

**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**

**TEACHERS AIDE  
EDUCATIONAL ASSISTANT  
EDUCATIONAL ASSOCIATE  
AUXILIARY TRAINER  
BILINGUAL PROFESSIONAL ASSISTANT**

**June 1, 2003 – October 12, 2007**

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

**52 Broadway  
New York, NY 10004**

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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. Before the millennium, the factory model schools of the 1900s must make way for the child-centered schools of the next 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 by March 31, 1996 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.

Following the collaborative development of recommendations, it is our mutual commitment that some or all of them will begin in September 1996. 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").

WHEREAS, the Board has voluntarily endorsed the practices and procedures of collective bargaining as a peaceful, fair and orderly way of conducting its relations with its employees insofar as such practices and procedures are appropriate to the special functions and obligations of the Board, are permitted by law and are consonant with the paramount interests of the school children, the school system and the public; and

WHEREAS, the Board on March 8, 1962, adopted a Statement of Policies and Practices with Respect to Representation of Pedagogical and Civil Service Employees for Purpose of Collective Bargaining with the Board of Education (hereinafter referred to as the "Statement of Policies"); and

WHEREAS, pursuant to the Statement of Policies and pursuant to the provisions of the Public Employees Fair Employment Act (Chapter 392 of the Laws of 1967 as amended by Chapter 24, 391 et seq. of the Laws of 1969), in a secret ballot election conducted among employees in the titles of Teacher Aide, Educational Assistant, Educational Associate and Auxiliary Trainer in programs to Strengthen Early Childhood Education in Poverty Areas, Pre-kindergarten Classes in Poverty Areas, and More Effective Schools, to determine which labor organization they wished to represent them in collective bargaining with the Board, the Union received a majority of votes and the Board issued a Certificate of Exclusive Bargaining Status to the Union on January 21, 1970; and

WHEREAS, after an appropriate showing of majority representation, the Board also certified the Union on April 6, 1971, as the representative of employees in these same titles in programs other than programs to Strengthen Early Childhood Education in Poverty Areas, Prekindergarten Classes in Poverty Areas, and More Effective Schools; and accordingly the Union became the exclusive bargaining representative of all employees in these titles; and

WHEREAS, pursuant to the provisions of the Public Employees Fair Employment Act, the Union became the exclusive bargaining representative of all employees in the titles of Teacher Aide, Educational Assistant, Educational Associate, Auxiliary Trainer and Bilingual Professional Assistant effective September 9, 1975; and

WHEREAS, the parties entered into an Agreement effective September 16, 2000 until May 31, 2003; and

WHEREAS, the parties entered into a Memorandum of Agreement on October 2005 effective as of June 1, 2003; and,

WHEREAS, the Board and its designated representatives have met with the representatives of the Union and fully considered and discussed with them, in behalf of the employees in the bargaining unit, changes in salary schedules, improvement in working conditions, and machinery for the presentation and adjustment of certain types of complaints; it is agreed as follows:

## **ARTICLE ONE UNION RECOGNITION**

The Board recognizes the Union as the exclusive bargaining representative of all employees employed in the titles of Teacher Aide, Educational Assistant, Educational Associate, Auxiliary Trainer and Bilingual Professional Assistant. These persons and each of them are hereinafter referred to variously as "employees (or employee) in the bargaining unit," or "employees (or employee) covered by this Agreement," or "paraprofessional" or "paraprofessionals."

During the term of this Agreement should the Board employ a new title or category of employees having a community of interest with employees in the existing bargaining unit, employees in such new title or category shall be included within the existing bargaining unit and upon request of the Union the parties shall negotiate the terms and conditions of employment for such new title or category of employees; but nothing contained herein shall be construed to require renegotiation of terms and conditions of employment applicable to employees in an existing bargaining unit as a result of the Board's redesignation of the title or category of employees in the unit.

Nothing contained herein shall be construed to prevent any Board official from meeting with any employee organization representing employees in this bargaining unit for the purpose of hearing the views and proposals of its members, except that, as to matters presented by such organizations which are proper subjects of collective bargaining, the Union shall be informed of the meeting and, as to those matters, any changes or modifications shall be made only through negotiation with the Union.

It is understood that all collective bargaining is to be conducted at Board headquarters level. There shall be no negotiations with the Union Chapter or with any other employee group or organization at the school or any other level.

Nothing contained herein shall be construed to prevent any individual employee from (1) informally discussing a complaint with his/her immediate superior or (2) processing a grievance in his/her own behalf in accordance with the complaint and grievance procedures hereinafter set forth in Article Twenty-One.

Nothing contained herein shall be construed to deny to any employee his/her rights under Section 15 of the New York Civil Rights Law or under applicable civil service laws and regulations.

**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.

The Board of Education agrees that, as a result of the strike and its related activities, it will not dismiss, demote, discipline, or otherwise act against any staff member because of his or her participation in said strike or related activities. Specifically excluded from the foregoing are any and all provisions of the Taylor Law (New York Civil Service Law, Section 200 et seq.), none of which are waived hereby.

Any records of court proceedings or other memoranda relating to job action or strike shall not be put in a staff member's permanent file, except as required by law.

**ARTICLE THREE  
RATES OF PAY**

**A. Salaries**

1. Employees in the bargaining unit who work the entire workyear (regular school year) as set forth in Article Four A (Workyear) and who are assigned to programs comprised of the regular hours of work as set forth in Article Four B (Hours of Work) shall receive the annual rates of pay on the applicable effective dates set forth below:

	<b>Current</b>	<b>12/1/03</b>	<b>12/1/04</b>	<b>11/1/05</b>	<b>10/1/06</b>
Teacher Aide	\$18,203	\$18,567	\$19,217	\$20,274	\$20,274

Ed. Asst.	\$20,048	\$20,449	\$21,165	\$22,329	\$23,055
Ed. Asst. A-1	\$20,329	\$20,736	\$21,462	\$22,642	\$23,378
Ed. Asst. A-11	\$20,605	\$21,017	\$21,753	\$22,949	\$23,696
Ed. Asst. B	\$21,389	\$21,817	\$22,581	\$23,823	\$24,597
Ed. Assoc.	\$24,461	\$24,950	\$25,823	\$27,243	\$28,130
Aux. Trainer	\$25,798	\$26,314	\$27,235	\$28,733	\$29,668
Bilingual Prof Asst <sup>1</sup>					
Ed. Associate A/ Aux Trainer A	\$26,458	\$26,987	\$27,932	\$29,468	\$30,427
Ed. Associate B/Aux Trainer B					\$32,250
15 Year Longevity	\$1,288	\$1,314	\$1,360	\$1,435	\$1,481

2.. Employees in the bargaining unit who were employed as of the last day of the program in June 1970 in any of the titles set forth above will be paid the rates specified above for the respective titles based on the educational requirements in effect on that date.

3. Employees in the bargaining unit who work less than the entire workyear (regular school year) set forth in Article Four A (Workyear) or who are assigned to programs of less than the regular hours of work as set forth in Article Four B (Hours of Work) and employees in the Office of Adult and Continuing Education who are assigned to programs comprised of more than the regular hours of work of 29.167 (effective February 2006, thirty (30) hours per week or more than the regular workyear (regular school year) shall receive a pro-rated amount based on the hours and workyear worked.

4. The rates of pay of employees serving in Extended Time Schools and those serving in Second Opportunity Schools are set forth in Appendices D1 and D2 respectively.

5. Employees will be entitled to receive a longevity differential in the amount set forth above per year after 15 years of paraprofessional service.

#### **B. Advancement to Higher Title**

Employees in the bargaining unit will advance to the next higher title upon satisfactorily completing the following requirements:

1. A Teacher Aide with one year's experience in the program will be advanced to Educational Assistant upon satisfactorily completing six semester hours of approved college courses.

2. An Educational Assistant will be advanced to Educational Assistant A-I upon satisfactorily completing 15 semester hours of approved college courses.

3. An Educational Assistant A-I or an Educational Assistant will be advanced to Educational Assistant A-II upon satisfactorily completing 30 semester hours of approved college courses.

4. An Educational Assistant A-II or an Educational Assistant A-I or an Educational Assistant will be advanced to Educational Assistant B upon satisfactorily completing 45 semester hours of approved college courses.

5. An Educational Assistant B or an Educational Assistant A-II or an Educational Assistant A-I or an Educational Assistant will be advanced to Educational Associate upon satisfactorily

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<sup>1</sup>Employed in title prior to December 1975 and continuously thereafter. Those employed in title effective December 1, 1975 and thereafter shall be paid at the same rate as that established for paraprofessionals with the same level of education and experience under this Agreement.

completing 60 semester hours of approved college courses and two years of service as an Educational Assistant or an Educational Assistant A-I or an Educational Assistant A-II or an Educational Assistant B or upon satisfactorily completing 90 semester hours of approved college courses and one year of service in the program.

6. An Educational Associate or an Educational Assistant B, or an Educational Assistant A-II or an Educational Assistant A-I or an Educational Assistant will be advanced to Educational Associate A upon satisfactorily completing 90 semester hours of approved college courses and two years of service as an Educational Assistant or an Educational Assistant A-I or an Educational Assistant A-II or an Educational Assistant B or an Educational Associate. To be eligible for the advancement to Educational Associate A after December 16, 1999, the employee must have matriculated in a college program appropriate to a teaching career or to another professional career with the Board of Education. Prior to December 16, 1999, ninety (90) credits and two years of service beyond the level of Teacher Aide qualifies a paraprofessional for the new rate regardless of whether the paraprofessional was or is matriculated, provided the paraprofessional applies no later than December 16, 1999.

7. Effective October 1, 2006 an Educational Associate A or an Educational Associate or an Educational Assistant B or an Educational Assistant A-II or an Educational Assistant A-I or an Educational Assistant will be eligible for assignment to Educational Associate B upon completing a baccalaureate degree from a recognized college or university and one year of satisfactory service as an Educational Assistant or an Educational Assistant A-I or A-II or B or as an Educational Associate or Educational Associate A. 8. An Educational Associate or an Educational Associate A will be eligible for assignment to Auxiliary Trainer or Auxiliary Trainer A, as applicable, upon satisfactorily completing 60 semester hours of approved college courses and three years of service as an Educational Assistant or an Educational Assistant A-I or A-II or B or as an Educational Associate or Educational Associate A. An Educational Associate or Educational Associate A not having three years experience as required in the preceding sentence will be eligible for assignment to Auxiliary Trainer or Auxiliary Trainer A as applicable, upon satisfactorily completing 90 semester hours of approved college courses and two years of service as an Educational Assistant or an Educational Assistant A-I or A-II or B or as an Educational Associate or Educational Associate A.

An Educational Associate B will be eligible for assignment to Auxiliary Trainer B upon satisfactorily completing a baccalaureate degree from a recognized college or university and one year of satisfactory service as an Educational Assistant or an Educational Assistant A-I or A-II or B or as an Educational Associate or Educational Associate A or B.

9. An Auxiliary Trainer will be advanced to Auxiliary Trainer A upon satisfactorily completing the requirements for promotion to Educational Associate A.

10. An Auxiliary Trainer or an Auxiliary Trainer A will be advanced to Auxiliary Trainer B upon satisfactorily completing the requirements for promotion to Educational Associate B.

### **C. In-Service Course Credit**

Satisfactorily completed in-service courses for which college credit is granted will be approved as college courses for advancement to higher title.

### **D. Summer Vacation Pay**

Summer vacation pay shall be pro-rated for the school year on the following basis: Paraprofessionals who are appointed after the start of the school year and paraprofessionals who are terminated, laid off, resign or retire on or before the end of the school year shall receive

vacation pay for the summer following their appointment or cessation of service as follows: one-tenth of the amount of the vacation pay which would be payable for a full year's service shall be paid for each month of service or major fraction thereof during the school year except that service of six working days or more during the first month of appointment shall be credited for summer vacation pay.

Paraprofessionals employed in the Office of Adult and Continuing Education who are assigned to programs comprised of more than the regular hours of work as set forth in Article Four B, and/or more than the regular school year as set forth in Article Four A, shall receive a prorated amount of summer vacation pay based on their hours of work and workyear.

**E. 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.

**ARTICLE FOUR  
HOURS**

**A. Work Year**

The work year for employees in the bargaining unit will begin on the Thursday preceding Labor Day and will end at the conclusion of the regular school year in June.

Employees assigned to programs which start at the beginning of the school year will report for professional days on the Thursday and Friday preceding Labor Day, and on Brooklyn-Queens day and will be paid at their regular rates. Part of the time on the days before Labor Day will be allotted to classroom preparation. The Tuesday following Labor Day shall be an instructional day. Other employees will report for orientation and work on the day the program to which they are assigned starts, and will be paid at their regular rates.

**B. Hours of Work**

1. The workday of paraprofessionals shall be 6 hours and 20 minutes inclusive of a duty-free lunch period equal to that of teachers in the school.

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

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

4. In District 75 buildings and District 75 self-contained classes in other school sites, the school day will be 6 hours and 50 minutes unless the principal and chapter leader agree to schedule the time as set forth in paragraph 2 above. Non-District 75 self contained classrooms shall have either a 6 hour and 50 minute day, a 6 hour and 57 ½ minute day Monday through Thursday and 6 hour and 20 minute day on Friday, or the time shall be utilized as set forth in paragraph 2 above.

5. On professional development days, the school day shall be 6 hours and 50 minutes.

### **C. Holidays and Vacations**

Employees in the bargaining unit will be paid for all school vacations and holidays and all other regular school days on which the schools are closed for special observance or emergencies pursuant to action of the Chancellor or community superintendent, including the winter and spring school 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.

## **ARTICLE FIVE HEALTH INSURANCE, WELFARE FUND AND BENEFITS**

### **A. Health Insurance**

1. The Board will provide employees covered by this Agreement who regularly work 20 hours or more a week with health insurance coverage on a 12 month basis.

2. 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.

3. The Board, the Union and the City of New York 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.

### **B. Welfare Fund**

The Board will provide funds at the rate of 1,520 effective May 31, 2003 (\$1,585 effective July 1, 2004; \$1,620 effective July 1, 2005; \$1,685 effective January 1, 2006 and \$1,585 effective July 1, 2006) per year on a pro rata basis per month during the regular school year 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 benefits and benefits for the education of employees in the bargaining unit under a plan to be devised and established jointly by representatives of the Board and of the Union.

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.

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 during the regular school year for ninety days from the day of layoff on behalf of each laid off employee.

Contributions for employees separated from service effective September 9, 1984 or thereafter to the Welfare Fund which covers such employees shall be increased in the same manner as contributions for other employees are increased pursuant to this Article.

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.

The Health Benefits Agreement, dated July 22, 2005, is deemed to be part of this Agreement. The side letter agreements 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.

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. Health Care 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 shall be 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 contributions 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**

1. A dependent care assistance program has been established pursuant to Section 125 of the Internal Revenue Code. Those employees covered by this Agreement shall be 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.

2. 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 Benefit Program**

Employees are eligible to participate in the NYC Transit Chek program.

## **ARTICLE SIX JOINT COMMITTEES**

1. The Board and the Union shall establish a joint committee to review and consider appropriate staff development programs for new and experienced paraprofessionals.

2. 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.

## **ARTICLE SEVEN CAREER TRAINING**

It is the joint purpose of the parties that employees in the bargaining unit be afforded an opportunity to qualify for advancement to professional positions including positions other than classroom teacher, with the Board of Education through experience and through appropriate undergraduate career training, except that paraprofessionals who have a degree may be enrolled for such undergraduate education courses as would qualify them to meet the requirements for certification as a teacher or other pedagogical position with the Board. To achieve this purpose, the Board will make available each school year to all employees covered by this Agreement, six semester hours of career training each semester and six additional semester hours of career training during the summer, each semester hour being equivalent to one credit; and it is further agreed that:

### **A. New Paraprofessional Staff Development**

Four days of staff development will be offered to all paraprofessionals prior to their actual employment. For paraprofessionals who are unable to take the four days prior to their actual employment four days of staff development shall be offered during their first year of service. The content and design of this professional development program for new paraprofessionals shall be developed collaboratively by the Union and the Board. Participation will be agreed upon by the Union and the Board based upon the availability of funds.

There shall be an expense stipend for each day of mandatory professional development for paraprofessionals paid at the following rate per day:

<b>Effective</b>	<b>Amount</b>
September 1, 2002	\$33.15
December 1, 2003	\$33.81
December 1, 2004	\$34.47
October 1, 2006	\$35.59

### **B. Career Training Program**

1. Paraprofessionals must enroll for and complete at least three credits of study during each semester in which they enroll in the program.

2. Paraprofessionals must apply for tuition assistance applicable to the semester in which they are enrolled in the career training program. The Board will assist paraprofessionals in applying for tuition assistance.

3. The Board will pay directly to the college the difference between the tuition and fees and the amount of tuition assistance received by paraprofessionals, or on their behalf, enrolled in the program in accordance with this Agreement, provided the paraprofessional makes a good faith effort to complete the course or courses in which he/she is enrolled.

4. Unless there are extenuating circumstances, the Board shall be entitled to recover from a paraprofessional who fails to apply for tuition assistance or who fails to complete the course or courses in which he/she is enrolled, the amount of the tuition and fees incurred by the Board and

attributable to the uncompleted course or courses, or attributable to the failure to apply for the tuition assistance.

### **C. School-Year Training**

1. The Board will grant each college semester to bargaining unit employees released time of 2<sup>1</sup>/<sub>2</sub> hours per week with pay for study at an approved college or for high school equivalency training provided that in that semester the employee is enrolled for and completes a total of at least five semester hours of such study or training.

2. Employees who are enrolled in the college training program financed by the Human Resources Administration will be covered by the provisions of the preceding sub-paragraphs only in the event that the Human Resources Program is discontinued.

### **D. Counseling and Training**

The Board will provide counseling and training for paraprofessionals enrolled in career training which will guide and encourage them to prepare for meeting the qualifications in those license areas where there is a shortage of fully qualified personnel, or where job opportunities are expanding.

The parties agree to encourage paraprofessionals to take courses which are appropriate to a teaching career or to another professional career with the Board of Education.

### **E. Placement in Setting**

Where the paraprofessional's college program requires service in a particular educational setting (such as special education and student teaching) the Board shall cooperate in providing for the appropriate placement of the paraprofessional, upon his/her request, to an opening in such setting. A paraprofessional who is so placed shall retain the benefits (including seniority) that he/she would have had if he/she had not been placed pursuant to this provision, except to the extent that changes are required by the nature of the program in which he/she is placed. If the paraprofessional is placed in a different district he/she shall return to his/her district at the conclusion of such placement and take his/her place in the district in accordance with his/her seniority.

### **F. Continuance for Laid Off Employees**

Paraprofessionals who are laid off shall be permitted to continue in the career training program for one term following their layoff.

### **G. Summer Training**

1. In the summer, the Board will make available to all employees covered by this Agreement having a high school or a high school equivalency diploma, a six-week college summer career training program.

2. The Board will pay a stipend of \$40.00 per week to each employee who regularly works during the spring semester for satisfactory attendance in the summer career training program.

3. Employees who work for the Board of Education while in attendance in the summer career training program shall not receive the stipend.

4. The stipend for satisfactory attendance in the college summer career training program shall be paid to employees who enroll for six credits during the summer. Where fewer than six credits are needed to complete a B.A., or if six credits in the courses needed are not available, the stipend shall be paid for enrollment to complete the B.A. requirements or the available courses needed.

### **H. Expedited Career Training**

1. The Career Training Program has been an effective recruitment vehicle for new teachers. The Board and the Union wish to assist paraprofessionals in the expeditious completion of their baccalaureate degrees. For this purpose, paraprofessionals who need one year or less to complete their baccalaureate degree may apply for a leave with pay for the purpose of attending college full-time.

2. The Board will provide tuition reimbursement for courses enrolled for and completed toward their degrees during the paid leave.

3. A paraprofessional who receives the leave with pay will commit to take the necessary steps to qualify as a teacher and serve as such for a minimum of two years in the NYC public school system.

4. The Board and the Union shall meet each year to decide upon the number of such leaves based upon available funds.

#### **I. Union Contribution**

The Union will contribute each year toward career training an amount equal to 15% of \$190.00, or \$28.50, on a pro rata basis for each employee in the bargaining unit from the welfare payments made to it by the Board in accordance with Article Five hereof.

### **ARTICLE EIGHT PER SESSION WORK**

Summer and other per session work which is available in the district shall be given to applicants in the bargaining unit in the district in order of their seniority. If no bargaining unit employee in the district applies, the senior bargaining unit applicant from outside the district will be selected. The application of this paragraph to Adult Education programs will be the subject of continuing negotiations between the parties.

The hourly compensation for summer and other per session work shall be 1/1375 of the applicable annual rate for the title set forth in Article Three.

### **ARTICLE NINE SCHOOLS AND PROGRAMS WITH MODIFIED WORK SCHEDULES**

#### **A. Chapter 683 Program**

UFT-represented employees who elect to be employed in the Board's program which implements Chapter 683 of the Laws of 1986 ("Program") shall serve under the following terms and conditions of employment during July and August:

1. The gross annual salary rate of each such employee who serves the same student population during the regular work year (September through June) as is eligible to participate in the Program during July and August shall be computed by adding the sum of either:

- a. seventeen and one-half ( $17\frac{1}{2}$ ) percent of the applicable gross annual salary rate; or
- b. the number of hours served during July and August multiplied by the applicable per session rate; whichever is greater, to the employee's annual salary rate ascertained without consideration of said sum.

2. The pay rate of each such employee who does not serve the same student population during the regular work year (September through June) as is eligible to participate in the Program in July and August shall be the applicable per session pay rate.

3. a. As set forth in the applicable Board Vacancy Circulars advertising the positions available for the 1988 Program, the selection procedure for the Program shall provide a priority

to those employees who serve the same student population during their regular work year as is eligible to participate in the Program in July and August.

b. Employees who serve satisfactorily in the Program during July and August for two successive years shall be retained for succeeding years if they apply to serve in the Program during July and August provided they continue to serve the same eligible student population during their regular work year. Retention rights of other employees who serve satisfactorily in the Program during July and August for two successive years shall be subordinate to the rights of those employees who serve the same eligible student population during the regular work year.

c. If there is a reduction of positions in the Program during July and August, employees who are lowest in order of priority for selection will be the first to be retrenched, in inverse seniority order.

4. The work day for employees serving in the Program during July and August shall be 5 hours and 50 minutes (6 hours effective February 2006) exclusive of one-half hour for a duty-free lunch.

5. Employees paid in accordance with Paragraph 1 of this Article Nine A will receive two sick days for use during July and August on a self-treated basis. Unused sick days shall be accrued and credited to the employee's cumulative absence reserve for use during the regular school year.

6. In light of the needs of the student population served by the Program, the Board is committed to providing air-conditioned facilities for as many sites as possible. The Board will keep the Union informed of its progress in achieving the objective of air-conditioning all sites utilized by students.

7. The Board official with responsibility for this Program shall meet and consult at times mutually agreed with representatives of the Union on matters of policy and the implementation of this Article Nine A.

8. Except as otherwise set forth in this Article Nine A:

a. the working conditions for employees paid in accordance with Paragraph 1 of this Article will be consistent with the standards of working conditions for the regular work year prescribed in this Agreement.

b. the working conditions of employees paid in accordance with Paragraph 2 of this Article will be those working conditions applicable to per session employees covered by this Agreement.

## **B. Extended Time Schools**

In order to raise student performance, the Chancellor has designated certain SURR and low performing schools as "Extended Time Schools" in which there will be an extended school day/year. The parties believe that implementation of this extended school schedule over a two year period will succeed in turning around low performing schools and having them removed from the SURR list. It is the intent of the Chancellor that no school should remain on an extended time schedule for more than three years. The Chancellor may de-designate a school as an Extended Time School.

### **1. Time and Compensation**

a. In such designated Extended Time Schools, employees shall work a mandated seven hour work day, inclusive of a duty-free lunch period, and an additional five workdays immediately preceding the start date designated at the beginning of the school year. Effective February 2006, paraprofessionals in ETS shall report on Brooklyn-Queens Day for professional development.

b. The gross annual salary of employees who work this additional time in Extended Time Schools shall be in accordance with the salary schedules set forth in Appendix C.

## **2. Staffing**

a. Employees currently serving in schools which become Extended Time Schools will have the option to be excessed from the school. Those staff who are excessed will be offered the broadest placement choices available within the authority of the Board; and where possible, their wishes will be taken into account when placing them into positions.

b. Nothing herein precludes the right of the Board to close or redesign a school in which case staffing shall be done in accordance with Article 16 (“Staffing New or Redesigned Schools”).

c. No one shall be involuntarily excessed to or involuntarily transferred to an Extended Time School.

d. Employees in Extended Time Schools who are involuntarily excessed from their school will be offered the opportunity to apply to a vacancy in another Extended Time School or to be excessed to a school in the geographic district.

## **3. Service Commitment**

a. Eligibility for the pro rata salary shall be conditional upon a commitment by the employee to work in the system for a minimum of an additional three years. An employee who does not remain for the full three years will be liable to the Board for the additional salary received while in the Extended Time School in an amount equal to the lesser of the actual pro-rata addition to the employee’s gross salary or the total of the previous 12 months of the pro rata addition to the employee’s gross salary. In addition, in the event that an employee who is earning the pro rata salary leaves the system prior to the expiration of the employee’s three year service commitment, then such employee’s compensation and salary for pension benefits as well as such employee’s termination pay for unused cumulative absence reserve shall be calculated as though such employee had not received a pro rata increment on his/her salary. The three year service requirement shall not apply in the event that an employee is laid-off or excessed or is unable to complete the service requirement due to a medical incapacity approved by the Board’s Medical Bureau or upon approval of special circumstances by the Chancellor. Individual employees in Extended Time Schools will be required to sign a document agreeing to the terms and conditions described herein.

b. In the event that a designated school remains on the extended time schedule for less than three years, then the service commitment shall be reduced commensurately, and, an employee will have the opportunity at the next reorganization to return to the school from which the employee transferred and take the employee’s rightful place in seniority order.

## **4. Miscellaneous**

a. In Extended Time Schools, Article 8B of the Teachers Agreement (School-Based Options) shall require approval of 55% of those voting.

b. The Special School-Based Option and SBO threshold for approval of the creation or recreation of administrative duties, compensatory time positions and homeroom shall be 55% of those voting.

c. The Board official(s) with responsibility for this Program shall meet and consult at times mutually agreed with representatives of the Union on matters of policy and implementation of the Extended Time Schools program.

d. In the event the Chancellor terminates the Extended Time Schools program then the terms of this Article 9B shall expire.

e. Except where they conflict with provisions set forth in this Article Nine B, all other terms and conditions of this collective bargaining agreement apply to employees serving in the Extended Time Schools program.

### **C. Second Opportunity Schools (SOS) Program**

Employees who elect to be employed in the Second Opportunity Schools (SOS) Program shall serve in the Program under the following terms and conditions of employment:

1. For the period of September through June (regular school year), the gross annual salary rate of each employee shall be increased by an amount pro-rated to the additional time such employee is scheduled to work over and above the work day provided in Article 4B and is set forth in Appendix D of this Agreement.

2. For the period of July and August, the gross annual salary rate of each employee in the SOS Program shall be increased by an amount pro-rated to the additional time such employee is scheduled to work in July and August over and above the work year provided in Article 4A.

3. In the event that it becomes necessary to employ any employee who did not serve in the SOS Program during the regular school year, his/her pay for any time worked during July and August will be the applicable per session rate for the hours worked, and the other provisions of the contract applicable to per session employment shall also apply. However, retention rights of employees paid at the per session rate shall be subordinate to the rights of employees who serve in the SOS Program during the regular school year.

4. During September through June, the contractual school workday required for employees serving in the Program shall be seven hours, inclusive of a duty-free lunch period of 40 minutes. In addition, the workday required for all employees serving in the Program during July and August shall be four and one-half hours. No lunch period shall be scheduled during the summer.

5. The work year for employees shall be in accordance with this collective bargaining agreement during September through June, and in addition, thirty working days during July and August. Effective February 2006 paraprofessionals shall report to work on the Thursday and Friday before Labor Day and on Brooklyn-Queens Day for professional development.

6. Employees in the SOS Program will receive twelve self-treated sick days per year, accrued at the rate of one day per month, including one day for the month of August.

7. Employment in the Program is by application on a voluntary basis. Applicants must commit to at least three years of paid service with the Board of Education commencing with the first day of service in the Program. In the event that an employee who has participated in the Program retires from service prior to the third anniversary of such employee's first date of participation in the Program, then such employee's compensation and salary for pension purposes shall be calculated as though such employee had not participated in the Program. The three year service requirement shall not apply in the event that the employee is terminated or is unable to complete the service requirement due to a medical incapacity approved by the Board's Medical Bureau.

8. For all contractual purposes, the SOS Program shall be considered two schools. The middle school sites shall be considered one school and the high school sites shall be considered one school.

9. Employees serving in the SOS Program shall have retention rights at their sites subject to the following:

a. If staffing needs within an SOS Program school requires contracting the staff at one site and expanding staff at another site, the Board will first seek volunteers who wish to transfer from the contracting site to the expanding site. The senior qualified volunteer shall be selected. If no

qualified volunteer exists, the Board will transfer the junior employee, who qualifies for the position. The employee so transferred is entitled to return to his/her former site at the next reorganization in accordance with his/her seniority.

b. If demonstrated needs require the Board to transfer an employee to another site, the Board will inform the employee of the reason for the transfer. The employee may grieve to determine whether the transfer was based on justifiable reasons.

c. The Board will place the employee reassigned pursuant to (a) or (b) above in an appropriate vacancy within the SOS Program school in the same borough. If it is necessary to reassign the employee outside the borough, the preferences of the employee shall be taken into consideration.

d. No later than sixty days before the end of the term, a list of potential vacancies for the following term will be posted at each site, including vacancies anticipated through retirements and the opening of new sites. Employees may file preference requests for reassignments to such sites with the principal and will be considered for such reassignments.

10. There shall be one chapter leader for the middle school sites and one for the high school sites in the Program, a total of two.

11. In light of the needs of the student population served by the Program, the Board is committed to providing air conditioned facilities for as many sites as possible. The Board will keep the Union informed of its progress in achieving the objective of air conditioning at all sites utilized by students.

12. The Board official with responsibility for this Program shall meet and consult at times mutually agreed with representatives of the Union on matters of planning and implementing the SOS Program.

13. Except where they conflict with provisions set forth in this Article Nine C all other terms and conditions of this collective bargaining agreement covering their title apply to employees serving in the SOS Program.

## **ARTICLE TEN SUBSTITUTE COVERAGE**

Where the Board is legally required to provide coverage for mandated paraprofessional services to children in special education programs, paraprofessionals employed to provide such coverage shall serve under the following conditions:

a. No fewer than fifty (50) paraprofessionals to be known as the District Paraprofessional Reserves (DPRs) will be assigned to the community school districts, high school superintendencies, and the citywide program superintendency. These DPRs will be assigned to cover the absences of special education paraprofessionals in the appropriate superintendency. All the provisions of this Agreement apply to DPRs.

b. The absences of special education paraprofessionals which are not covered by DPRs will be covered by day-to-day substitute paraprofessionals.

Day-to-day substitute paraprofessionals will be paid at the following rates for 6 hours and 40 minutes (6 hours and 50 minutes effective February 2006) inclusive of a duty-free lunch period equal to that of teachers in the school:

<b>Effective</b>	<b>Rate</b>
Current	\$ 107.01
December 1, 2003	109.15
December 1, 2004	112.97

November 1, 2005	117.21
October 1, 2006	121.02

The rates above shall be pro-rated for longer or shorter work days.

Day-to-day substitute paraprofessionals will be centrally hired and assigned by the Board. To the extent possible assignments will be offered in accordance with preferences indicated by the day-to-day substitute paraprofessionals. If a principal does not select a transfer applicant or an excessed paraprofessional to fill a vacancy, paraprofessionals with at least 3 months on or who have actually worked at least twenty-five (25) days as a day-to-day substitute on the current Substitute Paraprofessional Registry (Registry) or any successor program will have priority over the hiring of any new employees for DPR and other paraprofessional vacancies. Seniority of day-to-day substitutes accrues on the basis of the number of days actually worked, but not more than one year accrues during any twelve months.

Day-to-day substitute paraprofessionals shall be entitled to tuition reimbursement under the same requirements as the participants in the career training program for the six semester hours of college credits required by the Commissioner's Regulations to qualify as a paraprofessional. This tuition assistance shall be available during the term or summer after the day-to-day substitute paraprofessional has worked 30 days in the prior term and continues to work or be available for employment in the current term.

The Board will provide day-to-day substitutes with the opportunity to discuss the circumstances which have given rise to complaints against them (with Union representation at the option of the employee) if such complaints could lead to their being excluded from assignment as a day-to-day substitute paraprofessional.

Except to the extent otherwise set forth herein, day-to-day substitutes will be covered by the following provisions of this Agreement: Articles 1, 2, 4B, 11E, 14, 16, 17B, 20, 21, 22, 25, 26A, 27, 28, 29, 30, 31, 32, 33, 36, 37, 38 and 39.

Article 17A shall apply as follows: leave for injury in the line of duty may extend up to the day or days for which the day-to-day substitute paraprofessional was notified he/she would be employed.

Article 35 shall apply only to the extent consistent with their status as day-to-day substitutes.

In addition, day-to-day substitute paraprofessionals who cover the absence of a particular paraprofessional for thirty consecutive work days or more shall be covered by all the provisions of this Agreement during such assignment.

c. District Paraprofessional Reserves and day-to-day substitute paraprofessionals will participate in the staff development program for newly-hired paraprofessionals.

d. District Paraprofessional Reserves and day-to-day substitute paraprofessionals will be employed exclusively to provide mandated special education services during the absence of special education paraprofessionals or their released time under Article 7C1. The Board of Education will monitor the assignment of DPRs and day-to-day substitute paraprofessionals for compliance with this limitation.

**ARTICLE ELEVEN  
INSTRUCTIONAL CONDITIONS IN SCHOOLS**

**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. Request for waivers of existing provisions of this Agreement or Board regulations must be approved in accordance with the procedure set forth in Article 8B (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 8B (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.

## **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 allocation will be provided to the chapter leader and UFT chapter committee.

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

## **C. Basic Instructional Supplies**

The Board and the Union agree that schools should provide appropriate and sufficient basic instructional supplies and books to deliver an effective educational program. Basic instructional supplies and books are those that must be provided for use by students without which classroom instruction will be impaired.

In the event a member or members of the faculty believe that such supplies and books are not available to students and faculty, the chapter may request a meeting with the principal. Upon the request of the chapter leader, the principal shall meet with the chapter committee to resolve the issue. If no resolution is achieved at the school level, the district representative and the appropriate superintendent will meet within five (5) school days to attempt to resolve it. If they are unable to do so, the dispute will be forwarded by the Union to the Chancellor for his/her prompt review and response.

## **D. Program Guidelines**

Paraprofessionals shall be informed of the guidelines for their program which affect their duties and working conditions.

## **E. Damage or Destruction of Property**

1. Employees shall not be held responsible for loss of school property when such loss is not the fault of the employee. This does not exonerate the employee from responsibility for school property in his/her charge.

2. The Board of Education will reimburse paraprofessionals in the bargaining unit in an amount not to exceed a total of \$100.00 in any school year for loss or damage or destruction, while on duty in the school, or while on duty on a field trip, of personal property of a kind normally worn to or brought into school, or on a field trip, when the paraprofessional has not been negligent, to the extent that such a 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 TWELVE SCHOOL RETENTION AND EXCESSING**

## **A. Retention**

Paraprofessionals shall be retained in their school or work site in accordance with their seniority. If excessing occurs because of lack of work, the least senior employee will be excessed from the school or site, except that he/she may be retained only if and so long as he/she meets any of the following requirements for the program, and no paraprofessional with greater seniority meets such requirements:

1. Special competence in the particular program by reason of at least sixty hours of special training, required in the specifications for the program;

2. Special knowledge or skills, such as bilingual proficiency or competence in such subject areas as mathematics, reading, music or art, as required in the specifications for the program;
3. Fifteen or more college credits, acquired through career training, necessary for his/her duties in the program and prescribed in the specifications for the program.

#### **B. Unique Programs**

A paraprofessional serving in a unique program which is moved to another site will be moved with the program unless the paraprofessional expresses a preference to remain at the same site and the superintendent approves.

#### **C. Paraprofessionals with Bilingual Proficiency**

Paraprofessionals with bilingual proficiency in a designated citywide shortage language area who were assigned to a school to meet the particular language needs of students may be excessed when those students leave the building or no longer require bilingual services. If excessed for either of these reasons, they will have a right of return to the school or district they were excessed from at the next reorganization following the excessing, if a vacancy exists in their shortage language area. If there is more than one paraprofessional with the particular bilingual proficiency in the school, excessing shall take place in inverse order of seniority. Excessing shall be to a vacancy in their shortage language area in their district, except for those paraprofessionals who were notified in writing when hired that they could be assigned as needed to meet the language needs of students system-wide, in which case, they can be excessed to an available vacancy in their shortage language area outside of their district (if no vacancy in their shortage language area exists within their district). However, excessing to shortage language area vacancies outside of a district shall be to the same borough if available.

If there is no vacancy in their shortage language area paraprofessionals with bilingual proficiency shall have the retention and layoff rights contained in Articles 12A and 13A of this Agreement.

#### **D. Placement of Excessed Paraprofessionals**

Unless a principal denies the placement, an excessed paraprofessional will be placed by the Board into a vacancy within his/her district/superintendency; or if such a vacancy is not available, then in a vacancy within his/her region, or if such a vacancy is not available then in a vacancy in the same borough, and if such a vacancy is not available then in a vacancy citywide. The Board will place the excessed paraprofessional who is not so placed in an Alternate Paraprofessional Reserve (APR) position in the school from which he/she is excessed, or in another school in the same district or superintendency.

Paraprofessionals 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. The deadlines for excessing will continue to be governed by applicable law.

A paraprofessional who has been excessed to another school may request an opportunity to return to the school from which he/she was excessed if within a year a vacancy should occur in that school. Such a request will have priority over any other transfer or appointment to that vacancy, and it shall be effectuated at the next reorganization of the school to which the paraprofessional is returning, except that should the vacancy occur within ten school days after the paraprofessional is excessed, he/she shall be informed of the vacancy and he/she may return to the school immediately.

### **ARTICLE THIRTEEN**

## **LAYOFF AND RECALL**

### **A. Layoff**

In the event of layoff of employees in the bargaining unit because of a city-wide lack of work, the employee with the least seniority shall be selected for layoff except that an employee who would otherwise be laid off on the basis of seniority may be retained only if and so long as he/she meets any of the following requirements for the program and no employee with greater seniority meets such requirements:

1. The employee possesses special competence in the particular program by reason of at least 60 hours of special training, required in the specifications for the program.
2. The employee possesses special knowledge or skills such as bilingual proficiency or competence in such subject areas as mathematics, reading, music or art, as required in the specifications for the program.
3. The employee has acquired 15 or more college credits through career training and such training is necessary for his/her duties in the program and is prescribed in the specifications for the program.

### **B. Recall**

Recall of employees who are laid off because of lack of work shall be made to available positions in the bargaining unit on the basis of greatest seniority except where the employee does not meet any of the following requirements for an available position:

1. The employee is required to have at least 60 hours of special training as provided in the specifications for the program.
2. The employee is required to have special knowledge or skills such as bilingual proficiency or competence in such subject areas as mathematics, reading, music or art, as provided in the specifications for the program.
3. The employee is required to have 15 or more college credits through career training and such training is necessary for his/her duties in the program and is prescribed in the specifications for the program.

An "available" position as used herein is a new or vacant position or the position of a paraprofessional on leave.

### **C. Retention of Seniority**

An employee in the bargaining unit who is laid off because of lack of work and who is recalled shall regain the seniority he/she had, and shall be credited with the accumulated sick leave to which he/she was entitled, at the time he/she was laid off

The right of an employee in the bargaining unit to be recalled under Section B of this Article shall end after he/she has been laid off continuously for four years.

### **D. Tipping**

Beginning the Spring term in 1992 education funds in the Mayor's Safe City/Safe Streets Program will be utilized to eliminate tipping by establishing a dispute resolution program staffed by teachers.

## **ARTICLE FOURTEEN TRANSFERS**

A. Effective school year 2005-2006, principals will advertise all vacancies. Interviews will be conducted by school-based human resources committees (made up of pedagogues and administration) with the final decision to be made by the principal. Vacancies are defined as openings created by the termination of a regularly employed employee or a new position

assigned to a school or a position in a newly constructed or re-designed school. The determination of qualifications for employment in an opening in a particular school in the bargaining unit shall be made by the head of the school or by the head of the program.

Vacancies will be posted as early as April 15 of each year and will continue being posted throughout the spring and summer. Candidates (paraprofessionals wishing to transfer and excessed paraprofessionals) 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 so that their applications are on file at the school should a vacancy arise.

Selections for candidates may be made at any time; however, transfers after August 7th require the release of the paraprofessional's current principal. Paraprofessionals 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 on how to maximize their chances of success in being selected for a transfer.

B. Vacancies in the position of Auxiliary Trainer, Auxiliary Trainer A and Auxilliary Trainer B shall be posted for seven school days in all schools in the district in which the vacancy occurs. The senior qualified applicant shall be selected.

C. The Board will post positions in new programs so that qualified paraprofessionals will have an opportunity to apply.

D. The Board will post notices of available positions in titles such as substitute vocational assistant, secretary assistant, and teacher's assistant, so that paraprofessionals who meet the qualifications will have an opportunity to apply.

## **ARTICLE FIFTEEN 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; and c) 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 DOE using whatever funds may be identified.

## **ARTICLE SIXTEEN STAFFING NEW OR REDESIGNED SCHOOLS**

A. The following applies to staffing of New or Redesigned Schools ("Schools").

1. A Personnel Committee shall be established, consisting of two Union representatives designated by the UFT President, two Board representatives designated by the community superintendent for community school district schools, or by the Chancellor for schools/programs under his/her jurisdiction, a principal/or project director, and where appropriate a school planning committee representative and a parent.

2. For its first year of operation the School's staff shall be selected by the Personnel Committee which should, to the extent possible, make its decisions in a consensual manner.

3. If another school(s) is impacted (i.e., closed or phased out), staff from the impacted school(s) will be guaranteed the right to apply and be considered for positions in the School. If

sufficient numbers of displaced staff apply, at least 50% of the School's paraprofessional positions shall be selected from among the most senior applicants from the impacted school(s).

4. Any remaining vacancies will be filled by the Personnel Committee from among other applicants who may be transferees, excesses, and/or day-to-day substitute paraprofessionals with at least three (3) months on or who have actually worked at least twenty-five (25) days as a day-to-day substitute on the current Registry or any successor program. In performing its responsibilities, the Personnel Committee shall adhere to all relevant legal and contractual requirements including the hiring of personnel holding the appropriate credentials.

## **ARTICLE SEVENTEEN ASSAULT AND INJURY IN LINE OF DUTY**

### **A. Disability Benefits**

1. A leave of absence with pay and without charge to time allowance, for a period not to exceed one calendar year, shall be granted, subject to established administrative practices, upon the determination of the Chancellor that the employee has been physically disabled because of an assault made upon him/her during the performance of his/her official duties, or because of injury in the line of duty.

2. Paraprofessionals receiving Workers' Compensation will be granted leaves of absence without pay.

### **B. Assistance in Assault Cases**

1. The principal shall report as soon as possible but within 24 hours to the Office of Legal Services, to the Victim Support Program and to the Chief Executive of School Safety and Planning 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 report.

2. The Office of Legal Services shall inform the paraprofessional 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 paraprofessional of its readiness to assist the paraprofessional.

This assistance is intended solely to apply to the criminal aspects of any case arising from such assault.

4. Should the Office of Legal Services fail to provide an attorney to appear with the paraprofessional in Family Court, the Board will reimburse the paraprofessional 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 designated as non-attendance days with pay.

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

## **ARTICLE EIGHTEEN EXCUSABLE ABSENCES WITH PAY**

Employees will be excused with pay for absence during working hours subject to established policies covering non-attendance of pedagogical employees. These policies cover but are not

limited to absences for the following reasons: bereavement, jury duty, attendance at graduation, religious observance and ordered military duty.

## **ARTICLE NINETEEN LEAVES**

### **A. Sick Leave**

1. Employees will be granted one day's sick leave with pay for each month of work during the regular school year. Unused sick leave shall be cumulative from month to month during the school year and from year to year up to a maximum of 145 days. Members of the Teachers Retirement System accrue sick leave up to a maximum of 200 days.

Paraprofessionals will be allowed to use up to three sick days per year for personal business, provided that reasonable advance notice is given to the head of the school. Effective September, 2002, paraprofessionals 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 for personal business which cannot be conducted on other than a school day and during other than school hours.

2. Employees whose sick leave allowance is exhausted shall have the right to apply to the Division of Human Resources to borrow against future sick leave in accordance with applicable administrative regulations.

3. Information on accumulated sick leave will be given to each employee, in writing, once a year.

4. Paraprofessionals serving in schools shall not suffer loss of sick leave 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).

5. The Board will approve absences without loss of sick bank days for paraprofessionals 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.

6. Employees who are absent due to allergic or positive reaction from a skin test shall not suffer loss of sick leave days.

7. Employees may apply for a leave for reasons of personal illness, including pregnancy-related disabilities, and such leave shall be granted, subject to approval of the Medical Bureau. They shall be entitled to return within one year on the basis of seniority and shall regain the seniority and other rights they had before leaving. Any leave granted under this Section may, subject to approval of the Medical Bureau, be extended for a period of one additional year.

8. Employees who work during the summer will be granted one day of sick leave with pay for July or two days during August, in accordance with the Standard Operating Procedures Manual. Unused sick leave is not cumulative from year to year in the summer activity but it will be added to sick leave acquired under paragraph 1 above for use during the regular school year.

9. Employees with two or more years of service who leave for reasons of illness in the immediate family shall be entitled to return within one year on the basis of seniority and shall regain the seniority and other rights they had before leaving. The term "immediate family"

includes a parent, child, brother, sister, grandparent, grandchild, husband, wife or parent of a husband or wife, or any relative residing in the employee's 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.

10. Unused sick leave accumulated as a paraprofessional shall be transferred to the employee's sick "bank" if he/she is employed in a different Board position.

11. All applications for leaves of absence within the provisions of this Article shall be forwarded to the Division of Human Resources with proper medical documentation attached for approval.

12. Paraprofessionals who are members of the TRS and who resign or retire, shall upon application, receive termination pay on a basis of one half of up to 200 days of the unused sick leave accumulated. If the resignation or retirement becomes effective at any time other than the end of a school year, sick leave for the period of service during that school year shall be paid at the rate of one day for each two full months of service. Any paraprofessional who takes termination pay pursuant to this paragraph shall be paid such amounts in three equal cash installments payable two months, fourteen months and twenty six months following his/her termination date.

The estate of such a paraprofessional who dies during the term of this contract shall receive termination pay calculated on the same basis. This paragraph shall not apply to those paraprofessionals who are presumed to have retired on the day immediately preceding their death pursuant to Section 13-545 of the Administrative Code of the City of New York, as amended and recodified.

Absence immediately prior to resignation shall be paid on the same basis as termination pay.

#### **B. Leaves Without Pay**

1. An employee with two or more years of service who leaves for reasons of maternity and/or child care and returns to employment within four years shall regain the seniority he/she had at the time he/she left, and shall be credited with the accumulated sick leave to which he/she was entitled at the time he/she left less the sick days used while on maternity leave.

2. An employee with three or more years of service who leaves for approved study or to teach within the New York City school system and returns to employment within one year shall regain the seniority he/she had at the time he/she left and shall be credited with the accumulated sick leave to which he/she was entitled at the time he/she left.

3. Upon application a leave of absence without pay will be granted to an employee to serve as a school secretary assistant or bilingual school secretary assistant. Such leave shall be for up to 18 months, but shall terminate upon cessation of employment as a school secretary assistant or bilingual school secretary assistant. Upon termination of the leave the employee who returns to employment as a paraprofessional shall regain the seniority he/she had at the time he/she left and shall be credited with his/her accumulated sick leave at the time of return.

4. Paraprofessionals who are officers of the Union or who are appointed to its staff shall, upon proper application, be given a leave of absence without pay for each school year during the term of this Agreement for the purpose of performing legitimate duties for the Union, on the same basis with respect to service credit for retirement purposes and contributions to the retirement system as is applicable to teachers pursuant to Article Nineteen C (Leaves of Absence for Union Officers) of the Teacher Agreement.

5. Through at least July 31, 1995, the Board will implement a liberal policy concerning the granting of leaves of absence without pay to UFT bargaining unit members who meet the stated

criteria for such leaves. Bargaining unit members who are denied such a leave at the school or district level may appeal to the Chief Executive of the Division of Human Resources for review and final determination.

## **ARTICLE TWENTY PENSIONS**

### **A. Pension Legislation**

1. A Labor-Management Pension Committee will be established to investigate legislation allowing all current and future members of the TRS Tier II, III and IV to retire without a reduction of benefits due to early retirement upon age 55 with at least 25 years of service, as well as other relevant pension issues.

2. The Committee will analyze the actual costs and additional contribution rates required to provide this benefit (including any additional health insurance benefit costs) without any cost to the City.

3. Upon mutual acceptance of the Committee's recommendations, including plan design and costs, the parties agree to jointly support the legislation necessary to implement the benefit changes.

### **B. Tax Deferred Annuity Plan**

The parties agree to jointly support legislation and to obtain any other necessary regulatory approval, 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.

### **C. 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 TWENTY-ONE SAFETY**

### **A. School Safety Plan**

The principal is charged with the responsibility of maintaining security, safety and discipline in the school. To meet this responsibility, he/she shall develop in collaboration with the Union chapter committee and the parents association of the school, a comprehensive safety plan, subject to the approval of the Chief Executive of School Safety and Planning. The safety plan shall be updated every year using the same collaborative process, and reports of any incidents shall be shared with the Chapter Leader.

A complaint by a paraprofessional, 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 paraprofessional 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 paraprofessional/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.

**B. 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.

**C. 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.

**D. Safe Environment**

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

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

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

**E. Renovation and Modernization**

The Union and the Board believe that modernization and renovation projects are vital to enable children to receive the educational services to which they are entitled. However, in order to limit any educational disruption that a modernization project can create, and to protect the health and safety of the staff and students that use a school setting undergoing modernization, the Board and Union have agreed to standard procedures 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 TWENTY-TWO COMPLAINT AND GRIEVANCE PROCEDURES**

### **A. Policy**

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

### **B. Informal Complaint Procedures**

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

The employee should request an opportunity to discuss the matter and the supervisor should arrange for the discussion at the earliest possible time. At such informal discussion, the employee may be accompanied by a Union representative or by another employee in the unit who is not an official or agent of another employee organization. The Union representative shall be the chapter leader at the school or a Union representative.

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

### **C. 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 does not apply to complaints concerning discharge, except as set forth in Article Twenty-Three.

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

The Union has the right to initiate or appeal a grievance involving alleged violation of any term of this Agreement. Such grievance shall be initiated with the appropriate Board official.

Complaints against supervisors will be considered in an expeditious manner in accordance with the procedures set forth in Article 23 (Special Complaints) of the teacher agreement.

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

**School Level (Step 1)**

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

**Board Level (Step 2)**

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

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

**Representation**

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

**Conferences and Decisions**

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

Every attempt should be made to reach a mutually satisfactory resolution of the grievance at the conference held under this procedure. If the grievance is not resolved at the conference, then a decision must be rendered by the Board representative. The decision at each step should be communicated to the aggrieved employee and his/her representative within the following time limits:

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

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

**D. 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 representative by the Chancellor within the time limit specified for Step 2 appeals.

The appeal to arbitration with a copy to the Board, shall be filed within ten school days after receipt of the decision of the Chancellor. Where no hearing has been held, or no decision has

been issued, within ten school days following receipt of the grievance by the Chancellor at Step 2, the appeal to the arbitration shall be filed within ten school days following the expiration of the ten-day period.

A panel of seven arbitrators shall be designated by mutual agreement of the parties to serve for any case or cases submitted to them in accordance with their ability to promptly hear and determine the case 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 or Board policy under the provisions of this Agreement, under Board by-laws, or under applicable law, except that the arbitrator may decide in a particular case that such policy was disregarded or that the attempted application of any such term of this Agreement was so discriminatory, arbitrary or capricious as to constitute an abuse of discretion, namely whether the challenged judgment was based upon facts which justifiably could lead to the conclusion as opposed to merely capricious or whimsical preferences or the absence of supporting factual reasons.

3. Limiting or interfering in any way the powers, duties and responsibilities of the Board under its by-laws, applicable law, and rules and regulations having the force and effect of law.

With respect to grievances which involve the application or interpretation of the provisions of this Agreement the decision of the arbitrator, if made in accordance with his/her 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 school days after the date it is received by him/her, the recommendation shall be deemed to be his/her decision.

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

### **ARTICLE TWENTY-THREE DISCHARGE REVIEW PROCEDURES**

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 of continuous service exclusive of any service as a day-to-day substitute paraprofessional is discharged, he/she shall, upon his/her request, be given a written notice of discharge and a statement of the general reasons for such action. Such employee will also, upon his/her request, be afforded an

opportunity for a prompt and careful review of the discharge in accordance with the provisions set forth in Article Twenty-Two of this Agreement.

If the Union is not satisfied with the determination made at Step 2, it may appeal under Article Twenty-Two of this Agreement for final arbitration.

The time limits at each step for review of discharge complaints shall be the same as for grievances filed pursuant to Article Twenty-Two of this Agreement.

In any arbitration reviewing the discharge of an employee based on allegations of 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-FOUR PERSONNEL FOLDERS**

### **A. Evaluations**

Employees shall receive a copy of any evaluatory statement of their work performance or conduct which is placed in their permanent personnel folder. Employees shall be given an opportunity to answer any such evaluatory statement placed in their folder, and their written answer shall be attached to the evaluatory statement in the folder.

### **B. Counseling Memos**

Effective September, 2002, 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 requests for the supervisor to model such improvement for the member. 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. 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 action against an employee except to prove notice if the employee denies notice." If the language required in this paragraph a) is not included in the memo, it must be added.

b. 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. False Accusations**

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 TWENTY-FIVE PAY PRACTICES**

### **A. Itemization**

The Board will recommend to the Comptroller of the City of New York that he/she itemize more fully employee pay checks and that he/she provide accompanying explanations when lump sum payments are made.

### **B. Biweekly Payroll**

The parties agree that a biweekly payroll gives an employee a date certain for receipt of their pay. Therefore, the Board will convert the paraprofessional payroll to a biweekly payroll from a semi-monthly payroll as soon as practicable. The parties will make whatever contractual changes are technically necessary to accomplish this goal.

### **C. Electronic Funds Transfer**

The Board has in place an electronic funds transfer ('EFT') program without resort to a payroll lag for those bargaining unit members who are regularly scheduled employees in titles paid on the Q Bank and who elect the receipt of their paychecks by electronic funds transfer. Annual enrollments will take place each March.

### **D. 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.

**ARTICLE TWENTY-SIX  
INFORMATION AT THE SCHOOL**

A. All official Board of Education circulars which deal with the working conditions or the welfare of employees covered by this Agreement shall be posted promptly.

B. A copy of the district seniority list for employees in the bargaining unit shall be posted in each school in the district. A copy shall be given to the Union chapter chairman and to the Union district representative.

**ARTICLE TWENTY-SEVEN  
CHECK-OFF**

**A. Exclusive Check-Off Privilege**

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

**B. Dues Check-Off on Transfer**

The Board will honor, in accordance with their terms, the written authorizations for the deduction of dues in behalf of the Union, properly executed by individuals while employed by the City of New York, who thereafter transfer directly to employment with the Board in the unit covered by this Agreement.

**C. Dues Check-Off Information**

The Board shall provide monthly to the Union a complete and up-to-date list of all employees in the bargaining unit who have properly executed written authorization for the deduction of dues in behalf of the Union. The Board shall also furnish to the Union such other reasonably available information as may be necessary to the Union for maintaining appropriate check-off records.

**D. Agency Fee Deduction**

The Board shall deduct from the wage or salary of employees in the bargaining unit who are not members of the UFT the amount equivalent to the dues levied by the UFT and shall transmit the sum so deducted to the UFT, in accordance with Chapters 677 and 678 of the Laws of 1977 of the State of New York. The UFT affirms it has adopted such procedure for refund of agency shop deduction as required in Section 3 of Chapters 677 and 678 of the Laws of the State of New York. 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.

**E. 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 United States Code.

**ARTICLE TWENTY-EIGHT**

## **CONSULTATION WITH UNION COMMITTEE**

Appropriate representatives at Board headquarters level and representatives of the Union shall meet once a month during the school year to consult on matters of paraprofessional policy and questions relating to the implementation of this Agreement.

## **ARTICLE TWENTY-NINE UNION MEETINGS**

Upon request to the head of the school, members of the Union who are in the bargaining unit shall be permitted to meet within the school under circumstances which will not interfere with the paraprofessional program or other school activities. Such meetings may be held only during the employees' lunch period or before or after the employees' working hours, at a place to be assigned by the head of the school, where other employees or children are not present. Union officials may attend such meetings.

## **ARTICLE THIRTY RESTRICTION ON UNION ACTIVITIES**

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

B. The Paraprofessional Chapter leader shall be allowed two days per week for investigation of grievances and for other appropriate activities relating to the administration of this Agreement and to the duties of his/her office.

C. The Union agrees that it will not seek through legislation or through revision of civil service regulations to change the present noncompetitive civil service status of paraprofessionals.

## **ARTICLE THIRTY-ONE 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, employees 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 employees 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 Articles 12, 14 and 16 of 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 employee 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 these agreements.

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 apply to employees 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 Schools Law.

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.

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-TWO**

## **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 THIRTY-THREE CONFORMITY TO LAW-SAVING CLAUSE**

A. 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.

B. 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.

C. If the Board delegates any of its authority or functions to a community school board, the terms of this Agreement, insofar as applicable, shall be binding upon the community school board to the extent permitted by law.

## **ARTICLE THIRTY-FOUR COPY OF AGREEMENT**

The parties will have available copies of this Agreement upon request.

## **ARTICLE THIRTY-FIVE 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 THIRTY-SIX MINIMUM EDUCATIONAL REQUIREMENTS**

The Commissioner's regulations regarding minimum educational requirements are applicable to paraprofessionals covered by this Agreement.

## **ARTICLE THIRTY-SEVEN DEFINITIONS**

A. Wherever the term "semester hours" is used in this Agreement, it shall mean college credits.

B. Wherever the term "Board" is used in the Agreement, it shall mean the City Board, it being understood, nevertheless, that this contract is binding on all community school boards in accordance with Section 2590 of the Education Law.

C. Wherever the term "seniority" is used in the Agreement, it shall mean length of service as a paraprofessional employee in the bargaining unit in the district plus any seniority accrued as a day-to-day substitute paraprofessional. Effective September 2006 "seniority" shall mean length

of service as a paraprofessional employee in the bargaining unit, including seniority accrued as a day-to-day substitute paraprofessional.

**ARTICLE THIRTY-EIGHT**  
**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 therefor, shall not become effective until the appropriate legislative body has given approval.

**ARTICLE THIRTY-NINE**  
**DURATION**

This Agreement shall become effective as of June 1, 2003 and shall continue in full force and effect through October 12, 2007.

**APPENDIX A**  
**IMPROPER ASSIGNMENT OF UFT PARAPROFESSIONALS**  
PERSONNEL MEMORANDUM NO. 53, 1984-85 June 11, 1985

**TO: PRESIDENTS OF COMMUNITY SCHOOL BOARDS, ALL SUPERINTENDENTS, EXECUTIVE DIRECTORS, HEADS OF OFFICES AND PRINCIPALS OF ALL DAY SCHOOLS**

**FROM: EDWARD AQUILONE, EXECUTIVE DIRECTOR**

**SUBJECT: IMPROPER ASSIGNMENT OF UFT PARAPROFESSIONALS**

It has come to the attention of the Division of Personnel that some educational paraprofessionals are left unattended in a classroom setting.

In view of this, I am requesting that each Superintendent advise the programs under his or her jurisdiction that educational paraprofessionals must be under the direct supervision of a licensed teacher in a classroom and/or out-door play.

Your cooperation in this matter will be appreciated.

EA:BR:bt

cc: Members of the Board of Education

Nathan Quinones, Chancellor

**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 to 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; and,
- 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.
- 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 the 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 : j c

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**  
**ETS PARAPROFESSIONAL SALARY SCHEDULE**  
**INSERT NEW SCHEDS**

**APPENDIX D**  
**SOS PARAPROFESSIONAL SALARY SCHEDULE**  
**INSERT NEW SCHEDS**