

Rhee ignored instructions about cuts, council says

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D.C. Council members angrily accused Schools Chancellor Michelle A. Rhee on Thursday of skirting the law by deciding unilaterally to lay off teachers and staff — instead of trimming summer school operations — to save \$9 million in the school system's budget.

The decision, which Rhee defended on legal and policy grounds, was one of a series of disclosures during a contentious day-long oversight hearing that shed new light on the layoffs. The dismissals have sparked vociferous street protests, a union lawsuit and the most intense public debate of Rhee's 28-month tenure.

For some council members, the revelations confirmed suspicions that Rhee ignored a council directive to trim the summer school program and manipulated this year's budget process to further her goal of replacing a large portion of the city's 4,000 teachers. They vowed to press their investigation of the dismissals.

The hearing also laid bare festering tensions between Rhee and D.C. Council Chairman Vincent C. Gray (D), a possible mayoral candidate next year, who has for months criticized the school leader for a lack of communication and transparency. He said her decision, which he called "incredibly cavalier," violated legal requirements that she submit a "reprogramming" request to the council when shifting funds.

"I'm talking about the law," Gray said. "Why bother to have a legislative body if the people in the executive branch do whatever they choose because they don't like the decision of the legislative body?"

Others took issue with Gray's analysis, but even some of Rhee's most steadfast supporters on the council rebuked her for the bitter state of relations between the school system and elected officials.

"We cannot continue to have this kind of craziness," said Jack Evans (D-Ward 2), who noted encouraging signs of progress in the schools but lamented that "we are sitting in a chamber where tensions couldn't be higher." Under Rhee, test scores have risen recently, and enrollment appears to have stabilized after a long decline.

'Change is hard'

Testifying under oath, Rhee said she was open to improving communications but added: "Change is hard. Some of the decisions we are making are going to cause some opposition and push-back. We can't shy away from those decisions because we don't want to hear the noise."

Rhee said the Oct. 2 layoffs of 266 teachers and other educators were needed to help close a \$43.9 million shortfall in the 2010 budget. Union leaders have denounced the action as an illegal mass firing designed to purge older educators. They have gone to court to have the teachers reinstated.

Rhee also revealed new information about the teachers who were fired and the 934 she hired during the spring and summer. In written testimony delivered Wednesday night, she told Gray that the average age of the District's teachers is 42 and that the average age of those who were laid off is 48. The average age of the 934 new hires is 32.

Rhee had deflected claims of age discrimination in interviews this month, saying that the average age of the laid-off educators was consistent with the age of the school workforce.

Thursday's hearing centered on \$20.7 million the council cut from the school budget July 31, part of a citywide belt-tightening because of declining tax revenue. About \$9 million of the cut came in the form of a reduction in 2010 summer school operations.

Rhee said that summer school has become a critical component in helping high school students catch up academically, recover course credits and stay on a path toward graduation. Given a choice between protecting the interests of adults and students, she said, she chose to protect students. The \$9 million represents a little more than 100 of the 266 teacher layoffs.

A visibly exasperated Gray was not swayed, citing what he called Rhee's violation of city regulations.

"You think that's inconsequential?" he asked. "You think that's okay?"

Rhee responded: "I think that at times you are making difficult decisions, and things don't always happen in the ideal manner," adding that Attorney General Peter Nickles and James Sandman, the school system's general counsel, advised her that she was on firm legal ground. She added that she will submit the reprogramming request next year before the beginning of summer school.

Mixed phone signals

Gray asked why the council had to wait until Thursday to learn that rerouting summer school funds was part of her strategy for meeting the shortfall. Rhee, in turn, accused Gray of being unwilling to pick up the phone.

"There have been multiple occasions in the last few months where I have tried to get on the phone to talk to you about these issues," she said, describing one particular day in which two scheduled conference calls fell through because he was not available.

Council members also denounced Rhee's chief financial deputy, Noah Wepman, who acknowledged that he was aware in mid-July that as the school system was hiring hundreds of new teachers it faced a deficit of between \$12

million and 13 million in its 2009 budget. Wepman said he briefed Rhee on the deficit, which eventually grew to \$20 million, and said she would need to adjust the 2010 budget to close the gap. One of the options discussed, Wepman said, was layoffs.

Wepman also acknowledged that he never shared information about the deficit with his superior, the District's chief financial officer, Natwar M. Gandhi, who certified the 2010 budget without knowing of the potential shortfall. Wepman conceded that he should have been more communicative.

Joyce E. Smithey, an employment lawyer with Rifkin, Livingston, Levitan & Silver, said in an interview that "if the evidence shows that the chancellor hired employees in bad faith, then the question is whether she did so with the goal of forcing a layoff of older employees. If that's the case, then any admission about advanced knowledge of budget troubles could be damaging."