

Overview of Cook v. Bennett

This lawsuit is brought by seven accomplished teachers and three local education associations to challenge the evaluation of teachers based on the standardized test scores of students they do not teach, or from subjects they do not teach.

The teachers work in Alachua, Hernando and Escambia County public schools and bring suit against the Florida commissioner of education, the Florida Board of Education and the school boards of those three counties, who have implemented the evaluation systems at issue in order to comply with SB 736, as implemented by the state education defendants.

The lawsuit claims that the evaluation of teachers based on the standardized test scores of students they do not teach, or from subjects they do not teach, violates the Equal Protection and Due Process clauses of the Fourteenth Amendment of the United States Constitution. Specifically, the teachers contend that the evaluation system is arbitrary, irrational and unfair. For example:

Plaintiff Kim Cook is a first grade teacher at W.W. Irby Elementary School in Alachua County. She is an accomplished educator, who holds a master's degree in multilingual and multicultural education, plays a leading role both within her school and the greater community in spreading best teaching practices for teaching English to speakers of other languages, and was selected as her school's Teacher of the Year in 2012-13. In 2011-12, 40 percent of Cook's evaluation was based on the FCAT reading scores of students in another grade and school altogether – specifically, 4th and 5th graders at Alachua Elementary School, whom Cook has never instructed or even met. Cook is slated to be evaluated in the same manner in the current school year.

Plaintiff Bethann Brooks is a health science teacher at Central High School in Hernando County. She is an accomplished educator and registered nurse. Brooks teaches 10th, 11th and 12th graders in courses designed to prepare them to work as nursing assistants, medical administrative assistants and in similar fields. Brooks was selected as both her school's and Hernando County's Teacher of the Year in 2012-13. In 2011-12, 51 percent of her evaluation was based on the FCAT reading scores of all ninth and 10th graders at Central High School, most of whom Brooks does not teach. Those few students she does teach, she instructs on health science subjects, which are not assessed by the FCAT reading test. Brooks is slated to be evaluated in the same manner in the current school year.

Plaintiff Shauna Paedae is a certified mathematics teacher in the International Baccalaureate (IB) program at Pensacola High School in Escambia County. She is an accomplished educator, who holds a master's degree in statistics, teaches advanced math (calculus, IB mathematical studies and algebra 2), and has served for the last decade as a trainer for other teachers. In 2011-12, 50 percent

of her evaluation was based on the FCAT reading scores of ninth and 10th graders at Pensacola High School, most of whom she does not teach. Those few students she does teach, she instructs on advanced level math, a subject not assessed by the FCAT reading test. Paedae is slated to be evaluated in the same manner in the current school year.

Plaintiff Catherine Boehme is a certified Biology teacher at West Florida High School of Advanced Technology in Escambia County. She is an accomplished educator with nearly three decades of teaching experience and serves on the Florida Department of Education's Teacher and Leader Preparation Implementation Committee. She is a National Board Certified Teacher in adolescent and young adult science and received the 2013 California Casualty Award for Teaching Excellence. In 2011-12, 50% of Boehme's evaluation was based on the scores of her students on the FCAT reading test, which does not assess student learning of biology. Boehme is slated to be evaluated in the same manner in the current year.

Plaintiff Emily Jefferis is a certified art teacher at Ransom Middle School in Escambia County. She is an accomplished educator who serves as a cooperating teacher, hosting student teachers as part of their college training, and who founded and sponsors the school's art club to further engage and develop students' artistic interests and skills. Her students regularly compete in and win awards in arts competition. In 2011-12, 50 percent of Jefferis' evaluation was based on the scores of her students and students in the district on the FCAT reading test, which does not assess student learning of art. Jefferis is slated to be evaluated in the same manner in the current year.

Plaintiff Janine Plavac is a certified health sciences teacher at Gainesville High School in Alachua County. She is an accomplished educator and registered nurse who has served, for the last eight years, as the director of the Academy of Health Professions, a competitive admissions magnet program at Gainesville High School, which prepares students to enter the medical professions upon graduation. She was selected as the High School Teacher of the Year for Alachua County in 2007-08, and her students have won numerous state and national awards. In 2011, 40 percent of her evaluation was based on the scores of her students on the FCAT reading test, which does not assess student learning of health sciences. Plavac is slated to be evaluated in the same manner in the current year.

Plaintiff Cathy McConnell is a certified music teacher at Ransom Middle School in Escambia County. She is an accomplished educator who has successfully grown the orchestras at both Ransom Middle School and Tate High School over the last nine years and whose string orchestras garnered superior ratings at the Florida Orchestra Association District 3 Music Performance Assessment in Tallahassee. In 2011, 50 percent of McConnell's evaluation was based on the scores of her students and students in the district on the FCAT Reading Test,

which does not assess student learning of music. She is slated to be evaluated in the same manner in the current school year.

The majority of teachers in Florida are being evaluated in the same arbitrary and irrational manner under the mandates of SB 736, passed in 2011. That statute, as administered by the Florida commissioner of education and the Florida Department of Education, requires that a significant proportion of the annual evaluation of every teacher and instructional employee in Florida be based on the following growth formula that was developed only to measure student growth on the FCAT reading and math tests:

$$y_{ti} = \mathbf{X}_i \boldsymbol{\beta} + \sum_{r=1}^L y_{t-r,i} \gamma_{t-r} + \sum_{q=1}^Q \mathbf{z}_{qi} \boldsymbol{\theta}_q + e_i$$

Because the FCAT reading and math tests are given, respectively, only to third through 10th graders and third through eighth graders, the formula produces student growth scores only for FCAT reading in grades 4-10 and FCAT math in grades 4-8. Most teachers in Florida do not teach English/language arts or mathematics in those grades. Rather, the majority of teachers are kindergarten through third grade teachers like Cook, advanced math teachers like Paedae, art and music teachers like Jefferis and McConnell, and health, physical education, foreign languages, special education, social studies and science teachers like Brooks, Plavac and Boehme.

The unlawful, arbitrary and irrational evaluations to which plaintiffs and the majority of teachers in Florida are now subject have high stakes consequences. Teachers who are rated unsatisfactory (the lowest of the four performance ratings under the law) two consecutive years or two out of three years in a row are subject to termination or non-renewal. Transfers, promotions and layoffs are based on the assigned performance rating. And, as of July 1, 2014, salaries will be based on the assigned performance rating as well.

As accomplished educators, the seven plaintiff teachers are justifiably proud of their work and want to be held accountable and evaluated based on the actual instruction they provide. The arbitrary, irrational and unfair evaluation system under which they now work provides them with no meaningful feedback on their instruction and seeks to condition their employment on the basis of standardized test scores of students they do not teach or in subjects they do not teach. Plaintiffs seek a declaration that this system is unlawful and an injunction against its further implementation.