

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Conciliation Between:)	
)	
Ohio Patrolmen's Benevolent Association)	14-MED-01-0042
)	
And)	
)	
Lake County Sheriff)	Conciliator: John T. Meredith

AWARD ISSUED OCTOBER 16, 2014

The parties to this Conciliation proceeding are the Ohio Patrolmen's Benevolent Association (“OPBA or “Union”) and the Lake County Sheriff (the “Sheriff” or the “Employer”). The bargaining unit consists of the approximately 75 full-time Corrections Officers employed by the Sheriff and represented by the OPBA. The parties' last Agreement ran until March 31, 2014. The parties conducted negotiations but were unable to reach agreement on the terms of a successor contract. They initiated fact finding, and Fact Finder Jerry B. Sellman issued his Report and Recommendations on July 11, 2014. The Union took no action, but the Employer rejected the Report. As a result, by letter dated August 7, 2014, SERB appointed the undersigned to serve as Conciliator.

A hearing was held on October 3, 2014. Prior to the hearing, the Employer submitted a timely Position Statement with its Final Offers per SERB Rules. The Union also submitted a Position Statement with Final Offers before the hearing. Appearing at

the hearing on behalf of the Union were: OPBA Business Agent Jeff Perry and Officers Dave Rentz, Christopher Conley, Matt Paul and Christopher Cimperman. Appearing for the Employer were: Consultant Tom Grabarczyk, Finance/Budget Director Joel Dimare, Captain Cynthia Brooks (Jail Administrator) and Chief Deputy Frank Leonbruno.

At the outset of the hearing, each party was permitted to raise procedural objections. Thereafter, the Employer presented extensive evidence on its financial condition and specific evidence in support of its proposals for Articles 12, 13, 17 and 20. The Union had the opportunity to question Employer witnesses and make rebuttal arguments.

At this point, the parties engaged in discussions off the record. As a result, they agreed to wage increases of 2.5% in each year of a three-year contract, with back pay in the first year, as offered by the Employer. The parties signed off on this wage settlement, and the wage issue (Article 17) was withdrawn from conciliation.

In addition, the parties stipulated that all remaining issues would be resolved by issuance of the Stipulated Order set forth in the succeeding section of this Report. In deciding to issue this Stipulated Order, the Conciliator has fully considered the evidence presented and all of the following criteria prescribed by the Ohio Collective Bargaining Law and listed in SERB Rule 4117-09-05:

- (1) Past collective bargaining agreements, if any, between the parties.
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- (3) The interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service.

- (4) The lawful authority of the public employer.
- (5) Any stipulations of the parties.
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

“Other factors” referenced in criterion no. 6 may include: the desirability of consistent and equitable treatment of various groups of the Employer's employees; the practice of many fact finders and conciliators to give substantial weight and deference to good faith recommendations of the bargaining teams; and, absent new evidence or change in circumstances, the practice of conciliators to give substantial weight to well-reasoned recommendations of the Fact Finder in the same case.

STIPULATED ORDER AND AWARDS

Article 12, Section 4 - Discipline

The Conciliator AWARDS THE EMPLOYER'S FINAL OFFER. Revised language of Article 12 is set forth in the Appendix to this Order, which is attached hereto and incorporated herein.

Article 13 – Sick Leave

The Conciliator AWARDS THE EMPLOYER'S FINAL OFFER. Revised language of Article 13 is set forth in the Appendix to this Order, which is attached hereto and incorporated herein.

Article 20 – Injury Leave

The Conciliator AWARDS THE EMPLOYER'S FINAL OFFER. Revised language for Article 20 is set forth in the Appendix to this Order, which is attached hereto and incorporated herein.

Other Issues

The Conciliator AWARDS CURRENT CONTRACT LANGUAGE for Articles 3, 14, 16, 26, and 33, and for compensatory time references, and, to the extent inconsistent, all Final Offers originally submitted are deemed to have been withdrawn.

This Award is issued this 16th day of October, 2014.

Shaker Heights, Ohio

/s/John T. Meredith
John T. Meredith, Conciliator

APPENDIX TO AWARD
Revised Contract Language

ARTICLE 12

DISCIPLINARY ACTION

Section 4.

Records of any verbal or written reprimands will cease to have force and effect or to be considered in future disciplinary measures one (1) year after the effective date of the reprimand, providing there are no intervening reprimands during the period.

Records of any suspension of three (3) days or less will cease to have force and effect or be considered in future disciplinary measures three (3) years after the effective date of the suspension, providing there are no intervening suspensions during the period.

Records of any suspension greater than three (3) days will cease to have force and effect or to be considered in future disciplinary measures **seven (7)** ~~five (5)~~ years after the effective date of the suspension, providing there are no intervening suspensions during the period.

No provision set out in this Section pertains to probationary employees or to the Employer's right to remove, reduce, or fail an employee in a probationary capacity

ARTICLE 13

SICK LEAVE

Section 1.

All employees in full-time County service are entitled to earned sick leave with pay.

Full-time employees accumulate sick leave at the rate of 4.6 hours for each completed and paid eighty (80) hours of service. **Effective the start of the next pay period upon implementation of this Agreement, employees shall accumulate sick leave at a rate of 3.077 hours for each completed and paid eighty (80) hours of service (ten [10] days per year).** Credit is given for all time in active pay status, including vacation and sick leave, but not for time on leave of absence without pay or while receiving paid injury leave.

Sick leave is charged in minimum units of one (1) hour for the first hour, and then charged as used. The employee shall be charged for sick leave only for days upon which they would otherwise have been scheduled to work.

Sick leave may be granted for absences due to the following reasons:

- A. Illness, injury, or pregnancy-related conditions of the employee.
- B. Exposure of an employee to a contagious disease which could be communicated to and jeopardize the health of other employees.
- C. Examination of the employee, including medical, psychological, dental or optical examination by an appropriate practitioner.
- D. Death of a member of the employee's immediate family (refer to Bereavement Section).
- E. Illness, injury or pregnancy-related condition of a member of the employee's immediate family* where the employee's presence is reasonably necessary for the health and welfare of the employee's family member.
- F. Examination, including medical, psychological, dental, or optical examination of a member of the employee's immediate family* by an appropriate practitioner where the employee's presence is reasonably necessary.

*DEFINITION OF IMMEDIATE FAMILY:

Mother, father, sister, brother, son, daughter, grandmother, grandfather, grandson, granddaughter, spouse, or legal guardian

Section 2. - PROCEDURE

An employee who is ill and unable to report to work shall so notify their immediate supervisor

within two (2) hours of their scheduled starting time. A shift worker must report the reason for their absence two (2) hours prior to their scheduled starting time, except for unusual circumstances beyond their control.

Where sick leave is requested to care for members of the immediate family, the Supervisor may require a physician's certificate to the effect that the presence of the employee is necessary to care for the ill member.

If illness or disability continues past the time covered by earned sick leave, the employee may be granted a leave of absence without pay.

Section 3. - ABUSE OF SICK LEAVE

When the Employer has a reasonable belief that the employee is feigning illness or injury, they shall have the right to investigate during reasonable hours by visiting the employee's home. If the employee is not at home, he/she must be at a doctor's office or pharmacy or other excused location.

When the Employer can substantiate the abuse of sick time, either on an individual case or by virtue of a demonstration pattern, they shall have the right to challenge the use of this sick time under Abuse of Sick Time. Employees failing to comply with the sick leave rules and regulations shall not be paid. Applications for sick leave with intent to defraud shall be grounds for disciplinary action which may include dismissal.

After four (4) continuous working days of illness, a physician's statement will be required.

After four (4) undocumented occurrences, a physician's certificate may be required. An occurrence shall be defined as the period of time an employee is off from the start to the return, except that no more than one (1) occurrence will be recorded in any single shift.

Section 4. - TRANSFER OF SICK LEAVE CREDITS

An employee who transfers from one public agency to another in the State of Ohio, or who is reappointed or reinstated, or who transfers from one state department to another, shall be credited with the unused balance of their accumulated sick leave, provided:

- A. The time between separation and reappointment does not exceed ten (10) years.
- B. That written verification thereof is obtained by employee and given to the Employer upon employment or not to exceed sixty (60) days.
- C. Cash payment was not received for balance of sick leave, the words, "Public Agency", as used herein include the state, counties, municipalities and townships.

Section 5.

Time off for doctor or dental appointments for employees shall be charged to sick leave.

Section 6. - UNUSED SICK LEAVE PAYMENT

~~The schedule for the payment of accrued unused sick leave is based upon nine hundred sixty (960) hours and is outlined below.~~

~~The terms of this section are based upon the resignation, death, or retirement in good standing of employment of full-time County employees only. During the 1993 negotiations, the parties agreed that for purposes of determining past service credit for sick leave cash out, employees hired prior to August 15, 1993 shall have years of employment calculated including prior service with another Ohio political subdivision, that may have been transferred upon employment. For all other employees hired on or after August 15, 1993, years of employment for purposes of cash out shall mean years of full-time employment for a Lake County appointing authority under the general fund legislative authority of the Lake County Board of Commissioners, and Utilities, and Human Services.~~

Employees are entitled under law to choose to receive payment for accrued unused sick leave pursuant to Ohio Revised Code Section 124.39 (A), (B) if eligible, or may choose to apply for payment pursuant to the Lake County Policy established herein.

Employees are eligible to receive payment under this policy for accrued unused sick leave upon separation from employment due to death, retirement or resignation provided the employee has the recommendation of their appointing authority that they were in good standing at the time of their separation from employment.

The years of employment for determining the percentage of accrued unused sick leave to be paid under this policy are defined as years of fulltime employment with a Lake County Appointing Authority that is under the legislative control of the Board of Lake County Commissioners and/or a Lake County Appointing Authority that receives at least half of its funding from the Lake County general revenue fund.

Employees hired prior to January 1, 1997 may include prior service with another

Ohio political subdivision in the years of employment for determining whether accrued unused sick leave may be paid.

Effective upon execution of this Agreement, employees with less than 10 years of employment who separate from employment due to death, retirement or resignation shall not be entitled to any payout for accrued unused sick leave accumulated during the course of their employment.

All employees hired on or prior to April 1, 1998 (Tier A), shall be entitled to the following schedule:

**LAKE COUNTY POLICY PAYMENT SCHEDULE FOR
ACCRUED UNUSED SICK LEAVE**

<u>YEARS OF EMPLOYMENT</u>	<u>% ACCRUED UNUSED SICK TIME (HOURS)</u>	<u>NOT TO EXCEED MAX # HOURS</u>
From 5th Yr Thru 9th Yr Inc.	25%	240 Hours
From 10th Yr Thru 14th Yr Inc.	50%	480 Hours
From 15th Yr Thru 19th Yr Inc.	60%	576 Hours
From 20th Yr Thru 24th Yr Inc.	70%	672 Hours
From 25th Yr Thru 29th Yr Inc.	80%	768 Hours
From 30th Yr Thru 34th Yr Inc.	90%	864 Hours
From 35th Yr or Over	100%	960 Hours

All employees hired between April 2, 1998 and April 1, 2005 (Tier B), shall be entitled to the following schedule:

**LAKE COUNTY POLICY PAYMENT SCHEDULE FOR
ACCRUED UNUSED SICK LEAVE**

<u>YEARS OF EMPLOYMENT</u>	<u>% ACCRUED UNUSED SICK TIME (HOURS)</u>	<u>NOT TO EXCEED MAX # HOURS</u>
From 5th Yr Thru 9th Yr Inc.	25%	240 Hours
From 10th Yr Thru 14th Yr Inc.	50%	480 Hours

From 15th Yr Thru 19th Yr Inc.	60%	480 Hours
From 20th Yr Thru 24th Yr Inc.	70%	480 Hours
From 25th Yr Thru 29th Yr Inc.	80%	508 Hours
From 30th Yr Thru 34th Yr Inc.	90%	584 Hours
From 35th Yr or Over	100%	660 Hours

All employees hired on or after April 2, 2005 (Tier C), shall be entitled to the following schedule:

Effective upon execution of this Agreement, employees who have completed 10 years of employment who separates from employment due to death, retirement or resignation shall be entitled to a payout of 50% of their unused sick leave accumulation during the course of their employment up to a maximum payment of 480 hours.

Employees who have retired or resigned, but had not yet previously received cash payment for accrued unused sick leave may apply to receive payment under the Lake County policy if re-employed full time within 10 years of the date of separation from employment but only under the terms and conditions contained herein. The 10 year period is tolled for any period during which the employee holds elected public office whether by election or appointment.

ARTICLE 20

INJURY LEAVE

Section 3.

No injury leave pay shall be paid at any time an employee is compensated by any other means by the Employer, including but not limited to, holidays, vacation, personal days, sick leave,

bereavement, compensatory time, or compensation paid through Workers' Compensation or other time off program funded by the Employer.

Any paid time off, either pre-scheduled or naturally falling within the period an employee is off and being compensated injury leave pay, shall be ~~credited~~ **charged** to the appropriate designated account, such as vacation, holiday, sick leave, bereavement, etc.

There shall be no break in seniority during the period an employee is receiving injury leave pay. No sick time will be accrued for days compensated as injury leave pay.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served upon the parties by emailing same to their representatives, listed below, this 16th day of October, 2014.

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Representative of the Union

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Representative of the Employer

/s/John T. Meredith
John T. Meredith, Fact Finder