

This agreement entered into this 4th day of December 2006, by and between the New Buffalo Educational Personnel Association (MEA/NEA), as hereinafter referred to as the Union, and the Board of Education of the New Buffalo Area Schools, hereinafter referred to as the Board or the Employer.

In consideration of the following mutual covenants, it is hereby agreed as follows:

**ARTICLE I -- PURPOSE AND INTENT**

- A. This Agreement is negotiated pursuant to Act 379, Public Acts of the State of Michigan of 1965, to establish the wages, hours, terms, and conditions of employment for the members of the bargaining unit herein defined.
- B. This Agreement shall constitute a binding obligation of both the Employer and Union and for the duration hereof may be altered, changed, added to, deleted from, or modified only through the voluntary, mutual consent of these parties in written and signed amendment to the Agreement.
- C. This Agreement shall supersede and have precedence over any rules, regulations, or practices of the Employer which shall be contrary to or inconsistent with its terms. The provisions of this Agreement shall be incorporated into and be considered part of the established practices of the Employer.
- D. The Employer and the Union recognize the importance of orderly and peaceful labor relations for the mutual interest and benefit of the Employer, Employees, and the Union. The employer and the Union further recognize the mutual benefits of resolution of disputes which may arise as proper interpretation and implementation of this Agreement.

**ARTICLE II -- RECOGNITION**

- A. The employer recognizes the New Buffalo Educational Personnel Association, an affiliate of the Michigan Education Association and the National Education Association, as the sole and exclusive bargaining representative for the purpose of and as defined in the Public Employment Relations Act, as amended, MCLA 423.201 et seq.; MSA 17.455(1) et seq., ("PERA"), for all full-time and regular part-time custodial/maintenance, bus drivers, mechanic, food service, clerical/secretarial, EMT and aide employees excluding bookkeeper/secretary, assistant bookkeeper, supervisors, substitutes, and all other employees.

B. Unless otherwise indicated, use of the term "employee" when used hereinafter in this Agreement shall refer to all members of the above defined bargaining unit. Within the various classifications of employees covered herein, there shall be the following categories:

1. Full-time: An employee who is regularly scheduled to work 40 hours per week or more.
2. Part-time: An employee who is regularly scheduled to work less than 40 hours per week.
3. Probationary: An employee who is employed to fill a full-time or part-time position for a trial period of 240 working hours in that position.
4. School year employees: An employee whose employment follows the school calendar of 170 to 185 days.
5. Full-year employees: An employee who is employed to work on a twelve (12) month basis.

### **ARTICLE III -- BOARD'S RIGHTS**

A. Reserved exclusively to the Board are all responsibilities, powers, rights, and authority vested in it by the laws and Constitutions of the State of Michigan and of the United States or which have been heretofore properly exercised by it, excepting where expressly and in specific terms limited by the provisions of this Agreement.

B. It is agreed that the Board hereby retains and reserves unto itself, without limitation, all the powers, rights, and authority which ordinarily vest in and have been exercised by the Board, except those which are clearly and expressly relinquished herein by the Board, or those things covered by applicable law. These rights include, by way of illustration and not by way of limitation, the right to:

1. Establish policies, manage and control the school district, its facilities, equipment, and its operations and to direct its working forces and affairs.
2. Continue its policies and practices of assignment and direction of its personnel, determine the number of personnel, and the scheduling of all personnel.

3. Hire all employees and, subject to the provisions of law, determine their qualifications, and the conditions of their continued employment or their dismissal, discipline, or demotion and to promote, assign, transfer, and lay off employees.
4. Determine the services, supplies, and equipment necessary to continue its operations.
5. Determine the numbers and location or relocation of its facilities and work stations and bus routes.
6. Adopt rules and regulations, as long as they are not inconsistent with this Agreement or law.
7. Determine the financial policies, including all accounting procedures.
8. Determine the size of the administrative organization, its functions, authority, amount of supervision, and structure of organization.

C. Contract Interpretation:

In the event of a claim of misinterpretation or misapplication of this Agreement, the integrity of the Board's rights as delineated in this Article shall be preserved.

D. Limitation on Board Rights:

The exercise of the above powers, rights, and authority by the Employer and the adoption of policies, rules, and regulations shall be limited only by the express terms of this Agreement.

#### **ARTICLE IV -- SENIORITY**

- A. An employee's seniority shall date from such employee's most recent starting date of employment within the bargaining unit described in Article II - Recognition. If more than one employee has the same date of hire, position on the seniority list shall be determined by drawing lots.
- B. The Employer shall annually (by November 1) provide to the Union a list of the employees arranged in order of their seniority. The Union shall have thirty (30) calendar days after receipt of said list to make any objection regarding the accuracy of the list. Absent such objection, the Employer's list shall be conclusive.

C. For purposes of this Agreement, all employees shall be placed in one of the following classifications based on their current assignments:

1. Bus driver
2. Lunch aide
3. Food service
4. Custodian
5. Secretary/Clerk
6. Mechanic
7. Library/Classroom aide
8. Maintenance
9. E.M.T./CLERK

(It is agreed by both parties that Cindy Spriggs will retain seniority as a secretary/clerk.)

10. Recreation Aide
11. Technology Aide

D. Seniority shall be lost by an Employee upon termination, resignation, retirement or transfer to a non-bargaining unit position.

#### **ARTICLE V -- GRIEVANCE**

A. Dispute Definition and Process: A grievance shall be defined as any dispute regarding the meaning, interpretation or application of the terms and provisions of this Agreement. Written grievances as required herein shall contain the following:

1. It shall be signed;
2. It shall contain an explanation of the facts giving rise to the alleged violation;
3. It shall cite the section or subsections of this contract alleged to have been violated;
4. It shall contain the date of the alleged violation;
5. It shall specify the relief requested.

The Employer shall not be obligated to process formal grievances which are not in compliance with the above standards. Should the Employer reject a grievance on this basis, it shall give written notification to the involved employee and Union steward stating what standard is not in compliance and allowing the grievance to be resubmitted within the time lines.

- B. Informal Step: If an employee or the Union believes there is a grievance, the matter shall first be discussed with the supervisor within ten (10) days after the occurrence of the event upon which the grievance is based. It shall be the objective of both parties to resolve the matter in this manner.
- C. First Step: If the matter is not resolved at the informal step above, the grievant shall submit the grievance, in writing, to the supervisor within five (5) days after the informal process has been completed. The supervisor will respond in writing within ten (10) days.
- D. Second Step: Those grievances which have not been settled in the First Step and are to be appealed to the Second Step shall be submitted in writing to the Superintendent within ten (10) school days after the completion of Step 1, and shall state the facts upon which the grievance is based, when they occurred, and shall be signed by the employee who is filing the grievance or an officer of the Union when the Union is filing the grievance. The Superintendent or designee shall meet with the grievant and/or Union representative or representatives within five (5) school days after receipt of the grievance to consider the grievance. The Superintendent shall give a written answer to the aggrieved employee and/or the Union representative or representatives within twenty (20) calendar days after the date of this meeting. If the answer is mutually satisfactory, the grievant shall so indicate on the grievance form and sign it with two (2) copies of the grievance thus settled retained by the Union and one (1) by the Superintendent.
- E. Process to Arbitration: If the grievance has not been settled in the Second Step, the Union representative or representatives and not the individual grievant may process a grievance to arbitration provided such submission is made within twenty (20) calendar days after receipt of the Second Step answer.
1. All matters submitted to arbitration shall be submitted to the American Arbitration Union in accordance with its Voluntary Rules and Regulations then obtaining within the time specified above and such rules shall govern the arbitration hearing.
- F. Arbitration: It shall be the function of the arbitrator, and he/she shall be empowered, except as his/her powers are limited below, after due investigations to make a decision in cases of alleged violation of the specific articles and sections of this Agreement.
1. The arbitrator shall have no power to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.
  2. The arbitrator shall have no power to establish salary scales.
  3. The arbitrator shall have no power to rule on any of the following:

- a. The termination of services of any probationary employee.
- b. Any claim or complaint for which there is a procedure pending in any forum established by law.
- c. Any matter involving the content of an evaluation, unless it is a claim of failure to follow contract procedures.

The arbitrator shall have no power to change any practice, policy, or rule of the Employer nor to substitute his/her judgment for that of the Employer as to the reasonableness of any such practice, policy, rule, or any action taken by the Employer. The arbitrator's power shall be limited to deciding whether the Employer has violated the expressed articles or sections of this Agreement; and he/she shall not imply obligations and conditions binding upon the employer from this Agreement, it being understood that any matter not specifically set forth herein remains within the reserved rights of the Employer.

The arbitrator shall have no power to decide any question which, under this Agreement, is within the responsibility of the Employer to decide, except as it may be specifically conditioned by this Agreement.

There shall be no appeal from an arbitrator's decision if made within the scope of his/her authority as set forth above. It shall be final and binding on the Union, its members, the employee or employees involved, and the Employer, and either party may seek to enforce the decision in a court of competent jurisdiction.

Grievances which are not appealed within the time limits specified in the above grievance procedure shall be considered to be withdrawn by the grievant and/or Union. Failure of any Employer representative to respond at any level within the time lines specified shall enable the Union to move to the next level at the grievance procedure within the designated time lines.

"Days" shall be defined as days the Administrative Office is open. Processing of all grievances shall take place after school hours.

The Board will only reimburse the union one-half (1/2) the cost of any arbitration process that results in a decision when more than half of the issues are decided against the district.

- G. Meeting Guidelines: The presentation and discussion of grievances provided for in this Article shall take place outside of the regular school hours, except during the first step of this procedure which will be held during school hours so long as all persons involved could so meet without interference with their assigned duties. This

provision does not apply to an arbitration hearing. Such procedures shall remain confidential unless subject to the Freedom of Information Act or applicable law.

- H. Disclosure: Neither the Employer nor the Union shall be permitted to assert in arbitration any ground or to rely on any evidence not previously disclosed to the other party.

## **ARTICLE VI -- UNION RIGHTS**

- A. Rights: The Union and its representatives shall have the right to use Employer buildings at reasonable hours for meetings in accordance with the Employer's building use policy.
- B. Representatives: Duly authorized representatives of the Union shall be permitted to transact official Union business on Employer property at reasonable times provided that this shall not interfere with or interrupt normal operations. Such representatives who are not District employees shall sign in - sign out at the Superintendent's office.
- C. Notices: The Union shall have the right to post notices of activities and matters of Union concern on a designated bulletin board which are not disruptive and do not interfere with the work of the employees. Union representatives may place Union materials in the employee mailboxes.
- D. Use of Employer Equipment: The Union may use the Employer's equipment at reasonable times when such equipment is not otherwise in use. The Union shall pay for the reasonable cost of all materials and supplies incident to such use.
- E. Leave for Union Business: The Union shall be allowed to use up to six (6) days per year for Union business. Up to three (3) employees per day may use Union business leave. Union business shall not include picketing or organizing any school district or other employer. The Union shall reimburse the district for the employee's wages for such leave days.

## **ARTICLE VII -- DISCIPLINE OF EMPLOYEES**

- A. Discipline Defined; Probation and Seniority: After completion of the probationary period, no seniority employee shall be disciplined or discharged without just cause. The term "discipline" as used in this Agreement includes warnings, reprimands, suspensions without pay, or discharges. Written notification of dismissal, suspension,

or other disciplinary action shall be provided to the employee within three (3) days of the discipline.

- B. Union Representative: An employee shall be entitled to have present a Union representative during any meeting which will lead or may lead to disciplinary action by the Employer. When a request for such representation is made, no action shall be taken with respect to the employee until such Union representative is present, provided a delay of not more than one (1) working day shall result. Should disciplinary action be likely to occur at a given meeting, the employee shall be advised immediately of said possibility and be advised by the Employer of the right to representation under this provision of the Agreement.

### **ARTICLE VIII -- VACANCIES, PROMOTIONS, AND TRANSFERS**

- A. Vacancy: A vacancy shall be defined as a newly-created position or position vacated by resignation, retirement, or termination that the Board intends to fill.
- B. Posting Vacancies: All vacancies shall be posted in a conspicuous place in each building of the district for a period of five (5) work days. Said posting shall contain the following information:
1. Type of work
  2. Location of work
  3. Starting date
  4. Rate of pay
  5. Hours to be worked
  6. Classification
  7. Minimum requirements
- C. Permanent Vacancies: Permanent vacancies shall be filled with qualified personnel. The Employer declares its intent to give consideration to present employees including the employees' length of service and job performance.
- D. Temporary Assignments: Any bargaining unit employee who temporarily assumes the duties of another bargaining unit employee for sixty (60) days or less will be paid the regular rate for those duties. An employee's pay rate shall not be reduced as the result of any temporary change in duties.
- E. Involuntary Transfer: Prior to an involuntary transfer, the Superintendent shall have a conference with the employee as to the rationale for such transfer.



- F. Involuntary Transfer/Salary Adjustments: An employee shall not be placed on a lower step/wage due to an involuntary transfer for sixty (60) calendar days. Thereafter, salary adjustments shall be instituted based on the new classification. An employee shall have the right to grieve an involuntary transfer.
  
- G. Summer Vacancies: If a vacancy occurs during the summer months (June, July, August), the Employer shall give notice of same to the local Union President via U.S. mail or hand delivery.
  
- H. Promotion or Transfer: In the event of promotion in or transfer from one classification to another, the employee shall be given a thirty (30) workday trial in which to show his/her ability to perform on the new job. If the employee is unable to demonstrate ability, as determined by the Employer, perform the work required during the trial period, or at the option of the affected employee, the employee shall be returned to his/her previous assignment.

## **ARTICLE IX -- WORKING CONDITIONS**

- A. Job Descriptions: Job descriptions will include, at a minimum:
  - 1. Job title and description.
  - 2. Minimum requirements.
  - 3. A specific statement of required tasks and responsibilities.
  
- B. Compensation: The basic compensation of each employee shall be as set forth in Appendix "B." There shall be no deviation from said compensation rates during the life of this Agreement.
  
- C. Overtime: The following conditions shall apply to all overtime worked:
  - 1. Time and one-half will be paid for all hours worked over forty (40) hours in one (1) week or hours worked on Sundays and holidays.
  - 2. Compensatory time off at a rate of time and one-half may be given instead of overtime pay if mutually agreeable to the Employer and the employee.
  - 3. For the position of Recreation Aide, the person shall not receive overtime compensation unless the individual exceeds 40 hours in one week.

- D. Work Schedules: The supervisor of each classified area shall set the daily and weekly work schedule with the Superintendent's approval. Bus routes are assigned by the transportation supervisor, as are field trips, subject to the provisions of Article XVI. No overtime is permitted without the approval of the Superintendent.
- E. Work Breaks and Lunch: One fifteen (15) minute relief period may be taken for each four (4) full-hours worked subject to supervisor's approval as to the time of such breaks. Employees working four (4) or more hours shall generally have thirty (30) minute unpaid duty free lunch period absent extenuating circumstances.
- F. Emergency Call-In: The minimum call-in for emergency situations shall be two (2) hours.
- G. Discipline of Students: The Employer shall assist employees with respect to the maintenance of control and discipline of students in the employees assigned work area based on Board policy and administrative guidelines.
- H. Emergency Closing and Snow Days: Custodial/maintenance employees and secretaries who work on days which school is closed for emergencies shall be paid for such days. School year employees who do not work on snow days and who do not qualify for vacation benefits, shall be compensated their regularly scheduled hours for canceled work days due to weather. However, if days are required to be made up, the employees compensated under this provision shall work without additional compensation.  
  
Custodial, maintenance, and secretaries who work shall be paid for those days as follows:
  - 1. Full day closing: paid for the number of hours worked only.
  - 2. Partial day closing: paid for full day if sent home by supervisor; otherwise, paid for the number of hours worked only.
- I. Fingerprinting: The Board will pay for any cost associated with fingerprinting or criminal background checks for any current bargaining unit member.

## **ARTICLE X -- VACATIONS AND HOLIDAYS**

- A. Vacation Credit: An employee must be employed full-time for a full-year (consecutive period of twelve (12) months;) to accumulate vacation credit. After one year, an employee is entitled to one week vacation with pay; after two years, two weeks vacation with pay; after five years, three weeks vacation with pay; and after 15 years, four weeks of vacation. For the purposes of implementing this section, the NBEPA and NBAS agree to continue to use the spring vacation selection period, i.e., allowing the

most senior employees to select first. In addition, an employee who will achieve an anniversary year which grants more vacation credit during the next school year, July 1 – June 30, shall request the additional week in the spring selection period. However, the additional week cannot be used until after the employee's anniversary date of hire per the posted seniority list. Vacation time is not cumulative, and persons terminating their employment for any reason shall not be compensated for unused vacation time. Vacation should be scheduled only when school is not in session. Vacation time must be requested in advance to the supervisor. Final approval for vacation time rests with the Superintendent. The Superintendent is not required to grant vacation leave to more than one employee per classification at any given time. In the event an employee is or has been on an unpaid leave of absence vacations shall be pro-rated.

Not more than one half of a person's vacation may be used while school is in session; however, not the last two weeks of school or the week after school ends and not during the full week prior to the start of school or the first week of school. (In the event the school calendar has not been established for the next school year, corresponding dates of the current year calendar shall be utilized.) Vacation shall be selected from July 1 to June 30.

For full time school year employees who work 40 or more weeks, will earn vacation credit as follows: after one calendar year, 3 days; after two calendar years, six days; and, after five calendar years, 10 days of paid vacation. This is not paid release time. The employee will be compensated per the above during regularly scheduled non-work time.

- B. Holiday Pay, Probationary Period: No employee shall be paid for any holiday until after the 240 hours probationary period is completed. Employees shall be paid holiday pay based on their regularly scheduled hours. An employee qualified to receive holiday pay must be present for work the full-shift on the workday preceding and the workday after the holiday, except when an absence is due to a death in the immediate family or the employee is on a paid leave. Holidays that occur during a vacation period for 52-week employees will be paid holidays.
  
- C. Paid Holidays: Employees shall be granted paid holidays as indicated below, provided that school is not scheduled for students on that day.
  - 1. Full-year employees: Great Americans' Day, Good Friday afternoon, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day following Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve Day, and New Year's Day.

2. School-year employees: Great Americans' Day\*, Good Friday afternoon, Memorial Day, Labor Day, Thanksgiving Day, the day following Thanksgiving, Christmas Day, New Year's Eve Day (effective for the 2008-09 school year) and New Year's Day.

\*In the event school is in session on Great Americans' Day, either an alternative paid holiday will be determined or bargaining unit members shall receive holiday pay in addition to regular pay for that day.

- D. Good Friday: Employees covered under this contract shall receive one-half of their regularly scheduled Friday hours. Bus drivers and food personnel will work as needed and receive one-half of their regularly scheduled Friday hours. When Good Friday falls during spring break, all personnel covered by this agreement, subject to Article X – Section B, shall receive one-half of their regularly scheduled Friday hours.

## ARTICLE XI -- LEAVES

### A. Paid leaves:

#### 1. Sick and Funeral Leave:

- a. Sick leave: Sick Leave may be used only for personal illness or illness in the immediate family: mother, father, spouse, children, relatives living in the same household, grandparents, or grandchildren. The employee must notify his/her supervisor when he/she is going to be absent as early as possible before the absence.
- b. Funeral Leave: Employees will be granted up to five (5) days' absence due to death in the immediate family. Immediate family shall be defined as spouse, mother, father, children, siblings, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandparents, grandchildren, and relatives living in the same household or other funeral with permission of the Superintendent. These days shall not be discounted from sick leave and shall not be accumulative.
- c. Sick Leave and Funeral Leave Form: The employee shall complete a form prepared by the Central Office indicating the reason for taking his/her sick days. Sick days and hours will be rounded to the nearest tenth to coincide with computer record keeping.

d. Number of Days Available:

1. Full-Year Employees: One (1) day/month, granted on July 1, twelve days/year accumulative to one hundred fifty (150) days maximum.
  2. All School-Year Employees: One (1) day/month, granted on July 1 of each year, ten (10) days/year, accumulative to one hundred fifty (150) days maximum.
  3. Accumulated Credit: The Employer shall furnish each employee with a written statement at the beginning of each school year setting forth total accumulated sick leave credit.
  4. New Employee Credit: New employees will earn one (1) day per month, beginning with the first day of the month. New employees could then use an earned day on or after the first of the next month. After one year of employment and, at the beginning of the next fiscal year (July 1), the employee will be granted the days per one and two above. An employee hired after the beginning of the year who works six or more months in the preceding year, would be given their days on July 1.
  5. Compensation, Accumulated Sick Leave, Retirement: Employees retiring after fifteen (15) or more years of service at New Buffalo Area Schools, shall receive \$25 per day of accumulated sick leave to a maximum of \$1,250.
- e. Personal Illness (Incapacity to Work): Doctor verification of illness may be required by the Board for any illnesses lasting five (5) consecutive working days or more, or whenever a pattern of absences raises the suspicion of abuse.
- f. Workers' Compensation: If an employee is released from work by a physician due to a work related injury or health condition, he or she shall immediately, in writing, choose one of the following:
1. The employee may agree to terminate sick pay pending their eligibility for worker's compensation benefits. If the employee is determined to not be eligible, he or she may use accrued sick leave benefits and will be compensated accordingly in the next scheduled pay period.

2. The employee may choose to use accrued sick days pending notification. If the employee is eligible for workers' compensation, he or she will have to repay the district all compensation received and the sick days would be restored.

2. Personal Days: Employees who work 21 or more hours per week will receive two (2) personal business days per year in addition to sick leave benefits. Employees working less than 21 hours per week may continue to take two (2) personal business days per year which will be subtracted from accumulated sick leave.

a. Use of Personal Business Day: A personal business day may be used at the discretion of the employee except that personal business days shall not be used for any type of recreational pursuit, and the day prior to or the day following a vacation period or holiday, except with permission of the Superintendent.

b. Written Notification: Written notification of a business leave request shall be submitted to the Superintendent using the form prepared by the school five (5) days in advance of the intended absence, except in an emergency.

c. Approval: All leaves granted for personal business shall be subject to the approval of the Superintendent of Schools prior to their being granted.

3. Jury Duty: The Board will pay the difference between regular compensation loss and jury duty pay, excluding mileage, received from the court by any employee required to serve as a juror during regularly assigned work time. An employee is expected to report for regular school duty when temporarily or permanently excused from attendance at court.

#### B. Unpaid Leaves:

1. Written Authorization: A leave of absence is a written authorized absence from work for not more than one (1) year at a time and without pay. A leave shall be granted, denied, or extended in the sole discretion of the Superintendent upon written request for such leave by the employee who shall state the reason for the leave upon the application. Only employees who have one or more years of seniority may be granted a leave of absence.

2. Extensions: Any extensions shall be submitted in writing to the Superintendent prior to the expiration of the time requested.
3. Due to Illness: Leaves requested due to illness must be accompanied by a physician's certificate that the employee is unable to work and the reason(s) therefore. Physicians' statements shall be by a medical doctor (M.D.) or a doctor of osteopathy (D.O.). The Employer shall have the right to independent medical verification (at the Employer's expense) before the employee is permitted to return to work or may allow verification from the employee's physician. Renewal of leave shall be at the discretion of the Employer.
4. Date Notification: All leave requests shall state the exact date on which the leave is requested to commence and the anticipated date on which the employee is to return to work, subject to approval of the Employer. At least thirty (30) days prior to the date a leave is scheduled to expire, an employee shall notify the Employer of the intent to return to work.
5. During an Unpaid Leave of Absence:
  - a. The employee may not seek work elsewhere unless agreed to by the employer;
  - b. The employee must take the leave for the reason so stated on the application;
  - c. The employee shall not return to work prior to the expiration of said employee's leave unless otherwise agreed to by the Employer; and
  - d. The employee shall return to work from a leave on the exact date scheduled.

Failure to comply with the above may lead to disciplinary action.

6. Seniority: An employee on an unpaid leave shall neither gain nor lose seniority.
7. Returning to Work: An employee returning from a leave of absence shall be placed at the experience (pay) level appropriate to their seniority.
8. Military Leave: Military and National Guard leave shall be granted in accordance with state and federal law.
9. Filling the Position on a Temporary Basis: Positions held by an employee on an unpaid leave shall be filled on a temporary basis at the Employer's discretion.

10. Reinstatement: Employees returning from an unpaid leave shall be reinstated to the same position and classification held when the leave began subject to the layoff and recall provisions.

C. Family and Medical Leave Act: Pursuant to the Family and Medical Leave Act of 1993, as amended, the Employer shall abide by the provisions of the Act and shall provide leave for the following situations:

1. Birth, adoption, or foster care placement of an employee's child;
2. Serious health condition of an employee's spouse, child, or parent;
3. The employee's own serious health condition.

All leaves shall be granted only in accordance with the provisions of the federal law. Eligibility for FMLA leave shall be determined on a previous twelve (12) month basis beginning with the date the leave begins. An employee requesting leave under the Act must do so in writing within five (5) days on a form provided by the superintendent's office unless prevented by circumstances beyond the control of the employee.

This Family and Medical Leave section is not intended to interfere with the use of any other leave provision within this Article and shall include both paid and unpaid leave. Employees must use all paid leave that may be available before using unpaid leave. Any employee who wishes to request a Family and Medical Leave, will be granted such a leave of absence in accordance with Federal requirements.

D. Posting: The job of an employee will be posted for bidding when the employee has been on a paid or unpaid leave for twelve (12) consecutive weeks. An employee returning from leave after twelve (12) weeks will be returned to his/her prior job and the employee who is displaced shall be allowed to bump a less senior employee within the classification.

## **ARTICLE XII -- EMPLOYEE EVALUATION**

A. Process Times: Each classified position has a job description, and each employee is given a copy upon beginning employment. Annually, employees shall be provided a copy of their job description and the evaluation instrument. Employees shall be evaluated annually during the first two (2) years of employment. During the third year of employment and each year thereafter, employees shall be evaluated at least once every two (2) years.



- B. Reviewing Contents of Evaluation File: Each employee may request to review the contents of his evaluation file. Each employee will be evaluated in writing by their direct supervisor or a qualified individual.
  
- C. Written Final Evaluation: All evaluations shall be reduced to writing and a copy given to the employee within ten (10) days of the completion of the final evaluation. If the employee disagrees with the evaluation, he/she may submit a written response which shall be attached to the file copy of the evaluation in question within ten (10) days of being provided a copy of the evaluation. If the supervisor believes an employee is doing unacceptable work, the reasons therefore shall be set forth in specific terms. A Plan of Improvement shall be provided as per Board of Education policy.
  
- D. Signatures: Following each formal evaluation, which shall include a conference with the evaluator, the employee shall sign and be given a copy of the evaluation report prepared by the evaluator. In no case shall the employee's signature be construed to mean that he/she necessarily agrees with the contents of the evaluation. All written evaluations are to be placed in the employee's personnel file. At the completion of the probationary period, an evaluation of the employee's work shall be completed following the procedures of this provision.
  
- E. Non-Renewal: In the event a non-probationary employee is not continued in employment, the Employer shall advise the employee of the specific reasons therefore in writing.

### **ARTICLE XIII -- LAYOFF AND RECALL**

- A. Layoff: "Layoff" shall be defined as necessary reduction in the work force.
  
- B. Compensation and Benefits: If the Employer determines to lay off employees, it shall have the right to reduce the number of employees or employee hours or to eliminate positions. Compensation and fringe benefits shall be suspended during any period of layoff. Employees shall be provided a twenty-one (21) calendar day notification of the intent to layoff absent extenuating circumstances. Employees who collect unemployment compensation during regular school breaks shall reimburse the Employer for any unemployment compensation received if the employee is recalled and returns to their regularly scheduled work calendar after the regular school break has ended.

- C. Order of Layoff: Employees shall be laid off within a classification in the following order provided there are more senior qualified employees in the classification.
1. Probationary employees.
  2. Employees shall be laid off and recalled according to their seniority in classification. An employee on scheduled layoff shall have the right to displace a lesser seniority person in the same classification or in another classification provided the more senior employee is qualified to perform the duties of the position. An employee's job which is eliminated shall have the same rights as if being laid off.
- D. Recall from Layoff, Seniority: The most senior employee in the classification shall be recalled first, provided that the employee is qualified to perform the duties of the position to be filled. If the employee shall fail to report for work within five (5) days from the date of receipt of the notice of recall sent via registered mail or personal service, unless an extension is granted in writing by the Employer, the employee shall be considered a voluntary quit and shall automatically terminate his employment relationship with the Employer. The obligation of the Employer to recall a laid off employee shall terminate three (3) years following layoff. New employees shall not be hired while there are qualified laid off employees for vacancy or a newly-created position.
- E. Seniority, COBRA: A laid off employee shall neither accrue nor lose seniority during any period of layoff. Employer paid insurance benefits shall continue until the end of the month during which layoff occurred. Employees on lay off may continue insurance benefits consistent with COBRA.
- F. Change of Address: It shall be the responsibility of each employee to notify the Employer of any change of address. The address, as it appears on the Employer's record, shall be conclusive.
- G. Substitute Priority Status: A laid off employee shall, upon application and at his/her option, be granted priority status on the substitute list according to his/her seniority.
- H. Declining Recall: An employee who declines recall to an equivalent position as to pay, hours and benefits previously worked shall forfeit seniority rights. If an employee is recalled to a position with a lower rate of pay or fewer hours, the employee may accept the position without loss of recall rights to their former classification provided it still exists.

## ARTICLE XIV -- MISCELLANEOUS

- A. Invalid Provisions: If during the life of this Agreement any of the provisions contained herein are held to be invalid by operation of law or by any tribunal of competent jurisdiction or if compliance with or enforcement of any provisions should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Agreement shall not be affected thereby. If any provision herein contained is so rendered invalid, upon written request by either party hereto, the Board and the Union shall enter into collective bargaining for the purpose of negotiating a mutually satisfactory replacement for such provisions.
  
- B. Agreement Supercedes Prior Agreements and Past Practices: There are no understandings, agreements, or past practices which are binding on either the Employer or the Union other than the written agreements enumerated or referred to in this Agreement. It is understood that any amendments to this Agreement must be in writing and mutually acceptable to each party.
  
- C. Sole Source of Rights and Claims: It is the intent of the parties that the provisions of this Agreement will supersede all prior agreements and understanding, oral or written, expressed or implied, between such parties and shall govern their entire relationship and shall be the sole source of all rights or claims which may be asserted. This Agreement shall supersede rules or regulations of the Board, Union or employees which are inconsistent with or contrary to its specific terms.
  
- D. Negotiating Teams: Neither party in any negotiations shall have any control over the selection of the negotiating or bargaining representatives of the other party. The parties mutually pledge that their representatives will be clothed with all necessary power and authority to make proposals, consider proposals, and make concessions in the course of negotiations. Copies of this Agreement shall be printed at the expense of the employer within thirty (30) days after execution of this Agreement and presented to employees.
  
- E. Alcohol and Drug Policy: In an effort to improve safety and health, including elimination of the presence and influence of illegal substances and alcohol from the workplace, the parties hereto agree to the drug and alcohol testing program as set forth in Appendix "C" of this Agreement.
  
- F. Maintain Current Address: All employees are expected to maintain a current address and phone number (if available) with the Business Office.

## **ARTICLE XV -- STRIKES AND LOCKOUTS**

- A. **Principle of Appropriate and Peaceful Means:** The Employer and the Union subscribe to the principle that differences should be resolved by appropriate and peaceful means, in keeping with the high standards of the profession, without interruption of the school program.
  
- B. **Union Commitment:** Accordingly, the Union and/or its members agree that, during the term of this Agreement, it or they shall not direct, instigate, participate in, encourage or support any strike against the employer by any member or group of members.
  
- C. **Employer Commitment:** Also, the Employer agrees that, during the terms of this Agreement, it shall not direct, instigate, participate in or support any lockout against the Union by the Employer.

## **ARTICLE XVI -- BUS DRIVERS**

- A. **Annual Bid Meeting:** A bid meeting shall be scheduled approximately one (1) week before the first day of school for students. During the week before the bid meeting, drivers will be notified of the bus routes, out-of-district runs and shuttles included in each assignment and the established time for each. At the meeting, all known bus routes, out-of-district runs, and shuttles shall be posted, including the length and estimated time. Drivers shall choose routes, out-of-district runs, and shuttles on the basis of seniority.
  - 1. Attendance at the bid meeting shall be mandatory unless an emergency absence is approved by the Transportation Director. Drivers that are unable to attend may submit their bid by proxy.
  - 2. In the event a bus driver, who qualifies for insurance based on the route selection in A. above, has their route time reduced during the year to a level that does not qualify for insurance, the bus driver will be offered the opportunity to select another route being driven by a less senior driver that also qualifies for insurance, if there are any such routes available.
  
- B. **Physical Examinations:** All drivers must pass required physical examinations. Physical examinations shall be given by a school-designated physician and shall be paid by the Employer.
  
- C. **Certification and Training:** Drivers must satisfy all certification and training requirements adopted by the State of Michigan and the Employer. Drivers must be certified and qualified to operate every vehicle (lift-bus, bus, and wagon), enabling a

driver to take any run. The Employer shall reimburse a bus driver for his/her CDL license renewal. However, if a driver is separated from employment within the lifetime of the license, vehicle group designation, or vehicle endorsement, for any reason except retirement or layoff, the driver shall have deducted from his/her final paycheck a pro rata share of the cost of the license, group designation, and/or endorsement based upon the number of years remaining on said license, group designation, or endorsement.

- D. Exclusion from Fleet Insurance, Dismissal: Exclusion from coverage on the Employer's fleet insurance policy shall be grounds for immediate dismissal.
- E. Meal Reimbursement: Bus drivers shall be reimbursed for meals while on trips of more than four (4) hours as follows:

**2006-09**

Breakfast:	(5:00 – 11:00 a.m.)	<b>\$6.50</b>
Lunch	(11:00 a.m. – 4:00 p.m.)	<b>\$6.50</b>
Dinner	(4:00 p.m. – 12:00 a.m.)	<b>\$9.00</b>

Receipts for reimbursement must be provided and the food purchased must be purchased during the time specified.

- F. Cancelled Run or Trip: If a driver reports to drive a run/trip and it is canceled without giving the driver prior notice, the driver shall receive two (2) hours pay at his/her regular rate, provided the driver was not previously notified of the cancellation. This shall apply only to runs/trips scheduled on other than a normal school day.

On school days, if a driver loses their regular run because of reporting to drive a trip that is canceled without prior notice, the driver will be compensated their regular pay lost on the regular run that he/she would have driven.

If a driver reports to drive a regularly scheduled route and it is canceled without giving at least a one-half hour notification (before pre-trip begins), the driver shall receive the regular pay of the route he/she would have driven.

- G. Compensation, Bus Breakdown: The Employer shall pay the driver his/her driving time rate if the driver has to stay with the bus when it breaks down.
- H. Extra Trips, Seniority: Extra trips shall be offered to the most senior driver on a rotating basis. However, drivers may "trade" trips if both drivers and their supervisor agree. Drivers may be temporarily disqualified from extra trip eligibility for disciplinary reasons.
- I. Compensation, Pre and Post Inspections: Drivers are required to perform routine vehicle safety inspections as directed by the Supervisor. Failure to perform these

inspections will be considered a serious safety violation and can result in disciplinary action. Drivers will be paid ten (10) minutes for all required pre-trips when they are required to check under the hood, five (5) minutes for all other pre-trips, and five (5) minutes for all required post trips.

- J. Compensation, December 15 – March 1: Between December 15th and March 1st, the run rate will be increased by ten (10) minutes for run times of 45 minutes or more. Run time may also be adjusted due to road construction or other factors affecting the run time.
- K. Reimbursement, Out-of-Pocket Expenses: Drivers will be reimbursed for out-of-pocket expenses within one week after submittal of receipts.
- L. Posting of Routes: Regular routes will be posted (when vacated) and offered to the most senior driver.
- M. Substitutes: When there is no active substitute on staff, the substitution of routes shall be offered to the most senior available driver. Otherwise, all substitutions shall be offered to the active substitute.
- N. Route Change: Drivers shall be compensated for their full route pay unless notified of a permanent change in their route at least three (3) days before the change takes effect.
- O. Compensation, Meetings: Bus drivers shall be paid at the Inservice rate per Appendix B for all inservices and meetings. Bus drivers shall be paid at least one hour for required meetings including the annual bid meeting and fall, winter, and spring sports assignment meetings. Bus drivers will be paid actual time at the inservice rate for required drug or alcohol testing activities, if they extend beyond normal work time.
- P. Bus Cleaning: Drivers will be paid up to one (1) hour each week at the regular rate for cleaning and fueling their buses, provided that the buses are actually cleaned and fueled.

## **ARTICLE XVII -- UNION DUES**

- A. Union Membership: Each employee shall have the right to freely join or refrain from joining the Union and shall not be discriminated against by reason of joining or refusing to join the Union or by reason of the institution of any grievance, complaint or proceeding under this Agreement against either party or another employee. Each employee of the Board shall within sixty (60) work days from and after the ratification date of this Agreement advise the Union in writing as to whether he/she desires to join

the Union and pay dues. Employees who join the Union shall remain union members until expiration of the contract. New employees shall be provided the option to join the union upon their hiring. The gathering of said union membership shall be the responsibility of the Union. The Union shall tabulate the results and immediately provide the same to the Superintendent, together with copies of the responses from each employee.

- B. Deduction of Dues: Union members may sign and deliver to the Board an assignment authorizing the deduction of Union dues. Such authorization shall continue until revoked in writing by the employee upon expiration of this contract. Employee authorizations for the deductions of Union dues shall identify the employee, the amount of each deduction, the period for which deductions are to be made, and shall be signed by such employee.
- C. Board Responsibility: The Board shall deduct the authorized amount due from each employee's pay and transmit the total deductions to the financial secretary of the Union within fifteen (15) calendar days following such deduction, together with a listing of each employee from whom deductions were made, except that the Board shall not be required to make deductions authorized by an employee during any pay period such employee did not provide services to the Board unless such employee was on paid leave of absence or receiving sick leave benefits authorized by this Agreement. The board shall use its best efforts to make the aforesaid deductions in the manner set forth and assumes no responsibility for any errors in making such deductions other than to correct such errors. In the event of overpayment, the Union agrees to refund such monies forthwith.

Dues deduction shall be adjusted only twice per year (on October 1st and February 1st). The Employer will notify the Union Treasurer of permanent changes in work hours by the end of the month in which such change occurs.

- D. Limitations: In the event an employee who is obligated to, but fails to pay the Union dues directly to the Union, or to authorize payment through payroll deductions, such failure shall not cause the employee to be terminated. However, the Board recognizes the right of the Union, based on the obligations set forth in this Agreement, to pursue collection of the Union dues by appropriate action in a court of competent jurisdiction. In no event shall the Employer be a party to such collection action.
- E. Save Harmless: The Union agrees to indemnify and save the Board, and including each individual School Board member, harmless against any and all fees, awards, claims, demands, costs, suits, judgments or other forms of liability that may arise out of or by reason of, action by the Board for the purpose of complying with this Agreement.

## ARTICLE XVIII -- EMPLOYEE RIGHTS

- A. Assaulted or Threatened on Duty: Any employee who is assaulted or threatened with bodily harm by an individual or a group while carrying out his/her assigned duties shall as soon as possible notify his/her building principal or supervisor who shall notify the Superintendent's office as soon as possible.
  
- B. Cooperation with Law Enforcement: The Board's administrative and supervisory personnel shall cooperate fully with law enforcement authorities in connection with the latter's investigation and prosecution of any such offense. If court attendance is required of the employee in connection with the prosecution by the district of any such offense, the employee shall suffer no loss of pay for absence for such court attendance.
  
- C. Personal Property: Employees who provide evidence of loss of personal property that is essential to the employee's performance such as clothes or a personal vehicle, but excluding non-essentials such as radios, works of art, etc., shall not be unreasonably denied reimbursement when the loss arose out of the course of employment. A maximum of \$250 reimbursement will only be made if the loss is not covered by or collected from an insurance policy.
  
- D. Rights of Employees: Nothing contained in this Agreement shall be construed to deny or restrict any employee those rights he/she may have under the Michigan General School Laws and Regulations, if any.
  
- E. Review Contents of Personnel File: Each employee shall have the right, upon written request, to review the contents of his/her own personnel file, provided that all confidential material has been removed before it is made available. A representative of the Union may, if the employee so desires, be requested to accompany the employee in such a review.

No material including, but limited to, student, parental, or school personnel complaints originating after initial employment will be placed in a bargaining unit member's personnel file unless the bargaining unit member has had an opportunity to review the material and the complaint has been validated by the Employer. Complaints against the bargaining unit member shall be put in writing with the names of the complainants, administrative action taken, and remedy clearly stated. The bargaining unit member may submit a written notation or reply regarding any material, including complaints, and the same shall be attached to the file copy of the material in question. When material is to be placed in a bargaining unit member's file, the affected bargaining unit member shall review and sign said material, such signature shall be understood to indicate awareness of the material but in no instance shall said signature be interpreted to mean agreement with the content of the material.



F. Complaints Toward Employee: The complaint by a parent/guardian of a student and/or student, directed toward an employee may be called to the employee's attention; however, no disciplinary action or report shall be taken or made against an employee unless such complaint has been brought by the employer to the employee's attention in writing.

**ARTICLE XIX -- DURATION**

This agreement shall become effective as of this 4th day of December, 2006 and the terms and provisions thereof shall remain full force and effective through the 30th of June, 2009. It is understood and agreed that the parties shall begin negotiations not less than sixty (60) days prior to the end of this agreement.

New Buffalo Educational  
Personnel Association

New Buffalo Area Schools  
Board of Education

\_\_\_\_\_  
President

\_\_\_\_\_  
President

\_\_\_\_\_

\_\_\_\_\_  
Vice President

\_\_\_\_\_

\_\_\_\_\_  
Secretary

\_\_\_\_\_

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

\_\_\_\_\_  
Trustee

**APPENDIX "A" - INSURANCE**

Section 1: **Insurance Benefit Year:** The insurance benefit year shall be September 1 – August 31.

Section 2: Effective January 1, 2007 and continuing for the life of this agreement, the insurance coverage shall be as follows for all those eligible for insurance:

**Plan A (for those taking health insurance):**

Health: MESSA Choices II with SVA2 and \$5/\$10 Rx Card  
LTD: 66 2/3% of Max. Annual Salary of \$3000  
90 Calendar Day Modified fill  
Life: \$40,000 AD&D  
Vision: VSP-3  
Dental: Delta Dental: 80/80/80, \$1000 Class I, II, III 80,  
\$1300 Class IV, Lifetime Max., No Adult Ortho, 2  
cleanings per year, no sealants.

**Plan B (for those not taking health insurance):**

LTD: 66 2/3% of Max. Annual Salary of \$3000  
90 Calendar Day Modified fill  
Life: \$50,000 AD&D  
Vision: VSP-3  
Dental: Delta Dental: 100/90/90 \$1000 Class I, II, III A90,  
\$1500 Class IV Lifetime Max, No Adult Ortho, 2 cleanings  
per year, no sealants.

Section 3: **Eligibility for Insurance:** The employer shall provide insurance to employees of the district working twenty-one (21) or more hours per week as of October 27, 1992. The employer shall contribute 90% for eligible employees toward the purchase of Plan A. The balance of the insurance costs shall be paid by payroll deduction.

Section 4: **Hours Worked, Board Paid Contribution:** For employees hired after September 1, 1992, the employer shall contribute the following amounts toward the purchase of the health insurance:

35+ hours per week: Same as Section 3 above.  
30 – 34 hours per week: 80% of Board paid contribution  
25 – 29 hours per week: 60% of Board paid contribution  
21 – 24 hours per week: 35% of Board paid contribution

Employees not receiving Board paid insurance may purchase insurance in accordance with the rules of the carrier and provided that such purchase does not adversely affect rates for covered employees.

Section 5: Coverage, Subject to Rules of Carrier: Coverage will be subject to the rules of the carrier. If allowed by the insurer, insurance coverage will become effective on the first day of work during the school year.

Section 6: Plan B Eligibility: Only those employees grandfathered-in in Section 3 above and employees working 25 or more hours per week, are eligible for Plan B.

Plan B Annuity: Employees taking Plan B shall receive a monthly annuity paid for by the Board as follows:

2006-07	\$ 50
2007-08	\$ 75
2008-09	\$150

**2006 – 2007**

	Begin	+2 Years	+3 Years	+5 Years
Secretary	12.14	12.63	13.11	13.41
Lib Asst – El	9.50	9.86	10.23	10.52
Library Aide	9.22	9.58	9.95	10.24
EMT	11.11	11.39	11.85	12.15
Instr Aide	9.50	9.86	10.23	10.52
Noon Hour	8.80	9.15	9.48	9.77
Maintenance	13.41	13.94	14.49	14.79
Custodian	12.14	12.62	13.11	13.41
Head Cook - El	10.02	10.39	10.76	11.07
Head Cook – MS/HS	10.63	10.99	11.35	11.64
Kitchen Worker	8.87	9.24	9.59	10.08
Catering	10.39	10.39	10.39	10.39
Mechanic	17.62	18.32	18.96	19.32
Bus Driver				
Driving	12.42	12.92	13.43	13.72
Layover	7.91	7.91	7.91	8.21
In-Service	9.53	9.53	9.53	9.53
Tech Aide				
Tech C	12.14	12.63	13.11	13.41
Tech B	13.80	14.25	14.50	15.00
Tech A	15.50	16.00	16.50	17.00
Rec Aide	9.73			

**Other Considerations:**

Each bargaining unit member covered by this agreement and employed by the Board as of 12/04/06, shall receive a one time payment of \$125.00. The payment will be paid within 90 days of the ratification of this agreement by both parties.

**2007 – 2008**

	Begin	+2 Years	+3 Years	+5 Years
Secretary	12.50	13.01	13.50	13.81
Lib Asst – El	9.85	10.17	10.54	10.84
Library Aide	9.50	9.87	10.25	10.55
EMT	11.44	11.73	12.21	12.51
Instr Aide	9.85	10.17	10.54	10.84
Noon Hour	9.06	9.42	9.76	10.06
Maintenance	13.81	14.36	14.92	15.23
Custodian	12.50	13.00	13.50	13.81
Head Cook - El	10.32	10.70	11.09	11.40
Head Cook – MS/HS	10.95	11.32	11.69	12.11
Kitchen Worker	9.14	9.52	9.88	10.38
Catering	10.70	10.70	10.70	10.70
Mechanic	18.15	18.87	19.53	19.90
Bus Driver				
Driving	12.79	13.31	13.83	14.13
Layover	8.15	8.15	8.15	8.46
In-Service	9.82	9.82	9.82	9.82
Tech Aide				
Tech C	12.50	13.01	13.50	13.81
Tech B	14.21	14.68	14.94	15.45
Tech A	15.97	16.48	17.00	17.51
Rec Aide	10.02			

Each bargaining unit employee will receive a longevity payment as provided below if the employee has worked at least 10 years as of 7/01/07, and provided that the employee reports for work on his/her first scheduled work day of the 2007-08 school year:

- 10 through 14 years:           \$100
- 15 years or more:           \$500

**2008 – 2009**

	Begin	+2 Years	+3 Years	+5 Years
Secretary	12.88	13.40	13.91	14.22
Lib Asst – El	10.15	10.48	10.86	11.17
Library Aide	9.79	10.17	10.56	10.87
EMT	11.78	12.08	12.58	12.89
Instr Aide	10.15	10.48	10.86	11.17
Noon Hour	9.33	9.70	10.05	10.36
Maintenance	14.22	14.79	15.37	15.69
Custodian	12.88	13.39	13.91	14.22
Head Cook - El	10.63	11.02	11.42	11.74
Head Cook – MS/HS	11.28	11.66	12.04	12.47
Kitchen Worker	9.41	9.81	10.18	10.69
Catering	11.02	11.02	11.02	11.02
Mechanic	18.69	19.44	20.12	20.50
Bus Driver				
Driving	13.17	13.71	14.24	14.55
Layover	8.39	8.39	8.39	8.71
In-Service	10.11	10.11	10.11	10.11
Tech Aide				
Tech C	12.88	13.40	13.91	14.22
Tech B	14.64	15.12	15.39	15.91
Tech A	16.45	16.97	17.51	18.04
Rec Aide	10.32			

Longevity payment: Each bargaining unit employee will receive a longevity payment as provided below if the employee has worked at least ten (10) years as of 7/01/08, and provided that the employee reports for work on his/her first scheduled work day of the 2008-09 school year:

10 through 14 years:                 \$250

15 years or more:                     \$750

## APPENDIX "C"

### DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS

#### Policy

In fulfilling its commitment to ensure public safety and trust, the Board of Education is committed to providing a safe educational environment and workplace for its students and employees. Substance abuse by employees, most particularly by those who perform safety-sensitive functions, constitutes a grave threat to their physical and mental well-being, significantly impedes their work objectives and job performance, and interferes with their ability to maintain a safe educational environment and workplace. The Board of Education further believes that the safety of students while being transported to and from school or school activities is of paramount importance and is the primary responsibility of those persons who operate or maintain school vehicles. To fulfill, that responsibility, each person who operates or maintains school vehicles must be mentally and physically alert at all times while on duty. According, it is the policy of the Board of Education to establish and implement an alcohol and controlled substances testing program for its employees (both regular and substitute) who perform safety-sensitive functions as mandated by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations.

The Board of Education directs the Superintendent or his/her designee to establish and implement an alcohol and controlled substances testing program (including the provision of education materials and appropriate training) for its employees (both regular and substitute) who perform safety-sensitive functions as mandated by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations.

#### Consortium Agreement

In order to meet the mandates of the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations, the Board of Education will enter into an Agreement with the Berrien, Cass, and Van Buren County Consortium for provision of the following services:

1. Alcohol and controlled substances testing for covered employees who perform safety sensitive functions.
2. Education and training programs, which will minimally include for supervisors
  - a) At least 60 minutes of training on alcohol misuse;
  - b) At least an additional 60 minutes of training on controlled substances use;

- c) The physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
3. Education and training programs for covered employees, which will minimally provide educational materials that explain the requirements of the alcohol and controlled substances testing rules, as well as the policy and procedures with respect to meeting those requirements.
4. Clear and consistent communication with the medical review officer regarding all appropriate matters.
5. Preparation and submission of all required reports to the designated school official, the medical review officer, and to federal and state agencies.

The Consortium Agreement is incorporated into this policy by reference, and will be renewed on a biennial basis.

#### Standards of Conduct

All employees, including those who perform safety-sensitive functions, are expected to comply with the Board of Education's Drug-Free Schools policy and Drug-Free workplace policy, which, in part, strictly prohibit the possession, use, distribution or being under the influence of illicit drugs and alcohol by all employees on school premises or as part of any school business, activity or function. In addition, a covered employee shall not report to duty or remain on duty requiring the performance of a safety-sensitive function:

1. While having an alcohol concentration of 0.04 or greater as indicated by alcohol breath test;
2. Within four hours after using alcohol;
3. While possessing alcohol or any controlled substances;
4. While using alcohol or any controlled substances;
5. While the use of alcohol or any controlled substances affects the employee's ability to safely perform his/her duties.
6. While using a prescription or over-the-counter medication which may impair his or her physical or mental ability, without first reporting the use of such medication to the Transportation Supervisor.

Compliance with the standards of conduct as well as with the alcohol and controlled substances testing procedures in this policy is mandatory and shall not be construed to be voluntary. Disciplinary sanctions, up to and including termination of employment, shall be



imposed on a covered employee who violates these standards of conduct or who fails to comply with the alcohol and controlled substances testing procedures. Failure to comply with testing procedures includes, but is not limited to:

1. Refusing to take a test;
2. Refusing to provide a specimen;
3. Refusing to sign a test consent form;
4. Refusing to refrain from ingesting alcohol or controlled substances after an accident or when requested to be tested on a reasonable suspicion basis;
5. Engaging in evasive testing actions intended to compromise the validity of the test results, including but not limited to switching or adulterating test samples.

#### Authorized Use of Prescription and Over-the-Counter Medication

Covered employees using prescription or over-the-counter medication are responsible for being aware of any potential effects such medications may have on their ability to safely perform their duties. If a covered employee uses a controlled substance pursuant to a doctor's prescription, the employee must immediately inform the Transportation Supervisor of this medication, as well as the doctor's opinion as to whether the medication will adversely affect the employee's ability to perform a safety-sensitive function.

The New Buffalo Area School District reserves its right to obtain an independent medical opinion to determine if the medication produces hazardous effects to impede the employee's ability to safely perform his/her duties. If such a determination is made, the employee's duties may be temporarily subject to restriction or reassignment, as appropriate, during the period of medication.

#### Consequences for Violating Standards of Conduct

Following a determination that a covered employee has violated one or more of the standards of conduct relative to alcohol and controlled substances, the covered employee shall be:

1. Immediately removed from any duty which involves the performance of a safety-sensitive function;
2. Subject to disciplinary action, up to and including discharge;
3. Advised of available resources (including any employee assistance program) for evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances.

4. Returned to duty involving the performance of a safety-sensitive function only if the employee's conduct does result in discharge and if the employee submits negative test in compliance with the Omnibus Transportation Employee Act of 1991 and its promulgated regulations.
5. Required to undergo return-to-duty testing as well as unannounced follow-up tests after the employee's return to duty as directed by the substance abuse professional and in compliance with the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations. Subsequent positive tests will result in further disciplinary action, including the employee's discharge.

#### Voluntary Requests for Alcohol or Substance Abuse Counseling/Treatment

Any covered employee who voluntarily requests alcohol or substance abuse counseling or treatment through the New Buffalo Area School District before being tested or being requested to be tested shall be referred to a substance abuse professional to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and/or controlled substances use. The covered employee will not be disciplined but must:

1. Immediately be removed from all duties involving the performance of a safety-sensitive function;
2. Immediately cease alcohol misuse and/or controlled substances use;
3. Consent to unannounced testing in compliance with the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations;
4. Comply with all other conditions of the alcohol or substance abuse counseling or treatment program.

#### Referral, Evaluation and Treatment

Through the applicable employee assistance plan, covered employees will be provided with an opportunity for treatment. The availability of such treatment, however, does not require the New Buffalo Area School District to provide or pay for rehabilitation.

#### Testing for Alcohol and Controlled Substances

Covered employees will be required to submit to testing for alcohol and/or controlled substances. All alcohol and/or controlled substances testing will follow the protocols and requirements mandated by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations.

Alcohol and/or controlled substances testing will only be administered under the following circumstances:

1. **Pre-employment/Pre-duty testing:** Prior to employment or prior to the first time an employee performs a safety-sensitive function, the employee shall receive from a medical review officer a controlled substances test result verified as negative. If a pre-employment controlled substances test is positive or the pre-employment alcohol test result indicates an alcohol content of 0.02 or greater, the applicant will not be hired. This testing is not required if it is determined that:
  - a.) The covered employee has participated in a testing program that satisfies the requirements of the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations within the previous 30 days; and
  - b.) While participating in that program, the covered employee was tested within the past six months (from the date of application for employment) or participated in random controlled substances testing program for the previous 12 months (from the date of application for employment); and
  - c.) No prior employer has knowledge or records of a violation of the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations or the controlled substances use rule of another Department of Transportation agency with the previous six months.
2. **Post-accident testing:** As soon as practical following an accident, but no later than 8 hours (alcohol test) or 32 hours (controlled substances tests), testing is conducted to each covered employee if the accident involved loss of human life or a citation is issued for a moving traffic violation arising from the accident. The New Buffalo Area School District will provide all covered employees with necessary post-accident information, procedures and instructions, prior to the employee performing a safety-sensitive function. A covered employee who is subject to post-accident testing shall remain readily available for such testing or shall be deemed to have refused to submit to testing.
3. **Return-to-duty testing:** a covered employee shall undergo testing with a verified negative result prior to returning to duty that requires the performance of a safety-sensitive function, any time after the employee engaged in prohibited conduct relative to alcohol and/or controlled substances.
4. **Follow-up testing:** A covered employee identified by a substance abuse professional as needing assistance associated with alcohol misuse and/or use of controlled substances, and who has returned to duty involving the performance of a safety-sensitive function, is subject to unannounced testing (consisting of at least six tests) over the first 12 months following his/her return to duty as directed by a substance abuse professional.

5. Reasonable suspicion testing: A covered employee shall undergo testing as a result of a reasonable suspicion that the employee has violated the standards of conduct relative to alcohol and/or controlled substances based on specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee while, just before, or just after performing a safety-sensitive function.
  - a.) The supervisor or person who makes the reasonable suspicion determination should not conduct the test on the employee.
  - b.) A written record of the observations leading to a reasonable suspicion test must be made and signed by the supervisor or person who made the observations. This record must be made within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.
6. Random testing: Each year, random testing will be used at the rate of 25% (alcohol) and 50% (controlled substances) of the average number of active covered employees subject to testing.
  - a.) Covered employees shall be selected for testing through use of a scientifically valid method provided by the New Buffalo Area School District's testing facility, and each covered employee shall have an equal chance of being tested each time selections are made.
  - b.) Random testing dates shall be unannounced and distributed throughout the calendar year.
  - c.) Each covered employee selected for random testing shall be relieved of any job responsibilities as soon as possible and shall proceed to the test site immediately.

### Recordkeeping

Pursuant to the procedures articulated by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations, the Lakeland Regional Health System will maintain all records related to the testing program in a secure location with restricted access, including:

1. Records of negative controlled substances tests and alcohol tests of less than .02 alcohol concentration must be maintained for at least one year.
2. Records relating to training and the alcohol and controlled substances collection process must be maintained for two years.

3. Equipment calibration documents, employee evaluations and referrals, documentation of refusals to take required tests, records of positive tests, and records indicating an alcohol level of 0.02 or greater must be kept for five years.
4. An annual summary of the results of the New Buffalo Area School District's testing program will be submitted to the U.S. Department of Transportation within the required time frame.

### Training

On an annual basis, all covered employees will receive educational materials that explain the requirements of the alcohol and controlled substances testing rules, as well as the Board of Education's policy and procedures with respect to meeting those requirements. Each covered employee shall be required to sign a statement verifying receipt of the educational materials. The New Buffalo Area School District shall maintain the original of the signed statement. Those materials, minimally, will include the following information:

1. The identity of the designated person to answer driver questions about the materials;
2. The categories of employees who are subject to the alcohol and controlled substances testing rules;
3. Sufficient information about the safety-sensitive functions performed by those employees to make clear what period of the work day the employee is required to be in compliance with the rules;
4. Specific information about prohibited conduct;
5. The circumstances under which a covered employee will be tested for alcohol and/or controlled substances;
6. The procedures that will be used to test for the presence of alcohol and controlled substances, protect the employee and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee;
7. The requirement that a covered employee will submit to alcohol and controlled substances tests administered according to this policy;
8. An explanation of what constitutes a refusal to submit to alcohol or controlled substances test and the attendant consequences;
9. The consequences for the covered employees found to have violated the standards of conduct, including the requirement that the employee be removed immediately from safety-sensitive functions and the procedures for such removal;

10. The consequences for covered employees found to have an alcohol concentration of 0.02 or greater, but less than 0.04;
11. Information concerning the effects of alcohol and controlled substances use on an individual's health, work, and personal life; signs and symptoms of an alcohol or a controlled substances problem; and available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to any employee assistance program and/or referral to supervisory personnel.
12. Information concerning additional Board policies regarding the use of possession of alcohol or controlled substances, including any consequences for a covered employee found to have a specified alcohol or controlled substances level.

### Confidentiality

Except as expressly authorized by law, neither the Consortium nor the New Buffalo Area School District shall release information regarding an employee's test results without the employee's written consent. The consortium's medical review officer will also communicate all information to the designated office of the New Buffalo Area School District as required by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations.

### Definitions

For purposes of this policy and any administrative regulations associated with this policy, the following definitions shall apply:

Consortium: The Berrien, Cass and Van Buren County Consortium is an entity comprised of constituent school districts that provides alcohol or controlled substances testing as required by the Omnibus Transportation Employee Testing Act of 1991 and its promulgated regulations and that acts on behalf of the constituent school districts.

Controlled Substances: Any illegal drug and any drug that is being used illegally (e.g., a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity).

Covered Employee: An employee (including a substitute) who operates or maintains a commercial motor vehicle in interstate or intrastate is subject to the commercial driver's license requirements.

Fiscal Agent: The Berrien County Intermediate School District is the fiscal agent for the Berrien, Cass and Van Buren County Consortium.

Illegal Drug: Any drug or substance, the possession or use of which is unlawful pursuant to federal, state and local statute, regulation and/or ordinance.

Omnibus Transportation Employee Testing Act of 1991: The Omnibus Transportation Employee Testing Act of 1991, as signed into law on October 28, 1995, and its promulgated regulations, and as may be amended from time to time or may be superseded or replaced by legislation having a substantially comparable purpose.

Safety-Sensitive Function: All tasks associated with the operation or maintenance of school vehicles.

While on Duty: The time from which the covered employee begins to work or is required to be in readiness for work until the time the covered employee is relieved from work and all responsibility for performing work.

#### Implementation and Compliance

Because the Board of Education, as of March 17, 1995, employs less than 50 covered employees who perform safety-sensitive functions, implementation of this policy will be effective January 1, 1996.

#### Legal Authority

Omnibus Transportation Employee Testing Act of 1991, 45 USC & 431 and its promulgated regulations.