given to districts who have the percentage of targeted pupils over 55% of their enrollment; it is equal to 65% of the base grant multiplied by ADA and percentage of targeted pupils over 55%. While the LCFF has provisions for other funding, these three are the biggest contributors to overall district funding.

The LCFF has clear flaws: it overrepresents districts which have less advantages, and often ignores and feeds less funding into high achieving districts. For example, Irvine Unified School District (IUSD) has per pupil funding that is less than the state average by \$2,789 per student, which is a loss of \$102 Million per year. IUSD in specific is advocating for more equity with the concentration funding, with the 55% threshold harming districts who fall short of receiving the Concentration grant. Because funding is tied to ADA, the state-wide trend of lower student enrollment directly harms districts' funding. For example, LAUSD is facing a \$191 million deficit

partially as a result of less funding. While strikes may seem on the surface-level as a way to achieve better teacher bargaining, the overall trend in strikes across California is harming districts' ability to secure funding, as strikes generally mean less students attending school for a shorter period of time. It starts with the LCFF funding inequities, yet trickles to the issues with the impasse process. With a state-wide trend of strikes, even threats of strikes are forcing unsustainable practices, such as LAUSD. The best way to prevent strikes and facilitate real dialogue and compromise with unions and districts is to amend the impasse process to allow unions and districts to be transparent and incentivise them to cooperate in earlier phases of the process.

IV. POLICY PROBLEM

A. Stakeholders

The primary stakeholders in education are students, who often face the brunt of the arguments and have their school days affected by the strikes. These strikes shut down schools, preventing students from learning and harming overall student outcomes. Even in districts that added extra days to their school year due to strikes like SFUSD, parents are facing logistical issues and concerns are ramping up that students won't come to school regardless. In an ideal world, students would have a stake in the impasse process or policy reforms as they affect students uniquely.

The next two main stakeholders that stand to benefit from amending the impasse process would be the union and the district. Contrary to the

goals of an economic strike – generally to improve teacher pay and benefits – the effect of the strike often leads to fewer teachers. With districts in a double-bind, districts are facing financial obligations to not allow a strike, but this gives unions the unreasonable power to impose unsustainable demands, such as in LAUSD. These demands can increase a district's deficit, leading to the district being forced to layoff teachers. For instance, SFUSD is being forced to pink slip teachers after their week-long strike, and LAUSD has already begun layoffs. Historically, deficit numbers lead to layoffs, and these deficit numbers are only increasing statewide. Amending the impasse process will allow districts and unions to cooperate earlier on, preventing stonewalling which uniquely harms them both.

B. Risks of Indifference

The risk of indifference to increasing amounts of strikes lies in harming student outcomes and educational funding. If stakeholders neglect the increasing amount of strikes due to the lack of educational funding and union/district strikes, schools could face bankruptcy, being forced to be bailed out by the state government, which would give the state government more control over specific district actions. This lack of local control could hurt districts – getting a state bailout is what needs to be avoided. State control of local districts hurt student outcomes and community trust due to a lack of local officials, and bailouts lead to loans and other long-term conditions. Apart from potential bailouts, indifference could hurt unions due to less teachers, and hurt districts' financial obligations. With the risk of indifference being a perpetuating effect that uniquely hurts students, it is clear that the system is broken, and

the need for action outweighs inaction.

C. Nonpartisan Reasoning

Education shapes the next generations and will inevitably define America's future. Since education isn't objectively partisan – both sides have historically and currently been pro-education. Even with recent disputes in education curriculum, it's clear that because education doesn't only affect one party – it affects America's future – nonpartisan intervention must occur in order to ensure a literate and critically minded populace, bolstering American ideas such as democracy and freedom. Nonpartisan intervention in the impasse process would prevent strikes, protecting educational outcomes:

1) **Economic growth:** It's important to note that the US work force's productivity directly correlates with the standard of living in the US. Indeed, growth in education – in specific, increases in educational attainment led to 11–20% growth in US worker productivity. This is because education expands the skills for workers, leads to more adaptability, and workers that use education to create businesses create American jobs. Since growth in an individual nation's productivity stems from growth in individual workers productivity, education is key to economic growth as it increases individual workers productivity.

2) **A Stronger Democracy & Civic Engagement:** Education is needed for a functioning democracy. Logically, education leads to more interaction with political ideas, such as enlightenment ideals from laissez-faire capitalism to

socialism, boosting critical thinking. Further, public education teaches all students how to think critically and be good citizens. Finally, education exposes children to news or real-world politics, increasing turnout. Indeed, a study by Ethan Kaplan of the University of Maryland and Cody Tuttle of the University of Texas at Austin found that for every additional year of education a person receives, their likelihood to vote increases by 3 percentage points.

3) **Social Mobility – the American Dream:** Education provides the foundation for people to attain skills and opportunities needed for social mobility. Education allows for better job placements, allowing individuals to receive higher pay. Further, education increases the skills needed for adaptation and employability: critical thinking, collaboration, teamwork, and independence are all taught within the schooling system.

All of these outcomes are a result of the current education system. Strikes uniquely gut education, thus hurting these educational outcomes. The impasse process needs to be fixed in order to preserve and improve the Californian education system.

V. TRIED POLICY

There is precedent with binding arbitration being used in the impasse process for other public-sector employees, such as firefighters and police. An important distinction to make is that firefighters and police are legally not allowed to strike. Regarding special impasse processes, such

as adding binding arbitration, the LA County Police officers use binding arbitration in their impasse processes. It's clear – if police are considered public officials that are so important that strikes are illegal, then why are teachers not given this elevated status? Further, there is a ballot proposal for LA county firefighters to have binding arbitration in their impasse process.

More education-specific examples would be the status of arbitration in Connecticut's impasse process. Firstly, the distinction is important to make between Connecticut and California: Connecticut doesn't allow teachers to strike, and has significantly less teachers and students than California. Even so, binding arbitration is used in the impasse process to come to final decisions with budget disputes. Connecticut hasn't had a teacher strike since 1978, and was ranked #2 of all US states for high school rankings. Indeed, a study by WalletHub has corroborated this, ranking Connecticut as having the second best school system in the nation.

There have been a few proposals regarding amending the impasse process to have a form of binding, yet nothing has had serious substance. California actually does have a binding arbitration standard in the impasse process, but it only happens if both sides agree. This means that either side can simply not agree to binding arbitration and stonewall the impasse process. In fact, CTA themselves have called binding arbitration a "fair and neutral process for the resolution of disputes". It's also important to note that any sort of proposal to make teacher strikes illegal in California would never pass, especially with the huge CTA lobby. Even so, it's important to protect our future generations – this can

happen with one of three policy proposals.

VI. POLICY OPTIONS

Reworking the LCFF to make it more equitable to districts with financial deficits

The LCFF alone is responsible for some district's financial deficits. The dual-threat of strikes hurting district funding, and current decreasing average district attendance leads to less funding for school districts. To combat the LCFF's outdated policies, implementing an additional funding grant to school districts with over a \$15 million deficit should be implemented. This policy would give 25% of the district's base grant to school districts with over a \$15 million deficit. This money would stem from increasing funding in the governor's budget in California. California has made \$8.6 billion above the fiscal year-to-date forecast; some of this increased outlook can go to educational funding for districts in deficit.

This solution doesn't independently affect strikes, yet it addresses the root cause – funding. Even with an additional funding grant, strikes may happen due to a lack of cohesion between districts and unions.

Mandated Interest-Based Bargaining training and implementation

Interested-Based Bargaining (IBB) is where both sides work collaboratively to solve labor and management disputes. Irvine Unified School District has implemented IBB in its collective bargaining agreement with the Irvine Teachers Association, which is the local union. Irvine's last strike was a one-day strike in 1985, and the union and district have empirically acted cohesively since.

IBB ensures that mutual agreements and individual needs occur over institutional positions. Mandating IBB training throughout school districts and unions can increase cohesion between district and unions and bring both sides to the ‘same table’, preventing either side from taking an adversarial position. IBB leads to trust, team building, and transparency, which are all essential to ensure both sides mutually benefit from a bargaining agreement.

Adding binding arbitration to the teacher impasse process

Adding binding arbitration to the teacher/district impasse process will incentivise both sides to act favorably in the mediation phase, as to not have an unfavorable outcome in the arbitration phase. The binding arbitration will have the exception of ULP (unfair labor practice) strikes, allowing teachers to strike if the district violates an unfair practice, such as retaliation against an union employee.

This approach is a middle ground between the extreme no-strike of Connecticut and moderate California impasse process. Having binding arbitration before a strike ensures that unions or districts can’t stonewall the impasse process, will incentivise cooperation, and still allows strikes in the worst-case scenario. The binding arbitration will be funded on a sliding scale to ensure poorer unions won’t be financially pressured.

High-poverty districts, where 75%+ of students on free or reduced meals will have the state pay 75% of arbitration costs, and the district and union each pay 12.5%. For other districts, if the

district's budget is 10x or more the union's dues, then the district pays 70%, and the union pays 30%. If the district's budget is 5x to 10x the union's dues, then the district pays 60%, and the union pays 40%. In all other cases, the cost is a 50/50 split between district and union. PERB, the Public Employment Relations Board, which is California's state labor board, will calculate these ratios using the most recent fiscal year's figures and publish a statewide schedule that it updates every year.

VII. CONCLUSIONS

In this policy brief, I’ve explored the causes and effects of the teacher impasse process, from LCFF failures to a lack of district and union cohesion. I’ve also gone over the double-bind burden districts face, and the importance of ensuring the impasse process works to improve and maintain stability in education. Out of these policy options, the most realistic and implementable one would be adding binding arbitration to the impasse process – it fits at a nice medium between the Connecticut model of no strikes, and the California model of too many strikes. It ensures that districts and unions cooperate while still maintaining the right for unions to strike.

With this said, it's clear that the teacher impasse process isn’t black and white. Even with binding arbitration, inevitable disputes will occur, and without the LCFF being fixed, more districts can fall into financial deficits, which are a main cause of strikes. It’s important, short term, to implement binding arbitration to protect students, as this removes one of the two main factors affecting districts. This allows districts to focus on their financial deficits, and allows for lobbying for more educational funding, in which the district

and union can work together, instead of against each other. Even with the issues in the LCFF, adding binding arbitration is a step forward that is needed to ensure students' academic success in California. With teacher strikes increasing state-wide, financial deficits putting districts in a double bind, and a flawed funding formula, steps are needed to prioritise students in California. That step begins with adding binding arbitration to the teacher impasse process.

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