AGREEMENT

Laborers’ International Union of North America, Local 860
Assistant Custodians
and
Board of Education for the Cleveland Municipal School District

PREAMBLE

This Agreement has been made and entered into effective this 1st day of July 2016, by and between the Board of Education for the Cleveland Municipal School District, hereinafter referred to as the “District”, and the Laborers’ District Council of North America, Local No. 860, and its Officers, Agents and Members, hereinafter referred to as the “Union.” Reference to Administration shall include all Supervisors at all levels employed by the Cleveland Municipal Schools.

ARTICLE 1
RECOGNITION

1.0. Exclusive Bargaining Representative. The District recognizes the Union as the exclusive bargaining representative for all Employees of the Cleveland Municipal Schools who are classified as Tier I and Tier II Assistant School Building Custodians, and Tier I Assistant Custodian Quadrant Rovers. A “Tier I Assistant Custodian/Assistant Rover Custodian hired on or before the date of ratification of this Agreement shall be known as “Grandfathered Assistant Custodians/Assistant Rover Custodians.” The District may hire a Tier II Assistant Custodian after the date of ratification of this Agreement except as provided in Section 1.0 (j). A Tier II Assistant Custodian shall have all of the obligations, duties and responsibilities of a Tier I Assistant Custodian, and shall be entitled to all of the terms and conditions of employment as a Tier I Assistant Custodian except as otherwise set forth in this Agreement. Unless specifically noted to the contrary, as used in this Agreement, the terms Assistant Custodian and Assistant Quadrant Rovers shall include both Tier I and Tier II bargaining unit members holding such positions. The number of Tier I Assistant Custodians shall be no less than the Tier I facilities as set forth in Exhibit “___”. If the number of Tier I Assistant Custodians facilities decreases, the number of Tier I Assistant Custodians may decrease, but this shall not affect Grandfathered Tier I Assistant Custodians.
a. Except as provided below, a Tier II Assistant Custodian may only work in Tier II Buildings (See Attachment); a Tier I Assistant Custodian/Assistant Quadrant Rover may work in any building and shall be paid at the Tier I rate, regardless of the building.

b. The District represents that it has fully maximized one-man buildings. If the District intends to convert or open an existing building to a one-man building then it must notify the Union with sixty (60) days advance notice and meet and discuss alternatives with the Union prior to the conversion or opening of the building to a one man building. Likewise if the District intends to create a new one-man building, then it must notify the Union with sixty (60) days advance notice and meet and discuss alternatives with the Union prior to creation of the one man building.

c. Except as provided below, a Tier II Assistant Custodian may not bid into, or sub in any Tier I buildings and shall not displace any Tier I Assistant Custodian.

d. If a vacancy occurs at a Tier I Assistant Custodian building, then the District shall offer the position to “qualified” (i.e., high pressure boiler license) employees in the following order:

(1) Tier I Assistant Custodian:
(2) Tier II Assistant Custodian:
(3) Employees qualified in the Laborers and Transportation bargaining unit.

e. If a vacancy occurs at a Tier II Assistant Custodian building, then the District shall offer the position to “qualified” (i.e., high pressure boiler license) employees in the following order:

(1) Tier I Assistant Custodian:
(2) Tier II Assistant Custodian:
(3) Employees qualified in the Laborers and Transportation bargaining unit.

f. If a Tier I Assistant Custodian leaves a Tier I building to fill a position at a Tier II building, and no Tier I employees have volunteered for that position, then the District may force the least senior Tier I employee in a Tier I building to fill the vacancy. If the District deems a forced employee unable to fill the position for personal reasons (i.e., child care, public transportation) based upon
documentation submitted by the employee to the District, then the second most senior Tier I employee shall be required to fill that position.

g. Tier II Assistant Custodians shall only work in Tier II Buildings. If an emergency arises, and no other Tier I employee is available, however, then the District may require a qualified Tier II employee to cover the emergency for no more than 16 hours. When working in a Tier I building, the Tier II Assistant Custodian working in the Tier I building shall be paid Tier I wages.

h. A Tier I Assistant Custodian may work in any building and shall be paid at the Tier I rate, regardless of building.

i. The parties agree to staff the Safety position for the bargaining unit. The parties agree that the position will be filled by a qualified assistant custodian with at least 5 years of District service, and the person selected will be paid at a rate of the highest paid assistant custodian (excluding longevity), plus a stipend of $1.50 per hour. The District is not required to pay mileage. The District must fill the position within 90 days of contract ratification. If not, each covered bargaining unit member will receive $1,064.96.

j. Effective after the date of the ratification, the first four Assistant Custodians hired by the District shall be Tier I Assistant Custodians.

1.1. **Classified And Coded Printout of Bargaining Unit – Employee Information.** The Union will be given two computer printouts in October and February of each year; one alphabetically by employee name and the other by work site. The printout shall include the following information:

a. Employee name;

b. Employee identification number;

c. Date of appointment to current position;

d. Current rate of pay;

e. Asterisk the names of the employees whose union dues are being collected through the District payroll deductions; and

f. Code by employment status.

Such printouts will not be shared with private or commercial agencies for promotional purpose.
1.2. **New Job Classification.** Whenever possible, the District shall assign work to employees in job classifications, which are in existence when the work is to be performed. Whenever the District does create or establish any new job classifications of non-certificated personnel, then the District shall send written notifications of such action to the Union. In its notifications, the District shall describe the work to be performed by this classification and the Union will have the same opportunity as all other unions to include said employees in its bargaining unit.

If the District creates or establishes any new job classifications in which the employees perform work substantially similar to the work being performed by employees then represented by the Union, the employees in the newly created or established job classification shall be represented by the Union, beginning with the first day of employment of any such employees. The full terms and conditions of this Agreement shall apply to those employees as of the first day of their employment, except that the District and the Union shall meet immediately after the Union is informed that the District has created or established such new job classification to negotiate the rate of pay to be received by said employees.

**ARTICLE 2**

**UNION SECURITY**

2.0. **Fair Share Fee.** All employees who are covered by this Agreement who are not members of the Union, and who have been employed by the District for sixty (60) days or more shall as a condition of employment pay a fair share fee equal to the dues required to be paid by members of the Union. Said fair share fee shall be paid by payroll deduction as provided in this Article.

a. The Union represents to the District that:

   (1) Where applicable, an internal advance fee reduction procedure has been established in accordance with Section 4117.09(C) of the Revised Code.

   (2) Where applicable, a procedure challenging the amount of the fair share fee has been established and will be given to each bargaining unit employee who does not join the Union.

   (3) Such procedure and notice, where applicable, shall be in compliance with all relevant state and federal laws and the Constitutions of the United States and State of Ohio.
b. Where applicable, annually, the Union shall provide the District, within thirty (30) days after communicating with fair share fee payers, if any, a copy of each communication, if any, the Union sends to fair share fee payers, if any, relating to the deduction of fair share fees, provided, however, that the Union may retract any information which sets forth amounts of moneys the Union spends in various categories, or other specific information not necessary to comply with constitutional requirements.

2.1. **Fair Share Fee To The Union.** Any employee covered by this Union Agreement who is hired after April 1, 1984 or who is employed less than sixty (60) days on April 1, 1984, who does not become a member of the Union by the sixty-first (61) day of their employment shall, as a condition of employment, pay a fair share fee to the Union equal to the dues required to be paid by members of the Union. Said fair share fee shall be paid by payroll deduction as provided in this Article.

2.2. **Discharge For Failure to Pay Fair Share Fee To The Union.** Employees covered by this Agreement who fail to comply with the requirements of Section 2.0 or 2.1 of this Article, as applicable, shall be discharged by the District within two (2) weeks after receipt by the District of written notice to the District from the Union of such failure to comply.

2.3. **Checkoff and Remittance.** The District shall deduct from the pay of each month of each member of the Union who has authorized such deductions any dues, initiation fees, and assessments the Union may adopt. Said deduction shall be taken as follows: ½ monthly dues from the first pay and ½ monthly dues from the second pay (for 12 month hourly/daily employees no more than 24 deductions; for 10 month hourly/daily employees no more than 20 deductions). The District shall deduct from each pay of each employee covered by this Agreement who is not a member of the Union a fair share fee equal to the amount of dues required to be paid by members of the Union. Said deduction shall be taken as follows: ½ monthly fair share fee from the first pay and ½ monthly fair share fee from the second pay (for 12 month hourly/daily employees no more than 24 deductions; for 10 month hourly/daily employees no more than 20 deductions). The District shall transmit to the Union through direct deposit to a Union bank account specified by the Union Business Manager/Secretary-Treasurer, or his designee on or before the Monday after deductions are taken said deductions, along with an accounting as to the amount withheld from the pay of each employee; specifically identifying
union members and those employees paying a fair share fee.

2.4. **Exclusive Checkoff.** The Union is and shall continue to be the only employee organization which shall have the exclusive right to have its dues withheld by the District from the pay of employees in the bargaining unit it represents.

2.5. **Indemnification.** The Union will indemnify and save the District harmless from any action growing out of deductions hereunder and commenced by an employee against the District (or the District and Union jointly).

**ARTICLE 3**

**RIGHTS OF THE UNION**

3.0. **Right to Inspect and Audit The District’s Books.** The Union shall have the right, upon reasonable notice and during normal business hours, to audit the books of the District for the purpose of determining the accuracy of the estimates as to income and the reasonableness and accuracy of the items set forth in the budget.

3.1. **Designation Of Stewards/Release Time.** The Union may designate not more than three (3) stewards who may be released from duty as the need arises to assist in the resolving of problems related to Assistant Custodian/Assistant Custodian Quadrant Rover personnel. Permission is to be secured from the Administration by any steward who desires to be so released to visit any work site or to otherwise assist in resolving problems or matters of concern. Any steward leaving his building is to notify his/her Custodian. Upon request and approval by the Facilities Manager or higher, the Union may conduct stewards’ meetings during hours of employment.

3.2. **Leave for Conducting Union Business.** The Administration may authorize leave with pay to members of the Union selected to serve in any official capacity for Local No. 860860, such as to serve as an Officer or Delegate to the Laborers’ International Union of North America, or any legitimate Labor Group, to which Local No. 860860 is affiliated. Requests for such authorized leave shall be made to the Facility Manager, Deputy Chief of Human Resources.

3.3. **Use of District Facilities.** The Union may conduct Union business other than membership meetings on the school property during the hours of employment. The conduct of such business shall not interfere with the operation of the Cleveland Metropolitan School District, nor hinder any employee’s scheduled work.

Permits shall be issued to Local 860 for Union meetings.
The Union shall reimburse the District for any additional wages and benefits the District incurs for custodial services as a result of any such meeting.

3.4. Use of Mails. The Union shall have the authorization to use the school mails for matters pertaining to its members.

3.4.1. Use of District Computers. Consistent with District policy and Federal Law the Union shall not have the authorization to use District computers for matters pertaining to members, other than to distribute its monthly newsletter to all bargaining unit employees. Members of Local 860 may use District computers to carry out District business.

3.5. Use of Bulletin Boards. The Union shall be permitted use of the bulletin boards in each school building, or other buildings, for the posting of notices concerning official Union business. The Supervisor in charge at each work site shall be responsible for such posting.

3.6. Full Time Union President.

3.6.1. Right To Be Released From Duties. The President of the Union who is an employee of the District will, at the request of the Union, be released from his or her duties in full.

3.6.2. Retention Of Full Status As An Employee. The Union President shall retain full status as an employee and shall continue to receive his or her salary and overtime pay from the District. The Union President shall also retain his or her entitlement to employment benefits received by other employees represented by his or her Union in the Cleveland Metropolitan School District.

3.6.3. Union To Fully Compensate District. The Union will fully compensate the District for the Union President’s salary, overtime pay and fringe benefits. The Union will also pay any fees or premiums requisite to secure employment benefits.

3.7. Participation On School Closing Committee. If a formal school closing committee is formed, Local 860 will be given the opportunity to select a representative to serve on the committee and release time shall be granted if a meeting and/or school visit is scheduled during that employee’s work day.

3.8. List Of Newly Hired Assistants Provided To The Union. A list of all Tier I Assistant Custodians and Quadrant Rovers and Tier II Assistant Custodians hired during the previous month shall be furnished to the Business Manager of Local 860 on the first of each month.
3.9. **Seniority List.** The Assistant Custodian/Assistant Custodian Quadrant Rover seniority list as of June 30, 2013 is attached hereto under Appendix C and contains an employee’s Assistant Custodian and/or Assistant Custodian Quadrant Rover seniority date(s) for each 860 Assistant Custodian and Assistant Custodian Quadrant Rover actively employed and currently on layoff. This list shall be used for Article 7 purposes. This list will be modified by agreement during the term of the contract to reflect new hires, recalled employees or transfers between the Assistant Custodian and Assistant Custodian Quadrant Rover classifications. Any modification to Appendix C during the agreement may be challenged by individual 860 members within 10 (ten) days of the modification. Failure to challenge modifications to the Appendix C within the 10 (ten) day period constitutes a waiver under Article 17.

**ARTICLE 4**

**RIGHTS OF MANAGEMENT**

Except as specified otherwise in this Agreement, the District has the right and responsibility to:

1. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the school district, standards of services, its overall budget, utilization of technology, and organizational structure;
2. Direct, supervise, evaluate, or hire employees;
3. Maintain and improve the efficiency and effectiveness of governmental operations;
4. Determine the overall methods, process, means, or personnel by which governmental operations are to be conducted;
5. Suspend, discipline, demote, or discharge, for just cause, or lay off, transfer, assign, schedule, promote, or retain employees;
6. Determine the adequacy of the work force;
7. Determine the overall mission of the school district as a unit of government;
8. Effectively manage the work force;
9. Take actions to carry out the mission of the school district as a governmental unit.

Notwithstanding Section 4117.08 of the Ohio Revised Code, the District is not required to bargain on any subjects – including, but not limited to those enumerated above – reserved to and retained by the District under this Article. Therefore, the Union agrees that during the life of
this Agreement, the District shall have no obligation to bargain collectively with respect to the exercise of any rights reserved to and retained by it in this Article. Provided, however, that where the exercise of such a management right impacts upon the wages, hours, or other terms and conditions of employment of employees in this bargaining unit, the District will bargain collectively with the Union over the effects of such management decisions when requested by the Union.

ARTICLE 5
WORKING CONDITIONS

5.0. New Policies Or Changes To Be Discussed. Every effort will be made to discuss with the Union new policies or policy changes, which may affect members of the bargaining unit.

5.1. Labor Management Co-Operation Workshops. Representative(s) of the District and no more than four (4) Union representative(s) will meet once per month to discuss current labor-management issues. Either party may cancel a scheduled meeting, but a minimum of one (1) meeting per calendar quarter must be held if so requested by either party.

5.2. No Duty Contrary To Law. No employee shall be required to perform a duty that is in violation of any applicable state law, city ordinance, rule or regulation issued by any federal, state or local regulatory agency, board or commission.

5.3. No Hazardous Or Abnormally Strenuous Activity. No employee is to be required to perform any hazardous (i.e. searching for a bomb, explosive or other life threatening device in a building. In such a situation, the Assistant Custodian/Assistant Custodian Quadrant Rover shall contact his/her Custodian (if on duty) or his/her Facilities Manager) or abnormally strenuous activity, which s/he could not reasonably be, expected to perform.

5.4. No Required Use of Certain Equipment While Alone. No employee shall be required, while alone at a work site, to use an extension ladder, window jack, or window lift or to do extensive ladder work.

5.5. No Duty To Remove Debris Except In Emergency. No employee in this bargaining unit shall be required to remove construction or remodeling debris from any work site, except in extreme emergency when the work has been performed by contractors, such extreme emergency shall be deemed to occur where removal is necessary to ensure that a facility is operational or where the debris has a direct effect on the educational process. The District, as
part of its contract with any contractor, shall continue to require the contractor to be responsible for removal of debris.

5.6.  **No Responsibility For Non-Performance Because Of Lack Of Proper Tools.** No employee shall be held responsible for non-performance of any task that is left undone because of the lack of proper tools, equipment, or supplies. It shall be the responsibility of the Assistant Custodian/Assistant Custodian Quadrant Rover to notify his/her Custodian or Facilities Manager of the lack of proper tools to perform the job.

5.7.  **Safety Committee.** It is the policy of the District to provide safe and healthful working conditions for all employees. In furtherance thereof, a committee of members of Local 860 will meet as the need arises with the Facilities Manager to determine safety and health conditions of District property. Those conditions or items deemed improper shall be corrected as soon as possible.

5.8.  **Student Restroom Work During School Hours.** The District shall provide portable gates at least four (4) feet in height to any employee performing repair or maintenance work in a student restroom during regular work hours. If no such gate is available, an employee shall not be required to perform repair or maintenance work on a student restroom during regular work hours, unless there is a health or safety condition that requires immediate attention.

5.9.  **Adult Bathrooms To Be Available.** Adult sanitary facilities shall be made available to all employees at all school facilities.

5.10. **Telephones To Be Available.** Employees of this bargaining unit shall have use of District telephones at all sites for District business and emergency use at all times, throughout the calendar year. All incoming calls to bargaining unit personnel shall be relayed by the office or custodial staff as soon as possible.

5.11. **All Directives To Be Posted.** All directives pertaining to employees in the Facilities Department shall be posted on the bulletin board by the Custodian at the building. Bulletins shall be maintained in a file, which shall be made available to Assistant Custodians/Assistant Custodian Quadrant Rover.

5.12. **No Obligation To Supervise Student.** No employee in this bargaining unit, except those who have pupils directly assigned to their supervision shall be asked to or be expected to advise, discipline or supervise any pupil.

5.13. **Protection Against Verbal Abuse And Physical Attack.** The District shall exert its
best efforts to protect all employees in this bargaining unit from verbal abuse and physical assault while engaged in the performance of their duties. Any Assistant Custodian who is affected by either verbal abuse or threat of physical assault shall file an incident report with Safety & Security and report this matter to his/her Custodian, unless the Custodian is the person allegedly verbally abusing or physically assaulting the Assistant Custodian. In this case, the Assistant Custodian shall report this matter to his/her Facilities Manager. An Assistant Custodian Quadrant Rover who is affected by either verbal abuse or threat of physical assault shall file an incident report with Safety & Security and report this matter to his/her Facilities Manager. The District shall take steps to remove the person abusing or threatening the Assistant Custodian/Assistant Custodian Quadrant Rover or otherwise address the matter in a manner that eliminates the abuse/threat. An Assistant Custodian/Assistant Custodian Quadrant Rover shall not be required to remain on an assignment in the case of a threat of his/her safety, until such threat is eliminated.

5.14. **Clean-Up Time.** The employee shall report ready for work at the start of his/her shift, and shall be entitled to a reasonable clean-up time immediately prior to the end of the shift.

5.15. **Civil Service Examinations.** The District shall apply for a new civil service examination within: (1) thirty (30) days prior to expiration of a civil service list; or, (2) within thirty days following the District’s appointment of a Temporary Assistant Custodian.

5.16. **Earnings Information.** The District is implementing a new pay system. Once implemented, all employee pay records, including pay stubs and reimbursement checks shall be in electronic format and shall not be provided in paper format. Until the new system is implemented, earning statements shall be delivered individually in sealed envelopes.

**ARTICLE 6**

**JOB PROTECTION**

6.0. **Licensure and Certification.** Any person employed as an Assistant Custodian or Assistant Custodian Quadrant Rover as of June 30, 2013 shall possess a valid State of Ohio High Pressure Boiler Operator License and any other licensure and/or certifications as determined by the District. During this agreement, if the District adds any licensure and/or certification requirement beyond the Ohio High Pressure Boiler Operator License, it shall provide the affected employees the training. The employee will be responsible for the costs for the license and/or certification. A Tier II Assistant Custodian may in the District’s discretion be required to
possess a State of Ohio High Pressure Boiler Operator License and any other licensure and/or certifications as determined by the District. A Tier II Assistant Custodian who does not possess at least a valid State of Ohio High Pressure Boiler Operator License and any other licensure and/or certifications as determined by the District.. is prohibited from permanently working at or being permanently assigned to any facility set forth on Exhibit “A” attached hereto except as set forth in this Agreement, but in no event may such an individual be temporarily assigned to an Exhibit A facility when the heating plant is in operation.). If the District determines that a building on Exhibit A is to be staffed by an Assistant Custodian, it will be staffed by a Tier I Assistant Custodian/Assistant Rover Custodian or a Tier II Assistant Custodian who possesses at least a valid State of Ohio High Pressure Boiler Operator License and any other licensure and/or certifications as determined by the District. Consistent with the terms of this Agreement, the District has the right to change both the number of facilities set forth in Exhibit A as well as the locations of those facilities set forth on Exhibit A. Consistent with the terms of this Agreement, the District retains its right to close buildings on Exhibit A.

6.1. **No Sub-Contracting of Work.** No work, which is, or could be performed by employees of the District without any additional training shall be sub-contracted, so long as active employees of the District or employees on a recall list are willing to perform that work. If said employees are unable to complete the job within a reasonable time, then outside services shall be contracted, but only after or simultaneously with all employees on the recall list in the affected classifications being returned to work.

The District will also not sub-contract services either to fill any vacated positions or to fill newly created positions within the Union’s jurisdiction.

6.2. **Only Custodian, Assistant Custodian, or Assistant Custodian Quadrant Rover Permitted To Fire Boilers.** The Custodian, Assistant Custodian, Assistant Custodian Quadrant Rover and temporary appointed Assistant Custodian or persons promoted from Custodian to higher level custodial Civil Service positions, shall be the only persons allowed to fire boilers or operate any heating plant or plants in any facility owned or leased by the District.

6.3. **Multiple Building Sites.** When the District determines that it will create multiple building sites, there will be an Assistant Custodian assigned to each building within a multiple-building site. Assistant Custodians assigned to a building within a multiple-building site will receive the multiple building site differential as set forth in Appendix A for all productive and
non-productive time. Multiple-building site Assistant Custodians substituting for a Custodian as defined in Article 8, Section 8.0.9.2 will be compensated at the applicable responsibility differential at the building (not the Custodian’s multiple building site differential) where he/she is serving as the Sub Custodian set forth below for all productive and non-productive time:

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An Assistant Custodian receiving Sub Custodial pay shall not receive the multiple building site differential for those hours worked as a Sub Custodian.

For purposes of this Section, the District may maintain its current staffing configurations at multiple-building sites created before July 1, 2007. The grandfathered sites are as follows:

(1) A. G. Bell, Sunbeam & Jesse Owens;
(2) Lakeside, Central Administration and Woodland Data;
(3) Garrett Morgan, Kentucky; and,
(4) Barbara Byrd-Bennett Professional Development Center, Central Kitchen.

ARTICLE 7
SENIORITY, JOB BIDDING

7.0. Filling of Vacancy of Assistant Custodian or Assistant Custodian Quadrant Rover. When a vacancy exists for the position of Assistant Custodian or Assistant Custodian Quadrant Rover, the vacancy shall be filled by the most senior qualified regularly appointed Assistant Custodian or Assistant Custodian Quadrant Rover who has included on his/her preferential list that position which is vacant. A regular permanent Assistant Custodian or Assistant Custodian Quadrant Rover, may at any time, request and be transferred to any position held by a temporary appointed Assistant Custodian by submitting a preferential list. All transfers will be honored in keeping with established preferential list procedure. In addition, twice each year (October and April) all positions held by Temporary Assistant Custodians will be posted as vacancies.
As used in this section, qualified means an employee who is:

1. Not on the last two progressive disciplinary steps of the Attendance Abuse, AWOL Abuse or Tardiness Control Program;

2. Has not refused in-service regarding the building (so long as said in-service was offered to all employees in the classification);

3. The District shall complete a mid-year evaluation no later than January 31, 2008, an annual evaluation no later than June 30, 2008 and yearly evaluations after that no later than June 30 of each year. The District may use an evaluation to determine whether one is qualified beginning February 2009 only if the District made a good faith effort to evaluate all bargaining unit members at least twice for the 07-08 school year and one evaluation annually thereafter. An evaluation rating of at least satisfactory and/or meets expectations or above will render the employee qualified unless disqualified by one or two above. If the District fails to timely evaluate the bargaining unit member, such member shall be deemed qualified unless disqualified by one or two above.

In the event that there is more than one qualified employee, the most senior employee will be granted the position.

Any high seniority employee who is bypassed will be notified of the reason for his/her not being appointed and may, if s/he desires, submit a grievance protesting his/her non-appointment. As new work sites become available, advance notice will be posted. All vacancies shall be filled based on the system-wide seniority preferential list.

Any and all vacancies shall be filled by the preferential list on file, except vacancies, which remain immediately after the posting and listing of transfers. These vacancies may be filled by Temporary Assistant Custodians.

Assistant Custodian or Assistant Custodian Quadrant Rover moves shall occur four (4) times a year (February, May, August and November) and whenever a bargaining unit member leaves the bargaining unit (including without limitation, death, retirement, disability, finalized discharge (no further appeals rights by the Union), or resignation); all moves to be made on the first day of the first pay period of the applicable month. With respect to the quarterly moves, the preferential list shall be frozen as of the beginning of the prior pay period.
7.0.1. **Evaluations.**

ANY LANGUAGE DEPENDENT UPON THE NEW EVALUATION PROCEDURES AND SYSTEM SET FORTH BELOW WILL BECOME EFFECTIVE ON JULY 1, 2015

**EVALUATION MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding is entered into between the Board of Education of the Cleveland Municipal School District (the “District”) and the signatory unions (collectively referred to as the “Unions”) to this Memorandum as follows:

1. As part of the 2013 negotiations for successor contracts between the District and Unions, the District made a number of proposals related to evaluations and how the evaluations are to be used in employment related matters.

2. The District and Unions agreed that the development of the evaluation system and the use of the results of the evaluations on employment related matters may be best addressed by establishing an Evaluation Committee composed of members appointed by the District and members appointed by the Unions.

3. Given this, the District and Unions have agreed to the following:

   a. The District shall have the right to appoint up to five District Representatives to the Evaluation Committee but in no event shall the District representatives comprise more than 25% of the committee. There shall be Co-Chairs, one designated by the District and one designated by the Unions.

   b. Each signatory union shall have the right to appoint two representatives who shall be bargaining unit members or union staff to the Evaluation Committee.

   c. The Evaluation Committee shall mutually agree upon one or more outside consultants to help the parties develop the evaluation system. The parties may mutually agree to a different consultant, should they mutually agree to replace the first consultant. The District shall pay for the outside consultant.

   d. The Evaluation Committee shall conclude its work with a final recommendation being issued no later than May 1, 2014. There shall be quarterly presentations to District and Union leadership regarding the Committee’s progress, timelines and pending issues.
e. Upon recommendation by the Evaluation Committee, the evaluation system shall become effective July 1, 2014.

f. If the Evaluation Committee is unable to agree upon an evaluation system by May 1, 2014, the consultant(s) shall make a binding recommendation to the Board and Unions which shall become effective July 1, 2014.

4. The specific charge to the Evaluation Committee is as follows:
   a. The Evaluation Committee shall develop an evaluation instrument based upon to the extent possible objective criteria.
   b. In developing this instrument, the Evaluation Committee may employ one or more outside consultants to help the Evaluation Committee develop the evaluation instrument and process.
   c. Each of the signatory unions shall have the right to establish individual union specific subcommittees to develop portions of the evaluation instrument specific to the respective bargaining unit positions. For example, the Custodians have the right to establish a subcommittee to develop portions of the evaluation instrument relevant to the Custodian’s job duties and responsibilities.
   d. The Evaluation Committee shall address how and the extent to which the evaluation ratings should be used for any or all employment decisions, except as set forth in sub-paragraph g. below.
   e. The Evaluation Committee shall address the timing and sequence of evaluations.
   f. The Evaluation Committee shall address if, when and the nature of professional development assistance to be provided to “at risk” employees.
   g. The Evaluation Committee shall have no authority to recommend that the evaluation system have any relationship to layoff, recall, wages, overtime, overtime opportunities or extra work opportunities. With respect to recall decisions, if an employee has received the lowest evaluation rating for at least the initial and six (6) months evaluations, as set forth below, and is then laid off (in order of seniority), the District may decide to recall a less senior laid-off former bargaining unit member prior to recalling such individual.
   h. The evaluation system developed by the Evaluation Committee shall provide that if an employee receives the lowest evaluation rating established by the Evaluation
Committee, the employee shall be re-evaluated in six (6) months, and if the employee continues to receive the lowest evaluation rating on that evaluation, the employee will be subject to interim reviews to assist the employee who has received the lowest evaluation rating. These interim reviews shall occur no less frequently than every ninety (90) days during the next twelve (12) months. If at the conclusion of this twelve (12) month process, the final composite evaluation is still of the lowest ranking, the employee shall be subject to termination. However, if at the conclusion of this twelve (12) month process the final composite evaluation is above the lowest rating, the employee shall be returned to the normal evaluation cycle unless a different cycle is agreed to by the Union and District.

The evaluation system shall provide that only the employee’s termination may be grieved and that the arbitrator is limited as follows:

In rendering a decision (regarding the evaluation process which led to the employee’s termination) the arbitrator shall only consider whether or not:

a. the employee’s evaluation failed to adhere substantially to the evaluation process including, but not limited to, providing a corrective action plan;

b. there is a mistake in fact in the evaluation; and.

c. the District’s actions were arbitrary and capricious.

In the event the Union is able to demonstrate that any of the provisions of 1-3 above are applicable, the arbitrator shall then determine if the applicability of any of those provisions materially affected the outcome of the evaluation process. If the arbitrator determines that it did not materially affect the outcome of the evaluation process, the arbitrator shall render a decision in favor of the Board and the employee shall be dismissed. If the arbitrator determines that it did materially affect the outcome of the evaluation process, the arbitrator shall only have the authority to return the grievant to the earliest point in the process where the violation of 1-3 above occurred.

d. The above timelines may be extended by mutual agreement.

e. The agreed upon evaluation system shall be incorporated into this Agreement.

7.1. Appointment Of Substitute Custodians. In determining appointment of substitute Custodians, the first qualification shall be a permanent appointed Assistant Custodian. In buildings which have more than one (1) permanent appointed Assistant Custodian assigned, the substitute Custodian time shall be shared equitably. This shall apply to employee on the day shift.
only. Where an Assistant Custodian is not present in a building and no other Assistant Custodian is available, the District may utilize an Assistant Custodian Quadrant Rover to serve as a substitute custodian during a day shift. The Assistant Custodian Quadrant Rover will be paid consistent with this Section for the time worked as a Substitute Custodian and must also work his/her regularly scheduled shift.

7.2. Layoffs, Bumping Rights, Recalls. Until the beginning of the 2015-2016 school year, the current layoff, bumping, and recall provisions shall remain in effect. Effective with the 2015-2016 school year, the following shall control regarding recalls:

Recall

Employees who are laid off or eventually bumped out of a classification shall be placed on a recall list. Employees will be recalled to work in the order in which they appear on the recall list except that if an employee has received the lowest evaluation rating for at least the initial and six (6) months evaluations, as set forth below, and is then laid off (in order of seniority), the District may decide to recall a less senior laid-off former bargaining unit member prior to recalling such individual. If there is more than one employee with the lowest rating, the most senior employee with the lowest rating shall be recalled before the less senior employee with the lowest rating. An employee shall remain on a recall list for sixty months after his/her layoff or bumping out of a classification. The District shall provide the Union with the recall list.

Additions to those recall lists shall be sent, in writing, to the Union as soon as the employees are laid off from or bumped out of a classification. A complete updated list shall be provided to the Union at least quarterly.

Filling of Vacancies from the Recall List. When a vacancy occurs within a classification, the vacancy shall be filled by the employees on the recall list for that classification in the order in which the employees are ranked on the list, provided the employee meets the requisite minimum qualifications for the classification, and/or has the required commission, certification, or licensing in his or her possession at the time of the recall. An employee who is offered such a vacancy, in writing, and refuses to accept that position shall be removed from the recall list. The District will not fill any position with a new hire while a recall list for that classification is in effect. All day-to-day, substitute, or temporary positions shall be hired from the recall list for the classification in which employees are needed, if such a recall list exists. However, the employees who wish to be on the day-to-day, substitute, or temporary help list must inform the
District of that in writing at the time their layoff becomes effective. The District will offer each employee the appropriate request form to be placed on that list prior to the last day of work of that individual laid off employee. If the day-to-day, substitute, or temporary position shall be for more than sixty (60) days, other than where the position is unstaffed due to an approved leave, the position shall be considered a vacancy and shall be filled by the employees on the recall list for that classification in the order in which the employees are ranked on the list.

The District shall send notification by certified mail to the Union and the laid off employee of vacancies to be filled from the recall list. The letter sent to the Union shall include the name of the laid off employee(s), the vacant position/classification and the building/location of the vacant position as they become available.

The District will attempt on three (3) occasions within 48 hours to contact the laid off employee via telephone using the last known telephone number on record. If the District is able to contact the laid off employee by telephone, the employee will be given the opportunity to accept or reject the vacant position over the phone. If after three (3) good faith attempts within the 48 hour period described above the District has not reached the employee, the next senior laid off employee in within the appropriate evaluation band will be offered the position. The employee who the District was unable to contact will be offered the next available position in his/her classification.

The District will then send a letter to the employee by certified mail indicating the laid off employee’s acceptance or rejection of the vacant position. Included with the letter will be a form to be completed, signed and dated by the laid off employee indicating acceptance or rejection of the vacant position, and return instructions. If no response is received within three (3) days after the letter is mailed, the employee shall be deemed to have rejected the position and shall be removed from the recall list.

An employee who is offered such a vacancy, in writing, and refuses to accept that position shall be removed from the recall list. The District will not fill any position with a new hire while a recall list for that classification is in effect. All day-to-day, substitute or probationary employees shall be hired from the recall list for the classification in which employees are needed, if such a recall list exists. However, the employees who wish to be on the day-to-day substitute list must inform the District of that in writing at the time their layoff becomes effective. The
District will offer each employee the appropriate request form to be placed on that list prior to the last day of work of that individual laid-off employee.

The parties agree that this procedure shall supersede any applicable Revised Code or Civil Service statute, rule or regulation.

7.2.1. **Layoffs.** No employee represented by the Union shall be laid off until after all normal attrition and bumping rights specified herein, have been effectuated. Layoffs shall be made on a classification-by-classification basis. Employees shall be laid off in inverse order of their service with the District in the classification in which the layoff occurs.

7.2.2. **Bumping Rights.** If any vacancy exists at the time of the layoff, the laid off Assistant Custodian or Assistant Custodian Quadrant Rover may fill out a preferential list, which shall include at least one vacant position. S/he shall be assigned to an existing bargaining unit vacancy, rather than bump another Assistant Custodian or Assistant Custodian Quadrant Rover. In the event no vacancy exists at the time of layoff, (a) the laid off Assistant Custodian can bump the least senior Assistant Custodian and/or least senior Assistant Custodian Quadrant Rover; or (b) the laid off Assistant Custodian Quadrant Rover can bump the least senior Assistant Custodian and/or least senior Assistant Custodian Quadrant Rover. Consistent with the agreement between the Laborers and the District: (i) A laid off Assistant Custodian or Assistant Custodian Quadrant Rover shall also have the right to bump back to a vacant laborers’ position by filling out a preferential list; (ii) If no laborer position is vacant, the laid off Assistant Custodian or Assistant Custodian Quadrant Rover may only bump the least senior laborer, if (a) the laid off Assistant Custodian or Assistant Custodian Quadrant Rover was promoted from a laborer position within the two (2) years preceding said lay off; and, (b) the laid off Assistant Custodian or Assistant Custodian Quadrant Rover has greater laborer seniority than the least senior laborer; and (iii) exercise of any preferential rights as a laborer will be based upon time as a laborer only.

Notwithstanding the above, an employee shall retain seniority from the date the employee was originally hired as a permanent employee for all other purposes except for preferential rights, layoff and recall.

7.2.3. **Recall List.** Employees who are laid off or eventually bumped out of a classification shall be placed on a recall list for all bargaining unit classifications from which they have been laid off or bumped.
Each recall list will rank employees in accord with their service in the classification on that list. Employees will be recalled to work or called back to a higher rated classification in the order in which they appear on the recall list. An employee shall remain on a recall list for five (5) years after his/her layoff or bumping out of a classification. The District shall provide the Union with a recall list for each classification in which it represents employees.

Additions to those recall lists shall be sent, in writing, to the Union as soon as the employees are laid off from or bumped out of a classification. A complete updated list shall be provided to the Union at least quarterly.

7.2.4. **Filling Of Vacancies From The Recall List.** When a vacancy occurs within a classification, the vacancy shall be filled by the employees on the recall list for that classification in the order in which the employees are ranked on the list. An employee who is offered such a vacancy, in writing, and refuses to accept that position shall be removed from the recall list. The District will not fill any position with a new hire while a recall list for that classification is in effect. All day-to-day, substitute or temporary employees shall be hired from the recall list for the classification in which employees are needed, if such a recall list exists. However, the employees who wish to be on the day-to-day substitute or temporary help list must inform the District of that in writing at the time their layoff becomes effective. The District will offer each employee the appropriate request form to be placed on that list prior to the last day of work of that individual laid off employee.

7.2.5. **Earning Of Service Credit.** An employee working for the District is earning service credit with the District regardless of the source of the funds for all or part of his or her compensation.

7.3. **Reopening Closed Building.** When a previously closed building is reopened, the workers who were at the building at time of closure shall have the right of first refusal to those same positions, assuming they are still in the same classification, when the building reopens. In the event there is an active recall list, an employee on recall who was at the building at the time of closure does not have a right of first refusal unless s/he is the first to be recalled and the District has not closed another building.

7.4. **Red-Circling of Wage Rate.** When an employee is transferred, through no fault of his/her own, his/her wage rate shall not be reduced; provided, however, the employee does not refuse a position for which the employee has the requisite seniority, the acceptance of which
would mitigate the cost to the District.

ARTICLE 8
HOURS, INSPECTIONS AND OVERTIME COMPENSATION

8.0. Hours.

8.0.1. Regular Work Week. The normal work week shall be from Monday through Friday of each week. The normal daily schedule shall be eight (8) hours on each of the five (5) days in the normal work week.

8.0.2. Regular Shift To Be Completed In Not More Than 8.5 Hours. An Assistant Custodian’s eight (8) hour work day shall be completed in not more than eight and one-half (8-1/2) clock hours. The Custodian and Assistant Custodian are to establish a scheduled one-half (1/2) hour lunch period within the middle of two (2) hours of the day. An Assistant Custodian, upon approval by the Facilities Manager, may choose to work a straight eight (8) hour shift without lunch.

8.0.3. Eight Hour Shifts. Assistant Custodians shall be assigned a regular (first) shift of eight (8) consecutive hours (excluding lunch break) between 5:00 a.m. and the regular building closing time (4:45 p.m. to 6:00 p.m. as determined by management) on Monday through Friday, including hours when an Assistant Custodian may be responsible for the opening of the building. Hours worked on Monday through Friday before 5:00 a.m. and after the regular building closing time shall be paid at time and one-half (1-1/2) times the employee’s regular hourly rate consistent with 8.2.1.1., unless the Assistant Custodian is assigned to a second daytime shift, with a starting time and quitting time as late as 8:15 a.m. and 4:45 p.m. respectively, or to an afternoon shift beginning between 2:30 p.m. and 5:00 p.m., or evening shift. Such a second daytime shift, or afternoon shift or evening shift Assistant Custodian shall receive time and one-half (1-1/2) for all hours worked over eight (8) in one work day and shall not perform any duties in connection with an extension use permit.

By August 15th, the District will establish starting and quitting times for Assistant Custodians at Non-Quadrant Schools and Quadrants Schools for Non-winter time, Winter time and Non-school time as well as administrative sites. The District may change an Assistant Custodian’s starting and quitting times upon fourteen (14) calendar days notice.

8.0.3.1. Assistant Custodian Quadrant Rover.
a. **Hours.** An Assistant Custodian Quadrant Rover’s (“ACQR”) eight (8) hour work day shall be completed in duration with no scheduled lunch period with a shift beginning between 2:30 pm and 5:00 pm. ACQRs who are assigned to work an extension use permit at school during his/her shift shall not receive time and ½ for said permit worked during his/her regular shift.

b. **Transportation.** An ACQR shall be responsible for having reliable transportation during his/her regular scheduled work day. The ACQR will choose, with the District’s concurrence, a school within his/her assigned quadrant as a primary reporting site. The District will assign the ACQR to perform assistant custodian services at one or more work sites during the ACQR’s shift. The ACQR shall be responsible for transporting him/herself to each assigned work site. The District shall primarily assign the ACQR to work at schools within his/her quadrant and may assign the ACQR to work at schools in other quadrants.

c. **Vehicle Insurance.** The District shall place all ACQRs on the District’s vehicle insurance policy and shall provide full coverage for accidents or damage occurring within the course and scope of the ACQRs’ employment. The ACQR shall be responsible for satisfying minimal state vehicle insurance requirements and cannot rely upon the District’s insurance coverage to satisfy his/her personal insurance coverage state requirements. The District shall remain obligated to defend an ACQR as a result of an accident or damage occurring within the course and scope of employment in accordance with state law.

d. **Compensation.** The salary for an ACQR shall be pursuant to Article 9 and Appendix A. An ACQR shall receive the afternoon/night shift differential and in lieu of mileage and travel reimbursement differential for all productive and non-productive time.

8.0.4. **Temporary Rescheduling Without Assistant Custodian/Assistant Custodian Quadrant Rover’s Consent in Case of Emergency.** Notwithstanding Article 8.0.3. or Article 8.0.3.1., the District may reschedule an Assistant Custodian or Assistant Custodian Quadrant Rover’s regularly scheduled shift only under the following circumstances: (1) act of God; (2) circumstances beyond the District’s control. This Article shall not be used for scheduling purposes.
8.0.5. **Opening Of School Building By Assistant Custodian.** School buildings shall be opened for use by all persons designated by management by Assistant Custodians rather than Custodians, beginning as early as 5:00 a.m. Monday through Friday, where an Assistant Custodian is assigned to the building. Assistant Custodians will be given fifteen (15) minutes of uninterrupted time to open the building to which s/he is assigned. The Principal at the building or other persons designated by management shall not permit other employees into the building during that fifteen (15) minute time period on Monday through Friday. An Assistant Custodian will be paid his or her regular hourly rate of pay for these hours.

8.0.6. **Presence Of Custodial Staffing In the Building.** Custodial Staffing shall be present, regardless of the number of other individuals in a building when:

a state boiler license is required for operation;

a sporting event; or

open houses.

Staffing, at the District’s discretion, outside normal working hours, when there are:

Twenty-five (25) or fewer District employees present and/or

Ten (10) or fewer non-District employees present, provided Principal, or other person designated by the District is also present at school,

At District administrative sites, Director or other person designated by the District must also be present.

An Assistant Custodian will not be held responsible for damage arising from a non-bargaining unit member failing to properly close and secure a building pursuant to this section.

8.0.7. **Second Daytime Shift.** No Assistant Custodian, when assigned as the second Assistant Custodian on the day shift, or when, for the District convenience scheduling, shall be required to start his/her work day beyond 8:15 a.m. Further, no Assistant Custodian, who is scheduled to work afternoons, shall be required to start his scheduled shift prior to 2:30 o’clock and no later than 5:00 p.m.

8.0.8. **Second And Third Shifts To Be Completed In Eight Hours.** Assistant Custodians and Assistant Custodian Quadrant Rovers, on second and third shift assignments shall have a regular work day of eight (8) hours in duration with no scheduled lunch period.
8.0.9. **Assistant Appointed As Sub-Custodian.**

8.0.9.1. **When Appointed As Sub-Custodian, And No Assistant,** May Start At Earliest Scheduled Starting Time. Whenever an Assistant Custodian is appointed Sub-Custodian, and no Assistant Custodian is available, s/he may begin his/her work day (depending on the needs of the building) as early as s/he had been scheduled to start as an Assistant Custodian. Any resultant questionable starting time will be subject to review and approval of the Facilities Manager’s office.

8.0.9.1. **Differential To Apply.** The applicable responsibility differential that is established for Custodians shall be provided for all employees when appointed as Sub-Custodian or substituting for a Custodian. This shall also apply for building inspections and emergency call out. “Employee substituting for a Custodian” shall mean that (1) the Custodian is on vacation; (2) the Custodian is on an approved sick day; (3) the Custodian is on an approved special privilege leave; or (4) the Custodian is serving non-paid leave.

8.0.10. **Additional Payment When Working Where Schools Closed Due To Inclement Weather.** When the schools are closed because of inclement weather and employees who are not required to be present are paid for the day, then any employee who is required to work shall be paid for the day and, in addition, will be paid for all hours worked. This applies to regular employees only. Unless the Chief Executive Officer closes all District facilities, then bargaining unit members must report to work. When the Chief Executive Officer closes all facilities, bargaining members are eligible to receive 8 hours pay plus 8 hours mandatory report time.

Those hours paid because of this inclement weather provision (and not actually worked), will be paid at a straight time rate and will not be considered in any overtime calculations. Where the employee is working as a sub-custodian, then the same terms and conditions of the Custodian’s Agreement shall apply.

Except when an employee is working as sub-custodian, and only in extenuating circumstances, an employee may elect to use either a vacation day or special privilege leave day for an inclement weather day due to weather conditions. For purposes of this provision, the five-day notice requirement set forth in Section 12.1(3) shall not apply but an employee electing to take a vacation day or a special privilege leave must provide his supervisor notice within two hours from the time Facilities issues a page.
8.1. **Inspections.**

8.1.1. **Duties During Inspection Time.** Inspection time by the Assistant Custodian shall be devoted to checking heating and cooling systems for proper operation and/or preventive maintenance and other duties as appropriate.

8.1.2. **Inspections.**

A. **Mandatory Inspections.** The District shall designate by November 15 of each school year which buildings will have mandatory inspections. For those buildings designated for mandatory inspections, there will be mandatory, regularly scheduled Saturday, Sunday and Holiday inspections. The District will provide fourteen (14) days notice as to when the mandatory inspection will start and end. The minimum time allowed for such inspections shall be three (3) hours. Inspection time shall be alternated between the Custodian and the Assistant Custodian. The person making such inspection shall be compensated at the rate of time and a half of the building rate plus increments on Saturday for such inspection and at rates of double (2) the building rates and increments on Sundays and Holidays. An Assistant Custodian will not be subject to discipline where a building freezes or other damage occurs during weekends or holidays of non-inspection where such freeze-ups or damage are not otherwise caused by the Assistant Custodian’s negligence or failure to perform his/her work duties during the work week.

B. **Permissive Inspections.** Permissive inspections may occur during the months November through March, subject to the following provisions:

(i) The District will notify the Custodian or Assistant Custodian of the need for inspection no later than noon on Friday or the last regular working day before the holiday.

(ii) The Assistant Custodian will not be subject to discipline where a building freezes or other damage occurs during weekends or holidays of non-inspection where such freeze-ups or damage are not otherwise caused by the Assistant Custodian’s negligence or failure to perform his or her duties during the work week.

(iii) The minimum time allowed for such inspections shall be three (3) hours. Inspection time shall be alternated between the Custodian and the Assistant Custodian. The person making such inspection shall be compensated at the rate of time and a half of the building rate plus increments on Saturday for such
inspection and at rates of double (2) the building rates and increments on Sundays and Holidays.

Additional inspections may be authorized throughout the remainder of the year by the Deputy Chief of Business Operations or his/her designee on the same terms and conditions.

C. Inspection Time & Compensation Variance. The District agrees to continue the present inspection procedures and premiums for all present Custodians and Assistant Custodians as of April 1, 1984, and for the next ten (10) persons hired as Assistant Custodians, including the period when any of said Assistant Custodians are employed by the District as a Custodian, but all employees hired after the above mentioned employees shall be covered by inspection procedures and premiums changed to provide as follows:

(i) Mandatory Inspections:

Buildings: Two (2) hours minimum pay credit at time and one-half on Saturdays and Sunday and double time on Holidays.

(ii) Permissive Inspections:

Buildings: Two (2) hours minimum pay credit at time and one-half on Saturdays and double time on Sundays and Holidays.

Those employees falling under the grandfathered employees within this section are identified in Appendix D to this agreement and are incorporated herein.

8.2. Overtime Compensation.


8.2.1.1. Hours Worked In Excess Of Eight Per Day, Forty Per Week. A time and one-half rate shall be paid for all time worked over eight (8) hours in one (1) day as a result of working a permit and over forty (40) hours in one (1) work week. For all time worked over eight (8) hours in one (1) day that are unrelated to a permit, an employee must work over forty (40) hours in one (1) work week for the overtime rate to apply.

8.2.1.2. Hours Included In Computing Overtime. In the computation of overtime, an excused absence as defined by the Attendance Policy in Article 22 shall be considered as time worked for the time you were on the excused absence. Provided, however, that when schools are closed because of inclement weather as provided in 8.2.1.3. below, those hours paid because of that provision (and not actually worked) will be paid at straight time and will not be considered in any overtime calculations.
8.2.1.3. **School Closings.** An inclement weather day is a regular work day for which employees are expected to report to work in accordance with Section 8.0.1.0 above. However, an employee may elect to use either a vacation day or special privilege leave day for an inclement weather day due to weather conditions. For purposes of this provision, the five-day notice requirement set forth in Section 12.1(3) shall not apply, but an employee electing to take a vacation day or a special privilege leave must provide his supervisor notice within two hours from the time Facilities issues a page. If an employee reports to work on an inclement weather day, he or she shall be paid for time actually worked.

8.2.1.4. **No Mandatory Overtime Except In Emergencies.** No employee in this bargaining unit shall be obligated to work overtime against his/her wishes, except in emergency, but overtime hours refused shall be charged as overtime worked for the purposes of balancing overtime.

8.2.1.5. **Emergencies.** When an employee is required to respond to emergencies in his/her building beyond normal working hours, one and one-half (1-1/2) times the current hourly rate shall be paid. However, the emergency hours shall not be used in computation of overtime. The employee shall secure the building, perform necessary repairs, or to arrange for same. In the event the emergency takes less than three (3) hours to resolve, the employee has the option of (a) resolving the emergency and receiving pay for time worked with a minimum of one (1) hour pay; or (b) remaining on duty for three (3) hours and performing scheduled preventative maintenance or other repairs. An employee choosing option (b) shall provide a written summary of the tasks performed during the emergency call-in.

8.2.1.6. **Sunday And Holiday Shifts.** On any Sunday or Holiday shift that an employee is present and working, s/he shall be paid at a rate of time and one-half. A shift qualifies if one-half (1/2) or more of the shift hours are on a Sunday or Holiday. Qualifying shifts are not also eligible for weekend increments.

8.2.1.7. **Sharing Of Overtime.** In order to provide for an equitable sharing of overtime within each shift at a building, a record of overtime hours worked and/or declined by each Assistant Custodian is to be posted, and declined time shall be counted as hours worked for scheduling purposes.

This record is to be referred to by the Custodian so that s/he may offer to the appropriate low overtime employee those overtime assignments which may become available.
Employees assigned to first shift, second shift, third shift and swing shift are each to be considered as a separate group and overtime is to be maintained on an equitable basis within each group.

Where scheduling permits effort will be made to equalize overtime between the shift groupings.

Where security inspections prevail they shall be divided equally between the Custodian and the Assistant Custodian.

January 1 will be the start of a new overtime balancing period.

8.2.1.8. **Computation Of Holidays For Overtime Purposes.** In the computations of overtime, Holidays shall be considered in the same calendar week in which they fall, as eight (8) hours worked.

8.2.1.9. **Timing of Payment for Overtime Hours.** The District shall use its best efforts to ensure employees are paid for any overtime in the pay period for which the employee worked.

8.2.2. **Permits.**

8.2.2.1. **General Provisions--Scheduling Of Permit Activity.** Every effort will be made to schedule an Assistant Custodian(s) for any permit activity which would appear to warrant such assignment. Factors to be considered in determining needs will include numbers scheduled to attend, the presence of responsible adults at this permit activity, any necessary set-up or prior heating time and the security needs of the building.

8.2.2.2. **Permit Compensation.**

A. **Regular Work Hours:** An Assistant Custodian who is assigned to perform work associated with a permit shall be paid his/her regular rate for those hours of the permit s/he works that fall within the employee’s regularly scheduled work day. However, if the Assistant Custodian is substituting for a Custodian on a day a permit is worked, the Assistant Custodian shall be paid in accordance with Article 8.0.9.2.

“Assistant Custodian substituting for a Custodian” shall mean that (1) the Custodian is on vacation; (2) the Custodian is on an approved sick day; (3) the Custodian is on an approved special privilege leave; or (4) the Custodian is serving non-paid leave.

B. **Outside Regular Working Hours (Monday-Friday) & Saturday 5:00 am to 11:59 pm:** An Assistant Custodian who is assigned to perform work associated with a permit shall be
paid at time and one-half (1½) should the permit hours occur outside the employee’s regularly scheduled work day or on Saturday between 5:00 am and 11:59 pm. However, if the Assistant Custodian is substituting for a Custodian on a day a permit is worked, the Assistant Custodian shall be paid in accordance with Article 8.0.9.2. An Assistant Custodian shall not be entitled to work a permit on Saturday if s/he was on vacation or sick leave that Friday unless no other Assistant Custodian is able to perform said work.

C. **Sundays & Holidays:** An Assistant Custodian who is assigned to perform work associated with a permit shall be paid two (2) times his/her current hourly rate for non-District sponsored events and shall be paid time and one-half (1½) for District sponsored events should the permit hours occur on a Sunday or a Holiday. However, if the Assistant Custodian is substituting for a Custodian on a day a permit is worked, the Assistant Custodian shall be paid in accordance with Article 8.0.9.2. An Assistant Custodian shall not be entitled to work a permit on a Sunday or a Holiday if s/he was on vacation or sick leave that Friday unless no other Assistant Custodian is able to perform said work.

8.2.2.3. **Dead Time/Assignment Begins One Hour Before Permit Begins.** When an Assistant Custodian is assigned for service in connection with the extension use of a school building, the Assistant Custodian shall be assigned to duty in order to prepare the building at least fifteen (15) minutes before the extension use permit begins. However, in the event that additional set up time is needed, an Assistant Custodian so assigned may contact his/her Facilities Manager to obtain additional time or staffing. There will be no payment from the end of the work day until one (1) hour before the extension use permit begins unless the Assistant Custodian is assigned earlier for a particular permit or is otherwise assigned to duty during that period.

An Assistant Custodian will not be subject to discipline where a permit event is not set up on time or equipment for the permit event is not available so long as s/he was not negligent in the performance of his/her set up duties.

The permit, attached as Appendix E to this agreement, shall provide the time at which set up for the permit shall begin and clean up from the permit shall end.

8.2.2.4. **Manpower - Assistant Custodian To Be Assigned.** In any building where extension activities are accommodated, the District may assign an Assistant
Custodian to work the permit. However, in no case shall the District assign a Laborer or Cleaner prior to assigning an Assistant Custodian to work the permit.

8.3. **Call Backs And Minimum Pay.**

8.3.1. **Minimum Pay When Required To Report Back To Work.** An employee required to report back to work after the close of his/her shift, or on any day that is not a regular work day, shall secure the building, perform necessary repairs, preventive maintenance or other assigned duties. In the event the matter for which one is called back to work takes less than three (3) hours to resolve, the employee has the option of (a) resolving the matter and receiving pay for time worked with a minimum of one (1) hour pay; or (b) remaining on duty for three (3) hours and performing scheduled preventative maintenance or other repairs. An employee choosing option (b) shall provide a written summary of the tasks performed during the call back. When an employee is required to respond to a call-in in his/her building beyond normal working hours, one and one-half (1-1/2) times the current hourly rate shall be paid. However, the call-in hours shall not be used in computation of overtime.

8.3.2. **Procedure For Weekend Call-Backs.** Assistant Custodians who are working other than the day shift shall be permitted to call back to work when returning from sick leave beyond the normal 1:30 p.m. Friday deadline, but not less than six (6) hours prior to the scheduled starting time, in order that they may return to work on their weekend scheduled assignments. This will be accomplished by:

1. Calling the dispatcher at the Administration Building; and

2. Calling the Custodian, if s/he cannot be reached, calling the Assistant Custodian on duty at the particular building s/he is assigned to.

This provision applies to the afternoon shift on Saturday and up to and including the afternoon shift on Monday.

8.4. **Miscellaneous Provisions.** The employees' work week shall begin after his/her scheduled days off.

No compensation will be paid beyond the fifth consecutive work day for Special Privilege, Sick Leave or Vacation.

Employees must be in pay status on the sixth day in order to be paid, except for Holidays.
ARTICLE 9
ASSISTANT CUSTODIANS’ & ASSISTANT CUSTODIAN QUADRANT ROVERS’
SALARY SCHEDULE AND DIFFERENTIALS

Assistant Custodians Assistant Custodian Quadrant Rovers and Tier II Assistant
Custodians shall be paid for the applicable periods in accordance with the schedules annexed
hereto as Appendix A and made a part hereof.

General Wage Increase

The applicable building rates for Custodians in effect as of July 1, 2016 are set forth
below:

<table>
<thead>
<tr>
<th>Group/Tier I</th>
<th>Annual Salary</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>$53,622.40</td>
<td>$25.78</td>
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<tr>
<td>15</td>
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<td>16</td>
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<tr>
<td>20</td>
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<td>$29.56</td>
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<table>
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<th>Group/Tier II</th>
<th>Annual Salary</th>
<th>Hourly Rate</th>
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<tr>
<td>20</td>
<td>$50,731.20</td>
<td>$24.39</td>
</tr>
</tbody>
</table>

WAGES

A 2% base wage increase with a July 1, 2016 effective date.

If any other Union receives a contract providing for any compensation greater than a 2% increase
in base wages for the contract period July 1, 2016 through June 30, 2017, then members of the
Laborers International Union of North America Local 860 will receive the same increase in their
compensation.

The parties will extend for one year all other terms of existing collective bargaining agreement.

See attached Appendix for new wage scale.
ARTICLE 10  
LEGAL AND DECLARED HOLIDAYS  

Regular non-teaching employees shall receive Holiday pay for each of the following Holidays, provided that within a single school calendar year they are in pay status on their regularly scheduled work days immediately before and after the Holiday: New Year’s Day (January 1), Martin Luther King, Jr. Day (the third Monday in January), President’s Day (the third Monday in February), Memorial Day (the last Monday in May), Independence Day (July 4), Labor Day (the first Monday in September), Veteran’s Day (November 11) or Discoverer’s Day, Thanksgiving Day (the fourth Thursday in November), and the following Friday (Thanksgiving Friday) and Christmas Day (December 25).

Veteran’s Day will be observed in years when it falls on Friday, Saturday, Sunday or Monday. In years when Veteran’s Day falls on Tuesday, Wednesday or Thursday, the District will observe Discoverer’s Day. In years when Veteran’s Day is not officially observed by the District, bona fide veterans will have the opportunity to utilize a special privilege day to participate in Veteran’s Day events.

Should New Year’s Day, Independence Day, Veteran’s Day, and/or Christmas Day occur on a Saturday, the immediately preceding Friday will be observed as the paid Holiday. Likewise, should any of these Holidays occur on a Sunday, the immediately following Monday will be observed as the paid Holiday.

Any Monday which may immediately precede or any Friday which may immediately follow New Year’s Day, Independence Day, and/or Christmas Day will also be granted as paid Holidays, provided the employee is in pay status on the regularly schedule work days immediately before and after the Holiday.

Regular employees working on Good Friday and/or on the day before Christmas will be released at noon and paid for a full day. When such early release occurs, those regular employees not scheduled to work on these days will be given four (4) hours Holiday pay provided they are in pay status on the regularly scheduled work days immediately before and after the Holiday.
ARTICLE 11
VACATIONS

Vacation Policy – Assistant Custodian/Assistant Custodian Quadrant Rovers:

VACATION EARNED FOR SERVICE

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>EACH MONTH OF SERVICE</th>
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<tr>
<td>Less than 4 years</td>
<td>1.33 days</td>
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<tr>
<td>From 4-15 years</td>
<td>1.83 days</td>
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<tr>
<td>From 15-16 years</td>
<td>2.00 days</td>
</tr>
<tr>
<td>Beyond 16 years</td>
<td>2.08 days</td>
</tr>
</tbody>
</table>

11.0. Vacation Accumulated Monthly. On June 1, 1967, the District put into effect a vacation earning system whereby eligible employees began to accumulate vacation for each month that they were in active payroll status.

Credit for a month’s service will be granted (1) if the employee works (or is otherwise in pay status) through the 15th of the month or (2) if he starts work on or before the 15th and works through the end of the month.

11.1. Determination At End Of Annual Accumulation Period. At the end of the annual accumulation period on June 30, twelve (12) month employees will have their prior twelve (12) months accumulation totaled and rounded off with one (1) full day’s credit being given for any accumulation of .50 days or more, while anything less than this amount will be dropped. The need to round off will only occur when less than twelve (12) months are worked, or when the monthly earning rate changes within the July 1 to June 30 earning period.

11.2. July 1 Beginning Of Annual Vacation Accumulation Period. July 1 became and continues to be the start of the annual vacation accumulation period for all vacation eligible persons employed on a twelve (12) month basis.

11.3. Carryover Of Vacation. Employees earning vacation from July 1 may carry over their vacation time in accordance with state law; the District can deny or limit vacation requests for operational reasons, subject to the grievance and arbitration provisions.

11.4. No Accrual Of Vacation While Not In Pay Status. An employee does not earn vacation during any month that s/he is out of pay status, such as on a leave of absence.

11.5. Payment For Vacation On Regularly Scheduled Pay Dates. All vacation
allowances will be paid on regularly scheduled pay dates.

11.6. **Holidays Within Vacation Period Not Counted As Vacation.** Holidays occurring within a vacation period shall not be counted as vacation days.

11.7. **No Work During Vacations.** No one will be permitted to work during vacations and be compensated in addition to vacation pay.

11.8. **No Accrual Of Vacation For Supplemental Assignments.** Vacation is not earned for supplemental assignments such as night school or summer school appointments.

11.9. **Vacation Upon Resignation, Discharge Or Death.** All vacation that has been earned by an employee will be made available in cases of resignation, discharge or death, except that an employee terminating prior to six (6) months of employment will not be paid for any vacation. Any vacation that may have been paid to a less than six (6) month employee will be deducted or otherwise recovered.

11.10. **Increased Allowable Vacation Upon Retirement.** The maximum allowable number of accrued vacation days which can be paid in a lump sum upon retirement is increased from seventy-five (75) to eighty-five (85) days.

11.11. **Scheduling of Vacations.** Assistant Custodians shall be permitted to take vacation in the first week after school begins.

**ARTICLE 12**

**LEAVES, IN-SERVICE, LONGEVITY**

**AND SEVERANCE PAY, AND RETIREMENT BONUS**

12.0. **Sick Leave.**

12.0.1. **Maximum Accrual Of Fifteen Days Each Year.** Each regular employee may accrue a maximum of fifteen (15) days sick leave each year, in accordance with accrual rates in effect.

12.0.2. **Unlimited Accrual Of Days Cumulatively.** Unused sick leave shall be cumulative without limitation.

12.0.3. **Use Of Sick Leave.** An employee may upon approval use sick leave for absence due to personal illness, injury or exposure to contagious disease which could be communicated to others. Sick leave may also be used for absence due to illness, injury or death in the employee’s family, i.e. spouse, child, parent, brother or sister.
A physician’s certification for any absence is required, if requested. Failure to provide a physician’s certification is an unexcused absence under the Attendance Control Policy Article 22.

12.0.4. **Sick Leave For Funeral Attendance.** One (1) days’ sick leave is authorized to attend the funeral of the employee’s niece, nephew, first cousin, aunt, uncle, grandparent, grandchild, in-law, step-parent or immediate household member. If necessary, more than one (1) day sick leave may be approved by the Principal, Custodian or other Supervisor.

Verification is required upon return. Failure to provide appropriate verification is an *unexcused absence* under the Attendance Control Policy Article 22.

12.0.5. **No Falsification Of Written Justifications.** Under Ohio law, each employee is required to submit a written signed statement to justify the use of sick leave. Falsification of a statement is grounds for suspension or termination of employment.

12.0.6. **Advancement Of Sick Leave.** An employee who has exhausted his/her sick leave, or a new employee, may be advanced up to five (5) days sick leave within the current year. This advanced sick leave must be earned during the remainder of the school contract year. Unearned sick leave charged to an employee will, at the end of the school year or at the termination of services, whichever occurs earlier, result in loss of pay.

12.0.7. **Sick Leave Donation.** An employee represented by the same local union may donate accumulated sick leave to an eligible employee represented by the same local union under the following conditions:

1. **Eligible Employees.**
   a. Only for the purpose of initiating this procedure, an employee hired prior to January 1, 1993 must have had at least one unused sick day between September 1, 1993 and when the employee becomes eligible under sub-paragraph b.
   b. Any employee represented by this local union who is eligible for sick leave, and who has exhausted his/her own sick leave, will be eligible for donations.

2. **Eligible Donors.** Any employee represented by this local union may donate up to a maximum of 40 hours (5 days) to an eligible employee who is also represented by this local union. In order to make a donation, an employee must have a sick leave balance of 120 hours (15 days) after the donation. The maximum number of 40 hours (5 days) can be donated within a fiscal year.
3. Donations.
   a. Donations will be deducted from the donor’s accumulated sick leave time at his/her hourly rate and credited to the account of the recipient at his/her hourly rate.
   b. Donations may be made on a biweekly basis.
   c. Donations made, but unused, shall be lost to both the donor and donee. Accordingly, no donated days may be used to increase the donee’s severance payment, if any.

4. The District and the Union have established the above program with the intent that donations shall be made in a non-discriminatory manner. Jointly, the parties shall develop a notification form.

   12.0.8. Accumulation Of Sick Leave By Part-Time Employees. Employees who render service on a part-time basis shall accumulate sick leave at the same rate as that granted like full-time employees.

   12.0.9. Leave Not Available To Certain Employees. Sick leave will not be made available to playground and Community Center employees, student employees, resident tutors, substitute employees or any short term assignment employees.

   12.0.10. Sick Days and Overtime. Up to three (3) sick days per year may count toward overtime.

   12.0.11. Sick Days for Funeral Leave. On a case by case basis, the District may grant more than one sick day for funeral leave.

   12.1. Special Privilege Leave. Employees of the District may be excused from duty as a matter of Special Privilege and granted leave of absence for a period not exceeding three (3) days in any one (1) school year, provided such request is made in writing and approved by the appropriate supervisor. Special Privilege leave may be taken in half or full day increments.

   Such leave of absence will be granted without loss of pay, and shall not be deducted from the employee’s accumulated days of sick leave.

   (1) These days shall not be taken for Custodians, Assistant Custodians and Laborers: (i) during the last two weeks of the school year and one week before the beginning of the school year; or (ii) the work day before or after a vacation period.
(2) In emergency situations during the times noted in paragraph 1, above, approval may be granted by the immediate supervisor using the family emergency procedure. Emergency shall be defined as a situation of which the employee has no control and the employee did not participate in the decision for when the event was/is to occur.

(3) Other than as an emergency, SPL days shall not require approval, explanation, or documentation so long as the day is requested at least five (5) work days in advance.

(4) As of July 1 of each year, all unused Special Privilege days for the preceding year ending June 30 will be converted and credited to the employee’s accrued sick leave.

12.2. Assault Leave Policy.

Section 1. An employee who is unable to work because of a physical disability resulting from an assault received in the course of employment, or in the discharge of other official assigned duties of the Cleveland Metropolitan School District, shall be maintained in full pay status on assault leave, for the period of time set forth in Section 4 herein. Assault leave granted under these conditions shall not be charged against sick leave, earned or unearned provided the incident is timely reported and the employee timely files for workers compensation.

Section 2. An employee must timely seek medical attention from the time that s/he has knowledge of an injury, must timely report the assault to the immediate supervisor and Safety & Security, or other appropriate District personnel if the supervisor of Safety & Security is not available, and must complete an incident report form and an Assault Leave Form in order to become eligible for this benefit. The District may make reasonable modifications to the incident forms and the Assault Leave Forms from time to time. The District will make every effort to make a determination as to whether the employee’s application for assault leave will be granted within five (5) working days of notification by the employee of the occurrence.

The employee shall furnish a certificate from a licensed physician stating the nature of the disability and its anticipated duration and should accompany a completed Assault Leave Form furnished by the District. Any assault leave extending five (5) days shall be subject to review by a District-appointed physician, including a physical examination at the physician’s
discretion to justify the use of assault leave. Falsification of either a signed statement or a physician’s certificate will be grounds for suspension or termination of employment.

Section 3. Any employee who wishes consideration for restoration of full pay and sick leave status (consistent with the passage and amending of Ohio Revised Code §3319.143 effective September 30, 1976) may submit this request to the District. In the event that the request is rejected, the employee may file an appeal through the dispute resolution procedure. If an employee’s absence resulting from assault is covered by Worker’s Compensation, the District shall provide the additional compensation and benefits (including, without limitation, physician, hospital, optical, dental and life insurance benefits) that will provide the employee with the same pay rate and benefits received at the time of the assault for up to six (6) months from the date of the commencement of the assault leave. If the payment from the District reduces worker’s compensation payments, or benefits, the District will make the employee whole for his or her full pay and benefits.

Section 4. An employee shall be granted an assault leave of up to three (3) calendar months unless the employee has had a claim resulting from the assault approved by the Bureau of Worker’s Compensation, in which case the employee shall be granted an assault leave of up to, but not more than, six (6) months.

12.3. In-Service Increments. By participating in the in-service program offered by the Cleveland Metropolitan School District, an employee may increase his salary by Six Hundred Dollars ($600.00) over a minimum period of six (6) years. Those employees who had been receiving in-service increments prior to September 1, 1991, shall continue to receive such increments for as long as they are employed by the Cleveland Metropolitan School District.

12.3.1. Jury Duty Bargaining unit members may be paid by the District while serving on jury duty, provided that they complete a request to Serve on Jury Duty Form and comply with applicable District Regulations.-

12.3.2. Within ten (10) working days following completion of the jury duty assignment, payment received for such service must be endorsed payable to the Cleveland Municipal School District and given to the Chief Financial Officer’s office. Failure to observe this requirement will be cause for withholding the next regularly scheduled payroll check.
12.3.3. Bargaining unit members will be paid their regular pay (not to exceed eight (8) hours per day) for the duration of jury duty less any payments received from the Court for performing such duty.

12.3.4. Military Leave Bargaining unit members shall be permitted to take military leave consistent with state and federal law.

12.4. Longevity Anniversary Increments. Longevity increments are granted to all employees employed on an annual salary basis, as set forth in the Administrative Code in Section 556 according to the tables set forth in Appendix B annexed hereto and made a part hereof. Longevity increments will be paid beginning with the first pay period after eligibility.

Longevity increments shall be included in the gross hourly rate for the purpose of computing overtime. Longevity pay will be payable the month following the month an employee has completed 20, 25, 30, 35 years, rather than payable as of August 31st and January 31st only.

Effective June 30, 2012, longevity will be frozen for all bargaining unit members hired prior to July 1, 2011. Bargaining unit members hired prior to July 1, 2011 with less than 20 years, will be eligible to receive longevity compensation at his/her 20-year mark and will then be frozen at the 20-year mark. Other bargaining unit members with more than 20 years will be eligible for whichever threshold amount they obtain on or before June 30, 2012. Any employee hired after July 1, 2011, will not be eligible at any time to receive longevity.

12.5. Severance Pay and Retirement Inducement Bonus.

12.5.1. Severance Pay Based Upon Unused Sick Leave. At retirement from active duty, employees who are eligible to retire under a normal severance retirement program shall receive a cash payment equal to the value of thirty percent (30%) of their accumulated sick leave credit, not to exceed $30,000.

12.5.2. Spousal Benefit. In the event an employee, who is eligible to retire dies prior to retirement, the District shall pay to the employee’s spouse either:

(1) The benefit that would have been paid to the employee if he/she had elected to retire immediately before his/her death; or,

(2) $2,500.00, whichever is less.

The total available benefit pool shall not exceed $10,000.00 in any contract year.
12.5.3. **Calculation Of Severance Pay Based Upon Unused Sick Leave.** The calculation of severance pay based on accumulated but unused sick leave shall be made on the basis of each eligible employee's regular daily base rate of pay at the time of retirement.

12.5.4. **Advance Written Notice.** Severance pay and retirement inducement bonuses will be given to those employees who have given the District reasonable advance written notice, on such forms as may be prescribed by the Division of Human Resources.

12.5.5. **Notice Of Eligibility.** Individual employees who may qualify for severance pay based on accumulated but unused sick leave will be notified of eligibility at the time that notice of retirement from active status is given to the District.

12.5.6. **Severance Pay & Deferral Plan.**

A. **Notwithstanding anything in District policies to the contrary, in accordance with this labor contract and any related provisions of a plan document adopted by the District to comply with the requirements of Internal Revenue Code ("IRC") Section 403(b), retiring employees shall have their severance pay mandatorily paid into an annuity contact or custodial account that is designated to meet the tax-qualification requirements of IRC Section 403(b) ("Tax Sheltered Annuity" [TSA]), hereinafter referred to as the “403(b) Plan.” The provisions of this Article are effective for all employees whose effective date of retirement is after July 1, 2007.

B. **Participation in the 403(b) Plan shall be mandatory for a bargaining unit employee who retires after the calendar year the employee has attained age 54 and is entitled to “Severance Pay.” An employee who is required to participate in the 403(b) Plan is hereinafter referred to as a “Participant.”**

C. **For purposes of the 403(b) Plan, the term “Severance Pay” shall include all of the following types of cash payments that are payable to a Plan Participant upon retirement:**

   (1) Any severance pay that is payable to a retiring bargaining unit employee under Article 12; and

   (2) Upon agreement of the parties, any payment made to an employee pursuant to an early separation plan, should such a plan be offered at any time within the duration of this labor contract.

D. **If a retiring employee is a Participant in the 403(b) Plan, an employer contribution shall be made on his/her behalf under the 403(b) Plan in an amount equal to the lesser of:**
(1) The total amount of the participant’s Severance Pay; or

(2) The maximum contribution amount allowable under the terms of the 403(b) Plan.

To the extent that a Participant’s Severance Pay exceeds the maximum amount allowable under the 403(b) Plan in the calendar year of payment, the excess amount shall be payable to the 403(b) Plan in January of the following calendar year; and if the amount to be paid to the 403(b) Plan in January of the following year exceeds the maximum amount that is permitted under the 403(b) Plan for such calendar year, the excess shall be paid to the Participant in cash.

E. The TSA shall be used for the 403(b) Plan shall be the AIG VALIC Portfolio Director Series 6 group annuity contract. 403(b) Plan participants shall be required to complete AIG VALIC enrollment forms; and unless and until a member does so, no contribution of Severance Pay shall be made to under the 403(b) Plan on behalf of the member.

F. If a Participant is entitled to have a contribution paid to the 403(b) Plan and dies prior to such contribution being paid to the 403(b) Plan, the contribution shall be paid to the TSA provider and then paid to a Beneficiary of the employee in accordance with the terms of the TSA provider contract; provided, however, that if the Participant does not have a TSA in effect at the date of death, the Severance Pay shall be paid in cash to the estate of the deceased bargaining unit employee.

G. If a bargaining unit employee is entitled to Severance Pay and is not required to be a Participant in the 403(b) Plan, the bargaining unit member’s Severance Pay shall be payable to the bargaining unit employee in a lump sum cash payment by a date selected by the Chief Financial Officer (CFO) that is not later than 2-1/2 months after the last day of the bargaining unit employee’s employment. However, in accordance with the requirements of IRC Section 403(b) and other applicable federal income tax law, a bargaining unit employee may elect to have all or a portion of the bargaining unit employee’s Severance Pay deferred into a TSA or into a trust, custodial account or annuity that is intended to be part of a deferred compensation plan that is tax-qualified under IRC Section 457(b) (“Section 457 Plan”) that is otherwise maintained by the District for its employees.

The CFO shall have authority to establish rules relating to the elective deferral of Severance Pay as the CFO shall deem to be necessary or desirable to assure compliance with the applicable federal income tax law.
If a bargaining unit employee is entitled to a cash payment of Severance Pay, has elected to defer some or all of it to a TSA or Section 457 Plan, and dies prior to the date such amount is paid to the TSA or Section 457 Plan, the amount that the employee had elected to be paid to a TSA or Section 457 Plan shall nevertheless be paid to the TSA or Section 457 Plan. If a bargaining unit employee had not designated a specific TSA or Section 457 Plan, it shall be paid to the last TSA or Section 457 Plan which had received contributions on behalf of the deceased bargaining unit employee; provided, however, that if the bargaining unit employee had no TSA or Section 457 Plan, the deferred amount shall instead be paid to the deceased bargaining unit employee’s estate. If a bargaining unit employee is entitled to a cash payment of severance pay, to the extent that the bargaining unit employee has not elected to defer such amount to a TSA or Section 457 Plan and dies prior to the date of such payment, the amount payable in cash shall be paid to the estate of the bargaining unit employee.

H. All contributions to the 403(b) Plan and all deferrals to a TSA or Section 457 Plan, and all cash payments to all bargaining unit employees, shall be subject to reduction for any tax withholding or other withholding that the CFO determines is required by law. Neither the District, nor the CFO, nor Local 860 guarantee any tax results associated with the 403(b) Plan or deferrals to a TSA or Section 457 Plan, or cash payments made to a bargaining unit employee.

I. The CFO of the District may execute any and all legal documents that may be required to establish and maintain the 403(b) Plan, including, without limitation, hold harmless agreements with TSA providers, and to make any required filings with the Internal Revenue Service or other governmental agencies. In addition, the terms of this 403(b) Plan that provide for the deferral of Severance Pay may be subsequently incorporated into the terms of a plan document that is adopted to comply with the requirements of IRC Section 403(b). Further, the CFO may adopt rules and regulations relating to plan administration as the CFO deems to be necessary or desirable for plan administration and compliance with applicable law.

12.6. **FMLA Leave.** Employees may file for Family Medical Leave Act (FMLA) consistent with federal law. Leave forms may be obtained from Human Resources.

**ARTICLE 13
EMPLOYEE BENEFITS**

13.0. **General.** For the purpose of this Section, regular employees entitled to employee
benefits shall be defined as follows:

a. Bargaining unit employees having a regular assignment requiring a minimum of thirty (30) hours of work per week during the school year, excluding all student employees, community center employees, breakfast aides and lunchroom attendants. Also excluded are employees utilized on a substitute basis or for short term assignments such as summer employment. When an employee holds two (2) or more positions, the determination of regular status is based on each separate assignment and not on a combined basis.

b. Bargaining unit employees hired prior to December 31, 1996, who work between nineteen (19) and thirty (30) hours per week will be eligible for health insurance coverage (and are eligible for dental and vision care benefits) on the same terms as full-time employees.

c. Bargaining unit employees hired after January 1, 1997, who work nineteen (19) or more hours per week shall be eligible for Kaiser only single or family health insurance coverage.

If a husband and wife are each District employees and each is eligible for District paid hospitalization, they may elect either (a) one (1) family plan covering both or (b) each may select a single plan or (c) reimbursement for dual medical benefits, as set forth below.

For any covered employee who is not a regular employee, the following rules shall apply with respect to medical insurance only:

Employees who work between 19 and 30 hours per week, may either enroll in Kaiser or may opt-out. If the employee enrolls, the employee shall be eligible for healthcare/prescription coverage on the same terms and conditions as full-time employees.


1. Effective January 1, 2014 and except as provided in Section 7 and 8 below, if a bargaining unit employee enrolls his/her spouse in the District’s health insurance program and that spouse is eligible to participate (either as a current employee or retiree) in group health insurance sponsored by his/her employer or retirement plan provider, the bargaining unit employee shall pay a contribution of $75.00 per month in addition to the employee monthly contribution for family coverage set forth in Section 2, below for a total of $245.00.
2. Upon the spouse’s enrollment in his/her employer’s healthcare plan or retirement plan, that plan will provide primary coverage for the spouse and the District’s plan will provide secondary coverage so long as the bargaining unit employee is enrolled in the District’s family coverage, and the amount set forth in sub-section 13.0.1.1 above shall not apply.

3. During the open enrollment period, every bargaining unit employee who has family coverage which includes a spouse who participates in the District’s group health insurance coverage shall complete and submit to the District a written declaration verifying whether his/her spouse is eligible to participate in group insurance coverage sponsored by the spouse’s employer or retirement plan provider, effective not later than January 1, 2014.

4. Any bargaining unit employee whose spouse becomes eligible for any employer/retirement plan sponsored group health insurance coverage after the open enrollment period shall notify the District within thirty (30) days.

5. If a member submits false information about his/her spouse or fails to timely notify the District of a change in the spouse’s eligibility for employer or retirement plan sponsored group health, the employee may be subject to disciplinary action up to and including termination. In addition, the bargaining unit employee shall be personally liable to the District for reimbursement of the costs of benefits and expenses. The bargaining unit employee’s spouse shall also be immediately terminated from the District’s group health insurance. Any action taken pursuant to this section shall be subject to Articles 16 and 17.

6. Any spouse who fails to enroll in any group insurance coverage sponsored by his/her employer or retirement plan provider (unless the bargaining unit member enrolls the spouse in the District’s plan and pays the $75.00 monthly contribution as set forth above), as otherwise required by this section, shall be ineligible for benefits under the group healthcare/prescription insurance coverage sponsored by the District.

7. Any bargaining unit employee whose spouse is a retired District employee with at least 10 years of full-time service with the District and whose spouse is eligible for STRS or SERS health care and/or prescription benefits may elect to cover the spouse as primary. The retired spouse does not have to enroll in the STRS or the SERS health care and/or prescription plan. However, if the retired spouse should become employed, and such
employer offers group healthcare insurance, then that spouse and District employee are required to comply with Sub-sections 1 through 6 above.

13.1. Medical Benefits.

13.1.1. Medical Insurance.

A. Subject to the limitations in Section 13.0 above, during the enrollment period each year (November) each eligible employee may elect either single or family coverage from one of the following health care provider plans: Aetna, Kaiser Permanente HMO, Medical Mutual SuperMed Select or Medical Mutual SuperMed Plus. The level of health insurance, prescription drug insurance, dental and vision coverage provided, or the case of self-insurance, under the self-insurance program, will be the same as provided on June 30, 20010, unless as otherwise set forth in Appendix F. All pre-existing conditions will be covered unless currently restricted by HIPAA guidelines.

Employees who enroll in either single or family coverage will pay the following monthly employee contributions effective January 1, 2014,

<table>
<thead>
<tr>
<th></th>
<th>Single</th>
<th>Family</th>
<th>Working Spouse</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aetna</td>
<td>75</td>
<td>170</td>
<td>245</td>
</tr>
<tr>
<td>Kaiser</td>
<td>75</td>
<td>170</td>
<td>245</td>
</tr>
<tr>
<td>MMO Super Med Plus</td>
<td>75</td>
<td>170</td>
<td>245</td>
</tr>
<tr>
<td>Plus</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

All employees contributions are made by payroll deduction.

B. Employees enrolled in the Medical Mutual SuperMed Plus plans will pay the following charges for services utilized outside of the plans’ network as defined by that plan:

1. Major medical deductible: $250 single; $500 family
2. Twenty percent (20%) employee co-insurance for comprehensive major medical services. Forty percent (40%) employee co-insurance for major medical services.
3. Out-of-pocket maximums: $1,000 single, $2,000 family for comprehensive major medical services and $2,000 single, $4,000 family for major medical services.
SEE THE ATTACHED CHARTS FOR THE BENEFIT DESCRIPTIONS. THE CHARTS SHALL CONTROL OVER ANY CONFLICTING PROVISIONS SET FORTH IN THIS ARTICLE

SEE THE ATTACHED CHARTS FOR THE BENEFIT DESCRIPTIONS. THE CHARTS SHALL CONTROL OVER ANY CONFLICTING PROVISIONS SET FORTH IN THIS ARTICLE

Prescription Drug Plan. The level of prescription drug benefits shall be the same as provided in the previous Collective Bargaining Agreement between the District and the Union. See Appendix F, which is incorporated herein as if restated for a description of the benefits.

13.1.2. Union’s Right To Participate in Negotiating Committee With Kaiser. When a committee is formed by the District for the purpose of meeting and negotiating with Kaiser in an attempt to reach agreement concerning providing extended prescription plan hours, emergency prescription service and out-of-town coverage, the Union shall elect a representative to serve on the committee and any meetings shall not be scheduled during the school day.

13.1.3. Vision Care. All employees will be covered by a vision care program administered through a provider mutually agreeable to the parties. The District will pay the full cost of this program. The level of vision care benefits shall be the same as provided in the previous Collective Bargaining Agreement between the District and the Union, provided that the Spectera benefits shall be described in correspondence from Spectera to the Unions and the District dated August 23, 2000. Appendix F contains a summary of the level of benefits for vision care.

13.1.4. Dental Plan. The level of dental benefits shall be the same as provided in the previous Collective Bargaining Agreement between the District and the Union. See Appendix F, which is incorporated herein as if restated for a description of the benefits.

13.2. Life Insurance. The District shall underwrite the cost of a Ten Thousand Dollar ($10,000.00) Group Life insurance Policy for all regular employees. The District will also provide employees with the option of purchasing up to $150,000 of life insurance through payroll deduction.

Effective September 1, 2000, there shall be no life time maximum for mental health, drug abuse and alcohol treatment services under the MMO SuperMed Plus Plan. However, there shall be a maximum of thirty (30) days in-patient care per year, and a maximum of twenty (20) out-patient visits per year.

13.4. **Durable Medical Equipment Benefit.** Effective July 1, 2001, durable Medical Equipment benefits will be provided in accordance with the standard DME package of each carrier.

13.5. **Health Insurance Opt-Out Option.** During the enrollment period each year, employees will be provided with the option of declining health insurance coverage for the ensuing year. Such elections are irrevocable until the next annual enrollment period, provided, however, that if the employee’s employment or marital status changes or the employee’s spouse loses coverage, the employee and family may immediately be eligible for coverage. If the employee declines coverage for the ensuing year, s/he shall receive two semi-annual payments of $250.00. These payments will be made in April and October. If the employee elects to change his/her coverage from family coverage to single coverage (but would otherwise be eligible for continued family coverage) s/he will receive two semi-annual payments of $125.00, payable in April and October. Any employee who has opted-out and has any change in spousal coverage may be eligible to re-enroll within the current year of employment provided that the employee returns a pro rata share of the payments received pursuant to this section.

13.6. **Shared Savings.** An employee shall be eligible to receive a payment from the District equal to one-half (1/2) of up to $500 in savings recovered by the District where the savings result from the identification by the employee of errors in his/her hospital/surgical/medical bills.

13.7. **Section 125 Plan.**

13.7.1. The District shall continue to provide a “Cafeteria Plan”. The existing Plan shall remain in effect through December 31, 2010. Effective January 1, 2011, that Cafeteria Plan will be expanded to: (a) allow employees who make employee contributions for health care coverage to elect to do on a pre-tax basis, (b) allow employees to elect to receive additional cash in lieu of Board paid health care coverage (as set forth herein), and (c) allow employees to elect to participate in the dependent care and medical care flexible spending accounts (“FSAs”) described in paragraph C. below with respect to employee insurance premium payments as well
as child care and dependent care expenses under applicable provisions of the Internal Revenue Code.

13.7.2. The Cafeteria Plan will be designed to meet the requirements of Internal Revenue Code ("IRC") Section 125 and applicable regulations. Accordingly, each bargaining unit member will have an opportunity on an annual basis in November to enroll in the Cafeteria Plan. The election to participate may not be revoked during the current plan year unless there is a change in the employee’s circumstances that, in accordance with IRC Section 125, permits the employee to change his or her election under the plan (e.g., divorce, death of spouse, change in employment status, a child losing eligibility for coverage, a court order requiring coverage, or other enrollment rights consistent with federal law). Details of the Cafeteria Plan will be provided on an annual basis at the time of enrollment and will also be available through the Human Relations Department.

13.7.3. Under the Cafeteria Plan, each employee will be allowed to make a pre-tax “salary reduction” election up to the maximum amount allowable under IRC Section 129 (currently $5000 per year), and receive a corresponding credit under a child care/dependent care FSA. Under the dependent care FSA, reimbursement may be received for dependent care expenses described in IRC Section 129.

13.7.4. In addition, each bargaining unit member will be allowed to make a separate pre-tax “salary reduction” election up to a maximum amount of $10,000, and receive a corresponding credit under a health care FSA. Under the health care FSA, reimbursement may be received for medical (including dental and vision care) expenses (under IRC Section 213) that are not otherwise reimbursable by the health care plans of the District or of another employer.

13.7.5. To comply with the requirement of IRC Section 125, the FSAs will each have a 2-1/2 month grace period during which amounts remaining in the FSAs at the end of each plan year can be expended for permissible benefits. However, at the end of the grace period, any remaining amounts will be forfeited.

13.7.6. Employees may also elect (on forms prescribed by the District) to pay up to $50,000 worth of life insurance per year with before-tax dollars through the District’s Section 125 Plan, consistent with applicable federal law.

13.8. **Pathogen Control Plan.** The District will follow its blood-borne pathogen exposure control plan when an employee has been involved in an exposure incident.
13.9. **Union Review Of Information And Enrollment Forms For Medical Insurance And Dental Plan Prior To Distribution.** All literature or enrollment forms concerning the implementation of the improved medical insurance and the dental plan, referred to in Sections 13.1.1 and 13.1.4 of this Article shall be reviewed by the representatives of the Unity Committee prior to being distributed to any of the employees.

13.10. **Health Care Subcommittee.** A health care subcommittee shall be established with five (5) members appointed by the CEO and five (5) members appointed by the presidents of the five (5) largest unions representing District employees, each President to appoint one (1) member. Additional representatives may be invited to attend by agreement of the management and union representatives. The subcommittee shall review and make recommendations to the CEO and the Union Presidents regarding (1) mandatory reenrollment; (2) opt-out options; (3) modifications to any portion of the article that will enhance benefits and/or control costs. Changes could include increased use of mail order prescriptions, drug deductibles, and such other modifications as the committee may want to consider; (4) conversion to a pharmacy benefit manager format; and (5) such other matters as the subcommittee may elect to explore.

The Subcommittee’s first task shall be to determine the most efficient, accurate and cost effective method of completing benefit reenrollment for all of the District’s employees. The Subcommittee will submit its report for the reenrollment process to be followed to the CEO and the Presidents of the five (5) largest unions representing District employees by February 1, 2001. If the CEO and each of the five (5) Union Presidents are unable to unanimously agree to the terms of the reenrollment, then the last best offer of the District and the Unions shall be submitted to an arbitrator for final, binding arbitration with the arbitrator selecting either the District’s or the Unions’ proposal. Implementation shall take place as soon as practicable.

Should the Subcommittee propose or recommend a change in any benefit level set forth in this Article, the change requires the approval of the CEO and the primary officer of the affected Union.

Any recommended changes regarding this Article shall require the affirmative vote of (a) each and every one of the five (5) Union Presidents and (b) the Chief Executive Officer. If the parties agree upon such a change but dispute what, if any, future improvement should be made with the savings, if any, resulting from the change(s), the amount of the savings, the amount of the savings to be applied to future improvements or the projected costs of such future
improvements, the majority of the unions or the CEO may determine to submit the matter to arbitration. All unions involved will present one (1) position and will select one (1) representative at such arbitration and twenty (20) days in advance will identify the issue or issues to be arbitrated on behalf of all unions.

The Union agrees that any savings realized from the modifications negotiated to this Article have been used to fund a part of the wage increase.

13.11. Hospitalization/Health Care Labor Management Committee. The District and the Union agree to meet in a joint Labor/Management Committee format, under the auspices of the Federal Mediation and Conciliation Service, to mutually explore the means of addressing escalating health care costs.

13.12. Union Participation in Competitive Bidding. The District may invite competitive bidding each year for additional health care plan providers to be offered as coverage options for its employees, and the District may select additional health-care plan providers as health care plan options for its employees. Union representatives shall participate in the selection process, such carriers to provide the same basic level of benefits, monthly co-payments, deductibles and maximum out-of-pocket payment.

(1) The Union will be notified when such bids are solicited and may provide the District with input as to the selection of additional providers. The District will notify the Union of the providers who are selected as additional provider options before the enrollment period each year.

(2) The enrollment period will be the month of November.

(3) Selected additional providers must provide coverage comparable to the basic coverage provided by the Kaiser Permanente HMO, and the other providers listed above shall not decrease their basic level of coverage during the term of this agreement.


13.13.1. Automatic Summer Coverage. Both Healthcare/prescription drug and Group Life Insurance protection will be extended into the summer months for covered persons employed in positions which are normally school year active only. This includes personnel as defined in Section 548 of the Administrative Code.
This extended coverage will terminate effective September 1 should the employee fail to return to active payroll status at that time. Any payroll deductions being made for hospitalization and/or group life insurance will be effected on a monthly basis during the school year with a triple deduction being made in June to cover the summer months.

13.13.2. **Inactive Payroll Status.** Healthcare/prescription and life insurance coverage may be continued for any employee who becomes payroll inactive (such as resignation or a leave of absence). Said coverage continuation will be pursuant to Article 20 or as indicated below:

a. In order to continue health care/prescription drug insurance, the inactive employee will have to pay directly to the hospitalization agency the bill that will be received from them.

b. In order to continue life insurance coverage, the inactive employee must contact the Insurance Company and arrange for direct billing within thirty-one (31) days from the last day of active payroll status.

13.14. **Health Care Coverage Stability.** With the concurrence of Local 701, the District may drop any health care provider during the term of this Agreement. If the District wishes to add any new providers, 860 will be involved in the bidding process and selection of providers.

13.15. **Self-Insurance.** The District may explore and implement self-insurance for any or all components of its health insurance program including medical, prescription, dental and vision, provided (a) the level of benefits and services set forth in this agreement or any extensions thereof and the respective Certificates of Coverage are equal to or better than those in effect on September 1, 2010; (b) the disruption analysis of the non-Kaiser network of providers and facilities is less than ten (10) percent; (c) the self-insurance network will include both the University Hospitals Health System Network and the Cleveland Clinic Health Systems Network; (d) all pre-existing conditions will be covered unless currently restricted by HIPAA. Local 701 will be involved in the development of the self-insurance program.

13.16. **Hard Audit.** During the open enrollment period, the District shall have the right to conduct a hard audit requiring employees to produce acceptable documentation to establish eligibility for coverage for the employee as well as any claimed dependents and/or spouse. The required documentation may include, but is not limited to, birth certificates, custody decrees, marriage licenses, working spousal coverage, and/or verification of student status.
13.17. **Life Insurance.** The District shall underwrite the cost of a Ten Thousand Dollar ($10,000.00) Group Life Insurance Policy for all regular employees. The District also will provide employees with the option of purchasing life insurance through payroll deduction up to the limits of the policies in effect, but not less than $150,000.

**ARTICLE 14**

**PENSION - STATE EMPLOYEE RETIREMENT SYSTEM**

Effective January 1, 1984 the District will make payment of the full amount due the school employees retirement system in a manner analogous to that contained in the Ohio Attorney General’s Opinion 82-097.

**ARTICLE 15**

**INFORMATION AND NOTICES TO EMPLOYEES**

15.0. **Personnel File To Be Made Available.** All personnel files of individual employees excluding pre-employment information, shall be open for inspection to each employee upon request. The employee may have a representative of the Union present while he reviews his/her file.

15.0.1. **Right To Review All Derogatory Material Before Inclusion Into File.** No material derogatory to an employee’s conduct, service, character or personality shall be placed in the file unless the employee has an opportunity to read the material. The employee shall acknowledge that s/he has read such material by affixing his/her signature on the actual copy to be filed, with the understanding that such signature merely signifies that s/he read the material to be filed, and does not necessarily indicate agreement with its content. Where the employee refuses to sign, the District shall have a witness, in addition to a Facilities Manager, attest in writing to the employee’s refusal.

15.0.2. **Right To Know And Receive Copy Of Anything In File.** An employee shall be informed of and receive a copy of anything put in his/her file.

15.0.3. **Right To Examine File.** Upon appropriate request by an employee, s/he shall be permitted to examine his/her file, other than pre-employment reference material.

15.0.4. **Right To Answer Any Charge.** An employee shall have the right to answer any charges and decisions arising out of disciplinary actions and material filed, and his/her answer shall be attached to the file copy.

15.1. **Improved Information on Pay Stubs.**
15.1.1. **Identification Coding.** When the employee receives pay for extra duties, in-service meetings, covering classes, differentials, etc., the amount for each item shall be identified by a code on each pay stub.

15.1.2. **Listing Fringe Benefit Costs.** The amount of each fringe benefit cost paid by the District will be indicated on each employee’s pay stub on a yearly basis.

15.1.3. **New Payroll System.** The Cleveland Metropolitan School District is in the process of implementing a new payroll system. Items 15.1.1 and 15.1.2 above will be part of the new system.

15.1.4. **Accurate Contact Information.** Employees must provide accurate contact information, including mailing address and telephone number. No Post Office boxes will be accepted.

15.2. **Employee Notification Of Garnishee Order.** An employee shall be notified when garnishee orders are received by the District. Such notification shall be given as soon as such order is received.

**ARTICLE 16**
**DISCIPLINE**

16.0. **Right To Disciplinary Conference Prior To Discipline.** No layoff, suspension or other disciplinary action may be taken until the employee involved has had an opportunity to have a disciplinary conference. The only exception being that a Supervisor may suspend for the balance of his daily work assignment an employee whose physical or mental condition is believed to be such that s/he may jeopardize the safety of himself, herself or others. Such action may later be grieved.

16.1. **Progressive Discipline.** The purpose of discipline is to improve the work performance and conduct of the employee affected. Accordingly, progressive discipline shall apply, consistent with the District’s right to bypass any or all steps of progressive discipline, depending upon the nature of the offense.

a. **Discipline only for just cause –** Employees covered by this agreement shall be disciplined, demoted, suspended or discharged only for just cause under arbitral law. For reasons including, but not limited to, intoxication, narcotics, criminal offenses, license suspensions, attendance, tardiness, absence without leave,
neglect of duty, dishonesty or accidents, an employee may be disciplined up to and including discharge.

b. Progressive discipline – Progressive discipline shall apply, consistent with the District’s right to bypass any or all steps of progressive discipline, depending upon the nature of the offense.

c. The process for termination or suspension of any bargaining unit member without pay for good and just cause shall be as follows:

(1) If the administrator determines after preliminary investigation that a bargaining unit member may have engaged in conduct that could lead to a recommendation for termination or suspension without pay then bargaining unit member is entitled to a fact-finding. The administrator shall have twenty work days after knowledge of the alleged violation to complete the preliminary investigation and notify the member of his/her determination that the member may have engaged in conduct that could lead to either a termination or suspension without pay.

(2) The fact-finding hearing will be held before the appropriate Deputy Chief/Executive Director.

(3) The bargaining unit member and the union are entitled to written notice of: the allegations and the right to request representation and also to be provided with copies of any written evidence related to the allegations.

(4) The hearing will be held within a reasonable time (but no less than 48 hours) following receipt of the written allegations.

(5) The bargaining unit member will be given a meaningful opportunity to respond to the allegations.

(6) Not later than 10 days after the hearing the administrator shall notify the bargaining unit member and the Union in writing of the recommendation. If no discipline is recommended, the notification shall so state. If discipline is recommended, the notification shall state the discipline and the rationale, and shall provide a copy of the notice to the CEO.
(7) If the administrator recommends termination or suspension without pay then the CEO/designee shall review the evidence to determine whether the recommended discipline is warranted.

(8) The CEO shall make a recommendation regarding discipline at the next scheduled board meeting.

(9) The Board can adopt or modify the recommendation but cannot impose more severe discipline.

(10) The Board shall notify the bargaining unit member and the Union of its decision.

(11) Termination or suspension without pay shall be effective immediately; disciplinary action of less than thirty (30) days shall not become effective until grievance procedures (including arbitration) have been exhausted, except for reasons of physical incapacity, mental incapacity or reasonable suspicion of criminal or moral violation.

(12) The bargaining unit member can appeal the discipline through the grievance procedures specified in the CBA.

Garrity Rights. Any bargaining unit member covered by this Agreement shall be afforded full treatment and protection under his or her Garrity rights. Refusal to answer questions on the grounds that answers may incriminate the bargaining unit member shall not be subject to disciplinary action.

The Weingarten Protocol set forth in Article 17 Grievance Procedure sets forth the process to be followed regarding investigatory interviews, i.e. meetings that may lead to disciplinary action, thereby granting the employee the right to union representation during the discussion.

ARTICLE 17
GRIEVANCE PROCEDURE, ARBITRATION, NO STRIKE – NO LOCKOUT

Definition - a grievance is any matter concerning the interpretation, application or alleged violation of this agreement.

Definition of days. For the purpose of this provision, days shall mean a calendar day and work days shall mean a day, Monday through Friday, except for holidays.
Number of Days Indicated Are The Maximum; Extension By Written Mutual Agreement.

In order that grievances may be processed as rapidly as possible, the number of days indicated at each level are maximum. Every effort shall be made to expedite the procedures; however, the time limits may be extended by written mutual agreement of both parties. The party seeking the extension shall notify the other party in writing and the notified party shall be deemed to have agreed unless it gives written objection within five (5) work days of receipt of the extension request. Time limits, specified in this procedure may be extended by written mutual agreement of the parties. The failure of the District to comply with any time limit within 10 days, providing all facts, information or other documentation were available or should have been available, will result in the automatic dismissal of any grievance action by the District. Similarly, failure of the Union to comply with any time limits within 10 days will result in the automatic dismissal of the grievance/action. The District will cooperate fully with the Union to find methods to expedite the grievance procedure to the maximum extent practicable.

Notification under this section by the union to the district shall be made to the hearing officer for the step for which the extension is requested. Notification under this section by the district to the union shall be made to the union business manager.

Employee’s right to continuous representation. The aggrieved person or persons shall be represented at all stages of the grievance procedure by a building trades council representative.

Discipline involving alleged criminal activity (Garrity rights). Any employee covered by this agreement shall be afforded full treatment and protection under Garrity. Under Garrity, a bargaining unit employee, who as part of or subject to a district investigation, disciplinary proceeding or grievance hearing, would be normally expected to answer questions regarding their official duties and who refuses to answer on the ground that answers may tend to incriminate them will not be subject to disciplinary action. An employee exercising his/her Garrity right has a right to his/her own private legal representation at his/her own cost.

Union’s right to be present at all stages. The union shall have the right to have its representatives present at all stages of the specified grievance procedure.

Thirty day limitation, except where grievance is continuing. If the grievance procedure is not initiated within thirty (30) days after the aggrieved party knew, or should have known, of the event or condition upon which it is based, the grievance shall be considered waived, except for those grievances which are continuing in nature.
GRIEVANCE PROCEDURE

Grievances shall be resolved as follows:

**STEP ONE:**

If a dispute arises between the parties as to the meaning or interpretation or application of any provision of this Agreement or a claim or complaint based on an event which affects a term or condition of employment, an aggrieved employee and/or Union representative shall present a written grievance to the Deputy Chief of Business Operations within thirty (30) days of when the employee knew or should have known of the event giving rise to the grievance. The Deputy Chief of Business Operations shall take the necessary steps to consider the merits of the grievance. The Deputy Chief of Business Operations shall have six (6) working days in which to adjust the matter. If the Deputy Chief of Business Operations is the cause of the grievance, this first step shall be heard by another person designated by the Director of Labor Relations, or the Union or grievant can have the matter proceed directly to Step 2. The written grievance answer shall be delivered to the Union and grievant within six (6) working days of the hearing and shall state the rationale for the decision.

**STEP TWO:**

If the matter is not satisfactorily adjusted at Step One within six (6) working days, then the grievance shall be presented within six (6) additional working days to the Director of Labor Relations by the Union or the employee, unless no Step One decision has been timely rendered, in which case, the Union or the employee shall have the option to wait until such time as the Step One decision is rendered or the Union or the employee decides to proceed to Step Two. The District has the right to postpone a decision with written notification to the Union with a mutually agreed upon timeline for rendering of the decision. A Step Two meeting shall be held within six (6) working days after presentation of the written grievance among the Director of Labor Relations, the grievant and Union Representatives, to fully discuss the grievance. Both sides shall present evidence either by witnesses or by signed affidavit or affirmation to address the issues raised in the grievance, provided however, where the subject of the grievance is termination, the District is required to present its evidence with respect to the employee’s alleged wrongdoing by witnesses only, where possible (excluding students). Within ten (10) working days after the hearing, a written response to the grievance shall be sent to the grievant and the Union, stating the specific grounds for, evidence regarding and rationale for the decision.
**STEP THREE:**

Mediation. If the grievance is not resolved at Step Two, then the Union and the District, by mutual agreement, shall utilize the grievance mediation process in an attempt to resolve a grievance before going to arbitration. The objective is to find a mutually satisfactory resolution of the dispute. If both sides agree, a single mediator shall be chosen by the parties. A mediator may be chosen by the parties by informal means. If the parties cannot agree, the mediator shall be selected under the procedures of the Federal Mediation and Conciliation Service (FMCS).

Two (2) representatives of the Union, and all necessary witnesses, shall receive their regular salaries or wages for the time spent in the grievance mediation proceeding, which shall be during working hours as stated in this agreement.

(1) Grievances which have been appealed to arbitration may be referred to mediation if both the Union and the District agree. The mediation conference with respect to a particular grievance shall be scheduled in the order in which the grievance is appealed to mediation with the exception of suspension or discharge grievances which shall have priority.

(2) Promptly after both parties have agreed to mediate, either party, by mutual agreement, shall notify FMCS and mutually agreeable arrangements shall be made for the conference.

The parties must submit a signed, joint request for FMCS assistance. The parties must agree that grievance mediation is not a substitute for contractual grievance procedures.

(1) The grievant is entitled to attend the mediation.

(2) The parties must waive any time limits in their labor agreement while the grievance mediation step is being utilized.

(3) The grievance mediation process is informal and the rules of evidence do not apply. No record, stenographic or tape recordings of the meetings will be made.

(4) The mediator’s notes are confidential and will be destroyed at the conclusion of the grievance mediation meeting. FMCS is a neutral agency created to mediate disputes and maintains a policy of declining to testify
for any party, either in court proceedings or before government regulatory authorities.

(5) The mediator will use problem solving skills to assist the parties, including joint and separate caucuses.

(6) The mediator has not authority to compel a resolution.

(7) If the parties cannot resolve the problem, the mediator may provide the parties in joint or separate session with an oral advisory opinion.

(8) If the parties cannot resolve the grievance, they may proceed to arbitration according to the procedures in this Agreement.

(9) Nothing said by the parties during a grievance mediation, nor any documents prepared for a mediation session can be used during arbitration proceedings.

(10) The parties must agree to hold FMCS and FMCS Commissioners harmless for any claim or damages arising from the mediation process.

(11) Expedited Grievance Procedure- In the event a bargaining unit member is suspended for ten (10) working days or less, the bargaining unit member may omit STEP 1 of the grievance procedure and file a written request with the Director of Labor Relations, for a STEP 2 hearing, which shall take place within forty-eight (48) hours after said filing.

**STEP FOUR:**

A. If the matter is not resolved at Step Two, the Union shall have the right within thirty (30) work days of the date the Step Two answer is received by the Grievant to submit the matter to arbitration by informing the District that the matter is to be arbitrated. The fees and expenses of the arbitrator and the cost of the arbitration shall be borne equally by the District and the Union. The Union shall pay for its arbitration witnesses.

B. The arbitrator shall render a written decision and award resolving the controversy and ordering all appropriate relief. The decision and award of the arbitrator shall be final and binding on the District, the Union, and the employees’ affected. The arbitrator is prohibited from making any decision or award adding to or subtracting from or modifying in any way the provisions of this Agreement or which is contrary to law.
C. The arbitration hearing shall be held and the award shall be made in Cuyahoga County, Ohio.

D. An arbitrator will be selected from the FMCS in accordance with the voluntary labor arbitration rules.

E. The Union has the right to expedited arbitration for any non-class action issue for which the District may immediately impose discipline pursuant to Step III, Paragraph 11 of this Article. Upon such declaration, the Union and the District will make immediate (within 24 hours) arrangements with the Federal Mediation and Conciliation Service for the expedited arbitration procedure and such procedure shall begin as soon as the Federal Mediation and Conciliation Service can initiate a hearing. It shall be the specific request of both the Union and the District to have a decision within seven (7) days of the hearing. Notwithstanding anything to the contrary above, the parties may by mutual written agreement, choose another expedited arbitration procedure.

F. Class action grievances may be expedited by mutual agreement between the Union and the District.

G. A non-class action issue shall be defined as an issue which impacts on five (5) or fewer bargaining unit members.

**Civil Service Superseded.** This provision supersedes and preempts any Civil Service procedures and the parties agree that Civil Service shall have no jurisdiction over any grievance.

17.0. **No Strike – No Lockout.** The District and the Union agree that there will be no strike by the Union and no lockout by the District during the term of this Agreement, except as such activity is permitted by Article 24, Duration of Agreement.

**ARTICLE 18**

**TRAINING AND PREVENTATIVE MAINTENANCE**

18.0. The purpose of the Preventive Maintenance and Energy Conservation Training Program is: (1) to reduce utility costs; (2) extend the life of capital equipment; and, (3) allow the District’s physical plants to operate in a more efficient and economical manner. Also, the heating plant(s) can be operated more effectively, economically and safely by additional training for all assistant custodians.

18.1. The District will conduct in-building training programs, during regularly scheduled hours to increase the skills of assistant custodians concerning preventive maintenance,
energy conservation, and supervisory training. Participation in these training programs will be compulsory for all assistant custodians.

18.2. The assistant custodians who participate in the training classes required by the Cleveland Metropolitan School District will be compensated at their normal rate of pay for the time that they are in the training classes.

18.3. An in-service differential for successfully trained employees of $.20 per hour will be rolled into their base salary.

18.4. The topics covered in the Preventive Maintenance and Energy Conservation Training Sessions will be determined by the District in cooperation with the Union.

18.5. Assistant custodians must attend all class sessions and successfully complete a written examination concerning the covered material for compensation. The training sessions shall cover topics such as (but are not limited to): air conditioning/refrigeration; boiler operation and operation of related equipment; electrical maintenance; floor maintenance; glazing, carpentry and lock maintenance; all new equipment related to the work of covered employees; plumbing; steam fittings; temperature controls; and maintenance of a preventive nature, for those areas.

18.6. Training sessions shall be scheduled at management’s discretion, with reasonable notice being given to covered employees.

18.7. District management, with input from the Union, in a committee structure, shall develop a training program for assistant custodians and laborers. The focus of the program will be preventive maintenance, energy conservation, supervisory training and related building maintenance topics. The committee shall be composed of three (3) members of management and three (3) members of the Union. The committee shall establish the guidelines and the content of the training program.


18.9. If not implemented by March 1, 1994, then $.20 per hour increment shall be paid to all custodians, assistant custodians, and laborers, provided, however, that continuation of this payment is conditioned upon participating in and successfully completing the initial in-service training program.
ARTICLE 19
TUITION-FREE EDUCATION

Employees will receive tuition-free education at all Cleveland Metropolitan School Adult Education programs. Enrollment will be made possible on a space available basis after tuition-paying students have enrolled. The District shall have the right to refuse enrollment if it is determined that enrollment privileges are being abused by employees. All credits earned through the adult education program will be added to the personnel file of employees based upon evidence of satisfactory completion, as provided by the employee.

ARTICLE 20
EMPLOYEE DISCLOSURE REQUIREMENTS

20.0. Disclosure of Criminal Violations. Any employee who pleads guilty to or is convicted of any offense including the offenses set forth in Section 3319.39 of the Ohio Revised Code, any substantially comparable ordinance of a Metropolitan corporation or any substantially comparable statute of another State shall be required to disclose such conviction or plea of guilty to the District. Failure to do so can result in disciplinary action up to and including termination.

20.1. a. Senate Bill 38 Violations. Conviction of, or pleas of guilty of Senate Bill 38 offenses will not automatically result in termination. However, the District has the right, on a case-by-case basis and for just cause, to terminate employees convicted of such offenses, in the future consistent with the terms of the labor agreement. Any NCFO Local 860 member charged with a Senate Bill 38 offense shall be placed on unpaid administrative leave during the pendency of the criminal proceedings. The member’s health benefits shall remain intact during the unpaid administrative leave with the employee contributing the employee’s share. During the pendency of criminal proceedings, the District shall not take any disciplinary action against the NCFO Local 860 member relative to the pending charges. If the NCFO Local 860 member is found not guilty or charges are dismissed, the District must reinstate the NCFO Local 860 with full back pay and benefits. However, nothing precludes the District from immediately initiating disciplinary action up to and including termination consistent with the terms of the labor agreement.

20.1. b. Non-Senate bill 38 Violations. Where an individual pleads guilty to or is convicted of a non-Senate bill 38 criminal offense, the District may proceed with a disciplinary
action up to and including termination consistent with the terms of the labor agreement. Any NCFO Local 860 member charged with a non-Senate Bill 38 offense occurring on District property or while on duty shall be placed on unpaid administrative leave during the pendency of the criminal proceedings. The member’s health benefits shall remain intact during the unpaid administrative leave with the employee contributing the employee’s share. During the pendency of criminal proceedings, the District shall not take any disciplinary action against the NCFO Local 860 member relative to the pending charges. If the NCFO Local 860 member is found not guilty or charges are dismissed, the District must reinstate the NCFO Local 860 with full back pay and benefits. However, nothing precludes the District from immediately initiating disciplinary action up to and including termination consistent with the terms of the labor agreement. For non-Senate bill 38 offenses that occur off District property and while the member is off duty, the employee will remain in pay status with full benefits during the pendency of the criminal proceedings.

20.2. Disclosure on Employment Application. Pursuant to the Management Rights clause, the District reserves the right to take appropriate disciplinary action with regard to employees who fail to truthfully fill out their employment application.

20.3. Disclosure of Arrest Warrants. Employees knowledgeable of outstanding arrest warrants must notify the District of the warrant and resolve the warrant as expeditiously as possible. An employee may use a vacation day or a restricted special privilege leave day to resolve the warrant; otherwise, an employee arrested on a warrant will not be allowed to return to pay status until submission of documentation that the warrant has been resolved.

20.4. Pre-Employment Criminal Background Investigation. Pursuant to Section 3319.39 of the Ohio Revised Code, the employment of any employee is conditional until a criminal records check has been completed and reveals that the employee has not been convicted of any of the crimes listed in that statute.

Provided: This Section shall not apply to the above-described offenses for which a plea of guilty, or conviction was made prior to October 29, 1993, unless such plea or conviction was misrepresented on the employee application. Except as required on the employment application, employees shall not be required to disclose O.R.C. 3319.39 convictions or guilty pleas occurring between October 29, 1993 and June 19, 2002. However, such non-disclosure shall not insulate
an employee from disciplinary action as set forth in Section I above, where such conviction or guilty plea has ultimately come to the attention of the District.

Provided further, that employees who are conditionally employed under the term of this Section shall otherwise be subject to the terms of this Agreement.

The District agrees that it will implement this or a substantially similar Employee disclosure procedure with all other District employees.

ARTICLE 21
DRUG TESTING POLICY

When there is a reasonable cause to believe that an individual employee is using illegal drugs or alcohol at work or is under the influence of drugs or alcohol at work, and/or pursuant to current District CDL Drug Testing regulations, such employee will be directed to report to the District designated physician or medical clinic, on District time and expense, for a fitness for duty examination. This will involve appropriate testing, including possible urine or blood tests or breathalyzer exam as determined by the appropriate medical personnel. The circumstances supporting the allegation shall be reduced to writing, signed by two (2) referring supervisors who have received drug/alcohol abuse education, and provided to the appropriate personnel and the Union prior to testing.

An employee may be referred for such fitness for duty screening if two (2) referring supervisors who have received drug/alcohol abuse education have a reasonable suspicion that the employee is then under the influence of alcohol or a controlled substance. The demand for a urine, blood or breath specimen shall be made based only upon specific, objective facts, and reasonable inferences drawn from those facts in light of experience, that the employee is then under the influence of drugs or alcohol so as to endanger fellow employees, the public, or otherwise adversely impact on the employee’s ability to perform his or her job duties. In addition, employees may be referred for mandatory urine, blood or breathalyzer tests to determine substance abuse as part of a disciplinary probation for employees who have violated the District’s drug and alcohol rules.

An employee shall be entitled to the presence of a Union representative before testing is administered. An employee who refuses to take a drug or alcohol test may be discharged immediately by the District.
As concerns urine samples for drug testing, subject employees will undergo an initial screening (EMIT) test. For any positive results, a confirmatory test employing the gas chromatography/mass spectrometry (GC/MS) test will be used. The District will insure that there is a continuous chain of custody of any sample taken from an employee. Specimen collection will occur in a medical setting and the procedures shall not demean, embarrass, or cause physical discomfort to the employee.

The results of a drug or alcohol screening test will be kept strictly confidential. An employee who tests positive for drugs and/or alcohol will have the opportunity to review the test results and, if desired, a reasonable opportunity to rebut the results. Copies of any such evaluation shall be provided to the District and to the individual tested. Where urine or blood samples have been taken, the samples will be preserved for a reasonable period of time and such employee will have the opportunity to take these samples to a reputable physician, or laboratory of his or her choosing for a re-testing. An employee shall be deemed to have failed an alcohol test if:

1. The person has a concentration of ten-hundredths (10/100) of one-percent (1%) or more by weight of alcohol in his blood;
2. The person has a concentration of ten hundredths (10/100) of one (1) gram or more by weight of alcohol per two hundred ten (210) liters of his breath;
3. The person has a concentration of fourteen-hundredths (14/100) of one (1) gram or more by weight of alcohol per one hundred (100) milliliters of his urine.

Employees who may be drug or alcohol dependent are encouraged to voluntarily seek professional assistance through a reputable treatment program. The District's Employee Assistance Program (EAP) can provide counseling and referral. All records of an employee seeking medical rehabilitation for drug and/or alcohol dependency, either through the EAP or otherwise, will be kept strictly confidential. Voluntary assistance should be sought before dependency affects job performance so as to endanger fellow employees, the public or otherwise adversely impact on the employee's ability to perform his or her job duties.

The EAP program does not supplant the normal discipline and grievance procedure. An employee subjected to disciplinary charges which include substance abuse on the job will be
given access to the drug or alcohol screening results, the ability to have privately tested the blood or urine samples at an independent laboratory and the opportunity to rebut any allegations of substance abuse. Any charging letter issued to an employee which included allegations of substance abuse on the job shall list the basis upon which it was determined that there was reasonable cause to believe the employee was using drugs or was under the influence of drugs or alcohol at work.

Any employee found to have positive screens for drugs and/or alcohol must be given medical clearance by a qualified physician acceptable to the District before returning to work.

An employee who fails a drug or alcohol test for the second time during his employment with the District may be discharged immediately by the District, subject to just cause and the provisions of the grievance procedure.

The District after bargaining with the Union, shall adopt random drug testing policies only for employees who are required to be randomly tested under law (e.g., Department of Transportation regulations regarding employees required to have a Commercial Driver’s License).

The District is not responsible for any legal obligations and costs for claims based on the Union’s duty of fair representation.

The Union shall be indemnified and held harmless by the District for any violation of an employee’s constitutional, common law, or statutory rights.

The District agrees that it will implement this or a substantively similar drug/alcohol testing procedure with all other District employees.

ARTICLE 22
ATTENDANCE POLICY

ATTENDANCE CONTROL

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into between the Board of Education of the Cleveland Municipal School District (the “District”) and the signatory unions (collectively referred to as the “Unions”) to this Memorandum (District and Unions are collectively referred to as “Parties”) as follows:

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1. As part of the 2013 negotiations for successor contracts between the District and Unions, the District made a proposal related to attendance control that would make consistent the attendance control provisions across all of the non CTU bargaining units.

2. The District and Unions agreed that the development of the attendance control provisions may be best addressed by establishing an Attendance Control Committee composed of members appointed by the District and members appointed by the Unions.

3. Given this, the District and Unions have agreed to the following:
   a. The District shall have the right to appoint up to five District Representatives to the Attendance Control Committee but in no event shall the District representatives comprise more than 25% of the committee. There shall be Co-Chairs, one designated by the District and one designated by the Unions.
   b. Each signatory union shall have the right to appoint two representatives who shall be bargaining unit members or union staff to the Attendance Control Committee.
   c. The Attendance Control Committee may mutually agree upon one or more outside consultants to help the parties develop the Attendance Control provisions. The District shall pay for the outside consultants.
   d. The Attendance Control Committee shall mutually agree upon one mediator/arbitrator who shall assist the Parties in resolving any differences, and if any differences remain as of December 1, 2013, those differences shall be submitted to binding arbitration. The District shall pay one half of the mediator/arbitrator’s fee, and the Unions shall pay the other half on a per capita basis (i.e. if 4 unions, then each union would pay one-quarter of their share of one half of the mediator/arbitrator’s fee). If all the issues are not resolved among the Parties, then there shall be one arbitration regarding all unresolved issues, with the District paying one-half the fee, and the participating unions paying the remaining half on a per capita basis. The mediator/arbitrator shall decide upon one uniform attendance control policy which shall apply to all Parties.
   e. The Attendance Control Committee shall conclude its work with a final recommendation being issued no later than January 1, 2014.
f. Upon recommendation by the Attendance Control Committee, or decision by the mediator/arbitrator, the attendance control program shall be incorporated into the then existing collective bargaining agreements as attached to this agreement.

4. The specific charge to the Attendance Control Committee is as follows:
   a. The Attendance Control Committee shall develop an attendance control program that among other things defines unexcused absences, tardiness and AWOL.
   b. The Committee will establish the basis upon which an employee will be placed in the attendance control program and how the employee can exit the program.

The Committee will establish progressive disciplinary action for employees who violate the attendance control program which shall culminate in termination

ATTENDANCE POLICY

Section 1 – Application

As a result of the 2013 negotiations there was a Memorandum of Understanding (MOU) created that outlined the formation of a committee to design a new Attendance Control Policy. The committee, comprised of representative bargaining units, 244, 407, 436, 860, 777, 1199, CBCTC and including members of CMSD management, worked together to create a fair and consistent policy for all members. The following Attendance Policy has been developed to provide a clear understanding of employee attendance expectations as well as deter and/or address absenteeism.

The district shall apply this attendance policy uniformly to all members.

This attendance policy supersedes all prior attendance policies applicable to members of the representative bargaining units, 244, 407, 436, 860, 777, 1199, CBCTC. This attendance policy shall be applied on January 1, 2014. The district shall not use any absences, AWOL, or tardiness occurring prior to January 1, 2014 as a basis for implementing discipline under this article. The district shall not apply this policy retroactively and all members shall begin with a clean slate. However, it is understood that an employee that is in the hearing process and/or serving a suspension under the current absentee policy on January 1, 2014 (or on the date of ratification, if applicable) will be governed under the prior CBA absentee policy (if applicable).

The district agrees that an incident resulting in discipline under this policy cannot be used as a basis for discipline by the district under any other district or departmental policies, procedures, rules or regulations. All rights afforded by Loudermill and Weingarten shall apply.
An employee may appeal disciplinary action arising under the attendance policy. Such an appeal must be made in accordance with Article ___ (Grievance Policy).

A single attendance infraction may only be disciplined under one of the appropriate areas: Absence Abuse, Tardiness, or AWOL. An employee may not be disciplined for the same infraction under multiple processes (absence abuse, tardiness, or AWOL).

Section 2 – Definitions

Absence Occurrence: Any unexcused absence including a single day or a combination that would total half of your regularly scheduled shift. Medical documentation must be provided within 48 hours (2 working days) of the employee’s return to work or the absence will be considered unexcused.

Excused Absence: An absence that qualifies for (i) documented sick leave (ii) Family Medical Leave; (iii) military leave, and (iv) assault leave or is an otherwise documented medical absence. An excused absence also includes any vacation leave, funeral leave, jury duty, special privilege or other documented leave so long as the leave is approved by the District. Medical documentation must be provided within 48 hours (2 working days) of the employee’s return to work or the absence will be considered unexcused. District forms are not considered documentation.

Pattern of Absence: Shall be unexcused absences occurring repetitively including but not limited to: (i) before or after vacation and/or personal leave; (ii) before or after weekends or holidays; (iii) immediately before or after paydays; (iv) when difficult jobs or assignments are scheduled; (v) during certain times of the month/year.

Tardiness Instance:
1. Being late to work at the beginning of the scheduled starting time.
2. Being late to work returning from lunch (if applicable)
3. Being late to work returning from contractual break (if applicable)

Look Back Period: Any rolling 60 workdays.

Early Departure: Any time a person leaves work earlier than their scheduled quitting time. All scheduled time must be accounted for in a daily time record.

Unexcused Absence: Any documented day or any part thereof an employee is not on an excused absence pursuant to the excused absence definition. At any hearing under this policy, the
employee has the right to bring his/her documentation evidencing excused absences, including physician certification.

Absent Without Leave (AWOL): Employees who do not report to work and do not provide acceptable notice when possible are considered AWOL.

Absence Reporting: Supervisors must inform employees of the departmental absence reporting practices on an annual basis in writing, including where, when and whom to call when reporting an absence. Employees must report all absences prior to the start of their work time, or as soon thereafter as possible. If an employee fails to report his/her absence, the employee will be considered absent without leave until a reasonable explanation is subsequently provided.

Absence Recordkeeping: All absences must be reported accurately by the employee on the District’s Employee Absence Forms (i.e.-sick leave, vacation, special privilege, etc.).

Section 3 – Absence Abuse Process

It is the policy of the Cleveland Metropolitan School District to review employee attendance on a periodic basis, but no less than every 60 workdays.

A. District employees accrue fifteen (15) days of sick leave per year, and three (3) days of special privilege leave.

B. The initial basis for review of possible disciplinary action under the absence abuse process shall be where district records show that the employee has absence occurrences totaling the Absence Hours identified in the Absence Occurrence Schedule within a look back or where any employee exhibits a pattern of absence within any time period.

C. An employee who fails to adhere to the attendance requirements is subject to progressive discipline as detailed in the schedule of progressive discipline described in this policy. For the purpose of this absence abuse policy, a one (1) year rule applies. For example, if an employee’s previous discipline was within a one (1) year time period, the employee will progress to the next step of the progressive discipline schedule. Violations of more than one (1) year at the time of discipline will not be used by the district to determine the appropriate progressive discipline.

D. When the district grants an employee an approved leave of absence, the time between the effective date of the approved leave of absence and the effective date of the employees approved return to duty will not be considered in computing the one-year period described above.
EXAMPLE: If an employee is first placed on the absence abuse list on 7/01/13, and has another infraction on 9/08/13, the date of the last infraction (9/08/13) begins the one-year time frame for application of the absence abuse policy. For example, an employee receives a written warning under the policy on 9/01/13, a one-day suspension for violation of the policy on 12/1/13. On 9/02/14, and the employee once again violated the policy; The next step of discipline will be a five day suspension. Accordingly, the 9/02/14 infraction continues the progressive discipline as outlined under the policy for the next 12 months. However, if an employee completes one year with no new infraction of the attendance policy s/he shall be removed from the absence abuse list.

E. The employee is responsible for monitoring his/her own attendance and absences. However, the district will notify the employee in writing where the employee has missed more than the Absence Hours identified in the Absence Occurrence Schedule within a look back period and that further absence occurrences may subject the employee to progressive discipline.

<table>
<thead>
<tr>
<th>Absence Occurrence Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Based on an employee's scheduled daily contractual hours, the absence hours listed below are used to determine when an employee will be considered for and/or continued in the Absence Abuse Program.</td>
</tr>
<tr>
<td><strong>Scheduled Daily Contractual Hours</strong></td>
</tr>
<tr>
<td>0.00 – 3.99</td>
</tr>
<tr>
<td>4.00 – 5.99</td>
</tr>
<tr>
<td>6.00 – 8.00</td>
</tr>
</tbody>
</table>

F. Informal Supervisory Conference: The Union and the District require an informal attendance conference between the employee and their supervisor to discuss attendance and/or tardiness issues. The supervisor shall identify the problem(s) and attempt to resolve the issue through a discussion with the employee. The supervisor shall offer constructive suggestions and shall attempt to aid the employee in resolving the issue. It is understood that this conference will not result in disciplinary action. This section does not include AWOL.

PROGRESSIVE DISCIPLINE - Absence Abuse

1. The following six progressive steps will be preceded by a pre-disciplinary hearing. The employee and the union will be notified in writing by the District as to the date and time of such hearing in accordance with Article _ (Grievance Policy). The employee may request the presence of a union representative at the hearing.
2. a. Step One: Verbal Warning.

An employee accumulating more than the Absence Hours identified in the Absence Occurrence Schedule, or showing a pattern of absence, within 60 workdays, will be placed in the Absence Control Program at Step One and receive a verbal warning. The Department Director or designee will issue and memorialize the verbal warning to the employee and inform the employee that the next absence occurrence within a twelve-month period will result in the issuance of a written warning.

b. Step Two: Written Warning.

Following receipt of a verbal warning issued at Step One, when an employee incurs an additional absence occurrence within a twelve-month period, the employee will receive a written warning. The Department Director or designee will issue the written warning to the employee and inform the employee that the next absence occurrence within a twelve-month period will result in the issuance of a one (1) day suspension, without pay.

c. Step Three: One (1) Day Suspension Without Pay.

Following receipt of a written wanting issued at Step Two, when an employee incurs an additional absence occurrence within a twelve-month period, the employee will receive a one (1) day suspension, without pay. The accompanying letter of suspension will include the warning that the next absence occurrence within a twelve-month period will result in the issuance of a five (5) day suspension, without pay.


Following receipt of a one (1) day suspension, without pay, issued at Step Three, when an employee incurs an additional absence occurrence within a twelve-month period the employee will receive a five (5) day suspension, without pay. The accompanying letter of suspension will include the warning that the next absence occurrence within a twelve-month period will result in the issuance of a ten (10) day suspension, without pay.

e. Step Five: Ten (10) Day Suspension Without Pay.

Following receipt of a five (5) day suspension, without pay, issued at Step Four, when an employee incurs an additional absence occurrence within a twelve-month period the employee will receive a ten (10) day suspension, without pay. The accompanying letter of suspension will include the warning that the next absence occurrence within a twelve-month period will result in termination of employment.

f. Step Six: Termination.
If after receiving a verbal warning, written warning, the one day suspension, the five day suspension, and the ten day suspension as outlined above, and the employee incurs an additional absence occurrence within a twelve-month period, the employee will be terminated.

It will be the responsibility of the Department Director, or his/her designee, to review and monitor the employee time records for compliance with the Absence Abuse Policy.

Section 4 – Absence Without Leave (AWOL) Abuse Process

District employees are responsible for reporting to work at their regularly scheduled times. If an employee is unable to report to work due to illness or for any other emergency or circumstances beyond the employee’s control, the employee must, directly or indirectly, inform his or her Department Supervisor and/or radio dispatch no more than one (1) hour after the start of work, unless the emergency incapacitated the employee.

Employees who do not report to work and do not provide acceptable notice as described above will be considered AWOL.

In addition to failing to report to work or providing acceptable notice as outlined above, an employee will also be considered AWOL, if he or she leaves his or her worksite before the end of the shift or workday or for scheduled breaks, without the approval of his or her Supervisor.

The reason for absence will be noted AWOL and the employee will not receive pay for this period.

An employee will be considered absent without leave (AWOL) under the following circumstances and subject to progressive discipline as outlined below:

Any tardiness incident lasting more than 60 minutes is considered AWOL

An employee who commits AWOL violations is subject to progressive discipline as detailed in the schedule of progressive discipline described in this policy. For the purpose of the AWOL Abuse Program a one (1) year rule applies. For example, if an employee’s previous discipline was within a one (1) year time period, the employee will progress to the next step of the Progressive Discipline Schedule. Violations of more than one (1) year at the time of discipline will not be used by the District to determine the appropriate progressive discipline.

Example: If an employee is first placed on the AWOL list on 7/01/13, and has another infraction on 9/08/13, the date of the last infraction (9/08/13) begins the one-year time-frame for application of the AWOL policy. For example, an employee receives a one day suspension under the policy on 9/01/13. A five day
suspension for the violation of the policy on 12/01/13. On 9/02/14, the employee once again violates the policy. The next step of discipline will be a ten day suspension. Accordingly, the 9/02/14 infraction continues the progressive discipline as outlined under the policy for the next 12 months. However, if an employee completes one year with no new infraction of the AWOL policy, s/he shall be removed from the AWOL list.

PROGRESSIVE DISCIPLINE - AWOL

1. The following four progressive steps will be preceded by a pre-disciplinary hearing. The employee and the union will be notified in writing by the District as to the date and time of such hearing in accordance with Article _ (Grievance Procedure), and if applicable, said employee may request the presence of a union representative at the hearing.

2. a. Step One: One (1) Day Suspension Without Pay.

When an employee has been found AWOL, the employee will be placed in the AWOL Abuse Program at Step One and receive on (1) day suspension without pay. The Department Director or designee will issue the one-day suspension to the employee and inform the employee in writing that the next AWOL occurrence within a twelve-month period from the step one occurrence will result in the issuance of a five (5) day suspension without pay.


Following receipt of a one-day suspension issued at Step One, when an employee is found to have incurred an additional AWOL occurrence within a twelve-month period, the employee will receive a five (5) day suspension without pay. The Department Director or designee will issue the five-day suspension to the employee and inform the employee in writing that the next AWOL occurrence within a twelve-month period from the step two occurrence will result in the issuance of a ten day suspension, without pay.


Following receipt of a five-day suspension issued at Step Two, when an employee is found to have incurred an additional AWOL occurrence within a twelve-month period, the employee will receive a ten (10) day suspension, without pay. The accompanying letter of suspension will include the warning that the next AWOL occurrence within a twelve-month period from the step three occurrence will result in termination of employment.

d. Step Four Termination.

If after receiving the one day suspension, the five day suspension, and the ten day suspension outlined above, and the employee is found to have incurred an
additional AWOL occurrence within a twelve-month period, the employee will be terminated.

A.W.O.L. Resignation

Employees who are AWOL for ten (10) consecutive scheduled workdays may be deemed AWOL resigned. The employee must be notified in writing of such a determination in person or by certified mail to his or her last known address. The affected employee must contact his or her supervisor and Human Resources in writing within two (2) weeks of said notification, to explain the failure to report to work.

If the employee fails to supply a satisfactory explanation, as determined by the Deputy Chief of Human Resources, within two (2) weeks of the date of the letter, he or she shall be deemed AWOL resigned, and scheduled for a termination hearing.

Deeming an employee AWOL resigned does not preclude any employee’s right to a termination hearing under the terms of the collective bargaining agreement or preclude the employee from grieving the District’s decision to terminate the employee.

Section 5 – Tardiness Control Process

A. Policy

1. Employees are expected to work a full shift. Any employee who is tardy is subject to being docked for every minute tardy. The District has no provision for make-up time. Whenever an employee is tardy from work as outlined herein, the employee will not be permitted to work beyond the end of his or her scheduled shift, solely for the purpose of restoring lost time.

2. A supervisor may excuse a tardiness incident when justifiable circumstances exist.

3. An employee who fails to adhere to the Tardiness Control Policy is subject to progressive discipline as detailed in the schedule of progressive discipline described in this policy. For the purpose of this Tardiness Control Policy, a 60 work day rule applies.

4. Informal Supervisory Conference: The Union and the District require an informal attendance conference between the employee and their supervisor to discuss attendance and/or tardiness issues. The supervisor shall identify the problem(s) and attempt to resolve the issue through a discussion with the employee. The supervisor shall offer constructive suggestions and shall attempt to aid the employee in resolving the issue. It is
understood that this conference will not result in disciplinary action. This section does not include AWOL.

Example: If an employee is first placed on the tardiness abuse list on 7/01/13, and has another infraction on 9/08/13, the date of the last infraction (9/08/13) begins the 60 workday time-frame for application of the Tardiness Abuse Policy. For example, an employee receives a written warning under the policy on 9/01/13. A one day suspension for the violation of the policy on 12/01/13. On 6/02/14, the employee once again violates the policy. The next step of discipline will be a three day suspension. Accordingly, the 6/02/14 infraction continues the progressive discipline as outlined under the policy for the next 60 workdays. However, if an employee completes 60 workdays with no new infraction of the Tardiness Abuse Policy, s/he shall be removed from the tardiness abuse list.

PROGRESSIVE DISCIPLINE - Tardiness

The following seven progressive steps will be preceded by a pre-disciplinary hearing. The employee and the union will be notified in writing by the District as to the date and time of such hearing in accordance with Article _ (Grievance Policy), and if applicable, said employee may request the presence of a union representative at the hearing.

a. Step One- Verbal Warning.

The Department Director or designee will verbally warn the employee that because the employee has at least three tardiness instances within a two-week period, any three tardiness instances within the next 60 workdays will result in the issuance of a written warning. The verbal warning shall be memorialized in writing.

b. Step Two- Written Warning.

Following receipt of a verbal warning issued at Step One, the next 3 tardiness instances will result in a written warning letter stating that 2 further tardiness instances within the next 60 workdays will lead to a one-day suspension.

c. Step Three- One (1) Day Suspension Without Pay.

Following receipt of a written warning issued at Step Two, the next 2 tardiness instances will result in a one-day suspension. The accompanying letter of suspension will include the warning that the 2 tardiness instances within the next 60 workdays will result in a three-day suspension.

d. Step Four- Three (3) Day Suspension Without Pay.

Following the one-day suspension at Step Three, the next tardiness instance will result in a three-day suspension. The accompanying letter of suspension will include the warning that the next tardiness instances within the next 60 work days will result in a five-day suspension.
e. Step Five- Five (5) Day Suspension Without Pay.
   Following the three-day suspension at Step Four, the next tardiness instance will result in a five-day suspension. The accompanying letter of suspension will include the warning that the next Tardiness instances within the next 60 workdays will result in a ten-day suspension.

f. Step Six- Ten (10) Day Suspension Without Pay.
   Following the five-day suspension at Step Five, the next tardiness instance will result in a ten-day suspension. The accompanying letter of suspension will include the warning that the next tardiness instance within the next 60 workdays will result in suspension pending discharge.

g. Step Seven- Termination Without Pay.
   If after receiving a verbal warning, written warning, and four progressive suspensions as outlined in the preceding six steps, the employee has a tardiness instances within the next 60 workdays, the employee will be terminated.

It will be the responsibility of the Department Director, or his/her designee, to review and monitor employee timecards for compliance with the Tardiness Control Program.

ARTICLE 23
RETURN TO WORK / TRANSITIONAL WORK PROGRAM

23.0. General. Any employee who is assaulted or disabled while in the performance of his/her duties, under such circumstances as would cause such injury or disability to be compensable under the Workers’ Compensation Laws of the State of Ohio shall have the following options:

Option A

Remain on the regular payroll of Management through the CLEVELAND METROPOLITAN SCHOOL DISTRICT Wage Continuation Program; or,

Option B

Go off the regular payroll on an unpaid Workers’ Compensation leave and receive compensation through the Bureau of Workers’ Compensation.

However, an employee who has settled his/her workers’ compensation claim with Cleveland Metropolitan School District through the Industrial Commission will not be eligible to participate in the Return-to-Work/Transitional Work Program for the conditions which were settled. An employee who elects to participate in the CLEVELAND METROPOLITAN SCHOOL DISTRICT (CMSD) Wage Continuation Program agrees to the terms and stipulations
as described in the CLEVELAND METROPOLITAN SCHOOL DISTRICT Return to Work/Transitional Work Program. (See Appendix G).

An employee unable to return to the job classification in which he/she was working when the injury or disability occurred due to permanent restrictions as described by the treating physician, shall have the option of bidding in accordance with the provisions of the Collective Bargaining Agreement to a different job classification for which they are qualified and able to perform within their work restrictions. He/She will receive the rate of pay for the job in which he/she is placed. If that transfer results in loss of his/her current benefits under the Collective Bargaining Agreement, that employee will continue with the benefits that he/she had at the time of the injury or disability. However, an employee assigned in this manner must bid on the next available job(s) for which he/she is qualified and be able to perform within his/her restrictions, to continue with the benefits. If an employee refuses to bid or accept any bid which is awarded, the employee’s eligibility for benefits will be based upon the hours assigned to the position to which he/she had transferred due to his/her restrictions.

23.1. OPTION A – CLEVELAND METROPOLITAN SCHOOL DISTRICT WAGE CONTINUATION PROGRAM

23.1.1. Eligibility Requirements and Benefits. Eligibility for the CLEVELAND METROPOLITAN SCHOOL DISTRICT Wage Continuation Program requires the employee to be off work due to a work related injury, provided the employee reports the injury within twenty-four (24) hours of the incident of illness or injury. A Workers’ Compensation claim will be filed for payment of medical benefits through the Bureau of Workers’ Compensation. Paid leave shall be granted for a period of time as recommended by a Provider from the CMSD Preferred Provider Panel not to exceed two (2) years, during which time the employee will remain on the District’s payroll, provided proof of continued disability is submitted. Such proof shall be accompanied by a “statement of attending physician” setting forth the illness or injury, work restrictions, if any, estimated duration of disability, and estimated return to work date. Attending physician statements must be submitted to the District within forty-eight (48) hours of treatment. Should these requirements not be fulfilled by the employee, a request for wage continuation extension may not be considered. All benefits, including insurance, will continue during the duration of the Wage Continuation Program.
23.1.2. **Holiday / Vacation Pay.** Holiday or vacation which occur during approved wage continuation periods shall be compensated as a holiday or vacation and if a claim is subsequently disallowed shall not be charged against the employee’s sick leave accumulation.

23.1.3. **Employee Reporting Requirements.** Notice of intent to participate in the CMSD Wage Continuation Program must be given within three (3) work days of the injury. Otherwise, an injured worker who does not choose Option A will be placed in Option B.

23.1.4. **Re-injury Provisions.** If an employee returns to full duty work for less than six (6) months and then is disabled at a later date due to the same injury, he/she may request to reactivate the Wage Continuation Program provided proper medical proof is submitted to Management; and, thereafter, may follow the procedure outlined above for the remainder of time unused of the original two (2) years of eligibility under the program. Such an employee who has returned to work for six (6) months or longer is eligible for an additional two (2) years of eligibility under the program.

23.1.5. **Options After Exhaustion of Wage Continuation.** If an employee’s eligibility for the two (2) years of Wage Continuation is exhausted, the employee is eligible for additional leave time equal to:

1. his/her sick leave accumulation and other accrued time; or
2. unpaid Workers’ Compensation leave of absence. The employee may elect to use either of these alternatives.

When electing to utilize accumulated sick leave and other accrued leave, the employee will remain on payroll and will continue to receive all benefits, including insurance, but will not be eligible to receive compensation from the Bureau of Workers’ Compensation. When electing to utilize unpaid Workers’ Compensation leave the employee will go off payroll and will continue to receive health insurance. The employee may file to receive Workers’ Compensation payments for which he/she may be eligible. The employee and the District retain their respective rights under the Workers’ Compensation Act.

When the amount of time the employee has available under one alternative has been exhausted, he/she will be placed under the other alternative. If the employee does not elect an alternative, the employee will be placed on unpaid Workers’ Compensation leave. Continuation of insurance benefits, once all leave is exhausted, shall be for the balance of the month plus two
(2) additional months. Thereafter, the employee may continue benefits according to COBRA regulations.

23.1.6. False Claims – District Right to Recoup Benefit Payments. CMSD reserves the right to recoup benefit payments to any employee who is guilty of submitting a false claim, or abuse of any of the provisions covered in this Article, or working for another employer while on leave under this policy, and may take disciplinary action.

In the event the Bureau of Workers’ Compensation, the Industrial Commission or a court denies any claim as not being sustained in the course of and arising out of employment, wage continuation payments will be charged to sick leave to the extent such sick leave is available. If the employee does not have a sufficient sick leave balance, CMSD shall recoup the wage continuation payments made by reducing future sick leave earnings by one-half (1/2) until the wage continuation payments made are fully recouped. An employee who terminates employment with an outstanding balance owed will be responsible to reimburse the school district.

23.1.7. Return to Work Under Program. At all times during leave under this article, the employee will remain required to provide medical documentation and cooperate with the procedures of the CLEVELAND METROPOLITAN SCHOOL DISTRICT Return to Work/Transitional Work Program. An employee electing to participate in the CLEVELAND METROPOLITAN SCHOOL DISTRICT Wage Continuation Program, who returns to work during leave granted under Option A, will be reinstated to his/her former job classification (subject to any medical restriction(s) identified by the Physician).

23.1.8. Unable to Return to Work Under Program – BWC Vocational Rehabilitation. Any employee who chooses Option A and is not working due to his/her injury or disability as a result of an injury on the job, will participate in a BWC Vocational Rehabilitation Program when recommended, and agrees to accept Living Maintenance compensation for the duration of the Rehabilitation Program. During the duration of the Vocational Rehabilitation Program the employee will be removed from payroll, but will not suffer a loss of any benefits, including insurance. Time spent by an employee in Vocational Rehabilitation will not count against his/her time under the Transitional Work Program. The employee will be reinstated to an appropriate active pay status upon completion of the Vocational Rehabilitation Program in accordance with this article regarding the Collective Bargaining Agreement.
23.1.9. **Removal from the Program.** An employee electing not to be treated by CMSD’s Preferred Provider Panel physician or who elects not to follow that physician’s recommended program and go only to the physician of their choice shall not be entitled to participate in the Wage Continuation Program as described above (Option A). Such an employee electing not to participate in the Wage Continuation Program will be removed from payroll and will be placed on an approved unpaid Workers’ Compensation leave of absence. Any and all work-related injury claims will be processed through and conform with the Workers’ Compensation Act. The District and employee will retain their respective rights to pursue/defend any claims under the Workers’ Compensation Act, including but not limited to CMSD’s right to offer work within the employee’s work restrictions and CMSD’s right to have the employee examined by a physician of its own choosing.

23.1.10. **Assault Leave.** Any employee granted Assault Pay will be eligible for Option A provided that CMSD’s Preferred Provider Panel is utilized and the employee has complied with this Article. Leave used under Assault Pay will be deducted from the two year paid Wage Continuation Program.

23.2. **OPTION B – UNPAID WORKERS’ COMPENSATION LEAVE**

23.2.1. **Continuation of Benefits.** An employee’s eligibility for continuation of insurance benefits will be for the length of time the employee is eligible to receive temporary total disability or the length of the unpaid Workers’ Compensation leave under this provision, whichever is less. Insurance benefits will also be continued during utilization of any sick leave accumulation and other accrued time. The employee is responsible for the payment of the full cost of such wage continuation.

23.2.2. **Return to Work.** An employee on a leave of absence under Option B will be reinstated to his/her former position if they return to work within twelve (12) weeks. If such leave exceeds twelve (12) weeks and his/her position has been permanently filled, he/she may return only when a vacancy exists in the same, similar or a lower paid job classification through the bid procedure.

23.3. **CMSD Transitional Work Committee.** Such Return to Work/Transitional Work Program is a cooperative effort between labor and management, mutually agreed upon, and may be amended only upon the consent of the joint CLEVELAND METROPOLITAN SCHOOL DISTRICT-Transitional Work Committee. Local 860 shall be allowed to have one (1)
representative from the entire Union on the CMSD Transitional Work Committee. The CMSD Transitional Work Committee shall not review individual claims.

ARTICLE 24
DURATION OF AGREEMENT

Except as otherwise provided herein, this Agreement shall be effective July 1, 2016 through June 30, 2017. The parties shall begin negotiations on a successor agreement beginning April 15, 2017, or earlier, if the District begins negotiations with any other bargaining representative. The procedure set forth in O.R.C. §4117.14 will be followed, except that the fact-finding process must be scheduled such that the fact-finder’s report is required to be submitted to the parties no earlier than the third Monday in May, 2017, and no later than the first Monday in June, 2017. Nothing in this Agreement shall preclude the parties from agreeing to an alternative dispute resolution procedure different from this one.

The parties agree that if the CTU has a different expiration date than that listed above, the dates set forth above shall be modified consistent with similar provisions of the CTU agreement.

ARTICLE 25
MUTUAL RELEASE AND NO REPRISALS

The District and the Union hereby mutually release each other from any and all claims or causes of action, other than those arising under the terms of this Agreement, which may have arisen out of or are related to the ongoing collective bargaining negotiations which will be terminated if this Agreement becomes effective, including, without limitation of the generality of the foregoing, any claims or causes of action arising because employees were ill, or otherwise not at work, on December 5, 1983 and January 11 and 12, 1984. The District also agrees that no discipline will be imposed or any reprisals of any kind taken because of any activity of any employees which may have been arisen out of or be related to said collective bargaining negotiations. This provision applies to the officers, employees, members, representatives, agents, and as applicable, their successors and assigns, heirs, or personal representatives, of the District and the Union.

ARTICLE 26
CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings used herein are for convenience and not a part of this Agreement and shall not be used in construing it.
ARTICLE 27
SAVINGS PROVISIONS

If any provision of this Agreement is found to be in violation of law by a final order of a court of competent jurisdiction, or the District and the Union agree that said provision is in violation of the law, then said provision shall be considered void, and the other provisions of this Agreement shall remain in effect during the term of this Agreement. The parties shall begin negotiations with respect to any provision or provisions of this contract determined to be void or in violation of law, as specified herein, and any provision of this contract effected by such a conclusion, within fifteen (15) days of the determination of such voidness or violation of the law.

IN WITNESS WHEREOF, the parties have caused their names to be hereunto subscribed by their respective presidents and attested by their respective authorized representatives.

CLEVELAND MUNICIPAL SCHOOL DISTRICT

By:  
Eric Gordon
Chief Executive Officer

Date  

LABORERS’ INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 860

By:  
Anthony Liberatore, Jr.
Business Manager/Secretary-Treasurer

Date  
7-1-2016
APPENDIX A

CLASSIFIED HOURLY RATE SCHEDULE
2% Pay Rate Increase
Assistant Custodian Positions
Laborers Local 860

Effective for the 2016-17 School Year

<table>
<thead>
<tr>
<th>Tier I Rates</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Class</td>
<td>Step</td>
<td>Hourly Rate</td>
</tr>
<tr>
<td>630020</td>
<td>1</td>
<td>17.94</td>
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<td>Asst Custodian</td>
<td>2</td>
<td>19.09</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>20.64</td>
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New Safety Position

<table>
<thead>
<tr>
<th>Tier II Rates</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Class</td>
<td>Step</td>
<td>Hourly Rate</td>
</tr>
<tr>
<td>630020</td>
<td>1</td>
<td>17.04</td>
</tr>
<tr>
<td>Asst Custodian</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

630021
Asst Custodian, Temporary
### Medical Benefit Summary

<table>
<thead>
<tr>
<th>Benefits</th>
<th>KAISSER HMO (HealthSpan)</th>
<th>AETNA</th>
<th>MMO - SUPERMED PLUS PPO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>Hospital Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Emergency Co-pay (ER), Urgent Care Co-pay (UC))</td>
<td>$50 Co-Pay (ER)</td>
<td>$75 Co-pay (ER)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$25 Co-pay (UC)</td>
<td>$35 Co-pay (UC) / 70%</td>
</tr>
<tr>
<td></td>
<td><strong>Physician Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Office Visit)</td>
<td>$10 Co-pay</td>
<td>$15 Co-pay / 70%</td>
</tr>
<tr>
<td></td>
<td><strong>Specialist Office Visit</strong></td>
<td>$25.00</td>
<td>$25.00/70%</td>
</tr>
<tr>
<td></td>
<td><strong>Physician Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Surgery, 2nd Surgery Opinion)</td>
<td>100%</td>
<td>100% / 70%</td>
</tr>
<tr>
<td></td>
<td><strong>Physician Services</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(X-Ray &amp; Lab)</td>
<td>100%</td>
<td>100% / 70%</td>
</tr>
<tr>
<td></td>
<td><strong>Prescription Drug</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Generic</td>
<td>$5 Co-pay</td>
<td>$5 Co-pay</td>
</tr>
<tr>
<td></td>
<td>Formulary</td>
<td>$10 Co-pay</td>
<td>$10 Co-pay</td>
</tr>
<tr>
<td></td>
<td>Non-Formulary</td>
<td>$10 Co-pay</td>
<td>$10 Co-pay</td>
</tr>
<tr>
<td></td>
<td><strong>Contraceptives</strong></td>
<td>Covered</td>
<td>Covered</td>
</tr>
<tr>
<td></td>
<td><strong>Mail Order/Days Supply per prescription</strong></td>
<td>90 Days</td>
<td>90 Days</td>
</tr>
<tr>
<td></td>
<td><strong>Generic</strong></td>
<td>$5 Co-pay</td>
<td>$10 Co-pay</td>
</tr>
<tr>
<td></td>
<td><strong>Formulary</strong></td>
<td>$10 Co-pay</td>
<td>$20 Co-pay</td>
</tr>
<tr>
<td></td>
<td><strong>Non-Formulary</strong></td>
<td>$10 Co-pay</td>
<td>$20 Co-pay</td>
</tr>
<tr>
<td>Physical / Occupational Therapy</td>
<td>$10 Co-pay</td>
<td>$15 Co-pay / 70%</td>
<td>$15 Co-pay / 80%</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Annual Maximum</td>
<td>Up to 2 months or 30 visits per therapy, whichever is greater</td>
<td>60 visits</td>
<td>60 visits</td>
</tr>
<tr>
<td>Speech Therapy</td>
<td>$10 Co-pay</td>
<td>$15 Co-pay / 70%</td>
<td>$15 Co-pay / 80%</td>
</tr>
<tr>
<td>Mental Health - In Patient</td>
<td>100%</td>
<td>100% / 70%</td>
<td>100% / 50%</td>
</tr>
<tr>
<td>Substance Abuse - In Patient</td>
<td>100%</td>
<td>100% / 70%</td>
<td>100% / 50%</td>
</tr>
<tr>
<td>MH &amp; SA - Inpatient (Combined)</td>
<td>45 days per calendar year</td>
<td>30 days per benefit period</td>
<td>30 days per benefit period</td>
</tr>
<tr>
<td>Mental Health - Outpatient</td>
<td>20 visits per year at $10 Co-pay</td>
<td>$15 Co-pay / 70% after deductible</td>
<td>$15 Co-pay / 80% after deductible</td>
</tr>
<tr>
<td>Substance Abuse - Outpatient</td>
<td>100%</td>
<td>$15 Co-pay / 70% after deductible</td>
<td>$15 Co-pay / 50% after deductible</td>
</tr>
<tr>
<td>MH &amp; SA - Outpatient (Combined)</td>
<td>Unlimited</td>
<td>50 visits per benefit period</td>
<td>50 visits per benefit period</td>
</tr>
<tr>
<td>Major Medical</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single (deductible)</td>
<td>$0</td>
<td>$0 / $250</td>
<td>$0 / $250</td>
</tr>
<tr>
<td>Family (deductible)</td>
<td>$0</td>
<td>$0 / $500</td>
<td>$0 / $500</td>
</tr>
<tr>
<td>Single (Max Out-of-Pocket for Co-Insurance)</td>
<td>$0</td>
<td>$0 / $2,250 (excludes deductible)</td>
<td>$0 / $2,000 (excludes deductible)</td>
</tr>
<tr>
<td>Family (Max Out-of-Pocket for Co-Insurance)</td>
<td>$0</td>
<td>$0 / $4,500 (excludes deductible)</td>
<td>$0 / $4,000 (excludes deductible)</td>
</tr>
<tr>
<td>Lifetime Maximum</td>
<td>Unlimited</td>
<td>Unlimited / $2,500,000</td>
<td>$2,500,000</td>
</tr>
<tr>
<td>Special Feature - Durable Med. Equip.</td>
<td>100%</td>
<td>100% / 70%</td>
<td>100% / 80%</td>
</tr>
<tr>
<td>Special Feature - Hospice</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Special Feature - Skilled Nursing</td>
<td>100%</td>
<td>100% / 70%</td>
<td>100% / 80%</td>
</tr>
<tr>
<td>Special Feature - Organ Transplant</td>
<td>100%</td>
<td>100% / 70% (if pre-authorized)</td>
<td>100% / 50%</td>
</tr>
<tr>
<td>Infertility Services</td>
<td>70%--See Certificate for exclusions</td>
<td>Not Covered</td>
<td>Not Covered</td>
</tr>
</tbody>
</table>

The above chart is a broad summary of the medical, dental, life and vision insurance provisions. Other plan provisions and limitations may apply. If there is a discrepancy between the plan document and this bulletin, the plan document will prevail. See Certificate of Coverage for details.
VISION
This chart is a broad summary of the dental benefits provisions. Other plan provisions and limitations may apply. If there is a discrepancy between the plan document and this bulletin, the plan document will prevail.

YOU DO NOT NEED TO PRESENT AN ID CARD TO PROVE COVERAGE OR CONFIRM YOU ARE ELIGIBLE. YOUR DENTIST CAN EASILY VERIFY ELIGIBILITY AND PLAN INFORMATION VIA PHONE OR ONLINE WITH METLIFE DENTAL

VISION INSURANCE BENEFITS SUMMARY

<table>
<thead>
<tr>
<th>Spectera (United Optical Vision Plan) (Locals 279, 436, 860, 777, 1199, non-union, CCAS &amp; Administrators)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Description</strong></td>
</tr>
<tr>
<td>Examination</td>
</tr>
<tr>
<td>One exam every 24 months for employees and dependents 19 years of age or older, and once every 12 months for employees and dependents under age 19</td>
</tr>
<tr>
<td>Lenses / Frames</td>
</tr>
<tr>
<td>One pair every 24 months for employees and dependents 19 years of age or older, and once every 12 months for employees and dependents under age 19. Covered in full, including lens options such as tinted lenses and scratch-resistant coatings</td>
</tr>
<tr>
<td>Contact Lenses</td>
</tr>
<tr>
<td>One pair every 24 months for employees and dependents 19 years of age or older, and once every 12 months for employees and dependents under age 19. In lieu of spectacle lenses and a frame, employees and dependents may choose contact lenses. Cosmetic and Medically Necessary contact lenses are covered in full (up to 4 boxes of disposable lenses)</td>
</tr>
<tr>
<td>Contact Lenses</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Union Eye Care (Locals 244, 407, and Building Trades)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Description</strong></td>
</tr>
<tr>
<td>Examination</td>
</tr>
<tr>
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<tr>
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</tr>
<tr>
<td>One pair every 24 months for employees and dependents 19 years of age or older, and once every 12 months for employees and dependents under age 19</td>
</tr>
<tr>
<td>Contact Lenses</td>
</tr>
<tr>
<td>In lieu of frame and lenses, every 24 months for employees and dependents 19 years of age or older, and every 12 months for employees and dependents under age 19</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Description</td>
</tr>
<tr>
<td>-----------------------------------</td>
</tr>
<tr>
<td><strong>Deductible</strong></td>
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<tr>
<td><strong>Calendar Year Maximum</strong></td>
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<tr>
<td><strong>Preventative</strong></td>
</tr>
<tr>
<td>Oral Examinations – 2 per year</td>
</tr>
<tr>
<td>Prophylaxis (cleanings – 2 per year)</td>
</tr>
<tr>
<td>Topical Fluoride Applications – to age 14 annually</td>
</tr>
<tr>
<td>Bitewing X-rays – once per year</td>
</tr>
<tr>
<td>Full Mouth X-rays – once every 60 months</td>
</tr>
<tr>
<td>Space Maintainers for children under 14</td>
</tr>
<tr>
<td><strong>Basic</strong></td>
</tr>
<tr>
<td>Fillings, Simple Extractions,</td>
</tr>
<tr>
<td>Endodontics, Oral Surgery,</td>
</tr>
<tr>
<td>Periodontics, General Anesthesia,</td>
</tr>
<tr>
<td>Consultations</td>
</tr>
<tr>
<td><strong>Major</strong></td>
</tr>
<tr>
<td>Bridges and Dentures – once every 5 years</td>
</tr>
<tr>
<td>Inlays, Onlays &amp; Crowns – once every 5 years</td>
</tr>
<tr>
<td>Prosthetics (Fixed) – once every 5 years</td>
</tr>
<tr>
<td>Crown Build-ups</td>
</tr>
<tr>
<td>Veneers, Harmful Habit Appliance,</td>
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<tr>
<td>Crown, Denture &amp; Bridge Repair</td>
</tr>
<tr>
<td><strong>Orthodontics – Child Only</strong></td>
</tr>
<tr>
<td>Dependents covered until age 19</td>
</tr>
<tr>
<td>Orthodontia Lifetime Maximum</td>
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<tr>
<td>-----------------------------</td>
</tr>
</tbody>
</table>

*PDP Fee refers to the negotiated fees that participating PDP dentists have agreed to accept as payment in full.

**Reasonable and Customary charge is based on the lesser: (1) the dentist’s actual charge (2) the dentist’s actual charge for the same or similar services or (3) the usual charge of most dentists in the same geographical area for the same or similar service as determined by MetLife.

This Chart is a broad summary of the dental benefits provisions. Other plan provisions and limitations may apply. If there is a discrepancy between the plan document and this bulletin, the plan document will prevail.

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