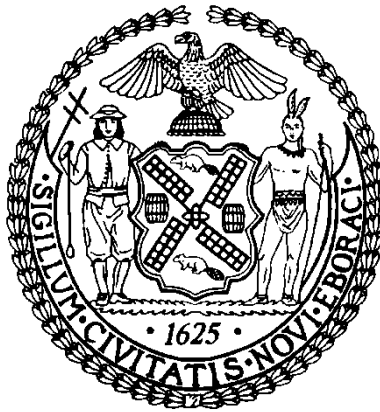


**CITY OF NEW YORK
OFFICE OF THE COMPTROLLER**

**John C. Liu
COMPTROLLER**

MANAGEMENT AUDIT

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**Audit Report on the Department of
Education's Utilization of the
Absent Teacher Reserve Pool**

MD11-108A

September 6, 2011



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
1 CENTRE STREET
NEW YORK, N.Y. 10007-2341

John C. Liu
COMPTROLLER

September 6, 2011

To the Residents of the City of New York:

My office has audited the effectiveness of the Department of Education's (DOE's) efforts to assist Absent Teacher Reserve (ATR) pool teachers in finding permanent positions and how teachers in this pool are being utilized. We audit City agencies as a means of ensuring that City resources are being used efficiently and effectively.

The audit revealed that teachers in the ATR pool are primarily assigned to schools and that most of them appear to be working in teaching and teaching-related positions. DOE has also made a number of efforts to assist teachers in the pool in finding permanent positions at schools. However, the effectiveness of DOE's efforts cannot be determined because the agency presently does not formally or centrally track and maintain the data needed for such an assessment to take place. This information would enable DOE to allocate its resources to those efforts that appear to be working the best and afford it the opportunity to create new initiatives to assist teachers who remain in the ATR pool.

The audit makes two recommendations: that DOE collect sufficient data to assess whether its efforts are effective in helping ATR teachers find permanent teaching positions and that it track data on the teachers who leave the ATR pool to help in developing initiatives and strategies to help remaining ATR teachers find positions.

The results of the audit have been discussed with DOE officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Liu".

John C. Liu

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*The City of New York
Office of the Comptroller
Management Audit*

**Audit Report on the Department of
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MD11-108A

AUDIT REPORT IN BRIEF

The audit determined whether the Department of Education's (DOE's) efforts to assist Absent Teacher Reserve (ATR) pool teachers in finding permanent positions were effective and how teachers in this pool are being utilized.

Teachers for whom there is no full-time teaching position in their current building for the upcoming school year are considered to be in excess. Excessed teachers include those from closing or phasing out schools, those returning from reassignment, and those who are in excess from their home school due to changing conditions at the school (e.g., budget reductions). Excessed teachers who do not find a permanent position at a school by the start of the upcoming school year are placed in the ATR pool. The cost of these ATR teachers, who continue to receive their full salaries and benefits, is charged at least partially to the central DOE rather than the individual schools. These teachers are assigned to schools across the City and perform a variety of jobs, such as substituting or performing administrative work. As of March 1, 2011, there were 1,219 teachers in the ATR pool.

Audit Findings and Conclusions

The audit found that teachers in the ATR pool are primarily assigned to schools and that most of them appear to be working in teaching and teaching-related positions. In addition, DOE has made a number of efforts to assist teachers in the pool in finding permanent positions at schools. However, auditors were unable to determine whether DOE has been effective in its efforts because the agency presently does not formally or centrally track and maintain the data needed for such an assessment to take place.

DOE records indicate that 95 percent of the teachers in the pool as of March 1, 2011, have been assigned to work in schools; the remaining 5 percent have been assigned to non-school locations. Responses from a survey of principals and administrators revealed that 73 percent of the sampled teachers are reportedly working in teaching and teaching-related positions.

DOE has provided online workshops, teacher recruitment fairs, and one-on-one recruitment consultations to teachers in the pool. DOE has also attempted to add incentives and remove disincentives so that school administrators would be more inclined to offer permanent positions to teachers in the ATR pool. However, DOE is significantly hindered in evaluating the effectiveness of these efforts because the agency does not collect and track the data needed for such an evaluation. For instance, DOE does not track all applications made by the ATR teachers nor does it assess which of its efforts are most effective in helping teachers find permanent teaching positions.

Audit Recommendations

Based on our findings, we make two recommendations. DOE should:

- Collect sufficient data and assess whether its efforts are effective in helping teachers in the ATR pool find permanent positions.
- Maintain and track sufficient data on teachers who leave the ATR pool to assist the agency in developing initiatives and strategies to help teachers remaining in the pool find permanent positions.

Agency Response

DOE officials agreed with the recommendations, but contended that they already capture, maintain, and analyze data which they believe meet the intents and purposes of the recommendations.

In its response, DOE officials also contend that the audit is critical of DOE's policy of "mutual consent hiring." Contrary to what DOE officials state, the audit bureau has no position on DOE's current policy. The report recommends that DOE collect and analyze data to guide its decisions in order to improve the success of students and schools. Much of the basic data needed to make decisions related to the ATR pool has not been collected. For instance, DOE officials provided the audit team a list of 20 events to assist teachers in the ATR pool in finding permanent positions. In describing their efforts, DOE officials use the headline "The Department's Extensive and Successful Efforts to Assist Teachers in Finding Permanent Positions." However, it is unclear how DOE officials made the determination that their efforts are successful as the audit found that the effectiveness of DOE's efforts to assist teachers in finding permanent positions cannot be determined because the data needed for such an assessment is not formally collected or analyzed by DOE.

Further, expending "extensive" resources without understanding how effective those resources are in leading its employees to permanent positions is not a cost-effective data-driven strategy. In this current time of limited resources, DOE needs to provide a targeted strategy that uses resources efficiently and effectively and should not make decisions based on unsupported assumptions.

INTRODUCTION

Background

Excessed teachers (teachers without a full-time teaching position in their current building for the upcoming school year) include those from closing or phasing out schools, those returning from reassignment, and those who are in excess from their home school due to changing conditions at the school (e.g., budget reductions). Excessed teachers who do not find a permanent position at a school by the start of the upcoming school year are placed in the ATR pool. The cost of these ATR teachers, who continue to receive their full salaries and benefits, is charged at least partially to the central DOE rather than the individual schools. These teachers are assigned to schools across the City primarily by Children First Networks (CFNs)¹ Human Resource Directors. ATR teachers perform a variety of jobs, such as substituting or performing administrative work. In the 2010-2011 School Year, placement of ATR teachers was prioritized in the following order:

- court injunction schools – the 19 schools that must remain open due to a court injunction;
- target 75 schools – schools identified as low performing and needing a reduction in class size and/or pupil-teacher ratio;
- holdovers – schools in need of additional classroom teacher support;
- vacancies by license area – assigning of ATRs with the appropriate license to provide initial absence coverage due to vacancies; and
- teacher absence rate – absence coverage based upon the Teacher Absence Report to ensure appropriate staffing levels.

As per their contract with DOE, teachers in the ATR pool may not be placed outside of their seniority district without their consent. Teachers can nevertheless choose to work outside of their seniority district, however. Previously, assignments to schools with vacancies were filled based on seniority. In 2005, DOE and the United Federation of Teachers² (UFT) entered into a contract that reformed school staffing provisions and changed the staffing process for teachers and schools. As per the contract, schools have the right to choose which teachers to hire, regardless of seniority.

As part of a Memorandum of Agreement that DOE entered into in November 2008 with the UFT regarding the ATR pool and vacancies, DOE stated that “the Chancellor will convey to principals that though they continue to have final say over teacher hiring decisions it is his clear preference that the ATR pool be used as the first option in filling new and existing vacancies.” This Memorandum provided a financial incentive for principals to hire ATR teachers for permanent positions by having central DOE pay part of the cost of such teachers rather than having the full cost come from the individual school’s budget.

¹ Children First Networks (CFNs) are an initiative designed to integrate operational and instructional support for schools. CFNs deliver professional services to schools, such as payroll, human resources, and food services.

² The United Federation of Teachers represents approximately 200,000 members and is the sole bargaining agent for most of the non-supervisory educators who work in the New York City public schools.

As of March 1, 2011, there were 1,219 teachers in the ATR pool. Of these, 772 teachers (63.3 percent) entered the ATR pool due to budget reductions, closed or phasing out schools, or register loss and another 331 teachers (27.2 percent) entered the pool due to exoneration or stipulation of settlements³. Regarding the length of time these teachers had been in the pool, 660 (54 percent) had been there less than a year; 210 (17 percent) had been there for three years or more. DOE has not established a time limit that ATR teachers can remain in the pool. (Please refer to Appendix I for a breakdown of the teachers in the ATR pool as of March 1, 2011.)

Objective

The objectives of this audit were to determine whether DOE's efforts to assist ATR teachers in finding permanent positions were effective and how these teachers are being utilized.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary audit scope was School Year 2010-2011. Please refer to the Detailed Scope and Methodology at the end of this report for specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with DOE officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE officials and discussed at an exit conference held on July 22, 2011. On August 4, 2011, we submitted a draft report to DOE officials with a request for comments. We received a written response from DOE officials on August 26, 2011. In their response, DOE officials agreed with the audit recommendations, but argued that "the data that has been captured, maintained and analyzed by the Department's Division of Human Resources and Talent . . . demonstrates that the Department's practice already meets the intents and purposes of these recommendations." We disagree. With regard to ATR teachers, DOE provided limited evidence that it evaluates the effectiveness of its placement efforts; tracks all efforts of these teachers to find permanent positions; or tracks historical data on those teachers who have successfully left the ATR pool. Without such information, we believe that DOE is significantly hindered in its ability to evaluate the success of its efforts in helping ATR teachers find permanent positions.

³ Teachers in the ATR pool due to exoneration or stipulation of settlements are those teachers who were returned to service after an investigation and/or signed stipulation and/or after due process.

In its response, DOE also contends that the audit is critical of DOE's policy of "mutual consent hiring." DOE stated:

While the Comptroller is careful not to explicitly recommend that the Department abandon its policy of mutual consent hiring and return to a system where principals are denied the ability to interview and select instructors who they believe will be the best teachers for their students, such a change is clearly the premise upon which the Comptroller's financial analysis is based.

This report neither endorses nor condemns DOE's hiring policy. We do not believe that the scenarios presented by the analyses preclude the ability of principals to choose which teachers to offer permanent positions, regardless of seniority. We are merely identifying the potential financial impact of hiring new teachers in lieu of using teachers already on the payroll.

The full text of the DOE response is included as an addendum to this report.

FINDINGS AND RECOMMENDATIONS

Our audit revealed that teachers in the ATR pool are primarily assigned to schools and that most of them appear to be working in teaching and teaching-related positions. In addition, DOE has made a number of efforts to assist teachers in the pool in finding permanent positions at schools. We are unable, however, to determine whether DOE has been effective in its efforts because the agency presently does not formally or centrally track and maintain the data needed for such an assessment to take place.

DOE records indicate that 95 percent of the teachers in the pool as of March 1, 2011, have been assigned to work in schools; the remaining 5 percent have been assigned to non-school locations. A review of those in the pool who have been there for at least two years revealed that 164 (45.9 percent) had been assigned to the same schools for two or more consecutive years. Responses from a survey of principals and administrators revealed that 73 percent of the sampled teachers are reportedly working in teaching and teaching-related positions.

DOE has provided online workshops, teacher recruitment fairs, and one-on-one recruitment consultations to teachers in the pool. DOE has also attempted to add incentives and remove disincentives so that school administrators would be more inclined to offer permanent positions to teachers in the ATR pool. However, DOE is significantly hindered in evaluating the effectiveness of these efforts because the agency does not collect and track the data needed for such an evaluation. For instance, DOE does not track all applications made by the ATR teachers nor does it assess which of its efforts are most effective in helping teachers find permanent teaching positions. This information would enable DOE to reallocate its resources to those efforts that appear to be working the best and afford it the opportunity to create new initiatives to assist teachers who remain in the ATR pool.

Teachers in the ATR Pool are Generally Assigned to Work in Schools

The overwhelming majority of teachers in the ATR pool as of March 1, 2011, are assigned to work in schools. Our review of the teachers in the ATR pool as of March 1, 2011, revealed that 95 percent were assigned to work in schools. The remaining 5 percent have been assigned to non-school locations. Surveys of administrators for sampled teachers in the pool indicate that 73 percent were reportedly working in teaching and teaching-related positions.

According to DOE officials, ATR teachers are temporarily (one year or less) assigned each school year to schools and other locations based on various reasons (i.e., high absentee rate at the location, unfilled vacancies, and short-term need due to leave of absences) until they receive a permanent assignment. DOE maintains and tracks information about the teachers in the ATR pool in its Galaxy system⁴. Among the information available to DOE is the teachers'

⁴ DOE's Galaxy system is the school-based budgeting system used by all New York City public schools. Galaxy presents a school's budget as a Table of Organization that lists all staff working in the school and their associated budget amounts.

original excess location, excess date, license information, seniority data, and current year placement. (Galaxy records data for those teachers who are currently in the pool; DOE does not collectively maintain and track information of teachers who are no longer in the pool.)

DOE provided us with a listing of the teachers who were in the ATR pool as of March 1, 2011. As of that date, there were a total of 1,219 teachers in the ATR pool, according to data recorded in Galaxy. Of these, 772 teachers (63.3 percent) entered the ATR pool due to budget reductions, closed or phasing out schools, or register loss and another 331 teachers (27.2 percent) entered the pool due to exoneration or stipulation of settlements. Regarding the length of time these teachers had been in the pool, 660 (54 percent) had been there less than a year; 210 (17 percent) had been there for three years or more.

Upon review of the assignment location provided to us by DOE for the 1,219 ATR teachers for School Year 2010-2011, we identified 1,159 teachers (95 percent) who were assigned to schools whereas 60 teachers (5 percent) were assigned to non-school locations (i.e., Committees on Special Education, Children First Networks, and Suspension Centers). We also determined that 77 (6.3 percent) of the 1,219 ATR teachers during the 2010-2011 School Year were assigned to the location from which they were originally excessed. In addition, of the 357 teachers (as of March 1, 2011) who were in the ATR pool for two or more years, 164 (45.9 percent) were assigned to the same location in at least two consecutive school years. Assigning ATR teachers to their original excess location or to the same location in consecutive years could be a disincentive to principals to permanently hire these teachers because DOE Central pays at least a portion of the teachers' salaries, but the schools receive the full benefit of the teachers' services. (DOE officials themselves identified these as possible disincentives and instituted policies effective September 2010 requiring that an ATR teacher should not be reassigned to his/her original excessed location as an ATR teacher and should not be routinely placed back at the school to which he/she was previously assigned as an ATR teacher.) These data are representative of a particular point in time. Because data on teachers who have entered the pool over a period of time is not available, a true picture of the overall make-up cannot be determined. It is possible that the historical make-up of the pool over time could be significantly different from the make-up identified above.

Galaxy does not capture the actual job functions of the ATR pool teachers. DOE officials stated that the administrators ultimately decide how the teachers are utilized in their buildings. According to the Memorandum of Agreement that DOE entered into in November 2008, ATR teachers will be used for classroom assignments and other assignments within the teacher job description. ATR teachers may at times be reassigned to different tasks based upon changing needs in their assigned location. Because the actual job functions of the ATR teachers are not tracked by DOE, we sent 480 questionnaires to DOE officials at 227 sampled assigned locations covering 480 teachers, representing 39 percent of the total population of ATR teachers in the pool as of March 1, 2011. Based on the results of our survey from the 284 questionnaires returned to us (representing 59.2 percent of the 480 questionnaires submitted to the 227 sampled locations), it appears that ATR teachers are being used primarily as teachers at their assigned locations. DOE administrators reported that 73 percent of the ATR teachers were used entirely or in part during the 2010-2011 School Year in teaching positions—45 percent were used as Substitute Teachers and 27 percent were used as Full-time Teachers. We conducted no audit

procedures to verify the responses provided by the administrators. (Please refer to Appendix II for a summary of responses we received from the returned questionnaires.)

DOE Has Made Efforts to Assist Teachers in the ATR Pool in Finding Permanent Positions

DOE has various resources, information, and support services available to its teachers offering a wide array of assistance designed to help them find new positions within DOE's school system. DOE established the Teacher Hiring Support Center (THSC), an online resource center for existing DOE teachers, which is managed by DOE's Office of Teacher Recruitment and Quality. The THSC provides information and links for teachers that are in excess, in the ATR pool, and in closing and phasing-out schools, including announcements on upcoming recruitment events and workshops offered by DOE.

DOE provided us with an extensive listing of the various workshops, recruitment fairs, and events that it has sponsored during the 2009-2010 and 2010-2011 School Years to assist its teachers in improving their skills (i.e., interviewing and resume writing) and in finding permanent positions. Our review of the listing of training seminars, workshops, and events identified the following 20 events coordinated and offered by DOE:

- 11 Recruitment Fairs, consisting of:
 - eight general recruitment fairs for all teachers, with invitations reportedly being sent to teachers in excess and to teachers in closing and phasing-out schools (six fairs were borough-based and two fairs were citywide), and
 - three Borough-based recruitment fairs offered solely to excess staff,
- three Informational Webinar Workshops, consisting of two sessions of "Creating a Winning Cover Letter and Resume and Mastering the Interview" and one session of "Mastering the Interview,"
- four Borough-wide events for staff of closing and phasing-out schools providing job search support, resume critiques, one-on-one recruitment consultations, and interview workshops,
- one Citywide Professional Development Workshop covering job search preparation for teachers of closing schools, and
- one Networking Event for New Schools

DOE also has an Ambassador Phone-Bank, in which formerly excess teachers are made available to answer questions for teachers and serve to support employees in their job search. In addition, all teachers, including those teachers in excess and from closing or phasing-out schools, have DOE's Open Market Transfer System (OMTS) available to them to search for vacancies. OMTS allows teachers to register and apply for vacancies during the open market transfer period, April to August. After the open market transfer period ends, the OMTS becomes known as the Excess Staff Selection System (ESSS), which allows only current UFT staff in excess to apply for vacancies.

However, as discussed in the following section of the report, we are unable to assess the effectiveness of these efforts because the data needed for such an assessment is not formally collected or analyzed by DOE.

DOE Response: “We thank the Comptroller for reporting that the Department ‘has various resources, information, and support services available to its teachers offering a wide array of assistance designed to help them find new positions’ within the Department.

“Aided by these and other supports, the significant majority of teachers placed in excess each spring always have been able to secure permanent positions in our schools prior to the start of the following year, *i.e.*, before becoming ATRs.”

Auditor Comment: Due to the absence of assessment data, neither we nor DOE can assess the degree to which its efforts are effective in helping excessed teachers in general, and ATR teachers in particular, find permanent positions. The collection of such data would aid DOE in ensuring that its resources are being targeted to those areas where it will have the greatest impact.

Effectiveness of DOE’s Efforts to Assist Teachers in the ATR Pool in Finding Permanent Positions Cannot be Determined

We were unable to determine whether DOE was effective in assisting ATR teachers in finding permanent positions because the agency does not formally and centrally collect and track the data needed for such an evaluation. There are a number of obstacles that may be hindering ATR teachers from obtaining permanent positions. Although DOE has developed strategies to address some of these obstacles, the success of those strategies is uncertain.

DOE Does Not Collect or Track Outcome Data

A major hindrance to evaluating the effectiveness of DOE’s efforts is the lack of data regarding the outcomes of those efforts. DOE has provided no evidence of any assessments illustrating which of its efforts are most effective in reducing the ATR pool, does not track all applications filed by teachers in the ATR pool, and does not track historical data on teachers who are no longer in the ATR pool.

No Evidence that the Effectiveness of Placement Assistance Efforts for ATR Teachers is Evaluated

We found no evidence that DOE evaluates the effectiveness of its placement assistance efforts for ATR teachers. As stated previously, DOE has various resources, information, and support services available to its teachers offering a wide array of assistance designed to help them find new positions within DOE’s school system. However, without sufficient information on how well those efforts are working, DOE may not be maximizing its resources.

We asked DOE officials on June 23, 2011, whether they have performed any analyses to evaluate the effectiveness of their efforts to place ATR teachers into permanent positions. As of July 22, 2011 (the date of the exit conference), DOE officials did not provide any evidence of any analyses that were performed. On July 20, 2011, a month after our request, DOE officials informed us that its Human Resources (HR) department maintains an “informal record . . . of the results of these efforts” and provided us with spreadsheets for the 2009-2010 and 2010-2011 School Years. HR officials stated that they used this data as a baseline to see how successful they were in their efforts by determining the level of attendance at their events. Officials stated this data also assisted them in the scheduling of future events by determining which time periods were best based on employee turn-out for prior events.

While a step in the right direction, this data cannot currently be used to evaluate DOE’s effectiveness regarding assisting ATR teachers for a number of reasons. First, because the data was compiled on an informal basis, we are unable to attest to the data’s completeness or accuracy. Second, while the spreadsheets indicate the number of applications submitted through the OMTS and the number of fairs and workshops attended, they do not identify the specific events attended by the teachers or show which of the events are most successful in helping teachers find a permanent position. Third, and most important, the spreadsheets do not identify teachers in the ATR pool. The spreadsheets appear to list all excessed teachers; there is no notation indicating which of these teachers were in the ATR pool. It is important for DOE to determine the impact of its particular efforts in helping ATR teachers find positions. This would allow DOE to focus additional resources on efforts that seem to have the greatest impact while reducing resources to efforts that do not.

DOE Has Incomplete Information Regarding Applications Filed by ATR Teachers

DOE does not maintain or track information on all efforts made by the teachers in the ATR pool in finding permanent positions. DOE tracks information on applications submitted through the OMTS and ESSS only. DOE officials informed us that they have not tracked the resume/application activity for teachers in the ATR pool outside of the systems they have in place and, therefore, there is no way for them to know whether the teachers in the ATR pool submitted applications outside the open market (i.e., by sending a resume or directly contacting a school). They further stated that many of these teachers “supposedly do these kinds of contacts as part of their job search but we have no way of recording those ‘applications.’”

When asked whether DOE performs analyses to identify teachers in the ATR pool who have no record of applying for positions through the open market to determine what efforts, if any, have been made by those teachers to find permanent positions, DOE officials provided no such analysis and stated:

While we periodically have gathered information on excesses and their open market/excess staff activity, we have not used that as the basis for follow-up. Our practice is to reach out to ALL excesses to give them information about the resources we have on the Teacher Hiring Support Center site (including tips on resumes, cover letters, job search and demo lessons) as well as to invite them to recruitment events.

DOE officials further stated that “while the CFNs do not perform an official analysis they work very hard . . . to match [teachers in the ATR pool] to vacant positions . . . [and] continually reach out to them by inviting or mandating them to attend interviews.” At the exit conference, DOE officials stated that they do not see the value in tracking applications submitted outside of the OMTS. They stated that the OMTS is an effective tool that DOE created to track applications and it is the responsibility of ATR teachers to use this tool. Nevertheless, DOE has acknowledged that teachers do apply for positions outside of the OMTS. Accordingly, the OMTS does not accurately represent the efforts of ATR teachers to apply for positions and may be providing DOE with misleading data as they pertain to the application histories of ATR teachers.

As previously stated, although DOE has made many efforts to help teachers find positions within its schools, such as the information available through the THSC, without tracking the application histories of its teachers in the ATR pool, DOE is hampered in assessing the effectiveness of its efforts in helping ATR teachers. Consequently, DOE will not be able to identify common issues, if any, that ATR teachers may be facing in finding a permanent position.

DOE Response: “The Comptroller notes with grave concern that although the Department has created the OMTS system to assist excessed teachers in identifying and applying for vacant positions in the schools . . . the Department does not track applications that those teachers may send directly to individual schools outside of the OMTS system. . . . The Comptroller would sooner impose on overburdened school personnel the additional administrative tasks of looking up the name of any applicant who submits a hardcopy or emailed resume for a vacancy, regardless of whether they even intend to bring the candidate in for an interview, to determine whether that applicant may be an excessed teacher or a teacher in the ATR pool, and then entering data into a central data system, developed at some public expense, so that the Department has a more complete record of applications submitted by teachers outside the existing process and systems that were designed for them.”

Auditor Comment: As stated previously, DOE does not track the application activity of ATR teachers outside of the OMTS. At a minimum, DOE should be tracking and following up with ATR teachers who have no record of applying through the OMTS to determine what other efforts they have made to find a permanent position. Identifying these other efforts might be helpful to DOE to determine possible common issues that ATR teachers may be facing and to ascertain why they are not using the OMTS. For those teachers who have not applied for positions, DOE should seek to determine why. One possible reason may be the absence of vacancies in their particular license areas. A comparison of the license areas of the 1,219 ATR teachers in our population with the license areas of teachers newly hired during School Years 2008-2009, 2009-2010, and 2010-2011 found that there were no new hires in the license areas for 168 (14 percent) ATR teachers. (When taking into account the seniority districts of the new hires, the percentage of ATR teachers with no new hires in their license areas would be higher.) This data would be helpful to DOE in both developing initiatives to assist ATR teachers in finding permanent positions when no positions open up in their license area as well as

with its decision making for ATR teachers who are not making sufficient efforts to find a permanent position.

DOE Does Not Track Historical Data of Teachers Who Have Left the ATR Pool

DOE does not track data on teachers who have successfully left the ATR pool. As previously stated, DOE provided us with informal data on all excessed teachers, not just those in the ATR pool. Data specific to teachers in the ATR pool would be helpful in identifying trends related to the characteristics of those who leave the pool. Tracking this data could help determine if there are certain categories of teachers who have more success in finding placements than others, and whether other factors, such as years of service or salary, have any effect on which teachers are generally more successful in finding permanent positions. In addition, tracking this information would allow DOE to identify trends and patterns in the ATR pool make-up that could assist in creating initiatives to help ATR teachers find permanent positions.

DOE Response: “Contrary to the Report’s assertion that the Department does not collect or track outcome data, the spreadsheets provided clearly indicate outcomes for all teachers placed in excess, including teachers in the ATR pool. The Comptroller seems particularly concerned that the data provided does not explicitly differentiate ATR teachers from the broader pool of all excessed teachers. However, as the Comptroller indicated in the Report, an ATR is simply an excessed teacher who has not found a permanent position at a school by the start of the school year. Because the spreadsheets indicate the first and last date of the teacher’s inclusion in the excess file, one can readily determine which of the excessed teachers were in the ATR pool.”

Auditor Comment: In its acknowledgement that it does not track the outcomes of ATR teachers specifically, DOE attempts to undermine the importance of differentiating ATR teachers from the broader pool of all excessed teachers. However, this position is undermined by DOE itself elsewhere in its response when it draws a distinction between ATR teachers and all excessed teachers when discussing obstacles to placing ATR teachers in permanent positions. Even if DOE were to attempt to use this data, however, we have concerns about its completeness due to the informal nature in which it was collected. In fact, a number of the ATR teachers in our sample are not represented in the spreadsheets. Accordingly, we reaffirm our finding.

Obstacles to Placing ATR Teachers in Permanent Positions

DOE has inherent obstacles that may hinder the willingness of schools to offer permanent positions to teachers in the ATR pool. Two of the obstacles are the ability of new schools to fill vacancies with new teachers at a lesser cost and the offset of ATR teachers’ salaries by Central DOE. DOE has developed some strategies to address these obstacles. The success of these strategies, however, is uncertain.

Ability of New Schools to Hire New Teachers at Lower Cost to School

DOE placed restrictions on the hiring of teachers and other school-based staff effective May 2009, requiring principals to hire existing employees, including those teachers in the ATR pool. However, principals of new schools, within the first three years of their operation, are allowed to fill up to 40 percent of their vacancies with new hires (outside hires external to DOE's school system). In addition, there are some titles that are exempt from the hiring freeze. During the 2009-2010 and 2010-2011 School Years, DOE's schools hired a total of 3,356 new hires. The ability to fill vacancies with new hires might be a disincentive for the principals to hire teachers from the ATR pool as it would generally be less expensive overall to the schools to hire new teachers at a lesser salary.

DOE Response: "While hiring options for schools have reluctantly been limited in recent years through the imposition of a hiring freeze in certain license areas, the Department stands by the wisdom of its decision to selectively lift the freeze in license areas with shortages and where there are limited numbers of ATRs, thereby providing schools with specific hiring needs viable staffing options."

Auditor Comment: DOE's statement is incomplete. DOE also allows the hiring freeze to be lifted for new schools. As stated above, DOE's policy allows principals of new schools (including those in the same buildings that housed recently closed schools) to fill up to 40 percent of vacancies with new hires within the first three years.

In reviewing the list of ATR teachers who applied for positions through the open market and the list of new hires during the past three school years, we identified 71 positions filled with new hires during the 2008-2009 School Year, 57 positions filled in the 2009-2010 School Year, and 137 positions filled in the 2010-2011 School Year in which ATR teachers had the same license areas and seniority districts as the new hires. These ATR teachers could have been used to fill the vacancies rather than hiring new teachers, potentially saving DOE approximately \$3.2 million, \$2.6 million, and \$6.2 million during the 2008-2009, 2009-2010, and 2010-2011 School Years, respectively. These amounts could be higher depending on the new hires' starting salaries (as of May 2008, the base starting salary for a new teacher was \$45,530). Salaries can vary based on license, prior experience, and level of education. Table I summarizes by school year the total number of new hires with the same license area and seniority district as those ATR teachers who applied for positions through the open market.

Table I
Summary of New Hires and Teachers in the ATR Pool with the
Same License Area and Seniority District

School Year	Number of New Hires with the Same License Area and Seniority District as the Teachers in the ATR pool	Number of Teachers in the ATR pool that Could Have Been Hired with the Same License Area and Seniority District as the New Hires	Total Estimated Starting Salaries of New Hires that Could Have Been Saved by DOE*
2008-2009	706	71	\$3,232,630
2009-2010	178	57	\$2,595,210
2010-2011	757	137	\$6,237,610

*Assuming the starting salary for a new hire of \$45,530 (as of May 2008)

For example, during the 2010-2011 School Year, DOE hired 24 teachers with Special Education licenses in District 20, whereas there was one ATR teacher who applied through the open market with the same license area and seniority district who could have been used to fill one of these vacancies. In another example, DOE hired eight teachers with Common Branch licenses in District 24, whereas there were six ATR teachers who applied through the open market with the same license area and seniority district who could have been used to fill six of these vacancies. DOE officials informed us that principals receive a list of available ATR teachers in their district when filling vacancies; however, DOE provided no evidence that it surveyed principals to determine why they hired a new teacher over an experienced ATR teacher.

The ATR teachers represented in Table I are only those teachers who used the open market to apply for positions. We were unable to determine how many applications were actually submitted by these teachers during the 2008-2009, 2009-2010, and 2010-2011 School Years. DOE only reported to us whether the teachers applied for positions through the open market during each of these three school years reviewed. It is possible that the ATR teachers with no record of applying through the open market did apply for positions through other means. Additionally, the ATR teachers who did use the open market may have also used other means to apply for positions. None of this information is captured by DOE. Accordingly, the actual number of persons who applied for positions, as well as the number of applications made, could be much higher than reported.

Although teachers may not be placed outside of their seniority district without consent, they can nevertheless choose to work outside of their seniority district. Assuming the teachers in the ATR pool were willing to be placed outside of their seniority district, we identified 81 positions filled with new hires during the 2008-2009 School Year, 108 positions filled in the 2009-2010 School Year, and 273 positions filled in the 2010-2011 School Year in which ATR teachers with the same license area as the new hires applied for positions through the open market and who could have been used to fill the vacancies instead. Table II summarizes by school year the total number of new hires with the same license area only, without taking the seniority district into consideration, as those ATR teachers who applied for positions through the open market.

Table II
Summary of New Hires and Teachers in the ATR Pool with the
Same License Area Only

School Year	Number of New Hires with the Same License Area as the Teachers in the ATR Pool	Number of Teachers in the ATR pool that Could Have Been Hired with the Same License Area as the New Hires	Total Estimated Starting Salaries of New Hires that Could Have Been Saved by DOE*
2008-2009	4,011	81	\$3,687,930
2009-2010	1,161	108	\$4,917,240
2010-2011	1,796	273	\$12,429,690

*Assuming the starting salary for a new hire of \$45,530 (as of May 2008)

As reported in Table II, based on a starting salary of \$45,530 (as of May 2008), the 81 positions filled with new hires during the 2008-2009 School Year, 108 positions filled during the 2009-2010 School Year, and 273 positions filled during the 2010-2011 School Year would be an additional cost of at least \$3.7 million, \$4.9 million, and \$12.4 million, respectively. This could have resulted in an overall savings to DOE had ATR teachers been hired instead.

DOE Response: “The Department recognizes the financial burden associated with keeping teachers on the payroll who do not have regular job assignments. However, in reporting estimated cost savings that could be achieved by ‘hiring’ ATRs instead of new teachers, the Comptroller implies that the Department should ‘place’ ATRs into schools with vacancies matching their license area, whether or not the principal or the teacher believes the assignment to be a good fit. Then, in Table II, the Comptroller takes a giant leap and estimates savings based on an *assumption* that ATRs readily will accept placements outside their seniority district – an assumption belied by our experiences when discussing that topic with the UFT. The Department may not place teachers outside their seniority district, even temporarily, let alone into a permanent assignment.”

Auditor Comment: We are not implying that DOE should place ATR teachers against the will of the teacher or principal. We are merely illustrating the number of ATR teachers who were available and could have been hired instead of hiring a teacher externally. DOE seems to be placing the blame on the teachers and their inability to find permanent positions and failure to use the resources made available to them by DOE. However, DOE has provided no evidence illustrating that any analyses were performed to identify positions within its schools where principals hired teachers externally but for which ATR teachers who met the qualifications were available to fill the position. This would allow DOE to survey those principals to determine why they hired a new teacher over an experienced ATR teacher.

To help address the obstacles in placing ATR teachers in permanent positions, DOE entered into a Memorandum of Agreement (Agreement) in November 2008 with the UFT regarding the ATR pool and vacancies. The objective of the agreement was to reduce the size of the ATR pool by offering financial incentives for the hiring of ATR teachers, including paying the difference between the actual salary of the ATR teacher and a starting teacher salary, with

this subsidy terminating after eight years. As part of the agreement, principals can offer to hire ATR teachers on a provisional basis for the school year. At the end of the first school year, the ATR teacher himself/herself or the principal can opt to have the ATR teacher placed in excess again and the teacher would be returned to the ATR pool. This agreement expired on December 1, 2010, with the exception of the above mentioned eight-year subsidy and the provisional hiring policy.

According to the Agreement, the UFT and DOE would review the results of the agreement after it has been in operation for one year. When asked about this review, DOE officials claimed that the financial subsidy was not very effective as it did not significantly reduce the ATR pool overall and, therefore, was discontinued. In December 2010, the DOE and UFT agreed to extend the agreement through June 2011, but only as it related to the provisional hiring process, without the subsidy in subsequent years should the principal and teacher mutually agree that the teacher will become permanently appointed to the school.

However, we were unable to verify DOE's claim of the ineffectiveness of the financial subsidy. DOE did not have a formal assessment of the program in place and had insufficient supporting documentation to support this claim. According to DOE officials, there was no formal review of hiring under the Agreement conducted jointly by DOE and UFT, but they stated that "in November 2010, prior to the December expiration of the ATR agreement, DOE reviewed the number of teachers who had been hired through the subsidy agreement as of September 15, 2010, the amount of money expended and the remaining number of teachers in the ATR pool." But as previously stated, DOE provided insufficient documentation to support its review, the conclusions made, or when the review actually took place.

DOE Response: "The Department reviewed the hiring data, which, despite the Comptroller's suggestions to the contrary, was more than sufficient for the Department to assess the effectiveness of the financial incentive/subsidy. The data revealed that the subsidy had little, if any, impact on the ATR hiring."

Auditor Comment: The documentation provided to us by DOE was not sufficient evidence to support DOE's claim that the subsidy had little impact on the ATR hiring. DOE officials provided a schedule merely showing the total number of ATR teachers who were hired permanently and the number hired provisionally during Fiscal Years 2009, 2010, and 2011, and whether a hiring freeze was in effect. DOE did not provide any detailed evidence to support the numbers presented in this schedule, such as a listing of the teachers reflected in the schedule, the total number of teachers in the ATR pool at the time of the hiring, and the total number of teachers hired (both internal and external hires). Although DOE is now reporting on the total number of teachers in the ATR pool during Fiscal Year 2009 in its response to the draft report, this information was not provided to us during the course of the audit.

Furthermore, it is unclear when this "review" of the hiring data actually took place. According to the UFT agreement, a review was to take place within one year after the agreement was in operation. Because DOE entered into the agreement during November 2008, at a minimum, a review should have taken place by November 2009. However, the

inclusion of data from Fiscal Year 2011, which ended on June 30, 2011, implies that the review took place much later than required. The fact that DOE was unable to provide us with any supporting documentation and additional details about the review makes us question the validity of the analysis.

Salaries of ATR Teachers are Offset by Central DOE

Principals typically pay their teachers' salaries out of their school budget. However, ATR teachers are paid in part or in full by Central DOE depending on the school's budget. This might be an incentive to a principal to keep a teacher as an ATR rather than hire the teacher as part of the permanent staff. To prevent this from occurring, DOE officials informed us that as part of the Chancellor's directive, ATR teachers may not be reassigned as an ATR to the school from which they were excessed nor should ATRs be routinely placed back at the school to which they were previously assigned as an ATR. Our review found that there were 77 ATR teachers who were assigned to their original excessed location during the 2010-2011 School Year as well as 48 ATR teachers who were placed in the same school between the 2009-2010 and 2010-2011 School Years.

DOE officials informed us that although it is not DOE's policy to routinely assign ATR teachers to the schools in which they were originally excessed from, there are certain circumstances when this could occur. They further stated that such a low percentage of the teachers being assigned to their excessed locations, approximately 6 percent of the teachers in the ATR pool, is an indication that it is not a common practice. DOE officials did, however, confirm and provide us with their reasons justifying why 58 (75 percent) of the 77 ATR teachers were reassigned to their excessed location. Of the various responses provided by DOE, the top three reasons which cover 36 (62 percent) of the 58 ATR teachers consist of: additional support to assist a newly assigned principal; closing and/or phasing-out schools that needed additional support; and Human Resource directors had difficulty placing the ATR teachers.

For the remaining 19 ATR teachers (25 percent), DOE informed us that six teachers should have been assigned elsewhere, five teachers were still being researched and no further information was provided, and eight teachers were actually assigned to locations other than the one from which they were excessed, but Galaxy was not updated to reflect their new assignment locations or the incorrect original excess location was recorded in Galaxy.

DOE Response: "The Report essentially ignores the factors that our analysis of the data and our experience communicating with principals and working with teachers in the ATR pool suggests are far more meaningful in explaining the difficulty of placing ATRs in permanent positions.

"Those teachers who are unable to secure permanent positions prior to the start of the school year, *i.e.*, those who enter the ATR pool, unsurprisingly have secured permanent positions in our schools at lower rates than the overall population of excessed teachers. This is unsurprising because those excessed teachers who work hardest to identify and apply for vacancies, who have the most impressive resumes and references, and who best represent themselves in interviews, are the least likely to find themselves in the ATR pool."

Auditor Comment: DOE strongly implies that teachers in the ATR pool do not work as hard as other excessed teachers in finding permanent positions or are not as qualified as those teachers. However, officials have provided no data or analysis to support this assertion. Accordingly, we are unable to assess the degree to which DOE’s contention has merit. Further, DOE’s implication that ATR teachers are not as qualified as other excessed teachers is contradicted by its placing of ATR teachers in the lowest-achieving schools (“target 75 schools”), which arguably have the greatest need for qualified teachers. Of the 1,219 ATR teachers in our population, 139 (11 percent) were assigned to target 75 schools.

DOE Response: “The Department fully recognizes the financial burden associated with keeping teachers on the payroll who have been unable to secure regular assignments in our schools. It is for that reason that the Department has long maintained that excessed teachers who are unable or unwilling to find permanent positions should be exited from the system after a reasonable period of time.”

Auditor Comment: The absence of credible data hinders DOE both in targeting its resources and creating initiatives to assist those ATR teachers who are unable to find permanent positions and in identifying those ATR teachers who are unwilling to find permanent positions.

Recommendations

DOE should:

1. Collect sufficient data and assess whether its efforts are effective in helping teachers in the ATR pool find permanent teaching positions.
2. Maintain and track sufficient data on the teachers who leave the ATR pool to assist the agency in developing initiatives and strategies to help teachers remaining in the pool find permanent positions.

DOE Response: “The Department believes that the data that has been captured, maintained and analyzed by the Department’s Division of Human Resources and Talent, and which was shared with the auditors, demonstrates that the Department’s practice already meets the intents and purposes of these recommendations. The spreadsheets we shared with the auditors were derived from regularly downloaded snapshots of the Department’s live Galaxy tracking system, and were supplemented with data from our Employee Information System and our Open Market Transfer System, plus data maintained by the Office of Teacher Recruitment and Quality on attendance at recruitment fairs. Contrary to the Report’s assertion that the Department does not collect or track outcome data, the spreadsheets provided clearly indicate outcomes for all teachers placed in excess, including teachers in the ATR pool.”

Auditor Comment: DOE contends that its already meets the intents and purposes of these recommendations, that it maintains sufficient information on the outcomes of teachers in the ATR pool, and that it provided us with an analysis of said data. However, no such analysis was provided, and the data it provided was not sufficient for DOE to determine whether its efforts were effective. DOE only provided us with a spreadsheet on July 21, 2011, which DOE stated was used to informally track the results of its efforts for all teachers in excess. As previously indicated, this spreadsheet did not include all teachers in the ATR pool; the spreadsheet was missing 79 of the 1,219 ATR teachers. In addition, as previously stated, the data provided to us cannot be used to evaluate DOE's effectiveness regarding assisting ATR teachers. Because the data was informally compiled, we are unable to attest to the data's completeness or accuracy. Furthermore, the data does not identify the specific events attended by the teachers or show which of the events are most successful in helping teachers find a permanent position. Without such information, DOE is unable to determine the impact of its particular efforts in helping ATR teachers find positions.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The primary audit scope was School Year 2010-2011.

To obtain an understanding of the policies, procedures, and regulations governing DOE's ATR Pool, we reviewed and used as criteria:

- Article Seventeen, "Retention, Excessing, and Layoff," of the contract between the UFT and DOE,
- Memorandum of Agreement, "Absent Teacher Reserve and Vacancies," (dated November 18, 2008) between UFT and DOE,
- Memorandum of Agreement, "Absent Teacher Reserve and Vacancies," (dated January 5, 2011) between UFT and DOE,
- Memorandum from DOE's Labor Policy and Division of Human Resources (dated February 13, 2006) to Principals detailing UFT contract changes,
- ATR Tracking Software Requirements Specifications,
- School Allocation Memorandum No. 34 FY11, and
- ATR Placement Process School Year 2010-2011

We also interviewed the Deputy Chief Operating Officer and Director of Human Resources for the Division Office of School Support, and the Director and Assistant Director of the Division of School Budget Planning and Operations to further our understanding of the Galaxy System, which is used to budget and track ATR teachers in the Pool.

We requested and obtained from DOE's Galaxy System the ATR Report which lists all teachers who were in the ATR Pool as of March 1, 2011. This report included the following information for each ATR teacher: the assigned ATR location, their excess date, title, license area, seniority, seniority district, original excess location, and their prior and current year placement. Subsequent to this list, we requested for all 1,219 ATR teachers in the pool the history of their prior assignments, the reasons they were placed in excess, and a history of all positions that they applied for.

We conducted various analyses of the ATR report to determine the following:

- The top reasons that staff were placed in excess,
- The top license areas of teachers in the ATR pool,
- The number of ATR teachers from each borough,
- The length of time the ATR teachers were in the pool,

- The seniority of the ATR teachers,
- The number of teachers assigned to the same location two or more times in at least two consecutive school years, and
- The number of ATR teachers who were reassigned to their original excess location.

We requested and obtained from DOE a list of all new hires (outside hires external to DOE's school system) for School Years 2008-2009, 2009-2010, and 2010-2011. This report included the name of the new hires, the subject area of the vacancy filled, the school assigned to, the responsible district of school assigned, and the license and title appointed to. Based on the information provided to us, we conducted various queries for each of the above three mentioned school years to determine whether there were any ATR teachers who could have been used to fill vacancies instead of the new hires. Specifically, we determined the following:

- The number of ATR teachers who applied and those who did not apply for vacancy positions,
- The number of ATR teachers who applied for a position with the same license area and seniority district as the new hires,
- The number of job opportunities that were available to those ATR teachers who applied for a position with the same license area only as the new hires, and
- The number of job opportunities that were available to those ATR teachers who did not apply for a position, but were filled with a new hire having the same license area and seniority district.

In addition, we requested and obtained from DOE supporting documentation pertaining to its efforts in placing ATR teachers in full-time permanent positions. DOE officials provided us with samples of mandated excess interview letters, an attendance list for three informational webinars, recruitment fair invitations, general fair registration and attendance information, mandatory fair attendance information, ambassador calls, and requirement fairs/job preparation workshops schedule for 2010.

To determine whether DOE performed a review of the results of the November 18, 2008, agreement with UFT as specified in the agreement, we requested supporting documentation illustrating its review and any findings and recommendations that resulted from this review.

As part of our data reliability testing, we sent 480 questionnaires (one for each teacher) to the principals and other administrators of 227 (31 percent) sampled locations (from the population of 725 locations⁵) that were assigned ATR teachers. We determined whether the teachers in the ATR pool reported to their assigned locations as reported in Galaxy. We also determined what their primary responsibilities/duties were while assigned to these locations. We randomly selected 200 locations and judgmentally selected all 27 locations that were assigned five or more ATR teachers. In total, there were 480 ATR teachers assigned to the 227 sampled locations, representing 39 percent of the 1,219 teachers in the ATR pool.

⁵ Some ATR teachers were assigned to more than one location during the 2010-2011 School Year and, in these instances, we grouped the locations and counted them as one assigned location. The 725 locations covered a total of 761 actual assigned locations which consist of 715 unique locations when removing duplicates.

Summary of Current ATR Pool Make-up (as of March 1, 2011)

1. Reasons for ATR Pool Placement

Reason for ATR Pool Placement	# of Teachers	Percentage of ATR Pool
Budget Reduction	370	30.4%
CFN: Exoneration or Stipulation of Settlement	331	27.2%
CFN: Closed school	157	12.9%
School Phasing Out	139	11.4%
Register Loss	106	8.7%
CFN: Reversion to prior appointed license	29	2.4%
Grant or Program Ending or Reduction	24	2.0%
Mandated position no longer required	21	1.7%
Central or Regional program ending	9	0.7%
CFN: Central positions with right of return	9	0.7%
CFN: Regional positions funding not available	8	0.7%
Grade Reconfiguration	6	0.5%
CFN: Reason Needed - Rollover	5	0.4%
CFN: Discontinuance of probationary period	4	0.3%
CFN: Interim acting principal not selected	1	0.1%
TOTAL	1,219	100%

2. Length of Time Teachers were in ATR Pool

# of years in the ATR Pool	# of Teachers	Percentage of ATR Pool
Less than 1 year	660	54%
At least 1 year and Less than 2 years	202	17%
At least 2 years and Less than 3 years	147	12%
At least 3 years and Less than 4 years	119	10%
More than 4 years	91	7%
TOTAL	1,219	100%

3. Top License Areas of the Teachers in the ATR Pool

Title	# of Teachers in Title	Percentage of ATR Pool
Teacher - Regular Grades	1,016	83.35%
Teacher - Special Ed (Line 3101)	143	11.73%
Teacher - Bilingual	13	1.07%
Teacher - Regular Grades - ESL	10	0.82%
Teacher - Library	8	0.66%
Coach - Literacy	5	0.41%
Teacher - Assigned A	5	0.41%
Teacher - Speech Improvement (Line 3101)	5	0.41%
Coach - Math	4	0.33%
Teacher - Attendance	4	0.33%
Teacher - Regular Grades (Line 3101 Dist 97)	4	0.33%
Teacher - Speech (Related Services)	2	0.16%
TOTAL	1,219	100%

4. Number of ATR Teachers by Borough (using assigned ATR Location)

ATR Location	Borough	# of Teachers
96IR79	Alternative Schools & Program	80
96IR97	Citywide Special Education	24
96IRBK	Brooklyn	417
96IRBX	Bronx	239
96IRMA	Manhattan	199
96IRQU	Queens	207
96IRSI	Staten Island	53
TOTAL		1,219

Note: ATR Locations 96IR79 and 96IR97 are citywide.

Summary of Questionnaire Responses Received from DOE Principals and Other Administrators Regarding Teachers in the ATR Pool Assigned to their Locations

1. Was the above-listed ATR teacher assigned to your location during the 2010 -2011 School Year?

Responses: 280 **Yes:** 270 (96%) **No:** 10 (4%)

2. Is the ATR teacher still assigned to your location?

Responses: 279 **Yes:** 234 (84%) **No:** 45 (16%)

3. Was the ATR teacher assigned to your location during a prior school year?

Responses: 278 **Yes:** 32 (12%) **No:** 246 (88%)

(If the ATR teacher was never assigned to your location, please STOP here.)

(If you answered “YES” to Question #2, please proceed to Question #5.)

4. If the ATR teacher was but is no longer assigned to your location as an ATR teacher during the current school year, please identify:

a. the last date they reported to your location as an ATR teacher (MM/DD/YY):

b. the reason they are no longer assigned to your location as an ATR teacher:

- (1) Reassigned by the CFN
- (2) Reassigned by DOE Central
- (3) Teacher no longer works for DOE
- (4) Teacher assigned a permanent position at your location
- (5) Teacher found a permanent position elsewhere
- (6) Teacher was only on a short-term assignment at your location
- (7) Other (please explain):

Responses: 24 **(1):** 12 (50%) **(2):** 3 (13%) **(3):** 3 (13%) **(4):** 4 (17%)
(5): 2 (8%) **(6):** 0 (0%) **(7):** 0 (0%)

5. How many days a week did the assigned ATR teacher report to your location?

- a. 5 days a week
- b. Less than 5 days a week

Responses: 243 a: 238 (98%) b: 5 (2%)

6. Please identify the ATR teacher’s primary responsibilities/ general assignments while assigned to your location? (Please check ALL that apply.)

- a. Full-time teaching position in their licensed area
- b. Full-time teaching position not in their licensed area
- c. Substitute teaching position in their licensed area

- d. Substitute teaching position not in their licensed area
- e. Teaching Assistant
- f. Administrative Duties (i.e., Office Work)
- g. Lunch Monitor
- h. Other (please list):

Responses: 387 **a:** 85 (22%) **b:** 21 (5%) **c:** 91 (24%) **d:** 85 (22%)
e: 21 (5%) **f:** 30 (8%) **g:** 15 (4%) **h:** 39 (10%)

7. Did you request an ATR Teacher to be assigned to your location?

Responses: 245 **Yes:** 107 (44%) **No:** 138 (56%)

(If you answered “NO” to Question #7, please proceed to Question #9.)

8. To whom did you make the request for an ATR teacher to? (Please check ALL that apply.)

- a. CFN
- b. DOE Central
- c. Other (please identify):

Responses: 113 **a:** 93 (82%) **b:** 7 (6%) **c:** 13 (12%)

9. Who assigned the ATR teacher to your location?

- a. Your designated CFN
- b. Another CFN
- c. Central DOE
- d. Other (please describe):

Responses: 242 **a:** 200 (83%) **b:** 2 (1%) **c:** 23 (10%) **d:** 17 (7%)

10. Do you have a choice on whether to accept the ATR teacher assigned to your location?

Responses: 247 **Yes:** 116 (47%) **No:** 131 (53%)

(If you answered “NO” to Question #10, please STOP here.)

11. If you have the option of not accepting the ATR teacher assigned to your location:

- a. Can you request a replacement ATR teacher be assigned?

Responses: 117 **Yes:** 95 (81%) **No:** 22 (19%)

- b. Have you ever requested a replacement ATR teacher and a replacement was assigned to your location?

Responses: 118 **Yes:** 36 (31%) **No:** 82 (69%)



**Department of
Education**

Dennis M. Walcott, Chancellor

David A. Weiner, Deputy Chancellor

August 26, 2011

H. Tina Kim
Deputy Comptroller for Audit
The City of New York Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007-2341

Dear Ms. Kim:

This letter constitutes the New York City Department of Education's (Department) response to the New York City Office of the Comptroller's (Comptroller) Draft Report MD11-108A dated August 4, 2011 (Report), on the Department's Utilization of the Absent Teacher Reserve Pool.

While the Report includes only two procedural recommendations – encouraging the Department to collect, track and analyze more data in a more formal way to assess the effectiveness of existing initiatives and to help develop new initiatives to place more teachers from the ATR pool in permanent positions – the “highlight” of the Report is two tables suggesting that the Department could have saved many millions of dollars by maximizing its “hiring” of teachers from the ATR pool, thereby minimizing the number of new teachers hired by schools. While the Comptroller is careful not to explicitly recommend that the Department abandon its policy of mutual consent hiring and return to a system where principals are denied the ability to interview and select instructors who they believe will be the best teachers for their students, such a change is clearly the premise upon which the Comptroller's financial analysis is based. And that analysis regards teachers not as individual professionals with unique strengths and/or weaknesses as candidates for teaching jobs in unique schools, but rather as fungible, replaceable parts.

For reasons detailed below we have some serious objections to the assumptions behind the Comptroller's calculation. That said, the Department fully recognizes the financial burden associated with keeping teachers on the payroll who have been unable to secure regular assignments in our schools. It is for that reason that the Department has long maintained that excessed teachers who are unable or unwilling to find permanent positions should be exited from the system after a reasonable period of time. However, as the Comptroller is well aware, the ATR pool is a product of collective bargaining with the United Federation of Teachers (UFT), and any material policy changes are subject to collective bargaining. Because the Department cannot impose unilaterally a time period within which teachers in the ATR pool need to find a permanent job, it has included it as a demand in 2005, 2006 and the current round of collective bargaining. Each time it has been rejected by the UFT.

The 2005 Collective Bargaining Agreement and the End of Seniority Transfers and Forced Placements

Prior to a 2005 agreement between the Department and the UFT, teacher placements and transfers were based solely on seniority. Principals were bound to hire the most senior teacher applying for an open position in his or her license area. Teachers who were excessed from schools had a contractual right to be placed into vacancies in their district or to "bump" a less senior teacher from a position in a school in their district.

In the fall of 2005, the Department and the UFT agreed in collective bargaining to eliminate teachers' right to placement in schools based on seniority. Recognizing that teachers are not merely fungible parts, the agreement ended the ill-advised practices of forced placement and bumping and expressly recognized that no teacher should be "hired" or placed into a school without the consent of the principal. School principals were thereby empowered to interview all prospective candidates for vacancies and to select instructors who they assess to be well-suited for their school environment and student population. And, the seniority transfer provisions of the old contract were replaced with an "Open Market Transfer" system, allowing any teacher - regardless of seniority - to transfer to any school with the agreement of the principal.

Mutual consent hiring remains a core priority of the Department, as we believe strongly that the best interests of our students are served when principals and school teams are given the freedom to hire who they believe are the best candidates and teachers accept jobs in schools where they want to work.

Excessed Teachers and the Absent Teacher Reserve Pool

Teachers may be "excessed" from their school primarily for budgetary reasons or due to a school's closing. The Department's contract with the UFT provides that excessed teachers who do not secure a permanent position in a school by the start of the school year are placed in the Absent Teacher Reserve (ATR) pool. The ATR pool also includes teachers returning from suspension following a stipulation or decision resulting from disciplinary charges.

Teachers in the ATR pool are assigned to schools within their district where they may serve in a number of capacities, including serving as daily substitutes or coverage for absent teachers, filling long-term leaves or absences, engaging in push-in or pull-out instruction with students, or working as classroom teachers where warranted to reduce class sizes or pupil-to-teacher ratios.

The Department's Extensive and Successful Efforts to Assist Teachers in Finding Permanent Positions

We thank the Comptroller for reporting that the Department "has various resources, information, and support services available to its teachers offering a wide array of assistance designed to help them find new positions" within the Department (Report, p.7). Among those efforts, the Department has established a Teacher Hiring Support Center; has developed and offered numerous and regular training seminars, workshops, recruitment fairs, and networking events; and has created an Ambassador Phone-Bank in which formerly excessed teachers are made available to answer questions for teachers and support them in their job search. Additionally, all teachers, including those placed in excess, can search, register and apply for vacancies using the Department's Open Market Transfer System (OMTS) each year between April and August.

After the open market transfer period ends, the OMTS converts to the Excess Staff Selection System (ESSS) which allows teachers in the ATR pool to continue applying for vacancies.

Aided by these and other supports, the significant majority of teachers placed in excess each spring always have been able to secure permanent positions in our schools prior to the start of the following school year, *i.e.*, before becoming ATRs.

Teachers are Non-Fungible Professionals

However, we believe that the success of these excessed teachers in securing permanent positions is first and foremost attributable to their own efforts to identify and apply for open positions, the strength of their resumes and references, and their ability to present themselves to principals in interviews as effective educators who can have a positive impact on their students' success. Teachers are not interchangeable commodities. They are professionals. As such, it is incumbent upon those who have been excessed to take advantage of the resources, information and support services the Department has made available to them to maximize their ability to secure permanent teaching positions in our schools.

To take one example from the Report, the Comptroller notes with grave concern that although the Department has created the OMTS system to assist excessed teachers in identifying and applying for vacant positions in the schools, has informed teachers about this system and trained them in its use, the Department does not track applications that those teachers may send directly to individual schools outside of the OMTS system. In other words, rather than expecting teaching professionals to actually use the system and supports that the Department has provided for them, the Comptroller would sooner impose on overburdened school personnel the additional administrative tasks of looking up the name of any applicant who submits a hardcopy or emailed resume for a vacancy, regardless of whether they even intend to bring the candidate in for an interview, to determine whether that applicant may be an excessed teacher or a teacher in the ATR pool, and then entering data into a central data system, developed at some public expense, so that the Department has a more complete record of applications submitted by teachers outside the existing process and systems that were designed for them. And to what end?

Obstacles to Placing ATR Teachers in Permanent Positions

While the Comptroller cites the ability of new schools to hire new teachers at a lesser cost and the offset of ATR teacher salaries by Central as two obstacles that may hinder the willingness of schools to offer permanent positions to teachers in the ATR pool, the Report essentially ignores the factors that our analysis of the data and our experience communicating with principals and working with teachers in the ATR pool suggests are far more meaningful in explaining the difficulty of placing ATRs in permanent positions.

Those teachers who are unable to secure permanent positions prior to the start of the school year, *i.e.*, those who enter the ATR pool, unsurprisingly have secured permanent positions in our schools at lower rates than the overall population of excessed teachers. This is unsurprising because those excessed teachers who work hardest to identify and apply for vacancies, who have the most impressive resumes and references, and who best represent themselves in interviews, are the least likely to find themselves in the ATR pool. As discussed above, teachers are not fungible parts.

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The Cost of the ATR Pool

The Department recognizes the financial burden associated with keeping teachers on the payroll who do not have regular job assignments. However, in reporting estimated cost savings that could be achieved by “hiring” ATRs instead of new teachers, the Comptroller implies that the Department should “place” ATRs into schools with vacancies matching their license area, whether or not the principal or the teacher believes the assignment to be a good fit. Then, in Table II, the Comptroller takes a giant leap and estimates savings based on an *assumption* that ATRs readily will accept placements outside their seniority district – an assumption belied by our experiences when discussing that topic with the UFT. The Department may not place teachers outside their seniority district, even temporarily, let alone into a permanent assignment.

That said, the cost of the ATR pool to the Department and the public actually is much higher than any number the Comptroller reports, which is why, as noted above, the Department has long sought an agreement with the UFT that affords excessed teachers a reasonable amount of time, with extensive supports and resources, to find a permanent placement in our schools, after which teachers unable to find a permanent position in our schools would be removed from payroll. Such an agreement could save the Department and the public tens of millions of dollars each year, while maintaining the core policy of mutual consent hiring that is in the best educational interest of our students. However, the UFT has continuously rejected proposals to establish a time limit for excessed teachers to pursue and obtain a permanent teaching assignment. Under the current teacher contract, teachers in the ATR pool can stay on the payroll indefinitely and cannot be compelled to apply for vacancies in schools.

The 2008 Memorandum of Agreement and Initiatives to Increase Hiring from the ATR Pool

As noted in the Report, the Department entered into a Memorandum of Agreement with the UFT in November 2008. At the time of the agreement, the Chancellor stated:

Today’s agreement with the UFT creates incentives that encourage principals to voluntarily hire qualified teachers in the ATR pool to fill vacancies, thereby reducing the cost to the City of maintaining excessed teachers on the payroll. This agreement is part of our very serious efforts to minimize cuts to schools and classrooms during these hard economic times. At worst, if no additional teachers are hired from the ATR pool, it’s cost neutral. At best, if principals find qualified teachers in the ATR pool to fill vacancies in their schools, it could save us millions of dollars. And, importantly, it preserves principals’ right to choose the teachers in their schools. While we continue to believe that teachers in the ATR pool should not be permitted to stay on the payroll indefinitely, this agreement represents a needed step forward.

The November 2008 agreement did two things. First, it created a financial incentive so that any ATR hired by a school would cost the school only the equivalent of a first year teacher’s salary. Second, it allowed ATRs to be hired provisionally for the school year, after which the principal and teacher could opt to make the hire permanent or have the teacher return to the ATR pool the following school year.

This agreement expired in December 2010. The Department reviewed the hiring data, which, despite the Comptroller’s suggestions to the contrary, was more than sufficient for the

Department to assess the effectiveness of the financial incentive/subsidy. The data revealed that the subsidy had little, if any, impact on ATR hiring. In fiscal year 2009, only 31 ATRs were hired with the subsidy out of a total of approximately 850 ATRs in the pool at the time. In fiscal years 2010 and 2011, 614 and 250 ATRs were hired, respectively, with the subsidy. However, unlike fiscal year 2009, a hiring freeze was instituted by the Department because of the worsening budget crisis. Accordingly, most schools' options for filling most vacancies were limited to internal candidates through the open market transfer process and teachers in the ATR pool. After reviewing the data, it was clear that when the broadest range of hiring options were available for schools, the subsidy had not worked and the continuation of the hiring freeze alone would continue to drive schools to the ATR pool to fill vacancies. This data was provided to the Comptroller's Office during the audit. Accordingly, it is unclear to us what additional data and what additional analysis the Comptroller believes was needed to assess the effectiveness of the subsidy agreement. The Department shared its data with the UFT in December 2010 and indicated that it would not seek to extend the subsidy portion of the November 2008 agreement, but would be interested in renewing the provisional hire option. An agreement to that effect was memorialized in January 2011.

Response to Recommendations

The Comptroller's Report makes two recommendations that the Department should:

1. Collect sufficient data and assess whether its efforts are effective in helping teachers in the ATR pool find permanent teaching positions.
2. Maintain and track sufficient data on the teachers who leave the ATR pool to assist the agency in developing initiatives and strategies to help teachers remaining in the pool find permanent positions.

The Department believes that the data that has been captured, maintained and analyzed by the Department's Division of Human Resources and Talent, and which was shared with the auditors, demonstrates that the Department's practice already meets the intents and purposes of these recommendations. The spreadsheets we shared with the auditors were derived from regularly downloaded snapshots of the Department's live Galaxy tracking system, and were supplemented with data from our Employee Information System and our Open Market Transfer System, plus data maintained by the Office of Teacher Recruitment and Quality on attendance at recruitment fairs. Contrary to the Report's assertion that the Department does not collect or track outcome data, the spreadsheets provided clearly indicate outcomes for all teachers placed in excess, including teachers in the ATR pool. The Comptroller seems particularly concerned that the data provided does not explicitly differentiate ATR teachers from the broader pool of all excessed teachers. However, as the Comptroller indicated in the Report, an ATR is simply an excessed teacher who has not found a permanent position at a school by the start of the school year. Because the spreadsheets indicate the first and last date of the teacher's inclusion in the excess file, one can readily determine which of the excessed teachers were in the ATR pool.

Conclusion

While the Department will continue to evaluate both existing and potential initiatives and strategies to encourage principals to hire teachers in the ATR pool, mutual consent hiring remains a core Department priority, as we believe the best results for students are produced

when principals are given the freedom to hire the staff they believe are the best candidates, and when teachers accept jobs in schools where they want to work. While hiring options for schools have reluctantly been limited in recent years through the imposition of a hiring freeze in certain license areas, the Department stands by the wisdom of its decision to selectively lift the freeze in license areas with shortages and where there are limited numbers of ATRs, thereby providing schools with specific hiring needs viable staffing options.

As we have expressed, the Department fully recognizes the financial burden associated with keeping teachers on the payroll who have been unable to secure regular assignments in our schools, and believes that the public interest would be best served if the UFT agreed in collective bargaining that excessed teachers who are unable or unwilling to find permanent positions after a reasonable period of time should be exited from the system.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Weiner", with a long horizontal flourish extending to the right.

David A. Weiner
Deputy Chancellor
Division of Talent, Labor, and Innovation