

# **NEW Caucus' Updated Critique of the Proposed Contract**



**October 27, 2012**

# **What This PROPOSED Contract Means For Education Workers and Students**

- THIS CONTRACT HURTS STUDENTS BY CREATING WORKING CONDITIONS THAT WILL RESULT IN A HIGH TURNOVER RATE OF TEACHERS AND BY ALLOWING FOR MAJOR DISRUPTIONS IN FAMILY LIFE THROUGH SCHOOL “TURNAROUNDS,” CONSOLIDATIONS, AND CLOSURES!
- MORE TURNAROUNDS MEANS TEACHERS WILL BE ROBBED OF THEIR JOBS BASED ON THE SUBJECTIVE VIEWS OF BUILDING PRINCIPALS, NOT OBJECTIVE JOB PERFORMANCE.
- THIS CONTRACT IS INHUMANE! IT THREATENS THE HEALTH AND FAMILIES OF NEWARK EDUCATION WORKERS!
- THIS CONTRACT SLASHES TEACHERS SALARIES AND BENEFITS OVER TIME!
- THIS CONTRACT DESTROYS OUR UNION! At every turn it destroys our ability to defend and protect our members!
- THIS CONTRACT PITS TEACHER AGAINST TEACHER! It destroys union and working class solidarity!
- DICTATORIAL SUPERINTENDENT CONTROL OVER NEW EVALUATION SYSTEM!
- LOSS OF THOUSANDS OF DOLLARS IN RETROACTIVE PAY! No guarantee WHEN we get it!
- LOWER SALARIES OVER TIME for those who choose OR are FORCED into Merit Pay!
- LOWER SALARIES for ALL employees, EVEN THOSE WHO STAY ON REGULAR SCALE!
- Few teachers will be rated Highly Effective! FEW TEACHERS WILL ACTUALLY GET BONUSES!
- The philanthropic money for merit pay can disappear, as it did in Washington DC, leaving NPS without money to pay bonuses!
- SETS STAGE FOR LONGER PERMANENT HOURS! SENATE BILL 2087 CAN ENABLE IT, PRINCIPALS NEED TO PROVIDE 30 DAYS NOTICE PRIOR TO NEW SCHOOL YEAR, AND NO ADDITIONAL PAY EXPLICITLY MENTIONED IN CONTRACT FOR REGULAR PUBLIC AND MAGNET TEACHERS IF/WHEN IT HAPPENS.

## **THIS IS A CUT-THROAT BUSINESS CONTRACT, NOT A SOCIAL JUSTICE CONTRACT.**

- IT ENSURES THE CONTINUED PROCESS OF PRIVATIZATION OF NEWARK PUBLIC SCHOOLS
- IT MEANS INDENTURED SERVITUDE FOR EDUCATION WORKERS
- IT DOES NOT PROVIDE STUDENTS WITH ANYTHING THEY DESERVE IN SCHOOL

## **SOLUTION = VOTE NO TO MOVE TO FACT-FINDING, THEN ARBITRATION**

- DEMAND THE FORMATION OF A RANK-AND-FILE CONTRACT COMMITTEE TO COORDINATE A REAL FAIR CONTRACT CAMPAIGN IN EACH BUILDING WITH NTU MEMBERS
- ENABLES WILLING AND ABLE NTU MEMBERS TO WORK WITH LEADERSHIP TO PREPARE A COUNTER, SOCIAL JUSTICE-BASED CONTRACT WE CAN ALL UNITY AROUND AND SUPPORT
- NEED EQUAL RESOURCES FOR STUDENTS, SMALL CLASS SIZE GUARANTEE, INCREASED LEARNING SUPPORTS, BALANCE OF POWER IN EVALUATION PROCESS, REDUCTION IN PAPER WORK FOR TEACHERS, ANTI-BULLYING PROVISION, HIRING POOL, FAIR COMPENSATION, A STRICT TIMETABLE FOR FUTURE NEGOTIATIONS SO WE NEVER GO TWO PLUS YEARS WITHOUT A CONTRACT

# CONTRACT ANALYSIS

## TEACHER COACHING AND EVALUATION

While the descriptions of the Peer Oversight Committee and School Improvement Panel and Peer Validators seem to offer a modicum of protection for teachers from administrative abuse, both the Oversight Committee and School Improvement Panel are “ultimately” under the control of the Superintendent. In Part 1B, number 5, the language is clear: “The Superintendent will retain ultimate authority over the selection criteria, and management of Peer Validators.” In Part 1D, the language is even clearer: “The principal and his/her administrative team – with support from the Superintendent’s team – are ultimately and solely responsible for the decisions, content and quality of teachers evaluations. Nothing described in Section 1A, 1B, or 1C of this MOA shall be interpreted as challenging this premise.” In others words, both the Peer Oversight Committee and the School Improvement Panel are **completely** and **unquestionably** under the control of the Superintendent.

Beyond that, even the Peer Validator system is weak. It only includes 1 Peer Validator, rather than a committee. Further, the “Peer” Validator does not even need to be a peer. This leaves even that process open to corruption or manipulation. Part 1, section C2, it is clear that Peer Validators do not even need to be your peers.

## COMPENSATION AND BENEFITS

Retroactive Pay is, in general, about 1/3 of what you are actually owed. **IN NO CASE IS RETROACTIVE PAY THE ACTUAL AMOUNT YOU HAVE LOST OVER THE PAST 2 PLUS YEARS!** Two steps and thus two years of education work is essentially eliminated.

If you have a Bachelor’s Degree only, **YOU HAVE NO CHOICE** in what salary scale you must accept. Young teachers with a Bachelor’s Degree and **ALL** new teachers for years or decades into the future will be on the Merit Pay scale.

This contract discourages teachers from furthering their education by pursuing graduate degrees. There is **NO** incentive for teachers to become experts in their field, which helps us know our content better and become better teachers.

Further, teachers on the Merit Pay scale are slightly higher than those on the Regular scale. However, within a few short years that changes. For any conceivable position, after a few short years the pay of those who choose to stay on the Regular Scale will be earning **MORE** per year than those who choose or are forced into the Merit Pay scale.

This effectively creates a two-tiered contract which will split the NTU membership into two distinct interest groups – Merit Pay and Regular groups – **WHO WILL IN THE FUTURE HAVE DISTINCTLY DIFFERENT INTERESTS WHEN NEGOTIATING FUTURE CONTRACTS!** This will make it impossible for our union membership to stand in solidarity in future negotiations, dividing us so that we can never unify again. This has happened in private industry for the past twenty years. In the book Harrison, Bennett and Bluestone, *The Great U-Turn: Corporate Restructuring and the Polarizing of America*, they demonstrate how this method is used to **PERMANENTLY** lower wages for an entire industry. Now it’s being applied to educators!

To get teachers to buy into their Merit Pay system, they propose a bribe. The tentative agreement labels it a “Transition Stipend,” but in reality, that stipend is a bribe, designed to hook teachers into a system that will pay them less over time, and **DOES NOT GUARANTEE THEM MERIT PAY OR BONUSSES.**

If you get an effective on your evaluation, you get your increment, but you only get Merit Pay if you get Highly Effective. In other words, you do not get Merit Pay simply for being Effective. YOU ONLY GET MERIT PAY IF YOU ARE RATED HIGHLY EFFECTIVE.

In Part 2B, number 2C, it specifies that a \$2,500 reward will be available only to those teaching in a “hard-staff-subjects.” In other words, if you do not teach in a hard-to-staff-subject—a vague term that is unspecified—you WILL NEVER have the opportunity to earn this reward.

Further, we must look at the funding sources for these “rewards,” “bonuses,” and “awards.” All the money comes from a \$20 million per year (about \$50 million over the course of the contract) fund taken from “philanthropic funds.” Laughably, Part 2B, section 4, begins with the following: “In the *unlikely event* that philanthropic funds are not available...” [emphasis ours]. Even without a concrete example of such an “unlikely event,” we can all imagine Marc Zuckerberg becoming fickle, or not liking the way his money is being used, and choosing a new charity for his riches in future years. But we need not imagine anything. In Washington, D.C., the teachers union agreed to merit pay funded by “philanthropic funds,” only to find that philanthropic funding fell by 82% (from an average of \$21 million between 2010 to 2012 to \$3.8 million after Michelle Rhee left the district). Then, D.C. was stuck holding the bag with no money to pay these bonuses. In essence, merit pay is really *never pay*.

None of these “bonuses” are pensionable, because they are not considered salary. “Awards” and “rewards” and “stipends” are also not salary, and therefore are also not pensionable.

If you do not give sufficient notice for retirement, you will lose your sick days. You will literally be punished for not putting in your retirement notice early enough.

Even the one area of the contract that seems to sound good, the “sick bank,” is not clearly delineated, and could therefore be administered in an unfair fashion. Who or what will run this “bank”? What criteria will be used to determine how sick days get used? None of this is specified at all.

In Part 2B, number 2D, union-sponsored courses are specifically NOT approved for credit equivalency for increment advancement. This delegitimizes the NTU as a professional organization. It assumes that union-created and union-initiated courses are unworthy for credit equivalency. This *de*professionalizes the NTU, the opposite of what supporters of this contract have been claiming in the media.

In Part 2F, number 3, super-seniority for NTU officials is specifically eliminated. In other words, the NTU is giving up protections for their officials and employees who still work in a school. Again, another step toward the delegitimization of the Newark Teachers Union.

In Part 2F, number 3, the wording that previously guaranteed that we could not be forced to work more than 6 hours and 30 minutes is deleted. With no wording protecting us, we can now be required to work more than the 6 hours and 30 minutes that has been the case in the past. In addition, proposed legislation (S2087) that cleared the Senate Education Committee in late September gives district the option to pilot an extended day program. As a state-controlled district, Newark has no local decision-making power over its public schools and if the superintendent, as an employee of the state, decides to extend the day for all district schools, all principals have to do is provide 30 days notice—say, in the beginning of July 2013—and after those days pass, the school day will be longer. For the key language that can cancel out the existing length of the school day, see Part 4A, number 1: “Any change in the school schedule requires at least thirty-day notice to the school’s staff and families before the school year begins.”

Even our Spring Break is under attack. Part 2F, number 4, the wording that has previously guaranteed us our Spring Break is deleted. In essence, they can, potentially, eliminate our spring break, so long as we are given a thirty-day notice, of course.

For neither of these 2 provisions is there any indication that there will be fair compensation for either those longer days or loss of spring break, particularly if you are an education worker in a regular public or magnet school. In other words, we potentially can be forced to work longer hours without being fairly compensated for our extra labor-power.

If it's not an "extended day," added on to an already 6 hour and 30 minute teaching day, then it is a regular, full teaching day. NPS can potentially argue that since it's not an extended day program, employees should not be given any extra compensation.

### **MISSION-DRIVEN HIRING AND EFFICIENCY**

Part 3A, numbers 1 and 2 allow the district to post job vacancies throughout the school year, most likely through consultant-controlled digital bureaucracies like "Teach Newark" and "Talent Match," without requiring the district to notify building reps.

For all intents and purposes, nothing in this short part deals with the real inefficiencies of hiring that exist in the Human Resources Department at 2 Cedar Street. Nothing is stated in regards to how the civil service workers in Human Resources will be assisted in increasing the speed by which the necessary paperwork completed by prospective education workers is processed.

### **SCHOOL EMPOWERMENT**

This is a short yet significant part of the proposed contract. Part 4A, number 1 provides the language principals need to extend the school day so long as they give thirty days notice prior to the beginning of the school year.

Part 4B, numbers 1 to 7 creates the what can be called a "teacher trigger provision" that allows education workers to "seek waivers from provisions of the collective bargaining agreement [CBA]." If 25% of staff raise an issue with the CBA, a secret ballot will be held to determine if the waiver will be sent to the building principal, the superintendent, and the NTU president for review and ultimate approval. To be sure, no waivers can be requested that seek exemption "from salary guides, fringe benefits, holidays, grievance procedures, transfer provisions, and seniority provisions."

There is good potential in this provision for education workers who want to challenge the CBA in cases where the contract is being used to hurt teachers and students. If the contract is voted in and a principal attempts to extend the school day by contacting building staff in July 2013, for example, this provision can be used to stop that from happening. But it also has negative potential in that it can foster divisiveness among NTU members depending on the particular waiver being sought by education workers in a specific building.

### **FLEXIBILITY FOR TURNAROUND SCHOOLS**

This part of the contract creates a separate set of rules that weaken the position of education workers in "turnaround schools." It creates four different "waiver templates," two of which extend instructional time within elementary and high schools and two that do not extend instructional time. Approval of particular waivers for specific turnaround school rests in the hands of the superintendent and the NTU president.

The most problematic provision in this part is the "Election to Work Agreements." This agreement, open-ended in that it will "be disseminated by NPS *after* consultation with the NTU" rather than being finalized at the time the contract was agreed to by both parties, essentially makes renew school teachers "at-will employees," a status that non-unionized workers have because they can be removed from their position more easily if they do not demonstrate uncritical fidelity to their boss. This creates a situation whereby education workers in turnaround schools are working

in an environment where administrators with the support of the superintendent possess almost complete power and control over education workers.

NPS will designate more Turnaround and “Renew Schools,” which will lead to more loss of placements and charter schools. Part 5, section C1 identifies the three rationales for “renewing” a school: 1) low enrollment, 2) low standardized test scores, and 3) “growth over time”—a vague standard that most likely refers to the yet-to-be-defined methods of connecting student test scores to teacher performance. Most problematically, there is open-ended language in this provision (“...including but not limited to...”) that allows for an unending set of reasons for firing the entire staff of a school.

Not to be outdone, section C2 states explicitly that NPS will designate 10 Turnaround Schools per year (30 total over the course of the contract). This contract makes school closings, consolidations, and “turnarounds” easier, rather than trying to stop them before an impact study can be done to determine the effects on families, student performance, and the performance of schools that have already been renewed.

In the end, there is no provision in this section or anywhere in the contract for how to place the “Employees Without Placement” in regular positions again. Teachers robbed of their jobs because their school has been turned around have no guarantee in this contract that they will be placed in a position that they are certified to teach. In Chicago, the Chicago Teachers Union negotiated a clause in their recently signed contract that forces the Chicago Public Schools to place those teachers BEFORE HIRING new teachers.

## **CONCLUSION**

While all teachers want to get back on our steps, we need to be clear that we are getting back on our steps at a price. Not only are we not getting our full retroactive pay, but we are also getting paid less while being forced to do more, EVEN IF WE STAY ON THE TRADITIONAL PAY SCALE!

Further, while the scale and increments for the Universal (read “merit pay”) Salary Scale are better in the earlier years, they are significantly lower over time. In other words, you will fall behind the pay of those on the Traditional Scale after the first few years.

Many of the old methods in the contract worked, or could have worked. But, they were never properly implemented. Department Chairs and Principals have always had the ability to withhold increments or fire teachers. Now, because these prerogatives have rarely been implemented effectively by past administrators, Christie, Cerf and Anderson are AUTOMATICALLY tying our increments and jobs to an unproven, subjective, and yet-to-finalized evaluation system.

Throughout, the state and district are expanding their control and power over decisions affecting working and learning, whereas the amount of control and power of the NTU and education workers over those areas is contracting. There are attempts throughout to delegitimize our union. This is union busting! In numerous places, in the place of concrete regulations or procedures, committees are set up to “monitor” grievances, procedures, and the functioning of the evaluation system. These committees could very easily become bogged down in bureaucratic functioning, as have the current grievance procedures.

NPS has rushed this contract because they wanted NTU ratification in time to make the deadline for Race to the Top, the very federal law that coerces states with billions of dollars in aid in return for closing schools, removing entire staffs from struggling schools, opening more charter schools, and increasing the use of standardized tests.

The rush to complete this is evinced by the many sections which leave open-ended the procedures for implementing or enforcing a statement made in the contract. In other words, many procedures are simply given over to the state to be decided upon later!

This is not a social justice contract that views public education as a sacred duty that the state and local governments owe to all students, parents, and education workers. This is a cut-throat BUSINESS contract that will bring the forces of the market to public education. It turns education into a business which does nothing to directly address students needs. In fact, many of these provisions will ultimately hurt students.

It will hurt students by creating a high turnover rate of teachers in schools. Between the two-tier wage system (which has proven to cause high turnover), not putting a cap on how many hours a teacher can work, and an evaluation system that makes sure that teachers are doing what the administration wants them to do, like test-prep for the increasing number and rigor of new national standardized tests that follow the implementation of the Common Core State Standards, rather than what is best for these students in terms of their critical thinking skills and helping students realize the deep satisfaction one can develop from a lifelong commitment to a love of learning.

It is also important to note that there is not a single study that shows districts which have merit pay improved student achievement. Merit pay also assumes that teachers will work harder if money is dangled before them like a carrot. This can't be further from the truth. An overwhelming amount of teachers, in Newark and elsewhere, work hard everyday to provide a high-quality education for our students. Many even go beyond our work hours to fight for commonsense, research-based solutions that have been shown to positively impact student development. It is not the will of the teachers that are the main obstacles to increasing student achievement, but the conditions within NPS and the city that keep students from reaching their fullest potential. None of these factors are addressed in this contract and there has been no long-term plan announced by either the state or NTU on what needs to be done to ensure our students have all the resources, opportunities, and the conditions they deserve to be truly successful in life.

When the Baltimore Teachers Union was initially faced with a merit pay proposal in 2010, they turned it down. But after Randi Weingarten and the AFT went there to convince the Baltimore teachers that this was a good contract, a second vote passed merit pay and the contract provisions. Since then, the number of unsatisfactory evaluations—ineffective—shot up throughout the city, in some schools as high as 60%. Let's not repeat these same errors. Vote no, organize our union, and demand a truly fair contract that works to serve the interests of all students and education workers in Newark.