



BUFFALO PUBLIC SCHOOLS

Office of the Superintendent

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October 28, 2015

MaryEllen Elia, Commissioner
Office of Counsel
New York State Education Department
State Education Building, 89 Washington Avenue
Albany, New York 12234

Dear Commissioner Elia:

Pursuant to New York State Education Law § 211-f(8)(b), I am writing to respectfully request that you resolve the issues between the District and the Buffalo Teachers Federation (“BTF”) as they relate to negotiations for a receivership agreement for the District’s five persistently struggling schools.¹² On August 27, 2015, I sent the BTF the enclosed (**Attachment A**) correspondence requesting that negotiations commence to negotiate a receivership agreement in order to modify provisions of the enclosed collective bargaining agreement (**Attachment B**) between the parties. Subsequent to the August 27, 2015 request, additional letters, which are enclosed (**Attachment C**), were sent to the BTF on September 8, September 25 and October 6, 2015 requesting dates to commence negotiations. Negotiations sessions were ultimately held between the parties on October 13, 14, 19 and 22, 2015. The parties were unable to reach a receivership agreement on any of the proposed issues as it relates to the District’s five persistently struggling schools.

As established by § 211-f(8)(b) of the law, “The bargaining shall be conducted in good faith and be completed within thirty (30) days from your receipt of this request.”³ Pursuant to the law, the deadline has been reached without the parties reaching agreement, and an extension of time has not been agreed to by the parties. Since the parties have been unable to reach an agreement in the period of time established by the law, I am requesting that you resolve this issues by approving the proposals I submitted to the BTF for a Receivership Agreement.

As part of my correspondence to the BTF on September 25, 2015, I sent the enclosed proposals (**Attachment D**) to the BTF which are intended to modify the CBA at the five struggling schools in the District in order to maximize the rapid achievement of students at these schools. As bargaining ensued, I amended the enclosed proposals (**Attachment E**). These proposals were offered in accordance with § 211-f(8)(a), which states that “the receivership agreement may modify the collective bargaining agreement between the parties in the following areas: “The length of school day and year; Professional Development for teachers; Class size; and Changes to the programs, assignments, and teaching conditions in the school in receivership.” Each

¹ The five identified persistently struggling schools are West Hertel Academy (#94), South Park High School (#206), School #37, Burgard Vocational High School, and B.E.S.T (#6), which is currently partered with an Educational Partnership Organization (EPO).

² Any response to this request may be sent to KrinerCash@buffaloschools.org

³ § 100.19(5)(iii)(b) of the Commssioner’s Regulations establishes that days shall mean “calendar” days.

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specific modification of the CBA that I proposed to the BTF, the rationale for the modification, and the Article(s) of the current CBA that I proposed to modify are as follows:

- In order to ensure that each after school, recreational or part time vacancy at the persistently struggling schools are filled with the most qualified teacher, I proposed the following modification to Article XII(G) of the CBA: “In filling vacancies at any summer school, after school, recreational or part time program at any of the persistently 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. In filling vacancies with the most qualified candidate, there will be a committee formed to interview all candidates for the position. 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 position.”
- In order to ensure that each teaching vacancy at the persistently struggling schools is filled with the most qualified teacher, I proposed the following modification to Article XIV of the CBA: “In filling vacancies through the transfer process at the persistently 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. In filling vacancies with the most qualified candidate, there will be a committee formed to interview all candidates for the position. 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 position.”
- In order to ensure that effective and highly effective teachers at the persistently struggling schools continue to teach at those schools, I proposed the following modification to Article XIV of the CBA: “A teacher at any of the persistently 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. In the event that a teacher wishes to appeal the refusal based on extenuating circumstances, he/she may request a meeting with the Receiver.”
- In order to ensure that that the administration at the persistently struggling schools have ample opportunity to communicate with the faculty as a whole, I proposed the following modification to Article XXI of the CBA: “The Receiver shall have the right to mandate that faculty meetings be held twice per month at the persistently struggling schools. 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 the hourly rate of pay in accordance with the Contract.”
- In an effort to ensure that the persistently struggling schools are staffed with the most qualified teachers to meet the needs of the students in those buildings, I proposed the following modification to Article XIV of the CBA: “The Receiver shall have the discretion and ability at any time and for any reason to involuntarily transfer teachers at the persistently struggling schools regardless of seniority or status as the building union

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delegate. If the Principal requests an involuntary transfer, a meeting will be held with the teacher and the Receiver or his/her designee with the final decision resting with the Receiver. Teachers involuntarily transferred will be placed in a similar position in another school selected by the Receiver. A similar position means the same subject area the teacher taught at the building he/she is being transferred and for which he/she is certified. It shall also be a position of the same FTE allotment.”

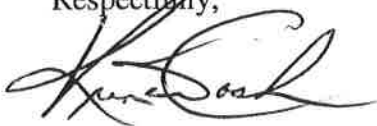
- In an effort to increase student exposure to enriched curriculum, provide additional opportunities to increase student achievement, and to increase targeted professional development opportunities for teachers, I proposed the following modification to Article VIII of the CBA: “The Receiver shall have the right to extend the school day and/or school year at any of the persistently struggling schools. If the Receiver decides to lengthen the school day and/or school year at any of the persistently struggling schools in receivership, the teachers at the school where the school day and/or school year is lengthened will receive a proportionate increase in compensation. For example, if a teacher’s day is increased 10% of the time for instruction of students, then the salary will also increase by 10%.”
- In an effort to ensure that the starting and ending times of the school day are at times that contribute to increased student achievement, I proposed the following modification to Article XIII of the CBA: “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 March 1 of the change.”
- In an effort to ensure that the teachers at the persistently struggling schools are using all of the technological tools available that will contribute to student achievement, I proposed the following modification to Article XI of the CBA: “The Receiver shall have the discretion and ability to require teachers at the persistently 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.”
- 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 persistently struggling schools for the purpose of adding more common planning time.”
- In an effort to ensure that teachers attend and receive appropriate professional development, I proposed the following modification to Article VIII and X of the CBA: “The Receiver shall have the right to require that the teachers at the persistently 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. For professional development opportunities that are after the regular school day and/or year,

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teachers shall be compensated at the hourly rate of pay. If the professional development opportunity is after the regular school year and is longer than four hours, teachers shall be compensated at 1/200th.³”

While I would have preferred to have resolved these proposals at the bargaining table, it is clear that the parties were unable to reach agreement on these issues within the timelines established by law. As a result, I am respectfully requesting you review these proposals and determine that the modifications to the CBA are necessary and appropriate to realize the rapid achievement of the students in the District’s persistently struggling schools. I further request that you use the power and authority provided to you under this law to modify the CBA between the parties at these persistently struggling schools as set forth in the proposals.

Respectfully,

A handwritten signature in black ink, appearing to read "Kriner Cash", written in a cursive style.

Dr. Kriner Cash

cc: Phil Rumore, BTF President
Darren Brown, Associate Superintendent of Human Resources
Nathaniel Kuzma, Executive Director of Labor Relations

Enclosures

³ Empirical research for the proposals submitted herein are drawn from large-scale teacher reform studies such as *The Widget Effect* (2009) and *The Irreplacables* (2012).

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