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The Teachers' Unions' Last Stand

By STEVEN BRILL

MICHAEL MULGREW is an affable former Brooklyn vocational-high-school teacher who took over last year as head of New York City's United Federation of Teachers when his predecessor, Randi Weingarten, moved to Washington to run the national American Federation of Teachers. Over breakfast in March, we talked about a movement spreading across the country to hold public-school teachers accountable by compensating, promoting or even removing them according to the results they produce in class, as measured in part by student test scores. Mulgrew's 165-page union contract takes the opposite approach. It not only specifies everything that teachers will do and will not do during a six-hour-57 ½-minute workday but also requires that teachers be paid based on how long they have been on the job. Once they've been teaching for three years and judged satisfactory in a process that invariably judges all but a few of them satisfactory, they are ensured lifetime tenure.

Next to Mulgrew was his press aide, Richard Riley. "Suppose you decide that Riley is lazy or incompetent," I asked Mulgrew. "Should you be able to fire him?"

"He's not a teacher," Mulgrew responded. "And I need to be able to pick my own person for a job like that." Then he grinned, adding: "I know where you're going, but you don't understand. Teachers are just different."

That is the kind of story that makes Jon Schnur smile. Schnur, who runs a Manhattan-based school-reform group called New Leaders for New Schools, sits informally at the center of a network of self-styled reformers dedicated to overhauling public education in the United States. They have been building in strength and numbers over the last two decades and now seem to be planted everywhere that counts. They are working in key positions in school districts and charter-school networks, legislating in state capitals, staffing city halls and statehouses for reform-minded mayors and governors, writing papers for policy groups and dispensing grants from billion-dollar philanthropies like the Bill and Melinda Gates Foundation. Bill Gates, along with Education Secretary Arne Duncan; Teach for America's founder, Wendy Kopp; and the New York City schools chancellor Joel Klein could be considered the patron saints of the network.

Over the last several months, Schnur and the well-positioned fellow travelers on his speed dial have seen the cause of their lives take center stage. Why the sudden shift from long-simmering wonk debate to political front burner? Because there is

now a president who, when it comes to school reform, really does seem to be a new kind of Democrat — and because of a clever idea Schnur had last year to package what might otherwise have been just another federal grant program into a media-alluring, if cheesy-sounding, contest called Race to the Top. It has turned a relatively modest federal program (the $4.3 billion budget represents less than 1 percent of all federal, state and local education spending) into high-yield leverage that could end up overshadowing health care reform in its impact and that is already upending traditional Democratic Party politics. The activity set off by the contest has enabled Schnur's network to press as never before its frontal challenge to the teachers' unions: they argue that a country that spends more per pupil than any other but whose student performance ranks in the bottom third among developed nations isn't failing its children for lack of resources but for lack of trained, motivated, accountable talent at the front of the class.

Schnur, who is 44, became interested in education when, as an editor of his high-school newspaper, he read a draft of an article from a student who had transferred from a Milwaukee public school to his school in the suburbs. "She was savvier than any of us on the editorial board, but the draft was just so terribly written," he told me. Schnur added that "the more I got to know her, the more I became obsessed with why public education hadn't reached people like her." After graduating from Princeton, he worked in the Clinton campaign and then landed an education-policy job in the Clinton administration.

Schnur recalls that when he met Barack Obama before his Senate campaign in 2004, and heard him talk about education, "I figured this guy could be the great education president — in 2017." When Obama moved up the timetable, Schnur joined his 2008 campaign as a policy adviser. Six months later, he was working as a counselor to Education Secretary Duncan. As the Obama administration prepared to spend $80 billion in education aid as part of the economic stimulus program, Duncan and Schnur diverted $4.3 billion to the contest aimed at encouraging cash-strapped states to overhaul their public schools. Schnur came up with the name and pushed the overall spin of the contest, and it was clear from conversations with people in the school-reform movement that he is the one person who seems to know everything happening on all fronts, from the White House to legislative chambers in Albany or Sacramento to charter schools in New Orleans. Joel Klein, for example, said he talks to Schnur about once a week.

The winners of the Race would be those states that submitted the best blueprints for fulfilling the reform agenda, which includes allowing school districts to take over failing schools, improving curriculum standards and encouraging school innovation (which means, in part, allowing charter schools to flourish). But what the reformers have come to believe matters most is good teachers. "It's all about the talent," Secretary Duncan told me. Thus, the highest number of points — 138 of the 500-point scale that Duncan and his staff created for the Race — would be awarded based on a commitment to eliminate what teachers' union leaders consider the most important protections enjoyed by their members: seniority-based compensation and permanent job security. To win the contest, the states had to present new laws, contracts and data systems making teachers individually responsible for what their students achieve, and demonstrating, for example, that budget-forced teacher layoffs will be based on the quality of the teacher, not simply on seniority. (Fifteen states, including

New York and California, now operate under union-backed state laws mandating that seniority, or "last in/first out," determines layoffs. These quality-blind layoffs could force a new generation of teachers, like those recruited by Teach for America, out of classrooms in the coming months.) To enable teacher evaluations, another 47 points would be allocated based on the quality of a state's "data systems" for tracking student performance in all grades — which is a euphemism for the kind of full-bore testing regime that makes many parents and children cringe but that the reformers argue is necessary for any serious attempt to track not only student progress but also teacher effectiveness.

By late March, when the first round of the Race ended, it was clear that Schnur's spin had worked "better than any of us imagined," he says. Thousands of local news stories across the country speculated about how particular states were faring, some of them breathlessly referring to the "March Madness" as governors, state legislators and bureaucrats rushed to consider reforms that might improve their chances. Forty states and the District of Columbia entered the first round. Fifteen, including such union strongholds as California, Ohio and Michigan, passed laws or revised regulations aimed at boosting their chances. Before Duncan had dispensed a nickel, the country had seen more school reform than it had in decades. And still more is being debated as the deadline for a second round of proposals looms next week and states, including New York, Connecticut and New Jersey, hustle to do more to boost their scores.

When the starting gun for the Race went off, four forces that had been building came together and gained strength from one another.

First there's the rise of the reformers who seem to be in daily communication through e-mail and blogs. The standard profile is someone who went to a prestige college, joined Teach for America for a two-year stint and found the work and the challenges so compelling that he or she decided education should be more than a layover before a real career. So they did more teaching or became involved running a charter school or a reform group, then kept moving up the ladder as sympathetic political leaders, including Democrats (most in this network also seem to be Democrats), took over cities or states and looked for people to overhaul school systems. One exception is Schnur. "I was in Wendy's class in Princeton in 1989, so I couldn't do T.F.A. because it didn't exist yet," Schnur says, referring to Wendy Kopp, who founded Teach for America in 1990 based on a senior thesis she wrote envisioning a Peace Corps-like cadre of young college grads.

Although Schnur is a cheerful, modest type, there is a strain of self-righteousness that runs through the reform network. Some come off as snobs who assume any union teacher is lazy or incompetent and could be bested by young, nonunion Ivy Leaguers full of energy. And others see tying teachers' pay to their students' improvement on standardized tests as a cure-all. But most — especially those who have taught and appreciate how hard it is — understand that standardized tests are far from perfect, and that some subjects, like the arts, don't lend themselves to standardized testing. They know that most teachers want to be effective and that data-based performance assessments should be combined with classroom observation and other subjective measures not only to hold teachers accountable but also to help them improve their performance.

The second force at work is a new crop of Democratic politicians across the country— including President Obama — who seem willing to challenge the teachers' unions.

Third, there's the boost given to school reform by high-powered foundations, like the Gates Foundation, which have financed important research and pilot reform projects, and by wealthy entrepreneurs, who have poured seed money into charter schools.

And fourth, there's the charter-school movement, which has yielded an increasingly large and vocal constituency of parents whose children are among the more than 1.5 million students attending more than 5,000 charter schools.

Put those forces together with the Race, and you have education reform moving into prime time. Parents marched and lobbied in Tallahassee, Albany and Los Angeles, demanding that their school systems be reformed the way Obama's instructions for winning the Race said they should. Newspaper editorial boards of all political stripes joined in their cause; "Union Lackeys" was a typical title of a Las Vegas Review-Journal editorial about recalcitrant Democratic legislators.

If unions are the Democratic Party's base, then teachers' unions are the base of the base. The two national teachers' unions — the American Federation of Teachers and the larger National Education Association — together have more than 4.6 million members. That is roughly a quarter of all the union members in the country. Teachers are the best field troops in local elections. Ten percent of the delegates to the 2008 Democratic National Convention were teachers' union members. In the last 30 years, the teachers' unions have contributed nearly $57.4 million to federal campaigns, an amount that is about 30 percent higher than any single corporation or other union. And they have typically contributed many times more to state and local candidates. About 95 percent of it has gone to Democrats.

Before they successfully organized in the 1950s and 1960s, teachers endured meager salaries, political favoritism, tyrannical principals and sex discrimination against a mostly female work force. It's that sense of needing to stick together against real or potential mistreatment by management, plus a sincere — and accurate — belief that most teachers do teach for reasons beyond simply making a living, that drives Mulgrew and other union leaders. There's also the reality that their own power comes from making sure that the all-for-one-one-for-all contract that they negotiate remains the determining factor in a teacher's professional life.

Nonetheless, almost all the states that submitted first-round applications proposed school reforms that a year ago would have been seen as pushing beyond what the teachers' unions would allow. Some moved further than others either because the lure of the Race to the Top money trumped the unions' opposition, or because political leaders and educators were able to persuade union leaders to get on the train instead of standing in front of it.

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ON MARCH 4, Duncan announced that 16 applicants were finalists for the first round. And he said that they all were examples "for the country of what is possible when adults come together and do the right thing for children." One of those finalists was New York, which finished 15th but where the union's clout was such that the application failed to address the core requirements of Duncan's agenda. Joe Williams of Democrats for Education Reform sent an e-mail message to the network — addressed "Dear Education Warrior" — saying he was "baffled" by Duncan's apparent leniency in giving states like New York a pass. But by the end of the month, Duncan had redeemed himself with the reformers. He picked only two states, Delaware and Tennessee, for the first round of awards. Those states had scored highest (455 and 444) on the 500-point scale. Georgia and Florida (434 and 431) were close behind, but Duncan told me he wanted "to set a high bar."

School officials in Delaware, which will receive $100 million, have been working on reform projects for more than a decade, and the state already has a comprehensive student-performance data system in place. "We worked on the application all summer, built on a 10-year legacy of reform," Gov. Jack Markell, a Democrat, said. And so, in its application, the state was able to point to regulations that had been beefed up for the Race. In Delaware, no teacher now will be rated "effective" who does not meet targets connected to student test-score improvement (as well as other subjective measures, like evaluations of lesson plans and classroom management) over the school year, and teachers could be removed if they are rated "ineffective" or "needs improvement" two years in a row. "We know testing has to be part of the evaluation process," Diane Donohue, the head of the Delaware state teachers' association, says. "This is a culture change that has been happening over the years and came to a head with Race to the Top." In fact, Donohue was one of the five people picked to present Delaware's proposal in Washington.

In Tennessee, Gov. Phil Bredesen, also a Democrat, pushed the Legislature to pass laws allowing more charter schools and making student test scores 50 percent of annual teacher evaluations. The statewide teachers' union ended up supporting both bills.

Bredesen explained the new politics of education in his state this way: "For me there's a little bit of a 'Nixon goes to China' feel about it, because I had done a lot of things that teachers were quite happy with over the years. My argument to them was that this is coming from a Democratic administration. This is not a Republican idea anymore. I told them that I know this goes at the core of what you and your colleagues have been protecting over the years," Bredesen continued, referring to how he broached the subject of teachers being evaluated and paid based on individual performance ratings. "But now, we're all going to have to evolve. It's coming, and you can either help to structure it, or you can fight it, and it won't be as good."

Bredesen points to an earlier development in his state that, he says, had "broken the ice." In 2009 the Gates foundation provided a $90 million grant to the Memphis school system — the state's largest — on the condition that teachers there allow 35 percent of their performance ratings to be based on student test scores. Bredesen's icebreaker was emblematic of the forces of reform coming together around the Race. Projects like the one in Memphis financed in the last decade by Gates

and other foundations and the work of reform policy groups like the New Teacher Project, which has been involved extensively in Delaware, paved the way for reform, as has the ascent of less ideological, more executive-minded Democrats like Bredesen.

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THE PERSON IN charge of preparing New York's application was John King, the senior deputy commissioner of the state Education Department. Schooled in Brooklyn (where his father was the first black principal in a Brooklyn school), King is an alumnus of Harvard and Yale Law School and was a founder of the Roxbury Preparatory Charter School in Massachusetts.

King works for David Steiner, the state education commissioner. But the Education Department is largely under the control of the Legislature, which appoints the State Board of Regents, which oversees the department. The Legislature has also passed — and could repeal — statutes that essentially guarantee lifetime teacher tenure and that mandate teacher layoffs strictly on the basis of seniority. The key leader of the Legislature is Assembly Speaker Sheldon Silver, who, like many New York Democrats, held an election-night victory party at the U.F.T. headquarters. The U.F.T.'s Web site calls Silver "our partner" and quotes him as declaring at a union rally, "I and my colleagues in the Assembly majority will be your best friends . . . in Albany."

King says that "navigating all of the competing interests in New York is a lot different than any other job I have had." Thus, he explains, that with "all of the limits we had with the laws and collective-bargaining agreements in place and the political reality of the Legislature," preparing New York's application "was difficult and frustrating."

One frustration centered on charter schools. Charters are publicly financed schools open to any child by lottery but run by entities other than the conventional local school district. Typically they are operated by nonprofit organizations that rely on donations to provide seed money but then use the same per-pupil money doled out to the public schools for ongoing operations. Those who run charters are accountable for the school's performance, but they are free to manage as they wish. That includes the freedom to hire teachers who are not union members. A law allowing charter schools in New York was passed in 1998 over intense opposition from the teachers' union. It survived because there was a Republican governor, George Pataki, and then only because Pataki attached it to a bill giving a pay raise to legislators. Moreover, to placate the union, legislators capped the number of charters to be issued statewide.

The Race to the Top reopened the charter debate. Although other reform criteria count for much more, the contest measured a state's amenability to charters, giving up to 40 of the 500 points to charter-friendly states. With New York State 12 charters away from hitting its 200 cap (and likely to hit it with new charters to be issued this year), not lifting the cap threatened the state's application.

Charter schools are not always better for children. Across the country many are performing badly. But when run well — as most in Harlem and New York's other most-challenged communities appear to be — they can make a huge difference in a child's life. So by the time the Race rules were issued, the charter cap had become something that many New York parents, particularly in neighborhoods with underperforming schools, cared a lot about. In Harlem, for example, about 20 percent of all age-eligible children are now enrolled in charters, and in April, 14,000 other children submitted applications in the lottery for next year's 2,700 open seats. This means that more than 11,000 kids just in Harlem were turned away. Across the city applications were up 25 percent, and 43,000 students were turned away.

Bill Perkins, who represents Harlem in the State Senate, is the Legislature's leading opponent of charters. Sitting next to a poster of Barack Obama with the headline "Brothers for Barack" in his office on 125th Street, Perkins, who has enjoyed teachers' union support, says it's "stupid and unfair to blame unions when the reason the schools in this community are failing is that they lack resources. . . . the president is wrong." In February, Perkins was faced with a march on Albany organized by the charter schools to protest his and his colleagues' opposition to lifting the charter-school cap.

A building on 118th Street is one reason that the parents who are Perkins's constituents know that charters can work. On one side there's the Harlem Success Academy, a kindergarten-through-fourth-grade charter with 508 students. On the other side, there's a regular public school, P.S. 149, with 438 pre-K to 8th-grade students. They are separated only by a fire door in the middle; they share a gym and cafeteria. School reformers would argue that the difference between the two demonstrates what happens when you remove three ingredients from public education — the union, big-system bureaucracy and low expectations for disadvantaged children.

On the charter side, the children are quiet, dressed in uniforms, hard at work — and typically performing at or above grade level. Their progress in a variety of areas is tracked every six weeks, and teachers are held accountable for it. They are paid about 5 to 10 percent more than union teachers with their levels of experience. The teachers work longer than those represented by the union: school starts at 7:45 a.m., ends at 4:30 to 5:30 and begins in August. The teachers have three periods for lesson preparation, and they must be available by cellphone (supplied by the school) for parent consultations, as must the principal. They are reimbursed for taking a car service home if they stay late into the evening to work with students. There are special instruction sessions on Saturday mornings. The assumption that every child will succeed is so ingrained that (in a flourish borrowed from the Knowledge Is Power Program, or KIPP, a national charter network) each classroom is labeled with the college name of its teacher and the year these children are expected to graduate (as in "Yale 2026" for one kindergarten class I recently visited). The charter side of the building spends $18,378 per student per year. This includes actual cash outlays for everything from salaries to the car service, plus what the city says (and the charter disputes) are the value of services that the city contributes to the charter for utilities, building maintenance and even "debt service" for its share of the building.

On the other side of the fire door, I encounter about a hundred children at 9:00 a.m. watching a video in an auditorium, having begun their school day at about 8:30. Others wander the halls. Instead of the matching pension contributions paid to the charter teachers that cost the school $193 per student on the public-school side, the union contract provides a pension plan that is now costing the city $2,605 per year per pupil. All fringe benefits, including pensions and health insurance, cost $1,341 per student on the charter side, but $5,316 on this side. For the public-school teachers to attend a group meeting after hours with the principal (as happens at least once a week on the charter side) would cost $41.98 extra per hour for each attendee, and attendance would still be voluntary. Teachers are not obligated to receive phone calls from students or parents at home. Although the city's records on spending per student generally and in any particular school are difficult to pin down because of all of the accounting intricacies, the best estimate is that it costs at least $19,358 per year to educate each student on the public side of the building, or $980 more than on the charter side.

But while the public side spends more, it produces less. P.S. 149 is rated by the city as doing comparatively well in terms of student achievement and has improved since Mayor Michael Bloomberg took over the city's schools in 2002 and appointed Joel Klein as chancellor. Nonetheless, its students are performing significantly behind the charter kids on the other side of the wall. To take one representative example, 51 percent of the third-grade students in the public school last year were reading at grade level, 49 percent were reading below grade level and none were reading above. In the charter, 72 percent were at grade level, 5 percent were reading below level and 23 percent were reading above level. In math, the charter third graders tied for top performing school in the state, surpassing such high-end public school districts as Scarsdale.

Same building. Same community. Sometimes even the same parents. And the classrooms have almost exactly the same number of students. In fact, the charter school averages a student or two more per class. This calculus challenges the teachers unions' and Perkins's "resources" argument — that hiring more teachers so that classrooms will be smaller makes the most difference. (That's also the bedrock of the union refrain that what's good for teachers — hiring more of them — is always what's good for the children.) Indeed, the core of the reformers' argument, and the essence of the Obama approach to the Race to the Top, is that a slew of research over the last decade has discovered that what makes the most difference is the quality of the teachers and the principals who supervise them. Dan Goldhaber, an education researcher at the University of Washington, reported, "The effect of increases in teacher quality swamps the impact of any other educational investment, such as reductions in class size."

This building on 118th Street could be Exhibit A for that conclusion.

"I've got one child in a charter and have had two in public schools," says Bernice Wynn, who runs an optician's shop on Lenox Avenue with her husband, and whose daughter, Tiana, is in the Harlem Success Academy. "There is no comparison. Tiana is in first grade and already reading chapter books and writing stories."

"Someone like Perkins has to know that we know that," DeJuan, her husband, adds.

Perkins argues that "we have to focus on improving the public schools for everyone." Klein's response is that while charter schools can never be a substitute for a public school system, they can demonstrate how public schools can be improved, while creating healthy competition for a system that used to be a monopoly. "Parent choice can only make all schools better," he says, paraphrasing a favorite line on the placards of the parents who picketed Perkins in Albany last winter and in Downtown Manhattan last month when he held a hearing about charters. Perkins himself benefited from parent choice; he graduated from Collegiate, the prestigious West Side private boys' school, something he says "is irrelevant." "There is nothing wrong with a mother wanting her children to get the best education," he says.

Two weeks ago, the reform network was buzzing with the news that the political consultant Basil Smikle had announced that he was running against Perkins in the Democratic primary this September and that Perkins's opposition to charters would be his main issue. Mulgrew of the U.F.T. was quoted in The New York Post praising Perkins as a "staunch supporter of all the children of Harlem. That will weigh heavily in our endorsement process."

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AS JOHN KING struggled to prepare New York's application, he knew that the entire school system could benefit from Race to the Top money if the state lifted the charter-school cap. That's why King was pushing for the change so urgently, as was Merryl Tisch, the chancellor of the New York State Board of Regents.

That is also why, at about midnight on Saturday, Jan. 16, Tisch answered the phone in her apartment on the East Side of Manhattan and let out an earsplitting shriek. She recalls that her husband, James Tisch, who is the chief executive of Loews Corporation, thought someone must have died. What she was reacting to was a draft of a bill concerning charters that had just been released by the State Assembly.

The first paragraphs seemed to lift the cap. But a closer reading revealed so many conditions that it would be no easier to start new charters than under the current law. With three days left before New York's application was due, Silver and the Democrats were choosing to side with the union over winning a possible $700 million that the Race offered her financially strapped state. Thus, Tisch's shriek.

"I'm told that the people from Nysut" — New York State United Teachers — "and the U.F.T. drafted the poison-pill provisions," Tisch said. Silver denied that, adding, "If it's something someone doesn't agree with, they call it a poison pill." Silver told me he "supports charters, but to me the real need remains supporting public education with the resources to lower class size."

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ALTHOUGH THE last-minute crisis over the charter cap grabbed headlines all over New York, it turned out to be the

least of the problems in the state's proposal. Its application featured comic overstatements — New York has been recognized for its "ability to move poor performing teachers from the classroom," for example — and far more significant omissions and misstatements, all of which were the product of King's game effort to finesse the grip the unions have on public education in New York.

For example, the states were instructed to check boxes on a grid to signal which of their local school systems had signed a memorandum of understanding, or M.O.U., agreeing with the state to implement each of the many initiatives their plans promised if the state got the Race money. To make this expression of commitment unambiguous, the Race application included the exact M.O.U. that was to be signed. The contest instructions also stated that if the wording of the M.O.U. for any local school system was changed to make it "conditional," the box should not be checked.

New York checked all the boxes for all of its school districts for all of the initiatives on the grid it submitted. But in a 403-page appendix to its 348-page application, New York included the M.O.U. that actually had been signed by all of its school districts. It was worded almost exactly as the federal government's M.O.U. — except that after reciting everything that would be done to link student tests to teacher evaluations, and to compensate teachers and move them up on a career ladder according to those evaluations, the New York M.O.U. inserted this qualifier: "consistent with any applicable collective-bargaining requirements." The same phrase was also inserted after the promise to "ensure the equitable distribution of effective teachers" — a reform aimed at allowing school systems to assign their best teachers to the schools most in need. Then for good measure at the end of the entire M.O.U. this sentence was added to cover everything: "Nothing in this M.O.U. shall be construed to override any applicable state or local collective-bargaining requirements."

Of course the U.F.T.'s collective-bargaining agreements in New York City, as well as union contracts in much of the rest of the state, explicitly prohibit exactly the reforms promised in the application. Changing that is the point of Duncan's contest. When I asked Tisch about this, she pointed to another added sentence, in which each school system and the union agree to negotiate any necessary contract changes in "good faith." That's the "way we solved that," she says.

"Right," Klein says. "That's like telling a woman you'll marry her in the morning."

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MOREOVER, IT TURNS out that Mulgrew of the city's U.F.T. refused to sign even that altered M.O.U. Instead, shortly before the applications were due in Washington, he submitted a completely redone version that outlined a teacher-evaluation program that would be completely voluntary and that contained a provision declaring that "student performance data shall not be a factor in decisions regarding individual teacher compensation."

I asked Mulgrew over breakfast, "If Arne Duncan was sitting here with a check ready to give to New York, and he said he'd give it to you if you promise to allow test scores to be tied to compensation, would you make the promise?"

"No — I'd tell him we have to negotiate with the guy up the street," Mulgrew replied, referring to Klein, "to come up with a fair system first. But I could not promise him that we could."

"Would you promise to support a repeal of the state law requiring layoffs to be done only on the basis of seniority?" I asked him, referring to what has now become another controversial issue.

"No, that's the law," he said.

Nonetheless, the box signifying the U.F.T.'s agreement to the standard M.O.U. was also checked.

Klein says he didn't want to sign the M.O.U. because the caveats made it meaningless, but he ultimately went along so as not to "seem like a spoilsport."

David Steiner, the commissioner for the New York State Department of Education, signed the application. He offered no explanation for why the boxes were checked other than that his staff has since looked at other applications and found that Florida, Massachusetts, Pennsylvania and Illinois also checked the boxes "based," he said, "on a future commitment to collectively bargain." He's right. California did the same thing, as did lots of other states, including the first-round winner, Delaware. (In Delaware's case, however, the core of its commitments — like how teachers will be evaluated — did not require a union sign-off, explained Donohue, the Delaware state teachers' union president. The collective-bargaining caveat in the M.O.U., she said, "has to do with other, smaller aspects of the plan, like extending school days at turnaround schools, which I am sure we will agree on.")

When it came time for King and four others representing New York to make a presentation to the Race's vetters in Washington, King's performance, as seen on a video I reviewed of the session, looked a bit like a hostage tape. "We were all struggling," King recalls. "We thought we had a great proposal in terms of what we could control — like curricula standards and data systems — but the areas we could not control because of the contracts and laws were difficult."

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EVEN IF THE UNION still has support in strongholds like Albany, union leaders like Weingarten and Mulgrew seem to have realized that the political pressure the Race has generated means they have to yield in some places and in some ways. In mid-April, Mulgrew agreed with Klein to streamline the teacher-discipline process in a way that, by the end of the year, will close New York's so-called rubber rooms, the infamous "reassignment centers" where the New York City teachers charged with the most extreme incompetence or misconduct (currently 600 out of 80,000) are sent to do nothing while they await tenure-protected arbitration hearings. Until this agreement, the arbitration process lasted an average of three years, during which the teachers remained on the payroll and accumulated pension entitlements. Only a handful of teachers were ever dismissed at the end of the process. It will now still probably take at least a year to remove these most egregiously

incompetent or misbehaving teachers, and there continues to be no broader process in place in New York for evaluating, promoting or removing teachers based on performance. Nonetheless, this is a concession that the union had repeatedly refused to make.

Weingarten has always embraced teacher accountability in theory, but with the caveat that the system has to be fair, after which she adds that there's no way to guarantee that linking student progress to testing will be fair because tests don't take subjective factors into account, nor would allowing subjective evaluations by principals be fair. To the reformers, Weingarten's refrain has until lately seemed a way to duck reform while appearing to favor it. But last month, she took an important, if muted, step toward the reformers: she ended a high-profile confrontation in Washington, D.C., by agreeing to the elimination of tenure-based job security.

"When I came here, all the adults were fine; they all had satisfactory ratings," says Washington's schools superintendent, Michelle Rhee, referring to the teachers. "But only 8 percent of eighth graders were on grade level for math. How's that for an accountable system that puts the children first?"

In 2008, Rhee — a Klein protégée, who founded the New Teacher Project after teaching in Baltimore for Teach for America — proposed huge salary increases for those teachers who would give up lifetime tenure guarantees and lockstep compensation and agree to have their performance linked to student test-score improvements. Those who didn't volunteer could keep their current pay scales and job security. For two years, the union refused to allow Rhee's offer to be put up for a vote. Rhee persisted — "I'm not big on the collaborative, warm and fuzzy approach," she says — and became a hero of the reformers.

Despite efforts by both sides to save face for the union by preserving the language of tenure, the deal that Weingarten and Rhee negotiated in April actually achieved more than Rhee sought in her original offer. The new contract unambiguously, if subtlely, strips tenure of its core job-security protections. Two clauses now make it possible for Rhee to fire any teacher with tenure, no matter which track he or she chooses (lockstep compensation or performance-based pay), if the teacher is evaluated as "ineffective" for one year or "minimally effective" for two years. The criteria used to define "ineffective" or "minimally effective" are, according to another clause, "a nonnegotiable item" determined solely by Rhee and her staff. Rhee still has catching up to do when it comes to the data systems that other Race finalists demonstrated, but this new contract — which New York's Klein calls "a home run for Michelle" — gives the District of Columbia a better shot for the second round. (Washington placed 16th in the first round.)

The teachers' unions have become accustomed in recent years to fighting off reform efforts by Republicans and think-tank do-gooders. They ignore the rhetorical noise, while sticking to the work of negotiating protectionist contracts with the politicians who run school systems and depend on their political support. But what happened last month in Washington could signal a new era in which the unions have to worry that Democrats, like Washington's mayor, Adrian Fenty, not only

won't yield in contract negotiations but will also support laws and programs aimed at forcing accountability. That is the threat posed by the Race. "Deliberately or not, President Obama, whom I supported, has shifted the focus from resources and innovation and collaboration to blaming it all on dedicated teachers," Weingarten says.

Certainly, the political math has changed. "My basic calculus of school reform is that I know I have every Republican vote and at least some of the Democrats," says Mike Johnston, a Colorado state senator who is a Democrat and avid reformer (and another Teach for America alumnus). As with Bredesen's Tennessee First to the Top Act, Johnston got lopsided votes for a Race-friendly bill he sponsored in February that not only ties student test scores back to teachers but also names the educational institutions that trained the teachers, so that education schools, too, would be held accountable.

But Colorado is more union-friendly than Tennessee, and Johnston's math only got him so far last winter in a state where Democrats are the majority in both houses of the Legislature. He also pushed for a bill that would make 50 percent of annual teacher evaluations depend on test scores. However, Gov. Bill Ritter, another Democrat, instead submitted an executive order setting up a council to define effectiveness and create an implementation plan that would then be presented to the Legislature. That probably explains why Colorado — whose largest school system, in Denver, already has strong teacher-accountability rules — did not win in the first round; the state was a finalist but came in 14th.

"I'm going to try to get the bill passed in May," Johnston told me in April. "Not winning the first round should help." Last week, despite a pushback from the union that included demonstrations and radio ads, his bill passed by a wide margin with votes from both parties. And in a development that would have seemed surreal six months ago, Weingarten endorsed the bill after Johnston agreed to minor amendments, including an appeal process for those tenured teachers judged ineffective. (The larger teachers' union, the National Education Association, opposed it.) Colorado now seems likely to win in Round 2 of Race to the Top.

Asked if Colorado and the District of Columbia didn't represent some pretty significant concessions, Weingarten told me, "Anyone who knows me knows that I have always favored what's good for children and fair to teachers, and that's what I stood for here."

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DUNCAN'S HARD LINE in the first-round awards obviously helped Johnston. But other reformers worry not only that Duncan praised the many states with weaker proposals than Colorado's that made it into the first round of 16 finalists, like New York, but also that he has promised that there will be "10 to 12" more winners in the second round to share the remaining $3.4 billion. With that money to be awarded this September — at the height of the Congressional election season, when dispensing pork might be tempting — would Duncan reach far enough down the scoring charts this time to award states that aren't serious about his reform goals? Would a simple fix in the New York law capping the number of charter

schools, perhaps passed on the eve of the second application's June 1 deadline, be enough to mask the more fundamental deficiencies in the New York plan? Indeed, three weeks ago the Democratically controlled State Senate did exactly that, in what Klein calls "a bend in history's arc caused by the Race." (The Assembly had not acted as of this writing.)

Moreover, on May 11, Tisch and Steiner announced that in anticipation of the June 1 deadline for the second round of Race applications they had gotten the unions to agree to a four-tiered evaluation system for teachers — "highly effective," "effective," "developing" and "ineffective" — that would replace the old satisfactory-unsatisfactory regime. In part the evaluations would be tied to state standardized test scores, though they would count for only 20 to 25 percent of an evaluation. This would seem to make it easier to remove ineffective teachers, because the agreement calls for a teacher's removal if judged ineffective two years in a row, and, as such, it's a reform that would have been unimaginable four months ago when the first-round application was filed — or even two months ago, when Mulgrew and I had breakfast. But it still does not allow for these evaluations to be linked to teacher compensation, and the small print allows for a drawn-out collective-bargaining process over what the other 75 to 80 percent of the evaluation criteria would be — before which the evaluations could apparently not begin. Nonetheless, it will make New York's second-round application stronger.

One reason New York may have gone even as far as it did in the first round could be that good intentions can't guarantee perfect execution in a federal bureaucracy. Joanne Weiss, who runs the Race program for Secretary Duncan, began last summer to recruit experts, called "peer reviewers," to score the applications in a way that would inoculate the decisions from charges of political favoritism. Five vetters were assigned to each application, and the score was the average of their individual scores. Duncan would reserve the right to override the point scores, but if he did, he would have to explain himself because the scores would be released publicly. (He told me that he doesn't plan to override the vetters.) Department of Education regulations required that the scorers not only have no financial interest in the outcome of their decisions, but not even an appearance of a conflict, both in terms of money and potential bias. This pretty much eliminated people involved in operating school systems or those who are active in Schnur's reform network, yielding vetters who were academics, education foundation staff members (but not at places like the Gates Foundation that finance reform projects) and long-retired educators.

"When I found out that the reviewers would be people who are not directly involved in K-through-12 education, I got concerned," recalled Paul Pastorek, the Louisiana schools superintendent who is widely admired in reform circles. Pastorek's application included impressive details of what Louisiana had already achieved in creating data systems, described the state's overhauling of New Orleans schools following Hurricane Katrina and presented a comprehensive plan for more progress. Pastorek and I had this conversation about the scorers about three weeks before he found out that his state came in 11th. According to the tallies, he'd have come in much higher but for the rating he received from one scorer, who gave Louisiana a surprising 349, which was lower than New York's average score.

However the mechanics of the process might be improved in the second round, some of the reformers were also concerned, as three of them told me, all using the same phrase, that Duncan's language was "too collaborative." What they meant was that by emphasizing how the unions had bought into the plans of the two first-round winners, Delaware and Tennessee, he was suggesting that the unions could block a state from winning by not signing on.

When I talked to him in April, Duncan denied wanting to send that signal, noting that Georgia and Florida, with no union sign-offs but far-reaching plans, finished third and fourth in the first round. And he nodded when I speculated that Florida's chances seemed even better for the second round because a new law — passed by both houses of the Legislature after the first round ended — would force accountability on all teachers without the union's agreement. "What we want are the plans that touch the most children," Duncan said. "Ideally we want the adults working together, but at the end of the day, this is about doing reform."

After we spoke — in another sign not only of the turmoil caused by the Race but also of the union's continued power — Florida's governor, Charlie Crist, who is in a hotly contested Senate race, vetoed the teacher-accountability bill. He said he did so because "the people spoke, and they spoke loudly." Those on the other side pointed to a ferocious lobbying campaign by the state teachers' union that generated more than 100,000 e-mail messages and phone calls to Crist's office.

As the Florida fight suggests, this is not a battle that is going to end soon. In fact, even as the battle lines have now been drawn in communities and state capitals across the country, the fight is about to come back to Washington, where turning a grant program into a contest started it all. President Obama was so pleased with the reaction to the Race that he recently proposed a new $1.3 billion contest after the first two rounds are completed, this time directed at individual school districts instead of states. More significant, Duncan has said that some of the billions in more traditional annual federal aid that has flowed to states according to population formulas should now be based on Racelike competitions aimed at various pieces of the reform agenda. "This is the chance of a lifetime," Duncan says. "We have to move the country in a fundamental, dramatic way."

In a Congress controlled by Democrats, that could be a struggle. When Duncan's testimony broached the broader idea at a March Congressional hearing, the House Appropriations Committee chairman, David Obey, a Democratic representative from Wisconsin — which finished 26th out of 41 entrants in the first round of the Race — reminded Duncan of the states' dire need for basic funds and signaled his skepticism about the Race reforms, declaring, "When the sailboat is sinking, my top priority would not be to put a new coat of varnish on the deck." (Obey recently announced he will retire next year, perhaps making Duncan's reform path easier.)

"Every Democrat knows the president really cares about this," Schnur says. Which suggests that the Nixon-to-China dynamic that prevailed in states like Tennessee may work in Washington. Obama could most likely get some, probably many, Democratic votes, while winning support from Republicans on an issue they have championed so strongly in the past

that taking a flat-out anti-Obama approach would be especially awkward.

“That President Obama did this is a total game changer,” says Pastorek, the Louisiana schools superintendent, who is a Republican working for a Republican governor, Bobby Jindal. “If he really sticks to this, education will never be the same.”

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