

6/30/89

A G R E E M E N T

between

BIRCH RUN AREA SCHOOLS

and

THE INTERNATIONAL UNION OF OPERATING ENGINEERS

Local #547

AFL-CIO

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

BIRCH RUN AREA SCHOOLS

Birch Run, Michigan

Birch Run Area Schools

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A G R E E M E N T

This Agreement entered into by and between the Birch Run Area Schools, hereinafter referred to as the "Employer," and the International Union of Operating Engineers, Local #547, AFL-CIO, hereinafter referred to as the "Union."

ARTICLE I

PURPOSE

It is the purpose of this Agreement to promote and insure harmonious relations, cooperation and understanding between the Employer and the employees covered hereby, to insure true collective bargaining, to establish standards of wages, hours, working conditions and other conditions of employment.

ARTICLE II

NON-DISCRIMINATION

The Board and the Union both recognize their responsibilities under Federal, state and local laws pertaining to fair employment practices as well as the moral principles involved in the area of civil rights. Accordingly, both parties reaffirm by this Agreement not to discriminate against any person or persons because of race, creed, color, age, sex or national origin.

ARTICLE III

UNION RECOGNITION, UNION SECURITY

Section 1. Union Recognition

A. The Employer hereby recognizes the Union as the sole and exclusive collective bargaining agent of the employees covered by this Agreement for the purpose of collective bargaining with respect to rates of pay, hours of employment and other conditions of employment.

- B. The term "employee" as used herein shall include all employees in the classification shown in Schedule A.

Section 2. Union Security

- A. It shall be a condition of employment that all employees of the Employer covered by this Agreement:
1. Become members of the Union on or before the thirty-first (31st) day following the effective date of this Agreement or on or before the thirty-first (31st) day following the beginning of their employment with the Employer and execute an authorization for the deduction of the monthly dues; or
 2. Execute an authorization for the deduction of a service fee equivalent to the dues of the Union on or before the thirty-first (31st) day following the effective date of this Agreement or on or before the thirty-first (31st) day following the beginning of their employment with the Employer.
- B. The Union agrees that it will treat all employees in the same manner with respect to the provisions contained within Section A. of this Article.
- C. In the event that the Union refuses to accept any employee hired by the Employer as a member, said employee may continue employment for the School District.
- D. Either party to this Agreement shall have the right to re-open negotiations pertaining to the provisions of this Article if provisions of this Article are deemed illegal under applicable laws by sending written notification to the other party thirty (30) days from the date of such legal determination.

ARTICLE IV

CHECK-OFF

- A. The Employer shall have no responsibility for the collection of initiation fees, membership dues and special assessments or any other deductions not in accordance with this provision.
- B. A properly executed authorization form for check-off of dues or the equivalent thereof must be received by the Employer from the employee for whom the Union membership dues or the equivalent thereof is being deducted before any payroll deductions are made. Deductions shall be made thereafter only after authorization for check-off forms have been properly executed and are in effect.
- C. Check-off under all properly executed forms shall become effective at the time the application is tendered to the Employer or its designated representative and shall be deducted from each pay period throughout the term of this Agreement.
- D. Such dues and fees as deducted shall be forwarded to the Union forthwith.
- E. An employee shall cease to be subject to check-off deductions beginning the month immediately following the month in which he is no longer a member of the bargaining unit. Local #547 will be notified by the Employer or its designated representative of the names of such employees.
- F. The Employer shall not be liable to the Union by reason of the requirement of this Article for the remittance or payment of any sum other than that constituting the actual deductions made from wages by employees.
- G. Any dispute arising as to an employee's membership in the Union shall be reviewed by a designated representative of the Employer

and a representative of the Union, and if not resolved, may be referred to the Grievance Procedure; however, the employee may be retained at work while the dispute is being resolved.

ARTICLE V

JURISDICTION

Employees of the Employer not covered by this Agreement may perform work covered by this Agreement for purposes of instructional training, experimentation, in cases of emergency or as deemed necessary based on past practices and in the best interests of the school system.

ARTICLE VI

CONTRACTUAL WORK

The right of contracting or sub-contracting is vested exclusively in the Employer. However, it is understood by the parties that this shall not be used for the purpose of undermining the Union. In the event the Employer finds it necessary to exercise such right with the result of a reduction of the bargaining unit work force, it will confer with the Union in advance of taking such action.

ARTICLE VII

VISITATION

- A. Employees in the bargaining unit may be represented by a Chief Steward and an alternate Steward, whose names shall be made known to the Employer.
- B. The Chief Steward may investigate and present grievances to the Employer during his working hours without loss of time or pay, in accordance with prior arrangements made with his supervisor.
- C. The Alternate Steward shall only function during the absence of the Chief Steward.

ARTICLE VIII
GRIEVANCE PROCEDURE

A. Definition -

1. A grievance shall mean a complaint by an employee in the bargaining unit that there has been a violation, misinterpretation or inequitable application of a specific provision of this Agreement, except that the term "grievance" shall not apply to any matter as to which a method of review is prescribed by law.
2. As used in this Article, the term "employee" may mean a group of employees having the same grievances.

B. Procedure -

1. An employee having a specific grievance shall present it orally to his supervisor.
2. If the grievance is not settled orally, it shall be reduced to writing and presented to the employee's immediate supervisor within ten (10) working days of the act or condition that caused the grievance, specifying the specific provision of the contract that is allegedly violated, the remedy requested and signed by the aggrieved.
3. The immediate supervisor will answer such grievance within five (5) working days from the date it was filed in writing unless extended by mutual agreement in writing.
4. Unless appealed in writing to the next step within five (5) working days, such answer shall be final.
5. If appealed, the grievance shall be presented in writing to the Superintendent or his designated representative, who will arrange for a conference with the Chief Steward and/or

the Business Representative in an attempt to settle the grievance.

6. Said conference shall be held within ten (10) working days from the date of receipt of appeal and will be scheduled at a time mutually agreed to.
7. The Superintendent or his designated representative shall answer such grievance in writing within ten (10) working days from the date of the conference unless extended by mutual agreement in writing.
8. Any appeal of a decision rendered by the Superintendent shall be presented to the Board within five (5) working days, and the Board shall meet with a Business Representative of the Union at a time mutually agreeable to them. The appeal shall be in writing and state the reason or reasons why the decision of the superintendent was not satisfactory.
9. Said conference shall be held within ten (10) working days from the date of receipt of appeal unless extended by mutual agreement.
10. The Board or its designated representative shall answer such grievance in writing within ten (10) working days from the date of the conference unless extended by mutual agreement.
11. If in the event a grievance is not satisfactorily settled at the above step within fifteen (15) days of such decision by mutual agreement of both parties, the grievance may be submitted to binding arbitration. If in the event the parties are unable to agree on an arbitrator within seven (7) working days from the date of appeal, the appealing party may, within fourteen (14) days from the date of appeal, submit the grievance to the

American Arbitration Association for the selection of an arbitrator in accordance with their rules.

12. The jurisdiction of the arbitrator shall be limited to grievances arising out of the interpretation or application of this Agreement or any written amendments thereof or supplements hereto. The arbitrator shall have no power to alter, add to, subtract from, or modify any of the terms of this Agreement or to specify the terms of a new agreement or to substitute his discretion for that of the parties hereto or to assume any of their functions or responsibilities. If the grievance concerns matters not subject to arbitration, the arbitrator shall return the grievance and all documents relating thereto to the parties without decision. The cost of the arbitrator under this paragraph shall be divided equally between the Employer and the Union.
13. The time limits provided in this Article shall be strictly observed but may be extended by written agreement of the parties.

ARTICLE IX

DISCIPLINE/DISCHARGE

- A. When the Employer feels disciplinary action is warranted, such action will be initiated as soon as possible after the date of the occurrence of the condition giving rise to the action.
- B. Dismissal, suspension and/or any other disciplinary action shall be only for just and stated causes with the employees having the right to defend themselves against any and all charges. Written notification of dismissal, suspension or other disciplinary action shall be sent to the employee. Among the causes which

shall be deemed sufficient for dismissal, suspension and/or other disciplinary action, but not limited to, are the following: drunkenness, dishonesty, insubordination, willfull violation of work rules, obvious lack of interest in or ability to perform assigned work or refusal to do assigned work.

ARTICLE X

SENIORITY

- A. Employees shall be regarded as probationary employees for the first one hundred twenty (120) days of active employment. Laid off or discharged probationary employees shall not have recourse to the terms of this Agreement.
- B. Seniority shall be granted to date of hire after completion of probationary period.
- C. Employees shall be laid off and recalled according to their seniority.
- D. An employee's employment shall be terminated and seniority shall cease for the following reasons;
 - 1. He resigns.
 - 2. He is discharged for cause.
 - 3. When layoff period exceeds seniority.
 - 4. Unexcused absence from work without notifying the Superintendent and without having a reasonable and valid cause for such absence.
- E. Any employee in the bargaining unit elected or appointed to full-time office in the Union whose duties require his absence from his work may be granted a leave of absence for the term of such office and shall accumulate seniority during his term of office and at the end of such term he shall be rehired when the first

vacancy in the bargaining unit occurs.

F. Transfers -

1. Notice of all vacancies and newly created positions shall be posted on employee bulletin boards within one (1) day period from date of vacancy, and the employees shall be given five (5) days time in which to make applications to fill the vacancy or new position. The senior employee making application shall be transferred to fill the vacancy or new position provided he has the necessary qualifications to perform the duties of the job involved. Newly created positions or vacancies are to be posted in the following manner: the type of work; the place of work; the starting date; the rate of pay; the hours to be worked; and the classification.
2. It is also recognized that for the ultimate job security of all employees, the exercise of preference for vacancies shall not impair efficient operation and, therefore, seniority alone cannot be the sole determining factor. If an employee's request cannot be honored, the Employer will provide the employee, upon request, the reason for their refusal in writing, and the employee shall have the right to grieve.
3. Any employee temporarily transferred shall be paid either the rate of the position from which he is transferred or the rate of the position to which he is transferred, whichever is higher.
 - a. This provision does not apply where an employee is assisting another employee in a different classification

or doing work of another classification where such work is a normal or seasonal part of the employee's classification.

4. Temporary transfers shall be for a period of no longer than thirty (30) days and then the temporary transfer (except extensions by agreement) shall be considered an open position and be posted.
5. A seniority list shall be made available to the Union on or about July 1st of each year. Such list shall contain date of hire, employee's location and classification seniority. Seniority in classification shall be as of date of entry into the classification.

G. New Jobs -

1. The Board shall have the right to establish, evaluate, change and obsolete jobs providing such action on the part of the Employer shall not be directed toward reducing the rate of a job in which no substantial change in the job itself has occurred. When a new or revised operation involves duties which are not adequately or specifically described or properly evaluated in an existing job description, specification and classification, the Employer has the right to develop and establish such new or revised job description, specification and classification, rate of pay and to place them into effect. Whenever new buildings or a job is made operational, the Employer shall establish the job description.
2. The Employer will notify the Union of such new or changed job and will within thirty (30) days after such new or

changed job is established, meet with the Union, upon request, to negotiate the rate and classification.

ARTICLE XI

EMPLOYER RIGHTS

- A. The Employer, on its own and electors of the School District behalf, retains and reserves without limitation all powers, right, authority, duties and responsibilities conferred upon and vested in it by the laws and the Constitution of the State of Michigan and of the United States, including, but without limiting the generality of the foregoing, the right:
1. To the executive management and administrative control of the school system, its properties and facilities and the activities of its employees.
 2. To employ personnel subject to the provisions of the law, to determine their qualifications and condition for continued employment or their discharge or demotion and to promote and transfer such employees.
 3. When a new or revised operation involves duties which are not adequately or specifically described or properly evaluated in an existing job description, specification and classification, the Employer has the right to develop and establish such new or revised job description, specifications and classifications, rates of pay and to place them into effect.

The Employer will notify the Union of such new or changed job and will within thirty (30) days after such new or changed job is established, meet with the Union to negotiate the rate and classification.

B. The exercise of the foregoing powers, rights, authority, duties and responsibilities by the Employer, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of the Agreement and then only to the extent such specific and express terms thereof are in conformance with the laws and Constitution of the State of Michigan and of the United States.

ARTICLE XII

HOURS AND WORK WEEK

Section 1.

A. The regularly scheduled work week shall consist of forty (40) hours beginning at 12:01 a.m., Monday, and ending 168 hours thereafter.

1. Double time will be paid for all time worked on Sunday.

B. The normal work day shall be eight (8) hours which shall not include lunch time.

Section 2.

A. Overtime rates will be paid as follows:

1. Time and one-half ($1\frac{1}{2}$) will be paid for all time worked in excess of eight (8) hours in a twenty-four (24) hour period, all time worked in excess of forty (40) hours in one (1) work week, for which overtime has not already been earned.

2. Whenever an employee is required to return to work after the completion of his regularly scheduled working hours, he shall receive pay for the actual time worked at time and one-half ($1\frac{1}{2}$) his regular rate or a minimum of one (1) hour at straight time, whichever is greater.

Section 3. Distribution of Overtime.

Overtime shall be divided and rotated as equally as possible among those employees who regularly perform such work.

ARTICLE XIII

CLASSIFICATION AND COMPENSATION

The parties hereto agree that employees covered by this Agreement shall be paid according to Schedule A attached hereto and made a part hereof by reference, except that no deviation shall be made in present practices or rates of pay for summer work.

ARTICLE XIV

HOLIDAYS

Employees shall be paid as hereinafter provided for: New Year's Day, one-half ($\frac{1}{2}$) day on Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day following Thanksgiving Day, December 24, Christmas Day and December 31, provided they meet the following eligibility rules. (Effective July 1, 1974, eligible employees shall receive Good Friday as a full day holiday provided school is not in session. If school is in session, Good Friday will continue to be a one-half ($\frac{1}{2}$) day holiday.). Effective July 1, 1984, each employee will be eligible for one (1) floating holiday to be scheduled by the supervisor.

- A. The employee is a permanent employee as of the date of the holiday.
- B. When a holiday falls on a Saturday or Sunday, the Board shall have the right to observe the holiday on the preceding Friday or the following Monday, or observe the holiday on another day which is mutually agreeable to the Employer and the Union.

- C. The employee must have worked the last scheduled work day prior to the holiday and the next scheduled work day after such holiday within the employee's scheduled work week, except when the employee works on the holiday.
- D. An employee eligible under the above provisions shall receive his regular daily rate for said holiday.
- E. An employee who is required to work on any of the above-designated holidays shall receive an amount no greater than double time and one-half (2½) for all hours worked on said holiday, including holiday pay.
- F. If an employee is on vacation on any of the above named holidays, he shall be entitled to an additional day off with pay for this holiday.

ARTICLE XV

VACATIONS

- A. All employees covered by this Agreement who have completed one (1) year of service shall receive two (2) weeks vacation with pay; after five (5) years of service said employee shall receive three (3) weeks vacation with pay; and after fifteen (15) years of service, employee shall receive four (4) weeks vacation with pay. Effective July 1, 1974, newly hired employees shall receive the following vacation schedules:

One (1) year of service	5 days
Three (3) years of service	10 days
Five (5) years of service	15 days
Fifteen (15) years of service	20 days

- B. To be eligible for a vacation, an employee must have worked ninety (90%) percent of his regularly scheduled working hours.
- C. Employees terminating employment shall receive pro-rata vacation allowance based upon 1/12 of the vacation pay for each month or major fraction thereof between his anniversary date and his termination date.

ARTICLE XVI

SICK LEAVE AND FUNERAL LEAVE

- A. Each full-time permanent employee covered by this Agreement will be entitled to one (1) sick leave day per month, up to a maximum accumulation of ninety (90) days.
 - 1. All requests for sick leave must be submitted to and approved by the Superintendent or his designated representative.
 - 2. The Employer at any time at its expense may require an employee to submit to an examination by an independent physician.
 - 3. Sick leave days accumulated prior to an approved leave of absence without pay shall be held in reserve pending the return of the employee from such leave.
 - 4. Employees who leave employment of the School District except on an approved leave of absence shall forfeit all of their unused sick leave accumulation and such time shall not be restored if any employee should later be re-employed by the Employer except that effective July 1, 1986, employees who have at least ten (10) consecutive years of employment with the Birch Run Area Schools and retire under the State Retirement Plan shall receive Twenty (\$20.00) Dollars per day for each day of unused accumulated sick leave; effective

July 1, 1987, they shall receive Twenty-Five (\$25.00) Dollars per day for each day of unused accumulated sick leave; effective July 1, 1988, they shall receive Thirty (\$30.00) Dollars per day for each day of unused accumulated sick leave.

B. Emergency Leave -

1. Leave time which shall be deducted from sick leave accumulation shall be granted at the discretion of the Superintendent or his designated representative for the following reasons:
 - a) Quarantine because of exposure to a contagious disease which could be communicated to other employees or pupils. An approval of a physician must be presented for the entire period of absence.
2. All employees shall be granted up to three (3) working days off with pay, not deducted from sick leave accumulation, for a death in the immediate family, providing a need exists, and providing the employee attends the funeral.
 - a) Such days must be taken immediately prior to or immediately following the day of the funeral.
 - b) Travel time or business in connection with the death will be acceptable reasons for the use of such days.
 - c) If the funeral is on a working day, it shall be counted as one (1) of the three (3) days.
 - d) The immediate family shall be defined as: spouse, child, adopted child, step-child, father, mother, brother, sister, father-in-law, mother-in-law, grandparent, brother-in-law or sister-in-law.

- C. Records of sick leave accumulation shall be made available to the employee or the Union upon request to the Superintendent or his designated representative.
- D. An employee who, because of illness or accident, which is noncompensable under the Worker's Compensation Law, is physically unable to report to work, shall be given a leave of absence without pay and without loss of seniority and for the duration of such disability, but not to exceed the length of his seniority or four (4) years, whichever is the least, provided he promptly notifies the Employer of the necessity therefore and provided further that he supplies the Employer with a certificate as often as requested from a medical or osteopathic doctor of the necessity for such absence and for the continuation of such absence when the same is requested by the Employer.
- E. Leaves of absence without pay shall be granted for reasonable periods not to exceed one (1) year of time for physical or mental illness, prolonged serious illness in the immediate family, which includes husband, wife, children or parents living in the same house.
- F. Leaves of absence without pay shall be granted for reasonable periods not to exceed one (1) year of time for training related to an employee's regular duties in an approved educational institution.
- G. An employee shall be granted a pregnancy leave of absence, and in such case the employee shall immediately notify the Employer of the pregnancy. The Employer then may request periodic verification of the health of the employee in relation to the performance

of the employee's normal job duties. When the medical verification of the physician would not allow the employee to continue in her normal job function because of such pregnancy, the employee shall then be granted a leave of absence not to exceed three (3) months beyond termination of pregnancy with all job and recall rights.

- H. The reinstatement rights of any employee who enters the military service of the United States by reason of an act or law enacted by the Congress of the United States, or who may voluntarily enlist during the effective period of such law, shall be determined in accordance with the provisions of the law granting such rights.
- I. Leaves of absence without pay will be granted to employees who are active in the National Guard or a branch of the Armed Forces Reserves for the purpose of fulfilling their annual field training obligations, provided such employees make written requests for such leaves of absence immediately upon receiving their orders to report for such duty.
- J. All reasons for leaves of absence shall be in writing stating the reason for the request and the approximate length of leave requested and a copy shall be sent to the Union. Leave may be granted at the discretion of the employer for reasons other than those listed above when they are deemed beneficial to the Employer.
- K. An employee on a compensible injury may draw up to five (5) days from his/her sick leave accumulation provided that if Worker's Compensation subsequently reimburses the employee for such time, the Board shall be entitled to adjust the employee's pay accordingly.

ARTICLE XVII

INSURANCE

- A. The Employer will pay the total cost of Blue Cross MVF-1 Master Medical Insurance, including no co-pay drug rider, for those employees covered by this Agreement and shall pay the additional cost for such employees who carry such insurance for their dependents.
- B. The Employer will pay the total cost of a long-term disability insurance plan at a sixty (60%) percent level at the ninety-first (91st) working day of disability.
- C. Effective July 1, 1986, the Employer will pay the total cost of a dental insurance plan for Class I 75% and Class II 75% benefits.
- D. Effective July 1, 1983, the Employer will pay the premium for a Five Thousand (\$5,000) Dollar term life insurance plan for each employee. Effective July 1, 1987, the Employer will pay the premium for a Ten Thousand (\$10,000) Dollar A.D. & D. insurance plan for each employee.
- E. Effective July 1, 1986, the Board will reimburse each employee up to a maximum of Fifty (\$50.00) Dollars per year for reimbursement of payment for optical work for the employee or his/her spouse or children. Effective July 1, 1987, the amount will increase to One Hundred (\$100.00) Dollars.

ARTICLE XVIII

NO STRIKE

The Union and the Employer recognize that strikes and other forms of work stoppages by employees are contrary to law and public policy. The Union and the Employer subscribe to the principle that differences

shall be resolved by peaceful and appropriate means without interruption of the school system. The Union, therefore, agrees that its officers, representatives and members shall not authorize, instigate, cause, aid, encourage, ratify or condone, nor shall any member take part in any strike, slowdown or stoppage of work, boycott, picketing or other interruption of activities in the school system. Failure or refusal on the part of any employee to comply with this Article shall be cause for immediate dismissal.

ARTICLE XIX

JURY DUTY

Employees requested to appear for jury qualification or service shall receive their pay from the Employer for such time lost as a result of such appearance of service, less any compensation received for such jury service, up to a period of sixty (60) days.

ARTICLE XX

SCOPE, WAIVER AND ALTERATION OF AGREEMENT

Section 1.

No agreement, alteration, understanding, variation, waiver or modification of any of the terms or conditions or covenants contained herein shall be made by an employee or group of employees with the Employer unless executed in writing between the parties hereto.

Section 2.

The waiver of any breach of condition of this Agreement by either party shall not constitute a precedent in the future enforcement of the terms of and conditions herein.

Section 3.

If any Article or Section of this Agreement or any supplement

thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal, the remainder of this Agreement and Supplements shall not be affected thereby.

ARTICLE XXI

BINDING EFFECTIVE AGREEMENT

This Agreement shall be binding upon the parties hereto, their successors and assigns.

ARTICLE XXII

TERMINATION AND MODIFICATION

- A. This Agreement shall continue in full force and effect until 11:59 p.m., June 30, 1989.
- B. If either party desires to terminate this Agreement, it shall sixty (60) days prior to the termination date give written notice of termination. If neither party shall give notice of termination date, this Agreement shall continue in full force and effect from year to year thereafter, subject to notice of termination by either party on sixty (60) days written notice prior to the current year of termination.
- C. If either party desires to modify or change this Agreement, it shall sixty (60) days prior to the termination date or any subsequent termination date give written notice of amendment in which event the notice of amendment shall set forth the nature of the amendment or amendments desired. If notice of amendment of this Agreement has been given in accordance with the paragraph, this Agreement may be terminated by either party on ten (10) days

written notice of termination. Any amendments that may be agreed upon shall become and be a part of this Agreement without modifying or changing any of the other terms of this Agreement.

D. Notice of termination or modification shall be in writing and shall be sufficient if sent by certified mail addressed to the Union, International Union of Operating Engineers, Local 547, AFL-CIO, 13020 Puritan, Detroit, Michigan 48238, and to the Employer addressed to 12400 Church Street, Birch Run, Michigan 48415, or to any other such addresses the Union or the Employer may make available to each other.

E. The effective date of this Agreement is July 1, 1986.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed.

BIRCH RUN AREA SCHOOLS

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 547, AFL-CIO

President

Business Manager

Secretary

President

Treasurer

Secretary

SCHEDULE A

HOURLY RATE

<u>CLASSIFICATION</u>	<u>JULY 1, 1986</u>	<u>JULY 1, 1987</u>	<u>JULY 1, 1988</u>
Night Shift Leader	\$9.69	\$10.22	\$10.83
Maintenance	9.39	9.91	10.50
Custodian I	8.76	9.24	9.79
Custodian II	7.69	8.11	8.60

A joint letter shall be developed indicating the employees working the second and third shifts will receive paychecks on their shift on Thursday, except for emergencies.

Part-time and seasonal employees shall not be covered by this Agreement. Part-time employees shall be those employees who work less than five (5) hours per day.