

DRAFT
MEMORANDUM OF AGREEMENT

Agreement dated March __, 2020 by and between Western Suffolk BOCES and the Western Suffolk BOCES Faculty Association Unit 9 Representing the Adult Instructors and Alternative High School Staff (“the Association”).

WHEREAS, BOCES and the Association are parties to a collective bargaining agreement covering the period July 1, 2017 through June 30, 2018 (“the CBA”), which has been amended by a memorandum of agreement to cover the period of July 1, 2018 through June 30, 2022 (“the MOA”); and

WHEREAS, by Local Emergency Order No. 2, dated March 15, 2020, the Suffolk County Executive ordered all Suffolk County school facilities to suspend in-school student instruction and activities from March 16, 2020 through March 20, 2020, and authorized the continued use of school facilities by administrators and teachers for local school needs including, but not limited to, planning purposes, distance based education, day care and temporary grab and go meal programs; and

WHEREAS, Local Emergency Order No. 2 provides that the County Executive may extend the mandatory suspension of in-school student instruction and activities for additional five days periods; and

WHEREAS, a state of emergency has been declared by New York State concerning the outbreak of the COVID-19 virus; and

WHEREAS, by Executive Order No. 202.4 and 202.11 dated March 16, 2020 and March 27, 2020 respectively, the New York State Governor directed all schools in New York State to close no later than March 18, 2020 until April 1, 2020; and

WHEREAS, BOCES and the Association recognize, that additional closures may be required due to the COVID-19 pandemic; and

WHEREAS, BOCES and the Association have discussed remote learning and instructional programs; and

WHEREAS, BOCES and the Association wish to codify certain understandings between them to provide for the continuity of instruction during the period of BOCES closure pursuant to Executive Order No. 202.4 and 202.11 and any other orders issued.

NOW, THEREFORE, the parties incorporate each of the above paragraphs into the body of this Agreement and agree as follows:

1. Notwithstanding any provision in the CBA or any practice to the contrary, while BOCES is prohibited by Executive Order 202.4 and 202.11 from providing in-school instruction, unit members will, during the hours when they are normally scheduled to work:

- a) either on or off school grounds, continue to perform instructional duties consistent with their professional responsibilities including, but not limited to, lesson planning, providing an educational program through a remote or other modality as determined by BOCES, communicate with students and parents, prepare IEPs (as applicable), and related assignments;
- b) submit completed assignments and lesson plans to their directors by e-mail or other means as determined by BOCES;
- c) continue to take any meal periods and preparation periods in accordance with their normal work schedules;
- d) continue to be paid for their time worked in accordance with the applicable salary schedule.

2. BOCES will consult with the Association regarding the specific parameters of the requirements set forth in paragraph 1 following the complete ratification of this Agreement. If BOCES' remote learning plan is not accepted by SED, the parties will negotiate over the terms and conditions of employment of a successor plan in accordance with SED guidance and applicable law.

3. The decision to enter into this Agreement will not be used by either side as evidence regarding whether distance learning is a mandatory subject of bargaining.

4. This Agreement represents the parties' entire agreement regarding its subject matter. There are no other agreements, oral or otherwise. This Agreement, including this paragraph, may only be modified by a written agreement executed by both parties and ratified by the BOCES Cooperative Board via a duly adopted resolution.

5. This Agreement is made and entered into in the State of New York and will be in all respects interpreted, enforced and governed pursuant to the laws of that State, except for choice of law provisions. The language of all parts of this Agreement will be construed as a whole, according to its fair meaning and not strictly for or against any of the parties, even though one of the parties may have drafted it.

6. Nothing contained in this Agreement will be deemed as precedent setting with regard to any other matter. This Agreement is entered into solely due to the unique circumstances of the instant situation.

7. This document, its existence and contents, may not be cited in or serve as evidence in any other third party matter including, but not limited to, any grievance, grievance hearing, arbitration, PERB conference or hearing, court action, court proceeding or any other proceeding, except to enforce the provisions of this Agreement.

8. This Agreement may be executed in counterparts, or by facsimile or PDF-scanned signatures in counterparts, each of which will be deemed an original signature and all of which will constitute one and the same instrument.

9. The provisions of this Agreement are subject to ratification by the BOCES Cooperative Board.

10. This Agreement sunsets and becomes null and void on June 30, 2020.

FOR BOCES:

DATED: _____

FOR THE ASSOCIATION:

DATED: _____