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#### Contract Database Metadata Elements

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

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BC/5557

# Agreement

between the

Marcus Whitman Central School District  
and the

Custodial, Maintenance  
&  
Food Service Employees  
Association



July 1, 2005 through June 30, 2010

**RECEIVED**  
NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD

AUG 10 2005

**ADMINISTRATION**

## Table of Contents

| <u>Article</u> |                                   | <u>Page Number</u> |
|----------------|-----------------------------------|--------------------|
| I              | Recognition                       | 3                  |
| II             | Negotiations Procedures           | 3                  |
| III            | Dues and Benefit Trust Deductions | 3                  |
| IV             | Leaves & Benefits                 | 4                  |
| V              | Salaries - Custodial Employees    | 9                  |
|                | Salaries - Food Service Employees | 11                 |
| VI             | Work Schedule                     | 13                 |
| VIII           | Seniority for Layoff and Recall   | 13                 |
| IX             | Promotions and Job Vacancies      | 15                 |
| X              | Training Sessions                 | 15                 |
| XI             | Health and Safety                 | 16                 |
| XII            | Personnel File                    | 16                 |
| XIII           | Evaluation                        | 16                 |
| XIV            | Discharge or Suspension Hearing   | 16                 |
| XV             | Grievance Procedure               | 18                 |
| XVI            | Duration of Agreement             | 23                 |

**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.

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. Examples of immediate family are a unit member's spouse, child, parent and/or other relatives.
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, 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, he or she must specify the reason for the absence (i.e.: personal illness, personal day).
9. In case of illness exceeding ten (10) days, a doctor's certificate will be furnished if requested by the Superintendent.

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 |

Employees will submit tentative vacation requests of more than two days by June 1 for the following fiscal year. 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. In the event that vacation scheduling results in understaffing, the Superintendent will meet with the President of the Association to resolve the problem. Employees will be allowed to carry over three (3) vacation days per year, never to exceed

more than three (3) days of eligibility.

Earned Vacation Pay

Any person employed after July 1, will receive one day of vacation pay pro-rated by working days in lieu of vacation.

Any person leaving employment before June 30th will receive vacation pro-rated by working days in lieu of vacation. This provision applies only to persons who have been employed longer than 12 months.

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 |                |

Custodians are given a choice of any six (6) of the following ten (10) 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.

|                             |                             |
|-----------------------------|-----------------------------|
| 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           | Memorial 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) work days, 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. Medical Insurance

1. Custodial and maintenance employees enrolled in the health insurance plan will pay five percent (5%) of the premium, by payroll deduction. Custodial and maintenance employees hired after July 1, 2005 will pay the following percentage:

| 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 |
|---------|---------|---------|---------|---------|
| 7%      | 7%      | 9%      | 9%      | 10%     |

Food service employees will pay two percent (2%) of the premium, by payroll deduction. Food service employees hired after July 1, 2005 will pay the following percentage:

| 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 |
|---------|---------|---------|---------|---------|
| 3%      | 3%      | 4%      | 4%      | 5%      |

2. The district agrees to administer flexible spending accounts for unit members for their benefit. The contributions for these accounts will be made by the individual employees in accordance with any applicable Federal and State Laws.
3. Unit Members will have all medical benefits which are no less than those available to other employees at Marcus Whitman Central School District. The current program is through the Non-Monroe County Health Consortium.
4. An eligible unit member may elect to opt out of the Medical Insurance Plan and that employee will be compensated \$1,500 for a family plan and \$750 for a single plan. The payment of this amount will be spread throughout the annual payroll period, or may be taken in lump sums of 50% in December and 50% in June of each year, or in one lump sum in June. If a member leaves the employ of the district then the payment will be pro rated for the time of employment.



This election to opt out will operate unless a qualifying event occurs under which the employee is eligible to rejoin the plan.

This election to opt out is made because the unit employee is eligible for duplicated coverage through a spouse or that the unit member is otherwise covered.

5. A unit member who works less than six (6) hours per day on a regular basis will receive one half (1/2) the medical insurance benefit with the required co-pay.
6. Dental Plan - The District will provide dental coverage for each employee who wishes to participate and the employee will pay fifty percent (50%) of the premium.
7. Section 105 Plan – The District agrees to establish a medical expenses reimbursement plan under Section 105 of the U.S. Internal Revenue Code for the benefit of unit members. Effective January to December each year, the District agrees to contribute \$200 to each full time unit member’s medical expense reimbursement account. Part-time employees will be pro-rated. Employees must work for the District for a year before the benefit takes effect. The District shall pay the cost of plan administration. The Plan shall allow unit members to carry/over any balance in their account into retirement.

K. 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.

L. 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.

M. Shoe Allowance

Unit members will receive a \$50 shoe allowance per school year for the purchase of appropriate footwear.

N. 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.

**ARTICLE V**  
**Salaries - Custodial Employees**

A. Extra Duty Assignments

| <b>Position</b>              | <b>2005-06</b> | <b>2006-07</b> | <b>2007-08</b> | <b>2008-09</b> | <b>2009-10</b> |
|------------------------------|----------------|----------------|----------------|----------------|----------------|
| Head Building Custodian      | \$2661         | \$2767         | \$2878         | \$2979         | \$3083         |
| Pool & Sewage Plant Operator | \$1446         | \$1505         | \$1564         | \$1619         | \$1676         |
| Senior Groundskeeper         | \$563          | \$586          | \$609          | \$630          | \$652          |

- B. The workweek for the employees under this agreement is based on a forty (40) hour week. The workweek runs from Thursday to Wednesday. 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.

Weekend overtime is to be assigned by head custodians in accordance with the current practice. No current practices are set out in a letter between the parties to accompany the agreement.

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).

- C. 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.

- D. Wage increases:

**Custodians**

1. 2005-06 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2004-05 school year.

2. 2006-07 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2005-06 school year.
3. 2007-08 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2006-07 school year.
4. 2008-09 school year - each returning unit member is to receive an increase of 3.5% over the basic hourly wage rate paid for the 2007-08 school year.
5. 2009-10 school year - each returning unit member is to receive an increase of 3.5% over the basic hourly wage rate paid for the 2008-09 school year.

If the CPI goes over or under 2% of settlement amount, the negotiations will be re-opened.

E. Shift Differential: the night differential is to be paid at the rate of 40¢ per hour of night differential work for the life of the agreement.

F. Minimum Entry Rates of Pay

|                               | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 |
|-------------------------------|---------|---------|---------|---------|---------|
| Custodial Supervisor          | \$13.16 | \$13.42 | \$13.69 | \$13.93 | \$14.17 |
| Cleaner                       | \$7.87  | \$8.03  | \$8.19  | \$8.33  | \$8.48  |
| Custodian                     | \$9.29  | \$9.48  | \$9.67  | \$9.84  | \$10.01 |
| Building Maintenance Worker   | \$10.15 | \$10.35 | \$10.56 | \$10.74 | \$10.93 |
| Building Maintenance Mechanic | \$16.42 | \$16.75 | \$17.09 | \$17.39 | \$17.69 |
| Groundskeeper                 | \$9.50  | \$9.69  | \$9.88  | \$10.08 | \$10.28 |
| Senior Groundskeeper          | \$11.88 | \$11.88 | \$11.88 | \$11.88 | \$11.88 |

G. 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) |

H. Retirement Incentive

A custodial/maintenance unit member will receive \$10,000 upon retirement if they have five (5) years of continual service with the District or at the Superintendent's discretion.

**ARTICLE V**

**Salaries - Food Service Employees**

**Food Service Workers**

A. Wage Increases

1. 2005-06 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2004-05 school year.
2. 2006-07 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2005-06 school year.
3. 2007-08 school year - each returning unit member is to receive an increase of 4% over the basic hourly wage rate paid for the 2006-07 school year.
4. 2008-09 school year - each returning unit member is to receive an increase of 3.5% over the basic hourly wage rate paid for the 2007-08 school year.
5. 2009-10 school year - each returning unit member is to receive an increase of 3.5% over the basic hourly wage rate paid for the 2008-09 school year.

If the CPI goes over or under 2% of settlement amount, the negotiations will be re-opened.

B. Special Event Pay - all special events to be paid as follows:

- 2005-06 school year: \$12.26 per hour.
- 2006-07 school year: \$12.75 per hour
- 2007-08 school year: \$13.26 per hour
- 2008-09 school year: \$13.72 per hour
- 2009-10 school year: \$14.20 per hour

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.

C. Food Service Workers Longevity - 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) |

D. Wage Increases

|                      | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 |
|----------------------|---------|---------|---------|---------|---------|
| Food Service Workers | \$7.19  | \$7.33  | \$7.48  | \$7.61  | \$7.74  |

E. Pay Differentials

Cashiers will receive 25¢ per hour additional pay, cooks will receive 50¢ per hour additional pay, and a head cook will receive 75¢ per hour additional pay upon successful completion of Civil Service test.

F. If any days of work are cancelled due to extreme winter conditions “snow day,” the District does not require that food service workers come to work and each food service worker 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.

G. Retirement Incentive

A food service worker will receive \$3,500 upon retirement if they have five (5) years of continual service with the District or at the Superintendent's discretion. Unit members must also work a minimum of four (4) hours per day or the amount will be pro-rated.

**ARTICLE VI**  
**Work Schedule**

A. Custodial

1. The normal working schedule during the academic school year will be as follows:  
Day Shift                      7:00 a.m. to 3:30 p.m.  
Evening Shift                 3:00 p.m. to 11:30 p.m.
2. Before the District changes the normal working schedule for custodians or cleaners it will discuss the proposed change with Association representatives.
3. 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.
4. 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.
5. 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 Assistant Superintendent, except in a case where the Assistant Superintendent is unavailable and in that case, the work must have the approval of the Building Principal.
6. 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.

**ARTICLE VIII**  
**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 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 permanent a part-time employee to displace a full-time employee. (A full-time employee shall be an employee regularly working 20 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 retired 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 IX**

### **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 X**

### **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 XI**  
**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 XII**  
**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 XIII**  
**Evaluation**

- A. Custodial Employees  
A committee is established to be composed of two (2) persons appointed by the Superintendent and two (2) persons appointed by the Association President. This committee is to design a form for evaluation of unit members and a procedure for evaluation such that it is operable and functioning by July 1, 1994.
- B. Food Service Employees  
The parties agree that the form currently being used (May, 1997) to evaluate food service workers will continue to be used for the life of the agreement.

**ARTICLE XIV**  
**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
  - 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 decision will be determined by a committee comprised of the Superintendent, or his designee, unit member representative and outside representative.

## **ARTICLE XV**

### **Grievance Procedure**

#### Section I - 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 II - 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.
- 2.3. The Chief Executive Officer is the Superintendent of the district.
- 2.4. Association shall mean any non-teaching association.
- 2.5. Aggrieved Party shall mean any person or group of persons in the negotiating unit filing a grievance.
- 2.6. Party in Interest shall mean the Grievance Committee of the Association and any party named in a grievance who is not the aggrieved party.
- 2.7. Grievance Committee is the committee created and constituted by any non-teaching employees' association.
- 2.8. Hearing Officer shall mean any individual or board charged with the duty of rendering decisions at any stage on grievance here under.

#### Section III - Procedures

- 3.1. All grievances shall include the name and position of the aggrieved party, the identity of the provision of law, 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 Board of Education 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. Except as otherwise provided in Articles 5.1A and 5.1B, an aggrieved party and any party in interest shall have the right at all stages of a grievance to confront and cross examine all witnesses called against him, to testify and to call witnesses on his own behalf, and to be furnished with a copy of any minutes of the proceedings made at each and every stage of this grievance procedure.
- 3.7. 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.
- 3.8. Forms for filing grievances, serving notices, taking appeals, and making reports and recommendations, and other necessary documents will be jointly developed by the Board and the Association. The Chief Executive Officer shall then have them printed and distributed so as to facilitate operation of the grievance procedure.
- 3.9. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
- 3.10. 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.

- 3.11. 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.
- 3.12. 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 form.

#### Section IV - 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 written grievance is forwarded at the first available stage within sixty (60) work days 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.
- 4.5. In the event a grievance is filed on or after June 1, upon request by or on behalf of the aggrieved party, the time limits set forth herein will be reduced pro rata so that the grievance procedure may be exhausted prior to the end of the school year or as soon thereafter as is possible.

5.1. Stage 1: Supervisor/Building Principal

- a. An employee having a grievance will discuss it with his supervisor/ building principal, either directly or through a representative, with the objective of resolving the matter informally. The supervisor/ building principal, will confer with all parties in interest but, in arriving at his decision, will not consider any material or statements offered by or on behalf of any such party

in interest with whom consultation has been had without the aggrieved party or his representative present. 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/building principal. Within five (5) work days after the written grievance is presented to him, the supervisor/building principal, shall, without any further consultation with the aggrieved party or any party in interest, render a decision thereon, in writing, and present it to the employee, his representative and the Association.

5.2 Stage 2: Superintendent

- a. If the employee initiating the grievance is not satisfied with the written decision at the conclusion of Stage 1 and wished to proceed further under this grievance procedure, the employee shall, within five (5) work days, present the grievance to the Association's Grievance Committee for its consideration.
- b. If the Grievance Committee determines that the employee has meritorious grievance, then it will file a written appeal of the decision at Stage 1 with the

Superintendent within twenty (20) work days after the employee has received such written decision. Copies of the written decision at Stage 1 shall be submitted with the appeal.

- c. Within five (5) work days after receipt of the appeal, the Superintendent, or his duly authorized representative, shall hold a hearing with the employee and the Grievance Committee or its representative and all other parties in interest.
- d. The Superintendent shall render a decision in writing to the employee, the Grievance Committee and its representative within five (5) work days after the conclusion of the hearing.

### 5.3 Stage 3: Board of Education

- a. If the employee and the Association are not satisfied with the decision at Stage 2, the Grievance Committee will file an appeal in writing with the Board of Education within fifteen (15) work days after receiving the decision at Stage 2.
- b. Within ten (10) days after receipt of an appeal the Board of Education shall hold a hearing on the grievance. The hearing shall be conducted in executive session.
- c. Within fifteen (15) work days after the conclusion of the hearing, the Board of Education shall render a decision, in writing, on the grievance.

### 5.4 Stage 4: Arbitration

- a. After such hearing, if the employee and/or Association are not satisfied with the decision at Stage 3, and the Association determines that the grievance is meritorious and that appealing it is in the best interests of the school system, it may submit the grievance to arbitration by written notice to the Board of Education and the American Arbitration Association within fifteen (15) work days of the decision at Stage 3.
- 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 of law 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.

NOTE: If any non-teaching employee is not a member of an association he may have the same rights as an employee who is a member of an association. He may proceed through the same stages with or without the assistance of an association.

**ARTICLE XVI**  
**Duration of Agreement**

- A. This agreement shall be in effect commencing July 1, 2005, and terminate June 30, 2010 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

Dated: June 27, 2005

By: Helen N. Payne

Dated: June 27, 2005

MARCUS WHITMAN CENTRAL SCHOOL DISTRICT

By: Keith R. Eddinger  
Keith R. Eddinger – Superintendent of Schools

Dated: June 27, 2005

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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 Cathleen K. Milliman, 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.



