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#### **Contract Database Metadata Elements**

Title: **Marcus Whitman Central School District and Marcus Whitman Custodial, Maintenance, and Food Service Employees Association (2014)**

Employer Name: **Marcus Whitman Central School District**

Union: **Marcus Whitman Custodial, Maintenance, and Food Service Employees Association**

Local:

Effective Date: **07/01/2014**

Expiration Date: **06/30/2017**

PERB ID Number: **5557**

Unit Size:

Number of Pages: **50**

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# Agreement

Between the

Gorham-Middlesex (“Marcus Whitman”)  
Central School District

And the

Marcus Whitman Custodial, Maintenance  
&  
Food Service Employees Association



July 1, 2014 through June 30, 2017

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**ARTICLE I**  
**Recognition**

- A. The Marcus Whitman (also known as the Gorham-Middlesex) Central School District Board of Education at its regular meeting of October 15, 1995, having determined that a consolidation of negotiating units is desirable, and having determined that a new negotiating unit titled Marcus Whitman Custodial, Maintenance, and Food Service Employees' Association [which is comprised of the former units of the Marcus Whitman Custodial and Maintenance Association as well as the Marcus Whitman Food Service Employees' Association] would be beneficial, and having determined that these separate units desired to be consolidated into a single unit, and having determined that such new unit structure is supported by a majority of the persons in the job titles of custodial supervisor, custodian, cleaner (except student cleaner), groundskeepers, food service helper and food service cook, does hereby recognize the Marcus Whitman Custodial, Maintenance and Food Service Employees' Association as the exclusive agent for the members of such unit. The Marcus Whitman Central School District also recognizes the Marcus Whitman Custodial, Maintenance and Food Service Employees Association as the exclusive agent for persons in the job title of Digital Audio Visual Technician.

Such recognition shall extend for the maximum period allowed by law.

- B. For the purpose of collective negotiations and the settlement of grievances, this collective negotiating unit agrees to merge with either/or the Marcus Whitman Teacher Aides' Association and/or the Marcus Whitman Bus Drivers' Association if either or both of those associations so approves.

**ARTICLE II**  
**Negotiations Procedures**

- A. At a mutually agreed upon time prior to the expiration date, the parties will enter into good faith negotiations over a successor agreement. If such an agreement is not concluded 120 days prior to the last day of the school year, in which this Agreement expires, either party may request the use of mediation. The parties may request the NYS Public Employment Relations Board to assist the parties to reach an agreement.
- B. Neither party in any negotiations shall have any control over the selection of the representatives of the other party and each party may select its representatives from within or outside the school district. While no final agreement shall be executed without ratification by the Association and Superintendent, the parties mutually pledge that their representatives will be clothed with all the necessary power and authority in the course of negotiations.

**ARTICLE III**  
**Dues and Benefit Trust Deductions**

- A. The District will deduct dues for the Association after receipt of a signed individual dues authorization card. Dues shall be deducted in equal amounts ending with the last paycheck in June. Dues will be transmitted monthly to the Association treasurer.

The Association shall indemnify and protect the District against any liability or claim, which may arise by reason of the District's compliance with the foregoing paragraph.

- B. The District shall check-off and remit payments to the NYSUT Benefit Trust upon submission of a signed authorization to the payroll office for anyone within the Bargaining Unit. Such signed authorization may be discontinued at the end of its term upon written notice by the employee to the District. The District shall remit to the NYSUT Benefit Trust the payments deducted and shall furnish the Plan and the bargaining agent with a list of all employees from whose salaries such deductions have been made.

The Association and its bargaining unit members agree to indemnify and hold the District and any of its agents completely harmless for any and all claims which may result from the implementation of the foregoing paragraph.

**ARTICLE IV**  
**Leaves & Benefits**

A. Health Related Leave Days

1. Full time twelve (12) month employees shall be granted 15 days per year at full pay health related reasons (personal illness, death, or serious illness in the immediate family). Unused days will accumulate from year to year.
2. Ten (10) month employees will be granted 13 days for health related reasons. Unused days will accumulate from year to year
3. Immediate family is defined as a unit member's spouse, child or parent (also parent-in-law), grandchild, grandparent and siblings (but not sibling in-laws). This definition includes "step" children, parents etc.
4. For serious illness in the immediate family, the current yearly allotment of days, or the remaining number of days in the current allotment may be used in the case of a serious illness of an immediate family member as well as up to 30 additional accumulated days per school year. If there is a need for more days, the unit member can make a request to the Superintendent.

5. Upon retirement, (pursuant to Article VII, Section B, subsections 9 and 10) a unit member is eligible to receive credit for each accumulated health related leave day (sick leave day) at the rate of \$100 per day, to be used at the discretion of the retiree, for those days not used to enhance retirement through the NYS Employee Retirement Benefit. The school district is purchasing Section 41J of the benefits of the NYS Employees Retirement System which allows application of unused sick leave as additional service credit upon retirement.
6. If a unit member who works on the day shift is unable to report to work, he/she must provide an advanced notice as early as possible.
7. If a unit member who works on the evening shift is unable to report for work, he/she must normally provide an advanced notice not later than 12:00 noon if possible.
8. When a unit member calls in, the following will apply:
  - a. Food Service Employees: A unit member will notify the Director of Food service of a sick leave absence by calling the District and speaking personally with the Director at the earliest reasonable time. Every attempt will be made to speak with the Director in person.
  - b. Custodial and Maintenance Employees: A unit member will notify the head custodian of a sick leave absence by calling the head custodian and speaking with the head custodian at the earliest reasonable time. The head custodian will in turn notify the Supervisor of Buildings & Grounds (SBG) by email that workday. If the head custodian is not available, the unit member will contact the SBG.
  - c. The Digital Audio Visual Technician (“A/V Technician”) will notify the Tech Coordinator of a sick leave absence at the earliest possible time.
9. When a unit member has been absent for five (5) or more sick days in a row or for more than ten (10) in any work year, the Superintendent or designee may require that the unit member to furnish a doctor’s certificate after any further absences during that school year.
10. On the day that the employee returns to work, s/he is to complete the day off notification form (Appendix A) indicating the kind and type of leave that the employee has used. The head custodian will send these forms to the Supervisor of Buildings and Grounds weekly with the time cards.

B. Personal Days\*

Three (3) personal days will be granted annually for a personal business day and will not be deducted from sick or family days. Unused personal days may be accumulated up to a total of five (5) days. If at the end of a school year, an employee has unused and unaccumulated personal days in excess of the five (5) accumulated personal days, they will be added to the accumulated sick day -- family days of the employee.

\*NOTE: Employees hired at the beginning of the school year will be granted personal and sick days commensurate with the time employed that year.

C. Jury Duty

An employee called for jury duty shall receive his full day's pay from the District's and is entitled to expenses from the County also. Any money received for jury duty will be turned over to the school district.

D. Emergency Leave

In the event of absence due to family emergencies, the Superintendent may consider such absence as part of the sick leave program.

E. Vacations (Note: This section does not apply to food service workers)

Vacation with pay will be given according to the following schedule:

After one year of service	7 work days
After 2 years of service	10 work days
After 7 years of service	15 work days
After 13 years of service	20 work days
After 25 years of service	25 work days

1. Employees will submit tentative vacation requests of five (5) or more days in a row by June 1 for the following work year.
2. Vacation Requests of four (4) or less days in a row (this includes requests to take 1 day of vacation) are to be made with notice of two (2) working days or more in advance (except in cases of emergency) to the building head custodian, who is to inform the Supervisor of Buildings and Grounds. When a request is made with less than two (2) workdays of prior notice to the District, the Supervisor of Buildings and Grounds may grant or deny this request and his decision on the matter is final and not subject to the grievance procedure.
3. In the event the employee makes a subsequent change in his vacation request, such

change shall be made with the permission of the District subject to staffing considerations.

4. In the event that vacation scheduling results in understaffing, the Superintendent will meet with the President of the Association to resolve the problem.
5. Employees will be allowed to carry over five (5) vacation days which remain unused at the end of the work year.
6. Coordination of Vacation Leave

a. A unit employee appointed at date other than July 1<sup>st</sup> will earn vacation leave on a pro-rata basis as compared to seven (7) days of vacation leave. This earned leave may be taken beginning on the July 1<sup>st</sup> following appointment. For example, XX is appointed on January 1, 2010. On July 1<sup>st</sup>, XX is credited with no days of vacation leave. On January 1, 2011, XX is credited with 3.5 days of vacation leave (one-half of 7 days), which may be taken beginning after January 1, 2011. Thereafter, on July 1, 2011, XX is credited with 7 days of vacation leave.

b. Upon separation from employment, a unit employee who has been employed for more than one (1) work year and who has vacation leave to his/her credit and who is not able to exhaust vacation leave prior to his/her exit, will be paid a cash payment representing the value of unused vacation leave.

7. The A/V Technician will submit vacation requests to the Tech Coordinator.

F. Legal Holidays (Note: This section does not apply to food service workers)

There will be given set of legal holidays when all district buildings will be closed. They are as follows:

Independence Day	Christmas Day
Labor Day	New Year's Day
Thanksgiving Day	Memorial Day

Twelve month employees are given a choice of any five (5) of the following nine (9) days to be used as the remainder of legal holidays. Selections are to be made in writing to the head building custodian not later than June 1.

The A/V Technician will notify the Tech Coordinator of his/her holiday selections.

Columbus Day	Martin Luther King Day
Veteran's Day	President's Day

First Day of Hunting Season	Good Friday
Day after Thanksgiving	First day of Fishing Season
Christmas Eve Day	

If one or two of the above holidays fall on a day during an employee's vacation, he/she may extend the vacation by that number of days or take a day or days off at another time mutually agreed upon between his immediate supervisor and himself.

Where an employee is called into work on a day he or she has a scheduled holiday, the employee will be paid at the rate of time and one half of his regular rate of pay. This provision shall not apply where an employee is called into work on the First Day of Hunting Season, or the First Day of Fishing Season.

Holidays that fall on Saturday or Sunday will be taken on Friday or Monday whichever day school is not in session. When school is in recess, the preceding rule will be in effect.

G. Leave of Absence

Leave of absence may be granted at the discretion of the Board of Education. If approved, seniority will be retained during the period of absence.

H. Association Leave

The District will permit without loss of regular compensation, one (1) unit member to attend the NYSUT Representative Assembly or Committee of 100. Up to two (2) paid leave days will be permitted per school year for Association business leave under this section.

I. Pay for Higher Position

Adjustments will be made in the wages of an employee when he assumes the duties of a higher civil service classification for more than five (5) workdays, retro back to the start of the leave. The rate of pay is determined by the minimum entry rate or \$0.50 per hour increase whichever is higher. Custodian to Head Custodian takes affect immediately. The rate of pay will be based on the stipend for that position.

J. Workmen's Compensation Cases

Absence due to injury or illness as a result of the conditions of employment and accepted as a compensation case by the Workmen's Compensation Board shall not be charged against the employee's sick leave. He/she shall continue on full salary for a maximum of nine (9) months or at such time the compensation board would render a decision. All monies received from the compensation insurance carrier shall be returned to the school district except for awards for loss of limbs, life, or permanent disability.

K. Short Term Leaves of Absence

Unit members may apply to the Superintendent for short term leaves of absence. It is

understood that if such a leave is granted by the Superintendent, all applicable health and dental coverage will remain in effect for leaves of one (1) month or shorter.

L. Shoe Allowance/Footwear

Appropriate footwear is to be worn at work in food service. No flip-flops or slippers are to be worn to work.

Unit members will receive \$75 in a shoe allowance per school year upon filing a claim with the Business Office in which the employee submits a receipt for the purchase of appropriate shoes.

The A/V Technician will not be eligible for a shoe allowance.

M. Snow Days

When school is in recess or cancelled due to weather or emergency conditions, all unit members are to report to work at their regular scheduled time. Should an evening staff member prefer to work the day shift during a time when school is not in session, (s)he may call their Head Custodian and request to start their shift earlier in the day. The Head Custodian reserves the right to limit the number of shift change requests in order to provide adequate building coverage.

Food Service Workers and A/V Technicians: If any days of work are cancelled due to extreme winter conditions "snow day," the District does not require that food service workers or A/V Technicians come to work and each food service worker or A/V Technician will be paid for each such "snow day," except that if the district must make up one or more days of instruction in order to maximize its receipt of NY State Aid due to the taking of several snow days over the course of each school year, then in that case, one or more days of work will be scheduled and worked without any additional compensation being paid for these additional work days.

N. Fingerprinting

Upon successful completion of the unit employee's probationary period, the employee may request reimbursement for the cost of fingerprinting in writing, which was required of a job applicant and the District agrees to reimburse the unit employee for the costs of fingerprinting.

O. Mileage Reimbursement. The A/V Technician driving his/her own car on authorized school business will be reimbursed at the current Internal Revenue Service rate.

a. The District will reimburse the A/V Technician for travel between school buildings as required by the A/V Technician's assignment or district responsibilities.

b. Mileage between local buildings will be set as follows:  
Gorham to Middlesex Valley 8 miles

High School to Middlesex Valley 2 miles  
High School to Gorham 5 miles

c. Mileage claims may be made at the end of each calendar month on the designated claim form. Claims must be made within the applicable school year.

## **ARTICLE V**

### **Medical Insurance**

#### **A. Health Care Plans**

1. Effective July 1, 2014, the base plan is to be the FLASHP plan called Blue Point 2 Select with a \$0/30/50 prescription drug plan.
2. The District agrees to pay 90% of the cost of the base plan on behalf of the eligible full-time unit member (one who regularly works at least 30 hours in a workweek) who has been appointed prior to July 1, 2014 and the eligible unit member shall pay the remainder of the cost of the health care plan in which s/he is enrolled by payroll deductions.
3. An eligible unit employee may apply the District's contribution of the base plan toward the purchase of any plan currently offered by the District, and the unit employee's dollar contribution could then be less or more than it would be if s/he enrolled in the base plan for current employees. In no case will the District pay more than 100% of the plan chosen using this process.
4. Effective July 1, 2014 for newly appointed and eligible full-time unit members (one who regularly works at least 30 hours in a workweek) the District agrees to pay 89% of the cost of the base plan and the unit member shall pay the remainder of the cost of the health care plan in which s/he is enrolled by payroll deductions. An eligible unit employee may apply the District's contribution of the base plan toward the purchase of any plan currently offered by the District, and the unit employee's dollar contribution could then be less or more than it would be if s/he enrolled in the base plan for current employees. In no case will the District pay more than 100% of the plan chosen using this process.
5. Plans Offered:
  - i. Healthy Blue \$30 Plan with \$5/35/70 prescription drug plan.
  - ii. Blue Point 2 Select (\$15 co-pay), with \$0/30/50 prescription drug plan.

iii. Blue Point 2 Extended (\$5 copay) with \$5/15/30 prescription drug plan is to be offered only for the 2014-15 school year, after which it will no longer be available as a health care plan option.

iv. Healthy Blue High Deductible "100" Plan.  
The District will contribute 100% of the cost of the plan premium; and 100% of the cost of the deductible on the first day of plan enrollment on January 1<sup>st</sup>, up to the amount of the District's contribution to the health care base plan on behalf of a full-time employee.

Should the full cost of the plan and the full cost of the deductible exceed the district contribution to a full-time employee enrolled in the base plan, then the parties agree that the plan is to be funded first before application of the money to the deductible.

This plan does have a prescription drug plan under which the employee per script co-pay becomes effective after the employee pays the total deductibles. The prescription drug plan is \$5/35/70.

The earliest that a unit member may enroll in the plan is during an open enrollment period which is to occur in November of 2014 with the plan to begin January 1, 2015.

6. Unit employees must work, on a regular basis, at least 20 hours per workweek on a regular basis in order to enroll in the District's health care plan(s).
7. A unit employee must work, on a regular basis, at least 30 hours per workweek on a regular basis in order to obtain benefits of a full-time employee i.e. if a full-time cleaner, the cleaner must work at least 30 hours per week to obtain the full amount of employer paid portion of the health care plan. If a unit employee works more than 20 hours per week and less than 30 hours per workweek on a regular basis, the employee in that category can obtain one-half of the full amount of the employer paid portion of the health care plan. For example, if a food service worker worked 20 hours per workweek, the employee can enroll in the District's health care plan and the District would pay for one-half of the amount paid on behalf of a full-time employee.

#### B. Rates of Employer and Unit Member Contribution for Dental Plan

The District offers a dental care plan under which any eligible unit member may join. Each unit member who enrolls in the dental plan shall pay fifty percent (50%) of the cost of the annual premium by payroll deductions.

C. Definitions and Miscellaneous Items for Purposes of the Health Care Program

1. Where the District employs a married couple, the District will only be obligated to provide and pay contributions for one (1) family (or 2-person, whichever is applicable) health care insurance premium. The District will not be obligated to provide and pay for separate individual or separate family coverage for the other spouse. In such case the District agrees to pay the full premium cost for the family plan. In such a case neither spouse is eligible for the opt out payment for declining participation in the District's health care program.
2. Eligible unit employees may change health care program coverage during the open window period as set by the insurance carrier.
3. Opt-Out Payment.
  - a. A unit employee who is eligible for health care coverage and who elects not to join the health care plan shall receive an annual payment of money from the District of One Thousand Five Hundred Dollars (\$1,500.00) in lieu of the family plan or Seven Hundred Fifty Dollars (\$750.00) in lieu of the individual plan. This amount shall be prorated for any partial year.
  - b. This election to opt out is made because the unit member is eligible for duplicate health care coverage elsewhere through the employment of a spouse or the unit member is otherwise covered.
  - c. The unit employee is to make his/her election on the District's form and submit it during April of each year. Each subsequent year, the unit employee must make an election so as to notify the District of his/her intention with regard to participation in the health care program. This election to opt out will operate unless there occurs a qualifying event under which the unit employee may rejoin the health care plan such as death, divorce, or loss of other health care coverage.
  - d. In order to be eligible for the opt-out payment, the unit employee must file with the District, a signed wavier (See Appendix B) and provide sufficient proof of affordable coverage.
4. The District agrees to administer flexible spending accounts for unit members where the unit member segregates out a certain amount of money from payroll checks to be used for the payment of his/her portion of the cost of the health care program and for qualified medical expenses that are not reimbursed. These

flexible-spending accounts will operate in full compliance with any applicable federal and state laws.

5. The parties note the existence of the Family and Medical Leave Act (FMLA) including those portions that address the payment of health care insurance premiums during periods of qualified FMLA leave.
6. Health Reimbursement Arrangement. The District will contribute to health reimbursement arrangements on behalf of each unit member as described below.
  - a. Each January, the District will contribute \$850 to be placed in a health reimbursement arrangement (HRA) for each eligible unit member who is enrolled in one of the District's health care plans and who works at least thirty (30) hours per week on a regular basis who has been appointed prior to January 1 of any year.

Effective January 1, 2014, full-time unit members who are not enrolled in the District's health insurance plan will receive a cash payment of \$850 in January.

These contributions to part-time unit members are to be a pro-rated amount of money as compared to the contribution made on behalf of a full-time unit member.

Effective with the 2016-17 school year the HRA amount rises to \$875 as well as the cash payment.

- b. The plan shall allow unit members to carry over any balance in the account from year to year.
- c. When the District accepts a unit member's resignation for the purpose of retirement; any balance remaining in the health reimbursement account is accessible to the retiree until such account is depleted.
- d. The District shall pay the cost of plan administration.
- e. On or about January 1, 2016, the District will issue debit type cards for use of unit members who have an HRA.
- f. Annual Opportunity To Opt-Out of HRA. Beginning with the start of any plan that begins after January 1, 2014, unit employees are to be permitted on an annual basis to permanently opt out of the HRA and waive future

reimbursements. The opportunity to opt out of the HRA will be provided in the form attached as Appendix G.

- g. These accounts are to be established in full accord with the Internal Revenue Code §105(h) and with the provisions of the Affordable Care Act. To the extent permitted by law, the parties agree that the amounts placed in these accounts by the employer may, if unused, roll over each plan year.

D. Plan Discontinued

If there comes a time when the FLASHP consortium or Excellus discontinues one of the health care plans that is offered for enrollment, the parties shall, upon the request of the other party, promptly meet and begin the process of negotiations in an attempt to find a mutually acceptable plan to replace the discontinued plan or a negotiated agreement to resolve the loss of a health care plan. The parties understand that any replacement plan will not likely be identical

If the parties cannot agree on a plan or a course of action to resolve the issues associated with the loss of a health care plan, either party may declare impasse on this issue and seek assistance from the NYS PERB, or, in the alternative, the parties may then agree on the selection of an outside mediator or facilitator to help the parties reach agreement on the issues involved the loss of a health care plan. The cost of any outside mediator or facilitator is to be split 50%/50% by the parties.

The agreement on the preceding two paragraphs does not constitute a waiver of the right to file a grievance with respect to the language contained in the Agreement.

## **ARTICLE VI** **Salaries**

A. Wage Increases

1. 2014-2015 School Year

Each returning unit member is to receive an increase of 2.7% over the basic hourly wage paid for the 2013-14 school year.

2. 2015-2016 School Year:

Each returning unit member is to receive an increase of 2.7% over the basic hourly wage paid for the 2014-15 school year.

3. 2016-2017 School Year:

Each returning unit member is to receive an increase of 2.5% over the basic hourly wage paid for the 2015-16 school year.

B. Extra Duty Assignments

Position	2014-15	2015-16	2016-17
Head Building Custodian	\$3665	\$3764	\$3858
Pool & Water Tower Operator	\$1992	\$2046	\$2097
Senior Groundskeeper	\$774	\$795	\$815

C. Food Service Employee Special Event Pay

All special events work is to be paid at the rate of pay is to be \$17 per hour for the life of the Agreement.

Special events are those activities conducted after normal operating hours and on weekends that require support from the School Food Service Program (i.e. sports banquets, BOCES annual meetings). Also, senior citizen lunches would be included in this. Special events are school-sponsored activities.

A unit member is required to work school and school related events. Advance notice must be provided no less than two (2) weeks prior to the event.

An event for other than school and school related organizations is not mandatory work for unit members.

Unit members must work the day of a special event if they are working the special event. Unit members cannot call in sick for a day of work and work a special event that is scheduled for the same day.

- D. In the event all county roads within the school district are officially closed by the Sheriff as a result of an emergency, employees will not suffer a loss in wages for the duration of the road closures. Those who continue to work that day are paid at the rate of time and one-half.

E. Food Nutrition Association Dues. Effective with the 2014-15 school year, the District will pay the annual dues for the Food Nutrition Association for the cooks (3) and the head cook (1). The District will pay no more than \$25 per school year.

F. Custodial and Maintenance Shift Differential: the night differential is to be paid at the rate of 50¢ per hour of night differential work for the life of the agreement.

G. Food Service Worker Pay Differentials

Cashiers will receive 35¢ per hour additional pay, cooks will receive 60¢ per hour additional pay, and a head cook will receive 85¢ per hour additional pay upon successful completion of Civil Service test.

H. Minimum Entry Rates of Pay

	2014-15	2015-16	2016-17
Custodial Supervisor	\$15.55	\$15.76	\$15.95
Cleaner	\$9.30	\$9.43	\$9.55
Custodian	\$11.00	\$11.15	\$11.29
Building Maintenance Worker	\$11.99	\$12.15	\$12.30
Building Maintenance Mechanic	\$19.41	\$19.67	\$19.92
Groundskeeper	\$11.28	\$11.43	\$11.58
Senior Groundskeeper	\$13.03	\$13.21	\$13.37
Food Service Workers	\$8.49	\$ 8.60	\$ 8.71
A/V Technician	\$12.00	\$12.16	\$12.31

I. Longevity Payments/Career Increment Payments

1. Each unit member shall receive the following cumulative longevity payments:

After completion of five years	\$450
After completion of ten years	\$600 – (\$1,050 total)
After completion of fifteen years	\$700 – (\$1,750 total)
After completion of twenty years	\$800 – (\$2,550 total)
After completion of twenty-five years	\$950 – (\$3,500 total)
After completion of thirty years	\$1,300 (\$4,800 total)

2. Longevity Payment for Custodians who chose the 3, 6, 10, 13 option are grandfathered in. New hires after July 1, 2002 must follow the 5-year plan.

After completion of three years	\$696
After completion of six years	\$417 – (\$1,113 total)
After completion of ten years	\$348 – (\$1,461 total)
After completion of thirteen years	\$348 – (\$1,809 total)
After completion of twenty years	\$800 – (\$2,609 total)
After completion of twenty-five years	\$950 – (\$3,559 total)
After completion of thirty years	\$1,300 – (\$4,859 total)

J. Paycheck Errors

When a mistake is made in a paycheck of a unit member, which results in the unit member being underpaid by \$100 or more, the District will give the unit member the amount owed within five (5) days of the error being discovered.

**ARTICLE VII**  
**Retirement and Termination Benefits**

A. Retirement Incentive

1. Custodial and Maintenance Employees and A/V Technician:

- a. For any eligible unit employee appointed prior to July 1, 2014 who has at least ten (10) years of continuous service with the District and who retires from the District will receive a payment of \$10,000 from the District.
- b. For any eligible unit employee appointed after July 1, 2014 who has at least fifteen (15) years of continuous service with the District and who retires from the District will receive a payment of \$10,000 from the District.
- c. A unit member must work a minimum of thirty –(30) hours per workweek on a regular basis to obtain the full amount. If the unit member works less than thirty- (30) hours per workweek, the amount of the retirement incentive shall be pro-rated.
- d. The cash value will be deposited into the IRC §403 (b) account of the unit member in accordance with the MOA between the parties as to these distributions. Unit members will notify the District thirty- (30) days in

advance of their retirement if they want to stay enrolled in District health insurance plan.

- e. For purposes of this payment, the term retirement means that the unit employee is at least 55 years of age and is eligible to retire with a service retirement under the terms of the NY State retirement program in which s/he is enrolled, although the unit employee need not be enrolled in the NY State retirement system to be eligible.
- f. In addition, this benefit is not available to a unit member who resigns or retires in the face of charges preferred against the unit member seeking discharge pursuant to Article XIV, Discharge or Suspension Hearing of the Agreement. Should it be determined by an arbitrator that the unit member facing disciplinary action did not engage in misconduct and/or incompetence, then this benefit will be available to the unit member.

2. Food Service Employees:

- a. For any eligible unit employee appointed prior to July 1, 2014 who has at least ten (10) years of continuous service with the District and who retires from the District will receive a payment from the District of \$4,200.
- b. For any eligible unit employee appointed after July 1, 2014 who has at least fifteen (15) years of continuous service with the District and who retires from the District will receive a payment from the District of \$4,200.
- c. A unit member must work a minimum of twenty (20) hours in a workweek on a regular basis in order to be eligible for this incentive, and, if not the retirement incentive shall be pro-rated.
- d. The cash value will be deposited into the IRC §403 (b) account of the unit member in accordance with the MOA between the parties as to these distributions.
- e. For purposes of this payment, the term retirement means that the unit employee is at least 55 years of age and is eligible to retire with a service retirement under the terms of the NY State retirement program to which s/he is enrolled, although the unit employee need not be enrolled in the NY State retirement system to be eligible.

f. In addition, this benefit is not available to a unit member who resigns or retires in the face of charges preferred against the unit member seeking discharge pursuant to Article XV, Discharge or Suspension Hearing of the Agreement. Should it be determined by an arbitrator that the unit member facing disciplinary action did not engage in misconduct and/or incompetence, then this benefit will be available to the unit member.

B. Employee Non-Elective Contributions

1. **No Cash Option.** No employee may receive cash in lieu of or as an alternative to any of the Employer's Non-elective Contribution(s) described herein.
2. **Contribution Limitations.** In any applicable year, the maximum Employer Contribution shall not cause an employee's 403(b) account to exceed the applicable contribution limit under Section 415(c)(1) of the Code, as adjusted for cost-of-living increases. For Employer Non-elective Contributions made post-employment to former employees' 403(b) account, the Contribution Limit shall be based on the employee's compensation, as determined under Section 403(b)(3) of the Code and in any event, no Employer Non-elective Contribution shall be made on behalf of such former employee after the fifth taxable year following the taxable year in which that employee terminated employment.

In the event that the calculation of the Employer Non-elective Contribution referenced in any of the preceding paragraphs exceed the applicable Contribution Limits, the excess amount shall be handled by the Employer as follows:

- A. For all members in the New York State Teachers' Retirement System ("TRS") with a membership date before June 17, 1971,<sup>1</sup> the Employer shall first make an Employer Non-elective Contribution up to the

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<sup>1</sup>**Explanation for TRS Categories:** Under *Education Law* § 501(11)(a), the calculation of a pre-June 17, 1971 TRS Tier I member's last five years final average salary (upon which a member's life-time pension is, in part, calculated) includes any non-ordinary income (such as termination pay) which is received as compensation prior to December 31st of the year of retirement. Thus, such a member would benefit from receiving, as compensation, in their final year of employment that portion of the Employer Non-elective contribution, which is in excess of the maximum Contribution Limits of IRC §415.

The final average salary of all other members of the TRS (*i.e.* all TRS members with a membership date on or after June 17, 1971) may not include any form of Termination Pay; therefore, the Employer's post-retirement payment into the employee's 403(b) account of that portion of the Employer Non-elective Contribution, which is in excess of the maximum Contribution Limits of IRC §415, is more advantageous for those member.

Contribution Limit of the *Internal Revenue Code* and then pay any excess amount as compensation directly to the Employee. In no instance shall the Employee have any rights to, including the ability to receive, any excess amount as compensation unless and until the Contribution Limit of the *Internal Revenue Code* are fully met through payment of the Employer's Non-elective Contribution; and

- B. For all members in the New York State Teachers Retirement System ("TRS") with a membership date in the TRS on or after June 17, 1971, and for all members in the New York State Employees' Retirement System ("ERS") regardless of their membership date, the Employer shall first make an Employer Non-elective Contribution up to the Contribution Limit of the *Internal Revenue Code*. To the extent that the Employer Non-elective Contribution exceeds the Contribution Limit, such excess shall be reallocated to the Employee the following year as an Employer Non-elective Contribution (which Contribution shall not exceed the maximum amount permitted under the Code), and in January of each subsequent year for up to four (4) years after the year of the Employee's employment severance, until such time as the Employer Non-elective Contribution is fully deposited *into* the Employee's 403(b) account. In no case shall the Employer Non-elective Contribution exceed the Contribution Limit of the *Internal Revenue Code*.
3. **403(b) Accounts.** Employer contributions shall be deposited into the 403b account opened by the district employee. Each individual for whom an employer contribution is made, will designate the specific investment accounts, into which the employer contribution shall be made.
  4. **Tier I Adjustments.** Tier I members with membership dates prior to June 17, 1971. Employer Non-elective Contribution hereunder will be reported as non-regular compensation to the New York State Teachers' Retirement System.
  5. This MOA shall be subject to IRS regulations and rulings. Should any portion be declared contrary to law, then such portion shall not be deemed valid and subsisting, but all other portions shall continue in full force and effect. As to those portions declared contrary to law, the Association and Employer shall promptly meet and alter those portions in order to provide the same or similar benefit(s) which conform, as closest as possible, to the original intent of the parties.
  6. Both the Employer and Employee are responsible for providing accurate information to the 403(b) Provider. This information includes both Elective and Employer Non-Elective Contributions and the amount of the participant's Includible Compensation.

7. Employees that terminate employment with the District for purposes of retirement and who qualify for normal retirement under the Teachers Retirement System or ERS shall receive the same health insurance coverage (or comparable coverage if the District changes providers) as was provided prior to such retirement for a period of time until such time as the calculated value of accumulated, but unused sick leave as determined by Article IV A (5) of the Collective Bargaining Agreement, which sum is to be expended by the District in the payment of health insurance premiums, is exhausted. Such health coverage shall be made available to retirees at the same cost as comparably ranked active employees; however, with the understanding that the retiree is responsible for the full cost of the health insurance premium.
8. Should the retiree die and his/her spouse and/or dependents have been covered under the retiree's health insurance policy, the spouse and/or dependents shall be eligible to remain on the deceased retiree's health insurance plan and shall be able to use any remaining sums pursuant to Section 7 above.
9. Notwithstanding the provisions of Section 7 above, any qualifying retiree who notifies the District, in writing, thirty days before their date of retirement that he or she has post-employment health coverage provided through another health plan shall not receive the benefit described in Section 7 but shall instead receive a non-elective employer contribution into the retiree's 403(b) account in an amount equal to \$100 for each accumulated sick day pursuant to Article IV A (5) of the collective bargaining agreement, subject to the IRC 415(c) maximum contribution.
10. A qualifying retiree shall not have an option to receive cash for the benefits provided under Sections 7 and 8. Non-elective employer 403(b) contributions, if any are payable, shall be contributed into the 403(b) account of each retiree's choice. However, if the retiree fails to notify the District where to deposit the 403(b) contributions, then the District shall make the contribution into a 403(b) account established through The Legend Group for the benefit of the retiree.
11. **Retirement Incentive.** The Employer agrees to make an Employer Non-elective Contribution to the 403(b) account of each covered employee who notifies the Employer of his or her intent to retire. The total amount of Employer's Non-Elective Contribution for each eligible employee shall be in accordance with Article III **Retirement and Termination Benefits**, Section A. of the Collective Bargaining Agreement and shall be made in one payment on the 30<sup>th</sup> day of the month of the employee's retirement. If the amount to be deposited into the 403(b) account exceeds the maximum contribution for the retirement year, the Employer shall defer the payment that exceeds the allowable amount until January 1<sup>st</sup> of the year following the employee's retirement. The Employer shall make the

maximum contribution permitted under Section 415(c)(1) of the *Internal Revenue Code of 1986*, as amended, for the year in which the employee severs employment, that the retiree is entitled to under Sections 7 and 8 above. The employer shall deposit the contribution no later than the 30<sup>th</sup> day of the month following the employee's severance date.

## **ARTICLE VIII** **Work Schedule**

### **A. Custodial and Maintenance Employees**

1. Head Custodians, Cleaners and Custodians: The normal working schedule during the academic school year will be as follows:  

Day Shift:	7:00 to 3:30 p.m.
Evening Shift:	3:00 to 11:30 p.m.
2. Maintenance and Groundskeepers: The normal working schedule during the academic school year will be as follows: 6 a.m. to 2:30 p.m. shift.
3. The A/V Technician will work an eight hour day consisting of the daily schedule of 7:30am-3:30pm including a half-hour unpaid lunch.
4. Before the District changes the normal working schedule for custodians or cleaners it will discuss the proposed change with Association representatives.
5. The foregoing shall not apply where summer work schedules (June, July, August) or emergency conditions require a change in the daily work schedule on an individual basis.
6. The parties agree that the work schedule of head custodians requires flexibility so that it may accommodate occasional training and related supervisory and evaluation duties. As a result, the head custodians' schedule may vary accordingly. The head custodians' schedule may occasionally have to be increased or rescheduled beyond the normal work schedule.
7. If work beyond eight hours in a day is required as a result of the #4 above, this work must have the advance approval of the Supervisor of Buildings and Grounds, except in a case where the Supervisor of Buildings and Grounds is unavailable and in that case, the work must have the approval of the Building Principal.
8. Transfers – before an involuntary transfer occurs, the union and administration will

meet and discuss the proposed move. Also, the other party being transferred will be voluntary basis first and seniority if no volunteer is found.

9. Lunch interruption for custodial employees: As part of the 8.5-hour shift assignment each cleaner, custodian, groundskeeper has a daily 30-minute unpaid and duty-free lunch period. In some instances, this lunch period is interrupted by the need to attend to a work situation. When this occurs, the unit employee is allowed make up time during that work shift, so that s/he has a total of a 30-minute lunch period. It is understood that the employee is to receive the time in order to complete the lunch period. This time adjustment is not to be used to shorten the total length of the shift assignment by leaving work early by the length of time the lunch period was interrupted by work assignments.

- B. The workweek for custodial and maintenance employees under this agreement is based on a forty (40) hour week. The workweek runs from Sunday to Saturday. No overtime (except as provided under Legal Holidays) can be paid until an individual has worked in excess of forty (40) hours. Forty (40) consecutive hours per week includes pay for legal holidays and anything charged against an employee.

Overtime is to be assigned by head custodians in accordance with the current practice.

Unit members may take compensatory time in lieu of overtime compensation when they are assigned more than 40 hours of work in any pay period. Comp time is paid at the rate of one and one-half of paid time for every hour of approved overtime. Reasonable notice should be given to the supervisor so that the District can schedule work projects (in normal situations the employee should give twenty-four hours notice, but if the time is to be used to extend a vacation or for the use of over more than one day longer notice will be provided when possible). The limit on comp time hours accumulation is 180 hours (120 hours of actual overtime).

If the compensatory time has not been used by June 30<sup>th</sup> of each work year, the unit employee may carryover no more than 32 hours of compensatory time from one work year to the next. The District will pay the unit member for any remaining compensatory time to the employee credit at the rate of pay of time and one-half for every hour worked as approved overtime.

### C. Overtime and Compensatory Time

1. Overtime. No overtime (except as provided under Legal Holidays) can be paid until an individual has worked in excess of forty- (40) hours in any seven (7) day workweek.

Forty- (40) consecutive hour per week includes pay for legal holidays and anything charged against an employee.

The assignment of overtime shall be as follows:

- a. First, overtime will be offered to unit members in the appropriate job titles (e.g., custodian/cleaner; maintenance or food service or A/V Technician) regularly assigned to work in the building where the opportunity for weekend overtime is occurring.
  - b. Second, overtime will be offered to unit members regularly assigned to work in other buildings in appropriate job titles (e.g., custodian/cleaner; maintenance or food service or A/V Technician) by seniority.
  - c. Finally, overtime will be offered to others such as substitutes and people not in the unit.
  - d. This process will be followed except in case of emergencies.
2. Compensatory Time. Unit members may take compensatory time in lieu of overtime compensation when they are assigned more than 40 hours of work in any pay period. Comp time is paid at the rate of one and one-half of paid time for every hour of approved overtime. Reasonable notice should be given to the supervisor so that the District can schedule work projects (in normal situations the employee should give twenty-four hours notice, but if the time is to be used to extend a vacation or for the use of over more than one day longer notice will be provided when possible). The limit on comp time hour accumulation is 180 hours (120 hours of actual overtime).

If the compensatory time has not been used by June 30<sup>th</sup> of each work year, the unit employee may carryover no more than 32 hours of compensatory time from one work year to the next. The District will pay the unit member for any remaining compensatory time to the employee credit at the rate of pay of time and one-half for every hour worked as approved overtime.

- D. Head custodians will record the start of work and end of work times on a time sheet to be negotiated by the District and the Association. (See Appendix H.) Other unit members will continue to her/his hours of work in the manner currently used (as of the 2013-14 school year).
- E. Completion of Work Order Log Sheets. Custodial and Maintenance employees are to complete the Que Centre forms when each custodial or maintenance worker receives a

work order (this may not be daily) indicating the name of the unit employee, the date of the work, the hours worked on the work order and any problems with completing the work order. See Appendix D for "Que Centre" form.

## **ARTICLE IX**

### **Seniority for Lay-Off and Recall**

A. Competitive Class Employees - for competitive class civil service positions, the New York Civil Service Law and pertinent rules and regulations are to govern layoff and recall and there is no resort to the grievance procedure and arbitration provisions of this Agreement as to competitive class civil service positions in a layoff and recall situation.

B. Non-Competitive and Labor Class Employees -

1. Seniority shall be defined as length of continuous service with the Employer, not counting substitute service. In the event of a layoff, subject to the applicable provisions of the New York Civil Service Law and Yates County Civil Service Rules, employees shall be laid off on the basis of seniority, such employees with the greater seniority being the last laid off. By written notice to the Employer within ten (10) working days after the layoff, laid-off employees shall be entitled to exercise their seniority, as above defined, to displace employees with lesser seniority in the same layoff unit in the next lower occupied job title in direct line of promotion to the job from which he is being displaced.

If there are no lower level occupied positions in direct line of promotion, he/she shall displace the incumbent with the least seniority (and less than him/her) in a position in the same layoff unit in which he last served on a permanent prior basis, if his service was satisfactory, and if the position is in a lower salary grade than the position from which he is being displaced.

Except as provided in the following paragraph nothing in this Article shall be construed to permit a part-time employee to displace a full-time employee.

A full-time employee shall be an employee regularly working thirty- (30) hours or more per week. Recall shall be in the inverse order of layoff.

2. Consistent with the Civil Service Law and the Yates County Civil Service Rules and Regulations, employees will be maintained on the recall list for four (4) calendar years from the effective date of layoff; or until the employee has been offered and rejected recall to a job at the District or has otherwise failed to respond. Failure to respond constitutes a rejection of the offered position after which the employer has no

further obligation with regard to retention of the employee's name on the recall list.

3. Food service helpers, cooks, and part-time cleaners shall accrue seniority in their respective positions on the basis of number of months of continuous service.
4. Continuous service shall be defined as the last period during which an employee has continually had seniority. Subject to the New York Civil Service Law, an employee shall lose his seniority only upon the following:
  1. Resignation (except where reinstated within a period permitted by applicable provisions of the Civil Service Law).
  2. Discharge
  3. Retirement
  4. Refusal of a recall to employment
  5. Layoff for a period exceeding one (1) year

The relative seniority of two or more employees appointed on the same date shall be in the order of their hiring or appointment by the hiring or appointing officer, or if that be the same, then by lot. All competitive class employees hired on the same date shall have their relative seniority determined by their rank on the Civil Service list. To break ties with regard to seniority date, the names of the employees who are tied will be put on small pieces of paper which will be placed in a hat or other suitable container and the Union President and Superintendent will alternatively pull out of the hat the names, the first name being pulled out is the employee with more seniority than the next pulled out. This procedure will be followed until no more names are left in the hat.

## **ARTICLE X**

### **Promotions and Job Vacancies**

#### **Vacancies**

Seniority for the purpose of filling vacancies, transfers and promotions shall mean all service in the unit since the most recent date of hire. Part-time unit members shall accrue seniority on a pro-rata basis.

A vacancy shall be defined as a unit position opening caused by a retirement, resignation, newly created position, termination, death in service or transfer.

All vacancies will be posted in each department and in each building and shall show all necessary qualifications for the position. The notice shall include, but not be limited to, the current work location, a list of typical duties and so state that "the duties listed are

presented herein only for illustrated purposes and do not reflect the entire duties and/or qualifications required for the position.”

Vacancies may be filled by a temporary appointment for no more than two (2) months.

Vacancies will be posted for at least five (5) working days before advertising the vacancy to non-unit members. All unit members shall have the right to apply for a vacant position.

Where skill, ability and prior attendance record are generally equal, seniority shall be the basis for appointment. In evaluating the attendance record of a unit member for promotion and/or transfer absence due to long-term illness, which has been verified by a medical doctor, will not be considered.

## **ARTICLE XI** **Training Sessions**

Unit members participating in approved District sponsored in-service programs provided at times other than regular working hours shall be paid at their hourly rates and the District will pay for the in-service program. In approved non-District sponsored programs, the District will pay the hourly rate and/or the cost of the program.

## **ARTICLE XII** **Health and Safety**

- A. The head custodian for each building will participate in the District's health and safety committee meetings.
- B. The District will provide any information that it may possess relating to health and safety concerns if requested by the Association Health and Safety Committee.

## **ARTICLE XIII** **Personnel File**

- A. Unit members shall have the right to review their personnel file except for letters of reference and recommendation.
- B. Unit members shall have the right to have a representative with them, when they review their file.

- C. Unit members shall be afforded an opportunity to respond to any critical documents which are placed in their personnel files. Such written response must be made within five working days after the critical document is placed in the personnel file.
- D. No unsigned or anonymous accusations shall be placed in the file.

**ARTICLE XIV**  
**Evaluation**

A. Custodial and Maintenance Employees

The Supervisor of Buildings and Grounds is to provide each unit member that he/she supervises with a copy of each evaluation that is performed with respect to the unit member's work performance. This form is attached to the Agreement as Appendix E.

B. Food Service Employees

The Food Service Director is to provide each unit member that she/he supervises with a copy of each evaluation that is performed with respect to the unit member's work performance. This form is attached to the Agreement as Appendix F.

C. A/V Technician

The A/V Technician will be evaluated by the School Business Official with input from the Tech Coordinator. The form to be used will be negotiated by the District and Association.

**ARTICLE XV**  
**Discharge or Suspension Hearing**

- A. No unit member who has successfully completed his/her probationary term shall be disciplined or discharged without cause.
- B. The procedures and rights established here completely replace the procedures and rights found at Sections 75 and 76 of the New York Civil Service Law.
- C. These procedures and rights do not apply to probationary employees who do not enjoy these procedures and rights.

D. Procedure for Discipline and Discharge of Permanent Unit Members

1. Should the Superintendent of Schools prefer charges which would result in discipline and/or discharge against a covered unit employee any such charges are to be in writing and signed and dated by the Superintendent. Any such charges are to be served upon the unit member by personal delivery or by certified or registered mail, return receipt requested. The charges are to include the terms of any penalty sought by the Superintendent.
2. Within five (5) business days after the unit employee has been served with any such charges, the employee may accept the penalty imposed in the charges or the employee may request in writing to the Clerk of the Board of Education that he/she desires to invoke arbitration of the matter in accordance with the grievance procedure at Stage 4, arbitration.
3. The unit employee [or his/her representative] and the Superintendent [or representative] are to attempt to agree upon the selection of a mutually agreeable arbitrator within five (5) business days after the District receives notice from the employee that arbitration has been invoked to hear the matter. Should there be no mutual agreement upon the "selection" of an arbitrator, one or both of the parties may file a demand for arbitration with the American Arbitration Association and seek a list of arbitrators in accordance with the selection process of the American Arbitration Association.
4. To the extent not inconsistent with the terms of this article, the provisions in Stage 4, Arbitration found in the grievance procedure in this Agreement are to govern arbitration of discipline and discharge cases.
5. At the arbitration hearing the unit employee may be represented by a person or persons of his/her choice and is entitled to ask questions of witnesses and to cross-examine witnesses and to offer other proof and argument on his/her behalf.
6. After the close of the hearing, the arbitrator shall be requested to render a decision in this matter within fifteen (15) business days after the close of the hearing. The decision shall be in writing to the unit employee, his/her representative and to the Superintendent.
7. The Superintendent reserves the right to suspend a unit employee with or without pay. The Superintendent may initially only suspend a unit employee for no more than thirty- (30) days without pay. After any such unpaid suspension, the unit employee is to be returned to paid status until the matter is resolved.

## **ARTICLE XVI**

### **Grievance Procedure**

#### Section A - Declaration of Purpose

IT IS THE PURPOSE of this procedure to secure, at the lowest possible administration level, equitable solutions to alleged grievances of employees through procedures under which they may present grievance free from coercion, interference, restraint, discrimination or reprisal.

#### Section B - Definitions

- 2.1. A Grievance is a complaint by an employee that there has been a violation, misinterpretation or misapplication of any provision of this agreement.
- 2.2. The term Supervisor shall mean the administrator or supervisor responsible for the area in which an alleged grievance arises except for the chief executive officer. This person is normally not the Superintendent, but under certain conditions, can be the Superintendent.
- 2.3. Association shall mean the Marcus Whitman Custodial, Maintenance & Food Service Employees' Association.
- 2.4. The Grievant shall mean any person or group of persons in the negotiating unit filing a grievance.
- 2.5. Grievance Committee is the committee created and constituted by the Association.

#### Section C - Procedures

- 3.1. Each grievance shall include the name and position of the aggrieved party, the identity of the provision of law, the portion of this Agreement, policies, etc., involved in the said grievance, and the time when and the place where the alleged events or conditions constituting the grievance existed, the identity of the party responsible for causing the said events or conditions, if known to the aggrieved party, and a general statement of the nature of the grievance and the redress sought by the aggrieved party.
- 3.2. Except for informal decisions at Stage 1A, all decisions shall be rendered in writing at each step of the grievance procedure, setting forth findings of fact, conclusions

and supporting reasons therefore. Each decision shall be promptly transmitted to the employee and the Association.

- 3.3. If a grievance affects a group of employees and appears to be associated with system-wide policies, it may be submitted by the Association directly at State 2 described below.
- 3.4. The preparation and processing of grievances shall be done with reasonable effort to avoid interruption of work.
- 3.5. The District and the Association agree to facilitate any investigation which may be required and to make available any and all material and relevant documents, communications, and records concerning the alleged grievance.
- 3.6. No interference, coercion, restraint, discrimination or reprisal or any kind will be taken by the Board or by any member of the administration against the aggrieved party, any party in interest, any representative, any member of the grievance committee or any other participant in the grievance procedure or any other person by reason of such grievance or participation therein.
- 3.7. Grievance forms will be jointly developed. The Superintendent shall then have the grievance forms printed and distributed to facilitate operation of the grievance procedure.
- 3.8. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.

The reason for the exclusion of these materials is to remove the prejudicial effect of finding grievances in an employee's personnel file, prejudging whether or not the employee is a good employee based solely on whether s/he files grievances.

Where the result of a grievance, either by an award of an arbitrator or by a resolution short of an arbitrator's award, constitutes employee discipline, which has been upheld or unchallenged, this award or agreement may constitute a personnel record, which may properly be placed in the personnel file.

- 3.9. Nothing contained herein will be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the administration and having the grievance informally adjusted without intervention of the Association, provided the adjustment is not inconsistent with the terms of this Agreement and the Association has been given an opportunity to be present at such adjustment and to state its views on the grievance. In the event that any grievance is adjusted without formal determination, pursuant to this procedure,

which such adjustment shall be binding upon the aggrieved party and shall, in all respects, be final, said adjustment shall not create a precedent or ruling binding upon either of the parties to this Agreement in future proceedings.

- 3.10. If any provision of this grievance procedure or any application thereof to any employee or group of employees in the negotiating unit shall be finally determined by any court to be contrary to law then such provisions or application shall not be deemed valid and subsisting except to the extent permitted by law, but all other provisions or applications will continue in full force and effect.
- 3.11. The existence of the procedure hereby established shall not be deemed to require any employee to pursue the remedies here provided and shall not, in any manner, impair or limit the right of any employee to pursue any other remedies available in any other forum, except as set forth in Stage 4, arbitration.

#### Section D - Time Limits

- 4.1. Since it is important to good relationships that a grievance be processed as rapidly as possible, every effort will be made by all parties to expedite the process. The time limits specified for either party may be extended only by mutual agreement.
- 4.2. No written grievance will be entertained as described below, and such grievance will be deemed waived unless the written grievance is filed at the first available stage within sixty- (60) workdays after the employee knew or should have known of the act or condition on which the grievance is based.
- 4.3. If a decision at one stage is not appealed to the next stage of the procedure within the time limit specified, the grievance will be deemed to be discontinued and further appeal under this agreement shall be barred.
- 4.4. Failure at any stage of the grievance procedure to communicate a decision to the aggrieved party, his representatives and the Association within the specified time limit shall permit the lodging of an appeal at the next stage of the procedure within the time which would have been allotted had the decision been communicated by the final day.

#### Section E. - Stages of the Procedure

##### Stage 1: Supervisor and Building Principal

- a. An employee having a grievance ("grievant") will discuss it with his supervisor and principal, either directly or through a representative, with the objective of resolving the matter informally. If the employee submits the grievance through a representative, the employee may be present during the discussion of the grievance.

- b. If the grievance is not resolved informally, it shall be reduced to writing and presented to the supervisor and principal. Within five (5) work days after the written grievance is presented to him, the supervisor and principal, shall render a decision thereon, in writing, and present it to the employee and the Association President.

#### Stage 2: Superintendent

- a. If the employee or the Association determines that the grievance has merit then it will file a written appeal of the decision at Stage 2 with the Superintendent within twenty (20) work days after the employee has received the Stage 1 decision. Copies of the Stage 1 decision shall be submitted with the appeal.
- b. Within seven (7) work days after receipt of the appeal, the Superintendent, or his duly authorized representative, shall hold a meeting with the employee and representatives of the Association to discuss the grievance.
- c. The Superintendent shall render a decision in writing to the employee and the representative of the Association within seven (7) work days after the conclusion of the meeting.

#### Stage 3: Board of Education

- a. If the matter remains unresolved with the decision at Stage 2, the grievant and the Association will file an appeal in writing with the Board of Education within fifteen (15) workdays after receiving the decision at Stage 2.
- b. The Board of Education will, in executive session, hold a meeting on the grievance at the next regular Board of Education meeting to be held after receipt of the appeal or the Board may set a special meeting to be held in executive session on the grievance within fifteen (15) days after its clerk receives the appeal on the grievance. At the Board Stage, the Association along with the Superintendent or his representative will present its case to the Board.
- c. Within fifteen (15) workdays after the conclusion of the hearing, the Board of Education shall render a decision, in writing, on the grievance.

#### Stage 4: Arbitration

- a. In the event that the Association is not satisfied with the Stage 3 decision, it may submit the grievance to arbitration by filing a demand for arbitration with the Board of Education and the American Arbitration Association

within fifteen (15) work days of the decision at Stage 3. The demand will also request that the American Arbitration Association submit a panel of arbitrators so that a single arbitrator may be selected by mutual agreement in accordance with the rules and regulations of the American Arbitration Association.

- b. The election to submit a grievance to arbitration shall automatically be a waiver of all other remedies or forums which otherwise could be available.
- c. By mutual agreement of the District and the Association, more than one grievance may be submitted to the same arbitrator.
- d. The arbitrator shall have no power or authority to make any decision which requires the commission of an act prohibited by law or in violation of the terms of this agreement.
- e. The arbitrator's award shall set forth findings of fact, reasons and conclusions on only that issue submitted for determination.
- f. The arbitrator shall have no power to alter, modify, add to, or subtract from the specific provisions of this agreement.
- g. The decision of the arbitrator shall be binding.
- h. The costs for the services of the arbitrator, including expenses, if any, will be borne equally by the Board of Education and the Association.

## **ARTICLE XVII**

### **Savings Clause**

If any provision of the agreement or any application of the agreement to any employee or group of employees shall be found contrary to law, then such provision or application shall not be deemed valid or subsisting, but all other provisions or applications of this Agreement will continue to be valid.

## **ARTICLE XVIII**

### **Duration of Agreement**

- A. This agreement shall be in effect commencing July 1, 2014, and terminate June 30, 2017

except as otherwise stated.

B. IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS, THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

C. Signatures

MARCUS WHITMAN CUSTODIAL MAINTENANCE & FOOD SERVICE EMPLOYEES ASSOCIATION

By: Earl T. Oberdorf  
Earl T. Oberdorf  
President

Dated: 12-9-14

GORHAM MIDDLESEX (MARCUS WHITMAN) CENTRAL SCHOOL DISTRICT

By: J. Clingerman  
Jeremy Clingerman  
Superintendent of Schools

Dated: 12/8/14

\*\*\*\*\*

The Marcus Whitman Central School District, Rushville, New York, does not discriminate on the basis of sex in the educational programs or activities which it operates, and it is required by Title IX of the Educational Amendments of 1972 not to discriminate in such a manner. This policy of non-discrimination includes the following areas: Recruitment and appointment of employees; employment pay and benefits; counseling services for students; access by students to educational programs, course offerings, and student activities.

The district official responsible for the coordination of activities relating to compliance with Title IX is Cheryl Wagner, Marcus Whitman Middle/High School, 585-554-4848. This official will provide information, including complaint procedures to any student or employee who feels that her or his rights under Title IX may have been violated by the district or its officials.

**APPENDIX A**

**DAY OFF NOTIFICATION FORM**

**for Marcus Whitman Custodial, Maintenance and Food Service Employees Association**

TO: Head Custodian or Supervisor

FROM: \_\_\_\_\_

*This is to notify you that I am using/have used* \_\_\_\_\_  
*Day(s) and Date(s)*

*as a (circle one):*

*Personal Day      Health Related Leave      Vacation      Comp. Day*

DATE SUBMITTED: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

## APPENDIX B

### WAIVER OF RIGHT TO ENROLL IN A HEALTH CARE PLAN OFFERED BY THE DISTRICT

**for Marcus Whitman Custodial, Maintenance and Food Service Employees Association**

On behalf of myself and my eligible dependents (if any), I acknowledge that the Gorham-Middlesex ("Marcus Whitman) Central School District has offered me the opportunity to enroll in its medical insurance plan (s) and I hereby waive enrollment in the employer/school district medical insurance plan(s) at this time for the following reason:

\_\_\_ I am covered under another plan as a spouse or a dependent

\_\_\_ I have coverage through a plan offered through an Exchange

\_\_\_ I am covered by Medicare, non-group, or a Veterans program

\_\_\_ I am covered under another plan sponsored by a second employer

In declining to participate in the employer/district medical insurance plan at this time due to other health coverage listed above, please provide the following information:

Print Subscriber Name: \_\_\_\_\_

Carrier Name: \_\_\_\_\_

Group/Policy Number: \_\_\_\_\_

Even though you are declining enrollment at this time, you will be able to enroll in the school district's medical insurance plan(s) during the plan(s)' future open enrollment periods if you remain eligible for insurance through the school district. In addition, you may be able to enroll at other times during the year if you experience a qualifying change in family status such as the birth or adoption of a child, a marriage or divorce, or the loss of other coverage.

I further understand that I may be entitled to an annual stipend based on my decision not to receive health benefit coverage from the school district, the details of which are described in the collective bargaining agreement between the Gorham-Middlesex ("Marcus Whitman) Central School District and the Marcus Whitman Custodian, Maintenance and Food Service Employees' Association.

Print Employee's Name: \_\_\_\_\_

Date: \_\_\_\_\_ Employee's Signature\*: \_\_\_\_\_

I affirm that the assertions made by me in this form are true and complete to the best of my knowledge.

Date: \_\_\_\_\_ Business Administrator's  
Signature: \_\_\_\_\_

**APPENDIX C**

**Marcus Whitman Central School District  
And the  
Marcus Whitman Custodial, Maintenance and Food Service Employees'  
Association**

**Acknowledgement Form**

As a result of the contract between the Marcus Whitman Central School District ("District) and the Marcus Whitman Custodial, Maintenance and Food Service Employees' Association ("Association"), a 403(b) plan is now available upon retirement to eligible Association members as provided for in Article VII (B) of the Agreement.

Under the provisions of the Employee Retirement Income Security Act (ERISA), the District has no fiduciary responsibility for this plan.

\_\_\_\_\_ I acknowledge that any decision that I make is a personal choice and the District is not party to the decision in any way.

\_\_\_\_\_ I acknowledge that some, part, or all of my investment choices may not be guaranteed and as a result, the value of my account, at some point, could be less than what I invested. The District is in no way responsible for the value of my account, it is solely my responsibility.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**APPENDIX D**  
**Marcus Whitman Central School District**                      **Que Centre**

Current Status: New

Requested By:

Assigned To:

Phone:

Service Area:

Extension:

Location:    Campus:  
                  Building:  
                  Floor:  
                  Room:

Date:  
Time:

Description:

Additional Info:

Comments:

Custom Fields:

Work Hours:

Inventory:

Procedures:

Equipment and Fixed Asset Info:

Employee:

Work Date:

Hours:

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

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

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

Problems: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## APPENDIX E

### Marcus Whitman Central School District Performance Evaluation Data Form Operations Maintenance Department

<b>Name</b>		
<b>Title</b>		
<b>Date</b>		
<b>Purpose of Review (circle one)</b>	Mid-Year Conference	EOY Evaluation

Review Criteria	Satisfactory	Needs Improvement	Comments
<i>Punctuality</i> – employee begins work at appointed time			
<i>Appearance</i> – neatness, cleanliness and grooming habits			
<i>Quality of Work</i> – accuracy, economy of time, neatness and thoroughness			
<i>Attitude</i> – accepts constructive criticism, interest in work, willingness to meet job demands			
<i>Accepts Responsibility</i> – work with minimum supervision, has initiative, self-starter			





## APPENDIX F

### Marcus Whitman Central School District Food Service Evaluation

Name \_\_\_\_\_

Building \_\_\_\_\_ Gorham

- 1 Unsatisfactory
- 2 Needs Improvement
- 3 Average
- 4 Above Average
- 5 Outstanding

#### EVALUATION ELEMENTS

1. Performs all assigned responsibilities
2. Quality of work
3. Neatness of work
4. Performs daily tasks effectively
5. Performs special assignments effectively
6. Organized and plans ahead
7. Uses equipment in a safe and appropriate manner
8. Conscientious about sanitation
9. Conscientious of cross contamination
10. Follows NYS health code requirements
11. Attendance
12. Reports to work on time
13. Reports to Manager in adequate time of needed time off
14. Considerate of students
15. Accepts constructive criticism
16. Follows instructions from supervisor
17. Works as a team with co-workers

18. As for help and or guidance when needed
19. Maintains confidentiality of student records
20. Personnel hygiene
21. General appearance
22. Takes the initiative
23. Communication to co-workers and management
24. Respectful of co-workers and manager
25. Adapts to new work situation
26. Self-Reliant

Additional Comments:

Employee Comments:

Employee signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisors signature \_\_\_\_\_ Date \_\_\_\_\_

## APPENDIX G

**HEALTH REIMBURSEMENT ARRANGEMENT:**  
**OPT OUT FORM/ALSO KNOWN AS/**  
**WAIVER OF HEALTH REIMBURSEMENT ARRANGEMENT (HRA)**

**for Marcus Whitman Custodial, Maintenance and Food Service Employees Association**

I, \_\_\_\_\_ (print name), acknowledge that I am eligible for receipt of the funds in a health reimbursement arrangement (HRA) by virtue of this benefit being in Article V, Medical Insurance, Section C (6) Health Reimbursement Arrangement in the collective bargaining agreement for a bargaining unit that includes me at the Gorham-Middlesex (Marcus Whitman) Central School District; and I am, by my signature below, opting out of the HRA and I waive and forego future HRA reimbursements.

Date: \_\_\_\_\_ Signature\*: \_\_\_\_\_

Date: \_\_\_\_\_ Business Administrator's  
Signature: \_\_\_\_\_

## APPENDIX H

### Time Sheet- Aides, Assistants, Clerical and Head Custodians

Name:		REGULAR WORK DAY
Position:		From _____ <input type="checkbox"/> AM <input type="checkbox"/> PM
		To _____ <input type="checkbox"/> AM <input type="checkbox"/> PM

*Please check the appropriate box: R= Regular; P=Personal; S=Sick; V=Vacation; Other = Conference, Workshop, Jury Duty, Snow Day.*

Day	Date	In Attendance (check)		Absent
		Full Day:	Portion of the day	If you check "other" please indicate a purpose (see examples above). Also note if using a portion of a personal, sick or vacation day.
MON		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
TUES		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
WED		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
THURS		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
FRI		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:

Day	Date	In Attendance (check)		Absent
		Full Day:	Portion of the day	If you check "other" please indicate a purpose (see examples above). Also note if using a portion of a personal, sick or vacation day.
MON		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
TUES		<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:

<b>WED</b>	<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
<b>THURS</b>	<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:
<b>FRI</b>	<input type="checkbox"/>	<input type="checkbox"/> 1/2	<input type="checkbox"/> P <input type="checkbox"/> S <input type="checkbox"/> V <input type="checkbox"/> Other:

*I, the employee, certify the information contained on this form is accurate and true.*

Employee' Signature ➤		Date ➤	
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