

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE EATONTOWN BOARD OF EDUCATION

AND

**EATONTOWN EDUCATION ASSOCIATION
SECRETARIES AND CLERKS
BARGAINING UNIT**

EFFECTIVE JULY 1, 2011 THROUGH JUNE 30, 2014

Dated: August 6, 2012

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PREAMBLE

This Agreement entered into this 1st day of July, 2011, by and between the **BOARD OF EDUCATION OF THE BOROUGH OF EATONTOWN, NEW JERSEY**, hereinafter called the "Board," and the **EATONTOWN SECRETARIES and CLERKS ASSOCIATION**, representing the secretaries and clerks of the school system hereinafter called the "Association", incorporates the articles hereinafter indexed and further defined.

ARTICLE I

RECOGNITION

A. The Board hereby recognizes the Association as the majority representative for collective negotiations concerning terms and conditions of employment for all full-time secretarial and clerical employees under the contract, but, excluding:

Substitute secretaries/clerks
Part-time hourly non-contractual employees
Administrative Assistant to the Superintendent
Board Secretary
Confidential Secretary to the Board Secretary/School
Business Administrator
Finance and Accounting Assistant
And others excluded by the Act

B. Unless otherwise indicated, the term "employee" when used hereinafter in the Agreement, shall refer to all employees represented by the Association in the negotiating unit as defined above.

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ARTICLE II

NEGOTIATION PROCEDURE

- A. Either party may submit in writing proposals for collective negotiation prior to the date set down under Public Employee Relations Committee rules. Negotiations shall commence no later than 120 days prior to budget submission and ground rules shall be determined by the parties in negotiation at the first meeting. At least one (1) meeting shall be held between the 120th day and 90th day prior to budget submission.
- B. Any agreement so negotiated shall be reduced to writing and executed by both parties.
- C. This Agreement shall not be modified in whole or in part except by an instrument in writing executed by both parties.

ARTICLE III

GRIEVANCE PROCEDURE

A. Definitions

- 1. A "grievance" is a claim by an employee or the Association that there has been a misinterpretation, misapplication or violation of the provisions of this agreement, policies and administrative decisions affecting the terms and conditions of employment of an employee or group of employees; however, the term "grievance" and the procedure relative thereto shall not be applied to the following matters:
 - (a) Matters for which a method of review is required either by law or by any rule or regulation of the State Commissioner of Education.

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- (b) Any matter which, according to law, is exclusively within the jurisdiction of the Board.
2. An “aggrieved person” is a person or persons included in the negotiating unit and making the claim.
 3. A “party in interest” is a person making the claim, and any person(s) or the Association who might be required to take action or against whom action might be taken in order to resolve the claim.

B. Purpose

1. The purpose of this procedure is to resolve, at the lowest possible level, differences which may from time to time arise affecting the terms and conditions of employment of employees subject to Paragraph (E)(5) of this Article, and as may be appropriate without disclosure at any level of procedure.
2. Nothing herein contained shall be construed as limiting the right of any employee having a grievance to discuss the matter informally and having the grievance adjusted without intervention by the Association, provided the adjustment is not inconsistent with the terms of this Agreement and that the Association has been given the opportunity to be present at such adjustment and to state its views.

C. Procedure

1. Since it is important that grievances be processed as rapidly as possible, the number of days indicated at each level shall be considered as a maximum and every effort shall be made to expedite the process. The time limits specified may, however, be extended by mutual agreement.

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2. In the event a grievance is filed at such time that it cannot be processed through all the steps in this grievance procedure before the end of the school year, and if left unresolved until the beginning of the following year could result in irreparable harm to a party in interest, the time limits set forth herein shall be reduced proportionately between the aggrieved person and the Board so that the grievance procedure may be exhausted prior to the end of the school year or as soon thereafter as is practicable

LEVEL I (One)

3. An employee with a grievance shall discuss it first with his/her principal or immediate superior, either directly or through the Association's representative, within 10 school days of the occurrence of the event, situation or incident which gave rise to the grievance, with the objective of resolving the matter informally at this level. In the event the principal or immediate supervisor decides that the resolution of the grievance is beyond the scope of his/her authority, he/she shall forward such grievance in writing to the Superintendent directly and the processing of such grievance shall proceed to Level II (two). In the event that the Superintendent decides that the resolution of the grievance is beyond the scope of his/her authority, he/she shall forward the grievance to the Board of Education and the processing of such a grievance shall proceed to Level III (three). Notwithstanding anything to the contrary set forth herein, all grievances concerning Board Policy shall be initially filed with the Superintendent who shall forward it to the Board for processing under Level Three.

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LEVEL II (Two)

4. If the aggrieved person is not satisfied with the disposition of this grievance at Level I, or if no decision has been rendered within five(5) school days after the presentation of the grievance, he/she may file the grievance in writing with the Chairman of the Association's Negotiations Committee within five (5) school days after the decision at Level One or ten (10) days after the grievance was first presented at Level One, whichever is sooner. Within five (5) school days after receiving the written grievance, but no later than ten (10) days, the Chairman of the Negotiations Committee shall refer it to the Superintendent of Schools.

Level III (Three)

5. If the aggrieved person is not satisfied with the disposition of his/her grievance at Level Two, or if no decision has been rendered within ten (10) school days after the grievance was delivered to the Superintendent, he/she may within five (5) school days after a decision by the Superintendent or fifteen (15) school days after the grievance was delivered to the Superintendent, whichever is sooner, request in writing that the Chairman of the Association's Negotiations Committee submit his/her grievance to the Board of Education. If the Board of Education fails to resolve the grievance to the satisfaction of the aggrieved within fifteen (15) school days after the receipt thereof, he/she may take the following action, depending on the nature of the grievance:

- a. Should the grievance relate to an alleged violation, misapplication or misrepresentation of the terms of this contract, then the Board and the Association's Negotiations Committee shall resort to arbitration, and

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attempt to agree upon a mutually acceptable arbitrator and shall obtain from said Arbitrator a commitment to serve. The Arbitrator may not be a member or employee of either the Board, the Association, the NJEA, the School Board's Association or any other member of the Eatontown School system.

If the parties are unable to agree upon an Arbitrator or obtain a commitment within the period specified, a request for a Panel of Arbitrators may be made to the American Arbitration Association or the Public Employment Relations Commission, by either party. The parties shall be bound by the rules and procedures of the American Arbitration Association or the Public Employment Relations Commission, respectively, in the selections of the Arbitrator.

- (1) The Arbitrator so selected shall confer with the representatives of the Board and the Negotiations Committee and hold hearings promptly. The Arbitrator shall be limited to the issues submitted and shall consider nothing else. He/she can add nothing to nor subtract anything from the Agreement between the parties. His/her decision shall be in writing and shall set forth his/her findings of fact, reasoning and conclusions on the issues submitted.
- (2) The Arbitrator shall be without power or authority to make any award which requires the commission of an act prohibited by law or which is violative to the terms of this Agreement. The award of

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the Arbitrator shall be submitted to the Board and to the Association and shall be final and binding on all parties.

- (3) The cost for the services of the Arbitrator shall be borne equally by the Board and the Association. Any other expenses incurred shall be paid by the party incurring same.

(b) Should the grievance relate to a complaint of a non-tenured employee which arises by reason of his/her not being re-employed, the grievance shall not be grievable beyond the level of the Board.

D. Rights of Employees to Representatives

1. The aggrieved party may be represented at all stages of the grievance procedure by themselves, or, at their options, by a representative of his/her choice or by a representative selected or approved by the Association. When an employee is not represented by the Association, the Association shall have the right to be present and to state its views at all stages of the grievance procedure.

2. No reprisals of any kind shall be taken by the Board or any members of the Administration against any party in interest, any representative, any member of the Association, or any other participant in the grievance procedure by reason of such participation.

E. Miscellaneous

1. If, in the judgment of the Association, a grievance arising out of the same transaction materially affects a group or class of employees, the Negotiations Committee may submit such grievances in writing to the Superintendent directly and the processing of such grievance shall commence at Level Two. The



Negotiations Committee may process such a grievance through all the remaining levels of the grievance procedure.

2. Decisions which are rendered at Level One which are unsatisfactory to the aggrieved person and all decisions rendered at Levels Two and Three of the grievance procedure shall be in writing setting forth the decision and the reasons therefore and shall be transmitted promptly to all parties in interest and to the Chairman of the Negotiations Committee of the Association. Decisions rendered at Level Three shall be in accordance with Paragraph (C)(5)(a)(1) and (C)(5)(a)(2) of this Article.

3. All written communications transmitted between the aggrieved person(s) or the Association, and either the immediate supervisor, Superintendent or Board of Education will be filed in a separate grievance file and shall not be kept in the personnel file of any of the participants.

4. The forms used in filing grievances (supplied by the Association) shall be prepared jointly by the Superintendent and the Association.

5. All meetings and hearings under this procedure shall not be conducted in public and shall include only such parties in interest and their designated or selected representatives, heretofore referred to in this Article.



ARTICLE IV

EMPLOYEE RIGHTS

- A. Pursuant to Chapter 123, Public Laws of 1974, the Board hereby agrees that every employee of the Board shall have the right freely to organize, join and support or refuse to join and support the Association and its affiliates for the purpose of engaging in collective negotiations. As a duly elected body exercising governmental powers under the laws of the State of New Jersey, the Board undertakes and agrees that it shall not directly or indirectly discourage or deprive or coerce any employee in the enjoyment of any rights conferred by Chapter 123, Public Laws of 1974 or other laws of New Jersey or the Constitution of New Jersey and the United States; that it shall not discriminate against any employee with respect to terms or conditions of employment by reason of this membership in the Association and its affiliates, their participation in any legal activities of the Association and its affiliates, collective negotiations with the Board, or their institution of any grievance, complaint or proceeding under this agreement or otherwise with respect to any terms or conditions of employment.
- B. Nothing contained herein shall be construed to deny or restrict to any employee or the Board of Education such rights as he/she may have under New Jersey School Laws or other applicable laws and regulations.
- C. **Just Cause Provision**
1. No employees shall be disciplined, reprimanded, reduced in rank or compensation, or deprived of any professional advantage, or given an adverse

evaluation of his/her professional services without just cause. Any such action asserted by the Board, or any agent or representative thereof, shall be subject to the grievance procedure herein set forth.

ARTICLE V

ASSOCIATION RIGHTS

- A. The Board agrees to furnish to the Association, upon request, all available public information concerning the financial resources of the district, registers of certificated personnel, agendas, and minutes of all Board meetings whether special or regular meetings.
- B. Representatives of the Association, the New Jersey Education Association, the Monmouth County Education Association, and the National Education Association shall be permitted to transact official Association business on all school property at all reasonable times during the day except when the property is not occupied as professional duties require, provided that this shall not interrupt nor interfere with normal school operations, nor the immediate obligations of the employees so concerned.
- C. The Association and its representatives shall have the right to use school buildings at all reasonable hours for meetings, provided that this shall not interrupt or interfere with normal school operations or the immediate obligation for the employees. The Superintendent of Schools shall be notified in writing in advance of the time and place of all such meetings. His/her prior approval is required subject to Board policy.



- D. The Association shall have, in each school building, the use of a bulletin board. Copies of all materials or reasonable facsimile of all materials to be posted on such bulletin boards shall be given to the Building Principal, but no approval shall be required.
- E. The Association shall have the right to reasonable use of the interschool mail facilities and school mail boxes for Association materials as it deems it necessary and without the approval of the Building Principal or other members of the Administration. Such material shall be identified as Association materials. The Association will have use of electronic mail in addition to other communication methods listed. The Eatontown Board of Education shall be indemnified from any action, liability, judgments, or costs incurred, including any retroactive payment of postage, under provisions of this paragraph.
- F. The rights and privileges of the Association and its representatives as set forth in the Agreement shall be granted only to the Association as the exclusive representative of the employees and to no other organizations.



ARTICLE VI

SCHOOL CALENDAR

A. The following days shall be declared public holidays:

New Year's Day
Martin Luther King Day
President's Day
Good Friday
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day (Thursday and Friday)
Christmas Day

ARTICLE VII

WORK HOURS AND VACATION SCHEDULE

A. Work Hours

All secretarial and clerical employees shall be required to work an eight (8) hour work day to include a one (1) hour lunch period. Adjustments to a shorter daily work schedule may be made at the discretion of the Superintendent; subject to the Opinion and Award of Robert L. Mitrani, September 13, 1986 relevant to Summer Hours, attached hereto (Exhibit A).

B. Vacation

1. Secretaries and clerks employed before July, 1966, shall receive one month's vacation.

2. Secretaries and clerks employed after June 30, 1966, but before July 1, 1978, shall be entitled to vacation time according to the following schedule:

First and Second Years of Service-	2 weeks
Third Year of Service-	3 weeks
Fourth Year of Service-	4 weeks

3. Secretaries and clerks employed after June 30, 1978, shall be entitled to vacation time according to the following schedule:

- (a) After completion of one full year- 2 weeks
- (b) After completion of five full years- 3 weeks
- (c) After completion of ten full years- 4 weeks

4. (a) Secretaries employed before September 30 of any year shall receive the full vacation allotment as indicated above. Those employed after September 30 shall receive vacation time on the basis of one-half ($\frac{1}{2}$) days per month employed. In such cases, the regular schedule will be followed after the initial year of service.

- (b) Scheduling of vacations will be designated by the Superintendent.
- (c) Secretaries will be compensated for vacation time accumulated during the year in which they resign. Vacation time from previous years cannot be credited. If the person leaves before June 30th of any year, a prorated number of days per month will be deducted from the total entitlement for that year.

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ARTICLE VIII

SALARIES

- A. The salaries of all employees covered by this Agreement are set forth in schedules attached hereto and made a part hereof.
- B. Employees shall be provided with a statement of earning and deductions made from those earnings for each monthly salary payment.
- C. Veterans will be granted years of service on an appropriate salary guide in accordance with Title 18A:29-11.
- D. Employees employed on a ten (10) month basis shall be paid in twenty (20) equal semi-monthly installments. Employees employed on a twelve (12) month basis shall be paid in twenty-four (24) equal semi-monthly installments.
- E. Salary guide to be mutually developed by the Negotiations Committee and the Association. The ten month secretaries/clerks will be pro-rated.
- F. The longevity stipend for the 2012-2014 contract years will be as follows:
 - After 10 years of service: \$500.00
 - After 15 years of service: An additional \$700.00
 - After 20 years of service: An additional \$700.00



ARTICLE IX

VOLUNTARY TRANSFERS AND REASSIGNMENTS

- A. On or about May 1, the Superintendent shall post in all school buildings a list of expected vacancies for the following school year.
- B. Employees who desire a change in assignment may file a written statement of such desire with the Superintendent through the Building Principal or immediate supervisor, stating the assignment desired and the school or schools to which the transfer is requested. Such requests will be considered when scheduling is made, but this consideration is not intended to limit the flexibility of the Administration.

ARTICLE X

INVOLUNTARY TRANSFERS AND REASSIGNMENTS

- A. Written notice of an involuntary transfer or reassignment shall be given to the employee affected, in person or by certified mail to the individual employee's home or file address when determined by the Superintendent. The employee so affected may request and be granted a conference with the Superintendent of Schools or his/her designee concerning such change. This provision is not intended to limit the flexibility of the Administration.

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ARTICLE XI

PROMOTIONS

- A. A notice of vacancy in positions to be filled shall be sent to each school for posting at least fifteen (15) days before the final date when applications must be submitted.
- B. Employees who desire to apply for any such vacancies above shall submit their applications in writing to the Superintendent. When a vacancy described in the notice is filled, the Superintendent may destroy all applications for said position.
- C. The Board agrees to give consideration to the background, merit and seniority of all employees.

ARTICLE XII

SICK LEAVE AND ABSENCES

- A. **Personal Illness**
 - 1. Clerical and secretarial employed by the Board of Education of Eatontown Borough shall be allowed sick leave with full pay for twelve (12) days for twelve month employees in any school year, and ten (10) days per year for ten month employees in accordance with Chapter 188, P.L. 1954.
 - 2. Personal illness is hereby defined as absence from his/ her duty because of personal disability due to illness or injury, or because he/she has been excluded from school by the school district's medical authorities on

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account of contagious disease or being quarantined for such a disease in his/her immediate household.

3. If any employee shall be absent for five (5) or more consecutive days, he/she shall be required to visit the school physician or his/her own physician for the purpose of obtaining a physical certification before returning to duty. Notwithstanding the foregoing, the Superintendent of Schools may, at his/her sole discretion, require a physical certification from any employee after any absence, no matter what the length of time involved.
4. If any employee shall utilize, in any school year, less than the number of days provided above, the remaining days shall be accumulative for additional sick leave with full pay in subsequent years beginning September 1, 1955.

B. Death in Family

Up to five (5) days of absence for each occurrence of a death of the following relatives: parent, child, spouse, brother, sister, grandchild or other permanent members of the household family. Up to three (3) days of absence for each occurrence of a death of the following relatives: mother-in-law, father-in-law, and employee's or spouse's grandparents.

C. Illness in the Family

Three (3) days absence in one school year are allowed for illness in the immediate family defined in Paragraph B. This leave is non-cumulative.



D. Personal Business

1. Three (3) days absence in one school year are allowed for personal business, such as legal matters, death of people other than those of the immediate family as defined in Paragraph B. This leave is non-cumulative.
2. All requests must be in writing and approved by the Building Principal five (5) days prior to the day or days of absence. Personal business shall not be taken the day before or after a school holiday or a recess. In cases, as defined in Section D.1., personal business days before or after a school holiday or a recess may be granted by the Superintendent at his/her discretion, providing documentation to support request and thirty (30) days notice. The Superintendent's decision shall not be grievable beyond the Superintendent's level of the grievance procedure and, therefore, not subject to the arbitration procedure in Article III.
3. The building principal, immediate supervisor or Superintendent of schools shall have the right to inquire as to the nature of any particular request for this type of leave from the employee in question. This request may be denied by the building principal or immediate supervisor or Superintendent who shall state the reason therefore.
4. Any personal business day not used in the course of a contract year shall be reimbursed at the rate of: \$38.00. Unused personal business days may be accumulated as sick days, at the option of the employee, in which the case the employee would not receive the personal day buy back at the end of the year.

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E. Professional Leave

School and professional business leave will be submitted through the building principal or immediate supervisor and as authorized by the Superintendent.

F. Unauthorized Leave

Unauthorized leave shall be considered a breach of contract and could result in dismissal.

G. Extended Leaves of Absence

1. Parental Leave

- a. The Board of Education will grant an unpaid leave of absence for the disability phase of maternity to any regularly employed full-time employee who is under tenure in the school system pursuant to the terms and requirements of Board Policy # 330 and the criteria set forth hereinafter.
- b. It is recognized that an employee maternity leave request involves both a disability and a child care phase. The disability phase is that period of time, both pre-natal and post-natal, during which a physician certifies inability to work. The child care phase is that period of time selected by the employee, in accordance with Paragraph d. below, which follows the disability phase during which time the employee voluntarily suspends her employment duties to care for the newborn or adoptive child.
- c. **Disability Phase:** At the time of application the employee shall specify in writing the date on which she wishes to commence leave

and the date on which she wishes to return to work after birth; accumulated sick leave may be utilized for the leave of absence during this phase. The employee shall indicate on her application whether or not she elects to exercise this right.

d. **Child Care Phase:** At the time of application for the disability phase leave, the employee shall also indicate whether she is seeking a child care leave.

- (1) An employee requesting the leave must have at least three (3) full years of service in the Eatontown School District.
- (2) Such leaves of absence may be for one-half or one full school year at the request of the employee and the approval of the Board. Extensions will only be granted in extreme emergencies at the complete discretion of the Board of Education.
- (3) To avoid unnecessary interruptions, employees granted a child care leave shall return either the first day of school in September or the first day in January, after the Christmas holidays, whichever is closer to the termination date of the child care leave.
- (4) To be eligible for a salary increment and credit towards longevity payments, if any, and sabbaticals, an employee must work at least ninety (90) days in the school year(s) that the leave commences and terminates.



- (5) No benefits accrue to employees who are on unpaid leaves of absence.

2. Leaves Due to Ill Health, Injury, Surgery or Other Equally Grave Emergencies.

An employee within this school system may be granted a leave of absence without pay for a maximum of one (1) school year on account of ill health, accident, surgery or other equally grave emergencies; and/or for rest and recuperation pursuant to the terms of Board Policy # 330, and this contract.

3. Extensions of Other Authorized Leave

The Board of Education, on the recommendation of the Superintendent of Schools and Building Principal or immediate supervisor, may grant additional leave for the categories under paragraphs A, B, C, or E above under the following conditions:

- a. Whenever extended leave is granted, with pay, the employee's pay will be reduced by the cost to the Board of Education of the employment of a substitute to fulfill his/her responsibilities.
- b. Leave for personal business as provided for in Article XII (D) (1) shall not be extended for any reason.
- c. Extended leave may be granted by the Board of Education as provided herein, upon the recommendation of the Superintendent of Schools, building principal and immediate supervisor but shall be limited so that no more than ten (10) days of extended leave



shall be extended to an employee, subject of course to the reduction of the cost for a substitute or replacement.

- d. The Board of Education may grant extended leave retroactively in special and extreme cases. The failure to obtain prior approval of extended leave may result in it being considered unauthorized leave as provided in Article XII(F).
- e. Whenever, the Board of Education shall in the exercise of its discretion grant extended leave to an employee, his/her pay shall be reduced from their regular pay schedule as provided herein for the expense of a substitute or replacement and the cost of his/her absence. In those cases where unauthorized leave is taken or extended leave is taken without pay, the Board of Education shall have deducted one day pay for each day of unauthorized extended leave.

H. Category of Leave

The building Principal or immediate supervisor shall determine and approve the category for leave in each case. If there is a conflict, the matter will be brought to the attention of the Superintendent and finally to the Board.

I. Family and Medical Leave

In the event that the Family and Medical Leave Act or the Family Leave Act provides a leave greater than that set forth in this Article, an employee shall be eligible for consideration for said leave. The benefits set forth in the Article shall be considered

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as being included in the benefits provided by the Family and Medical Leave Act and/or the Family Leave Act and not over and above the Family and Medical Leave Act and/or the Family Leave Act.

ARTICLE XIII

MEDICAL INSURANCE PROTECTION

- A. The Board shall provide the following health care insurance protection for all certificated employees covered by this Agreement. The Board shall make payment of full individual or full family insurance premiums as appropriate to provide insurance coverage for the full twelve month period for the following insurance at regular rate. School Employees' Health Benefits Program (Direct 10, Aetna HMO and Cigna Healthcare) – Horizon Blue Cross/Blue Shield Dental Plan.
- B. Employees with dependents insured elsewhere vis-a-vis the above benefits shall not be eligible for dependent coverage at the Eatontown Schools unless such coverage is relinquished at the dependent's place of employment. Employees with a spouse in military service are not eligible for the medical benefits rendered above.
- C. The Board reserves the right to select any carrier providing benefits are satisfactory to the Association.

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ARTICLE XIV

DEDUCTIONS

A. Deductions from each employee's salary shall be in accordance with New Jersey Statutes for the following:

1. Monmouth/Ocean County Federal Credit Union
2. Tax Sheltered Annuities
3. Prudential Financial
4. Pension and Annuity Funds and Loan Repayment
5. Contributory Insurance
6. Association Payroll Deduction.

B. The Board shall deduct from the salaries of its employees dues for the Association, the Monmouth County Education Association, the New Jersey Education Association and the National Educational Association as such employees individually and voluntarily authorize the Board to deduct. Such deductions shall be made in compliance with Chapter 233, New Jersey Public Laws of 1969 (NJSA 52:14-15.9e) and its amendments and under rules established by the State Department of Education. Said monies together with current records of any corrections shall be transmitted to such person as may from time to time be designated by the Association by the 15th of each month following the monthly pay period in which deductions were made. The person designated shall disburse such monies to the appropriate association or associations. Each of the associations named above shall certify to the Board in writing the current rate of its membership dues. Any association which shall

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change the rate of its membership dues shall give the Board written notice prior to and with time sufficient for the effectuation of such change.

ARTICLE XV

SUBSTITUTES

- A. The Board will agree to maintain a list of substitute secretaries. Secretaries will be able to call the substitute caller to arrange for a substitute when they are going to be absent from their job.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

- A. The Board of Education and the Association shall carry out all the commitments contained herein.
- B. If any provision of this Agreement or any application of this Agreement to any employee or group of employees is held to be contrary to current or future law, then such provision or application shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions or applications shall be in full force and effect.
- C. Any individual contract between the Board and an individual employee, heretofore or hereafter executed, shall be subject to and consistent with the terms and conditions of the Agreement. If an individual contract contains any language inconsistent with the Agreement, this Agreement, during its duration shall be controlling.

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- D. To the extent required by law, any changes or modifications in terms and conditions of employment will be made only through negotiations between the Board and the Association.
- E. The Eatontown Board of Education in the interest of providing an improved educational environment is dedicated to reducing unnecessary absences. The Board of Education, therefore, agrees that any secretary/clerk who submits and is accepted for retirement under the TPAF Regulations shall receive the sum of \$50.00 for each day of unused accumulated sick leave. Upon retirement, a qualifying retired secretary/clerk shall receive 1/3 payment of the original amount the first year of his/her retirement, the next 1/3 payment of the original amount the second year of his/her retirement, and the final 1/3 payment of the original amount the third year of his/her retirement. The amount of sick leave pay for the retiring secretary/clerk may also be paid to his/her beneficiary at the same terms as stated above.
- The Board also agrees to remove the cap on sick day payment for retiring secretaries who began working in Eatontown during or after the 1995-96 calendar year.
- F. Courses which are deemed by the Superintendent to be directly related to an employee's job and/or in the interest of the school district shall be eligible for reimbursement, subject to the sole discretion of the Superintendent. Prior written approval of the Superintendent is required.

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- G. Secretaries/clerks who use their automobiles for authorized interschool and out-of-district travel shall be reimbursed for mileage in excess of the normal commute at the IRS rate of December 31st of the preceding calendar year.
- H. The Association will have a seniority list according to time of service, same as the Eatontown Teachers Association.

ARTICLE XVII

DURATION OF AGREEMENT

- A. This Agreement between the Eatontown Board of Education and the Eatontown Secretaries and Clerks Association shall become effective July 1, 2011, and shall be continued in effect until June 30, 2014.
- B. Upon written certification from the Association, the Board agrees to deduct monies from the members of the bargaining unit who voluntarily reject membership.
 - 1. The amount of such deduction shall be up to 83% of the Association's unified dues or the maximum amount as may be determined by law.
- C. The Association will certify to the Board prior to the start of each membership that the amount of present representation fee to be assessed does not exceed 85% of dues, fees and assessment and does not include any amount of dues, fees and assessments that are (1) expended for partisan, political or ideological activities or causes that are only incidentally related to the terms and conditions of



employment, or (2) applied towards the cost and benefits available only to members of the majority representative.

1. The union shall indemnify and hold the employer harmless against any and all claims, demands, suits and forms of liability including liability for reasonable counsel fees and other legal costs and expenses that may arise out of or by reason of any action taken or not taken by the employer in conformance with this provision.

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IN WITNESS WHEREOF the parties have caused this Agreement to be signed
by their respective Presidents and attested by their respective Secretaries.

EATONTOWN SECRETARIES AND CLERKS ASSOCIATION

By: Janis P. Mellershech 9/7/12
PRESIDENT DATE

By: Roxanne Neir 9/7/12
SECRETARY DATE

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EATONTOWN BOARD OF EDUCATION

By: _____
PRESIDENT DATE

By: _____
SECRETARY DATE

(Seal)

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SALARY GUIDE EATONTOWN

When reviewing the salary guide to determine your increase over the next three years, please find your appropriate step on the guide and move horizontally across the guide. For example, an individual on Step 6 in 2011-2012 would receive \$39,865, in 2012-2013 \$40,884, and in 2013-2014 \$41,975. Movement in the guide will remain horizontal and not vertical as in previous years.

12 MONTH SECRETARY GUIDES

Steps	2010-2011		2011-2012		2012-2013		2013-2014	
	Expired	Steps	Yrs.		Yrs		Yrs	
A	35393	1	1-2	36343	1-3	37362	1-4	38,453
B	36809	2	3	37759	4	38778	5	39,869
C	37398	3	4	38348	5	39367	6	40,458
D	38315	4	5	39265	6	40284	7	41,375
E	38915	5	6	39865	7	40884	8	41,975
F	39515	6	7	40465	8	41484	9	42,575
G	40115	7	8	41065	9	42084	10	43,175
H	41208	8	9	42158	10	43177	11	44,268
I	42814	9	10	43764	11	44783	12	45,874
J	44287	10	11	45237	12	46256	13	47,347
K	45515	11	12	46465	13	47484	14	48,575
L	47074	12	13	48024	14	49043	15	50,134
M	50078	13	14	51028	15	52047	16	53,138
N	54234	14	15	55184	16	56203	17	57,294
O	56108	15	16	57058	17	58077	18	59,168
P	58092	16	17	59042	18	60061	19	61,152
Q	60251	17	18	61201	19	62220	20	63,311

10 MONTH SECRETARY GUIDE

Steps	2010-2011		2011-2012		2012-2013		2013-2014	
	Expired	Steps	Yrs.		Yrs		Yrs	
A	29494	1	1-2	30286	1-3	31135	1-4	32,044
B	30674	2	3	31466	4	32315	5	33,224
C	31165	3	4	31957	5	32806	6	33,715
D	31929	4	5	32721	6	33570	7	34,479
E	32429	5	6	33221	7	34070	8	34,979
F	32929	6	7	33721	8	34570	9	35,479
G	33429	7	8	34221	9	35070	10	35,979
H	34340	8	9	35132	10	35981	11	36,890
I	35678	9	10	36470	11	37319	12	38,228
J	36906	10	11	37698	12	38547	13	39,456
K	37929	11	12	38721	13	39570	14	40,479
L	39228	12	13	40020	14	40869	15	41,778
M	41732	13	14	42524	15	43373	16	44,282
N	45195	14	15	45987	16	46836	17	47,745
O	46757	15	16	47549	17	48398	18	49,307
P	48410	16	17	49202	18	50051	19	50,960
Q	50209	17	18	51001	19	51850	20	52,759

*Yrs - Years of Experience

30 *Am*

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EXHIBIT A

IN THE MATTER OF THE ARBITRATION)
)
 BETWEEN)
) OPINION AND AWARD
 EATONTOWN BOARD OF EDUCATION)
)
 AND)
)
 EATONTOWN SECRETARIES AND CLERKS ASSOCIATION)

This case was heard on Friday August 29, 1986 in Eatontown, New Jersey before Robert L. Mitrani, Arbitrator selected by the parties.

APPEARANCES

BOARD: EUGENE A. IADANZA, ESQUIRE
ASSOCIATION: JOSEPH D. MURPHY, N.J.E.A. REP.

(A) ISSUE

Does the action of the Board in requiring the Superintendent to order secretarial and clerical personnel to work during the spring and winter recess and until 4 p.m. during the summer, pursuant to Article VI and VII of the 1985-87, contract violate any provisions of the contract, established past practice of state statutes found in Chapter 123?

(B) STIPULATIONS

(1) Between 1969 and 1982 secretaries and clerks were given the spring and winter as weeks off by the Superintendent.

(2) During the same years (1969 to 1982) the secretaries and clerks were allowed to leave at 3 p.m. during the summer months. The normal hours of work are 8 a.m. to 4 p.m. and in the summer the hours were 8 a.m. to 3 p.m.

(C) POSITION OF THE PARTIES

ASSOCIATION

For 25 years there was a consistent and unwavering past practice that secretaries and clerks worked a 6 hour day in July and August and every year they were given the week off during spring and winter recess.

Over the years the Board issued memos regarding these practices. These memos became part of the past practice. Both parties were fully aware of all the facts and the practice was mutually accepted.

The hours of work are a condition of employment. The Board is attempting to add an additional 7 percent of work time by eliminating the past practice of summer hours and the recess period in winter and spring. The parties have a current agreement for the period of 1985-1987 and at these negotiations the Board made no proposal to change the past practice.

Ruth Hicks testified on behalf of the Association and stated that for 25 years she always was off for the winter and summer recess and always worked from 8 a.m. to 3 p.m. during July and August. She accepted the job on that basis because she had small children at the time.

Mr. John Addio is a principal of Woodmere School. He stated that when he needed a secretary or clerk to work during recess he would call them and they worked. The hours of work during the summer have been 8 a.m. to 3 p.m.

Mary Paasch testified that she was hired during a summer and the hours were 8 a.m. to 3 p.m. She also found out on a gradual basis that she would be off during the winter and spring recess.

Rosemarie Boratto has been a secretary for three years. She was on the negotiating committee for the 1985-87 contract. Boratto testified that the Board never proposed to the Association's negotiating Committee that the practice be changed. There was nothing in writing and there were no discussions across the table. To change the practice would mean an increase of 7 percent in work time.

Boratto said she started in June 1983 and on December 20, 1983 she received a memo from Superintendent Anthony Palmesano about a "misunderstanding" regarding the winter recess. The following is the memo that Mr. Palmesano sent:

At the regular meeting of the Eatontown Board of Education on Monday, December 19, 1983 the following resolution was passed regarding your work schedule during the winter recess:

WHEREAS, the contract between the Eatontown Board of Education and the Eatontown Secretaries and Clerks Association for the contract years 1982 through 1985 requires these employees to work through the winter recess when the schools are closed; and

WHEREAS, it is not anticipated that the services of these employees will be necessary on a day to day basis due to the expected decrease in activity in the school system during this time; and

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WHEREAS, the Board recently became aware of a misunderstanding of the current contract by the secretaries unit whereby they assumed they would not have to work during the winter recess;

NOW, THEREFORE, BE IT RESOLVED by the Eatontown Board of Education that the secretaries and clerks of the district not be required to report to work from December 27, 1983 to January 2, 1984. This action is taken by the Board only for the above time period. It is not anticipated that such action will be necessary in the future.

Marc D. Abramson of the N.J.E.A. responded on January 12, 1984 and stated the following:

"Further, be advised, that if the Board desires changes with the winter recess practice that said changes be accomplished through bilateral determination. Any deviations from same, will be considered violative of N.J.S.A. 34:13A-5.3 which states in part:

'Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established..'"

Boratto said that the same language from the 1982-85 contract regarding hours of work, vacations and holidays were carried over with the 1985-87 contract. It was the understanding that the practice was something above the contract language and everyone understood this.

In its closing statement the Association stated that the clear past practice continued even after the parties negotiated their various contracts starting in 1978-79. There has never been a change in the past practice. The Board points to the various memos sent out by the Superintendent that the Board was utilizing its discretion regarding the practice, but in effect these memos were part of the practice and it continued. There was never any formal negotiation to end the practice.

On December 20, 1983 the Board sent a memo that there may have been a misunderstanding about the practice. But the Association made it absolutely clear that there was no misunderstanding.

Salaries were established with the past practice in mind. It is improper for the Board to unilaterally change the work schedule. The Board could have formally negotiated this issue on two separate occasions, but failed to do so.

BOARD

The first written contract between the parties was entered into on December 4, 1978. This contract had no provisions for hours of work, holidays or vacation.

However in the 1982-85 agreement the parties included a new Article VII. Attached to the award as an exhibit, is the language of Article VII. The holidays are listed in Article VI. and this language states that "The following days shall be considered public holidays" - then lists the holidays.

Section (A) of the new language stated the following. "Adjustments to a shorter daily work schedule may be made at the discretion of the Superintendent". The Superintendent used his discretion to give the secretaries and clerks the summer hours as well as the wint and spring recess as weeks off.

In November 1983, Board members became aware that the practice was not consistent with the contract language. The Board decided to continue its good relations with the Association and make the changes in a friendly manner rather than abruptly making the changes

It is the Boards contention that during the negotiations that led to the current 1985-87 agreement, discussions were held on the subject. The problem was not resolved and since the contract language is clear, the Board made the decision to enforce the contract language Article VII from the 1982-85 contract was carried over to the 1985-87 contract.

It is the Board's position that the past practice cannot apply where the contract language covers the subject and the language is clear. The contract is clear on which days are holidays. The contract calls for an 8 hour work day and the contract also states that "adjustments to a shorter daily work schedule may be made at the discretion of the Superintendent. The summer and winter recess are normal work days and all days of work are for 8 hours unless otherwise noted by the Superintendent."

Mr. Thomas Fritz was a member of the Board from 1979 to 1985. He was Board President in 1983 and he was the chief negotiator for the 1984-85 contract.

At the end of 1983 a dispute arose between the Board and the Superintendent regarding the practice involved in this case. On December 9, 1983 Mr. Palmisano recommended the following to the Board negotiation committee.

"As per our meeting of December 8, 1983, I am recommending that the following be included in the Secretaries/Clerks contract:

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'All days when school is not in session are considered work days for the members of the bargaining unit unless specified as holidays in the holiday schedule of this contract or declared legal holidays by the Governor of New Jersey. Members of the bargaining unit will be considered on an on-call basis during such period when school is not in session and will be required to report to work at the discretion of the Superintendent.'

The Board eventually decided that the contract language was clear as is and should be followed. The Board decided to raise the issue at negotiations. Mr. Fritz stated that this issue was raised with Marc Abramson, the N.J.E.A. negotiator, in informal discussion he told the Board that the Association would never agree to end the 25 year practice. The Board felt it was protected by the language. Fritz was Chairman for the 1985-87 negotiation team. The Board states that it had proper contract language to make the change in the practice. Fritz's term ended in February 1985. The Board tried to raise the issue, but the Association did not want to talk about it.

In the last negotiations the Board did not propose any change in contract language because the language supported the Board's position.

Mr. Anthony Palmisano has been Superintendent of Schools since January 1968. There are nine individuals in the bargaining unit. The practice involved in this case was in effect prior to his becoming Superintendent. However employees were told to report to work during the recess weeks if their services were required. Palmi was never involved in negotiations and the Board expected him to enforce the contract language as written.

In its closing statement, the Board stated that there was a history in the District regarding the practice. The parties then negotiated their first contract in 1978 and nothing was mentioned about hours of work, holidays or vacations.

However in the parties' second contract for the years 1982-85, the specific issues of hours of work, vacations and holidays were covered.

Then in late 1983, the Board became aware that the Administration was not enforcing the contract as written. Although the Superintendent may have felt otherwise, the Board has the final authority in these matters.

For the purpose of maintaining morale, the Board decided to review the matter with the Association during negotiations, but Marc Abramson, the Association negotiator, would not talk about it. However the Board had the right to make the changes anyway.

There may have been a past practice - but the practice ended with the 1982-85 contract and the new language. Even though the Board has not enforced the contract language, does not mean it has lost the authority to do so. The contract is clear. The Board made a good faith effort to raise the issue with Marc Abramson -- but he refused to listen. The Board gave ample notice to the Association.

(D) DISCUSSION

The arbitrator has spent a good deal of time in the earlier pages of this award covering many points made by the parties at the hearing on August 29, 1986. Although not everything has been repeated, the arbitrator has thoroughly studied every facet of this case.

The issues raised in this case are quite complex and difficult. The arbitrator understands why it has caused so many problems.

At the outset the arbitrator believes it is worth noting the following excerpt from "How Arbitration Works" (Elkouri and Elkouri 3rd Edition) on page 394:

"One of the most cogent and provocative statements published regarding the binding force of custom was that of Umpire Harry Shulman, in a case involving operating methods and direction of the working force (assignment of work), wherein he urged that past practice not be 'enshrined without carefully thought out and articulated limitations':

A practice, whether or not fully stated in writing, may be the result of an agreement or mutual understanding. And in some industries there are contractual provisions requiring the continuance of un-named practices in existence at the execution of the collective agreement. (There are no such provisions in the Ford Agreement or in those of the automobile industry generally.) A practice thus based on mutual agreement may be subject to change only by mutual agreement. Its binding quality is due, however, not to the fact that it is past practice but rather to the agreement in which it is based."

The facts involved in this case indicate that not only was there a solid past practice, but it was a mutual agreement between the parties. When the parties signed their first contract, the past practice continued. It was and continues to be part of the relationship of the parties. When the salaries of the bargaining unit were established, the practice was well known to the parties.

The evidence is very strong that when the parties negotiated their second contract (1982-85), there was no agreement or understanding that the practice would cease or that the specific language in Article VI and Article VII changed the past practice. In fact, the

practice continued after the signing of the 1982-85 agreement.

It is worth noting the following excerpt from "How Arbitration Works" on pages 398 and 399:

"We have noted that where custom has been enforced the element of 'mutuality' has usually been supplied by implication --that is, there has been 'implied mutual agreement.' In this regard, existing employee benefits usually effect all or at least sizeable groups of employees; and thus are likely to be in the thoughts of union and company negotiators. It may reasonably be assumed that the parties in shaping bargaining demands as to wages and other employee benefits do so with silent recognition of existing unwritten benefits and favorable working conditions."

The above statement is applicable in this case. After all, everybody involved in the administration of the contract was fully aware of the long standing practice and how it effected the relationship of the parties.

The Superintendent of Schools showed a keen insight into this in his recommendation of 12/9/83. The Superintendent proposed new language to the Board that should be included in the contract. The Superintendent's language went right to the heart of the issue involving winter and spring issue. But the important point was that specific contract language was needed to overcome the mutual agreement between the parties regarding the practice. The practice was more than just a unilateral implementation by the Board. It may have been that way in the beginning but, once the Association was established, the parties mutually made that as part of their relationship. And, of course, part of that relationship was that secretaries and clerks would come in to work when they were needed during spring and winter recess.

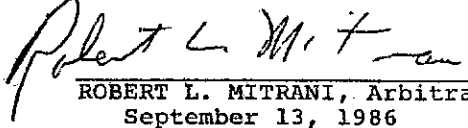
As stated before, the evidence in this case does not show that when the parties agreed to the language of Article VI and Article VII --that their intention was to change the past practice. In fact, the parties agreed to the new language and the past practice continued as it had for many years. This practice was a mutual agreement between the parties.

The Board claims that it told the Association it was going to change the practice during negotiations. On the other hand, the Association claims that this was a side discussion and there was nothing formal. However, given the history of this practice, it is the Arbitrator's opinion that if the practice is to be modified or ended, there should be mutual agreement. The contract negotiations that led to Article VI and Article VII never addressed the specific practice. In fact, the parties' actions speak volumes. The practice

continued without question after the language was first agreed to. And no one could say that this critical past practice was not known to all of the parties for many years. The practice was a mutual agreement between the parties. And, if it is to be changed, it should be done on that basis. The Association's position is sustained.

AWARD

The action of the Board in requiring the Superintendent to order secretarial and clerical personnel to work during the spring and winter recess and until 4 P.M. during the summer is a violation of the agreement between the parties.


ROBERT L. MITRANI, Arbitrator
September 13, 1986

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ARTICLE VII

WORK HOURS AND VACATION SCHEDULE

- A. All secretarial and clerical employees shall be required to work an eight (8) hour work day to include a one (1) hour lunch period. Adjustments to a shorter daily work schedule may be made at the discretion of the Superintendent.
- B. 1. Secretaries and clerks employed before July, 1966 shall receive one month's vacation.
2. Secretaries and clerks employed after June 30, 1966 but before July 1, 1978 shall be entitled to vacation time according to the following schedule:
- First and Second Years of Service - 2 weeks
Third Year of Service - 3 weeks
Fourth Year of Service - 4 weeks
3. Secretaries and clerks employed after June 30, 1978 shall be entitled to vacation time according to the following schedule:
- (a) After completion of one full year - One (1) week
(b) After completion of three full years - Two (2) weeks
(c) After completion of five full years - Three (3) weeks
(d) After completion of twelve full years - Four (4) weeks
4. (a) Secretaries employed before September 30 of any year shall receive the full vacation allotment as indicated above. Those employed after September 30 shall receive vacation time on the basis of one-half day per month employed. In such cases the regular schedule will be followed after the initial year of service.
- (b) Scheduling of vacations will be designated by the Superintendent.
- (c) Secretaries will be compensated for vacation time accumulated during the year in which they resign. Vacation time from previous years cannot be credited. If the person leaves before June 30 of any year, a pro-rated number of days per month will be deducted from the total entitlement for that year.