

STATE EMPLOYMENT RELATIONS BOARD

MUTUALLY AGREED DISPUTE SETTLEMENT PROCEDURE

FACT-FINDING REPORT

October 31, 2013

In the Matter of:

Board of Education,)	
Cleveland Metropolitan School District)	
)	
and)	Case No. 2013-MED-01-0024
)	
SEIU District 1199,)	
The Health and Human Services Union)	

APPEARANCES

For the District:

Nick Jackson, Chief Spokesperson
Adrian Thompson, Attorney
W. Michael Hanna, Attorney
Wayne Belock, Chief Legal Counsel
Dennis Kubick, Deputy Chief Financial Officer
Irene Scherzer, Labor Relations Partner

For the Union:

Marquis Frost, Administrative Organizer
Josh Norris, Public Division Director
Sherman Stakely, Dietary IV
Sherrie Winemiller, Satellite Cook
Lorraine Bradley, Chief Secretary
Brandi Robinson, Chief Secretary
Scherhera A. Shearer, Specialist III
Lynn Radcliffe, Specialist III
Erica McLain, Office Assistant II
Michael Banks, Cleaner
Sheriece Scott-Washington, Satellite Cook
Margaret Wilson, Cleaner
Annette Sweeney, Assistant Satellite Cook

Fact Finder:

Nels E. Nelson

Background

The instant dispute involves the Board of Education of the Cleveland Metropolitan School District and Service Employees International Union, District 1199. The district serves approximately 40,500 students, operates more than 100 schools, and has approximately 6,330 employees. The union represents approximately 740 cleaners, cafeteria workers, library aides, maintenance men, and clerical employees.

The parties' collective bargaining agreement was effective on July 1, 2010, and expired on June 30, 2013. The negotiations for a successor agreement began on March 13, 2013. The parties held 18 bargaining sessions, including three with a federal mediator. They agreed on many articles, but when they are unable to agree on 20 articles, including numerous separate issues; three appendices; and a side letter, the union requested fact-finding.

The Fact Finder was notified of his appointment on July 24, 2013. Fact-finding hearings and mediation took place on September 16, 2013; September 18, 2013; October 1, 2013; and October 8, 2013. When Fact Finder's efforts to mediate the dispute were unsuccessful, this report was prepared.

The Fact Finder's recommendations are based upon the criteria set forth in Section 4117-9-05(K) of the Ohio Administrative Code. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

Issues

The parties presented 25 issues to the Fact Finder. In order to expedite the resolution of the dispute, they agreed that the Fact Finder should present his recommendations without discussing their positions and without offering any rationale for his recommendations. The recommendations are as follows:

1) Article 6 - Vacation

Section 1. All employees in the bargaining unit shall receive the vacation designated below, with pay, each year in accord with their employment with the District. However, effective June 30, 2013, no ten-month employee shall be eligible for vacation.

Section 2.

A. Twelve-month employees hired prior to September 1, 2000, shall accrue vacation as follows:

<u>SERVICE</u>	<u>VACATION EARNED FOR EACH MONTH OF SERVICE</u>
Less than 4 years	1.25 days (12 months = 15 days)
From 4 - 12 years	1.83 days (12 months = 22 days)
From 12 – 15 years	1.92 days (12 months = 23 days)
From 15 - 16 years	2.00 days (12 months = 24 days)
Beyond 16 years	2.08 days (12 months = 25 days)

B. Twelve month employees hired after September 1, 2000, shall accrue vacation as follows:

<u>SERVICE</u>	<u>VACATION EARNED FOR EACH MONTH OF SERVICE</u>
Less than 1 year	0 days
From 1 – 7 years	.83 days (12 months = 10 days)
From 7 – 15 years	1.25 days (12 months = 15 days)
Beyond 15 years	1.67 days (12 months = 20 days)

Section 3. Twelve (12) Month Employees. All twelve-month employees accumulate vacation for each month that they are in active pay status. Employees are on active pay status when they are working, on vacation, sick leave, special privilege leave, jury duty or leave with pay. All vacation time under this Section shall accumulate beginning July 1 and ending June 30 of each year. Effective July 1 of each year, each twelve-month employee has available that vacation time which has been accumulated during the previous year. Consistent with the parties' agreement of July 2, 2002, twelve (12) month employees are permitted to carry-over accrued but unused vacation time as allowed by the Ohio Revised Code.

Section 4. Ten (10) Month Employees. Any employee hired on or after July 1, 2013 for a ten-month position shall not be entitled to vacation time or vacation pay while he/she holds that position. If such employee is awarded a twelve-month position, such employee will be entitled to vacation time or vacation pay in accordance with the contract. For purposes of calculating vacation in the twelve-month position, such employee will be given credit for his/her years of District service.

Any employee holding a ten-month hourly position as of June 30, 2013 shall have his/her vacation eliminated and shall neither accumulate nor be entitled to any additional vacation advancement after that date. The value of the vacation as of June 30, 2013 shall be incorporated into the employee's hourly rate, and the employee shall not accrue any vacation time after June 30, 2013. For example, if a ten-month employee is regularly scheduled to work 1000 hours per year and such person would be entitled to \$1000.00 in vacation pay, the hourly rate shall be increased by \$1.00 per hour. Any accrued but unused vacation earned as of June 30, 2013 shall be paid out within 30 days of contract ratification.

If a ten-month employee is paid on an annual salary basis as of June 30, 2013, his/her vacation is currently incorporated into the annual salary. Effective July 1, 2013, vacation will be eliminated for ten-month salaried employees and ten-month salaried employees shall not accrue any vacation time after June 30, 2013. The value of the vacation as of June 30, 2013 will be incorporated into his/her base salary thereby becoming his/her annual salary. For example, if a ten-month employee's annual base salary is \$30,000 and that employee as of June 30, 2013 is entitled to vacation worth \$1000, effective July 1, 2013, the annual salary shall be \$31,000. If a ten-month employee hired on or before June 30, 2013 becomes a twelve-month employee, his/her base hourly wage will be adjusted to eliminate the vacation conversion portion

of the wages and the employee's base wage shall be the base wage without the vacation portion of the wages.

Section 5. General Information.

1. Effective July 1, 2013 only twelve (12) month employees are eligible for vacation payment and accrual. Excluded from vacation benefits are playground and community center employees, all student employees, resident tutors, lunchroom attendants, breakfast aides, and any ten-month employee.
2. Twelve-month members of the bargaining unit employed for less than eight (8) hours per day shall be entitled to vacation pay at their regular appointed hours of work. Where the employee's daily hours of work change during the vacation accumulation period, compensation shall be based upon the person's average number of regular appointed hours worked whose regular appointed hours are eight (8) per day during the first 95 days transfers to a position for which the regular appointed hours of work are six (6) per day for the remaining 95 days shall receive vacation compensation based upon a regular appointed work day of seven (7) hours for purposes of vacation accumulation.
3. Credit for a month's service will be granted if the employee is in pay status for fifteen (15) calendar days during a month, including weekends and holidays, if the employee is in pay status the day before and after the holiday and/or weekend days. Vacation will be accrued on an hourly and daily basis using the employee's regular straight-time appointed hours of work and the current definition of "in pay status" for purposes of making the calculation as it pertains to the 1987-1990 contract/15 days.
4. At the end of the annual accumulation period, employees will have their prior year's accumulation totaled and rounded off with one (1) full day's credit being given for accumulations of .50 days or more, while anything less than this amount will be dropped.
5. An employee does not earn vacation during any month that he/she is not in pay status.
6. All vacation allowances will be paid on regularly scheduled pay dates.
7. Holidays occurring within a vacation period will not be counted as vacation days.
8. Vacation is not earned for supplemental assignments such as night school or summer school appointments.
9. All vacation that has been earned by an employee will be paid in cases of resignation, discharge or death, except that an employee terminating prior to six (6) months of employment will not be paid for any vacation. Any vacation

that may have been paid to a less than six (6) month employee will be deducted or otherwise recovered.

10. The employee's date of hire as a permanent (i.e., non-substitute) employee of the District, regardless of the original classification, shall be the date utilized in determining the vacation accrual rate.

11. Upon advance written request, approval may be given for vacation of less than three (3) days' duration where unusual circumstances may warrant such approval.

2) Article 13 - Sick Leave Without Pay

Section 1. After an employee has exhausted his/her paid sick leave, an employee shall be granted a leave of absence because of personal illness, pregnancy, or personal injury as follows:

1. The employee must report the illness or injury to his/her department head or immediate supervisor by no later than the second day of absence unless failure to do so is due to reasons beyond his/her control and the employee does so as soon as possible thereafter;
2. The employee must make application for the leave of absence on forms furnished by the District within five work days after the exhaustion of his/her sick leave;
3. The employee must support his/her application with medical evidence from his/her physician establishing the need for a leave;
4. The application and supporting medical evidence must state the physician's best estimate of the specific dates which the employee requires the leave; and
5. The application must be approved by Human Resources and ratified by the Board of Education based on the recommendation by the Chief Executive Officer.

Sections 2 -5. Current contract language

Section 6. All leaves of absence and extensions shall be without pay and other economic benefits except that the District will continue to pay the premiums for all insurance coverage which may fall due during the first thirty (30) calendar days of a leave of absence, except that if an employee does not return within thirty (30) calendar days, the employee is responsible for the payment of all premiums beginning the first of the month following the commencement of the leave of absence. Failure to report for duty following the expiration of a leave of absence, unless additional absence is authorized, or failure to comply with the provisions of the leave, may be

considered by the Board as grounds for termination of the employee.

Section 7. Current contract language

Section 8. Up to one (1) year of unpaid leave shall be granted, upon Human Resources approval and Board ratification, for the purpose of providing personal care for ill family members. Family is specifically defined as child, father, mother, sister, brother, spouse, step-parent, or step-child. The Board may grant unpaid leave only after all personal leave days and accumulated sick leave days have been used. An employee returning from a family care leave of twelve (12) weeks or less shall be entitled to return to his/her pre-leave job classification and geographic area of assignment. An employee returning from a family care leave of greater than twelve (12) weeks shall be subject to the return to work rules set forth in Section 4 of this Article. During the duration of the unpaid leave, the employee shall be responsible for payment of the full COBRA cost of his/her health insurance benefits, including, medical, dental, prescription, and vision except as provided in Section 6 above and consistent with FMLA.

Section 9. Current contract language

Section 10. Perfect Attendance Program

How to Qualify

CMSD'S Perfect Attendance Program rewards ELIGIBLE Local 1199 bargaining unit members who have not used the following for a given quarter within a given school year:

- Sick Leave
- Sick Family Leave
- Absent without pay leave
- Discipline time off

Qualification for Perfect Attendance is determined by the payroll system in cooperation with Human Resources.

Definition of Calendar Year

For bargaining units that participate in the Perfect Attendance Program, the applicable school year base periods are as follows:

Base Period 1-From Pay Period 1 through Pay Period 6 of the same school year

Base Period 2-From Pay Period 7 through Pay Period 13 of the same school year

Base Period 3-From Pay Period 14 through Pay Period 20 of the same school year

Base Period 4-From Pay Period 21 through Pay Period 26 of the same school year

Rewards

Bargaining Unit members who meet the criteria are eligible for Perfect Attendance rewards. The reward is \$50.00 per quarter period for a maximum of \$200.00 per school year.

Eligibility requirements:

The 1199 Bargaining Unit member staff attendance average must meet or exceed 95% as a whole per base period before any individual bargaining unit member is eligible to receive the attendance bonus.

Regular full-time bargaining unit members are eligible to receive the attendance bonus

3) Article 17 - Health Insurance

The District's plan design is attached as Appendix G. In addition, the employee contribution is 10% of the premium in the case of Kaiser and 10% of the actuarially determined COBRA rates for Aetna and Medical Mutual capped at \$75.00 for single, \$170.00 for family and a \$75.00 working spouse surcharge for those employees whose annualized income is greater than \$23,000. For those employees whose annualized wages are \$23,000 or less, employee contribution shall be 6.5% of the established COBRA rate or the fully insured rate depending upon which plan the employee has chosen. If at any time the employee's annualized wages exceed \$23,000, the employee's contribution shall be increased to 10% effective the first month after the annualized wages exceed \$23,000.

4) Article 20 - Union Rights

Section 1. It shall not be a violation of this Agreement, and it shall not be a cause for discharge or disciplinary action for any employee to refuse to do work normally done by striking members of another Union.

Section 2-3. Current contract language

Section 4.

1. The Union shall have the authorization to use the school mails for matters pertaining to its members.
2. The Union may conduct Union business, other than membership meetings, on the school property during the hours of employment. The conduct of such business shall not interfere with the operation of the Cleveland Metropolitan School District, nor hinder any employee's scheduled work.
3. The Union shall be permitted use of the bulletin boards in each school building, or other buildings, for the posting of notices concerning official Union business. The Union shall not post inappropriate material.
4. Permits shall be issued to the Union for Union meetings in District owned or operated buildings and other facilities, without any charge to the Union, unless the District incurs additional costs solely because of the holding of the meeting.

Section 5. Current contract language

Section 6. The Union will be given two computer print-outs in October and February of each year; one alphabetically by employee name and the other by work site. The print-out shall include the following information:

1. Employee name;
2. Employee number;
3. Date of appointment to current position;
4. Current rate of pay;
5. Asterisk the names of the employees whose union dues are being collected through District payroll deduction; and
6. Code by employment status.

Such print-outs will not be shared with private or commercial agencies for promotional purposes.

Section 7-9. Current contract language

Section 10. The District agrees that the Delegates or Alternate Delegates designated by the Union may be released from duty if the need arises to assist in the problems related to all personnel represented by the Union without loss of pay during working hours. In addition, the Grievance Chair, Executive Board member, or other similar-ranking single individual as the Union may select, shall be allowed one day per week for the purpose of handling Union Business. The Board shall not unreasonably deny the release of any Delegate, Alternate Delegate, Grievance Chair, Executive Director, or other Union representative.

Section 11-12. Current contract language

5) Article 21 – Job Posting and Transfer

In the event the District elects to fill a vacancy in any of the classifications represented by the Union, the District will post the job opportunity including the work location, appropriate pay band, and the number of hours for a minimum of ten (10) working days on bulletin boards in every organizational unit where bargaining unit members are employed. In addition, the District shall also send the posting to bargaining unit members through the District email system.

The District will establish a pool of eligible candidates comprised of employees who file preferential forms or respond to job postings and applications from individuals who are not District employees. All individuals hired into classifications represented by the Union will be obtained through this Candidate “Pool” Process.

Seniority based on length of service as a legally and permanently appointed employee and meritorious service shall be the basis for transfers, promotions, or filling of vacancies within the service. Such vacancies shall be filled as soon as practicable after such vacancies occur. In the filling of such vacancies, references will be made to the preferential lists of employees on file in the appropriate office at the date when vacancies occur.

1. Lateral Transfers (Job and Work Site Preference)

a. All lateral transfers within classifications represented by the Union shall be administered through the use of a preferential form system. Beginning July 1, 2010, preferential forms shall be in effect from July 1 through June 30 of each school year. The bargaining unit member shall list each preference on the form in the order of that bargaining unit member’s priority.

b. The current practice of transferring cleaners by seniority is to be accomplished by a preferential form system based on seniority where vacancies exist. These transfers will be effective at the end of the first pay period in August, January, and April.

2. Promotions

a. All promotions into classifications represented by the Union will be made through the Job Posting and Candidate “Pool” process. The District will establish a pool of eligible candidates from responses to District promotional postings. As promotional vacancies occur, the District will, subject to its hiring requirements, recommend qualified candidates from the pool to fill the promotional position. All promotions shall occur within two (2) weeks or as soon as practical after the effective date established by the District for the promotion.

b. When an employee is promoted into a higher classification, the employee will receive an increase in compensation of either three increments, or be paid the minimum salary for the position, whichever is greater. When an employee is promoted two or more levels in a promotional classification series, the employee will receive an increase in compensation of six increments or be paid the minimum salary for the position, whichever is greater.

c. Members who successfully meet the requirements of the District's secretarial assessment tool and are promoted into an open posted School Secretary position shall receive a salary based upon the members score on the School Secretary assessment for that position.

d. Additionally, current bargaining unit members in the previous classifications (Junior, Senior, Principal, and Chief) will be eligible for a one-time \$500 stipend if they take the assessment, receive a qualifying score, and are reclassified.

3. Governing Guidelines. The recommendation for all new hires, lateral transfers, filling of vacancies, and promotions will be governed under the following guidelines:

a. First consideration will be given to qualified employees in the same classification who have on file a preferential form requesting a lateral transfer;

b. Second consideration will be given to qualified employees who have responded to relevant job postings; and

c. Third consideration will be given to all qualified candidates who do not fall within categories 1 or 2.

d. Any cleaner hired on or after July 1, 2010, shall be classified as "Permanent/Various". Such cleaners shall not have permanent building/location assignments but will be assigned as needed by the District. Permanent/various cleaners shall put in a preferential list by school within a region so he/she can be assigned to any school in the region as determined by the District. Permanent/various cleaners may be assigned to different schools within a region with two work days notice and shall work the same hours as the previous assignment.

The District will not hire an individual who is not a bargaining unit employee where there are current employees who have requested a transfer or bid on an opening so long as the bargaining unit employees are qualified, as determined by the criteria set forth below.

In making selections among candidates in any of the above categories, the District will abide by its recruitment and selection regulations. In determining whether or not an individual is qualified, the District will adhere to the principle of meritorious service and specifically will evaluate the individual's skill, ability, work record, disciplinary record, attendance record, evaluations, recommendations, experience, education, training, and other relevant factors, such as assessment results and test scores. Where the District determines that two or more individuals are equally qualified, the District shall recommend for hire the individual with greatest seniority. The parties agree that these procedures shall supersede any applicable Civil Service statute, rule, or regulation.

New Section - Special Transfer - The Fact Finder does not recommend the District's demand.

6) Article 22 - Layoffs - Displacement and Bumping Rights - Recalls

LAYOFFS - DISPLACEMENT AND BUMPING RIGHTS - RECALLS THE FOLLOWING LAYOFF/RECALL PROCEDURES ARE IN EFFECT UNTIL JULY 1, 2015

Section 1. No regular employee shall be laid off until after all normal attrition and bumping rights specified herein have been effectuated. Layoffs shall be made on a classification-by-classification basis. Employees shall be laid off in inverse order of their service with the District in the classification in which the layoff occurs. If an employee is targeted for layoff status, he/she will be offered any available positions within his/her classification without regard to the normal bidding procedure. The process for determining seniority in the event of a tie-breaker is as follows:

1. Current job entry date;
2. District seniority date;
3. Original hire date;
4. Date application signed (manually or electronically); and
5. Last four digits of the employees' social security number with the highest number being laid off first.

In the event layoffs become necessary, the District will notify an individual identified by the Union by certified mail when possible at least thirty (30) days prior to the effective date of the proposed layoffs.

When the District notifies the Union, the notification letter shall provide the following:

1. Classifications affected by layoffs;
2. The Union members targeted for layoff;

3. Seniority lists by classification; and
4. Recall lists by classifications.

The District shall schedule a meeting with the Union within ten (10) days of the District's mailing the certified notice of layoff to the Union. At that time, the Union may present any information it believes could assist the District in its layoff decisions. The District will review the information and consider the Union's information and presentation. The Union's failure to meet with the District shall not infringe upon the District's Management Rights nor postpone or delay the District's right to move forward with the layoffs.

The Union members targeted for layoff shall be given the opportunity to rank their assignment preference based upon bumping rights. The District shall not unreasonably deny such preference.

Section 2. Consistent with Section 1, after reviewing the Union's information and presentation, if the District determines that layoffs are still necessary, the District will use its best efforts to notify the Union members targeted for layoff ten (10) work days prior to the actual layoff date(s). The District will notify the employee via certified mail at the employee's address as contained in Human Resources. P.O. Boxes are not valid addresses. Where the Union member's last known address is a P.O. Box, the Union member's school or building of assignment shall serve as the last known address. The District shall also provide a copy of all lay-off notices to a designee identified by the Union.

Prior to any layoff or bumping, all temporary and probationary employees in the affected classifications shall be laid off. Employees who are targeted for layoff shall have the right to bump to a previously held classification provided that an employee cannot bump into a previously held higher pay band position if the employee was either voluntarily or involuntarily moved from such position and shall maintain their current wage rate or the top of the pay band, whichever is less. In no event will an employee be laid off where there is a less senior employee still employed anywhere in the District in the classification.

Section 3. Employees who are laid off or eventually bumped out of a classification shall be placed on a recall list for all classifications from which they have been laid off or bumped. Each recall list will rank employees in accord with their service in the classification on that list. Employees will be recalled to work or recalled to a previously held classification in the order in which they appear on the recall list. An employee shall remain on a recall list for two (2) years after his/her layoff or bumping out of a classification. The District shall provide the Union with a recall list for each classification in which it represents employees.

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

Section 4. When a vacancy occurs within a classification, the vacancy shall be filled by the employees on the recall list for that classification in the order in which the employees are ranked on the list.

The District shall send notification by certified mail to the Union and the laid off employee of vacancies to be filled from the recall list.

The letter sent to the Union shall include the name of the laid off employee(s), the vacant position/classification, and the building/location of the vacant position as they become available.

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

The District will then send a letter to the employee by certified mail indicating the laid off employee's acceptance or rejection of the vacant position. Included with the letter will be a form to be completed, signed, and dated by the laid off employee indicating acceptance or rejection of the vacant position, and return instructions.

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

Section 5. Temporary layoffs (six (6) weeks or less) occasioned by occurrences such as strike, calamity, or act of God shall be made on a classification-by-classification basis. Employees temporarily laid off shall be laid off in inverse order of their service with the District on a site-by-site basis in the classification in which the layoff occurs. There shall be no bumping between sites in effectuating a temporary layoff.

Section 6. An employee who leaves the bargaining unit for a position within the District shall retain his/her seniority from the employee's previous classification for a period of one (1) year. If during that one-year period, the employee is bumped out of or laid off from the non-bargaining unit position, the employee may return to this bargaining unit, if a vacancy exists and no other bargaining unit employee is on the

recall list that can perform the duties of that vacant position. In such a case, the employee shall return to the bargaining unit with the same seniority, for layoff and recall purposes only, as when the employee left the bargaining unit.

If, after the above one-year period, the employee is bumped out of or laid off from the non-bargaining unit position, the employee may return to this bargaining unit, if a vacancy exists and no other bargaining unit employee is on a recall list that can perform the duties of that vacant position. In such a case, the employee shall return to the bargaining unit and be considered a new employee, for purposes of layoff and recall only.

Notwithstanding the above, the employee who leaves and then returns to this bargaining unit under this Section shall retain seniority from the date the employee was originally hired as a permanent employee for all other purposes except for layoff and recall.

Section 7. Displacement. As used in this section, “displacement” shall mean a bargaining unit member who is without a position due to a building closure or program ending. Such a person shall be referred to as a “displaced person.”

A displaced bargaining unit member will be notified of building closures and/or program termination as soon as reasonably possible after the determination is made and approved by the CEO and/or the Board of Education as appropriate.

The District will identify the open bargaining unit positions, including those in which members are able to exercise their bumping rights. The displaced bargaining unit member(s) and Union will be notified by the District of the date and time of the meeting to review these positions which shall include the building location, number of contracted hours and hours of work. An open position list will be provided in writing to the Union and displaced members prior to the meeting. At the meeting, the displaced bargaining unit member(s) shall have ranked his/her preferences for the open positions and shall select the open positions by seniority. The Union shall have the right to have one or more representatives present at this meeting and the Union and the affected bargaining unit members shall have the opportunity to observe the selection process and the Union shall have the right to monitor the selection process. If a member is unable to attend, he/she may designate in writing an individual to select on his/her behalf. This process takes precedence over a non-displaced employee’s preference list.

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

Section 8. Until June 30, 2015, the current layoff, bumping and recall provisions shall remain in effect. Effective July 1, 2015, the following shall control regarding recall:

Employees who are laid off or eventually bumped out of a classification shall be placed on a recall list. Employees will be recalled to work in the order in which they appear on the recall list except that if an employee has received the lowest evaluation rating for at least the initial and six (6) months evaluations, as set forth below, and is then laid off (in order of seniority), the District may decide to recall a less senior laid-off former bargaining unit member prior to recalling such individual. If there is more than one employee with the lowest rating, the most senior employee with the lowest rating shall be recalled before the less senior employee with the lowest rating. An employee shall remain on a recall list for sixty (60) months after his/her layoff or bumping out of a classification. The District shall provide the Union with the recall list.

7) Article 24 - Discipline

A. Discipline only for just cause - Employees covered by this agreement shall be disciplined, demoted, suspended, or discharged only for just cause under arbitral law.

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

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

1. If the administrator determines after preliminary investigation that a bargaining unit member may have engaged in conduct that could lead to a recommendation for termination or suspension without pay then bargaining unit member is entitled to a fact-finding. The administrator shall have twenty (20) work days after knowledge of the alleged violation to complete the preliminary investigation and notify the member of his/her determination that the member may have engaged in conduct that could lead to either a termination or suspension without pay.
2. The fact-finding hearing will be held before the appropriate Deputy Chief/Executive Director.
3. In accordance with Loudermill and Weingarten in 3,4, and 5 below, the bargaining unit member and the union are entitled to written notice of the allegations and the right to request representation and also to be provided with copies of any written evidence related to the allegations.
4. The hearing will be held within a reasonable time (but no less than 48 hours) following receipt of the written allegations.

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

6. Not later than ten (10) days after the hearing, the administrator shall notify the bargaining unit member and the Union in writing of the recommendation. If no discipline is recommended, the notification shall so state. If discipline is recommended, the notification shall state the discipline and the rationale, and shall provide a copy of the notice to the CEO.

7. If the administrator recommends termination or suspension without pay, the CEO/designee shall review the evidence to determine whether the recommended discipline is warranted.

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

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

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

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

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

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

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

13. All meetings or hearings held in regard to disciplinary action which an employee is required to attend will be held during the employee's working hours, whenever possible. If such meetings or hearings are held outside of

an employee's working hours, he/she shall be compensated for the time spent at the meeting or hearing.

8) Article 26 - Grievance Procedure

Definition - A grievance is any matter concerning any alleged employee discipline or discharge without just cause or the interpretation, application or alleged violation of a specific clause of this agreement between the District and the Union.

Definition of days. For the purpose of this provision, days shall mean a calendar day and work days shall mean a day, Monday through Friday, except for holidays.

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

Notification under this section by the Union to the District shall be made to the hearing officer for the step for which the extension is requested. Notification under this section by the District to the Union shall be made to the Union grievance chair and the Administrative Organizer.

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

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

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

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

Any grievance at any step of the grievance procedure may be settled and any settlement that is reached shall be reduced to writing and signed by both parties.

GRIEVANCE PROCEDURE

Grievances shall be resolved as follows:

STEP ONE:

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

STEP TWO:

If the matter is not satisfactorily adjusted at Step One within six (6) working days, the grievance shall be presented within six (6) additional working days to the District Step Two Hearing Officer by the Union or the employee, unless no Step One decision has been timely rendered, in which case, the Union or the employee shall have the option to wait until such time as the Step One decision is rendered or the Union or the employee decides to proceed to Step Two. The District has the right to postpone a decision with written notification to the Union with a mutually agreed upon timeline for rendering of the decision. A Step Two meeting shall be held within six (6) working days after presentation of the written grievance among the Director of Labor Relations,

the grievant, and Union Representatives, to fully discuss the grievance. Both sides shall present evidence either by witnesses or by signed affidavit or affirmation to address the issues raised in the grievance, provided however, where the subject of the grievance is termination, the District is required to present its evidence with respect to the employee's alleged wrongdoing by witnesses only, where possible (excluding students). Within ten (10) working days after the hearing, a written response to the grievance shall be sent to the grievant and the Union, stating the specific grounds for, evidence regarding and rationale for the decision.

STEP THREE:

Mandatory Mediation. If the grievance is not resolved at Step Two, then the Union and the District shall utilize the grievance mediation process in an attempt to resolve a grievance before going to arbitration. The objective is to find a mutually satisfactory resolution of the dispute. A single mediator shall be chosen by the parties. A mediator may be chosen by the parties by informal means. If the parties cannot agree, the mediator shall be selected under the procedures of the Federal Mediation and Conciliation Service (FMCS). Two (2) representatives of the Union, and all necessary witnesses who are employees of the District shall receive their regular salaries or wages for the time spent in the grievance mediation proceeding, which shall be during working hours as stated in this Agreement.

1. Grievances which have been appealed to arbitration shall be referred to mediation. The mediation conference with respect to a particular grievance shall be scheduled in the order in which the grievance is appealed to mediation with the exception of suspension or discharge grievances which shall have priority.
2. Within fifteen days, both parties shall notify FMCS and mutually agreeable arrangements shall be made for the conference.

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

1. The grievant is entitled to attend the mediation.
2. The parties must waive any time limits in their labor agreement while the grievance mediation step is being utilized.
3. The grievance mediation process is informal and the rules of evidence do not apply. No record, stenographic or tape recordings of the meetings will be made.

4. The mediator's notes are confidential and will be destroyed at the conclusion of the grievance mediation meeting. FMCS is a neutral agency created to mediate disputes and maintains a policy of declining to testify for any party, either in court proceedings or before government regulatory authorities.
5. The mediator will use problem solving skills to assist the parties, including joint and separate caucuses.
6. The mediator has no authority to compel a resolution.
7. If the parties cannot resolve the problem, the mediator may provide the parties in joint or separate session with an oral advisory opinion.
8. If the parties cannot resolve the grievance, they may proceed to arbitration according to the procedures in this Agreement.
9. Nothing said by the parties during a grievance mediation, nor any documents prepared for a mediation session can be used during arbitration proceedings.
10. The parties must agree to hold FMCS and FMCS Commissioners harmless for any claim for damages arising from the mediation process.
11. Any grievance settlement shall be reduced to writing and signed by the parties.
12. Expedited Grievance Procedure - In the event a bargaining unit member is suspended for ten (10) working days or less, the bargaining unit member may omit STEP 1 of the grievance procedure and file a written request with the Director of Labor Relations for a STEP 2 hearing, which shall take place within forty-eight (48) hours after said filing.

STEP FOUR: Arbitration

A. If the matter is not resolved at Step Two or the grievance mediation process, the Union shall have the right within thirty (30) work days following the completion of the Union's arbitration review process to submit the matter to arbitration by informing the District that the matter is to be arbitrated. The fees and expenses of the Arbitrator and the cost of the arbitration shall be borne equally by the District and the Union. Two (2) representatives of the Union and all necessary witnesses who are employees of the District shall receive their regular salaries or wages for time spent in the arbitration proceeding, if conducted during working hours.

B. The Arbitrator shall render a written decision and award resolving the controversy and ordering all appropriate relief. The decision and award of the Arbitrator shall be final and binding on the District, the Union, and the employees' affected. The Arbitrator is prohibited from making any decision or award adding to or subtracting from or modifying in any way the provisions of this Agreement or which is contrary to law.

C. The arbitration hearing shall be held and the award shall be made in Cuyahoga County, Ohio.

D. The Union shall request a panel of seven (7) arbitrators from FMCS. An Arbitrator will be selected from the FMCS in accordance with the voluntary labor arbitration rules.

EXPEDITED ARBITRATION

A. The Union has the right to expedited arbitration for any non-class action issue for which the District may immediately impose discipline pursuant to Step III, Paragraph 12 of this Article. Upon such declaration, the Union and the District will make immediate (within 24 hours) arrangements with the Federal Mediation and Conciliation Service for the expedited arbitration procedure and such procedure shall begin as soon as the Federal Mediation and Conciliation Service can initiate a hearing. It shall be the specific request of both the Union and the District to have a decision within seven (7) days of the hearing. Notwithstanding anything to the contrary above, the parties may by mutual written agreement, choose another expedited arbitration procedure.

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

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

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

9) Article 27 - General

1. Move current contract language to new health and safety article
2. Move current contract language to new health and safety article
3. Current contract language

4. Current contract language

5. Current contract language

6. Current contract language

7. Move current contract language to new health and safety article

8. Current contract language

9. No material derogatory to a bargaining unit member's conduct, service, character, or personality shall be placed in the member's file unless the member has the opportunity to read and discuss the material in question with the author. A member shall be provided with a copy of the material within six (6) working days, excluding days the member or supervisor is absent. After being provided a copy of that material, a member shall be given the opportunity to discuss the material as soon as possible after the receipt of the material by the supervisor but not later than ten (10) working days, excluding days the member or supervisor is absent, after such receipt. All such materials authorized by supervisory personnel shall be signed and dated. These time restrictions may be extended where circumstances warrant. The member shall acknowledge that such material has been read by affixing his/her signature on the actual copy to be filed, with the understanding that such signature merely signifies that the material to be filed has been read, and does not indicate agreement with its content. If the member refuses to sign the actual copy to be filed, it shall be noted on that copy by the supervisor involved who shall also procure the signature of one witness who must be present when the member refuses to sign. The signature of the witness shall constitute acknowledgement for the purposes of this paragraph. Any such material placed in a member's file, after the date of this Agreement, without the acknowledgment of the member as set forth in this Article, cannot be used against the member in any proceeding, and is to be removed from the file. The employee shall have the right to answer any material filed, and his/her answer shall be attached to the file copy.

Where a supervisor is not normally stationed at the building where the member is assigned, or where a member is not normally stationed at the building where the supervisor is assigned, the material shall be provided to the member within twenty (20) working days of receipt and an opportunity to discuss the material will be scheduled no later than twenty (20) working days after the member is provided a copy, without reference to the absence of the member or supervisor. The employee shall have the right to answer any material filed, and that answer shall be attached to the file copy. Upon an appropriate request by an employee, he/she shall be permitted to examine his/her file. An employee may not remove or change any documents or information in his/her personnel file except in accordance with law.

10. If the District conducts a study on staffing, the District will seek input from the Union as it develops the plan. If the District develops a procedural manual for union

members, the District will seek input into developing the procedural manual from three (3) representatives designated by the Union. By seeking input the District does not waive any of its Management Right outline in Article XLI of this Agreement.

11. Current contract language

12. Current contract language

13. Current contract language

14. Personal Information. The District is implementing a new pay system. Once implemented all employee pay records, except W-2 forms, but including pay stubs and reimbursement checks, shall be in electronic format and shall be not be provided in paper format. The bargaining unit member shall have access to a working computer at his/her assigned building to use/print (if needed) all pay stubs, payroll records, reimbursement checks, etc. Until the new system is implemented, a printed statement shall be delivered in sealed envelopes, and shall include the employees earned sick time, vacation, and overtime earned from the pay period. Permit earnings shall be paid in the current pay period, but not to exceed two pay periods. Permit earnings will be referenced on the payroll stub, including the event and the date the event worked, provided the new payroll system has the capability to provide such information.

All employees must use direct deposit. However, a bargaining unit member will have the option of using a district pay card system when such a system is operational.

Until the new system is implemented, the District shall place improved information on pay stubs as follows:

a. Identification Coding: When the employee receives pay for extra duties, in-service meetings, differentials, longevity, etc., the amount for each item shall be identified by a code on each pay stub.

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

15. Current contract language

16. Delete

17. Current contract language

18. The Union shall have the right to utilize the District's email system. The District may review any literature intended to be sent out through email. The Union agrees to comply with any reasonable policy by the District regulating email and the

District network policy. Upon request of a member, he/she shall be provided an email account upon submission of the required consent form.

19. Current contract language

20-21. Move current contract language to new health and safety article

22. Secretaries, cleaners, and dietary staff may be required to work on the two (2) professional days associated with the Cleveland Teachers Union members during the school year if requested by the principal for the secretaries, the Deputy Chief of Business Operations and/or his designee for cleaners, and the Executive Director of Food and Child Nutrition Service and/or his designee for dietary staff. Secretaries, cleaners, and dietary staff will be paid their appropriate hourly rate for all time worked.

23. Current contract language

24. Current contract language

25. Secretarial Staffing: Effective July 1, 2013 there shall be one clerical classification - School Secretary. Any bargaining unit member classified as a Junior Secretary, Senior Secretary, Principal Secretary or Chief Secretary as of July 1, 2013 will have the option of retaining that classification or opting into the newly created School Secretary classification.

If the member decides during the term of the 2013-2016 agreement to opt into the School Secretary classification, the member must meet the requirements of the School Secretary job description, including passing the District-developed assessment instrument, prior to opting into the new School Secretary job classification. The District will seek input and participation from the Union in developing the School Secretary assessment instrument.

Additionally, any member holding one of the "old" classifications who bids on a different position outside of his/her then current classification and receives a satisfactory score on the assessment will be subject to reclassification to the newly created School Secretary classification. Selection for the position will be made at the building level. The District will follow the language of Article XXI in making selections. Finally, the District shall establish a pay scale range from \$23,294.50 (minimum) through \$50,218.50 (maximum). Placement on the pay scale for the School Secretary position shall be based on assessment score. Current bargaining unit members in the old classifications will be eligible for a one-time \$500 stipend if they take the assessment and receive a satisfactory score and are reclassified.

26. Current contract language

27. Direct Deposit of Payroll Check: All employees must use direct deposit. However, a bargaining unit member will have the option of using a District pay card system once such a system is operational.

28. Current contract language

29. Current contract language

30. Current contract language

31. Progressive discipline, which ordinarily and involves increasingly severe levels of discipline, beginning with a verbal warning and concluding with termination, shall apply consistent with the District's right to bypass any or all steps of progressive discipline, depending on the nature of the offense.

32. Adjustment of workload may be addressed by the Article XXVI Grievance Procedure: A bargaining unit member at any worksite who feels that the workload is not fairly distributed may file a grievance for adjustment of said work.

10) Article 28 - Hours of Work and Overtime

Section 1 - Current contract language

Section 2 - On a case-by-case basis, and subject to prior approval of management, based on operational needs, overtime hours will be offered to employees in an equitable manner among affected employees at the specific site. For other overtime, the District and the Union shall develop a policy for the equitable distribution of overtime.

Sections 3-6 Current contract language

Section 7 - The Labor-Management Committee shall discuss the adjustment of hours of work for dietary workers.

11) Article 29 - Assignment of Available Hours

Current contract language

12) Article 32 – Inclement Weather

Current contract language

13) Article 33 - Working Out of Classification

Section 1. Current contract language

Section 2. When an employee is assigned by management to work in another job classification which is higher in pay, he/she shall receive a flat increase of seventeen cents (\$.17) for food service workers for each hour worked in the higher classification beginning with the first working day and each day worked thereafter. A secretary Union member assuming the head secretary position shall be paid an additional \$2.50 per hour for each hour worked as a head secretary. If an employee is required to accept the responsibilities and to carry out the duties of a position or classification below their current position or classification, the employee shall continue to receive his/her regular rate of pay. This clause shall not be construed to grant to bargaining unit members any rights to any higher paid classification. Additionally, this section supersedes all side letters and memorandums of understanding.

14) Article 34 - Wage Differential

Section 1. An increment of twenty-five cents (.25) per hour shall be paid for all hours worked between the hours of 10:00 PM and 6:30 AM.

Section 2. Secretarial employees who volunteer and receive training shall be allowed to distribute medication to students. The District shall pay one secretary per building \$565 per school year in one lump sum payment for distributing medication. Secretarial employees who volunteer and receive training shall be allowed to distribute medication to students attending summer school. The District shall pay one secretary per summer school building \$70.68 per summer session for distributing medication.

15) Article 35 - Subcontracting

Current contract language

16) Article 37 - Wages

1. Year 1

a. 3% base wage increase effective July 1, 2013

2. Year 2

a. 0% base wage increase

b. One time stipend of \$500 based on implementation of the evaluation system agreed upon by the parties based upon 2013-2014 school year base wages

c. One-time stipend is not included in the base wage calculation

3. Year 3

a. 1% base wage increase

17) Article 39 - Working During Summer and Holiday Breaks

Current contract language

18) Article 42 - Strikes and Lockouts

Current contract language

19) New Article - Health and Safety

1. Assault And Battery on Employee

When a bargaining unit member believes that he/she has suffered an assault, the bargaining unit member shall immediately, or as soon as possible, complete a Division of Safety and Security Incident Report Form and provide a copy to the building administrator/designee.

The District will investigate all claims of assault and inform the bargaining unit member and the Union of the results of its investigation.

If the District determines that an assault did occur, the District shall take immediate action, consistent with applicable law, District policy, regulations, and where applicable, the Student Code of Conduct.

The District will inform the bargaining unit member of its final determinations.

2. The District will provide protective services to the best of its ability. Employees represented by the Union will have meetings with high level representatives of the District, in response to agenda(s) submitted by the Union.

3. The administration shall exert its best efforts to protect all employees in this bargaining unit from verbal abuse and physical assault while engaged in the performances of their duties.

4. The administration will provide proper lighting at entry and exit doors and parking lots based on District facilities current configurations.

5. Where an employee has reasonable belief that equipment or supplies may cause bodily harm, the employee's immediate supervisor shall be notified of such belief, along with the employee's department head. Employees who have a medically verified detrimental reaction to chemicals may cease the use of such chemicals. If the District so desires, it may require the employee to submit to a physical examination (paid for by the District) to challenge the employee's medical verification. If the employee's doctor and the District's doctor disagree concerning the employee's medical verification concerning reaction to chemicals, the Union and the District shall meet and choose a third doctor whose decision will be final. The expense of the third doctor will be borne equally by the Union and the District.
6. The District agrees to provide all employees clean eating space within their facility.
7. Adult sanitary facilities shall be made available to all employees at all school facilities.
8. The parties will discuss at the Labor- Management Committee the availability/use of emergency communication devices for emergency communication for dietary staff and cleaning staff.
9. The parties will discuss at labor management committee meetings the need to provide, on case by case basis ergonomic furniture.
10. The administration will the buildings within a reasonable time after verification that insects or rodents are present.
11. The District will perform routine cleaning of ventilation and air ducts as determined by District administration.
12. In those buildings with an automatic heating and cooling system, the temperature shall not be set below sixty-eight (68) degrees when employees are working in the building. The heating and cooling system at those buildings with boilers will be discussed at the Labor-Management Committee.
13. When and if the Kentucky building is used as a District facility, the cleaners assigned to that building and the other school on that campus site shall clean the Kentucky building first. The cleaners will then finish their shift cleaning the other building(s) on that campus.
14. Within 60 days of contract ratification, the Executive Director of Food Services (or designee) shall meet with the three members designated by the Union and develop a plan to address serving food on multiple floors when elevators are down in school buildings or not operational.

20) New Article - Evaluation

EVALUATION
MEMORANDUM OF UNDERSTANDING

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

1. As part of the 2013 negotiations for successor contracts between the District and Unions, the District made a number of proposals related to evaluations and how the evaluations are to be used in employment related matters.
2. The District and Unions agreed that the development of the evaluation system and the use of the results of the evaluations on employment related matters may be best addressed by establishing an Evaluation Committee composed of members appointed by the District and members appointed by the Unions.
3. Given this, the District and Unions have agreed to the following:
 - a. The District shall have the right to appoint up to five District Representatives to the Evaluation Committee but in no event shall the District representatives comprise more than 25% of the committee. There shall be Co-Chairs, one designated by the District and one designated by the Unions.
 - b. Each signatory union shall have the right to appoint two representatives who shall be bargaining unit members or union staff to the Evaluation Committee.
 - c. The Evaluation Committee shall mutually agree upon one or more outside consultants to help the parties develop the evaluation system. The parties may mutually agree to a different consultant, should they mutually agree to replace the first consultant. The District shall pay for the outside consultant(s).
 - d. The Evaluation Committee shall conclude its work with a final recommendation being issued no later than May 1, 2014. There shall be quarterly presentations to District and Union leadership regarding the Committee’s progress, timelines, and pending issues.
 - e. Upon recommendation by the Evaluation Committee, the evaluation system shall become effective July 1, 2014.

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

4. The specific charge to the Evaluation Committee is as follows:

a. The Evaluation Committee shall develop an evaluation instrument based upon to the extent possible objective criteria.

b. In developing this instrument, the Evaluation Committee may employ one or more outside consultants to help the Evaluation Committee develop the evaluation instrument and process.

c. Each of the signatory unions shall have the right to establish individual union specific subcommittees to develop portions of the evaluation instrument specific to the respective bargaining unit's positions. For example, the Custodians have the right to establish a subcommittee to develop portions of the evaluation instrument relevant to the Custodian's job duties and responsibilities.

d. The Evaluation Committee shall address how and the extent to which the evaluation ratings should be used for any or all employment, including recall decisions, except as set forth in sub-paragraph g below.

e. The Evaluation Committee shall address the timing and sequence of evaluations.

f. The Evaluation Committee shall address if, when, and the nature of professional development assistance to be provided to "at risk" employees.

g. The Evaluation Committee shall have no authority to recommend that the evaluation system have any relationship to layoff, wages, overtime, overtime opportunities, work schedules, bidding, summer job assignments, or extra work opportunities. With respect to recall decisions, if an employee has received the lowest evaluation rating for at least the initial and six (6) months evaluations, as set forth below, and is then laid off (in order of seniority), the District may decide to recall a less senior laid-off former bargaining unit member prior to recalling such individual.

h. The evaluation system developed by the Evaluation Committee shall provide that if an employee receives the lowest evaluation rating established by the Evaluation Committee, the employee shall be re-evaluated in six (6) months, and if the employee receives the lowest evaluation rating on the evaluation at the conclusion of this twelve (12) months period, then the employee can be terminated for just cause and interim reviews, which shall

occur no less frequently than every ninety (90) days during the twelve (12) month review process, necessary to assist any employee who has received the lowest evaluation rating. If at the conclusion of this twelve (12) month process, the final composite evaluation is still of the lowest ranking, the employee shall be subject to termination. However, if at the conclusion of this twelve (12) month process the final composite evaluation is above the lowest rating, the employee shall be removed from this process and returned to the normal evaluation cycle unless a different cycle is agreed to by the Union and District.

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

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

1. the employee's evaluation failed to adhere substantially to the evaluation process including, but not limited to providing a corrective action plan;
2. there is a mistake in fact in the evaluation; and
3. the District's actions were arbitrary and capricious

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

The above timelines may be extended by mutual agreement.

21) Side Letter

The Fact Finder recommends that the title of the letter be changed to "Side Letter Regarding Cleaners."

22) Appendix B - Salary Schedules

The Fact Finder recommends the current salary schedules except as modified by Article 37.

23) Appendix G - Medical, Vision, and Dental Benefit Summaries and Payroll Deductions

Medical Benefit Summary

Benefits	KAISER HMO	AETNA	MMO-SUPERMED PLUS
	Network Only (No coverage if outside Kaiser, except in emergency)	Network / Non-Network	Network / Non-Network
Hospital Services (Emergency Co-pay (ER), Urgent Care Co-pay (UC))	\$50 Co-pay (ER) \$ 25 Co-pay (UC)	\$75 Co-pay (ER) \$35 Co-pay (UC) / 70%	\$75 Co-pay (ER) \$35 Co-pay (UC) / 80%
Physician Services (Office Visit)	\$10 Co-pay	\$15 Co-pay / 70%	\$15 Co-pay / 80%
Specialist Physician	\$25 Co-Pay	\$25 Co-Pay/ 70%	\$25 Co-Pay/ 80%
Physician Services (Surgery, 2 nd Surgery Opinion)	100%	100% / 70%	100% / 80%
Physician Services (X-Ray & Lab)	100%	100% / 70%	100% / 80%
Prescription Drug Program – SEE NEXT PAGE			
Physical / Occupational Therapy	\$10 Co-pay	\$15 Co-pay / 70%	\$15 Co-pay / 80%
Annual Maximum	Up to 2 months or 30 visits per therapy, whichever is greater	60 visits	60 visits
Speech Therapy	\$10 Co-pay Up to 2 months or 30 visits, whichever is greater	\$15 Co-pay / 70% 20 visits per benefit period	\$15 Co-pay / 80% 20 visits per benefit period
Mental Health (MH) and Substance Abuse (SA) (1)			
Mental Health - In Patient	100%	100 % / 70%	100 % / 80%
Substance Abuse – In patient	100%	100% / 70%	100% / 80%
Mental Health - Outpatient	\$10 Co-pay	\$15 Co-pay / 70% after deductible	\$15 Co-pay/80% after deductible
Substance Abuse - Outpatient	100%	\$15 Co-pay / 70% after deductible	\$15 Co-pay/80% after deductible
MH & SA – Outpatient (Combined)	Unlimited	Unlimited	Unlimited
Major Medical			
Single (deductible)	\$0	\$ 0 / \$ 250	\$ 0 / \$ 250
Family (deductible)	\$0	\$ 0 / \$ 500	\$ 0 / \$ 500
Single (Max Out-of-Pocket for Co-Insurance)	\$0	\$ 0 / \$2,250 (excludes deductible)	\$0/\$2,000 (excludes deductible)
Family (Max Out-of-Pocket for Co-Insurance)	\$0	\$ 0 / \$4,500 (excludes deductible)	\$0/\$4,000 (excludes deductible)
Lifetime Maximum	Unlimited	Unlimited / \$2,500,000	Unlimited
Dependent Age Limit	To Age 26 under Federal Law and to age 28 under Ohio Law .		
Special Feature – Durable Med. Equip.	100%	100% / 70%	100% / 80%
Special Feature – Hospice	100%	100%	100%
Special Feature – Skilled Nursing	100%	100% / 70%	100% / 80%
Special Feature – Organ Transplant	100%	100% / 70% (if pre-authorized)	100% / 50%
Infertility Services	70% - See Certificate for exclusions	Not Covered	Not Covered

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

(1). Mental Health Parity Act of 1996 and MHPAEA of 2010

Prescription Drug Plan Summary

Pharmacy Benefit Manager (PBM)

Benefits	PBM (Former Aetna Drug Plan)	
	KAISER HMO Network Only (No coverage if outside Kaiser, except in emergency)	Pharmacy Benefit Manager (Aetna and MMOH) (Express Scripts/MMO Drug Card) Network / Non-Network
Prescription Drug – Generic	\$ 5 Co-pay	\$ 5 Co-pay
Formulary	\$10 Co-pay	\$10 Co-pay
Non-Formulary	\$10 Co-pay	\$15 Co-pay
Contraceptives	Covered	Covered
Mail Order /Days Supply per prescription	90 Days	90 Days (Mandatory for maintenance prescriptions after third fill at retail.
Generic	\$ 5 Co-pay	\$10 Co-pay
Formulary	\$10 Co-pay	\$20 Co-pay
Non-Formulary	\$10 Co-pay	\$30 Co-pay

New Prescription Management programs will be required under the Express Scripts/MMO drug card programs included with the Aetna and Medical Mutual of Ohio (MMO) medical plan options effective 1/1/2014. Brief descriptions of the programs are included below.

Generic Incentive Program: Members will be required to pay the appropriate drug copayment PLUS difference in cost between the generic equivalent and brand name drug if a generic equivalent is available. Mail order prescriptions will automatically be filled with a generic equivalent whenever available unless the brand drug is specifically requested by the member or physician. A generic equivalent drug contains the same active ingredient(s) as the brand name drug, work the same way and must meet the same rigorous U.S. Food and Drug Administration for standards of quality, strength, purity, and potency.

Mail Order Incentive Program: Members will be required to fill all routine maintenance medications through mail order following the third fill (initial fill and two refills) through retail pharmacies. No benefit will be payable at retail following the third fill of the same maintenance prescription. Mail order provides a cost savings for members by providing a three month supply of medication for the equivalent of a two month copayment.

Coverage Management Programs: Certain high cost drugs may be subject to prior authorization and/or step therapy requiring that generic and lower cost alternative brand therapies are attempted prior to most costly alternatives.

RationalMed (MMO PLAN ONLY): Provides evidence based communication to the prescribing physician and/or pharmacist based upon member claim and lab result data to help reduce a member's near-term risk of an adverse medical event and improve condition management.

Dental Benefit Summary MetLife Insurance

Description	Basic		Enhanced	
Deductible	\$ 25 Individual / \$ 50 Family		\$ 25 Individual / \$ 50 Family	
Calendar Year Maximum	\$1,500 per person		\$2,000 per person	
	In-Network	Out-of-Network	In-Network	Out-of-Network
Preventative Oral Examinations – 2 per year Prophylaxis (cleanings) – 2 per year Topical Fluoride Applications – to age 14 annually Bitewing X-rays – once per year Full Mouth X-rays – once every 60 months Space Maintainers for children under 14	100% of PDP Fee*	100% of R&C Fee**	100% of PDP Fee*	100% of R&C Fee**
Basic Fillings, Simple Extractions, Endodontics, Oral Surgery, Periodontics, General Anesthesia, Consultations	80% of PDP Fee*	80% of R&C Fee**	80% of PDP Fee*	80% of R&C Fee**
Major Bridges and Dentures – once every 5 years Inlays, Onlays & Crowns – once every 5 years Prosthetics (Fixed) – once every 5 years Crown Build-ups Veneers, Harmful Habit Appliance, Crown, Denture & Bridge Repair	20% of PDP Fee*	20% of R&C Fee**	80% of PDP Fee*	80% of R&C Fee**
Orthodontics – Child Only Dependents covered until age 19	20% of PDP Fee*	20% of R&C Fee**	80% of PDP Fee*	80% of R&C Fee**
Orthodontia Lifetime Maximum	\$1,500 per person	\$ 1,500 per person	\$2,000 per person	\$2,000 per person
<small>* PDP Fee refers to the negotiated fees that participating PDP dentists have agreed to accept as payment in full. ** Reasonable and Customary charge is based on the lesser: (1) the dentist's actual charge (2) the dentist's actual charge for the same or similar services or (3) the usual charge of most dentists in the same geographical area for the same or similar service as determined by MetLife.</small>				

24) Appendix H - Cleaner Contingency Plan

Traditional High School (18-20 Bracket; 200,000+ Sq. Ft.) where the staffing has been reduced to three (3) cleaners:

All restrooms, locker room areas, offices, dispensaries, multipurpose areas and corridors must be cleaned on a daily basis. All trash throughout the building is to be emptied on a daily basis. Stairways are to be cleaned on an as needed basis.

One half (50%) of the total number of classrooms and related areas are to be cleaned every other day. This means that 50% of the classroom and related areas are thoroughly cleaned every other day. (Keep a daily log of the alternating schedule for the rooms and areas that are cleaned).

Pre-K-8 Schools (17-18 Bracket; 100,000-149,999 and 150,000-199,999 Sq. Ft.) where the staffing has been reduced to two (2) cleaners:

All restrooms, locker room areas, offices, dispensaries, multipurpose areas and corridors must be cleaned on a daily basis. All trash throughout the building into be emptied on a daily basis. Stairways are to be cleaned on an as needed basis.

One half (50%) of the total number of classrooms and related areas are to be cleaned every other day. This means that 50% of the classroom and related areas are thoroughly cleaned every other day. (Keep a daily log of the alternating schedule for the rooms and areas that are cleaned).

Cleaner Options for Buildings That Only Have One (1) Cleaner Reporting:

In any situation where there is only one (1) cleaner reporting to work (i.e., only one (1) cleaner is assigned to the building, two (2) cleaners are assigned but one cleaner is out due to a leave of absence, etc.), that cleaner may not be required to work beyond the time that the Custodian, Assistant Custodian, or District designee leaves the building, which ever person leaves the building last. If the cleaner desires to continue working that day, the cleaner must be given the choice of one of the following options:

1. The cleaner can agree to either work the full normal shift hours alone or work any partial amount of the remaining normal shift hours after the District staffing leaves. Time not worked shall be made up within ten (10) days.

2. If the cleaner chooses not to work alone in the building at any time, the cleaner must be given one (1) of the following choices:

- a. The cleaner shall be allowed to make up any missed portion of the full shift by coming in no more than one hour prior to the cleaner's regular shift unless prior approval by the Facilities Manager. The make-up hours identified above cannot be used for any overtime calculations.

- b. The cleaner may be afforded the opportunity to work the remainder of his/her shift at another building while District staffing is present.

If the District offers overtime on a day that a cleaner elects to come in early to work their regular number of hours, then upon the completion of those hours, the cleaner will be given the opportunity to work the overtime at the time and one half rate.

If the Cleaner declines all options, the Cleaner waives his/her right to work that day. However, the Cleaner's refusal to work shall not be deemed an unexcused absence under the Absence Abuse Policy.

Cleaners will not be allowed to use sick time arbitrarily if they choose not to work beyond the time the Custodian leaves.

Note:

All time must be made up within the ten (10) day period identified above. If not, the District is not obligated to allow the cleaner to make up the missed time.

If more than ten (10) hours need to be made up, the custodian, the facilities manager, and the affected cleaner will develop a plan in good faith to make up the time.

Cleaner Notification

Every cleaner is required to give the custodian a telephone number for contact purposes only. It is the cleaner's responsibility to inform the custodian of any change to the telephone number.

When the Facilities Manager receives notification that the absence of one or more cleaners will result in only one cleaner reporting on a particular day, the Facilities Manager must make every effort to contact that cleaner. The Facilities Manager must inform the cleaner of the absence and allow the cleaner to report to work in compliance with the above-mentioned options.

If the Facilities Manager cannot contact the cleaner on the first try the Facilities Manager's office will make 2 additional attempts to make contact. If contact cannot be made and the cleaner arrives for regular duty at the regular time, and does not choose to stay beyond the time that the custodian, assistant custodian, or District designee leaves, then the cleaner has the right to choose one of the above-mentioned options.

Multi-Cleaner Building Where Staffing Is Reduced

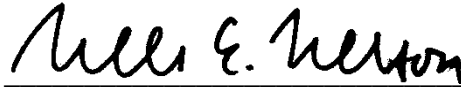
The custodian must develop a schedule that outlines what is to be cleaned, the corresponding day that the cleaning is to take place, and who is responsible for the cleaning. The custodian, assistant custodian, and laborer are to assist in the cleaning of the building wherever there has been a reduction in staff. No exceptions.

If at any time there is no cleaner reporting to perform the cleaning duties, the custodian and the rest of the custodial staff are to address all restrooms, corridors, and empty all trash throughout the building and provide other needed services that can be performed in the prescribed normal workday.

No overtime shall be granted or worked to clean the building, unless offered and authorized by the Facilities Manager.

25) Tentative Agreements

The Fact Finder recommends the tentative agreements reached by the parties.

A handwritten signature in black ink that reads "Nels E. Nelson". The signature is written in a cursive style and is positioned above a horizontal line.

Nels E. Nelson
Fact Finder

October 31, 2013
Russell Township
Geauga County, Ohio