

IV. E.)

Tentative Memorandum of Agreement

between

The Malone Federation of Teachers

and

The Malone Central Schools

Regarding Annual Professional Performance Review

In compliance with Chapter 103 of the Laws of 2010 as modified by the NYS budget of 2012-13, the parties agree to modify their Collective Bargaining Agreement regarding the mandatory topics of negotiation in accordance with a revised teacher evaluation procedure, the components of which are outlined below. This MOA represents the parties' mutual understanding regarding both mandatory and non-mandatory topics of negotiation. The District maintains the right to change/modify/add/delete any provision of this agreement that is determined by the NYS Public Employment Relations Board or a court to be a non-mandatory topic of bargaining. Both parties agree to meet annually in June for the purposes of ongoing review and possible adjustment of this MOA.

A. Ensuring Accurate Data

1. The District assigned Data Coordinator will not be an MFT unit member.
2. The District shall also provide an opportunity for every covered teacher to verify the subjects and/or student rosters assigned to him/her. Covered teachers will be afforded the opportunity to verify the final APPR data attributed to them before it is sent to the SED.

B. Development, Security and Scoring of Assessments

1. Local Assessment Determination

- a. Local assessments will be selected by the grade level and/or subject area teachers who teach each course and the principals/instructional administrators to ensure comparability, validity, rigor, degree to which the assessment can be aligned to State standards, and degree to which the assessment(s) match classroom instruction.
- b. The principal/instructional administrator will provide the superintendent with the agreed upon local assessment plan for all subject areas/grade levels located within the school.
- c. If no acceptable outcome can be agreed upon by the principal/instructional administrators and teachers, a committee will be formed to make recommendations for revisions necessary for final approval. This committee (The Curriculum Network) will be comprised of a department chair (if applicable), teacher(s), principal, superintendent's designee, and a union delegate. The committee's recommendation must be submitted to the Superintendent no later than October 1.
- d. Final approval of the assessment system must come from the superintendent in the form of official certification to the state.

2. Local Assessment Point Distribution

- a. The local assessment score of each student will include multiple measures and a teacher's final points for that course or grade will be the average of these local assessment scores.
- b. Each teacher's local assessment score will be converted to a 1-4 rating using a method mutually agreed upon between the District and the Association. This score will be the HEDI rating. The HEDI rating categories are:

1.0-1.4 – Ineffective
1.5-2.4 – Developing
2.5-3.4 – Effective
3.5-4.0 – Highly Effective

The final HEDI rating will then be converted to a 20 point score using the chart in Appendix A. This converted score will be the teacher's score for the "local assessment" portion of the teacher's APPR.

- c. The Superintendent will review all ineffective and developing ratings. In cases where there are extenuating circumstances (i.e. student mobility, large number of students with IEPs, students with attendance problems, et al), the

superintendent may disregard individual student's scores or add points to the teacher's total score for the local assessment portion of their APPR. Documentation of any such circumstances will be maintained by the District.

C. Details of the District's Evaluation System

1. Teachers' performance will be assessed using multiple measures grounded in the New York State Teaching Standards. The NYSUT Teacher Practice Rubric will be used to assess teachers' professional practice. Evidence for evaluations will come from teacher self-evaluation, formal classroom observations, walkthrough observations, teacher created materials, and other resources provided by the teacher (for example, portfolios and professional learning plans). The responsibility for gathering evidence of teachers' performance is shared by the administration and teachers. Both must demonstrate a commitment to providing a complete and accurate picture of a teacher's professional performance.
2. Per the District's Collective Bargaining Agreement, probationary teachers will receive a minimum of one (1) formal classroom observation two (2) times per year. The observation cycle will include a pre- and post-observation conference and a full period classroom observation of no less than one instructional period. Evidence gathered during each formal observation will be used in the annual summative evaluation. In addition to the formal observations, probationary employees will receive at least one walkthrough observation. Walkthrough observations will not commence until there has been at least one (1) formal observation.
3. Tenured teachers will receive a minimum of one (1) formal classroom observation once every year. In addition, administrators will conduct a minimum of one (1) walk-through evaluations of no less than fifteen (15) minutes each school year. Walkthrough observations must be announced to the teacher by the Friday before the week of the walkthrough. Evidence gathered from both the formal and informal 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.
4. All observations will be performed by certified District evaluators. Evidence for each teacher will be systematically organized using The NYSUT Teacher Evaluation and Development System (TED). 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:
 - 1.0-1.4 – Ineffective
 - 1.5-2.4 – Developing
 - 2.5-3.4 – Effective

3.5-4.0 – Highly Effective

This final score will then be converted to a 60 point score using the chart in Appendix B. This converted score will be the teacher's score for the "teacher practice" portion of the APPR.

5. Teacher self-evaluation, reflection, and goal-setting are important components of the APPR process. By October 1st of each school year, teachers will complete a self-reflection. The evaluator and teacher will agree on 2-3 areas of focused professional growth. If there is a need, the principal will meet with the teacher to discuss these areas.
6. By Monday of the last week of school, each teacher will participate in a summative evaluation conference with the evaluator. The purpose of this conference will be to review the evidence gathered throughout the school year, assess progress on the teacher's professional growth goals, and arrive at the teacher's composite effectiveness score (0-60 points). This score will be combined with the subcomponent score for student growth on state assessments (or other comparable measures) and the subcomponent score for locally selected measures of student achievement to arrive at the teacher's overall composite score.

D. Details of Timely and Constructive Feedback Provided to Teachers

1. Professional Development

- a. 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). The district will identify in a timely manner standard areas that need improvement and will provide opportunities for growth.

2. Teachers' Goal Setting and Professional Learning Plan

- Goals are tied to New York State Standards and the Common Core Standards and/or adopted rubrics
- Intended to help all teachers grow professionally
- Not to be used as a disciplinary tool or to gather evidence to discipline a teacher
- Should be developed in collaboration with appropriate administrator(s)

(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: _____

E. Appeals of Annual Professional Performance Reviews

To the extent that a teacher wishes to issue an appeal, the following appeals procedure is established.

1. Appeals will be limited to the following situations:
 - a. A teacher completing the first year of a three-year probationary appointment may appeal only an ineffective APPR composite rating;
 - b. Any other teacher may appeal only an ineffective or a developing APPR composite rating;
 - c. Any teacher may appeal an improvement plan if and only if the plan was generated as the result of an ineffective or developing composite rating, in accordance with Section II, e, below.
2. The scope of any appeal will be limited to the following subjects:
 - a. The substance of the individual's annual professional performance review;
 - b. The District's adherence to the standards and methodologies required for such reviews, pursuant to Education Law 3012-c;
 - c. The adherence to the Commissioner's regulations, as applicable to such reviews;
 - d. Compliance with any applicable locally negotiated procedures regarding annual professional performance reviews or improvement plans, as limited by Section I, above; or,
 - e. The District's issuance and/or implementation of the terms of the teacher improvement plan under Education Law 3012-c in connection with an ineffective or developing rating.
3. 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. Any grounds not raised at the time the appeal is filed shall be deemed waived.
4. In an appeal, the teacher has the burden of demonstrating a right to the relief requested and the burden of establishing the facts upon which petitioner seeks relief.
5. The following timelines will be strictly adhered to unless extended by mutual agreement. Failure of the petitioner to meet a timeline will nullify the appeal; failure of the respondent to meet a timeline will allow movement of the appeal to the next level.

Level 1 - Evaluator

- a. (Informal) Following a qualifying event, as defined in Sections I and II, above, the teacher shall be encouraged and shall be entitled to schedule a follow up meeting to informally discuss with the evaluator any and all related issues.
- b. (Formal) Any appeal must be submitted to the evaluator in writing no later than ten (10) school days of the date when the teacher receives his/her annual professional performance review. If a teacher is challenging the issuance or implementation of a teacher improvement plan, the appeal must be submitted in writing within ten (10) school days of issuance or of the time when the teacher knew or should have known of an alleged implementation breach of such plan.
- c. When filing an appeal, the teacher must submit a detailed written description of the specific grounds for the appeal as well as the performance review and/or improvement plan being challenged. Along with the appeal, all supporting documentation must be submitted, or specifically noted if pending. Any grounds for appeal or any supporting documentation/information not submitted or noted at the time the appeal is filed shall not be considered.
- d. Within ten (10) school days of receipt of an appeal, the evaluator responsible for the issue(s) being appealed must submit a detailed written response to the appeal. Along with the response, all supporting documentation must be submitted, or specifically noted if pending, as well as any additional documents or materials relevant to the response. Any supporting documentation/ information not submitted or noted at the time the response is issued shall not be considered in the deliberations related to the resolution of the appeal. The teacher initiating the appeal, and the Teachers' Association President, shall receive copies of the response and any and all additional information submitted with the response.

Level 2 – Superintendent

- a. Within five (5) school days of receipt of the Level 1 response, if a teacher is not satisfied with such response the teacher must submit the appeal to the Superintendent of Schools, or the Superintendent's designee. (If the Superintendent was the evaluator at Level 1, this Level 2 appeal must go to the Superintendent's designee.) The Superintendent or designee will be provided all documentation submitted in both the appeal and the evaluator's response.
- b. Within five (5) school days of receipt of the teacher's appeal, the Superintendent or designee will conduct a hearing at which the teacher (and representative at the option of the teacher) and the evaluator (and representative at the option of the evaluator) will be allowed to present oral arguments in support of the appeal and the response, respectively.
- c. Within five (5) school days of the Superintendent hearing, the Superintendent or designee will issue a written determination to the teacher, the Teachers'

Association President, and the evaluator.

Level 3 – Panel

- a. Within five (5) school days of receipt of the Level 2 determination, if a teacher is not satisfied with such determination and if the Teachers' Association deems the appeal meritorious, the Association must submit the appeal to a bipartisan panel* comprised of two (2) teacher representatives and two (2) administration representatives. The panel will be provided the entire appeals record; however, any information identifying the appellant or the appellant's district, evaluator or superintendent will be redacted prior to receipt by the panel. Further, the anonymity of the panel members will be protected to the extent possible throughout this procedure.
- b. Within five (5) school days of receipt of the Association's appeal, the panel will jointly conduct a paper review and deliberation of the matter, and will issue a written recommendation for resolution to the Teachers' Association President and the Superintendent of Schools or designee. The recommendation may be to deny the appeal, to sustain the appeal and grant the remedy sought, or to sustain the appeal and modify the remedy; further, reasoning for the recommendation, as well as dissenting opinions, if any, will be included with the recommendation. This panel's decision will be final and binding for all appeals on developing ratings. Appeals of ineffective ratings and split decisions on an appeal of a developing rating will proceed to level 4 below.

**Upon ratification of this appeals procedure by both the Teachers' Association and the District, each party will designate at least one and not more than two representatives as regional panelists. Those individuals will be provided training regarding APPR legislation and regulations and will be expected to be available to serve on panels as needed for appeals in other FEH districts that utilize this appeals procedure. The FEH BOCES and Regional NYSUT Office will maintain a computerized listing of all representatives from which a random selection of panelists can be obtained. Whenever such a panel is convened, the four panelists must be from four different districts and none can be from the appellant's district. Panelist costs will be shared by the Associations and by the Districts.*

Level 4 – Superintendent

- a. Within five (5) school days of receipt of the Level 3 recommendation for resolution, the Superintendent of Schools or designee will give due consideration to the panel's recommendation and will issue a final and binding decision, in writing, to the appellant, to the Teachers' Association, and to the panel members. Whether the appeal is denied, sustained, or modified, such decision will set forth the reasons and factual basis for each determination on each of the specific grounds raised in the appeal. If the appeal is sustained, the Superintendent or designee may set aside or modify a rating or improvement plan or order a new

evaluation or improvement plan if procedures have been violated.

6. The entire appeals record will be part of the teacher's APPR.
7. This appeals procedure constitutes the exclusive means for initiating, reviewing, and resolving any and all appeals within the scope of Sections I and II, above. A teacher may not resort to any other contractual grievance procedure for the resolution of these appeals, except as otherwise authorized by law.
8. Nothing in this appeals procedure will restrict the right of the district or the obligation of the teacher to proceed in accordance with otherwise standard practice, e.g., implementation of an improvement plan or denial/granting of tenure, while an appeal is pending.

F. 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.

G. Modifications to the Grievance Procedure, Article IX

The Grievance Procedure shall be modified to include the following:

"The parties expressly agree that they shall be precluded and prohibited from utilizing the grievance procedure of this Collective Bargaining Agreement for any dispute and/or disagreement relating to the APPR rating as outlined in the Appendix. Any dispute and/or disagreement related to the APPR rating shall be expressively limited to the appeals procedure as outlined in the APPR appendix."

The tentative memorandum of agreement is subject to ratification by the Malone Federation of Teachers and the Malone Central School Board.

FOR THE DISTRICT:

Wayne C. Walbridge
Name

Superintendent of Schools 5/3/12
Title Date

FOR THE ASSOCIATION:

Angela D. Spahr
Name

MFT President 5/3/12
Title Date

APPENDIX A
HEDI Conversion Chart – 20% Local Measures

	Category	Conversion for Local Assessment Score
Ineffective		
1		0
1.1		1
1.2		1
1.3		2
1.4		2
Developing		
1.5		3
1.6		4
1.7		5
1.8		5
1.9		6
2		6
2.1		7
2.2		7
2.3		8
2.4		8
Effective		
2.5		9
2.6		10
2.7		11
2.8		12
2.9		13
3		14
3.1		15
3.2		16
3.3		17
3.4		17
Highly Effective		
3.5		18
3.6		18
3.7		19
3.8		19
3.9		20
4		20

APPENDIX B
CONVERSION CHART – 60% OTHER MEASURES

	Category	Conversion for 60% Teacher Practice Score
Ineffective 0-49		
1		0
1.1		12
1.2		25
1.3		37
1.4		49
Developing 50-56		
1.5		50
1.6		50.7
1.7		51.4
1.8		52.1
1.9		52.8
2		53.5
2.1		54.2
2.2		54.9
2.3		55.6
2.4		56.3
Effective 57-58		
2.5		57
2.6		57.2
2.7		57.4
2.8		57.6
2.9		57.8
3		58
3.1		58.2
3.2		58.4
3.3		58.6
3.4		58.8
Highly Effective 59-60		
3.5		59
3.6		59.3
3.7		59.5
3.8		59.8
3.9		60
4		60.25 (round to 60)

