

MEMORANDUM OF AGREEMENT
regarding
2016-2017 ANNUAL PROFESSIONAL PERFORMANCE REVIEW
UNDER NEW YORK STATE EDUCATION LAW SECTION 3012-d
between
JEFFERSON-LEWIS-HAMILTON-HERKIMER-ONEIDA
BOARD OF COOPERATIVE EDUCATIONAL SERVICES
and
BOCES PROFESSIONAL ASSOCIATION

I. Introduction

This Memorandum of Agreement (the “Agreement”) shall be in effect upon ratification in its entirety by the Jefferson-Lewis-Hamilton-Herkimer-Oneida Board of Cooperative Educational Services (the “BOCES”) and the BOCES Professional Association (the “Association”). Upon ratification, the Association President shall execute the certification required for the BOCES to submit the Annual Professional Performance Review (“APPR”) Plan to the New York State Education Department (“NYSED”) for review and approval.

As required by New York State Education Law Section 3012-d, and the related Rules and Regulations of the Commissioner of Education (“Section 3012-d”), the parties have engaged in negotiations under New York State Civil Service Law Article 14 (the “Taylor Law”) regarding teacher performance evaluations. This Agreement sets forth the parties’ mutual understanding as set forth in the BOCES APPR Plan. It is expressly agreed by the parties that the BOCES maintains the right to change, modify, add or delete any provision of this Agreement that is determined by the New York State Public Employment Relations Board (“PERB”) or a court to be a non-mandatory subject of bargaining, regardless of whether it is memorialized in this Agreement. The Association maintains the right to negotiate any provisions of the APPR Plan that is determined by the PERB or court to be a mandatory topic of bargaining, regardless of whether it is memorialized in this Agreement. Both parties agree to meet annually in June for the purposes of ongoing review of the APPR Plan. This review may include negotiations upon consent of both parties.

II. Covered Teachers

The APPR Plan will apply to all classroom teachers as defined in Section 3012-d and applicable Rules and Regulations of the Commissioner of Education (“Classroom Teachers”). All other Association members will be evaluated utilizing the currently in existence non 3012-d compliant APPR Plan.

III. Ensuring Accurate Teacher and Student Data

The BOCES shall provide accurate data to NYSED in a format and timeline prescribed by the Commissioner of Education. The BOCES shall also provide an opportunity for every Classroom Teacher to verify the subjects and student rosters assigned to that Classroom Teacher. The BOCES shall designate a Data Coordinator who shall be charged with collecting the required data, overseeing changes in and maintenance of the local data management systems, and

ensuring the accuracy of the data. The Classroom Teachers working together with the Data Coordinator will ensure that changes or updates to student data will be made as soon as practicable.

IV. Reporting Individual Subcomponent Scores

The Data Coordinator is responsible for reporting to NYSED the individual subcomponent scores and the total composite effectiveness score ("CES") for each Classroom Teacher in the BOCES, and shall do so in a format and timeline prescribed by the Commissioner. The Data Coordinator may not be a member or an agency fee payer of the Association.

V. Development, Security, and Scoring of Assessments

The Data Coordinator is responsible for overseeing 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 Classroom Teachers are not disseminated to students before administration, and that Classroom Teachers do not have a vested interest in the outcome of the assessment they score.

Covered Teachers will be notified and afforded the opportunity to review the final data attributed to them no later than five (5) school days after the covered teacher's data becomes available. Covered Teachers will complete their review as soon as practicable, but no later than five (5) school days from the notification, unless SED's submission deadline is sooner.

VI. Student Performance Measures Component

The District will ensure that all teachers subject to regular SLO's, back-up SLO's, or transition SLO's under the Rules and Regulations of the Commissioner of Education, as the case may be, will have their final SLO's and SLO targets by October 30th of any given school year. The Parties Agree not to use the Second Optional SLO measure under this APPR plan.

VII. Teacher Observations Component

The purpose of the APPR Plan is to improve the quality of instruction, maintain a competent staff and to promote the professional growth of Classroom Teachers. Teacher observations will be conducted to include both a supervisor and independent observer pursuant to the Rules of the Commissioner of Education

Formal Observation Defined

An evaluation, utilizing *Danielson's Framework for Teaching (2011)* rubric (**See Appendix A**) will include a pre-observation conference and a post-observation conference for an announced observation. For an unannounced observation, only a post-observation conference will be included.

There are four domains within *Danielson's Framework for Teaching (2011)*, which assess the seven New York State Teaching Standards.

Planning and Preparation (Domain 1), **Classroom Environment** (Domain 2), and **Instruction** (Domain 3) will be assessed through classroom observations.

Professional Responsibilities (Domain 4) will be assessed through natural conversations and other interactions with the covered teacher as part of the observation procedure.

The Framework for Teaching (*2011 Revised Edition*) contains four (4) levels of performance ratings: “Unsatisfactory,” “Basic,” “Proficient,” and “Distinguished.” The categories are converted to New York State's rating categories as follows:

Danielson Rating	New York State Rating	Numerical Values	Definition
Unsatisfactory	Ineffective	1	Performance does not meet the NYS Teaching Standards
Basic	Developing	2	Performance needs improvement to meet the NYS Teaching Standards
Proficient	Effective	3	Performance meets the NYS Teaching Standards
Distinguished	Highly Effective	4	Performance exceeds the NYS Teaching Standards

The responsibility for gathering evidence of a Classroom Teacher’s performance is the responsibility of the Classroom Teacher. Evidence submission and evaluation demonstrates a commitment to providing a complete and accurate picture of a Classroom Teacher’s professional performance. To that end, the parties have negotiated the use of a Professional Responsibilities Evidence Portfolio for the purpose of collecting and assessing evidence of the Classroom Teacher’s professional performance. **See Appendix B.** The Deadline for submitting evidence for evaluation under Domain 4 shall be May 15th of each school year. Submitted evidence will be scored in the same manner as other observable elements under the rubric and calculated as part of the Teacher’s overall observation.

Negotiated Overall Observation Scoring Ranges and Ratings

Pursuant to the Rules of the Commissioner of Education, the Parties have negotiated the following scoring ranges and rating for the overall observation category.

Overall Observation Category Score & Rating		
	Minimum Value	Maximum Value
H	3.5	4.0
E	2.5	3.49
D	1.5	2.49
I	0	1.49

***The above chart will be used when calculating a teacher’s observation effectiveness rating for the overall effectiveness rating score.**

Classroom Observations

The Parties have agreed not to use peer observations and that all observations must be in person observations. The Parties specifically have agreed not to use video or audio recording for purposes of observations under this APPR plan. All teachers shall have an announced observation occur prior to an unannounced observation occurring. All observations shall be completed prior to May 15th of any year.

Tenured Teachers:

Tenured teachers will have two observations, one of which will be unannounced. The announced observation will be done by a teacher's supervisor. The unannounced observation will be done by an independent evaluator who is a certified administrator identified by the District prior to the observation and who is not the Teacher's supervisor. If an observed teacher's announced observation averages below a 2.5, the teacher and the supervisor may agree to conduct a second announced observation for APPR purposes after December 1st after completion of the unannounced observation.

Non-Tenured Teachers:

Non-tenured teachers will have a minimum of two observations, one of which will be unannounced. The announced observation will be done by a teacher's supervisor. The unannounced observation will be done by an independent evaluator who is a certified administrator identified by the District prior to the observation and who is not the Teacher's supervisor. Subsequent announced observation(s) may be conducted after December 1st after completion of the unannounced observation.

Every non-tenured classroom teacher shall receive at least one formal classroom observation prior to December 1st of every school year.

Observation Weights

A teacher's classroom observation will be calculated by taking a weighted average of the announced and unannounced observation scores. Each observation's score will be calculated by taking an average of the individual components that were observed by the evaluator during the observation time period(s). If it is the supervisor's observation(s), that score will include all individual non-observable components scored in Domain 4 based upon the teacher's submitted evidence. The weights will be set at 90% for the supervisor's observation(s) and 10% for the independent observer's observation.

Observation Procedures

Announced Observation Procedures

1. Teachers will be notified at the commencement of the school year of the announced observation schedule, as determined by the building principal. Observations, both announced and unannounced will be completed by the relevant administrators no later than May 15th of the school year.
2. Observations will be scheduled by the building principal/administrator in conjunction with the teacher at reasonably spaced intervals. However, observations, either

announced or unannounced, may not take place on any day directly before or after a holiday weekend/school vacation, or on any day with a modified schedule (such as delay days or days during pep rallies or special events) unless mutually agreed upon by the evaluator and the teacher.

3. Pre-observation conferences will be scheduled prior to each announced observation. The pre-observation conference will allow the administrator and teacher to discuss the ensuing lesson. The teacher will submit the a Pre-Observation Conference form no later than two (2) school days prior to the pre-observation conference.

4. A post-observation conference will be scheduled within five (5) school days of the observation. The purpose of the post-observation is to discuss the details of the observed lesson.

5. The teacher will be given the completed evaluation rubric at the post-observation conference. The teacher will have the opportunity to include a written response within three (3) school days of the post-observation conference.

6. The administrator and the teacher will sign to acknowledge the evaluation form (either on paper or electronically if possible) as evidence of having reviewed it and having had the observation and conference. The teacher's signature on the evaluation report does not in any way signify agreement with the evaluation, and the administrator's signature does not signify agreement with the teacher's rebuttal, if any.

7. The acknowledged/signed evaluation report, including any comments submitted by the Teacher, will then be placed into the teacher's personnel folder.

8. The teacher will be given a copy of the evaluation report for his/her own personal use.

Unannounced Observation Procedures

1. A post-observation conference will be scheduled within five (5) school days of the observation. The purpose of the post-observation is to discuss the details of the observed lesson.

2. The teacher will be given the completed evaluation rubric at the post-observation conference. The teacher will have the opportunity to include a written response within three (3) school days of the post-observation conference.

3. The administrator and the teacher will sign to acknowledge the evaluation form (either on paper or electronically if possible) as evidence of having reviewed it and having had the observation and conference. The teacher's signature on the evaluation report does not in any way signify agreement with the evaluation, and the administrator's signature does not signify agreement with the teacher's rebuttal, if any.

4. The evaluation report, signed and including any comments will then be placed into the teacher's personnel folder.

5. The teacher will be given a copy of the evaluation report for his/her own personal use.

6.

Evidence Submission for Non-observable Components

1. Evidence of effective teaching for elements that are not observable through normal classroom observations are considered “non-observable” elements (i.e., Domain 4), and may be assessed through the submission of evidence by the teacher to the supervisor through normal conversations and throughout the school year.

2. Covered teachers may submit evidence of effective teaching through the school year and during any natural or normal conversation with their Supervisor. It is the covered teachers’ responsibility to ensure that evidence for effective teaching is submitted for each non-observable element in the rubric. When a teacher does submit evidence to their Supervisor for a non-observable element, they should identify which domain and which element to which they believe the evidence applies.

The deadline for the submission of any evidence for non-observable components will be May 15th of any school year.

VIII. Overall Effectiveness Rating (Final Composite Rating)

Teachers will receive their effectiveness rating no later than September 1. The teacher and administrator will initial and date to signify review of the teacher composite effectiveness score. The overall effectiveness rating will be determined based on the following matrix:

Observation Effectiveness Rating					
Student Performance Effectiveness Rating		Highly Effective	Effective	Developing	Ineffective
	Highly Effective	H	H	E	D
	Effective	H	E	E	D
	Developing	E	E	D	I
	Ineffective	D	D	I	I

IX. Professional Development and Training

The BOCES will support each Classroom Teacher's development and ensure that all Classroom Teachers receive appropriate professional development. In accordance with the mandate of Section 3012-d, all parties shall focus on the goal of student achievement.

Training on the agreed upon rubric will be provided where such training will occur either during the workday or outside the workday in accordance with the parties collective bargaining agreement. New staff members will be trained on the parties' agreed upon rubric by an administrator, or his/her designee, prior to their first observation. The District and the Association will continue to collaborate in the planning and execution of training and professional development as they have done in the past.

X. Teacher Improvement Plans ("TIP")

A TIP is designed to provide support through communication, discussion, and collaboration in identified areas of concern. When a Classroom Teacher receives a Composite Effective School ("CES") of "Developing" or "Ineffective," in accordance with Section 3012-d, the Classroom Teacher will be subject to a TIP. The TIP form negotiated by the parties is attached as **Appendix C**.

As required by Section 3012-d, a TIP will be issued as soon as possible after the Classroom Teacher receives a CES of "Ineffective" or "Developing," but in no event later than ten (10) school days after the date on which teachers are required to report for the opening of classes for the school year.

The TIP will include the following:

- The identification of areas that need improvement;
- Where applicable, differentiated activities to support improvement in these areas;
- A timeline for achieving improvement;
- The manner in which improvement will be assessed.

The plan will clearly describe professional learning activities that the teacher must complete. These activities should be directly connected to the areas needing improvement. The artifacts that the teachers must produce can serve as benchmarks and evidence of their improvement for the final stage of their improvement plan. The additional assistance and support that teachers will receive will be clearly stated in the TIP.

During the final stage of the TIP, teachers will meet with their supervisor and an Association Representative, if they choose, to review the outcome of their plan. Teachers will produce any additional artifacts and evidence that can be utilized to provide a final, written summary of the outcome of the plan. The written summary shall be given to the teacher no later than five (5) school days after said meeting and shall be placed in the teacher's personnel file. The teacher may submit a written response to the supervisor's written summary no later than five (5) school days after the receipt of the supervisor's summary. The teacher's response shall be attached to the TIP and be placed in the teacher's personnel file.

The BOCES is not limited to implementing a TIP only upon a rating of “Ineffective” or “Developing” for Classroom Teachers. The BOCES may implement a TIP when deemed necessary for Association members not subject to Section 3012-d.

XI. Appeals

The negotiated Appeals Procedure is attached as **Appendix D**.

XII. Savings Clause

If any provision of this Agreement is held to be in violation of law and therefore unenforceable, then the parties agree to modify that provision to reflect the parties’ intentions in a manner that complies with the law. All remaining provisions of this Agreement will remain in full force and effect.

Section 3012-d provides that tenured teachers with two consecutive APPR ratings of “Ineffective” may be charged and considered for termination through an expedited hearing process.

The parties agree to enable Classroom Teachers, evaluators, Lead Evaluators, and the BOCES to learn from their personal experiences, and to make modifications to the APPR Plan in order to ensure a fair and equitable teacher evaluation system is in place.

XIV. Effect on Existing Collective Bargaining Agreement

Unless specifically revised by this Agreement, nothing contained in this Agreement shall be construed to abrogate, modify, or in any way change the provisions of the parties’ collective bargaining agreement.

The parties agree to modify the current Collective Bargaining Agreement by **ADDING** to following:

Article XXI EMPLOYEE EVALUATIONS, **NEW** Section 4.0

“The parties acknowledge that they have negotiated the implementation of an Annual Professional Performance Review (APPR) for covered teachers as defined and required by Chapter 103 of the Laws of 2010 and subsequent amendments in order to be in compliance with the final regulations of the Commissioner of Education and Education Law section 3012-c and 3012-d, and any further amendments thereto”

Appendices:

Appendix A – Danielson Rubric

Appendix B – Non-Observable (Domain 4) Evidence Collection

Appendix C – TIP Form

Appendix D – Appeals Process

FOR THE BOCES:

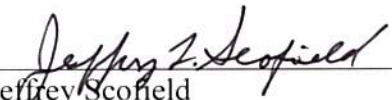


Stephen J. Todd
BOCES District Superintendent




Date

FOR THE ASSOCIATION:



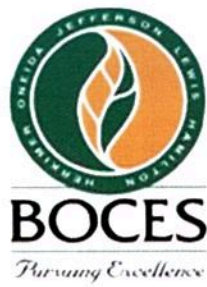
Jeffrey Scofield
BPA President



Date

Summary Description of Danielson Rubric

(2 Page Shorthand with elements and descriptions)



Appendix B

REPLACE THIS PAGE WITH DOMAIN 4 WITH ELEMENTS
DIRECTLY FROM RUBRIC

Non-Observable (Domain 4) Evidence Collection

JLHHO BOCES Teacher Improvement Plan (TIP)

(Name & Date)

A TIP is developed when a teacher receives a composite rating of ineffective or developing in the Annual Professional Performance Review process. The purpose of the plan is to outline a program of assistance and to coordinate all available resources to assist the staff member in achieving the objectives for improvement.

I. Background Information

1. Position
2. School Building
3. School District
4. Supervisor

II. Statement of Developing or Ineffective Performance.

List the areas (Danielson Domain and Component(s) if applicable) on which the staff member did not perform effectively.

1. (Staff member's name).....
- 2.

III. Specific Objectives for Improvement

List the objective(s) for improvement. Number this section identically with Section II.

- 1.
- 2.

IV. Plan for Self-Improvement: Teacher's Responsibilities, Activities and Timeline

Reference items identified in Section III

- 1.
- 2.

V. Assistance to be Offered: Administrator's Responsibilities, Activities and Timeline

List the people and/or resources that will be available to help the staff member attain the objectives listed in Section III.

- 1.
- 2.

VI. Evidence for Measurement of Progress

- 1.
- 2.

Your signature verifies that you had a conference and discussions with your supervisor on the formulation of your Teacher Improvement Plan (TIP).

Teacher

Date

Supervisor

Date

Association Representative

Date

Teacher's signature below indicates that the teacher has waived Association representation:

Teacher

Date

I. RATINGS THAT MAY BE APPEALED

Tenured Teachers may only appeal an APPR overall effectiveness rating of Ineffective or Developing. Non-Tenured Teachers may only appeal an APPR overall effectiveness rating of Ineffective or Developing if that teacher had a previous rating of Ineffective or Developing in any of the previous four years.

II. GROUNDS FOR APPEAL

The scope of an APPR rating appeal is limited to the following:

- The substance of the teacher's APPR rating;
- The BOCES' adherence to the standards and methodologies required for APPR reviews pursuant to New York State Education Law Section 3012-d;
- The BOCES' adherence to the regulations of the Commissioner as applicable to APPR reviews;
- The BOCES' compliance with any applicable locally negotiated procedures;
- The BOCES issuance and/or implementation of the terms of the teacher improvement plan ("TIP") as required under New York State Education Law Section 3012-d.

III. PROHIBITION AGAINST MULTIPLE APPEALS

A teacher may not file multiple appeals regarding the same APPR rating or TIP. All grounds for appeal must be raised with specificity within the one appeal permitted for the APPR or TIP, as applicable. Any grounds not raised at the time the appeal is filed shall be deemed waived and cannot be pursued.

IV. TIME OF APPEAL

- A. A teacher may not submit an appeal until the teacher's entire Overall Effectiveness Rating (OER) is received. The OER will be provided in a manner that ensures that this appeals process is timely and expeditious.
- B. A teacher's failure to follow any of the timelines set forth in the "Appeal Procedure" section shall be deemed an abandonment of the appeal unless an extension is granted in writing, and only then upon extenuating circumstances ensuring that the appeals process remains timely and expeditious, as set forth below.
- C. For purposes of this Appeals Procedure, "days" shall be defined as follows: if occurring during the school year, "days" shall mean days when school is in session. If occurring outside of the school year, "days" shall mean business days (not including weekends or recognized holidays).

V. BURDEN OF PROOF

JLHHO BOCES/BPA APPR APPEALS PROCESS

In an appeal, the teacher has the burden of demonstrating a clear legal right to the relief requested and the burden of establishing the facts upon which the teacher seeks relief.

VI. APPEAL PROCEDURE

A. Stage 1 – Informal

1. The teacher must provide written notice of intent to appeal to the lead evaluator within five (5) days of receiving his or her full OER, subject to the exceptions set forth in this Appeals Process. If the lead evaluator is no longer employee of the BOCES, the notice of intent to appeal must be sent to the applicable program Director, (specifically, the Director of Programs for Exceptional Students, the Director of Career, Technical, Adult and Continuing Education, or the Assistant Superintendent for Instruction).
2. The teacher and the lead evaluator/applicable program Director shall meet within five (5) days of the teacher's notice to discuss the teacher's concerns.
3. The lead evaluator/applicable Program Director shall provide the teacher with a written response to the teacher's concerns within three (3) days of the meeting.

B. Stage 2 – Panel Review

1. Within three (3) days of the written response at Stage 1, if the teacher desires to appeal further, the teacher must provide written notice of intent to pursue the appeal at Stage 2 to the applicable program Director, (specifically, the Director of Programs for Exceptional Students, the Director of Career, Technical, Adult and Continuing Education, or the Assistant Superintendent for Programs), and the BPA President. The Program Director shall transmit the appeal to the District Superintendent and the Lead Evaluator.
2. The teacher's formal, written Stage 2 appeal must be received within seven days of the notice of intent. When filing the appeal, the teacher must submit a detailed written description of the specific areas of disagreement over the APPR rating being challenged and state the remedy that the teacher wishes to see granted.
3. Within five (5) days of receiving the teacher's Stage 2 appeal, the lead evaluator will submit a written response. The response shall address the specific areas of disagreement raised by the teacher in the appeal.

JLHHO BOCES/BPA APPR APPEALS PROCESS

4. Within five (5) days of receiving the teacher's Stage 2 appeal, the parties will notify each other of the individuals designated to serve on the Stage 2 Panel. The Panel will consist of two (2) representatives selected by the BOCES District Superintendent (or his/her designee), two (2) representatives selected by the BOCES Professional Association, and a fifth member selected by the other four. Neither the appealing teacher nor the Lead Evaluator may sit on the Panel. The BOCES will make every effort to ensure that at least one (1) of its Panel designees is familiar with the appealing teacher's duties and responsibilities. The Panel will coordinate amongst themselves and schedule the Panel meeting(s) required under paragraphs 6 and 7, below. The Panel will also designate a scribe. The Panel shall be charged with ensuring that the scribe's notes are accurate, although it is not expected or intended that those notes will consist of a verbatim transcript of what was said.
5. At all times there shall be six (6) Association members, selected by the Association, available to serve on the Stage 2 Panel. These individuals shall successfully complete the training required for an evaluator to utilize the selected rubric. For the 2013-2014 school year and beyond, all members selected by the Association shall either successfully complete the required training (or the required re-training). Completing the training or re-training is without compensation, but it may be considered release time for conference approval. The BOCES shall pay the required license fee for the training.
6. The Panel shall meet within seven (7) days of the date the teacher received the evaluator's response. The Panel may hold additional meeting dates if it deems additional dates necessary. The appealing teacher and the evaluator may both present evidence to the Panel, and the Panel members may direct questions to the appealing teacher and Lead Evaluator. Any evidence, information or documentation not presented to the Panel either in the Stage 2 appeal or at the Panel hearing will not be considered.
7. Within fifteen (15) days of the Panel's initial meeting, the Panel will render a written decision, by majority, on the appeal. The decision shall address each issue raised by the teacher. In no event shall specific Panel member names be attributed to any Panel decision.

C. Stage 3 – Final Review by District Superintendent

1. Within five (5) days of receipt of the Panel's decision, if the teacher desires, the teacher may appeal to the BOCES District Superintendent.
2. The BOCES District Superintendent shall review the entire record on appeal, and shall render a written decision within ten (10) days of receipt of the Stage 3 appeal.

JLHHO BOCES/BPA APPR APPEALS PROCESS

3. The decision of the BOCES District Superintendent shall be final and binding.

D. Extenuating Circumstances

1. In the event that extenuating circumstances exist that would prevent the teacher from pursuing his/her appeal within the timelines specified, the teacher may request an extension from the District Superintendent and the Association President in writing. An extension may be requested at any stage in the appeals process. If the District Superintendent and the Association President agree that extenuating circumstances exist warranting an extension, they shall grant an extension, in writing. In granting an extension, they shall specify which deadline is being extended, and for what amount of time. The District Superintendent shall notify all parties of the decision with regard to the request for an extension. The parties will adhere to the timeframes herein, in compliance with the timely and expeditious requirements of New York State Education Law Section 3012-d.
2. In the event that extenuating circumstances exist that would prevent the lead evaluator from responding timely at any stage in the appeals process, the Lead Evaluator may request an extension from the District Superintendent and the Association President in writing. An extension may be requested at any stage in the appeals process. If the District Superintendent and the Association President agree that extenuating circumstances exist warranting an extension, they shall grant an extension, in writing. In granting an extension, they shall specify which deadline is being extended, and for what amount of time. The District Superintendent shall notify all parties of the decision with regard to the request for an extension. The parties will adhere to the timeframes herein, in compliance with the timely and expeditious requirements of New York State Education Law Section 3012-d.
3. In the event that extenuating circumstances exist that would prevent the Panel from acting within the timelines specified here, the Panel may request an extension from the District Superintendent and the Association President in writing. If the District Superintendent and the Association President agree that extenuating circumstances exist warranting an extension, they shall grant an extension, in writing. In granting an extension, they shall specify which deadline is being extended, and for what amount of time. The District Superintendent shall notify all parties of the decision with regard to the request for an extension. The parties will adhere to the timeframes herein, in compliance with the timely and expeditious requirements of New York State Education Law Section 3012-d.

JLHHO BOCES/BPA APPR APPEALS PROCESS

VII. Miscellaneous.

- A. All matters pertaining to appeals, except as referenced in this paragraph, will be addressed outside of the teachers' standard work day, unless authorized in writing by the District Superintendent. Association members participating in a Stage 2 Panel review shall be afforded release time to participate in the hearing. In the event that the hearing occurs over the summer, Association Panel members will be compensated at the currently effective curriculum rate.
- B. If the teacher receives his/her APPR rating before the June Regents Rating Day for the school year for which the evaluation was rendered, then the teacher must commence the appeal process within five (5) days of receiving the APPR rating, and thereafter all timeframes and deadlines specified in Section VI, above, shall apply. If the teacher receives his/her APPR rating after the June Regents Rating Day for the school year in which the evaluation was rendered, the teacher may elect to proceed with an appeal over the summer, or may wait to commence the appeal when the new school year begins. If the teacher pursues the appeal over the summer, as soon as the notice of intent is submitted, all timeframes and deadlines specified in Section VI, above, shall apply. If the teacher pursues the appeal after the beginning of the new school year, the teacher must commence the appeal within five (5) school days of the first day of school, and thereafter all timeframes and deadlines specified in Section VI, above, shall apply.

VIII. Notices.

- A. When initiating an appeal, the teacher shall designate the preferred method of contact: (i) certified mail; (ii) electronic mail; (iii) placement in the teacher's designated location for the receipt of mail at the BOCES; (iv) personal delivery.
- B. If the appeals process is pending over the summer, all notices to the teacher will be sent by the method designated by the teacher, however, personal delivery shall not be an option if the appeal is proceeding over the summer. If no notice preference is given, notice shall be by registered/certified mail to the last known address on file with the BOCES.
- C. If notice to the teacher is accomplished by certified mail, for purposes of the teacher's time in which to pursue the next step in the appeal process, notice shall be deemed to have been given as of the date the teacher receives the correspondence, as noted on the USPS certified mail receipt card. For purposes of the BOCES' compliance with timelines required for responses and other notifications, notice shall be deemed to have been given as of the date mailed, as noted on the USPS certified mail receipt card.
- D. If notice to the teacher is accomplished by electronic mail, for purposes of the teacher's time in which to pursue the next step in the appeals process, notice shall be deemed to have been given when the teacher has opened the email.

JLHHO BOCES/BPA APPR APPEALS PROCESS

correspondence. For purposes of the BOCES' compliance with timelines required for responses and other notifications, notice shall be deemed to have been given as of the time when the electronic mail was sent. If email is utilized, all parties must make reasonable efforts to check email on a regular basis.

- E. If notice to the teacher is accomplished by placement in the teacher's designated location for receipt of mail at the BOCES, notice shall be deemed given as of the date the correspondence is placed in that location. The correspondence shall be placed in a sealed enveloped clearly designated as "confidential." The individual placing the correspondence in the designated location shall place a notation with the correspondence indicating when it was placed in the designated location, and a copy of that notation shall also become part of the record of the appeal.
- F. If notice to the teacher is accomplished by personal delivery, notice shall be deemed given as of the date when the notice is personally delivered to the teacher. The teacher shall make reasonable efforts to be present and available if this method is designated. The teacher shall acknowledge each receipt in writing, and the acknowledgment shall become part of the record of the appeal. In the event that the teacher is unable to be located for purposes of personal delivery after reasonable attempts by the BOCES, the BOCES shall mail the correspondence to the teacher by registered/certified mail, and notice shall be deemed effective as set forth in paragraph D, above.
- G. If the appealing teacher consents, the BPA President shall be notified of all appeals information by email, and notice shall be deemed effective as outlined in paragraph E, above.
- H. All notices to the BOCES shall be by electronic mail.

IX. Exclusivity of the Education Law Section 3012-d Appeal Procedure.

This appeal procedure shall constitute the exclusive means for initiating, reviewing and resolving any and all challenges and appeals related to teacher APPR ratings, except as set forth below. A teacher may not resort to any other procedure for the resolution of challenges and appeals related to an APPR rating, including, but not limited to, any grievance procedure set forth in any collective bargaining agreement, except as set forth below.

A grievance may be commenced under the grievance procedure in the collective bargaining agreement only if a teacher wishes to challenge the BOCES' adherence to the APPR Appeal Process. Should that occur, the power and scope of the Arbitrator's authority shall be restricted to determining whether or not the BOCES failed to adhere to the APPR Appeal Process. The only relief that the Arbitrator may grant, upon a finding that the BOCES failed to adhere to the APPR Appeal Process, is an order for the BOCES to address any deficiency in the appeals process, directing the BOCES to immediately

JLHHO BOCES/BPA APPR APPEALS PROCESS

abide by the Appeals Process, and for the BOCES to provide a timely and expeditious appeal for the teacher. The Arbitrator's decision shall be enforceable in the New York State Courts.

NOTE: The parties intend to negotiate standard forms to be utilized at each stage of this Appeals Process.