

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD

2004 OCT 27 A 11:33

IN THE MATTER OF THE	)	BEFORE FACT-FINDER:
FACT FINDING	)	JAMES E. RIMMEL
	)	
BETWEEN	)	CASE NO. 04-MED-05-0588
	)	
AFSCME, COUNCIL 8	)	HEARD <sup>1</sup> : 21 OCTOBER 2004
LOCAL UNION 1992 (AFSCME)	)	NILES, OHIO 44446
	)	
AND	)	
	)	
TRUMBULL COUNTY BOARD OF	)	ISSUED: 25 OCTOBER 2004
MENTAL RETARDATION AND	)	
DEVELOPMENTAL DISABILITIES	)	
(BOARD)	)	

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APPEARANCES

For AFSCME:

Amy L. Price  
Regional Director

For the Board:

Douglas A. Burkhardt, PhD  
Board Superintendent

BACKGROUND

This matter comes on for fact-finding following impasse in the parties' efforts to consummate a successor collective bargaining agreement (CBA). In this case, representatives of AFSCME and

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<sup>1</sup> This matter came on for fact-finding following two (2) rejections of tentative agreements between the parties by association members, actions which, along with others, strained an already less than cordial relationship. In any event, the parties agreed to my attempting to mediate this matter, mediation that led to agreement on the stipulated recommendations set forth in this report.

the Board not only meet on a number of occasions in their efforts to negotiate a successor CBA, they signed off on a tentative agreement (TA) which was twice presented to AFSCME Local 1992 members, members who rejected the TA. In contrast, the Board accepted that which had been agreed-to between the bargaining committees. The matter is thus before me under the provisions of Chapter 4117.14 of the Ohio Revised and Administrative Codes.

In the parties filed prehearing statements, AFSCME identified five (5) unresolved issues, to wit; Article 9, Section 4-Position Postings and Vacancies; Article 21, Section 1-Holidays and Vacations; Article 22, Sections 1, 2 and 3 - Personal Days; Article 27 - Salary Schedules; and, Article 28 - Health Insurance and Related Benefits. In contrast, the Board took the position there were no unresolved issues, the parties having consummated a [tentative] successor CBA. During extended mediation efforts, the parties reaffirmed that previously agreed-to concerning Articles 9 and 27. Those agreements, along with all other tentative agreements not identified as unresolved in fact-finding, were affirmed by the parties and are incorporated herein under Exhibit "A" along with the attachments thereto. Discussions over the remaining three "disputed" Articles led to the following stipulated recommendations:

**ARTICLE 21, SECTION - HOLIDAYS AND VACATIONS**

**RECOMMENDATION:**

ALL TWELVE (12) MONTH EMPLOYEES AND NINE (9) MONTH TRANSPORTATION EMPLOYEES SHALL BE ELIGIBLE FOR THE FOLLOWING PAID HOLIDAYS EXCEPT THAT THE NINE (9) MONTH EMPLOYEES ARE NOT ELIGIBLE FOR INDEPENDENCE DAY. ALL NINE (9) MONTH EMPLOYEES WHOSE WORK ASSIGNMENT IS IN THE SCHOOL WILL RECEIVE PRESIDENT'S DAY OFF WITHOUT PAY AND THEIR PROGRAM YEAR WILL BE EXTENDED BY ONE DAY.

- A. LABOR DAY
- B. THANKSGIVING DAY
- C. DAY AFTER THANKSGIVING DAY
- G. MARTIN LUTHER KING DAY
- H. PRESIDENT'S DAY
- I. FRIDAY BEFORE EASTER

- D. DAY BEFORE CHRISTMAS
- E. CHRISTMAS DAY
- F. NEW YEAR'S DAY

- J. MEMORIAL DAY
- K. INDEPENDENCE DAY

THE PROGRAM SHALL BE CLOSED DURING THE WEEK BETWEEN CHRISTMAS DAY AND NEW YEAR'S DAY AND ALL EMPLOYEES WHO WOULD HAVE NORMALLY BEEN SCHEDULED TO WORK SUCH DAYS SHALL RECEIVE THEIR REGULAR BASE RATE OF PAY. CUSTODIANS, MECHANICS AND OTHER ESSENTIAL EMPLOYEES WHO MAY BE REQUIRED BY THE EMPLOYER TO WORK DURING THAT WEEK SHALL BE ABLE TO USE SUCH DAY(S) WORKED AS A VACATION DAY(S).

ARTICLE 22 - PERSONAL DAYS

RECOMMENDATION:

THE TENTATIVE AGREEMENT DATED JULY 26, 2004 IS VOIDED AND THE PARTIES WILL CONTINUE EXISTING CONTRACT LANGUAGE.

ARTICLE 28 - HEALTH INSURANCE AND RELATED BENEFITS

Amend the parties' tentative agreement on this Article dated August 18, 2004 as follows:

- A. Change Deductibles from 300/600 to 150/300.
- B. Change the maximum out of pocket from 700/1400 to 500/975.
- C. Keep first paragraph under TA reading: "All changes in coverage for the purpose of cost containment may be subject to the recommendations the Joint Health Care Committee with the approval of the bargaining unit and the Employer."
- D. Amend second paragraph to read: "The Board agrees to absorb the cost of any premium increase during the life of this Agreement." Balance of the second TA paragraph to be deleted.

- E. Premium Sharing: Amend TA paragraph to read: “Bargaining unit employees who are covered under the Board’s health policy shall contribute to premium costs at the rate of 1% of their annual gross salary.”
- F. Last two paragraphs same as in TA.

Finally, it is recommended that upon ratification by both parties wage and insurance premium sharing provisions will be made retroactive to September 1, 2004. All other provisions will become effective as of the date of ratification.

Respectfully submitted,

  
JAMES E. RIMMEL  
FACT FINDER

EXHIBIT "A"

<u>Article 2, Section 3 -Recognition</u>	Remove redundant language (Attachment 2)
<u>Article 3, Section 4 -Union Representation</u>	Increase in Union days for union representation (Attachment 3)
<u>Article 3, Section 6 -Union Representation</u>	Improve PEOPLE Checkoff Language (Attachment 4)
<u>Article 3, Section 6- Union Representation (new section)</u>	Voluntary Recognition and Neutrality Agreement (Attachment 5)
<u>Article 5 Section 1 Union Security and Fair Share Fee</u>	Clarify existing process. (Attachment 6)
<u>Article 8, Section 7- Seniority</u>	Deletes pro ration of vacation accruals for 9-month employees/ Remove Addendum 5 (Attachment 7)
<u>Article 9, Section 7- Position Postings and Vacancies</u>	Defines step placement for promotions/demotions. (Attachment 8)
<u>Article 9-Position Postings and Vacancies</u>	Retirement and Re-employment (Attachment 9)
<u>Article 15- Working Out of Classification</u>	Improves language, process (Attachment 10)
<u>Article 16 - Calamity Days</u>	Allows use of personal/vacation if more than five (5) calamity days. (Attachment 11)
<u>Article 17- Discipline and Discharge</u>	Allow Staff Rep at suspension or termination to observe. (Attachment 12)
<u>Article 19 -Grievance Procedure</u>	New grievance procedure; adds mediation (Attachment 13)
<u>Article 20- Sick Leave</u>	Employer proposal to Increase/add sick leave conversion payments (Attachment 14)
<u>Article 25 -Physical Injury Leave</u>	Assault Leave (Attachment 15)
<u>Article 27-Health Insurance</u>	AFSCME Care Plan (Attachment 16)
<u>Leadership (Employer)Counter Driver and Aide Time</u>	Establish Committee (Attachment 17)
<u>Leadership (Employer) Counter Extra Summer Work</u>	Add Instructor Asst. To Per Diem Employee (Attachment 18)
<u>New Article</u>	Pay mileage quarterly. Agreed to by parties. No TA, but was presented at ratification.

**EXHIBIT "A" (CONTINUED)**

**ARTICLE 9 - SECTION 1, 2, 3 AND 4 - POSITION POSTINGS AND VACANCIES:**

Attachment 19

**ARTICLE 27 - SALARY SCHEDULES (WAGES)**

Attachment 20

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 2  
RECOGNITION

Section 3.

Notwithstanding the provisions of this Article, management, confidential, supervisory, part-time, temporary, seasonal, casual, and employees in the unclassified service shall not be included in the bargaining unit. Part-time shall mean anyone who works less than the standard weekly work schedule of that classification on a regular basis.

~~Union and Management agree to meet to discuss Management's desire. The sole criteria in allowing Management to add to confidential secretary shall be whether or not the parties agree that the proposed position meets the definition of a confidential employee contained in ORC 4117.01(k) which is:~~

~~"Any employee who works in the Personnel Offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the Employer."~~

~~If the parties cannot reach mutual agreement within ten working days of the notice by Management, the issue shall be submitted to arbitration in accordance with the final step of the agreement's grievance procedure.~~

For the Employer

*[Handwritten Signature]*  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

*[Handwritten Signature]* 7/27/04  
*[Handwritten Signature]* 7/27/04  
*[Handwritten Signature]*  
7/27/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

*Signature*  
*8/12/04*

**ARTICLE 3**  
**UNION REPRESENTATION**

Section 4. Union Business

A. Unpaid Leave

Members, of Local 1992 as designated by the President, may request a leave of absence without pay from their Department Supervisor or Director based upon five (5) workdays advance notice and prior approval. Such leave may be taken in one-half (1/2) day or one (1) day increments. Total days shall not exceed an aggregate total of ~~ten (10)~~ **twenty (20)** days in a calendar year. The granting of such leave shall be subject to the operational needs and staffing requirements of the Department.

*Approved*  
*Program*  
*From*  
*Sept - Aug*

B. Paid Leave

Union officers or other member(s) of the Union as designated by the President shall be allowed an aggregate total up to ~~five (5)~~ **ten (10)** paid days per calendar year, non-cumulative, to conduct Union business. Paid leave requests shall be made in accordance with the notice, approval, and operational considerations of Section 2.

*Program*  
*Approved*  
*8/12/04*

For the Employer

*[Signature]*

\_\_\_\_\_  
\_\_\_\_\_

For the Union

*[Signature]* 8/12/04  
*[Signature]* 8/12/04  
*[Signature]* 8/12/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 3  
UNION REPRESENTATION

**Section 6 PEOPLE CHECK-OFF** The employer agrees to deduct voluntary contributions to the American Federation of State, County, and Municipal Employee's International Union's Public Employees Organized to Promote Legislative Equality. (PEOPLE) Committee from the pay of an employee, upon receipt from the union of an individual written authorization card, voluntarily executed by the employee. The Union will certify the contribution amount to the Employer. Moneys deducted shall be remitted to the Union within (10) days of the date they are deducted. Payment shall be made to the Treasurer of PEOPLE and transmitted to:

AFSCME, AFL-CIO  
PO Box 65334 Washington, DC 20035

The amount of deduction shall be calculated by dividing the total contribution authorized by the employee by twenty-six (26) [number of pay periods] and the resultant quotient shall equal the amount deducted per pay period.

The payment shall be accompanied by an alphabetical list of the names of those employees for whom a deduction was made and the amount of each deduction. This list must be separate and apart from the list of employees who had union dues deducted and the list of employees whom had fair share fees deducted.

An employee shall have the right to revoke such authorization at any time by giving written notice to the Employer and the Union. The Employer's obligation to make deductions shall terminate automatically upon receipt of revocation of authorization or upon termination of employment or transfer to a job classification outside the bargaining unit.

All PEOPLE contributions shall be made as a deduction separate from the dues and Fair Share Fee deductions.

The above procedure shall be used for each employee who submits a signed authorization card unless the procedures of the County Auditor preclude an action in which case the County Auditor's procedures will prevail.

For the Employer

Amerson Brockmeyer  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

Bob Johnson 7/26/04  
John L. ...  
7/26/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 3  
UNION REPRESENTATION

Section 7 Voluntary Recognition. This Agreement is entered into by the Trumbull County Board of MR&DD and Local 1992, AFSCME, Ohio Council 8, AFL-CIO, to ensure an environment of labor peace at the Employer's premises during the exercise by the Employer's employees of their rights under ORC 4117, the Ohio Public Employees Collective Bargaining Act; and to avoid any picketing or economic action directed against the Employer during any organizing campaign.

The Employer and the Union mutually recognize that Ohio law guarantees workers the right to form, join, or select any labor organization to act as the workers' exclusive bargaining representative for the purpose of collective bargaining with the Employer or to refrain from such activity.

*take* The Employer agrees that it will not take any action, make any statement, hold any meeting or do anything, which will directly or indirectly say or imply that the Employer opposes unionization by its employees. The Union agrees it will not coerce any worker in its efforts to obtain authorization cards. Nor will the Union any action, make any statement, hold any meeting or do anything, which will directly or indirectly falsely say or imply that the Employer opposes unionization by its employees.

If the Union provides written notice to the Employer of its intent to organize the Employer's employees, the Employer will not interfere with or deny the Union access to its premises.

Within five (5) working days following the receipt of the Union's written notice to organize the Employer's employees, the Employer will furnish the Union with a complete list of all workers in all job classifications in order for the parties to ascertain and agree upon an appropriate bargaining unit. The Employer will designate which workers are full time, part time supervisory or management employees.

*DOB* The Union may request recognition as the exclusive bargaining representative for all employees, excluding supervisors and managers. Within five (5) working days after this request, the parties will select an arbitrator who is mutually agreeable to both parties. The arbitrator will be a neutral third party who will conduct a card check of the authorization cards within ten (10) working days of the *DOB* arbitrator's selection. If the card check shows a majority of the employees has selected or designated the Union as its bargaining representative, the Employer agrees it will not file an objection to any petition for voluntary recognition filed by the Union with the State Employment Relations Board to represent those employees or where appropriate will execute a joint petition for amendment of certification to accrete the employees into the existing bargaining unit.

The parties agree any disputes concerning the application or interpretation of this agreement will be referred to expedited arbitration. The arbitration will convene within ten (10) working days of the dispute. The arbitrator will be the neutral third party selected to conduct the card check. The arbitrator shall have the authority to order the non-compliant party to comply with this agreement.

For the Employer

*Amber A. Bondhus*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

*Samuel* 7/26/04  
\_\_\_\_\_  
*Bob Johnson* 7/26/04  
\_\_\_\_\_  
*Mark Y. Callahan* 008  
7/26/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 5  
UNION SECURITY/FAIR SHARE FEE

**Section 1** All employees in the bargaining unit who, sixty (60) days from date of hire, are not members in good standing of the Union i.e. no signed Union Authorization Card, shall pay a fair share fee to the Union as a condition of employment. The fair share fee amount shall be certified to the Board by the Treasurer of Local 1992 unless the procedures of the County Auditor preclude an action in which case the County Auditor's procedures will prevail.

For the Employer

Amey G. Bondaruk  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

Boleto Jehu 72604  
Mark C. ...  
7/24/84

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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Article 8

Seniority

Section 7.

For the purpose of this Agreement, different types of seniority may be used for different purposes, e.g.: classification seniority for purposes of layoff and recall within classification; promotional preferences; vacation selection; etc.; bargaining unit seniority for purposes of layoff and recall; tie breakers in dispute involving classification seniority, etc.; total program seniority for purposes of lay-off and recall; tie breakers in dispute involving bargaining unit seniority, vacation accrual. ~~except that vacation accrual for nine-month employees becoming 12-month employees shall be pro-rated in accordance with current practices.~~

**Remove Addendum V from the Agreement**

For the Employer

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

[Signature] 7-27-04  
[Signature] 7-27-04  
[Signature]  
7/27/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 9

POSITION POSTINGS AND VACANCIES

Section 7.

Employees who are promoted to a different classification within the same pay range or who are laterally transferred within the same classification shall be placed upon the same step of the new classification as the current position. Employees who are promoted to a classification in a different pay range shall be placed on the step that will guarantee the employee an increase in compensation.

Employees who are demoted either voluntarily or involuntarily to a different classification or pay range shall be placed at the ~~same~~ step of the new classification which results in the least amount of decrease in compensation.

For the Employer

For the Union

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_

[Signature] 7-27-04  
[Signature] 7-27-04  
[Signature] cc8  
7/27/04

**Proposal of the Union**

**Local 1992 AFSCME, Ohio Council 8, AFL-CIO**

**And**

**Trumbull County Board of MR&DD**

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**ARTICLE 9**  
**POSITION POSTINGS AND VACANCIES**

**Section 12. Retirement and Re-Employment**

If, during the life of this Agreement, an employee attains a minimum of thirty (30) years of eligible service verified by either the State Teachers Retirement System or the Public Employee Retirement System, and the employee indicates:

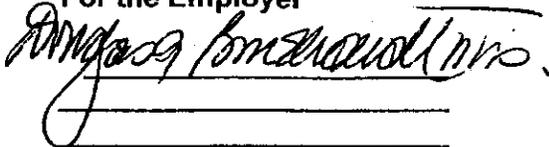
1. A desire to retire; and
2. A desire to continue employment after retirement within the parameters acceptable to PERS/STRS; and
3. The employee will accept continued employment at Step 0 of the then effective salary schedule, then,

The Employer will allow the employee to retire, retain employment status at the then 0 step of the appropriate salary schedule, with no lapse in employment. The employee agrees to abide by PERS/STRS rules and regulations regarding the period PERS/STRS requires the employee to pay (currently two months) into retirement before an annuity begins, and the Employer agrees to comply with PERS/STRS rules on this matter.

Further, any employee opting for this retirement/re-employment understands and agrees that:

1. Severance pay according to the then current agreement/policy sections will occur as if the employee actually retired, and
2. All benefit accruals will begin anew at the beginning of the new employment period as if the employee were a "new hire".
- ~~3. The employee will maintain all seniority as if there were no break in service.~~

For the Employer

  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

  
\_\_\_\_\_  
\_\_\_\_\_ 7/22/04  
7/22/04

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

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ARTICLE 15  
WORKING OUT OF CLASSIFICATION

Section 1.

When an employee is temporarily assigned or required by his/her immediate supervisor to perform the work of a higher classification ~~for which~~ and the employee is performing the essential (not incidental) duties and responsibilities of that classification, the employee will be compensated at the higher hourly rate of pay for all hours worked in the higher classification for that day.

For the Employer

*[Signature]*  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

*[Signature]* 72604  
*[Signature]* 72604  
*[Signature]*  
7/26/84

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Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

ARTICLE 16  
CALAMITY DAYS

Up to five (5) calamity days per program year will be with pay whether worked or not worked. Program year means the school year for 9-month employees and program year for 12-month employees. Should the number of calamity days exceed five (5) in any given program year, such additional days shall be without pay unless an employee is required to report to work. At the discretion of the Employer "make-up days" may be required. Any scheduled "make-up" day shall be compensated at the regular rate of pay. However, should a state or national emergency be declared which would require the closing of the Board's programs, and where such closing causes the total number of calamity days to exceed five (5) in one program year, employees shall suffer no loss in pay for such days provided that the State Department of MR/DD and/or the State Department of Education waive make-up days for the total number of calamity days incurred during that program year. After the five (5) calamity days are used, twelve month employees shall have the option to use vacation or personal days for any additional calamity days. ~~If nine month employees are not required to make up additional days they shall have the option of using personal days in the same manner.~~

For the Employer

*[Signature]*  
\_\_\_\_\_  
\_\_\_\_\_

For the Union

*[Signature]* 72204  
*[Signature]* 72204  
*[Signature]* (7/22/04)

Proposal of the Union

Local 1992 AFSCME, Ohio Council 8, AFL-CIO

And

Trumbull County Board of MR&DD

ARTICLE 17  
DISCIPLINE AND DISCHARGE

*as designated*

**Section 5** The Staff Representative of AFSCME, Ohio Council 8, may be present during any investigation that involves the questioning of an employee who is, or may be, charged with an offense which may result in the employee's suspension or termination.

For the Employer

*[Signature]*  
\_\_\_\_\_  
\_\_\_\_\_

*by the Employer*

For the Union

*[Signature]* 7-22-04  
*[Signature]* 7-22-04  
*[Signature]*

*as a non-participating observer*

# LEADERSHIP PROPOSAL



## Article 19

### Grievance Procedure

#### Section 1. Grievance Policy

The Employer recognizes that in the interest of effective personnel management, a procedure is necessary whereby its employees can be assured of a prompt, impartial and fair hearing on their grievances. Such procedures shall be made available to any bargaining unit employee who may have a grievance.

No reprisals shall be taken against any bargaining unit employee for filing a grievance in good faith or for participating in the grievance procedure. No reprisals will be taken by the Union against any leadership member for responding in good faith to any grievance.

#### Section 2. Grievance Defined

The term "grievance" shall mean an allegation by a bargaining unit employee(s) or the Union that there has been a violation, breach, misinterpretation, or improper application of this Agreement. The Union shall submit specific articles alleged to be violated, breached, misinterpreted, or improperly applied.

It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement.

#### Section 3. Procedures

All grievances must be processed at the proper step in the progression in order to be considered at any subsequent step. In responding to written grievances, the Employer will identify and attach, if feasible and/or reasonably available, a copy of appropriate rules and regulations.

The Union shall be the sole and exclusive representative of employees under the grievance procedures of this Article; however, nothing herein abridges an employee's rights under O.R.C. Chapter 4117.

The Union may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal. The withdrawal of a grievance shall not set a precedent in regards to any future grievances.

The Union may advance any grievance not answered by the Employer within the stipulated time limits to the next step in the grievance procedure. All time limits on grievances may be waived upon mutual consent of the parties.

All written grievances must contain the following information to be considered and must be filed using the grievance form mutually adopted by the Employer and the Union:

- A. Aggrieved employee's name and signature;
- B. Aggrieved employee's classification;
- C. Date grievance was first discussed;
- D. Date grievance was filed in writing;
- E. Name of supervisor with whom grievance was discussed;
- F. Date and time grievance occurred;
- G. Where grievance occurred;
- H. Description of incident giving rise to the grievance;
- I. Articles and sections of the Agreement violated; and
- J. Remedy requested.

Written grievances and appeals shall be deemed received one (1) day after date received if after 12:00 Noon or the same date received if before 12:00 Noon. The number of days indicated at each step is considered maximum.

The Union may present a class action or policy grievance involving a situation directly affecting a group of bargaining unit employees provided the grievance contains the information required above except that a Union representative may sign for the aggrieved employees.

#### Section 4. Steps of Grievance Procedure

##### A. Informal Step

In order for an alleged grievance to receive consideration, it must be processed through a verbal discussion between the aggrieved employee, the aggrieved employee's immediate supervisor and the Superintendent/designee as a preliminary step prior to pursuing the formal steps of the grievance procedure. The employee must advise Leadership that such discussion is pursuant to this informal step of the grievance procedure. The Leadership shall investigate the matter and provide a verbal answer to the grievant within ten (10) working days.

*RJK  
EML  
8/10/04*

In most situations, the immediate Supervisor shall be the person to whom the employee is directly responsible in the day to day operation of the school and/or workshop.

B. Step 1

If the employee and Leadership are unable to resolve the alleged grievance in the Informal Step within the time limits established herein for filing a written grievance or Leadership has failed to respond within ten (10) days after discussing the grievance with the employee, the Union may process the grievance to Step 1 of the procedure. The Union must present the grievance to the Superintendent or designee (who has the authority to resolve the grievance) in writing within twenty (20) working days of the occurrence or the grievant's knowledge of the occurrence of the incident giving rise to the grievance. The Superintendent or designee within five (5) working days following receipt of the written grievance shall conduct a hearing. The Grievant, the Local Union President, and the Grievance Chairperson shall be notified of the time, place, and date of the hearing and the grievant shall be permitted to have an employee's Union Representative present.

The Superintendent (or designee) shall take action on the written grievance within ten (10) working days after the conclusion of said hearing. The action taken and the reasons for the action shall be in writing and copies sent to the Grievant, the Local Union President, and the Grievance Chairperson.

Step 2      Grievance Mediation

Prior to submitting a grievance to Arbitration, the parties agree to submit the grievance(s) to non-binding grievance mediation. The mediation shall be conducted by a mediator/facilitator provided by SERB or FMCS. This step of this Article may be waived by mutual agreement of the parties.

Step 3      Arbitration

If the grievance is not satisfactorily settled in Step 1 or 2, the Union may submit the grievance to Final and Binding Arbitration by providing notice to the Employer within thirty (30) days of the receipt of the written answer at Step 1 or 2 of the grievance procedure. In the event the grievance is not referred to arbitration within the time limits prescribed, the grievance shall be considered resolved based upon the last step reply.

The parties shall create a permanent panel of seven (7) arbitrators. The panel shall consist of three (3) names submitted by the Union and three (3) names submitted by the Employer and the seventh (7<sup>th</sup>) shall be selected by mutual agreement of the parties.

Upon receipt of a request for arbitration, the Employer or his designee and the representative of the Union shall meet within ten (10) working days following the request for arbitration to select an arbitrator from the permanent panel. The parties shall agree on a submission agreement outlining the specific issues to be determined by the Arbitrator prior to selection. In the first instance of

Arbitration, the aforementioned Arbitrators shall be assigned numbers and the first arbitrator to be used shall be selected by drawing lots based upon numbers, thereafter the Arbitrators shall be used on a "round robin" basis commencing with the next sequential number following the first selection. All procedures relative to the hearing shall be in accordance with the rules and regulations of the FMCS. If a grievance is withdrawn from arbitration the moving party shall notify the other party of that fact within fifteen (15) days of the withdrawal.

The Arbitrator shall hold the arbitration within thirty (30) days of selection and issue his decision within forty five (45) days following the close of the hearing. The Arbitrator shall limit his decision strictly to the interpretation, application, or enforcement of those specific Articles and/or Sections of this Agreement in question. The Arbitrator's decision shall be consistent with applicable law.

The Arbitrator shall not have the authority to add to, subtract from, modify, change or alter any provision of this Agreement, nor add to, subtract from, or modify the language therein in arriving at his determination on any issue presented that is proper within the limitations expressed herein. The Arbitrator shall expressly confine himself to the precise issues submitted for arbitration and shall have no authority to determine any other issues so submitted to him, or to submit observation or declarations of opinion which are not directly essential in reaching a decision on the issue in question.

The Arbitrator shall be without authority to recommend any right or relief on alleged grievance occurring at any time other than the contract period in which such right originated, or to make any award based on rights arising under any previous Agreement, grievance, or practices.

Except in the instance where the Employer has established a new classification, the Arbitrator shall not establish any rates additional to the wage rates already negotiated as part of this Agreement. In cases of discharge or of suspension, the Arbitrator shall have the authority to recommend modification of said discipline.

In the event of monetary award, the Arbitrator shall limit any retroactive settlement to the date the grievance was presented to the Employer at Step 1 of the grievance procedure. The decision of the Arbitrator shall be final and binding upon the Union, the employee, and the Employer. Any cost involved in obtaining the list of arbitrators shall be equally divided, except as provided herein, between the Employer and the Union. All costs directly related to the service of the Arbitrator shall be borne by the losing party. Expense of any witnesses shall be borne, if any, by the party calling the witness. The fees of the court reports shall be paid by the party asking for one; such fees shall be split equally if both parties desire a court reporter's recording, or request a copy of any transcript.

An employee may have one (1) employee Union representative accompany them in Step 1 of the procedure, and no more than two (2) employee representatives accompany them in Step 2 of the procedure. The employee may have two (2) employee Union officials accompany them in Step 3, in addition to up to three (3) non-employee Union officials. Employee representatives, witnesses, and the Grievant shall lose no straight time pay as a result of the arbitration proceeding.

If specific administrative agency relief of judicial or quasi-judicial nature is provided for by statutes of the State of Ohio or the United States for review or redress of specific matters (such as Worker's Compensation, Unemployment Compensation, EEOC, Civil Rights Commission, etc.), such matters may be subject to the grievance procedure but no subject to Arbitration as provided herein.

A grievance may be brought by an employee covered by this Agreement. Where a group of bargaining employees desire to file a grievance involving an incident affecting several employees in the same manner, one employee shall be selected by the group to process the grievance. Each employee who desires to be included in such grievance may be required to sign the grievance.

*Angela Bonaventura III*  
8/10/09

e.ca DAB negotiations ldshp proposal Article 19 grievance procedure 8.2004

*John Hancock*  
8/10/09  
*Samuel*  
8/10/09  
*Bobbi-John*  
8.10.09

PROPOSAL

Trumbull County Board of M.R./D.D.  
Sick Leave Conversion

- l. a. If at least one-half (1/2) of an employee's total public service time has been with Trumbull County Board of Mental Retardation/Developmental Disabilities (TCBMR/DD), Board Employees may elect, at the time of retirement, or resignation from active public service, and with five (5), but less than ten (10) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 25% of the value of their accrued but unused sick leave credit.
- b. If at least one-half (1/2) of an employee's total public service time has been with TCBMR/DD, Board employees may elect, at the time of retirement or resignation from active public service, and with ten (10) but less than fifteen (15) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 40% of the value of their accrued but unused sick leave credit.
- c. If at least one-half (1/2) of an employee's total public service time has been with TCBMR/DD, Board employees may elect, at the time of retirement or resignation from active public service, and with fifteen (15), but less than twenty (20) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 60% of the value of their accrued but unused sick leave credit.
- d. If at least one-half (1/2) of an employee's total public service time has been with TCBMR/DD, Board employees may elect, at the time of retirement or resignation from active public service, and with twenty-five (25) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 80% of the value of their accrued but unused sick leave credit.
- e. If at least one-half (1/2) of an employee's total public service time has been with TCBMR/DD, Board employees may elect, at the time of retirement or resignation from active public service, and with twenty-five (25) years of service with the State, any political subdivision or any combination thereof, to be paid in cash 100% of the value of their accrued but unused sick leave credit.
- f. Sick leave payment shall be based on the employee's rate of pay at the time of retirement or resignation and eliminates all sick leave credit accrued but unused by the employee at the time payment is made.

- g. If any employee of the Board dies while in active pay status, all accrued sick leave due his or her credit shall be paid to the estate of the deceased.
  - h. The employees must remain separated from the Board for a minimum of sixty (60) days before payment can be made under the provisions of sections above. (The employee must request payment of unused sick leave.)
  - i. Eligible Board employees retiring or resigning from active public service must request such payment in writing to the Human Resource Office in order to initiate the payment process.
  - j. Payment shall be made no sooner than sixty (60) days after the effective date of retirement or resignation. The employee may elect to receive 50% of the payment initially, and receive the balance during the month of January of the following year.
  - k. Experience credit for sick leave conversion does not accrue for the period of time when a staff member is in a non-pay status, except normal seasonal breaks to service.
  - l. A full year of credit for sick leave conversion purposes will be granted to employees for each year that they work and do not have leaves of absences totaling more than one month of service. Seasonal breaks in service will not be deducted from service time. No more than one (1) year of credit will be granted for any twelve (12) month period.
- II.a. If at least five (5) years of their total public service time has been with TCBMR/DD, Board employees may elect, in December of each year, and with five (5), but less than ten (10) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 25% of the value of up to one-third (1/3) of their accrued but unused sick leave benefit.
- b. If at least one-half (1/2) of their total public service time has been with TCBMR/DD, Board employees may elect, in December of each year, and with ten (10), but less than fifteen (15) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 40% of the value of up to one-third (1/3) of their accrued but unused sick leave credit.
  - c. If at least one-half (1/2) of their total public service time has been with TCBMR/DD, Board employees may elect, in December of each year, and with fifteen (15), but less than twenty (20) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 60% of the value of up to one-third (1/3) of their accrued but unused sick leave credit.

- d. If at least one-half (1/2) of their total public service time has been with TCBMR/DD, Board employees may elect, in December of each year, and with twenty (20), but less than twenty-five (25) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 80% of the value of up to one-third (1/3) of their accrued but unused sick leave credit.
- e. If at least one-half (1/2) of their total public service time has been with TCBMR/DD, Board employees may elect, in December of each year, and with twenty-five (25) years of service with the State, any political subdivision or any combination thereof, to be paid in cash for 100% of the value of up to one-third (1/3) of their accrued but unused sick leave credit.
- f. Sick leave payment shall be based on the employee's rate of pay at the time of request and eliminates all sick leave credit for which they are being paid.
- g. Eligible Board employees must request such payment in writing to the Superintendent in order to initiate the payment process. This can only be requested in the month of November, and payment will be made within the next ninety (90) days.

*D. B. ...*

*M. ... 8/12/04*

*... 8.12.04*  
*... 8.12.04*

**Proposal of the Union**

**Local 1992 AFSCME, Ohio Council 8, AFL-CIO**

**And**

**Trumbull County Board of MR&DD**

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**ARTICLE 25**  
**ASSAULT LEAVE**

**Assault Leave (at no loss of pay) will be available to all bargaining unit employees of the Employer, subject to the following provisions:**

- A. An employee who is required to be absent due to a documented assault incident which results from a spontaneous or premeditated student/client action directed at an employee or group of employees during employment hours, or when providing voluntary service at a Board approved activity or event, on or off program grounds and the action results in an injury which would prevent the employee from performing his/her duties, shall be eligible to receive assault leave.
- B. A request for assault leave shall be made on the Employer's designated form and shall include the following information:
- 1) The nature of the injury;
  - 2) The date, times and place of the occurrence;
  - 3) Identification of the individual or individuals causing the injury (if known);
  - 4) Facts and circumstances surrounding the injury;
  - 5) A certificate from a licensed physician describing the nature of the injury and its probable duration and stating that the employee is unable to perform the essential functions of the position as provided in the employee's job description.
- C. The form shall be returned to the appropriate Supervisor's/Program Director's office on the day of the injury or as soon after the occurrence as is possible. No assault leave may be approved prior to receipt of the written, completed application form, and the required medical documentation.

OHIO AFSCME CARE PLAN

The Employer shall contribute each month, for each bargaining unit employee, the following amounts to the Ohio AFSCME Care Plan:

Effective 9/1/04

Prescription Drugs - \$116  
Vision level 1 - \$ 6.75  
Dental level 2 - \$26.00  
Hearing Care - \$0.50  
Total \$149.25 per month

Effective 1/1/05

Prescription Drugs - \$133  
Vision level 1 - \$ 6.75  
Dental level 2 - \$26.00  
Hearing Care - \$0.50  
Total \$166.25 per month

Effective 1/1/05

Prescription Drugs - \$149  
Vision level 1 - \$ 6.75  
Dental level 2 - \$26.00  
Hearing Care - \$0.50  
Total \$182.25 per month

*DM Brazhmal PS*

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*Subki Jon  
Dyame 2018*

*Mark Chubb or  
8/18/04*

# LEADERSHIP COUNTER

## Driver and Aide Time

ASAP *[Handwritten initials]*

The Board agrees to meet with a committee of Ohio Council 8 and Local 1992 of AFCSME to study the "actual" versus "extra" hours bus drivers and aides perform.

The Board agrees to increase the "actual" hours for any driver and aide routinely performing work in excess of current hours, so that sick leave <sup>and vacation</sup> is accumulated at the "actual" hours routinely worked.

*[Handwritten initials]*  
2004-2005

In program years 2005-06, 2006-07, the committee will meet in July to make any adjustments routing may dictate in those years, whether increasing, maintaining, or reducing hours may result in those future years.

*[Handwritten signature]*  
For the Board

*[Handwritten signature]* 8/18/04  
*[Handwritten signature]* 8-18-04  
*[Handwritten signature]* ccs  
For the Union 8/18/04

# LEADERSHIP COUNTER

## Extra Summer Work

The Board agrees to add the designation of "per diem rate" to all employee wage scales eligible for extra summer work. Those positions are as follows:

1. INSTRUCTOR ASST. <sup>VR FOR</sup>
2. INSTRUCTOR 3 & 4 <sup>VR FOR</sup>
- 3.

[Signature]

For the Board

[Signature] 8/18/04

[Signature]  
[Signature] OCB

For the Union 8/18/04

**ARTICLE 9**  
**POSITION POSTINGS AND VACANCIES**

**Section 1.**

The parties agree that all appointments to positions covered by this Agreement, shall be filled in accordance with this Article.

**Section 2.     Position Vacancies**

At any time, a bargaining unit employee may indicate his/her desire to be considered for another position by submitting a bid on the "Pre-Determined Bid Form" to the Human Resource Manager. The Employer will retain one copy of the form, one copy will be given to the employee, and one copy will be forwarded to the Local Union President. Once submitted, the bid form will be valid ~~for one (1) year~~ **until the next September first**. Any changes to the bid form will require the submission of a new form. Expired bid forms will be returned to the affected employee. Job descriptions and a table of organization for each facility are available at each building and Administration.

**Section 3.**

Whenever a position vacancy is filled, a notice indicating the position filled and all subsequent placements by pre-determined bid will be posted at the time clocks and a copy of such notice will be forwarded to the Local Union President.

**Section 4.**

Whenever the Employer determines that a permanent vacancy exists in the bargaining unit, the Employer shall award the position based upon the following:

- A. Vacancies shall be filled first from the bargaining unit provided there are qualified applicants who have submitted the required bid form.
- B. If there are no qualified employee applicants, the position will be filled from outside the agency.
- C. The position shall be awarded to the employee applicant who is most qualified as determined by the Employer based upon the following criteria:

- 1) Minimum qualifications based upon the position description;

- 2) Education as per the job description
- 3) Active disciplinary record;
- 4) Attendance compared to the least senior applicant's years of service.

If all qualifications are determined to be relatively equal, the position will be awarded to the employee applicant with greatest bargaining unit seniority.

Any employee who does not receive a promotion shall, upon request, be notified by the Employer in writing as to the specific reason(s) why.

For the Employer

*Donna G. Bonell...*  
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For the Union

*09AM 608304*  
*8/3/04*  
*003*

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Wages

Effective 9/1/04

The base rate of each classification shall be increased by 3% with Step continuation

Effective 9/1/05

The base rate of each classification shall be increased by 3% with Step continuation

Effective 9/1/06

The base rate of each classification shall be increased by 3% with Step continuation

*DRB...*

*Qyamich 8/18/04*  
*W. J. Cook ocs*  
*8/18/04*  
*Bobbi Jon 8.18.04*