

Memorandum of Agreement

Between

Westport Education Association

And

Westport Central School District

Regarding Annual Professional Performance Review (3012-d)

The provisions of this Memorandum of Agreement shall be in effect upon ratification of the agreement in its entirety, by the board of education of the Westport Central School District and the membership of the Westport Education Association.

The parties agree to modify their collective bargaining agreement in accordance with a revised teacher evaluation procedure under the NYS budget and laws of 2015 (3012-d), as modified by the New York State Board of Regents on December 15, 2015, the primary components of which are outlined below. Both parties agree to meet annually in June for the purposes of ongoing review and possible adjustment of this MOA. Such review will include negotiations upon the request of either party.

1. Definition of Covered Teachers

This Agreement will apply to all classroom teachers who are providing direct instruction for at least 50% of their workday.

2. Ensuring Accurate Teacher and Student Data

The District shall provide accurate data to the State Education Department (the "SED") in a format and timeline prescribed by the Commissioner. The District shall also provide an opportunity for every covered teacher to verify the subjects and/or student rosters assigned to him/her as well as enrollment and attendance data. The District shall designate a Data Coordinator who shall be in charge of collecting the required data, overseeing changes in and maintenance of the local data management systems, and ensuring the accuracy of the data. The Data Coordinator shall have the authority to assign tasks and deadlines, as required.

3. Reporting Individual Ratings

The Data Coordinator (who shall not be a bargaining unit member) shall be responsible for reporting to the SED the individual subcomponent ratings and the final rating for each covered classroom teacher in the District, and shall do so in a format and timeline prescribed by the Commissioner. Covered teachers will be afforded the opportunity to verify the final data attributed to them within 5 school days before it is sent to the SED.

4. Development, Security and Scoring of Assessments

The Data Coordinator shall be responsible for overseeing the assessment development, security, and scoring processes utilized by the District and shall take steps to ensure that any assessments and/or measures used to evaluate teachers are not disseminated to students before administration, and that teachers and principals/instructional administrators do not have a vested interest in the outcome any assessments they score.

Student Performance Subcomponent Determination

A. For the 2016-2017 school year, the Student Performance Rating of Teachers without the majority of their students in regents/state assessment courses in the terms of 3012-d will be based upon a school-wide (building wide) measure, mutually agreed upon and derived from:

- New York State Grade 4 Science Test
- RE in US History & Government
- RE in English Language Arts (Common Core)
- Algebra I (Common Core)

The target is achieving a passing grade.

SLO Score Setting

Target	Score	Target	Score
Percent of Students Tested meeting target	Scoring range	Percent of Students Tested meeting target	Scoring range
0-4%	0	49-54%	11
5-8%	1	55-59%	12
9-12%	2	60-66%	13
13-16%	3	67-74%	14
17-20%	4	75-79%	15
21-24%	5	80-84%	16
25-28%	6	85-89%	17
29-33%	7	90-92%	18
34-38%	8	93-96%	19
39-43%	9	97-100%	20
44-48%	10		

The scores from the SLO Score Setting Chart will be used to derive the Local Performance Score.

Overall Student Performance Category Score and Rating

Rating	Minimum	Maximum
Highly Effective	18	20
Effective	15	17
Developing	13	14
Ineffective	0	12

- B. For the 2016-2017 school year, the Student Performance Rating of Teachers with the majority of their students in regents/state assessment courses have to do SLOs to those state assessments (4&8 science only teachers, not common branch and regents courses that are part of the 50%+ largest courses) in the terms of 3012-d will be based on the individual SLO.

SLO Score Setting

Target	Score	Target	Score
Percent of Students meeting target	Scoring range	Percent of Students meeting target	Scoring range
0-4%	0	49-54%	11
5-8%	1	55-59%	12
9-12%	2	60-66%	13
13-16%	3	67-74%	14
17-20%	4	75-79%	15
21-24%	5	80-84%	16
25-28%	6	85-89%	17
29-33%	7	90-92%	18
34-38%	8	93-96%	19
39-43%	9	97-100%	20
44-48%	10		

The scores from the SLO Score Setting Chart will be used to derive the Local Performance Score.

Overall Student Performance Category Score and Rating

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In cases where there are extenuating circumstances (i.e. student mobility, large number of students with IEP's, students with attendance problems, et al), subject to the Superintendent's approval, the evaluator may weight individual students' scores to adjust the student performance rating. Documentation of any such circumstances will be maintained by the District.

For the 2019-2020 school year and thereafter, the student performance subcomponent will incorporate state tests as necessary by law, and a final arrangement regarding this subcomponent will have to be mutually agreed upon.

5. Details of the District's Evaluation System

- A. A Teacher Performance rating shall be derived from evidence-based observation and evaluation, and shall be based on multiple measures and grounded in the New York State Teaching Standards. Evidence for evaluations may come from formal classroom observations, walk-through observations, teacher-created materials and other resources provided by the teacher or administrator through the observation process. **NYSUT** teacher practice rubric 2014 Edition will be used to evaluate teacher practice. The assigned administrator's observations will account for 90% of the Teacher Observation rating, and the independent evaluator's observations will account for 10% of the Teacher Observation rating. The independent evaluator used will be mutually agreed upon between the District and the Association.
- B. The chief purposes of the evaluation of the teaching staff shall be to maintain a highly qualified, competent staff, and to promote its continuing development. To further these purposes, the supervisory personnel responsible for the evaluation of teachers shall acknowledge the right of the teacher to:
 - 1) Know how well he/she is performing the duties and responsibilities of his/her position.
 - 2) Know the areas in which improvement is needed.
 - 3) Have written candid appraisal of his/her work. "Candid" means frank, open, sincere and without reservation.
 - 4) Discuss his/her evaluation reports with his/her supervisor.
 - 5) Seek and receive supervisory assistance where needed.
- C. At the first meeting in September of each year, the Superintendent will provide the teaching staff with general guidelines for observations and evaluation.

D. The administration shall provide an orientation and guidance program for all teachers, to be followed up with guidance on a continuing basis throughout the probationary period.

- 1) This guidance shall include regularly scheduled meetings with the administration.
- 2) Each new teacher to the district shall be assigned to an experienced mentor of the staff to whom the new teacher may turn for advice and guidance during the school year(See Section #10).
- 3) The Superintendent shall discuss progress with the probationary teacher following each observation. Assistance will be provided by a committee of two or more teachers appointed by the Superintendent if needed by probationary teacher(s). No probationary teacher shall be released for classroom teaching or management deficiencies before a committee of helping teachers is assigned and given a reasonable period of time for working with said teacher.
- 4) The Superintendent will provide mutually agreed upon assistance where needed.

E. All monitoring and evaluation of a teacher shall be conducted openly and with full knowledge of the teacher.

F. Tenured Teachers

Two visits each year for the purpose of evaluating classroom teaching performance shall take place. One observation will be a formal observation conducted by the superintendent or his/her designated representative, and one observation will be conducted by an Independent Evaluator(Walkthrough Observation). Formal Evaluations for Teachers other than probationary shall be completed before the end of March, and Walkthroughs prior to the end of May.

G. Probationary Teachers

- 1) During the initial year of employment, probationary teachers shall be evaluated at least four times, consisting of an informal, two formal and one Walkthrough observations. The first informal evaluation shall be conducted before the end of October. The first formal evaluation shall be conducted before the end of November. The second formal evaluation shall be conducted before the end of March. The Independent Evaluator(Walkthrough Observation) shall be conducted prior to the end of May.

- 2) During the second, third or fourth year of probationary employment, teacher(s) shall be evaluated at least three times, consisting of two formal and one Walkthrough observations. The first formal evaluation shall be conducted before the end of October. The second formal evaluation shall be conducted before the end of February. The Independent Evaluator(Walkthrough Observation) shall be conducted prior to the end of May.
- H. A formal classroom observation (one leading to an evaluation) will cover a complete lesson or class period.
- I. A Walkthrough Observation leading to an evaluation will cover 15-20 minutes of a lesson or class period.
- J. No observation is to be conducted on the day before a recess period or before the observance of Halloween.
- K. For all bargaining unit members, each formal classroom observation will be preceded by a pre-conference at which the teacher and evaluator will discuss the general lesson plan, student abilities, Teacher assessment of student progress and what is anticipated in the upcoming lesson.
- L. Only observable standards will be evaluated during the classroom observation. The NYSUT 2014 Edition rubric for Standards 3,4 and 5 will be the basis for the classroom observation. All observable standards will be evaluated during the classroom observation, weighted equally, and averaged. It is understood that not every indicator is required to be observed in the scoring of each element.
- M. No later than ten (10) working days after such formal classroom observation, there shall be a post-evaluation conference between the teacher and administrator. A hard copy of the completed draft of the observation report(including the rubric score) will be given to the teacher at this meeting. During this conference, the lesson and the scoring of the elements will be discussed.
- N. A tenured teacher may request a second observation within five (5) school days after receiving a written observation report. The substance of the first observation report shall be incorporated with the second to form one document.

The original written document will not be placed in the teacher's file but the combined new document will be. The written report of the observation and evaluation will be reviewed and signed by both the administrator and teacher and placed in the teacher's personnel file. The teacher's signature does not indicate agreement with the evaluation; it only indicates that a conference was held and the teacher received a copy of the evaluation. The teacher may submit a written response within fifteen (15) working days, except in emergencies, which rebuts, amplifies or comments on the evaluation in the personnel file.

- O. Assistance as per contract Article 20(7)(B) will be provided to tenured teachers in need of it by a committee of two or more teachers appointed by the Superintendent. No District official(s) shall seek information of an evaluation nature about the teacher in need from any helping teacher(s); teacher interaction referred to here shall be deemed confidential peer counseling. Participation shall be voluntary.

As per contract Article 20(3)(C) no probationary teacher shall be released for classroom teaching or management deficiencies before a committee of helping teachers is assigned and given a reasonable period of time for working with said teacher.

- P. Should an administrator deem it necessary to conduct more informal unannounced observations on a particular classroom teacher, notice will be given to the Association. It is expected that a teacher who is deemed Ineffective or Developing will be subject to a greater number of observations than one who has earned a rating of Effective or Highly Effective.

- Q. No probationary teacher shall be dismissed until the classroom evaluations have been made as indicated in Article 20-Section 5.

- R. All observations will be performed by certified District evaluators. Evidence for each teacher will be systematically organized using a method mutually agreed upon by the Association and the District. The NYSUT teacher rubric will be used to assess teacher's professional practice.

- S. The Walkthrough will be performed by an independent evaluator. Evidence gathered from both the formal and walk-through observations will be used in the annual summative evaluation. However, this does not preclude the administrator from conducting more formal or walk-through observations. It is expected that a

teacher who is deemed Ineffective or Developing will be subject to a greater number of observations than one who has earned a rating of Effective or Highly Effective.

* Teachers will be made aware of the unannounced walkthrough the week preceding the week in which the unannounced walkthrough will take place. The specific class need not be announced, just that the walkthrough will take place during that week.

- T. Evidence for each teacher will be systematically organized using a method mutually agreed upon by the Association and the District.
- U. Each Teacher will receive a final average score on the 1-4 rubric rating scale. This score is converted to a HEDI rating. The HEDI rating categories are:

	<i>Score Range</i>	
	<i>Minimum</i>	<i>Maximum</i>
Highly Effective (H)	3.5	4.0
Effective (E)	2.5	3.49
Developing (D)	1.5	2.49
Ineffective (I)	0	1.49

- V. Prior to the end of the school year, the evaluator will arrange to meet with each teacher. The purpose of this conference will be to review the evidence gathered throughout the school year and to arrive at the teacher's performance rating. This score will be combined with the student performance rating achievement to arrive at the teacher's overall rating. The Rubric below will be used to ascertain the final rating:

TEACHER OBSERVATION					
STUDENT PERFORMANCE		HE	E	D	I
	HE	HE	HE	E	D
	E	HE	E	E	D
	D	E	E	D	I
	I	D	D	I	I

- W. A meeting shall be held annually to review the evaluation process and develop and/or review evaluation forms. The form to be used in evaluations shall be developed jointly by Association representatives and Chief School Officer.

6. Details of Timely and Constructive Feedback Provided to Teachers

A. Professional Development

The district will support each teacher's development and ensure that all individuals receive appropriate professional development. Everyone within the system should

focus on the goal of student achievement (as per APPR regulations). During the post observation conference, the district evaluator will identify any ineffective teaching standards and offer professional development.

B. Teacher Assistance Plan (TAP) Description

- Teacher initiated and voluntary
- Based upon recommendations from evaluations and observations
- Contains SMART goals (Specific, Measurable, Attainable, Relevant, Timely)
- Promotes growth and achievement
- Not to be used as a disciplinary tool or to gather evidence to discipline a teacher
- Goals are informed by teacher effectiveness ratings and should take into account results from all three subcomponents of the performance evaluation system
- Developed in collaboration with teacher and administrator

Staff Member _____ Grade Level/Subject
Area _____
Administrator _____ Date

- 1) List area(s) of assistance
- 2) State specific objectives to be met
- 3) Plan for assistance (peer mentors, activities, timeline)
- 4) Provide administrator(s)' support to assist teacher to improve performance (peer mentors, activities, timeline)
- 5) Define criteria for measurement of progress

7. Teacher Improvement Plan (TIP)

- A. The Teacher Improvement Plan (TIP) is designed to provide support through communication, discussion, and collaboration in identified areas of significant concern. When a teacher receives a rating of “developing” or “ineffective” through an annual professional performance review, a Teacher Improvement Plan will be developed and implemented by the district with input from the teacher and the Association.
- B. TIP must be issued as soon as possible after receipt by the teacher of an APPR rating of developing or ineffective, but NO later than October 1st.
- C. The TIP will define specific standards-based goals that a teacher must make progress toward attaining within a specific period of time.

The TIP will include:

- The identification of areas that need improvement
- Differentiated activities to support improvements in these areas
- A timeline for achieving improvement
- The manner in which achievement will be assessed

The plan will clearly describe the professional learning activities that the teacher must complete. These activities should be connected directly to the areas needing improvement.

Artifacts that the teacher must produce can serve as benchmarks of their improvement. However, pursuant to Subpart 30-3 of the Rules of the Board of Regents, points shall not be allocated based on any artifacts, unless such artifact constitutes evidence of an otherwise observable rubric subcomponent, such as a lesson plan viewed during the course of the observation may constitute evidence of professional planning.

The additional assistance and support that the teacher will receive will be clearly stated in the TIP.

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During the final stage of the improvement plan, the teacher will meet with their supervisor to review the plan alongside any artifacts and evidence from evaluations in order to provide a final, summative rating for the teacher.

(Teacher Improvement Plans will be developed in collaboration with the assigned evaluator, the teacher who is being given the plan; and a representative from the Association (at the discretion of the teacher).

Teaching Improvement Plan

Teacher

Administrator

Subject/Grade Level

Score Breakdown

Composite Score

Date(s):

Preconference

Observation(s)

Mentoring

Standards Chosen for Further Development	Action(s) To be Taken	Administrator's Responsibilities	Teacher's Responsibilities	Timeline For Progress	Indicators Of Success	Improvements Made and Documented

Administrator's Signature: _____

Date: _____

Teacher's Signature: _____

Date: _____

Representative/Witness Signature: _____

Date: _____

Or Teacher's Signature
Waiving Representation: _____

Date: _____

8. Appeals of Annual Professional Performance Reviews

The purpose of the internal APPR appeal process is to foster and nurture growth of the professional staff in order to maintain a highly qualified and effective work force. All tenured and probationary employees who meet the appeal process criteria identified below may use this appeal process. A teacher may not file multiple appeals regarding the same performance review or TIP. All grounds for appeal must be raised within one appeal, provided that the teacher knew or could have reasonably known the ground(s) existed at the time the appeal was initiated, in which instance a further appeal may be filed but only based upon such previously unknown ground(s).

APPR Subject to Appeal Procedure

Any unit member aggrieved by an APPR rating of either "ineffective" or "developing" may challenge that APPR. [Unit members may also appeal a rating of "effective" if the member is denied opportunities for advancement with additional compensation, based on that rating.]

In accordance with Education Law §3012-d, an evaluation that is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to Education Law sections 3020-a and 3020-b or any locally negotiated alternate disciplinary procedure until the appeal process is concluded.

Grounds for an Appeal

Appeal procedures in connection with an ineffective or developing rating will limit the scope of appeals under Education Law §3012-d to the following subjects:

- a) the substance of the annual professional review
- b) the school district's adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-d;
- c) the adherence to the Commissioner's regulations, as applicable to such reviews;
- d) compliance with any applicable locally negotiated procedures applicable to annual professional performance reviews or improvement plans; and
- e) the school district's issuance and/or implementation of the terms of the teacher improvement plan in connection with an ineffective or development rating under Education Law §3012-d.
- f) the instance of a teacher rated Ineffective on the Student Performance Category, but

rated Highly Effective on the Observation Category based on an anomaly, as determined locally.

PROHIBITION AGAINST MORE THAN ONE APPEAL

A teacher may not file multiple appeals regarding the same performance review OR Teacher Improvement Plan. All grounds for appeal must be raised with specificity within one appeal.

TIMEFRAME FOR FILING APPEAL

All appeals must be submitted to the evaluator, who issued the performance review, in writing no later than **15 working days** from the date when the teacher acknowledges receipt of his/her annual professional performance review rating OR **15 working days** from the issuance of the Teacher Improvement Plan.

When filing an appeal, the teacher must submit to the evaluator:

- a) a detailed written description of the specific area(s) of his/her performance review which may include the terms of his/her teacher improvement plan that is being challenged; and
- b) any additional documents or materials relevant to the appeal

TIMEFRAME FOR EVALUATOR RESPONSE

Within **10 working days** of receipt of an appeal, the evaluator who issued the performance review must submit a detailed written response to the appeal.

The evaluator's response must include:

- a) a detailed written response to the appeal addressing the specific area(s) being challenged; and
- b) any and all additional documents or written materials specific to the point(s) being challenged that support the evaluator's response and are relevant to the resolution of the appeal

The teacher initiating the appeal shall receive a copy of the response filed by the evaluator, and any and all additional information submitted with the response.

PANEL APPEAL

If the teacher is not satisfied with the response from the evaluator and the matter has not been resolved to his/her satisfaction, within **15 working days** of acknowledging the receipt of the decision of the evaluator, the teacher may request an appeal to a three person panel as described herein.

The parties agree to formulate a three-person panel to hear the appeal.

The panel will consist of a three members mutually chosen by the teacher, the WEA and the district.

The panel members must be chosen within three working days of the teacher requesting the appeal to the panel. Members of the panel must be professionally trained evaluators.

The decision/deliberations of the three-person panel shall be based on a written record which is comprised of:

- a) the teacher's appeal papers and any documentary evidence accompanying the appeal;
- b) the evaluator's response to the appeal and any documentary evidence accompanying the response

A written recommendation of the three person panel shall set forth the reasons and factual basis for each determination on each of the specific issues raised in the teacher's appeal. Within 5 working days of receipt of the appeal, the panel will issue a written recommendation for resolution to the Westport Education Association Co-Presidents and the Superintendent of Schools. The recommendation may be to deny the appeal, to sustain the appeal and grant remedy sought, or to sustain the appeal and modify the remedy: further, the reasoning for the recommendation, as well as dissenting opinions, if any, will be included with the recommendation.

For a Developing rating, the Panel's decision will be final and binding and not subject to any further appeal.

For an ineffective rating, the final and binding decision shall be made by the Superintendent of Schools as follows:

A written decision from the Superintendent of Schools based on the merits of the appeal by an ineffective teacher shall be rendered no later than **30 working days** from the date upon which the teacher filed his/her appeal. The decision may be to deny the appeal, to sustain the appeal and grant remedy sought, or to sustain the appeal and modify the remedy.

The determination of the appeal by the Superintendent pursuant to the above process is final and binding and not subject to any further appeal through the grievance process except as

otherwise authorized by law.

MISCELLANEOUS

A school district or employing board may bring charges of incompetence pursuant to this section against any classroom teacher or building principal who receives two consecutive ineffective ratings. A school district or employing board shall bring charges of incompetence pursuant to this section against any classroom teacher or building principal who receives three consecutive ineffective ratings.

The entire appeals record will be part of the teacher's APPR.

RIGHT FOR FUTURE APPEAL PROCEDURE AMENDMENTS

The details of the District's procedure for resolving appeals of annual professional performance review are determined through collective negotiations with the bargaining agent of the covered teachers. Future changes to the APPR appeals process agreed upon by the parties will be submitted to the Department as part of a material change request, and implemented after approval by the Commissioner.

9. Duration and Nature of Training Provided to Evaluators and Lead Evaluators

The "lead evaluator" is the administrator who is primarily responsible for a teacher's APPR composite rating. The term "evaluator" shall include any administrator who conducts an observation or evaluation of a teacher.

All evaluators shall successfully complete a training course that meets the minimum requirements prescribed by the law and shall include application and use of teacher practice rubrics selected for use by the parties in evaluations.

To be deemed a district certified lead evaluator, one must successfully complete a training course, meeting the minimum requirements prescribed in the law and regulations.

Other details of the district's training for evaluators, lead evaluators, and appeals panel members, including the duration and nature of such training, the process for certifying lead evaluators, and issues related to the particular practice rubrics selected by the parties, may need to be negotiated at a later time.

10. Savings Clause

If any provision of this MOA is held to be a violation of law and therefore unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this MOA shall remain in full force and effect.

11. Effect on Existing Collective Bargaining Agreements

Unless specifically revised or modified by this Memorandum of Agreement, nothing herein shall be construed to abrogate any provisions of the parties' collective bargaining agreement.

12. Modification of Grievance.

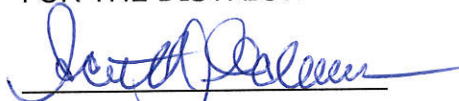
The Grievance procedure shall be modified to reflect the following:

The parties agree that a teacher shall be precluded from utilizing the grievance procedure in the Collective Bargaining Agreement for a dispute relating from an individual APPR composite score or a dispute involving scope of appeal set forth in Section E(2)a-e . Any such dispute shall be resolved using the Appeals process set forth in section E.

13. Effect on Existing Collective Bargaining Agreements


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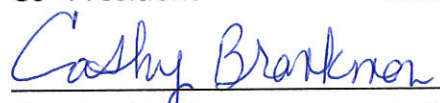
FOR THE DISTRICT:

 10/4/16
Superintendent

 10/04/16
Board President

FOR THE ASSOCIATION:

 10/4/16
Co- President Date

 10/4/16
Co- President Date