

MEMORANDUM OF AGREEMENT dated this 31 day of March 2014, by and between the negotiating representatives of the NASSAU COUNTY BOARD OF COOPERATIVE EDUCATIONAL SERVICES (hereinafter referred to as the "BOCES") and the negotiating representatives of the NASSAU BOCES EDUCATIONAL ADMINISTRATORS' ASSOCIATION (hereinafter referred to as the "Association")

1. GENERAL

The labor contract between the parties for the period of July 1, 2009 - June 30, 2011 expired on June 30, 2011. The parties herewith agree that said contract shall be modified effective as of July 1, 2011 to the extent set forth herein, as a result of their collective bargaining for a successor contract to the expiring labor contract. Except for changes to the contract expressly set forth herein, changes in the language of the contract made necessary by the following Agreement, and changes to said contract arising from expired contract language, the provisions of said labor contract shall remain unchanged. Italicized text is set forth as precise contract language to be inserted as is set forth in this Memorandum of Agreement into the parties' formal labor contract. It is understood that items of agreement not set forth in italicized text will require the drafting of contract language for insertion into the parties' more formal agreement.

2. CONTINGENCIES

This Memorandum of Agreement is subject to formal ratification by the BOCES Board and the membership of the Association. Such ratification shall occur on or before thirty (30) days from the execution of this Memorandum of Agreement. If either party fails to ratify or fails to act on or before thirty (30) days from the execution of this Memorandum of Agreement, this Memorandum of Agreement shall be of no further force and effect and shall be a nullity. Notwithstanding the foregoing, the team of negotiating representatives for each party will urge their respective principals to ratify this Memorandum of Agreement.

3. INCORPORATION WITHIN COLLECTIVE BARGAINING AGREEMENT

This Memorandum of Agreement is subject to its incorporation into a more formal written agreement. Subsequent to the execution and ratification of this Memorandum of Agreement, it is understood that it will be necessary for the parties to agree upon formal contract language incorporating the specific understandings set forth herein, except where specific language has already been provided for herein.

4. TERMS

A. Duration:

The parties' labor contract shall be modified to provide for a contract term effective July 1, 2011 through June 30, 2016, unless a different commencement date is noted for any provision in this Memorandum of Agreement. The parties' more formal agreement shall be modified throughout to reflect the revised term of the Agreement.

B. Wages / Salary Determination:

1. Section 3.3(9) shall be amended to provide as follows:

*The salary ranges shall be increased as follows:*

*Effective July 1, 2011, the salary ranges shall remain at the amounts in effect on June 30, 2011.*

*Effective July 1, 2012, the salary ranges shall remain at the amounts in effect on June 30, 2012.*

*Effective July 1, 2013, the salary ranges shall be increased by 1%.*

*Effective July 1, 2014, the salary ranges shall be increased by 1.35%.*

*Effective July 1, 2015, the salary ranges shall be increased by 1.65%.*

2. Section 3.3(1) through (4) shall be deleted and replaced with the following:

1. *For the 2011-2012 and 2012-2013 school years, BOCES shall not appropriate any funds for distribution based upon individual satisfactory performance evaluations of each administrator. Therefore, no unit member will receive an increase in salary pursuant to this Section for the 2011-2012 and 2012-2013 school years.*

2. *Effective July 1, 2013, BOCES shall appropriate 1.00% of the payroll of members of the unit, as the same is determined as of June 30, 2013. All of the resulting salary fund shall be distributed pursuant to the determination of the District Superintendent of Schools. All of the resulting salary fund shall be based upon*

*individual satisfactory performance evaluations of each administrator.*

3. *Effective July 1, 2014, BOCES shall appropriate 1.35% of the payroll of members of the unit, as the same is determined as of June 30, 2014. All of the resulting salary fund shall be distributed pursuant to the determination of the District Superintendent of Schools. All of the resulting salary fund shall be based upon individual satisfactory performance evaluations of each administrator.*

4. *Effective July 1, 2015, BOCES shall appropriate 1.65% of the payroll of members of the unit, as the same is determined as of June 30, 2015. All of the resulting salary fund shall be distributed pursuant to the determination of the District Superintendent of Schools. All of the resulting salary fund shall be based upon individual satisfactory performance evaluations of each administrator.*

3. a) The parenthetical in Section 3.3(7) shall be deleted and replaced with the following:

*(Effective July 1, 2011, all individual salary increases shall be capped annually at 12.00%, inclusive of any negotiated percentages and the system adjustments. Effective July 1, 2013 and sunsetting on June 30, 2016, individual salary increases shall not be subject to a cap.)*

b) Section 3.4(b) shall be deleted and replaced with the following:

*Effective July 1, 2011, all individual salary increases shall be capped annually at 12.00%, inclusive of any negotiated percentages and the system adjustments. Effective July 1, 2013 and sunsetting on June 30, 2016, individual salary increases shall not be subject to a cap.*

4. A new paragraph 11 shall be added to Section 3.3, which shall provide as follows:

*a. Annual salary increases of administrators rated as unsatisfactory shall not be redistributed to the members of the unit until the administrator has lost the ability to earn all or some of the funds back under Section F(6) of the June 24, 2008 Memorandum of Agreement between the parties.*

*b. The amount of the administrator's annual salary increase for the year in which he/she is rated as unsatisfactory shall be held in escrow until either:*

*the administrator earns the funds back through the provisions set forth in Section F (6) of the parties' 2008 Memorandum of Agreement, or the administrator fails to meet such requirements, upon which happening the funds shall be promptly redistributed to the remaining eligible members of the unit.*

*c. When determining entitlement to redistribution of salary funds, the members of the unit shall be calculated at the time of redistribution of funds, not at the time of withholding of funds.*

C. Career Level Salary Program

Section 3.4(c) shall be amended to provide as follows:

*(c) For those unit members who are active employees prior to [insert date of MOA ratification], movement to the Career Level requires a minimum of four years of service in title at the Nassau BOCES. For those unit members employed on or after [insert date of MOA ratification], movement to the Career Level requires a minimum of five years of service in title at the Nassau BOCES.*

D. Annual Leave

1. Section 5.1 shall be amended to provide that effective June 30, 2014, unit members may accumulate annual leave days from year to year, up to a maximum of forty-four (44) days.
2. The last sentence of Section 5.1, beginning with, "all payments", shall be deleted and replaced with the following:

*Upon resignation for the purpose of retirement, under the New York State Teachers' Retirement System or the New York State Employees' Retirement System, unit members shall be paid the cash equivalent value of up to forty (40) accumulated annual leave days at a per diem rate of 1/240<sup>th</sup> of his or her annual salary. In the event of the death of the unit member while in service, the aforesaid cash value of accumulated annual leave days shall be paid to his or her estate.*

E. Recess Days

Effective July 1, 2014, Section 5.3 shall be modified to provide as follows:

Unit members shall be given up to a total of five (5) additional days off per year to be taken during periods selected by the District Superintendent or his/her designee. Such recess days shall not be cumulative, and shall not be carried forward from year to year if unused. At the unit member's option, two (2) of his/her five (5) recess days may be converted to a personal day for his/her use.

F. Health Insurance

1. The following provisions shall be added to Section 6.12:

*The New York State Civil Service Department promulgated Policy Memorandum 122r3 on May 15, 2012, which governs eligibility for health insurance opt-out payments. The BOCES shall comply with this rule change for as long as it remains valid. In the event the rule change is revoked or there is a final determination (which is not subject to appeal) that the rule change is illegal or invalid, those members who had previously been denied the opt-out payment shall once again be eligible for the opt-out payment, in the same amount and manner as provided for herein on the date of said final determination. In such instance, the parties shall meet in order to implement any rule change or modification.*

*Beginning January 1, <sup>2015</sup>~~2014~~ and continuing for as long as Rule 122r3 remains valid, any unit member who is ineligible for the opt-out payment as provided for herein due to the BOCES' compliance with Rule 122r3 may elect health insurance through the BOCES; however, those members may only elect individual coverage if his/her spouse has family coverage under the NYSHIP plan through the BOCES or through another NYSHIP participating municipality. If the unit member ceases to be covered under his/her spouse's family plan for any reason, the unit member shall be eligible to enroll in family or individual coverage through the BOCES, subject to NYSHIP rules and regulations.*

2. A new provision shall be added to Section 6.1 which shall provide that effective on the date of full ratification of this Agreement, all unit members appointed on or after said date shall contribute 25% of the premium cost of individual or family health insurance coverage. The foregoing provision shall not be relied upon to permit a corresponding increase in retiree contributions pursuant to 1994 N.Y. Sess. Laws Ch. 729. The immediately preceding sentence shall not be included in the parties' labor contract, but shall survive execution of a more formal labor contract.

G. Health Insurance in Retirement

1. The following provision shall be inserted into Section 6, as a new subsection:

*Health Insurance in Retirement: For those unit members who are active employees as of [insert date of full ratification of MOA], the unit member's health insurance premium contribution in retirement shall, upon reaching Medicare eligibility, be fixed at 20% for the duration of the unit member's life.*

2. The parties agree to modify the BOCES' current policy regarding health insurance vesting requirements for employees hired on or after the date of full ratification of this Agreement. Those employees shall be subject to a 15 year vesting requirement to be eligible for health insurance in retirement. This provision shall not be included in the parties' labor contract, but shall survive execution of a more formal labor contract and shall be implemented by a Board resolution.

H. Personal Property Damage

Effective July 1, 2013, Section 6.5(2) shall be amended to read as follows:

*In no event shall BOCES be liable for any loss or damage in excess of five hundred dollars (\$500.00).*

I. APPR

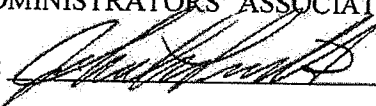
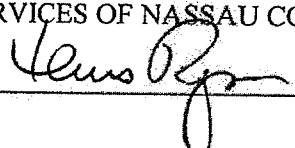
All provisions in this Section I shall not be included in the parties' labor contract, but shall survive execution of a more formal labor contract.

1. The parties have reached agreement upon an Annual Professional Performance Review Plan ("APPR Plan"), which is set forth in the SED Review Room portal. This APPR Plan shall be applicable only to those members of the bargaining unit who are subject to the requirements of Education Law Section 3012-c and its implementing regulations. All other unit members shall remain subject to the BOCES' existing evaluation criteria and procedures in accordance with Section 100.2(o) of the Commissioner's Regulations.

2. The parties' agreed upon APPR Plan shall not be incorporated into the parties' more formal labor contract.
3. The parties understand that the agreed upon APPR Plan is subject to approval by the State Education Department and may require further modifications after submission. Upon full ratification of this Memorandum of Agreement, the President of the Association agrees to execute the joint certification form as required by the State Education Department for submission of the APPR Plan.
4. The appeals process to be included in the APPR Plan applicable to unit members subject to the requirements of Education Law 3012-c and its implementing regulations is attached hereto as Appendix A.
5. The following provisions shall be made a part of the APPR Plan applicable to unit members who are subject to the requirements of Education Law 3012-c and its implementing regulations:

*A. Prior to making an employment decision including but not limited to, promotion, retention, tenure determination, termination, and supplemental compensation, the District Superintendent, and/or the Board of Education, as applicable, shall review the affected principal's annual professional employment review(s), considering said review(s) as significant factor(s) in reaching determinations respecting the aforesaid employment actions; however, nothing in this section shall be construed to affect the statutory right of the Nassau BOCES to terminate a probationary principal for statutorily and constitutionally permissible reasons other than the performance of the principal in the school, including but not limited to misconduct.*

B. Nothing contained in the parties' APPR Plan shall conflict with, nor be determined to conflict with, the annual professional performance review Regulations of the Commissioner of Education which have been and may hereafter be issued, or the provisions of Section 3012-c of the Education Law of the State of New York, and any amendments thereto. If it is determined by a final court of competent jurisdiction that a conflict exists, the law and the aforesaid Regulations shall govern.

Dated: 3/31/14	NEGOTIATING REPRESENTATIVES OF THE NASSAU BOCES EDUCATIONAL ADMINISTRATORS' ASSOCIATION by:  _____ _____ _____
Dated: 3/31/14	NEGOTIATING REPRESENTATIVES OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES OF NASSAU COUNTY by:  _____ _____ _____



## Appendix A

### **APPR - Evaluation Appeals**

1. Within twelve (12) school days of receipt of a principal's composite effectiveness score or issuance of a Principal Improvement Plan, the principal may request, in writing, review by the District Superintendent or his/her designee, provided that such designee shall not be the principal's lead evaluator and shall be a member of the BOCES' Cabinet;
2. The appeal writing shall articulate the particular basis of the appeal to the District Superintendent or his/her designee. Failure to articulate a particular basis for the appeal in the aforesaid appeal writing shall be deemed a waiver of that claim. A principal may not file multiple appeals regarding the same annual professional performance review or principal improvement plan.
3. The grounds for appeal shall be limited to those articulated in Education Law §3012-c, which are:
  - a) the Nassau BOCES' adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-c;
  - b) the adherence to the Commissioner's regulations 8 NYCRR 30-2, as applicable to such reviews;
  - c) compliance with any applicable locally negotiated procedures applicable to annual professional performance reviews or improvement plans; and
  - d) the Nassau BOCES' issuance and/or implementation of the terms of a Principal Improvement Plan under Education Law §3012-c.
4. In an appeal, the principal has the burden of demonstrating a clear legal right to the relief requested and the burden of establishing the facts upon which petitioner seeks relief.
5. Within twelve (12) school days of receipt of the appeal, the District Superintendent or his/her designee shall render a determination, in writing, respecting the appeal. The determination shall state the basis for the decision with reasonable particularity.
6. For tenured principals, a final quality rating of ineffective, or a second consecutive developing rating, or a developing rating that immediately follows an ineffective rating, are the only ratings subject to appeal. Tenured principals who receive a rating of highly effective or effective or developing (except as set forth above) shall not be permitted to appeal their rating but may elect to submit a written response to their final quality rating, which response shall be appended to the APPR evaluation and filed in

the principal's personnel file. Such response shall be filed within twelve (12) school days of the principal's receipt of his or her composite effectiveness score.

7. Non-tenured principals shall not be permitted to appeal any aspect of their APPR evaluation, or the BOCES' issuance and/or implementation of the terms of a Principal Improvement Plan. Probationary principals who are rated highly effective, effective, developing, or ineffective may elect to submit a written response to their final quality rating, which response shall be appended to the APPR evaluation and filed in the principal's personnel file. Such response shall be filed within twelve (12) school days of the principal's receipt of his or her composite effectiveness score.
8. The determination of the District Superintendent shall be final and binding and shall not be grievable, arbitrable, or reviewable in any other forum.
9. This appeals procedure shall constitute the exclusive means for initiating, reviewing, and resolving any and all challenges and appeals related to a principal's annual professional performance review and/or improvement plan. A principal may not resort to any other administrative, contractual or judicial forum for the resolution of challenges and appeals respecting his or her annual professional performance review and/or improvement plan.
10. The parties agree that during the month of May, 2014, at either party's election, they will reopen negotiations respecting the content of the parties' APPR plan, including this appeals process. Such request for reopening negotiations shall be commenced by a writing sent by either party to the other.