



The Ignacio Market Driven Compensation Plan And Why It Fell Short



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Executive Summary

Colorado local school boards, unlike those in many states, determine their districts' salary schedules. Most school districts pay teachers strictly according to the number of years served and the amount of postgraduate educational credit and degrees attained. Notable exceptions include Douglas County R-1, which has operated a performance pay system for teachers since 1994, and Denver Public Schools, which awaits a November 2005 vote on a mill-levy increase to approve funding for its "ProComp" plan. But the Ignacio School District 11JT in southwestern Colorado went a step further when it unveiled a unique and innovative teacher compensation proposal in February 2003.

Devised by now-former Assistant Superintendent Bruce Yoast, the Ignacio Market Driven Compensation Plan (IMDCP) proposed a new performance-based salary track for teachers in the district who decided to opt in. The plan offered educators a trade-off. For their part, teachers would agree to give up special protections enshrined in statute—guidelines for con-

tract renewal and judicial review—that helped to guarantee their continuing right to employment (or tenure). In return, the school district would promote these teachers to a higher salary track.

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Teachers who opted into the new track would take part in a new system of evaluations based on their developing knowledge and skill, their students' classroom performance, and district expectations for professional conduct and activity. While teachers who opted into IMDCP would be aided comprehensively by mentoring from colleagues, those who failed to meet yearly performance standards would be subject to losing their jobs. Teachers removed by the school board would be protected from potentially unfair treatment by recourse to an appeals process within the district.

Yoast saw the increased authority to reward successful teachers and to remove poorly-performing teachers as powerful tools to improve struggling student performance.

The costs to a district associated with the effort to remove an ineffective educator can be staggeringly high. Administrators quite often choose to transfer a poorly-performing teacher to another school or simply to tolerate the situation. Because state laws protecting teacher tenure place too heavy a burden on school districts, students suffer.

Ignacio's district leaders asked the Colorado State Board of Education to waive the job protection laws. Yoast and others believed that the district needed more flexibility to

remove ineffective teachers in order to persuade a fiscally conservative electorate to finance IMDCP's pay raises through a mill-levy override. According to the district's leaders, most local residents perceived public educators as having a virtually guaranteed job. In July 2003 the State Board voted to allow the district to override the statutory procedures for dismissing a teacher.

The Colorado Education Association (CEA), the state's largest teachers' union, formed the primary opposition to the IMDCP. Despite efforts to reconcile differences, an impasse was reached on the issue of preserving or waiving the statutory process that protects teacher tenure. CEA, its local Ignacio Education Association (IEA), and several citizens filed suit against the school district and the State Board in August 2003. Ignacio voters in the November 2003 election passed up the opportunity to reward effective teachers and protect its students from ineffective teachers, rejecting IMDCP by a two-to-one margin. The following January, the parties in the lawsuit agreed to an outside settlement that nullified the waivers granted by the State Board.

Policy makers at the federal and state levels have demanded increased accountability for student performance. School district administrators are accountable to the school board

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and the board to local voters, yet administrators do not have enough latitude to hold teachers accountable for how well they do their jobs. Colorado legislators removed the word tenure from the statutes in 1990 but left in place both a teacher's essential right to continuing employment and the extensive dismissal procedures that virtually ensure that right. As long as current teacher dismissal procedures remain, making the removal of poorly-performing teachers extremely difficult and costly, the chain of accountability is incomplete.

While IMDCP did not come to fruition, some of the officials who supported and promoted it believe the issue is ripe to return to the ballot some day—either in Ignacio or elsewhere in the state. The General Assembly should promote the hopeful reform at the heart of Ignacio's plan by restructuring the statutory process protecting tenure, giving school district boards more flexibility to remove ineffective teachers.

“A Great Opportunity” to Improve

Confronted with struggling student achievement and declining enrollment, the leaders of Ignacio School District 11JT proposed an unconventional idea to attract and reward teachers who would bring measurable success to the classroom: the Ignacio Market Driven Compensation Plan (IMDCP). Local school boards in Colorado, unlike many other states, are authorized to determine their own districts’ salary schedules. The Ignacio Board of Education charted a unique course within the state by approving a plan

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designed to create a higher salary track for teachers who volunteered to join a performance pay program and to forego the statutory process protecting tenure. (As used in this paper, tenure should be understood as the right to continuing employment.) Funding to support the implementation of the IMDCP required the approval of the school district’s voters to raise property taxes.

The Ignacio School District is located near Durango in southwest Colorado. According to the Ignacio superintendent, its student population is roughly one-third Hispanic, one-third Native American and one-third white.¹ Between the 1999-2000 and

2002-2003 school years, Ignacio’s student enrollment declined 17.6 percent, from 1,028 to 847. The neighboring Bayfield School District’s student enrollment climbed steadily and substantially during the same time span.² Factors cited to explain Ignacio’s declining enrollment included a struggling local economy and student discipline problems. One principal attributed part of the loss of students to Ignacio’s consistent sub-par performances on the Colorado Student Assessment Program (CSAP).³

The CSAP results the Ignacio School District received during the 2002-2003 school year did not reveal any significant improvements. Among grades

five through 10, math assessment scores in Ignacio were all roughly 20 points below state average. Overall, the district’s students met or exceeded state averages only in two of 23 assessments: sixth-grade reading and third-grade writing.⁴

Less than a year from retirement, Ignacio’s Assistant Superintendent Bruce Yoast devised a proposal designed to help improve student performance in the district. The assistant superintendent drew guidance from the Milken Family Foundation’s Teacher Advancement Program (TAP), which another administrator had observed in action in Phoenix, Arizona. TAP’s purpose is “to draw more talented people to the teaching profession,” while offering training, resources, and high standards of accountability.⁵ Eagle County Re-50J is the only school district in Colorado to have adopted and implemented TAP’s structure.⁶ In Eagle County’s third year using TAP, the first with full implementation, one key administrator reports that a majority of teachers support the program and that the district is largely pleased with its results.⁷

On behalf of the Ignacio School District administration, Yoast unveiled the Ignacio Market Driven Compensation Plan at the February 2003 Board of Education meeting.⁸ The four primary features of the proposed IMDCP were as follows: multi-level compensation, ongoing professional development, expanding the supply of high-quality educators, and performance-based accountability.⁹

Multi-level compensation entailed offering annual earnings of \$32,000 to \$60,000 to Ignacio teachers who chose to participate in the program (see Table 1). Those deciding for traditional job security could remain on the current salary scale, ranging from \$27,000 to \$40,000. Ongoing professional development entailed a concerted effort by the district to train participating teachers how to use student assessment data effectively to improve their

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own instructional quality. IMDCP aimed to expand the supply of high-quality teachers through a four-tiered system of mentoring, counseling, evaluation and training. Finally, performance-based accountability would hold participating teachers to account for the academic progress both of individual students and entire classrooms under their tutelage.¹⁰

Early public reaction to the proposed IMDCP was largely favorable. The *Durango Herald* quoted Dr. Mary Barter, superintendent of the nearby Durango School District 9-R, as being pleased with the idea of holding “teachers accountable for their performance.” Biology teacher Julie

Somers, a 20-year Ignacio veteran, said that “new teachers might not want to take the risk of giving up

tenure,” but as an experienced educator she thought “it could be a great opportunity.”¹¹ Meanwhile, the *Herald's* editors applauded the Ignacio School District leadership for its daring innovation: “Rather than take one of the tired partisan approaches to the issue – that is, by asserting either that better teacher pay is the answer or that ending tenure is the cure – the Ignacio proposal addresses both. And, it does so in a way that could shed some light on how schools can be improved.”¹²

Table 1. IMDCP Multi-level Compensation Package¹³

Level	Salary	Contract Length	Qualifications	Job Duties
Associate Teacher	\$32,000	180 days	1. Five or fewer years experience	1. Teach 100% of day 2. Work on professional growth plan
Senior Staff	\$40,000	180 days	1. More than five years experience 2. Working on or achieved advanced degree or ESL endorsement 3. Fulfilled requirements of approved professional growth plan	1. Teach 100% of day
Mentor Teacher	\$50,000	180 days	1. More than 10 years experience 2. Achieved advanced degree or ESL endorsement 3. Fulfilled requirements of approved professional growth plan	1. Teach 90% of day 2. Fulfill mentor and coaching responsibilities
Master Teacher	\$60,000	185 days	1. More than 15 years experience 2. Achieved advanced degree 3. Passed evaluator training class 4. ESL endorsement, national endorsement or administrative recommendation (year-to-year)	1. Assist mentor teacher in development of professional growth activities 2. Evaluate associate, senior staff and mentor teachers

Instead of accepting the status quo, Ignacio’s leaders responded to the growing demand for teacher accountability—as directed both by the state’s School Accountability Reports and the federal *No Child Left Behind Act*. The Ignacio School District faced the retirement of one-fifth of its 70 teachers by 2005 and needed an edge in competing with its bigger, better-funded neighbors—including Durango and Pagosa Springs. The desire to attract, keep, develop and reward the highest quality instructors motivated Yoast to include higher salaries in the IMDCP, as Eagle County had done. But unlike Eagle County’s plan, IMDCP sought to improve student achievement by circumventing entrenched state laws that make it difficult for school districts to remove poorly-performing teachers.¹⁴ The Ignacio

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Board of Education unanimously and formally approved IMDCP on July 8, 2003.¹⁵

Trying to Remove the Roadblock to Reform

Assistant Superintendent Bruce Yoast’s plan challenged existing provisions in state law. Colorado Revised Statutes contain special procedures for contract renewal and judicial review that help to protect tenure for public school teachers. A school district cannot terminate the contract of a teacher who has passed a three-year probationary period, except for a series of specifically listed causes, including incompetence and poor performance.¹⁶ Virtually all states have similar requirements of a probationary period (usually two to five years) and a set of authorized reasons for dismissal.

As in nearly every other state, Colorado law entitles a teacher who has been removed by a supervisor to a judicial review process. A teacher threatened with a job action has the right to defend himself before a fact-finding “hearing officer,” unless convicted of or pleading not guilty to charges of certain types of

crimes involving children.¹⁷ Both the accuser and the accused are guaranteed the right to present evidence and call witnesses. At the close of proceedings, the hearing officer turns over the findings of fact and a recommendation of action to the local school board, which meets and decides whether the teacher should be retained, fired, or put on probation. If unsatisfied with the board’s decision, the teacher may take his case to the Court of Appeals. The losing party in the Court of Appeals decision may be subject to pay for reasonable attorney fees and other costs incurred.¹⁸

Proponents say teacher tenure laws like those in Colorado are necessary to protect educators from being fired for personal or political reasons. They believe that teachers should be able to act creatively without fear of reprisal and that a teacher’s judgment should be trusted. Opponents say the heavy burdens of tenure and the dismissal process make the removal of poorly-performing teachers from secure jobs to be difficult and rare. They claim that safeguards already exist to protect effective teachers from unfounded, malicious job action, while the difficulty in removing ineffective teachers prevents many students from receiving a quality education.¹⁹

Merely removing the word tenure from the statutes does not constitute genuine reform. In 1990 the Colorado General Assembly repealed the Teacher Employment, Dismissal, and Tenure Act and replaced it with the Teacher Employment, Compensation, and Dismissal Act. Even after the change, school districts still have found great difficulty in trying to dismiss poorly-performing teachers. Some legislators have tried to fix the problem. In 1997, State Senator Tom Blickensderfer (R – Englewood) introduced Senate Bill 168, which would have eliminated teachers’ probationary status and made all teachers subject to non-renewal on an annual basis. The bill would have allowed school boards to dismiss teachers either with or without pay, and issued criteria and procedures for

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both. Arguing in favor of Senate Bill 168, the *Rocky Mountain News* reported that 41 Colorado teachers in 1995 were threatened with losing their jobs for poor performance. Only one of the 41 was ultimately fired.²⁰

The financial burden of legal fees and associated costs is a chief obstacle to removing poorly-performing teachers. In the early 1990s, El Paso County's Cheyenne Mountain School District 12 reportedly accrued a \$60,000 bill while attempting to remove a teacher.²¹ Elsewhere, Jefferson County School District R-1 spent \$125,000 between 1995 and 1998 to dismiss one high school instructor. The school board found the teacher failed to perform assigned duties, was persistently tardy, demeaned colleagues,

and finally, showed a highly controversial R-rated film to his students without parental permission or giving proper notice to his principal.²²

The intangible costs associated with prolonged hearings add to the strain inflicted by the heavy financial burden a school district typically bears. For these reasons, school administrators often choose to tolerate poorly-performing teachers or perhaps transfer them to another location.²³ According to a 2001 nationwide Public Agenda survey, 71% of superintendents and 67% of principals said they needed more freedom and autonomy to

remove "ineffective teachers from the classroom."²⁴

The Ignacio plan did not strip teachers of all job protections. Educators who volunteered for the performance pay track would be left neither to their own devices nor to the whims of embittered or capricious supervisors. Intrinsic to the plan were checks and balances to protect teachers from unfair treatment. IMDCP required teachers at all four levels of the optional performance compensation track—Associate Teacher, Senior Staff, Mentor Teacher, and Master Teacher—to evaluate the colleagues they were mentoring as well as the

colleagues mentoring them. Site-based and district-level appeals processes were included to shield instructors from malicious evaluations by a fellow employee. Unlike the tenure protections in state statute, which guarantee teachers the right to have their hearing record appealed to the state legal system, IMDCP stated that the decisions of the District Level Appeals Committee would be final.²⁵

Administrators and colleague mentors charged with evaluating teacher performance would also be charged with frequently informing teachers of their progress and status, with a support network available to provide assistance. The creation and implementation of professional growth and development plans for Associate Teachers and Senior Staff, with the assistance of higher-paid Mentor Teachers, was an integral part of the IMDCP proposal. Part of the job responsibility of Master Teachers—required to have more than 15 years experience and an advanced degree—was to counsel, train and oversee the activities of the mentors. Nationally endorsed or recommended by the administration, qualified Master Teachers would earn \$60,000 a year under the plan, far more than the top level of the current salary track (see Table 1). In IMDCP's final form, instructors receiving sub-par performance evaluations would also keep an avenue for appealing an initial decision to dismiss them from their jobs. However, Superintendent Larry Swain said the plan would have greatly reduced the time and costs associated with the procedures required by current state law to remove an ineffective teacher.²⁶

Under IMDCP, the Ignacio School District would have been more empowered to remove teachers who did not meet performance standards, while protecting the basic rights and rewarding the achievements of those who successfully met the mark. The plan raised the bar, expecting instructors to boost student achievement. The district was to evaluate

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its teachers on the basis of three categories: teacher skill and knowledge, student learning, and district expectations. Skill and knowledge would be based on quarterly evaluations by a Master Teacher. Student learning would be measured by progress on standardized assessments—the Colorado Student Assessment Program (CSAP) and the Northwest Evaluator Association’s Measures of Academic Progress (MAP)—and by performance against a predetermined standard of outcomes.²⁷ District expectations would be approved by the school board and include such factors as punctuality and parental contacts.²⁸

Waivers Requested and Granted

To work most effectively, the Ignacio Market Driven Compensation Plan needed legal flexibility. To achieve that flexibility, district leaders needed official approval from the Colorado State Board of Education to waive certain state laws. The State Board, according to statutes, “shall grant the waiver

if it determines that it would enhance educational opportunity and quality within the school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district.”²⁹

Assistant Superintendent Bruce Yoast initially presented the case for six waivers to the Colorado State Board

of Education on May 8, 2003. The compensation plan’s proponents sought official approval to waive state requirements of teachers’ special job protections. Yoast says that going in he had every reason to believe the case for waivers would be a “slam dunk.”³⁰ Yet following Yoast’s testimony at the State Board’s May 2003 meeting, the request faced some unexpected late opposition and was nearly dismissed. State Board Vice Chairman Jared Polis’ motion to table the decision for a future meeting passed without objection.³¹

Ignacio School District administrators returned to

face the State Board on July 10, presenting their case afresh for five waivers instead of six. They dropped the request to waive Colorado Revised Statutes § 22-63-301, which specified the grounds for dismissal, and focused instead on removing procedures for contract renewal, judicial hearings, and evaluations. Yoast testified that the waivers were an essential component of the compensation plan because of the needed flexibility to dismiss ineffective teachers and cited a school board member who agreed with him.³²

According to Superintendent Larry Swain, the school board felt impelled to seek the waivers for political reasons: the poor and economically conservative Ignacio community had never passed a bond issue, and the district needed to “give the taxpayers something for their money.”³³ District leaders observed a widespread perception among community members that special statutory job protections gave the district’s teachers a virtually guaranteed job for life. They made the case that complying with current laws would cost the district the chance to implement the plan: most Ignacio residents would not vote for teacher pay raises when they lacked such extensive protections in their own jobs.³⁴

District leaders’ rationale for seeking the waivers was bolstered by the testimony of Ken DeLay, executive director of the Colorado Association of School Boards (CASB), and Ignacio teacher Beverly Lyons. DeLay cited the principle of local control, acknowledging that school board directors had a better understanding of their community’s political climate. Lyons, though speaking in opposition to the request for waivers, nevertheless agreed with Swain that community members believed their teachers were already well-paid. She also admitted that waivers of teachers’ statutory tenure protections were likely necessary to get voters to consider raising property taxes.³⁵

Impressed by the Ignacio school board’s conscientious efforts and deferring to its judgment, a 5-to-3

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bipartisan majority of the State Board granted the requested waivers. The Board issued two conditions with its approval to the Ignacio School District: 1) to adhere strictly to the plan as approved in the local school board's July 8 resolution and 2) to submit annual program-reviewing reports to the State Board.³⁶

Getting the waivers was a less difficult means to a more challenging end. Districts leaders were faced with promoting a significant mill-levy increase to the fiscally conservative community's voters. In 2003, Ignacio assessed property owners at 7.589 mills, the second-lowest total among Colorado's 178 school districts. Put in perspective, there was a chance to make a successful case for boosting school revenues. The proposed increase of 3.259 mills to pay for additional teacher compensation would have brought Ignacio's total valuation to 10.848 mills, still only the third-lowest rank statewide and much less than neighboring Bayfield's 28.1 mills.³⁷ Based on assessed valuation at the time, district officials calculated the annual total property tax increase at

\$586,184—adding nearly 7% to its \$8.6 million annual revenue.³⁸

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Teachers Respond to Waiver Request

The efforts of administrators and school board directors to market the tax increase to district residents did not increase support for the Ignacio Market Driven Compensation Plan (IMDCP) among another critical constituency: Ignacio teachers. Yoast testified at the Colorado State Board of Education's May 2003 meeting that district officials had discussed the compensation plan with every teacher in the district and found that at least 65 percent of them were willing to sign up for the performance-based salary track.³⁹ Yoast later submitted

the results of an interest survey to the State Board—indicating that of 50 teacher respondents, 16 (32%)

were definitely interested in participating, 14 (28%) were somewhat interested and in favor of the idea, five (10%) were somewhat interested but not in favor, and 15 (30%) were definitely not interested.⁴⁰

Some of Ignacio's teachers were enamored with the possibilities IMDCP afforded. Math instructor Ron Erner testified before the State Board of Education that he was willing to give up his current tenure rights because something innovative needed to be done to yield greater student achievement.⁴¹ Another math teacher, Rocky Cundiff, dispatched an e-mail message to the State Board saying he supported IMDCP for its "competitive nature" and for being more of a "real-world' business type plan."⁴² Five other teachers and the district's curriculum director, all of whom participated in meetings on the plan, signed letters to the State Board in favor of it.⁴³

However, one member of the compensation plan's salary review committee expressed an opposing view. Ignacio elementary teacher Vickie Sutton complained to the State Board that district officials had not informed her they were requesting six different waivers of "due process rights." Sutton also questioned the results of Yoast's teacher survey, because she said some junior high teachers were not made aware of the deadline for handing in their questionnaires.⁴⁴ Also in opposition, 32-year Ignacio educator Kathy McEwen testified on July 10 before the State Board that a poll showed 83 percent of her colleagues disapproved of the waivers.⁴⁵

Yoast still insists, though, that most Ignacio teachers supported the plan, with the exception of some more veteran instructors and highly loyal union members. On the other hand, Swain said that they "never did get teachers on board," citing the lack of a clear, unified message as a key reason. Both Swain and Yoast repeatedly promoted the plan as

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a way to improve student performance, but Yoast emphasized much more than Swain the need to circumvent statutory tenure protections for teachers in order to achieve real reform.⁴⁶

Union-Led Countercharge Defeats Proposal

Following the Colorado State Board of Education's decision to grant the requested waivers, Ignacio School District administrators met with teachers' union leaders in search of common ground on the Ignacio Market Driven Compensation Plan (IMDCP). They could not break an impasse on the issue of waiving tenure laws, however. While Superintendent Larry Swain contended that the plan could not be marketed successfully to the district's voters without holding teachers more accountable, the Colorado Education Association (CEA) objected that the plan was inherently unfair. The union did not want teachers under any conditions to surrender guaranteed legal protections for a chance at more money. That the school district was willing to substitute more cost-effective procedures was not sufficient.

Swain said that one CEA official told him the plan was perfectly acceptable without the waivers of laws guaranteeing tenure to teachers.⁴⁷

CEA, the state's largest teachers' union, came out in the unusual position of opposing a proposed teacher salary raise. But the union did so ostensibly to protect teachers from the possibility of being fired for

arbitrary reasons. CEA's official stance was clear: opting into the performance pay plan merely would be selling out the right to continuing employment. Spokeswoman Deborah Fallin elaborated why the union so vigilantly wanted to preserve the statutory protections. "Teachers tend to be very trusting.... They don't think someone is going to file a complaint against them. And sometimes they don't understand why due process is important," she told a *Durango Herald* reporter.⁴⁸

Opponents of the waivers pressed their objections in court less than a month after the State Board's ruling. On Aug. 8, 2003, CEA, its local affiliate the Ignacio Education Association, and three private citizens—Betty Jo Quintana, Frederick Achierno, and Paulette Giambattista—filed a lawsuit against the Colorado State Board of Education and the Ignacio Board of Education. They alleged in their formal complaint that the plan would divide the district's teachers, would financially harm teachers who opted not to participate, and would violate state laws.⁴⁹

The three citizen plaintiffs were all current or former employees of the Ignacio School District. Quintana also was running for the local school board seat as the candidate most vocally opposed to IMDCP.⁵⁰ The plaintiffs claimed in the lawsuit that they would be compelled to fund a plan that had been supported by waivers granted in violation of Colorado statutes.⁵¹ Swain indicated that having the names of respected local citizens on the lawsuit added weight to the opposition's argument against the proposal on the November ballot.⁵²

The opposition by CEA and the lawsuit it co-sponsored became moot on Nov. 4, 2003, when Ignacio School District voters overwhelmingly rejected IMDCP. Less than 32 percent of the 800 ballots cast were in favor of the mill-levy increase. The chance to implement an innovative reform in public school teacher compensation was lost.

CEA secured a favorable joint settlement to its lawsuit in January 2004. After the judge threw out the defendants' motion to dismiss, the parties agreed to void the State Board's waivers and to require the Ignacio School District to apply for new waivers if it ever wanted to propose the plan again.⁵³

Sharing a sentiment with now-former Assistant Superintendent Bruce Yoast, Ignacio Board of Education Director Cathy Seibel cited the "negative

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campaign by the teachers association and some local teachers” as one of the chief reasons for the plan’s defeat. But she and Swain also agreed in hindsight that success required a more patient approach. They separately expressed the view that more time was needed to educate the community on the merits of the plan. Swain also said that had they waited another year to put the issue on the ballot—giving time to refine the details of the plan—the voters likely would have approved it.⁵⁴

Pressure to hurry up the reform proposal came from several sources. District leaders wanted to speed the process of recruiting quality teachers to meet public demand for greater accountability. They had set a timetable, pending voter approval, that would have begun accepting teacher applications in January 2004 and launched the program in the 2004-2005 school year.⁵⁵ Waiting longer did not seem to be a viable option, as concerns about the plan’s authorship prevailed: some wondered whether the possibility of newly-elected school board directors arriving in 2004 might affect the quality of the plan to be decided by voters.

Plan’s Rejection not the Last Hope for Reform

Superintendent Larry Swain stands by the essential quality of the Ignacio Market Driven Compensation Plan (IMDCP), even if successfully selling it might have required district officials to do more to quell the concerns of teachers and other community members. “Much could have been ironed out. The system, the idea, the concept is excellent,” Swain said. “Hopefully, somebody will be able to pick it up and do it again.” The superintendent said he could foresee the Ignacio school board making a second attempt with market driven teacher compensation.⁵⁶

However, a structural adjustment to compensation was not the most innovative and promising aspect of IMDCP. Eagle County School District had already started implementing the same features of the Teacher Advancement Program (TAP) when IMDCP was unveiled. Douglas County School

District has operated a performance pay system since 1994. Further, Denver Public Schools is moving forward with its Professional Compensation System for Teachers, contingent on a November 2005 vote for a mill-levy increase.

IMDCP architect Bruce Yoast recognized that the plan’s most significant contribution to genuine and lasting education reform was the suspension of existing statutes protecting teacher tenure within the district.

While state and federal policy makers have raised accountability standards in public education, Article IX, Section 15, of the Colorado Constitution gives the local board of education “control of instruction” within its public schools. Yet high costs and other difficulties created by burdensome tenure and dismissal procedures prevent the board’s directors and their hired administrators from removing those teachers who perform poorly. Ultimate accountability is lacking. To have a better chance of improving student progress, school districts will need greater flexibility in dealing with ineffective instructors.

Observing the concerns that prompted Ignacio leaders to propose their plan, the General Assembly ought to reform Colorado’s statutory process protecting teacher tenure. Legislators should consider restructuring current laws to give school district boards more flexibility to remove poorly-performing instructors from the classroom. The waivers sought by Ignacio leaders, though ultimately lost, marked a hopeful step toward reaping the benefits of educational accountability.

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Endnotes

¹ Telephone conversation of the author with Larry Swain, Superintendent, Ignacio School District 11 JT, 27 September 2004.

² Colorado Department of Education (CDE), "Pupil Membership by School District, from Highest to Lowest, Fall 1999," <http://www.cde.state.co.us/cdereval/rv99PMbyStudentCount.htm>.

CDE, "Pupil Membership by School District, from Highest to Lowest, Fall 2002," <http://www.cde.state.co.us/cdereval/download/pdf/2002PM/2002PMbyDistrictHighesttoLowest.pdf>. By the following year (2003-2004), Ignacio's student enrollment declined nearly 10% more, from 847 to 764. Continued declining enrollment in Ignacio has helped to create a substantial budget deficit, leading district leaders to contemplate closing one of Ignacio's four schools (see George Lurie, "Ignacio's schools see shortfall," *Durango Herald*, 24 December 2004). Bayfield's student enrollment was 1,047 in 1999-2000 and 1,175 in 2002-2003, a 12.2-percent increase. The following year Bayfield added 29 more students.

³ Mary Ann Lopez, "Parents yank children from Ignacio schools," *Durango Herald*, 9 November 2003.

⁴ CDE, "2002 CSAP/State Results," http://www.cde.state.co.us/cdeassess/results/2002/as_results_CSAP02.htm. Tom Sluis, "Ignacio students fall below state CSAP averages," *Durango Herald*, 2 August 2002.

⁵ "What is TAP?," <http://www.mff.org/tap/tap taf?page=whatistap>.

⁶ <http://www.eagleschools.net/ECS/DistrictOffice/TAP/TAP.htm>. Eagle County School District Re-50J formally approved its pay-for-performance plan and has gradually phased in the implementation, with 2004-2005 marking the first school year where all schools within the district are participating.

⁷ Telephone conversation of the author with Mike Gass, Director of Secondary Education, Eagle County School District Re-50J, 11 January 2005. Gass also said that the district has had no shortage of qualified applicants to fill the positions of Mentor Teacher and Master Teacher. Data from the Milken Family Foundation (MFF) comparing student achievement in Eagle County TAP schools with non-TAP schools was not available at the time of publication.

⁸ Minutes of the Regular Meeting of the Ignacio Board of Education, 13 February 2003.

⁹ These elements are adapted from MFF's Teacher Advancement Program (TAP), <http://www.mff.org/tap/tap.taf>.

¹⁰ "Ignacio School District Market Driven Compensation Plan," <http://www.i2i.org/images/ignacioplan.pdf>. Brian Newsome, "Ignacio pursuing plan to boost teachers' pay," *Durango Herald*, 19 February 2003. Bruce Yoast, "Under Ignacio plan, teachers get more choices," *Durango Herald*, 20 April 2003.

¹¹ Newsome, "Ignacio pursuing plan to boost teachers' pay," *Durango Herald*, 19 February 2003.

¹² "Paying teachers: Ignacio proposal should get statewide attention," *Durango Herald*, 20 February 2003.

¹³ Excerpted from "Ignacio School District Market Driven Compensation Plan."

¹⁴ Minutes of the District Accountability Meeting, Ignacio Administration Office, 7 March 2003. Telephone conversation of the author with Bruce Yoast, former Assistant Superintendent, Ignacio School District 11JT, 10 November 2004.

¹⁵ Minutes of the Special Meeting of the Ignacio Board of Education, 8 July 2003. UniServ Director Emily Watson, six Ignacio teachers, and four others participated in the lengthy public discussion leading up to the vote.

¹⁶ Colorado Revised Statutes § 22-63-301.

¹⁷ Colo. Rev. Stat. § 22-63-302(11). The exceptions are spelled out as references to Colorado's Criminal Code. Specific crimes include child enticement, incest, aggravated incest, contributing to the delinquency of a minor, child abuse or molestation, sexual assault, and drug trafficking.

¹⁸ Colo. Rev. Stat. § 22-63-302(10).

¹⁹ "A Look at Tenure: The Pros and Cons," *Georgia Policy Review* (March 2000), 7. The one-page checklist is a very good concise summary of the arguments on both side of this issue. While some of the points are made in reference to Georgia state policy, the listed arguments have broad application in most U.S. states.

²⁰ "Putting tenure on the block \ The issue: Bill would abolish tenure \ Our view: it's a reaction to the difficulty in firing bad teachers," *Rocky Mountain News*, 2 February 1997, 2B.

²¹ Bob Campbell, "Owens Accused of Duping the Public: Teacher Tenure Already Taboo," *Colorado Springs Independent*, 13 January 2000. Campbell quoted Representative Keith King, a former elected member of the Cheyenne Mountain 12 Board of Education (1991-95).

²² Bill Scanlon, "Dismissal hearing for teacher Thursday: Instructor at Columbine showed R-rated film without parental consent," *Rocky Mountain News*, 7 February 1996, 24A. Cathy Cummins, "Firing teacher cost district \$125,000: Board president calls it money well-spent," *Rocky Mountain News*, 1 July 1998.

²³ "Putting tenure on the block," *Rocky Mountain News*, 2 February 1997. The editors quoted an anonymous Denver area school board president as saying that "the reality is we do not aggressively pursue dismissal for incompetent teachers because the process is so onerous." Conversation of Education Policy Center Director Pamela Benigno with former Colorado school district board member, 8 November 2004, confirmed that at least one Colorado school district is currently unable to remove an underperforming teacher because of prohibitive costs.

²⁴ Public Agenda, "Trying to Stay Ahead of the Game: Superintendents and Principals Talk About School Leadership," 2001. <http://www.publicagenda.org/specials/leadership/leadership2.htm>. The mail survey of 853 superintendents and 909 principals was conducted between July 27 and August 27, 2001.

²⁵ "Ignacio School District Market Driven Compensation Plan."

²⁶ Telephone conversation of the author with Superintendent Swain.

²⁷ "Ignacio School District Market Driven Compensation Plan." Telephone conversation of the author with Yoast. For more on the MAP, see <http://www.nwea.org/assessments>.

²⁸ "Ignacio School District Market Driven Compensation Plan."

²⁹ Colo. Rev. Stat. § 22-2-117.

³⁰ Telephone conversation of the author with Yoast.

³¹ Minutes, Colorado State Board of Education Regular Meeting, 8 May 2003, "Items Pulled off Consent Agenda," http://www.hudak.org/MeetingReports/2003/M20030508.htm#ITEMS_PULLED_OFF_CONSENT_AGENDA.

³² Minutes, Colorado State Board of Education Regular Meeting, 10 July 2003, "Items Pulled off Consent Agenda." http://www.hudak.org/MeetingReports/2003/M20030710.htm#ITEMS_PULLED_OFF_CONSENT_AGENDA.

³³ *Ibid.*

³⁴ Telephone conversation of the author with Superintendent Swain.

³⁵ Minutes, Colo. State Board of Ed. Reg. Mtg, 10 July 2003.

³⁶ Ibid. Josh Blumenfeld, "Merit pay plan OK for Ignacio teachers," *Durango Herald*, 11 July 2003. Colorado State Board of Education Board Report, "Board Actions, July 10, 2003, Department of Education, Denver," http://www.cde.state.co.us/cdeboard/download/bdrpt7_03.pdf. Voting for the waivers were Chairman Randy DeHoff (R – Littleton), John Burnett (R – Colorado Springs), D. Rico Munn (D – Denver), Clair Orr (R – Kersey), and Pamela Jo Suckla (R – Slickrock). Voting against the waivers were Vice Chairman Jared Polis (D – Boulder), Christine Baca (D – Aurora), and Evie Hudak (D – Arvada).

³⁷ CDE, "Fiscal Year 2003-04 Mill Levy Table," <http://www.cde.state.co.us/cdefinance/download/spreadsheet/FY2003-04MillLevy.xls>. For comparison, Colorado's statewide average total mill levy is 39.237.

³⁸ Letter from Bruce Yoast to Colorado State Board of Education, 19 May 2003. Jim Greenhill, "Ballot will ask Ignacio voters to increase taxes for teacher pay plan," *Durango Herald*, 8 October 2003.

³⁹ Minutes, Colo. State Board of Ed. Reg. Mtg, 8 May 2003.

⁴⁰ Letter from Yoast to Colo. St. Bd of Ed.

⁴¹ Minutes, Colo. State Board of Ed. Reg. Mtg, 10 July 2003.

⁴² Electronic mail message from Rocky Cundiff to Colorado State Board of Education, 15 June 2003.

⁴³ Letter from Judi Jackson et al. to Colorado State Board of Education, 12 May 2003. Letter from Chris deKay and Bev Lyons to Colorado State Board of Education, 19 May 2003.

⁴⁴ Electronic mail message from Vickie Sutton to Colorado State Board of Education, 22 May 2003. Sutton also said she and all members of the Ignacio Education Association, a local teachers' union, had been left out of the most recent committee meeting.

⁴⁵ Minutes, Colo. State Board of Ed. Reg. Mtg, 10 July 2003.

⁴⁶ Telephone conversation of the author with Superintendent Swain. Telephone conversation of the author with Yoast.

⁴⁷ Telephone conversation of the author with Superintendent Swain.

⁴⁸ Mary Ann Lopez, "Unions, others oppose Ignacio education plan," *Durango Herald*, 16 August 2003.

⁴⁹ Ibid. In an electronic mail message sent to the State Board of Education, 23 May 2003, Achierno complained about the school district's request for waivers in language similar to that used by CEA officials: that teachers would have to "sell" their due process rights."

⁵⁰ Greenhill, "Five candidates seek three school board seats," *Durango Herald*, 8 October 2003. Greenhill, "Candidate suing school board over pay plan," *Durango Herald*, 16 October 2003.

⁵¹ Lopez, "Unions, others oppose Ignacio education plan," *Durango Herald*, 16 August 2003.

⁵² Telephone conversation of the author with Superintendent Swain.

⁵³ Colorado Education Association, "Ignacio board blocked on due process waivers," January 2004, <http://www.coloradoea.org/whatsnew/ignacio.cfm>.

⁵⁴ Telephone conversation of the author with Superintendent Swain. Telephone conversation of the author with Yoast. Independence Institute mail survey from Ignacio School Board Director Cathy Seibel, September 2004. Seibel, who is now in her second term on the board, was the highest vote-getter of five candidates in the same November 2003 election in which the Ignacio Market Driven Compensation Plan was defeated.

⁵⁵ "Timeline – Ignacio Market Driven Compensation Plan (IMDCP)," attachment submitted with Yoast letter to State Board of Education, 19 May 2003.

⁵⁶ Telephone conversation of the author with Superintendent Swain.

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