

STATE EMPLOYMENT
RELATIONS BOARD

2004 APR 20 A 10: 09

IN THE MATTER OF FACT-FINDING/MEDIATION

Between

TEAMSTERS LOCAL UNION NO. 40

and

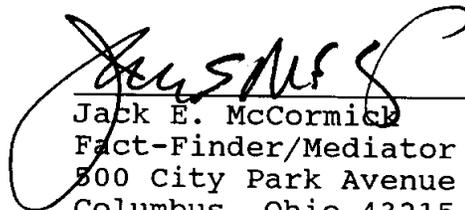
MANSFIELD CITY SCHOOLS

SERB Case No. 03-MED-11-1358

FACT-FINDER/MEDIATOR
JACK E. MCCORMICK
500 City Park Avenue
Columbus, Ohio 43215

Hearing Dates:
March 30, 2004 and
April 12, 2004

Date of Report:
April 19, 2004



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FINDINGS OF FACT

On March 30, 2004, and on April 12, 2004, a mediation/fact-finding was held at the Mansfield Board of Education Building at Mansfield, Ohio beginning at 9:30 a.m.

Present at the hearings representing the Employer were James L. Childress, attorney at law; Bart Griffith, Treasurer of the Board of Education; and Scott Warden, Assistant Superintendent of the Board of Education.

Present representing Teamsters Local Union No. 40 were Diana Brown, attorney at law; Larry A. Shaw, President of Local 40; Georgia Cooper, Mike Markham, business agent; Lee Salyers, bus driver; Diane Brooks, bus driver (present for the hearing on Article 19 and beyond only).

The parties have mutually agreed to extend the deadline for the Fact-Finder's report to April 19, 2004.

During the hearing the parties mutually agreed to mediation on certain issues resulting in Tentative Agreements being initialled by the parties and the Fact-Finder. Those Tentative Agreements are attached hereto as Appendix 1.

The bargaining unit is composed of all regular full-time bus drivers, mechanics, and bus aides. Presently there are approximately thirty-five bus drivers, ten bus aides, and three mechanics.

The employees represented by Local 40, provide the transportation services for the Mansfield City School District (hereinafter "the District"). This is the first collective bargaining agreement between the parties. The parties began meeting for the purposes of negotiations on September 24, 2003. The parties have had eighteen meetings for the purpose of negotiations.

The parties mutually agreed that there were twenty-two outstanding issues which were to be made part of the Fact-Finder's report.

ISSUE I

Union membership - Fair Share Checkoff - Article 2

Fair Share and Checkoff is always of primary importance to employee organizations. The Union proposes that the District notify the Union of all new hires within ten days after they have been hired. The parties disagree as to the information that the District should be required to provide to the Union. The Union proposes that they receive the name, address, and position of the employee. The District asserts that it should not be required to provide the Union with the employee's address even though the Union would be entitled to such information as a matter of public record.

The Union also proposes that the contract contain provisions that would allow for dues checkoff and that require a Fair Share Fee of those employees who do not wish to become members of the Union.

The District opposes the Union's proposal at Article 2 and states that it has had unspecified problems in the past with requiring employees to be members of the Union or pay Union dues. Their representative indicated that at least one mechanic indicated that he was dissatisfied with the Union representation. The District did not provide any evidence of the alleged dissatisfaction, nor any indication as to what percentage of the membership voted against the representation by Local 40. However, one or even three dissatisfied employees out of forty-eight does not justify the District's position.

The Union's position is a traditional one as it relates to Fair Share, that is, employees who enjoy the benefits of a collective bargaining agreement fairly bargained for by a Union should necessarily pay their fair share for enjoying such benefits.

Finding of Fact:

The Union's proposal for Article 2 is consistent with the letter of the law as well as the practice within other bargaining units related to other public and private employees and, therefore, pursuant to 4117-9-05(K)(2) is factually supported and should be made part of the Agreement.

ISSUE II

Bargaining Unit Work - Article 9

Tentative Agreement signed, see Appendix I.

ISSUE III

Grievance/Arbitration - Article 10

It is noted that the parties have signed a Tentative Agreement regarding Article 10, paragraphs 1 and 2, which are attached hereto at Appendix I. There remains the issues set forth in paragraphs 5 and 6 of the Article, and they relate to expenses of the arbitrator and the expenses of the parties for arbitration.

The District proposes that the compensation of an arbitrator shall be paid by the party bringing the grievance if it should fail to obtain the relief sought (loser pays). Furthermore, the District asks that a court-reporter be present at all arbitrations and the cost of the reporter be split between the parties. The District's rationale for their position is that this creates a disincentive to the Union to arbitrate matters and allows for a transcript in the event of any litigation arising from the arbitrator's report.

The Union proposes that the compensation of the arbitrator incidental to any arbitration should be equally shared by the parties and, that either party, may at its option, and at its own expense, have the arbitration proceedings reported and transcribed. If both parties wish to have the proceedings reported and transcribed, then, and only then, they would share equally in the cost of the reporting and transcription.

During the lengthy discussion on this particular matter the District boasted that it seldom, if ever, loses an arbitration. Furthermore, it insists that a transcript is necessary for post-arbitration proceedings, if any.

This Fact-Finder does not view the District's position as philosophically sound. However, leaving alone the philosophy of the matter, the facts are that the Union's proposal is in line with the practice and procedure in bargaining units related to other public and private employees and, therefore, again under section 4117-9-05(K)(2) it is factually supported.

Finding of Fact

The Union's proposal at Article 10, paragraphs 5 and 6, are factually supported and should be adopted as part of the Agreement.

ISSUE IV

Discipline - Article 11

The parties have signed a Tentative Agreement on this Article and it is made part of this fact-finding report at Appendix I.

ISSUE V

Equipment and Safety - Article 12

The only issue left in this article concerns who is responsible to perform pre-trip inspections on the buses. The Union proposes the procedure that was historically utilized by the District, whereby a certain individual, not the driver, performed all of the "under the hood" inspections. Recently the District modified this practice to require the bus drivers to perform this inspection. The Union asserts that the historic practice prior to

the change insured continuity throughout inspections, as the same person conducted all of the inspections.

The District asserts that the pre-service manual calls for inspection by the bus driver and this maintains the proper and safest way to ensure the safety of students and employees.

The Union counters that there may be some bus drivers who are simply physically unable to open and look under the hood of a particular bus. However, as it is the District's responsibility to ensure the safety of the students they transport, the Fact-Finder believes that management should have broad discretion in fulfilling that duty. If "under the hood" inspections are a job requirement of bus drivers, those in that position must perform those tasks. However, the fact that there may be persons who are simply physically unable to conduct these inspections must be recognized.

Finding of Fact:

There are sufficient facts to support the District's proposal to have all bus drivers conduct under the hood inspections of their buses. Accordingly, the District's proposed language at Article 12, paragraph #2, should be made part of the Agreement with the following additional sentence:

Should a bus driver be physically unable to conduct the under the hood inspection of his/her bus, then the District may assign a qualified employee to conduct said inspection and the substitute employee shall not be paid any additional wages for conducting such inspection unless it results in the employee going into overtime status.

ISSUE VI

Hours of Work - Article 14

The parties have agreed to a tentative agreement as to all provisions except paragraphs B,C, and D of section 1.

The Union's latest proposal for paragraph B was that for the purpose of computing the number of hours worked, all hours, plus holidays, in pay status shall be counted as hours worked. At paragraph C, the Union proposes that for work on Saturday the employee shall be paid an additional \$1.00 per hour, and at paragraph D for work on Sunday, an additional \$2.00 per hour. At the fact-finding the Union modified its position at paragraphs C and D to add the language when employees are "forced to work".

Generally overtime hours are considered those hours worked in excess of a given period, i.e., eight hours a day, or forty hours a week. Furthermore, this is required by law, at a minimum. The party making this proposal failed to present any facts in support of including the holidays in the computation of "hours worked". In light of this, the Union's proposal of paragraph B is rejected as being unsupported by any factual presentation.

Similarly at paragraphs C and D, the party making the proposal, i.e., the Union, failed to provide any factual data as to how often Saturday and Sunday work occurs, **nor, more importantly, cost analysis.**

There may well be justification for compensating an employee who involuntarily is forced to work on a Saturday or Sunday, unfortunately the party making the proposal did not provide any

facts that would allow the Fact-Finder to go forward to a finding on those matters.

Finding of Fact

There was not a sufficient presentation of facts to justify the Union's proposed language at Article 14, section 1, paragraphs B, C, and D, and they are therefore rejected and should not be made part of the Agreement.

ISSUE VII

Bidding Procedure - Article 16, Paragraph 2

The parties signed a Tentative Agreement regarding paragraph 1 of Article 16, which may be found at Appendix I herein. The remaining issues are at paragraphs 2 through 4.

At paragraph 2 the essential difference between the parties is that the Union proposes that all classifications should be afforded the opportunity to bid on all vacant positions, but that the position shall be awarded to the most senior employee in the job classification, bidding for the position. Further, that if no employee in the job classification bids on the vacant position, then it shall be awarded to the most senior qualified employee in the bargaining unit bidding for the position.

The District proposes that the vacant position shall be awarded the most qualified bidder regardless of classification, and if the bidders are equally qualified, the most senior bidder will be given the position.

Both parties have valid arguments in support of their respective positions. Furthermore, both parties have presented cogent factual arguments to support their positions. Accordingly, this makes any fact-finding, which must be within the parameters of 4117-9-05(J) through (K)(6), most difficult. This leaves the Fact-Finder with the catch-all section 4117-9-05(K)(6) for guidance.

The Union correctly states that when a position such as bus driver (presumably on a preferable route) becomes open that first bus drivers only should be allowed to bid and be selected. While the District proposes that any position in which a bargaining unit members if qualified should be open to any bargaining unit member.

The only "other factor" that this Fact-Finder can discern as being relevant to these two positions is that of morale. The question being whether or not restricting the first selection of the bidding procedure to only those within a classification helps overall morale or, whether or not opening it up to any qualified employee might help morale to a greater extent. The problem in making a fact-finding on this particular issue is that there are no past collective bargaining agreements between the parties and there really were no facts presented by the parties that gives any historical guide to how either position would affect morale.

Therefore, the Fact-Finder dares to use his own personal experience as a former appointing authority in viewing this matter. It has been his experience after ten years of managing a public agency that opening up bids to all employees (who are qualified) is a tremendous morale booster and gives a glimmer of hope to even the

lowest employee entrant for future advances. The Fact-Finder is certainly aware that this may not be factually correct as it relates to this bargaining unit, however, only time will tell. Fortunately, this is a one year agreement and if this Fact-Finder's sui generis finding is, in fact, incorrect then it can be revisited in the next agreement.

Finding of Fact

The District's proposed language at Article 16, paragraph 2 is (narrowly) factually supported and should be adopted as part of the Agreement.

The parties have competing language at paragraph 3 of Article 16 in that the District proposes that to bid on a bus driver job the bidder must have a valid driver's license and be insurable under the District's then in force insurance policy.

The Union on the other hand adopts the alleged current language of the District's insurance policy that any bidder who has no more than six points on their driver's license is eligible for such a position.

The District correctly points out that the problem with the Union's proposal is that should they change insurance companies, for whatever reason, then the present six point limitation in the proposed language would not be necessarily applicable.

Factually, it appears that the District's proposed language is more logical and would appear to cover all contingencies that might arise in the future.

Finding of Fact

The District's proposed language at Article 16, paragraph 3, is factually supported and should be made a part of the Agreement.

Paragraph 4 of Article 16 is another extremely difficult issue. The Union proposes that employee awarded a job must be moved to the new position within five working days of acceptance and that he/she shall have the right to decline the position for up to ten working days after being placed in a new position. If the employee declines the new position that employee shall return to their former position.

The District, justifiably, is concerned with the "daisy chain" effect that would be created by such a procedure. That is, they would bid a position, an employee would accept it, then decline, and then after having put that employee's position up for bid, they would have to put the promoted employee back in their old position, cancel that bid, and reopen the bid for the preferable position again, ad nauseam.

This is factually correct and under 4117-9-05(K)(3), it is a factor that must be considered by the Fact-Finder. The Union's proposal could be an administrative nightmare for the District. If a member of the bargaining unit wants to bid on a position, they

should feel free to do so, however, with the understanding that if they get that position they stay there until they in fact bid on a different position. If they think they may have any possible regrets in winning the bid, then they should not bid in the first place.

Finding of Fact

The Fact-Finder finds that the Union's proposal would, as a matter of fact, be difficult to administer and therefore under 4117-9-05(K)(3) is not factually supported. There are sufficient facts to support the District's proposed language to Article 16, paragraph 4, and it should be adopted as part of the Agreement.

ISSUE VIII

Extra Work - Article 17

The parties have signed a Tentative Agreement agreeing to the language at paragraph 1 of Article 17, titled "Assignment of Additional Work", as well as, paragraph 6, both of which are part of Appendix 1 and attached herein. Furthermore, the parties have agreed to paragraphs numbered 2, 3, and 5. The contentious articles seem to be the second numbered paragraph in Article 17, section 1.

The Union proposes therein that if the assignment of extra work would take all volunteers over the cap of 25 or 40 hours, it should be awarded to the most senior employee bidding. No employee shall be forced extra work when there are available qualified volunteers. When time permits the bid will remain posted for a

minimum of five consecutive business days and the bid will be awarded at least five business days before the date of trip when possible.

The District opposes this particular paragraph and argues that it should not have to pay overtime unnecessarily.

The Union asserts that the District's proposal would truncate their members ability to earn overtime. They concede that their proposal would force the District to seek the extra work from the next senior bidder on the list regardless of whether or not it puts that employee into an overtime situation. There is no question that employees have the legal right to be paid for overtime hours. However, likewise there is no right of employees to deliberately construct a regime that ensures them of overtime when it can be avoided. Where additional costs can be avoided, it is in the taxpayers' interest that it be done. The District's proposal is in the best interest of fiscal responsibility and would not deprive the membership of any right they are otherwise entitled to enjoy.

FINDING OF FACT:

Based on the facts presented the District's proposal is in the best interests of the public and should be made part of the Agreement.

ISSUE IX

Leaves of Absence - Assault Leave - Article 19

The parties have agreed to delete the definition of "assault" and it is withdrawn from the Union's proposal at Article 19(1) paragraph A. The parties have previously agreed to the language as it relates to special privilege leave, paragraph 3, and jury duty, paragraph 4 of Article 19, and these are not issues for this fact-finding.

This leaves the two remaining unresolved issues as they relate to assault leave and medical leave.

As it relates to assault leave, the difference in the parties' proposals are essentially that the Union proposes that an employee who is unable to work because of a physical disability resulting from an assault remain on full-pay status during the period of their disability for up to three years.

The District proposes no pay during the period of time of assault leave, but would continue the employee's health insurance benefits for up to six months. The District's position is based on their assertion that an employee who was granted assault leave would, during that period of time, receive Workers' Compensation benefits which, although not 100% of their pay, would be tax free.

In an attempt to reach an agreement, the Union proposed to modify their three year assault leave in full-pay status to eighteen months, but this was rejected by the District.

The Union points out that their proposal is consistent with the teachers, who like school bus drivers, are often victims of assault by unruly students.

The Fact-Finder finds this to be a reasonable comparable. A victim of assault, whether a bus driver or support staff member nevertheless still a victim of assault and should receive the same protection. It is also noted that the support staff has an assault leave provision, however, that leave must not exceed 120 days. The Fact-Finder can find no facts to support treating this bargaining unit any different than their colleagues, i.e., the support staff. As it relates to the Workers' Compensation issue, the Fact-Finder agrees that employees probably would receive Workers' Compensation and in that case a provision can be made in the Agreement that such payments made, during their being in a full-pay status, shall be paid over by the employee to the District.

Finding of Fact

The Union's proposal at Article 19, paragraph 1, is factually supported and should be made a part of the Agreement subject to the following modifications:

The duration of the disability provisions in paragraph A should read: "...but not to exceed one hundred twenty (120) days." The definition of assault should be stricken and a new paragraph D should be inserted to read as follows:

The District may require any employee who receives wage compensation while in full pay status, from any public entity, including but not limited to the Bureau of Workers' Compensation, to immediately upon receipt of such proceeds pay those over to the favor of the Mansfield Board of Education.

Leaves of Absence - Medical Leave - Article 19

The Union proposes an unpaid medical leave for employees for a period up to two consecutive years, during which employees may use sick leave. The District proposes a similar leave, but limits the leave to six months. The District's current contract with the support staff affords them one year leave and a discretionary extension of another year. The teachers' contract allows two years of leave and a discretionary leave of two additional years.

The support staff are afforded paid health insurance for the first seven months of medical leave. The teachers are afforded paid health insurance for the first year of medical leave. The Union's proposal requires paid health insurance for up to one year of medical leave.

Here again the Fact-Finder can find no facts to support for treating this group of employees different than their colleagues. In fact what the Union proposes is less than what was granted to the teachers.

Finding of Fact

Pursuant to 4117-9-05(K)(2) there are sufficient facts to support the Union's proposal for Article 19, section 2, paragraph A, and it should be made part of the Agreement.

ISSUE X

Article 20 - Pay Provisions

After extensive discussions and many hours of attempts to mediate the parties presented their last best proposals as to wages. It must be noted that this particular provision is complicated by the fact that there is an Unfair Labor Practice petition as it relates to this issue for the year 2003-2004. It is also complicated by the fact that the bus drivers in this bargaining unit were formerly paid under a regime known as "load pay". That is, their pay was based on the number of stops and pick-ups they had rather than a straight hourly wage.

The Fact-Finder was advised by the Administrator of the Bureau of Mediation for SERB that due to the pending ULP he should not consider any wage proposals covering the period of time of 2003-2004, nor should he take into consideration any potential changes that the decision of the ULP might have. His instructions were to treat this proposal as only relating to 2004-2005 and disregard any additional anomalies that might be created by the outcome of the pending ULP.

As it relates to ability to pay, the District asks the Fact-Finder to take into consideration that it projects that it will be in a deficit situation within two years. However, it currently has a surplus of \$559,000 and projects a surplus, albeit a smaller amount, for the following year.

This particular Agreement is unique in that it is only a one year contract. Why the parties chose such a short term contract is

unclear. However, by doing so, the Fact-Finder is precluded from looking at the second and third year of the District's budget. That is not to say that this Agreement will not have an impact on future years and, if adopted might not necessitate the District laying off bargaining unit members to fund this agreement in future years. The legislative body is not required by law to fund a bargaining agreement beyond the term of the particular bargaining agreement. Accordingly, the finding herein does not guarantee the bargaining unit, either as a legal or a practical matter, that these wage recommendations will continue beyond the term of this Agreement. Fact-Finders or arbitrators in the future years will necessarily, by law, have to consider the ability to pay of the District for the year(s) covering such future agreement(s). This could, theoretically, result in "give backs" and/or layoffs resulting from future year's budgets. With that having been said the Fact-Finder will now examine the merits of the proposed increases.

It is noted that the Union's proposal would cost the Employer in excess of \$853,000 and is therefore rejected immediately.

For purposes of simplification the Fact-Finder will take the bargaining unit member wage provisions category by category.

BUS DRIVERS:

This is by far the most problematic group to deal with in the wage proposals. Notwithstanding the pending ULP we have the problem of converting from a "load based pay" to an hourly pay.

The District's latest proposal would start drivers out at \$12.00 per hour and after eight steps they would be making \$18.50 per hour. They would also provide a \$300.00 signing bonus in recognition of the fact that many bus drivers' wages will either be frozen or decline slightly. However, it should also be noted that under any regime several bus drivers will receive substantial raises.

The Union's wage proposal begins at \$12.66 per hour with six steps and ending at \$12.05 per hour for special need drivers and \$12.66 per hour for eight hour drivers.

Very correctly, neither party attempts to fashion their proposals in a manner that would provide all members of the bus driver unit with equity as that is impossible this year because of the conversion to hourly rate.

When looking at all the comparables, as well as the average for bus drivers in Lucas, Clearfork, Crestview, Madison, Lexington, Crestline, Plymouth, Ashland, and Ontario, the Fact-Finder does not believe that either parties' proposals are factually supported. Accordingly, and taking into account all the factors to be considered by a fact-finder contained in 4117-9-05(J) through (K)(6), he asserts that there are sufficient facts to support the following pay scales for bus drivers:

<u>Year</u>	<u>Hourly Rate</u>	
0	\$12.10	All drivers whose current base wage rate is in excess of \$15.50 p/h shall be frozen at their current wage rate
1	\$12.34	
2	\$12.59	
3	\$12.84	
4	\$13.23	
5	\$13.62	
6	\$14.03	
7	\$14.75	
8	\$15.50	

Special needs drivers - \$15.50, extra curricular drivers - \$12.10, eight hour drivers - \$11.25.

Bus drivers shall receive a \$300.00 signing bonus on the first full pay following the signing of this Agreement.

School aides shall be paid as follows:

<u>Year</u>	<u>Hourly Rate</u>
0	\$8.12
1	\$8.28
2	\$8.45
3	\$8.62
4	\$8.79
5	\$8.97
6	\$9.14
7	\$9.33
8	\$9.51

To qualify for paid holidays the employees must work the scheduled day before and after the holidays.

Bus drivers and aides must have worked the previous school year or prior to and the day after Labor Day to get paid for Labor Day.

Longevity, which is currently paid at the rate of \$150.00 at ten years, and \$300.00 at fifteen years shall increase from present payment schedule to \$165.00 per year at ten years, and \$330.00 at fifteen years.

MECHANICS AND BUS WASHERS:

Mechanics and bus washers shall be given the following wage increases:

2004-2005 three (3) percent increase from current wages.

All of the above is based on eleven holidays and 179 work days.

In making the above finding the Fact-Finder fully recognizes that this will result in some bus drivers receiving extraordinary raises and some actually taking a pay cut. However, during mediation the District did attempt to provide some provisions that could soften the impact such as a signing bonus, as well as "red lining" some employees, and that was rejected by the Union.

Having returned from mediation without an agreement, the Fact-Finder was faced with working off the parties' respective positions prior to mediation.

TIME CLOCKS:

Traditionally these employees do not have to verify their employment by punching in and out using a time clock. The District believes that because the bus drivers are now on a per hour regimen that time clocks are necessary. The Union advises that the bus drivers have always made out their own time sheets, signed them, and verified them. These are self-serving documents. Inasmuch as bus drivers, as well as other employees, are going in and out at different hours on different shifts, it is not unreasonable that the District have some objective record of hours worked. Employees

may find time clocks demeaning, but they are certainly not uncommon in public or private industry.

FINDING OF FACT:

The District's proposal to initiate time clocks is supported by sufficient facts and it should be adopted as part of the Agreement.

BONUSES:

The Union proposes language identical to the current work rules as it relates to Perfect Attendance, Safety Incentives, and Service. There was not a great deal of discussion from the District on these proposals and although they are not costed, they appear to have a minimal budgetary impact. Furthermore, they are currently in existence under the work rules and therefore there is some basis for recommending their adoption.

FINDING OF FACT:

The Union's proposal on bonuses relating to Perfect Attendance, Safety Incentives, and Service are factually supported and should be made part of the Agreement.

The next two pay provisions that must be addressed are paragraphs 6 and 7 of the Union's proposal as it relates to the drivers having to return to pick-up students.

The District proposes at their paragraphs 6 and 7, if a student is missed and a driver assigned is required to return to pick-up the student, the driver will receive all extra time spent picking up the student at the field trip hourly rate only, and that if a student cannot be delivered because of a parent's or guardian not at home and the driver is required to return the student at his or her time at a later time, again they will be paid for their extra time spent at the field trip rate.

At paragraph 6, the Fact-Finder sees no reason why a driver should not be paid at all times when they are transporting students to and from work at their normal hourly rate.

FINDING OF FACT:

The Union's proposal for paragraph 6 of the pay provisions is factually supported and should be made part of the Agreement.

As it relates to paragraph 7, the Fact-Finder cannot adopt the Union's proposal in in toto. Under the Union's proposal, while the driver who has to return to the drop-off would be paid his normal hourly rate, it also provides a provision that the driver and driver aide could decline the assignment. This could require an additional administrative burden on the District because it might have to find another driver and aide who may not necessarily be available or it would then be put into an overtime position. Accordingly, that portion, and that portion only, of the Union's paragraph 7 is rejected. However, the provision that the Union's

proposes as it relates to the pay to be paid to such drivers is supported.

FINDING OF FACT:

The Union's first sentence of its proposed paragraph 7 which states as follows: "In the event a student cannot be delivered because the parents and/or guardian is not at home and the driver is required to return the student to their home at a later time, the driver will be paid for all time spent at the driver's normal hourly rate" is factually supported and should be made part of the Agreement.

ISSUE XI

No Strike/No Lock Out - Article 21

The parties have agreed to paragraph #1 of this particular Article in that the Union has agreed that it shall not engage in any strike or work stoppage during the life of the Agreement, nor will the District engage in a lock out during the life of this Agreement.

However, the Union proposes to add paragraph #2 which would prevent the District from disciplining any employee who refused to go through, or work behind any primary picket line at the District's facilities. The Union's argument is that this is necessary for "union solidarity". The District introduced a most important fact that is, that neither the teachers nor the support staff have similar provisions in their contracts or rules. This is

of primary importance, not necessarily because of comparability, but because of the affect that would result in adopting paragraph #2 of the Union's proposal. Should a picket line by another union be established in the school district, it would find itself facing a situation where teachers and support staff would be in the buildings and there would be no transportation staff to get the students to the building. This operational inconsistency would necessarily result in the District having to pay teachers and support staff for coming to work and sitting through the work day doing virtually nothing, all caused by one clause in one bargaining unit's contract. Union solidarity aside, that is an undue burden on the District. Furthermore, other than making a philosophical statement, the Union provided no factual evidence to support its proposal.

Finding of Fact:

There are insufficient facts to support the Union's proposed paragraph 2 at Article 21 and under 4117-9-05(K)(3) it is not in "the interests and welfare of the public" therefore it should not become part of the Agreement.

ITEM XII

Holidays - Article 22

At paragraph 1 of the Union's proposal it proposes to add a twelfth holiday, that being Veterans' Day. The Union's only argument in favor of that is that the Union membership wants an

additional day off. It is noted that school is in session in Mansfield on Veterans' Day. For this reason alone, if no other, the Union's proposal must be rejected. The other two salient provisions of the Union's proposal are that at paragraph 4 of their proposal they would propose that employees be paid one and one-half times their regular rate of pay in addition to their holiday pay.

The other provision is that they propose to increase the current personal days from three to five days.

All of the parties were advised prior to the first fact-finding hearing that any issues which have an economic impact must be costed. Obviously paying what amounts to two and one-half times a rate of pay for holiday worked and adding additional personal days would have a fiscal impact of an unknown amount on this employer. It is unclear to the Fact-Finder whether or not these individual proposals were costed and added into the wage proposals. Because of the Union's failure to cost its proposals on this particular article they must be rejected.

FINDING OF FACT:

The District's proposal regarding holidays and holiday pay is, by default, factually supported with the clerical correction of three as opposed to five personal days.

ITEM XIII

Vacation - Article 23

At the fact-finding on April 12, 2004, the Union withdrew its proposed change to the vacation article and accepts management's last proposal.

ISSUE XIV

Health Insurance - Article 24

By far the most contentious issues in labor agreements today are health insurance and wages. Currently due to past practices the District has paid all of the bargaining unit's health insurance. This is a strong argument for the Union's proposal which would continue this practice. However, this becomes problematic when one considers all the facts surrounding the economic package. These facts were discussed in detail in the wage provisions portion of this fact-finding. However, it must be noted that the Union's wage proposal has been costed by them as being \$853,220.74. The parties have calculated that the Union's proposal on health care would cost the employer an additional \$206,118.00. This puts their health care and wage proposal in excess of one million dollars. This is nearly double their current projected surplus. Accordingly, when the Fact-Finder considers ability to pay, something has to give.

During the last hour of fact-finding the District proposed to change its initial proposal to conform with other groups in the school district. This last proposal is attached hereto as Appendix II.

This Fact-Finder is bound by the rules and statutes governing the ability to pay and believes that this District does not have the ability to pay either, or both the Union's proposals as they relate to health insurance and wages.

Accordingly, and reluctantly, the Fact-Finder must reject the Union's proposal in favor of the District's last proposal Appendix II.

FINDING OF FACT:

The Union's proposal on health insurance is rejected and the District's last proposal Appendix II should be made part of the Agreement.

ISSUE XV

Liability Insurance - Article 24-A

The parties assigned a tentative agreement on this issue and it is contained in the Appendix herein.

ITEM XVI

Sick Leave - Article 25

The issues between the parties as it relates to this Article are first, the rate of accrual at paragraph 1, the allowed accrual of sick leave.

Currently the employees are paid sick leave at the rate of 1.25 days per completed month of service and allowed to accumulate a maximum of 255 days for employees hired on or prior to 9/1/93 and 180 days for employees hired after 9/1/93.

The District proposes that employees accrue sick leave per the current Ohio Revised Code, however, could not provide information as to the exact calculation contained therein.

When listening to the presentations of the parties in this matter, the Fact-Finder found no compelling reason to change the current construct. Furthermore, the Union's proposal would have a possible severe fiscal impact upon the District in the out years. The Union indicated that there was one employee who presently was affected by the inability to accumulate unlimited sick leave.

Accordingly, the Fact-Finder finds there are insufficient facts to make any change in the current operation of sick leave and sick leave accumulation, except to add the language common to both parties' proposals at paragraphs 3 and 4 of the Union's proposal.

FINDING OF FACT:

There were insufficient facts presented to support the changes proposed by either party at Article 25, except the language already agreed upon between the parties and the common language contained at paragraph 4 of the Union's proposal.

ITEM XVII

Savings Clause - Article 26

The sole issue on this particular Article is whether or not, if a particular article or portion of an article is ruled void through the operation of law, or in some other manner, that issue is subject to negotiation, or whether other issues in the contract not affected by the ruling should also be open to negotiation.

The Union proposes that other issues not be reopened for arbitration, but only the issue ruled void and only any others affected by a voiding of a particular issue.

Although the District's proposal, on its face appears to the Fact-Finder to have the same affect, the District believes that all issues should be reopened, at the request of either party, when one particular issue has been ruled void.

In this Fact-Finder's experience the language proposed by the Union is consistent with other bargaining agreements and furthermore is consistent with the spirit of collective bargaining. Once a particular issue for collective bargaining has been fairly bargained it should not be reopened simply because some portion of the agreement has been otherwise voided.

Taking the District's interpretation, the voiding of an article, for example the overtime provisions of a particular agreement, then any and all other provisions would be forced into a reopener on provisions that have already been completely negotiated and agreed upon. Quite simply this is illogical.

Finding of Fact:

The Union's proposal is factually supported and should be made part of this Agreement.

ITEM XVIII

Work Rules - Article 27

The parties have signed a Tentative Agreement which is attached hereto within Appendix I.

ISSUE XIX

Severance Pay - Article 28

It is noted that the District failed to provide a position statement within twenty-four hours of the hearing regarding this particular article and therefore pursuant to SERB rules no facts were allowed to be presented to the Fact-Finder by the District.

The Union proposes to pay members 100% of accumulated sick pay at their current rate upon termination of their employment. Without providing any facts the District opposes this.

At paragraph 2 of their proposal the Union proposes that the District agrees to pick up contributions to the School Employees' Retirement System on behalf of employees at the rate required of employees. No cost estimates were presented by the Union therefore, it is being ignored by the Fact-Finder.

It is noted that the Union's proposal would be inconsistent with either the current contract with the teachers or the school support staff. Furthermore, allowing unlimited accumulation will have a severe fiscal impact upon the District as members continue to accumulate an unlimited amount of hours payable at their highest rate upon their termination of employment. Accordingly, the Union's proposal is rejected.

The Fact-Finder finds that the current regime for school support employees is a reasonable comparable.

FINDING OF FACT:

The District's failure to comply with Administrative Rule 4117-9-05(F) precludes any consideration of facts that might have been presented by the District in opposing the proposal. The Union's proposal is rejected as not being factually supported in that it is not in the best interest of the taxpayers.

The severance pay provision contained at section 16.4, page 28, of the Agreement between the Mansfield City Board of Education and the Mansfield School Employees Association School Support Personnel, effective August 31, 2005, should be made part of this Agreement verbatim.

ITEM XX

Managements Rights - Article 29

The parties have signed a Tentative Agreement which is attached hereto within Appendix I.

ITEM XXI

Probationary Employees - Article 30

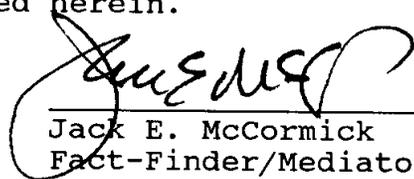
The parties have signed a Tentative Agreement which is attached hereto within Appendix I.

ITEM XXII

Terms of Agreement - Article 31

The parties have signed a Tentative Agreement which is attached hereto within Appendix I.

The Fact-Finder hereby certifies that the parties were fully advised by the Fact-Finder of the rules and regulations of SERB in the fact-finding/mediation process and further certifies that there are sufficient funds available for the Employer herein to fund the economic provisions contained herein.



Jack E. McCormick
Fact-Finder/Mediator
500 City Park Avenue
Columbus, Ohio 43215
(614) 221-2718
(614) 221-2719 facsimile

APPENDIX I

4. Printing of Contract

The Union shall assume responsibility for printing the Contract and providing copies to all bargaining unit employees. The District shall assume responsibility for printing the contract and providing copies to appropriate management employees.

ARTICLE 8

STEWARDS

1. **Stewards.** The District recognizes the right of the Union to designate stewards and alternates from the District seniority list.
2. **Union Business.** With advance notice, Stewards will be excused from work to attend to Union business as deemed necessary by the Local Union; provided that, said absence shall not unduly disrupt the District's transportation operations. Absences for Union business shall be limited to five (5) working days per school year.
3. **Postings.** Stewards will be given a copy of all postings that pertain to the bargaining unit.

ARTICLE 9

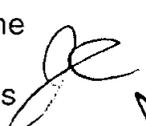
BARGAINING UNIT WORK

1. **Bargaining Unit Work shall consist of:**
 - A. **Drivers.** All employees driving school buses which are owned and/or operated for the District for the transportation of ~~the~~ students *required to be transported by the District.*
 - B. **Bus Aides.** Employees assigned to buses carrying special needs students who require an Aide as identified through the student's IEP.
 - C. **Mechanics.** Employees who maintain and repair District owned vehicles.

2. **Supervisors Working:**

Non-bargaining unit employees (except substitute drivers, substitute aides, and the Transportation Supervisor) shall not perform work of the same nature as bargaining unit employees, except in exigent circumstances where there are no qualified bargaining unit employees available to perform said work.

TA



5. Expenses of the Arbitrator

The compensation of the arbitrator and his/her expenses incidental to the arbitration shall be paid by the party bringing the grievance if it should fail to obtain the relief sought. If the arbitrator awards complete relief to the grieving party, the other party shall bear the arbitrator's costs and expenses.

6. Expenses of the Parties

Each party shall be responsible for all expenses incurred by it in the presentation of its case including the payment of its witnesses, if required. The parties will share equally in the cost of the arbitration proceedings being reported and transcribed by a court reporter.

ARTICLE 11

DISCIPLINE

- 1. The District shall not discipline any employee without just cause. Depending on the ~~seriousness of the~~ offense, the types of discipline to be imposed include:

- Oral Reprimand
- Written Reprimand
- Suspension of ~~up to ten (10)~~ ^{five (5)} days
- Termination

and prior discipline imposed on the employee

Suspension of ten (10) days

Nothing herein shall preclude the District from issuing more than one (1) oral or written reprimand, or with beginning any level of discipline based upon the seriousness of the offense. Neither oral nor written reprimands will be subject to arbitration.

- 2. All discipline shall be issued within ten (10) workdays, from the time of the event giving rise to the disciplinary action, or from the time that the District knows or should have known about the event giving rise to the disciplinary action, and shall not be used for the purpose of progressive discipline for a period of more than two (2) years: provided that, upon the effective date of this first Agreement, each employees' record is expunged.
- 3. The District agrees that, when conducting an interview with an employee, the District will not proceed with the interview after it makes a determination to discipline the employee without offering the employee the opportunity to have a Steward or other available representative present.

Union Proposal

ARTICLE 14
HOURS OF WORK

1. Overtime.

- A. All overtime must be approved by the appropriate administrator. Except as otherwise provided herein, all overtime hours as defined in this Agreement shall be compensated at the employee's applicable rate of pay, equal to time and one-half (1-1/2) the applicable rate of pay of the employee, for all authorized work. Overtime is defined to include all time worked in excess of forty (40) hours in any calendar week. There shall be no pyramiding of overtime hours.
- B. For the purpose of computing the number of hours worked, all hours in pay status shall be counted as hours worked.
- C. For all hours worked on Saturday, employees shall be paid an additional one (1) dollar (\$1.00) per hour added to the applicable rate of pay.
- D. For all hours worked on Sunday, employees shall be paid an additional two (2) dollars (\$2.00) per hour added to the applicable rate of pay.

2. **Minimum Call-in Time.** Any employee called in to work at a time when the employee is not scheduled to work shall receive a minimum of two (2) hours' pay at the field trip rate of pay under this Agreement. This pay provision shall also apply when an employee reports to work for a field trip, but the field trip has been cancelled and the District failed to attempt to notify the employee prior to the employee showing up for work.

3. ~~Calamity, Epidemics, Inclement Weather Day Pay.~~

in active pay status

- A. All employees shall be paid their appropriate rate of pay for all days or part of a day when schools in which they are employed are closed owing to an epidemic or other public calamity, up to five (5) days per school year.
- B. When the schools are closed because of a public calamity and employees who are not required to be present are paid for the day, then any employee who is required to work shall also be paid for the day and in addition will be paid straight time for all hours worked. Said hours worked will be considered in determining any overtime calculations.

4. Miscellaneous Provisions.

A. Any driver transporting students to any other regularly scheduled school (because of a difference in school schedule) outside of Mansfield City school year schedule will be paid for all such days at the drivers' average daily rate.

dst

Receive compensatory time in the same amount of time worked. Comp time must be submitted and approved by the Transportation Supervisor.

ARTICLE 16

BIDDING PROCEDURE

1. All vacancies which shall be defined as a position previously held by a bargaining unit member who has resigned, retired, died or been terminated, or a newly created position be posted on the bulletin board for a minimum of five (5) business days before it is to be filled. The district reserves the right to determine whether a vacancy shall be filled.

Fact finding
2.
3.
4.

2. All classifications shall be afforded the opportunity to bid on all vacant positions. The vacant position shall be awarded to the most qualified bidder. If equally qualified, the most senior bidder will be given the position.

3. To bid a driving job the bidder must have a valid driver's license to drive a school bus at the time of the bid and be insurable under the District's then current insurance policy.

4. For the 2004-2005 school year all routes will be bid by seniority and awarded two weeks prior to the start of classes for the academic school year.

5.

If the District needs to have a ~~daily route run~~ *position filled* for more than ~~90~~ *100 calendar* days in a school year it will be opened for bid. *This provision shall not include positions that are vacant due to an employee's approved leave of absence.*

ARTICLE 17

EXTRA WORK

1. **Assignment of Additional Work.** All field trips and special use bus assignments shall be offered based on seniority with a cap of forty (40) hours per week. If the senior driver/aide has already taken extra work assignment(s) for that week and another one would extend him/her over forty (40) hours for that work then the next senior driver/aide will be given the next assignment. *job classification*

If there are insufficient volunteers the District will have the right to mandate employees work additional hours beyond the regular schedule, if circumstances require. When the additional work needed does not require all of the Drivers, Mechanics, and/or Aides, the District will go by job classification seniority starting with the least senior in assigning the additional work.

[Handwritten signatures]

ARTICLE 17
EXTRA WORK

1. **Assignment of Extra Work.** All field trips and special use bus assignments shall be posted for bid and awarded to the most senior employee in the job classification signing the bid; provided that, each employee shall be limited to twenty-five (25) hours of overtime (paid at time and one-half) per month. If the assignment of the extra work would take the employee over the twenty-five (25) hours of overtime (paid at time and one-half) for the month, it shall be awarded to the next senior Driver/Aide who will stay under the monthly cap.

F. Funder

If the assignment of the extra work would take all volunteers over the cap, it shall be awarded to the most senior employee bidding. No employee shall be forced to perform extra work when there are available, qualified volunteers. When time permits, the bid will remain posted for a minimum of five (5) consecutive business days and the bid will be awarded at least five (5) business days before the date of the trip, when possible.

If there are insufficient volunteers, the District will have the right to mandate employees work additional hours beyond the regular schedule, if circumstances require. When the additional work needed does not require all of the Drivers and/or Aides, the District will go by job classification seniority starting with the least senior in assigning the additional work.

mechanics

2. **Summer ^{school} work.** All summer ^{school routes} work will be posted for bid. When time permits, the bid will remain posted for a minimum of five (5) consecutive business days and the bid will be awarded at least five (5) business days before the beginning of summer school/work, when possible.

1975

The posted positions shall be awarded in the following order:

- A. By seniority within the classification
- B. By seniority to all qualified bargaining unit employees outside of the classification

In the event summer work remains unfilled, the least senior employees in the classification will be required to do the work.

3. Rural Life Center and job site runs will be posted and ^{awarded} by job classification seniority on a ~~weekly~~ ^{monthly} basis. *not part of a regular route*

4. Extra mid-day preschool runs, not part of a regular route, will be bid on an annual basis and awarded to the most senior employee in the job classification bidding for the run.

5. **Field Trips:**

- A. All field trips will have a two (2) hour minimum guarantee at the field trip rate and Drivers shall be paid for all hours worked, including time spent in pre and post field trip inspections and fueling of the bus, picking up, dropping off, driving the bus and waiting at the field trip sites. Aides shall be paid for hours worked.
- B. After consultation and agreement with the Coach/Teacher or other individual in charge of the field trip, the Driver and Aide (if any) may leave the trip site for up to one hour at a time to take a meal break.
- C. **Lodging and Meals:** Any employee in the bargaining unit who, as a result of a Field Trip assignment, must be lodged away from home overnight, shall be provided a private room at the same facility as the trip participants. Meals will be reimbursed up to \$8 for breakfast, \$8 for lunch, and \$16 for dinner with proper receipts for those overnight trips.

[Handwritten signatures]

ART 17

6. The position of Driver/Trainer shall be assigned to the most senior Driver(s) ^{qualified} volunteering for the position. Driver/Trainers shall receive pay for all time spent training at the field trip hourly rate, plus one dollar (\$1.00) per hour. Training work shall be assigned to the most senior Driver/Trainer available to perform said work: ~~performed~~ *performed at the time scheduled by the Transportation Supervisor.*

Art 

ARTICLE 24
LIABILITY INSURANCE

1. The District shall provide for the defense of an employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission in connection with a governmental or proprietary function which occurs or is alleged to have occurred while the employee was acting in good faith and not manifestly outside the scope of his/her employment or duty. The duty to provide for an employee's defense required by this section shall not arise when the civil action or proceeding is brought by or on behalf of the District.
2. The District shall indemnify and hold harmless all employees in the amount of any judgment, other than punitive damages, obtained against any such employees in any state court, federal court, or as a result of a law of a foreign jurisdiction, provided that the act or omission connected with either a governmental or proprietary function from which such judgment arose occurred while the employee was acting in good faith within the scope of his employment or duty. This duty to indemnify and hold harmless or pay prescribed by this subdivision shall not arise if the injury or damage resulted from the employee acting with malice of purpose, in bad faith, or in a wanton and reckless manner.
3. The District further agrees that the employee shall have the right to information relative to any claim within forty-eight (48) hours of receipt of such information by the District and/or its agent.
4. The District agrees that the only instance whereby the District may make records of or reference to an employee's alleged culpability in a liability claim a part of the employee's personnel file is when a claim has been litigated and the employee's liability has been clearly established by a judgment rendered by a court of competent jurisdiction. If there has not been a recurrence of a judgment rendered by a court of competent jurisdiction within a twelve (12) month period following placement of said previous judgment in the employee's personnel file, such judgment and all records thereof shall be removed from the personnel file.
5. The District agrees to allow any employee at least forty-eight (48) hours to file a written accident report to the District and/or its agent of an incident that could result in a claim or liability.

The District further agrees that the employee shall have the right to representation of his/her choice at any meeting involving any such complaint or incident that could result in a claim or liability.
6. The District shall provide adequate release time for any employee that is required to attend any deposition, any pretrial hearing and any or all state and federal court hearings involving any and/or all claims of liability. The District agrees that such release time will not result in the employee's loss of wages or deduction from any District approved leave.

The District shall maintain liability insurance coverage for all bargaining unit employees, which is part of the District's insurance policy. TA

~~410~~

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ARTICLE 28

*except where except
circumstances do not permit.*

WORK RULES

by Union Arbitrator

1. When existing work rules are changed or new work rules are established, the Union shall receive a copy of the changed or new work rule no later than fifteen (15) days prior to implementation of the rule. To the extent that any work rules are inconsistent with the terms of this Agreement, they are void. In addition to any rights afforded by statute, the Union retains the right to challenge the application, interpretation and/or reasonableness of any work rule, through the grievance and arbitration procedure of this Agreement.

ruled

*dst JMC
JGC*

District Proposal

ARTICLE 29

PROBATIONARY EMPLOYEES

New employees shall serve a probationary period consisting of the first ^{sixty (60)} ~~ninety (90)~~ days actually worked (i.e., completed workdays excluding paid or unpaid leaves of absence). Those new employees shall not have seniority rights during the probationary period but those who remain beyond ninety (90) workdays shall have full seniority rights effective on their date of hire. During the probationary period, O.R.C. 3319.081(C) will be inapplicable to the contracts of such employees, and such contracts may be terminated at the discretion of the District during the ninety (90) day probationary period. Such decisions will not be arbitrable.

TA

JC
KTP
[Signature]

ARTICLE 30
MANAGEMENT RIGHTS

It is understood and agreed that the District has all the customary and usual rights, powers, functions and authority of management including the direction of the work force and the operation of the Transportation Department, the right to hire, suspend or discharge for proper cause, transfer, relieve employees from duty for lack of work or for other legitimate reasons, except as those rights, powers, functions or authority are specifically abridged or modified by this Agreement or by any written supplement to this Agreement arrived at through the process of collective bargaining between the District and the Union and executed by each party.

} TA

[Handwritten signatures]

Union Proposal

ARTICLE 31
TERM OF AGREEMENT

The Board of Education of the Mansfield City School District and the Truck Drivers Union Local No. 40 agree that this collective bargaining agreement will expire at midnight on the 31st day of August 2005, unless extended by mutual written agreement of the two parties or by the provisions contained in Article 4, section 3.

July
TA

det se

[Signature]

Art. 20 Pay Provisions

assignment. Any other Driver and/or Aide required to return the student to home shall be paid for all time spent at their hourly rate.

8. All employees that are mandated to attend meetings by the District shall be paid for all time spent, at the field trip rate, with a minimum guarantee of one ^{1/2} hour of pay.

1/2
half

JTA
4/12/04

4/12/04

JC 4/12/04

Minimum Call-In Time. Any employee called in to work at a time when the employee is not scheduled to work shall receive a minimum of two (2) hours' pay at the field trip rate of pay under this Agreement. This pay provision shall also apply when an employee reports to work for a field trip, but the field trip has been cancelled and the District failed to attempt to notify the employee prior to the employee showing up for work.

3. Calamity Days.

- A. All employees in active pay status shall be paid their appropriate rate of pay for all days or part of a day when schools in which they are employed are closed owing to an epidemic or other public calamity, up to five (5) days per school year.
- B. When the schools are closed because of a public calamity and employees who are not required to be present are paid for the day, then any employee who is required to work shall receive compensatory time in the same amount of time worked. Comp time must be submitted to and approved by the Transportation Supervisor.

- 4. Any driver transporting students to any other regularly scheduled school (because of a difference in school schedule) outside of Mansfield City's school year schedule will be paid for all such days at the drivers' hourly rate for a minimum two hours per a.m. and/or p.m. run.

ARTICLE 15

accepted

LAYOFF AND RECALL

- 1. Whenever it becomes necessary to reduce the number of employees in a job classification due to abolition of a position for lack of funds, or lack of work, employees in that classification shall be laid off in the inverse order of seniority under the following rules:
 - A. The person with the lowest job classification seniority in the classification affected shall be the first laid off.
 - B. In refilling vacancies caused by such layoffs, employees shall be recalled in the reverse order of layoffs.
 - C. A person laid off under (A) above shall have the right to bump into a job classification within the bargaining unit on the basis of his/her bargaining unit seniority and qualifications at the time of layoff.

ARTICLE 27
SICK LEAVE

1. Each regular employee shall accrue one and one-quarter (1.25) sick days for every month in which they are in pay status for at least five (5) days. For each sick day taken, employees shall be paid their regular daily rate of pay.

2. Unused sick leave shall be cumulative without limitation.

Fact Finder writes

3. Employees may use sick leave for absence due to personal illness or injury. Sick leave may also be used for absence due to illness or injury in the immediate family (defined for this provision as: siblings, spouse, child, parents and legal dependents).

4. ~~All~~ ^{Bargaining Unit} employee who renders service on a part-time basis shall accumulate sick leave at the same rate as that granted full-time employees.

T.A. 4/12/09
g.c. 4/12/09
dst 4/12/04
[Signature] 4/12/04

APPENDIX II

ARTICLE 23

SICK LEAVE

1. Each regular employee shall accrue sick days per the Ohio Revised Code. For each sick day taken, employees shall be paid their regular rate of pay.
2. Employees may use sick leave for absence due to personal illness or injury. Sick leave may also be used for absence due to illness or injury in the immediate family (defined for this provision as: siblings, spouse, child, parents and legal dependants).

3. *A bargaining unit employee who renders service on a part-time basis shall accumulate sick leave at the same rate as that granted full-time employees.*

ARTICLE 24

INSURANCE

1. Employees must work at least 20 hours per week on a regular basis to qualify for health insurance benefits. District will choose the provider. Employees will have the same insurance plan and coverage as the non-certificated staff *except that those employees regularly working at least 20 hours per week will be treated similarly to the non-certificated staff*
2. The District shall maintain liability insurance coverage for all bargaining unit employees, which is part of the District's insurance policy. *regularly working 30 hours per week*

ARTICLE 25

NO STRIKE/NO LOCKOUT

1. Employees represented by the Union shall not engage in any strike or work stoppage during the life of this Agreement, nor will the District engage in a lockout during the life of this Agreement.

ARTICLE 26

SAVINGS CLAUSE

1. Any provision of this Agreement which may be in violation of State or Federal laws, State or Federal Acts, statutes, regulations or orders, or any revision thereof, now effective or which may become effective during the term of this Agreement, shall be considered void. In the event that any provision of this Agreement is thus voided, the balance of the Agreement and its provisions shall remain in effect for the term of the Agreement. Either party will, at the request of the other, negotiate with respect to the

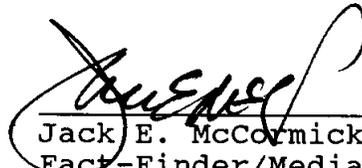
CERTIFICATE OF SERVICE

The foregoing Fact-Finding/Mediation Report was sent to the following by U.S. mail, postage prepaid, this 19th day of April, 2004:

Diana S. Brown
Logothetis, Pence & Doll
111 West First St., Suite 1100
Dayton, OH 45402-1156
(via overnight mail)

James L. Childress
6 West Third St., Suite 200
P.O. Box 268
Mansfield, OH 44901
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Dale A. Zimmer
Administrator, Bureau of Mediation
State Employment Relations Board
65 E. State St., 12 Floor
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