

2007 SEP 17 P 12: 54

**IN THE MATTER OF FACT FINDING**

**BETWEEN**

**AFSCME OHIO COUNCIL 8, LOCAL 1229, AFL-CIO**

**AND**

**COUNTY OF SUMMIT BOARD OF MR/DD**

**Case # 06-MED-09-1111**

**MAD**

**ADVOCATE FOR THE UNION:**

**Lou Maholic, Staff Representative  
AFSCME OHIO COUNCIL 8 AFL-CIO  
1145 Massillon Road  
Akron OH 44306-4161**

**ADVOCATE FOR THE EMPLOYER:**

**David S. Blaugrund, Esq.  
BLAUGRUND, HERBERT & MARTIN, INC.  
300 W. Wilson Bridge Road, Suite 100  
Worthington OH 43085**

## INTRODUCTION

There are several issues in dispute that will be addressed below. The bargaining unit of approximately 121 employees is represented by AFSCME Ohio Council 8, Local 1229, AFL-CIO. Employees in the unit hold a multiplicity of positions, many of which are related to transporting clients (see Parties' submissions). The Employer is the County of Summit MR/DD Board, which provides a variety of services to Summit County, Ohio.

A mediation/fact-finding hearing was held on April 16, 2007, April 17, 2007, April 23, 2007, and May 21, 2007. Subsequent to fact-finding, the parties submitted briefs, and the Employer provided an additional reply to the Union's brief expressing concerns that the Union had included in its brief of June 25, 2007 new and changed positions that the Employer asserts were not taken in fact-finding. Although provided an opportunity, the Union chose not to submit a further reply to the Employer's arguments. The fact-finder shall only address the issues submitted by the parties prior to fact-finding and not resolved in mediation.

The fact-finder, who has served as a neutral fact finder and arbitrator with these same parties over the past decade, is familiar with the Employer's mission and with the Union's strong advocacy. This prior experience provided the fact-finder with the ability to more readily understand the background of the issues in dispute during attempted mediation. The demeanor and conduct of the advocates from both bargaining teams exemplify the responsibility with which

the parties view their roles. The individuals present during the fact-finding process on both sides of the bargaining table demonstrated a keen interest in providing quality service to the clients of the Summit County MR/DD while at the same time being vigorous advocates for issues they felt needed to be addressed.

## **CRITERIA**

### OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

### **OVERALL RATIONALE FOR DETERMINATIONS (Recommendations)**

Although perceptively better than in the earlier part of the decade, Ohio's economy remains uncertain as does the financial outlook for many Ohio public employers. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. Although somewhat improved in the last several months, the state's economy is particularly fragile, when compared to many other states. A major reason for this fragility lies in the significant loss of high paying jobs in many parts of Ohio, particularly in northeast Ohio. During the past year announcements by the Ford Motor Company, which will have a ripple effect on secondary parts manufactures, promise to add to the loss of high paying jobs in Cuyahoga County and Summit County. In addition, the reduction in purchasing power of those individuals and families who are affected will directly impact other businesses and the overall revenue stream to county government. The recent credit crunch and its impact upon housing values are likely to affect both sales tax revenue and eventually may reduce property tax revenues. Ohio's foreclosure rate is double that of the

national average. Although Summit County is arguably well managed and more diverse than many other counties in Ohio, the economic realities that impact Summit County are challenging. The overall limitations they place upon public employers in the County are not lost on the analysis of this fact finder. There is a bottom line to watch in all businesses and government is no exception. While the economic realities in northeast Ohio must be considered, it is axiomatic that the delivery of quality service depends on recruiting and retaining quality employees. Central to maintaining a quality workforce is the maintenance of competitive wages, benefits, and a reasonable working environment.

### **Issues**

**Article 13, Layoff & Reorganization.** Changes proposed by the Employer and Union lack sufficient support to justify a change in current language.

**Article 21, Overtime.** It is customary for overtime rosters to be periodically updated, which was part of the original position by the Union on April 13, 2007, but not included in its June 22, 2007 post hearing submission. The Employer's approach to Article 21 is to reassert control over the option of time off and pay for overtime and to address how it is earned. While it is common to include holidays and vacation days in overtime computations, it is not unusual for a collective bargaining agreement to exclude sick leave from the definition of hours worked (e.g. see public sector contracts for Ohio state employees). Given the Employer's concern over everyday staffing, I find part of the Employer's

position, within reasonable limitations, to be persuasive. The Employer's proposal to eliminate overtime for over eight hours worked in a twenty-four period is not supported by the facts and the history of bargaining between the parties. However, from an operational point of view, it make sense for the Employer to have more influence over the choice between providing an employee pay and compensation time.

**Article 22 Additional Compensation.** The Union did not propose any changes to this article. The Employer proposed several changes some of which the Union indicated it could accept (e.g. Section 1(B) and Section 2, with the language of the MOA, see Union's June 22, 2007 submission).

**Article 23 Miscellaneous.** The Union accepted the language proposed by the Employer in the first paragraph, but rejects the position of the Employer in the remainder of the article. The Employer in Sections 1 and 2 of this article is first seeking a routine change in making direct deposits, which is common in the public sector. I find there is insufficient evidence to change the language contained in Section 3. The Board's proposal in Section 4 makes is reasonable from the standpoint of procedural clarification. The Board's proposal in Section 5 to utilize Drivers in situations where there is shortage of qualified Attendants, including qualified substitutes, is sound, provided it is based on operational need and not arbitrarily managed. With the exception of a reasonable change in Section 6(B)(3), to clarify situations where a bargaining unit member does not

maintain his/her CDL, the Union's argument regarding the need to maintain current language in the remaining subsections of Section 6 is persuasive.

**Article 25 Substitute Drivers/Attendants- Rules.** The difficulty in addressing this issue for a neutral is that the parties and only the parties understand the nuances and intricacies of their operations regarding substitute drivers. This task is further compounded by the Union's proposal to further modify the Memorandum of Understanding arrived at by the parties during the former agreement that ran from January 2004 through December of 2006. It is not clear whether it achieved the parties' desired results or whether the current conditions are compatible with the understandings reached when the MOU substituted for the language of Article 25.

**Article 26 Inclement Weather.** The Board's proposed changes in Section 1, subsections A and B are operationally sound. The Board's proposal for everyone to report to one location during these infrequent occurrences makes organizational sense in attempting to track all reassigned employees who wish to work. However, reference to paid time off are not applicable, given recommendations contained in this report. I disagree with the Employer's assertion that the Union's position to maintain current language in the second paragraph of Section 3 encourages "employees to operate vehicles without the utmost caution. During inclement weather the danger of accidents often increases due to the inexperience or carelessness of drivers who are not professionals such as those in the bargaining unit.

**Article 27 Paid Leave of Absence.** This section was the most contentious issue between the parties. The Employer originally proposed converting all leave to one category, paid time off (PTO). The Union vigorously opposed this concept. The Employer strongly asserts that the “poor attendance” of the bargaining unit must be addressed if the clients are to be serviced properly by the MR/DD Board. The Employer insists it has already hired additional staff to cover shortages and now the bargaining unit must step up to the reality of the absenteeism problem in the bargaining unit. The Union was not unwilling to consider changes in language that would allow the Employer to target specific employees who take undue advantage of time off that is detrimental to the bargaining unit in several ways (e.g. workload, overtime, being able to schedule vacation time). The Employer provided convincing evidence that there needs to be firmer and clearer standards to deter excessive absenteeism that affects the efficiency and effectiveness of the agency, as well as impacting the ability of employees to take benefit time. During the mediation process the parties agreed in principle to several tenets regarding patterned sick leave abuse, which are included in their post hearing briefs. The fact finder will build upon this foundation in fashioning a recommendation that places a value on work attendance and the preservation of sick leave.

**Articles 28 Unpaid Leave of Absence, Article 29 Application for Leave Without Pay, and Article 31 Vacation.** It is recommended that these articles

remain current language as indicated by the facts and last positions taken by the parties.

**Article 35 Wage.** The Employer and the Union agree to modify the tentative agreement reached by the parties on December 12, 2006 and to implement the wage increase proposed by the Union.

After carefully considering the facts and evidence presented in this case and utilizing the salary structure recommended by the consultant, the following determinations are made:

<b>Issue 1 Article 13 Layoff &amp; Reorganization</b>
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**Determination:**

Maintain current language

<b>Issue 2 Article 21 Overtime</b>
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**Determination:**

**ARTICLE 21 OVERTIME**

**Section 1**

Employees shall receive **one and one-half (1 ½) times** their regular rate of pay for all authorized hours worked in excess of eight (8) hours in any continuous twenty-four (24) hour period, beginning with the starting time of the employee's shift, or for all hours worked in excess of forty (40) hours of a work week. An employee may elect to take **up to twenty-four (24) hours of compensation time per calendar year in lieu of overtime payment. For all hours of overtime worked beyond twenty-four (24) hours,**

**the Board has the sole discretion to grant employees the option of choosing time off in lieu of overtime payment. All compensation time must be taken** within one hundred eighty (180) calendar days, at a time convenient to the employee and the Board.

## **Section 2**

**For the purposes of computing overtime pay holidays, vacations, and paid personal leave shall be counted as hours worked.**

## **Section 3**

On each occasion, the opportunity to work overtime shall be offered by seniority, as equally as is practical, to qualified employees in the job classification. **Overtime lists shall be updated quarterly and provided to the Union.**

## **Section 4**

Maintain current language

<b>Issue 3 Article 22 Additional Compensation</b>
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## **Determination:**

### **Section 1. – Extra Trips**

- A. **This Section addresses “extra trips” involving only the transportation of passengers to employment, community trips or special Olympics.** Extra trips shall be posted and given to the Driver and Attendant, if an Attendant is needed, on a seniority rotation basis, for those signed up for the trip, except that the Board may award the trip to a less senior Driver and/or Attendant who bid on it to avoid additional overtime expense. If no Driver or Attendant, if needed, has signed up for the extra trip forty eight (48) hours before its scheduled departure, the Transportation Administrator/designee shall assign a Driver and/or Attendant or a substitute to the trip.

- B. For extra trips, employees will be compensated at their actual hourly rate of pay. Partial hours shall be paid on a prorated basis in excess of one (1) hour. **Drivers and Attendants shall receive a guaranteed minimum payment of one (1) hour for assigned extra trips.**

**Section 2 – Overnight Trips**

**Overnight trips shall be compensated as follows:**

<b>Driver</b>	<b>per hour</b>
<b>Attendant</b>	<b>per hour</b>

**Section 3**

Maintain language appearing in Section 2 of the current contract, but renumbered as Section 3 in the new contract.

**Section 4**

Maintain language appearing in Section 3 of the current contract, but renumbered as Section 4 in the new contract.

**Remaining Sections**

Maintain current contract language, renumbered to account for the inclusion of new language in Section 2.

<b>Issue 4 Article 23 Miscellaneous</b>
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**Determination:**

**Section 1**

**All employees shall be paid using a direct deposit methodology. The specifics of said program shall be communicated to the Union and the bargaining unit prior to any change in the program.**

**Section 2**

**If an employee's direct deposit contains a shortage, and such shortage is due to a mistake made by the Employer, it shall be corrected by the**

**Employer. The Employer agrees that corrections of mistakes will be given the highest priority and will be corrected as soon as possible.**

### **Section 3**

Maintain current language

### **Section 4**

Bus Drivers are required to pass an annual D.O.T. physical performed by a physician provided by the Board. **Bus Attendants are required to pass an annual job-related physical examination conducted by a licensed physician designated by the board. The cost of the physicals cited above will be paid in total by the Board, however, all or part of the costs may be offset by the Employer provided health insurance coverage.**

Food Service employees are required to have a yearly physical and all communicable disease tests required by State or Federal Law with a copy of such requirement provided to the employee and the Union prior to the test. The cost of **the physical and tests** shall be paid by the Board.

### **Section 5**

Attendants may be temporarily assigned to a different route, due to the absence and/or lack of an Attendant for that route. The Attendant shall not be removed if it violates the program of the person served. **If the Board determines there are an insufficient number of qualified substitutes to meet operational needs, it may assign Drivers to work as an Attendant, at their regular rate of pay.**

### **Section 6**

- A. Maintain Current Language
- B. CDL
  1. Maintain current language
  2. Maintain current language
  3. In the event a bargaining unit employee does not maintain a current C.D.L. as they are legally required to, but is otherwise qualified to perform **Attendant** duties and have had no discipline (suspension or 3 days or more) within the prior twelve months, they will be assigned duties as Sub Attendant for a twelve (12) month period, or until they obtain their C.D.L., whichever is the shorter

period. During this time, they will be placed at the bottom of the Sub list and **shall** be paid at **the base rate for an Attendant**. If they fail to get their C.D.L. reinstated within this period, they shall be removed from the Board's employ upon its expiration.

4. Maintain current language
5. Maintain current language
6. Maintain current language

### **Sections 7 through 10**

Maintain current language.

<b>Issue 5 Article 25 Substitute Drivers/Attendants - Rules</b>
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Maintain current language

### **Determination:**

<b>Issue 6 Article 26 Inclement Weather</b>
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### **Determination:**

#### **Section 1.**

**STATUS: OPEN BUT NO TRANSPORTATION** – Employees scheduled to work shall assigned work based upon operational needs. They have the following choices on said days:

1. Report to the Transportation Office at 89-1/2 East Howe Road, Tallmadge. Employees who choose to report to the Transportation for work shall work from 8:00 a.m. to 4:00 p.m.
2. Employees who choose not to work shall be able to take vacation time in lieu of their regularly scheduled hours of work.

**STATUS: CLOSED** – Employees shall not report to work. Closed Days

take precedence over other previously scheduled paid time off.

**Section 2.**

Maintain current language

**Section 3**

Maintain current language

**Section 4**

Maintain current language

<b>Issue 7    Article 27    Paid Leave of Absence</b>
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**Determination:**

**ARTICLE 27 – PAID LEAVE OF ABSENCE**

**Section 1. – Sick Leave**

- A. An employee shall earn and accumulate paid sick leave as follows:
  - 1. She must have completed one (1) pay period.
  - 2. Thereafter, paid sick leave will be earned and accumulated at the rate of 4.6 hours for each eighty (80) hours of service in active pay status, including paid holidays, vacations, overtime, and sick leave, **except when an employee is subject to a reduced accumulation rate as set forth in Section H below. However, the maximum accumulation in any pay period is 4.6 hours of sick leave.**
  - 3. If and when any accumulated sick leave is used, then the employee accumulates sick leave at the rate previously specified, **except as specified in Section H below.**

4. Pay for sick leave shall be at the employee's regular straight time hourly rate (or portion thereof if absent for less than a full day).

- B. An employee transferring to the County from any other public agency of the State, shall transfer her documented accumulated but unused sick leave accrued in such employment within the past ten (10) years to her sick leave account at the Board, subject to the limitations imposed on sick leave by this Agreement and Ohio Revised Code.

Upon separation of employment with the Employer, an employee shall receive pay for one-half of all accumulated and unused sick leave.

- C. An employee shall be granted sick leave with pay for illness or injury of the employee or a member of her immediate family, for medical, dental, or optical examination, or treatment of an employee or member of her immediate family; or when through exposure to a contagious disease, the presence of the employee at her job would jeopardize the health of others, **except as specified in Section H below.**
- D. Employees may check at any time with the Payroll Department regarding accumulated vacation and sick leave. Upon such request, the Payroll Department shall furnish the employee this information. This information shall be furnished to the employee not later than five (5) days of the request. Sick leave or vacation accumulation shall continue to be furnished to the employee on each bi-weekly pay check, if possible.
- E. An employee who is absent on paid sick leave shall sign a statement to justify the use of sick leave. An employee who is absent due to leave taken under Section 1-C for four (4) or more consecutive work days, **or any day or days defined as "patterned absence" in Section H below,** shall submit verification from a licensed physician, dentist, or other licensed practitioner for each occurrence. A practitioner's statement must include the nature of illness or injury.

Employees requesting to use sick leave on the workday immediately before or after a holiday, **day(s) before or after** previously scheduled/requested vacation, or on in-service days are

required to provide medical or other appropriate verification to support said absence.

**The submission of a valid practitioner's statement authorizes the use of accumulated sick leave. In some instances, such as those set forth in the prior paragraph and those specified in Section H below, such sick leave will be used (deducted from the accumulated sick leave balance), but unpaid.**

- F. Immediate family is defined as Grandparents, Mother, Sister, Brother, Brother-in-law, Sister-in-law, Daughter-in-law, Son-in-law, Father, Father-in-law, Mother-in-law, Spouse, Child, Stepchild, Grandchild, a legal guardian or other person who stands in place of parent (loco parentis).

The parties agree to discuss the feasibility of including "domestic partner" in the above definition through the Labor-Management forum.

- G. The Board shall provide eligible employees up to twelve (12) weeks of paid or unpaid leave during a rolling twelve (12) month period for specific qualifying events in compliance with the Family & Medical Leave Act of 1993.

- H. **This section shall become effective the first full pay period in November of 2007.**

1. **Patterned absence is defined as being absent from work:**
  - a. **On the day before or after a holiday, or**
  - b. **On the day before or after a scheduled day off, or**
  - c. **On the day before or after a vacation day, or**
  - d. **More than four (4) repeated absences on the same day of the week in subsequent weeks, excluding medical necessity or**
  - e. **Missing at least four (4) days of work in a rolling**

2. **Absence for certain reasons shall not be considered to be patterned absence:**
  - a. **Absence on the day of a Workers' Compensation qualifying injury, or**
  - b. **Absence during the recovery from a Workers' Compensation injury which has been approved by the Bureau of Worker's Compensation, or**
  - c. **Absence for bereavement leave as defined by, and in compliance with, this Agreement or**
  - d. **Absence for a FMLA claim for which medical certification has been provided.**

3. **An employee whose absence meets the definition of patterned absence shall receive the following discipline:**

**First Offense: Verbal Reprimand.**

**Second Offense: Written reprimand and counseling**

**Third Offense: Three (3) day working suspension**

**Fourth Offense: Five (5) day working suspension with a reduction of the applicable sick leave accumulation rate to 2.3 hours for each 80 hours of service in active pay status.**

**Fifth Offense: Fifteen (15) day suspension with loss of pay and with reduction of the applicable sick leave accumulation rate to 2.3hours for each 80 hours of service in active pay status.**

**Sixth Offense. Termination.**

**All discipline for patterned absence shall be progressive as outlined above, and shall remain active for the purpose of progression to the next disciplinary step for the relevant period as outlined in Article 6, Section 3 of this Agreement.**

A medical practitioner's statement or excuse alone does not negate an absence which otherwise constitutes patterned absence. Likewise, a medical practitioner's appointment shall not be scheduled during the workday without prior approval. Requests for use of sick leave for appointments with medical practitioners will normally not be approved for more than one (1) hour prior to and one (1) hour following such appointment.

Any discipline administered pursuant to this section is not grievable or arbitrable except regarding the question of whether the current step in the progression outlined above has been applied.

If an employee requests to use sick leave on a day determined to be patterned absence, no sick leave will be deducted from the employee's sick leave accumulated balance and the employee shall be disciplined as set forth above.

If an employee requests to use sick leave on a day determined to be patterned absence, but presents a valid medical practitioner's statement for such time, the employee will have the sick leave deducted from the employee's accumulated sick leave balance, will not be subject to discipline at that time but will not be paid for the leave time.

All incidents of sick leave defined as patterned absence in Section H(1)(a) through (d) will count as missed work for determining a violation for purposes of Section H(1)(e) above.

<b>H.1(e) Exempt      EXEMPTION FROM SECTION H.1(e)</b>
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Employees who maintain minimum balances of sick leave, demonstrate a good faith effort to increased said balances, or demonstrate a minimum use of sick leave over the life of the Agreement while building a balance of sick leave shall be exempt from the provisions of Section H.1(e) as follows:

1. For 2007: Employees who maintain at least seven work days (e.g. 49 hours for 7 hour per day employee and 56 hours for 8 hour per day employees) shall be exempt from the provisions of Section H.1(e).
2. For 2008: Employees who maintain at least fourteen work

**days** (e.g. 98 hours for 7 hour per day employee and 112 hours for 8 hour per day employees) shall be exempt from the provisions of Section H.1(e).

**3. For 2009: Employees who maintain at least twenty-one work days** (e.g. 147 hours for 7 hour per day employee and 168 hours for 8 hour per day employees) shall be exempt from the provisions of Section H.1(e).

**4. An Employee who's record demonstrates the use of four (4) or less sick days in a rolling twelve (12) month period shall also maintain an exemption from Section H.1(e). The use of sick leave for disability related to pregnancy or those reasons listed in H 2 above will not be counted toward the four (4) day total.**

- I. Any employee who has perfect attendance each quarter (quarters are defined as: January through March; April through June; July through September; October through December) shall receive two hours extra pay. Employees who have perfect attendance all year shall receive a total of ten (10) hours extra pay including the eight hours they earned for perfect attendance during each quarter. The extra pay earned through perfect attendance shall be paid in January of the year following when it is earned.
- J. On an annual basis, employees may convert accumulated but unused sick leave to cash. Each hour of sick leave may be converted to cash at the rate of fifty percent (50%) of its then current value. All requests for such sick leave conversion must be received by the HR Department, in writing, between November 15<sup>th</sup> and December 15<sup>th</sup> of each calendar year. Payment will be made to each employee in the last paycheck which reflects payment for that calendar year. There is no limit to the amount of accrued but unused sick leave which may be converted.
- K. Management will establish and implement a sick leave bank effective January 1, 2005.

## **Section 2. – Maternity Leave**

An employee may use accumulated sick leave for maternity purposes.

### **Section 3. – Court Leave**

- A. The Board shall grant court leave at the regular rate of pay to any employee who:
  - 1. is summoned for jury duty by a court of competent jurisdiction or
  - 2. is subpoenaed to appear for the Employer for any reason, before any court, commission, board, or other official proceedings.
- B. Any compensation or reimbursement for jury duty when such duty is performed during an employee's normal working hours shall be remitted by an employee to the payroll officer for transmittal to the County Auditor.
- C. Any employee who is appearing before a court or other legally constituted body in a matter in which he/she is a party may be granted leave of choice (vacation, personal, or request leave without pay with the approval of the Superintendent or designee). Such instances would include, but not be limited to, criminal or civil cases, traffic court, divorce proceedings, custody, or appearing as directed as parent or guardian of juveniles.

### **Section 4. – Funeral Leave**

- A. Employees shall be granted funeral leave up to five (5) working days upon death of member of the immediate family. Funeral leave shall be charged to the employee's personal, vacation, sick leave, or comp time balance as the employee directs. If the employee provides no direction, funeral leave shall be charged against the employee's accrued sick leave.
- B. In the event of death of a relative other than a member of the immediate family, an employee shall be granted a leave of absence without pay or allowed to use accrued vacation for one (1) day to attend the funeral if within the State of Ohio, or two (2) days when the funeral is outside the State of Ohio.

### **Section 5. – Industrial Illness or Injury Personal Injury Leave**

**An employee who is unable to work due to bodily injury caused by a**

person served shall be paid his/her regular rate of pay during the period he/she is disabled as a result of such injury for a period not to exceed eight (8) working days. If an employee subsequently receives reimbursement from the Ohio Bureau of Worker's Compensation for this period of time, the employee shall reimburse the Employer in said amount. An individual on personal injury leave will accumulate sick leave credit and vacation leave credit. The Employer reserves the right to request medical certification linking the absence to an injury caused by a person served and may, if necessary, have the employee examined by a doctor of the Employer's choosing, at the expense of the Employer, to substantiate the injury prior to determining whether or not to approve the leave and payment for sick leave credit.

#### **Section 6. – Personal Leave**

A. Employees who are scheduled to work 32 ½ or more hours per week will be credited on each January 1st with 24 hours of personal leave to be taken in one half (1/2) hour increments at such time the employee and supervisor mutually agree.

B. Personal leave for eligible employees hired after January 1 each year shall be prorated. This will be done by dividing the number of work days remaining in the year by two hundred sixty (260), multiplying the quotient by twenty-four (24), and rounding the product to the nearest whole hour.

C. Employees may carry over up to eight (8) hours of personal leave into the following calendar year, which must be used by January 31 of that year.

#### **Section 7. – Union Leave**

A. At the request of the Union and with the approval of the Superintendent/Designee, a leave of five (5) days with pay and five (5) days without pay shall be granted to employees for the purpose of attending Union conventions or conferences or to perform functions on behalf of the Union. This type of leave shall be limited to three (3) members at any one time. Vacation leave may be used for this leave if the employee desires.

B. In addition, the Chapter Chairperson or designee may be granted a total of fifteen (15) hours with pay each month to conduct union business excluding Informals, Grievances Procedure and Labor-

Management, such time to be scheduled by mutual agreement between the Director of Transportation and Chapter Chairperson.

### **Section 8. – Military Leave With Pay**

Employees who are members of the Ohio National Guard, Ohio Defense Corps, the Ohio Naval Militia, or other components of the armed forces of the United States are entitled to a military leave of absence from their duties without the loss of pay for such time as they are in the military service on field training or active duty for a period not to exceed thirty-one (31) days in any calendar year.

Employees must apply for military leave in advance by completing an application for leave form and submitting it with a copy of their orders for approval.

The maximum compensation the Board can give an employee on military leave during any calendar year is one hundred seventy-six (176) hours.

An employee who is called to perform service in the uniformed services because of an executive order is entitled, during the period designated in the order, to a leave of absence and to be paid, during each monthly pay period of said leave of absence, the lesser of the following:

1. The difference between the employee's gross monthly wage and the sum of the employee's gross uniformed pay and allowances received that month;
2. Five hundred dollars (\$500.00).

An employee receiving payment pursuant to Section 8, C above shall continue to accrue sick leave credit and vacation leave credit at the rate he/she was accruing as an employee for the duration of the executive order.

E. Upon expiration of the military leave, the employee shall be returned to his/her former classification and pay status or a similar classification if his/her former classification no longer exists.

**Issue 8 Article 28 Miscellaneous Paid Leave**

**Determination:**

Maintain current language

**Issue 9 Article 29 Unpaid Leave of Absence**

**Determination:**

Maintain current language

**Issue 10 Article 30 Application for Leave Without Pay**

**Determination:**

Maintain current language

**Issue 11 Article 35 Wage**

**As last proposed by the Union:**

**There shall be increases of wages by 1% for drivers earning more than \$15.51 per hour, and attendants earning more than \$11.94 per hour. All other employees shall receive a 3% per year increase per year of the Agreement. The increase for 2007 shall be retroactive to January 1, 2007.**

## TENTATIVE AGREEMENT

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any current language recommended to remain unchanged or not addressed in this report are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this 15<sup>th</sup> day of September 2007 in Portage County, Ohio.



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Robert G. Stein, Fact-finder