

**Final DTD 9-2-20**  
**MEMORANDUM OF AGREEMENT**  
**BY AND BETWEEN**  
**THE AVERILL PARK TEACHERS ASSOCIATION**  
**AND**  
**THE AVERILL PARK CENTRAL SCHOOL DISTRICT**

**WHEREAS**, the Averill Park Central School District (“District”) and the Averill Park Teachers Association (“Association”) are parties to a collective bargaining agreement dated September 1, 2019 (“Agreement”) that sets forth terms and conditions of employment; and,

**WHEREAS**, the Novel Coronavirus (COVID-19) has been declared a pandemic, New York State has declared a state of emergency (herein “state of emergency”) concerning COVID-19 and the Governor of New York has issued a series of Executive Orders, and recently announced that students will be able to return to in-person instruction for the 2020-2021 school year in accordance with re-opening plans approved by the New York State Education Department (“SED”) and the New York State Department of Health (“DOH”); and,

**WHEREAS**, the re-opening plan of the District for so long as the COVID-19 pandemic continues requires the delivery of instruction in a variety of new and novel ways (e.g. use of hybrid models) and the parties desire to set forth understandings that protect the long-term interests of both parties while allowing work rule flexibility to provide the best conditions for students and school workers alike; and,

**WHEREAS**, this situation is evolving on an almost daily basis and the parties wish to enable the maximum amount of collaboration to protect the health and safety of staff and students while continuing to provide for whatever student support is reasonably necessary; and,

**WHEREAS**, the parties understand that this state of emergency is without precedent and the impact is difficult to assess, but wish to set forth the following terms of understanding.

**BE IT THEREFORE AGREED:**

1. The parties have discussed and agreed upon the following specific issues which need to be adjusted as a result of the state of emergency:

A. Class sized for remote instruction for K-12 will be approximately thirty (30) students to satisfy remote instruction needs;

B. As the primary tool to deliver remote instruction, teachers will use Google Classroom for grades 3 through 12 and use See Saw for grades kindergarten through 2;

C. Teachers may conduct any cleaning of shared devices between student or other use of such devices using materials provided by the District;

D. Teachers who choose to deliver instruction remotely (see below) while in the hybrid or in-person model), shall maintain set office hours for access by remote students. Teachers shall notify the students of the times of the set office hours;

E. Teachers in grades kindergarten to 5 will not be expected to perform lunch duty to supervise students while they are eating in class;

F. Teachers in grades 6 through 12 may clean their classrooms between classes as students move using materials provided by the District;

G. Regarding APPR and teacher observations, the parties agree that while a teacher is in the hybrid (meaning some live students and some virtual students being instructed during the same class period) or full regular instruction modes, any observations for evaluation purposes will be conducted by an administrator who is physically present in the classroom and will not utilize any recorded lessons (unless consented to by a particular teacher at their option). While a teacher is fully engaged in the remote teaching model (i.e. there are no students physically present), the parties recognize that some required observations will still be necessary for APPR and evaluation purposes. The parties agree to review and modify, as may be necessary and mutually agreeable, the parties' APPR plan to accommodate such required observations; and,

H. While the District is in either the hybrid or in-person model, teachers may have students on their assigned class load that are receiving both in-person instruction and receiving instruction remotely through some form of virtual instruction. The parties recognize the professional responsibility and appropriateness of providing teachers with options on how such dual instruction is provided so long as each individual teacher provides the necessary instruction to all students (in-person and remote). In this regard, the parties have arrived at the following conceptual understandings for grades 6-12:

1. The District and Association are committed to meeting the needs and creating opportunities for every student every day. In order to meet the needs of students this year, we recognize the need to provide new instruction in multiple modalities.

2. Teachers will have the responsibility to provide daily instruction to their students who are:

- Physically present in their classroom through the hybrid model;
- Attending school at-home for the day through the hybrid model; and,

- Attending school virtually 100% of the time through parent choice.

3. One hundred percent (100%) of virtual students will be assigned to teacher caseloads.

4. To address the needs of these students and provide them with daily instruction, teachers are empowered with several options. These options can be applied to their instruction as teachers determine and do not require a commitment of selecting one option to maintain throughout the course of the school year. Rather, teachers should use the components of these options they are comfortable with and that appropriately meet students' needs for a particular lesson or topic. Regardless, teachers recognize that it is their professional responsibility to provide instruction for the students assigned to their caseload. These options include, but are not limited to:

- Option 1: Daily Live Stream Using Google Meet

- Teachers may elect to use Google Meet to broadcast their period instruction to their students;
- In this option, teachers present their lesson to students who are in their classroom and simultaneously present the lesson to students who are attending at home; and,
- In this option, teachers are presenting new instruction to their students each day.

- Option 2: "Station Rotation"

- Students receive live video instruction on one day, followed by independent learning activities for the following day;
- In this model, a teacher would match their 100% virtual students with a cohort of students based on their day of in-person instruction (meaning A or B days)

- Option 3: Virtual Students Receive Specialized Programming

- For those teachers who would prefer to not broadcast live from their classroom, they may prepare video instruction and provide it to 100% virtual students;
- These students should be afforded the opportunity to seek clarification and ask questions of their teachers on a regular basis. This can include:
  - Providing regularly scheduled Google Meet Access Hours;

- Providing regularly scheduled email response hours; and/or
- Connecting with students via phone;
- The virtual student learning experience should be comparable to the instruction provided to those students participating in the hybrid model.

5. Daily attendance is required for all teachers as well at the commencement of the instructional day in accordance with the methods used or provided by the building administrator. Period attendance is required of teachers for each period of instruction. This could take different forms. For example:

- Could be actual attendance in a Google Meet or,
- Could be submission of assignment or Google Form during the scheduled class time each day instruction is provided.

6. While the choice of modality is up to the teacher, there will be no additional compensation or other modification involved for teachers who select a modality that may have them working beyond the “normal” teacher work day. The balance reached by the parties is to afford teachers with choices that best satisfy their own teaching styles and preferences so long as appropriate instruction is provided without creating any additional cost or other burden on the District as a result of individual teacher choices.

H. As additional accommodations arise which need to be discussed and require some amendment of the Agreement, the parties will do so and may add to or amend this MOA.

2. It is understood by both parties that this situation is evolving on a daily basis and that any understandings agreed to as of executing this MOA may have to be revisited based on changed conditions. The parties will continue to fully cooperate with each other to serve the best interests of both staff and students during this unprecedented time period.

3. Any modification to, or waiver of, the collective bargaining agreement agreed to, or tolerated by the parties during this COVID-19 state of emergency will not serve as a waiver or precedent against either party at any time in the future under any circumstances. Any such change in terms and conditions will cease and not continue once the state emergency declaration is ended. If the parties wish to continue any changes to the present terms and conditions of employment after such date, they will mutually do so in writing.

4. This agreement shall not serve as precedent for any current or future grievances, petitions, cases or proceedings in any administrative, State, Federal or other forum, by either party, except to enforce its terms.

5. This Agreement is subject and subordinate to all Federal and State laws, rules and regulations, including any Executive Orders, DOH, or SED directives enacted or to be enacted concerning any of the issues addressed by this Agreement.

6. This MOA does not serve as a waiver of the Association's rights to collectively bargain any mandatory topic which may arise or as a waiver of the District's right to refuse to bargain any non-mandatory or prohibited topic, as such terms are defined by the Taylor Law and as interpreted by PERB and the courts.

7. Nothing in this Agreement limits or is intended to limit the District's rights to determine staffing levels and or engage in layoffs it possessed prior to entering into this Agreement, subject to any applicable laws or regulations or the existing collective bargaining agreement.

8. This Memorandum of Agreement shall sunset upon the earlier of a Governor's Executive Order declaring an end to the pandemic emergency and to resume normal school operations or June 30, 2021, whichever occurs first.

9. This Agreement represents the full agreement between the parties, and shall be subject to approval by the Board of Education of the District.

10. The parties agree that the application of this Agreement is subject to the grievance procedure of the Agreement.


DATED: ~~August~~ <sup>September</sup> 2, 2020

FOR THE ASSOCIATION:



Terrence Miller  
President

FOR THE DISTRICT:



Dr. James Franchini  
Superintendent of Schools