

ATTACHMENT #1 - September 1, 2020

Memorandum of Understanding Livestream and Recording Instruction During Pandemic

This Memorandum of Understanding (“MOU”) is entered into this 1st day of September 2020, by and between the Warwick School District (“District”) and the Warwick Education Association (“Association”) to implement its mutual understandings and agreements regarding the livestreaming of teachers’ instruction to permit students to remotely participate in the District’s educational program.

Background: The COVID-19 pandemic has had a profound impact on the delivery of the District’s educational program. The pandemic has resulted in the state-mandated closure of Warwick School District’s schools, necessitated the implementation of a health and safety plan in order to reopen schools and otherwise created substantial uncertainty of how the educational program will be offered to students as conditions may change during the school year. The District has decided to implement technology in teachers’ classrooms to livestream classrooms’ instructional activities to students who are not physically present in the “bricks and mortar” classroom to ensure the continuity of those students’ education. This MOU sets forth the parties’ mutual understandings and agreements related to that decision.

The District and the Association acknowledge and agree to the following provisions listed below:

1. **Definition:** The concept of “livestreamed instruction” is intended to mean the use of audio and visual recording devices, to record teachers’ instructional activities that occur during an instructional period or block for live broadcast to students who are not present in the school building, but otherwise enrolled in those classes. The parties understand that livestreamed instruction may be recorded and stored on a digital platform for up to one semester, so students may view recorded live streamed instruction that they were unable to attend or view the instruction that previously occurred. At the conclusion of each semester, the classroom teacher is responsible for archiving or deleting livestreamed instructional recordings at the discretion of the teacher.

2. **Inherent Managerial Prerogative:** The Association acknowledges that the District’s decision to livestream instruction falls within the District’s inherent managerial prerogative concerning the “utilization of technology” under Section 702 of the Public Employe Relations Act, 43 P.S. § 1101.702.

3. **Impact of Mandatory Subjects of Bargaining:** The District acknowledges that its decision to livestream instruction has a discernable impact on Association bargaining unit members’ working conditions and, therefore, has entered into this MOU to fulfill its duty to engage in impact bargaining under Section 701 of the Public Employe Relations Act, 43 P.S. § 1101.701.

4. **Technical Training and Support:** The District shall provide Association bargaining unit members with the necessary training and technical support on the use and operation of audio and visual recording devices in order to livestream instruction. All technical training and support shall occur within the confines of the teacher work day, which may include non-instructional teacher work days that are a scheduled part of the overall work year.

5. Teacher Control of Recording Devices: Teachers shall take all reasonable steps to ensure recording devices are operating properly to ensure livestreamed instruction in its entirety is available to students participating remotely in the educational program. However, in certain limited instances, teachers are authorized to stop or pause the recording of livestreamed instruction in response to:

- a. a medical emergency involving a student or staff member in the classroom to protect that individual's privacy;
- b. a significant student disciplinary infraction in the classroom, i.e. a physical altercation, to protect the privacy of the student(s) involved in the same;
- c. the evacuation of the classroom due to a fire drill, emergency or in response to any other directive from the District administration; or
- d. other compelling circumstances as determined by a reasonable teacher standard.

Any teacher who stops or pauses the recording of live streamed instruction for a situation listed above, shall notify the school principal of that decision as soon as practicable, but by no later than the end of the teacher work day. The teacher shall explain to building principal the underlying facts that lead to the stopping or pausing of the recording of the livestreamed instruction.

6. Teacher Observations: The District shall not view teachers' live streamed instruction as a substitute for the completion of in-person classroom observations by District administrative staff; assuming, sufficient reasonable opportunities exist during the school year for District administrators to complete classroom observations in person. If District schools are closed due to the pandemic for a considerable time period, the District administration may observe live streamed instruction (not recorded instruction) in order to complete classroom observations, if all of the following requirements are met:

- a. the District shall notify the Association that school closure or election of online teaching necessitates that in-person teacher classroom observations by the administration cannot reasonably occur;
- b. the District administration notifies a teacher at least seven (7) school days in advance that a classroom observation of livestream instruction will occur;
- c. no negative inferences shall be drawn regarding a teacher's classroom performance as a result of technology issues or problems that are not reasonably within the teacher's control; and
- d. applicable District policies and rules regarding teacher observations shall be followed to the greatest extent practical.

7. Student Access to Livestreamed Instruction: The purpose of livestreamed instruction is to permit students enrolled in those classes to participate and/or observe the instruction remotely as contemplated in paragraph 1. The parties agree that access to livestreamed instruction shall be limited to enrolled students to the extent permitted by law. Students and their parents/guardians shall be required to complete an enrollment/participation form to allow students to participate in livestreamed instruction, and the form shall explain the expectations regarding how livestreamed instruction may be accessed and viewed by students. The District and Association shall work cooperatively together if the District must respond to any person seeking to obtain copies of livestreamed instructional recordings pursuant to Pennsylvania's Right-to-Know Law to protect and respect a teacher's rights to personal safety and/or informational privacy under the Pennsylvania Constitution are respected.

8. Use of Livestreamed Instructional Recordings for Teacher Discipline: Teachers are expected to conduct themselves in an appropriate professional manner when conducting their teaching responsibilities in the classroom, regardless if their instruction is being livestreamed or not. The District will not monitor livestreamed instruction or recordings to determine if teachers are conducting themselves in accordance with these legitimate workplace expectations, except for classroom observation held in compliance with paragraph 6 above. However, the District retains its managerial right to review livestreamed instructional recordings to investigate allegations of serious teacher misconduct in the classroom; provided, the District's review of those recordings is for the purpose of determining the veracity of the reported allegations and/or the teacher's response to the same.

9. Duration of Agreement: This MOU shall be in effect for the 2020-2021 school year and shall be re-evaluated at the conclusion of the 2020-2021 school year.

10. Collective Bargaining Agreement (CBA): This MOU shall not alter the terms of the CBA, except as expressly set forth herein. All other terms of the CBA shall remain in full force and effect.

11. Grievance and Arbitration: Any violation of this MOU shall be subject to arbitration pursuant to the grievance-arbitration provisions of the CBA.

12. 9. Reservation of Rights: Nothing in this MOU shall impair either parties' respective rights under the Pennsylvania Employe Relations Act, or their collective bargaining agreement, for current or future issues reasonably related to the livestreaming of instruction.

The parties hereby indicate their agreement to the above terms by affixing their signatures below.

**Warwick School District
Board of School Directors**

Secretary

President

Date: _____

Warwick Education Association

Secretary

President

Date: _____