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Staffing the Boston Public Schools

After leading the Boston Public Schools (BPS) for nearly 10 years, Superintendent Thomas W. Payzant remained focused on improving instruction to raise student achievement. Since his appointment in 1995, Payzant had led the district to adopt a standards-based approach to instruction by insisting that high expectations, ongoing assessment, and data-driven reform were needed in every classroom of every school. He had worked to improve relations with key stakeholders including elected and appointed officials, union leadership, district employees, and community leaders. By adopting challenging curricula and working with staff to define clear goals and establish a system of professional development, Payzant and his team sought to create a culture of continuous improvement and high performance at BPS. Overall, the district's progress had been recognized by education experts and Payzant's peers.

Like many superintendents across the nation, however, Payzant wrestled with the ongoing challenge of recruiting and retaining a workforce of teachers who were qualified and committed to do the work necessary to raise all students' achievement. Staffing low-performing schools was especially critical. Nationwide, observers and scholars generally offered four explanations for the persistent staffing problems experienced by large urban districts. First, some argued that seniority-based transfer rules in the union contract encouraged good teachers to move out of low-performing schools and delayed the hiring and assignment of their replacements. Second, delays in approving state or local budgets meant that districts could not finalize staffing allocations and offer contracts to new teachers until late July or August, by which time many applicants had taken jobs in other districts and schools. Third, the human resource departments of local school districts were often very bureaucratic, dysfunctional, and unable to manage the hiring and transfer process efficiently. Fourth, many analysts contended that low-performing schools failed to recruit and retain strong teachers because they suffered from poor leadership and inadequate working conditions at the school site.¹ Payzant knew that each of these factors had affected Boston in the past, and he and his leadership team were working to address them.

¹ While public sentiment often cited undesirable neighborhoods or resource constraints as the primary cause of urban teacher shortages, a report issued by the New Teacher Project in 2003 (available at <http://www.tntp.org/report.html>) found that districts with ambitious recruiting strategies and timely hiring could attract five or more applicants for every opening.

Professor Susan Moore Johnson and Research Associate Jennifer M. Suesse prepared this case. PELP cases are developed solely as the basis for class discussion. Cases are not intended to serve as endorsements, sources of primary data, or illustrations of effective or ineffective management.

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BPS Background

Serving 58,600 students in 139 schools in 2004–2005,² BPS was the largest school district in Massachusetts and the 55th largest in the United States.³ Founded in 1647, BPS was the nation’s oldest school district. After 1993, it operated as part of the Boston city government, headed by Mayor Thomas M. Menino. The district’s downtown Court Street headquarters were located directly across the street from the mayor’s office, and he was an active supporter of the schools. BPS was the city’s largest department, and in 2004–2005, its \$656 million annual expenditures accounted for 35% of the city’s total budget. Mayor Menino appointed the seven members of the governing School Committee, which in turn appointed the superintendent. This system for appointing School Committee members, established in 1989, replaced a district-based election process that many observers felt had hindered the modernization of district management at BPS. Even in 2005, vestiges of the old political bureaucracy lingered at Court Street, and district officials were still working to articulate, update, or eliminate antiquated processes and procedures.

Ten-Year Reform Strategy: Focus on Children

Payzant came to Boston in 1995 fresh from serving two years as the assistant secretary for elementary and secondary education under President Clinton. He had also headed four other school districts, including the San Diego Unified School District from 1982 to 1993. With the support of Mayor Menino and the School Committee, Payzant led efforts to improve the quality of instruction across BPS. In concert with other influential stakeholders, Payzant developed a five-year plan for reform called “Focus on Children,” which was expanded and renewed in 2000. Payzant explained:

Our theory of change was that BPS needed to shift its focus to the primary goal of improving teaching and learning to enable all students to achieve high standards of performance. In conjunction with statewide education reforms including the development of a comprehensive assessment system, we established an aggressive emphasis on high standards, an instructional focus on literacy and mathematics, and targeted professional development for principals, headmasters, and teachers.⁴

Both Focus on Children I and II aimed to institutionalize instructional improvement. The strategy revolved around the “Six Essentials of Whole-School Improvement.” These were:

1. **The core essential—effective instruction:** Use effective instructional practices and create a collaborative school climate to improve student learning.
2. **Student work and data:** Examine student work and data to drive instruction and professional development.
3. **Professional development:** Invest in professional development to improve instruction.
4. **Shared leadership:** Share leadership to sustain instructional improvement.

² The BPS system included six early-learning centers (K–1), 66 elementary schools (K–5), 12 K–8 schools, 18 middle schools, one 6–12 school, 25 high schools, three “exam” schools (7–12), six special education schools (K–12), and two alternative (at-risk) programs. Of these 139 schools, 17 were pilot schools and two were charter schools approved and funded by BPS.

³ U.S. Department of Education rankings were based on 2000–2001 enrollment.

⁴ BPS school leaders are called both principals and headmasters. For simplicity, subsequent references to principals imply both groups.

5. **Resources:** Focus resources to support instructional improvement and improved student learning.
6. **Families and community:** Partner with families and community to support student learning.⁵

One integral element of the 10-year reform plan was developing systemwide instructional capacity. Both the literacy and mathematics curricula—BPS used the Readers and Writers “workshop” format in literacy and TERC *Investigations* program in mathematics—required sophisticated teaching strategies. When the programs were first introduced, these teaching strategies were unfamiliar to many new and veteran BPS teachers, who often found the new expectations for standards-based, student-centered, and constructivist pedagogy to be very challenging. In order to support teachers and principals as they learned to use the new instructional materials and strategies, BPS introduced a collaborative coaching and learning system in 2002. Effective practice schools were designated across the system as models for professional development and continuous improvement. Anticipating his retirement in June 2006, Payzant reflected on the progress at BPS:

Over the last nine years, I have focused my energy on improving instruction and leadership at BPS. Conversations about schooling have shifted to focus on *how* to accelerate the continuous improvement of teaching and learning to enable all students to meet high standards, and nearly 70% of the BPS principal corps has turned over during my tenure. The centerpiece of our school improvement strategy has been to appoint principals who are strong instructional leaders and provide coaches in literacy and math to assist with school-based professional development for teachers at each site. Our results suggest that we are on the right track [see **Exhibits 1a** to **1d** for district achievement results]. Now, our challenge is to move forward and remain focused despite budget constraints at the state level, which may slow the pace of continuous improvement. We are working to identify the supports schools need to function effectively, to find ways of working within the contract for developing people, to develop a broader diversity of teaching strategies across the faculty, and to figure out how to improve principals’ ability to evaluate teachers.

The Policy and Regulatory Context

The need to develop teachers’ and principals’ capacity for improved instruction had significant implications for staffing across the BPS system. As was the case for most urban school districts, many aspects of the district’s organization, including staffing procedures, were subject to state and federal policies, as well as to a local collective bargaining agreement with the Boston Teacher’s Union (BTU). Established in 1945, the BTU represented more than 8,000 members, including more than 4,000 teachers, working across the BPS system.

The contract In Boston, BPS and BTU representatives negotiated a collective bargaining agreement, or contract, every three years. The contract’s preamble stated that, although BPS had been recognized as one of the “best urban schools in the nation,” there were great challenges facing the school system. In signing the contract, both parties affirmed their commitment to transforming the traditional “litigious and suspicious” labor-management culture in order to meet the needs and expectations of the Boston community. They wrote:

In absolute terms, dropout rates are high, graduation standards and college matriculation rates are low, and the skills and prospects of many students in the system are well below their

⁵ The six essentials were refined over time. A detailed description and history of Focus on Children I and II was published by BPS online at <http://boston.k12.ma.us/teach/foc.asp>.

potential. This contract is dedicated to doing better. A commitment to change, however, is not enough. Our 1989–1992 contract was also intended to promote change, and it accomplished less than was hoped. There are lessons in that experience, and they are reflected in this agreement. Change will not come of its own accord; it requires intensive, carefully planned, and skillfully executed implementation. Strong, consistent leadership and widespread training is needed to transform the traditional labor management culture. To achieve real educational improvement, the parties and the community will have to work together collaboratively.⁶

The 231-page agreement included articles detailing rules and rights regarding effective working relationships, staffing, professional development, working conditions, compensation and benefits, and dispute resolution for BTU members. The contract had evolved gradually, though there were occasional watersheds. Following contract negotiations in the mid-1980s, for example, the use of seniority as a criterion for staffing decisions had diminished as principals gained a greater say in hiring and placing teachers in their schools.

Transfer rights (mid-1980s) Seniority was a powerful force in both BPS culture and practice. When new teachers entered BPS, they were granted “provisional” employment and offered one-year renewable contracts. According to state law, after three years of satisfactory service, “provisional” teachers earned “permanent” status—the equivalent of tenure (see **Exhibit 2** for 2003–2006 definitions of seniority and certification). Barring dismissal or a budget-induced layoff, permanent teachers were guaranteed ongoing employment within the BPS system.⁷

Historically, seniority rights enabled permanent teachers to select their assignments for the following school year from any of the positions available within the system. Veteran teachers who wanted to transfer between schools were ranked in order of seniority within BPS and then could select their next assignment from the list of posted vacancies. Since provisional teachers had only annual appointments, permanent teachers could “bump” into any open position, which included any position held by a provisional teacher. At one time, veteran teachers could also place a “blind bid” on a school, even if there were *no* openings. If a position became vacant, the most senior qualified teacher with a bid on file would be assigned the position without review by the principal. Neither principals nor the human resources (HR) office could interfere with the transfer process, and new teachers were often moved from school to school, rarely retaining desirable assignments. Veteran teachers, on the other hand, accumulated greater privileges and opportunities for choice assignments with each passing year of service.

In the mid-1980s, BPS and the BTU agreed to modify the impact of seniority on transfers and increase principals’ role in the process by allowing up to three permanent teachers to apply to any open position within any school. Once all permanent teachers had listed their preferences, principals could interview the three most senior applicants and select among them. HR then reviewed all the preferences and made the final assignments. This new process gave principals more choices and authority in staffing, although seniority still determined the pool of candidates. This also led BPS principals to negotiate informally among themselves about various staffing arrangements. During conversations regarding the 1997–2000 contract, the practice of blind bidding was discussed and eliminated.

New rights for provisional teachers and a compressed hiring timeline (2000) Another significant breakthrough occurred in 2000 when, under the leadership of Payzant and BTU President Edward J. Doherty, the parties attempted to address barriers to successfully recruiting and retaining

⁶ The full text of this agreement is available at <http://www.btu.org/leftnavbar/contractdownload.html>.

⁷ In the event of a layoff, the contract and state law stipulated that BPS teachers would be released in reverse seniority order.

well-qualified teachers including “bumping” and late-hiring timelines. After vigorous community debate and a near strike, BPS and BTU negotiators agreed that permanent teachers would no longer have the right to bump first-year provisional teachers out of their positions. The parties recognized that talented prospective teachers might never take a job in BPS without such assurance. Thus, BPS principals gained the ability for the first time to protect promising provisional teachers on their staff by issuing “letters of reasonable assurance,” thereby indicating that their positions were not available to permanent teachers seeking new assignments. The change also enabled schools to achieve greater stability in staffing as they engaged in school improvement efforts.

In addition to these changes in teacher assignment provisions, the 2000 contract included provisions aimed at compressing the overall hiring timeline.⁸ Prior to the 2000 contract agreement, voluntary transfers began in March. Then, the process for reassigning permanent teachers without assignments followed in April, through a process BPS called the “excess pool.” Unassigned teachers (those who were returning from leave or whose positions had been cut because of changes in program or enrollment) selected open positions in order of seniority.⁹ The transfer and excess-pool processes were conducted in person and administered by hand, which was time consuming and cumbersome, resulting in delays that prevented BPS from posting any remaining positions or interviewing external candidates before June 1.

After successfully negotiating the 2000 contract, BPS expected to begin the transfer process in February rather than March, so that new positions could be posted openly and external candidates interviewed much earlier in the hiring season. In theory, the expedited hiring timeline allowed BPS to compete for candidates with suburban districts. BPS principals welcomed this change, since many felt that timelines extending until July or August prevented them from ever interviewing some of the most qualified candidates, many of whom seemed unable or unwilling to wait that long for the possibility of an interview.

HR Operations at Court Street (2000–2004)

Following the tense 2000 negotiations, all eyes were focused on Court Street to see whether or not the BPS HR department would meet the new deadlines for transferring teachers internally, posting open teaching positions, and hiring new teachers from outside the system. Concurrently, many observers wondered whether the BPS HR system would succeed in recruiting and retaining new teachers.

A complicated political legacy Like HR department staff in many bureaucratic organizations, BPS HR staff worked in what some officials called a “silo structure.” Their isolation from other parts of the school system, poor infrastructure for data collection, and lack of technology was the unfortunate legacy of decades of unstable funding and intermittent mismanagement. This situation left HR department employees ill equipped to manage the staffing demands of BPS schools. Although entrepreneurial principals were able to “work the system,” most administrators acknowledged that the old staffing structure was outdated and ineffective. For as long as most BPS officials could remember, the HR system had been paper based, compliance focused, and relationship driven. Chief Operating Officer Michael Contompasis recalled:

⁸ “Toward an Open Teacher Hiring Process: How the Boston Public Schools and the Boston Teachers Union Can Empower Teachers to Hire and Keep the Best Teams,” an issue paper published by the Boston Plan for Excellence in March 2000, provided detailed examples in its description and analysis of these barriers. *The Boston Globe* carried full coverage of the final agreement on October 21, 2000.

⁹ Prior to 2000, teachers in the excess pool included those whose positions had been eliminated, those returning from extended leaves, and any permanent teachers who were voluntarily giving up their previous assignments.

When I was the headmaster at Boston Latin School [an exam school] in the 1980s, I would be here at BPS Court Street headquarters nearly every day in July and August, just walking between the floors and departments to get my teachers hired or arrange transfers. But, it wasn't just for arranging personnel issues. You had to be here in person for everything: facilities, budgets, textbooks, etc. That's the only way I could build the relationships I needed to get things done.

Implementing concessions earned in the 2000 contract In preparing for staffing in early 2001, Contompasis and the HR director met biweekly with a management "SWAT team" of senior personnel and technology and budget staff. Stakeholders were pleased when job openings were announced on schedule. The SWAT team had compressed the teacher-transfer process from three months to four weeks and created an interim computerized system for the annual staffing forecast (called "probable org"), which had previously been a purely paper-based activity. Before school began in September 2001, HR processed over 35,000 resumes for 1,181 positions, and new hires filled slightly more than half (54.8%) of the vacancies.¹⁰ Overall, outside evaluators felt that BPS made important gains in the first year of implementation but identified a number of areas in which the process could be improved.

Although district officials were eager to build on success, the new staffing calendar stalled in early 2003 when the city encountered unexpectedly severe reductions in proposed state aid. This forced BPS officials to recalculate staffing allocations, in addition to cutting 10% from each school's overall budget. Although the mayor and the City Council eventually reinstated some BPS funding for 2003–2004, BPS ultimately lost 400 teaching positions. In the aftermath of this process, the BPS budget director said, "Asking principals to consider their staffing three separate times—twice to reduce staff and then once to restore certain resources—was extremely difficult and disruptive. It pushed the completion of the staffing process well into the early summer."

Thus, though the HR department made some headway in implementing new procedures from 2001 to 2003, efforts to address the underlying technological and cultural barriers stalled due to a lack of financial resources and internal support. District officials estimated that many vacancies remained when school opened in September 2003.

A new HR director In late 2003, during the city's fiscal retrenchment, Payzant hired Barbara McGann to take over HR operations. Like her predecessor, McGann reported to the chief operating officer, but Payzant added her to his leadership team, with which he met regularly (**Exhibit 3** includes the 2004–2005 BPS organization chart). McGann was fresh from attending a program for prospective urban superintendents sponsored by the Broad Foundation. Prior to coming to BPS, she had worked with the Red Cross and also served as the provost of the Naval War College and commander of naval recruiting.

When McGann arrived at BPS in January 2004, Court Street was buzzing to complete "probable org," the annual staffing forecast. HR staff worked closely with BPS principals and the budget office to determine which positions would be vacant for the following year. Once probable org finished, the transfer, assignment, and hiring processes could begin. The city's 2004–2005 budget for BPS did not include funds to reinstate positions or services cut in prior years, so conversations around the office were heated. McGann recalled:

¹⁰ Implementation results for key hiring and transfer contract provisions are explained in greater detail in Special Report 02-1, "Implementing the Boston Teachers' Contract: Process Is Generally Successful But Key Opportunities Missed," published in March 2002 by the Boston Municipal Research Bureau, Inc. in collaboration with the Massachusetts Advocacy Center.

I arrived during probable org, which is a very complicated process involving all the schools and most of the HR staff. During my first few weeks on the job, I was very aware of my status as a newcomer to both the education sector and BPS. As I watched the staffing team at work, I was astounded to see that they did not work together. Also, the planning process was undertaken without the use of computers or comprehensive checklists. There was also some debate about whether or not we would keep or terminate the remaining teachers in our system who were unlicensed, and the discussion was taking place without any data about who those people were or what they were doing. Having come from helping one large bureaucracy—the Navy—to adopt computerized technology, the situation at BPS was still unbelievable. There wasn't even a basic database for all of our teachers. I knew that there had been turnover in my position, but the animosity and isolation within the department was greater than I had anticipated.

As McGann settled in, she began reviewing some of the facts at hand. Though the hiring timeline had been compressed following the landmark 2000 contract negotiations, many deadlines were still being missed. McGann was not sure whether or not the district would be ready to begin the transfer process in March, but she was very worried about hiring new teachers for the fall. So, she created a New Teacher Support Team/Recruitment Center to focus on recruiting new teachers. This team issued early letters of commitment to highly sought-after candidates, including teachers of color and certified math, science, special education, and English as a second language (ESL) specialists. The recruiting team then sought to match these candidates with vacancies across the system. McGann also hired a technology consultant who helped her to develop and implement an online application system that spring. In addition to her focus on recruiting, McGann began a massive reorganization of the HR department. In a midyear interview with *The Boston Globe*, McGann commented, "We're missing the best and the brightest, but we think we have a plan."¹¹

BPS Staffing 2004–2005: Spotlight on Principal Teresa Harvey-Jackson and the John Marshall Elementary School

As they were for McGann, recruiting and retaining talented teachers was one of Principal Teresa Harvey-Jackson's biggest priorities. After 11 years as the principal of the John Marshall Elementary School (the "Marshall"), Jackson was convinced that finding new and experienced teachers who could work successfully with her 673 students in Dorchester, the low-income Boston neighborhood where her school was located, was one of the most important aspects of her job.

Despite her convictions and experience, however, Jackson had faced a number of challenges in hiring the Marshall's staff for 2004–2005 (see **Exhibit 4** for the Marshall's profile). Although she had anticipated some turnover, her options for recruiting new staff were limited by the district's hiring policies and internal transfer procedures, as well as McGann's HR reorganization. Jackson had hired and fired many teachers during her tenure as a principal, so despite these regulations and uncertainties, she sought to find the best possible staff prior to the start of school in September. As she reflected at midyear on the problems she had encountered in filling 14 vacancies, Jackson said:

I think the number of staffing challenges we had this year has been extraordinary. While some years are harder than others, this year has proven to be one of the most difficult I have experienced during my tenure at BPS. In one second-grade class, we have seen four different teachers. We were unable to find a credible certified librarian candidate until December. Then,

¹¹ Kevin Rothstein, "By Cutting Application Red Tape, Hub Public Schools' Aim: Hire," *The Boston Globe*, May 14, 2004.

two permanent teachers were out sick for the 2003–2004 school year, and their positions were filled by substitute teachers. Although neither teacher planned to return for the 2004–2005 school year, their positions were permanent and could not be posted. Had the superintendent not intervened, those slots would have been filled again by substitutes. Staffing our bilingual fourth-grade class has also been problematic. The first teacher quit, and I terminated the second due to poor performance. Neither teacher was certified. We are comfortable with the current substitute teacher, but as of March, we still have not hired a qualified or certified bilingual teacher. This is upsetting, given that fourth graders are held accountable for mastering a fourth-grade curriculum which is assessed by the state. These students need consistent, high-quality instruction, and having four teachers in a four-month period does not meet their needs.

Jackson knew that her students' performance on state exams (the Massachusetts Comprehensive Assessment System, or MCAS, pronounced "EM-cass") was monitored closely. Although the district had recognized the school as an "effective practice school" earlier in the year, the students' MCAS scores remained unacceptably low (**Exhibit 5** includes the Marshall's MCAS results). In January 2004, the Massachusetts Department of Education sent a state-appointed panel of experts to visit the Marshall to determine if the school was underperforming and if intervention was necessary. Although the commissioner concluded that the school was not underperforming and that Jackson and BPS had "a sound school improvement plan for improving student achievement, [and that] conditions appear[ed] to be in place at the school to support successful implementation of the plan," the evaluators noted that the number of relatively new teachers in the building (14 of 54) and the number of teachers working outside their areas of certification were among a number of obstacles to success.¹²

Thus, for Jackson, as well as McGann and Payzant, effective staffing at the Marshall was critical. Preparations for hiring teachers began months in advance. The formal staffing process started with school budgeting in December. Four additional steps including probable org, systemwide transfers and excess pools, open postings, and general applications spanned the winter, spring, and summer months. Hiring often continued even after school began. For Jackson, the 2004–2005 school-based staffing process began with the budgeting process in December 2003.

Step 1: Budgeting and Internal Review

In a system as large and as complex as BPS, the allocation of teaching positions changed from year to year in response to budget constraints, program modifications, shifting demographics, and policies regarding class size. Some vacancies could be predicted, but there were always unexpected changes. Retiring teachers were not required to give advanced notice of their retirements, and some teachers waited until after the school year ended to decide whether or not to return the following year. Plus, there was always the possibility of unplanned openings due to maternity leaves. Jackson, however, was confident that she could cope with unexpected vacancies, noting that "anything is easier than trying to fill 23 vacancies as I did in my first year as principal of the Marshall."

School budgeting Jackson was expected to submit her preliminary school budget to the budget office when she returned from winter recess in early January 2004. After reviewing her budget and projected enrollment, Jackson anticipated she would lose one class in each of the first, third, and fourth grades and need to add a second-grade class. She expected a few other shifts as well

¹² The Winter '04 School Panel Review Report was published by the Massachusetts Department of Education on February 17, 2004 and posted online at <http://www.doe.mass.edu/sda/review/cohorts/?FilterYear=2004&orderBy=>.

after the school-site council decided to replace one ESL class with a program designed to accommodate immigrant students in grades three, four, and five who had no previous formal education.¹³

Reviewing provisional staff Next, Jackson decided who among her provisional teaching staff would receive a letter of reasonable assurance, guaranteeing them a position for the following year. Responsibility for supervision and evaluation of her staff was divided among the Marshall's three-member administrative team, and Jackson consulted with her colleagues in making these decisions. First- and second-year provisional teachers could either receive a permanent position or a renewed one-year appointment (hence retaining provisional status for another year). Third-year provisional teachers were either made permanent or terminated. Jackson noted:

After budgeting, I always begin the staffing process by deciding which of my provisional teachers I want to keep. When we gained the ability to protect our provisional teachers in 2000, I could make provisional teachers permanent even during their first year. Prior to that, any permanent teacher could transfer into their position without my having any say about it whatsoever. Although granting permanent status to first-year teachers would save me from having to go to the excess pools or outside to hire new teachers, I tend to do so rarely. Since we can rehire provisional teachers as long as their current positions remain available for the next school year, I prefer to wait. I don't think watching somebody teach from September to January has proven to be a reliable way to predict future performance.

Permanent teachers' preferences Once Jackson had identified the provisional teachers she intended to keep, she made a list of likely vacancies. Jackson circulated this list among the Marshall's permanent teaching staff in early January, with a sheet asking them to list their assignment preferences for the following year. They could rank their interest in potential vacancies at the Marshall or elect to keep their current position. Some teachers selected different assignments from openings within the building, and a handful of others indicated that they would transfer elsewhere in the BPS system.

Step 2: Probable Org

Once she had received teachers' preference sheets, Jackson sat down to review the 25-page probable org summary from the HR office, which included all the Marshall's budgeted dollars and positions as well as a list of individual staff members. With pencil in hand, Jackson went line by line through the Marshall's seven-page roster, which listed all teachers including their position code and seniority status. Overall, she expected that her teaching staff would be reduced by 4.2 full-time equivalencies (FTEs) (see **Exhibit 6** for a summary of the Marshall's 2004–2005 allocation).

After analyzing the permanent teachers' preferences and BPS enrollment projections, Jackson identified nine vacancies for 2004–2005. She needed to hire three special-education teachers, as well as a fifth-grade teacher, a fourth-grade sheltered English instructor, a resource room teacher, a Spanish-language-based bilingual teacher, an English-language-based bilingual teacher, and a librarian. Between transfer requests and some expected retirements, all of the Marshall's permanent teachers retained assignments within the building, and none entered the excess pool. Jackson then submitted her entire worksheet to the HR department.

¹³ In the 1980s, BPS adopted a site-based management system called the "school-site council." The contract outlined the council's membership, role, and responsibilities in Article III (<http://btu.org/leftnavbar/contractdownload.html>). At Marshall, this governing group included Jackson, seven elected BTU members, and seven parent representatives.

Step 3: Systemwide Transfers

Since the majority of BPS teachers were guaranteed a job starting each September, a period for transfers—both voluntary and involuntary—preceded each hiring season (see **Exhibit 7** for excerpts from sections I and J from the 2003–2006 BPS-BTU contract). New openings could not be posted for external applicants before internal staff—in this case, other permanent teachers across the BPS system—had an opportunity to apply unless 60% of the faculty voted to approve an exception.¹⁴ Jackson elected not to ask the faculty to vote on posting any vacancies for outside hiring prior to the transfer process, although some other BPS principals did seek and receive the faculty votes necessary for open postings.

Once HR received probable org worksheets from all the principals, the staff generated a comprehensive list of vacant positions across BPS. Although the HR staff worked to meet the strict deadlines, due to the complexity of the task and some tardy submissions by principals, the list of transfer postings was not available until March 3, 2004. At that time, any permanent teacher in the system was eligible to apply for these openings.¹⁵ No veteran teachers applied for a transfer to the Marshall.

Step 4: Excess Pools

Once the window for voluntary transfers was closed, BPS began the “excess” process. In addition to having agreed to concessions on the timing of transfers, BPS and BTU had agreed in 2000 that principals would be prohibited from using the excess pool to force the involuntary transfer of unwanted teachers. In an attempt to reduce unnecessary internal shuffling among veteran teachers, permanent teachers were prohibited from entering the excess pool voluntarily. BTU President Richard Stutman explained, “The new excess and hiring protocols continue to balance the needs and choices of both unassigned teachers and administrators while streamlining both.”

This change in policy aimed to address an unspoken issue within BPS. Some district employees, including Jackson, felt that some principals and teachers abused the excess process. Since principals had the power to shift assignments within their buildings, they could eliminate unwanted teachers’ positions, forcing those teachers into the excess pool in lieu of completing the evaluations required for dismissal, which could take years to complete. Jackson remarked, “Nobody really talks about it openly, but we all know of cases when a colleague closed out a position instead of evaluating out an ineffective teacher.” Some teachers were also known to put themselves into the excess pool in an effort to avoid negative evaluations from their principals. Thus, although the excess pool existed to serve legitimate needs within the system, the perception that some administrators and teachers had “worked the system” harmed the overall perception of the process, and some officials described the misuse of the excess pool as a “dance of the lemons.”

In late April, Jackson went downtown to Court Street to meet with several excess-pool groups, armed with her list of nine vacancies. Prior to this meeting, she had spoken with some of her fellow principals about various candidates who might be available, and Jackson hoped to recruit a few individuals in particular. She stood in front of a room of “excessed” permanent elementary teachers and briefly described her school and available positions. Teachers had the opportunity to hear presentations from any of the 66 elementary principals who sought elementary staff and then selected

¹⁴ See contract Section I 1 (b) in **Exhibit 7**.

¹⁵ According to contract Section I 1 (c), schools could reject transfer applications from any teacher who had “received two interim overall unsatisfactory evaluations between September and February of that year” (see **Exhibit 7**).

their top three choices in order of their seniority. The contract guaranteed that permanent teachers would be placed in one of the three positions they selected.

When the pools were finished, seven candidates indicated interest in filling three of the Marshall's nine vacancies. Jackson interviewed all seven candidates with the Marshall's personnel subcommittee and then submitted her list of candidates in order of preference to HR.¹⁶ A few weeks later, she received the results of the transfer and excess process. When reviewing the final assignments, Jackson saw that three permanent teachers had been added to her roster. She had interviewed two, but one name was unfamiliar. When she called the HR office for details, Jackson recalled:

It turns out that if teachers are eligible for a disability-related 504 accommodation, HR will place their preferences at the top of the list, and they don't even have to show up at the excess pool. I asked HR for some information about her disability in order to make the necessary arrangements in my building, but they told me they were not legally able to provide specifics. So, I called another office to learn how to accommodate her disability. This was helpful since I did not have a chance to meet this teacher until the first day of school. Unfortunately, she was unfamiliar with our curriculum and lacked the summer training that most of our teachers had completed.

Step 5: Open Postings and General Applications

In late May, the transfer and excess process was finally complete. The Marshall's remaining six vacancies could be viewed by external candidates via the BPS website, and hiring from outside BPS could begin. Some principals maintained a waiting list of candidates—former interns, favorite substitutes, or paraprofessionals who had become certified teachers—and were prepared to extend offers to these individuals as soon as possible. However, by this point in the year, many suburban districts had already completed their hiring, and there were fewer candidates than there had been earlier in the spring. McGann reminisced, "Throughout the spring, my staffing team was missing deadlines. It took time for me to make necessary personnel changes, and it was incredibly frustrating for me to watch the weeks slip away in the meantime."

Deluge of résumés Unlike that in prior years, the 2004–2005 application process was handled entirely online due to the first round of technology upgrades introduced by McGann and the HR team. Jackson was deluged with more than 200 résumés, which disrupted some of her staffing systems at the Marshall. She noted:

Every other year I got a stack of résumés from the HR office, and I distributed them evenly among the five members of our personnel committee. We each skimmed through our allotted applications to see which candidates should be reviewed by the whole group and then handed those files to the school secretary for xeroxing and distribution. This was time consuming, but not arduous, and we had it down to a system. This year, however, I had to access hundreds of applications online myself, none of which had been screened by HR. Since I was looking for at least two people with dual bilingual/special-education certifications and a librarian with a master's in library science, the pickings were slim. Many applicants were totally unqualified for my vacancies. Some people applied for more than one position, so there were some

¹⁶ Each BPS school-site council had a personnel subcommittee, which included two teachers (elected by union members in their school) and one parent in addition to the principal. Overall, teachers, parents, and administrators spoke highly of this arrangement. Although the contract granted principals the authority to veto personnel subcommittee recommendations, this right was exercised rarely.

duplicates. I couldn't tell which candidates were viable without printing them all out, which took forever. Overall, the process was a nightmare.

After struggling with the online application procedure and the departure of several HR staffing coordinators downtown on whom she had relied to get things done, Jackson and the four other members of her personnel committee began interviewing external candidates in August. During the summer, Jackson discovered that in addition to the six remaining vacancies identified in probable org, she needed to hire an extended-day kindergarten teacher, another special-education teacher, as well as a part-time teacher for the Literacy Through Art program. This brought her total vacancies to nine. Moreover, one second-grade teacher and one kindergarten teacher were out on extended sick leave, and she was determined to hire teachers, not substitutes, for those positions this year. Fortunately, the superintendent's office agreed with her that the students should not have to have substitutes for another year and permitted Jackson to seek two provisionals just before school opened. Thus, Jackson needed to hire 11 new staff in August before school began.

Summer hiring: two paths to the Marshall Two teachers Jackson interviewed during August were new to BPS. One was a young graduate of Lesley University who had been looking for a position at BPS since before she started graduate school. While working toward her master's degree and dual certification in elementary and special education, she did internships in BPS schools. Early in her graduate program, she approached the principal of a BPS school that specialized in special education about possible openings. The principal was impressed with her credentials, but he had no vacancy. They kept in touch, and at some point he forwarded her résumé to a special-education coordinator who had once worked with Jackson. The teacher said:

I think Teresa ended up with my résumé because of the special-education coordinator, because I got a call in mid-August, long after submitting my applications. I think I sent BPS my résumé more than 100 times between January and whenever they put up the online application system. I only got two calls from principals, both of whom were looking for resource room help, not for a teacher dealing with behavioral difficulties. Having worked as an intern and tutor at BPS in college, I knew that this was how the system worked, but it was very stressful. I could never get any information from anyone. But, once I discovered that nobody could get any information, I didn't feel so alone anymore. At least I knew that BPS hires late. So, when Teresa finally called me about the lab cluster position in the second week of August, I was thrilled. I came in for my interview and had an offer before I left the building. It is a shame that BPS hires so late, because some good people really can't wait. Knowing how hard it is to break into this system, I would have taken whatever job I was offered. But, sometimes things just work out, because I can see myself in this job for at least 10 years.

Another new candidate that Jackson hired in August was a career changer who had a bachelor's in fine arts and had also earned her master's from Lesley University in 2004. She applied for art and classroom teaching positions at many districts in the Greater Boston area, including BPS and some wealthier suburbs like Lexington. She never applied, however, for any position at the Marshall. The teacher explained:

I applied online three or four times but never got anything other than an automated e-mail response. Originally, I wanted to work in the suburbs and was recruited by some of the suburban districts. But, when a friend of mine who taught at the Marshall told me in late August about their search for a part-time teacher of "literature through art," I had to find out more. This was my dream job—an opportunity to integrate my love of art and children's literature, with hours that suited my situation as a single mom perfectly. I never saw my job advertised, however, even though I was checking the BPS website regularly. I immediately gave my friend my résumé, and a week later I was interviewing with the principal and two

other teachers about the position. Unlike my interviews with other districts that felt frantic or rushed, the Marshall group was thorough and welcoming. I could tell that, while they needed to fill the position, Teresa was being particular about whom she hired. I got a tour of the school, and a week later Teresa called me with an offer. After a few months in the classroom, I can honestly say I love this job working with kids in an urban setting. Even though the work can be difficult, I just cannot see myself working in the 'burbs.

School Begins

By the time school began in September 2004, Jackson had filled 13 of the 14 total vacancies at the Marshall. The librarian's position remained stubbornly empty. Jackson was pleased with the two new teachers she had hired in August, but unfortunately some of the other new staff members were less successful. For example, within the first three weeks of school, two permanent BPS teachers new to the Marshall left the district rather than risk unsatisfactory evaluations. A third told Jackson that she was "overwhelmed by the needs of the children" and resigned. Jackson filled two of these positions with incoming permanent teachers, who were forced to transfer out of other BPS positions and into the Marshall following the systemwide enrollment review in October.¹⁷ While Jackson felt that one of these last-minute transfers was a good match for the school, she was frustrated that she was forced to take the second teacher as well.

Jackson continued to search for a certified librarian with a master's in library science, since she had lobbied extensively to gain BPS funding for reestablishing the Marshall's library program. She said, "I needed a certified librarian in order to use my allocation for library materials and technology. It was a substantial amount, and while I saw many good candidates, they were not qualified. It was frustrating not to have someone, and I worried we would lose our funding." Then, in December, Jackson heard about a librarian who was finishing her degree at Simmons College later that month. Jackson met her and hired her instantly.

Reflections

"I know what skills I am looking for in new staff in order to ensure that we can deliver meaningful and appropriate instruction here at Marshall," Jackson said in reflecting on the staffing process. "Most days I wish I had more authority over staffing in my school. Even though Massachusetts grants principals the right to hire and fire, BPS principals do not have this responsibility. This is problematic." Chief Operating Officer Contompasis echoed Jackson's concerns. He noted:

When I came into this system in the 1960s, I was a teacher and a BTU member. My goal was to give teachers a voice within their working environment. I felt that principals [and the district] had too much authority. Too many decisions at that time were being made because of politics, and adults did not always consider our students' best interests. The relationship between the district and the union was sometimes adversarial, and we had a lot of difficult issues to resolve. But, things have changed. We have site-based decision making and relaxed seniority rules, but we still need to move forward in eliminating impediments that principals have to manage. The goal continues to be finding common ground that allows principals to include teachers in an advisory capacity around key decisions but also ensures that principals have the authority to get things done.

¹⁷ These permanent teachers had filled positions in other BPS schools when unexpectedly low class sizes resulted in staff reduction. In these cases, teachers were moved according to seniority. Newest teachers were moved first.

Ongoing Efforts

Altogether 505 new teachers joined BPS by the end of September 2004. Of this group, 116 were selected in June, 300 were selected by the end of August, and 89 were hired after school began. While reviewing the 2004–2005 staffing process, Payzant and his team could see signs of progress as well as problems that still required attention. Reform efforts in the HR department were ongoing, and the district’s relationship with the BTU continued to evolve.

HR Reorganization Continues

McGann continued her reorganization of assignments within her department, and officials from across the district remarked upon the rapid changes happening in HR. Instead of having individual specialists (e.g., one person handled all HR requests for paraprofessionals), she decided that HR needed cross-trained teams that could answer questions from principals and prospective teachers according to level (e.g., elementary or secondary). She also asked veteran BPS principal Joseph Shea to become the director of staffing. Through the Broad Foundation’s fellowship program, McGann also hired an MBA graduate as her deputy director.

By the end of 2004, the cubby barriers in HR offices on the third floor at Court Street had been totally removed. Approximately six people had retired or left the department, which now included about 30 members, and employees’ desks were spread across the open-concept space. McGann noted, “Change is underway, but it is slow. People still tend to gravitate toward old patterns. Rather than giving answers on the spot, they pass questions along to specific individuals—which can be frustrating for principals. But, Shea sits right in the middle of the floor, which is by design, and he can overhear and address issues as they arise.” To signal the importance of the HR work, Payzant elevated McGann’s position from director to assistant superintendent.

Evolving Union Relationship

In addition to instituting changes within the system, McGann and other district officials (including Contompassis, who headed the BPS negotiating team) were slowly building relationships with the new BTU president, Stutman. Stutman, elected following Doherty’s retirement in 2003, had previously been the BTU’s secondary schools’ field representative. Although some district officials had been concerned that Stutman’s reputation for independence would threaten ongoing efforts to collaborate, observers felt that the relationship between BPS and the BTU was relatively steady. As the school year progressed, district and union officials continued to build relationships as they worked through ongoing issues including some thorny staffing questions associated with the BPS high school reform strategy.¹⁸ Near the end of January 2005, Stutman reflected on his role, the staffing process, and the challenges ahead:

Staffing our schools is an exceedingly complex project, and one I have always found fascinating. When we look at the hiring calendar, the BTU supports completing the transfer process as soon as possible. It can’t be run too early, however, without the risk of missing real vacancies that haven’t yet surfaced in the accompanying budget process. So, the timing is a balancing act. There has never been anything in the contract that prevented principals from

¹⁸ BPS was in the process of converting some of its large, comprehensive high schools into “small schools” as part of a nationwide high school reform experiment funded by the Gates Foundation. Historically, permanent teachers were “attached” to positions in specific buildings, which insiders called “building” or “attachment rights.” Before BPS could break up schools and reassign secondary school teachers, these building-attachment rights needed to be addressed.

hiring once the transfer process has finished, but some principals just are not ready to take the initiative and hire as early as May. Too often, these same principals end up with more than their share of new teachers. In the ideal world, BPS would place new or struggling teachers in the best schools to give them assistance and a boost in the best, most suitable, environment, but there aren't any incentives at the moment to do this.

On another note, Barbara McGann is helping HR move into this century technology-wise. She is fairly reasonable and has 100 ideas a minute. HR has made progress, but the staffing process continues to lag in part because some principals just don't submit information in a timely manner. To me, the issue of staffing low-performing schools is all about principals. Teachers don't avoid low-performing schools. They avoid miserable or inept principals. The state designations of low-performing schools change from year to year; that standard is arbitrary. When choosing a school, teachers do not worry about whether it's been designated a low-performing school. Instead, they calculate the nature of a principal's relationship with the staff, as well as the quality of the building, its location, and sometimes, even parking spaces.

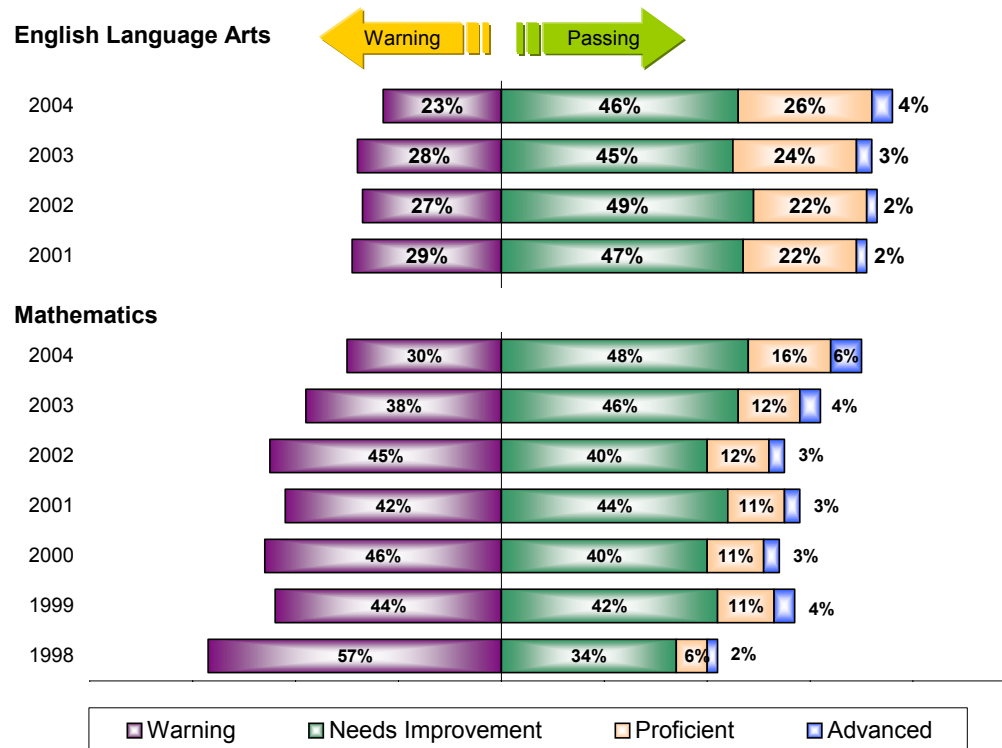
Next Steps

As Payzant considered these challenges and looked ahead to the future, he commented:

The issue of deciding who has the right to teach where is complicated, and staffing our low-performing schools is a perennial puzzle. Leaders in every sector struggle to convince talented and experienced individuals to take on the toughest assignments. We face tough questions. How can we continue to improve our relationship with the BTU? How can we support HR as it works to become more effective when we have deferred needed improvements in central office infrastructure in trying to minimize the impact of \$85 million in cuts made in 2003 and 2004 on schools? How will principals, our instructional leaders, be in classrooms every day, participate in common planning time with teachers, and attend to many operational tasks and also find the time necessary to document the performance of ineffective teachers and remove them from the profession? We must answer these questions and figure out how to build a system that supports teachers and principals in closing the achievement gap and getting all students to the standard of proficiency.

Exhibit 1a District Performance Data: Grade 4 MCAS Results 1998–2004

BPS Grade 4 MCAS Results 1998–2004

*English Language Arts*

Seventy-seven percent of the students attained a passing score in 2004. The percentage of students scoring in Warning in 2004 dropped 6 points when compared to 2001. The percentage of students scoring Proficient/Advanced in 2004 increased by 6 points when compared to 2001.^a

Mathematics

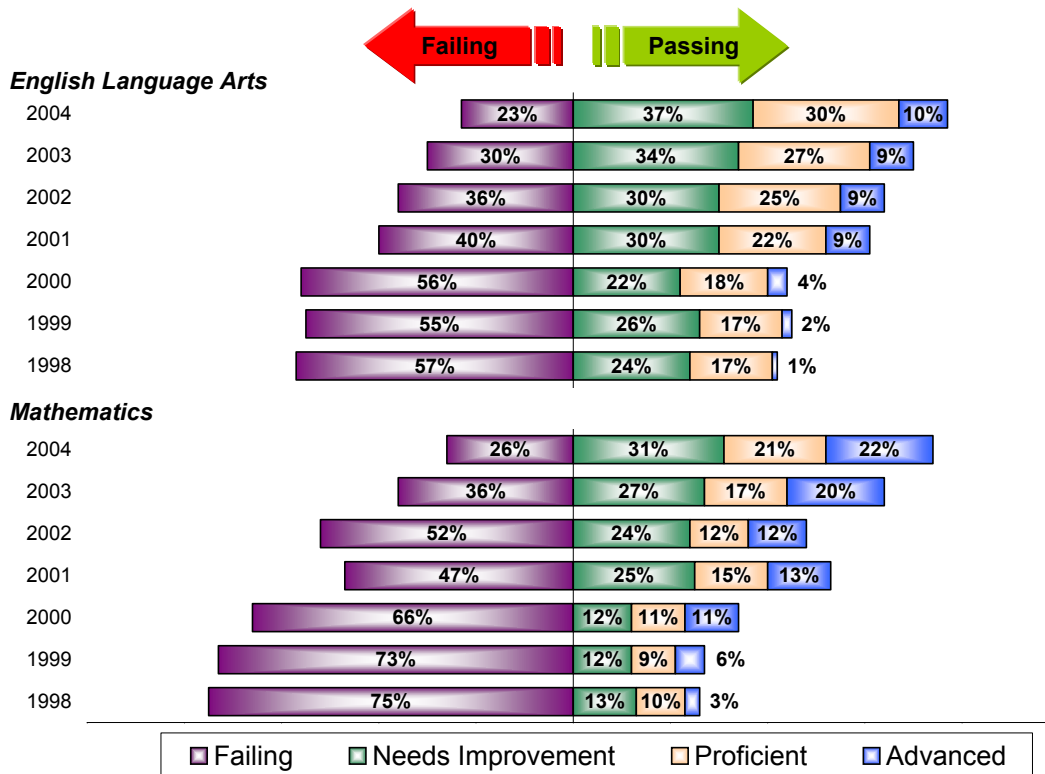
Seventy percent of the students attained a passing score in 2004. The percentage of students scoring in Warning in 2004 decreased 12 points when compared to 2001. The percentage of students scoring Proficient/Advanced in 2004 increased by 8 points when compared to 2001.

Source: BPS Office of Research, Assessment and Evaluation report, September 2004.

^aNote that the grade 4 English Language Arts performance standards were changed in 2001. As a result, scores are not directly comparable with prior years.

Exhibit 1b District Performance Data: Grade 10 MCAS Results 1998–2004

BPS Grade 10 MCAS Results 1998–2004



English Language Arts

Seventy-seven percent of the students attained a passing score in 2004. The percentage of Failing students in 2004 decreased 17 points when compared to 2001. The percentage of students scoring Proficient/Advanced in 2004 increased 9 points when compared to 2001.

Mathematics

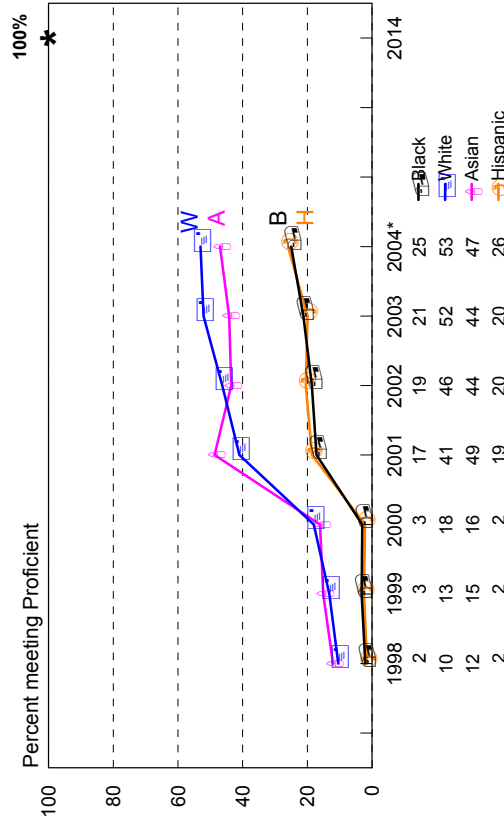
Seventy-four percent of 10th-grade students attained a passing score in 2004. The percentage of Failing students in 2004 decreased 21 points when compared to 2001. The percentage of students scoring Proficient/Advanced in 2004 increased 15 points when compared to 2001.

Source: BPS Office of Research, Assessment and Evaluation report, September 2004.

Exhibit 1c District Performance Data: Grade 4 MCAS Results 1998–2004 by Race/Ethnicity

Percent of BPS 4th-Grade Students Scoring Proficient or Advanced by Race/Ethnicity 1998–2004

Grade 4 English Language Arts



N & % of Native American in Proficient & Advanced Levels: 1998: 0 (0%) of 19; 1999: 2 (7%) of 27; 2000: 5 (17%) of 30; 2001: 11 (52%) of 21; 2002: 2 (13%) of 16; 2003: 7 (37%) of 19; 2004*: 8 (35%) of 23.
* SIMS file information

English Language Arts^a

There was significant improvement for all races from 2001 to 2004. Compared to 2003, blacks and Hispanics were improving at a faster rate than whites and Asians in 2004.

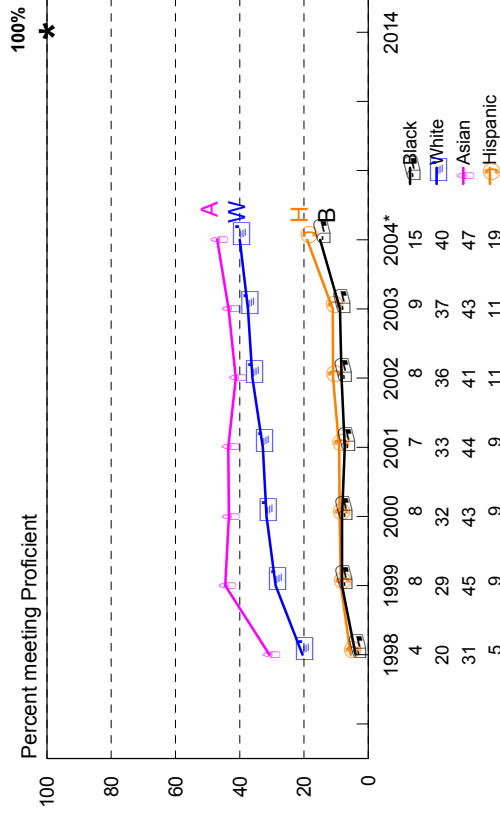
Mathematics

There was significant improvement for all races from 1998 to 2004. Compared to 2003, blacks and Hispanics were improving at a faster rate than whites and Asians in 2004.

Source: BPS Office of Research, Assessment and Evaluation report, September 2004.

^aNote that the grade 4 English Language Arts performance standards were changed in 2001. As a result, scores are not directly comparable with prior years.

Grade 4 Mathematics

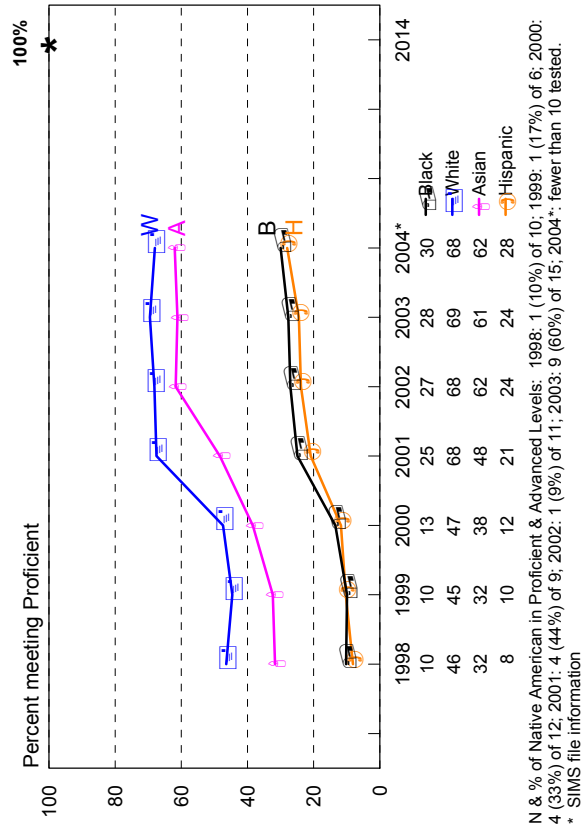


N & % of Native American in Proficient & Advanced Levels: 1998: 1 (5%) of 19; 1999: 2 (8%) of 26; 2000: 6 (20%) of 30; 2001: 3 (14%) of 21; 2002: 5 (31%) of 16; 2003: 2 (11%) of 19; 2004*: 3 (13%) of 23.
* SIMS file information

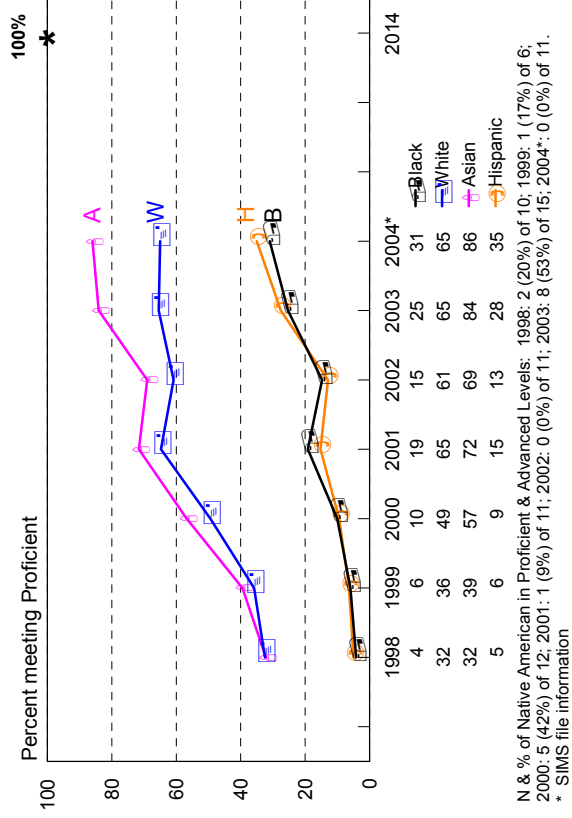
Exhibit 1d District Performance Data: Grade 10 MCAS Results 1998–2004 by Race/Ethnicity

Percent of BPS 10th-Grade Students Scoring Proficient or Advanced by Race/Ethnicity 1998–2004

Grade 10 English Language Arts



Grade 10 Mathematics



English Language Arts and Math

Significant improvements for all races occurred in both English Language Arts and Mathematics from 1998 to 2004. Improvements were between 20 and 54 points. For both English Language Arts and Mathematics, improvements in 2004 for blacks and Hispanics were greater than for whites and Asians when compared to performance in 2003.

Source: BPS Office of Research, Assessment and Evaluation report, September 2004.

Exhibit 2 Seniority and Certification: Excerpts from 2003–2006 BPS-BTU Collective Bargaining Agreement Sections G & H

G. Seniority

Seniority in the teachers' unit is defined as total years of professional service in the Boston Public School system for which salary credit is given for step advancement, including years on maximum whether or not such teaching experience (120 days) results in a provisional contract in any year.

Time spent in authorized leave of absence granted for any reasons prior to September 1, 1980 will continue to count as seniority in the teachers unit. Paid leave of absence granted on or after September 1, 1980 including leave covered by workmen's compensation, will continue to count as seniority in the teachers' unit. Unpaid leave of absence granted on or after September 1, 1980 for any reason other than for union business under Section VIII(Q)(1) will not count as seniority in the teachers' unit. Any time spent on an involuntary layoff prior to an offer of recall shall be counted as seniority in the teachers' unit; however, such time shall not count towards career awards or other salary advancement. The Union will indemnify the Committee against any cost or damages arising out of any dispute or proceeding connected with the prior sentence.

The Union shall be supplied with a current seniority list of all members of the bargaining unit.

The settlement agreement contained in Appendix B shall apply to all similar situations where the Superintendent breaks a larger school into smaller schools or small learning communities. The seniority provisions referenced in Paragraph 3 of the appendix will continue in each circumstance for 16 full years commencing from the beginning of the September following the year this provision is implemented in a given school.

H. Certification/Program Areas

1. Program Areas

Employees shall be assigned to program areas in which they are qualified. Program areas are listed in Appendix A. The School Committee reserves the right to establish additional program areas, subject to any collective bargaining obligation as may be required by law.

2. Qualifications

Employees shall be deemed qualified in a program area by holding a valid state certificate or approval for such area and by meeting one of the following criteria:

- (a) A state certificate not more than five (5) years old.
- (b) A mean score on the National Teachers Examination, not more than ten (10) years old.
- (c) Fifteen (15) course credits, graduate or undergraduate, approved as relevant to qualification, all of which are not more than five (5) years old.
- (d) Two (2) years of teaching experience within ten (10) years. A creditable year is one in which at least 50% of the weekly schedule is in the subject area.

3. Ranking

Teachers shall be ranked by seniority (as defined in Section V(H) above) within each program area, including teachers on recall lists.

4. Schedule and Procedures

For the purposes of determining qualifications and placement in a program area, all valid credentials must be filed with the Personnel Department on or before January 15th of any year, unless the results of the NTE or PRAXIS exam are not available by January 15th, in which case, the application will be due by 2/15.

Employees must respond to alleged erroneous placement or non-placement in a program area or to an error in their seniority date within thirty (30) days of the receipt of such information from the School Department.

5. Leave of Absence; Promotion

Teachers on leave of absence for more than ten (10) years or who were promoted out of the bargaining unit shall be considered qualified in the program area in which they have taught immediately prior to such leave of absence or promotion in addition to any program area in which they are qualified under Section (2) above.

6. Recall

Teachers on recall shall be placed in program areas in which they are qualified under Section 2 above.

7. SPED Teachers

The following special provisions shall apply to SPED teachers, superseding any conflicting provision of the 1983 Settlement Agreement. All article references in this proposal refer to the Settlement Agreement.

(a) Employees shall be assigned to one of the SPED program areas or categories (see Appendix A).

(b) SPED teachers shall be deemed qualified in any such program area or category in any manner specified in IV C 17(b), subject to the specific additional requirements listed in Appendix A. In addition:

- (1) Any SPED teacher, including an ETL, is deemed qualified in Program Area 12 and its categories (subject to special certification requirements).
- (2) An ETL is considered qualified in the program area in which (s)he taught immediately prior to becoming an ETL.
- (3) A SPED teacher hired on or after September 1, 1986 with an 003 certificate shall not be deemed qualified to teach in any specific program (e.g. LD, SAR, ESD) without evidence of satisfactorily completed coursework related to such program. The Department will accept evidence of enrollment as a valid credential, subject to completion of such courses on time line as mutually agreed by a teacher and the Department.

(c) Any SPED teacher may exercise layoff, transfer, recall and excessing rights, in accordance with the general provisions of Article VC15-19, in any program area in which such teacher is qualified, except that:

- (1) No teacher who is targeted for excessing from a category other than 12f or 12g may displace a teacher in 12f or 12g (prior to being placed in the system-wide excess pool) without prior experience in such category;
- (2) Teachers in Program Area 2 shall be excessed by category;
- (3) Teachers laid off from Program Area 12 and currently teaching in category 12h or with prior experience in Category 12h (in compliance with Article VC 17-21) shall be considered qualified to displace junior teachers in Program Area 13 who are working in 502.4 cluster programs and to displace any provisional teacher in Program Area 13; but not to displace any junior tenured teacher at the McKinley School or in any other severe lab 502.4i program.

(d) Teachers currently teaching in category (a) of Program Area 2 and in Program Areas 5, 6, 7, and 8 shall be grandfathered and shall not be displaced or otherwise adversely affected by any additional requirements specified in this agreement; provided, however, they shall be affected by any new state-imposed requirements.

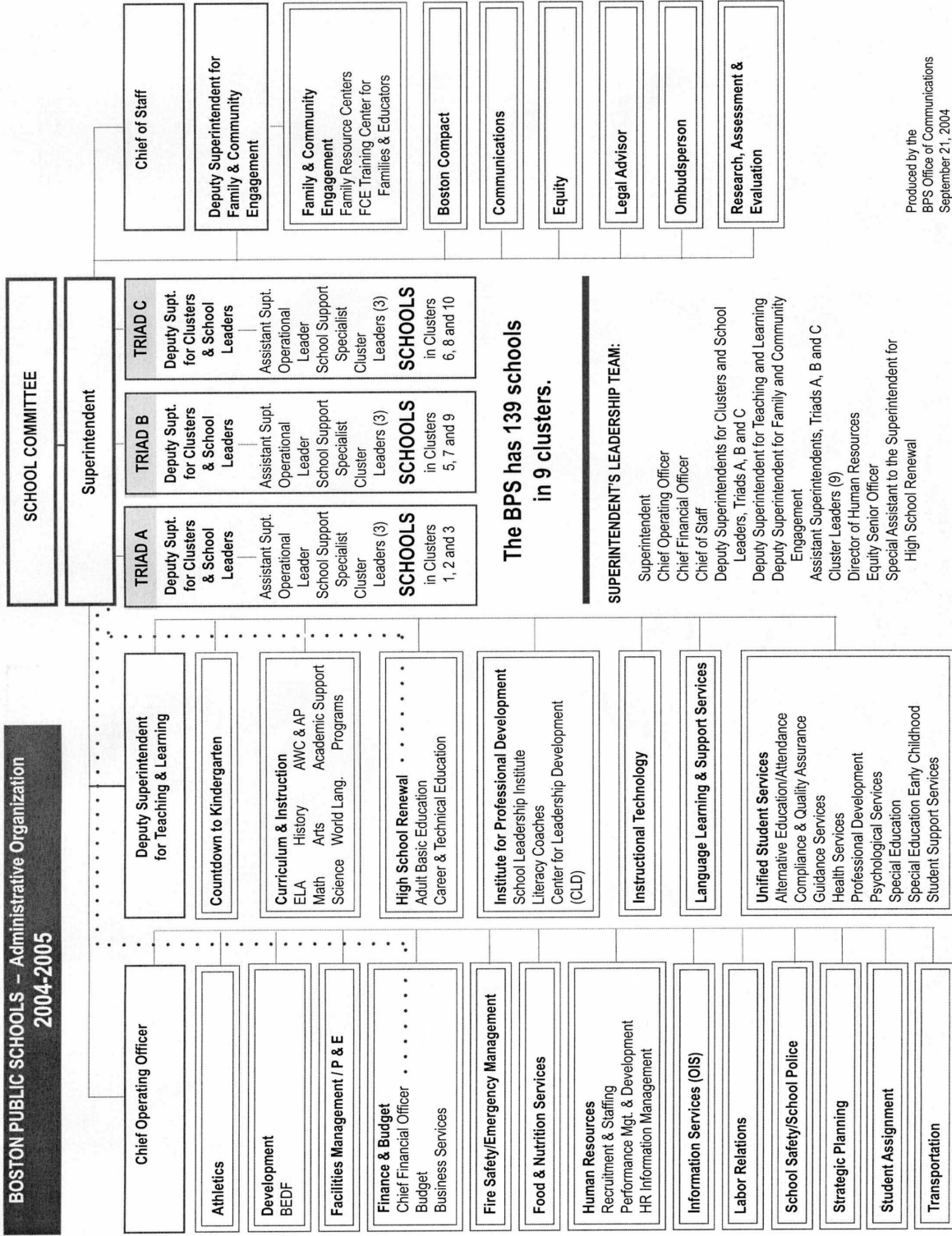
(e) For layoff, transfer, excessing, and reassignment rights, any teacher eligible to work within program area #13 shall also be eligible to work within program area #12.

8. Bilingual Teachers

Years taught in the bilingual program shall count as teaching experience in the corresponding Regular Education program area, provided that such teacher is state-certified and is proficient in the English language.

Source: District files.

Exhibit 3 BPS Organizational Chart



Source: District files.

Produced by the
BPS Office of Communications
September 21, 2004

Exhibit 4 Marshall School Profile

	Marshall School	BPS ^a
Students		
Total 2003–2004 enrollment ^b	681	60,164
% special education	17.3%	19.5%
% bilingual education	15.7%	19.0%
% African-American	61.8%	46.4%
% Hispanic	34.5%	30.4%
% Asian	1.6%	8.8%
% White	1.0%	14.0%
% American Indian	n/a	0.4%
% Low-income	86.6%	73.4%
Average attendance	93%	91.4%
Staff		
Total teachers (FY04) ^c	50	4,385
Tenure at the Marshall less than 5 years	19	n/a
Tenure at the Marshall 5–10 years	13	n/a
Tenure at the Marshall more than 10 years	18	n/a
% licensed	98%	85.6%
Total administrators	3	520
Total support staff ^e	3	435

Source: District files and Marshall School analysis.

^aDistrict figures cited from “2004 BPS District Report Card,” downloaded from <http://boston.k12.ma.us/bps/facts.asp> on March 3, 2005.

^bEnrollment figures calculated at the end of the 2003–2004 school year.

^cFor the purposes of clarity, this figure includes only classroom teachers, including two teachers who share a job.

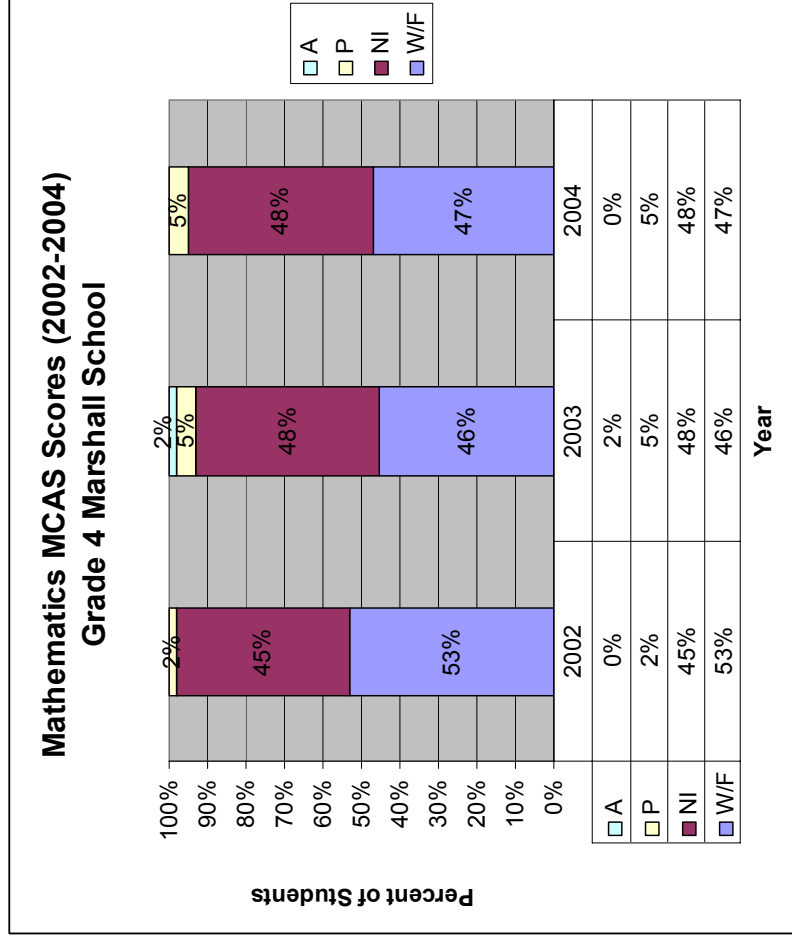
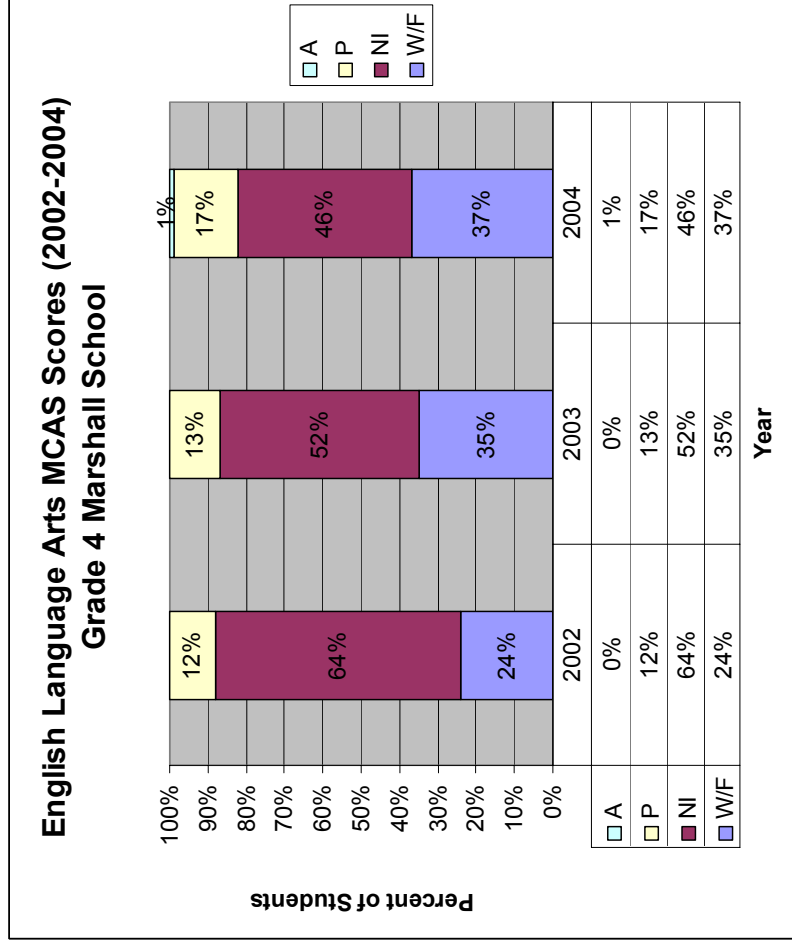
^dLicense figures tally teachers holding at least one Massachusetts state teaching license.

^eFigure includes the student support coordinator, the clinical coordinator, and the evaluation team facilitator.

Exhibit 5 Marshall School Grade 4 MCAS Performance Data 2002–2004

The graphics below show the percent of the Marshall fourth-grade students in each of the following four performance levels:

- A (Advanced)
- P (Proficient)
- NI (Needs Improvement)
- W/F (Warning/Failing)



Source: District files.

Exhibit 6 “Probable Org” Summary of Teaching Positions Available at the Marshall for the 2003–2004 and 2004–2005 School Years (as of January 2004)

Teaching Positions ^a	FTE		Change
	03-04	04-05	
General Fund			
Kindergarten	4.0	4.0	
Bilingual Kindergarten (Spanish)	1.0	1.0	
Grade 1	5.0	4.0	-1.0
Grade 2	4.0	4.0	
Grade 3	4.0	3.0	-1.0
Grade 4	4.0	3.0	-1.0
Grade 5	4.0	4.0	
Reading Specialist		0.5	+0.5
Literacy Specialist		0.5	+0.5
SPED Resource	5.0	4.0	-1.0
SPED Speech & Language	2.0	2.0	
SPED Primary Transition	1.0	1.0	
SPED Lab Cluster	4.0	4.0	
Bilingual Teacher (Spanish, 1/grade)	5.0	5.0	
Elementary Specialist	0.6		-0.6
Science Specialist	2.0	2.0	
Arts Specialist	1.0	0.4	-0.6
Arts/Literacy Specialist	1.0	1.0	
Music Specialist	1.0	1.0	
Physical Education Specialist	1.0	1.0	
Librarian		1.0	+1.0
Swimming Instructor	1.0	1.0	
Special Revenues, Grants			
Kindergarten Teacher (Math)	0.5	0.5	
Grade 1 Reading Recovery		0.5	+0.5
Bilingual ESL	1.0		-1.0
Native Literacy Teacher		1.0	+1.0
Elementary Specialist	0.5		-0.5
Reading Specialist	1.0		-1.0
Total	53.6	49.4	-4.2

Source: Casewriter and Marshall School staff analysis of BPS documents.

^aThis list does not include the principal or other administrators, teacher aides, custodial and food service staff, the special-education compliance officer, or the school nurse.

Exhibit 7 Transfer Procedures: Excerpts from 2003–2006 BPS-BTU Agreement Sections I & J**I. Transfers****1. General Procedures**

These general procedures are subject to the provisions of Article III(C)(4)(c).

The Committee shall not be required to post for transfer any position held by a “provisional” teacher whom the Committee has made “permanent.” Any position which is posted for transfer may be filled by a provisional teacher whom the Committee has made “permanent.” Except as specified in the prior two sentences or elsewhere in this Agreement, all vacancies which under prior collective bargaining agreements were to be filled by transfer shall be filled in the manner set forth below:

(a) All vacancies shall be posted on the School Department website (www.boston.k12.ma.us) no later than April 15th. All applications for vacant positions must be submitted no later than 10 school days after posting on the website. The website shall be the only medium for posting vacancies.

Internal candidates must use the MYBPS intranet system for submission of applications, including data information form and resume. Human Resources will not accept paper applications.

Positions held by provisional teachers with a letter of reasonable assurance will not be posted provided that one BTU Building Rep. has granted written approval. The Department of Human Resources will send out letters of reasonable assurance to provisional teachers no later than April 15th. The School Department will provide a list of such positions to the union prior to initiating the posting process. BTU members will have in-school access to a computer with internet capability and a printer.

(b) *Open Postings:*

The current practice regarding open postings will continue. Any school that wishes to open post a position must obtain a 60% vote of the faculty before February 15th.

(c) *Transfer Eligibility:*

All permanent teachers, including those on leave of absence, are eligible to apply for transfers during the month of March. Provisional teachers with a letter of reasonable assurance shall be eligible to apply for transfers to their own positions under the transfer process. However, any permanent teacher who seeks a position to which a provisional teacher has applied under this section will be granted an interview by the School Site Council Personnel Subcommittee.

Teachers may be considered for transfer in any subject area in which they recertify under the 1993 Massachusetts Educational Reform Act, even if they do not hold an active Boston program area; however, a school’s Personnel Subcommittee shall not be required to select any such individual.

Any teacher who has received two interim overall unsatisfactory evaluations between September and February of that year may be rejected for transfer by the School Site Council Personnel Subcommittee.

(d) If no permanent teacher applies for a position that appears in the April 15th posting, the personnel subcommittee may consider and select any qualified applicant who applies to the posting, so long as there is no permanent excessed teacher in that subject area.

In cases where there is only one applicant for a vacancy on the transfer posting, the personnel subcommittee will not be required to hire that single applicant, and the vacancy will go into the excess pool. If there is no permanent excessed teacher in that subject area, the personnel subcommittee may consider and select any qualified applicant who applies for the position.

(e) The BTU may challenge the omission of a vacancy from the April 15th posting. The challenge must occur within 10 days of the posting. The challenge may be overridden by a 60% vote of the faculty of the school where the vacancy is challenged. Should the challenge not be overridden, the vacancy shall be posted on the BPS web page prior to the running of the excess pools for 5 school days. Permanent teachers only are eligible to apply.

(f) Transfers will take effect the following September, unless the posting otherwise provides.

(g) Members of the bargaining unit shall have ten (10) school days to apply for transfer.

(h) In the event that a position sought through transfer no longer exists on the effective date of transfer, the person seeking the transfer shall remain in his/her former position as if the vacancy had not been posted.

(i) Upon rehiring after three (3) consecutive years of provisional service, provisional nurses shall attain the same rights and benefits relative to transfer as nurses who have been permanently appointed.

J. Excessing Procedure

1. This excessing procedure will not apply to “provisional” teachers, but will apply to “permanent” teachers and nurses with more than three (3) consecutive years of service. All permanent teachers who are unassigned after the March Transfers shall be invited to a mid-April Excess (reassignment) Pool. These pools shall not be held during the April school vacation week. No teacher shall be involuntarily excessed from her/his school or assignment after the running of these pools.

The above paragraph is not intended to prohibit the School Department from excessing teachers in the fall to correct class size problems.

2. Excessing from a school building shall be first by volunteers within a program area, then by reverse seniority within a program area. An employee who holds seniority in a program area other than the one from which he/she has been excessed shall be offered a vacancy in the building in such other program area. If there is no such vacancy he/she will be placed directly onto a system-wide excess list.

3. In the event of excessing during the school year on or after November 1, in cases of class consolidation, the Department may elect to excess and reassign the junior teacher in one of the classes being consolidated rather than the least senior teacher in the program area within the building.

4. Not more than five (5) days notice shall be required for excessing during a school year.

5. Permanent or temporary vacancies within a program area will be filled from the system-wide excess list periodically by matching the aggregate number of such vacancies against an equal number of persons on the excess list by seniority within such program area, in accordance with the following procedure:

Teachers will bid on listed vacancies in order of seniority. Each teacher must make three (3) bids, except that the next-to-last teacher must make two (2) bids and the most junior teacher must make one (1) bid. When a vacancy has received three (3) bids, bidding will be closed on that vacancy. Teachers will be assigned to one (1) of their bids.

Teachers in the excess pool shall be limited on one (1) bid per school.

6. Vacancies will continue to be filled until late August, at which time teachers who are not matched against vacancies will be assigned in a suitable professional capacity, including substitute service, and will remain eligible to fill vacancies as they occur up to November 1. There shall be no bumping from the system-wide excess list.

The Committee shall not be required to post in the teachers reassignment pool any position held by a non-tenured teacher who has been made "permanent" by the Committee.

7. An employee exercising a right to return to the teacher bargaining unit after layoff or demotion shall be carried on the system-wide excess list in the applicable program area.

8. An excessed employee who is excessed from his building and who is qualified in more than one (1) program area may elect annually to bid for assignment in one (1) program area other than the one from which he was excessed, in which case he will bid only within the newly elected program area; provided, however, such election may not be made into a program area in which there is an active recall list.

9. No teacher may voluntarily excess him/herself without the approval of the director of the Office of Human Resources.

10. All excessed teachers and nurses will be notified by April 15th.

11. No teacher receiving an overall annual performance evaluation of unsatisfactory will have bidding rights through the excess pools. Such teachers will be assigned to a teaching position by the Superintendent.

12. Any teacher who has received two or more overall interim unsatisfactory evaluations between September 1st and the date of the excess pool will not be allowed to participate in the excess pool. Such teachers may appeal (for purposes of participating in the excess pool only) his or her interim evaluations to a three member panel. One member of the panel will be selected by the Superintendent, one by the President of the BTU, and the third member will be selected by both the Superintendent and the BTU President. The teacher must appeal the decision to deny him/her access to the excess pool within five school days of such denial. The panel will hold a hearing within five working days from the day after the date the appeal is filed. The decision will be rendered at least two days before the running of the pool. No briefs will be submitted. The decision of the panel with regard to the teacher's right to participate in the excess pool will be final and not subject to grievance and arbitration.

13. Any teacher who receives his or her third bid in an excess pool may exercise a one-time option of returning to the excess pool in the following year.

14. Subsequent to the running of the excess pools the School Department shall post on the BPS web page all remaining and new vacancies. Such postings will be updated every two weeks through the close of school and at least weekly during the summer through August 31st. The Boston Teachers Union shall be notified of all postings.

15. Disputes concerning the interpretation or application of this excessing policy will be processed as grievances under the contractual grievance and arbitration procedure as modified herein:

- (a) all intermediate steps are hereby waived;
- (b) counsel for the B.T.U. and the Committee shall cooperate in obtaining the services of a referee who shall be available to arbitrate the dispute within one week after a grievance is communicated by the Union;
- (c) arbitration will be conducted on an expedited bases without written briefs and with oral or written awards to be rendered not later than three days following the date of hearing not to exceed one day.

It is the intent of the parties that wherever possible remedial relief of any violation shall not delay implementation of an excessing procedure nor require the undoing of sequentially filled vacancies made in good faith.

16. These excessing procedures are subject to all applicable state and federal laws and lawful orders pursuant thereto.

17. The parties will cooperate in addressing any special problems that may exist in any school in relation to this policy.

18. Rule of one will apply if pools not completed prior to July 1st. Rule of two will apply if excess pools completed by workday prior to July 1st. Rule of three will apply if excess pools completed by the 4th work day before the end of school year.

Rule of One: The selection of assignments is conducted by strict seniority.

Rule of Two: The teacher will make two selections and will receive one.

Rule of Three: The teacher will make three selections and will receive one.

19. Reassignment pool vacancies will be listed on the BPS website five school days before each pool. BTU members will have in-school access to a computer with internet capability and a printer.

20. All seniority lists will be placed on the BPS website, and the BTU will be provided access to them. The School Department shall provide a copy of the seniority list to the BTU before conducting the mock pool. BTU members will have in-school access to a computer with internet capability and a printer.

21. No personnel subcommittee shall be required after completion of the first teacher posting.

22. The excessing procedure shall apply to Student Support Coordinators. Wherever the word 'teacher' appears in this Article V(J), it shall be interpreted to include Student Support Coordinators.

Source: District files.