

What The Florida Teacher Evaluation Lawsuit Could Mean For Other States

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Teacher's unions around the country are waiting and watching the Florida Education Association's challenge of the state teacher evaluation law.

The Florida Education Association's lawsuit challenging the constitutionality of the state's test-based teacher evaluations — if successful — could become a model for teacher's union across the country, [Governing magazine reports](#). And over at the Quick and the Ed, [labor attorney Danny Rosenthal argues](#) the FEA normally would have a difficult time proving the government violated teachers' 14th Amendment rights. But one of the teachers filing the Florida case was evaluated using students at a different school — a “striking fact” the union has on its side, Rosenthal writes.

The decision could have national implications by setting off a chain reaction of lawsuits testing other teacher evaluation provisions, he says.

The [union filed suit last month](#) challenging the state's 2011 teacher evaluation law. [That law requires annual teacher evaluations](#), and that at least 40 percent of the evaluation is based upon student scores on standardized tests.

Florida districts have yet to develop end-of-course exams for subjects such as art, music or physical education. So some districts used school-wide averages on the [Florida Comprehensive Assessment Test](#) for those teachers. That meant teachers were being rated for the performance of many students they had never taught.

Both *Governing* and Rosenthal miss a crucial detail: The Florida legislature passed a bill at the end of the session [requiring evaluations are based on test scores of students the teacher instructed](#). [Education Commissioner Tony Bennett](#) and the [Foundation for Florida's Future](#) have argued this addresses the FEA's claim and makes their lawsuit unnecessary. But a federal court could also allow the case to proceed.

Governing speaks with experts who say Florida's lawsuit is just the beginning.

“The Florida case would definitely have some implications for other states. This definitely bears watching because teachers elsewhere are going to sue under due process grounds,” says Preston Green, an education law professor at Penn State University. “You're going to see variations of this type of challenge in the next few years.”

The teachers unions—which have frequently criticized evaluation systems like Florida's, arguing that such systems too heavily on testing metrics—aren't saying explicitly where they might focus their efforts next. But they have hinted that they've got their eyes on some specific states where a similar challenge could be mounted.

"The solution that Florida arrived at was the most expeditious and cheapest solution. It doesn't give any meaningful feedback. It's not going to measure whether students learned, but if you're interested in a check-the-box system, it does do that," says Alice O'Brien, general counsel for the NEA, the nation's largest teachers union. "We're closely monitoring how these evaluations are being developed. The Florida case is a case that we would bring elsewhere if other people were to reach for the cheap and easy solution, but we hope that people will not."

Rosenthal says the Florida decision is likely to be limited to the three school districts where teachers challenged the evaluation law: Alachua, Escambia and Hernando.

But the decision could force some wide-ranging reactions. Will school districts be forced to greatly expand the amount of standardized testing to every subject and grade?

And will a decision open the door to other legal challenges?

"Can a geometry teacher be evaluated on a generic math test that includes **less than a third geometry questions**?" Rosenthal asks. "What happens to a teacher who teaches some courses that are tested and others that are not? And how much of a teacher's evaluation can be based on schoolwide scores?"