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Title: **Board of Education of the City School District of the City of New York and United Federation of Teachers, American Federation of Teachers (AFT), AFL-CIO, Local 2 (2003) (MOA)**

K#: **800286**

Location: **NY New York**

Employer Name: **Board of Education of the City School District of the City of New York**

Union: **United Federation of Teachers, American Federation of Teachers (AFT), AFL-CIO**

Local: **2**

SIC: **8211**

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Sector: **L**

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MEMORANDUM OF AGREEMENT (the 'Agreement') entered into this day of October 2005 by and between the Board of Education of the City School District of the City of New York (the 'Board') and the United Federation of Teachers, Local 2, AFT, AFL-CIO (the 'Union') modifying certain collective bargaining agreements between the Board and the Union that expired on May 31, 2003, as set forth more particularly below.

IN WITNESS THEREOF NOW, THEREFORE, it is mutually agreed as follows:

1. INTRODUCTION

The collective bargaining agreements between the Board and the Union which expired on May 31, 2003, covering the titles and/or bargaining units set forth in paragraph 3, below, shall be replaced by successor agreements that shall continue all their terms and conditions except as modified or amended below.

2. DURATION

The terms of the successor agreements shall be from June 1, 2003 through October 12, 2007.

3. WAGES

The salaries and rates of pay for the employees in the bargaining units covered by this Agreement are set forth in and attached hereto as APPENDIX A, but the specified increases in salaries and rates of pay shall apply only to incumbents on payroll as of September 12, 2005 or after, as well as employees who retired any time during the term of the Agreement. They cover the following titles and rates of pay:

Teacher

Teacher's Assistant

Teacher Aide

Educational Assistant

Educational Assistant A - I

Educational Assistant A - II

Educational Assistant B

Educational Associate

Auxiliary Trainer

Bilingual Professional Assistant

Guidance Counselor

School Psychologist and School Social Worker and related titles

School Secretary and related titles

Laboratory Specialist and Technician

Mental Health Worker

Attendance Teacher

Bilingual Teacher in School and Community Relations

Education Administrator

Education Analyst/Officer

Associate Education Analyst/Officer

School Medical Inspector

Director and Assistant Director of Alcohol and Substance Abuse Programs

Registered Nurse, Occupational Therapist, Physical Therapist and related titles

Supervising Nurse, Supervising Physical Therapist and Supervising Occupational Therapist

Supervisor of School Security

Adult Education Teacher

Sign Language Interpreter

Occasional Per Diem Teacher

Occasional Per Diem Secretary

Occasional Per Diem Paraprofessional

Per Session Rate

Coverage Rate

Shortage Rate

Daily Training Rate

WNYE Differential

Staff Development Rate

4. LONGEVITY INCREMENTS

All longevities, step increments, differentials, and other rates of pay not otherwise covered in APPENDIX A, or elsewhere in this Agreement, shall be increased by an amount consistent with the increase in the shortage area rate set forth in APPENDIX A.

5. HEALTH INSURANCE AND WELFARE FUND

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.

6. PENSION AND RETIREMENT PROGRAM

Article 4C of the Teachers Agreement and the relevant sections of the other Agreements in which it appears will be replaced as follows:

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.

7. ADDITIONAL TIME

1. Teacher contract Article 6 shall be replaced and amended as follows:

A. School Day

1. The school day for teachers serving in the schools shall be six hours and 20 minutes and such additional time as provided for below and in the by-laws. The gross annual salary of employees covered by this agreement will be increased in accordance with the salary schedules herein.
2. The parties agree, effective February, 2006, to extend the teacher work day in "non Extended Time Schools" by an additional 37 ½ minutes per day, Monday through Thursday following student dismissal. Friday's work

schedule 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 and will have a teacher student ratio of no more than one to ten. In single session schools, the day will start no earlier than 8:00am and end no later than 3:45pm.

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; however, in this event the teacher to student ratio will be no more than 1 to 5. Non-District 75 self contained classrooms shall have either a 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 if the time is utilized as set forth in paragraph 2 above the teacher to student ratio should be no more than one to five.

5. Existing faculty and grade conference time should be used for professional development.

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

B. Expedited Appeal Group Size

In order to ensure that the maximum number of students is not exceeded there will be an expedited arbitration procedure to allow the UFT to seek both a cease and desist order as well as monetary penalties for exceeding the small group instruction size limit. The procedure will be the same as that currently used under Article 22B7 and 22G. These expedited arbitrations shall not count toward the 140 arbitration dates.

C. Work Year

All teachers shall report to their schools to begin work on the Thursday preceding Labor Day for a professional day, and will also have a professional day on the Friday preceding Labor Day and on Brooklyn-Queens day. 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. Teachers shall be in attendance on duty thereafter on all days of the school year except for the last two weekdays of the month of June. 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. In no event,

however, shall the number of days worked in any school year under this work calendar be fewer than the number of days teachers would have worked had they reported, as before, on the Friday after Labor Day and worked through the last weekday in June.

D. Other Titles

The following titles shall have their work day and work year extended in the same manner as Teachers: Teacher's Assistant; Teacher Aide; Educational Assistant; Educational Assistant A-1; Educational Assistant A-II; Educational Assistant B; Educational Associate; Auxiliary Trainer; Bilingual Professional Assistant; Bilingual Teacher in School & Community Relations; Occasional Per Diem Teacher; and Occasional Per Diem Paraprofessional.

Education Analyst/Officer, Associate Education Analyst/Officer; Director and Assistant Director of Alcohol & Substance Abuse Programs, Mental Health Workers and Education Administrators shall have their lunch periods reduced by 10 minutes.

School Psychologists and Social Workers shall work an additional 10 minutes per day. School Psychologists and Social Workers shall report for regular workdays on the Thursday and Friday before Labor Day. School Psychologists and Social Workers shall report on Brooklyn-Queens day for professional development.

School secretaries shall have one 10 minute break eliminated per day. In addition, school secretaries shall report for regular workdays on the Thursday and Friday before Labor Day. School secretaries shall report on Brooklyn-Queens Day for professional development. Per diem secretaries shall have one 10 minute break eliminated per day.

Guidance Counselors, Attendance Teachers, and Teachers of the Homebound shall have their workdays extended by 10 minutes, and report the Thursday and Friday before Labor Day and Brooklyn-Queens Day for professional development.

Lab Specialists shall have their relief period reduced by 10 minutes and report the Thursday and Friday before Labor Day and Brooklyn-Queens Day for professional development.

Adult Education Teachers shall have 10 minutes of preparation time added to their workday and report the Thursday and Friday before Labor Day Brooklyn-Queens Day for professional development.

SOS Teachers and New Beginnings Teachers shall report to the Thursday and Friday before Labor Day and Brooklyn-Queens Day for professional development.

Teachers in ETS shall report on Brooklyn-Queens Day for professional development.

8. CIRCULAR 6R

1. Modify Article 7A, 7B, 7C, and 7K and Circular 6R to reflect the following agreed terms:

The menu of activities to be offered to each teacher shall be from among the following:

- Small group instruction (not to exceed 10 students)
- One to one tutoring
- Advise student activities such as clubs, teams or publications
- Perform student assessment activities (including portfolios, performance tests, IEPs, ECLAS, etc.)
- Professional development/prepare staff development workshops and demonstration lessons
- Common planning time
- Conflict resolution for students
- Cafeteria Duty
- Schoolyard Duty
- Hallway Duty
- AM Bus Duty
- PM Bus Duty
- Homeroom
- Provide inter-disciplinary articulation
- Develop multi-cultural curriculum
- Develop Programs to integrate technology into the daily life of the classroom

Teachers performing homeroom fulfill the requirement of the professional period. Teachers selecting AM or PM bus duty will use their professional activity period as a preparation period.

Any teacher who wishes to participate in a professional activity not listed on the above menu may, upon approval of the principal, select such an activity.

The number of available positions for each activity and the qualifications and responsibilities required for each activity shall be set by the principal in consultation with the Chapter Leader. Each spring, but no later than April 15th, the principal shall meet to consult with the Chapter Leader on the number of positions for each menu item. Should the Union believe the number of positions for administrative activities set by the principal is inappropriate, or should a teacher believe a selection decision is in violation of the agreement, the Union may appeal to the Chancellor. The Chancellor or his/her designee will consult with the Union President, or his/her designee, prior to issuing a decision on the appeal. The Union may appeal the decision of the Chancellor or his designee within 15 days to the NYC Office of Labor Relations, which will issue a final and binding decision.

Teachers shall select each spring (following the timeframe for program preferences listed under Articles 7 A, 7B, 7C, and 7K in the CBA) in priority order, (3) activities from the menu they want to participate in for the following school year. The principal shall make assignments based on qualifications and availability of positions. If more teachers seek particular activities than positions are available, the principal shall select the most qualified teacher(s); and if the candidates are equally qualified the candidate with the most school seniority will be selected. To the extent possible each teacher shall receive one of the three (3) activities for the following school year. If this is not possible, the teacher will be given the opportunity to select (3) additional choices, one of which will be granted, subject to qualifications, and unless sufficient teachers do not choose a particular activity. If sufficient teachers do not choose a particular activity with any of their six (6) choices, the Principal will assign teachers to these activities on a rotational basis in inverse seniority order with no teacher being involuntarily assigned to an administrative activity for consecutive years.

For the 2005-2006 school year, the principal shall meet to consult with the Chapter Leader on the number of positions for each menu item for the spring 2006, and the menu will be issued for teachers to select preferences by December 23, 2005. Teachers shall be notified of their assignments by January 13, 2006 and begin their assignments on the first day of the Spring Semester.

Teachers new to the school system and those teachers in danger of receiving an unsatisfactory rating may be assigned by the principal to professional development or common planning as their professional activity, regardless of their preferences, to further enhance their teaching skills. A teacher in danger of receiving an unsatisfactory rating who is assigned to AM or PM bus duty may be assigned by the principal to professional development or common planning as their professional activity in lieu of AM or PM bus duty. Teachers hired in the fall will be offered three choices by the principal from the menu.

Each teacher shall be notified in writing by the principal prior to the end of the school year, pursuant to Articles 7A, 7A, 7C, and 7K of the collective bargaining agreement, of the activity they have been assigned for the following school year and it will be incorporated as part of his/her program.

Teachers serving in compensatory time positions, pursuant to the SBO process (defined in articles 7A, 7B, 7C and 7K of the CBA and Circular 6) shall continue to do the work of their position during their professional periods (except to the extent the SBO specifically states otherwise) and must at the beginning of each term submit to the principal for approval a plan for the use of their professional periods.

Teachers serving as athletic coaches, pursuant to Article 15 of the CBA, and receiving per session for such activity, shall be permitted to use their professional periods to further the work of their activity, and must at the beginning of each term, submit to the principal for approval a plan for the use of their professional periods.

Any teacher may grieve the failure to follow the terms of this provision pursuant to the regular grievance and arbitration provision of the agreement, however the assignment of particular activities hereunder shall not be grievable. The Union may challenge the assignment of a particular activity by appealing, within 15 days, to the Chancellor/designee, who will consult with the Union prior to rendering a decision. The Union may appeal the decision of the Chancellor/designee to the New York City Office of Labor Relations, which will issue a final and binding decision.

9. TRANSFERS AND EXCESSING

1. Article 18 A, B, C and F are deleted and replaced with the following language:

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 positions to which no teacher has been appointed, except where a non-appointed teacher is filling in for an appointed teacher on leave. Vacancies will be posted as early as April 15 of each year and will continue being posted throughout the spring and summer. Candidates (teachers wishing to transfer and excessed teachers) will apply to specifically posted vacancies and will be considered, for example, through job fairs and/or individual application to the school. Candidates may also apply to schools that have not advertised vacancies in their license areas 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 teacher's current principal. Teachers who have repeatedly been unsuccessful in obtaining transfers or obtaining regular teaching positions after being excessed, will, upon request, receive individualized assistance from the Division of Human Resources and/or the Peer Intervention Program on how to maximize their chances of success in being selected for a transfer.

Unless a principal denies the placement, an excessed teacher will be placed by the DOE into a vacancy within his/her district/superintendency; or if such a vacancy is not available, then in a vacancy within his/her region. The DOE will place the excessed teacher who is not so placed in an ATR position in the school from which he/she is excessed, or in another school in the same district or superintendency.

2. Article 18G (1 – 4) shall remain in effect. The remainder of 18G is deleted.

3. In addition to the relevant provisions above, Article 17 shall also be modified to include the following:

Teachers 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 teachers will continue to be governed by applicable law.

10. MATERIAL IN THE FILE

Article 21A5 shall be deleted and replaced with a new Article 21A5 to read as follows:

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

The following issues shall not be the basis for discipline of pedagogues: a) the format of bulletin boards; b) the arrangement of classroom furniture; and c) the exact duration of lesson units.

Article 22C shall be modified to exclude Material in File grievances.

11. DUE PROCESS AND REVIEW PROCEDURES

a. Time and Attendance

The following language will be added to Article 21 as a new section after the current 21F:

If the DOE seeks to discipline a tenured pedagogue regarding absences and/or lateness but seeks a penalty short of termination, the following expedited procedure will apply:

The DOE will notify the employee that it intends to bring disciplinary action against the employee pursuant to this section. The DOE will include in this notice the employee's attendance record and any other documentation it intends to introduce at the hearing and a statement that pursuant to this section the arbitrator may award any penalty, or take other action, short of termination.

Within 15 calendar days following this notice, the employee must notify the DOE in writing of the nature of his\her defense and submit any documentation s\he intends to submit into evidence as well as a medical release for any medical documents related to such defense.

If either party believes that it requires additional documents, it may request a telephonic conference with the arbitrator.

The expedited hearing will occur within one month of the DOE's notification to the employee mentioned above. The hearing will be informal and the normal rules of trial procedure and evidence shall not apply. The arbitrator will issue an award and short

decision within 15 calendar days of the hearing. The arbitrator's award will be final and binding on all parties. The award may be introduced in a 3020-a hearing and any findings shall be binding on the 3020-a arbitrator.

One arbitrator, agreed upon between the parties, will hear all absence and lateness cases hereunder. The parties may expand the number of arbitrators if necessary. The arbitrator will hear 4 cases per hearing date on a staggered schedule, but in no situation will one case take more than ½ a day. The parties may expand the number of cases heard in a day if they deem it practical.

b. Sexual Offenses Involving Students

The following provisions regarding sexual offenses involving students and minors who are not students are in addition to the provisions in Article 21G(4) and will follow Article 21G(4):

A tenured pedagogue who has been charged under the criminal law or under §3020-a of the New York State Education Law with an act or acts constituting sexual misconduct (defined below) shall be suspended without pay upon a finding by a hearing officer of probable cause that sexual misconduct was committed.

A rebuttable presumption of probable cause shall exist where the Special Commissioner of Investigations ("SCI") substantiates allegations of sexual misconduct, or a tenured pedagogue has been charged with criminal conduct based on act(s) of sexual misconduct.

A report from the Chancellor's Office of Special Investigations ("OSI") substantiating allegations of sexual misconduct is relevant evidence of probable cause.

In §3020-a proceedings, a mandatory penalty of discharge shall apply to any tenured pedagogue a) found by a hearing officer to have engaged in sexual misconduct, or b) who has pleaded guilty to or been found guilty of criminal charges for such conduct

The 3020-a hearing should be completed within two months, but the suspension without pay shall be extended one additional month if the hearing has not been completed, unless the DOE has received an adjournment or otherwise delayed the proceeding. The suspension without pay shall also be extended until a criminal action is resolved and any 3020-a proceeding is also completed.

If the 3020-a hearing results in a dismissal of the charges or if the criminal proceeding ends in an acquittal or dismissal (and the DOE has decided not to prefer charges), the pedagogue shall be entitled to back pay with interest for the entire period of the suspension without pay.

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.

A letter of agreement dated October 3, 2005 regarding sexual offenders is attached as ATTACHMENT 1.

c. Other Felony Offenses

The following language will be added to Article 21 and will follow Paragraph B above:

Tenured pedagogues who have been convicted of, or who have pled guilty to, any felony (not addressed in paragraph 1, above) shall be suspended without pay pending the final outcome of the 3020-a disciplinary proceeding. The 3020-a hearing should be completed within two months, but the suspension without pay shall be extended one additional month if the hearing has not been completed, unless the DOE has received an adjournment or otherwise delayed the case.

d. False Accusations

The following language will be added to Article 21 and will follow Article 21G:

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 DOE or Special Commissioner of Investigation to have been knowingly false when made, the DOE 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 departmental 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.

e. Article 21 will be re-lettered and renumbered in accordance with the above.

12. GRIEVANCE PROCEDURE

Article 22B1b shall be deleted.

Article 22B1c shall be amended as follows. If the grievance is not resolved at Step 1, the Union may appeal from the decision at Step 1 to the Chancellor addressed to the attention of the Deputy Executive Director, Office of Labor Relations and Collective Bargaining within 15 school days after the Step 1 decision was given to the member. The appeal shall be in writing, shall set forth specifically the reasons for the appeal, and shall be accompanied by a copy of the appeal and the decision at Step 1. It shall state the name of the employee's Union representative.

References to the Superintendent's representative attending Step 3 Conferences will be eliminated.

13. LEAD TEACHERS

The CC9 Lead Teacher Pilot Program will be expanded as follows:

1. The Chancellor will determine the number and location of lead teacher positions.
2. Lead teachers will receive \$10,000 in additional salary, beyond that provided for in the collective bargaining agreement between the parties (or a pro rata amount for a partial year worked).
3. In the elementary schools, each pair of lead teachers will have responsibility for one regular class. Each lead teacher will be programmed for a duty-free lunch period and a preparation period that will be scheduled at the same time as the preparation period of the lead teacher with whom they are sharing a class. Half of the remainder of the day will be spent teaching their class and half providing professional support to teaching staff.

Middle School and High School lead teachers will be programmed for a duty free lunch and a preparation period each day. Lead teachers will teach three regular classes per day and will provide professional support to teaching staff three periods per day.

4. Lead teachers will work as a group the five weekdays prior to the start of the work year for other teachers according to a plan set and approved by the applicable Regional Superintendent. Lead teachers will work 4 hours per month outside of the normal workday, according to a schedule and plan set and approved by the applicable Regional Superintendent at the start of the school year. Lead teachers shall not receive additional compensation for the work time specified in this paragraph. Lead teachers from extended time

schools, in lieu of working the five days during the summer provided for in Article 12 II A1 of the Teachers' Agreement, shall have the choice of either having the monetary value of that workweek, as determined by DOE in consultation with UFT, deducted from the compensation provided for in paragraph 3, or making up that work time during the school year, subject to the approval of the school principal.

5. Lead Teachers will be selected and assigned in the following manner. Positions will be advertised through a city-wide posting and assigned to individual schools. Selection will be done in a two-stage process: first, a regional personnel committee, made up of four representatives of the Regional Superintendent, two representatives of the Union and two parent representatives (chosen from among volunteers of the relevant Community Education Councils and/or presidents of the Parent Associations) shall select a pool of applicants with the best qualifications according to criteria established by the committee, other than in District 9 where the current selection committee will be maintained. Selections, to the extent possible, shall be made by consensus. Second, each participating school will establish its own personnel committee, made up of the principal, administration representatives, staff representatives and parent representatives, with a majority of teachers, to make selections from the pool selected by the regional personnel committee. Selections, to the extent possible, shall be made by consensus and the principal shall have the ability to veto any selections of such school committee.
6. Lead teachers leaving the assignment at the end of their first year as a lead teacher may return to a vacancy in the last school where they served before becoming a lead teacher and take their rightful place in seniority order, and if there is no vacancy in such school, to a vacancy in the district. In the alternative, the lead teacher may choose to be placed in a vacancy in the district where they served as a lead teacher.
7. If a lead teacher is involuntarily removed in the middle of the year by the principal, the lead teacher will be placed in a vacancy in the district s/he is working in as a lead teacher or in a vacancy in the district s/he worked in immediately prior to becoming a lead teacher (at the lead teacher's option). If no such vacancies exist, the lead teacher will be placed in the substitute pool in the district they served in as a lead teacher. At the end of the school year, the lead teacher shall be placed in a school pursuant to paragraph 6 above.
8. Notwithstanding the foregoing, any lead teacher may be placed in a teaching vacancy in the school in which he or she is serving as lead teacher, with the consent of the lead teacher and such school's principal.
9. A lead teacher's school seniority is determined in accordance with Article 28C of the Teachers' Agreement.

10. Grievances regarding this agreement, except the selection of lead teachers, shall be governed by Article 22B1 of the Teachers' Contract, except that applicants rejected by the regional personnel committee may challenge that committee's decision through the process set forth in Article 22E of the Teachers' Contract, and if successful, will be included in the pool of applicants considered for selection. The Union may challenge the selection of a lead teacher at the school level by appealing to the Chancellor/designee, who will consult with the Union prior to rendering a decision. The Union may appeal the decision of the Chancellor/designee to the New York City Office of Labor Relations, which will issue a final and binding decision.

14. LABOR/MANAGEMENT COMMITTEE ON LONG TERM REFORMS

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

15. PSYCHOLOGIST AND SOCIAL WORKER WORKLOAD DISPUTES

Upon receiving a written complaint from a school psychologist or social worker regarding an existing workload, the principal or his/her designee shall meet with the employee making the complaint, and his/her representative, and reach a determination within five (5) school days. If the complaint is not resolved, the chapter leader may forward it to the appropriate Superintendent, within five (5) school days of the determination, for review. If a timely request for review is received by the Superintendent, s/he shall designate a representative to jointly investigate with a UFT appointed representative the workload that is alleged to be inappropriate. The two representatives will then submit recommendations to the Superintendent for his/her written determination, which shall be made within (10) school days of receipt of the recommendation(s). The UFT shall have the right to appeal the Superintendent's determination to the Chancellor within five (5) school days of the Superintendent's written determination of the complaint, or if the Superintendent does not timely render a determination, to seek review at the Chancellor's level within forty-five (45) days of the principal's receipt of the original written complaint, whichever is earlier. Such appeal shall contain a detailed written statement of the reasons for dissatisfaction with the Superintendent's determination. The Chancellor or his/her designee shall review the workload complaint and make a final determination, not subject to further review, within fifteen (15) school days of receipt of the appeal.

The UFT shall withdraw, with prejudice, the union initiated grievance in case #H-079-C13370. In consideration thereof, the DOE agrees that if any psychologist has received a letter in the file prior to the date of this MOA for failing to comply with a strict quota, any reference to such failure shall be immediately removed from the letter. After the date of this MOA, these issues will be included in the workload dispute resolution procedure.

15a. **SCHOOL PSYCHOLOGISTS AND SOCIAL WORKERS STAFF DEVELOPMENT**

Article 6D of the School Psychologists and Social Workers Agreement shall be modified so that two of the five days of staff development shall be mandatory and the subject matter and content shall be directed by the DOE. One of the two days shall be designated system-wide on a work day when students are not scheduled to attend school.

16. **PERB PROCEEDINGS**

The City and the Union shall withdraw the following Improper Practices with PERB: U-25999 and U-26027.

17. **NURSES AND THERAPISTS**

The Parties agree that the selection process for summer work for nurses and therapists who work in the school health program shall be as follows:

1. Priority will be given to volunteers who serve the same student population during the regular work year.
2. If there are not enough volunteers from the district of the program, volunteers will be selected from outside the district.
3. If there are not sufficient volunteers, nurses or therapists from the district of the program will be assigned in reverse order of their seniority on a rotating basis.

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

18. **NURSES PERB STIPULATION**

The UFT withdraws from the PERB Stipulation of Settlement dated August 14, 1997. The parties agree to expeditiously work out the details necessary to implement the integration of the Department of Education and the Department of Health/Mental Hygiene school nurse functions.

By agreeing to fund a ten month work year for DOE nurses as part of this collective bargaining agreement, in exchange for termination of the PERB stipulation, it is the express intent of the parties to resolve the issues related to the integration of the DOE and DOHMH school health program consistent with the negotiations held between the parties over the last year.

By entering into this agreement it is not the parties' intention to either advantage or disadvantage either Department of Health and Mental Hygiene or Department of Education nurses union representation at the expense of the other.

19. **NURSES AND THERAPISTS WORK YEAR**

Effective for the 2005-2006 school year, the work year for Nurses and Therapists shall be the same as regular classroom teachers in non-extended time schools. The parties will also meet to discuss any issues related to the change of Nurses and Therapists from a 12 month to 10 month work year.

20 **DISCHARGE REVIEW**

To be included in the Paraprofessional Contract and Nurses and Therapists Contract in the Discharge Review Procedures article:

In any arbitration reviewing the discharge of an employee who has been charged with sexual misconduct there shall be a mandatory penalty of discharge if the employee is

found by the arbitrator to have engaged in sexual misconduct or has pleaded guilty to or been found guilty of criminal charges for such conduct.

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

21. MISCELLANEOUS

1. Unless expressly stated otherwise, the provisions of this Agreement apply to the bargaining units and titles covered in paragraph 3 above and will be incorporated into the individual unit agreements as applicable.
2. In the event any inconsistency exists between the terms contained in this Agreement and the expired collective bargaining agreements, this Agreement shall be determinative.

22. INTERIM AGREEMENTS

The agreements (annexed hereto collectively as APPENDIX B) reached during the term of the collective bargaining agreements effective November 16, 2000 to May 31, 2003 are to be included in the applicable successor agreements subject to such modifications as are required by this agreement and its Appendices.¹

1. Agreement between the Board of Education and the UFT pertaining to the positions of math and literacy coach, dated May 14, 2004.
2. Agreement between the Board of Education and the UFT pertaining to the position of mentor signed in May, 2004.
3. Agreement between the Board of Education and the UFT pertaining to F status dated September 1, 2005.
4. Agreement between the Board of Education and the UFT pertaining to substitute vocational assistants (SVA's) dated October 12, 2001.
5. Agreement between the Board of Education and the UFT pertaining to the City Hall Academy, signed in August, 2003.
6. Agreement between the Board of Education and the UFT pertaining to the New Beginnings Centers signed in February 2003.
7. Agreement between the Board of Education and the UFT pertaining to Education Evaluators and Psychologists, dated October 28, 2003.

23. RATIFICATION

¹ These agreements are currently in effect and do not require further ratification.

This Agreement is subject to ratification by the Union, and adoption by the Board of Education.

24. SAVINGS CLAUSE

In the event that any provision of this Agreement is found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions of this Agreement.

WHEREFORE, we have hereunto set our hands and seals this ____day of October, 2005.

**United Federation of Teachers
Local 2, AFT, AFL-CIO**

The Board of Education, as Employer

By: _____
**Randi Weingarten
President**

By: _____
**Joel Klein
Chancellor**

City of New York

Adopted by The Board of Education

By: _____
**James F. Hanley
Commissioner
Office of Labor Relations**

By: _____
**Joel Klein
Chairman of the Board**