

# IS IT A GOOD DEAL?

## HOW NEW YORKERS SHOULD JUDGE THE NEXT TEACHERS' CONTRACT



The New York City teachers' contract expired on October 31, 2009. A new agreement may be reached soon. As the City faces a \$5 billion budget gap for the next fiscal year and key educational reforms remain unfinished, here are key questions parents and taxpayers should ask to judge whether the next contract is a good deal for them.

### DOES IT SAVE TAXPAYERS MONEY?

- Salary increases should be funded with value-generating concessions.** *The Mayor's budget includes funds for two 4 percent annual raises costing \$655 million annually; this is no longer affordable without offsetting savings.*
- Pension and health insurance reforms should be implemented.** *Already agreed to increases in teachers' contributions to their pension fund and additional pension benefit changes should be implemented, and new measures to curb health insurance costs should be put in place.*

### DOES IT ENCOURAGE GOOD TEACHING?

- Merit pay should replace seniority rewards.** *Ending pay increases solely for seniority after ten years would eventually save about \$285 million annually, enough to fund a substantial merit pay program.*
- Financial rewards should attract qualified teachers in shortage fields.** *Nearly one-in-ten teachers is not certified to teach in the subject to which they are assigned, especially in special education, math and science. Targeted pay increases should be used to help staff these areas.*

### DOES IT END PAYMENTS TO THOSE WHO DO NOT OR CANNOT TEACH?

- Compensation for teachers who are not teaching should end.** *About 1,400 teachers are paid to be in an "Absent Teacher Reserve"- at a cost of about \$74 million annually - which does not require them to teach regularly. They should be compensated only for a six month period while searching for a new job, not carried indefinitely on the payroll.*
- Unsatisfactory teachers should be terminated quickly.** *Approximately 640 teachers charged with poor performance and other infractions are taken out of the classroom and paid for an average of nearly three years while their cases are considered; this process should be greatly expedited by hiring more arbitrators and other measures.*

## BACKGROUND

Few public services are as important as education, and good education requires well qualified teachers. In order to hire and retain such teachers, the City of New York must pay them competitively and deploy them fairly. The next teachers' contract should pursue those goals in the context of the current economic and fiscal stress.

The City employs 89,000 teachers – more than enough to fill Citifield twice. Teachers constitute about 30 percent of the City's total full-time workforce, and the City spends approximately \$9 billion compensating them yearly. In other words, one out of every seven dollars in the City budget goes toward the cost of salaries, health insurance and pensions for teachers.

Teachers are represented in collective bargaining by the United Federation of Teachers (UFT). Six agreements, including three contracts, have been negotiated between the City and the UFT during the administration of Mayor Michael Bloomberg. New teachers now start at \$45,500 annually and experienced teachers can earn more than \$100,000 – compared to \$32,000 and \$70,000, respectively, in 1999. These agreements also expanded instructional time, provided additional peer supports to teachers, eliminated seniority transfer rights, launched a pilot program for school-based merit pay and reformed grievance and disciplinary procedures.

The UFT contract expired on October 31, 2009, in the midst of a severe economic decline that has pummeled the City's finances. While the current year's budget is tentatively balanced thanks to surplus revenues from years past, the City must contend with a \$5 billion budget gap projected for the next year. This juncture is a critical opportunity to forge a contract that provides value to taxpayers, promotes good teaching, and ends wasteful staffing practices. The following are six critical innovations that taxpayers should expect in the new teachers' contract.

## PROVIDE VALUE FOR TAXPAYERS

- **Salary increases should be funded with value-generating concessions.**

Contract negotiations in New York City are shaped by “pattern” bargaining. The City and the union that negotiates first in a given round of bargaining establish a “pattern” of wage increases that all other unions follow. At times, separate patterns are established for civilian employees and uniformed employees; generally, the pattern for civilians is set by District Council 37 (DC 37), the union with the largest number of municipal employees.

As shown in Table 1, the civilian pattern during the Bloomberg years has exceeded the rate of inflation – 35 percent versus 29 percent over the entire period. The UFT has done even better, gaining raises above the civilian pattern for a cumulative increase of 43 percent. These exceptional increases were accompanied by union concessions that included a longer working day for teachers and elimination of certain seniority rights. As a result, the gap in pay between New York City and suburban teachers, especially for starting teachers, has narrowed. The more competitive salaries and a labor market characterized by high unemployment have eased the difficulties in recruiting teachers for most positions.

The current DC 37 contract spans March 2008 to March 2010 and grants two annual 4 percent raises with no offsetting concessions. Based on this pattern, the City has budgeted \$320 million

for the first year, \$595 million in the second year and \$655 million thereafter to cover the cost of applying this pattern to a new teachers' contract. This is as much money as the City spends on parks and cultural institutions each year.

In light of the current fiscal and labor market situation, the City should not apply the DC 37 pattern to new contacts. The Mayor has recognized this, publicly opposing the extension of the pattern for this and future years to transit workers at the Metropolitan Transportation Authority. He should apply the same logic in negotiations with the UFT. No wage increase should be agreed to without union concessions and reforms to staffing practices that significantly reduce the cost of the agreement. Examples include the elimination of sabbaticals, reduction in paid leave, expansion of merit pay and other changes discussed below.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	Total
UFT	4%	5%	7%	2%	3.5%	5.5%	3.25%	2%	5%	NAP	43%
DC37	4%	4%	0%	3%	3%	3.15%	2%	4%	4%	4%	35%
CPI	3.1%	2.5%	2.6%	3.1%	3.5%	3.9%	3.8%	2.8%	3.9%	0.3%	29%

NAP - Not applicable. UFT has not negotiated any wage increases for the 2009-2010 period.

Notes: In 2002, DC37 employees received a \$1,000, pensionable lump-sum payment in lieu of a salary increase. The 7 percent increase shown for the UFT in 2002 reflects a 6 percent general increase for additional time and a 1 percent certification differential negotiated in the 2000-2002 contract. UFT increases between 2000-2002 were non-compounded.

**□ Pension and health insurance reforms should be implemented.**

In addition to their salaries, teachers receive generous pension and health insurance benefits. The costs of these benefits have been rising rapidly. The City's required pension contributions have risen 265 percent between fiscal years 2003 and 2009 due to poor stock market performance, generous benefit packages and low contribution requirements from employees.

In this context, the City and the UFT agreed in June 2009 to change pension benefits for newly hired teachers. The agreement continues a previously negotiated "55/27" retirement plan (teachers can collect full pensions at age 55 after 27 years of service), but increases the required employee contribution to 4.85 percent of their salary for the entire length of service rather than just the first ten years. The agreement also changes vesting of pension benefits from five to ten years. The City projects these changes will save \$100 million per year for the next 20 years; however, state legislation is required and no bill has yet been introduced. The City and the UFT should redouble their efforts to have the measure introduced and approved by the Legislature. In addition, the Mayor should seek UFT support for further legislative reforms of pension benefits, including a higher minimum retirement age. At a minimum, no pay increases should become effective until the prior pension agreement is enacted into law.

The Mayor is also counting on reducing health insurance costs as a part of the gap-closing program for the fiscal year 2011 budget. Despite rapidly rising health care costs nationwide, New York City pays the full cost of health insurance premiums for its employees, as well as for retirees with at least ten years of service. As part of the June 2009 agreement, the UFT agreed to raise this vesting requirement to 15 years. In the current fiscal year, the estimated cost of health insurance for current teachers is over \$600 million and for retired teachers is over \$250 million.

While the City typically negotiates on health insurance matters with the Municipal Labor Committee (MLC), a coalition of all major labor groups, the UFT has demonstrated good faith in working with the Mayor to achieve health insurance savings. The new contract should include other changes, such as cost-sharing for premiums, which would provide recurring savings for the City, maintain quality care for employees and retirees, and provide a model for negotiations with the MLC. Requiring current teachers to pay 10 percent of the premium for individual coverage and 20 percent for family coverage would save \$100 million; requiring retirees to pay half the premium would save \$125 million.

## ENCOURAGE GOOD TEACHING

- **Merit pay should replace seniority rewards.**

Teachers receive rewards for seniority in two forms – pay and privileges.

Teachers are compensated under a salary schedule of “steps and lanes” (See Table 2). Teachers move across lanes of pay as they complete greater levels of education and other professional development. More importantly, they move along steps on the schedule based solely on years of service. These steps or increments are given in each of the first eight years on the job, after which increments are provided at the 10-, 13-, 15-, 18-, 20- and 22-year marks.

Annual raises make some sense early in teachers’ careers. Retention of new teachers is important, and the performance of new teachers generally improves as they gain experience; however, after eight to ten years, teachers reach their stride and their performance level reaches a plateau. Despite this, compensation continues to increase with seniority. The annual increments paid to teachers after ten years represent a large investment of taxpayer money. Stopping seniority increments after ten years would yield annual savings of about \$55 million in the first year and grow to over \$285 million annually in the tenth year. (This estimate is based on 2008 data for average salaries, number of teachers by years of services, and annual attrition by years of service.)

A better way to spend this money is to reward good teaching instead of longevity. The City and the UFT have begun an experiment with merit pay, and it should be expanded in a revised and improved form.

The program began in the 2007-08 school year in 205 schools with over 10,200 UFT members. Participation in the program must be authorized by a vote of 55 percent of UFT members in a school. Each participating school is eligible for an award based on the school’s performance on its Progress Report, more commonly known as the school report card. Bonuses equal approximately \$3,000 per UFT member, or \$1,500 per UFT member if only 75 percent of targets are met. Within schools, the distribution of bonuses is determined by a committee consisting of the principal, an appointee of the principal and two members of the UFT. The committee

may make equal awards to all eligible staff, equal awards to those in similar titles, or differential awards among individuals in the same title.

Table 2 Teacher Salary Schedule, effective May 19, 2008							
		Lanes					
		Bachelor's Degree	Bachelor's and 30 credits	Bachelor's and 60 credits	Master's Degree	Master's and 30 credits	Doctoral Degree
Steps	1	\$45,530	\$47,124	\$50,071	\$51,425	\$53,019	\$57,320
	2	\$48,434	\$50,028	\$52,975	\$54,329	\$55,923	\$60,224
	3	\$48,836	\$50,430	\$53,377	\$54,731	\$56,325	\$60,626
	4	\$49,543	\$51,137	\$54,084	\$55,438	\$57,032	\$61,333
	5	\$50,153	\$51,747	\$54,694	\$56,048	\$57,642	\$61,943
	6	\$52,744	\$54,338	\$57,285	\$58,639	\$60,233	\$64,534
	7	\$57,370	\$58,964	\$61,911	\$63,265	\$64,859	\$69,160
	8	\$64,006	\$65,600	\$68,547	\$69,901	\$71,495	\$75,796
	10	\$67,095	\$68,689	\$71,636	\$72,990	\$74,584	\$78,885
	13	\$69,197	\$70,791	\$73,738	\$75,092	\$76,686	\$80,987
	15	\$73,636	\$75,230	\$78,177	\$79,531	\$81,125	\$85,426
	18	\$74,800	\$76,394	\$79,341	\$80,695	\$82,289	\$86,590
	20	\$83,412	\$85,006	\$87,953	\$89,307	\$90,901	\$95,202
	22	\$88,259	\$89,853	\$92,800	\$94,154	\$95,748	\$100,049

Source and Notes: Not all steps and lanes presented here. Full schedule available online at: [http://www.uft.org/member/contracts/moa/salary\\_schedules\\_html/index.html](http://www.uft.org/member/contracts/moa/salary_schedules_html/index.html)

In the 2007-08 school year, 125 (or 61 percent) of the schools were awarded a full or partial bonus, resulting in \$29.6 million in bonuses. Individual amounts ranged from a low of \$7 (to a literacy coach) to a maximum of \$5,914 (to a teacher). About 75 percent of those eligible received between \$2,800 and \$3,200, with the average bonus equaling \$2,893. Only 5.5 percent – 412 teachers out of 7,446 eligible – received bonuses of \$3,500 or more.

Data on the second year of the program are available only for elementary and middle schools. The distribution of bonuses mirrors that in the first year: the mean and median awards were virtually the same, as was the share of teachers receiving between \$2,800 and \$3,200. The maximum award was higher (\$6,200), but a smaller share of teachers, 3.5 percent, received awards above \$3,500.

The major difference in the second year was an increase in the number of elementary and middle schools meeting targets. In the first year, only 55 percent of these schools met their targets; in the second year, almost all – 91 percent or 139 of 152 elementary and middle schools – received bonuses. This is not surprising, since 97 percent of the City’s schools received “A” or “B” grades on their progress reports that year.

<b>Table 3 Schools Receiving Merit Pay Awards</b>		
	<u>2007-2008</u>	<u>2008-2009*</u>
<b>All Schools Participating</b>	<b>205</b>	<b>152</b>
School Receiving Full Bonuses <i>Percent</i>	96 47%	135 89%
School Receiving Partial Bonuses <i>Percent</i>	29 14%	4 2.6%
<b>Schools Receiving Any Bonus <i>Percent</i></b>	<b>125 61%</b>	<b>139 91%</b>
UFT Members Receiving Bonuses	10,288	11,076
Average award per recipient	\$2,893	\$2,881
Total bonuses distributed to date	\$29.6 million	\$31.9 million
*Only elementary and middle schools. No data yet available on high schools.		
Source: New York City Department of Education		

The ease with which schools earned bonuses suggests that the system should be changed by raising the standards for receiving merit pay. Additional improvements are suggested by the experience of other school systems including Denver, Houston, Florida and Minnesota. A program with rigorous criteria should be the next step in promoting good teaching in New York City. The key features of an improved system should be:

- Participation in the program is offered to teachers already working, but is mandatory for new teachers.
- Teachers begin with a base salary. Any compensation above that amount is based on multiple criteria that include, but are not necessarily limited to, student growth as measured on valid standardized tests.
- Bonuses are targeted to groups smaller than an entire school.
- The bonus amount is significant relative to base pay.

The rewards of seniority are not solely financial. Additional privileges include greater job security and rights to preferred assignments. As part of a contract agreement effective beginning in 2003, some of these benefits were reduced. Before then, senior teachers could transfer to other schools by “bumping” less senior teachers in their licensing areas; no approval from the principal was necessary. Senior teachers used this right to transfer out of low-performing schools, often relegating new teachers to the toughest assignments. This contributed to high attrition rates for teachers in their first few years and increased the turnover at low-performing schools. Since 2005, vacancies are posted citywide and any teacher who wishes to “bump” another teacher must be interviewed by the principal and a committee of teachers, with a final decision made by the principal. This is a significant improvement which should be retained in a new contract.

The next step in giving preference to performance over seniority should relate to priorities if and when layoffs become necessary. Senior teachers enjoy protections – often referred to as “last-in, first-out” – that shield them from layoffs: newly hired and less senior teachers within specific license areas are laid off first. The new contract should include modifications to these seniority rules that give principals an enhanced role in deciding the order of layoffs so that recent job performance can be a factor.

□ **Financial rewards should attract teachers to shortage assignments.**

The substantial salary increases in recent years have increased the attractiveness of teaching in New York City’s public schools. Since 2000, the share of teachers without any certification has dropped to under 3 percent; this improvement was stimulated by requirements of the federal No Child Left Behind law and State Regents rules, as well as the pay increases. Nonetheless, some schools still have trouble attracting and retaining qualified staff in some subjects.

There is no official or widely accepted method for defining a shortage. State certification, which is based on subject area and school level (for example, high school math or bilingual elementary school), is considered an essential credential, and the lack of appropriately certified teacher is one way to identify shortages. The State Education Department uses two related measures: (1) subjects for which more than 5 percent of all full-time equivalent positions are held by teachers without appropriate certification; and (2) subjects for which fewer than two new certificates are issued for each vacancy in that year. According to this method, virtually all teaching fields were shortage areas in New York City in 2006-2007, the latest year analyzed. The City Department of Education regards the share of new hires that became certified through alternative methods, such as teaching fellows programs, as a good indicator of shortage areas; by this criterion there are at least eight shortage areas. There is considerable agreement that the largest and most serious shortage fields are high school math and science and special education.

The City and the UFT took one innovative step to address shortages in 2006, creating the Housing Support Program. It provides \$15,000 in housing support to certified middle school and high school math and science teachers and special education teachers of all grades. To qualify, teachers must have at least two years of satisfactory experience and pledge to make a three-year commitment to teach in a high-need school. For a young teacher, this subsidy amounts to a 10 percent salary bonus for three years. The program’s goal was to attract over 600 new teachers in these subject areas; the results have not yet been evaluated.

The premise of the Housing Support Program – targeting incentives to those willing and able to take assignments in shortage fields – is correct, but it need not be limited to housing support. Financial incentives should be provided to teachers in shortage areas willing to commit to fixed-term assignments in hard-to-staff schools. The new contract should identify an objective way to define the targeted positions and provide substantial pay differentials for them.

## **STOP PAYING THOSE WHO DO NOT OR CANNOT TEACH**

### **□ End compensation for teachers who are not teaching.**

Teachers whose schools are closed or who lose their positions for non-disciplinary reasons such as school budget cuts are considered “excessed.” If they are not hired by the principal of another school, they are assigned to the Absent Teacher Reserve (ATR). These teachers serve, as necessary, as substitutes while they continue looking for new positions. They receive their full salary even if they do not work regularly as substitutes. The last contract offered severance packages to teachers in the ATR who are unable to find regular assignments after a year, but few have taken this option.

A 2008 study by the New Teacher Project estimated that there were 1,400 teachers in the ATR at the start of the 2008 school year; assuming the share of these teachers that found new positions was similar to that of previous years, the cost was estimated to be over \$74 million in that school year. The report stated that while principals preferred to hire teachers from the ATR with experience in that district, and that most do secure new positions, teachers who do not secure new positions from the ATR are six times more likely than other teachers to have a documented history of poor performance and are less aggressive in pursuing employment opportunities. The report also found that junior and senior teachers were securing new positions at similar rates, though the UFT contended that teachers remaining in the ATR were largely more senior teachers that principals did not want to hire because of the additional salary expense.

Following this report, the Chancellor decided to subsidize the selection of teachers from the ATR, matching the difference between the salary of a more senior ATR teacher and that of a new teacher for eight years. In May 2009, the Chancellor announced that principals could no longer hire teachers from outside the system in order to encourage the hiring of available teachers from the ATR. This policy runs counter to reforms made to empower principals with increased discretion over budgets and staffing, and offers additional protections to teachers that the City had initially proposed be cut from the system entirely.

Especially in the current stressed fiscal circumstances, the City should not pay salaries indefinitely to employees who are not performing regular services. Payments to teachers in the ATR should cease after six months. After that, these teachers should be paid only for appearances made as substitute teachers.

### **□ Expedite the removal of unsatisfactory teachers.**

Cultivating high performance schools is as much about sanctioning incompetence as rewarding excellence. Yet dismissal for poor performance is a rare occurrence in the school system. In the 2007-2008 school year, 276 teachers – less than one percent – were dismissed for poor performance; almost all of these teachers were probationary teachers with less than three years of experience. These teachers lack tenure and can be dismissed at the principal’s discretion.

Disciplinary and dismissal procedures for tenured teachers charged with poor performance, inappropriate conduct or criminal misconduct are governed by State statute, specifically Education Law Section 3020-A. It sets forth a due process procedure, lasting approximately five to six months, for initiating and arbitrating charges against teachers.

Teachers are typically brought up on these charges after receiving at least two unsatisfactory ratings, and changes in recent contracts have enhanced the ability of principals to document poor performance. Teachers waiting to have their cases heard by an arbitrator are removed from the classroom – but continue to draw full salary – and are placed in temporary reassignment centers, often called “rubber rooms.” They must report to the location, but are not given any assignment. Proceedings often last longer than six months, because a limited number of arbitrators are available to hear cases. A recent article reported the average waiting time for teachers in the rubber room as three years. Approximately 640 teachers are in the rubber rooms, costing the City about \$60 million a year.

The UFT and the City have worked together to streamline 3020-A procedures. For example, a permanent arbitration panel was established to hear cases, and an expedited hearing process was created for cases with lesser penalties. In the most recent contract, a peer intervention program was expanded to assist tenured, unsatisfactorily-rated teachers.

These are positive steps, and the next contract should go further to speed the disciplining of incompetent teachers. Hiring more arbitrators and further streamlining procedures can reduce the extensive cost and delay associated with adjudicating cases against teachers, and can serve due process in a timely and fair manner.

## CITIZENS BUDGET COMMISSION

NOVEMBER 2009

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