

# **AGREEMENT**

between

**THE BOARD OF EDUCATION**

of the

City School District

of the

City of New York

and

**UNITED FEDERATION OF TEACHERS**

Local 2, American Federation  
of Teachers, AFL-CIO

covering

**NURSES and THERAPISTS**

**October 13, 2007 – October 31, 2009**

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Local 2, American Federation of Teachers  
AFL-CIO**

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## **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 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 employees in the titles head nurse, staff nurse, registered nurse (BOE), head nurse (BOE), occupational therapist, senior occupational therapist, physical therapist, senior physical therapist, physical therapist (BOE), occupational therapist (BOE), senior occupational therapist (BOE), senior physical therapist (BOE), public health nurse, pediatric nurse associate, and in any successor title(s) the duties of which are similar to those performed by employees in the unit.

The Board recognizes the Union as the exclusive bargaining representative of a separate bargaining unit of employees in the titles of supervisor of nurses, and supervising therapist and in any successor title(s) the duties of which are similar to those performed by employees in the unit.

**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 or membership or participation in, or association with the activities of any employee organization.

**ARTICLE THREE  
SALARIES**

Employees shall be subject to the following salary adjustments and minimums on the dates specified below:

**A. Base Salary Rate Adjustment**

The base salary for nurses and therapists will increase as follows:

<b>Effective</b>	<b>Increase</b>
October 13, 2007	2%
May 19, 2008	5%

**B. Educational Differential**

An annual differential shall continue to be provided for each nurse who possesses an appropriate degree in nursing or an allied health field from an accredited College or University, as follows:

<b>Effective Date</b>	<b>Baccalaureate</b>	<b>Master</b>
October 13, 2007	\$1,283	\$2,567
May 19, 2008	\$1,347	\$2,695

Therapists shall be eligible for an annual differential for a master's degree as follows:

<b>Effective Date</b>	<b>Master</b>
October 13, 2007	\$1,200
May 19, 2008	\$1,259

**C. Experience Differential**

1. An incumbent nurse or therapist who possesses the specified number of years of experience as a registered professional nurse or therapist in the title currently held (whether or not such

experience is in the Board of Education or outside prior experience) shall receive the rate noted in paragraph 3 on the anniversary date of such service.

2. Appointees to Board service who possess the specified number of years of prior experience as a registered professional nurse or therapist in the title to which the appointment is made shall receive the rate noted in paragraph 3.

3. Experience Schedules:

**Staff Nurse/Registered Nurse (BOE)**

Yrs. Exp.	Oct. 13, 2007		May 19, 2008	
	Exper. Diff.	Min. Base Plus Exp.	Exper. Diff.	Min. Base Plus Exp.
0		\$50,506		\$53,031
1	\$ 593	\$51,099	\$ 623	\$53,654
2	\$1,180	\$51,686	\$1,239	\$54,270
3	\$1,180	\$51,686	\$1,239	\$54,270
4	\$1,775	\$52,281	\$1,864	\$54,895
5	\$2,367	\$52,873	\$2,485	\$55,516
6	\$2,367	\$52,873	\$2,485	\$55,516
7	\$2,563	\$53,069	\$2,691	\$55,722
10	\$2,956	\$53,462	\$3,104	\$56,135
13	\$3,355	\$53,861	\$3,523	\$56,554
15	\$3,549	\$54,055	\$3,726	\$56,757
17	\$4,172	\$54,678	\$4,381	\$57,412
18	\$4,489	\$54,995	\$4,713	\$57,744
20	\$4,798	\$55,304	\$5,038	\$58,069

**Head Nurse/Head Nurse (BOE)**

Yrs. Exp.	Oct. 13, 2007		May 19, 2008	
	Exper. Diff.	Min. Base Plus Exp.	Exper. Diff.	Min. Base Plus Exp.
0		\$55,254		\$58,017
1	\$ 648	\$55,902	\$ 680	\$58,697
2	\$1,295	\$56,549	\$1,360	\$59,377
3	\$1,295	\$56,549	\$1,360	\$59,377
4	\$1,942	\$57,196	\$2,039	\$60,056
5	\$2,589	\$57,843	\$2,718	\$60,735
6	\$2,589	\$57,843	\$2,718	\$60,735
7	\$2,803	\$58,057	\$2,943	\$60,960
10	\$3,236	\$58,490	\$3,398	\$61,415
13	\$3,668	\$58,922	\$3,851	\$61,868
15	\$3,882	\$59,136	\$4,076	\$62,093
17	\$4,565	\$59,819	\$4,793	\$62,810
18	\$4,911	\$60,165	\$5,157	\$63,174
20	\$5,251	\$60,505	\$5,514	\$63,531

**Public Health Nurse/Public Health Nurse (BOE)**

Yrs. Exp.	Oct. 13, 2007		May 19, 2008	
	Exper. Diff.	Min. Base Plus Exp.	Exper. Diff.	Min. Base Plus Exp.
0		\$53,699		\$56,384
1	\$ 625	\$54,324	\$ 656	\$57,040
2	\$1,255	\$54,954	\$1,318	\$57,702
3	\$1,255	\$54,954	\$1,318	\$57,702
4	\$1,886	\$55,585	\$1,980	\$58,364
5	\$2,515	\$56,214	\$2,641	\$59,025
6	\$2,515	\$56,214	\$2,641	\$59,025
7	\$2,722	\$56,421	\$2,858	\$59,242
10	\$3,144	\$56,843	\$3,301	\$59,685
13	\$3,563	\$57,262	\$3,741	\$60,125
15	\$3,774	\$57,473	\$3,963	\$60,347
17	\$4,435	\$58,134	\$4,657	\$61,041
18	\$4,772	\$58,471	\$5,011	\$61,395
20	\$5,097	\$58,796	\$5,352	\$61,736

**Pediatric Nurse Associate/Pediatric Nurse Associate (BOE)**

Yrs. Exp.	Oct. 13, 2007		May 19, 2008	
	Exper. Diff.	Min. Base Plus Exp.	Exper. Diff.	Min. Base Plus Exp.
0		\$57,431		\$60,303
1	\$ 673	\$58,104	\$ 707	\$61,010
2	\$1,346	\$58,777	\$1,413	\$61,716
3	\$1,346	\$58,777	\$1,413	\$61,716
4	\$2,019	\$59,450	\$2,120	\$62,423
5	\$2,691	\$60,122	\$2,826	\$63,129
6	\$2,691	\$60,122	\$2,826	\$63,129
7	\$2,914	\$60,345	\$3,060	\$63,363
10	\$3,365	\$60,796	\$3,533	\$63,836
13	\$3,814	\$61,245	\$4,005	\$64,308
15	\$4,035	\$61,466	\$4,237	\$64,540
17	\$4,745	\$62,176	\$4,982	\$65,285
18	\$5,104	\$62,535	\$5,359	\$65,662
20	\$5,459	\$62,890	\$5,732	\$66,035

**Supervisor of Nurses/Supervisor of Nurses (BOE)**

<b>Oct. 13, 2007</b>			<b>May 19, 2008</b>	
Yrs.	Exper.	Min. Base	Exper.	Min. Base
Exp.	Diff.	Plus Exp.	Diff.	Plus Exp.
0		\$62,071		\$65,175
1	\$ 730	\$62,801	\$ 767	\$65,942
2	\$1,456	\$63,527	\$1,529	\$66,704
3	\$1,456	\$63,527	\$1,529	\$66,704
4	\$2,177	\$64,248	\$2,286	\$67,461
5	\$2,908	\$64,979	\$3,053	\$68,228
6	\$2,908	\$64,979	\$3,053	\$68,228
7	\$3,149	\$65,220	\$3,306	\$68,481
10	\$3,637	\$65,708	\$3,819	\$68,994
13	\$4,119	\$66,190	\$4,325	\$69,500
15	\$4,363	\$66,434	\$4,581	\$69,756
17	\$5,132	\$67,203	\$5,389	\$70,564
18	\$5,515	\$67,586	\$5,791	\$70,966
20	\$5,897	\$67,968	\$6,192	\$71,366

**Therapists**

<b>Oct. 13, 2007</b>			<b>May 19, 2008</b>	
Yrs.	Exper.	Min. Base	Exper.	Min. Base
Exp.	Diff.	Plus Exp.	Diff.	Plus Exp.
0		\$53,423		\$56,094
3	\$ 625	\$54,048	\$ 656	\$56,750
5	\$ 940	\$54,363	\$ 987	\$57,081
10	\$1,252	\$54,675	\$1,315	\$57,409

**Senior Therapists**

<b>Oct. 13, 2007</b>			<b>May 19, 2008</b>	
Yrs.	Exper.	Min. Base	Exper.	Min. Base
Exp.	Diff.	Plus Exp.	Diff.	Plus Exp.
0		\$57,839		\$60,731
3	\$ 676	\$58,515	\$ 710	\$61,441
5	\$1,016	\$58,855	\$1,067	\$61,798
10	\$1,356	\$59,195	\$1,424	\$62,155

**Supervisor of Therapists**

<b>Oct. 13, 2007</b>			<b>May 19, 2008</b>	
Yrs.	Exper.	Min. Base	Exper.	Min. Base
Exp.	Diff.	Plus Exp.	Diff.	Plus Exp.
0		\$65,380		\$68,649

3	\$ 766	\$66,146	\$ 804	\$69,453
5	\$1,150	\$66,530	\$1,208	\$69,857
10	\$1,532	\$66,912	\$1,609	\$70,258

**D. Longevity Differentials**

**1. Therapists**

a. Therapists shall receive longevity differentials A and B based on their length of City and Board service as a therapist, as follows:

Years of Service	October 13, 2007		May 19, 2008	
	A	B	A	B
1	\$ 732	\$ 554	\$ 769	\$ 582
2	\$1,542	\$1,026	\$1,619	\$1,077

Payments for longevity differentials A and B shall be effective on the January 1<sup>st</sup> or July 1<sup>st</sup> subsequent to the employee's anniversary date.

The longevity differential A is not pensionable until it has been received by the therapist for two years.

The longevity differential B is pensionable immediately.

b. In addition to the longevity differentials A and B, therapists shall receive longevity differentials based on their length of City and Board service, payable on the employee's anniversary date, as follows:

Years of Service	October 13, 2007	May 19, 2008
5 but less than 7		\$ 885
7 but less than 10	\$1,137	\$2,079
10 but less than 15	\$2,730	\$2,867
15 but less than 20	\$6,211	\$6,522
20 but less than 22	\$7,086	\$7,440
22 years or more	\$7,962	\$8,360

**2. Nurses**

Nurses shall receive longevity differentials based on their length of City and Board service as follows:

Years of Service	October 13, 2007	May 19, 2008
5 but less than 7		\$ 885
7 but less than 10	\$2,616	\$3,632
10 but less than 15	\$4,391	\$4,611
15 but less than 20	\$6,211	\$6,521
20 but less than 22	\$7,086	\$7,440
22 years or more	\$7,962	\$8,360

**E. Advancement Increase**

An employee permanently employed by the employer who is appointed or promoted on a permanent, provisional or temporary basis in accordance with applicable rules and regulations of the employer, without a break in service, to any of the following title(s) from another in the direct line of promotion or from another title in the Career and Salary Plan, the minimum rate of which is exceeded by at least 8 percent by the minimum rate of the title to which appointed or promoted, shall receive upon the date of such appointment or promotion either the minimum basic salary for

the title to which such appointment or promotion is made, or the salary received or receivable in the lower title plus the specified advancement increase, whichever is greater:

<b>Title</b>	<b>Advancement Increase</b>	
	<b>Oct. 13, 2007</b>	<b>May 19, 2008</b>
Head Nurse/Head Nurse (BOE)	\$1,252	\$1,314
Supervisor of Nurses/Sup of Nurses (BOE)	\$1,381	\$1,450
Sr. Physical Therapist/Sr. PT (BOE)	\$1,868	\$1,961
Sr. Occupational Therapist/Sr. OT (BOE)	\$1,868	\$1,961
Supervising Therapist/Sup Therapist (BOE)	\$2,111	\$2,217

**F. Tuition Reimbursement**

1. Reimbursement for tuition shall be granted upon satisfactory completion of courses or workshops, approved by the Chancellor or his designee in a sum not to exceed the following amounts per annum for each full-time nurse.

Effective October 13, 2007	\$2,527
Effective May 19, 2008	\$2,653

2. Reimbursement for tuition shall be granted upon satisfactory completion of courses or workshops approved by the Chancellor or his designee in a sum not to exceed the following amounts per annum for each full-time therapist.

Effective October 13, 2007	\$1,263
Effective May 19, 2008	\$1,326

3. Regular part-time employees shall receive a pro-rated amount.

**G. Staff Development**

The hourly compensation for participants in workshops shall be:

	<b>Oct. 13, 2007</b>	<b>May 19, 2008</b>
Presenters	\$ 40.61	\$ 42.64
Trainees/Attendees	\$ 18.20	\$ 19.11

**H. Hourly Pay Rate**

Effective September 1, 2005 the formula for calculating the hourly rate for all nurses and therapists shall be 1/1213 multiplied by the applicable annual salary.

**I. Payroll**

1. Full-time and part-time nurses and therapists will continue to be paid on the H bank and Z bank payrolls respectively.

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

**J. Performance Incentives Committee**

A committee co-chaired by the Chancellor, the President of the UFT and the New York City Commissioner of Labor Relations, or his or her high-ranking designee, shall be established to investigate the viability and desirability of merit pay and to address other compensation issues such as comparability, skills and responsibility, shortage and hard to staff areas and potential career ladder opportunities.

**K. 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 HEALTH INSURANCE, PENSIONS AND OTHER BENEFITS**

### **A. Choice of Health Plans**

Effective September 1, 2005 the Board will continue to provide for each employee covered by this Agreement who regularly works twenty (20) hours or more a week during the ten (10) month work year of September through June (exclusive of days when school is not in session) a choice of health and hospital insurance coverage on a twelve month basis from among designated plans and the Board agrees to pay the full cost of such coverage.

Employees who are laid off and who are covered by a health and hospital insurance plan at the time they are laid off shall continue to be so covered for ninety days from the day on which they are laid off, and the Board will pay the full cost of such coverage.

The Board, the Union and the City of New York ("City") continue to discuss, on an ongoing basis, the citywide health benefits program covering employees represented by the Union and employees separated from service. Any program-wide changes to the existing basic health coverage will be expressly incorporated into and made a part of this Agreement.

The parties acknowledge that collective bargaining regarding health benefits is within the purview of negotiations between the Municipal Labor Committee and the City. Cost-containment initiatives and program modifications in the City Health Benefits Program shall be discussed with the Municipal Labor Committee.

### **B. Supplemental Welfare Fund Benefits**

1. The Board will provide funds at the rate of \$1,685 (\$1,720 effective October 21, 2009) per year on a pro-rata basis per month on behalf of each employee covered by this Agreement, whether a member of the Union or not, for the purpose of making available for each such employee supplemental welfare fund benefits under a plan to be devised and established jointly by representatives of the Board and of the Union. The Board will continue to make payments for supplemental benefits at the rates per year set forth herein on a pro-rata basis per month for ninety days from the day of layoff on behalf of each employee who is laid off.

2. Domestic partners of covered employees will be provided with welfare fund benefits in the same manner in which covered employees who are married receive such benefits for their spouses.

3. The Union has established a supplemental welfare benefits fund program for employees represented by the Union who have separated from service subsequent to June 30, 1970 who were eligible to receive supplemental welfare fund benefits and who were covered by a welfare fund at the time of such separation pursuant to a separate agreement between the Board of Education and the certified Union representing such employees, who remain primary beneficiaries of the New York City Health Insurance Program and are entitled to benefits paid for by the City through such program.

4. The Board of Education shall contribute the following annual amounts on a pro-rata monthly basis for each eligible individual for remittance to the Union to such supplemental benefits fund pursuant to the terms of a supplemental agreement reached by the parties:

a. Eligible employees separated from service July 1, 1970 through September 8, 1982:

Effective October 13, 2007                      \$1,125

Effective October 21, 2009                      \$1,160

b. Eligible employees separated from service after September 8, 1982:

Effective October 13, 2007                      \$1,565

Effective October 21, 2009                      \$1,600

5. Effective May 1, 2008, there shall be a one-time payment to the welfare fund in the amount of \$166.67 on behalf of each covered employee, as defined in the UFT Welfare Fund Supplemental Agreement, who is receiving benefits on May 1, 2008.

6. Employees who are separated from service and thereafter return to active service will be entitled to the same Welfare Fund benefits as other active employees. For the period of their active employment, such employees will not also receive retiree benefits. Accordingly, the Union Welfare Fund will receive only one contribution on behalf of each such employee, which shall be at the applicable contribution rate for active employees.

7. The Health Benefits Agreement, dated July 22, 2005 is deemed to be part of this Agreement. The side letter agreement between the City Commissioner of Labor Relations James F. Hanley, and UFT President Randi Weingarten, dated June 30, 2004 and July 13, 2005 are deemed to be part of this Agreement. Pursuant to those Agreements, the parties have agreed to a series of payments to the Welfare Fund.

8. Pursuant to the Municipal Labor Coalition Benefits Agreement, the Union Welfare Fund shall provide welfare fund benefits equal to the benefits provided on behalf of an active Welfare Fund-covered employee to widow (ers), domestic partners and/or children of any active Welfare Fund-covered employee who dies in the line of duty as that term is referenced in Section 12-126(b)(2) of the New York City Administrative Code. The cost of providing this benefit shall be funded by the Stabilization Fund.

### **C. Healthcare Flexible Spending Account**

1. A flexible health care spending account has been established pursuant to Section 125 of the Internal Revenue Code. Those employees covered by this Agreement are eligible to participate on the same basis as they are eligible to participate in the citywide health benefits program. Participating employees shall contribute at least \$260 per year up to a maximum of \$5,000 per year. The labor-management health committee which includes Union and City representatives may modify these contribution levels, based on experience of the plan.

2. Expenses covered by the account shall include but not be limited to deductibles, co-insurance, co-payments, excess expenses beyond plan limits, physical exams and health related transportation costs for vision, dental, medical and prescription drug plans where the employee and dependents are covered. In no case will any of the above expenses include those non-deductible expenses defined as non-deductible in IRS Publication 502.

3. An administrative annual fee of \$48.00 shall be charged for participation in the program. Pursuant to Section 125 of the Internal Revenue Code, an employee's participation in the account is irrevocable during any plan year and any excess funds in an employee's account at the close of any plan year is retained by the plan and not refundable to the employee.

### **D. Dependent Care Assistance Program**

a. A dependent care assistance program has been established pursuant to Section 125 of the Internal Revenue Code. Those employees covered by this Agreement are eligible to participate on the same basis as they are eligible to participate in the citywide health benefits program. Participating employees shall contribute at least \$500 per year up to a maximum of \$5,000 per year. The labor-management health committee which includes Union and City representatives may modify these contribution levels, based on experience of the plan.

b. An annual administrative fee of \$48.00 shall be charged for participation in the program. Pursuant to Section 125 of the Internal Revenue Code, an employee's participation in the account is irrevocable during any plan year and any excess funds in an employee's account at the close of any plan year is retained by the plan and not refundable to the employee.

**E. Transportation Benefits**

Employees are eligible to participate in the NYC TransitChek program.

The parties agree that the City will expand the current Transit Chek program to offer to eligible employees the ability to purchase a Transit Debit Card through payroll deductions in accordance with IRC Section 132. In addition to the current MTA Surface and Subway lines, the Transit Debit Card may be used to purchase tickets for mass transit commutation only (*i.e.*, LIRR, LI MTA Buses, MetroNorth). The administrative fee for this benefit will be borne by the participants and will be deducted on a prorated basis from the participating employee's paycheck. After one year of experience with this benefit, the City will examine the level of participation and the associated costs of providing this benefit to determine whether or not the administrative fee requires adjustment.

The parties further agree to examine the possible expansion of this benefit to include other regional mass transit carriers.

**F. Pension Legislation**

The parties have agreed to jointly support pension legislation as set forth in the letter attached as Appendix D.

**G. Tax Deferred Annuity Plan**

The parties agree to enroll newly-hired employees who do not enroll in a retirement or pension system maintained by the City of New York in the Board's 403(b) Annuity Plan at the time the employee is hired. It is further agreed that such employees will be provided with the option to withdraw from enrollment in the Board's 403(b) Annuity Plan.

**H. Pension Benefits Agreement and Deferred Compensation Plan**

1. The Pension Benefits Agreement dated June 6, 2000 is deemed to be a part of this Agreement.
2. The Board and the City shall promptly make available to the employees covered by this Agreement an eligible deferred compensation plan under Section 457 of the Internal Revenue Code in accordance with all applicable laws, rules and regulations.

**ARTICLE FIVE  
UNIFORM ALLOWANCE**

1. A pro-rated annual uniform allowance shall continue to be provided for each nurse as follows:

**Oct. 13, 2007**

**May 19, 2008**

Staff Nurse, RN (BOE), Head Nurse, Head Nurse (BOE), Supervisor of Nurses, Supervisor of Nurses (BOE)	\$ 317	\$ 333
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Public Health Nurse, Public Health Nurse (BOE) Pediatric Nurse Associate, Ped Nurse Assoc. (BOE)	\$ 365	\$ 383
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2. A pro-rated annual allowance shall continue to be provided for each therapist who is required to wear a full uniform which is not supplied, and a pro-rated annual allowance shall continue to be provided for each therapist who is required to wear a partial uniform, as follows:

	<b>Oct. 13, 2007</b>	<b>May 19, 2008</b>
Full	\$ 219	\$ 230
Partial	\$ 90	\$ 95

Regular part-time employees shall receive a benefit pro-rated on the basis of their service.

## **ARTICLE SIX DAMAGE OR DESTRUCTION OF PROPERTY**

a. Employees shall not be held responsible for loss within a school or other Board facility of Board property when such loss is not the fault of the employee. This does not exonerate the employee from responsibility for Board property in his charge.

b. The Board will reimburse employees, in an amount not to exceed a total of \$100 in any school year, for loss or damage or destruction, while on duty in a school or other Board facility of personal property of a kind normally worn to or brought in a school or other Board Facility, when the employee 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.

## **ARTICLE SEVEN HOURS**

### **A. Workday**

1. The regular workday of school-based nurses and therapists is six hours and twenty-five minutes per day exclusive of an unpaid lunch period of thirty minutes. In single session schools, the day will start no earlier than 8:00 a.m. and end no later than 3:45 p.m. On professional development days, the school day shall be 6 hours and 50 minutes inclusive of lunch.<sup>1</sup>

2. Nurses and therapists who are regularly assigned to work beyond their regular workday (as defined in paragraph 1) shall be compensated at the rate of 1/1213 of the individual's annual salary per hour worked beyond their regular workday. For hours worked in excess of forty in any week the applicable rate is one and one-half times the rate in the preceding sentence.

3. Effective upon reasonable notice to the employees, some nurses and therapists may be assigned to start their regular workday later than others at the school in order to avoid or minimize the assignment of overtime. Where different workday schedules are available the preferences of employees will be respected when reasonable and feasible.

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<sup>1</sup> The parties disagree as to the applicability of this sentence to nurses and therapists.

4. Emergencies requiring school-based nurses and therapists to work beyond the regular workday will be handled at the school level as was the practice prior to September 1998. The Board shall advise schools of their options for handling such emergencies.

5. Nurses and therapists will be available for any emergency involving children which might occur during the entire day. All duties that nurses and therapists presently perform during the day will continue to be performed.

6. Non-school based nurses and therapists shall continue to have a workday of seven hours and ten minutes exclusive of lunch.

7. As used herein, "school-based" refers to nurses and therapists who work in schools or other facilities where children are present.

#### **B. Work Year**

The work year for nurses and therapists shall be the same as regular classroom teachers in non-extended time schools.

Nurses and therapists shall also be entitled to the winter and spring recesses. The official school year calendar shall provide a one-week February mid-winter recess which includes Washington's Birthday, without reducing the number of instructional days for students.

The parties will also meet to discuss any issues related to the change of nurses and therapists from a 12-month to a 10-month work year.

#### **C. Holidays**

Nurses and therapists shall have the same holidays as do teachers in their school or facility.

### **ARTICLE EIGHT PROFESSIONAL CONFERENCES**

1. Professional conferences of employees covered by this Agreement, called at the discretion of their supervisor, shall continue to be held during regular working hours.

2. Applications from nurses and therapists to attend professional conferences will be granted at the discretion of the program directors.

### **ARTICLE NINE SICK LEAVE AND ANNUAL LEAVE**

#### **A. Annual Leave**

Nurses and therapists (full-time and part-time) shall no longer accrue or be permitted to use annual leave time starting September 1, 2005, except as authorized below.

All annual leave accruals to the credit of nurses and therapists as of August 31, 2005 shall remain to the employee's credit and to the extent not used shall be paid out to nurses and therapists upon separation of service from the BOE on a one for one basis in accordance with existing BOE policy. While in active service nurses and therapists may apply to use annual leave upon a showing of hardship. The disposition of such applications shall be decided at the discretion of the Chancellor or his/her designee and such determinations shall not be grievable.

#### **B. Sick Leave**

1. Nurses and therapists shall be granted absence refunds for illness on application, without a statement from a physician, for a total of no more than 10 days in any school year. They will be

allowed to use three of such 10 days of sick leave for personal business provided that reasonable advance notice is given to the head of the school. Nurses and therapists may use two of the three days allowed for personal business in any school year for the care of ill family members. For the purpose of this provision, family member shall be defined as: spouse; natural, foster or step parent; child; brother or sister; father-in-law; mother-in-law; any relative residing in the household; and domestic partner, provided such domestic partner is registered pursuant to the terms set forth in the New York City Administrative Code Section 3-240 et seq. Days off for personal business are intended to be used only for personal business which cannot be conducted on other than a school day and during other than school hours.

2. Sick leave allowance is cumulative up to 200 days.

3. Proof of illness may be required for absences of more than three consecutive workdays.

4. Sick leave allowances accumulated in another Board or City position shall be transferred to the employee's bank when he or she becomes a Nurse or Therapist.

5. Full-time employees in the unit shall not suffer loss of sick bank days for absence due to illness from the following children's diseases: rubeola (measles), epidemic parotitis (mumps) and varicella (chicken pox). It is understood that this paragraph does not apply to rubella (German measles).

6. The Board will approve absences without loss of sick bank days for employees who contract Hepatitis B as a result of working with children who have been evaluated as presenting a substantial risk of exhibiting acting out behavior.

7. Regular part-time employees accrue one hour of sick leave for every twenty hours of service with pay.

8. Effective September 1, 2005, full-time nurses and therapists shall accrue and use sick leave in the same manner as teachers<sup>2</sup>

9. Nurses and therapists who work during July and/or August will accrue and use sick leave on the same basis as teachers who work in summer per session programs.

10. Part-time nurses and therapists continue to accrue one hour of sick leave for every twenty (20) hours of service with pay.

## **ARTICLE TEN LEAVE WITHOUT PAY FOR STUDY**

A leave of absence without pay for study not to exceed one year to upgrade the employee's professional knowledge and skills shall be granted after a minimum of three years of full-time, paid service at the Board of Education provided an appropriate replacement is available.

## **ARTICLE ELEVEN JURY DUTY**

The employee excused for jury duty in accordance with established administrative practices shall endorse the check for services rendered as a juror to the Administrator of Business Affairs. Otherwise there shall be deducted from his or her salary an amount equal to the sum he or she is

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<sup>2</sup> The parties disagree over the interpretation of this sentence and the extent it includes, among other things, Article 16A of the Teachers' Agreement.

entitled to receive from the appropriate governmental agency for his or her performance of such jury duty. Part-time employees serving on jury duty shall be covered by this Article for the days they are regularly scheduled to work.

## **ARTICLE TWELVE SAFETY AND HEALTH**

### **A. Assistance in Assault Cases**

1. The principal or head of the facility shall report as soon as possible but within 24 hours to the Office of Legal Services, to the Chief Executive of School Safety and Planning and to the Victim Support Program that an assault upon an employee 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 employee to acknowledge that he/she has seen the report and he/she may append a statement to such a report.

2. The Office of Legal Services shall inform the employee 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 employee of its readiness to assist the employee. 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 employee in Family Court, the Board will reimburse the employee if he/she retains his/her own attorney for only one such appearance in an amount up to \$40.00.

5. An assaulted employee who presses charges against his/her assailant shall have his/her days of court appearance excused without charge to sick leave or annual leave balances.

6. The provisions of the 1982-1983 Chancellor's Memorandum entitled, "Assistance to Staff in Matters Concerning Assaults" shall apply.

### **B. School Safety Plan**

The Board shall make reasonable efforts to provide for the personal security of employees working in buildings operated by the Board during the working hours of such employees, and such provisions for their personal security shall be included in the School Safety Plan for the building.

The principal is charged with the responsibility of maintaining security, safety and discipline in the school. To meet that 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 every year using the same collaborative process, and reports of any incidents shall be shared with the Chapter Leader. A complaint by an employee 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 employee 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 employee/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:**

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 safety and discipline issues. Other city agencies will be invited to participate when the Union and Board deem it appropriate.

2. 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.

3. The joint committee, from time to time, may establish sub-committees to deal with special safety/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 on-site 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 the Union have agreed to standard procedures that 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.

## **ARTICLE THIRTEEN SENIORITY**

1. For all purposes where seniority applies to full-time employees, it shall be defined as length of Board of Education service as a full-time nurse for nurses or as a full-time physical therapist for physical therapists or as a full-time occupational therapist for occupational therapists, except where otherwise mandated by law. "Service" for purposes of this provision shall include (1) all time for which salary payment is received; and (2) unpaid approved leave or layoff not exceeding 3 months in any work year.

2. For all purposes where seniority applies to part-time employees, (except for discharge review) it shall be defined as length of Board service as a part-time employee, but nothing contained in this agreement shall require the Board to continue to employ employees on a part-time basis.

3. Effective upon implementation of the Letter-Agreement covering nurses employed in the Department of Health and Mental Hygiene and the Board of Education following withdrawal by all parties from the August 14, 1997 PERB Stipulation of Settlement ("Letter-Agreement"), which is attached hereto as Appendix C and made a part hereof, the definition of "seniority" in paragraph 4 of the Letter-Agreement shall apply to nurses whenever a comparison of the relative seniority of Board and Health Department nurses is required, but otherwise the definition in paragraphs 1 and 2 above shall apply to all employees covered by this Agreement.

## **ARTICLE FOURTEEN ASSIGNMENTS, TRANSFERS AND SUMMER WORK**

### **A. Assignments**

The Memorandum of Agreement controlling the rights of employees regarding the 2007 reorganization of District 79 is contained in Appendix E.

### **B. Transfers**

Effective school year 2005-2006, principals will advertise all vacancies. Interviews will be conducted by school-based human resources committees (made up of employees and administration) with the final decision to be made by the principal. Vacancies are defined as positions to which no nurse or therapist has been assigned, except where a nurse or therapist is filling in for an assigned nurse or therapist on leave. Vacancies will be posted as early as April 15 of each year and will continue being posted throughout the spring and summer. Candidates (nurses and therapists wishing to transfer and excessed nurses and therapists) will apply to specifically posted vacancies and will be considered, for example, through job fairs and/or individual application to the school. Candidates may also apply to schools that have not advertised vacancies in their title so that their applications are on file at the school should a vacancy arise.

New or vacant head nurse positions will be posted to enable nurses in the bargaining unit to apply.

Selections for candidates may be made at any time; however, transfers after August 7th require the release of the nurse's or therapist's current principal. Nurses and therapists who have repeatedly been unsuccessful in obtaining transfers or obtaining regular positions after being excessed, will, upon request, receive individualized assistance from the Division of Human Resources and/or the Peer Intervention Program on how to maximize their chances of success in being selected for a transfer.

Transfers of nurses shall be subject to modification of the above procedures to the extent, if any, necessary to comply with the agreement regarding integration of the DOHMH and Board of Education nurse assignments, which is attached hereto as Appendix C and made a part of this Agreement.

### **C. Summer Work**

1. Effective school year 2005-06, the selection process for summer work for nurses and therapists who work in the school health program shall be as follows:

a. Priority will be given to volunteers who serve the same student population during the regular work year.

b. If there are not enough volunteers from the district of the program, volunteers will be selected from outside the district.

c. If there are not sufficient volunteers, nurses or therapists from the district of the program will be assigned in reverse order of their seniority on a rotating basis.

d. If this selection process does not provide for appropriate and effective staffing during the summer of 2006, the parties agree to renegotiate the selection process.

2. All issues regarding summer work for nurses and therapists shall be referred to a labor/management committee as soon as is practicable after the execution of this 2007-09 Agreement.

## **ARTICLE FIFTEEN EXCESSING, LAYOFF AND RECALL**

### **A. Excessing**

Where there is a reduction in positions at a work location, the junior employee in the affected title shall be excessed. In the event of reduction in part-time positions at a work location, the junior part-time employee in the title is excessed from the work location and placed in a vacancy or opening. The wishes of the employee will be taken into account in his/her placement.

For purposes of excessing only: (i). Any one or more part-time nurse or therapist positions within a title that equals 1.0 FTE (i.e. positions equaling 5 days a week) will be considered a single position (if in one school) or a single position on split assignment (if in different schools within a district). (ii) Prior to an employee being excessed out of a district s/he will be offered the position described in the preceding sentence. (iii) Notwithstanding the restrictions in this paragraph, a school will be allowed to create or maintain the part-time positions described in (i) in order to accommodate a hardship for a previously assigned nurse or therapist or because of the particular needs of the program.

Unless a principal denies the placement, an excessed nurse or therapist will be placed by the Board into a vacancy within his/her district/superintendency. The Board will place the excessed nurse or therapist who is not so placed in an Alternate Therapist Reserve (ATR) or Alternate Nurse Reserve (ANR) position in the school from which he/she is excessed, or in another school in the same district or superintendency.

Nurses and therapists identified as being at risk of being excessed at the commencement of the following school year will be informed of this no later than June 15, or as soon as is practicable if identified as being at risk of excess after June 15.

Excessing of nurses shall be subject to modification of the above procedures to the extent, if any, necessary to comply with the agreement regarding integration of the DOHMH and DOE nurse assignments, which is attached hereto as Appendix C and made a part of this Agreement.

### **B. Layoff and Recall of Full-Time Employees**

Except as otherwise provided by law, in the event of layoff of employees in the bargaining unit because of a citywide lack of work, the employee in the affected title with the least seniority shall be laid off and he/she shall be placed on a preferred list for recall to his/her former position. Recall

of employees shall be made to available positions in their title on the basis of greatest seniority, except as otherwise provided by law.

**C. Layoff and Recall of Part-Time Employees**

Except as otherwise provided by law, in the event of layoff of part-time employees because of a citywide lack of work the junior part-time employee in the affected title shall be laid off.

Recall of part-time employees shall be made to available part-time positions in title based on greater seniority provided the part-time employee has the qualifications to perform the work and is willing to work the hours required. The Board will maintain part-time recall lists for two years.

**D. Voluntary Severance for Personnel Excessed For More than One Year**

The BOE may offer excessed personnel who have not secured a regular assignment after at least one year of being excessed, a voluntary severance program in an amount to be negotiated by the parties. If the parties are unable to reach agreement on the amount of the severance payment, the dispute will be submitted to arbitration pursuant to the contractual grievance and arbitration procedure. Such a severance program, if offered, will be offered to all personnel who have been in excess for more than one year.

In exchange for receipt of such severance, an excessed person shall submit an irrevocable resignation or notice of retirement.

**ARTICLE SIXTEEN  
EDUCATION REFORM**

**A. School-Based Management/Shared Decision-Making (SBM/SDM)**

The Union and the Board agree that SBM/SDM is a process in which all members of the school community collaborate in identifying issues, defining goals, formulating policy and implementing programs. The uniqueness of each school community requires that the SBM/SDM process and the organizational and instructional issues discussed are determined by the staff, parents, administration and students (where appropriate) at individual schools through the SBM/SDM team. The Union and the Board agree that in order to achieve SBM/SDM at the school level significant restructuring of instruction must occur, and the parties agree to work cooperatively in an effort to bring about these changes.

**1. Eligibility and Involvement**

a. All schools are eligible to apply for participation in SBM/SDM. School participation shall be voluntary and subject to approval by fifty-five (55) percent of the voting, non-supervisory school-based staff (e.g. teachers, paraprofessionals, support staff and others) and agreement of the principal, the appropriate superintendent and parents. Similarly, schools involved in SBM/SDM may choose to opt out of the program at any time. The decision to opt out shall be voluntary and subject to approval by at least fifty-five (55) percent of the voting, non-supervisory school based staff.

b. All votes of non-supervisory school based staff concerning participation in SBM/SDM shall be conducted by the UFT chapter.

c. Schools involved in SBM/SDM shall conduct ongoing self-evaluation and modify the program as needed.

**2. SBM/SDM Teams**

a. Based upon a peer selection process, participating schools shall establish an SBM/SDM team. For schools that come into the program after September 1993, the composition will be determined at the local level. Any schools with a team in place as of September 1993 will have an opportunity each October to revisit the composition of its team.

b. The UFT chapter leader shall be a member of the SBM/SDM team.

c. Each SBM/SDM team shall determine the range of issues it will address and the decision-making process it will use.

### **3. Staff Development**

The Board shall be responsible for making available appropriate staff development, technical assistance and support requested by schools involved in SBM/SDM, as well as schools expressing an interest in future involvement in the program. The content and design of centrally offered staff development and technical assistance programs shall be developed in consultation with the Union.

### **4. Waivers**

a. Requests for waivers of existing provisions of this Agreement or Board regulations must be approved in accordance with the procedure set forth in Article Eight B (School Based Options) of the Teacher Agreement i.e., approval of fifty-five (55) percent of those UFT chapter members voting and agreement of the school principal, UFT district representative, appropriate superintendent, the President of the Union and the Chancellor.

b. Waivers or modifications of existing provisions of this Agreement or Board regulations applied for by schools participating in SBM/SDM are not limited to those areas set forth in Article Eight B (School Based Options) of the Teacher Agreement.

c. Existing provisions of this Agreement and Board regulations not specifically modified or waived, as provided above, shall continue in full force and effect in all SBM/SDM schools.

d. In schools that vote to opt out of SBM/SDM, continuation of waivers shall be determined jointly by the President of the Union and the Chancellor.

e. All School-Based Option votes covered by this Agreement, including those in Circular 6R, shall require an affirmative vote of fifty-five percent (55%) of those voting.

### **B. School Allocations**

Before the end of June and by the opening of school in September, to involve faculties and foster openness about the use of resources, the principal shall meet with the chapter leader and UFT chapter committee to discuss, explain and seek input on the use of the school allocations. As soon as they are available, copies of the school allocations will be provided to the chapter leader and UFT chapter committee.

Any budgetary modifications regarding the use of the school allocations shall be discussed with the principal and chapter committee.

The Board shall utilize its best efforts to develop the capacity to include, in school allocations provided pursuant to this Article 16B, the specific extracurricular activities budgeted by each school.

### **C. Reduction of Paperwork**

1. Committees composed equally of representatives of the Board and the Union shall be established at the central, district and division levels to review and reduce unnecessary paperwork required of employees.

Any proposed additional paperwork shall be reviewed by the appropriate level committee and such committee may make recommendations to the Chancellor, community superintendent or

division head as appropriate. The Board shall not act unreasonably on the committees' recommendations.

2. Representatives of the parties at the central level will meet as soon as is practicable after the execution of this agreement in order to develop recommendations to the Chancellor to reduce or eliminate unnecessary, excessive or redundant paperwork or data collection responsibilities of classroom personnel that diminish instructional time. Issues not resolved at the school or pursuant to Article 16C1 may be referred to this central level committee for recommendations for resolution to the Chancellor.

#### **D. Referral of Students for Evaluation**

Educators shall exercise proper discretion prior to referring students for evaluations, either for the provision of or decertification of special education services. To that end, the Board shall maintain a work environment free from reprisals based upon the proper and professional execution of responsibilities related to the evaluation and placement of students referred for special education services.

#### **E. Labor-Management Committee on Long Term Reforms**

With regard to the long term recommendations the 2005 Fact Finders made subject to adequate CFE funding, the parties shall establish a Labor Management Committee to discuss the following issues: a) bonuses, including housing bonuses, for shortage license areas; b) a pilot project for school-wide based performance bonuses for sustained growth in student achievement; c) salary differentials at the MA-5 through MA-7 levels; and d) a program for the reduction of class size in all grades and divisions. If the parties agree on the terms of any or all of these issues, they may be implemented by the Board using whatever funds may be identified.

#### **F. School-Wide Bonus Program**

1. As set forth in Article 16E above, the New York City Board of Education and the United Federation of Teachers 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 SEVENTEEN DUE PROCESS AND REVIEW PROCEDURES**

### **A. Employee Files**

1. No material derogatory to an employee's conduct, service, character or personality shall be placed in the employee's file unless the employee has had an opportunity to read the material. The employee 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, may not later be added to the file.

2. The employee 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 employee, he/she shall be permitted to examine his/her file.

4. The employee shall be permitted to reproduce any material in his/her file.

5. Employees may not grieve material in 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 employee shall have the right to append a response to any letter. If disciplinary charges do not follow, the letter and response shall be removed from the file 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. An employee summoned by the principal or program director to a conference which may lead to disciplinary action for reasons of misconduct may be accompanied, at his/her option, by the chapter chairperson or a designated alternate.

2. An employee summoned to the office of a community or high school superintendent, executive director, or to 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 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, executive director or the Division of Human Resources permits an attorney who is not a member of the City 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 high school superintendent or executive director and an employee, or the Division of Human Resources and an employee, 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 employees' 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.<sup>3</sup>

#### **D. False Accusations<sup>4</sup>**

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 EIGHTEEN 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.

In order to accomplish its stated purpose, a grievance conference must be attended by those individuals who may be able to promote resolution or, if resolution is not possible in a particular case, to provide the necessary information for a fair determination of the grievance. At the Chancellor's level, principals will be expected to attend or to have a suitable representative present at the conference. Failure to attend may result in sustaining the grievance on procedural grounds.

Upon request to the head of the school or facility, a Union staff representative shall be permitted to meet with employees in the unit during their non-working time, within the school or facility, for the purpose of investigating complaints and grievances, under circumstances which will not interfere with the program or activities in the school or facility. When necessary, any employee in the unit who is a chapter leader in the school or facility 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 immediate supervisor or with any other appropriate level of supervision at the school or facility.

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

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<sup>3</sup> The parties disagree as to the applicability of Section 10 of the October 2005 MOA to this Article 17C3

<sup>4</sup> See Appendix F. This Section D of Article 17 corresponds to Article 21H of the Teacher contract.

may be accompanied by a Union representative. The Union representative shall be the chapter leader at the school or facility or a Union staff 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.

The grievance procedure applies to complaints concerning discharge to the extent provided in Article Nineteen.

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 such Board official as may be appropriate.

Complaints against supervisors will be considered in an expeditious manner in accordance with procedures set forth in Article 23 (Special Complaints) of the Teacher agreement.<sup>5</sup>

Following is the procedure for presentation and adjustment of grievances:

The employee shall initiate the grievance at Step 1 with the head of the school or facility or where appropriate with the program director as the Board representative.

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

### **1. Representation**

At Steps 1 and 2 the employee may be accompanied by a Union representative. At Step 1, the Union representative shall be the chapter leader at the school or facility or a staff representative of the Union. At Step 2, the Union representative shall be a Union staff representative.

### **2. 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 Union 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 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 Union representative within the following time limits:

1. At Step 1, within five working days after the grievance is initiated;

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<sup>5</sup> The Board disputes the applicability of this sentence to employees covered by this Agreement.

2. At Step 2, within ten working days after the appeal is received;

If satisfactory resolution is not reached or if a decision is not rendered within the time limit at Steps 1 or 2, the grievance may be appealed 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 arbitration 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 Union representative by the Chancellor within the time limit specified for Step 2 appeals.

The appeal to arbitration shall be filed within ten working days after receipt of the decision of the Chancellor. Where no hearing has been held, or no decision has been issued, within ten working days following receipt of the grievance by the Chancellor at Step 2, the appeal to arbitration shall be filed within ten working 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 or cases submitted.

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 under the provisions of this Agreement, under Board by-laws, or under applicable law, except that the arbitrator may decide in a particular case whether the provision was disregarded or applied in a discriminatory or arbitrary or capricious manner so 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 or 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 arbitrator's recommendation. Unless the Chancellor disapproves the recommendation within ten working 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 decides to disapprove a recommendation of the arbitrator, he/she shall notify the aggrieved employee and the Union of his/her decision.

**ARTICLE NINETEEN  
DISCHARGE REVIEW PROCEDURE**

It is the policy of the Board that the discharge of an employee should be based on good and sufficient reason and that such action should be taken by the supervisor having such authority only after he/she has given due consideration to the matter.

If an employee with more than the equivalent of one school term is discharged, he/she shall be given a written notice of discharge and a statement of the general reasons at the time of such action, except where circumstances warrant an immediate discharge, in which case such notice and reasons shall be given within two school days after such discharge.

Such employee will also, upon request, be afforded an opportunity for a prompt and careful review of the discharge in accordance with the provisions of the complaint and grievance procedure as set forth in Article Eighteen of this Agreement.

This Article shall apply to part-time employees regularly scheduled to work 20 hours or more per week who have served for one year exclusive of breaks in service of up to three months.

In any arbitration reviewing the discharge of an employee who has been charged with sexual misconduct there shall be a mandatory penalty of discharge if the employee is found by the arbitrator to have engaged in sexual misconduct or has pleaded guilty to or been found guilty of criminal charges for such conduct.

For purposes of this section, sexual misconduct shall include the following conduct involving a student or a minor who is not a student: sexual touching, serious or repeated verbal abuse (as defined in Chancellor's Regulations) of a sexual nature, action that could reasonably be interpreted as soliciting a sexual relationship, possession or use of illegal child pornography, and/or actions that would constitute criminal conduct under Article 130 of the Penal Law against a student or minor who is not a student.

**ARTICLE TWENTY  
RULES AND REGULATIONS**

Administrative employees covered by this Agreement shall continue to be covered by the applicable provisions of the Board's Rules and Regulations for Administrative Employees (Non-Pedagogical), and by applicable Board by-laws and regulations of the Chancellor, except to the extent that they are contrary to or inconsistent with any provision of this Agreement.

**ARTICLE TWENTY-ONE  
MATTERS NOT COVERED**

With respect to matters not covered by this Agreement which are proper subjects for collective bargaining, the Board agrees that it will make no changes without appropriate prior consultation and negotiation with the Union.

**ARTICLE TWENTY-TWO  
EXCLUSIVE CHECK – OFF**

The Board will honor, in accordance with their terms, only such written authorizations as are properly executed by employees in the units 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 in accordance with their terms, including authorizations 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.

### **ARTICLE TWENTY-THREE AGENCY FEE DEDUCTION**

The Board shall deduct from the wage or salary of employees in the bargaining units who are not members of the UFT the amount equivalent to the dues levied by the UFT and shall transmit the sums 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.

### **ARTICLE TWENTY-FOUR POLITICAL CHECK-OFF**

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

### **ARTICLE TWENTY-FIVE CONFORMITY TO LAW - SAVING CLAUSE**

If any provision of this Agreement is or shall at any time be contrary to law, then such provision shall not be applicable or performed or enforced, except to the extent permitted by law and any substitute action shall be subject to appropriate consultation and negotiation with the Union.

In the event that any provision of this Agreement is or shall at any time be contrary to law, all other provisions of this Agreement shall continue in effect.

### **ARTICLE TWENTY-SIX**

## **NO-STRIKE PLEDGE**

The Union and the Board recognize that strikes and other forms of work stoppages by employees are contrary to law and public policy. The Union and the Board subscribe to the principle that differences shall be resolved by peaceful and appropriate means without interruption of the school program. The Union therefore agrees that there shall be no strikes, work stoppages, or other concerted refusal to perform work by the employees covered by this Agreement, nor any instigation thereof.

## **ARTICLE TWENTY-SEVEN NOTICE - LEGISLATIVE ACTION**

The following Article is required by the Public Employees' 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 therefore, shall not become effective until the appropriate legislative body has given approval.

## **ARTICLE TWENTY-EIGHT JOINT COMMITTEES**

1. The Board and the Union shall establish a joint labor-management committee which shall meet on a regularly scheduled basis to discuss matters of mutual concern. Agenda items for such meetings shall be submitted in advance.

2. The Board and the Union shall establish a committee to review and consider issues raised by the Union relating to contracting-out of bargaining unit work.

## **ARTICLE TWENTY-NINE CHARTER SCHOOLS**

### **A. Conversion Charter Schools**

Pursuant to Article 56 of the New York State Education Law (the "Charter Schools Law") an existing public school may be converted to a charter school. As modified below, nurses and therapists of a Conversion Charter School shall be subject to this collective bargaining agreement, in accordance with the Charter Schools Law, including but not limited to salary, medical, pension and welfare benefits and applicable due process procedures. The provisions regarding the right of return which follow apply to nurses and therapists in such Board schools that are converted to charter schools ("Conversion Charter Schools").

1. At the point of conversion of a Board school to a Conversion Charter School, incumbent employees who choose not to remain as employees in the school as a charter school will have the placement rights contained in this Agreement.

2. The Board agrees to extend leaves beyond the statutory two-year period to the full term of their employment in the charter school for Board employees who become Conversion Charter School employees. Such employees shall have a right to return to their former geographic district or superintendency in accordance with their seniority. For such employees, service in a Conversion

Charter School and Board service shall be combined for all contractual purposes where length of service is a factor.

3. Conversion Charter School pedagogical employees placed at the Board shall be eligible for up to a total of two years credit toward tenure based upon satisfactory service at a Conversion Charter School and any applicable prior Board service.

4. The contractual salary limitations for Conversion Charter School employees placed at the Board shall not apply to certified pedagogical employees.

5. If a Conversion Charter School closes or if the employee is laid off due to economic necessity beyond their control, certified pedagogical Conversion Charter School employees who were not Board employees when hired by the Conversion Charter School shall have placement rights in the Board equal to a certified provisional teacher with no seniority.

6. If a Conversion Charter School closes or if the employee is laid off due to economic necessity beyond their control, uncertified pedagogical Conversion Charter School employees shall have no placement rights in the Board, but the Board will use its best efforts to place such employees in available vacancies.

7. Conversion Charter Schools shall be required to maintain the same medical, pension and welfare benefits as apply to Board employees covered by this Agreement.

8. Except as otherwise set forth herein, pursuant to and in accordance with the Charter Schools Law, the terms and conditions of this collective bargaining agreement applies to nurses and therapists serving in the Converted Charter Schools. However, nothing shall limit the Board of Trustees of the converted Charter School from exercising their rights to modify the collective bargaining agreement for the purposes of employment in the charter school, in accordance with and pursuant to the provisions of Section 2854 3(b) of the Charter School Law.

9. While the Charter Schools Law, as written, provides that the decision to apply for conversion of an existing school resides in the parents of the student body, the Board believes the participation of the UFT and its members is critical in this process. The successful conversion of schools to the Charter model necessitates the involvement of the faculty at these schools. Because of this, the Board fully intends to consult with the UFT in the conversion process, and will seek a collaborative atmosphere in moving forward. Towards that end, in Board schools that are under consideration for conversion to Charter School status, if 50% or more of the staff chooses to stay at the Board of Education, the Board and the Union shall undertake a joint review of the impact of conferring charter status on the school.

10. Also, for Board schools that convert to charter status, the Memorandum of Understanding between the Board and the Charter School shall provide that the grievance procedure for UFT employees, unless and until modified in accordance with the Charter Schools Law, shall be the contractual grievance procedure modified to provide that Step 1 shall be at the level of the head of the school, Step 2 shall be to the Board of Directors of the school and Step 3 shall be to binding arbitration.

## **B. New Charter Schools**

It is agreed that UFT represented employees who leave the Board to serve in a new charter school shall have the following rights:

1. Employees shall be granted a two-year leave of absence;
2. Employees returning from a leave of absence shall be credited for time served at the charter school toward their placement on the salary schedule; and
3. Employees shall have a right to return to their former geographic district or superintendency in accordance with their seniority.

**ARTICLE THIRTY  
CHAPTER LEADER TIME**

The chapter leader shall be allowed one day per week for investigation of grievances and for other appropriate activities relating to the administration of the Agreement and to the duties of his/her office.

**ARTICLE THIRTY-ONE  
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 HEALTH INSURANCE**

In accordance with the LOBA determination and award in Case No. IA-1-85, the following shall apply:

1. Effective July 1, 1983 and thereafter, the Employer's cost for each contract for each Employee under age 65 and for each retiree under age 65 who selects either HIP/HMO or Blue Cross/GHI-CBP (21 day plan) coverage (or a replacement plan) shall be equalized at the community rated basic HIP/HMO plan payment rate as approved by the State Department of Insurance on a category basis of individual or family, e.g. the Blue Cross/GHI-CBP payment for family coverage shall be equal to the HIP/HMO payment for family coverage.

2. If a replacement plan is offered to Employees and retirees under age 65 which exceeds the cost of the HIP/HMO equalization provided in Section 1, the City shall not bear the additional costs.

3. The Employers shall contribute on a City employee benefits plan program-wide basis the additional annual amount of \$30 million to provide a health insurance stabilization reserve fund which shall be used to continue equalization and protect the integrity of health insurance benefits.

4. The health insurance stabilization reserve fund shall be used: to provide a sufficient reserve; to maintain to the extent possible the current level of health insurance benefits provided under the Blue Cross/GHI-CBP plan; and, if sufficient funds are available, to fund new benefits.

5. The health insurance stabilization reserve fund shall be credited with the dividends or reduced by the losses attributable to the Blue Cross/GHI-CBP plan.

**APPENDIX B**  
**NEW CONTINUUM DISPUTE RESOLUTION**

**MEMORANDUM**

TO: All Superintendents, Executive Directors, Principals, Assistant Principals, UFT District Representatives, UFT Chapter Leaders, CSA Chairpersons

FROM: Francine B. Goldstein, Chief Executive, School Programs and Support Services

SUBJECT: Special Education Services Dispute Resolution Process

Special education reform and the adoption of a revised Continuum of Special Education Services by the Board of Education will over time have a positive effect upon the number of students with disabilities participating in general education settings or less restrictive settings when special education services are required. In our efforts to reform the system, however, we must be mindful of our legal and regulatory responsibilities to consider each child individually and preserve the procedural safeguards provided for in Commissioner's Regulations.

In order to resolve issues that arise regarding special education services, we have agreed with the UFT on a dispute resolution process to resolve issues at the local level, if appropriate. The issues that are appropriate for this dispute resolution process are:

- Failure to provide services in accordance with the student's IEP;
- Actions inconsistent with State regulation and Board policy regarding referral of students for special education multidisciplinary assessment;
- Movement of a student(s) to different special education services without the prior mandated IEP meetings as required by law;
- IEP teams being denied access to SBST input, if requested by the IEP team;
- IEP teams members and SBST members being inappropriately influenced to recommend specific services, group size and/or location of services for individual students;
- The placement of an inappropriate number of students with IEPs whose management needs are severe and chronic requiring intensive, constant supervision, a significant degree of individualized attention, intervention and intensive behavior management in a general education class with one teacher;
- Educationally inappropriate distribution of IEP students in general education classes with one teacher, on a grade level and subject area; and
- Teachers being denied their request for an expedited review for a student who they suspect is educationally inappropriate for their general education class.

It is important that if issues arise, they be resolved as locally and expeditiously as possible and, therefore, it is expected that issues particular to a specific school will be brought to the building

principal. The principal will schedule a meeting within five school days of being presented with the issue in dispute with a view toward resolving the matter at the school level.

At this meeting, the staff member(s) may be accompanied by a UFT member of his/her choice. The principal will resolve the matter at the school level within five school days. If, however, the matter cannot be resolved at the school level within five school days, the issue can be brought to the superintendent utilizing the enclosed form.

The superintendent or designee will schedule a meeting within five school days with the requestor(s), the UFT district representative, the UFT functional chapter chairperson, if appropriate, the principal/designee and district staff as selected by the superintendent. The issue will be resolved at the meeting or, if necessary, within two school days. If resolution does not take place, the Union may request a meeting with the Chief Executive for School Programs and Support Services in order to finally address the matter. That meeting will take place within five school days of the request and copies of the resolutions will be made available to the parties.

Please find enclosed a form which must be utilized for requesting the principal's or superintendent's intervention. Please make school staff aware of these procedures. Thank you. This dispute resolution process will remain in effect until the parties agree to change it. Labor management meetings will be convened to resolve implementation issues that may arise upon request of either party.

FBG:jc

Enclosure

c: Harold O. Levy; Judith A. Rizzo; Randi Weingarten, UFT; Jill Levy, CSA

N.B. Questions regarding special education policy and procedures attendant to the Continuum of Special Education Services may be addressed by referring to the following documents:

- Special Education Services as Part of a Unified Service Delivery System (The Continuum of Services for Students with Disabilities)
- 'Getting Started' (Implementation Guidelines for the Continuum of Services)
- Creating a Quality IEP
- Ensuring Appropriate Referrals to the Committee on Special Education
- A Parent's Guide to Special Education for Children Ages 5-21

**APPENDIX C**  
**LETTER – AGREEMENT: NURSES**



THE CITY OF NEW YORK  
**OFFICE OF LABOR RELATIONS**  
40 Rector Street, New York, NY 10006-1705  
<http://nyc.gov/olr>

**JAMES F. HANLEY**  
*Commissioner*  
**PAMELA S. SILVERBLATT**  
*First Deputy Commissioner*

Lillian Roberts  
Executive Director  
District Council 37, AFSCME  
125 Barclay Street  
New York, NY 10007

Randi Weingarten  
President  
United Federation of Teachers  
52 Broadway  
New York, NY 10004

***Re: Termination of School Health PERB Stipulation***

Dear Ms. Roberts and Ms. Weingarten:

This letter is to confirm our understanding of the general terms and conditions of employment for nurses employed in the Department of Health & Mental Hygiene and the Board of Education following withdrawal by all parties from the August 14, 1997 PERB Stipulation of Settlement.

1. It is not the parties' intention to either advantage or disadvantage either the Department of Health and Mental Hygiene or the Board of Education nurses' union representation at the expense of the other. The Office of School Health will approximately maintain the existing ratio of 1.6 to 1, D.C. 37 to UFT, budgeted positions in non-District 75 public elementary, intermediate, and high schools.
2. There will be no layoffs as a result of this agreement.
3. Schools with multiple assigned nurses will be evaluated by the Office of School Health in its discretion to determine if the number of nurses necessary to care for the students at that particular school can be safely reduced. Schools that total up to 10 points using the formula of one point for each 100 enrolled students plus one point for every two IEP students receiving nursing services will be the first schools evaluated for reductions. The evaluation will also include an analysis of:
  - a. The number of students in the school.

- b. The acuity level of students and health care need.
  - c. The number of students with IEPs or Section 504 health plans.
  - d. The number of walk-ins.
  - e. The number of organizations within the building.
4. If a reduction in the number of nurses at a school is required, School Health will first remove an agency nurse. If there are no agency nurses, and no nurse volunteers to transfer, the least senior nurse shall be transferred. Seniority will be determined from the original date of hire including all City, DOE/BOE and HHC service. School Health has previously identified and shared with the UFT and DC 37 a list of schools where reassignment is being considered. For those schools reassignment will proceed with seniority based on the information previously shared. For the remaining schools, the UFT, DC 37 and School Health will agree on the seniority of these nurses within three months of receipt by the unions of the list.
5. Nurses for whom an alternate position within their region cannot be found may remain in their current school until a position in the region becomes available to them. Nurses may voluntarily choose a position in another region.
6. Only DOHMH nurses may fill vacancies in the Non-Public Schools, and only BOE Nurses may fill vacancies in District 75 schools and programs. The parties agree to continue to discuss issues related to District 75. Pending agreement of the parties, the status quo will continue.
7. A joint labor-management committee will be created to address issues related to the integrated School Health program. This committee will review school reassignments and changes to nursing roles arising from the change in the August 14, 1997 PERB agreement, and may make recommendations about these matters.
8. The joint labor-management committee will consist of three representatives from DC 37, three from the UFT, and six from the Office of School Health. Appointments to the committee will be made within two weeks of the execution of this document, and meetings will be held as needed, to implement changes. Meetings will be held at least quarterly thereafter.
9. BOE and DOHMH vacancies in general education shall be combined in a single list and OSH will post them as they become available on the BOE and DOHMH websites. Any nurse may, at any time, request a hard copy of the vacancy list from the Office of School Health. Incumbent BOE and DOHMH school nurses (including District 75 and NPS nurses) may apply for any existing general education vacancy. Outside applicants will not be able to apply for any vacancy until it has been listed for over 30 calendar days. All interested incumbent applicants will be considered.
10. A nurse may take any vacancy and remain on his/her current payroll, except as proscribed by paragraph 6 of this agreement.

11. Transfers of incumbent nurses will be implemented before the start of the school year and at the semester break. In extraordinary situations the nurse and the supervisor, with the approval of the Regional Nursing Director, may agree on an alternate transfer date. Appointments of outside applicants can be made at any time.
12.
  - a. If multiple nurses apply for the same position, the qualifications of all applicants will be reviewed by a committee consisting of a BOE-employed School Health nurse manager, a DOHMH-employed School Health nurse manager, a School Health nurse selected by the UFT and a School Health nurse selected by DC 37. In addition, the school principal will be notified of the meeting and offered an opportunity to participate.
  - b. If the principal participates in the meeting he or she may approve a candidate. If the principal does not participate in the meeting, the committee will list the applicants in order of its preference for recommendation to the school principal, who will either meet with the first nurse recommended or approve the candidate without a meeting.
  - c. If the principal meets with the candidate, he or she may approve or disapprove the candidate. If the principal does not approve the candidate, the next applicant on the list will be referred.
  - d. Once the principal approves a candidate, a formal offer in writing will be given to the applicant.
  - e. The UFT will withdraw with prejudice the pending grievance (UFT# L-079-C14541 – DOE/OLR# 061924) regarding the transfer process for nurses.
13. No nurse will be asked to provide specialized care for a student with a special need that he or she has not previously provided unless he or she has received the appropriate training to provide that special care.
14. The labor/management committee (see paragraph 8) will discuss the possibility of establishing a pool of nurses with floating assignments. Should such a float pool be established, coverage for temporary absences will be provided by a float pool nurse in the first instance. If no nurse from the float pool is available, an agency nurse will provide coverage. When no agency nurse is available, coverage for temporary absences will be provided by either DOHMH or BOE nurses. No nurse with a permanent assignment will be unreasonably reassigned to cover temporary absences.

If the above accords with your understanding, please execute the signature line provided below.

Very truly yours,

JAMES F. HANLEY

**AGREED ON BEHALF OF  
DISTRICT COUNCIL 37, AFSCME**

**AGREED ON BEHALF OF THE  
UNITED FEDERATION OF TEACHERS**

**BY \_\_\_\_\_  
LILLIAN ROBERTS**

**BY \_\_\_\_\_  
RANDI WEINGARTEN**

**AGREED ON BEHALF OF THE BOARD  
OF EDUCATION, AS EMPLOYER**

**DATED: \_\_\_\_\_**

**BY \_\_\_\_\_  
JOEL KLEIN  
Chancellor**



THE CITY OF NEW YORK  
**OFFICE OF LABOR RELATIONS**  
40 Rector Street, New York, NY 10006-1705  
<http://nyc.gov/olr>

**JAMES F. HANLEY**  
*Commissioner*  
**PAMELA S. SILVERBLATT**  
*First Deputy Commissioner*

Date:

Lillian Roberts  
Executive Director  
District Council 37, AFSCME  
125 Barclay Street  
New York, NY 10007

Randi Weingarten  
President  
United Federation of Teachers  
52 Broadway  
New York, NY 10004

Dear Ms. Roberts and Ms. Weingarten:

This Letter of Agreement regarding the integration of the Department of Education of Health & Mental Hygiene School Health nurse programs contains a provision allowing a school principal to reject a candidate recommended by the Office of School Health to fill a vacancy in that principal's school. This provision is intended to accommodate the needs of the Department of Education and does not reflect a change in the employment relationship between DOHMH and its School Health nurses. The Office of School Health expects the school principals to take its recommendations seriously. Capricious rejection of recommended candidates will not be acceptable. The Union may challenge the rejection of a recommended candidate by appealing, within 15 days, to both the Chancellor/designee and the Commissioner of Health & Mental Hygiene/designee simultaneously, who will consult with the Union prior to rendering a decision. The Union may appeal the decision of the New York City Office of Labor Relations, which will issue a final and binding decision.

Very truly yours,

**James F. Hanley**

**AGREED ON BEHALF OF THE  
BOARD OF EDUCATION, AS EMPLOYER**

BY \_\_\_\_\_  
**JOEL KLEIN**  
Chancellor



THE CITY OF NEW YORK  
**OFFICE OF LABOR RELATIONS**  
 40 Rector Street, New York, NY 10006-1705  
<http://nyc.gov/olr>

**JAMES F. HANLEY**  
*Commissioner*  
**PAMELA S. SILVERBLATT**  
*First Deputy Commissioner*

Dated:

Randi Weingarten  
 President  
 United Federation of Teachers  
 52 Broadway  
 New York, NY 10004

Lillian Roberts  
 Executive Director  
 District Council 37, AFSCME  
 125 Barclay Street  
 New York, NY 10007

Dear Ms. Roberts and Ms. Weingarten:

This is an addendum to the Letter of Agreement regarding the "Termination of School Health PERB Stipulation".

This is to confirm that under paragraph 9 of the Letter of Agreement, any nurse, including those including those assigned to District 75 or a Non-Public School, may request and will receive a hard copy of the vacancy list from the Office of School Health.

Very truly yours,

**JAMES HANLEY**

**AGREED ON BEHALF OF THE  
 BOARD OF EDUCATION, AS EMPLOYER**

**BY** \_\_\_\_\_  
**JOEL KLEIN**  
 Chancellor

**APPENDIX D  
PENSION LEGISLATION**

October 17, 2007

Randi Weingarten  
President  
United Federation of Teachers  
52 Broadway – 14<sup>th</sup> Floor  
New York, NY 10004

Dear Ms. Weingarten:

This letter will confirm certain mutual understandings and agreements of the parties.

The parties agree to jointly support legislation to amend current pension provisions that will contain the following elements in order to implement an optional "25/55" retirement program for current employees in the Teachers Retirement System (TRS) and the below listed UFT-represented members in the Board of Education Retirement Systems (BERS) and to provide a revised retirement paradigm for newly-hired employees in TRS and newly-hired UFT-represented members in BERS listed below. The UFT-represented BERS titles to be included are: all nurse and therapists titles, substitute vocational assistants, all non-annualized adult education titles, directors and assistant directors of drug and alcohol programs, sign language interpreters, all military science instructor titles, and all education officer and analyst titles.

The legislation will incorporate the following:

- (1) An "opt-in period" of six months in which any incumbent employee who wishes to participate in this optional program must affirmatively submit a written election to participate.
- (2) Additional Member Contributions (AMC) – in addition to all currently required statutory contributions, an Additional Member Contribution (AMC) of 1.85% shall be paid by those employees electing to participate in this optional program as well as by all newly-hired employees participating in the TRS and newly-hired UFT-represented above listed members participating in BERS retirement systems. These additional member contributions shall become effective on the first business day after the enactment of this enabling legislation.
- (3) Current incumbent employees including those on leave who elect to participate in this optional program and who pay the requisite AMC shall be eligible to retire at age 55 with 25 years of credited service with immediate payability of pension benefits without any reduction. Assuming the legislation is effectuated in the 2007-08 school year, those who elect this pension will be eligible to retire 6/30/2008 or later.

- (4) Employees hired after enactment of this enabling legislation shall be eligible to retire at age 55 with 27 years of service and receive immediate payability of pension benefits without any reduction. This will not be construed to change the eligibility for retiree health insurance benefits (i.e., ten years of credited service and pension payability) as determined by the City and Municipal Labor Committee and in accordance with the Administrative Code.
- (5) To the extent the parties have not captured all of the necessary elements required to be enacted with enabling legislation (e.g., loan provisions, refund rules, etc.), the intent is that those elements shall be analogous to those comparable provisions contained in Chapter 96 of the Laws of 1995. Should the parties be unable to agree on those specific terms in a timely fashion, they agree that the City Actuary, in consultation with the Law Department's Pension Division and the UFT, shall determine the final language for the proposed legislation consistent with the parties' mutual understandings.

If the above accords to your understanding, please execute the signature line below.

Very truly yours,

James F. Hanley

Agreed and Accepted By:

\_\_\_\_\_  
Randi Weingarten  
President  
United Federation of Teachers

October 17, 2007  
Date

**APPENDIX E**  
**DISTRICT 79 REORGANIZATION**

Memorandum of Agreement entered into this 29th day of June 2007, by and between the Board of Education of the City School District of the City of New York (hereinafter referred to as the “BOE”)and the United Federation of Teachers, Local 2, AFT, AFL-CIO (hereinafter the “UFT”) amending the collective bargaining agreements for 2003-07 and 2007-09 between the UFT and the BOE governing Teachers and the corresponding provisions of the other collective bargaining agreements for 2003-07 and 2007-09 that govern other UFT-represented employees assigned to District 79 (hereinafter collectively the “Contract”) to the extent set forth below.

IN WITNESS WHEREOF, it is mutually agreed to as follows:

1. The UFT will withdraw with prejudice any currently pending grievances related to the reorganization of District 79. The UFT will withdraw with prejudice any currently pending grievances related to (i) the closure of the current GED program (ASHS, CEC, OES, and VTC), (ii) New Beginnings, (iii) Schools for Pregnant Teens, (iv) Second Opportunity Schools and (v) Off-site Suspension Centers (hereinafter collectively, the “Closing Programs”) and the creation of (i) a new GED program known as GED Plus (hereinafter “GED Plus”); (ii) a new school known as Restart; (iii) two new ACCESS schools (hereinafter, collectively, “GED Plus/Restart/ACCESS”) and (iv) a new program for students suspended for one year (hereinafter “the New Suspension Program”) (GED Plus/Restart/ACCESS and the New Suspension Program hereinafter collectively the “New Programs”). The UFT waives any claims under the Contract or under law not yet asserted as to (i) whether the Closing Programs are substantially the same as the New Programs; (ii) whether the BOE complied with its obligation to bargain with the UFT with respect to the BOE’s decision to end the Closing Programs and create the New Programs; and (iii) whether the closure of the Closing Programs, the creation of the New Programs or the resulting personnel actions violate the Contract or any applicable law. The UFT does not waive any claims other than those set forth in this paragraph 1 nor any claim that the BOE violated this Memorandum of Agreement.
2. Section 18D of the Contract will apply to the staffing of the New Programs listed above except that section 18D(3) will apply to one-hundred percent of the bargaining unit positions (not fifty percent of the bargaining unit positions). There will be one personnel committee established for each of the New Programs, but, for GED Plus/Restart/ACCESS, there will be five subcommittees, one for each borough. Grievances challenging whether the personnel committee’s decision regarding the qualifications of individual applicants will be granted if the arbitrator finds that there was no “reasonable basis” for the determination. If one subcommittee finds an applicant qualified for GED Plus/Restart/ACCESS, that applicant shall be deemed qualified for employment in any borough. The GED Plus/Restart/ACCESS personnel committee may require applicants to submit a cover letter or resume explaining how they meet the posted qualifications. The BOE shall make every effort to have applications, including cover letters, submitted on-line. The subcommittees shall do phone interviews for applicants that have prior commitments that prevent them from coming to in-person interviews. The subcommittees will work according to a single hiring rubric created by the GED Plus/Restart/ACCESS personnel committee. The UFT and BOE will jointly conduct training

sessions for members of the five subcommittees on the rubric. The GED Plus/Restart/ACCESS personnel committee and the subcommittees shall consider applicants from all employees in all license areas.

3. Employees excessed from the Closing Programs shall assert a preference as to where they will be deployed in the Absent Teacher Reserve (should they not secure a regular position) as follows: high school employees will list five individual high schools and then a borough; elementary and middle school employees will list five districts and then a borough. Preferences will be granted in seniority order up to a limit of one assignment per fully phased- in school (except in District 79, which is covered by paragraph 4 and not this paragraph 3). Should these employees still be in ATR status in subsequent school years they will be deployed in the same district or borough as the school they were deployed to under the preference system provided for in this paragraph 3.
4. Any actual vacancies in the New Programs that exist as of September 17, 2007 will be filled with excessed employees from the Closing Programs, in license (for GED Plus/Restart/ACCESS, all teaching licenses are appropriate) and in seniority order, under the following conditions: employees placed in these vacancies will serve for the balance of the 2007-2008 school year unless they are removed for disciplinary reasons. At the end of the 2007-2008 school year, if both the principal and employee agree, the employee will be appointed to fill the vacancy in the school. If either the employee or principal do not wish the assignment to continue, the employee will be placed back in ATR status and will be deployed according to the process set forth in paragraph 3 above.
5. The Second Opportunity Schools (hereinafter "SOS") and Off-Site Suspension Centers ("OSC") will close effective August 29, 2007. Employees currently working in SOS who wish to work in the New Suspension Program will be selected for the New Suspension Program. The second sentence of paragraph 6, the first sentence of paragraph 10 and the entire paragraph 12 of the Stipulation of Settlement executed November 17, 2006 with respect to SOS (the "Stipulation") shall apply to the New Suspension Program (the provisions in Paragraph 12 shall apply only to alleged violations of the second sentence of paragraph 6 and the first sentence of Paragraph 10 of the Stipulation). Those employees having rights under the first sentence of paragraph 10 of the Stipulation may, alternatively, choose to be deployed as an ATR according to the process set forth in paragraph 3 of this Agreement above. Nothing contained herein shall be construed as a waiver of any provision of the Stipulation until SOS and OSC are closed. Placement in the New Suspension Program shall continue to be voluntary. Staff presently assigned to SOS will have the right to remain in the New Suspension Program. Current SOS and OSC employees will notify the BOE by June 30, 2007 whether they will choose to work the SOS summer 2007 session. SOS employees will be given the opportunity to indicate by July 13, 2007 whether they will choose to work in the New Suspension Program or, alternatively, whether they will choose to be deployed as an ATR according to the process set forth in paragraph 3 of this Agreement above.
6. The New Suspension Program's summer school program (hereinafter the "Suspension Summer Program") will be governed in all respects by the provisions of the Contract and Chancellor's Regulations governing per session programs, except that the pay for such summer service for

UFT-represented employees will be pro-rata. Employees working in the New Suspension Program shall have preference for the Suspension Summer Program.

7. Current SOS employees will be rated on their performance during the summer of 2007. Those who receive a satisfactory rating and who worked in SOS during the summer of 2006 and received a satisfactory rating for the 2005-2006 school year will have retention rights under Section 15c2(a) of the Contract for work in 2008 Suspension Summer Program.

8. The BOE will post teaching positions that will support pregnant and parenting teens across the system. 100% of the teachers currently serving in the School for Pregnant Teens who apply and meet the posted qualifications will be hired for these positions. The BOE will consult with the UFT regarding the posting for these positions. These teachers will be deployed out of the BOE's LYFE centers and referral centers ("hubs") where appropriate and the BOE will consult with the UFT regarding such deployment decisions. No LYFE Center shall be closed through at least the 2008-2009 school year.

9. The UFT will serve on a committee to be established by the BOE, which may also include advocates, community representatives and experts, to examine and make recommendations regarding best practices in supporting students across the system who are pregnant or parenting teens.

District 79 staff who are excessed from the Closing Programs will have the right of return to a vacancy in New Programs in seniority order if they were found qualified by an 18D committee but did not secure the position because more senior qualified applicants were selected. For the programs in which multiple licenses are appropriate, all license areas will be grouped together for purposes of determining seniority with respect to the previous sentence.

10. All other terms of the Contract shall remain in full force and effect unless it is otherwise amended by or are inconsistent with the terms of this Memorandum of Agreement.

Agreed to this \_\_\_\_ day of June 2007:

Department of Education

/s/ Joel Klein

---

United Federation of Teachers

/s/ Randi Weingarten

**APPENDIX F  
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