

A G R E E M E N T

between

**UNITED FEDERATION OF TEACHERS
Local 2, American Federation of Teachers, AFL-CIO**

and

**THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT
OF THE CITY OF NEW YORK**

covering

Day-To-Day Substitute Teachers

October 13, 2007—October 31, 2009

Joint Intentions and Commitments

Enhanced student achievement based upon high standards and expectations must be the driving force behind every activity of New York City public schools. To accomplish this, we must reinvent schools so that decision making is shared by those closest to students, including parents, teachers, administrators and other stakeholders. Layers of bureaucratic impediments must be peeled away so that flexibility, creativity, entrepreneurship, trust and risk-taking become the new reality of our schools. The factory model schools of the 1900s must make way for the child-centered schools of this century.

To this end, the Union and the Board mutually agree to join together with other partners in the redesign and improvement of our schools, including closing those that have failed and supporting their restructuring. We must challenge ourselves each day to improve student learning, based upon academic rigor, newfound flexibility, meaningful assessments and true accountability. Roles and responsibilities of parents, staff and other partners must be defined. The standards to which we hold our students must never be lower than those we hold for our own children. To accomplish this, we must focus on both the depth and breadth of each proposed instructional and operational change, each designed to support the children and their teachers, whom we expect to meet these rigorous standards.

Change must be service-oriented, supportive and sufficiently flexible so that each school's educational vision can become a reality. It must be practical, possible, efficient and timely. Respect for each other and for every student must be unconditional if we are to accomplish what we must.

To reach these goals, we commit to working together along with other stakeholders to develop specific recommendations in areas requiring immediate attention. These will include, but not be limited to:

- School Based Budgeting
- Early Intervention and Prevention of Inappropriate Referrals to Special Education
- Professional Development
- Parent Outreach and Support
- Workload Standards.

This commitment is our pledge to the children of the City of New York, not just to a promise but to a reality of educational excellence.

AGREEMENT MADE AND ENTERED INTO on the 6th day of November 2006 by and between the Board of Education of the City School District of the City of New York (hereinafter referred to as the "Board") and United Federation of Teachers, Local 2, American Federation of Teachers, AFL-CIO (hereinafter referred to as the "Union").

Article One Recognition

The Board recognizes the Union as the exclusive bargaining representative of occasional per diem substitute teachers who have received the reasonable assurance of continuing employment referred to in Civil Service Law §201.7(d). Employees in the unit are referred to as "teachers" or "employees".

**Article Two
Fair Practices**

The Union agrees to maintain its eligibility to represent all employees by continuing to admit persons to membership without discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, handicapping condition or age and to represent equally all employees without regard to membership or participation in, or association with, the activities of any employee organization.

The Board agrees to continue its policy of not discriminating against any employee on the basis of race, creed, color, national origin, sex, marital status, sexual orientation, handicapping condition, age, membership or participation in, or association with, the activities of any employee organization.

**Article Three
Pay**

A. Rates of Pay

During the term of this Agreement the pay rates applicable to teachers shall be:

| Effective Date | Rate |
|------------------|----------|
| October 13, 2007 | \$147.59 |
| May 19, 2008 | \$154.97 |

B. Frequency of Payment

Payments to teachers shall continue to be made on a semi-monthly basis.

C. Direct Deposit

As of school year 2007-2008, all newly hired employees of the Board of Education shall have their wages paid through direct deposit.

D. Lump Sum Payment

Effective January 1, 2007, a lump sum cash payment shall be paid to all Employees covered by this Agreement (“Eligible Employees”).

The lump sum cash payment shall be pensionable, consistent with applicable law, and shall not become part of the Employee’s basic salary rate.

Full-time Employees shall be paid \$750. Other Eligible Employees shall have the amount of their cash payment pro-rated based on their hours worked during the applicable payroll periods between mid September and mid December compared to the full-time hours of Employees in their title.

**Article Four
Benefits**

A. Reimbursement for Medical Expenses

Teachers shall be reimbursed by the Board for reasonable medical expenses, not exceeding \$750, incurred because of injuries in the line of duty, to the extent that such expenses are not covered by insurance.

In accordance with existing regulations, as they may be modified by the parties, this limit is waived for employees injured as a result of an unprovoked assault while on duty or while on school premises.

B. Damage or Destruction of Property

1. Teachers shall not be held responsible for loss within the school of school property or children's property when such loss is not the fault of the teacher. This does not exonerate the teacher from responsibility for school property in his/her charge.

2. The Board of Education will reimburse teachers, in an amount not to exceed a total of \$100 in any school year, for loss or damage or destruction, while on duty in the school or while on duty on a field trip, of personal property of a kind normally worn to or brought into school, or on a field trip, when the teacher has not been negligent, to the extent that such loss is not covered by insurance.

The term "personal property" shall not include cash. The terms "loss," "damage" and "destruction" shall not cover the effects of normal wear and tear and use.

C. Joint Study

During the term of this Agreement the parties will examine the cost, appropriateness and feasibility of providing sick leave and vacation pay as benefits for unit employees in the successor agreement.

Article Five Hours And Program

A. Hours

1. Teachers serving in the schools shall have a six-hour and 20-minute day and such additional time as provided for below. The pay rates of employees covered by this agreement will be increased in accordance with the rates set forth herein.

2. The parties agree, effective February, 2006, to extend the teacher work day in "non Extended Time Schools" by an additional 37 ½ minutes per day, Monday through Thursday following student dismissal. Friday's work schedule is 6 hours and 20 minutes. The 37 ½ minutes of the extended four (4) days per week shall be used for tutorials, test preparation and/or small group instruction and will have a teacher to student ratio of no more than one to ten. In single session schools, the day will start no earlier than 8:00 a.m. and end no later than 3:45 p.m.

3. Multi-session schools that cannot utilize the additional time in this manner due to space or scheduling limitations will have a 6-hour and 50- minute day.

4. In District 75 buildings and District 75 self-contained classes in other school sites, the school day will be 6 hours and 50 minutes unless the principal and chapter leader agree to schedule the time as set forth in paragraph 2 above; however, in this event the teacher to student ratio will be no more than 1 to 5. Non-District 75 self contained classrooms shall have either a (a) 6-hour and 50-minute day, (b) a 6-hour and 57 ½-minute day Monday through Thursday and 6-hour and 20-minute day on Friday, or (c) if the time is utilized as set forth in paragraph 2 above the teacher to student ratio should be no more than one to five.

B. Program

1. The principal may, at his/her discretion, assign a teacher the program of a particular absent teacher who is a regular member of the faculty, or he/she may assign the teacher a program in accordance with the provisions of paragraph B2 of this Article.

2. The program of a teacher who is not assigned the program of a particular absent faculty member shall be:

a. A teacher shall have a duty-free lunch period equal to that of regular teachers serving in the school or facility.

b. A teacher shall have at least one preparation period during the day, equal to the length of preparation periods of regular teachers serving in the school or facility.

c. A teacher serving in secondary schools shall have no more than five teaching periods per day.

C. Non-Teaching Duties

Teachers in the unit may be assigned only those non-teaching duties which would otherwise be performed by regular teachers. Non-teaching duties of which regular teachers are relieved pursuant to their contract may not be assigned to day-to-day substitute teachers. Day-to-day substitute teachers may be assigned to such duties without regard to the numerical limitations applicable to regular teacher assignments to such duties.

Article Six Professional Support

The parties recognize the importance of providing day-to-day substitute teachers with the facilities, supplies and support they need in order to carry out their responsibilities in the most professional and effective manner. Teachers should have the following:

1. Access to locked storage for outside clothing;
2. Access to rest rooms;
3. Access to supplies;
4. Information relevant to their assignment.

Teachers who serve in the same school frequently should be introduced to school staff and should be informed of and invited to attend school activities of interest to the teacher.

Article Seven School-Wide Bonus

1. The Board and the UFT jointly support, and pledge to work together to implement on a pilot basis, a school-wide based bonus program pursuant to which educators will be awarded substantial cash bonuses for student achievement gains.

2. The program will be initiated immediately, with bonuses awarded for achievement gains in the 2007-2008 school year. Subject to the successful solicitation of private funds, which the BOE and UFT commit to work together to raise as soon as practicable, approximately 15% of the City's highest need schools will be eligible to participate in the program this first year. In consultation with the UFT, the BOE will identify approximately 200 of the highest-need schools in the City. Each will be invited to participate in the program, and the BOE and UFT jointly pledge to work in good faith to encourage them to do so both this year and throughout the life of the program.

3. In future years, if the school-wide bonus program continues, awards will be funded from public appropriations, which supplement and do not supplant funds available for collective bargaining.

4. In 2008-09 at least 30% of BOE schools will be eligible to participate in the program. In consultation with the UFT, the BOE will identify approximately 400 of the highest-need schools in the City.

5. Participation in the program will be at the option of each school as determined by a vote of fifty-five percent (55%) of the UFT-represented school staff and with the assent of the principal of the school. The vote shall be conducted by the UFT Chapter in the school, held within six weeks of the announcement of the program and shall be an up or down vote without conditions or restrictions on the terms of the program as set out herein. Each year the bonus program is available eligible schools shall exercise the option to participate (“Participant Schools”) or not by the same voting procedure.

6. A school’s agreement to participate in the bonus program shall be considered, along with other criteria, as a positive factor in determining whether the Participant School is to be phased out or given a year’s moratorium on a possible phase-out. Nothing herein alters applicable law with regard to school closings.

7. Each Participant School will be eligible for a dollar award (“the pool”), which will be distributed to the school as a whole on the basis of the Progress Report or some other neutral criterion derived from the Progress Report.

8. In consultation with the UFT, the BOE will set the criteria for awarding funds to schools. The criteria will provide objective standards /benchmarks aligned with Progress Report factors and the specific details of those standards/benchmarks will be communicated to schools when the program is announced. All Participant Schools that achieve the announced standards/benchmarks shall receive the applicable money award. There shall be no cap or ceiling imposed on the number of Participant Schools receiving the award, provided the school meets the standards/benchmarks. Neither shall the relative standings of the Participant Schools affect their entitlement to the award once they have met the standards/benchmarks.

9. To account for variation in the size of schools, the size of the award each Participant School is eligible to receive will be determined by appropriate objective criteria.

10. The amount of the average per-person award should be sufficiently substantial to make a material difference to each awardee. As outlined below, each Participant School will determine the methodology for distributing any award it earns for school-wide performance. The size of each Participant School’s total award for distribution in 2007-08 shall be the number of full-time UFT-represented employees on the school’s table of organization times three thousand dollars (\$3,000). In light of year-to-year appropriations uncertainties, nothing in this paragraph restricts the ability of the BOE to increase or decrease the total amount set annually for distribution pursuant to the program.

11. Each Participant School will form a compensation committee composed of the principal and a principal’s designee (e.g., an assistant principal) and two UFT-represented staff members elected in a Chapter supervised election by the UFT-represented staff on an annual basis from among volunteers. The compensation committee will determine, by consensus, matters related to both eligibility for and the size of individual awards to UFT-represented staff members. However, the compensation committee shall presume that all UFT-represented staff employed at a school that meets the targets for the bonus have contributed to the school’s achievement to some extent and therefore should share in the bonus. If there is no consensus the pool of money will not be distributed to the school.

12. Among the topics each Participant School compensation committee may decide to consider, after receiving guidance from the BOE and UFT, are whether to make equal individual awards to all eligible UFT staff, equal awards to all those in the same title, or whether to make differential awards.

13. In making awards, a compensation committee shall not consider an awardee's length of service, provided however that it may make particular determinations for individuals who served at the school for less than a full academic year.

14. The school compensation committee shall make its decisions free of pressure from the BOE or UFT.

15. Funds will be awarded to schools as soon as practicable after the BOE's Office of Accountability has received and analyzed the information necessary to make the awards. To the extent such award is made after the beginning of the school year following the year that was the basis for the award, eligible staff who have left the school shall nevertheless share in the award for their contribution the prior year.

16. The pilot school-wide bonus program shall be comprehensively evaluated by a mutually agreed upon outside independent entity which shall provide the parties with a written report and analysis of all aspects of its operation together with associated recommendations for future years the program is in operation.

17. The Chancellor and the President of the UFT, or their designees, will constitute an Oversight Committee (OC) to review appeals of individual awards. However if the awards made by the compensation committee are ratified by a simple majority of the UFT Chapter voting by secret ballot, no appeal may be taken to the OC. The OC may modify a determination of a school compensation committee only if the OC, by consensus, finds that it was arbitrary, capricious or in clear violation of law or of the procedures and standards set out herein.

18. This provision is contingent on the implementation and passage of the legislation referred to in Paragraph 6 of the October 2005 Memorandum of Agreement between the parties entitled "Pension and Retirement Program."

Article Eight Safety

A. Assistance in Assault Cases

1. The principal shall report as soon as possible but within 24 hours to the Office of Legal Services and to the Chief Executive of School Safety and Planning that an assault upon a teacher has been reported to him/her.

The principal shall investigate and file a complete report as soon as possible to the Office of Legal Services and to the Chief Executive of School Safety and Planning. The full report shall be signed by the teacher to acknowledge that he/she has seen the report and he/she may append a statement to such report.

2. The Office of Legal Services shall inform the teacher immediately of his/her rights under the law and shall provide such information in a written document.

3. The Office of Legal Services shall notify the teacher of its readiness to assist the teacher. This assistance is intended solely to apply to the criminal aspect of any case arising from such assault.

4. Should the Office of Legal Services fail to provide an attorney to appear with the teacher in Family Court, the Board will reimburse the teacher if he/she retains his/her own attorney for only one such appearance in an amount up to \$40.

5. An assaulted employee who presses charges against his/her assailant shall have his/her days of court appearance designated as non-attendance days with pay.

6. The provisions of the 1982-83 Chancellor's Memorandum entitled "Assistance to Staff in Matters Concerning Assaults" shall apply.

B. School Safety Plan

The principal is charged with the responsibility of maintaining security, safety and discipline in the school. To meet this responsibility he/she shall develop in collaboration with the Union chapter committee and the parents association of the school a comprehensive safety plan, subject to the approval of the Chief Executive of School Safety and Planning.

The safety plan will be updated annually using the same collaborative process, and reports of any incidents shall be shared with the chapter leader.

A complaint by a teacher or the chapter leader that there has been a violation of the safety plan may be made to the principal as promptly as possible. He/she will attempt to resolve the complaint within 24 hours after receiving the complaint.

If the teacher or chapter is not satisfied, an appeal may be made to the Chief Executive of School Safety and Planning who will arrange for a mediation session within 48 hours.

If the teacher/chapter is not satisfied with the results of the mediation, an appeal may be made by an expedited arbitration process to be developed by the parties.

C. Citywide Security and Discipline Committee

The Union and the Board shall establish a joint committee which shall meet on a regular basis to discuss and consider appropriate means of resolving safety and discipline issues. Other city agencies will be invited to participate when the Union and the Board deem it appropriate.

The joint committee or joint designees and any experts the Union and/or Board may designate will have access to all schools and other Board workplaces in which staff represented by the Union are assigned for the purpose of investigating and assessing allegedly unsafe working conditions. If possible, such visits shall be made on reasonable notice to the school and in a manner that minimizes disruption to the school or other workplace.

The joint committee, from time to time, may establish sub-committees to deal with special safety and/or discipline issues. It shall establish a sub-committee to deal with the issues of safety and discipline in special education schools and programs.

D. Environmental Health and Safety Joint Committee

1. The Union and the Board shall establish a joint committee which shall meet on a regular basis to discuss and consider appropriate means of resolving health and safety issues. The School Construction Authority will be invited to participate on issues raised by school capital modernization projects.

2. The joint committee or joint designees, and any experts the Union and/or the Board may designate, will have access to all schools and other Board workplaces in which staff represented by the UFT are assigned for the purpose of investigating and assessing allegedly hazardous working conditions. Such visits will be made upon reasonable notice to the Board's office of occupational safety and health and in a manner that minimizes disruption to the school or other workplace.

E. Safe Environment

1. In recognition of the importance of employee safety and health, the Board agrees to provide the appropriate recognized standards of workplace sanitation, cleanliness, light, and noise control, adequate heating and ventilation. The Board of Education agrees to eliminate recognized hazards that are likely to cause serious physical harm.

2. If the Union believes a situation has arisen that is likely to cause serious physical harm, it may bring it to the attention of the Chancellor or designee who shall immediately assess the situation, including onsite inspection where appropriate, and take such action as the Chancellor deems appropriate. In the event the Union seeks to contest the Chancellor's determination, it may exercise its statutory rights under New York State Labor Law Section 27a (PESH) or other legal authority.

3. The Board will issue a circular advising staff of their rights under PESH and other applicable law and post the notices required by law.

F. Renovation and Modernization

The Union and the Board believe that modernization and renovation projects are vital to enable children to receive the educational services to which they are entitled. However, in order to limit any educational disruption that a modernization project can create, and to protect the health and safety of the staff and students that use a school setting undergoing modernization, the Board and Union have agreed to standard procedures to help to ensure that health, safety and educational standards are maintained during school capital modernization projects. These standard procedures will be applied in school capital modernization projects undertaken by the School Construction Authority and will be posted and reviewed with all staff in any school undergoing modernization. Where conditions require it, the standard procedures may be modified after consultation with the Union.

G. Science Experiment Review Panel

The Board and the Union have established a panel that considers disputes raised by staff members concerning the safety and efficacy of scientific experiments and procedures in schools. The panel consists of three laboratory specialists and three science teachers selected by the Union and three science supervisors selected by the Board. The chair will rotate annually between persons designated by the Board and the Union.

The panel will consider any dispute brought to its attention in writing and will expeditiously issue a written opinion as to whether and how the disputed experiment or procedure should be conducted. Any use of the disputed experiment or procedure will be governed by the panel's opinion, and at least one supervisor, lab specialist and science teacher must concur before the issuance of any opinion.

The panel's opinions will be widely disseminated to appropriate divisions and schools, and will serve as guidelines for similar experiments or procedures. Administrative procedures governing the panel's operations will be issued by the Chancellor after consultation with the Union.

Article Nine

Due Process And Review Procedures

A. Teacher Files

Official teacher files in a school shall be maintained under the following circumstances:

1. No material derogatory to a teacher's conduct, service, character or personality shall be placed in the files unless the teacher has had an opportunity to read the material. The teacher shall acknowledge that he/she has read such material by affixing his/her signature on the actual copy to be filed, with the understanding that such signature merely signifies that he/she has read the material to be filed, and does not necessarily indicate agreement with its content. However,

an incident which has not been reduced to writing within three months of its occurrence, exclusive of the summer vacation period, may not later be added to the file.

2. The teacher shall have the right to answer any material filed and his/her answer shall be attached to the file copy.

3. Upon appropriate request by the teacher, he/she shall be permitted to examine his/her files.

4. The teacher shall be permitted to reproduce any material in his/her files.

5. Employees may not grieve material in the file except that if accusations of corporal punishment or verbal abuse against a UFT-represented employee are found to be unsubstantiated, all references to the allegations will be removed from the employee's personnel file.

However, the teacher shall have the right to append a response to any letter. If disciplinary charges do not follow, the letter and the response shall be removed from the files three years from the date the original material is placed in the file.

B. Counseling Memos

Supervisors may issue counseling memos. Counseling memos are not disciplinary. Counseling memos provide the opportunity for supervisors, in a non-disciplinary setting, to point out to employees areas of work that the supervisor believes need improvement. Counseling memos should include the supervisor's proposals for how such improvement may be achieved. Any employee who receives a counseling memo may request from the supervisor either suggestions for how to improve or request the supervisor to model such improvement for the employee. Counseling memos are a vehicle for supportive improvement.

1. A counseling memo may only be written to an employee to make him/her aware of a rule, regulation, policy, procedure, practice or expectation. A counseling memo cannot include any disciplinary action or threat of disciplinary action.

a. "Counseling Memo" must appear at the top of the memo in bold print and capital letters.

b. At the conclusion of the memo the following must appear in bold print: "A counseling memo is not disciplinary in any manner and cannot be used in any action against an employee except to prove notice if the employee denies notice." If the language required in a) and b) is not included in the memo, it must be added.

c. A counseling memo must be presented to an employee within one (1) month of the latest incident recounted in the memo. The memo may only reference similar prior incidents that occurred no more than four (4) months from the date of the latest incident.

2. Counseling memos may not be used in any action or evaluation involving an employee in the bargaining unit ("U" rating, per session job, etc.) except to establish that the employee who denies knowledge of a rule, regulation, policy, procedure, practice or expectation was given prior notice of it, or to impeach factual testimony.

a. Counseling memos may not be used in the rating of an employee in the bargaining unit.

b. Counseling memos may not be referred to in, or attached to, any other letter sent to an employee for their official school file.

3. Counseling memos may not be grieved. Any employee who receives a counseling memo shall have the right to answer within one (1) month of receipt of the counseling memo and the answer shall be attached to the file copy of the counseling memo.

4. All counseling memos will be permanently removed from employee's official school files three (3) years after the latest incident referred to in the memo.

C. Summons

1. A teacher summoned by the principal to a conference which may lead to disciplinary action for reasons of misconduct may be accompanied, at his/her option, by the chapter leader or his/her designated alternate.

2. Teachers summoned to the office of a community or assistant superintendent or the Division of Human Resources shall be given two days' notice and a statement of the reason for the summons, except where an emergency is present or where considerations of confidentiality are involved. Whenever an employee is summoned for an interview for the record which may lead to disciplinary action, he/she shall be entitled to be accompanied by a representative who is employed by the city school system, or by an employee of the Union who is not a lawyer, and he/she shall be informed of this right. However, where the community or high school superintendent or the Division of Human Resources permits an attorney who is not a member of the school system to represent any participant in the interview, the employee shall be entitled to be represented by an attorney.

An interview which is not held in accordance with these conditions shall not be considered a part of the employee's personnel file or record and neither the fact of the interview nor any statements made at the interview may be used in any subsequent Board proceeding involving the employee. It is understood that informal conferences, such as those between a community or assistant superintendent and a teacher, or the Division of Human Resources and a teacher, for professional improvement, may be conducted off the record and shall not be included in the employee's personnel file or record.

3. Incidents investigated by the Chancellor or by a governmental investigatory agency must be reduced to writing by the appropriate supervisor within 6 months and 12 months respectively from the date the incident either occurred or should have been discovered by the appropriate school officials. Employees must receive a complete copy of any such writing and an opportunity to answer in writing and to have such response attached. The writing may not be incorporated into the employee's personnel file or record, unless this procedure is followed, and any such writing will be removed when an employee's claim that it is inaccurate or unfair is sustained.¹

4. The Board will continue its present procedures providing occasional per diem substitutes with the opportunity to discuss the circumstances which have given rise to complaints against them (with Union representation at the option of the per diem teacher) if such complaints could lead to their being excluded from assignments as an occasional per diem substitute.

D. Medical Review Procedures

1. Request for Medical Examination of Teachers

The report of the immediate supervisor requesting examination of a teacher pursuant to Education Law Section 2568 shall be made in duplicate. A copy of the report shall be forwarded to the teacher.

2. Skin Test

The Board and the Union shall seek legislation to permit employees a choice of skin test or X-ray. Until such legislation is enacted teachers in this system will be given a skin test. The skin test will be administered by the Department of Health. Where a skin test result proves to be

¹ The parties disagree as to the applicability of Section 10 of the October 2005 MOA to this Article 8C3.

positive, the Board may require an X-ray test. An enabling resolution to this effect was adopted by the Department of Health on May 6, 1962.

3. Injury in the Line of Duty

In order to provide for an expeditious handling of injury in the line of duty claims arising under Article Four A, within five school days of a claim of injury in the line of duty, the superintendent shall make a determination as to whether the accident occurred in the line of duty.

4. Medical Report and Review

a. The report of the Medical Bureau on a teacher who was called for medical examination shall, upon written request of the teacher, be sent to the teacher's physician within twenty-five (25) days after the examination.

b. Upon the teacher's request to the Medical Bureau, his/her physician shall have the right to examine his/her medical file.

E. False Accusations²

Knowingly false accusations of misconduct against employees will not be tolerated.

If an accusation of sexual misconduct or physical abuse against an employee is found by the Board or Special Commissioner of Investigation to have been knowingly false when made, the Board will take the following actions to restore the falsely accused employee's reputation: removing all references to the charges from the employee's personnel file(s) and adding evidence of the unfounded nature of the charge to any Board files that may have to be maintained to satisfy other legal requirements, if any; and restoring any back pay owed with interest and, at the employee's request, confirming to any regulatory agency the finding that the employee was falsely accused. In addition, where the knowingly false accusation was made by a student of the employee, absent compelling and extraordinary circumstances the student will be permanently reassigned from the employee's class.

Article Ten

Union Activities, Privileges And Responsibilities

A. Restriction on Union Activities

No teacher shall engage in Union activities during the time he/she is assigned to teaching or other duties, except that members of the Union's negotiating committee and its special consultants shall, upon proper application, be excused without loss of pay for working time spent in negotiations with the Board or its representatives.

B. Bulletin Boards

At least one bulletin board shall be reserved at an accessible place in each school for the exclusive use of the Union for purposes of posting material dealing with proper and legitimate Union business.

C. Chapter Meetings

Upon request to the head of the school, the school Chapter shall be permitted to meet within the school under circumstances which will not interfere with the instructional program. Such meetings may be held only during the lunch period or before or after school hours, at a place to be assigned by the head of the school, where other teachers or children are not present. Union officials may attend such meetings.

² See Appendix A. This Article 9E is the same as Article 21H of the regular Teacher agreement referred to in Appendix A.

D. Exclusive Check-Off

The Board will honor, in accordance with their terms, only such written authorizations as are properly executed by employees in the unit covered by this Agreement for the deduction of their dues in behalf of the Union.

The Board will honor individual written authorizations for the deduction of union dues stating they are irrevocable until the following June 30, and automatically renewable for another year unless written notice is given to the Board between June 15 and June 30.

E. Agency Fee

The Board shall deduct from the wage or salary of employees in the bargaining unit who are not members of the UFT the amount equivalent to the dues levied by the UFT and shall transmit the sum so deducted to the UFT, in accordance with Section 208(3)(b) of Article 14 of CSL. The UFT affirms it has adopted such procedure for refund of agency shop deduction as required in Section 208(3)(b) of Article 14 of CSL. This provision for agency fee deduction shall continue in effect so long as the UFT establishes and maintains such procedure.

The Union shall refund to the employees any agency shop fees wrongfully deducted and transmitted to the Union.

The Union agrees to hold the Board harmless against claims arising out of the deduction and transmittal of agency shop fees where there is a final adjudication by a court or arbitrator or by PERB that said agency shop fees should not have been deducted and/or transmitted to the Union.

The agency shop fee deductions shall be made following the same procedures as applicable for dues check-off, except as otherwise mandated by law or this Article of the Agreement.

F. Political Check-Off

The Board will arrange for voluntary payroll deduction contributions for federal political contests in accordance with Title 2, Section 441(b) of the U.S.Code.

Article Eleven

Complaint and Grievance Procedures

It is the policy of the Board to encourage discussion on an informal basis between a supervisor and an employee of any employee complaint. Such discussion should be held with a view to reaching an understanding which will dispose of the matter in a manner satisfactory to the employee, without need for recourse to the formal grievance procedure. An employee's complaint should be presented and handled promptly and should be disposed of at the lowest level of supervision consistent with the authority of the supervisor.

Upon request to the head of the school, a Union staff representative shall be permitted to meet with employees in the unit during their non-working time, within the school, for the purpose of investigating claims and grievances, under circumstances which will not interfere with the teaching program or other school activities. When necessary, any employee in the unit who is a chapter leader in the school in which the aggrieved employee is assigned will be given time off to represent the employee in the presentation of his/her grievance.

A. Informal Complaint Procedure

It is desirable that any employee having a complaint should discuss it informally with his/her immediate supervisor or with any other appropriate level of supervision at the school.

The employee should request an opportunity to discuss the matter and the supervisor should arrange for the discussion at the earliest possible time. At such informal discussion, the

employee may be accompanied by a Union representative or by another employee in the unit who is not an official or agent of another employee organization. The Union representative shall be the chapter leader at the school or a Union representative.

The objective should be to dispose of the majority of employee complaints in this manner.

B. Formal Grievance Procedure

If the matter has not been disposed of informally, an employee having a complaint concerning any condition of employment within the authority of the Board of Education may, within a reasonable period of time following the action complained of, present such complaint as a grievance in accordance with the provisions of this grievance procedure.

Complaints concerning matters which are not within the authority of the Board should be presented in accordance with the review procedures of the agency having authority over such matters.

If a group of employees has the same complaint, a member of the group may present the grievance in the group's behalf under this procedure.

The Union has the right to initiate or appeal a grievance involving alleged violation of any term of this Agreement. Such grievance shall be initiated with the appropriate community or high school superintendent or with such other Board official as may be appropriate.

Following is the procedure for presentation and adjustment of grievances, except that grievances concerning compensation shall be initiated by the Union to the Division of Human Resources at Step 2 of this procedure and the decision shall be treated as a decision of the Chancellor.

1. School Level (Step 1)

The employee shall initiate the grievance at Step 1 with the head of the school as the Board representative.

2. Board Level (Step 3)

If the grievance is not resolved at Step 1, the Union may appeal from the decision at Step 1 to the Chancellor within 10 school days after the decision of the head of the school is received.

When a grievance is appealed to the Chancellor at Step 2, the Union may advise the arbitrator of that appeal, in order to expedite possible scheduling before the arbitrator in the event that the grievance is subsequently appealed to the arbitrator.

3. Representation

At each Step, the employee may be accompanied by a Union representative. At Step 1, the Union representative shall be the chapter leader at the school. At Step 2, the Union representative shall be a Union staff representative.

4. Conferences and Decisions

At each Step of this grievance procedure, a conference shall be arranged by the Board representative, or his/her designee, with the aggrieved employee and his/her representative, if any. Conferences held under this procedure shall be conducted at a time and place which will afford a fair and reasonable opportunity for all persons entitled to be present to attend. When such conferences are held during working hours, employees scheduled to work on that day who participate shall be excused with pay for that purpose.

Every attempt should be made to reach a mutually satisfactory resolution of the grievance at the conference held under this procedure. If the grievance is not resolved at the conference, then a decision must be rendered by the Board representative. The decision at each step should be

communicated to the aggrieved employee and his/her representative within the following time limits:

- At Step 1, within five school days after the grievance is initiated;
- At Step 2, within ten school days after the appeal is received.

If a satisfactory resolution is not reached or if a decision is not rendered within the time limit at Steps 1 or 2, the Union may appeal the grievance to the next higher step.

C. Appeals to Arbitration (Step 3)

A grievance which has not been resolved by the Chancellor at Step 2 may be appealed by the Union to arbitration. A grievance may not be appealed to the arbitrator unless a decision has been rendered by the Chancellor at Step 2, except in cases where the decision on the grievance has not been communicated to the aggrieved employee and his/her representative by the Chancellor within the time limit specified for Step 2 appeals.

The appeal to arbitration with a copy to the Board, shall be filed within ten school days after receipt of the decision of the Chancellor. Where no hearing has been held, or no decision has been issued, within ten school days following receipt of the grievance by the Chancellor at Step 2, the appeal to arbitration shall be filed within ten school days following the expiration of the ten-day period.

A panel of seven arbitrators shall be designated by mutual agreement of the parties to serve for any case or cases submitted to them in accordance with their ability to promptly hear and determine the case(s).

Any costs relating to the participation of the arbitrator shall be shared equally by the parties to the dispute.

With respect to grievances which involve the application or interpretation of the provisions of this Agreement the arbitrator shall be without power or authority to make any decision:

1. Contrary to, or inconsistent with, or modifying or varying in any way, the terms of this Agreement, or of applicable law or rules and regulations having the force and effect of law;
2. Involving Board discretion or Board policy under the provisions of this Agreement, under Board by-laws, or under applicable law, except that the arbitrator may decide in a particular case that such policy was disregarded or that the attempted application of any such term of this Agreement was so discriminatory, arbitrary or capricious as to constitute an abuse of discretion, namely whether the challenged judgment was based upon facts which justifiably could lead to the conclusion as opposed to merely capricious or whimsical preferences or the absence of supporting factual reasons.
3. Limiting or interfering in any way the powers, duties and responsibilities of the Board under its by-laws, applicable law, and rules and regulations having the force and effect of law.

With respect to grievances which involve the application or interpretation of the provisions of this Agreement the decision of the arbitrator, if made in accordance with his/her jurisdiction and authority under this Agreement, will be accepted as final by the parties to the dispute and both will abide by it.

With respect to all other grievances, if the grievance is not resolved at the conference, then a report and recommendation of the arbitrator shall be transmitted to the Chancellor. Within ten school days after the date that the report and recommendation are received by the Chancellor, he/she shall indicate whether he/she will accept the recommendation. Unless the Chancellor disapproves the recommendation within ten school days after the date it is received by him/her, the recommendation shall be deemed to be his/her decision.

A recommendation of the arbitrator which has been approved by the Chancellor, or which has not been disapproved by the Chancellor within the ten day limit specified above, shall be communicated to the aggrieved employee and the Union. If the Chancellor disapproves a recommendation of the arbitrator, he/she shall notify the aggrieved employee and the Union of his/her decision.

Article Twelve Special Complaints

It is the declared objective of the parties to encourage the prompt and informal resolution of special complaints not covered by the Grievance Procedure and to dispose of such complaints as they arise and to provide recourse to orderly procedures for their adjustment.

A. Definition

A “special complaint” is a complaint by an employee in the bargaining unit that persons or groups are engaging in a course of harassing conduct, or in acts of intimidation, which are being directed against him/her in the course of his/her employment and that the school principal or community or high school superintendent has not afforded the employee adequate relief against such course of conduct or acts of intimidation.

B. Filing and Priority Handling

A special complaint shall be promptly filed with the Chancellor by the Union. Such complaint shall receive expedited handling pursuant to this Article.

C. Joint Investigation and Informal Resolution

Within twenty-four (24) hours after the special complaint is filed with the Chancellor, a joint investigating committee consisting of one representative designated by the Chancellor and one representative designated by the Union shall investigate the complaint at the school level to ascertain the facts and bring about a prompt resolution of the problem without resort to formal procedures. In the course of its investigation, the joint committee shall confer with the principal of the school, the community or high school superintendent and other persons involved in the controversy.

D. Administrative Hearing and Continued Attempt at Informal Resolution

If the complaint is not resolved by the joint investigating committee, the Union shall request a hearing before the Chancellor. Within forty-eight (48) hours after receipt of the request for hearing, the Chancellor, or a representative designated by him/her, shall hold a hearing at which the joint investigating committee shall report its findings and all persons involved, including the affected employee, shall have an opportunity to be heard. The complaining employee shall be represented by the Union.

At the hearing the Chancellor or his/her representative shall make every effort to resolve the complaint informally and all persons involved shall cooperate toward this end.

E. Decision of the Chancellor

Within seventy-two (72) hours following the close of the hearing, the Chancellor shall notify all parties of his/her decision and the manner in which it shall be effectuated.

F. Fact Finding and Recommendations

If the complaint is not resolved by the Chancellor, the Union shall submit it for hearing and fact finding before an arbitrator selected in accordance with Article Ten of this Agreement. The

submission shall be made within ten (10) school days after the issuance of the Chancellor's decision.

The voluntary labor rules of the American Arbitration Association shall apply to the proceeding insofar as they relate to the hearing, fees and expenses.

The fact finder shall render findings not later than seventy-two (72) hours from the date of the close of the hearings or, if oral hearings have been waived, then from the date of transmitting the final statements and proofs to the fact finder. The findings of fact shall be in writing. The fact finder shall limit his/her finding strictly to the question whether the employee's complaint has been substantiated by the evidence. If the fact finder finds the complaint to be substantiated and unremedied, he/she shall recommend an appropriate remedy.

The fact finder shall not interpret or apply the provisions of this Agreement or exercise any of the other functions specified in Article Ten of this contract, nor shall he/she exercise any of the powers conferred pursuant to Section 3020-a of the Education Law.

G. Board Consideration

Within ten (10) days after receipt of the fact finder's report, the Board shall make a determination.

H. Expansion to Include Supervisors

Complaints against supervisors may be considered in an expeditious manner in accordance with the provisions of this Article.

Article Thirteen

Notice - Legislative Action

The following Article is required by the Public Employee's Fair Employment Act, as amended by Section 204a, approved March 10, 1969.

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefor, shall not become effective until the appropriate legislative body has given approval.

Article Fourteen

Duration

This Agreement shall become effective as of October 13, 2007 and shall continue in full force and effect through October 31, 2009.

**APPENDIX A
FALSE ACCUSATIONS**

Joel I Klein
Chancellor
Department of Education
52 Chambers Street
New York, NY 10007

December 17, 2007

Randi Weingarten
President
United Federation of Teachers
52 Broadway
New York, NY 10002

Dear Ms Weingarten,

Notwithstanding any provision of the Teacher CBA (and corresponding provisions in other UFT contracts) to the contrary, the parties agree that grievances may be initiated under Article 21H (False Accusations) of the Teacher agreement (and corresponding provisions in other UFT contracts) for the purpose of securing implementation of its specific provisions, including removal of material from the employee's personnel file.

Sincerely,

Joel I Klein