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By fax to:

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Hard copies have been
mailed to Peter Chatilovitz
and Keith Zimmerman as
well as to each of you.

Rolf Valtin

In the Matter of the)	
Impasse Proceeding)	
)	
Between:)	Impasse in Negotiation for
)	Renewal Agreements for
The Baltimore City)	the School Years
Public School System)	2007-2008 and 2008-2009
)	
and)	
)	
The Baltimore Teachers)	
Union, AFT)	

There are two Agreements between the Baltimore City Public School System (BCPSS) and the Baltimore Teachers Union (BTU). One Agreement, known as the green book, covers about 1,600 paraprofessionals; the other, known as the yellow book, covers about 6,500 teachers. In each instance, the predecessor Agreement ran through June 30, 2007. And both renewal Agreements, by what the parties have agreed to, are to run from July 1, 2007, through June 30, 2009.

In late August 2007, pursuant to Maryland law, the State Superintendent of Schools declared the parties to have reached an impasse and directed them to proceed with the naming of "a panel to aid in resolving the differences, under the provision of Education Article, §§6-408(d)(2) and (d)(3) and §§6-510(d)(2) and (d)(3), Annotated Code of Maryland." Appointed in compliance with the directive was a tripartite fact-finding panel composed of Rolf Valtin as chairman and Theodore Clark and Joel Smith,

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respectively as employer member and union member. Our function is to "meet with the parties to aid in resolving the differences, and if the matter is not resolved, ... [to] make a written report and recommendation." We met with the parties on November 8-9 and December 13-14; we urged further negotiating efforts at certain stages; and we held evidentiary (and transcribed) hearings on November 9 and December 13 and 14. BCPSS was represented by Peter Chatilovicz of the law firm of Seyfarth Shaw, which is also the law firm of panel member Clark. BTU was represented by Keith Zimmerman of the law firm of Kahn, Smith & Collins, which is also the law firm of panel member Smith. The parties filed post-hearing briefs on January 22. We met in executive session on February 8. The three issues once before us became reduced to two during the course of the hearings.

One of the two issues is a small item in the large health-care universe, and the other is concerned with a proposed requirement for teacher input toward enhanced quality teaching -- an item of fundamental importance in the development of the system's improved functioning but nonetheless an item known as a non-economic item in the parlance of collective bargaining. All else -- including the wage increases and their application to the salary schedules over the 2-year period and including, but for the fragment here to be dealt with, the whole area of medical-insurance benefits -- has been agreed to. The need for

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a fact-finding panel when that is the case is the rarest of events. We make note of it because we think the parties are entitled to have it understood that they have not let the public down by failing to own up to their obligation to make the hard decisions by which negotiations are brought to a successful conclusion. Presented is a case in which diligent negotiations have resulted in agreement on a multitude of issues but ultimately left two discrete issues on which each party sincerely sees the other as taking an ill-advised position.

We first turn to the health-care issue.* BCPSS seeks an employee co-payment in defraying the cost of a visit to a hospital Emergency Room (except as the visit leads to admission to the hospital). The employee co-payment is known as co-pay. The idea behind it is to discourage ER usages for ailments not requiring prompt treatment by a medical practitioner. The green book, at Article XIV, E. 11, has this: "\$50.00 fee for Emergency Room use in non-emergency situations." The record shows, however, that the fee has never been charged or paid. There is nothing about co-pay in the yellow book, but teachers covered by either the HMO plan or the Point-of-Service plan in fact are subject to a \$25 co-pay. BCPSS proposes uniformity at \$50 under both Agreements and under all health-care plans

*The references to "we" should not be taken to connote unanimity in all we say. Nothing we say, however, lacks majority backing.

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covered by them. Specifically, BCPSS makes these proposals:

Green book: "Modify Article XIV, E.11 to read as follows: \$50.00 fee for Emergency Room (waived if admitted to hospital). (Applicable to both PPN and HMOs.)"

Yellow book: "Add to Article 5.2A., 8 (Chart of Benefits): \$50.00 Emergency Room Co-pay (waived if admitted to hospital). (Applicable to both PPN and HMOs.)"

BTU contends for the status quo under both Agreements. Principally argued is that BCPSS has not submitted anything by way of explicit evidence either with regard to ER abuse on the part of BCPSS employees or with regard to the extent, if any, of the impeding effectiveness of ER co-pays where they exist.

We accept both parts of the argument as factually correct but nonetheless believe that BCPSS has made out the stronger case. Aside from the given facts respecting the two Agreements, BCPSS has shown: that recent negotiations between BCPSS and three other labor organizations -- AFSCME, CUB and PSASA, in the aggregate representing some 2,500 BCPSS employees -- resulted in the adoption of \$50 co-pays (though this is subject to rescission under "me too" provisions relative to the outcome of the BCPSS-BTU negotiations); that it is widely accepted, in medical as well as collective-bargaining circles, that co-pays tend to reduce the incidence of unnecessary ER visits and therefore serve as a constructive vehicle in holding down crowded ER conditions, on the one hand, and the cost of employer-provided insurance plans, on the other;

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and that the \$50 amount for the proposed co-pay is not excessive by the yardstick of the amounts provided for in other relationships. We view BCPSS's proposal as in tune with current times and BTU's resistance to it as an anachronism. We thus recommend the adoption of the BCPSS co-pay proposal per each of the two Agreements.

The other issue is more complicated and requires more by way of explanation.

Interchangeably used in this proceeding have been the terms "common planning" and "collaborative planning". We use the latter exclusively. Embedded in collaborative planning is the notion of systematic interaction between teachers and by teachers with school administrators as among the measures by which to enhance quality teaching. It is not a novel technique. But it is viewed as an indispensable ingredient in a program of school improvement by the BCPSS Board and by the City's Chief Executive Officer for Public Schools. BCPSS proposes the following as an additional section (Section E) under Article 7.8 of the yellow book:

"Principals or their designees shall have the right to use one of the preparation periods set forth in section 7.2 and section 7.8(A) of the Agreement for collaborative or common planning. It is agreed that if a teacher has his/her weekly amount of preparation time (3 periods for elementary teachers and 5 periods for other teachers) reduced by management for some other reason, the teacher's preparation time for that week shall not be further reduced for collaborative or common planning."

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Preparation periods are paid school time spent away from the students, giving teachers the opportunity not only to plan lessons but also to take care of one or more of a large variety of tasks related to teaching. Examples are: reviewing teaching materials, reading circulars, gathering books and manipulatives, writing reports, making phone calls to parents, conferring with other teachers about teaching strategies for individual students, forming individualized education plans (IEPs), grading students' products, and duplicating documents (often involving waiting in line at the school's only duplicating machine). In evidence is a list of 50 such items.

The five preparation periods per week for the secondary-school teachers existed prior to the onset of the parties' collective-bargaining relationship in 1979 and have continued to exist since then. The three preparation periods per week for the elementary-school teachers came into being gradually starting with the mid-eighties. With a few exceptions not here material, each preparation period in each school segment is of 45-minute duration.

A fair statement of the evidence concerning preparation periods in other school districts, both nationally and as to neighboring counties, is that Baltimore is on par respecting the number of preparation periods at the secondary level and the duration of preparation periods in each school segment but is lagging in the number of preparation periods at the elementary level. Except as to schools

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(Baltimore schools) which permit a higher number of preparation periods than the number contractually required, the BCPSS proposal would eliminate the customary usage of preparation periods in one of the five preparation periods at the secondary level and in one of the three preparation periods at the elementary level by converting that period to a period devoted to collaborative planning. As BTU fundamentally argues, collaborative planning as contemplated by BCPSS would be instituted at the expense of the teachers to the extent of one lost preparation period a week -- or, if the work customarily done in the period were done on the teacher's own time, the school day would be elongated by about 2 percent of a week's time. BTU fully grants the value of collaborative planning as advocated by BCPSS, and it has made clear that collaborative planning would have its endorsement if done on school time. The entire point it is making is that teachers should not have to shoulder the burden of the implementation of collaborative planning.

Interwoven with the issue is the arrival in mid-2007 of a new CEO for Baltimore's schools. He is Andres Alonso. He came to this country from Cuba in his early teens; he became a highly educated American citizen -- BA from Columbia, JD from Harvard (followed by a few years of practicing law in New York City), and PhD in Education from Harvard; he has years of experience as a public-school teacher; he has served in school administrative roles in

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recent times, rising to the No. 2 post in New York City; and he was in that post when Baltimore persuaded him to come to the City to take over its school system. BTU refers to him as holding impeccable credentials, and we add that he emerged from the witness stand as a person who is exceptionally knowledgeable in his field, who is utterly convinced about collaborative planning as a requisite condition of quality teaching, and whose arrival at Baltimore is attributable to devotion to good education rather than to shallow ambitions.

The record is clear that Baltimore's school system is in need of substantial improvement. Despite a steady size in the City's population in the last approximately ten years, there was a drop in student enrollment at a rate of about 3,000 a year. The graduation rate of students who enter the 9th grade is less than 50 percent. And only 3 percent of the students who enter 9th grade become college graduates at either a 2-year or a 4-year college. A single-digit result in this regard was referred to by a BCPSS witness, without BTU refutation, as "shockingly low".

This is the context in which Dr. Alonso came to Baltimore and in which he is urging the adoption of a collaborative-planning program. We provide the following excerpts from his testimony to show in some detail what he has in mind:

"... collaborative planning time is time where the professionals in a school building come together to understand what needs to happen to improve the school ... It is about teachers

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and administrators and other staff coming together in structured settings around issues concerning student outcomes and school improvements in ways that improve practices either in relationship to the school as a whole or in relationship to the needs of individual children ...

The process ... can take different forms. It can be about teachers in a grade working with an administrator; it can be teachers in different grades understanding how ... [their] teaching and learning connects; it could be ... the entire school, if there's an opportunity to discuss something that impacts the entire school, but all connected by the notion of what are the school's needs and what needs to happen in order to improve the school; it could be about individual children if the adults share individual children; it could be about curriculum; or it could be about safety."

Properly defined, collaborative planning requires that it be structured and continually resorted to on a periodic basis. And the dilemma in the dispute is that Dr. Alonso sees collaborative planning as among the plannings which are inherently part of preparation periods and therefore believes that it is entirely appropriate once a week to devote a preparation period to collaborative planning, whereas BTU sees the setting aside once a week of a preparation period for the use of collaborative planning as the elimination of paid time for the performance of tasks which have not been correspondingly reduced and which are part of a teacher's life and therefore will not go away.

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It may be, however, that the issue is of but limited scope. BTU makes an assertion which BCPSS neither denies nor counters with evidence involving school-by-school particulars. The assertion is this:

"... collaborative planning is underway. The BTU has conducted a survey and it found that in 80% of BCPSS schools there is at least one extra preparation period per week (for a total of at least four in the elementary schools and six in the secondary schools) ... These extra periods are used for collaborative planning already. No more is needed."

We do not accompany BTU on the last statement. We believe, however, that it is for BCPSS to pursue the matter by making a factual study of its own to determine: 1) which schools indeed provide an extra preparation period for collaborative-planning purposes, and 2) as to the schools which fall into this category, whether collaborative planning as Dr. Alonso seeks it to be practiced is in place. If so, these are schools which are not affected by the issue before us. If not, we view Dr. Alonso as entitled -- though, of course, in consultation with Marietta English, President, Teacher Chapter, BTU -- to step in to direct modifications in what is being done. Either way, there should not be: 1) any curtailment in the extra preparation periods, or 2) any cessation or diminution in the collaborative-planning activities as currently pursued in the extra preparation periods.

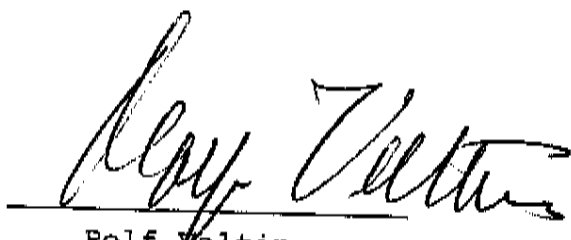
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Left are the schools without an extra preparation period. Having been persuaded that Dr. Alonso is correctly pointing to structured collaborative planning as an integral part of any effort to elevate the quality of the City's schools, we believe that the City is owed every reasonable effort by all concerned -- BCPSS, BTU, and the teachers -- to bring about the collaborative-planning program Dr. Alonso seeks to inaugurate. And this standard, in our opinion, leads to a facilitation which is twofold.

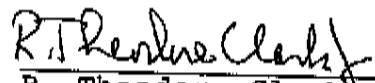
The ratio on the secondary-school side as to what is at issue is 1 to 5. On that ratio, consideration is fairly given to the facts: that among the tasks performed in preparation periods are some -- such as visitations with other teachers for strategy-comparison purposes -- which would be switched to the collaborative-planning sessions; that the granting of a principal's right to use one preparation period a week for collaborative planning is not the same thing as the laying down of a certainty that such use of it will occur in every week; and that teachers support the objective of improved schooling in Baltimore no less than anyone else and therefore are presumably prepared to do a little bending as their part in making it materialize. We thus recommend the adoption of BCPSS's proposal on the secondary-school side.

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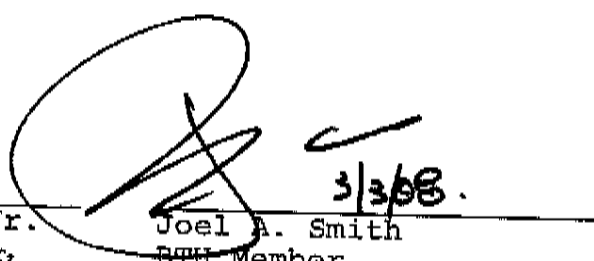
The ratio on the elementary-school side, however, is 1 to 3. On that ratio, we do not believe that the given considerations can fairly be made dominant. Rather, we think the proper view of the matter is that the teachers are being asked to relinquish too much. Here, accordingly, we believe that the inauguration of the collaborative-planning program should be via the inauguration of a fourth preparation period. The cost burden of it would be BCPSS's, and we are mindful of the budgetary difficulties to which BCPSS has spoken. But, given the high value which attaches to collaborative planning together with the sort of balancing we think has to be undertaken, and further given the fact (we accept it as a fact) that most of the elementary schools already have a fourth preparation period, we believe that BCPSS must be viewed as obligated to find and provide the funds for the footing of the fourth preparation period. We recommend that collaborative planning be put in place in this fashion on the elementary-school side.



Rolf Valtin
Chairman



R. Theodore Clark Jr.
BCPSS Member 3/8/08



Joel A. Smith
BTS Member

3/3/08.

Dated: 3-12-08