

**Memorandum of Agreement Between
Peru Association of Teachers, Local #2921, and Peru Central School District**

Regarding Annual Professional Performance Review (APPR)

The parties agree to modify their collective bargaining agreement in accordance with a revised teacher evaluation procedure under the NYS budget and laws of 2019 (3012-d as amended by the Laws of 2019), as modified by the New York State Board of Regents on February 11, 2020, the primary components of which are outlined below.

In compliance with Education Law 3012.d as amended by the Laws of 2019, 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. It is expressly agreed to by the parties that 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. Such review will include negotiations upon the request of either party.

Duration of Agreement: Multi-year, 2019-2020 to 2021-2022, 2022-2023

A. Definition of Covered Teachers

Commencing with the 2019-2020 school year and beyond these revisions will apply to all classroom teachers as defined in Education Law §3012-d as amended by the Laws of 2019. All other unit members will be evaluated according to the collective bargaining agreement.

B. Ensuring Accurate Teacher and Student Data

The District shall provide accurate data to the State Education Department (the "SED") in a format and timeline prescribed by the Commissioner. The District and the Association will work together to ensure that all teachers of record determinations have been made accurately and in a manner consistent with the standards established by the Commissioner's regulations prior to using student performance data in an APPR.

A District appointed administrator will be designated as the data manager who will be in charge of collecting the required data, overseeing changes in and maintenance of the local student data management system (School Tool), and ensuring the accuracy of the data. The Administrator will have the authority to assign tasks and deadlines, as required.

C. Final Verification and Certification:

As per SED regulations and deadlines, the District will verify students enrolled in the appropriate Regents classes as of BEDS day who have continuous enrollment, in accordance with regulations of 3012d as amended by the Laws of 2019 and participate in the assessment in June. Any corrections will be made directly into the student management system by the data manager or designee.

The District will adhere to the requirements for reporting sub-component and composite scores to the New York State Department of Education established by regulations. A unique identifier will be used, and the names of individual teachers will not be provided. The District will comply with all pertinent state and federal laws relative to the release of sub-component or composite ratings of individual teachers, and will only release such information if required by law. In such instances, the District will provide the Association with notice prior to said release.

D. Required Growth Using Student Learning Objectives

100% of the teacher's HEDI score will be based on the Required Growth Using Student Learning Objectives. The Optional Locally Selected Measures of Student Growth or Achievement will not be used. The SLO will be based on the Regents assessments in Global Studies, U.S. History, Algebra I, Living Environment, and Common Core English Language Arts. The measures used will be the District-wide results of all students who are enrolled on BEDS day in a course culminating in one of the five Regents exams and have an appropriate continuous enrollment and participate in the June administration of the five regents exams: Global Studies, U.S. History, Algebra I, Living Environment, and Common Core English Language Arts.

Based on the combined performance of all students on the five Regents exams, a percentage of proficiency will be determined, aligning to the points awarded out of 20 points. These points will align to the required HEDI ratings.

Below you will find the 3012.d Student Performance Conversion Chart.

Effectiveness Rating	Points Awarded	Percentage of Students Meeting Growth Targets
Highly Effective	20 points	97% to 100%
	19 points	93% to 96%
	18 points	90% to 92%
Effective	17 points	85% to 89%
	16 points	80% to 84%
	15 points	75% to 79%
Developing	14 points	67% to 74%
	13 points	60% to 66%

Ineffective	12 points	55% to 59%
	11 points	49% to 54%
	10 points	44% to 48%
	9 points	39% to 43%
	8 points	34% to 38%
	7 points	29% to 33%
	6 points	25% to 28%
	5 points	21% to 24%
	4 points	17% to 20%
	3 points	13% to 16%
	2 points	9% to 12%
	1 points	5% to 8%
	0 points	0% to 4%

E. Development, Security, and Scoring of Assessments

The District will:

1. Determine rules for how specific SLOs will be set.

F. Observations

For those teachers affected by Education Law §3012-d, the following evaluation procedure will modify the contract, specifically Article 14.

1. Teacher performance will be assessed using evidence gathered in and around observations of the mutually agreed upon set of New York State Teaching Standards. The NYSUT Teacher Practice Rubric will be used to assess the professional practice of each teacher covered under 3012.d. Evidence for evaluations will come from teacher lesson plans, formal classroom observations, unannounced observations, teacher created materials related to the observed lesson, and self-reported evidence related to the observed lesson. The mutually agreed upon forms will apply only to non-tenured teachers and tenured teachers on a TIP. These include: the CHAMPS pre-observation reference sheet (Appendix A), and the Lesson Plan Form (Appendix B). The 9 agreed upon Standards and Elements in the 2014 NYSUT rubric (Appendix C) will be a guiding document available to all teachers and evaluators in planning for the observation. The Pre/Post Observation checklist (Appendix D) will be completed by the lead evaluator. Bargaining unit members who are **tenured teachers (not on a TIP)** may **voluntarily choose to forego the pre-observation meeting**. The responsibility for gathering evidence of the teacher's performance is shared by the administration and the teacher. Both must demonstrate

a commitment to providing a complete and accurate picture of a teacher's professional performance.

Commencing with the 2018/2019 school year observations, evaluators will collect evidence corresponding to and teachers will provide evidence for **only** the following standards, elements, and indicators: Announced Observation Standards include II.5.B, III.1.B, III.2.B, III.3.A, IV.1.A, IV.3.A, and Unannounced Observation Standards include III.6A, IV.1.C, IV.2.B

HEDI score ranges for observations will be converted according to the following chart:

Highly Effective	3.5-4
Effective	2.61-3.49
Developing	1.5-2.60
Ineffective	0-1.49

2. Definitions

Informal Observation: Observation without prior notice. **All teachers** (both Tenured and Probationary) must receive at least one Informal Observation. The Informal Observation will be conducted by the Independent Evaluator and will be a **minimum of 15 minutes**. There will be no pre-observation or post-observation conference accompanying the Informal Observation. Teachers will not be required to provide lesson documentation of the Informal Observation.

All teachers will have the opportunity for 1 refusal of the Informal Observation.

Formal Observation: Observation with prior notice. Formal Observations will consist of a pre-observation conference for all non-tenured teachers and any tenured teacher on a TIP (of a minimum of 30 minutes). Tenured teachers not on a TIP will **not** be required to have a pre-observation conference, and will **not** be required to submit any documentation into OASYS. Observations will be a minimum of 40 minutes, and will be followed by a post-observation conference (of a minimum of 30 minutes) where evidence will be shared and reviewed, and recommendations will be shared.

For all teachers: No observations will be performed one day before or after any school vacation. Any observations performed for all 3-8 teachers during State Testing will be mutually agreed upon by both the teacher and his/her evaluator.

3. **Probationary teachers** will receive a minimum of two Formal Observations each year, one per semester. At least 5 weeks will separate the two Formal Observations. No Formal or Informal Observations will be performed within 30 days of placement in a classroom.

The Formal Observations will be preceded by submission of the mutually agreed upon Lesson Plan (App. B) and the Pre-Observation Meeting at least one day in advance of a scheduled conference of which prior notification will be given. Evidence gathered during observations will be used in the annual summative evaluation. No later than ten (10) school days after a Formal Observation, there will be a post-evaluation conference where evidence will be shared and reviewed, and recommendations will be shared. (Initial Summative Rubrics will be completed by the lead evaluator and able to be viewed by the teacher within 30 school days of the observation.) The mutually agreed upon Post-Observation Form (App. C) will be submitted at least one day in advance of the scheduled conference. The lesson will be observed and the observation discussed.

4. **Tenured teachers** will receive one Formal Observation at least once each year.

Evidence gathered during observations will be used in the annual summative evaluation. No later than ten (10) school days after a Formal Observation, there will be a post-evaluation conference where evidence will be shared and reviewed, and recommendations will be shared. (Initial Summative Rubrics will be completed by the lead evaluator and able to be viewed by the teacher within 30 school days of the observation.) The lesson will be observed and the observation discussed.

5. Evidence gathered during the observation will be used in the annual summative evaluation. However, this does not preclude the teacher from requesting and the administrator granting an additional Formal or Informal Observation. Should an administrator deem it necessary to conduct more Formal or Informal Observations on a particular classroom teacher, notice will be given to the Association prior to that teacher being observed. It is expected that a teacher who is deemed Ineffective or Developing will be subject to a greater number of observations.

6. All observations will be performed by Peru Central School District Board approved administrators. Evaluators will consist of Building Principals, Directors, Associate Principals, and House Principals. In compliance with 3012.d, Formal and Informal Observations cannot be conducted by the same evaluator unless the formal observation was deemed less than effective. Independent Evaluators will conduct the Informal Observations. Evidence for each teacher will be systematically organized using the NYSUT Rubric and the attached Appendices.

To the extent possible, building principals and directors should perform formal observations for probationary teachers. Any teacher who receives a developing or ineffective observation rating should be observed by a different administrator the following school year.

The weight of Lead Evaluators in comparison to Independent Evaluators will be distributed in the following way: Formal Observations weighted 85% and Informal Observations performed by the Independent Evaluator is weighted 15%.

The final scores of observations and student performance will then be converted inside a matrix using the chart below:

Student Performance	Observations: Highly Effective (H)	Observations: Effective (E)	Observations: Developing (D)	Observations: Ineffective (I)
Highly Effective (H)	H	H	E	D
Effective (E)	H	E	E	D
Developing (D)	E	E	D	I
Ineffective (I)	D	D	I	I

The matrix score will be the teacher's overall composite rating for his/her APPR.

7. The evaluator will arrange to meet with each teacher after June 1st. All evidence will be submitted and all observations completed by that date, or the next available school day. The conference will occur during the regular school day outside of regular instructional time, unless another time is mutually agreed upon by teacher and evaluator. The purpose of this conference will be to share the observation score. The score will later be combined with student performance score to achieve the overall composite rating for the teacher's APPR.

G. Details of Timely and Constructive Feedback Provided to Teachers

Professional Development

All professional staff subject to the District's APPR will be provided with an annual optional orientation and/or training on the evaluation system. All training for current staff will be conducted prior to implementation of the APPR process. Newly-hired staff will be trained prior to the beginning of the APPR process.

The District will support each teacher's development and ensure that all individuals receive appropriate professional development in response to suggestions from the PAT Staff Development Committee in conjunction with the District's Professional Development Council. Everyone within the system should focus on the goal of increasing student achievement (as per APPR regulations).

H. Teacher Improvement Plan (TIP)

1. Teachers who receive Developing or Ineffective ratings under 3012.d must be placed on a TIP (Appendix F.) Improvement Plans are intended to assist unit members improve upon their

professional performance. There may be circumstances outside the formal evaluation process that may warrant the construction and implementation of a TIP and nothing within this document shall, or is intended to, restrict the administration's right to develop and implement a TIP in other appropriate circumstances and times. In such instances, the Association President will be advised of the name of the unit member for which a TIP will be developed.

An improvement plan defines specific standards-based goals that a teacher must make progress toward attaining within a specific period of time, such as a 12-month period, and shall include the identification of areas that need improvement, a timeline for achieving improvement, the manner in which improvement will be assessed, and, where appropriate, differentiated activities to support improvement in these areas.

The plan should clearly describe the professional learning activities that the educator must complete. These activities should be connected directly to the areas needing improvement. The artifacts that the teacher must produce that can serve as benchmarks of improvement and as evidence for the final stage of the improvement plan should be described, and could include items such as lesson plans and supporting materials, including student work.

The Lead Evaluator should state in the plan the additional support and assistance that the educator will receive. In the final stage of the improvement plan, the teacher should meet with his or her supervisor to review the plan, alongside any artifacts and evidence from evaluations, in order to determine if adequate improvement has been made in the required areas outlined within the plan for the teacher.

2. Improvement plans required by Education Law 3012-d and any implementing regulations, must be implemented no later than Oct. 1st. The initial meeting for such improvement plans shall occur no later than fifteen (15) school days after the start of the new school year.

3. A TIP shall clearly specify:

- the area(s) in need of improvement;
- the performance goals, expectations, benchmarks, standards and timelines the teacher must meet in order to achieve an effective rating;
- how improvement will be measured and monitored, and provided for periodic reviews of progress;
- the appropriate differentiated professional development opportunities, strategies, materials resources and supports the District will make available to assist the teacher including, where appropriate, assignment of a mentor teacher.

The artifacts that the teacher must produce that can serve as benchmarks of his/her improvement and as evidence for the final stage of his/her improvement plan will be described and may include but be limited to items such as: lessons, student work, or unit plans. The additional assistance and support that the teacher will receive will be clearly stated in the TIP.

During the final stage of the improvement plan based on the APPR rating of the prior school year, the teacher will meet with his/her supervisor to review the plan alongside any artifacts and evidence from evaluations in order to provide a final, summative rating for the teacher. The summative meeting for the teacher will be no later than the last school calendar day.

I. Appeals of Annual Professional Performance Reviews

APPEALS OF INEFFECTIVE AND DEVELOPING RATINGS

Any unit member aggrieved of an annual professional performance review with an ineffective or developing APPR composite score where agreement cannot be reached, may use the following procedure (Appendix E). The appeals process will be carried out in a timely and expeditious manner.

WHAT MAY BE CHALLENGED IN AN APPEAL

An annual professional performance review plan shall describe the appeals procedure utilized by a district through which an evaluated teacher may challenge their annual professional performance review. Pursuant to Education Law §3012-d, a teacher may only challenge the following in an appeal:

the substance of the annual professional performance review; which shall include the following: (i) in the instance of a teacher rated Ineffective on the Student Performance Category but rated Highly Effective on the Observation/School Visit Category based on an anomaly, as determined locally.

the district's adherence to the standards and methodologies required for such reviews, pursuant to Education Law §3012-d and Subpart 30-3 of Commissioner's regulations;

the adherence to the regulations of the Commissioner and compliance with any applicable locally negotiated procedures, as required under Education Law §3012-d; and

the school district's issuance and/or implementation of the terms of the teacher or principal improvement plan under Education Law §3012-d and this Subpart.

Appeal procedures shall provide for the timely and expeditious resolution of any appeal. An evaluation that is the subject of an appeal shall not be sought to be offered in evidence or placed in evidence in any proceeding conducted pursuant to Education Law §3020-a and §3020-b or any locally negotiated alternate disciplinary procedure until the appeal process is concluded. Nothing shall be construed to authorize a teacher or principal to commence the appeal process prior to receipt of his or her rating from the district.

PROHIBITION AGAINST MORE THAN ONE APPEAL

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.

TIMEFRAME FOR FILING APPEAL

All appeals must be submitted to the evaluator, who issued the performance review, in writing no later than **15 calendar days** from the date when the teacher acknowledges receipt of his/her annual professional performance review rating or after the issuance/implementation of the teacher improvement plan if the appeal is in regard to the issuance/implementation of the teacher's improvement plan

Final scores will be given to the teachers by the end of the school year. If scores are not available from SED by the last day of school, scores will be sent by email during the summer and an official copy will be given to the teacher by the second day of the next school year. The failure to file an appeal within these timeframes shall be deemed a waiver of the right to appeal and the appeal shall be deemed abandoned unless extended by mutual written agreement signed by both parties. Said extension will be timely and expeditious as required by education law 3012.d.

When filing an appeal, the teacher must submit to the evaluator:

- (1) a detailed written description of the specific area(s) of his/her performance review which may include the terms of his/her teacher improvement plan that is being challenged; and
- (2) any additional documents or materials relevant to the appeal; and
- (3) the performance review and the teacher improvement plan being challenged

TIMEFRAME FOR DISTRICT RESPONSE

Within **15 calendar days** of receipt of an appeal, the evaluator who issued the performance review must submit a detailed written response to the appeal.

The evaluator's response must include:

- (1) a detailed written response to the appeal addressing the specific area(s) being challenged; and
- (2) any and all additional documents or written materials specific to the point(s) being challenged that support the evaluator's response and are relevant to the resolution of the appeal; if a TIP is in place, then the next step (3) applies
- (3) any modifications to the Teacher Improvement Plan

The teacher initiating the appeal shall receive a copy of the response filed by the evaluator, and any and all additional information submitted with the response.

PANEL APPEAL

If the teacher is not satisfied with the response from the evaluator and the matter has not been resolved to his/her satisfaction, within **15 calendar days** of acknowledging the receipt of the decision of the evaluator, the teacher may request an appeal (Appendix E) to a three-person panel as described herein.

The parties agree to formulate a three-person panel to hear the appeal. The three- person panel will consist of:

- (1) the Superintendent (or his/her designee)
- (2) the PAT President (or his/her designee)
- (3) third panel member to be mutually chosen and agreed upon by the Association and the District from a list to be updated annually.

The initial evaluator shall **not** be a member of the panel. The costs associated with the services of the panel, including expenses, will be shared equally by the parties.

The third party panel member must be chosen within **ten** calendar days of the teacher requesting the appeal to the panel. The panel will meet within the next ten (10) calendar days of being selected.

A member who is appealing before the panel will be allowed to appear before the panel to answer any questions or make a statement to the panel. The time allotted for this will not exceed 15 minutes.

The decision/deliberations of the three-person panel shall be based on a written record which is comprised of:

- (1) the teacher's appeal papers and any documentary evidence accompanying the appeal;
- (2) the evaluator's response to the appeal and any documentary evidence accompanying the response; and,
- (3) A decision will be rendered by the appeal panel within 2 school days of the appeal being heard. The district will then notify, in writing, each teacher of the panel's decision.

A written recommendation of the three-person panel shall set forth the reasons and factual basis for each determination on each of the specific issues raised in the teacher's appeal. Within 2 school days of hearing the appeal, the panel will issue a written recommendation for resolution to the Appellant, Teachers' Association President and the Superintendent of Schools. The recommendation to the Superintendent may be to deny the appeal, to sustain the appeal and grant remedy sought, or to sustain the appeal and modify the remedy; further, the reasoning for the recommendation, as well as dissenting opinions, if any, will be included with the recommendation.

DECISION

A decision shall be rendered by the superintendent of schools or the superintendent's designee except that an appeal may not be decided by the same individual who was responsible for making the final rating decision. In such case, the board of education shall appoint another person to decide the appeal.

A written decision on the merits of the appeal shall be rendered no later than 67 calendar days from the date upon which the teacher filed his or her appeal. The appeal shall be based on a written record, comprised of the teacher's appeal papers and any documentary evidence accompanying the appeal, as well as the school district/BOCES' response to the appeal and additional documentary evidence submitted with such papers. Such decision shall be final.

The decision shall set forth the reasons and factual basis for each determination on each of the specific issues raised in the teacher's appeal. If the appeal is sustained, the reviewer may set aside a rating if it has been affected by substantial error or defect, modify a rating if it is affected by substantial error or defect or order a new evaluation if procedures have been violated. A copy of the decision shall be provided to the teacher and the evaluator or the person

responsible for either issuing or implementing the terms of an improvement plan, if that person is different.

EXCLUSIVITY OF §3012-D APPEAL PROCEDURE

The 3012-d appeal procedure shall constitute the exclusive means for initiating, reviewing and resolving any and all challenges and appeals related to a teacher performance review and/or improvement plan. A teacher may not resort to any other contractual grievance procedures for the resolution of challenges and appeals related to a professional performance review and/or improvement plan, except as otherwise authorized by law.

MISCELLANEOUS

The Regulations of the NYS Commissioner of Education state that tenured teachers with a pattern of ineffective teaching or performance - defined by law as two consecutive annual "ineffective" ratings - may be charged and considered for termination through an expedited hearing process.

The entire appeals record will be part of the teacher's APPR.

RIGHT FOR FUTURE APPEAL PROCEDURE AMENDMENTS

The details of the District's procedure for resolving appeals of annual professional performance review are determined through collective negotiations with the bargaining agent of the covered teachers. Upon the completion of future negotiations, the District's APPR Appeals Procedure may be amended by mutual agreement to reflect changes to the procedure of resolving appeals of annual professional performance review.

J. Duration and Nature of Training Provided to Evaluators, Lead Evaluators & Appeals Panel Members:

The lead evaluator is the primary person responsible for conducting and completing a teacher or principal's evaluation. Typically, the lead evaluator is the person who completes and signs the summative annual professional performance review. To the extent possible, the principal or his/her designee should be the lead evaluator of a classroom teacher. An evaluator is any individual who conducts an evaluation of a teacher including any person who conducts an observation or assessment as part of a teacher evaluation. For teachers, an evaluator must be a principal, other trained administrator. All evaluators shall successfully complete a training course that meets the minimum requirements prescribed by the law and shall include

application and use of teacher practice rubrics selected for use by the parties in evaluations. To be deemed a district Board approved lead evaluator, one must successfully complete a training course, meeting the minimum requirements prescribed in the law and regulations. Other details of the district's training for evaluators, lead evaluators, and appeals panel members, including the duration and nature of such training, the process for certifying lead evaluators, and issues related to the particular practice rubrics selected by the parties, may be amended by mutual agreement to reflect changes to the procedure of annual professional performance review. Nothing herein shall be construed to prohibit an administrator who is a Peru Central School District Board approved evaluator from conducting classroom observations or school visits as part of an annual Professional Performance Review under Chapter 103 prior to completion of the training required by said chapter or the regulations thereunder, as long as such training is successfully completed prior to completion of the Annual Professional Performance review.

K. Savings Clause.

In the event the law changes by any means, including by legislation or court decision/order, the District and Association President shall meet within 15 days of the date such change is enacted to discuss revisions to this procedure. The parties further agree to add a new Section to the Grievance Procedure of the Collective Bargaining Agreement stating as follows: "Nothing regarding the APPR language or APPR/TIP Appeal Procedure shall be grievable under this Article. The Association and District intend and agree that any and all matters pertaining to the APPR/TIP process shall not be subject to the contractual grievance/arbitration procedure."

L. 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.

M. Modification of Grievance.

The Grievance procedure shall be modified to reflect the following:

The parties agree that a teacher shall be precluded from utilizing the grievance procedure in the Collective Bargaining Agreement for a dispute relating from an individual APPR composite score or a dispute involving scope of appeal set forth in Section E(2)a-e . Any such dispute shall be resolved using the Appeals process set forth in section I.

For the District:

For the Association:

Superintendent of Schools

President

Date

Date