

RESOLUTION

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF MULTNOMAH COUNTY

In the matter of a resolution setting forth)	RESOLUTION
County policy as it pertains to commercial)	91-174
drivers license requirements for members of)	
the Local 88 bargaining unit)	

WHEREAS, the 1989 Oregon legislature enacted new and more stringent standards for the issuance of Commercial Drivers Licenses (hereafter "CDL's"), and

WHEREAS, a variety of Multnomah County (hereafter "County") operations require employees to drive commercial vehicles for which the driver is required by law to possess a CDL, and

WHEREAS, when the County commenced implementation of said statutory requirements a timely demand to bargain over such implementation as it affects the working conditions of certain bargaining unit members was received from AFSCME, Local 88 (hereafter "Union"), and

WHEREAS, the County and Union have subsequently bargained over said implementation and related matters, and

WHEREAS, the County and Union have exhausted statutorily required mediation and factfinding and the thirty (30) day "cooling off period" and have yet to resolve their remaining differences, and

WHEREAS, statute requires employees who operate commercial vehicles to obtain a CDL of an appropriate class at their next renewal date but not later than April 1, 1992, and

WHEREAS, it appears the expiration dates of the licenses of certain employees who drive commercial vehicles is imminent, and

WHEREAS, an immediate need exists for interim policy governing matters pertaining to obtaining CDL's, until such time as a policy mutually acceptable to County and Union is adopted or no longer legally necessary, and

WHEREAS, the Union has requested that the County implement its most recent offer on matters related to CDL's to provide such interim policy.

THEREFORE BE IT RESOLVED, that Section III, subsections "A" through "H" of the policy attached hereto as Exhibit "A", setting forth the text of the County's most recent offer to the Union,

shall govern working conditions of the Union's bargaining unit members on matters related to CDL's heretofore subject to negotiations between the County and Union until such time as a mutually agreed upon alternative policy is executed by the County and Union or is no longer legally necessary; PROVIDED, that the policy set forth in Exhibit "A" shall not take effect until the County's Labor Relations Division has given the Union such reasonable advance written notice as is statutorily required.

ADOPTED this 21st day of November, 1991.



By Gladys McCoy
Gladys McCoy, Chair
Multnomah County, Oregon

Laurence Kressel
Laurence Kressel, County Counsel
of Multnomah County, Oregon

11/12/91/1

MEMORANDUM OF UNDERSTANDINGI. Parties

The Parties to this Memorandum of Understanding (hereinafter "M.O.U.") are Multnomah County, Oregon (hereinafter "County") and Multnomah County Employees Union Local 88, AFSCME (hereinafter "Union"). The parties agree and understand as follows:

II. Purpose

The purpose of this M.O.U. is to set forth the mutual understandings of the parties concerning the impact of the County's decision to require commercial drivers licenses in accordance with ORS Chapter 807 and related Oregon Administrative Rules which became effective April 2, 1990 (hereinafter "new law"). The modified licensing requirements of that Chapter and related rules are generally referred to hereinafter as "newly required".

III. Mutual Understandings

Employees represented by the Union who are not, at the time of hire into the bargaining unit, required to possess a newly required commercial drivers license and who are at any time thereafter required as a condition of continued employment in that classification (or in their regular assignment within that classification) to initially obtain a newly required commercial drivers license shall be subject to the following terms:

A. License Fees and Expiration: The employee shall be obligated to pay the cost of the newly required license and for renewals.

B. Written Examinations: The employee shall be obligated to pay the cost of each written exam required to obtain the newly required license. However, the employee will be permitted, during regularly scheduled work hours without loss of pay, to take the first exam of each type needed to obtain the newly required license. The County will determine the specific date(s) and time(s) for any such exam(s), following consultation with the affected employee(s).

C. Skill (Hands On) Examinations/Waivers:

1. The County will reimburse the employee for the cost of one (1) passed skill examination up to a maximum of fifty-six dollars (\$56.00) if the employee submits proof of payment and the new license to his immediate exempt supervisor for verification within ten (10) days following receipt of the license. At a date(s) and time(s) scheduled by the County, following consultation with the affected employee(s), the County or its representative will deliver to the Multnomah County, Oregon or Clark County, Washington site designated by the applicable state's Division of Motor Vehicles equipment necessary for the taking of the skill examination for the newly required license.

2. Employees classified as Truck Driver for not less than two (2) years immediately preceding the date of application for a commercial

driver's license of the classification required by the County and who have a good driving record and possess a valid Class 1 driver's license may apply for and, upon request, be granted a certification of his or her driving experience signed by the employer permitting the employee to obtain the required commercial license without taking the hands on skills test. However, the request for such certification and the employee's state application for the license must be filed prior to April 1, 1992 or the expiration date of the employee's class 1 license, whichever is earlier. Further, an employee receiving a commercial license through this certification process will, as a condition precedent to receipt of the certification, sign an agreement prohibiting the employee from using the license except as directed by the County in the course of his or her regular employment with the County. Such employee may, however, subsequently take and pass the hands-on skills test to be eligible to use his or her commercial license outside his or her County employment. For purposes of this subsection, a "good driving record" shall mean that an employee has not been convicted of a major traffic offense in the five (5) years immediately preceding the request for certification and has not been involved in an accident in which the employee was, in the county's judgment, at fault while driving a commercial vehicle (as classified at any time) within the two (2) years immediately preceding that request. Major traffic offenses include, but are not limited to, driving under the influence, reckless driving, fleeing, driving with a suspended or revoked license, driving without required endorsements or certifications, driving while in the commission of a crime, and hit and run.

D. Training: If requested by *an* employee required to have a commercial driver's license at the time the terms of this agreement are executed or implemented and who is not granted a waiver under C(2) above, the County will provide (or contract to provide) the employee a general preparatory training course for the basic written examination required of all persons required by the County to have a commercial drivers license. It is understood that this training will be of a type similar to the four (4) hour training offered by the Oregon Truckers' Association. If requested by the employee, the County will also provide (or contract to provide) the employee with preparatory training for taking the skills examination. It is understood that this training will be of a type consuming approximately ten (10) hours and designed to inform the employee of the types of behaviors that Department of Motor Vehicle test administrators can be expected to consider in determining the employee's success or failure on the examination. The training may or may not include actual hands on operation of equipment, but the County will make reasonable efforts to provide the employee with an opportunity to operate the equipment on which he or she will be tested prior to taking of the examination. Training under this subsection (4) shall be scheduled by the County and shall be considered time worked for pay purposes.

E. Physical Exams: If the County selects the physician giving the physical exam required for obtaining or maintaining the newly required license, the County will pay for the examination. If the employee selects the physician, the employee shall pay for the examination. The employee shall determine whether he or she or the County will select the physician, and shall inform the immediate supervisor in advance of the exam of his or her decision.

F. Failure to Obtain or Maintain the Required License(s):

1. The County will comply with applicable state and federal handicapped discrimination laws as it pertains to an employee who fails to pass the physical examination required for obtaining or maintaining a newly required commercial drivers license.

2. Employees who fail to obtain or maintain in valid current status the newly required commercial drivers license shall be subject to disciplinary action or dismissal in accordance with applicable provisions of the 1988-91 collective bargaining agreement between the parties or its successor.

3. Notwithstanding subsection F, paragraph 2, the parties acknowledge that with respect to certain employees, "cause" as described in Article 17, section 1 of the County-Local 88 agreement would dictate withholding of disciplinary action against or dismissal of the employee who fails to initially obtain a valid newly required commercial driver's license of the required class, subject to certain conditions.

a. The "certain employees" to which this paragraph 3 refers are those who:

i. are non-probationary employees who as of October 1, 1991 occupied positions for which the County requires a newly required commercial driver's license and who have not obtained such license; or

ii. employees who in the future occupy a position for which the requirement for a newly required drivers license is imposed after the employee's passage of probation in the job classification encompassing the position.

b. The "certain conditions" referred to in this paragraph 3 would dictate that such employee's failure to initially obtain a newly required commercial drivers license of the particular license classification required by the County would not result in discipline or discharge if:

i. the employee makes continuous efforts to obtain the license; and

ii. lack of the license would not substantially impair the efficiency of operations.

c. For purposes of this subsection, "continuous efforts" means that the employee must make on-going good faith efforts to improve his or her relevant driving knowledge and skills with the objective of improving his or her chances of meeting the licensing requirements, and take the commercial driving test on each occasion on which the employee is eligible under law to take the examination. (The employee shall provide documentation of such efforts, upon request of the employer.)

G. Status of License:

1. The employee shall make the immediate supervisor aware, in writing, of the expiration of a drivers license(s) required by the County and of any event actually or potentially affecting the status of that license (e.g. traffic citation, drunk driving arrest, license suspension or revocation, etc.). Such notice shall be given to the supervisor immediately upon expiration of the license or occurrence of the event.

2. Employees represented by the Union who are required to possess a newly required commercial drivers license as a condition of hire into a classification shall be subject to the terms of section III, subsections A, E, F (paragraphs 1 & 2), and G above only.

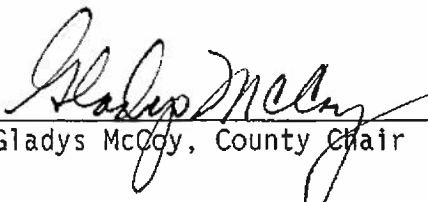
H. Exemptions: The Division Manager of an employee in a classification in which one (1) or more employees are required to possess a commercial drivers license of a particular class may exempt one (1) or more subordinate employees from the requirement that the license be obtained. However, such exemption may be rescinded if, in the employer's judgment, the employee's acquisition and maintenance of such a license is or will be needed to meet operational needs. An employee whose exemption is rescinded shall be given a reasonable period of not less than ninety (90) days in which to obtain his or her license.

I. Integration & Waiver of Bargaining: The terms of this written M.O.U. constitutes the entire M.O.U. between the parties. The signing of this M.O.U. by the parties waives any duty the County may have under the Public Employee Bargaining Act to bargain the decision to implement or impact of implementing the commercial drivers licensing provisions set forth in ORS Chapter 807 and related Oregon Administrative Rules.

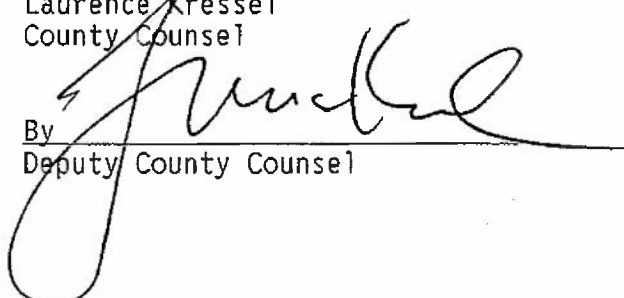
J. Duration: The terms of this written M.O.U. shall remain in effect through June 30, 1992.

Entered into this day, November 21, 1991.


For the County:


Gladys McCoy, County Chair

Reviewed:
Laurence Kressel
County Counsel

By 
Deputy County Counsel

For the Union:


Jim Smith, Business Representative

Negotiated For the County:


Darrell Murray
Deputy Labor Relations Mgr.