

AGREEMENT

BETWEEN THE

**SCHOOL COMMITTEE
OF THE
TOWN OF MARBLEHEAD**

AND THE

MARBLEHEAD EDUCATION ASSOCIATION

Unit - Tutors

September 1, 2018 – August 31, 2021

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MARBLEHEAD EDUCATION ASSOCIATION

Unit: Tutors

AGREEMENT made and entered into on the day of by and between the Marblehead School Committee, hereinafter referred to as the "Committee" and the Marblehead Education Association, MTA/NEA, hereinafter referred to as the "Association".

ARTICLE I RECOGNITION

The Committee hereby recognizes the Association as the sole and exclusive bargaining representative for the purpose of collective bargaining (as provided by Chapter 150E of the General Laws of the Commonwealth of Massachusetts) for all full-time and part-time tutors regularly working 15 or more hours per week for the Marblehead School District.

ARTICLE 2 MANAGEMENT RESPONSIBILITY

The listing of the following specific rights of management in this Article is not intended to be nor shall be considered restrictive of or as a waiver of any rights of the Committee/Administration not listed herein. Such managerial responsibilities shall remain exclusive with the Committee/Administration except as they may be modified by the specific provisions of this Agreement.

Among such management responsibilities as are vested exclusively in the Marblehead School District are the following: the right to hire, promote, transfer, assign and retain employees in positions with the District to suspend, demote, discharge or take other disciplinary action against employees to evaluate employees, to determine the hourly, daily and weekly schedules of employment, to relieve employees from duty because of lack of work or other legitimate reasons, to make, administer and enforce work rules and regulations, to determine the method, means and personnel by whom Marblehead School District's operations are to be conducted and to take whatever action may be necessary to carry out the work of the Committee/Administration in situations of emergency.

The Committee/Administration shall have the freedom of action to discharge its responsibility for the successful operation of tutor work including the scheduling of operations, the methods, materials and equipment used in carrying out the functions of such work and the extent to which its own or other facilities, equipment or personnel shall be used.

Any of the rights, powers and authorities which the Committee/Administration had prior to entering this collective bargaining agreement are retained by the Committee/Administration, except as specifically modified by this Agreement.

Nothing contained in this Agreement is to be construed as in any way granting or waiving rights or responsibilities of the Committee/Administration which may not be granted or waived by the Committee/Administration under the statutes of the Commonwealth of Massachusetts or any applicable Town Ordinance.

ARTICLE 3 HOURS OF WORK

The Committee/Administration retains the right to establish and change for each employee the number of hours in the workday, the starting and quitting times, the number of hours in the work week and the length of the work year.

In the event the hours that an employee actually works are reduced because of a delayed opening of schools caused by inclement weather or an emergency situation, the employee shall be compensated for such reduced hours at his/her regular hourly rate of pay.

Tutors at the high school and middle school who teach a class will receive one preparation block at the discretion of the principal each day. Full time tutors will receive an unpaid duty free lunch period.

ARTICLE 4 PROBATIONARY PERIOD- YEARLY APPOINTMENT

Each new employee and each employee hired after a break in service shall be considered as a probationary employee until he/she shall have actually worked seventy five (75) full days. Probationary employees may be disciplined, discharged or otherwise terminated in the sole discretion of the Committee/Administration and such action shall not be subject to the grievance and arbitration provisions of this Agreement.

Employees hired by the Marblehead School District shall be considered hired for one (1) school year term only. (The school year in which the employee commences work.) Similarly, reappointments shall be for only one (1) school year. The decision of the Marblehead School District as to whether to reappoint the employee each year shall be in the sole discretion of the Marblehead School District and the District's decision thereon shall not be subject to the grievance and arbitration provisions of this Agreement.

By May 15th, a list of expected positions will be posted. Employees who have received a satisfactory evaluation will be considered for employment in the succeeding year and need not submit an application unless a different position from that previously occupied is desired. Employees shall be notified, in writing, by the Marblehead School district by June 15th as to their appointment for the next academic year. If there is to be a reduction in the number of tutors, the School District will attempt to give notice by June 15th. Employees who are not notified by the Marblehead School District by the last day of school as to whether they have been reappointed should be deemed not reappointed. Notification to those appointed shall to the extent known, include the assignment, the location and the hours.

Disciplinary action taken against any employee upon expiration of his/her probationary period and prior to the expiration of his/her yearly appointment (first year and subsequent years) shall be subject to a just clause standard.

Examples:

1. Discharge or other disciplinary action within the probationary period-not arbitral
2. Employee not reappointed – not arbitral
3. Employee discharged (disciplinary) subsequent to probationary period- just cause standard.
4. Employee terminated during year (non-disciplinary) not arbitral.

ARTICLE 5 JOB POSTING

Whenever a permanent vacancy in positions covered by the Agreement occurs and the District desires to fill such vacancy, the Marblehead School District shall post a notice of vacancy in each school for a period of five (5) working days. All employees who are interested in bidding on the vacancy must apply in writing during this five (5) day period.

The Marblehead School District may fill said vacancy from applicants from within or outside of the bargaining unit and the District’s decision thereon shall not be subject to the grievance and arbitration provisions of this Agreement. In the event the District fills said job from within the bargaining unit, the vacancy created in the successful applicant’s position and any further such vacancies that might occur shall not be subject to posting. In other words, paragraph one (1) of this Article shall only apply to the original vacancy.

The provisions of this paragraph shall not apply to reappointments.

ARTICLE 6 COMPENSATION

A. Hourly Pay Schedule

2018 9/1/18 Tutor Salary Table

Tutor 2%

Step	1	2
	1	2
	22.79	26.77

2019 9/1/19 Tutor Salary Table

Step	1	2
	1	2
	23.35	27.44

2020 9/1/20 Tutor Salary Table

Step	1	2
	1	2
	23.94	28.12

Employees become eligible for placement on the Step 2 after three full school years of service in Marblehead.

- B. For the purpose of placement on the salary schedule, the Superintendent may at his or her discretion, place new employees no higher than the second step on the salary schedule based upon documented work-related experience. The Superintendent's exercise of this discretion may not be subject to challenge.
- C. Tutors for long term home tutoring shall be paid at the rate of \$33.00 per hour if the Tutor is certified/licensed as a teacher by the Massachusetts Department of Elementary and Secondary Education (DESE). Tutors for long term home tutoring who are not certified/licensed as a teacher by DESE shall be paid at such Tutor's rate of pay as provided for in Article 6A..
- D. Tutors performing bargaining unit work during the summer shall be paid at such Tutor's rate of pay as provided for in Article 6A.
- E. The parties agree that effective September 1, 2015, the District shall implement mandatory direct deposit for all bargaining unit employees.

**ARTICLE 7
MILEAGE**

Tutors who are required to use their automobiles in the performance of their duties shall be reimbursed for all such required travel at the rate of \$.56 per mile (commuting mileage not covered).

**ARTICLE 8
SICK LEAVE**

Employees shall be entitled to accrue sick leave at the rate of one (1) day per month of active employment but not to exceed ten (10) days in one (1) academic year. 2011-2012 sick days will be increased by one day to a total of 11 days.

Maximum accumulation of sick leave shall be sixty (60) days. Sick leave may only be used for personal injury or sickness.

**ARTICLE 9
HOLIDAYS**

Employees in their second year and subsequent years of employment shall be entitled to six (6) paid holidays each year. The holidays will be determined by June 16th of the preceding year by an MEA member and the Superintendent or his/her designee.

**ARTICLE 10
TEMPORARY LEAVES OF ABSENCE**

A. FUNERAL LEAVE

In the case of death of the employee's husband, wife, brother, sister, son, daughter, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle and other member of the employee's immediate household, the School Administration shall grant the employee a leave of absence without loss of pay for a period of up to five (5) days (i.e., the employee does not automatically receive five (5) days but shall be granted a leave of absence of between one (1) and five (5) days).

B. PERSONAL DAYS

Each employee shall be entitled to two (2) personal days per contract year for imperative personal business, legal business, or imperative household or imperative family matters which necessitates the employee's presence and cannot be scheduled outside of work hours. The employee will give at least forty-eight (48) hours' notice, when possible. Notice of the taking of such leave shall be given on the form attached as Exhibit "A." Generally, days immediately proceeding and immediately following holidays or vacation shall not be used.

C. OTHER LEAVES

All requests for leave of absence, whether paid or unpaid, shall be made in writing to the Superintendent and are subject to his or her approval. The denial of any such approval shall not be subject to challenge.

D. ASSOCIATION LEAVE

Time necessary for up to two (2) representatives of the Association to attend conferences and conventions of State and National affiliated organizations not to exceed two (2) total days in combination during any school year.

**ARTICLE 11
PAYROLL DEDUCTION**

The School Committee shall provide that, whenever duly authorized by any employee on a form or forms approved by the Committee, payroll deductions on behalf of such employee shall be made every payday and paid in accordance with such form or forms for any or all of the following purposes:

1. Premiums under the Town of Marblehead employee's Group Insurance Program.
2. Dues for the Marblehead Education Association, Massachusetts Teachers Association, National Education Association from employees authorizing

deductions by October 15, with dues deductions to be paid in equal installments from the first pay check in November and continuing for the balance of the school year.

3. Payroll deductions for the Marblehead Municipal Employees Credit Union.

ARTICLE 12 TEMPORARY ASSIGNMENT

In the event an employee is temporarily assigned by his/her supervisor to perform the duties of a person in a higher rated job or daily substitute teaching job and so performs such duties, he/she shall receive compensation for such service at the job rate of the higher rated job or daily substitute teaching job. Such compensation shall continue so long as the employee continues to perform the duties of the higher rated job. It is understood that upon return by the employee to his/her regular duties, the increase in compensation provided for in this Article shall terminate.

In the event an employee is temporarily assigned by his/her Principal to teach a class/classes as a substitute teacher, he/she shall be paid the following extra compensation, subject to the terms and conditions hereinafter provided.

- A. In order to be eligible to receive the extra compensation, the employee must possess a bachelor's degree.
- B. The employee shall receive \$10.00 extra dollars for each teaching period so assigned by the Principal, up to a maximum of \$50.00

ARTICLE 13 GRIEVANCE PROCEDURE

Any grievance, which may arise between the parties hereto, shall be presented in the following manner and order and within the time limits set forth herein. A grievance is defined as a claim concerning the application, meaning or interpretation of the express terms of this Agreement.

Step 1: The employee with a grievance, shall take up the grievance with the employee's immediate supervisor within fourteen (14) days of the date of the grievance or the date the employee first acquired knowledge or should have acquired knowledge of its occurrence.. A representative of the Association may be present. The employee's immediate supervisor shall attempt to adjust the matter and shall respond within seven (7) calendar days after the submission of the grievance to him in Step I

Step 2: If the grievance has not been settled in Step 1, it shall be taken up with the Superintendent, or her/his designated representative, within seven (7) calendar days after the supervisor's response is due or received, whichever is earlier. Such grievance

shall be submitted in writing. The Superintendent shall respond in writing ten (10) calendar days after the submission of the grievance to her/him in Step 2.

Step 3: (Not applicable to grievances involving discipline) If the grievance is still unresolved, the Association may, within ten (10) calendar days after the reply of the Superintendent is due or received, whichever is earlier, submit the grievance to the Committee. The Committee shall meet with the aggrieved employee and representative of the association within twenty-one (21) calendar days after receipt of the written grievance in an effort to resolve the matter.

Step 4: If the grievance cannot be resolved by and between the Committee and the aggrieved employee and the Association within twenty-one (21) calendar days after the meeting held in Step 3, or if a discipline grievance has not been resolved at Step 2, then the matter may be submitted to arbitration within fourteen (14) calendar days thereafter by either the Committee or the Association pursuant to the Labor Arbitration Rules of the American Arbitration Association.

Failure of the grievant to present a grievance within and to advance it in accordance with any of the time limits set forth in the grievance procedure shall constitute a resolution of the grievance against the grievant. The time limits set forth herein may be enlarged by the written consent of the parties hereto. In the event any of the parties to whom the grievance is presented as hereinbefore provided fails to respond within the time limits provided, it shall be deemed a denial of the grievance.

The arbitrator's authority shall be limited to matters involving the interpretation and application of the provisions of this Agreement. The arbitrator may not modify, amend, delete or add to the terms of this Agreement. Within the limits of his authority, the decision of the arbitrator to the extent provided by law shall be final and binding. The fees and expenses of the arbitrator shall be borne equally by the parties. No employee shall have the right to require arbitration.

ARTICLE 14 STRIKES

Section 1. There shall be no strikes, walkouts, stoppages or other suspensions of work, boycotts, sit-downs or slowdowns, picketing or any other interference with the Marblehead School District's operations, whether direct or sympathetic. No officer, agent or representative of the Association shall authorize, approve, ratify or condone any of the activities herein prohibited and no employee will instigate, promote, sponsor, engage in or condone any of the activities herein prohibited.

Section 2. The Association, its officers, agents and representatives, shall make every reasonable effort in good faith to prevent or terminate any action in violation of Section 1 of this Article, including, but not limited to, publicly declaring that such action is in violation of the Agreement and by instructing and directing the employees to cease such improper conduct and that work be fully resumed.

Section 3. The Marblehead School District may impose any disciplinary action, including discharge, upon any or all of the employees involved in a violation of Section 1. Such action by the District shall not be subject to the grievance and arbitration provisions of this Agreement except as to the questions of whether or not such a violation in fact occurred and whether or not the employees who were disciplined in fact instigated, sponsored, engaged in or condoned any of the activities therein prohibited.

ARTICLE 15 JURY DUTY

In the event an employee is called for jury duty, the employee shall be permitted to be absent from work so to serve and shall be paid for time as a juror the difference between the amount the employee received for jury duty (excluding trial allowances or reimbursement expenses) and the amount the employee would have received had the employee been employed by the Marblehead School District during the time, provided the employee was scheduled to work during such time. Jury pay shall be computed on the basis of the employee's base hourly rate and shall be limited to the amount of hours regularly worked per day. To be eligible for the jury duty benefits provided herein, the employee must give the Marblehead School District reasonable notice that the employee has been summonsed for jury duty, must furnish satisfactory evidence that the employee reported for or performed jury duty during the time for which the employee claims payment and during the period of jury service the employee must report for work on days when the employee's services as a juror are not required. An employee who volunteers (without being summoned) for jury duty will not receive any of the jury duty benefits listed above

ARTICLE 16 MATERNITY/PARENTAL LEAVE

A tutor who has completed three consecutive months of employment shall be granted a maternity leave of absence, subject to the terms and conditions hereafter provided:

Leaves for the purpose of giving birth, or as otherwise provided for by MGL Chapter 149, Section 105D, not exceeding eight (8) weeks duration shall be granted pursuant to and shall be subject to the terms and conditions of MGL Chapter 149, Section 105D.

The tutor shall give at least two (2) weeks written notice to the Superintendent of her anticipated date of departure and intention to return.

Such leave shall be without pay except as provided below:

A tutor, who has given birth, may utilize accumulated sick leave while on maternity leave subject to the following terms and conditions:

1. The tutor continues to work until such time as she is physically disabled from working. The Administration may require the tutor to produce medical certification of disability as aforementioned.
2. The accumulated sick leave may only be utilized during the period of physical disability.

PAID ADOPTION LEAVE

(Applicable only to employees who have been actively employed for at least three consecutive years immediately preceding their request for paid adoption leave (hereinafter called "eligible service employees"))

1. An eligible service employee shall be entitled to paid adoption leave, subject to the following terms and conditions:
 - A. **Maximum amount of paid adoption leave:** 4 weeks (20 work days). (Lost work time within four weeks following the eligible service employee receiving actual custody of the child.)
 - B. **Deduction from sick leave:** The leave shall be deducted from the eligible service employee's sick leave (annual, if sufficient, otherwise accumulated). In the event the eligible service employee does not have sufficient sick leave to his/her credit, the eligible service employee shall not be eligible for paid adoption leave to the extent of the deficiency.
 - C. **Age of adoptive child:** The child must be below six years of age.
 - D. **Purpose of leave:** To make arrangements for and to care for the adopted child.
 - E. **If both parents are eligible service employees in the Marblehead school system:** In the event both parents are eligible service employees in the Marblehead School system, either parent may request the paid adoption leave but the total amount of such paid adoption leave shall not exceed the maximum of four weeks.
 - F. **Request for Paid Adoption Leave - Time of Leave:**
 1. The leave shall commence, except as hereinafter provided in F3, upon receiving actual custody of the child, or earlier if necessary to fulfill the requirements of adoption.
 2. The eligible service employee shall give, to the extent possible, at least two (2) weeks written notice to the Superintendent of his/her anticipated date of departure and his/her intent to return.

3. In the event defacto custody is taken during any of the school vacations during the school year (Christmas, February or April vacation), the leave shall commence on the first workday following such school vacation. This provision shall only be applicable to school vacations during the school year. If defacto custody were taken in July, the eligible service employee would not be eligible for paid adoption leave.

G. Family and Medical Leave Act:

If and to the extent the eligible service employees are entitled to leave under the Family and Medical Leave Act, such time shall be charged against the adoption leave.

H. Eligible Service Employees on Maternity Leave:

An eligible service employee on maternity leave under Article 17 shall be entitled to paid parental leave subject to the same terms and conditions applicable to paid adoption leave, except as follows:

The amount of the paid parental leave shall not exceed the following: Four weeks less any paid sick leave taken by the eligible service employees on maternity leave.

Example: An eligible service employee on an eight-week unpaid maternity leave is disabled for five days and utilizes five days of sick leave. The eligible service employee in such case would then be entitled to 15 days of paid parental leave and conditions applicable to leave subject to the same terms as paid adoption leave.

ARTICLE 17 TUITION REIMBURSEMENT

- A. **Procedure.** College courses, workshops, continuing education unit programs or in-service programs may be approved by the Superintendent. Under normal circumstances, request for approval must be made in writing on a form supplied by the Superintendent in advance of the start of the course. Courses must be approved by the Superintendent.
- B. **Reimbursement.** The tutor shall pay the entire tuition cost of approved courses and will be reimbursed under the following terms and conditions:
 1. The tutor must obtain a grade of B- or better and present satisfactory evidence thereof to the Superintendent. In the event the course is not graded in such a fashion, the equivalent of B- or better or evidence of receiving the total Continuing Education Units for the course shall be satisfactory.

2. A receipted copy of the tuition bill or canceled check must be transmitted to the Superintendent as evidence of the cost of the course.
3. Within thirty (30) days after receipt of Items 1 and 2 of this section (reimbursement), the Committee shall reimburse the tutor for his/her out of pocket tuition payment up to \$300.00 dollars per fiscal year.

ARTICLE 18 INSURANCE

- A. Employees will have the option of electing coverage under the provisions of the Group Health Insurance Plans offered by the Town of Marblehead at the percentage paid by the Town of Marblehead.
- B. Employees whose regular work schedule is at least forty (40) hours each week will have the option of electing to participate in the municipal retirement plan.

ARTICLE 19 EFFECT OF AGREEMENT

Section 1. This instrument constitutes the entire agreement of the Committee and the Association arrived at as a result of collective bargaining negotiations, except such amendments hereto as shall have been reduced to writing and signed by the parties

Section 2. The parties acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands with respect to any subject matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Committee and the Association for the life of this Agreement each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to, or covered by this Agreement, or with respect to any subject or matter not specifically referred to or covered by this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both of the parties at the time that they negotiated or signed this Agreement.

Section 3. The waiver of any breach or condition of this Agreement by either party shall not constitute a precedent with respect to future enforcement of all the terms and conditions of this Agreement.

Section 4. No provision of this Agreement shall be retroactive prior to the effective date of this Agreement unless otherwise specifically stated herein.

**ARTICLE 20
MISCELLANEOUS**

- A. The Committee and the Association agree that there shall be no discrimination, and that all practices, procedures, and policies of the school system shall clearly exemplify that there is no discrimination in the hiring, training, assignment, promotion, transfer or in the application or administration of this Agreement on the basis of race, creed, color, religion, national origin, sex, domicile or marital status.
- B. This Agreement constitutes Committee policy for the term of said Agreement, and the Committee shall carry out the commitments contained herein and give them full force and effect as Committee policy.
- C. If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held to be contrary to law, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.
- D. The Association acknowledges that the Committee has filled its bargaining obligations with regard to the Drug Policy attached hereto as Exhibit B. No challenge shall be made with regard to the adoption and implementation of said policy by the Committee/Administration.
- E. The language of this Agreement shall be interpreted subject to and in conformity with the Education Reform Act of 1993 and any provision of this Agreement inconsistent with the Education Reform Act shall be deemed amended so as to be in compliance with such Act.

**ARTICLE 21
FUNDING**

Each year of this Agreement is subject to funding in accordance with the following rules:

In the event the total School Committee budget presented by the School Committee to the Town Meeting for the first fiscal year of any agreement is not fully funded by the Town Meeting, then the wage increases referred to in any Memorandum of Agreement for the first year shall be

of no force and effect at the discretion of the Committee. In the event the committee so exercises its discretion, the parties shall meet to negotiate as if no agreement had been reached and, in such negotiation, all issues shall be "open."

Article remains in contract but not in effect through end of contract period on August 31, 2012.

**ARTICLE 22
DURATION AND NEGOTIATION OF SUCCESSOR AGREEMENT**

- A. This Agreement shall be in full force and effect from September 1, 2018 to August 31, 2021 except as otherwise provided. This Agreement may only be extended in writing by mutual agreement of the parties.
- B. Negotiations for a successor agreement shall begin no later than October 15, 2020.
- C. This Agreement and procedures provided herein may be modified in whole or in part only by mutual agreement of the parties hereto, in which event such modification shall be duly executed in writing by both parties.
- D. The signatures below of the representatives of the Association and of the members of the Committee indicate that the parties have duly ratified this Agreement and the appendices attached hereto, said Agreement with appendices to be in effect from September 1, 2018 to August 31, 2021 except as otherwise provided.

For the Marblehead Education Associations – Tutors:

Jayne Mace

6/1/2018
Date

For the Marblehead School Committee:

Murdill Jeffrey

6/5/18
Date

APPENDIX A

File: GBEC

DRUG-FREE WORKPLACE POLICY

The School District will provide a drug-free workplace and certifies that it will:

- 1. Notify all employees in writing that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, is prohibited in the District's workplace, and specify the actions that will be taken against employees for violation of such prohibitions.
- 2. Establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace; the District's policy of maintaining a drug-free workplace; and

available drug counseling, rehabilitation, and employee assistance programs; and the penalty that may be imposed on employees for drug abuse violations occurring in the workplace.

3. Make it a requirement that each employee whose employment is funded by a federal grant be given a copy of the statement as required.
4. Notify the employee in the required statement that as a condition of employment under the grant, the employee will abide by the terms of the statement, and will notify the District of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
5. Notify the federal agency within ten days after receiving notice from an employee or otherwise receiving notice of such conviction.
6. Take one of the following actions within 30 days of receiving notice with respect to any employee who is so convicted; take appropriate personnel action against such an employee, up to and including termination; or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health law enforcement, or other appropriate agency.
7. Make a good faith effort to continue to maintain a drug-free workplace through implementation of all the provisions of this policy.

LEGAL REFS.: The Drug-Free Workplace Act of 1988

CROSS REFS.: JICH, Alcohol Use by Students

ACKNOWLEDGMENT OF RECEIPT

Marblehead Public Schools Drug-Free Workplace Policy

To the Employee:

This acknowledgment must be completed, signed, and returned to your immediate supervisor.

I, _____, an employee of the Marblehead Public Schools, hereby certify that I have received a copy of the Drug-Free Workplace Policy - Standards adopted by the Marblehead School Committee on _____.

(Signature)

(Date)