



Buffalo Teachers Federation, Inc.
271 Porter Avenue
Buffalo, New York 14201
(716) 881-5400
(716) 881-6678 (fax)

President PHILIP RUMORE

January 13, 2016

MEMO TO: All Buffalo Teachers
FROM: Philip Rumore, President, BTF
RE: Receivership – Commissioners December 22, 2015 Decision

While most have read or read about the Commissioner’s December 22, 2015 decision on the District’s submission relating to the twenty mislabeled (my characterization) Receivership schools, there is still a little confusion relating to them. Here is a summary of her decision. It did not significantly change the attacks on our contract at the 5 persistently mislabeled schools-attacks and decisions that have nothing to do with improving teaching and learning conditions.

Within the next 2-3 weeks, our legal challenges to the receivership laws, regulations and Commissioner’s decisions and a challenge to two new APPR regulations will be filed.

The Superintendent submitted the following changes to our contract that he believes must be done to ensure that our persistently mislabeled and mislabeled schools are no longer so identified. Right!

As you read through them you will notice that there is no mention of smaller class sizes, increased support services, etc.

Yes, the BTF did attempt to negotiated smaller class sizes, duty free time to complete all the meaningless paperwork, a yearly survey of teachers to determine the changes that should be made to improve teaching and learning conditions. The changes would be enacted if 60% of the teachers at each school supported the changes.

Of course the District did not include these changes - ones that would really improve teaching and learning. The Commissioner ruled that we could not even bring them up – only the Superintendent could!

The 20 schools for which the Superintendent requested contract modifications are:

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| 1. Bennett High School, P.S. #200 | 2. Bilingual Center, P.S. #33 |
| 3. BUILD Academy, P.S. #91 | 4. Dr. Lydia T. Wright School, P.S. #89 |
| 5. D’Youville Porter Campus, P.S. #3 | 6. East High School, P.S. #307 |
| 7. Frank A. Sedita School, P.S. #30 | 8. Harriet Ross Tubman Academy, P.S. #31 |
| 9. Harvey Austin School, P.S. # 97 | 10. Herman Badillo Community School, P.S. #76 |
| 11. Highgate Heights Elementary, P.S. #80 | 12. International Prep School, P.S. #198 |
| 13. Lafayette High School, P.S. #204 | 14. McKinley Vocational High School, P.S. #305 |

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| 15. P.S. #17 | 16. Dr. Charles Drew Science Magnet, P.S. #59 |
| 17. North Park Academy, P.S. #66 | 18. Hamlin Park Elementary School, P.S. #74 |
| 19. Riverside Institute of Technology, P.S. #205 | 20. Waterfront Elementary, P.S. # 95 |

However, the Commissioner determined that the following five (5) schools did not have approved improvement plans in place until a later date; therefore, she would not, at that time, rule on these schools – Bennett High School, East High School, Lafayette High School, Hamlin Park Elementary School and Riverside High School.

The Superintendent has, of course, now requested negotiations on these. We expect a similar decision from the Commissioner on these.

The changes ordered to our contract for these receivership schools are as follows.

The underlings are modifications to the Superintendent’s submissions made by the Commissioner.

In filling vacancies at any summer school, after school, recreational or part time program at any of the struggling schools, the Receiver or his/her designee shall have the discretion and ability to fill the vacancy with the teacher that is most qualified to fill the vacancy, regardless of seniority, provided that if a preferred eligibility list exists pursuant to Education Law §2585, to the extent such statute is applicable, the Receiver or his/her designee shall select from that list the most qualified individual with a record of faithful, competent services in the office or position he or she has filled. In filling vacancies with the most qualified candidate, there will be a committee formed to interview all candidates for the position. The number of committee members will be determined by the Receiver, provided that such number will be either three (3) or five (5), and the committee will be comprised of those whom the Receiver deems necessary, but the BTF shall have the ability to appoint one (1) member to each committee. For each position, the struggling school will work with the Department of Human Resources to develop an appropriate rubric for the qualifications of the position based on objective criteria.

In filling vacancies through the transfer process at the struggling schools, the Receiver shall have the right to fill such vacancies with the teacher that is most qualified to fill the position, regardless of seniority, provided that if a preferred eligibility list exists pursuant to Education Law §2585, to the extent such statute is applicable, the Receiver or his/her designee shall select from that list the most qualified individual with a record of faithful, competent service in the office or position he or she has filled. In filling vacancies with the most qualified candidate, there will be a committee formed to interview all candidates for the position. The number of committee members will be determined by the Receiver, provided that such number will be either three (3) or five (5), and the committee will be comprised of those whom the Receiver deems necessary, but the BTF shall have the ability to appoint one (1) member to each committee. For each position, the struggling school will work with the Department of Human Resources to develop an appropriate rubric for the qualifications of the position based on objective criteria.

A teacher at any of the struggling schools may request a transfer to another school by submitting a written request directly to the Receiver or his/her designee. Such application shall be made by March 23. The Receiver or his/her designee shall have the discretion and ability to deny the request on or before July 1, but shall consider the wishes of the individual teacher and the best interests of the students attending the Struggling School in evaluating all such requests. Notice of any such denial shall be provided in writing, which shall include a description of the constitutionally and statutorily permissible reason(s) therefor; provided that where the Receiver denies a transfer request on the basis that there are not readily available other persons who are qualified to perform the duties to be assigned, the Receiver must maintain documentation on file that the district had undertaken a good faith recruitment search for a certified and qualified candidate and determined that there are no available persons qualified to perform the duties of such position. Where a request is denied, nothing herein shall prohibit the teacher from making a subsequent request for transfer from the Struggling School consistent with the Contract. Notwithstanding this modification to Article XIV, the provisions of Article XIV(D) relating to transfer requests based on hardship remain applicable. In the event that a teacher wishes to appeal the refusal based on extenuating circumstances, he/she may request a meeting with the Receiver.

The Receiver shall have the right to mandate that faculty meetings be held twice per month at the struggling schools. Wherever practicable, notice will be given to the faculty at least one (1) week in advance of the meeting, except in the case of emergencies. Faculty meetings may be held either before or after school hours at these schools. The faculty meetings will be no more than sixty (60) minutes, and attending teachers will receive a proportionate increase in compensation which shall be based on the hourly rate of pay in accordance with the Contract.

The Receiver shall have the discretion and ability at any time and for any constitutionally or statutorily permissible reason to involuntarily transfer teachers at the struggling schools regardless of seniority or status as the building union delegate. Notice of involuntary transfers shall be given to the affected teacher as far in advance as practicable which shall be at least fifteen (15) days prior to the effective date of the transfer and shall include a description of the constitutionally and statutorily permissible reason(s) therefor. In the case of a building union delegate, such reason(s) shall not relate to the employee's lawful actions(s) in his/her capacity as the building union delegate. With respect to involuntary transfers which take effect during the school year after the first two weeks of school, the teacher shall be allowed up to two (2) days in which to make the move to the new building and to become acquainted with the new position. If the principal requests an involuntary transfer, a meeting will be held with the teacher and the Receiver or his/her designee to discuss such transfer before it becomes final, with the final decision resting with the Receiver. Teachers involuntarily transferred will be placed on a transfer list, consistent with Article XIV(E), for placement in a similar position in the teacher's tenure area in another school. A similar position means the same subject and tenure area the teacher taught at the building he/she is being

transferred from and for which he/she is certified. It shall also be a position of the same FTE allotment with no loss of compensation. The provisions of Article XIV(E), (I) and (L) of the CBA continue to apply to teachers subject to involuntary transfers.

The Receiver shall have the right to extend the school day and/or school year at any of the struggling schools by expanding student learning time by a minimum of 200 student contact hours per year; provided that if the Receiver decides to lengthen the school day and/or school year by more than 200 student contact hours per year teachers shall be so notified, in writing, by February 1 for the following school year. If the Receiver decides to lengthen the school day at any of the struggling schools in receivership, the teachers at such school where the school day is lengthened will receive a proportionate increase in compensation which shall be based on the hourly rate of pay in accordance with the Contract. If the Receiver decides to lengthen the school year at any of the struggling schools in receivership, the teachers at such school where the school year is lengthened will receive a proportionate increase in compensation which shall be 1/200th of their annual salary as set forth in Article VIII(B)(2) of the Contract and Education law §3101(2). If the Receiver decides to lengthen both the school day and the school year at any of the struggling schools in receivership, the teachers at such school where the school day and school year are lengthened will receive a proportionate increase in compensation which shall comprise both the hourly rate of pay for the extended schools day in accordance with the Contract and 1/200th of their annual salary for the extended school year as set forth in Article VIII(B)(2) of the Contract and Education Law §3101(2).

“In order to ensure that teachers and administrators have maximum flexibility for common planning time, I proposed the following modification to Articles VIII and X of the CBA: ‘The Receiver shall have the discretion and ability to modify the schedule at any time at the struggling schools for the purpose of adding more common planning time.’ (Superintendent Submission to Commissioner)”

Prior to the commencement of the school year, the Receiver shall have the discretion and ability to change the starting and ending times of the school day from the previous year. The District will be responsible for notifying teachers by February 1 of the change.

The Receiver shall have the right to require that the teachers at the struggling schools attend professional development activities the Receiver deems necessary. The professional development opportunities will be based on the needs of the school and will be school specific. Teachers will be notified of these opportunities at least thirty (30) days in advance and the professional development offering will be offered more than once if it is after the school day or regular school year. Consistent with Article X (O) of the CBA, to the extent possible, such professional development activities shall be held during student release time and, to the extent possible, shall be held at the school or within the district. For professional development opportunities that are after the regular school day, teachers shall be compensated at a proportionate increase in compensation which shall be based on the hourly rate of pay in accordance with the Contract. If the

professional development opportunity is after the regular school year and is less than four clock hours, teachers shall be compensated at a proportionate increase in compensation which shall be based on the hourly rate of pay as set forth in Article VIII(B)(2) of the Contract. If the professional development opportunity is after the regular school year and is four clock hours or longer, teachers shall be compensated at 1/200th of their annual salary as set forth in Article VIII(B)(2) of the Contract and Education Law §3101(2).

The Receiver shall have the discretion and ability to require teachers at the struggling schools to use all technological tools necessary and appropriate to more effectively communicate with students and parents. The District will be required to provide training for the use of the technological tools for which they have not been previously trained.

These attacks on our contract really have nothing to do with improving teaching and learning. They are about their feeble attempts to attack our solidarity.

However, the final part of her ruling is an all out attack on our entire contract – one that goes far beyond the absurd law.

The last paragraph states:

“IT IS FURTHER ORDERED that all provisions of the parties’ existing collective bargaining agreement that do not conflict with or modify the receivership collective bargaining agreement impose herein remain applicable to such schools.”

In other words, any section of our contract can be changed regardless of whether said change was sought by the Superintendent or ordered by the Commissioner.

As I said, we have been working with NYSUT to challenge all aspects of these vindictive laws, regulations and Commissioner’s decision.

I will not go in to the issues that we consider illegal, incorrectly applied (preferred eligibility lists vs. involuntarily transferred lists), etc. We have spent many hours with our attorneys dissecting the Commissioner’s ruling for litigation.

We will provide details when our legal actions commence.

We will not stop even if it means going to the U.S. Supreme Court.

Stay tuned.

PR:su