

The Making of a Contract For Education Reform

How did traditional adversaries cooperate to develop a reform-oriented contract in Boston? What forces influenced them? What role was played by a new form of bargaining, known as "principled negotiations"? For the answers, read on.

BY EDWARD J. DOHERTY AND LAVAL S. WILSON

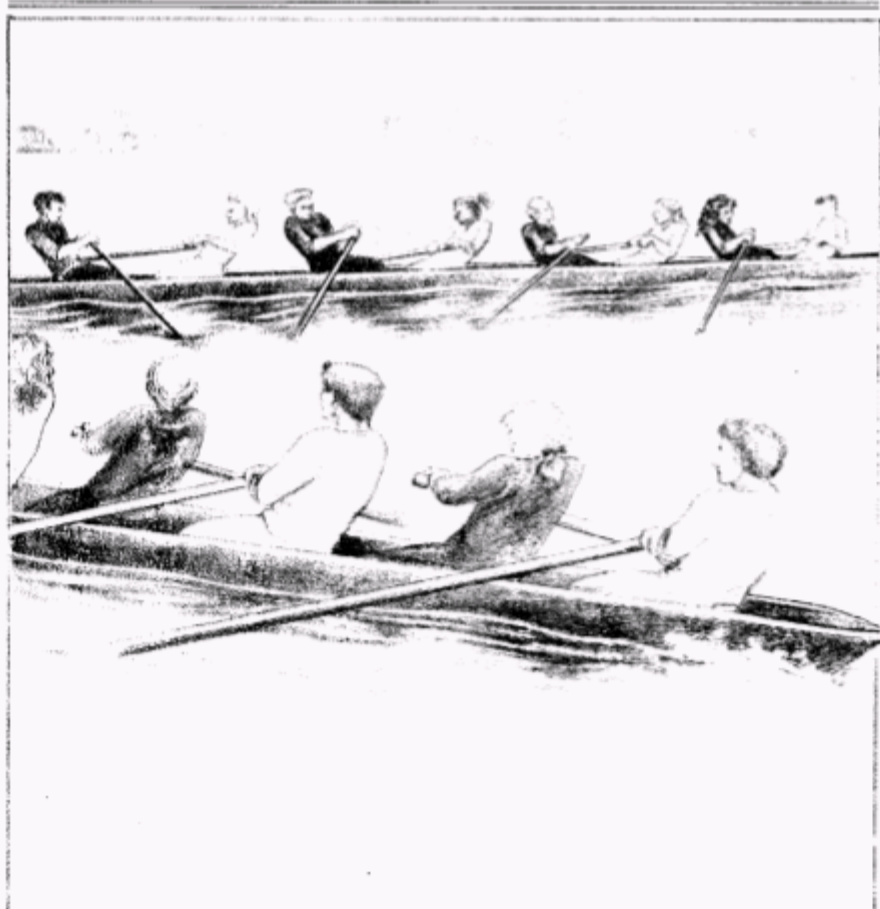


Illustration by Susan Hunsberger

THE CITY OF Boston in 1989 seemed an unlikely candidate to produce a teacher contract equaling or surpassing those in districts in which the most significant education reforms of the 1980s had taken place. Both labor and management in Boston had long practiced the art of adversarial bargaining. Negotiations for the previous contract (for the period 1986-89) typified this historic pattern: all-night negotiating sessions in the early days of the 1986 school year tainted the opening of school for teachers, administrators, parents, and students alike.

Public expectations for the 1989-92 negotiations were no different. A superintendent with a reputation as a strong centralist was considered by many to be an impediment to reaching a settlement that might incorporate some form of school-based management. The local union, though aware of the reforms occurring in many sister American Federation of Teachers (AFT) locals, was considered by many to be a typical labor union, obsessed with wages and working conditions.

But on 22 May 1989 Superintendent Laval Wilson and Boston Teachers Union (BTU) President Edward Doherty raised their arms together with Mayor Raymond Flynn, School Board President Thomas O'Reilly, and Boston Private Industry Council Chairman Ferdinand Colloredo-Mansfeld at Boston's historic Old State House to announce a "landmark agreement" on education reform. This was the first contract in Boston history that went beyond salary and working conditions to establish a school reform partnership through which union and management

EDWARD J. DOHERTY is president of the Boston Teachers Union. LAVAL S. WILSON (Boston University Chapter) is the former superintendent of the Boston School District.

would collaborate on improving the Boston public schools.

The new three-year Boston contract establishes a shared-decision-making model of school-based management, including significant parent involvement, a mentoring program for all new teachers and a voluntary peer-assistance program for veteran teachers, joint labor/management efforts to create professional development schools and expanded professional development opportunities for teachers and paraprofessionals, and a collaborative accountability effort on the part of labor and management to assess and monitor school performance and to intervene in troubled schools.

How did such traditional adversaries cooperate to develop a reform-oriented contract? What forces influenced them? What role was played by a new form of bargaining, known as "principled negotiations"?

The Boston Business Community (nationally known for its Boston Compact with the public schools) was, like many business organizations in the U.S., dissatisfied with the fruits of five years of effort. Influenced by such national leaders as David Kearns of Xerox, business leaders in Boston recognized that all the programs and funds that could be brought to bear on the schools would not influence school outcomes unless the school system was decentralized to make the school-site professionals more responsible — and more accountable — for school performance.

So when the Boston Private Industry Council (PIC) held its annual meeting in October 1988, a week before contract negotiations were to begin, the PIC issued goals for the new Boston Compact II and refused to renew the Compact until it was satisfied that the school system was well on its way to meeting those goals.

Number one among the new goals for the Compact was school-based management. And to reinforce that goal, the PIC invited AFT President Albert Shanker to be the keynote speaker at its annual meeting.

PIC leaders met periodically throughout the year with the superintendent and the union president. They also met regularly with BTU leaders and representatives of the mayor's office to discuss issues and approaches.

Negotiations began early in November 1988. Hoping to give another strong boost to school change, Mayor Flynn

appointed the Mayor's Commission on School Reform. This group, which included community, parent, and business leaders, issued a report early in 1989 calling for school-based management, a new controlled-choice plan for student assignment, and a change from an elected to an appointed school committee.

Though the union leaders were aware that they had to deliver on basic contract issues with regard to wages and working conditions, they were nonetheless reform-minded. They had watched the progress of AFT locals in Pittsburgh; in Rochester, New York; in Dade County, Florida; and in Hammond, Indiana. Adam Urbanski, president of the Rochester Teachers Association, had visited Boston several times and had spoken with BTU leaders and with building representatives, describing the new contract in Rochester and the imperative for school reform.

IN THE SPRING of 1988 BTU President Doherty launched the union's preparations for the negotiations by asking the union's education committee to survey the membership on issues of education reform. The survey results revealed that the membership supported all the key elements of the education reform agenda; support was particularly strong for giving teachers a greater say in school-level decision making and in choosing opportunities for professional development. Because the survey tapped the opinions of the entire union membership, Doherty had the confidence to pursue a reform agenda.

Superintendent Wilson was certainly aware of both the local and the national clamor for decentralization. As former superintendent in Rochester, New York; in Berkeley, California; and in Hempstead, New York — and as a principal in Evanston, Illinois — Wilson had experimented with more decentralized models. But he was concerned that decentralization would weaken the school system's accountability to the public.

So when the union and management negotiating teams met in early November, the initial proposals from each side seemed like a battle of acronyms. The union called for a system of school-based management/shared decision making (SBM/SDM) and emphasized teacher empowerment; management's bargaining position called for school-based decision making (SBDM), highlighted the

key role of the principal, and asked for a clear demarcation of what decisions could be made at the school level.

Another key proposal put forth by management was a plan for performance-based pay, in which teachers would receive annual raises in lump sums at the end of a school year if their schools had met seven of 10 performance goals to be set by the superintendent. Teachers in schools that failed to meet seven goals would not receive raises. The union refused to discuss this proposal.

The first two months of bargaining were traditional in nature and typically unproductive. Normal adversarial bargaining held sway, each side stuck to its own proposals, and no progress was made.

In January the Boston Business Community intervened and asked each side whether it would consider using the services of a facilitator: Conflict Management, Inc. (CMI). CMI is one of several firms to have come out of the Harvard Negotiation Project, headed by Roger Fisher. It trains negotiating parties in the use of "principled negotiations," formerly known as "win-win bargaining."

The superintendent and the union readily agreed to work with CMI for a trial period, with the Boston Business Community footing the bill. The union and the superintendent were both disposed to accept CMI as a facilitator because they were aware of the positive role that CMI had played in the 1987 teachers' contract negotiations in Cincinnati.

CMI's "one-text" approach changed the nature of the bargaining process. No longer did each party have a "text" or set of bargaining proposals. No longer did each member of the rival negotiating teams "own" his or her statements and positions. The traditional practice of having one person speak for each team while all other team members remained quiet and of having the two sides hold caucuses to resolve internal matters was replaced with contributions from all and open brainstorming of "options."

Such a negotiating process helps foster a collegial and collaborative relationship between the parties. The "one-text" procedure is a systematic approach for shifting negotiation away from concessions, eliciting underlying interests, simplifying the process of inventing options, and deciding jointly on one to pursue.

Consultants from CMI introduced and facilitated the process that enabled the negotiating teams to:

**INSTEAD OF AN
ENDLESS BATTLE OVER
WHO'S REALLY IN
CHARGE, THE CON-
TENDING PARTIES
CRAFT AN OPTION
THAT SUITS BOTH.**

- identify and focus on educational interests and goals rather than on arguing over the positions taken in collective bargaining proposals;
- generate creative, innovative options that satisfy the mutual educational and fiscal interests of the negotiating parties; and
- build and improve the level of mutual trust and respect necessary to create an effective partnership for ongoing education reform in Boston.

Team members on each side were free to bring up ideas and were not bound by their side's formal proposals. Neither side was locked into anything until the entire agreement was consummated. Confidentiality during the negotiations was critical. The most frequent joke heard during the negotiations was the offer to trade one's team members for those on the other side.

How did the concept of principled negotiations work to enable breakthroughs on major reform issues? Several difficult issues tackled in the negotiations will illustrate the technique in practice.

One of the hardest issues in negotiating school-based management is defining how teachers and building administrators are to share power. In an "option-seeking" exercise, each member of a negotiating team offers an option that meets the other side's needs on a particular point, while still protecting the interests of his or her own side. Nobody "owns" any option offered. All the options offered by both teams are recorded on a wall chart until both parties agree that one of the options is a solution to the problem.

Instead of an endless battle over who's

really in charge, the contending parties craft an option that suits both. For example, the parties agreed that the school-site council at a high school would include the headmaster, seven teachers, four parents, and one student. The seven teachers constitute a numerical majority of the council; however, decisions are to be made by consensus, with the principal/headmaster voting in the majority. Lack of agreement on any issue is to be viewed as a signal that the best option has not yet been found. In effect, this is a dual veto system. For any decision to go forward, it must have the support of the principal/headmaster, but it cannot go forward if the elected teacher representatives vote as a block against it.

Such a system forces the council members to seek the best options and insures that key reforms have the support of the implementing parties. There is little sense in replacing a system of top-down decision making that imposes central decisions on often-reluctant teachers and principals with a system of bottom-up decision making that imposes decisions on reluctant principals. School reform at the school level can only be carried out as a true partnership, not as a war in which one side holds sway.

Sustaining the key role of principals in school leadership and on the school-site councils paved the way for later negotiations with the principals' union, the Boston Association of School Administrators and Supervisors (BASAS). BASAS has agreed, pending funding of the administrators' contract, to language on school-based management identical to that which appeared in the teachers' contract — a significant development, since few districts have been able to implement school-based management with the full cooperation of both teachers and administrators. Rochester's principals challenged elements of the reform plan in that city and took their case as far as the state supreme court, while administrators in New York City have been actively editorializing and campaigning against the plans of new Superintendent Joseph Fernandez to bring school-based management to that city's schools.

Once parties engaging in principled negotiations make a breakthrough on a key issue and craft an option that suits both sides, mutual trust and confidence build. The notion of the "dual veto" gave the parties in Boston the confidence to break new ground in defining parent participation on school-site councils. In

Dade County, Florida, each school-site council defines its own composition and the role of parents. In Pittsburgh, "instructional cabinets" do not include parents at all. Rochester's *School-Based Planning Guide* for 1988 spells out a role for parents similar to that in Boston.

Despite the contract's provision for significant parent representation, many Boston parent leaders would have preferred school-site councils to have parent majorities; they look to the legislatively mandated school councils in Chicago as a model. But legislation is not the same as a contract in which key parties agree to work with and support the school-site councils. Teachers and principals may be involved in Chicago's school councils, but this is not likely to be the same in practice as having the full support of the teacher union and the administrators. Legislated school-based management has about as much potential as "legislated learning" — little can be accomplished without the cooperation and enthusiasm of teachers and principals.

Boston's school-site councils give parents a major voice and vote, but parents must win the support of teachers and the principal for any initiative they support. Likewise, while teachers and the principal can block any measure, they will have to win parent support for any reforms they wish to make.

By giving each party the assurance that no solution can be imposed, the notion of the dual veto led to another major breakthrough on the policy governing teacher transfers. Principals and school advocates had long complained that the seniority system prevented schools from recruiting the best teachers for transfers within the system. In the early 1980s vacancies in schools were filled by transfers strictly in accordance with seniority. In 1983 the contract was revised to include the "rule of three," whereby a principal could select one of the three most senior applicants for a transfer.

With the dual veto system in place, the union president was able to propose a new policy for voluntary transfers to schools using school-based management — a policy that would allow a subcommittee of the school-site council (composed of two teachers, the principal, and one parent) to select applicants for transfers without regard to seniority. Since teachers were to be involved in the selection, the historic union concern regarding bias on the part of the principal was no longer an impediment. Thus

schools that use school-based management can now actively recruit teachers from throughout the system to fill vacancies. Moreover, they can use the same process to fill positions that cannot be filled by transfers from within the school system.

The most significant breakthrough facilitated by the use of principled negotiations came in the area of school accountability. The union had originally refused even to discuss the superintendent's proposal for performance-based pay, considering it a vindictive and subjective ploy designed to blame teachers for the school system's performance problems. But with the superintendent participating in the principled negotiations — it had not previously been his practice to sit at the negotiating table — the union was able to hear more clearly what his needs were. For him, performance-based pay was a means of insuring school accountability in a decentralized school system.

Once the union understood that accountability, rather than performance-based pay, was the issue, the two sides brainstormed options for how to be accountable, how to set up a system of school-site accountability, and what to do when individual schools continually failed to improve their dismal performance. Thus was born the nation's first contractual union/management system of school accountability.

WHAT THE CONTRACT CONTAINS

The new agreement in Boston makes it possible for teachers, principals/headmasters, parents, students, business leaders, and other school advocates to come together on school-site councils that are responsible for managing and improving schools. It gives teachers and parents real decision-making roles in the schools through a shared-decision-making model of school-based management.

Extensive powers are given to the school-site councils. The contract states that each school-site council will "manage all matters that relate to the operation of the school, including setting and prioritizing educational goals, designing the instructional program, budgeting and fundraising, purchasing and disbursement of funds, staffing, scheduling, space utilization, hiring of new staff and in-transfer of staff from other schools in the system, selection and guidance of mentor teachers, and parent-teacher relations and functions."

Few national contracts, other than the 1988-91 Miami/Dade County contract, contain explicit contract language defining the processes of school-based management and shared decision making. Rochester's landmark 1987-90 contract contained only a single paragraph on school-based planning. It would take Rochester another year to establish its school-based planning guidelines — and still another year to launch the district's initiatives on school-based management/shared decision making.

Boston's new contract parallels Dade County's in defining the process by which schools establish school-site councils, and it sets up a process by which school-site councils can request waivers from the policies and regulations of the school committee, the union contract, or the state board of education. For a school to participate in school-based management, the principal must support the application, and 60% of the teachers must vote in its favor.

Where the Boston contract breaks new ground nationally is on the issue of school assessment and accountability. The contract establishes joint union/management responsibility for implementing a system of school assessment, school assistance, and intervention. This system will include written "annual education plans" for each school. These plans will set specific educational goals for the following school year and specify the school's plans for meeting those goals and collecting performance-related data on a variety of agreed-upon systemwide criteria.

Schools are to be assessed annually. Performance is to be compared with goals, and appropriate consequences — positive and negative — will stem from this assessment. "School assistance teams," composed of three members appointed by the union and three members appointed by the superintendent, will work with schools whose performance is unsatisfactory to help them formulate and implement improvement plans. The intervention team may recommend appropriate improvement measures, including, after a year of intervention, the replacement or reassignment of personnel.

The contract establishes a mentoring program for all first-year teachers. Veteran teachers will work one-on-one with all newly hired teachers to train, inspire, support, and provide professional assistance to them. In addition, the contract establishes a voluntary program of peer assistance whereby veteran teachers who

WHERE THE BOSTON CONTRACT BREAKS NEW GROUND NATION- ALLY IS ON THE ISSUE OF SCHOOL ASSESSMENT AND ACCOUNTABILITY.

feel they need assistance in improving their performance can request the aid of experienced colleagues.

One of the major initiatives in the contract is the formation of a joint union/management "professional development committee" to study issues related to the professional development of teachers and paraprofessionals. The contract authorizes this committee to offer recommendations, to make plans for implementation, and to seek external funding to support these efforts.

The contract envisions a professional development academy that offers courses, workshops, resources, and a professional library for teachers, paraprofessionals, and other interested parties; a professional development school, like Pittsburgh's Schenley High School, where teachers taking mini-sabbaticals collaborate with master teachers in a working school to share, explore, refresh, and update their teaching skills; a career development program for paraprofessionals who wish to become teachers; a professional development leave bank of 2,000 days to facilitate the participation of teachers in educational conferences, workshops, school visitations, and other professional activities; and increased planning and development time for elementary teachers.

Raises for teachers in the tentative agreement were fixed at 7% annually for three years, with the first year's raise deferred for three months in return for a guarantee of no teacher layoffs for the 1989-90 school year. The raises didn't rival those in Rochester's landmark 1987 agreement, which offered a maximum sal-

ary approaching \$70,000 a year to lead teachers, nor did they equal the Dade County figure of 9.5% a year in the 1988 contract. But the 7% raises in Boston were healthy in the context of a deepening state fiscal crisis. Nor was it the aim of the union to push for a major upgrade of teacher salaries before the enactment of reform initiatives. Rather than ask the public to pay for the mere promise of school reform and the professionalization of teaching, the union's position is that serious teacher involvement in school reform over the duration of the present contract will make the case for higher salaries in coming negotiations.

The contract envisions a partnership between the union and the school district through cooperative management of the contract's professionalization initiatives by four joint union/management committees.

- The steering committee oversees the formation and operation of all committees established under the contract agreement. The steering committee will be composed of the superintendent and the union president, each of whom will appoint five additional members. The superintendent's designees will include parent representatives and representatives of the administrators' union. Decisions are reached by concurrence of the superintendent and the union president.

- The school-based-management/shared-decision-making committee develops policies and guidelines on school-based management and shared decision making and oversees their implementation. This committee will also develop a training and orientation program for, and review applications from, schools wishing to establish school-site councils and become site-managed schools. It will be composed of five members appointed by the union and five members appointed by the superintendent.

- The professional development committee studies all issues related to the professional development of teachers and paraprofessionals. It makes recommendations and plans and coordinates all professional development programs, including the formation of a professional development center. It will be composed of four members appointed by the union and three members appointed by the superintendent. The union majority is intended to emphasize the greater responsibility of teachers for professional development.

- The mentor committee designs the

job description and operating model for mentor teachers and selects mentor teachers. It will be composed of four members appointed by the union and three members appointed by the superintendent.

Both the union and the district administration consider these negotiations to be the most enjoyable they have ever experienced. The settlement was not simply the result of compromise; it was one in which both parties achieved their major goals. It wasn't necessary to negotiate in public, and the negotiations ended with a breakthrough agreement that both sides are eager to make work.

A CONTRACT ENDANGERED

The announcement of the education reform contract was greeted by enormous support from the local and national media, from the business community, from the education community, and from the public at large. Coloredo-Mansfeld, chairman of the Boston Private Industry Council, applauded the agreement. "Last fall business leaders in Boston said that this type of decentralization and accountability was fundamental to school reform and to the success of the Boston Compact," he said. "Consequently, I am delighted with the nature and scope of this new contract."

But it was to take some nine months and 20 days after the historic press conference at the Old State House to get the contract funded. Despite strong public support, the earliest agreement in the history of collective bargaining in the Boston school system took the longest time to get funded when an escalating state fiscal crisis stalled its progress.

Uncertain about the city's fiscal condition amid a deepening state fiscal crisis, the mayor balked at funding a contract that he philosophically approved of and supported. The state legislature had passed a budget for fiscal year 1990 that reduced local aid to cities and towns, and Gov. Michael Dukakis had withheld \$200 million in budgeted local aid, an action that cost Boston an additional \$17 million. It appeared that the city would be unable to fund the contract. The mayor's staff delayed the appropriation order throughout the summer months. It was eventually sent to the city council for approval in late October, but without a specified source for funding.

Angered at the mayor's refusal to name a funding source, the city council rejected the appropriation order "without prej-

udice" and sent it back to the mayor for resubmittal. But key aides in the mayor's office declared the contract "dead" and said that it would have to be renegotiated.

It was now late October, five months after the signing of the tentative agreement. The teachers had exhausted their patience. A union analysis of the city's fiscal year 1990 tax rate filing found that, despite the fiscal crisis, the city did have the resources to fund the contract. On October 25 the executive board of the BTU called for a one-day strike, scheduled for December 14. The strike was not aimed at the school board or the superintendent; instead, its target was the mayor.

Throughout the fall of 1989 public support for the contract was substantial. Usually a teacher union stands alone in its fight for a contract, but this year the editorials in Boston newspapers strongly endorsed the union and the educational significance of the contract. A November 10 editorial in the *Boston Globe* characterized the failure to fund the contract as "a disservice to Boston's teachers." The *Globe* continued its pressure with editorials on "the teachers' stalled pay raise" (November 18) and on "honoring the teachers' contract" (November 30). Then it blasted Mayor Flynn as "Boston's educational block" (December 9). Even the conservative *Boston Herald* said in an editorial that "Boston teachers have every right to be angry" (November 28) and recommended funding the contract.

More than 4,000 Boston teachers, paraprofessionals, and school nurses braved one of the coldest days of the winter and filled City Hall Plaza on December 14 to demand that the mayor send the contract back to the city council and support its funding. This action marked the beginning of the union's return to its more traditional tactics of strikes and political action.

The mayor then offered the union a one-year contract in place of the original three-year agreement. Despite months of official denial, this offer revealed that the city could fund the appropriation. But the union stood firm and insisted that the reforms contained in the contract required a three-year commitment by the city. The union membership voted to escalate its action to a two-day strike on January 24 and 25.

Newly elected Boston School Committee President Daniel Burke announced in January that settling the contract was his number-one priority. Burke initiated a se-

ries of meetings involving himself, Union President Doherty, Mayor Flynn, and Superintendent Wilson.

Three days before the scheduled two-day strike, the parties announced a settlement. To satisfy the city's fears of incurring long-term obligations in a time of prolonged state fiscal crisis and legislative inaction, the teachers' salary raises were restructured. All other points of the contract remained intact.

Instead of the original 7% annual raises (with the first year's increase deferred until December 1), the new agreement gives teachers 4.5% on 1 September 1989; 4.25% on 1 February 1990; and 4.5% on 1 September 1990. Wage negotiations will be reopened for all BTU units for the 1991-92 school year.

For teachers, the effects of these changes are slightly more money in pocket over the next two years, a slightly lower payoff at the end of year two, and an opportunity to negotiate wages for year three at a time when the fiscal climate of the city and state may have improved.

The union membership and the school committee quickly ratified the revised settlement, and in early February the mayor sent a new appropriation order to the city council, this time identifying clearly the funding source.

Was it over? Collective bargaining in Massachusetts has changed profoundly since the early 1980s, when Proposition 2½ was passed. Prior to the enactment of that property-tax-limitation measure, a teacher union could reach a settlement

with a school committee, and the school committee possessed the fiscal independence to guarantee its funding. Proposition 2½ not only ended the fiscal autonomy of school committees but, by limiting property tax levies, also made cities and towns dependent on state aid for nearly 50% of new local revenues. This severely limited the fiscal capacity of cities to fund their own affairs, including contracts with public employees.

When politicians complain that there are no funds to pay for years two and three of a multi-year contract, they are merely stating the obvious: that local finances now depend too heavily on state aid. No one can know a year in advance how much aid to localities the state will make available in years two or three of multi-year contracts.

When educators speak of the fiscal limits of education reform, they are usually referring to the cost of implementing the reforms themselves. The Boston experience in 1989 shows that fiscal pressure can derail years of work by unions, school districts, and business leaders to produce an education reform contract that is, in essence, a social compact for school reform.

So the Boston contract faced one more hurdle, the city council. At a hearing of the ways and means committee on 13 February 1990, committee chairman Thomas Menino announced his intention to hold up the contract, despite strong advocacy expressed for the contract at the hearing by Colloredo-Mansfeld, chairman of the Boston Business Community's coordinating committee, popularly known as "the Vault," and former Suffolk University President Daniel Perlman, representing the Boston Higher Education Partnership.

The city council was not alone in its fiscal concerns. While the state crisis continued to deepen and the legislature tried and failed several times to pass new taxes, state leaders from all sectors, including the business community, kept quiet and offered no solutions that would involve new taxes.

At the city council's regular meeting on February 21, several councilors pressed unsuccessfully to bring the appropriation order out of committee and before the full council. Menino's action put off a decision on the contract for an additional three weeks, as the city council was recessing for a scheduled vacation. During this period, the union waged an intensive lobbying campaign. When the

city council met on March 14, Menino could garner only two other votes for his position, as opposed to the united support for the contract of 10 councilors.

With the 14 March 1990 vote by the city council, the contract became a legal fact, and the reforms in the contract could go forward. The first meeting of the joint labor/management steering committee, held on April 2, launched the contract reform efforts and convened meetings of the other three committees. The parties to the contract are anxious to begin the first application cycle by June of this year for schools wishing to become school-based-management/shared-decision-making schools and to provide adequate information and training to prepare teachers, principals, and parents to take such a step.

Union/management collaboration is already beginning to bear fruit. A federal magnet school grant has allowed a joint labor/management committee to collaborate "in the spirit of the contract" on opening a professional development school to revitalize veteran teachers through mini-sabbaticals, patterned after those offered at Pittsburgh's Schenley High School. The programs for teachers in Boston's middle schools and elementary schools will begin later this spring, and the program for high school teachers is scheduled to begin in September.

Both parties recognize that this contract could not have been achieved through traditional bargaining. CMI's intervention changed the dynamics of the bargaining process. Through third-party facilitation, the negotiations highlighted the interests of both sides and allowed each side to explore the goals of the other.

The open dialogue at the negotiating table brought to light new alternatives to achieve mutual goals, particularly with regard to school-based management and school accountability. The process encouraged the development of collaborative options, ways of accommodating both sides' goals and interests.

Despite a profound state fiscal crisis, the powerful education reforms in the contract enabled the parties to return time and again to key business, municipal, and state leaders to garner support for the contract's funding. Strike threats and political action by the union were ultimately necessary to win final approval of the contract, but such action would not have had wide support had not the school district and the teacher union delivered the goods on education reform. K



"I still want to be a fireman."