

**AGREEMENT**  
**BETWEEN THE**  
**WINCHESTER SCHOOL COMMITTEE**  
**AND THE**  
**WINCHESTER EDUCATION ASSOCIATION**  
**EDUCATION SUPPORT PROFESSIONALS (ESP)**

**September 1, 2019 through August 31, 2022**

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This AGREEMENT entered into this May 2019 by and between the School Committee of the Town of Winchester, hereinafter called the “Employer” and the Winchester School Education Support Professionals’ Association, hereinafter called “The Association”. The Committee and the Association agree that the purpose of this Agreement is to promote harmonious labor relations and that each member of the Association and of the Committee shall be treated with dignity and respect.

## **ARTICLE I** **RECOGNITION**

The Employer recognizes the Association as the bargaining representative of the following unit of employees in accordance with the provisions of G.L. Chapter 150E, and the Employer agrees to negotiate in good faith with the Association concerning wages, hours, and conditions of employment for the following employees: all persons employed in the Winchester School System in positions in which significant part of their duties, including but not limited to, traditional jobs done by the education support professionals (ESP) in Winchester such as: one-on-one aides’ classroom support, all-day kindergarten education support professionals and pre-school education support professionals, supervision of students when teacher is not present for short periods of time and other duties as performed by persons in this unit prior to this time. Excluded from the unit are professional teachers, school administrators and those personnel covered by other contracts such as the Winchester Administrative Assistants’ Association.

## **ARTICLE II** **EMPLOYMENT**

### **Section 1**

As set forth in Article XXXI below, this Agreement is intended to govern the employment of education support professionals for the period commencing September 1, 2019 through August 31, 2022.

### **Section 2**

Employees shall be hired at the discretion of the Superintendent for the first three (3) years of their service in the Winchester Public Schools. Thereafter the education support professionals shall be automatically renewed.

### **Section 3**

The Committee may lay-off Unit members, whose positions have been eliminated because of a reduction in force, including those positions for which the Committee lacks necessary funding. The Committee may also lay-off Unit members originally hired for a specific 1-to-1 assignment should that specific student assignment be eliminated. The lay-off of an education support professional shall be specific to his/her position being reduced or specific to his/her position will be notified by the Committee to the extent possible by June 1, but in no event later than June 30. The laid-off education support professional shall have the right to request a transfer to a vacant position under Article XXII.

#### Section 4

Any education support professional may be dismissed, suspended or reprimanded by the Superintendent for just cause. Just cause shall include failure to perform the job functions of his or her position in a competent manner. No dismissal, suspension, reprimand or reduction in compensation shall be allowed without just cause.

### **ARTICLE III** **GRIEVANCE AND ARBITRATION PROCEDURE**

#### A. Definitions:

1. A “grievance” is hereby defined to mean a dispute involving the meaning, interpretation, or application of this Contract.
2. A “grievant”, except as provided in C. Miscellaneous, 2, shall mean a education support professional with a grievance.
3. “School Days” shall mean calendar days exclusive of Saturday, Sunday and legal holidays.

#### B. Procedure

1. Failure at any step of this procedure to communicate the decision of a grievance within the specified time limits to the aggrieved employee and to the Board of the Association shall permit the aggrieved party or parties to proceed to the next step.
2. Failure at any step of this procedure to appeal the grievance to the next step within the specified time limits shall be deemed to be acceptance of the decision rendered at that step.
3. When a grievance arises, the grievance must be filed within ten (10) school days (or when school is not in session, fifteen (15) calendar days) from the day of the event upon which the grievance is based, or from the date when the employee had or should have had knowledge of the event.
4. A representative of the Association has a right to be present at all steps and to present the grievance if the grievant wishes.

#### (A) Level One

1. A member of the Association with a grievance shall present it in writing to his/her immediate supervisor within ten (10) school days of the event on which the grievance is based.

2. Any meeting with reference to the above shall be held during non-school hours. The supervisor shall respond in writing within five (5) school days of the presentation of the grievance.

(B) Level Two

1. If the grievance is not disposed of to the satisfaction of the aggrieved employee at Level One, or if no decision has been reached within ten (10) school days after presentation of the grievance to the immediate supervisor, the written grievance shall be referred to the Superintendent of Schools or his/her designee within five (5) school days of the disposition under Level One.

2. Within ten (10) school days after receipt of the written grievance by the Superintendent he/she or his/her designee shall meet with the aggrieved employee. If the grievant wishes, a representative of the Association may attend the meeting with the Superintendent or his/her designee. The Superintendent shall respond in writing within five (5) school days of the conduct of the meeting.

(C) Level Three

If the grievance is unresolved the grievant may within ten (10) school days after the date of the Superintendent's decision, submit a written grievance to the School Committee. The School Committee may in its sole discretion schedule a hearing and render a decision.

(D) Level Four

If the School Committee does not schedule a hearing within ten (10) school days (if a hearing is conducted the decision of the School Committee shall be rendered within five (5) school days of the hearing), or if the grievance remains unresolved after a hearing and decision by the School Committee, then the grievant may file a written request for Arbitration with the Massachusetts Board of Arbitration. Any arbitration conducted under this provision shall be conducted in accordance with the Massachusetts Board of Arbitration rules and regulations and shall be between the grievant and the Superintendent of Schools.

Miscellaneous

1. Each written statement of the grievance at Step Two or Three shall be signed by the grievant and shall include a concise statement of the facts or events on which the grievance is based, including the date of the occurrence and an explanation of how the grievance is related to this Agreement.

2. If a grievance affects a group or class of Education Support Professionals, the Association may submit the grievance and the processing of the grievance will be commenced at either Step One or Two at the Association's option. For purposes of this paragraph C.2, "grievance" shall mean a complaint by the Association that as to a designated group or class of Education Support Professionals there has been a violation, misinterpretation or misapplication of this Agreement and "grievant" shall mean the Association. The written statement of the grievance submitted by the Association shall

be signed by the President of the Association and shall contain a statement of the facts or events on which the grievance is based, including the date of the occurrence, a statement of how the grievance affects the designated group or class of education support professionals and how the grievance is related to the Association.

3. It is understood that an employee shall be entitled to initiate a grievance on his/her own and prosecute it in accordance with the terms of this Article, provided that an Association representative shall be afforded the opportunity to be present during such prosecution and provided further that no settlement of an employee's grievance shall be inconsistent with the terms of this Agreement. It is further agreed that no employee shall have the right to commit the Association and/or the School Committee to arbitration pursuant to Level 3 hereunder.

4. The decision of the Arbitrator shall be final and binding upon the parties subject to the provisions of General Law, Chapter 150C, Section 11.

5. No member of the Association will be dismissed from his/her normally scheduled workday to conduct the business of the Association, except to present a grievance to an appropriate person in the School Department, either individually or with a representative of the Association; nor shall he/she conduct the business of the Association from his/her work station. Permission for time away from work to present a grievance must be obtained from the immediate supervisor. Such permission shall not be unreasonably or arbitrarily withheld. The application of this paragraph shall not result in a loss of pay by any member of the Association or those represented by the Association.

6. None of the written grievance material pertaining to a grievance procedure shall be included in an employee's personnel file unless so requested by the employee.

7. The cost of the arbitration shall be shared equally by the Committee and the Association.

**ARTICLE IV**  
**POLICY AND PROCEDURES ON HARASSMENT**  
**(Including Sexual Harassment)**

The policies of the Winchester Public Schools, including those on harassment and sexual harassment, shall be considered a part of this Contract and are hereby incorporated by reference; a copy of the existing policy is attached hereto as Exhibit C.

**ARTICLE V**  
**SALARIES**

**Section 1**

The daily rate of compensation for all employees covered by this Contract appears in Appendix A.

**Section 2**

**Longevity**

|                |            |
|----------------|------------|
| After 5 years  | \$ 525.00  |
| After 10 years | \$ 650.00  |
| After 15 years | \$ 800.00  |
| After 20 years | \$ 1000.00 |
| After 25 years | \$ 1400.00 |

**Section 3**

The COMMITTEE, whenever authorized by any members in writing, shall provide that payroll deductions on behalf of such members shall be made every payday and paid over in accordance with such authorization for any or all of the following purposes:

1. Professional dues.
2. Premiums under the Employee's Group Insurance Program.
3. Premiums under any annuity contract purchased for the member by the Committee.
4. Payments to the Winchester Municipal Federal Credit Union.
5. Premiums for an Income Protection Insurance Plan.
6. Medical and flexible spending plans.

**Section 4**

Education support professionals who are requested by the building principal or Director of Special Education, or by their designees to substitute for a teacher, secretary or librarian for more than two (2) hours per day will receive a flat hourly rate of \$10.00 for over the initial two hour period above their compensation.

In the event that a special education program is understaffed because of the absence of a education support professional or a 1:1 education support professional is absent, special education support professionals may be reassigned within their assigned building to cover for the absence, or to serve other program needs on a short-term basis, not to exceed twenty (20) school days.

**Section 5**

- a. Salary payments to all unit members will be made bi-weekly. Payday will be on Wednesday during the school year. The District may provide unit members with electronic pay advices in lieu of paper advices/pay stubs that will indicate gross bi-weekly payment and all salary deductions made there from.

b. Longevity checks will be issued in a separate check on the first pay period in January.

c. Every effort will be made to have health insurance premiums divided equally.

## **ARTICLE VI** **WORKING CONDITIONS**

### **Section 1**

Employees shall be paid their regular hourly rate for hours worked during the student day and at time and one half (1 ½) their regular straight time pay for all hours over forty (40) hours worked in any week. Employees shall not be required to take compensatory time off in lieu of overtime pay.

### **Section 2**

- A. Employees will work the student day in the morning and will remain at the close of the student day for ten minutes. Employees will have a duty-free lunch break the same length as the students. Unit members who are required by their supervisors to arrive early or remain beyond the required ten (10) minutes will be reimbursed at their regular hourly rate
- B. On early release days with the exception of the day before Thanksgiving, education support professionals will work a full day in order to receive a full day's pay. Education support professionals will notify their immediate supervisor whether or not he/she intends to work on the half days. Those who choose not to work the full day will only be paid for the hours worked. Unit members will confirm by sign off, on a form provided by the administration, that they worked the early release afternoons.

### **Section 3**

These employees will work the instructional year as established by the Winchester School Committee with one (1) extra day added at the beginning of the school year as well as two (2) extra days added for professional development during or at the end of the school year.

### **Section 4**

All Unit members shall be allowed only one fifteen (15) minute work break during their scheduled morning work hours. Scheduling of this work break shall be at the reasonable discretion of the unit member's supervisor.

### **Section 5**

Any complaint regarding an employee reported by a parent, student, or other person requiring administrative action shall be promptly called to the attention of the employee before any administrative action is taken. This section will not be construed to prevent the administration from conducting an investigation before the complaint is brought to the attention of the employee. In the course of reprimand or discipline by a member of



the administration, the employee may request that a representative of the Association be present. No education support professional shall be disciplined, suspended, reprimanded, reduced-in-rank or compensation without just cause.

#### Section 6

Every reasonable effort will be made to notify each education support professional by June 15 of his/her assignment for the subsequent school year.

#### Section 7 (Meetings)

All employees covered by this Contract may be expected to attend faculty meetings as called by the building principal. Notice of these meetings shall be provided one week in advance and an agenda will also be provided two (2) days in advance. Meetings without such notice will be called only in the event of an emergency. Unit members shall attend no more than twelve (12) faculty meetings per year (unless an additional emergency meeting is called by the building principal).

#### Section 8 (Orientation)

The President shall be given two (2) hours on the "Welcome Back Day" to help orient new employees to the Unit. The Winchester School Committee shall provide an orientation packet.

#### Section 9 (Professional Development)

Unit members may submit ideas (in writing) for professional development subjects for the following school year to the Assistant Superintendent by the last school day in April. Administration will take any such suggestions into account in the preparation of the Professional Development course offerings, a preliminary list of which will be made available to members on first day of school. While the Administration welcomes Professional Development input from employees, it is not bound to accept or incorporate them into the program. If professional development offered to the teachers is applicable for the education support professionals, they will be able to attend and earn PTP's (Professional Training Points) for their participation.

## **ARTICLE VII** **SICK LEAVE**

#### Section 1

First year employees in the bargaining unit shall be allowed one and five tenths (1.5) sick days a month, for an annual total of 15.

- a. Employees in the Bargaining Unit whose hire date is before September 1, 2019 may accumulate sick leave up to a total of two hundred fifty (250) days credit."

b. Employees in the Bargaining Unit whose hire date is on or after September 1, 2019 may accumulate sick leave up to a total of one hundred eighty five (185) days credit.

### Section 2 Sick Leave Bank

a. At the commencement of each school year the Committee shall establish a fund of hours to be called the Sick Leave Bank. The Sick Leave Bank shall have 350 hours available to any education support professional qualifying therefore, who, because of illness or injury has exhausted his/her own such leave, both current and accumulated.

b. The Sick Leave Bank will be administered by a Sick Leave Bank Committee consisting of four (4) members. Two members will be appointed by the Education Support Professionals and two members will be appointed by the School Committee.

c. The Committee shall utilize the following criteria in administering the Bank and determining eligibility and amount of leave.

- 1) Submission of the School Department Health Form (s) and/or information from the applicant's personal physician.
- 2) History of prior use of sick leave.
- 3) Days will not be granted for elective procedures that can be deferred.
- 4) An initial grant of sick leave by the Board shall not exceed thirty (30) school days. If need continues, reapplication to the Board may be made for further extensions up to a maximum of thirty (30) days each.

d. The decision of the Sick Leave Bank Board with respect to eligibility and entitlement shall be final and binding and not subject to appeal except for reconsideration to the Board itself.

e. All unused sick leave days left by an employee who leaves or who is let go will be put into the sick leave bank.

f. Unused days in the Sick Leave Bank will be carried over from year to year. Unused hours donated by the School Committee will be returned at the end of each school year.

g. In order to be eligible or qualify for the Sick Leave Bank, an employee must have been employed by the School District as a education support professional for a minimum of one school year.

Section 3 – Family Medical Leave Act

The Family Medical Leave Act (FMLA) is herein incorporated by reference and a synopsis of the Act for information purposes only is contained in Appendix B.

Section 4 – Worker’s Compensation

When a member of the Unit is absent from work because of an injury that is compensable under the Worker’s Compensation Act, the Unit member will be able to use his/her own accumulated sick leave and the sick leave bank to maintain full salary. Days so used will be calculated on a pro-rata basis. When the Unit member is absent because of a personal injury not due to his/her own negligence, received by him/her as a result of an assault or battery incurred during the course of his/her employment, the Committee shall grant personal injury leave under the provisions of Article XVII, Education support professional Protection, and there shall be no deduction of sick days.

**ARTICLE VIII**  
**LEAVES OF ABSENCE WITH PAY**

Three (3) days of leave of absence per year shall be granted by the Employer to all employees covered by this Agreement who have completed their probationary period. Four (4) days of such unused leave may be carried over to the succeeding year, but there shall be no more than four (4) days of leave taken in any one year. Employees shall give the Employer three (3) working days’ notice of intent to use such days, but in case of emergency or for other valid reason, such notice may be waived by the supervisor or principal.

**ARTICLE IX**  
**EMERGENCY LEAVE**

EMERGENCY

Section 1

At the discretion of the Superintendent or his/her designee, employees may be excused for periods not to exceed three (3) days with full pay for reasons of emergency such as, but not limited to, serious illness in the immediate family, defined as spouse, child, mother, father, brothers, sisters in fact or in law, close relatives residing with the employees (grandparents), a stepchild, stepmother, stepfather, stepbrother, stepsister or foster child of an employee. In the case of grandparents not living with an employee the said discretionary emergency leave shall not exceed one day with full pay. Emergency leave shall not be unreasonably withheld.

This leave may be extended by the 2-4 personal days that the employee has at this time and 5 days from Sick Leave.

Section 2

An employee covered by this Agreement shall be granted five (5) days bereavement leave in the case of a death in his/her immediate family. Immediate family is defined as spouse, child, mother, father, brothers, sisters, in fact or in law, close relatives residing with the employee (grandparents, a stepchild, stepmother, stepfather, stepbrother, stepsister or foster child of an employee). In the case of grandparents not living with an employee, the said bereavement leave shall not exceed one day with full pay.

Section 3

Under unusual conditions, extension of time may be granted by the Superintendent.

**ARTICLE X**  
**COURT LEAVE**

Court leave of absence will be granted by the Superintendent or his/her designee to an employee who is called to serve on the jury or is summoned to appear in court as a witness. The difference between any fees received therefore and his/her regular rate of compensation will be paid by the Town. Such leave will be granted only for the period of such jury service or for the period during which the employee is required to be in court as a witness on a school district related case.

**ARTICLE XI**  
**OTHER PAID LEAVE**

**MILITARY SERVICE**

Employees who serve in the Armed Forces of the Commonwealth or as a member of a reserved component of the Armed Forces of the United States, under orders, shall be allowed the difference between base pay they may receive for such service and their regular rate of compensation from the Town for a period of not more than seventeen (17) calendar days of military leave attributable to their annual tour of military duty. Releases from work to serve the Commonwealth or the Armed Forces shall not affect an employee's leave of absence or vacation with pay and the employee shall receive the same leave of absence or vacation with pay given to other employees.

**ARTICLE XII**  
**LEAVE WITHOUT PAY**

Employees covered by this Contract shall be eligible to take a leave of absence without pay for two (2) weeks during each year under Article VIII of this Agreement. The employee has the privilege of selecting the time of absence, subject to giving reasonable notice in writing and securing the approval of the supervisor. The approval of the supervisor shall not be unreasonably withheld. The exercise of the right afforded to an employee under this paragraph shall not deprive the employee of the right to request

additional leave of the Superintendent. Requests for longer periods than two weeks of unpaid leaves of absence require prior approval of the Personnel Board. This provision of the collective bargaining agreement will not apply to employees who are first hired by the Winchester Public Schools after September 1, 2014.

**ARTICLE XIII**  
**USE OF SCHOOL DEPARTMENT BUILDINGS**

Upon making arrangements with the Assistant Superintendent for Personnel and Management (in case of the Administration building) and with the building principal (in case of a school building) the Association may use a room at reasonable times and without cost for conducting Association business.

**ARTICLE XIV**  
**PERSONAL SAFETY**

The School Committee shall take reasonable precautions to have a custodian or other person in the building during working hours to assure, whenever foreseeable, that an employee covered by this Agreement shall not be the sole occupant of a building, provided said employee has been required to work.

**ARTICLE XV**  
**CAR USE AND MILEAGE**

Any employee covered by the terms of this Agreement who services more than one school shall be entitled to a car allowance as follows: \$20.00 per month.

**ARTICLE XVI**  
**HEALTH AND INSURANCE PLAN**

Employees shall be entitled to participate in hospital, surgical, medical and other benefits and in group insurance provided for the benefit of Town employees. **By the beginning of year three in the 2010-2013 WEA agreement, the Town/Employee split of health insurance payments migrated to:**

| <b><u>Type of Plan</u></b> | <b><u>Percentage Split/Share</u></b> |
|----------------------------|--------------------------------------|
| <b>Individual</b>          | <b>75/25</b>                         |
| <b>Family Plan</b>         | <b>75/25</b>                         |

**ARTICLE XVII**  
**EDUCATIONAL ALLOWANCES**

**Section 1**

Employees of this Bargaining Unit shall be entitled to take Adult Education courses given by the School Department of the Town without payment of fees. The Employer agrees to reimburse employees covered by this Agreement for tuition expenses paid by them for courses of study attended by them relating to their positions which have been approved in advance by the Superintendent or a representative designated by him/her to give such approval.

**Section 2**

Employees authorized by the Superintendent to attend professional development courses, institutes, and conferences to improve job performance shall be reimbursed for expenses incurred for such authorized attendance and shall suffer no loss of pay for working time lost by reason of such attendance. All current employees hired before June 2002 and who are currently enrolled in a college degree program will get full reimbursement for all courses taken to complete that program. All employees hired after 2002 will be eligible to receive up to \$900.00 annually for tuition reimbursement. All employees hired after September 1, 2014 will be eligible to receive up to \$1200.00 over a three year period for tuition reimbursement on courses that are approved, in advance, by the Assistant Superintendent.

**Section 3**

Education support professionals who work full-time and reside outside of Winchester may request School Committee approval to allow their child/children to be enrolled in the Winchester Public Schools (WPS) without cost, on a space available basis, and so long as no additional staff is required as a result of the child's enrollment. In cases where Winchester parents are required to pay a fee or tuition for certain programs or services, children of staff members enrolled in the WPS, under this Article, will be required to pay the fee as well. Under this Article, the School Committee, in its sole discretion, may develop protocols and procedures regarding student placement. This provision of the collective bargaining agreement (Section 3) will not apply to employees whose hiring by the Winchester Public Schools and whose start dates are after September 1, 2015.

**Section 4**

The employer shall provide each employee in the Bargaining Unit the opportunity to take a course in first aid training. The costs or loss of pay shall be incurred by the employee taking this course. The employer shall furnish and keep available in each school for the employee, written guidelines and procedures to be followed in care of sick or injured in the absence or unavailability of a nurse or doctor and in accordance with General Laws of the Commonwealth covering such procedure. Employees of this Bargaining Unit shall not be responsible for making judgments in the care of sick or injured children except in an emergency; nor shall they administer medication of any kind. The Employer shall indemnify and hold harmless all members of the Bargaining Unit acting within the scope of their employment of and from any and all loss, claims, damage and/or expense that

any employee may suffer and/or incur by reason of such employee attempting to care for any sick or injured children. However, there will be no indemnification for employees acting outside their scope of employment and/or for acts which constitute intentional torts and/or civil rights violations.

### **ARTICLE XVIII** **VACANCIES AND PROMOTIONS**

The Committee agrees that all notices regarding employment opportunities either in the Winchester School Department or for other positions offered through the auspices of the School Department shall be posted on the Winchester Public School Distribution list and on SchoolSpring or an equivalent site publicized by the Superintendent by means of a vacancy notice which shall clearly set forth the qualifications for the position, its duties, and other relevant criteria. All postings referenced in this Article will be executed in this manner.”

The Employer shall post notice of vacancies and invite applications from employees promptly upon learning that a vacancy exists or will occur and at least seven (7) working days before filling the vacancy. In filling vacancies and in making promotions, the Employer shall consider the performance skills, abilities and qualifications of applicants and their length of service in the Winchester school department. Any Unit C member with required certification applying for a Unit A position will be granted an interview.

### **ARTICLE XIX** **POSTING OF VACANCIES**

The Committee agrees that all notices regarding employment opportunities either in the Winchester School Department or for other positions offered through the auspices of the School Department shall be posted in locations, such as the Principal’s office, where all members of the Bargaining Unit work and would normally see such notices. In addition e-mail notices of vacancies and advertisements will be sent to Unit members via the TA conference.

The President shall also receive a notice of all vacancies and who is chosen to fill the vacancies.

**ARTICLE XX**  
**PARENTAL LEAVE**

**Section 1**

Upon receipt, from a member of the Unit, of at least two (2) weeks' written notice of her anticipated date of departure and intention to return, the School Committee shall grant a parental leave of absence without pay for up to eight (8) weeks, in accordance with the provisions of Massachusetts General Laws, Chapter 149, Section 105D.

**Section 2**

In the event that a member of the Unit desires to take a parental leave longer than the statutory period listed in Section 1 above, she shall notify the Superintendent of Schools of her anticipated dates of departure and return from leave at least five months in advance of such departure.

**Section 3**

The member of the Unit may continue in her assigned position as long as, in the opinion of her physician, her physical condition and ability to perform her tasks allow.

**Section 4**

At the commencement of the extended leave, the employee will inform the Superintendent whether she will return to work the September first following the birth or adoption of the child (or the subsequent September first, if the education support professional has been employed for more than two (2) years). On or before the March 1 prior to the scheduled date of return, the member of the Unit will notify the Superintendent of her intention to return or her intention to retire from the school system. Failure to file such notice will be deemed a resignation from the System.

**Section 5**

In the event of unforeseen circumstances, the member of the Unit may make written application for reinstatement prior to the expiration of her requested parental leave. Said application shall, at the discretion of the Superintendent, be accompanied by a physician's statement of good health in the case of parental leave. Said early reinstatement may be granted by the Committee in the case of an acceptable vacancy upon the recommendation of the Superintendent.

**Section 6**

A member of the Unit returning from parental leave shall be returned to the same position or to a level or position substantially the same as that position which she held prior to the commencement of her parental leave. All benefits to which the education support professional was entitled prior to her leave shall be restored to her.



**ARTICLE XXI**  
**REDUCTION IN FORCE**

Persons covered by this Contract for more than fourteen (14) years shall not be RIFED. Other employment as an education support professional shall be found for them in the System.

- a. In the event that it is necessary to eliminate a position and/or reduce force, notice shall be given at least thirty (30) days prior to the effective day of the reduction. Staff may be assigned to and/or granted an interview for other positions for which they are qualified. For unit members in continuous employment for five years or more, seniority will be made a consideration. The superintendent's decision of qualification is final and shall not be subject to grievance and/or arbitration."
- b. A seniority list will be prepared by the Superintendent or Director of Personnel and sent to the Association President on or before November 1 of each school year.

**ARTICLE XXII**  
**TRANSFERS, VACANCIES AND PROMOTIONS**

Section 1

Education support professionals who desire a transfer will submit a written request for such transfer to the Superintendent no later than the June 1 preceding the school year for which the transfer is requested. As soon as practical, and normally not later than August 1, the Superintendent will notify the education support professional of the disposition of the request. The wishes of the individual education support professional will receive fullest consideration, but the needs of the school system will be the controlling factor as decided by the Superintendent. The Superintendent's decision shall not be subject to arbitration.

Section 2

When involuntary transfers are necessary, a education support professional's skills, quality of performance and length of service in the Winchester school system will be considered. An involuntary transfer will be made only after a meeting between the education support professional involved and the Superintendent of his/her designee, at which time the education support professional will be notified of the reason for such transfer. When involuntary transfers are necessary, reasonable effort will be made to transfer the education support professional to a comparable position or level of responsibility. Reasonable effort will be made to hold such transfers to a minimum, and such transfers will be made only for the good of the system.

Section 3

When a vacancy in an education support professional position occurs during the school year (September to June), the Committee agrees vacancies shall be posted on the Winchester Public School Distribution list and on SchoolSpring or an equivalent site

publicized by the Superintendent. The qualifications for the position, its duties and the rate of compensation will be clearly set forth.

#### Section 4

All education support professionals will be given an opportunity to make application for positions in the Unit and those applying will be granted an interview by the Superintendent or his/her designee. In filling such vacancies and/or positions, first consideration will be given by the Superintendent to members of the Unit. The Superintendent may award the position to an outside applicant provided there is no qualified applicant from the Unit. Qualified shall mean ability, performance and skill level commensurate with the qualifications and responsibilities set forth in the position posting. The Superintendent shall be the sole judge of qualifications, provided that such judgment shall not be exercised arbitrarily or capriciously. If two or more members of the bargaining unit apply and are found equally qualified, the position will be awarded to the most senior qualified applicant from the Unit. For purposes of this provision, the Superintendent shall maintain a list of all employees laid off through a reduction in force during the previous sixteen (16) months. These employees shall be considered members of the "Unit" for purposes of the provisions and shall be afforded the same rights and opportunities to receive notice of open positions and shall be entitled to the equivalent deference in hiring. In the event employees from this list are rehired they shall assume their position at the same rate and pay scale as if there had been no gap in their service.

#### Section 5

Appointments will be made without regard to age, race, creed, color, religious creed, national origin, marital status, gender or sexual orientation.

#### Section 6

The Committee agrees that all notices regarding employment opportunities either in the Winchester School Department or for other positions offered through the auspices of the School Department shall be posted on the Winchester Public School Distribution list and on SchoolSpring or an equivalent site publicized by the Superintendent by means of a vacancy notice which shall clearly set forth the qualifications for the position, its duties, and other relevant criteria. All postings referenced in this Article will be executed in this manner

After ninety (90) days, temporary education support professional positions not created due to illness or absence of regular employees shall be posted either as temporary or permanent positions.

In the event of an opening created by illness of an education support professional who will be out for at least twenty (20) days, the vacancy created by his/her illness should be filled as a temporary opening as soon as possible after the beginning of the illness.

When it becomes necessary to fill (temporarily) an education support professional position not created by illness or absence of regular employees, The School Committee

shall provide written notice to the education support professional Unit of its intention to fill the position. Such notice shall be given prior to filling the position and shall include an estimation of the time the temporary position may remain filled.”

Section 7

Credit will be given for any previous education support professional experience but only upon initial employment, when hired by the Superintendent of Schools.

**ARTICLE XXIII**  
**MISCELLANEOUS PROVISIONS**

Section 1

Neither the Committee nor its agent shall enter into any Agreement with any individual employee in the bargaining unit which is contrary to the terms of this Agreement.

Section 2

No modification or alteration of the terms of this Agreement shall bind the parties hereto unless made and executed in writing by them.

Section 3

The failure of either party hereto to insist upon compliance with any of the terms of this Agreement on any occasion shall not be construed to be waived by that party of its right to insist upon compliance with such terms in the future.

**ARTICLE XXIV**  
**CONTINUATION OF AGREEMENT**

Except as otherwise separately provided by terms of this Agreement, all present job benefits, practices and customs relating to wages, hours, and conditions of employment as language is presently there found interpreted between members of the Association shall continue for the duration of this Agreement.

**ARTICLE XXV**  
**STATUS OF EMPLOYER AND ASSOCIATION**

Section 1

The School Committee is a public body established under and with powers provided by the Statutes of the Commonwealth of Massachusetts, and nothing in this Agreement shall be deemed to derogate from or impair any power, right or duty conferred upon the Committee by Statute or by lawful regulation of any agency of the Commonwealth having authority over the School Committee. The Association is an unincorporated labor organization authorized to bargain collectively for employees of the School Committee described in Article I of this Agreement, as to wages, hours and conditions of employment, pursuant to Massachusetts General Laws, Chapter 150E.

Section 2

Communications for the School Committee shall be addressed to the Chairman of the School Committee, Administration Offices, 40 Samoset Road, Winchester, MA 01890.

Communications to the Association shall be addressed to its designated representative at the address furnished to the Office of the Superintendent of Schools by the Association.

**ARTICLE XXVI**  
**NON-DISCRIMINATION**

The Committee will not discriminate against any employee because of age, race, religious creed, color, national origin, gender, sexual orientation, physical or mental handicap, or for any conduct protected by Massachusetts General Laws, Chapter 150E.

**ARTICLE XXVII**  
**PAYROLL DEDUCTION**

The Committee, whenever authorized by any employee in writing, shall provide that payroll deductions on behalf of such employees shall be made every payday and paid over in accordance with such authorization for any or all of the following purposes.

1. Professional dues of the Association.
2. Premiums under the Employees Group Insurance Program
3. Premiums under any annuity contract purchased for the employee by the Committee.
4. Premiums for an Income Protection Insurance Plan.

**ARTICLE XXVIII**  
**HEALTH AND SAFETY COMMITTEE**

All employees shall be provided a procedure in writing for the purposes of making complaints regarding unfair, unhealthy or unsanitary working conditions. These complaints shall be made to the Building Principal.

**ARTICLE XXIX**  
**STAFF PROTECTION**

**Section 1**

Employees shall report in writing to their immediate supervisor any case of assault in connection with their employment. The immediate supervisor shall acknowledge receipt of such report and shall forward this information to the Superintendent.

**Section 2**

The alleged assault will be promptly investigated by the employee's immediate supervisor and the Superintendent or his/her designee. The report of this investigation shall be forwarded to the Committee, which shall take whatever action it deems appropriate.

**ARTICLE XXX**  
**EVALUATION**

Each building Principal shall be responsible for the observation and evaluation of all education support professionals assigned to his/her building. In Special Education, the appropriate Director or Supervisor shall be jointly responsible with the Principal. An Assistant Principal may assist in the observation and evaluation of such education support professionals as directed by the Principal. Verbal input from building teachers may be requested to assist in the evaluation process.

Evaluations will be conducted no more than once per year except in the case of new employees or employees with performance issues.

**ARTICLE XXXI**  
**BUY BACK SICK LEAVE**

The employee with a start date prior to September 1, 2016 who retires, or dies after ten (10) years of service will be allowed to "buy back" any sick leave over 50 days at \$25.00 per day. The employee with a start date on or after September 1, 2016 who retires, or dies after ten (10) years of service will be allowed to "buy back" any sick leave over 100 days at \$25.00 per day.

**ARTICLE XXXII**  
**SCOPE OF THE AGREEMENT**

This Agreement has been negotiated by the parties in good faith and is intended to govern the terms and conditions of the employment of Education Support Professionals in the Winchester Public Schools. The Agreement does not create any right to employment and the School Superintendent shall review the needs of the system on an annual basis and

make offers of employment for the subsequent school year based on those needs and consistent with the provisions of this Agreement.

**ARTICLE XXXIII**  
**DURATION**

This Agreement shall be effective as of September 1, 2019 and will remain in full force and effect until August 31, 2022. Should the parties fail to agree on a new contract by September 1, 2022, the current Agreement will remain in full force and effect until a new Agreement is negotiated.

**New Items**

1. Joint Labor Management Committee: A joint Labor-Management Committee will be established to develop an instrument for the supervision and evaluation of unit members as well as evaluation language. This committee will begin its work no later than October 15, 2019.
  
2. Professional Development Committee: A joint labor-management committee will be established to determine upon which two (2) professional development days unit members will be in attendance each year. The committee will convene at the close of each school year and make its decision for the upcoming school year no later than the last business day each July.

**APPENDIX A**  
**SALARY SCHEDULE**

**Hourly Salary Schedule effective  
September 1, 2019 through August 31,  
2022  
for all Education Support Professionals  
(ESPs):**

|             | <b>FY2020<br/>Effective<br/>September 1,<br/>2019- August<br/>31, 2020<br/>1.5%<br/>Increase</b> | <b>FY2021 Effective September 1, 2020-<br/>August 31, 2021      2.5% Increase</b> | <b>FY2022<br/>Effective<br/>September 1,<br/>2021-<br/>August 31,<br/>2022<br/>2.0%<br/>Increase</b> |
|-------------|--|---|--|
| <b>Step</b> | <b>Year 1</b>  | <b>Year 2</b>   | <b>Year 3</b>  |
| 1           | \$21.98  | \$22.53   | \$22.98  |
| 2           | \$22.64  | \$23.21   | \$23.67  |
| 3           | \$23.31  | \$23.90   | \$24.37  |
| 4           | \$24.01  | \$24.61   | \$25.10  |
| 5           | \$24.73  | \$25.35   | \$25.86  |
| 6           | \$25.10  | \$25.73   | \$26.25  |
| 7           | \$25.48  | \$26.12   | \$27.03  |

**APPENDIX B**  
**THE FAMILY MEDICAL LEAVE ACT OF 1993**

Parental Leave Rights and Benefits

A female employee who has completed the initial probationary period set by the terms of her employment, or, if there is no such probationary period, has been employed by the same employer for at least three consecutive months as a full-time employee, who is absent from such employment for a period not exceeding eight weeks for the purpose of giving birth, or for adopting a child under the age of eighteen or for adopting a child under the age of twenty-three if the child is mentally or physically disabled, said period to be hereinafter called parental leave, and who shall give at least two weeks' notice to her employer of her anticipated date of departure and intention to return, shall be restored to her previous, or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of her leave. Said parental leave may be with or without pay at the discretion of the employer.

Such employer shall not be required to restore an employee on parental leave to her previous or a similar position if other employees of equal length of service credit and status in the same or similar position have been laid off due to economic conditions or other changes in operating conditions affecting employment during the period of such parental leave; provided, however, that such employee on parental leave shall retain any preferential consideration for another position to which she may be entitled as of the date of her leave.

Such parental leave shall not affect the employee's right to receive vacation time, sick leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which she was eligible at the date of her leave, and any other advantages or rights of her employment incident to her employment position provided, however, that such parental leave shall not be included, when applicable, in the computation of such benefits, rights, and advantages; and provided, further that the employer need not provide for the cost of any benefits, plans, or programs during the period of parental leave unless such employee so provides for all employees on leave of absence. Nothing in this Section shall be construed to affect any bargaining agreement or company policy which provides for greater or additional benefits than those required under this Section.

A notice of this provision shall be posted in every establishment in which females are employed.

For the purposes of this Section, an employer shall be defined as in Subsection 5 of Section 1 of Chapter 151B. Added by St. 1972, c790, s. 1; St. 1984, c 423; St. 1989, c 318.



**APPENDIX C**  
**POLICY AND PROCEDURES ON HARASSMENT**  
**(Including Sexual Harassment)**

The Winchester Public Schools is committed to providing faculty, staff and students an environment which allows them to pursue their careers and studies in physical and emotional safety. Therefore schools and offices must be free of any type of harassment or physical threat to well-being. All persons associated with the school system, including but not limited to, the School Committee, the administration, faculty, staff and students are expected to conduct themselves at all times so as to provide an atmosphere free from harassment. These same individuals are strongly encouraged not to tolerate, even by silence, any violation of this policy by others.

**Definition of Harassment**

Harassment refers to conduct, behavior, or comments that are personally offensive, degrading, or threatening to others. This Policy refers to, but is not limited to, insulting or harmful comments or actions based on a person's race, gender, religion, sexual orientation, national origin, physical characteristics, or disability. Examples of harassment include, but are not limited to, name calling, threats, unsolicited physical contact, unwelcome and insulting comments and gestures, and the display or circulation of written materials or pictures that are degrading or offensive to any individual, ethnic, racial, religious or gender group.

Sexual harassment is a form of discrimination which is included in this policy and, as defined here, is illegal and is a violation of Title VI of the 1964 Civil Rights Act and the Massachusetts General Laws, C. 151, (B) Section 4. In addition, the Massachusetts Fair Education Practices Law and Title IX of the Federal Education Amendments of 1972 make any form of sexual harassment in any program of study in any institution an unfair educational practice. For purposes of this policy, sexual harassment is defined as follows:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly as term or condition of an individual's employment, academic work or participation in extra-curricular activities.
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment.

**Procedures for Reporting Harassment**

In determining whether an alleged incident constitutes harassment, the building principal (unless involved as a party) will serve as the hearing officer vested with the authority and responsibility of processing all sexual harassment complaints in accordance with the following procedures. The following steps should be followed in the reporting/resolution process. In attempting to reach a resolution, the totality of circumstances including the developmental level and age of the students involved will be considered.