

Memorandum of Understanding

Between

The Buffalo City School District ("District")

And

The Buffalo Teachers Federation, Inc. ("Federation")

Re: 3012-c Teacher Evaluations

WHEREAS, 6 schools are already receiving School Improvement Grant ("SIG") funding.

WHEREAS, Commissioner King has informed the Buffalo City School District ("District") that funding has been suspended effective January 1, 2012 since the District and its bargaining units have not entered into sufficient formal agreement regarding the implementation of 3012-c and

NOW THEREFORE, for the 2011-12 school year only, the parties agree to implement Education Law §3012-c, §30-2 of the Rules of the Board of Regents, and §100.2 of the Commissioner's Regulations for all teachers at District Transformation Schools: #39, #45, #200, #205, #206 and #301 (currently eligible to receive §1003(g) funds) as follows:

The composite rating for teachers of:

4-8 Common Branch/ELA/Math will be determined as follows:

- 20% state growth measure
- 20% locally selected growth measure
- 60% APPR rating

Elementary/Middle Level teachers who are NOT 4-8 Common Branch/ELA/Math will be determined as follows:

- 20% state growth measure
- 80% APPR rating (based on three options)

ALL Secondary teachers in grades 9-12 will be determined as follows:

- 20% state growth measure
- 80% APPR rating (based on three available options)

20% State Growth Measure for All Teachers in Elementary Schools (PK-8)

- The growth score on New York State assessments in ELA and Math will count as 20% of the overall evaluation for teachers of grades 4-8 Common Branch/ELA/Math.
- Elementary-Middle Level Teachers who are **NOT** in Grades 4-8 ELA and/or Math will use School-wide growth on the NYS ELA and Math 4-8 assessments (based on the State-provided school-wide Growth Score).

HEDI Scoring for Growth Measures for all Other Teachers Outside of Grades 4-8 NYS ELA and Math	Highly Effective	Effective	Developing	Ineffective
	18-20 Points	9-17 Points	3-8 Points	0-2 Points

20% State Growth Measure for Teachers in High School

Secondary Level Teachers in Grades 9-12 will use student progress to graduation measure as outlined in Buffalo City School District Regulation 7210R. High school promotion/graduation criteria are based on the acquisition of the requisite course credits at each grade level. At the secondary level, the composite score will be based on a 3% increase in the number of students passing the 5 core Regents' examinations (English, Algebra, Global Studies, Living Environment and U.S. History) plus a 3% increase in the number of students school wide receiving 5 credits towards graduation.

Level	Increase in % of students passing the 5 core Regents examinations	Points
Highly Effective	> 3%	5
Effective	1.9 - 3%	4
Developing	1.5 - 1.8%	3
	1.0 - 1.4%	2
Ineffective	0.5 - 0.9%	1
	0 - 0.4%	0

Level	School-wide increase in % of students receiving 5 course credits towards graduation	Points
Highly Effective	$\geq 3.0\%$	15
	2.9 – 2.99%	14
	2.8 – 2.89%	13
Effective	2.7 – 2.79%	12
	2.3 - 2.69%	11
	1.9 – 2.29%	10
	1.75 – 1.89%	9
Developing	1.6 – 1.74%	8
	1.45 – 1.59%	7
	1.3 – 1.44%	6
	1.15 – 1.29%	5
	1.0 – 1.14%	4
	0.7 – 0.99%	3
Ineffective	0.5 – 0.69%	2
	0.20 – 0.49%	1
	0 – 0.19%	0

High School Absenteeism Procedures

If the combined "severe" and (plus) "chronic" absenteeism percentage in the school (school-wide percentage) is greater than the combined District wide "severe" and (plus) "chronic" absenteeism percentage, the HEDI growth percentages for both the "Increase in the percent of students passing the five (5) core Regents" and the "School-wide increase in the percent of students receiving five (5) course credits towards graduation" will be decreased by the percentage of the difference between the District and school-wide combined percentages. The data from the May 31, 2012 District Student Attendance Report will be utilized for the above calculations.

Example:

Individual school combined severe and chronic absenteeism	45%
District-wide combined severe and chronic absenteeism	- <u>40%</u>
	05% difference (or .05)

For example, using the following from the high school growth chart (15 point maximum) for a Highly Effective rating, the percentage will be adjusted as follows:

School-wide increase in % of students receiving 5 course credits towards graduation

Highly effective (current) > 3% increase

3 (minimum growth to reach H.E.) \times $.05$ (school/district difference from above) = $.15$

3 (minimum growth to reach H.E.) $-$ $.15$ (school/district difference) = 2.85% is the adjusted minimum growth to reach highly effective.

Teachers at schools whose ELL enrollment is 20% or more of the total enrollment shall have two (2) points added to their subcomposite HEDI score.

20% Locally Selected Measure for Teachers of Grades 4-8/ELA/Math

For school year 2011-12, 20 points of a teacher’s composite effectiveness score shall be based on the results of a measure of student growth. For teachers of grades 4-8 Common Branch/ELA/Math the locally selected measures for student growth will use School-wide growth on the NYS ELA and Math 4-8 assessments (based on the State-provided school-wide Growth Score). The 20 points shall be based on the school wide results for ELA and one for mathematics.

For example: School A receives a score of 16 points for ELA and math growth. The score would be 16 out of a possible 20 points for the locally selected measure. This score would result in an “Effective” rating for all teachers at School A for the locally selected measure (see below).

HEDI rating for schools with percentage of students with severe chronic and chronic attendance less than 35%

HEDI Scoring for Growth Measures for all Teachers of Grades 4-8 NYS ELA and Math	Highly Effective	Effective	Developing	Ineffective
	18-20 Points	9-17 Points	3-8 Points	0-2 Points

In accordance with the HEDI bands above, schools with a percentage of students with severe chronic and chronic absenteeism greater than or equal to 35% will add two (2) points to the State-provided school-wide growth score, and this new number will be each teacher’s growth score. However, if the school-wide growth score is two (2) or less, the school will add one (1) point, and this will be each teacher’s growth score.

For example: In an event where School A is identified with severe chronic and chronic absenteeism greater than or equal to 35% the score of 16 points for ELA and math growth would have an additional two points added to the state score. The score would be 18 out of a possible 20 points for the locally selected measure. This score would result in an “Highly Effective” rating for all teachers at School A for the locally selected measure (see above).

Teachers at schools whose ELL enrollment is 20% or more of the total enrollment shall have two (2) points added to their subcomposite HEDI score.

The parties agree to utilize the NYSUT rubric, approved by the New York State Education Department, and the BPS Annual Professional Performance Review (APPR) process for the evaluation of teachers. This process shall represent 60% of the overall evaluation composite score for teachers of grades 4-8 Common Branch/ELA/ Math and 80% of the overall evaluation composite score for all other teachers covered by this Agreement. As per the approved Annual Professional Performance Review (“APPR”), there will be a minimum of one observation by a Buffalo trained and certified administrator. In no circumstance shall an evaluator factor student attendance into any portion of the 60%/80% subcomponent of the composite effectiveness score; for example, an administrator cannot factor in student participation in grades on teacher developed tests, etc.

60% APPR Subcomponent and Composite Score and Ratings for 4-8 Common Branch/ELA/Math

- The 60% other for Elementary/Middle Schools is derived from the APPR for Grades 4-8 ELA and Math. The parties agree to apply the following HEDI criteria to the existing APPR.

NYS TEACHER STANDARD NUMBER	BPS APPR CRITERION NUMBER	TOTAL % of POINTS FOR EACH CRITERION
1	5	10
2	1, 2	30
3	3	20
4	4	5
5	6	20
6	7	10
7	8	5
TOTAL*		100

Teachers gain up to eight points for each element within the criterion.

Points are earned for an element as follows:

If an element is placed in Highly Effective – 7 or 8 points

If an element is placed in Effective - 5 or 6 points

If an element is placed in Developing – 3 or 4 points

If an element is placed in Ineffective - 1 or 2 points

*(See APPR scoring calculation pg. 9)

80% APPR Subcomponent and Composite Score and Ratings ALL Other Teachers

The 80% other measures, as described in the three options below, is for all other grades and subjects. An evaluator using the HEDI scale as defined by the NYSUT rubrics will conduct a minimum of one observation in accordance with the APPR. Prior to the formal observation, the teacher will receive written communication from the administrator indicating the date, time, and place for the pre-observation conference. The formal observation will be at least three school days after the pre-observation conference. Within one week after the observation (CBA XIII B), the teacher and administrator will meet for a post-observation conference after which, based upon evidence gathered in the pre-observation conference, observation, and post-observation conference, either an APPR is delivered or a Teacher Improvement Plan (TIP) will be developed if the teacher has received a rating of developing or ineffective.

OPTION I

- 40% of the 80% will be determined by the overall APPR HEDI score (40 points maximum)
- 20% of the 80% will be determined by evidences submitted in a portfolio and artifacts (20 points maximum comprised of 10 points maximum for portfolio and 10 points maximum for artifacts)

As clarification, the APPR defines “portfolio” as a collection of materials assembled by a teacher that demonstrates the progress of the teacher’s knowledge and skills and often includes a form of self-reflection (teacher option). The APPR defines “artifact” as evidence of instruction provided by the teacher to the evaluator; it may include such things as student work, course outlines, lesson plans, teacher created materials, written feedback to students, written communication to parents, or any other resource used to facilitate student learning. The evaluator will review the teacher’s portfolio and artifacts with the teacher and assign a HEDI rating consistent with elements and indicators contained in the NYSUT rubric. The HEDI rating for each evidence shall then be converted to points as follows:

H	E	D	I
10	8	6	0

- The final 20% of the 80% will be determined by evidences submitted in a self-review and self-directed growth plan (20 points maximum comprised of 15 points maximum for a self review and 5 points maximum for a self-directed growth plan)

As clarification, a “self-review” will include a teacher’s independent reflection on his/her teaching practices and reports on what he is doing in the classroom. A self-review may take the form of surveys, instructional logs or interviews. Self-review of practice measures may focus on broad and overarching teaching standards which are identified in the *New York State Teaching Standards*, or they may focus on specific elements related to subject matter, grade levels, or techniques. The APPR defines “self-directed growth plan” as an action plan developed by a teacher to improve his/her professional knowledge and skills. Teacher sets informed goals and strives for continuous professional growth as defined by the performance indicators in *New York State Teaching Standards*, Standard VII. The evaluator will review the teacher’s self-review and self-directed growth plan with the teacher and assign a HEDI rating consistent with elements and indicators contained in the NYSUT rubric. The HEDI rating for each evidence shall then be converted to points as follows:

Self Review	H	E	D	I
	15	12	9	0

Self Directed Growth Plan	H	E	D	I
	5	4	2	0

OPTION II

- 60% of the 80% will be determined by the overall APPR HEDI score (60 points maximum)
- The remaining 20% of the 80% will be determined by evidences submitted in a portfolio and artifacts or a self-review and self-directed growth plan (20 points maximum)

As clarification, the APPR defines “portfolio” as a collection of materials assembled by a teacher that demonstrates the progress of the teacher’s knowledge and skills and often includes a form of self-reflection (teacher option). The APPR defines “artifact” as evidence of instruction provided by the teacher to the evaluator; it may include such things as student work, course outlines, lesson plans, teacher created materials, written feedback to students, written communication to parents, or any other resource used to facilitate student learning. A self-review will include a teacher’s independent reflection on his/her teaching practices and reports on what they are doing in the classroom. A self- review may take the form of surveys, instructional logs, or interviews. Self-review of practice measures may focus on broad and overarching teaching standards which are identified in the *New York State Teaching Standards*, or they may focus on specific elements related to subject matter, grade levels, or techniques. The APPR defines “self directed growth plan” as an action plan developed by a teacher to improve his/her professional knowledge and skills. Teacher sets informed goals and strives for continuous professional growth as defined by the performance indicators in *New York State Teaching Standards* Standard VII. The evaluator will review the teacher’s portfolio and artifacts with the teacher or the self-review and self-directed growth plan with the teacher and assign a HEDI rating consistent with elements and indicators contained in the NYSUT rubric. The HEDI rating shall then be converted to points as follows:

Portfolio	H	E	D	I
	10	8	6	0

Artifacts	H	E	D	I
	10	8	6	0

OR

Self Review	H	E	D	I
	15	12	9	0

Self Directed Growth Plan	H	E	D	I
	5	4	2	0

- H = Only if submitted on agreed upon date
- E = Highest possible if submitted 1 week beyond agreed upon date
- D = Highest possible if submitted 2 weeks beyond agreed upon date
- I = Highest possible if submitted 3 weeks or more beyond agreed upon date

Agreed upon dates may be extended due to illness or as agreed upon by the teacher and the administrator and as per the State regulations.

OPTION III

- All 80% will be determined by the overall APPR HEDI score (80 points maximum)

60%/80% APPR Scoring Calculation

Approved Teacher Practice Rubric: NYSUT Teacher Practice Rubric

EXAMPLE from the BPS APPR - Criterion 3 with indicators:

Criterion 3: Instructional delivery that results in active student involvement and meaningful lesson plans* that result in student learning	Place the numbered indicator under the appropriate level of performance			
	Highly Effective	Effective	Developing	Ineffective
Indicator *(3.1)			Indicator *(3.3)	
	8 pts	6 pts	4 pts	2 pts
		Indicator *(3.2)		
	7 pts	5 pts	3 pts	1 pt

- *3.1 The teacher chooses teaching strategies, materials, and technology to meet the varied abilities and skill levels of students.
- *3.2 The differentiation of instruction (individually, in small groups, and in large groups) is appropriate for the students' abilities and needs.
- *3.3 The teacher's instruction actively engages students in the learning process.

Number of indicators x 8 = Total Possible Points, therefore 3 x 8 = 24 possible points for Criterion #3 (Instructional Delivery).

In the example above, points are earned for each indicator as follows: 3.1 = 8 points, 3.2 = 5 points, 3.3 = 4 points. Total points earned = 17 points

17 earned points = 70.83 of the possible points for this criterion
24 possible points

Criterion #3 = 20% therefore $.20 \times 70.83 = 14.17$

This teacher has earned 14.17 points of a potential 100 APPR points.

The total points earned on the APPR is multiplied by either 60% or 80% depending on the amount the APPR is worth for specific teachers.

Example #1: if a teacher earned 90 points on their APPR, and their APPR is worth 80%, this teacher has earned 72 points towards their composite HEDI rating.

Example #2: If a temporary or probationary teacher who is assigned to more than one school earns 80 points on one APPR, and 90 points on a second APPR, the teacher’s final/annual APPR score will be 85 points (both APPR’s added together and divided by 2) towards their composite HEDI score. Please note: An APPR score that ends with a decimal of 5 or greater must be rounded up. Ex. 67.5 = 68, 54.2 = 54, 78.8 = 79, etc.

HEDI Scoring bands for 60% APPR	Highly Effective	Effective	Developing	Ineffective
	53-60 Points	40-52 Points	32-39 Points	0-31 Points

HEDI Scoring bands for 80% APPR	Highly Effective	Effective	Developing	Ineffective
	73-80 Points	60-72 Points	52-59 Points	0-51 Points

Final HEDI Composite Ratings

The parties agree that all classroom teachers subject to this agreement shall receive an APPR rating and final composite rating of “highly effective,” “effective,” “developing,” or “ineffective.”

Final HEDI Composite Ratings	Highly Effective	Effective	Developing	Ineffective
	91-100 Points	75-90 Points	65-74 Points	0-64 Points

Teacher Improvement Plan (TIP)

If a teacher is rated “developing” or “ineffective,” the parties agree to implement a Teacher Improvement Plan.

The administrator and the teacher will meet to collaboratively to develop a TIP, when required. The TIP will include suggestions for improvement from one, but not more than three, of the APPR criteria. The teacher may choose to have a union representative present.

In order to provide the administrator sufficient time to assess a teacher’s progress on the TIP and to give the teacher sufficient time to begin to address identified areas, at least 15 school days will be provided for the identified criteria to begin to be addressed. After the TIP has been completed satisfactorily, an APPR will be delivered to the teacher.

If the TIP has not been satisfactorily completed, the process will again commence. If it is determined that as a result of the APPR process a teacher’s employment should be terminated, the Supplementary Teacher Evaluation Form shall be completed and a copy provided to the teacher.

It is understood that nothing contained herein will in any way diminish a teacher's right under the collective bargaining agreement (including past practice), previous settlement agreements, and arbitrations.

Appeals Process

The parties have also agreed to the following appeal process for those teachers who seek to appeal their "ineffective" rating.

- A. Purpose - The purpose of the appeals procedure shall be to equitably settle disputes involving teachers who receive an "ineffective" rating on the Annual Professional Performance Review.
- B. Structure - A teacher receiving an ineffective rating may only challenge the following in an appeal: 1) the substance of the Annual Professional Performance Review (APPR); 2) the District's adherence to the APPR process and procedures as approved by the Professional Council, the Buffalo Board of Education and the Buffalo Teachers Federation; 3) adherence to the regulations of the Commissioner; and 4) compliance with the terms of the Teacher Improvement Plan (TIP).
- C. Superintendent Appeal - A teacher receiving an "ineffective" rating may appeal to the Superintendent of Schools or his/her designee.
- D. Neutral Hearing Officer Appeal - In addition to "C" above, a teacher may obtain a review by a neutral hearing officer by submitting a written appeal to the Superintendent with a copy to the BTF within sixty (60) calendar days of the receipt of the APPR. Said appeal shall set forth the nature of the objection to the APPR. All appeals shall be presented on a form mutually agreed upon by the parties and may be accompanied by supporting documentation.

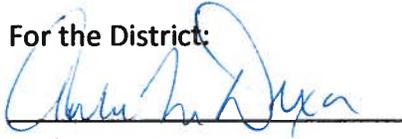
A teacher may amend the appeal within the above stated time period. Appeals not commenced within sixty (60) calendar days are deemed waived. A neutral hearing officer(s) shall be agreed upon by both parties and shall render a written decision on the appeal. The hearing officer shall have the option to uphold or nullify the rating and/or modify the APPR. During the hearing each party may present no more than two witnesses. No written briefs will be submitted.

The written decision of the hearing officer shall be served upon the District and BTF within thirty (30) calendar days of the hearing. The District will serve the teacher with a copy of the written decision within five (5) school days except that when school is not in session, it shall be five (5) week days. The decision shall be final and binding and not subject to the grievance procedure as set forth in Article V of the collective bargaining agreement. The written decision and the appeal document(s) should be attached to the APPR and placed in the teacher's personnel file at the teacher's option.

- E. The parties may by mutual agreement amend this agreement.
- F. This agreement applies only to the Appeals Process for teachers delineated herein and solely to clarify the matters involved. It shall not be construed as modifying the rights of the parties under the collective bargaining agreement. It is also expressly understood and agreed, as a

condition to this agreement that neither this agreement nor any part hereof, shall constitute or be construed to be precedent or prejudicial to the respective positions of the Federation or the District on any other matters.

For the District:



Amber M. Dixon
Interim Superintendent



Date

For the Federation



Philip Rumore
President



Date

As clarification, it is understood by the parties that the sentence on pages 4 and 5 of this MOU, "Teachers at schools whose ELL enrollment is 20% or more of the total enrollment shall have two (2) points added to their subcomposite HEDI score" refers to the locally determined subcomponent of the composite score.

For the District:



Amber M. Dixon
Interim Superintendent

6/12/12
Date

For the Federation



Philip Rumore
President

12 June 2012
Date

3012-c: Appeals process for Teachers

Appendix A

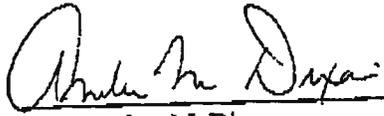
- A. Purpose- The purpose of the appeals procedure shall be to equitably settle disputes involving teachers who receive an "ineffective" rating on the Annual Professional Performance Review, "APPR".
- B. Structure- A teacher receiving an ineffective rating may only challenge the following in an appeal: 1) the substance of the Annual Professional Performance Review ("APPR"); 2) the District's adherence to the APPR process and procedures as approved by the Professional Council, the Buffalo Board of Education and the Buffalo Teachers Federation; 3) adherence to the regulations of the Commissioner; and 4) compliance with the terms of the Teacher Improvement Plan (TIP).
- C. Superintendent Appeal - A teacher receiving an "ineffective" rating may appeal to the Superintendent of Schools or his/her designee.
- D. Neutral Hearing Officer Appeal – In addition to 'C' above, a teacher may obtain a review by a neutral hearing officer by submitting a written appeal to the Superintendent with a copy to the BTF within sixty (60) calendar days of the receipt of the APPR. Said appeal shall set forth the nature of the objection to the APPR. All appeals shall be presented on a form mutually agreed upon by the parties and may be accompanied by supporting documentation.

A teacher may amend the appeal within the above stated time period. Appeals not commenced within sixty (60) calendar days are deemed waived. A neutral hearing officer(s) shall be agreed upon by both parties and shall render a written decision on the appeal. The hearing officer shall have the option to uphold or nullify the rating and/or to modify the APPR. During the hearing, each party may present no more than two witnesses. No written briefs will be submitted.

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- E. The parties may by mutual agreement amend this agreement.

F. This agreement applies only to the Appeals Process for teachers delineated herein and solely to clarify the matters involved. It shall not be construed as modifying the rights of the parties under the collective bargaining agreement. It is also expressly understood and agreed, as a condition of this agreement that neither this agreement nor any part hereof, shall constitute or be construed to be precedent or prejudicial to the respective positions of the Federation or the District on any other matters.



Amber M. Dixon
Interim Superintendent

12/28/11
Date



Philip Rumore
BTF President

28 Dec 2011
Date