

'Breakthrough' 9-Year UFT Deal Keyed By 'Retro' Pay Phase-in, Health-Care Savings, School Reforms

By RICHARD STEIER | Posted: Monday, May 5, 2014 5:15 pm

The tentative contract agreement between the United Federation of Teachers and the de Blasio administration that was announced May 1 meets key objectives for both sides, foremost among them providing Teachers and other UFT members with long-delayed 4-percent raises in each of two years and major retroactive payments, and allowing Mayor de Blasio to potentially get labor costs under control for the remainder of his first term without a tax increase.

But the unique nature of the UFT deal in comparison to a majority of other municipal unions that received those 4-percent raises even before Mayor Bloomberg's second term was completed in 2009 means that many of those unions will resist the city's attempt to have the tentative pact serve as a pattern for the entire workforce.

'Retro' Money Phased In

The first two years of the nine-year UFT accord provide those two 4-percent increases—although the retroactive payments will not begin until October 2015 and will continue through October 2020. The remaining seven years of the agreement, which actually concludes on Oct. 31, 2018, provides raises totaling 10 percent for that seven-year period.

Transport Workers Union Local 100 President John Samuelson cited an 18-month period following the two 4-percent raises in which there will be no wage hike to justify his decision to settle last month for modest wage increases in each year of a five-year pact rather than risking arbitration.

Uniformed-union leaders are known to be unhappy about accepting that small an increase over seven years—which wouldn't keep pace with the projected cost of living. The most-emphatic demonstration of the displeasure came from Patrolmen's Benevolent Association President Patrick J. Lynch, who just minutes before the City Hall press conference announcing the UFT deal began issued a release noting that the state Public Employment Relations Board had made a declaration of impasse in his union's talks with the city, allowing for mediation to begin as a prelude to a possible arbitration proceeding.

The PBA has had some success in the past bucking established patterns, most notably during a 2005 arbitration in which it challenged a District Council 37 contract reached the year before as an invalid bargaining pattern and convinced the panel's chairman, the late Eric Schmertz, to largely

ignore it. But that task becomes more difficult when other unions have embraced similar terms, and officials from several municipal unions, including DC 37, in the wake of the UFT deal indicated they were inclined to embrace its terms and try to replicate them for their members.

Teacher: Deal Will Fly

One veteran Teacher who's retirement-eligible said that she had reservations about some aspects of the pact, but predicted it would be popular among younger Teachers, particularly in elementary schools where a majority of the UFT's membership works.

The retroactive money would be worth about \$35,000 in back pay to Teachers at the top of the salary scale who were making \$100,045 under the old contract, and a less-experienced Teacher making \$60,000 would be eligible for about \$22,000 in back pay as of the date the agreement was reached. But unlike the traditional process in which such awards are paid in a lump sum, often in the second paycheck after a contract is ratified, this award will be paid in five installments starting Oct. 1, 2015 and ending on Oct. 1, 2020 to ease the impact of the estimated \$3.4-billion cost on the city. There will be no installment paid in October 2016 before monies are disbursed in October of each of the following four years. And the first two installments will consist of smaller amounts than UFT members will receive in the final three.

The veteran Teacher, who spoke conditioned on not being identified, said she didn't expect the phasing-in of the payments to be a major issue for many Teachers. "Particularly after Bloomberg, I think they'll take anything," she said, alluding to the former Mayor's insistence that the city could not afford any retroactive raises after he excluded the UFT and unions representing school supervisors and custodians and Registered Nurses and Licensed Practical Nurses from the 4-percent hikes he granted to the rest of the workforce. While he cited the impact of the national financial crisis on the city's budget, some Teachers suspected he got an extra dollop of satisfaction out of denying them the raise while spending much of his last term denigrating them. At one point Mr. Bloomberg told an audience at MIT that if he had his way, he'd fire half the teaching staff and pay those who remained twice as much.

Fear of Favoritism

While UFT President Michael Mulgrew and Mr. de Blasio hailed a provision of the contract that will pay Teachers classified as "Model," "Ambassador" and "Master" instructors annual differentials ranging from \$7,500 to \$20,000, this Teacher was skeptical that those designations would be made strictly on merit. "There definitely are schools where it's going to go to 'the favorites'" of the Principals, she said. "I understand giving more power to the Principals because they know their schools, but who's going to watch them?"

Such suspicions were notably absent from the press conference announcing the deal, with Mr. de Blasio beginning it by declaring, "This is a very good day for New York City." He called it "a great day for children" and "a gateway for great progress in our school system. It's also a great day for our educators [who] stood by their posts and stood firm in their focus on our children" despite not having received a pay hike since Nov. 1, 2008.

The length of the deal, which would run 10 months past the conclusion of his current term, makes it "the beginning of a time of stability," the Mayor said. But its provisions will also bring reforms that will entail "moving out those who belong in a different profession."

One of those involves the Teacher evaluation process, although Mr. Mulgrew joined Ms. Fariña in hailing the streamlining of the review so that what had been 22 components of the ratings will be pared to just eight.

Makes Firing Easier

Firing for cause will be easier as the result of two changes if the pact is ratified: expansion of the definition of sexual misconduct by Teachers to include inappropriate texting, and a limit of 50 days for the process of dismissing Teachers who had been placed in the Absent Teacher Reserve for "behavior inconsistent with the expectations established for professionals."

For the others in the ATR, who were placed there in a substitute-teaching capacity after their schools closed or reduced their operations, greater efforts will be made to place them in permanent assignments, but Ms. Fariña emphasized there would be "no forced placements" in which Principals were ordered to accept them. But the revised process will offer a gateway back to regular teaching for those who wound up in the ATR "for reasons that had nothing to do with their ability." Conversely, she said, "There are others who should have other careers."

The deal also will exempt 200 schools from both DOE and UFT rules to allow for experimentation that both sides hope will produce improved teaching methods, possibly through extension of the school day. It borrows a page from the charter schools, some of whose operators claim they have achieved success in part because they are not bound by union contracts.

The Mayor credited Ms. Fariña, who rose through the ranks as a Teacher and Principal, for engendering trust the UFT didn't feel during the Bloomberg administration, particularly in the Mayor's final term. He said she "won the respect of her troops from the beginning. This agreement is a testament to what she is already achieving as our Schools Chancellor."

Giving Teachers Support

She in turn said that the accord was made possible by controls placed on the changes so that Teachers will feel supported, including the peer-mentoring program and a pilot program to provide

80 minutes of professional-development time each Monday. "We cannot hold Teachers accountable to do things if we haven't supported them and helped them to get it right," she said.

Mr. Mulgrew said the message to his members from the changes was: "Now you will truly have the chance to do the job the way you always wanted to do it." It got done, he said, because "we were creative, we were smart, we were respectful."

A key element of making the deal work for the city financially is the UFT's agreement to a series of steps designed to produce health-care savings. Mr. de Blasio called this "a huge breakthrough."

Labor Commissioner Robert W. Linn, who in tandem with Budget Director Dean Fuleihan shaped the complex package to satisfy the union's needs while limiting the financial impact on the city by spreading the biggest costs over an extended period, said the first-year savings from the health program would be about \$400 million. If all the unions sign on, Mr. Fuleihan said, the savings would amount to \$3.4 billion through 2018.

Slim on Specifics

City officials offered few hard facts about where the savings would come from, although they cited possibilities like doing radiology work for city employees in a central facility rather than in doctors' offices and a centralized prescription-drug operation. Among those whom Mr. de Blasio thanked most profusely for their help in getting the deal done was his special labor advisor, Stanley Brezenoff, a former First Deputy Mayor during the Koch administration who in the quarter-century since had specialized in running hospitals. Mr. Brezenoff, who was sitting in the front row for the presentation, was Mr. Linn's immediate boss when the latter gentleman was the chief negotiator for the final six of Ed Koch's 12 years as Mayor.

There had been some controversy about the manner in which the health-benefits talks got rolled into the UFT wage negotiations. Less than two months earlier, Harry Nespoli, the chairman of the Municipal Labor Committee, the union umbrella group that negotiates health-care issues, had told Mr. Linn that no health-care deal would be done until the UFT and other unions which had been denied the 4-percent raises Mr. Bloomberg had agreed to for the rest of the workforce had their deals in place.

As the Teacher talks grew close to resolution, there was an April 30 meeting of the MLC at which controversy erupted over the blending of the issues, with some uniformed-union leaders reportedly voicing suspicions that there might be some secret arrangement in which the UFT and Mr. Nespoli's union, the Uniformed Sanitationmen's Association, would derive some special benefit from steering a health-care deal into the UFT contract and bringing added pressure on them to fall into line.

Sails Through Committee

Two days later, however, the MLC steering committee approved the broad outlines of the deal by a 20-2 vote. The dissenters were Uniformed Firefighters Association President Steve Cassidy and Detectives Endowment Association leader Michael Palladino. (Mr. Lynch, the PBA president, is not a member of the steering committee.) That action forwarded the matter to the full MLC, which overwhelmingly approved it during a May 5 meeting, with the UFA again leading the opposition..

The strongest criticism of the process was expressed by Correction Officers Benevolent Association President Norman Seabrook as he exited the April 30 MLC meeting at District Council 37's headquarters. "They're trying to hoodwink us again," he told a reporter. "It's not acceptable to me. It may be acceptable to them, but it's not acceptable to me."

One of those who was present during the meeting said Mr. Seabrook had questioned whether Mr. Mulgrew's health-care talks would lead to "concessions where the benefits are flowing to the UFT." This source said there had been some anger that Mr. Nespoli had not been part of those negotiations given his role with the MLC. There was also unhappiness that Mr. Mulgrew and Mr. Nespoli made their presentation without any written documents, and it was not assuaged by the response that there was concern that something offered in writing would be leaked to the media.

An Uninvited Guest

Ironically, a Daily News reporter was admitted to the steering-committee meeting two days later where a vote was taken, and she observed the proceedings for an hour before someone realized who she was.

One critic of the health-benefit discussions acknowledged that much of the anger among uniformed-union leaders resulted from their belief that the UFT deal could saddle them with an unfavorable pattern, especially because its prime selling point to Teachers—the two 4-percent raises and the large retro payments—would not apply to their members, who got the money at least four years ago.

Mr. Linn, asked about that disparity during the press conference announcing the UFT terms, said, "We think that overall it is a fair settlement, and we hope to extend it to other employees."

When Mr. Mulgrew was asked by a reporter about the resistance of those unions, he responded, "Talk to them in a couple of days after I talk to them."

As to his greater concern—the reaction of his members to the pact—he said, "I am hoping they will be as excited about it as I am."