



OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR

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027:99:LJB

**Chronology of the Steps Through Which the Tentative Agreement
Between the Washington Teachers' Union AFT Local #6, AFL-CIO
and the District of Columbia Public Schools Passed**

September 30, 1999



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The Honorable Kevin Chavous, Chairman
Committee on Education and Libraries
Council of the District of Columbia
441 4th Street, N.W. Room 704
Washington, D.C. 20001

Letter Report: Chronology of the Steps Through Which the
Tentative Agreement Between the Washington Teachers'
Union AFT Local #6, AFL-CIO and the District of Columbia
Public Schools Passed

Dear Councilmember Chavous:

Pursuant to your request dated July 9, 1999, the District of Columbia Auditor has completed the "paper trail" review of the relevant events that occurred during the processing of the Tentative Agreement between the Washington Teachers' Union and the District of Columbia Public Schools.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this review was to determine the steps and delays through which the Tentative Agreement between the Washington Teachers' Union AFT Local #6, AFL-CIO (Union) and the District of Columbia Public Schools (DCPS) passed. The Auditor constructed a chronology of major events based on interviews, telephone conversations, and a review of relevant correspondence and other documents.

The Auditor interviewed Ms. Katrina Robertson Reed, DCPS's Associate Superintendent for Administrative Services, on July 23, 1999 to discuss the background of the issue and obtain correspondence and other documentation related to the Tentative Agreement. On October 1, 1998, Ms. Reed began working for the DCPS and assumed the role of the District's chief negotiator for the teachers' contract. With Ms. Reed's documentation, the Auditor was able to follow the events from June 24, 1998, the date the Pre-Negotiations Agreement was signed, to May 13, 1999, the date the Tentative Agreement was forwarded to the Financial Responsibility and Management Assistance Authority.

On July 29, 1999, we spoke with Mr. Francis S. Smith, Executive Director, Financial Responsibility and Management Assistance Authority (Authority) regarding the Authority's role in the process. On July 30, 1999, the Auditor requested that the Authority provide information and copies of documents relevant to the Authority's approval of the Tentative Agreement. On September 15, 1999, the Auditor received the requested information from the Authority, which indicated that the signed Tentative Agreement was received by the Authority sometime in June 1999. In its response, the Authority did not provide the exact day that it received the document.

On August 9, 1999, the Auditor sent a letter to Ms. Valerie Holt, Chief Financial Officer of the District of Columbia (CFO), regarding the CFO's role in the process. The Auditor received a response from the CFO on September 24, 1999, which indicated that a fiscal impact statement was requested by the Council on July 1, 1999. The CFO transmitted the statement to the Council Chairman on July 9, 1999.

The chronology below covers the period June 24, 1998, the date the Pre-Negotiations Agreement was signed, to July 13, 1999, the date the Council of the District of Columbia approved the Tentative Agreement.

CHRONOLOGY OF EVENTS

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| June 24, 1998 | The Union and DCPS signed a Pre-Negotiations Agreement, which detailed the ground rules to be followed for negotiating a successor management Agreement between the parties. The previous contract had expired approximately five years earlier in 1993. |
| October 1, 1998 | Although contract negotiations continued during the summer school break, negotiations were interrupted and impeded due to leadership changes within the DCPS. It was not until October 1, 1998 that the new leadership and new negotiators were able to get the negotiations back on track. |
| December 7, 1998 | In an effort to move the process forward, Union and DCPS representatives attended a 3-day training session conducted by Conflict Management, Inc. The representatives discussed Union and DCPS relationships, interest-based bargaining, and the ground rules and process for negotiating the teachers' contract. It was hoped that the contract could be settled by January 30, 1999. |
| March 17, 1999 | The Union and DCPS completed negotiation of the salary and benefits issues and reached a Tentative Agreement. |
| March 22, 1999 | The Union held a meeting for the sole purpose of determining the date for ratifying the Tentative Agreement. During the meeting, the ratification date was moved from March 26 to April 7 and finally from April 7 to April 14. Also, the members passed a motion not to vote on the contract in its entirety until a legal opinion was obtained on whether members must vote on the total |

package or whether they could split the vote into two areas: compensation and work provisions. Bifurcating the vote should not have been an issue because the Pre-Negotiations Agreement clearly stated that: "Agreement on any provision or article shall be tentative pending ratification of the entire Agreement by both parties. In order for the Agreement to be binding DCPS and the Financial Responsibility and Management Assistance Authority...and the Union, in accordance with its policies and practices and constitution, must ratify the entire agreement."

- April 13, 1999 The Union president, Ms. Barbara Bullock, consulted three law firms regarding the legality of bifurcating the vote on the Tentative Agreement. By April 13, 1999, the firms had responded, each rendering the opinion that a bifurcated vote was prohibited by the Pre-Negotiations Agreement and would not be binding upon the DCPS.
- April 14, 1999 The legal opinions were conveyed to the membership during its April 14, 1999 meeting, however, the members passed a motion to cast a bifurcated vote, which resulted in the acceptance of the "compensation" portion and the rejection of the "non-compensation" portion of the agreement.
- April 16, 1999 In separate letters, both dated April 16, 1999, Mayor Anthony Williams and DCPS Superintendent Arlene Ackerman expressed their disappointment that the Union did not vote on the entire package. The Mayor informed the Union that the pay raise associated with the Tentative Agreement could not be issued unless the Union voted to accept the entire package. The Mayor gave the Union 15 days to ratify the entire package or the pay raise money would be reprogrammed. Ms. Ackerman informed the Union that the DCPS administrative team could not return to the bargaining table until the entire agreement was either ratified or turned down.
- April 18, 1999 The Union's Executive Board convened a special meeting to determine whether to conduct a vote on the entire Tentative Agreement. The Executive Board unanimously voted to conduct a mail ballot vote and engaged the American Arbitration Association to administer the process.
- April 20, 1999 The American Arbitration Association (AAA) administrator mailed ballots to eligible Union members to ratify or reject the Tentative Agreement.
- May 5, 1999 The AAA informed the Union through a "Certification of Results" letter that the members accepted the entire Tentative Agreement.

May 6, 1999	Ms. Katrina Reed, DCPS's Associate Superintendent, sent a memorandum to Mr. Joseph Carillo, DCPS's Associate Superintendent, Office of Policy and Planning, recommending that the District also ratify the agreement. She also stated that the Superintendent wanted to review the agreement with the Emergency Transitional Education Board of Trustees in an executive session. She further stated that the agreement must be approved by vote in a public meeting.
May 12, 1999	Two members of the Union filed a complaint against the Union with the Public Employee Relations Board (PERB) alleging that: (1) the mail ballot was an unfair labor practice; (2) PERB should order a prohibitory injunctive relief against enforcement of the Tentative Agreement's "non-compensatory" provisions; and (3) PERB should enforce the agreement's compensation settlement.
May 13, 1999	DCPS's General Counsel submitted a copy of the Tentative Agreement, along with relevant documents, to Ms. Constance Newman, Vice Chairman of the Authority, for the purpose of identifying the "Board" that had authority to vote on behalf of DCPS. One of the accompanying documents was the complaint filed by the two Union members with the PERB against the Union and DCPS.
May 26, 1999	DCPS's Office of Human Resources sent a memorandum to Ms. Veleter Mazyck, DCPS's General Counsel, forwarding a copy of the letter dismissing DCPS from the PERB case.
June 3, 1999	DCPS's General Counsel informed Ms. Ackerman that the PERB complaint had been dismissed.
June 15, 1999	Mr. Francis S. Smith, Executive Director, D.C. Financial Responsibility and Management Assistance Authority, sent a letter to the Mayor informing him that the Authority had preliminarily approved the Tentative Agreement. Mr. Smith also advised that the funding for the agreement was consistent with the Financial Plan and Budget for the District of Columbia and that the Tentative Agreement should be forwarded to the Council for review and approval.
June 25, 1999	The Tentative Agreement, which detailed the teachers' pay raise, reached the Council of the District of Columbia without a fiscal impact statement.
July 1, 1999	Ms. Linda W. Cropp, Chairman of the Council of the District of Columbia, sent a letter to the Office of the Chief Financial Officer requesting a fiscal impact statement no later than July 2, 1999.

July 1, 1999	The Office of the CFO received Chairman Cropp's request and forwarded it to the Office of Legal and Intergovernmental Affairs (OLIA). OLIA forwarded the request to the Office of Budget and Planning (OBP).
July 2, 1999	OBP completed the analysis and draft fiscal impact statement and sent it to OLIA for review.
July 8, 1999	OLIA returned the draft statement to OBP for revisions.
July 9, 1999	OBP completed the revisions, forwarded it to OLIA, who, in turn, transmitted it to Chairman Cropp's office.
July 13, 1999	The Council of the District of Columbia approved the agreement.

**Elapsed Time in Terms of Critical Actions in the Process
During the Period June 24, 1998 Through July 9, 1999**

166 days elapsed between the signing of the Pre-Negotiation Agreement (June 24, 1998) and the training (December 7-9, 1998) that was ultimately required to move the process forward. The parties hoped that the contract could be settled by January 30, 1999.

98 days after the training on December 9, 1998, the negotiation of salary and benefits were completed and a Tentative Agreement was reached on March 17, 1999.

5 days following the completion of the Tentative Agreement on March 17, 1999, the Union held a meeting on March 22, 1999 to set a date for ratifying the agreement. At the meeting, the membership was unable to reach a consensus on voting for the entire package. Some members wanted to cast separate votes on the "compensation" and "non-compensation" portions of the agreement. The vote was postponed until a legal opinion could be obtained.

23 days later (April 14, 1999) the Union president informed the members that a bifurcated vote would be in violation of the Pre-Negotiations Agreement. Nevertheless, a bifurcated vote was taken and passed.

2 days after the bifurcated vote was passed (April 16, 1999), the Mayor gave the Union 15 days to accept or reject the entire package.

4 days later (April 20, 1999) the American Arbitration Association mailed ballots to eligible members.

15 days later (May 5, 1999) the membership was advised by the AAA that the Tentative Agreement was accepted in its entirety.

8 days later (May 13, 1999) DCPS sent the Authority a copy of the Tentative Agreement, along with documents regarding a related complaint of unfair labor practices.

21 days later (June 3, 1999) the appropriate DCPS officials were notified that the complaint had been dismissed.

33 days after DCPS's General Counsel forwarded the Tentative Agreement to the Authority (May 13, 1999), the Authority advised the Mayor that it had preliminarily approved the Tentative Agreement (June 15, 1999).

10 days later (June 25, 1999) the Tentative Agreement reached the D.C. Council without a fiscal impact statement.

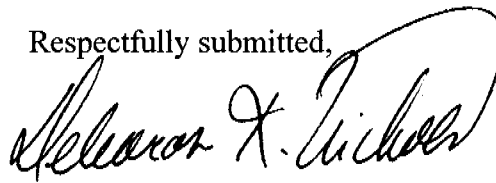
14 days later (July 9, 1999) the Council received the fiscal impact statement from the Office of the CFO and approved the Agreement 4 days later on July 13, 1999.

CONCLUSION

The entire process from the date the Pre-Negotiations Agreement was signed to the date the Council of the District of Columbia received the financial impact statement took 380 days. Allowing for weekends and holidays, the process consumed 261 work days. Since the process appeared to have been open-ended with no firm time table and with only one instance of a 15-day deadline imposed by the Mayor to expedite the process, the Auditor could not determine whether any of the parties exceeded a pre-determined time to effectuate its required actions. The early stages of the process account for the largest consumption of processing time.

Should you have any questions concerning the matters discussed herein, please feel free to contact me at 202-727-3600.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deborah K. Nichols", with a large, stylized loop at the end.

Deborah K. Nichols
District of Columbia Auditor