

## **ARTICLE 1**

### **ACCESS**

#### **A. GENERAL PROVISIONS**

1. The parties acknowledge that it is in the Union's interest that it be granted access to University facilities for the purposes of ascertaining whether the terms of this Agreement are being met; engaging in the investigation, preparation, and adjustment of grievances; conducting Union meetings; explaining to bargaining unit members their rights and responsibilities under the Agreement; and informing bargaining unit employees of activities. In the interest of facilitating these purposes, and in accordance with local campus/medical center/Laboratory procedures, the parties agree to this Article.
2. AFSCME will abide by the reasonable access rules and regulations promulgated at each campus/medical center/Laboratory.

**B.** Designated Union representatives who are not University employees, or who are not employed at the facility visited, may visit the facility at reasonable times and upon notice to discuss with the University or bargaining unit members matters pertaining to this Agreement. In the case of visits for the purpose of conducting unscheduled meetings with bargaining unit members, the Union representative shall give notice upon arrival in accordance with local campus/medical center/Laboratory procedures. As currently provided, the Union shall be permitted to use a table in or near the main cafeteria at each facility, or in or near the lunchroom where no cafeteria exists.

**C.** Internal Union business such as membership recruitment, campaigning for Union office, hand-billing or other distribution of literature, and all other Union activities shall take place during non-work time. Bargaining Unit employee rest and meal periods are non-work time for the purposes of this Article.

**D.** The Union will furnish the University with a written list of all designated Union representatives. The list will be updated periodically as changes to the original list occur.

1. The parties, by mutual agreement at each campus/Laboratory, shall designate jurisdictional areas for the purpose of grievance representation. AFSCME shall present its proposal for jurisdictional areas not later than the first scheduled campus/Laboratory labor-management meeting. The University and AFSCME agree that in order to minimize travel and loss of work time by grievance representatives, jurisdictional areas shall be limited to a reasonable size and area. To the extent possible, each jurisdictional area shall contain a similar number of employees.
2. Upon completion of designation of jurisdictional areas at each campus/Laboratory, AFSCME shall designate and certify to the University one grievance representative (and one alternate, if any) for each jurisdictional area. A designated grievance representative may be the grievance representative for one or more shifts. Subsequent to initial certification of grievance representatives at each campus/Laboratory, AFSCME shall maintain as current such list of grievance representatives. Until agreement has been reached regarding jurisdictional areas at each campus/Laboratory, the University will recognize grievance representatives certified as current at the time this Agreement is signed.
3. Grievance representatives certified by AFSCME shall have authority to act on behalf of AFSCME in all matters related to grievance representation. Any actions taken by or agreements reached between such grievance representatives and the University shall be binding upon employees represented by AFSCME.
4. Time in a without-loss-of-straight-time pay status for grievance representatives shall be as specified in Section F of Article 9 - Grievance Procedure. In no event shall the grievance representative receive payment for time spent in performance of his/her representation duties during any shift other than that representative's regularly

scheduled shift. If a certified alternate grievance representative performs the representation duties of the certified grievance representative during the regularly-scheduled shift of the latter, any and all hours spent pursuant to Section F of Article 9 - Grievance Procedure shall be charged to the certified grievance representative.

- E.** Where operational requirements or other restrictions do not permit unlimited access, the University reserves the right to designate the place of the meeting and/or to require a University representative to accompany the Union representative.
- F.** AFSCME officers and representatives and bargaining unit employees, including local Union officers and representatives, shall not conduct any Union activity or Union business on University premises or while in pay status with the University unless such activity is specifically authorized by the provisions of this Agreement and is conducted in accordance and conformance with campus/medical center/Laboratory procedures.
- G.** The University retains the right to enforce access rules and regulations in accordance with local campus/medical center/Laboratory procedures. The types of sanctions which may be imposed upon the Union as a result of a University determination that an access rule or regulation has been violated include, but are not limited to:
  - 1. Expulsion of and denial of access to the particular non-employee officer(s) or representative(s) of AFSCME who violate the rule(s) or regulation(s) for a specified period of time or permanently; and
  - 2. Denial of access to and discipline of University employee AFSCME representative(s) who violate the rule(s) or regulation(s).

#### **H. BULLETIN BOARDS**

- 1. AFSCME shall have access to general purpose bulletin boards and shall have the use of those bulletin boards subject to campus/medical center/Laboratory custom, usage and practice for the display of appropriate materials related to union representation. The Union may also use bulletin boards designated by the University to post materials related to Union business.
- 2. Any materials posted on bulletin boards must be dated and initialed by the Union representative responsible for the posting and a copy of all materials posted must be provided to the appropriate University representative at the location at the time of posting.
- 3. Bulletin board space available to AFSCME shall be maintained by the president of the local Union. Unless mutually agreed otherwise, no materials shall remain posted for a period of more than thirty (30) calendar days.
- 4. In the event the parties meet and mutually agree as to the location and size of additional bulletin boards, any and all costs associated with the purchase and placement of such boards shall be evenly split by the Union and the University.
- 5. Wall racks and literature display equipment, if any, shall be subject to the same provisions of this Article regarding bulletin boards.

#### **I. PATIENT CARE AREAS**

- 1. AFSCME representatives shall have access to patient care areas only as necessary for travel to and from business in those places set forth in Appendix C. AFSCME representatives shall not contact bargaining unit members in, linger in, or use patient care areas for the purpose of conducting AFSCME business. When the designated campus/medical center/Laboratory official and the AFSCME representative mutually agree that a visit to a patient care area is necessary in attempting to adjust grievances, access to patient care areas will be granted.
- 2. "Patient Care Area" includes:

- a. Chart rooms and rooms that function as or are in the nature of chart rooms;
  - b. Nursing stations;
  - c. Patient and/or visitor lounges including patient conference rooms, sitting rooms, and solaria; Libraries or study areas located within patient care areas;
  - d. Patient floor and operating room area corridors; and
  - e. Patient rooms, operating rooms, laboratories, clinics, and other treatment and patient care areas.
3. Union representatives shall be given a campus/medical center/Laboratory orientation which shall review access areas, general safety and health requirements, and procedures for the scheduling and use of certain rooms. Attendance at the orientation shall be a prerequisite to access. The university and the union may mutually agree to waive the prerequisite in the appropriate circumstances.

## **J. MAIL SERVICE**

1. In Individually addressed mail on which U.S. postage has been paid which is received by the University bearing an employee name and accurate address will be distributed to the employee in the normal manner and in accordance with University procedures and policies with regard to the U.S. mail.
2. locations where individual employee mailboxes exist, the Union may use such boxes provided:
  - a. The boxes are in non-work areas;
  - b. Access is otherwise consistent with the access provisions of this Agreement; and
  - c. The use complies with applicable campus/medical center/Laboratory rules and regulations.
3. Such mailings must be of a reasonable size and volume and prepared by the Union in accordance with prescribed University mail policy. With regard to AFSCME placing materials in the mailboxes of individual employees, the contents of such mailings shall relate to the matters listed below:
  - a. Union recreational and/or social affairs;
  - b. Union appointments;
  - c. Union elections;
  - d. Results of Union elections;
  - e. Union meetings;
  - f. Rulings or policies of the International Union; and
  - g. Reports of union standing committees.
4. Union use of the University mail systems involved shall in no way obligate the University to pay for or to provide the cost of postage or any other delivery charge. It shall be the responsibility of the local Union president to ensure the Union complies with all governmental and University rules and regulations related to mail.

5. The Union agrees to indemnify, defend and hold the University harmless against any claims made of any nature and against any suit instituted against the University arising from the bulletin board and/or mail delivery privileges provided in this Article.

### **3. INFORMATIONAL MATERIAL**

A packet of Union informational material shall be provided to each new employee represented by AFSCME. The material contained in such packet shall be determined by mutual agreement achieved through the local labor-management meeting. The University shall be responsible for the distribution of the packet.

### **4. TELEPHONE USE**

1. On a call-by-call basis, with express permission from the immediate supervisor, local Union officers may use existing University telephones for the sole purpose of conducting Union business which is specifically authorized by section F of Article 9 - Grievance Procedure of this Agreement. No calls of any type shall be made which result in a charge other than the local rate for the call. Conference calls or calls involving tolls, long distance charges or utilizing such systems as ATSS or TMS shall not be made. The frequency and duration of permitted phone calls shall not be such as to interfere with or disrupt the employee's completion of work assignments, nor impair the efficiency of University operations. The University may keep a record and log of Union use of the telephone system.
2. Employees' work telephone numbers shall not be listed on any Union literature or in any Union publication. In the event phone use by an employee is disruptive to the accomplishment of the employee's assigned work or to University operations, the employee's ability to use the University's telephone facilities shall be terminated.

## **M. USE OF UNIVERSITY FACILITIES**

Subject to the time, place and manner rules in effect at the time of a Union request for use of facilities, University facilities may be used for Union meetings subject to the operating needs of the University. Requests for use of such University facilities shall be made in advance to the appropriate University representative. In the event the facilities requested by the Union have already been scheduled for other activities at the time the University receives the Union request, the University shall not be required to change the existing scheduled use of the facility to accommodate the Union. As required by the University, the Union shall reimburse the University for expenses such as room rental, security, maintenance and facility management costs or utility costs incurred as a result of the Union's use of University facilities. Such costs will at a maximum be consistent with the amount normally charged to other non-University groups for provision of such services.

## **N. PREPARATION, PRINTING AND DISTRIBUTION OF THE AGREEMENT**

1. In consultation with the Union, the University shall prepare the official version of this Agreement. The Union may review the camera ready copy of the Agreement prior to printing.
2. The University shall post a copy of the final official Agreement on the UCOP Labor Relations website (UCNet) after review by the union.
3. The Agreement shall be available electronically only.

## **O. Access to Employee Contact Information**

1. On a monthly basis, the University shall provide AFSCME with an electronic list via File Transfer Protocol (FTP) of all employees in the bargaining unit. The list will include the following categories: name, title, title code, most recent date of hire, annual salary rate, percentage appointment, and hiring unit. In addition, the list will include the home address, home telephone number, personal cell phone number,

personal email address, and work location of bargaining unit members unless the employee has specifically requested in writing to AFSCME that the home and/or personal information not be released. The University will provide AFSCME a weekly list of changes (e.g. new hire, corrections, transfers, salary changes, contact information) via FTP that have occurred within the bargaining unit.

2. On April and October of each year, the University will provide AFSCME with a disaggregated bargaining unit demographics list that includes Age, Sex Code, Ethnic Origin Group Code, Medical Insurance Plan Coverage Code, Veteran Status Code, War/Campaign/Expedition Veteran Status Code, and Recently Separated Veteran Date.
3. Upon written request by AFSCME, the University will provide the undisclosed home addresses to a mutually agreed-upon mailing service firm through which AFSCME can correspond with said individuals. The mailing service shall keep confidential the home address of the employees who have requested that the home information not be released. AFSCME will bear all costs associated with this service.
4. Employee personal contact information (home addresses, home phone numbers, personal cell phone numbers, personal email addresses) shall be maintained as confidential by the Union. The Union shall take all reasonable steps to ensure the confidentiality of all personal contact information provided to it under this Article.
5. The Union agrees to defend, indemnify and hold harmless the University of California (including its subdivisions and employees) from any claim, suit or liability of any nature arising from (a) a challenge to the validity of this Section; or (b) any action of the Union taken pursuant to, or in violation of, this Section. The Regents will give the Union prompt written notice of any claim, suite or liability which it contends is subject to this provision.
6. In the event legislation is passed that is applicable to the University of California and conflicts with this Article, the parties agree to meet and confer to amend this Article to comply with such legislation.

#### **P. ACCESS TO EMPLOYEE HOME ADDRESS AND TELEPHONE NUMBERS**

1. On March 1 of each year, the University shall provide AFSCME with an electronic list via File Transfer Protocol (FTP) of all employees in the bargaining unit. The list will include the following: name, title, title code, date of hire, annual salary rate, percentage appointment, and hiring unit. In addition, the list will include the home address, telephone number, of bargaining unit members unless the employee has specifically requested that the home information not be released. The University will provide AFSCME a weekly list of changes (e.g. new hire, corrections, transfers, salary changes) via FTP that have occurred within the bargaining unit.
2. Upon written request by AFSCME, the University will provide the undisclosed home addresses to a mutually agreed-upon mailing service firm through which AFSCME can correspond with said individuals. The mailing service shall keep confidential the home address of the employees who have requested that the home information not be released. AFSCME will bear all costs associated with this service.
3. Employee work, home addresses, shall be maintained as confidential by the Union. The Union shall take all reasonable steps to ensure the confidentiality of all information provided to it under this Article.
4. The Union agrees to defend, indemnify and hold harmless the University of California (including its subdivisions and employees) from any claim, suit or liability of any nature arising from (a) a challenge to the validity of this Section O; or (b) any action of the Union taken pursuant to, or in violation of, this Section O. The Regents will give the Union prompt written notice of any claim, suit or liability which it contends is subject to this provision.

5. In the event legislation is passed regarding access to employee home addresses and telephone numbers, and such legislation is applicable to the University of California, all provisions in Section O of this Article will become null and void.

## **Q. NEW EMPLOYEE ORIENTATIONS**

The following provisions shall apply to “new employee orientation,” which means that onboarding process of a newly hired public employee whether in person, online, or through other means or mediums, in which a newly hired employee is advised of employment status, rights, benefits, duties and responsibilities, or any other employment-related matters.

### **1. Notice:**

The Employer shall provide the Union at least fifteen (15) business days’ written notice by email (to address that the Union shall provide to the Employer) of all group employee orientations in which Employer personnel advise newly-hired employees (including at least one newly hired employee in an AFSCME-represented title) of information regarding employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The Employer’s notice shall include the name, payroll title and department of all AFSCME-represented new employees anticipated to attend. If a new employee is hired less than fifteen (15) business days prior to an orientation, the Employer shall provide the Union notice concurrent with that provided to the new employee.

### **2. Access:**

At all orientation meetings as defined in 1. above:

- a. The Employer shall afford the Union thirty (30) minutes during employees’ paid time to meet with (and provide materials and information) to all AFSCME-represented new employees who are present, outside the presence of management or labor relations/employee relations personnel. The Employer shall ensure that the Union’s meeting will be held in space that allows private communication with those in attendance.
- b. The University’s representative(s) advising new employees shall direct any questions regarding Union membership to the Union representative(s) and shall not otherwise comment on such matters.
- c. The Union’s meeting shall be shown as an integral part of the agenda for the orientation, shall not be scheduled to take place during any scheduled meal period or break time for the orientation, shall not be the final agenda item of any day, and shall not be scheduled after the conclusion of the agenda on any day.
- d. At the sole discretion of the Union, the Union’s representatives at the Union meeting may be staff representatives and/or union stewards/MAT Leaders. Up to two (2) of the Union’s representatives may be union stewards/MAT Leaders in a without-loss-of-straight-time pay status, provided use of the release time would not interfere with operational needs and has received prior supervisory approval. The hours so used shall be deducted from the ten (10) hours per month allotted in Article 9 – Grievance, Section F-2.

### **3. Alternate Access:**

The provisions in this Paragraph shall apply in lieu of the provisions above when:

(a) new employee orientation is individualized; or (b) if, within thirty (30) days of beginning work, a new employee did not attend a group orientation meeting pursuant to Paragraphs 1 and 2. The Union is not entitled to access again (for the purpose of new employee orientation) to any newly hired employee who has already attended a group new employee orientation pursuant to Paragraphs 1 and 2.

- a. On a monthly basis, the Employer shall provide the Union with a list showing the name, title and department of all AFSCME-represented employees who did not, within the first

thirty (30) days after beginning work, attend a group new employee orientation meeting pursuant to paragraphs 1 and 2.

- b. For each AFSCME-represented new employee who did not, within the first thirty (30) days after beginning work, attend a group new employee orientation meeting, the Union shall have the right to promptly meet with that employee to provide materials and information. If interested in holding such a meeting, the Union shall provide the Employer notice of its desire to do so within ten (10) business days of its receipt of the aforementioned list from the Employer. To arrange such a meeting, the Union shall notify the Employer's designated Labor Relations representative of the Union's desire to schedule such a meeting and shall work together with the designated Labor Relations representative to schedule a period of thirty (30) minutes during normal working hours, for up to two (2) Union representatives to meet with (and provide materials and information to) the new employee or employees. The meeting shall be held outside the presence of management personnel or management representatives, in space that ensure privacy. If the aforementioned list shows five (5) or more employees from a particular location, the Union and the Labor Relations representative shall work together to schedule a mutually agreeable period of thirty (30) minutes for the Union to meet privately with that group of employees, rather than individually with employees within that group.
- c. The new employee or employees shall attend the Union meeting in without-loss-of-straight-time pay status. The Union representatives at the meeting may be staff representatives and/or union stewards/MAT Leaders. Union stewards/MAT Leaders shall attend in a without-loss-of-straight-time pay status, provided use of the release time would not interfere with operational needs and has received prior supervisory approval. The number of hours so used shall be deducted from the ten (10) hours per month allotted in Article 9 – Grievance Procedure, Section F-2.

## **ARTICLE 2 AGREEMENT**

- A. This Agreement is made and entered into this 28<sup>th</sup> day of March, 2014 pursuant to the provisions of Articles 1 through 11 of the Higher Education Employer-Employee Relations Act (HEERA) by and between The Regents of the University of California, a corporation (hereinafter referred to as the "University" or "management" or "employer") represented by the Office of the President of the University of California system, and the American Federation of State, County and Municipal Employees (hereinafter referred to as "AFSCME" or the "International Union" or "Union"), represented by the international organization of AFSCME, AFL-CIO.

### **B. PURPOSE OF AGREEMENT**

- 1. It is the intent and purpose of the parties hereto that this Agreement constitutes an implementation of the provisions of HEERA and provides for orderly and constructive employment relations in the public interest, in the interests of the University, and the interests of the employees represented by AFSCME.
- 2. The parties hereby acknowledge that this Agreement represents an amicable understanding reached by the parties as a result of the unlimited right and opportunity of the parties to make any and all demands with respect to the employer-employee relationship which exists between them relative to the scope of bargaining.
- 3. This Agreement recognizes one certified bargaining unit. Each provision of this Agreement applies to that bargaining unit unless specified otherwise.

### **C. RECOGNITION**

- 1. Pursuant to and in conformity with the certifications issued by the Public Employment Relations Board (PERB) of the State of California in case number SF-HR-13, the

University recognizes AFSCME as the sole and exclusive representative for the purposes of collective bargaining with respect to wages, hours, and terms and conditions of employment for all employees, excluding employees designated as managerial, supervisory and/or confidential by the University and all student employees whose employment is contingent upon their status as students, in the following described bargaining unit:

Unit #13 – Patient Care Technical (SF-HR-13)

2. The term "employee" as used in this Agreement shall refer to employees of the University of California including the Lawrence Berkeley Laboratory ("Laboratory") in the above-mentioned unit except for those excluded pursuant to C.1. above.
3. The classes and title codes included in Unit 13 are listed in Appendices A.
4. **Meetings With Other Groups**
  - a. The parties acknowledge that it is the policy of the State of California to encourage the pursuit of excellence in teaching, research and learning through the free exchange of ideas among the faculty, students and staff of the University of California. To this end, the parties, while recognizing AFSCME as an exclusive bargaining agent, acknowledge the right of the University to meet for purposes of information and idea exchange, with committees, councils, groups, caucuses and ad hoc organizations when the subject matter of such meetings is not limited to the occupational community of interests of the bargaining unit covered by this Agreement.
  - b. Participants in such meetings shall not be deemed to be meeting under the auspices of HEERA, nor shall such participants be required to adhere to the obligations and responsibilities enumerated under HEERA. Further, the result of such meetings shall in no way require or allow the University on its own action to change or alter the provisions of this Agreement.

**D. WAIVER OF UNIT MODIFICATION AND RECLASSIFICATION OF EXCLUDED POSITIONS**

The job titles and positions excluded from the unit by the parties' stipulations of March, 1983 and by PERB's Directed Election Order of April, 1983 shall be conclusively deemed to be managerial, supervisory, or confidential, or any indicated combination thereof, as shown on the list appended to said stipulation, and AFSCME expressly waives for the duration of this Agreement any right it may have to seek to include any such title or stipulation by unit modification. AFSCME recognizes that the University has the exclusive right to establish new title codes and titles for any such excluded position or title. The University shall advise AFSCME of any such new title. In the event the University elects not to establish a new title for some or all excluded positions currently classified in included titles, the University shall, during the term of this Agreement, provide the Union with a list by location of the excluded positions which remain within included titles and the incumbents at that time, if any. The failure to include an excluded position on any such list shall not be evidence that the position should be included in any unit.

**E. RECLASSIFICATION FROM UNIT TO NON-UNIT POSITIONS**

In the event the University determines that a position should be reclassified or designated for exclusion with the result that the position would be removed from the unit, it shall notify the Union in writing. If the Union believes that the reclassification or designation violates this Agreement, it shall notify the University within 30 calendar days of receipt of the University's notice that it wishes to challenge the matter through expedited arbitration. Subsequent to the Union's notice but prior to selection of an arbitrator, the University shall arrange a meeting to include the employee whose job is in question, a Union representative, and a University representative to review the contents of the employee's job.

**F. EXPEDITED ARBITRATION**



1. **Exclusive Process** – The procedure described herein shall be the sole, exclusive procedure for resolving disputes arising under Sections D and E above.
2. **Selection of Arbitrator and Scheduling of Hearing**
  - a. Within five working days of the Union's notice to the University, the arbitrator shall be selected by mutual agreement or by the alternate striking of names.
  - b. The hearing shall be held within two weeks of the arbitrator's selection or, if that is not possible, on the arbitrator's first available date thereafter; provided that if the arbitrator has no available date within four weeks, another arbitrator shall be selected.
3. **Pre-hearing Submission and Conduct of the Hearing**
  - a. Unless the parties mutually agree to the contrary, each party shall have up to two hours to present its case, but may reserve up to one-half hour of such time to respond to the other party's presentation. The presentation may be made by way of statement by the party's representative, presentation of witnesses or both, but the hearing shall be informal and rules of evidence shall not apply. No transcript or recording shall be kept.
  - b. Following the presentations by the parties, up to two hours may be spent in an on-site review of the position or positions in question during which either party or the arbitrator may ask the employee or employees questions about the responsibilities of the position or positions.
  - c. The burden of proof and proceeding in this expedited arbitration procedure shall be that of AFSCME.
4. **Decision and Precedence**
  - a. The arbitrator shall issue a written award within three working days after the close of the hearing. During this period, the arbitrator may convene the parties for up to an additional two hours if the arbitrator wishes to raise additional questions.
  - b. The award shall not include a written opinion and, unless the parties mutually agree to the contrary, shall answer only the issue of whether the job or classification in question should be placed within the bargaining unit. It shall be final and binding but shall not be used as a precedent in any other case.
5. **Standards** – Included in the standards to be used by the arbitrator in reaching his/her decision shall be the following:
  - a. All managerial, supervisory, and confidential employees as defined by the Higher Education Employer-Employee Relations Act are excluded. Employees who hold any managerial, supervisory, or confidential appointment, regardless of the percentage of time worked in such appointment, are excluded.
  - b. All University student employees whose employment is contingent upon their status as students are excluded.
  - c. All employees whose employment is principally outside of the State of California are excluded.
6. **Costs** – The fee and expenses of the arbitrator shall be shared equally by the parties.
7. With the exception of Section G. below, the expedited arbitration procedure referenced herein shall be the sole and exclusive procedure through which the parties

shall resolve disputes between them as to the inclusion or exclusion of employees in or from the bargaining unit. This procedure shall be used after discussions between the parties have failed to achieve resolution of such matters.

#### **G. NEW CLASSES**

1. When the University creates a new class and title within the occupational subgroups (OSG) included in this bargaining unit, the University shall mail a notice to the Union of the bargaining unit assignment, if any, of such class. The Union shall have 30 calendar days after mailing of such notice to contest the University's assignment. If the Union contests the assignment, the University and the Union shall meet and confer in an effort to reach agreement on the bargaining unit assignment for the class.
2. If the parties are unable to reach agreement, the dispute shall be submitted to PERB pursuant to Regulation 32781(a)(2) for resolution. If the Union does not contest the bargaining unit assignment within the 30 calendar day notice period, the unit assignment of the new class shall be deemed agreeable to the parties and PERB shall be so advised. Bargaining unit assignments made by the University which are contested by the Union shall remain as originally assigned by the University until such time as the parties are in mutual agreement as to a different assignment or, if such assignment is referred to PERB within the appeal period stated above, until resolution of the matter by PERB.
3. If the inclusion of a new class within the bargaining unit covered by this Agreement is agreed to by the parties or found appropriate by PERB, the University shall assign a pay rate to the class.
4. Assignment by the University of the pay rate to a new class as indicated above shall be consistent with the then-existing compensation and classification methodologies utilized by the University.
5. If the inclusion of a new class in the bargaining unit is agreed to by the parties or found appropriate by PERB but the University's determination of the pay rate is questioned by the Union, the Union shall, within 15 calendar days of the inclusion determination, request in writing that the University meet to discuss the pay rate for the class. If such a request is made, the parties shall meet within 30 calendar days of the request.
6. Pending discussion, if any, of the pay rate for a new class the pay rate originally assigned by the University shall remain in effect. An unquestioned rate or the rate determined appropriate by the University subsequent to any discussion with the Union shall be the rate assigned to the new class. Such rates shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

#### **H. ABOLITION OF CLASSES**

The University agrees to inform AFSCME when classes are abolished.

### **ARTICLE 3 ARBITRATION PROCEDURE**

- A. Grievances which have not been settled under the procedures provided in Article 9 - Grievance Procedure, may be appealed to arbitration. Only the Union shall have the right to submit a grievance to arbitration and only after the timely exhaustion of the procedures of Article 9 - Grievance Procedure. An appeal to arbitration must be received by the Office of the Director -- Labor Relations, Office of the President within 20 calendar days of the mailing of the last preceding University written answer to the Union. The appeal to arbitration must be signed by the AFSCME Local 3299 Director and Proof of Service must accompany the appeal to arbitration. An appeal to arbitration shall be accomplished through the following vehicles only:

1. U.S. Mail - the person mailing shall complete and sign the prescribed and appropriate Proof of Service form which shall indicate that they have personally deposited with or presented to the U.S. Postal Service the document(s) being mailed;
  2. Personal presentation - the person presenting the document(s) shall complete and sign the prescribed and appropriate Proof of Service form which shall indicate they have delivered the document(s) by hand and to whom the document(s) were delivered; or the person delivering the document(s) and the person accepting delivery of the document(s) shall mutually acknowledge the delivery/receipt by signing and dating the document(s) and a copy of the document(s) and each of them retaining one of the signed and dated document(s); or
  3. Email to [AppealAGrievance@ucop.edu](mailto:AppealAGrievance@ucop.edu).
    - a. Email submissions must include PDFs of all documents, information and signatures necessary to be in compliance with the Arbitration Procedure provisions of this Agreement.
    - b. The 'date of filing' for emailed Appeals to Arbitration shall be the date received on the University server, provided that the appeal is received during business hours. If an Appeal to Arbitration is received outside of normal business hours, the first following business day will be deemed the filing date of the Appeal to Arbitration.
    - c. The University shall acknowledge the Union's Appeal to Arbitration through a computer-generated, automatic email response.
- B.** Grievances which are not processed within the above time limit, and/or which do not contain the appropriate Union signature, will be considered ineligible for appeal to arbitration. If an unresolved grievance is not appealed to arbitration or heard in arbitration, the last preceding University written answer shall become final.
- C.** A request for arbitration utilizing the expedited grievance procedure provided in Article 9 - Grievance Procedure, Section H.2.f., may be made only by AFSCME in accordance with Section A. above. Request for arbitration under this section must include a copy of the completed grievance form.
- D.** Within 15 calendar days of service upon the University of AFSCME's appeal to arbitration of a grievance, the University shall acknowledge receipt of the appeal and shall indicate the University's office of representation for the grievance. The acknowledgement shall indicate the location to which all correspondence and contact should be made relative to the Arbitration Procedure and shall include a Proof of Service.
- E.** Within 30 calendar days of service upon AFSCME of the University's acknowledgement of a grievance having been appealed to arbitration as indicated in C. above, the parties shall attempt to mutually agree to the selection of one arbitrator from the permanent panel to serve as arbitrator for the appealed grievance.
- F.** The scheduling of the arbitration hearing date must be accomplished no later than 180 calendar days from the date the grievance was originally appealed to arbitration. Failure to invoke the process described in Sections G. and H. below, within 180 calendar days will render the grievance ineligible for arbitration and the last preceding University written answer shall become final.
- G.** Time limits related to the Arbitration Procedure may be extended by mutual written agreement of the parties in advance of the expiration of the time limit. Deadlines which fall on a day which is not a campus/medical center/Laboratory business day will automatically be extended to the next business day.
- H. SELECTION OF THE ARBITRATOR**

1. If the parties mutually agree to the selection of the arbitrator, a letter signed by both parties shall promptly be sent to the arbitrator notifying him or her of his/her selection and requesting a hearing date. In the event the parties anticipate a hearing involving more than one day, they shall at the time of notice to the arbitrator of his or her selection estimate the number of days the hearing will require. Available arbitration date(s) shall not be any earlier than 21 calendar days from the arbitrator's receipt of his or her selection to hear the arbitration.
2. If the parties fail to reach mutual agreement as to the selection of an arbitrator for a grievance appealed to arbitration pursuant to Section D. above, selection shall be made as follows:
  - a. The names of five members from the northern or southern permanent panel group shall be drawn by blind lot.
  - b. The parties shall alternately strike names from the list of five. The flip of a coin shall determine the party to begin the alternate process of the striking of the names.
  - c. The one name remaining after each party has stricken two names shall be the arbitrator designated to conduct the hearing.
  - d. If both parties mutually disagree with the arbitrator name which has been selected using the above process, the process shall be repeated in its entirety in order to determine a selected arbitrator.
  - e. If, after two attempts, the parties mutually disagree with the arbitrator selected, then one party, chosen by the flip of a coin, shall draw one name by blind lot from the northern or southern group and that arbitrator shall hear the arbitration case.

## **I. SCHEDULING THE ARBITRATION HEARING**

1. Should the parties be unable to agree to a hearing date, the authority to schedule the hearing rests with the arbitrator. The parties may, however, mutually agree in writing in advance to extend the 180-day time limitation. In such cases the arbitrator shall be informed of the parties' mutual agreement and shall be provided with a copy of such written agreement.
2. Should the Union make a request that the grievance be placed in abeyance for any reason, the period of abeyance shall not exceed six months. The Union further agrees that grievances placed in abeyance shall have the time limits tolled during this period. Failure by the Union to reactivate the grievance within the six-month time limit following request that it be held in abeyance will render the grievance ineligible for arbitration and the last preceding University written answer shall become final.

## **J. ARBITRATION PROCEDURE**

1. The Arbitration Procedure of this Agreement may be invoked only by AFSCME.
2. Unless there is mutual agreement by both parties to modify the scope of the hearing, the issue to be heard by the arbitrator shall solely and in its entirety be restricted to the matter which was the subject of the grievance as stated at Step 3 or in the case of an expedited grievance, as stated at the Step 2 hearing. The decision of the arbitrator will be restricted to whether there is a violation of the Agreement as set forth in the last preceding written answer of the University. If such a violation is found, the arbitrator shall specify the remedy in accordance with the terms of this Agreement.
3. The arbitration hearing shall provide an opportunity for AFSCME and the University to examine and cross examine witnesses under oath or affirmation and to submit relevant evidence. AFSCME shall not seek to introduce new issues or allegations at the arbitration hearing. Evidence or facts which were known to AFSCME but not

introduced during the last preceding formal grievance step of the Grievance Procedure shall not be introduced by AFSCME at the arbitration hearing.

4. Settlement offers made during the Grievance Procedure shall not be introduced as evidence in the arbitration hearing.
5. When the University has the information upon which to base a challenge to the arbitrability of a grievance and has such information prior to the selection of an arbitrator, the University shall inform the Union in writing of the intent to raise the issue of arbitrability prior to the selection of the arbitrator.
6. Should arbitrability of the subject matter be an issue, a separate arbitrator shall be appointed to determine the question of arbitrability unless the parties agree otherwise. Should procedural arbitrability be an issue in addition to subject matter arbitrability, two arbitration hearings will be held using two different arbitrators with the hearing on the arbitrability of procedure being held first, unless the parties agree otherwise.
7. Where two or more grievances are appealed to arbitration an effort will be made to consolidate the grievances and agree upon a single arbitrator.
8. Arbitration hearings conducted pursuant to this Article shall be closed unless the parties mutually agree otherwise in advance and in writing.
9. The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties at the hearing. In all respects he or she shall assure that the hearing is a fair one. The arbitrator shall be the sole judge of the relevancy and materiality of the evidence and testimony offered. The arbitrator may receive and consider evidence but shall give appropriate weight to any objections made. All documents to be considered by the arbitrator shall be filed at the hearing.
10. The decision of the arbitrator on any issue properly before him or her shall be final and binding upon the University, the Union and all employees. The arbitrator's authority shall be limited to determining whether the University has violated the provision(s) of this Agreement. The arbitrator shall not have jurisdiction or authority to add to, amend, modify, nullify or ignore in any way the provisions of this Agreement and shall not make any award which would, in effect, grant the Union or the employee(s) any matters which were not obtained in the negotiation process.
11. The arbitrator shall have the authority to subpoena and require the attendance of witnesses upon the reasonable request of either party but not upon his/her own motion. The arbitrator shall have no authority to subpoena documents nor shall the parties be required or ordered to produce lists of witnesses prior to the hearing. The expense of service and appearance fees, if any, shall be borne entirely by the party requesting the subpoena of witnesses and the arbitrator shall, in advance of the hearing date, inform each party of the identity of witnesses subpoenaed by the other party.
12. Either or both parties may, at their discretion, file briefs with the arbitrator. The order and time limits of briefing shall, on a case by case basis, be as mutually agreed upon by the parties or as specified by the arbitrator. Briefing time limits may be extended if mutually agreed upon by the parties.
13. The arbitrator shall consider the evidence presented and render a written decision within 30 calendar days of the close of the record of the hearing.
14. With regard to a grievance appealed to arbitration for which in whole or in part the remedy sought involves back wages or other monetary reimbursement, the University shall not, in providing such remedy as a result of an arbitrator's award or a settlement, be required to make any payment of wages or any other monetary reimbursement for:
  - a. Any period of time during which an extension of time limits has been granted at the request of AFSCME;

- b. Any period of time between the date a hearing was originally scheduled to be held and, due to a request from AFSCME to postpone or change the scheduled hearing, the rescheduled date of the hearing; and
  - c. Any period of time earlier than 30 days prior to the date of filing of the Step 1 written grievance.
- 15. If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the employee the pay, benefits or rights lost as a result of a violation of the Agreement less any compensation from any source, including, but not limited to, Workers' Compensation and Unemployment Insurance benefits. The decision of the arbitrator, within the limits described herein, shall be final and binding.
- 16. Except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, an award of an arbitrator with respect to any grievance which shall be submitted to him or her shall not in any case be made retroactive to a date earlier than 30 calendar days prior to the initiation of the written grievance in Step 1 of the Grievance Procedure. For grievances involving the correction of an error in the payment of wages or the correction of mathematical calculations, recording or accounting errors relating to the payment of wages (for example vacation leave, holidays, overtime, military leave or the amount of shift differentials, if any) shall not be made retroactive to a date earlier than two years prior to the initiation of the written grievance in Step 1 of the Grievance Procedure.
- 17. In any settlement of a grievance appealed to arbitration involving retroactive payments, the appropriate University and Union representatives shall expeditiously determine the identity of the payees and the specific amount owed each payee. Such amount of payment shall be final and no individual employee or group of employees may subsequently grieve the amounts received.
- 18. Awards involving monetary payment and/or credit shall be limited in their calculation to the utilization of the employee's actual and appropriate wage or benefit amount and shall not include the awarding of interest or any other payment/credit unrelated to a benefit amount or an hourly wage. Upon the motion of either party, or at his or her own discretion, an arbitrator may retain jurisdiction in cases involving an award of retroactive monetary payment and/or credit.
- K.** The cost of the arbitrator and expenses of the hearing will be shared equally by the University and AFSCME. If either party or both parties request that a stenographic record of the hearing be made and transcripts provided, the parties shall equally share the entire cost of such service and the cost of the provision of a transcript to each party and the arbitrator.
- L.** Witnesses who appear at the arbitration hearing at the request of the Union shall be in a without-loss-of-straight-time pay status for time spent actually giving testimony. Every effort shall be made by the Union to avoid the presentation of repetitive witnesses. The grievant (one grievant in a group grievance) shall be in a without loss-of-straight-time pay status at the arbitration hearing. The University shall not be responsible for any lodging, travel or other expenses incurred by grievants, witnesses or Union representatives with regard to the arbitration hearing. The University shall not be required to grant without-loss-of-straight-time pay status to more than one employee Union representative for attendance at any one arbitration hearing.
- M.** An appeal to arbitration shall not constitute a bar to efforts by the University and AFSCME to achieve resolution of the grievance appealed to arbitration during the time the appeal is pending and until such time that an arbitrator has rendered his or her decision.
- N.** AFSCME shall have full authority to settle, withdraw, or otherwise dispose of any grievance brought on behalf of the Union and/or on the behalf of employees. An agreement to settle, withdraw, or otherwise dispose of a grievance appealed to arbitration reached by and between the University and AFSCME shall be binding upon employees represented by AFSCME.

## **O. PANEL OF ARBITRATORS**

1. The University and AFSCME agree that there will be a permanent panel of 32 arbitrators selected to hear arbitration cases which are scheduled for hearing pursuant to the provisions of this Article. Sixteen shall be selected to hear cases involving the northern campus/medical center/Laboratory locations and 16 shall be selected to hear cases involving the southern campus locations.
  2. Annually each party shall have the right to eliminate up to two arbitrators from the panels. A party exercising this right shall notify the other party in writing of the name(s) of the arbitrators to be stricken from the panel(s).
  3. In replacing arbitrators who were eliminated or removed themselves from the panels the parties will attempt to mutually agree upon replacements. If mutual agreement cannot be reached, replacement arbitrators will be selected alternately by the parties. The party selecting first shall be determined by the flip of a coin. Any arbitrator eliminated may not be placed back on a panel for two years.
- P.** In all cases appealed to arbitration pursuant to the terms of this Article and this Agreement, with the exception of those cases in which the issue is that of actions taken by the University pursuant to Article 7 - Discipline and Dismissal, AFSCME shall have the burden of proceeding and the burden of proof. The burden of proceeding and proof in cases in which the issue is that of actions taken by the University pursuant to Article 7 - Discipline and Dismissal, shall be the University's cases in which the issue is that of actions taken by the University pursuant to Article 7 - Discipline and Dismissal, shall be the University's.
- Q.** Under no circumstances shall any grievance involving employees engaged in the violation of Article 23 - No Strikes be discussed or processed by the University to the arbitration stage or heard by an arbitrator while such violation continues. This provision shall not, however, waive compliance with the time limits for filing grievances or appeals from decisions rendered with regard to grievances or appeals to the Arbitration Procedure. Any grievance settlements and arbitration awards regarding back pay and/or reinstatement of benefits for employees who engage in violations of Article 23 - No Strikes shall not be made for any period of the time during which violations of Article 23 - No Strikes are occurring or have occurred.
- R.** At all steps in the Grievance Procedure and in the Arbitration Procedure the grievant and the Union representatives shall materially expedite the resolution of the grievance by disclosing to the appropriate University representatives a full and detailed statement of the facts relied upon, the remedies sought, and the provision(s) of the Agreement relied upon.

## **ARTICLE 4A UNIVERSITY HEALTH AND WELFARE BENEFITS**

### **A. GENERAL CONDITIONS**

Eligible employees may participate in a number of benefit programs generally available to other eligible non-managerial, non-supervisory, non-confidential, non-academic employees of the University.

1. The University's annual Open Enrollment is a period in which eligible employees may elect to change health and welfare plans or coverage options. This process affords employees the opportunity to choose among plans due to changes in employee circumstances, coverage and costs of each plan, and plan availability, which may change from year to year.
  - a. The University may, at its option during the term of this Agreement, alter its health and welfare programs. Such alterations include, but are not limited to altering eligibility criteria, establishing new coverage, altering or deleting current coverage, changing the carrier for established plans or programs,

adjusting pay bands, or altering employee and University monthly rates of contribution (except as modified by A.3. b. below). In the event the University makes such alterations, the changes will apply to employees eligible for benefits within the unit in the same manner as they apply to other eligible staff employees at the University.

- b. The sole exceptions to §A.1.a. shall be any alterations proposed by the University which affect only bargaining unit employees.
- 2. Employee costs for healthcare premiums and costs for plans to which the University does not contribute, are to be paid by unit employees, normally through payroll deduction.
- 3. Beginning in calendar year 2021, increases in employee contribution rates for the Kaiser and Health Net Blue and Gold plans shall not exceed \$10 per month (up to aggregate increase of \$120/year) over the prior year for each year of the agreement.
- 4. Employees shall pay the 2020 healthcare premium costs, in accordance with Section A.2 above, as follows:

Full-time salary rate of \$58, 000 or less

Plan	Self	Self + Child(ren)	Self + Adult	Family
Core (PPO)	\$0.00	\$0.00	\$0.00	\$0.00
Health Net Blue & Gold (HMO)	\$50.64	\$91.15	\$166.95	\$207.46
Kaiser Permanente – CA (HMO)	\$22.97	\$41.35	\$50.31	\$68.66
UC Care (PPO)	\$141.74	\$255.13	\$358.26	\$471.65
UC Health Savings Plan (PPO)	\$22.97	\$41.35	\$50.31	\$68.66

Full-time salary of \$58,001 - \$114,000

Plan	Self	Self + Child(ren)	Self + Adult	Family
Core (PPO)	\$0.00	\$0.00	\$0.00	\$0.00
Health Net Blue & Gold (HMO)	\$88.82	\$159.87	\$254.11	\$325.17
Kaiser Permanente – CA (HMO)	\$61.15	\$110.07	\$137.47	\$186.37
UC Care (PPO)	\$179.92	\$323.85	\$445.42	\$589.36
UC Health Savings Plan (PPO)	\$61.15	\$110.07	\$137.47	\$186.37

**B. EFFECT OF ABSENCES FROM WORK ON BENEFITS**

- 1. **Temporary Layoff/Temporary Reduction In Time/Furlough** – Health plan contributions by the University will be provided for unit employees, in accordance with Section C, below, when the employee is affected by the following conditions lasting up to 4 months: a temporary layoff; a temporary reduction in time below the hours required to be eligible for health benefits; or a furlough. For health plans to remain in force, employees on temporary layoff or



furlough must comply with the terms of the applicable plan documents, rules and/or regulations.

2. **Military Leave** – An eligible employee on military leave with pay for emergency National Guard duty or Military Reserve Training Leave shall receive those benefits related to employment that are granted in the University’s Military Leave policy and its related documents.

3. **Leaves Of Absence Without Pay**

- a. Approved leave without pay shall not be considered a break in service and, except as provided in Section 3.c., below, shall not determine eligibility for benefits.
- b. Except as provided in Sub-Sections 3.b. 1) - 6), below, an eligible employee on approved leave without pay may, in accordance with the plan documents, rules and regulations, elect to continue University-sponsored benefit plans for the period of time specified in the plan documents, rules and regulations.
  - 1) When the employee is on an FML leave that runs concurrently under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA): Continued coverage for up to twelve (12) workweeks in a calendar year.
  - 2) When the employee is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single twelve month period. For purposes of Military Caregiver Leave, the “single twelve month period” is the period beginning on the first day the employee takes the leave and ending twelve (12) months after that date.
  - 3) When the employee is on Qualifying Exigency Leave under the FMLA: Continued coverage for up to twelve (12) workweeks in a calendar year.
  - 4) When the employee is on a Pregnancy Disability Leave under the California Pregnancy Leave Law, regardless of whether any of the leave runs concurrently with the FMLA: Continued coverage for up to four (4) months in a twelve month period. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage provided for that portion of the leave will count towards the employee’s FMLA entitlement for up to twelve (12) workweeks of such coverage in a calendar year.
  - 5) When the employee is on an FML leave under the CFRA that does not run concurrently under the FMLA (e.g., Parental Leave after the employee’s FMLA entitlement is exhausted): Continued coverage for up to twelve (12) workweeks in a calendar year.
  - 6) To continue health plan coverage during an approved FML leave, an employee must continue to make any contributions that he/she made before taking leave. For any paid portion of the leave, employee contributions will continue to be deducted from the employee’s pay check. Failure of the employee to pay his/her share of the health insurance premium may result in loss of coverage.

## C. **ENUMERATION OF UNIVERSITY BENEFITS**

Benefit programs, plan descriptions, and eligibility requirements may be found at:

**ARTICLE 4b**  
**UNIVERSITY RETIREMENT & SAVINGS PLANS**

**A. GENERAL CONDITIONS**

Eligible employees may participate in a number of retirement plans generally available to other eligible non-managerial, non-supervisory, non-confidential, non-academic employees of the University, except as provided below.

**B. RETIREMENT AND SAVINGS PLANS**

1. The University maintains several retirement and savings plans for eligible University employees. Currently, such plans include but are not limited to, the UC Retirement Plan (UCRP), Tax-Deferred 403(b) Plan, Defined Contribution Plan (DCP) and 457 (b) Deferred Compensation Plan, which collectively constitute the University of California Retirement System (UCRS). The University may at its option, alter, amend or terminate the existing UCRS plans and establish new retirement and/or saving plans for the UCRS. Such alterations include, but are not limited to altering eligibility criteria; altering or deleting current benefits; implementing the UCRP 2013 Tier for employees hired or who become UCRP eligible on or after July 1, 2013; altering employee and University rates of contribution, and changing the carrier or administrator for established plans or programs. In the event the University makes such alterations, (or proposes changes pursuant to Section B.5 below), the changes will apply to employees eligible for retirement benefits within the unit in the same manner as they apply to other eligible staff employees in the same tier. Where the University makes such alterations to a particular UCRP Tier (e.g., 1976, 2013), the changes will apply to eligible unit employees in the same manner as they apply to the other eligible staff employees in the same UCRP Tier, except in the earliest retirement age, age factors and employment contribution rates described in Section B.2. below shall not be reduced during the term of this Agreement.

2. For UCRP-eligible employees hired or rehired following a break in service or who become UCRP eligible on or after July 1, 2013 but prior to July 1, 2018, the pension benefits shall be as follows:

The 2013 Tier benefit provisions shall apply, with two exceptions:

The earliest retirement age and age factors shall be the same as for the 1976 Tier (2.5% age factor at age 60, eligible for early retirement at age 50). Retiring employees may elect either a lump sum cash-out of pension benefits or annuitized payments (same as 1976 Tier payment option). All UCRP-eligible bargaining unit employees (regardless of date of hire or UCRP tier placement) shall contribute a gross rate of 9% to UCRP effective the first full bi-weekly pay period on or after July 1, 2014. The contributions for employees who are 1976 Tier members will continue to be offset by \$19 per month.

3. UCRP 2013 Modified Tier

After ratification, all new or rehired employees shall be in the 2013 Modified Tier.

4. Retiree Health Eligibility

Any bargaining unit employee in a UCRP eligible position as of December 31, 2013 will be grandfathered for the purpose of determining retiree health program

eligibility (graduated eligibility beginning at age 50 with 10 years of service credit).

Any employee hired or rehired following a break in service, or who becomes UCRP eligible after December 31, 2013 will be subject to the new Graduated Retiree Health Program Eligibility (graduated eligibility beginning at age 56 with 10 years of service credit), as shown in Appendix F.

5. The University shall not make changes or alterations that reduce the UCRP Retirement Benefits Formula and/or increase employee UCRP contributions.

#### **C. EFFECT OF ABSENCES FROM WORK**

1. **Leaves of Absence Without Pay** – Approved leave without pay shall not be considered a break in service. The provisions of the applicable retirement plan regulations determine the effects of such leave without pay on retirement benefits.
2. **Family Medical Leave Act** – Retirement benefits shall be continued in accordance with the provisions of the applicable retirement plan regulations.

#### **D. ENUMERATION OF UNIVERSITY BENEFITS**

1. For informational purposes only, a brief outline of UCRS programs in effect on the date the Agreement is signed is found in Appendix C. AFSCME understands and agrees that the descriptions contained in Appendix C do not completely describe the coverage or eligibility requirements for each plan, the details of which have been independently communicated to AFSCME.
2. Specific eligibility and benefits under each of the various plans are governed entirely by the terms of the applicable Plan Documents and regulations, and state and federal laws. Employees in an ineligible classification are excluded from coverage, regardless of appointment percent and average regular paid time. For details on specific eligibility for each plan, refer to the applicable documents, agreements, regulations, or contracts.

### **ARTICLE 5 CONTRACTING OUT**

#### **A. GENERAL CONDITIONS**

1. There shall be a general prohibition on contracting for services and functions that can be performed by University staff.
2. The University will utilize its employees to perform Covered Services (as defined in subparagraph 6 below) to the greatest extent possible before resorting to the use of contractors to provide such services.
3. Contracting for covered services is only permissible under the limited circumstances described in Section C. of this Article or under other circumstances where contracting out is required by law, Federal requirement, contract or grant requirement, or court decisions or orders.
4. Nothing in this Article prohibits an individual employee working for a contractor from applying for open University positions for which the University is recruiting.
5. Where this Article requires that contracted work (currently performed as of ratification date) be brought in house, the deadline for insourcing the work shall be as soon as possible, but in any event no later than one year from the date of ratification.

6. Covered Services: Covered Services, as used in paragraph 1. above refers to work customarily performed by bargaining unit employees, whether in whole or in part, including but not necessarily limited to the following services: cleaning, custodial, janitorial, or housekeeping services; security services; billing and coding services, sterile processing, hospital and nursing assistant services and medical imaging services.

**B. EMPLOYMENT STANDARDS:**

1. Those contracts that include Covered Services shall require the contractor to provide its service employees, and any contracted individuals, who work at University locations, including on properties that the University has leased from or to a third party and public private partnerships, with wages and benefits of equivalent value to those provided to bargaining unit employees performing the same or similar work at the location where the work is being performed, or nearest University location if there are not bargaining unit employees performing the same or similar work at the location. Covered services do not include existing contracts for lease agreements for commercial tenants who provide direct to the public sales and services.
2. In determining equivalent value, the University shall determine the pay rate and a composite benefits rate. The pay rate shall be step one of the entry-level classification performing comparable work. The University will use the location composite benefit rate (including retirement, social security, and medical, dental, vision, life, and disability insurance).
3. The University shall terminate its agreement with a contractor that fails to comply with the provisions in this Section B, or that fails to remedy its noncompliance within a reasonable timeframe, and shall make every effort to make sure that all affected workers are made whole by the contractor.

**C. GENERAL PROHIBITION ON CONTRACTING OUT**

The following provisions set forth the only circumstances in which services customarily performed by bargaining unit employees may be contracted out. Contracting out should be used sparingly and treated as an option of last resort to address temporary needs, not as a means to replace employees with contractors.

1. The services are needed to address an actual emergency. An emergency may include, but is not limited to, the need to prevent the stoppage of University operations or to ensure continuous operations at the University medical centers.
2. The employees capable of providing the required services are not available at the University location in sufficient quantity or do not possess the necessary level of expertise, or the services cannot be performed satisfactorily by University employees, or the services are of a specialized or technical nature and the expertise, knowledge, ability and/or equipment required is not available internally. This provision shall be interpreted narrowly and shall not be relied upon to avoid reasonable efforts to hire and train sufficient numbers of University employees.
3. The services are incidental to a contract for the purchase or lease of real or personal property. This includes services that are to be provided on property that the University has leased to or from a third party or through public private partnerships. This does not include arrangements where the University maintains operational control.

4. The services are of such an urgent, temporary, or occasional nature that the delay resulting from their performance by University employees hired under the University's regular or ordinary hiring process, or the inefficiencies or difficulties in utilizing University employees, would frustrate the University's goals giving rise to the need for the services. This provision shall be interpreted narrowly and shall not be relied upon to justify the ongoing use of temporary workers.
5. The contractor will provide equipment, materials, facilities, or support services that could not be provided feasibly in the location where the services are to be performed. Services at remote facilities, which are those not within a 10-mile radius of a University campus, medical center, or Laboratory, may fall within this exception.
6. The services are performed by registry personnel in its clinical operations to address short-term staffing needs, including circumstances where the University's reasonable recruitment efforts to hire are unable to satisfy ongoing staffing needs.

#### D. NOTICE PROVISIONS

1. The University shall provide notice to AFSCME 3299 prior to entering into, extending or renewing a contract that includes Covered Services valued at over \$100,000. Such notice shall specify the duration, scope of work, the wage/benefit parity information required in Section B. 2. for the work that will be performed, dollar value, and work location(s), if known.

In an effort to supply the union with adequate information to evaluate a proposed contract:

- a. Where a Request for Proposal will be issued, the University will provide a copy of the RFP at the time of issuance.
  - b. Where no RFP will be issued, the University will provide relevant non-privileged information that is reasonably available pertaining to the contract at least thirty (30) calendar days prior to entering into, extending or renewing the contract.
  - c. A copy of each notice required under this section shall be provided to both the local AFSCME office and to the AFSCME 3299 Executive Director.
2. The Notice shall set forth the provision in Section C. of this Article that the University is relying upon as a justification for its contracting decision.
  3. Following receipt of the Notice, AFSCME 3299 shall have no more than fourteen (14) calendar days from the date of the Notice to request a meeting to provide alternatives to mitigate or avoid the need for the contract while satisfying the University's needs to provide the services at issue, or present such alternatives in writing.
  4. The University shall consider any alternatives proposed by AFSCME within the fourteen (14) calendar day period and adopt them where feasible.
  5. If the University has complied with the Notice provisions of Section 3 above and AFSCME does not request to meet or submit a written request in response to a Notice, as outlined in 3 above, or file an Article 5.C. grievance, the University may proceed with the contract.
  6. The University will hold the meeting if requested, and/or respond to any written request from AFSCME within forty-five (45) days of receiving written request from AFSCME for items located in Section 3. The University shall release AFSCME employees in a without-loss-of-straight-time-pay status for the meeting in accordance with Article 15 - Labor/Management Relations. If AFSCME disagrees with the

University's position, it may file an Article 5.C. grievance pursuant to Section H. below.

7. The University at the Systemwide level shall produce an annual report of all contracts for covered services, regardless of amount or duration, and shall provide the report to AFSCME no later than February 15th of each year.

a. The Report shall include information for each contract pertaining to compliance with Section B.

b. The JLMC on Workforce Inclusion shall agree on information to be contained in the report beyond the information enumerated in Section D.1. above.

#### **E. INSOURCING OF WORK**

No later than February 15, 2020, the University shall identify covered services that have been provided on a continuous basis for 12 months or more through service contracts and shall, to the fullest extent possible, in-source that work to be provided by University employees. When the University brings Covered Services functions in-house, consistent with Regent Policy 5402, it shall follow the process below:

1. The University shall provide written notice to AFSCME 3299 which shall include the covered services, work location(s), estimated number of bargaining unit FTE, title(s), and the anticipated implementation date.
2. Workers who have worked for the contractor performing work at a University location for 1000 hours over a rolling twelve (12) month period or 35% time over a rolling thirty-six (36) month period, shall be offered UC career employment in the same classification at the same location or at a location within ten miles of the campus/medical center/lab where they performed the work under the contractor, provided they have the skills, certifications and licenses required.
3. The University shall use a streamlined version of its standard hiring practices to ensure barriers to UC employment are not imposed. Provided workers meet these requirements, including satisfactory UC background checks, there shall be no other basis for disqualifying workers to transition to UC employment. If a worker is disqualified for the initial position, they may be considered for another position at the same location.
4. A worker, who qualifies in paragraph two above, shall receive three (3) months credit toward satisfaction of the standard probationary period if they are hired into a position performing the same duties they have performed as a contract worker. The University may only extend an employee's probationary period by mutual agreement.
5. No employment time with the outside contractor will be credited to UC service.

#### **F. UC EMPLOYMENT CONVERSION PROCESS FOR QUALIFIED INDIVIDUALS**

1. The University will exercise its best efforts to determine employees who meet the criteria to become qualified individuals. At any time, an employee who believes they meet the requirements to become a qualified individual as defined below may request that they be converted to a UC employee.
2. When an individual worker who works for an outside contractor performing the same services in the same classification at the same UC location works for 1000 hours in a rolling at least twelve (12) consecutive months month period, or 35% time over a rolling thirty-six (36) month period, the worker will be deemed a "qualified individual" (QI) for conversion to UC employment, provided they have skills, certifications and licenses required.

3. The QI must submit a written request (Appendix \_\_) to Human Resources contacts listed in said Appendix.
4. The University shall offer the QI a career UC position that the individual is qualified for, though it may not be in the same title and/or the same department as the contracted position the QI worked in. The UC career position shall be at the same location or within ten (10) miles of that location.
5. The QI shall be placed in a career UC position no later than one hundred twenty (120) days six months from the time the application was received.
6. The University shall use a streamlined version of its standard hiring practices to ensure barriers to UC employment are not imposed. Provided the QI meets these requirements, including satisfactory UC background checks, there shall be no other basis for disqualifying the QI to transition to UC employment. If a QI is disqualified for the initial position, they may be considered for another position at the same location.
7. The QI shall receive three (3) months credit toward satisfaction of the standard probationary period if they are hired into a position performing the same duties they have performed as a contract worker for twelve (12) continuous months. The University may only extend an employee's probationary period by mutual agreement.
8. No employment time with the outside contractor shall be credited to UC service.

G. NO DISPLACEMENT OF UNIVERSITY EMPLOYEES

Contracts for Covered Services shall not displace University employees. "Displacement" means demotion, layoff or involuntary reduction in time due to entering into a contract for services.

H. SPECIAL ENFORCEMENT PROVISIONS REGARDING INAPPROPRIATE SERVICE CONTRACTS

1. These special enforcement provisions shall apply to an Article 5.C. grievance filed by AFSCME that an RFP or a pending contract does not comply with the provisions of Section C. above.
2. Such an Article 5. C. grievance shall be filed directly with the Executive Director-Labor Relations at the Office of the President no later than 14 calendar days after AFSCME has received the RFP or, where no RFP will issue, notice of a pending contract, or within 14 calendar days of the meeting provided for in Section D.6 above.
3. The Office of the President shall issue a written response to an Article 5.C. grievance within ten (10) calendar days of receipt.
4. If the Office of the President denies the Article 5. C. grievance and AFSCME wishes to file an appeal to arbitration, it shall file such a written appeal to arbitration no later than ten (10) calendar days after receipt of the University's response to the Executive Director-Labor Relations at the Office of the President.
5. The arbitration involving such an Article 5.C. grievance shall be conducted on an expedited basis in accordance with the provisions set forth below.
6. The parties agree to select the arbitrator from a mutually agreed-upon list of five (5) arbitrators who have indicated a willingness to hear such cases on an expedited basis (where possible, within thirty (30) calendar days of selection).

7. The arbitrator shall determine whether Article 5. C. has been/would be violated.
  - a. If the arbitrator concurs with the University's determination, an existing contract for services shall remain in place or if the Article 5.C. grievance was filed prior to the formation of a contract, the University may proceed with the contracting process.
  - b. If the arbitrator determines that the contract is inappropriate the contract shall be terminated. If the grievance was filed prior to the formation of a contract, the University shall not proceed with the contracting process.
8. The arbitrator's decision shall not include any type of monetary award, or provisions for fees.
9. The arbitrator's decision must be in writing and submitted simultaneously to both parties within thirty (30) calendar days of the completion of the hearing. The arbitrator's decision shall be final and binding upon all parties.

## **ARTICLE 6 DEVELOPMENT**

### **A. GENERAL CONDITIONS**

1. Employees are encouraged to pursue professional development and education in relation to their career in health care.
2. Employees shall be reimbursed for the costs of educational programs required and approved by the University. Time spent in such educational programs shall be considered time worked.
3. Employees attending University courses or seminars shall be eligible for fee reductions applicable to other employees at their hospital/campus/laboratory. Employees attending University courses or seminars shall not be eligible for the services or facilities or counseling centers, gymnasias, or student health services incidental to such reduced-fee registration.
4. Nothing in this Article shall preclude the University from granting additional development opportunities.

### **B. RELEASE TIME AND SCHEDULING**

1. An employee who has completed her/his probationary period, who wishes to participate in a professional development and educational leave program and who meets the qualifications listed below, shall request advance approval in accordance with departmental procedures. Such requests shall only be denied based on operational considerations.
2. Professional Development and Educational Leave:
  - a. May not be accumulated.
  - b. Must be scheduled according to staffing requirements, however, the university shall make reasonable efforts to accommodate requests.



- c. When used for Continuing Education Units, must be used to take available UC-sponsored courses.
  - d. Must be documented with proof of participation.
- 3. Forty (40) hours paid professional development and educational leave relating to the employee's patient care technical career will be provided to full-time employees per contract year.
  - a. A contract year is normally defined as October 1 – September 30. If a contract year begins after October 1, a proportionate number of professional development and educational leave hours will be provided based on the actual duration of the contract.
  - b. In addition, a part-time career employee's yearly entitlement shall be prorated based on her/his appointment rate.
  - c. Up to eight (8) hours of the maximum paid leave may be utilized for appropriate home study/internet courses. Time used under this section shall not be accrued or paid as premium overtime.
  - d. Notwithstanding paragraph 3 above, provided an employee has requested using development leave in writing in advance, in accordance with B.1. above, and has been denied by supervision on two separate occasions during the year as defined in 3.a. above, up to twenty (20) hours of unused development leave may be carried over to the following contract year.
  - e. In order to carry over unused development leave, as defined in d. above, an employee must submit the request no less than ninety (90) calendar days prior to the end of the contract year.
  - f. Under no circumstances may an employee have more than sixty (60) hours of development leave in one year.
  - g. Requests for carry-over must be submitted in writing thirty (30) days following the end of contract year (October 31<sup>st</sup>).
- 4. Employees who are scheduled to take the examination which would grant a state and/or nationally recognized certification, and who request the examination day off in accordance with the unit's scheduling procedures, shall be assigned paid professional development and educational leave for the day on which the examination is taken.
- 5. An employee assigned to the evening and/or night shift, who is scheduled for a continuing education course or a certification examination, shall be scheduled off from the evening or night shift immediately preceding or following the course examination when:
  - a. The unit scheduling policies have been followed; and
  - b. The course is eight hours duration outside scheduled work time; or.
  - c. The examination is conducted by a state or nationally recognized professional organization.

## **C. EQUIPMENT TRAINING**

In the event that the University introduces new equipment at any teaching hospital/laboratory/campus which materially affects work performed by an EX unit employee subject to this Agreement, the University shall provide adequate training on new equipment and/or methods of practice. Such training shall not be deducted from the annual maximum in provision Section B.3. above.

## **D. REDUCED-FEE REGISTRATION**

1. Non-probationary employees in career positions who are residents of the State of California and who are admitted to the University are eligible for a two-thirds (2/3) reduction of both the University registration fee and the University educational fee per quarter or semester, for up to nine (9) units or three (3) regular session University courses, per quarter (or six (6) units or two (2) regular session University courses per semester), whichever is greater.
2. An employee so registered shall not be eligible for the services or facilities of counseling centers, gymnasias, or student health services incidental to such reduced-fee registration.
3. Eligibility for discounts for other University of California courses and programs, including University Extension courses, are at the sole discretion of the University.

# **ARTICLE 7 DISCIPLINE AND DISMISSAL**

## **A. GENERAL PROVISIONS**

1. The University shall have the authority to discharge or to take other appropriate disciplinary action against a non-probationary career employee for just cause. For purposes of illustration but not limitation, such actions may be taken for misconduct or failure to perform satisfactorily.
2. Such non-probationary career employee who alleges that such action is not based on just cause may appeal such action pursuant to the provisions of Article 9 - Grievance Procedure.

## **B. TYPE OF DISCIPLINE**

The University may discipline an employee by oral reprimand, written warning, suspension without pay for up to five (5) working days without prior notice, suspension without pay beyond five (5) working days with notice, disciplinary demotion, or salary decrease. An oral reprimand is not subject to Article 9 - Grievance Procedure of this Agreement.

## **C. INVESTIGATORY LEAVE**

The University may place an employee on investigatory leave without prior notice in order to review or investigate allegations of conduct which, in the University's view, would warrant relieving the employee immediately from all work duties. If upon conclusion of the investigation neither suspension without pay nor dismissal is determined to be appropriate, the employee shall be paid for the leave. If suspension without pay or dismissal is determined to

be appropriate, up to fifteen (15) work days of the investigatory leave period may be without pay, provided the notice provisions and the employee response provisions in Sections D and E below have been followed.

#### **D. NOTICE**

1. Written notice of intent to suspend for more than five (5) working days, demote, or dismiss shall be given to the employee, either by delivery of the notice to the employee in person or by placing the notice of intent in the United States mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. It shall be the responsibility of the employee to inform the University in writing of any change in such address. The notice of intent shall be accompanied by Proof of Service (pursuant to section N. of Article 9 - Grievance Procedure) indicating the date on which the notice of intent was personally delivered or mailed, and this shall constitute the "date of issuance" of the notice of intent.
2. The notice of intent shall:
  - a. Inform the employee of the disciplinary action which the University intends to take, the reason for the disciplinary action, and the effective date of the disciplinary action;
  - b. Inform the employee that he or she has a right to respond either orally or in writing, to whom to respond, and that the response must be received within ten (10) calendar days of the date of the issuance of the notice of intent in accordance with section E. below;
  - c. Include a copy of the charge and material upon which the charge is based. A copy of the notice of intent shall be sent to AFSCME.

#### **E. EMPLOYEE RESPONSE**

The employee shall be entitled to respond, orally or in writing, to the notice of intent described above. Such response must be received within ten (10) calendar days from the date of issuance of such notice of intent in accordance with instructions given by the University in the written notice of intent sent to the employee. After review of the employee's timely response, if any, the University shall notify the employee of any action to be taken. Such action may not include discipline more severe than that described in the notice of intent; however, the University may reduce such discipline without the issuance of a further notice of intent. If the employee chooses to respond orally, the employee may request and, if such request is made, have present a Union representative.

### **ARTICLE 8 DURATION OF AGREEMENT**

- A. The terms and conditions of this Agreement shall be in full force effective one minute past midnight on February 7, 2020 and terminating at 11:59 p.m. on July 31, 2024, unless the University and AFSCME mutually agree in writing to extend any or all of the terms and conditions of this Agreement.

#### **B. FULL SUCCESSOR NEGOTIATIONS**

1. In 2024, all terms and conditions of employment covered by this Agreement will be subject to meeting and conferring, in accordance with the provisions below.
2. The requirements for the University and/or AFSCME to collectively bargain the Agreement are as follows:
  - a. AFSCME shall, no later than November 1, 2023 serve upon the Office of the President Director of Labor Relations its written notice of its intent to

negotiate the Agreement, in accordance with Section A, above. Included in such notice shall be AFSCME's written contract language proposals for the articles subject to negotiation.

- b. The University shall, no later than December 1, 2023, serve upon the Director, AFSCME Higher Education Division (Local 3299), notice of its intent to negotiate the Agreement, in accordance with Section A, above. Included in such notice shall be the University's written contract language proposals for the articles subject to negotiation.
  - c. Timely notice as indicated above shall impose the duty to engage in meeting and conferring for the purposes of negotiating amendments to the Articles so specified. Such negotiations shall commence on or about January 10, 2024, unless otherwise mutually agreed to by the parties.
- C. Neither party shall have an obligation or requirement to negotiate on any provision of any Article not timely designated.
- D. During the period of negotiations on Articles properly designated for amendment the terms and conditions of the Agreement, including those Articles already designated for amendment, shall remain in full force and effect. In the event that neither party gives timely notice as set forth in this article, this Agreement shall remain in effect on a year-to-year basis. In the event that the Agreement continues in this manner and either party wishes to bargain, the parties shall provide notice, including written proposals, no later than November 1 and December 1 of the applicable year.

## **ARTICLE 9 GRIEVANCE PROCEDURE**

### **A. DEFINITION AND GENERAL PROVISIONS**

1. A grievance is a written complaint by an individual employee, a group of employees, or AFSCME that the University has violated a specific provision of this Agreement.
2. Only one (1) subject matter shall be covered in any one (1) grievance. A grievance shall contain a clear and concise statement of the grievance by indicating the issue involved, the relief sought, the date the incident or violation took place and the specific Section or Sections of the Agreement involved. The grievance shall be presented to the designated campus/Laboratory grievance official on a form agreeable to the parties. The grievance form shall be furnished to the employee by the Union and the form must be signed and dated by the grievant(s) and/or the grievant's representative.
3. Group grievances are defined as, and limited to, those grievances which cover more than one (1) employee, and which involve like circumstances and facts for the grievance involved. Grievances that are group grievances must be so designated on the grievance form at Step 1, and all employees covered by the grievance must be indicated on the grievance form.

4. Alleged violations of a specific provision of this Agreement may be grieved by the Union and shall be so identified as a Union grievance on the grievance form. Such Union grievances shall be signed by the AFSCME Higher Education Division (Local 3299) Executive Director or his/her designee and shall contain all information as specified above for any other grievance.

5. Except as otherwise provided in this Agreement, an individual employee, a group of employees, the University, and AFSCME shall have the right to use the Grievance Procedure. AFSCME shall have the right to present grievances on behalf of an individual employee, on behalf of a group of employees or on behalf of itself as a Union grievance. The Union is responsible for informing an employee (including an employee named in a group grievance) that it is bringing a grievance on his/her behalf. In the event an employee wishes to withdraw from the grievance, he/she shall notify the University in writing and upon such written request shall be withdrawn. The University will promptly provide AFSCME with a copy of the employee's written request to withdraw. Grievants who voluntarily resign their employment with the University, unless they retire, shall have their pending grievances immediately withdrawn and will not benefit by any subsequent settlement or disposition of any individual, union, or group grievance.

6. No employee shall be subject to reprisal for using or participating in the Grievance Procedure.

## **B. PROPER FILINGS**

1. U.S. Mail – the date of filing shall be the U.S. Postal Service postmark.
2. Hand Delivery – the date of filing shall be the date of hand delivery.
3. Electronic – the date of filing shall be the date received as indicated on the University's email server. The grievance initiation/appeal form must be in a PDF format attachment.

## **C. CONSOLIDATION OF GRIEVANCES**

Grievances of two (2) or more employees, as well as multiple grievances by or related to the same employee or which relate to the same incident, issue or course of conduct, may be consolidated for purposes of the Grievance Procedure by mutual agreement of the University and the Union.

## **D. TIME LIMITS**

1. All grievances (individual, group, Union) must be presented promptly, in writing and in compliance with section A.2, above, but no later than thirty (30) calendar days from the date the grievant or the Union first became aware of, or should have become aware of with the exercise of reasonable diligence, the alleged violation of the Agreement. Grievances not presented within this thirty (30) calendar day period shall be considered untimely and ineligible for processing through the Grievance Procedure.
2. Grievances not appealed within the designated time limits in any step of the Grievance Procedure will be considered resolved on the basis of the last preceding University answer. Grievances not answered by the University within the designated time limits of any step of the Grievance Procedure may be appealed to the next step of the Grievance Procedure by giving written notice of the appeal within fifteen (15) calendar days of the expiration of the designated time limits to the campus official responsible for the next step of the Grievance Procedure. The parties may agree in writing to extend the time limits in any step of the Grievance Procedure. Such written extension must be accomplished in

advance of the expiration of the time limit being waived. Deadlines which fall on a day which is not a campus business day will automatically be extended to the next business day. For grievance appeals and responses, the date of issuance shall be the date hand-delivered, or the date of the US Postal Service postmark, if mailed, provided the address used is the non-work address on the grievance form. The date of hand delivery shall be the date of the stamp or handwritten acknowledgement of receipt as noted by the Labor Relations office. For emailed appeals to the Office of the President, the “date of filing” shall be the date received as indicated on the University’s email server.

#### **E. INFORMAL REVIEW AND RESOLUTION**

Before commencing the formal grievance procedure, an individual employee, or group of employees, with or without their representative, may first attempt to resolve the alleged grievance informally. When an employee or representative requests such a meeting, an Informal Review meeting shall be held with the immediate supervisor within 15 calendar days of the request. Informal resolution of grievances at the lowest possible level is an objective shared by the University and AFSCME. Informal attempts of settlement to resolve the grievance shall not extend time limits including the initial 30-day filing deadline.

#### **F. REPRESENTATION RIGHTS**

1. An employee or group of employees shall have the right to be represented at all steps of the Grievance Procedure by one (1) person of the employee's or group of employees' choice. The chosen representative may be the grievant, one (1) member of the group in a group grievance, a Union representative or any other person of the grievant's choosing. In any event, representation is to be provided by one (1) person. However, a University employee who has been designated as managerial, supervisory or confidential by the University shall not represent any employee or group of employees at any step of the Grievance Procedure or in any activity or role provided for in the Grievance Procedure. Provided it does not interfere with operational needs, and with prior approval from his/her supervisor, one (1) additional Union representative may attend such grievance meetings on non paid release time. Should an additional employee representative attend a grievance meeting, it is expressly understood there shall be only one Union spokesperson.
2. An employee or group of employees may choose a representative other than an AFSCME representative for purposes of grievance representation and adjustment. In the event the University is involved in the adjustment/resolution of a grievance from an employee or group of employees who are represented by themselves or by a representative other than an AFSCME representative:
  - a. The University shall provide AFSCME with a copy of the grievance and the proposed resolution thereto indicating the employee or employees have chosen a representative other than AFSCME. Proof of Service shall accompany such notification.
  - b. AFSCME shall have ten (10) calendar days from the date of issuance of such copy within which to comment in writing on the proposed resolution.
  - c. The employer shall not implement the proposed resolution of the grievance until timely receipt and review of AFSCME's written comments, if any.
  - d. The adjustment/resolution of grievances presented absent AFSCME representation shall be consistent with the terms of this Agreement.

#### **G. RELEASE TIME AND PAY STATUS FOR GRIEVANTS, EMPLOYEE REPRESENTATIVES AND/OR WITNESSES**

## **1. University-Convended Meetings**

- a. If the University convenes a meeting involving the parties to a grievance for the purposes of resolving the grievance and/or completing the steps of the Grievance Procedure, the grievant(s), witness(es), if any, and AFSCME-designated employee representative(s) eligible to attend such meeting pursuant to this Article and Article 1 – Access and Union Rights § C shall be in without-loss-of-straight-time-pay status during the meeting, provided:
  - 1) Such meeting occurs during the regularly scheduled hours of work of the grievant(s), AFSCME-designated employee representative, and/or witness(es); and
  - 2) Advance request is made and approval is received from the supervisor of the grievant(s), the witness(es), and/or the AFSCME-designated employee representative. Approval to attend shall be made on an operational needs basis and shall not be unreasonably denied.
  - 3) A grievant or the representative may request the availability of bargaining unit employee witnesses for University-convened grievance meetings. The availability of bargaining unit employee witnesses shall be determined by their immediate supervisor(s) on the basis of operational needs, and such requests shall not be denied unreasonably. Witnesses shall be in a without-loss-of- straight-time-pay status only for time spent at the campus/hospital/ laboratory meetings as a witness and reasonable travel time spent at the witness' respective campus/hospital/ laboratory location. In instances where the paid release time for travel and testimony will not be unreasonably denied. Grievants and AFSCME agree that every effort shall be made to provide witnesses that pertain solely to the subject matter and to avoid the presentation of repetitive witnesses and that the absence of any or all witnesses shall not require the meeting to be recessed or postponed.
- b. The University is not responsible for any travel or lodging expenses or any other expenses incurred by the representative, grievant or union witnesses.
- c. Paid release time for AFSCME designated employee representatives for purposes other than University convened meetings shall be provided in accordance with Article 1 – Access.

## **2. Paid Release Time**

- a. The total cumulative use of paid release time for the AFSCME designated employee representative shall be limited to 10 hours in any one month. University convened meetings pursuant to Article 9 - Grievance Procedure, shall not be deducted from this block of time.
- b. The use of the maximum of 10 hours shall be for grievance-related activity such as:
  - 1) The initial hand-delivered filing of a grievance and the retrieval of University documents provided pursuant to a written request for information related to a grievance;
  - 2) One-on-one meetings with a grievant concerning a filed grievance, or an alleged violation of this Agreement which is at the Informal Review stage of Article 9 - Grievance Procedure;
  - 3) Meetings with the University representative to whom written grievances are presented or to whom documents related to filed

grievances are presented/signed or with whom time limit agreements are achieved;

- 4) Informal Review meetings held pursuant to Section D of Article 9 - Grievance Procedure.
- c. A request for release time will be made to the AFSCME designated employee representative's supervisor prior to the activity. Such approval shall be granted solely on the basis of operational need and shall not be denied unreasonably.
- d. At its sole discretion, the University may authorize use of release time for more than 10 hours in a month per department. The exercise of this discretion and/or the enforcement by the University of the 10-hour maximum shall under no circumstances establish a precedent for the AFSCME designated employee representative or department involved nor shall the allowance of greater than 10 hours in a month for a AFSCME designated employee representative have any effect or bearing on the ability of the University to enforce the 10-hour maximum on any other AFCME designated employee representative.
- e. Should a question of possible abuse of these release time provisions arise, the University will so notify AFSCME, and the parties will attempt to resolve the matter. If a question remains, the University may take corrective action when warranted.

## **H. EXCLUSION OF NON-CAREER EMPLOYEES AND PROBATIONARY EMPLOYEES**

1. The retention or release of non-career employees and probationary employees shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement except as provided for in Article 30 – Positions/Appointments, § B. 2, § B.6.a.1) and 2), §B.6.b, and §D.8. The retention or release of non-career employees and probationary employees is at the sole discretion of the University.
2. When an action is taken by the University with respect to a limited employee which effectively terminates the limited employee during the term of his/her limited appointment and there are unique or unusual circumstances involved, the designated campus official, upon the specific request of the AFSCME Higher Education Division (Local 3299) Executive Director, will discuss the action taken. The parties understand that such requests for discussion will occur on a very limited basis and will not be made with respect to actions including but not limited to those resulting from the expiration of appointment, programs or grant funds, or the decision not to continue, rehire or extend the employment of a casual employee. The parties further understand that the opportunity for such discussion in very limited circumstances does not in any way confer upon a limited employee any property or process right and does not in any way obligate or commit a designated campus official to any specific course of action or procedure.

## **I. GRIEVANCE STEPS**

1. **Step 1**
  - a. Within the time limits indicated elsewhere in this Article the employee or his/her representative, if any, shall provide the written grievance on the approved form to the designated campus grievance official. The time limits relative to the University's response to the grievance at Step 1 of the Grievance Procedure shall begin on the date the Step 1 grievance official receives the grievance. The University Step 1 grievance official shall acknowledge receipt of the grievance in writing. When a grievance form is hand delivered, acknowledgment can, on request of the Union, take the form of date stamping the form, signing it, making a copy and giving the copy to the grievant or his/her representative. Any grievance that is not received within the time limits



established by this Article and/or which does not comply with the procedures and requirements of this Article shall be considered waived and withdrawn by the employee and/or the Union.

- b. The immediate supervisor shall review the grievance and, at his/her discretion, meet with the grievant and/or the grievant's representative, if any, to discuss the grievance. Within fifteen (15) calendar days after receipt of the grievance a written response will be issued to the employee and the employee's representative. If the University's written response is not issued within these time limits or if the grievance is not resolved at Step 1 of the Grievance Procedure, the grievance may be appealed to Step 2. Time limits for appealing a UC written answer, or the absence of a written response, are provided in § C above.
- c. Resolution of the grievance at Step 1, although final, shall not be precedent setting.
- d. As set forth in Section I below, the parties may agree in writing to waive Step 1 and proceed directly to Step 2.

## 2. **Step 2**

If the grievance is not satisfactorily resolved at Step 1, the employee or the Union may proceed to Step 2 by filing an appeal as follows:

- a. The employee or the employee's representative shall submit the written appeal to the designated campus official. The campus official to whom Step 2 appeals must be presented shall be a designee of the Chancellor of the campus.
- b. The designated campus official must receive the written appeal within fifteen (15) calendar days of the date on which the written response to Step 1 was given or due.
- c. Within fifteen (15) calendar days following receipt of the Step 2 appeal, the designated campus official shall schedule and convene a meeting with the employee and the employee's representative, if any, to attempt to resolve the grievance. During this Step 2 meeting, both parties shall discuss information and contentions relevant to the grievance.
- d. Within fifteen (15) calendar days following the Step 2 meeting, the designated campus official shall issue a written decision indicating the University's answer to the grievance. A copy of the decision shall be provided to the grievant and his or her representative, if any, and Proof of Service shall accompany the written decision. For grievances described in Section H.2.f, below, a copy of the decision shall also be provided to the AFSCME Higher Education Division (Local 3299) Executive Director. Time limits for appealing a UC written answer, or the absence of a written response, are provided in § C above.
- e. If requested by the grievant, a Union staff representative (non-University employee) may participate for purposes of representation in the Step 2 meeting.
- f. If a grievance which alleges that a dismissal was not for just cause (even when coupled with other allegations), or which alleges a violation of only Article 8 - Duration of Agreement, is not satisfactorily resolved at the Step 2 meeting, AFSCME may appeal directly to arbitration in accordance with Article 3 - Arbitration Procedure. If the University's Step 2 decision is not properly appealed to arbitration as provided in Article 3 - Arbitration Procedure, the grievance shall be considered settled on the basis of the Step 2 decision and shall not be eligible for further appeal. Only AFSCME shall have the right to submit a grievance to arbitration.

### 3. Step 3

- a. All grievances other than those described in H.2.f. above which are not satisfactorily resolved at Step 2 may be appealed to Step 3 by AFSCME or the employee. To consider a grievance at Step 3, written notice of appeal of the Step 2 University answer shall be served, with a Proof of Service (pursuant to Section N. of this Article), upon the Director of Labor Relations of the University by the AFSCME Higher Education Division (Local 3299) Executive Director or his/her designee. Such notice must be received by the Director of Labor Relations of the University within fifteen (15) calendar days of the date the Step 2 answer was given or due. Such notice shall identify the grievance being appealed and be signed and dated by the AFSCME Higher Education Division (Local 3299) Executive Director or his/her designee.
- b. An employee or group of employees using a representative other than AFSCME pursuant to Sections E.1., and E.2., of this Article may appeal a Step 2 University answer to the Director of Labor Relations of the University. Such appeal must be served upon, with a Proof of Service (pursuant to Section O of this Article), and received by the Director of Labor Relations within fifteen (15) calendar days of the date the Step 2 answer was given or due. Such appeal shall be in writing, identify the grievance being appealed and be signed and dated by the employee(s) and representative.
- c. The subject of the grievance as stated in Step 2 shall constitute the sole and entire subject matter of the appeal to Step 3.
- d. The University's written answer to a grievance appealed to Step 3 shall be issued by the Director of Labor Relations of the University or his/her designee within thirty (30) calendar days of the receipt of the appeal to Step 3. Proof of Service shall accompany the written decision. The written answer shall be served upon the employee's designated representative and a copy shall also be provided to the AFSCME Higher Education Division (Local 3299) Executive Director. Time limits for appealing a UC written answer, or the absence of a written response, are provided in § C above.
- e. The Director of Labor Relations of the University or his/her designee shall have authority to settle grievances appealed to Step 3. In the case of a grievance with AFSCME representation, the AFSCME Higher Education Division (Local 3299) Executive Director or his/her designee shall have authority to settle or withdraw the grievance or appeal the grievance to arbitration.
- f. Settlements of grievances processed beyond Step 2 of the Grievance Procedure must be signed by the Director of Labor Relations of the University and the AFSCME Higher Education Division (Local 3299) Executive Director or their designee(s).
- g. If the University's Step 3 decision is not properly appealed to arbitration as provided in Article 3 - Arbitration Procedure, the grievance shall be considered settled on the basis of the Step 3 decision and shall not be eligible for further appeal. Pursuant to the provisions of Article 3 - Arbitration Procedure, only AFSCME shall have the right to submit a grievance to arbitration.

### J. MEDIATION

The parties agree to participate in mediation for the purpose of compromising, settling, or resolving a grievance. Grievances may be subject to mediation in accordance with the following:

1. The party requesting mediation shall request mediation upon the written appeal to Step 3, but prior to arbitration.
2. Grievances shall not proceed to mediation except by the mutual agreement of both parties.
3. The grievance shall be held in abeyance, tolling all time lines until the conclusion of the mediation process. At least fourteen (14) calendar days prior to taking the grievance out of abeyance, a written notice shall be provided to the other party by the Union or the Office of the President, Office of Labor Relations.
4. All costs of mediation shall be borne equally by both parties, provided that pursuant to Article 9.F.1 above, the grievant(s), witness(es), if any, and AFSCME-designated employee representative(s) eligible to attend such meeting pursuant to this Article and Article 1 shall be in without-loss-of straight-time-pay status during the mediation.
5. The recommendations of a mediator, if any, shall be advisory only and shall not be binding upon the parties. Neither party shall attempt to enter into evidence at a subsequent arbitration hearing any recommendation(s) of the mediator.

**K. EXTENSION OF TIME LIMITS**

Each of the steps in the Grievance Procedure, as well as the time limits prescribed at each step of the Grievance Procedure, may be waived by mutual agreement of the parties. Such waiver must be in writing and must be signed by the representatives of the respective parties who are responsible for the Grievance Procedure at the step succeeding the step being waived. The parties at any step of the Grievance Procedure may, upon written agreement, remand the grievance to a previous step for resolution.

**L. OFFERS OF SETTLEMENT**

Settlement offers made at any stage of this procedure, including informal resolution, shall not be introduced as evidence in subsequent steps, and shall not be precedent setting.

**M. RETROACTIVITY**

Settlement of grievances may or may not be retroactive as the equities of a particular case may demand. Where it is determined that the settlement shall be applied retroactively, except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, the maximum period of retroactivity allowed shall not commence on a date earlier than thirty (30) calendar days prior to the initiation of the written grievance in Step 1. For grievances involving the correction of an error in the payment of wages or the correction of mathematical calculations, recording or accounting errors relating to the payment of wages (for example vacation leave, holidays, overtime, military leave or the amount of shift differentials, if any) shall not be made retroactive to a date earlier than two years prior to the initiation of the written grievance in Step 1 of the Grievance Procedure.

**N. EXCLUSIVE PROCEDURE**

The Grievance Procedure set out in this Article shall be exclusive and shall replace any other grievance procedure for adjustment of any disputes arising from the application and interpretation of this Agreement. Unless otherwise indicated within this Agreement, any previous grievance procedure or other procedure in existence or adopted by the University shall not apply to employees covered by this Agreement for any purposes whatsoever.

**O. PROOF OF SERVICE**

Wherever Proof of Service is required in this Agreement, it shall be accomplished through the following vehicles only:

1. When delivery is by U.S. Mail, the person mailing shall complete and sign the prescribed and appropriate Proof of Service form which shall indicate that they have personally deposited with or presented to the U.S. Postal Service the document(s) being mailed;
2. When delivery is through personal presentation of a document(s), Proof of Service is accomplished and recorded by:
  - a. the person presenting the document(s) completing and signing the prescribed and appropriate Proof of Service form which shall indicate they have delivered the document(s) by hand and to whom the document(s) were delivered; or
  - b. the person delivering the document(s) and the person accepting delivery of the document(s) shall mutually acknowledge the delivery/receipt by signing and dating the document(s) and a copy of the document(s) and each of them retaining one of the signed and dated document(s); or
3. Email to [AppealAGrievance@ucop.edu](mailto:AppealAGrievance@ucop.edu).
  - a. Email submissions must include PDFs of all documents, information and signatures necessary to be in compliance with the Grievance Procedure provisions of this Agreement.
  - b. The “date of filing” for emailed Appeals to Step 3 shall be the date received on the University server, provided that the appeal is received during business hours. If a Step 3 appeal is received outside of normal business hours, the first following business day will be deemed the filing date of the Appeal to Step 3.
  - c. The University shall acknowledge the Union’s Appeal to Step 3 through a computer-generated, automatic email response.

**P. GRIEVANCE FILE**

Records involving the processing of an employee's grievance, such as the grievance form, step appeals/responses, and settlement documents, will be kept in a file separate from the employee's personnel file. It is not the intent of this section to exclude from the employee's personnel file final disciplinary action documents, including those that result from a settlement agreement. The University will keep grievance files confidential to the extent required by applicable law and will not disseminate their contents unless solicited for a legitimate University business purpose or obligated to provide for a pertinent regulation or law.

**ARTICLE 10  
HEALTH AND SAFETY**

**A. GENERAL CONDITIONS**

1. The University shall make reasonable attempts to furnish and maintain in safe working condition the workplace and equipment required to carry out assigned duties. The University shall manage its operations in compliance with established campus/hospital/laboratory health and safety policies and procedures.
2. Within the first month of employment on a job, employees working with hazardous materials or in a hazardous environment, such as employees working with animals with contagious diseases and/or in laboratories using hazardous chemicals, will receive information and training pertaining to the health and safety protocols in her/his department, an explanation of the health and safety rights and responsibilities of both the employer and the employee, instructions concerning known specific hazards of the

employee's job, and the procedures available to employees to abate or report any unsafe or unhealthy working conditions. When assigned duties include an imminent risk to life and health, as determined by a University health and safety professional responsible for the assessment of imminent risk to life and health, the University shall provide training and information to the employee prior to the employee assuming such duties.

3. There shall be a joint Union/Management Safety committee at every campus. Specific and/or general campus/hospital/ laboratory health and safety concerns may be raised at these meetings. The committee shall meet two times per year. The purpose of the committee shall be to promote a safe and clean environment, to develop and to recommend joint union/management safety programs and training, and to monitor costs associated with injuries at work. The University will make a good faith effort to conduct the recommended training programs. The process for such meetings shall be as follows:
  - a. The Union must request a meeting and the parties must agree to the meeting date.
  - b. The Union must submit a written agenda identifying health and safety concerns it wishes to discuss. Such agenda must be submitted to the designated campus representative at least ten (10) workdays before the proposed meeting date.
  - c. In the event the University has agenda items regarding health and safety, the University shall present its agenda to the Union at least ten (10) workdays before the scheduled meeting.
  - d. In the event neither party submits an agenda ten (10) workdays before the scheduled meeting, the meeting will not be convened.
  - e. The health and safety staffing committee will be made up of no more than four (4) Union representatives and four (4) management representatives. Additional individuals may attend by written agreement of the parties. The Union must submit a written request for employee release time at least seven (7) work days before the scheduled meeting. Such employees will be counted as union representatives, and the release time shall be granted unless operational requirements determine otherwise. Permission to attend these meetings shall not be unreasonably denied.  
The union may request relevant and necessary information as soon as practicable before the proposed meeting date. The University will provide relevant and necessary information about health and safety issues at least forty-eight (48) hours before the meeting, provided the requested information can be reasonably gathered in time to provide it within two working days before the meeting. If the information cannot be provided by 48 hours before the meeting, the University will notify the union as soon as practicable. The meeting date may be postponed for a reasonable period. The Union agrees not to make unduly burdensome information requests.

## **B. ASSIGNMENT**

1. Abnormally hazardous or dangerous tasks shall be defined as those tasks having dangers or hazards which are objectively identifiable as constituting a clear and imminent life-threatening danger, and/or dangers or hazards substantially greater than the dangers or hazards inherent to the usual scope of a given job and for which the employee has not been trained and equipped.
2. An employee shall not be assigned to any abnormally dangerous or hazardous task at the employee's place of employment.
3. In the event an employee reasonably believes that s/he has been assigned a task that is abnormally hazardous or dangerous, or that requires additional training or

equipment, the employee shall report to her/his supervisor the components of the assignment that s/he believes to be abnormally hazardous or dangerous. If the supervisor cannot correct the situation, the employee may contact the Environmental Health and Safety Department. In such instances, a staff member from EH&S Department shall respond to the employee as soon as practicable.

4. An employee who has reported to her/his supervisor an abnormally hazardous or dangerous assignment has the right to refuse to perform work that s/he reasonably believes is abnormally dangerous or hazardous, while the University is investigating or remedying his/her concern.
5. Only EH&S may make a final determination whether the task assigned is abnormally hazardous or dangerous and what remedial actions, if any are necessary.

## **C. INFORMATION AND TESTS**

1. The University, upon contracting to purchase any chemical or substance containing hazardous material, will obtain the material safety data sheet (MSDS) from the vendor, unless the latest version of the MSDS is already on hand and available. This information shall be made available to the health and safety committee and upon request to the employees. These sheets relative to chemicals and substances used at the work area of an employee shall be made available to the employee or AFSCME on request. Such information shall be maintained in the workplace by the University.
2. In compliance with State and Federal law, the University shall provide to affected employee(s) access to data regarding toxic chemicals, seismic safety and asbestos reports. Such data shall be readily available and provided to the health and safety committee and/or employee within a reasonable time following a request.
3. In the case of a suspected outbreak of a communicable disease and when the University requires testing for such communicable disease of patients and/or employees the University shall offer such tests for bargaining unit employees within the appropriate affected work areas at no cost to the employees.

## **D. DISPUTES**

1. Only disputes regarding the assignment of any abnormally hazardous or dangerous tasks are subject to Article 3 - Arbitration Procedure, of this Agreement.
2. An arbitrator shall not have the authority to substitute his/her judgement for the EH&S professional regarding whether a task or assignment is abnormally hazardous or dangerous.
3. If it is determined or otherwise agreed that an abnormally hazardous and dangerous assignment was made, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts with either administrative or engineering controls. If, as a result of the filing of a grievance relative to the provision of information and training prior to the assumption of duties which include an imminent risk to life and health, the University and AFSCME agree as to the failure to provide such information and training, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts.

## **E. COMPLIANCE**

The University and AFSCME acknowledge that the University's ability to comply with the provisions of this Article is subject to the availability of specifically budgeted funds for the particular efforts which may be necessary in order for the University to meet its obligations under this Article and/or pursuant to any settlement, and/or award rendered pursuant to a grievance related to the provisions of this Agreement and Article. The University and

AFSCME agree that the availability of such specifically budgeted and available funds shall be a contingency upon which the University's compliance with a settlement, award and/or order of enforcement of such decision relative to a grievance related to this Article shall be dependent.

## **F. PROTECTIVE CLOTHING**

### **1. General Provisions**

Protective work clothing and safety equipment, where required to be worn by the University, will be provided by the University.

Protective work clothing is attire worn over or in place of regular clothing to protect the employee's clothing from damage or abnormal soiling or to maintain a sanitary environment and includes laboratory coats, shop coats, aprons, scrubs, and surgical gowns. Safety equipment protects the employee and includes head covers, gloves, goggles, prescription safety glasses, and safety shoes.

At the request of the employee, the University shall review the need to provide additional safety equipment. If the University deems it necessary and appropriate, the additional safety equipment shall be provided to the employee in accordance with the provisions of this section.

### **2. Replacement**

Protective work clothing and safety equipment, except prescription lenses and sized safety shoes, which were provided to an employee by the University for use on the job, shall be returned upon completion of the assignment.

University-provided items lost or damaged due to employee negligence shall be replaced at the employee's expense. University-provided items damaged or worn out in the performance of duties shall be repaired or replaced by the University. An employee required to wear prescription safety glasses will pay for the medical eye examinations. The University shall supply the safety lenses and frames selected by the University.

### **3. Shoes**

In those work locations where the University does not permit employees to wear or take home the shoes s/he wears at the work site, the University will, when those shoes are worn out, either supply the employee with replacement shoes or reimburse the employee for the reasonable replacement costs of her/his work shoes. Both the determination of when shoes are worn out, and the decision to either provide replacement shoes or reimburse the employee for the reasonable costs of replacing worn-out shoes, are at the sole non-grievable, non-arbitrable discretion of the University.

## **ARTICLE 11 HOLIDAYS**

### **A. UNIVERSITY HOLIDAYS**

The University observes the following days as administrative holidays:

1. New Year's Day
2. Third Monday in January (Martin Luther King, Jr. holiday)
3. Third Monday in February (or an announced equivalent)
4. Last Monday in May
5. Fourth of July
6. Labor Day
7. Veteran's Day (at LBNL, subject to DOE approval)
8. Thanksgiving Day

9. Friday following Thanksgiving Day (or an announced equivalent)
10. December 24 (or an announced equivalent)
11. Christmas Day
12. December 31 (or an announced equivalent)
13. Last Friday in March (Cesar Chavez Day)

**B. REGULAR DAY OFF**

At the option of the University, a full-time employee whose regular day off falls on a holiday listed above shall receive either eight (8) hours of holiday pay at the regular straight time rate or another day off, and a part-time employee shall receive proportionate holiday pay at the regular straight time rate or another day off up to a maximum of eight (8) hours.

**C. PERSONAL HOLIDAY FOR EMPLOYEES AT MEDICAL CENTER HOSPITALS**

1. Each member of the unit who works at a medical center hospital or clinic who is not working on an academic calendar as established by the University shall receive one (1) personal holiday in lieu of Cesar Chavez Day in Section A, above. Employees in units that close on the Cesar Chavez holiday are not eligible for the personal holiday. Eligibility for and use of the personal holiday is provided when:
2. The employee is a member of the unit on May 1; and
3. The employee requests the one (1) day personal holiday between May 1 and April 30; and
4. The employee meets the eligibility requirements stated in Section D. below.
5. The employee shall request use of the personal holiday in advance of the proposed usage date. The University shall grant such requests subject to hospital and clinic operational needs.

**D. ELIGIBILITY**

A full-time employee is eligible for holiday pay if the employee is on pay status the last scheduled work day before the holiday and the first scheduled work day after the holiday. No employee shall receive holiday pay for any holiday which is immediately preceded by, occurs during, or is followed by an unauthorized absence or a disciplinary suspension. To be eligible for holiday pay, a part-time employee must be on pay status at least one-half (1/2) of the working hours in the month or quadri-weekly cycle. An eligible part-time employee shall receive proportionate holiday pay up to a maximum of eight (8) hours per holiday based on total hours on pay status in the month or quadri-weekly cycle, excluding holiday hours.

**E. PREMIUM PAY FOR WORK ON SPECIFIED HOLIDAYS**

An employee shall be paid at the rate of time and one-half (1-1/2x) regular pay for hours actually worked on the following holidays:

1. Memorial Day
2. Independence Day
3. Labor Day
4. Thanksgiving Day
5. Christmas Day
6. New Year's Day

An employee shall otherwise be paid regular pay at the straight-time rate for hours actually worked on all holidays, as provided in Section F, below.

**F. WORK ON A HOLIDAY**



Regardless of his/her work schedule, an employee required to work on a holiday listed in Section A, above, shall be paid at the employee's regular rate of pay for the hours actually worked. In addition, at the option of the University, an eligible full-time employee shall receive either eight (8) hours compensatory time off or eight (8) hours holiday pay at the regular straight time rate, including any shift differential, and an eligible part-time employee shall receive proportionate holiday pay up to a maximum of eight (8) hours per holiday.

**G. MAJOR HOLIDAYS**

Major holidays are defined as Thanksgiving Day, Christmas Day, and New Year's Day. The University will guarantee each member of the unit one (1) of the named major holidays off regardless of the date(s) on which the University celebrates those holidays. Holiday pay eligibility shall be determined by the official University holiday schedule.

In the event the University fails to provide an employee with one of the named major holidays off during a contract year, the University shall pay the employee at the rate of time and one-half (1-1/2x) for the third major holiday worked. This provision shall not apply if an employee volunteers to work a third named holiday within a contract year.

**H. TEMPORARY LEAVE/LAYOFF**

When an approved leave without pay or a temporary layoff does not exceed twenty (20) calendar days, including holidays, a full-time employee shall receive pay for any holiday which occurred during that period.

**I. RELIGIOUS OBSERVANCE**

In addition to the holidays listed above, an employee may observe a special or religious holiday, if the University determines that work schedules permit, by charging time off to accrued overtime, accrued vacation or leave without pay. Requests for such observation shall be granted on the basis of operational needs and requirements and shall not be denied unreasonably.

**J.** There shall be no duplication, pyramiding, or compounding of the Holiday Premiums with any other premium wage payments, in accordance with the provisions of Article 12 - Hours of Work, Section A.

**K. LAWRENCE BERKELEY NATIONAL LABORATORY**

1. Policies, procedures, definitions and qualifications relative to holiday pay for new, rehired, or terminating full-time employees shall remain in effect for employees at the Laboratory and shall supersede the provisions of Section D, above, where in conflict.
2. The Administrative Holiday usually applied during the winter shut-down, may be used as a floating holiday. If an employee chooses a holiday other than the Administrative Holiday designated by the Lab, it will be necessary to use an additional day of vacation or unpaid leave of absence for the Administrative Holiday during the winter shutdown.

**ARTICLE 12  
HOURS OF WORK**

**A. GENERAL PROVISIONS**

1. There shall be no duplication, pyramiding, or compounding of any premium wage payments.
2. Nothing in this Article shall infringe upon, interfere with or diminish in any way the University's right to ensure adequate staffing and coverage to meet operational

requirements and necessities in an efficient and orderly manner.

3. This Article shall not be construed as a guarantee of or limitation on the number of hours per work day or workweek.

## **B. WORKWEEK**

A workweek is a period of time consisting of seven (7) consecutive days. The workweek is from Sunday morning (12:01 a.m.) to midnight the following Saturday. Workweeks beginning and ending on a day other than the above may be established by the University.

## **C. PAY PERIOD**

The biweekly pay period takes place at two-week intervals from 12:01 a.m. Sunday morning to midnight Saturday of the following week.

## **D. WORK SCHEDULE**

1. A work schedule is the normal hours of work for an employee within a workweek. Employees will be scheduled in accordance with the needs of the University.
2. Full and part-time work schedules which may be established by the University include, but are not limited to:
  - a. Eight (8) hours per day, excluding meal periods, on five (5) separate days within a workweek;
  - b. Ten (10) hours per day, excluding meal periods, on four (4) separate days within a workweek;
  - c. Ten (10) hours per day, excluding meal periods, on eight (8) separate days within a pay period; and
  - d. Twelve (12) hours per day, excluding meal periods, on ten (10) separate days within three (3) consecutive workweeks.
3. In the event the University decides to abolish, establish or change work schedules in work areas, the University shall inform AFSCME at least thirty (30) calendar days prior to taking such action.
4. Request for Alternate Schedule – Notwithstanding any other provisions of Article 12 – Hours of Work, employees working in Monday through Friday operations may voluntarily submit a written request to be scheduled to work a variable number of hours per day. If the University grants such request, it may schedule the requesting employee(s) to work the alternate schedule without the payment of overtime or premium pay, provided the work schedule does not exceed forty (40) hours in the workweek or twelve (12) hours in the workday. Once granted, the University or the employee may rescind the alternative schedule with thirty (30) calendar days advance written notice.

## **E. POSTING/NOTICE OF SCHEDULES**

1. In areas that require staffing seven (7) days a week the University shall, if practicable, post work schedules at least two (2) weeks in advance. Insofar as practicable, the University shall update posted work schedules as changes occur. "Posted work schedules" as used in this Article shall mean a printed, typewritten or handwritten schedule which is posted in a work site area of the affected employee(s).
2. When feasible, the University shall provide at least fifteen (15) calendar days notice to an employee prior to a long-term change in the employee's shift. Provision or non-provision of such notice shall not be subject to Article 9 - Grievance Procedure or

Article 3 - Arbitration Procedure of this Agreement.

- ~~3.~~ When a shift assignment and/or work location becomes available in a department New Assignment, an employee may file a written request for that lateral assignment with his/her immediate supervisor within seven (7) calendar days of oral or written notification of the New Assignment. Notice of shift openings shall be posted in writing in the department. The University shall offer the New Assignment to the most senior qualified employee who has filed a written request for the New Assignment provided s/he has the required relevant licensing, certifications, and skills and abilities. If the most senior qualified employee cannot be moved to the New Assignment based on ensuring quality patient care, that employee shall be retained on the current shift assignment and/or work location for up to a maximum of six (6) months, at which time, the employee shall move to the New Assignment.
4. If the following circumstances are present, the most senior qualified employee shall not be offered the New Assignment:
- Near relative conflict
  - The New Assignment is being offered to another employee in order for the University to meet an obligation to provide reasonable accommodation.

**F. MEAL PERIODS**

A meal period of at least one-half (1/2) hour is provided for any work period of six (6) continuous hours or more. Meal periods are neither time worked nor time on pay status unless an employee is required by the University to remain on the job at a work station. Such an arrangement must be approved in advance by the University; management may identify positions for which blanket approvals may be provided in advance to cover verifiable emergency situations. Whenever an employee is permitted to perform work during a meal period, the meal period shall be considered time worked.

**G. REST PERIODS AND CLEAN-UP TIME**

- Two (2) rest periods of not more than fifteen (15) minutes shall normally be granted during an eight (8) hour or a ten (10) hour shift. Three (3) rest periods of not more than fifteen (15) minutes may be granted during a twelve (12) hour shift. Part-time employees shall normally be granted one fifteen (15) minute rest period for each work period of three (3) continuous hours or more, not to exceed two (2) rest periods per day.
- It is understood that operational requirements, work station coverage requirements, workloads, staffing levels, leave schedules, vacation schedules and/or the provision of services to patients, clients, the public, or University employees may occasionally require the uninterrupted presence of the employee(s). In such situations rest breaks will not be granted.
  - The University will make every effort to ensure that an employee has the opportunity to take a rest period(s) in accordance with Section G.1. above. As soon as an employee determines that s/he is unable to take a rest break, s/he must notify his/her supervisor (or designee). The University will make every effort to ensure the employee is offered the opportunity to take an alternative rest period(s) during his/her shift.
  - When missed breaks exceed occasional occurrences, the employee shall inform his/her supervisor who will ensure an adjustment is made.
- Rest periods shall not be taken at the beginning or end of a work period or accumulated for use at a later time. The combining of rest periods with meal periods for some, any or all employees of a department shall be at the sole, non-grievable discretion of the department.

4. The University shall determine when clean-up time is necessary for employees. If the University determines that such clean-up time is necessary, a maximum of ten (10) minutes of clean-up time prior to the employee's meal period and/or at the end of each shift shall be granted and considered as time worked.

#### **H. CONSECUTIVE DAYS OF WORK**

1. Subject to operational needs, the University shall make every effort to avoid assigning a member of the unit who works an eight (8) hour shift to work more than six (6) consecutive days. Subject to operational needs, the University shall make every effort to avoid assigning a member of the unit who works a ten (10) hour shift to work more than five (5) consecutive days. Subject to operational needs, the University shall make every effort to avoid assigning a member of the unit who works a twelve (12) hour shift to work more than four (4) consecutive days. An employee shall be paid one and one-half (1-1/2) times his/her straight time rate for all hours worked on each consecutive day of work in excess of the above until a day off is granted when:
  - a. a designated eight-hour employee is scheduled to work more than six (6) consecutive full shifts within six consecutive days.
  - b. a designated ten-hour employee is scheduled to work more than five consecutive full shifts within five (5) consecutive days.
  - c. a designated twelve-hour employee is scheduled to work more than four consecutive full shifts within four (4) consecutive days.
2. The consecutive days of work provisions, including premium pay, may be waived in writing by the employee, either at his/her request or as the result of a scheduling change requested by the employee which results in such consecutive days of work.

#### **I. ASSIGNMENT OF OVERTIME**

1. The University shall decide when overtime is needed and which employees will be assigned overtime. Overtime must be approved in advance by the University. The University shall notify the employee that overtime must be worked as soon as practicable after the need for overtime is determined. Employees are expected to work overtime when such work is assigned.
2. Overtime shall not be assigned except after the University has attempted to fill the assignment by:
  - a. soliciting volunteers, who are competent to perform the work, within the job classification. The University will grant voluntary overtime work based on seniority among those employees on the same shift who normally perform the work involved and have requested to work overtime; or
  - b. soliciting Per Diem employees who are competent to perform the work within the job classification.
3. If the University must assign overtime, the University shall notify the least senior employee on duty, who is competent to perform the work that overtime must be worked. Such employee will be required to work the overtime as assigned.

#### **J. OVERTIME AND PREMIUM PAY DEFINITIONS**

1. Overtime
  - a. Overtime is time on pay status which:

- 1) exceeds forty (40) hours in a workweek.
  - 2) under the 8/80 schedule, overtime is time worked which exceeds eighty (80) hours in a pay period.
- b. Overtime pay consists of two types: overtime straight and overtime premium. Time actually worked does not include paid leave. Examples of paid leave are sick leave, vacation leave, holiday, military leave, compensatory time off and administrative leave with pay.
  - c. Overtime straight pay applies to hours on pay status including hours actually worked that, when combined with paid leave:
    - 1) exceed forty (40) hours in a workweek; or
    - 2) under the 8/80 schedule, overtime straight pay applies to hours actually worked that, when combined with paid leave, exceed eighty (80) hours in a pay period.
  - d. Overtime premium pay applies to hours actually worked that:
    - 1) exceed forty (40) hours in a work week.
    - 2) under the 8/80 schedule, overtime premium pay applies to hours actually worked that exceed eighty (80) hours in a pay period.
  - e. Overtime for hours do not count toward accumulation of sick leave, vacation, holiday or retirement system credit.
  - f. Pay status includes time worked and paid leave such as sick leave, vacation leave, holidays, military leave, compensatory time off and administrative leave with pay.

## **K. NON OVERTIME PREMIUM PAY**

Premium pay in this section will be calculated based on the straight time rate.

1. Employees shall be compensated at one and one-half (1½x) times the straight time rate for hours worked which exceed the hours of a regularly scheduled shift of eight (8) hours or more a day;
2. Regardless of an employee's assigned shift, the University shall pay double time (2x) pay over twelve (12) consecutive hours worked in a day;
3. The University shall pay time and one-half (1½x) pay for hours worked on a designated premium holiday;
4. The University shall pay time and one-half (1½x) pay for hours worked pursuant to Section H.1., Consecutive Days of Work.

## **L. OVERTIME COMPENSATION**

1. Overtime shall be compensated at the appropriate rate either by pay or by compensatory time off in accordance Section M below.

### **a. 40-Hour Standard**

Employees shall be compensated at one and one-half (1½x) times the FLSA blended rate of pay for time actually worked which exceeds forty (40) hours in a workweek.

b. Hospital Option

At the option of the University, hospital employees in eligible classifications who are designated eight-hour employees who are assigned to a fourteen (14) consecutive day pay period shall be compensated at one and one-half (1½x) times the FLSA blended rate of pay for time actually worked which exceeds eighty (80) hours of time actually worked in the fourteen (14) day pay period.

The University shall have the sole, non-grievable discretion to change the method of overtime compensation for any hospital employee from or to the optional method described in this Section.

- c. FLSA Blended Rate: When an employee is employed at more than one rate of pay for performing two or more different jobs during the workweek, overtime pay will be calculated based on a weighted average of the employee's rates of pay; i.e., the total regular pay from all jobs divided by the total hours worked.

**M. COMPENSATORY TIME OFF**

1. If the University chooses to compensate overtime with compensatory time off for any employee or group of employees, such overtime will be compensated at the appropriate rate by:
  - a. One (1) hour of compensatory time off for each hour of overtime earned at the straight time rate of pay; and
  - b. One and one-half (1-1/2) hours of compensatory time off for each hour of overtime earned at the time and one-half rate of pay.
  - c. Compensatory time shall only be earned on overtime hours over forty (40) in a work week or eighty (80) in a pay period.
2. No more than two hundred forty (240) hours of compensatory time off (one hundred and sixty (160) hours of overtime which require compensation at the time and one-half rate) may be accumulated. An employee shall be paid for hours of overtime which exceed this limit.
3. Compensatory time off shall be scheduled by the University and taken within two (2) six (6) month bank periods (December 1 - May 31; June 1 - November 30). Banked compensatory time off which is not paid or scheduled within the bank period in which it is earned or in the bank period following that in which it is earned shall be paid in the next regularly scheduled pay period at the employee's then current rate unless an extension has been granted by mutual consent of the employee and the University.
4. Upon separation from employment, employees shall be paid for all accumulated compensatory time off at the employee's current rate of pay or at the employee's average rate of pay for the last three (3) years of employment, whichever is higher.
5. Compensatory time off is scheduled by the University. The University may require employees to take compensatory time off. Employees may also request use of compensatory time; such requests shall be granted subject to the operational needs of the University. Use of compensatory time off requires prior approval in accordance with departmental policy.

**N. CALL-BACK**

When an employee, who is not on on-call status, is called back to work after completing a shift and leaving the premises, the employee shall be paid for the time actually worked upon return or a minimum of three (3) hours, whichever is greater. Call-back time, whether worked or not, is considered time worked for the purpose of calculating hours of overtime.

## **O. ON-CALL**

On-call is time during which an employee is required to be available for immediate return to work. An employee is not considered to be in on-call status unless he or she has previously been informed by the University of the assignment. The University retains the right to determine the need for and the assignment of on-call time. Eligibility for on-call pay and the on-call rates shall be as listed in Appendix A. Time spent in on-call status but not actually worked is not considered as time worked or time on pay status. Payment for on-call time shall be included as part of compensation when calculating the time and one-half overtime rate. An employee in on-call status shall receive a minimum 2-hour call-back payments.

## **P. REST BETWEEN SHIFTS – APPLICABLE TO 24/7 OPERATIONS ONLY**

1. Consistent with the principles of patient and employee safety, if an employee returns to work from on-call status, and there is less than a six (6) hour interval between the conclusion of the “return to work” status and the start of her/his immediately following regularly-scheduled shift, and s/he is too tired to work that shift, the employee may request to be excused for part or all of that shift. An employee’s request to be excused for part of a shift shall be subject to mutual agreement between the employee and the University, and shall not be unreasonably denied. Unless the employee’s request has been approved, the employee is expected to work her/his regular shift.
2. The provisions of this section shall not apply in a situation where an employee has been off work for at least six (6) hours and subsequently returns to work from on-call status within two (2) hours or less immediately preceding the start of the employee’s next regularly scheduled shift.
3. An employee who is excused may use banked compensatory time off, vacation, or leave without pay. An excused absence is considered an approved absence.
4. A work period not preceded by at least 6 hours off will be paid at time and one-half.

## **Q. TRAVEL TIME**

1. Travel between an employee's home and the workplace is not considered time worked. Travel on University business during an employee's normal working hours (including travel during those hours on the employee's day off) is considered time worked.
2. Travel outside normal working hours is considered time worked when it occurs on a scheduled day of work and is to or from a work location outside the normal commuting area of the assigned workplace. Travel time will be paid in accordance with the University and Business Finance Bulletin.

## **ARTICLE 13 INDEMNIFICATION**

Pursuant to and as regulated by the terms, limitations and qualifications of California Government Code §995 et seq., the University of California shall provide the defense and indemnification for University employees within the unit covered by this Agreement who are sued on account of acts or omissions arising from the course and scope of their employment with the University. The provisions of and applications of the Indemnification provision are not subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 14**  
**LABOR MANAGEMENT MEETINGS**

**A. LABOR MANAGEMENT MEETINGS**

The University and the Union agree that labor management meetings for the areas of discussion set forth below shall be held in accordance with the following provisions:

**1. Local Campus/Medical Center/Laboratory Labor Management Meetings**

- a. Local labor management meetings shall be held quarterly, unless mutually agreed otherwise by the parties.
- b. Provided that the local campus/medical center/Laboratory has employees covered by this Agreement, one bargaining unit employee shall be in a without-loss-of-straight-time pay status not to exceed a total of eight (8) hours each per meeting. The parties may mutually agree to allow additional unit employees to attend the local campus/medical center/Laboratory labor management meetings. The parties may by mutual agreement place the additional attendee(s) in a without-loss-of-straight-time pay status. One non-employee AFSCME staff member may attend the local campus/medical center/Laboratory labor management meetings.
- c. Any travel and subsistence expenses incurred shall be the responsibility of the employees. However, reasonable actual travel (at the employees' campus/medical center/Laboratory) during the employees' regularly scheduled hours of employment shall be in a without-loss-of-straight-time pay or benefits status not to exceed a total of eight hours for any one meeting which shall also include the time actually spent in the labor management meeting.
- d. Items to be included on the agenda for the aforementioned labor management meetings are to be submitted at least seven calendar days prior to the scheduled date of the meeting if at all possible. Each party shall designate a chair, who shall have responsibility to make arrangements for the scheduled labor management meeting. The chairs shall mutually agree to the agenda, time and place of the meeting. Appropriate agenda items for such meetings include:
  - 1) Administration of the Agreement;
  - 2) Disseminate general information of interest to the parties;
  - 3) Jurisdictional areas of bargaining unit employees;
  - 4) Health and safety matters regarding bargaining unit employees;
  - 5) Affirmative Action matters regarding bargaining unit employees;
  - 6) Information regarding personnel transactions and vacancies;
  - 7) Give representatives an opportunity to express their views, or to make suggestions on subjects of interest to employees of the bargaining unit, including topics such as alternate work schedules and child care;
  - 8) Provisions of the contract which call for local mutual agreement; and
  - 9) Additional items mutually agreed to by the parties for placement on the agenda.

**2. University Wide Labor Management Meeting**



- a. A University-wide labor management meeting shall be held once a year unless mutually agreed otherwise. The Office of Labor Relations of the Office of the President and AFSCME International shall discuss items such as the administration of this Agreement. The agenda for this meeting shall be determined by mutual agreement of the parties at least seven calendar days prior to the scheduled meeting date.
  - b. Provided that the local campus/medical center/Laboratory has employees covered by this Agreement, ten/nine (10/9) bargaining unit employees (one from each campus/medical center/Laboratory) shall be in a without-loss-of-straight-time pay status for time spent in the labor management meeting held during their regularly-scheduled hours of employment. The parties may by mutual agreement:
    - 1) Increase the total allowable hours of without-loss-of-straight-time pay status;
    - 2) Allow additional unit employees to attend the University-wide labor management meeting;
    - 3) Place the additional attendees in without-loss-of-straight-time pay status.
  - c. Any travel and subsistence incurred shall be the responsibility of the employees. However, reasonable actual travel during the employees' regularly scheduled hours of employment shall be in a without-loss-of-straight-time pay or benefits status not to exceed a total of eight hours for any one meeting which shall also include the time actually spent in the labor management meeting.
3. It is expressly understood by the parties that the purpose of the aforementioned labor management meeting(s) is not to negotiate but is to discuss and provide information. In no way may the result of such meetings be to change, eliminate or add to the provisions of this Agreement.

## **ARTICLE 15**

### **LAYOFF AND REDUCTION IN TIME**

#### **A. DETERMINATION**

The University, at its sole non-grievable discretion, shall determine when temporary or indefinite layoffs or reductions in time are necessary.

#### **B. ALTERNATIVES TO INDEFINITE LAYOFFS**

1. At the University's sole discretion in order to avoid a layoff, the University may reassign an employee to a position for which the employee is qualified at the same or greater percentage of time and at the same or higher rate of pay within the bargaining unit. Such action will nullify the layoff.
2. The University shall attempt to avoid an indefinite layoff, or to ease its impact, by implementing the following alternatives:
  - a. Releasing or calling off per diem, limited employee, registry and travelers within the same classification within the same layoff unit, if any, except where there is a bona fide business reason to retain a per diem, limited employee, registry or traveler.

- b. Offering the affected bargaining unit employee another vacant career position at the same or lower classification and same or lower appointment percentage in the bargaining unit, if any, within the same campus/medical center or Laboratory provided the affected employee is qualified to fill the vacancy.
- c. Provided the affected employee possesses the skills, certifications and licenses required, and the University has determined they could learn the requisite skills required to be qualified in subsection b. above within three (3) months, the University shall consider offering such a position to the affected employee as an alternative to layoff.
  - i. If the University determines that an employee could obtain the required certifications or licenses within the three (3) month period, rather than being laid off, the employee shall be permitted to use vacation, compensatory time off, or unpaid leave to be given the opportunity to obtain the required credentials.
  - ii. In no event, shall the leave exceed three-months.
  - iii. If the employee takes a leave to obtain the credentials but does not obtain the credentials, the employee shall be laid off.
- 3. The University shall meet and discuss the effects of the layoff prior to the layoff occurring but after notice to the employee and AFSCME. Any meeting(s) shall not delay the implementation of the layoff.

## **C. DEFINITIONS**

- 1. A layoff is an involuntary separation of a non-probationary career employee from employment or an involuntary transfer to a non career position. For the purposes of this Article, layoff shall include involuntary reductions in regularly scheduled hours of work. Layoffs may be temporary or indefinite.
- 2. A temporary layoff is a layoff in which the University specifies a date for recall to work of not more than four months.
- 3. An indefinite layoff is a layoff for which no date for recall to work is specified.
- 4. For the purposes of this Article, seniority shall be based on the most recent date of hire in a staff career position at the University. Employment prior to a break in service shall not be counted. Tie breaker: when bargaining unit employees in the same layoff unit have the same date of hire, seniority shall be determined according to total hours on pay status since the most recent date of hire into a career position.
- 5. Within sixty (60) days of ratification, each University location will provide to AFSCME a current list of all layoff units. The University will provide a forty-five (45) day written notice to AFSCME if it proposes to change any of the layoff units and will meet with AFSCME upon request to discuss any such changes.

## **D. SELECTION FOR LAYOFF**

- 1. If, in the judgment of the University, budgetary or operational considerations make it necessary to curtail operations, reorganize, reduce the hours of the workforce and/or reduce the workforce, staffing levels will be reduced in accordance with this Article.
- 2. The selection of classes and the selection of employees for layoff shall be at the sole non-grievable discretion of the University.
- 3. With regard to indefinite layoff only, the order of indefinite layoff of employees in the same class within a department/division shall be in inverse order of seniority. However, the University may retain, at its discretion, employees irrespective of

seniority 1) where the position(s) occupied by the less senior employee(s) requires qualifying skills, knowledge, or abilities which are not possessed to the same degree by other employees in the same class; 2) which cannot be learned on the job in six (6) months or less without negatively impacting patient care; and 3) which are necessary to perform the ongoing functions of the department/division. To the extent permitted by law, the University may also consider workforce diversity when making layoff decisions and implementing layoff actions. If an employee with less seniority is to be retained, the University shall notify AFSCME in writing of the special skills, knowledge, or abilities which support the retention of the less senior employee.

4. The decision to make such exceptions shall not be subject to Article 9 – Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement, unless the inverse seniority or qualifying skills provision of this Article are alleged to have been misapplied.
5. Regardless of seniority, the department may elect to invite all PCT unit employees in the same class within a layoff unit to volunteer for layoff. In that case, the union shall be notified of the invitation at the same time the invitation is transmitted to employees.
6. In the event the employees in a unit of layoff are equally affected by reduction in time of ten percent (10%) or less, seniority provisions do not apply.

#### **E. NOTICE**

1. When the University determines that a layoff is imminent within the unit, it shall give AFSCME such advance notice as is reasonable under the circumstances. The notice shall describe the general areas which may be affected.
2. When the University selects particular members of the unit for layoff, it shall give individual notice to each employee of the effective date of the layoff and whether the layoff is temporary or indefinite. Advance notice will be provided as follows:
  - a. For temporary layoff expected to last 120 calendar days or less, the University shall give, if feasible, 15 calendar days notice of the expected beginning and ending dates of the layoff.
  - b. For indefinite layoff, the University shall give 30 calendar days notice, if feasible. If less than 30 calendar days notice is given, the employee shall receive straight time pay in lieu of notice for each additional day the employee would have been on pay status to a maximum of 30 calendar days. Upon receipt of written notice of layoff, an employee may schedule an appointment with the designated campus, medical center or Laboratory representative who will inform the employee regarding benefit continuation and procedures for recall and preferential rehire.
  - c. In the event of an anticipated indefinite layoff of five or more full-time-equivalent (FTE) employees on the same effective date in the same layoff unit, the University will, to the extent possible, give 45 calendar days notice to AFSCME. When such notice is provided regarding the layoff of five or more FTE, the campus/medical center/Laboratory will, upon receipt of a timely written request from AFSCME, meet with AFSCME to discuss the layoff. Such meeting to discuss the layoff of career employees will include, if asked, an indication of the reason for retaining any limited, per diems and registry employees.
  - d. For conversion from temporary layoff to indefinite layoff, the University shall give 30 calendar days notice, if feasible.
3. The University shall notify AFSCME concurrent with its notices to employees that they are to be laid off.

#### **F. RECALL**

1. A non-probationary career employee who is indefinitely laid off shall be recalled in order of seniority to an active, vacant career position, provided:
  - a. The active, vacant career position is in the same bargaining unit and same department/division as the position from which the employee was laid off; and
  - b. The active, vacant career position is in the same class at the same or lesser percentage of time as the position from which the employee was laid off; or
  - c. The active, vacant career position is in a lower class at the same or lesser percentage of time than the position from which the employee was laid off, provided the employee previously held a career position in such lower class in the same department/division and bargaining unit.
2. In order to be recalled to such active, vacant career position, the employee must, as determined at the sole, non-grievable discretion of the University, be qualified to perform the duties of the active, vacant career position.
3. Employees who are eligible for recall shall retain recall eligibility for three years from the effective date of layoff. An employee may exercise his/her rights to recall immediately after the employee receives written notification of layoff.
4. Employees recalled from layoff status to a new position who fail to perform satisfactorily may, at any time during the six months following such return, be returned to layoff status with restoration of full recall rights. Previous time on layoff status prior to recall shall be deducted from an employee's period of eligibility.
5. An employee who accepts a limited or per diem appointments or position in a lower class or at a lesser percentage of time shall remain eligible for recall rights during the period of recall.
6. Recall Termination

The right to recall terminates at the end of the period of eligibility described in Section E.3 above, or if an employee:

- a. Fails or refuses within ten calendar days to respond affirmatively to University inquiries concerning the employee's desire to return to work. The ten-calendar-day response period shall begin immediately upon personal notice or from the date written notice is served (as indicated in the Proof of Service), whichever is sooner; or
- b. Refuses a recall to work; or
- c. Refuses two offers of reemployment in career positions at the same or greater percentage of time and at the same or higher salary level; or
- d. Accepts a career position at the same or higher salary level within the University; or
- e. Accepts recall in any previously-held career position at a lower salary level.

#### **G. PREFERENTIAL REHIRE**

1. A non-probationary career employee who is indefinitely laid off shall have preferential rehire status for an active, vacant career position, provided:
  - a. The active, vacant career position is in the same bargaining unit and at the same campus/medical center/Laboratory as the position from which the employee was laid off; and

- b. The active, vacant career position is in a class with the same or lower salary range maximum as the class from which the employee was laid off; and
  - c. The active, vacant career position is at the same or lesser percentage of time as the position from which the employee was laid off.
- 2. The laid off non-probationary career employee will, along with any other laid off University employees, be given preferential consideration for an active, vacant career position which is being filled by the campus/medical center/Laboratory, provided the conditions in Section F.1.a-c above are met. First consideration for preferential rehire shall be given to employees who are on layoff status (not currently employed by the University) and who were laid off from the same department where the vacant position exists. In order to be placed in such a position, the employee must, as determined at the sole, non-grievable discretion of the University, be fully qualified to perform the duties of the position.
- 3. The operation of preferential rehire consideration shall be consistent with the procedures established at the individual campus/medical center/Laboratory and shall be consistent with the University's management right to fill a position with the best available candidate for a vacant position.
- 4. Employees who are eligible for preferential rehire status with less than five years of seniority at the time the layoff occurs shall retain preferential rehire status eligibility for one year from effective the date of layoff. Employees who are eligible for preferential rehire status with five years, but less than ten years, seniority at the time the layoff occurs shall retain preferential rehire status eligibility for two years from the effective date of layoff. Employees who are eligible for preferential rehire status with ten years or more of seniority shall retain preferential rehire status eligibility for three years. An employee may exercise his/her rights to preferential rehire immediately after the employee receives written notification of layoff and meets with the campus, medical center or Laboratory representative designated in the layoff notice.
- 5. Employees preferentially rehired from layoff status who fail to perform satisfactorily may, at any time during the six months following such return, be returned to layoff status. In addition, an employee, at his/her option, may request to be returned to layoff status within 60 calendar days of rehire. Previous time on layoff status prior to rehire shall be deducted from an employee's period of eligibility.
- 6. Employees who accept per diem or limited appointments shall remain eligible for preferential rehire rights during the period of preferential rehire.
- 7. Preferential Rehire Termination - The preferential rehire consideration described above shall terminate at the end of the period of eligibility described in Section F.4. above, or if an employee:
  - a. Refuses an offer to return, at the same or greater percentage of time, to that department/division and class from which laid off; or
  - b. Accepts any career position; or
  - c. Refuses two offers of employment for a career position at the same or higher salary level and the same percentage of time as the position held by the employee at the time of layoff; or
  - d. Fails to respond to a written notice of a career employment opportunity within 10 calendar days. The 10 calendar day response period shall begin immediately upon personal notice of the career employment opportunity or from the date written notice is served (as indicated in the Proof of Service), whichever is sooner.

## **H. SEVERANCE**

1. A career employee who has received notice of indefinite layoff may elect, in writing, to receive severance pay in lieu of preferential rehire and recall rights within fourteen (14) calendar days of receipt of the notice of layoff. Election is irrevocable. The University shall, offer severance in lieu of preferential rehire and recall rights to all employees in the department who receive notice for indefinite layoff. Severance pay shall be in accordance with the following:
  - a. Payment - An employee who elects severance pay in lieu of preferential rehire and recall rights shall be paid a lump sum as follows:
    - 1) Employees with less than five (5) years of University service shall receive two (2) weeks severance pay.
    - 2) Employees with five (5) or more years of University service shall receive five (5) weeks severance pay, plus one week for each additional year of service, up to a maximum of sixteen (16) weeks.
    - 3) Employees who are laid off following a reduction in time that occurred within 60 calendar days of the layoff shall be eligible for severance, on the basis of their percentage of appointment just prior to their reduction in time.
    - 4) This Section shall not apply to temporary layoff or reduction in time.
    - 5) Failure to make an election as provided in Section 1 will result in the employee receiving preferential rehire and recall rights and extinguish the right to severance pay.
  - b. Repayment - An employee who has received severance pay under this provision and who returns to work in a career position with the University at the same or higher salary and same percentage of time as the position held at the time of layoff shall repay to the University the portion of severance pay received that exceeds the time the employee was laid off. Before returning to work, the employee must make repayment in full or sign a repayment agreement.

#### **I. CONTINUITY OF SERVICE UPON REEMPLOYMENT**

A temporary layoff does not create a break in service. Reemployment in a career position within the period of right to recall provides continuity of service and continuation of previously-accrued seniority. However, seniority and benefits accrue only when an employee is on pay status.

#### **J. BENEFIT COVERAGE**

Medical plan contributions by the University will be provided for a maximum of three months in a calendar year for employees on temporary layoff, for employees on temporary reduction in time, or on furlough as provided in Article 30 – Positions/Appointments, paragraph F. For medical plans to remain in force, employees on temporary layoff, temporary reduction in time or furlough must remit to the University the amount of the employee's contributions, if any.

#### **K. LAWRENCE BERKELEY LABORATORY**

Policies, procedures, definitions, qualifications and calculations relative to severance pay at the Laboratory shall remain in effect for employees at the Laboratory.

- L. In the event an alleged violation of this Article with regard to notice is grieved/arbitrated, any remedy, settlement or arbitrator's award or decision acknowledging improper notice shall be limited to an amount of back pay and/or reinstatement of benefits which would make the employee whole for the number of days the notice was deficient. In no case shall such amount be calculated for a period of greater than 30 calendar days.

## **ARTICLE 16 LEAVES OF ABSENCE**

### **A. GENERAL PROVISIONS**

In accordance with the provisions of this Article, leaves of absence, with or without pay, may be approved by the University. If applicable state or federal law requires that the University offer any leave in a manner that would be more generous to employees than is currently provided in this Article, the University will comply with the law.

#### **1. Benefit Eligibility**

- a. For purposes of benefit eligibility an, approved leave without pay shall not be considered a break in service. Except as provided in Section D - Family and Medical Leave (FML), an eligible employee on approved leave without pay may elect to continue University-sponsored benefit plans (as determined by plan documents and regulations) for the period of the leave by remitting, in accordance with the provisions of the applicable plan(s), the entire premium amount due for the period of approved leave. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.
- b. Employee benefit plan coverage during an approved FML leave of absence will be continued in accordance with the provisions of Section E - Pregnancy Disability and Section D - Family and Medical Leave (FML).

#### **2. Except as provided in Section D.1.a.3, Family and Medical Leave (FML), periods on leave in a without-loss-of-straight-time pay status shall be considered time worked.**

#### **3. Requests for Leave**

Except as provided in Section D Family and Medical Leave (FML), requests for leaves of absence and extensions thereof, both with and without pay, shall be submitted in writing to the University. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. If the employee learns of the event giving rise to the need for leave more than 30 days in advance, the employee shall provide the University with notice as soon as the employee learns of the need for leave, and, at a minimum, with 30 days advance, written notice. If the employee learns of the event giving rise to the need for leave less than 30 days in advance, the employee shall provide the University with as much advance, written notice as possible, and, at a minimum, with such notice no more than five working days after learning of the event. All requests for leave shall contain the requested beginning date, end date, and estimated duration of the leave, and any additional information as required.

#### **4. Duration**

The duration, terms of the leave and the date of return are determined when the leave is granted, and shall be communicated to the employee, in accordance with the provisions of this Article. Except as provided under Section C - Medical Leaves of Absence and Section D - Family and Medical Leave (FML), written confirmation shall be provided when the University determines such confirmation is appropriate. Except as provided for elsewhere in this Article or to satisfy the University's obligation to reasonably accommodate a disabled employee, the total aggregate of leaves of absence taken in any combination, granted under this Article, shall not exceed six (6) months.

5. Return to Work

- a. Except as provided in Section C - Medical Leaves of Absence, Section D - Family and Medical Leave (FML), Section E – Pregnancy Disability Leave, and Section L - Military Leave, an employee who has been granted an approved leave with or without pay shall be returned to the same or a similar position in the same department/division when the duration of the leave is six calendar months or less, or 12 months, if extended. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee actually been working rather than on leave when the position was abolished or affected by layoff. The date of return to work is determined when the leave is granted.
  - b. An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.
  - c. An employee shall not be granted a leave of absence beyond the ending date of the employee's appointment or predetermined date of separation.
6. An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job, in accordance with Article 34 - Resignation, if such failure to return exceeds five consecutive working days of the anticipated return date.

**B. PERSONAL LEAVE**

1. A non-probationary career employee may be granted a personal leave of absence without pay at the sole, non-grievable discretion of the University. Such leave shall not exceed six calendar months.
2. If an employee's request for a personal leave of absence without pay is denied, such denial may, upon the employee's written request, be reviewed by the Department/Division Head. The results of such a review shall not be subject to Article 10 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.
3. The University at its sole non-grievable discretion may approve extension of a personal leave of absence without pay for a total leave of not normally more than 12 months.

**C. MEDICAL LEAVES OF ABSENCE**

A Medical Leave of Absence, granted under this section, is the period(s) an eligible employee is granted leave from work for medical reasons in accordance with Section C.12, - Eligibility for a Medical Leave of Absence, below. This leave includes the combined use of accrued sick leave and the medical leave of absence without pay in accordance with the provisions of this Article and Article 38 - Sick Leave. In the event that an employee's accumulated sick leave credit is exhausted, an employee may be placed on a Medical Leave of Absence without pay in accordance with the provisions of this section. Medical leaves of absence without pay are provided for leaves due to non-work related illnesses or injuries. For leaves due to work-related illnesses or injuries, see Article 46 – Work Incurred Injury or Illness.

1. Eligibility for a Medical Leave of Absence
  - a. An employee may be eligible for a Medical Leave of Absence without pay when he/she:



- 1) Is medically incapable of performing essential assigned functions of his/her job due to a non-work related illness or injury; and
- 2) Has furnished evidence of disability satisfactory to the University; or
- 3) Has exhausted her four (4) month entitlement to leave under Section E - Pregnancy Disability Leave and is still disabled by pregnancy, childbirth, or related medical conditions; or
- 4) Has either exhausted his/her 12 workweek entitlement to leave due to a serious health condition under Section D - Family and Medical Leave (FML) or is not eligible for leave due to the employee's serious health condition under Section D - Family and Medical Leave (FML)

## 2. Notification for a Medical Leave of Absence

Requests for medical leave shall be in writing as provided in Section A.3, and the employee shall furnish evidence of the medical need for leave that is satisfactory to the University as provided in Section C.3 - Documentation and Verification, below. Additionally, an employee must notify the University of the need to extend his/her medical absence from work prior to the employee's anticipated date of return.

## 3. Documentation and Verification for a Medical Leave of Absence

- a. Documentation of the employee's disability (or other medical need for leave) and/or ability to return to work is required and is subject to verification by the University. Such documentation shall include, but is not limited to, a statement from a health practitioner (as defined in Article 38 - Sick Leave, Section D.4.) regarding the anticipated duration of the employee's medical condition, and a statement that the employee is incapable of performing the essential assigned functions of his/her job.
- b. The University may have an employee claiming disability examined by a physician or physicians of its choosing. The University shall pay the reasonable costs of any such medical examination required by the University.
- c. An employee on a Medical Leave of Absence shall submit medical verification from his/her health care provider that he/she has been medically released to perform the essential assigned functions of his/her job prior to his/her return.

## 4. Duration of a Medical Leave of Absence

Medical leaves of absence are granted for the period of verified disability (or other medical need for leave) and are not granted for non-medical purposes. When the use of accrued sick leave and a medical leave of absence without pay are combined, a medical leave of absence from work for non-work related disability purposes may be granted by the University for a total period of verified disability not to exceed six months. If further leave is required, see Section C.5.

## 5. Extensions of a Medical Leave of Absence

- a. In the event that an employee's verified non-work-related disability (or other medical need for leave) exceeds six months, a personal leave of absence may be granted in accordance with the provisions of Section B – Personal Leave of this Article. However, the aggregate of leave for medical reasons normally shall not exceed 12 consecutive months. The granting of a personal leave of absence in order to extend an employee's total absence from work for medical purposes is at the sole discretion of the University and without recourse to Article 10 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement. An employee on such personal leave of absence shall submit

medical verification that he/she has been medically released to perform the essential assigned functions of his/her job prior to his/her return in accordance with Section C.3.c of this Article.

- b. A request to extend a leave for medical reasons may not be granted when medical separation is appropriate.

6. Return to Work After a Medical Leave of Absence

An employee returning from an approved medical leave of absence shall be returned to the same or a similar position when the employee has been medically released to perform the essential assigned functions of his/her job. If the position held has been abolished or affected by layoff during the absence, the employee shall be afforded the same considerations which would have been afforded had that employee actually been working rather than on leave when the position was abolished or affected by layoff.

**D. FAMILY AND MEDICAL LEAVE (FML)**

An employee who is eligible for Family and Medical Leave (FML) and has not exhausted his or her FML entitlement for the leave year, as discussed below, may take FML for any of the following six reasons, as described in greater detail in this Section below: (a) due to the employee's own serious health condition, (b) to care for a family member with a serious health condition, (c) as Pregnancy Disability Leave, (d) as Parental Leave, (e) as Military Caregiver Leave, or (f) as Qualifying Exigency Leave.

1. General Provisions for FML

a. Definitions for FML

- 1) The leave year is the calendar year for all types of FML except Military Caregiver Leave. For Military Caregiver Leave, the leave year is the single 12-month leave period that begins on the first day of the leave.
- 2) 1,250 Hours of Actual Service means time actually spent at work and does not include any paid time off, such as vacation, compensatory time, or sick leave, holidays not worked, or time spent in unrestricted on-call status. However, for employees granted military leave, all hours that would have been worked had the employee not been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement.
- 3) Child means a biological child, adopted child, foster child, stepchild, legal ward, or child for whom the employee stands in loco parentis, provided that the child is either under 18 years of age or incapable of self-care because of a mental or physical disability.
- 4) Parent means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood in loco parentis to the employee when the employee was a child. "Parent" does not include the employee's grandparents or mother-in-law or father-in-law unless they stood in loco parentis to the employee when the employee was a child.
- 5) Spouse means a partner in marriage and may be of the same or opposite sex.
- 6) A serious health condition means an illness, injury (Including, but not limited to, on-the-job injuries), impairment, physical or mental

condition that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse.

- a) “Inpatient care” means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an “inpatient” when a health care facility formally admits him or her to the facility with the expectation that he or she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
- b) “Incapacity” means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
- c) “Continuing treatment” means ongoing medical treatment or supervision by a health care provider, as defined in section D.1.a.8, below.

- 7) A serious health condition of a family member is a serious health condition, as defined in Section D.1.a.7, above, of the employee's child, parent, spouse, or same- or opposite-sex domestic partner that requires the participation of the employee to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity.
- 8) Health care provider means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to treatment of the spine to correct a subluxation as demonstrated in x-ray to exist), physician assistant, nurse practitioner, nurse-midwife or clinical social worker performing within the scope of their practice as defined under State law; Christian Science practitioner; or any health care provider that the employee's health plan carrier recognizes for purposes of payment.

b. Eligibility Criteria for FML

Employees who have at least 12 cumulative months of University service (all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement), and have worked at least 1,250 hours of Actual Service during the 12-month period immediately preceding the commencement of the leave are eligible for and shall be granted up to a total of 12 workweeks of FML in the leave year, except when FML is being taken as Military Caregiver Leave or Pregnancy Disability Leave. If the employee is taking FML as Military Caregiver Leave, the employee shall be eligible for up to 26 workweeks of leave in a single 12-month leave period. If the employee is taking FML as Pregnancy Disability Leave, the employee shall be eligible for leave for the period of verified pregnancy-related disability up to four months of leave per pregnancy. FML includes paid and unpaid absences, including use of an employee's accrued sick leave, vacation, and leave of absence without pay. Aggregate time used for FML shall not exceed 12 workweeks in the leave year unless the employee is taking FML as Military Caregiver Leave or as Pregnancy Disability Leave. An employee on approved leave may elect to use accrued compensatory time off (in accordance with Article 13 - Hours of Work).

c. Time Periods for FML

- 1) For FML purposes only, 12 workweeks means 12 workweeks in the calendar year (or 26 workweeks in the single 12-month leave period if the employee is taking FML as Military Caregiver Leave) for full-time employees. For employees who work less than full time or who work full time but on alternative work schedules, the number of working days shall be adjusted on a pro-rata basis.
- 2) When supported by a complete and sufficient certification, the University shall grant FML for any of the six reasons identified in the first paragraph of Section D except Parental Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. For Parental Leave, see Section D. 5.d. Only the time actually spent on the intermittent or reduced schedule shall be counted towards the employee's entitlement of 12 workweeks in the leave year.
- 3) When the employee requests FML on an intermittent or reduced schedule basis due to the planned medical treatment of the employee or the employee's family member with a serious health condition, the University may, at its discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring periods of leave than the employee's regular position. Such transfer shall be to a position that has equivalent pay and terms and conditions of employment, but does not need to have equivalent duties. Should the employee object to the temporary transfer, the employee may submit a written request for review to the Department/Division Head. Such temporary transfer shall not be subject to Article 10 - Grievance Procedure or Article 3 - Arbitration Procedure.

d. Notice for FML

- 1) If the employee learns of the event giving rise to the need for leave more than 30 days in advance, the employee shall provide the University with notice as soon as the employee learns of the need for leave, and, at a minimum, 30 days prior to the commencement of the leave, if practicable.
- 2) If the need for leave is foreseeable due to the planned medical treatment of the employee or his/her family member, the employee shall make reasonable efforts to schedule the leave so as to avoid disruption to the University's operations.
- 3) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of a foreseeable leave, the employee shall provide the University with as much advance notice as is practicable, and, at a minimum, with such notice within five working days after learning of the event.
- 4) An employee who fails to give 30 days' notice for a foreseeable leave with no reasonable basis for the delay may have his/her FML leave delayed until 30 days after the date on which the employee provides notice.
- 5) The University shall determine whether the employee is eligible and qualifies for FML and shall notify the employee, in writing, when the leave is designated or provisionally designated as FML. The duration and terms of the leave and the date of return are determined when the leave is granted. Extensions, if any, up to an aggregate of 12 workweeks in the leave year (or 26 workweeks in a single 12-month leave period if FML is being taken as Military Caregiver Leave or up to 4 months per pregnancy if FML is being taken as Pregnancy Disability Leave) may be granted in accordance with this Section.

e. Certification and Other Supporting Documentation for FML

1) For the Employee's Own Serious Health Condition

- a) When leave is requested for the employee's own serious health condition, the University may, at its discretion, require that an employee's request for FML be supported by a written certification issued to the University by the employee's health care provider. Such request to the employee shall be in writing. The certification may be provided on a form given to the employee by the University and shall, regardless of the format, in addition to certifying that the employee has a serious health condition, include the following:
- b) A statement as to whether the employee is unable to perform any one of the essential assigned functions of the position, and
- c) The date, if known, on which the serious health condition commenced, the probable duration of the condition and the employee's probable date of return, and
- d) Whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced schedule, and if so, the probable duration of the need for such schedule, and,
- e) If the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.

2) If Leave is Requested for the Employee's Family Member.

When a leave of absence is requested for the serious health condition of the employee's family member, the University shall require that an employee's request for leave be supported by written certification issued by the family member's health care provider. When certification is required by the University, such requirement shall be submitted to the employee in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format, in addition to certifying that the employee's family member has a serious health condition, include:

- a) A statement that the serious health condition warrants the participation of the employee to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity, and
- b) Whether the employee's family member will need supervision or care over a continuous period of time, intermittently, or on a reduced schedule basis; the leave schedule the employee will need in order to provide that supervision or care; and the probable duration of that need for leave.
- c) In addition, the employee will be required to certify either on the same form or separately what care he/she will provide the family member and the estimated duration of the period of care.

3) The University may, at its sole, non-grievable discretion, require that an employee complete a Declaration of Relationship form to certify his/her relationship with the family member when the employee is requesting FML to care for a family member with a serious health

condition or to certify his/her relationship with the child when the employee is requesting FML as Parental Leave. The employee's failure to provide a completed Declaration of Relationship form within fifteen (15) calendar days of the University's written request may, at the sole, non-grievable discretion of the University, result in discontinuance of the leave until the required documentation is provided or, if the leave has not yet begun, a delay in the start of the leave. If the employee fails to provide the completed Declaration of Relationship form within a reasonable period of time, FML may be denied.

- 4) Should the University have a good faith, objective reason to doubt the validity of the employee's medical certification for his/her own serious health condition, the University has the right to require the employee to obtain a second medical opinion from a second health care provider selected by the University. Should the second medical opinion differ from that of the employee's own health care provider, the University may require a third medical opinion from a third health care provider jointly approved by the University and the employee. The University shall bear the cost of the second and third opinions and the third opinion shall be final.
- 5) If additional leave is requested upon expiration of the leave granted, or should the circumstances of the leave change, the University has the right to require the employee to obtain recertification. Such requests for subsequent certification shall be in writing.
- 6) If certification or recertification is required, the employee shall return the certification within 15 calendar days of the University's request, where practicable. Failure to provide certification for a foreseeable leave within the requested time may result in the denial of the leave until the required certification is received. Failure to provide certification for an unforeseeable leave within the requested time period may result in the denial of continuation of the leave until the required certification is provided. If the employee fails to provide a completed certification, the employee shall be given 15 calendar days to perfect the certification. Failure to perfect an incomplete certification may result in the denial of the leave or the denial of continuation of the leave. If the employee fails to provide a certification/recertification or a completed certification/ recertification and the leave has not begun, the request for FML may be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML leave.
- 7) If the employee was taking FML due to his or her own serious health condition, the employee must be medically released to perform the essential assigned functions of his/her job before returning. Failure to provide a medical release to return to work may result in the denial of reinstatement until after the employee submits the required medical release certification.

f. Use of Accrued Paid Leave During FML

FML is unpaid unless an employee uses accrued paid leave (sick leave, vacation leave, or compensatory time off) during FML as provided in this section:

- 1) An employee on an approved FML to care for a family member with a serious health condition, may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation time before taking FML without pay. If the employee's vacation leave accrual is at maximum, the employee will be required

to use at least 10% of the vacation leave credit prior to taking FML without pay. Up to thirty (30) days of accrued sick leave per year may be used during FML when FML is taken to care for a family member with a serious health condition under this section pursuant to Article 38 - Sick Leave, Section B.3.b.

- 2) An employee on an approved FML for Parental Leave may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation time before taking FML without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking FML without pay.
- 3) An employee on an approved FML for his/her own serious health condition shall use accrued sick leave in accordance with the University's disability plan or as provided under Article 46 - Work Incurred Injury or Illness, if applicable. Employees not eligible for University disability benefits and who are not on leave due to a work-incurred illness or injury shall use all accrued sick leave prior to taking FML without pay. An employee may also use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation before taking FML without pay. However, if the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking FML without pay.
- 4) For an employee's use of accrued leave while on Pregnancy Disability Leave, see Section E.5.
- 5) For an employee's use of accrued paid leave while on Military Caregiver Leave, see Section D.6.e.
- 6) For an employee's use of accrued paid leave while on Qualifying Exigency Leave, see Section D.7.e.

g. Continuation of Health Benefits During FML

An employee on an approved FML shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and optical) as follows:

- 1) When the employee is on FML that runs concurrently under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA): Continued coverage for up to twelve (12) workweeks in a calendar year.
- 2) When the employee is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single 12-month leave period, as defined in section D.1.a.
- 3) When the employee is on a Qualifying Exigency Leave under the FMLA: Continued coverage for up to twelve (12) workweeks in a calendar year.
- 4) When the employee is on a Pregnancy Disability Leave under the California Pregnancy Disability Leave Law (PDLL), regardless of whether any of the leave runs concurrently under the FMLA: Continued coverage for up to four (4) months in a twelve month period. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage for that portion of the leave will count towards the employee's FMLA entitlement for up to twelve (12) workweeks of such coverage in a calendar year.

- 5) When the employee is on FML under the CFRA that does not run concurrently under the FMLA (e.g., Parental Leave after an employee's FMLA entitlement has been exhausted): Continued coverage for up to twelve (12) workweeks in a calendar year.

Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

h. Review of Denials or Deferrals of FML Requests

If an employee's request for FML is denied, deferred or otherwise provided for short of the employee's initial request, such University action may, upon the employee's written request, be reviewed by the Department/Division Head. Neither the University's action in granting or not granting an FML nor the results of such review shall be subject to Article 10 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

i. Return to Work After FML

An employee granted FML for any reason other than Pregnancy Disability shall be returned to the same or an equivalent position upon return from the leave. For an employee's return to work rights after Pregnancy Disability Leave, see Section E.7, below. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the employee actually been working rather than on leave when the position was abolished or affected by layoff. An employee granted an FML is not entitled to reinstatement to his/her position if the employee's appointment ending date or predetermined date of separation occurs before the scheduled return date.

2. FML for the Employee's Serious Health Condition

FML for the employee's own serious health condition is leave taken when the employee's own serious health condition, as defined in Section D.1.a.6, above, renders the employee unable to perform any one or more of the essential functions of the employee's position.

3. FML to Care for a Family Member with a Serious Health Condition

FML to care for a family member with a serious health condition is leave to care for the employee's child, parent, spouse or same or opposite sex domestic partner who has a serious health condition, as defined in Section D.1.a.7, above.

4. FML as Pregnancy Disability Leave

When an employee who takes Pregnancy Disability Leave pursuant to Section E – Pregnancy Disability Leave, below, is eligible for FML, her Pregnancy Disability Leave will be counted against her FML entitlement under the FMLA as well as her entitlement under the PDLL.

5. FML as Parental Leave

Parental Leave is a form of FML an employee may take to bond with the employee's newborn or a child placed with the employee for adoption or foster care or to attend to matters related to the birth, adoption or placement of the child. This type of leave shall be initiated and concluded within one year of the birth or



the placement of the child with the employee. The University will grant a Parental Leave subject to the limitations described below.

a. Eligibility Criteria

An employee taking Parental Leave must meet the eligibility requirements for FML set forth in Section D.1.b except when the employee is taking Parental Leave immediately following Pregnancy Disability Leave and was eligible for leave under the FMLA/CFRA at the beginning of that Pregnancy Disability Leave; in those circumstances, the employee shall be granted a Parental Leave for up to twelve workweeks after her Pregnancy Disability Leave, provided that she has not exhausted her FML entitlement under CFRA for that leave year.

b. Requests for Parental Leave

The employee shall request Parental Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee, but the employee shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with an FML leave taken for pregnancy/childbearing disability, shall be set at the time such Pregnancy Disability Leave commences. Parental Leave, when taken for adoption or foster care, could commence prior to the date of the child's placement with the employee.

c. Leave Entitlement

Parental Leave alone shall not exceed twelve (12) workweeks in a calendar year. When Parental Leave is combined with a Pregnancy Disability Leave, the total FML Leave shall not exceed seven months in the leave year.

d. Length of Parental Leaves

The University shall grant a Parental Leave of less than two weeks' duration on any two occasions during the leave year. The University, at its discretion, may request that any additional leaves for Parental Leave requested during this same time period be for a minimum duration of two weeks.

6. FML as Military Caregiver Leave

Military Caregiver Leave is a type of FML that an eligible employee may take to care for a family member who is a "covered servicemember" undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty, consistent with the definitions of those terms in Section D.6.a below. The general FML provisions set forth in Sections D.1 above apply to Military Caregiver Leave except to the extent that provisions more specific to Military Caregiver Leave are set forth in this Section D.6.

a. Definitions applicable to Military Caregiver Leave

- 1) Covered servicemember means (i) a current member of the regular Armed Forces (including a member of the National Guard or Reserves) who, because of a serious injury or illness, is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is on the temporary disability retired list; or (ii) a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

- 2) Covered veteran means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes Military Caregiver Leave to care for a covered veteran.
- 3) Outpatient status means the status of a servicemember assigned to (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 4) Serious injury or illness means (i) for a current member of the Armed Forces (including the National Guard or Reserves): an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces or that existed before the beginning of the covered servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the covered servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating or (ii) for a covered veteran: an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran.
- 5) Parent of a covered servicemember means a covered servicemember's biological parent, adopted parent, step-parent, foster parent, or any other individual who stood in loco parentis to the covered servicemember when the covered servicemember was a child. The term does not include parents "in law."
- 6) Son or daughter of a covered servicemember means a covered servicemember's biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in loco parentis, and who is of any age.
- 7) Next of kin means either (a) the nearest blood relative of the covered servicemember (other than the covered servicemember's spouse, domestic partner, parent, son or daughter) or (b) the person who the covered servicemember has designated in writing as his/her nearest blood relative for purposes of Military Caregiver Leave.
- 8) Single 12-month leave period means the period beginning on the first day the employee takes leave to care for the covered servicemember and ending 12 months after that date. (This leave period differs from the calendar year definition of the leave year used for determining eligibility for other types of FML.)

b. Eligibility Criteria for Military Caregiver Leave

In addition to meeting the eligibility requirements for FML set forth in Section D.1.b, an employee taking Military Caregiver Leave must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember.

c. Leave Entitlement for Military Caregiver Leave

An eligible employee is entitled to up to 26 workweeks of Military Caregiver Leave during a single 12-month leave period. Leave is applied on a per-covered servicemember, per-injury basis. Eligible employees may take more than one period of 26 workweeks of leave if the leave is to care for a different covered servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month leave period.”

If an eligible employee does not use all of his or her 26 workweeks of leave entitlement to care for a covered servicemember during this single 12-month leave period, the remaining part of the 26 workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

As with other types of FML, this leave may also be taken on an intermittent or reduced schedule basis. If the need for intermittent or reduced schedule leave is foreseeable based on the planned medical treatment of the covered servicemember, the employee may be required to transfer temporarily, during the period that the intermittent or reduced ~~leave~~ schedule is required, to an available alternative position for which the employee is qualified and which better accommodates ~~a~~ recurring periods of leave than does the employee’s regular position.

d. Documentation and Certification for Military Caregiver Leave

Employees may be required to provide a certification completed by an authorized health care provider, which includes health care providers affiliated with the Department of Defense, the Veterans Administration, and TRICARE, as well as any other health care provider (as defined in Section D.1.k.) who is treating the covered servicemember that provides information necessary to establish entitlement to Military Caregiver Leave. In addition, employees may be required to provide certain information (or have the covered servicemember provide that information) including information establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave, his or her relationship with the employee, and an estimate of the leave needed to provide the care. The employee may also be required to provide confirmation of a covered family relationship between the employee and the covered servicemember.

e. Use of Accrued Paid Leave during Military Caregiver Leave

An employee on an approved FML leave for Military Caregiver Leave may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work or accrued vacation time before taking FML without pay. However, if the employee's vacation leave accrual is at maximum the employee will be required to use at least 10% of the vacation leave credit prior to taking FML without pay. Up to thirty (30) days of accrued sick leave per year may be used during FML taken to care for a family member who is a covered servicemember with a serious injury or illness pursuant to Article 38 - Sick Leave, Section B.3.b.

7. FML as Qualifying Exigency Leave

Qualifying Exigency Leave is a type of FML that an eligible employee may take if the employee’s spouse, domestic partner, son, daughter or parent is a military member and the employee needs to attend to any “qualifying exigency” while the military member is on covered active duty or call to covered active duty, consistent with the definition of those terms in Section D.7.a, below. The general FML provisions set forth in Sections D.1 above apply to Qualifying Exigency

Leave except to the extent that provisions more specific to Qualifying Exigency Leave are set forth in this Section D.7.

a. Definitions applicable to Qualifying Exigency Leave

- 1) Covered active duty or call to covered active duty status means (a) in the case of a member of the regular Armed Forces, duty during the deployment to a foreign country or (b) in the case of a member of the Armed Forces Reserve, duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation as defined by the FMLA.
- 2) Qualifying exigency is defined as any one of the following, provided that the activity relates to the military member's covered active duty or call to covered active duty status:
  - a) Short notice deployment to address issues that arise due to the military member being notified of an impending call to covered active duty seven (7) or fewer calendar days prior to the date of deployment
  - b) Military events and activities, including official ceremonies
  - c) Childcare and school activities for a child of the military member who is either under age 18 or incapable of self-care
  - d) Financial and legal arrangements to address the military member's absence or to act as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status and for the 90 days after the termination of the military member's covered active duty status
  - e) Counseling (provided by someone other than a health care provider) for the employee, for the military member, or for the child of the military member who is either under age 18 or incapable of self-care
  - f) Rest and recuperation (up to fifteen (15) days of leave for each instance) to spend time with the military member who is on short-term, temporary rest and recuperation leave during deployment
  - g) Post-deployment activities to attend ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's covered active duty and to address issues that arise from the death of the military member while on covered active duty status
  - h) Parental care for the parent of the military member when the parent is incapable of self-care
  - i) Additional activities related to the military member's covered active duty or call to covered active duty status when the employer and employee agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

b. Eligibility for Qualifying Exigency Leave

In addition to meeting the eligibility requirements for FML set forth in Section D.1.b, an employee must be the spouse, domestic partner, son, daughter, or parent of a military member to be eligible for Qualifying Exigency Leave.

c. Leave Entitlement for Qualifying Exigency Leave

Eligible employees are entitled to up to twelve (12) workweeks of Qualifying Exigency leave during a calendar year.

As with other types of FML, Qualifying Exigency Leave may be taken on an intermittent or reduced schedule basis.

d. Documentation and Certification for Qualifying Exigency Leave

Employees may be required to provide a copy of the military member's active duty orders. Employees may also be required to provide certification of: (1) the reasons for requesting Qualified Exigency Leave, (2) the beginning and end dates of the qualifying exigency, and (3) other relevant information.

e. Use of Accrued Paid Leave During Qualifying Exigency Leave

An employee on an approved FML leave for Qualifying Exigency Leave may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation time before taking FML without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking FML without pay.

## **E. PREGNANCY DISABILITY LEAVE**

An employee may take Pregnancy Disability Leave when disabled by pregnancy, childbirth, or related medical conditions or for purposes of prenatal care.

1. Leave Entitlement for Pregnancy Disability Leave

During the period of verified pregnancy-related disability, a female employee is entitled to and the University shall grant a leave of absence of up to four months. If the pregnancy-related/childbearing medical disability continues beyond four months, a further medical leave of absence may be granted in accordance with Section C – Medical Leaves of Absence, above. Additionally, the employee may be eligible for a Parental leave to bond with a newly born child in accordance with Section D.5, above. When parental leave is granted under Section D.5, the total of Parental Leave and Pregnancy Disability Leave, when taken in conjunction, shall not exceed seven months in the leave year.

If an employee on approved Pregnancy Disability Leave is eligible for Family and Medical Leave (FML) under the FMLA because she satisfies the eligibility requirements set forth in Section D.1.b, above, the first twelve (12) workweeks of her Pregnancy Disability Leave shall run concurrently under the FMLA and California's PDL. However, such leave shall not be counted against the employee's entitlement to FML under CFRA. Upon termination of a Pregnancy Disability Leave that runs concurrently under the FMLA and PDL, an employee shall also be entitled to up to twelve (12) workweeks of FML for any CFRA-covered reason, provided the employee has not exhausted her CFRA leave entitlement for that leave year.

2. Intermittent and Reduced Schedule Leave

- a. When medically advisable and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced

work schedule or on an intermittent basis including absences of less than one day. Only the time actually spent on the intermittent or reduced schedule shall be counted towards the employee's entitlement of up to four (4) months of Pregnancy Disability Leave.

- b. When the employee's health care provider states that it is medically advisable to take Pregnancy Disability Leave on an intermittent or reduced schedule basis, the University may, at its sole, non-grievable discretion, transfer the employee temporarily to an available alternative position that meets the needs of the employee, provided the employee meets the qualifications for the alternative position. Any alternative position shall have the equivalent rate of pay and benefits and shall better accommodate the employee's leave requirements than her regular position. Only the time actually spent on the intermittent or reduced schedule shall be counted towards the employee's entitlement of up to four (4) months of Pregnancy Disability Leave. When the employee's health care provider certifies that the intermittent or reduced schedule leave is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section E.7 below.

### 3. Transfer and Reasonable Accommodation

- a. As an alternative to, or in addition to Pregnancy Disability Leave, the University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee when such transfer is medically advisable according to the employee's health care provider, if the transfer can be reasonably accommodated. For the purpose of this section, a temporary transfer includes a temporary modification of the employee's own position to make it less strenuous or hazardous. A temporary transfer under this section is considered time worked and shall not be counted toward an employee's entitlement of up to four (4) months of Pregnancy Disability Leave, unless the employee is also on a reduced work schedule or an intermittent leave schedule. When the employee's health care provider certifies that the transfer is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section E.7, below.
- b. If the employee's health care provider certifies that reasonable accommodations other than transfer and/or leave on an intermittent or reduced schedule basis are medically advisable, the University shall engage in the interactive process to identify and implement the reasonable accommodation(s) that are appropriate under the circumstances.

### 4. Certification

- a. When the employee requests a Pregnancy Disability Leave, the University may require that the employee provide a certification from her health care provider that contains the following: (1) a statement that the employee needs to take Pregnancy Disability Leave because she is disabled by pregnancy, childbirth, or related medical condition, and (2) the date on which the employee became disabled because of pregnancy and the estimated duration of the need for leave.
- b. When the employee requests a transfer or reasonable accommodation due to pregnancy disability, the University may require that the employee provide a certification from her health care provider that contains the following: (1) a description of the requested accommodation or transfer, (2) a statement describing the medical advisability of the requested reasonable accommodation or transfer, and (3) the date on which the need for reasonable accommodation or transfer became or will become medically advisable and the estimated duration of the need for the reasonable accommodation or

transfer. Failure to provide such certification may result in delay of the reasonable accommodation or transfer until the certification is provided.

- c. Failure to provide certification for leave, reasonable accommodation, or transfer within the requested time period or as soon as reasonably possible under the circumstances may result in delay of the leave, reasonable accommodation, or transfer until the required certification is provided.
- d. The University may, at its sole non-grievable discretion, require that an employee provide a medical release from her health care provider if she will be returning to work immediately following Pregnancy Disability Leave.

5. Use of Accrued Leave during Pregnancy Disability Leave

Pregnancy Disability Leave may consist of leave without pay; however, an employee shall be required to use accrued sick leave in accordance with the University's Disability Plan. If accrued sick leave is exhausted, an eligible employee may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation prior to taking Pregnancy Disability Leave without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking Pregnancy Disability Leave without pay.

6. Continuation of Health Benefits During Pregnancy Disability Leave

Consistent with Section D.1.g.4, an employee on Pregnancy Disability Leave shall be entitled to continue participation in health plan coverages (medical, dental, and optical) as if on pay status for the period of her disability up to four months.

7. Return to Work After Pregnancy Disability Leave

An employee who has been granted a Pregnancy Disability Leave or has been temporarily transferred due to pregnancy disability shall be returned to the same job provided the employee returns to work immediately upon termination of the Pregnancy Disability Leave and provided such return is within four months of the date on which the Pregnancy Disability Leave commenced. If the same job is not available, a comparable job will be offered if the employee would have been entitled to the comparable job if she had been continuously working rather than on leave. If a comparable position is not available on the employee's scheduled date of return but a comparable position or positions become available within sixty (60) days thereafter, the University shall notify the employee of the position(s). If the employee is reinstated within that sixty-day (60-day) period, the period between the employee's originally scheduled date of reinstatement and her actual date of reinstatement shall not be counted for purposes of any employee pay or benefits. A female employee who is also granted Parental Leave under Section D Family and Medical Leave (FML) shall be returned to work in accordance with Section D.1.i of this Article. An employee who was granted a medical leave of absence in accordance with Section C – Medical Leaves of Absence following Pregnancy Disability Leave shall be returned to work in accordance with Section C.6.

**F. JURY DUTY/GRAND JURY DUTY**

Any full-time or part-time employee on any shift or work schedule shall be granted leave with pay for actual time spent on required jury service and required grand jury service and in related travel, not to exceed the number of hours in the employee's normal work day and the employee's normal workweek. Upon request, the University will endeavor to accommodate an employee's summons to jury duty with a change in shift assignment.

**G. VOTING**

An employee shall be granted leave with pay, up to a maximum of two (2) hours, for voting in a statewide primary or general election if the employee is scheduled to work eight (8) hours or more on that day and does not have time to vote outside of working hours.

#### **H. BLOOD DONATIONS**

An employee may be granted leave with pay, up to a maximum of two (2) hours, for donating blood during regularly scheduled hours of work.

#### **I. ADMINISTRATIVE OR LEGAL PROCEEDINGS**

1. When an employee is attending administrative or legal proceedings on behalf of the University or is subpoenaed by the University to appear as a witness on its behalf in an administrative or legal proceeding, leave without loss of straight-time pay will be granted for actual time spent in the proceedings and in related travel not to exceed the number of hours in the employee's normal work day and workweek.
2. Leave with pay shall not be granted when an employee is the plaintiff or defendant in a proceeding, is called or subpoenaed as a paid expert witness not on behalf of the University, or is called or subpoenaed because of duties for another employer.
3. When served with a subpoena which compels the employee's appearance as a witness, in the prosecution of a person for an offense which the employee, by virtue of being on University premises during scheduled work hours, witnessed, the employee shall be granted leave without loss of straight-time pay for actual time spent in the proceedings and in related travel time not to exceed the employee's normal work day and workweek.
4. The granting of leave without loss of straight-time pay status for other employment-related situations where an employee has been subpoenaed shall be at the sole non-grievable, non-arbitrable discretion of the University.

#### **J. EMERGENCIES**

In the event of natural or man-made emergencies, an employee may be granted leave with straight-time pay during regularly scheduled hours of work for the period of time authorized by the University. The granting of such leave and the period of time shall be at the sole, non-grievable discretion of the University.

#### **K. UNIVERSITY FUNCTIONS**

At the sole, non-grievable discretion of the University and on a campus/Laboratory basis and within a campus/Laboratory basis, an employee may be granted leave during regularly-scheduled hours of work to attend Commencement exercises, Charter Day exercises and other University meetings or functions as designated by the University. Such leave, when granted, shall be without loss of straight-time pay.

#### **L. MILITARY LEAVE**

1. Temporary Military Leave

Temporary military leave for active-duty and/or inactive training shall be granted to any employee who as a member of a reserve component of the Armed Forces of the United States (the federally recognized National Guard, the federally recognized Air National Guard, the Officer's Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, and the Public Health Reserve when serving with the Armed Forces) is ordered to full-time active military duty and/or inactive training for a period not to exceed 180 calendar days, including time spent traveling to and from such duty.



a. Eligibility For Pay

An employee granted temporary military leave is entitled to receive regular University pay for the first 30 calendar days, but not to exceed the actual period of active duty for training, provided:

- 1) The employee has at least 12 months of continuous University service immediately prior to granting of the leave (any prior full-time military service shall be included in calculating this University service requirement); and
- 2) Such payment, in addition to University payment for reserve training, extended military leave and for military leave for physical examinations, does not exceed thirty (30) calendar days' pay in any one fiscal year.

b. Verification of Employee's Military Orders

Employees who report for weekend military duty and who received orders covering the entire year's schedule may be required to provide the full year schedule when issued.

c. Part-Time Employee

For purposes of Section L.1.a, an eligible part-time employee shall receive pay in proportion to the average percent of full-time worked during the three completed monthly pay periods immediately preceding the leave.

d. Ineligible Employee

An employee not eligible for military leave pay under Section L.1.a may have such absence charged to accrued vacation, accrued compensatory time off, or the military leave may be without pay.

e. Benefits

- 1) An employee on temporary military leave who is not on pay status shall receive length of service credit, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal laws. Such employee may receive retirement benefits and service credit only in accord with the provisions of the applicable retirement system; may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations; and may receive vacation and sick leave accruals and holiday pay only in accordance with those articles of this Agreement.
- 2) If on pay status, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal Laws, the employee shall receive regular benefits.

2. Reserve Training for Inactive Duty

Reserve training leave for inactive duty shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, must perform inactive duty such as weekly or monthly meetings or weekend drills.

3. Extended Military Leave

Extended military leave shall be granted to an employee who enlists or is ordered into active duty in the United States Armed Forces or a reserve component or who is ordered into active Federal military duty as a member of the National Guard or Naval

Militia. Such leave shall be granted for active-duty service of any length or for active-duty training in excess of 180 days.

a. Period of Leave

An employee shall be granted extended military leave for the initial period of enlistment, service, or tour of duty for a period generally not to exceed five years. In addition to the initial period of the leave and any extensions thereof in accordance with Section L, leave shall be granted for a period up to six months from the date of release from duty.

b. Eligibility for Pay

An employee granted extended military leave is entitled to receive regular University pay for the first thirty (30) calendar days of leave provided:

- 1) The employee has at least twelve (12) months of continuous University service immediately prior to the leave (any prior full-time military service shall be included in calculating this University service requirement);
- 2) Such payment, in addition to University payment for temporary military leave and for military leave for physical examinations, does not exceed thirty (30) calendar days' pay in any one fiscal year.

c. Verification of Employee's Military Orders

The University may require verification of an employee's military orders for leaves of thirty (30) or more days.

d. Benefits

- 1) An employee granted extended military leave shall at the time the leave commences receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time. Upon written request, an employee may elect to retain accrued vacation on the records for a period not to exceed 180 days. At the end of the 180-day period, vacation credits retained on the records shall be paid out at the pay rate in effect at the time of payment, taking into account any salary increases that may have occurred during the 180 day period.
- 2) Sick leave credit shall be retained on the records.
- 3) Retirement benefits and service credit shall be in accord with the provisions of the applicable retirement system.
- 4) An employee may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations.
- 5) An employee shall receive length-of-service benefits related to employment that would have been granted had the employee not been absent, except that the employee shall not receive credit toward completion of a probationary period (See Section L. 10 of this Article). Vacation and sick leave accruals and holiday pay shall be granted only in accordance with those articles of this Agreement.

e. Probationary Employee

- 1) An employee who was serving a probationary period at the time extended military leave became effective shall be required to complete the probationary period upon reinstatement.

- 2) If the probationary employee served in active military service for a period of thirty (30) to one-hundred and eighty (180) days, he/she shall not be separated from employment by management action except for cause for six (6) months from the date of reinstatement.
- 3) If the probationary employee served in active military service for a period in excess of one hundred eighty (180) days, he/she shall not be separated from employment by management action except for cause for one (1) year from the date of reinstatement.

f. Reinstatement After Extended Military Leave

- 1) Following release from active duty, an employee granted extended military leave shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.
- 2) Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position during the military leave.

4. Emergency National Guard Leave

Leave shall be granted to an employee who as a member of the National Guard is called to active duty by proclamation of the Governor during a state of emergency. An employee who as a member of the National Guard is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave as set forth in Section L.3.

a. Eligibility for Pay

An employee granted military leave for emergency National Guard duty is entitled to receive regular University pay for a period not to exceed 30 calendar days per emergency. An employee is eligible for pay regardless of the length of University service, and such pay is in addition to any University payment for temporary military leave, extended military leave, and military leave for physical examinations.

b. Benefits

An employee on military leave with pay for emergency National Guard duty shall receive all benefits related to employment which are granted when an employee is on pay status. If not on pay status, the employee shall receive length of service credit, provided that the employee returns to University service immediately after the emergency is over. Such employee may receive retirement benefits and service credit only in accord with the provisions of the applicable retirement system; may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations; and may receive vacation and sick leave accruals and holiday pay only in accordance with those articles of this Agreement.

c. Reinstatement

- 1) Following release from active duty, an employee granted leave for emergency National Guard duty shall have such right to return, and only such right, as may be required by state and federal law in effect at the time the employee applies for reinstatement.

- 2) Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position granted during military leave.

5. Physical Examinations Related to Military Leave

- a. Military leave with pay shall be granted to an employee in accordance with Sections L.1.a.2 and L.3.b.2, regardless of length of service, when the employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency. The University may require verification of an employee's military orders to report for a physical examination.
- b. The University may grant leave without pay for further physical examinations required for military service or the employee may charge such time off to accrued sick leave, accrued vacation or accrued compensatory time off.

**M. DEFENSE WORK**

Military leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. An employee granted such leave shall be eligible for the benefits set forth in Sections L.1.e of this Article and shall have the right to return to University service within six (6) months following termination of such defense work or the cessation of the war or period of national emergency, whichever occurs first. However, such an employee shall not be eligible for 30 calendar days' pay for military leave.

**N. MILITARY SPOUSE/DOMESTIC PARTNER LEAVE**

An employee who is a spouse or domestic partner of a member of the Armed Forces, National Guard, or Reserves may take this leave during a “qualified leave period” when the employee’s spouse or domestic partner is on leave from a period of military conflict. “Qualified leave period” means the period during which the “qualified member” is on leave from deployment during a period of military conflict. An eligible employee shall be entitled to up to a maximum of ten (10) days of unpaid leave during a qualified leave period.

1. Definitions for Military Spouse/Domestic Partner Leave

- a. Qualified member means a person who is any of the following:
  - 1) A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, or
  - 2) A member of the National Guard who has been deployed during a period of military conflict, or
  - 3) A member of the Reserves who has been deployed during a period of military conflict.
- b. Period of military conflict means either of the following:
  - 1) A period of war declared by the United States Congress, or
  - 2) A period of deployment for which a member of a reserve component is ordered to activity duty, as defined in Military & Veterans Code section 395.10.

## 2. Eligibility

To be eligible, an employee must satisfy all of the following criteria:

- a. Be a spouse or domestic partner of a “qualified member”
- b. Perform services for the University for an average of twenty (20) or more hours per week,
- c. Provide the University with notice, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of the employee’s intention to take the leave, and
- d. Submit written documentation certifying that the qualified member will be on leave from deployment during the time that leave is being requested by the employee.

## 3. Use of Accrued Paid Leave

This leave is unpaid leave, except that an employee may elect to use accrued compensatory time off (in accordance with Article 13 – Hours of Work) or accrued vacation time prior to taking this leave without pay.

# **ARTICLE 17 LEAVES OF ABSENCE FOR UNION BUSINESS**

## **A. GENERAL PROVISIONS**

In accordance with the provisions of this article the University will provide reasonable leaves of absence for Union business for periods of one day up to a maximum of three (3) years in accordance with Section B below. Absences beyond three years shall be granted in accordance with Section B.1.b.2 below.

### **1. Employee Eligibility for Leave**

- a. AFSCME shall submit to the Director – Labor Relations at each campus/hospital/LBNL, 30 days in advance of the leaves requested, the names of the non-probationary career union members at that campus who are eligible for the leave.
- b. The University may grant one FTE (261 days) of paid reimbursed leave for every 500 bargaining unit employees and no more than two FTE (522 days) per campus, hospital, and the LBNL without loss of compensation. However, only one employee shall be released per department per leave. The University need not grant the leave when it can demonstrate compelling business needs, or if a campus, hospital or laboratory has fewer than 50 AFSCME PCT employees per unit.

### **2. Pay Status**

During the paid reimbursed leave, the employee shall be paid by the University, and shall continue to accrue service credit; and shall retain all benefits to which the employee was entitled prior to the start of the leave. Employee benefit contributions will continue to be deducted during the leave.

- a. During the paid reimbursed leave the employee shall be eligible for increases in accordance with campus practices.

- b. Any leave granted in accordance with this section shall not constitute a break in service.

3. **Union Reimbursement**

The Union shall reimburse the University for all actual costs of employee compensation, including but not limited to, salary plus all benefits paid to the employee for the time the employee is on leave without loss of compensation provided the University bills the Union no later than six (6) months from the date of the conclusion of the union business leave. The Union shall submit payment to the University within 30 days of receipt of confirmation of payment to the employee. The University has the right to terminate the leave if the Union fails to provide timely payment.

4. **Long Term Leave (30 days to 3 years)**

- a. Upon at least 30 calendar days' advance written request from the AFSCME Local 3299 Executive Director and the employee, to the campus'/hospital's/LBNL's Labor Relations Office, a non-probationary career employee shall be granted leave for Union business in accordance with this section. Such paid reimbursed leave shall be granted for a fixed period of time not less than thirty (30) days and not longer than three (3) years.
- b. The University shall not be required to return an employee on paid leave to active employment status prior to the completion of the stated duration of the leave.
  - 1) The duration of the leave shall be specified at the time the employee requests the leave. No leave shall be granted unless the written request specifies the duration of the leave.
  - 2) The maximum duration of a paid leave with Union reimbursement is three (3) years. The University shall not unreasonably deny subsequent requests for release of statewide union officers of president, statewide patient care technical unit vice president, executive vice president, recording secretary, and secretary- treasurer.
  - 3) Upon return, the employee shall be placed in the same or similar position from which the employee took the paid reimbursed leave, in accordance with §4 below. If the employee's position requires certification or licensure, the employee must be current with such certifications/licenses in order to return to work. The employee shall receive the rate of pay that would have been provided to the employee as a result of range adjustments provided during the leave.
  - 4) Placement of the employee in his/her previous position shall be consistent with staffing reductions and/or layoffs which may have occurred during the period of leave of absence.

5. **Short Term Paid Leave (2- 29 Days)**

- a. Upon at least 15 calendar days' advance written request from the AFSCME Local 3299 Executive Director and the employee, to the campus'/hospital's Labor Relations Office, local steward and officers shall be granted leave for Union business. Such paid reimbursed leave shall be granted for a fixed period of time not less than two days and not longer than twenty-nine (29) days. The duration of the leave shall be specified at the time the employee requests the leave. No leave shall be granted unless the written request specifies the duration of the leave.

- b. The University shall not be required to return an employee on paid leave to active employment status prior to the completion of the stated duration of the leave. The parties may agree to shorter notice.

**B. ONE-DAY LEAVES**

Upon ten (10) calendar days' advance written notice to her/his supervisor, with a copy to the local LR office, local Union officers and local Union stewards shall be granted one (1) day of paid reimbursed leave for union business. Permission for such leave shall not be granted for a period of less than one (1) day, and such permission shall not be granted to any individual employee more than once per month, except for executive board members and bargaining team members who may be granted two (2) one day leaves per month, based on the operational needs of the University. The granting of such permission to local stewards and officers shall be subject to the operational needs of the University and may be granted to one or more, but not necessarily all, such employees on the same shift in the same operational area. If proper ten (10) day notice is provided, such permission shall not be denied unreasonably.

**C. FAILURE TO RETURN FROM LEAVE**

An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job, in accordance with Article 34 - Resignation, if such failure to return exceeds five consecutive working days of the anticipated return date.

**ARTICLE 18  
MANAGEMENT RIGHTS**

- A. All management rights and functions, except those which are clearly and expressly abridged by this Agreement, shall remain vested exclusively in the University. Except as otherwise provided in this Agreement, the Union agrees that the University has the right to make and implement decisions related to areas including, but not limited to, those enumerated below. While the University and the Union may have discussions involving but not limited to these areas, the Union agrees that the University is not obligated to bargain with the Union as to such areas during the term of this Agreement.
- B. Examples of the rights reserved solely to the University administration and its agents and officials include, but are not limited to, the right:
  - 1. To establish the University's missions, programs, objectives, activities and priorities, including Affirmative Action plans and goals;
  - 2. To exercise full and exclusive control of the management of the University and to supervise and direct all operations;
  - 3. To plan, direct, manage and control the use of resources and personnel to achieve the University's missions, programs, objectives, activities and priorities, including Affirmative Action plans and goals;
  - 4. To establish and administer procedures, rules and regulations and determine the methods and means by which operations are to be carried on;
  - 5. To introduce new or improved methods, equipment or facilities, or change or eliminate existing methods, equipment or facilities;
  - 6. To determine the location of operations;
  - 7. To discontinue, relocate or subcontract all or any portion of any operation;

8. To determine, establish, modify, revise or abolish classes, titles, codes, class specifications and job descriptions and to determine the salary of new and revised classes;
9. To determine the work to be done; to assign work; to establish and change daily or weekly work schedules; to schedule hours of work, including overtime; to establish or eliminate shifts; and to determine whether and to what extent work shall be performed by employees;
10. To determine the calendar dates on which employees shall receive pay owing and due them and to determine the intervals between such dates; to determine the beginning and ending dates for which payroll and accrual calculations are made and to determine formulas for such calculations;
11. To establish the size, composition and qualifications of the work force; to determine the nature of positions and whether or not to fill positions; and to use tests, interviews and other selection techniques to hire, promote, transfer and otherwise evaluate employees;
12. To recruit, hire, train, evaluate, promote, transfer, reclassify, demote or layoff employees;
13. To discipline, discharge or release non-career employees without cause;
14. To determine the basis for merit increases, special awards, and payments for meritorious performance and to exercise sole discretion as to the granting, timing, amount, distribution and frequency of such increases whether or not such increases shall accrue to an employee's base salary;
15. To establish, modify and enforce standards of performance, workload, conduct and safety for employees; and to determine the process by which employee performance is evaluated;
16. To reprimand, suspend, terminate or otherwise discipline or discharge employees; or to release employees;
17. To establish, maintain, modify and enforce safety standards and programs;
18. To implement, continue, modify or discontinue any policies, practices, rules or regulations which do not conflict with the express written provisions of this Agreement;
19. To utilize personnel, methods and means appropriate to the maintenance of an orderly, effective and efficient operation;
20. To maintain employee records, including attendance and time worked per shift; and
21. To establish, maintain, modify or abolish organizational work units for the purpose of personnel transactions, including but not limited to layoff, transfer and promotion.

**C.** The above enumeration of management rights is not inclusive and does not exclude other management rights not specified, nor shall the exercise or non-exercise of rights retained by the University be construed to mean that any right is waived. Further, the Union acknowledges that the exercise or non-exercise of rights retained by the University and the manner in which the University exercises its management rights may vary from place to place within the University's operations.

**D.** An action taken or not taken with respect to a management right shall not be subject to Article 9 - Grievance Procedure, Article 3 - Arbitration Procedure, or collateral suit unless the exercise thereof violates an express written provision of this Agreement.



## **ARTICLE 19**

### **MEDICAL SEPARATION**

#### **A. GENERAL CONDITIONS**

1. When the University determines that an employee is unable to satisfactorily perform essential assigned functions due to a disability and determines that no reasonable accommodation exists without causing undue hardship, the employee may be medically separated. A medical separation may also be based on the receipt of disability payments from a retirement system to which the University contributes, provided that the University has determined that no reasonable accommodation exists without causing undue hardship. Non-probationary career employees separated under this Article are eligible for special employment procedures.
2. The University shall pay the costs of any medical examinations requested by the University.
3. An employee shall not be separated under this Article while the employee is drawing accumulated sick leave or while the employee is receiving extended sick leave. However, the employee may be separated for medical or other reasons if the date of separation was set prior to the commencement of sick leave or extended sick leave and if the employee is afforded all rights provided by the employee's retirement system.

#### **B. NOTICE OF INTENT TO MEDICALLY SEPARATE**

1. Written notice of intent to medically separate shall be given to the employee either by delivery of the notice to the employee in person, or by other reliable method accompanied by Proof of Service. The notice shall:
  - a. Inform the employee of the action intended, the reason for the action and the effective date of the action; and
  - b. Inform the employee of the right to respond and to whom to respond within ten (10) calendar days from the date of issuance of such notice of intent in accordance with instructions given by the University in the written notice sent to the employee.
2. After review of the employee's timely response, if any, the University shall notify the employee of any action to be taken. An effective date of separation shall be at least fifteen (15) calendar days from the date of issuance of notice of intention to separate (pursuant to section B.1 above) or timely receipt of the employee's response, if any, whichever is later. The effective date of separation and the employee's rights to appeal shall be included in such letter.

#### **C. REEMPLOYMENT**

1. For a period of one (1) year following the date of a medical separation, a former non-probationary career employee may be selected for a position without the requirement that the position be publicized. However, if the former employee is receiving disability benefits from a retirement system to which the University contributes, the period shall be three (3) years from the date benefits commenced. In either situation, the former employee must first notify the appropriate University representative that they are interested in being considered for reemployment opportunities under this provision.
2. If a non-probationary career employee separated under this Article is re-employed within 180 calendar days, a break in service does not occur. If a non-probationary career employee is receiving disability payments from a retirement system to which the University contributes and is re-employed within three (3) years, a break in service does not occur.

3. If a non-probationary career employee who is on an approved leave of absence related to a medical condition has a specific return to work date which is within 180 calendar days of the beginning of the original leave of absence, such employee shall not be medically separated during the period between the beginning of the leave of absence and the initially established return to work date (a maximum of 180 calendar days). Medical documentation must be established by a health practitioner licensed in the state in which she/he practices.

## **ARTICLE 20 MOVING EXPENSES**

- A. Moving expenses may be granted at the sole discretion of the University. Expenses approved in advance by the University and supported by invoices and receipts shall be paid for costs incurred for packing, insurance, transportation, storage in transit (not to exceed 30 calendar days), unpacking and installation of the employee's household effects at a new location. Actual travel expenses for the employee and the employee's immediate family, not to exceed air coach transportation cost, and the cost of meals en route for the employee and the employee's immediate family, not to exceed the University allowance for individual meals, shall be paid by the University. No expenses are due an employee if the University determines that the new work location is within reasonable commuting distance of the previous location.

### **MOVING EXPENSES -- LAWRENCE BERKELEY LABORATORY**

- B. Policies, procedures, definitions, qualifications, calculations, and rates relative to Moving Expenses at the Laboratory shall remain in effect for employees at the Laboratory and where in conflict shall supersede the provisions of this Article in A above.

## **ARTICLE 21 MULTIPLE APPOINTMENTS**

- A. Employees with multiple appointments will be covered by the provisions of this Agreement only for the time in which the employee is working in any appointment(s) within the unit, except time worked in per diem appointments is covered only by the provisions listed in Article 30 – Positions/Appointments, Section D.
- B. In the event an individual has multiple appointments, he/she shall be eligible to participate in the benefits provided in Article 4 - Benefits if a majority of his/her appointment(s) time occurs in positions within unit. The total of appointment time and the determination of majority of appointment time shall not include calculations which have any component of per diem appointment or casual-restricted appointment time.
- C. Specific benefit eligibility and proration of benefits and costs for employees with multiple appointments who qualify for benefits under A. and B. above shall be governed and controlled by the coverage or eligibility requirements and conditions associated with the respective benefit programs enumerated in Article 4 - Benefits.

## **ARTICLE 22 NONDISCRIMINATION IN EMPLOYMENT**

### **A. GENERAL PROVISIONS**

1. As required by law and University regulations, the University will not discriminate against employees in the Unit on the basis of race, color, religion, marital status, national origin, ancestry, sex, sexual orientation, physical or mental disability, medical condition, HIV status, status as a Vietnam-era veteran or special disabled veteran, age, citizenship, or Union activity. For the purposes of this Article only, medical condition means any health impairment related to or associated with a diagnosis of cancer, or health impairments related to genetic characteristics.

2. Neither the University nor AFSCME shall discriminate in the application of the provisions of this Agreement based on Union or non-Union affiliation.

## **B. GRIEVABILITY/ARBITRABILITY**

1. If the Union appeals to arbitration a grievance that alleges a violation of this Article but does not allege violation of another Article that is arbitrable, the Union's notice must include an Acknowledgement and Waiver Form signed by the affected employee. The Acknowledgement and Waiver Form will reflect that the employee has elected to pursue arbitration as the exclusive forum for the claim and that the employee understands the procedural and substantive differences between arbitration and the other remedial forum or forums in which the dispute might have been resolved, including the differences in the scope of remedies available in arbitration as compared to other forums. The timeline to appeal to arbitration set forth in Article 9 - Grievance Procedure will be extended by 30 days for such grievances to enable the employee to make an informed choice.

### **2. Grievances That Allege Sexual Harassment**

With regard to alleged violations of this Article involving an allegation of sexual harassment, the University and AFSCME agree that employees covered by this Agreement may elect, as a substitute and in lieu of Step 1 of Article 9 - Grievance Procedure, to use the campus sexual harassment resolution procedure. In no circumstance shall sexual harassment grievances be eligible for appeal pursuant to Article 3 - Arbitration Procedure unless the grievance also alleges a violation of another arbitrable provision of this Agreement.

## **ARTICLE 23 NO STRIKES**

- A.** During the life of this Agreement or any written extension thereof, the University agrees to not engage in a lockout. Additionally, during the life of this agreement or any written extension thereof, AFSCME on behalf of its officers, agents and members, agrees that there shall be no strikes, slowdowns, job actions, walkouts, work-to-rule actions, refusal to perform assigned duties, sit-downs, sympathy strikes, sickouts, picketing, refusal to cross picket lines, boycotts or any such concerted activities which interfere, directly or indirectly, with the operations of the University. Any employee who is absent from work without permission, or who abstains wholly or in part from the full performance of his or her duties without permission, on the date or dates when such activities indicated above occur, shall be presumed to have engaged in such activities on such date or dates.
- B.** AFSCME, its officers, agents, representatives and members and all other employees covered by this Agreement, agree that they shall not in any way, directly or indirectly, authorize, assist, encourage, participate in, sanction, ratify, condone or lend support to any such activities in violation of this Article.
- C.** AFSCME shall be liable and shall make restitution to the University for all losses suffered by the University as a result of activity prohibited in this Article; however, such restitution shall not preclude the awarding of any other damages to which the University may be entitled.
- D.** Any employee who violates this Article shall forfeit all pay and benefits for the duration of the violations and shall be subject to disciplinary action up to and including termination of employment.
- E.** In addition to any other liability, remedy or right provided by applicable law or statute, should any such activities in violation of this Article occur, AFSCME shall immediately:
  1. Publicly disavow such action by the employees by either newspaper account or media announcement in immediate geographical area of the strike;

2. Advise the University in writing that such action by the employees has not been called or sanctioned by the Union;
  3. Notify employees (and provide the University with individual Proof of Service) of its disapproval of such action and do all within its power to require such employees to cease such action and return to work immediately, informing them that the prohibited activity is unauthorized and in violation of the Agreement and that their misconduct subjects them to disciplinary action up to and including discharge;
  4. At the same time, certify to the University, by registered letter or by telegram, that it has notified the employees;
  5. Post notices on all appropriate bulletin boards advising that AFSCME disapproves such action and instructing employees to return to work immediately; and
  6. Refuse to honor, along with its affiliated organizations, if any, all picket lines established by any employees or other persons engaged in activity violative of Section A of this Article.
- F.** If AFSCME performs in good faith and in a timely way all of the obligations of Section E.1.6 above, AFSCME shall not be liable to the University for damages suffered as a result of the strike, except for such damages as are caused by the activities of officers of AFSCME or with their assistance or consent.

## **ARTICLE 24**

### **OUT-OF-CLASSIFICATION ASSIGNMENTS**

**A. TEMPORARY REASSIGNMENT TO POSITIONS WITH A HIGHER SALARY RANGE MAXIMUM**

1. When the University temporarily assigns an employee to perform fully the functions of a position in a higher classification for at least 15 working days or more:
  - a. The employee shall be reclassified to the higher level position or be provided an administrative stipend.
  - b. The employee will be paid at least 4% over his or her current pay rate or the minimum of the higher position's range, whichever is higher. If the employee is temporarily reclassified to a higher position, the salary of the new position shall not exceed the maximum salary of the higher level position.
  - c. Such pay will become effective on the sixteenth day of the assignment retroactive to the first day of the assignment.
2. The University shall determine the duration and end date of such assignment.
3. Such temporary assignment and resulting pay increase, if any, shall not result in the permanent reclassification of the employee

**B. TEMPORARY REASSIGNMENT TO POSITIONS WITH A LOWER SALARY RANGE MAXIMUM**

1. The University may temporarily reassign employees to positions with a lower salary range maximum.
2. An employee who is temporarily assigned to perform the duties of a position in a lower classification shall continue to receive the employee's regular rate of pay. Such temporary assignment shall not be considered a layoff.

## **ARTICLE 25**

### **PARKING**

**A. GENERAL PROVISIONS**

1. The University shall provide parking and parking-related services at each campus or the Laboratory to the same extent and under the same conditions as normally provided for other University staff employees at the employee's location.
2. It is understood and agreed that parking spaces designated for employees may from time to time be eliminated or reassigned due to construction, special events, and/or operational needs of the University.

**B. PARKING RATES**

1. The University shall increase the parking rates for each campus/medical center/Laboratory by no more than amounts or percentages indicated in Appendix F, using the prior year as the benchmark for determining the rates following year.
2. It is understood and agreed that parking permits for AFSCME employees may be issued to employees in accordance with the limitations resulting from the fees paid.

**ARTICLE 26  
PAST PRACTICE NOT COVERED BY AGREEMENT**

- A.** Practices and policies relating to wages, hours, and terms and conditions of employment in effect but not contemplated during negotiations over the UC-AFSCME Agreement may remain in effect insofar as they are not in conflict with the intent of the Agreement.
- B.** When the University proposes to change or eliminate the practices and/or policies referenced in Section A., above, the University will provide 45 (forty-five) calendar days notice prior to the effective date of the change. The University will meet and discuss such change or elimination with AFSCME, following AFSCME's request for a meeting. The University must receive AFSCME's request to meet within 30 (thirty) days of the University's notice. Application, elimination, or modification of these practices and policies following the meeting with AFSCME is not grievable.
- C.**

**ARTICLE 27  
PAYROLL DEDUCTIONS**

**A. DEDUCTIONS**

1. General Conditions
  - a. AFSCME 3299 has the exclusive right of dues and other payroll deductions authorized under Government Code sections 1152, 1157.3 and 1157.12 for all employees in the Service unit.
  - b. AFSCME 3299 shall establish its dues amount and shall certify its amount to the University. The University shall deduct from gross earnings membership dues in the amount certified.
  - c. The University shall deduct PEOPLE as a flat dollar amount, for those members AFSCME 3299 identifies to pay PEOPLE.
  - d. AFSCME shall pay all costs associated with establishing additional deductions for a service, program, or committee at the same rates that apply to other employee organizations described in the University Accounting Manual. The University shall provide the Union with estimated costs and an estimated time of completion and the Union shall pay the agreed-upon costs before the University makes a change.
  - e. The University shall remit deductions to AFSCME 3299 on a monthly basis.

- f. The University shall redirect bargaining unit employees to AFSCME 3299 regarding deduction related inquiries.

2. Dues Amount Change

- a. The Union may change the certified dues amount once in a twelve month period without cost to AFSCME 3299. Any annual changes in the amount to be deducted for union dues shall be certified to the University, in writing, at least thirty (30) calendar days prior to the effective date of the dues amount change.
- b. All costs associated with accomplishing additional changes in the dues amount (machine, programming, etc.) shall be paid by the Union at the same rates that apply to other employee organizations described in the University Accounting Manual. The University shall provide the Union with estimated costs and an estimated time of completion and the Union shall pay the agreed-upon costs before the University makes the change.

**B. ELECTRONIC TRANSMISSION OF DEDUCTION INFORMATION**

1. Certification and Maintenance of Deduction Information

- a. The Union will certify to the University to begin deductions or to cease deductions. For bargaining unit members, deductions shall be from in unit earnings based on gross earnings.
  - b. The Union will either deliver an electronic file in Excel (\*.xls) format to the University's campus appropriate office or upload files to the FTP website, in accordance with Section 2 below. The University shall provide notice of the changes to the administrative process at least thirty (30) calendar days in advance of the change.
  - c. For employees who are paid monthly, the dues file shall be transmitted electronically no later than the 20<sup>th</sup> of each month. For employees who are paid bi-weekly, the dues file shall be transmitted no later than the Friday before the end of the pay period.
  - d. The University agrees the changes will be made in time to affect the next payroll with a pay begin date that falls on or after the date the deduction certification is received.
  - e. The Union will solely maintain the dues deduction authorization, signed by the employee from whose salary or wages the deduction is to be made. The Union shall not be required to provide a copy of an individual authorization to the University unless a dispute arises about the existence or terms of the authorization.
  - f. Consistent with Government Code sections 1157.3 and 1157.12, authorizations for payroll deductions are revocable only as provided by the written authorization. The University shall not resolve disputes between AFSCME and represented employees concerning union membership or deductions. The University will direct employee questions or concerns including requests to change or cancel deductions to AFSCME.
2. The AFSCME 3299 list to be submitted in the format provided in Appendix I. and shall include:
- a. Location/Business Unit Code
  - b. Campus Name
  - c. Bargaining Unit or unrepresented

- d. Employee Identification Number
- e. Employee Name (Last, First)
- f. Action Codes: “A” = Add; “C” = Change; “S” = Stop
- g. Deduction Codes: “D” = Dues; “PA” = PEOPLE
- h. PEOPLE amount - new or changed amount.

**C. FEES FOR PROVIDING PAYROLL DEDUCTIONS**

- 1. The University shall charge AFSCME 3299 \$.07 per employee for calculation and reporting and \$10.00 for each monthly union payroll deduction remittance. Such charges shall be deducted from the total check remittance.
- 2. For the purpose of voluntary deductions for the Union, PEOPLE fees charged to the Union shall not exceed the actual costs incurred by the University to establish such deductions.

**D. INFORMATION TO ACCOMPANY REMITTANCE**

The University shall submit a monthly standard earnings (based on retirement gross where applicable) and deduction report which shall contain, by campus, an alphabetical list of all employees in the bargaining unit. The report shall include the employee identification number, employee name, amount withheld, and earnings that are the basis for the deduction. The report shall be provided electronically via the FTP site. Any costs associated with union-requested changes in the deduction report referenced above shall be fully paid by the Union.

**E. CORRECTION OF ERRORS**

- 1. If the University fails to make authorized deductions of union dues or other authorized deductions or any part thereof, or fails to remit to AFSCME such authorized deduction or any portion thereof, or erroneously withholds deductions or any part thereof, the University shall correct the errors. The University shall refund to AFSCME any deductions it has erroneously failed to remit.
- 2. From the time AFSCME notifies the University in writing of any such errors, or if the University becomes aware of such errors, the University shall have forty-five (45) calendar days to make the corrections.
- 3. It is expressly understood and agreed that AFSCME shall refund the employee any deductions erroneously withheld from the employee’s wages by the University and paid to AFSCME.
- 4. If there is not agreement on the correction or the costs, AFSCME may grieve the matter only as a union grievance.

**G. INDEMNIFICATION**

It is specifically agreed that the University assumes no obligations or liability, financial or otherwise, pursuant to payroll deduction other than those specified in this article and in applicable law.

**ARTICLE 28  
PERFORMANCE EVALUATION**

**A. DEFINITION**

Performance Evaluation is a constructive process to acknowledge the performance of an employee. An employee's evaluation shall be sufficiently specific to inform and guide the employee in the performance of his/her duties. Performance evaluation is not in and of itself a disciplinary procedure.

## **B. EVALUATION OF EMPLOYEES**

The performance of each employee shall be evaluated periodically, in accordance with a process established by the University. Nothing in this Article shall prohibit the written evaluation of any employee more frequently than once annually.

### **1. Evaluation of Probationary Employees**

A probationary employee hired on or after the effective date of this Agreement shall be evaluated in writing at least once during a full probationary period. Nothing in this article shall in any way affect, interfere with, or prevent the release of a probationary employee at any time during a probationary period nor shall any provision of this Article affect, interfere with or prevent the extension of an employee's probationary period. The provisions of this Article shall in no way affect or alter the provisions of Article 31 – Probationary Period of this Agreement.

### **2. Evaluation of Non-probationary Career Employees**

- a. Non-probationary career employees shall be evaluated in writing at least annually on a schedule and in a manner in accordance with the individual campus-determined performance evaluation procedure(s). At the time of evaluation, the employee shall be given a copy of the evaluation and shall have the opportunity to provide written comments regarding the evaluation. The comments, if any, shall be attached to the employee's evaluation and placed in the employee's personnel file.
- b. In the event a non-probationary career employee does not receive the written evaluation, he/she may take the following action:
  - 1) Within 15 calendar days of the date the written evaluation was due but not received, the employee shall make a written request for the evaluation to his/her immediate supervisor. The employee shall provide a copy of such request to the Department Head and to the campus Labor Relations Manager.

## **C. GRIEVABILITY**

1. A non-probationary career employee who receives a written performance evaluation with an overall rating of less than satisfactory may file a grievance pursuant to the provisions of Article 9 - Grievance Procedure of this Agreement. Such grievance concerning the content of a performance evaluation rating the employee as less than satisfactory shall be eligible to be processed through Steps 1 and 2 of the Grievance Procedure but shall not be eligible for review at Step 3 of the Grievance Procedure. The remedy for such a grievance shall be limited to revision of the section(s) being grieved and revision of the rating(s) in question.
2. Disputes arising regarding the performance evaluation of employees, including but not limited to the form, timing, procedure, impact, and effects, shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement, with the exception of Section C.1 above.

## **ARTICLE 29 PERSONNEL FILES**

### **A. REVIEW OF PERSONNEL FILE**

1. An employee shall, upon written request to the University, have the opportunity to review his/her personnel file(s) within a reasonable time in the presence of a representative of the University. At the time of such request the supervisor, to the extent he/she is aware of the location(s) of such files, shall inform the employee of the location(s) of the file(s).



2. Where operational requirements permit, an employee shall be granted a reasonable amount of time in without loss of straight time pay status to review his/her personnel file(s). When granting such requests, the immediate supervisor shall take into account the frequency of such requests and the amount of time the employee is or will be engaged in such activity. An AFSCME representative may accompany, pursuant to F.4 of Article 9 - Grievance Procedure, the employee when the employee is reviewing his/her personnel file(s). Alternatively, an individual employee may authorize a designated AFSCME representative to review the employee's personnel file(s) on the employee's behalf. Such written authorization shall be valid for a period of thirty (30) calendar days from the date of the signature of the authorization or within a written time limit specified by the employee, whichever is later.
3. Pursuant to University procedures, fees may be charged for making copies of personnel file information or extracts thereof; however, there is no charge for the first copy of the individual employee's own records.

## **B. DISCIPLINARY MATERIALS**

Copies of letters of warning and/or disciplinary action shall, upon being placed in the employee's personnel file(s), be provided to the employee. Proof of Service (pursuant to M. of Article 9 - Grievance Procedure) shall accompany the copies. Letters of warning and/or disciplinary action which did not involve criminal violations will, upon written request of the employee, be removed from the employee's personnel file(s) if there have been no other warnings or disciplinary actions of the same or of a similar kind for a two (2) year period. If there have been no other warnings or disciplinary actions of the same or similar kind for a two (2) year period, materials which would be removed upon an employee's request which are more than two (2) years old will not be used or relied upon to take or support disciplinary action.

## **C. EMPLOYEE COMMENTS**

Employees may choose to make written comments on materials in their personnel file(s). These comments must be directly related to a specific file document(s) and will be added to the file(s) pursuant to existing campus practices. Such comments shall not require the University to change or alter the document(s) or the actions indicated by the document(s).

## **D. CONFIDENTIAL MATERIALS**

Records protected by recognized legal privilege and records excepted from disclosure by law may be withheld from the employee and/or the employee's representative. Neither an employee nor his/her representative shall be entitled to review confidential pre-employment information or confidential information relating to transfers or promotions of the employee out of his/her bargaining unit, nor shall the employee or his/her representative be entitled to review documents related to internal University labor relations or personnel policy or Agreement applications.

# **ARTICLE 30 POSITIONS/APPOINTMENTS**

## **A. CAREER APPOINTMENTS**

1. Career appointments are established for a fixed or variable percentage of time at fifty percent (50%) or more of full-time and are expected to continue for one (1) year or longer.
2. A career appointment may also be established by conversion from a limited appointment or per diem appointment pursuant to Sections B. and D, of this Article.

## **B. LIMITED APPOINTMENTS**

1. A limited appointment is established at any percentage of time, fixed or variable, during which the appointee is expected to be on pay status for less than one thousand (1,000) hours in a rolling 12-month period.
2. Employees in limited appointments are at will, except that the University will not terminate limited appointment employees for the purpose of denying them career status.
3. The termination of a limited appointment because the position lacks funding, or for other work-related reasons, does not constitute a termination designed to deny a limited appointment career status.
4. Except as provided in §B.5 below, if a limited appointment employee attains one thousand (1,000) hours of qualifying service within a rolling twelve (12) months, without a break in service of at least one hundred twenty (120) consecutive calendar days, the incumbent's appointment shall convert to a variable career appointment of at least 50% time.
  - a. Qualifying service includes all time on pay status in one or more limited appointments at the campus/laboratory/hospital. Pay status shall not include any on-call, premium, or overtime hours.
  - b. Such career conversion shall be effective on the first day of the month following attainment of one thousand (1,000) hours of qualifying service.
  - c. Employees who have been converted to career appointments shall serve a probationary period in accordance with the provisions of Article 31 - Probationary Period.
  - d. Any break in service of 120 days or longer shall result in a new 12-month period for purposes of calculating the 1,000-hour requirement.
5. The automatic conversion to career status, as provided in §B.4 above will not occur when:
  - a. An employee who was hired as a replacement for another person who is on an extended leave that exceeds the 1,000 hours; or
  - b. The position into which the employee is hired is not an "ongoing" position, in that the position is established and funded for less than a year at any percent of time, or
  - c. The funding for the position is "one time" funding, of eighteen months or less, or the employee was hired specifically to work on a short-term project lasting no more than one year.

6. **Disputes**

- a. Except as provided in §6.a.1 and §6.a.2 and §6.b, below, employees in limited appointments may have their appointment terminated or have their time reduced at the sole discretion of the University and without recourse to the grievance and arbitration procedures of this Agreement.

Disputes by Limited Appointees are not subject to the grievance and arbitration procedures of this Agreement, except:

- 1) When a limited employee has been released after working greater than a thousand (1,000) hours, or
- 2) When a limited employee has been released for the purpose of denying her/him career employment.

- b. AFSCME shall bear the burden of proof when raising any allegation that a limited employee's termination is grievable/arbitrable.

## **C. PARTIAL-YEAR APPOINTMENTS**

Partial-year appointments are career appointments established with regularly scheduled periods during which the incumbents remain employees but are not at work. These scheduled periods during which employees are not at work are designated as furloughs and are without pay. Such scheduled periods need not be consecutive in time. Furloughs are not to exceed a total of three (3) months in each calendar year.

## **D. PER DIEM APPOINTMENTS**

1. Per diem appointments are established at any percentage of time regardless of the duration of the appointment. These appointments are established to supplement career and limited appointments on a pre-scheduled basis or as needed on a day-to-day basis when necessary to supplement appropriate staffing of the University medical centers and other health care facilities. The number of Per Diem appointments may fluctuate in response to patient issues such as census, level of care, and acuity changes.
2. The University does not generally intend to replace career employees with Per Diem employees.
3. The University will take a snapshot on December 1<sup>st</sup> and June 1<sup>st</sup> each year of the number of per diems and career (full time equivalents) in the bargaining unit at each medical center location. The information will be based on the full-time equivalent. The University will provide AFSCME with this information no later than December 15<sup>th</sup> and June 15<sup>th</sup>. The ratio of Per Diem full time equivalents to career full time equivalents will not exceed the following at any medical center during the life of the agreement. The baseline will be based on December 1<sup>st</sup> snapshot at each location beginning December 1, 2013. This provision shall not apply to campus or laboratory locations.
  - UCDMC – 8%
  - UCSDMC – 8%
  - UCLAMC – 6%
  - UCIMC – 6%
  - UCSFMC – 6%
4. Employees in per diem appointments may be scheduled or not scheduled, called off from a pre-established schedule, or have their eligibility for scheduling discontinued at the sole discretion of the University and without recourse to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement, except as provided in §D.7 and D.8, of this Article.
5. Employees who are in per diem appointments are covered by per diem salary rates (by agreement rates), the overtime provisions in Article 12 - Hours of Work, and Article 47 - Work Rules. Per Diem employees may be released or have their time reduced at the sole discretion of the University and without recourse to the Layoff procedures of this Agreement.
6. Use of Article 9 - Grievance Procedure and Article 3 - Arbitration Procedure of this Agreement by employees in per diem appointments is limited to alleged violations of the Wages, overtime and Work Rules provisions of this Agreement except as set forth in Section D.7-8 of this article.
7. Consideration for Career Appointment

- a. Each year in the months of May and November, each campus and hospital will review the total hours worked by Per Diem employees who have provided the University with a written statement of interest in becoming a career employee. This review will determine if such a Per Diem employee meets the criteria for consideration for career appointment pursuant to 6.b, below.
  - b. Qualifying Per Diem employees are those who:
    - 1) Have worked 1,000 hours in a rolling twelve (12) month period as of the month of May or November, with at least 50% time worked in any given month or quadri-weekly period, including overtime, in six (6) of the qualifying months, provided any month that falls below 50% is at least 30% time worked in any given month or quadri-weekly period, including overtime;
    - 2) Have satisfactory work performance;
  - c. The University shall provide qualifying Per Diem employees who meet the criteria in §D.7.a and §D.7.b, above, career appointment as follows:
    - 1) The appointment shall be made no later than one hundred and twenty days (120) from the date on which the employee meets the criteria set forth in §D.7.a and D.7.b, above.
    - 2) The appointment shall be a variable career appointment of at least 50%, provided the University first complies with the recall and preferential rehire procedures in Article 15 - Layoff and Reduction in Time.
    - 3) The appointment shall be in the same or substantially similar job at the same classification at any of the master location sites, provided the employee is qualified for that appointment.
    - 4) The appointment shall be at the appropriate pay rate according to the applicable hiring guidelines for career appointments at the employing campus or hospital.
  - d. When Per Diem employees are appointed to a career appointment, the employee shall serve a probationary period in the career appointment in accordance with the provisions of Article 31 – Probationary Period.
  - e. Limited grievability for procedural errors related to per diem consideration for conversion set forth in §D.7.
  - f. Hours towards conversion to career status will not count when an employee ~~hired~~ **is utilized** as a replacement for another person who is on an extended leave. However, hours will count towards conversion should the person on extended leave separate from the University.
  - g. Once a per diem employee has worked at least 750 hours in the rolling twelve (12) month period, the University shall not release the employee for the purpose of denying her/him career employment.
8. Discipline and Dismissal
- a. Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, and 3 - Arbitration Procedure shall apply to any Per Diem employee as long as the following conditions are satisfied.
    - 1) The Per Diem employee has worked 1,000 hours in Per Diem status, exclusive of overtime and on-call hours, in a rolling 12 month period; and

- 2) The Per Diem employee provides the University with a commitment to work at least fifty percent (50%) time.
- b. Per Diem employees meeting the conditions in D.8.a., above, shall not be subject to discipline or removal from scheduling without just cause. However failure to comply with 50% minimum scheduling requirements may result in release from employment at any time at the sole discretion of the University and without access to Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, and 3 - Arbitration Procedure.
- c. In the event that a Per Diem employee rescinds her/his 50% work commitment, or fails to work 50% or 1,000 hours as scheduled within a rolling 12 month period, s/he waives any right to access Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, and 3 - Arbitration Procedure.

**E. PART-TIME EMPLOYEE OPPORTUNITIES**

1. A part-time employee shall have an opportunity to increase their percentage of appointment by applying for a posted position with the same duties, same job title, in the same department/unit.
2. A qualified applicant shall have career, non-probationary status.
3. The University shall offer the position to the most senior qualified applicant.

**F. BENEFITS**

Employees on furloughs shall be provided the University's contribution to the cost of the University-sponsored medical plans for a maximum of three (3) months in a calendar year where the employee's earnings are insufficient to otherwise generate the University contribution. For medical plans to remain in force, the employees on furlough must remit to the University, in advance, the amount of the employee's contribution, if any. Non-industrial disability and short-term disability insurance are not provided when employees are on furlough. Time on furlough is not qualifying time for vacation leave, sick leave, holiday pay, or service computation for seniority or retirement.

**G. REASSIGNMENT**

The reassignment of an employee in a full-time career appointment to a partial-year appointment or to a part-time appointment at a fixed or variable percentage of time shall be considered a reduction in time and must be carried out in accordance with the provisions of Article 15 – Layoff and Reduction in Time.

Neither this Article nor any other Articles or provisions of this Agreement shall be construed as a guarantee of or limitation on the number of hours per work day or workweek.

**ARTICLE 31  
PROBATIONARY PERIOD**

- A. Employees shall serve a probationary period of six (6) months of continuous service at one-half (1/2) time or more without a break in service. Time on leave with or without pay is not qualifying service for the completion of the probationary period. Employees who are rehired following a break in service shall serve a new probationary period whether or not they previously completed a probationary period. Probationary employees and other non-career employees may be released without cause at the sole discretion of the University.
- B. A career employee who returns from layoff to a different career position within the unit or to a different department from which they were laid off shall serve, at the sole discretion of the

University, a probationary period commencing with placement in the career position. The University shall make a determination as to whether the employee shall serve a probationary period and shall so notify the employee in writing prior to or concurrent with the employee's placement in the career position.

- C. An employee who converts from a limited appointment to a career appointment, or who accepts a career appointment from a per diem appointment, and who meet the criteria provided for in Article 30 – Positions/Appointments, Section B.4. or Section D. 7. a. and b., respectively, shall serve a probationary period in accordance with the following:
  - 1. A converted employee who has worked in the “same job” prior to conversion will have such time in that position applied against their probationary period. For the purposes of this provision, "same job" means a job in the same department/unit and with the same duties as the job to which the individual was assigned prior to conversion, and which reports to the same supervisor as did the per diem or limited appointment job.
  - 2. A converted employee who has worked in a “substantially similar job” prior to conversion or accepting the career appointment shall receive three (3) months service credit toward completion of her/his probationary period in the new career position.
- D. At the sole discretion of the University, an employee's probationary period may be extended. Such an extension shall be for a specific period of time not to exceed three (3) months. At least seven (7) calendar days prior to the effective date of the extension, the employee shall be informed in writing of the reason(s) for and the period of the extension.
- E. Disputes arising from this Article shall not be subject to Article 9 – Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

## **ARTICLE 32**

### **REASONABLE ACCOMMODATION**

#### **A. GENERAL PROVISIONS**

In a manner that is consistent with applicable law, the University will provide reasonable accommodation to qualified employees with disabilities, when such disabilities limit their ability to perform the essential functions of their jobs. This section shall not be construed as a guarantee of a specific form of accommodation nor shall accommodation in one case establish a precedent for similar or dissimilar circumstances, since all accommodations will be determined in accordance with the specific functional abilities of the employee in coordination with the requirements of the employee’s job.

#### **B. THE INTERACTIVE PROCESS**

- 1. When an employee requests reasonable accommodation for a disability or the University has reason to believe that a reasonable accommodation is needed, the parties will engage in the interactive process, which is an ongoing dialogue between the employee and appropriate University representatives about possible options for reasonably accommodating the employee’s disability. Options for reasonable accommodation may include, but are not limited to: assistive devices; modification of existing facilities; restructuring the job to eliminate non-essential job functions; and leaves of absence. Both the University and the employee are expected to participate in the interactive process in good faith, which includes engaging in timely communications regarding possible reasonable accommodation. The employee may have his or her representative in the interactive process meetings to facilitate the process, provided that applicable local requirements are met.

During the interactive process the University considers information related to: the essential functions of the job; the employee’s functional limitations; possible accommodations; the reasonableness of possible accommodations; and issues related to the implementation of a reasonable accommodation. This information will be used by the University to determine what, if any, reasonable

accommodation will be made. While the University will consider the employee's suggestions regarding which accommodation(s) to implement, the University will determine which accommodation(s) will be implemented.

The University will not implement an accommodation that would present an undue hardship.

2. The University will process requests for reasonable accommodation and provide accommodations where reasonable and appropriate and in as short a time frame as reasonably possible. The parties recognize, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether the employee has provided sufficient supporting information.
3. Should an employee wish to receive an update as to the status of his/her request, he/she may contact the assigned-University representative. The University representative will respond to the employee's request for updated information in a timely manner.
4. If the University determines that the employee cannot be reasonably accommodated in his or her current position, a search for an alternative vacant position for which the employee is qualified with or without reasonable accommodation will be conducted without the requirement that the position be publicized.

#### **C. MEDICAL DOCUMENTATION**

The employee is responsible for providing the University disability manager or other appropriate University representative with medical documentation regarding the employee's disability and how it limits the employee's ability to perform the essential functions of the job. The University may require that a University-appointed licensed healthcare provider examine the employee and/or confirm the documentation provided by the employee. In such a case, the University will pay the costs of the University-appointed health care provider.

#### **D. TRIAL EMPLOYMENT**

When recommended by a disability manager or vocational rehabilitation counselor and approved by the appropriate University official, a qualified former non-probationary career disabled employee may be offered temporary trial employment to evaluate the employee's interests and abilities. The length of this trial employment, which shall not exceed one year, shall be determined by the disability manager or vocational rehabilitation counselor in consultation with the employing Department/Division Head. Positions used for trial employment shall not be designated as career, except that an employee shall maintain benefits to the extent permitted by benefit plan rules.

### **ARTICLE 33 RELEASE TIME FOR NEGOTIATIONS**

- A. The Union shall designate no more than a total of eleven (11) permanent members to its bargaining team for the Patient Care Technical unit. Such members shall be Patient Care Technical employees of the University of California. No more than two PCT employees shall be released from each master location. If two (2) PCT employees are designated from the same location, they must be from two separate departments. At one master location, up to three (3) employees shall be released provided the provisions above are met.

A "master location" for purposes of this article is defined as a location including the campus, hospital(s), or clinics as defined below:

1. UC Davis: Davis campus, Davis medical center
2. UC San Francisco: UCSF campus, UCSF Parnassus, UCSF Mission Bay, UCSF Mt. Zion.

3. UC Berkeley: Berkeley campus
4. UC Merced: Merced campus
5. UC Santa Cruz: Santa Cruz campus
6. UC Santa Barbara: Santa Barbara campus
7. UC Los Angeles: UCLA campus, UCLA Westwood, UCLA Santa Monica
8. UC Irvine: Irvine campus, Irvine medical center
9. UC Riverside: Riverside campus
10. UC San Diego: San Diego campus, UCSD Thornton, UCSD Hillcrest and UCSD Jacobs.

These designated employees shall be released without loss of straight time pay and benefits from their work assignments to attend scheduled bargaining sessions, including reasonable travel time to attend bargaining sessions. Alternates or substitutes for any of the designated employees shall not be permitted. AFSCME shall provide in writing the names of the designated permanent members of its bargaining team to the Office of Labor Relations at least thirty (30) calendar days prior to the first scheduled bargaining session. In the event any employee designated is to be permanently replaced, the name of the permanent replacement shall be communicated in writing to the Office of Labor Relations. The Office of Labor Relations shall acknowledge in writing the newly designated employee and inform the appropriate work location. Such notification of a permanent replacement shall be made to the Office of Labor Relations prior to the first scheduled bargaining session to be attended by the replacement employee.

- B.** The hours for which any of the designated employees are in the above referenced without loss of straight time pay and benefits status shall not exceed, for any one (1) day of a scheduled bargaining session, a total of eight (8) regular hours the employee would have been scheduled to work had he/she not been released from his/her work assignments to attend a scheduled bargaining session. The total hours for which an employee is compensated shall not be such that the total results in the payment of overtime generated as a result of having attended a bargaining session. Deviation from this paragraph may be made only by mutual agreement of the parties on a case by case basis.
- C.** The above described treatment of without loss of pay and benefits status shall not result in any double payment for the hours in such status.
- D.** The designated employees shall give their immediate supervisor written notice of their intent to attend scheduled bargaining sessions at least seven (7) calendar days prior to the date of the scheduled sessions. The parties may by mutual agreement agree to a shorter period of notice.
- E.** AFSCME shall provide and certify to the employer an attendance roster at the end of each bargaining session.
- F.** Reasonable travel time means actual travel to and from scheduled bargaining sessions for the designated employees. At the employer's discretion, the designated employees may be required to report to work prior to and subsequent to scheduled bargaining sessions.
- G.** A scheduled bargaining session is defined as the prior agreement of the parties to meet face to face for the purpose of negotiating terms and conditions of an Agreement and that such meeting actually takes place for a reasonable period of time or, if no meeting actually takes place, it is the result of the employer's unavailability to appear at the bargaining table.

#### **ARTICLE 34**

#### **RESIGNATION and JOB ABANDONMENT**



- A.** Employees who voluntarily separate from employment are, by definition, considered to have resigned their employment with the University.

An employee who retires or otherwise voluntarily separates from a position with the University shall be required to submit a letter of resignation as notice of termination at least 15 calendar days prior to the effective date of such resignation.

1. The final paycheck (including earnings to date, overtime, compensatory time and vacation hours) shall be paid to the employee (through the employee's normal election: paper check or electronic deposit) on the day of separation when:
  - a. An employee is discharged;
  - b. An employee has a predetermined ending date; or
  - c. An employee has given at least ten (10) calendar days notice of intention to quit.
2. If the date of pay falls on a Saturday, Sunday, or weekday holiday, actual payment may be made on the next business day. Monday through Friday will be considered business days (including Medical Centers and other 24/7 operations).

- B.** An employee who retires or otherwise voluntarily separates from a position with the University and does not provide at least ten (10) calendar day's notice prior to the effective date of such resignation, consistent with Section A.1. above, shall be issued his/her final pay (including earnings to date, overtime, compensatory time and vacation hours) no later than the next regular pay day in which the earnings for the final date(s) of work would have been normally paid. The final paycheck shall be distributed through the employee's normal election (paper check or electronic deposit).

- C.** Upon submission of a notice of resignation/termination there shall be no withdrawal or stopping or estopping of the resignation/termination except by the written mutual agreement of the University and AFSCME.

**D. JOB ABANDONMENT/RESIGNATION**

The University may treat failure to report to work for five (5) or more consecutive scheduled work days without notice as an employee's abandonment of, and resignation from, her/his University position.

1. In the case of such job abandonment/resignation, the University shall provide the employee with written notification of its intent to separate her/him. This notification shall include the reasons for the separation, the employee's right to respond to the University within fourteen (14) calendar days, and a Proof of Service. The notification shall be sent to the employee's last known mailing address.
2. At the option of the employee, her/his response may be written or may be a meeting with a designated University official who has the authority to effectively recommend reinstatement of the employee.
3. Following the employee's timely response, or if no response was provided within the fourteen (14) calendar days, the designated University official shall issue a final decision.
4. Separations for job abandonment may be grieved/arbitrated solely to determine if job abandonment as defined under this article has occurred and if the University satisfied its obligations in C.1 above.
5. If the arbitration determines that job abandonment has occurred and the University has complied with C.1 above, they shall have no authority to overturn or modify the University's action.

- E.** The University shall notify the employee in writing at the employee's last known mailing address of all actions taken under the provisions of this Article.

## **ARTICLE 35 SENIORITY**

### **A. DEFINITION OF SENIORITY FOR LAYOFF AND REDUCTION IN TIME AND TRANSFER/PROMOTION/RECLASSIFICATION**

For the purposes of Article 15, Layoff and Reduction in Time and Article 38 Transfer/Promotion/Reclassification, seniority shall be based on the most recent date of hire in a staff career position at the University. Employment prior to break in service shall not be counted.

### **B. DEFINITION OF SENIORITY FOR HOURS OF WORK AND VACATION**

1. For purposes of Article 12 - Hours of Work and Article 43 – Vacation Leave, and Article 30 – Positions and Appointments, seniority shall be defined as an employee's most recent date of hire into a job title within a department or transfer within the same job title into the department.
2. Departments shall have the discretion to use the definitions applied below as an alternative to the definition in B. 1.
  - a. Departments that currently define seniority as an employee's most recent date of hire into a title series may continue to define seniority by title series. Such departments may only change this definition by mutual agreement.
  - b. Departments not currently defining seniority as an employee's most recent date of hire into a title series may define seniority by title series by mutual agreement.

### **C. TIE BREAKERS:**

When bargaining unit employees in the same layoff unit have the same date of hire, seniority shall be determined according to total hours on pay status since the most recent date of hire into a career position.

### **D. SENIORITY LISTS**

Upon written request the University shall provide appropriate specific seniority lists ten (10) business days from the date the written request is received.

## **ARTICLE 36 SEVERABILITY**

In the event that any provision of this Agreement is declared invalid or void by statute or judicial decision, such action shall not invalidate the entire Agreement. It is the express intention of the parties that all other provisions not declared invalid or void shall remain in full force and effect. In the event that any provision of this Agreement is declared invalid or void, the parties agree to meet promptly upon request of the other party in an attempt to reach an agreement on a substitute provision.

## **ARTICLE 37 SHIFT DIFFERENTIAL**

- A.** Eligible employees assigned to an evening or night shift shall be paid a shift differential for all hours including overtime which are worked. Classes eligible for a shift differential and shift differential rates by location are listed in Appendix A. Work which is scheduled during the

evening or night hours on the basis of convenience to the employee shall not be considered an assigned evening or night shift for the purpose of this provision.

- B.** A shift differential shall be paid for all hours of a shift when four hours or more of a shift are worked after 5:00 p.m. and before 8:00 a.m.
- C.** An employee in an eligible class regularly assigned to a day shift of eight hours or longer shall be paid a shift differential for overtime hours when the overtime hours are worked after 5:00 p.m. and before 8:00 a.m., the total overtime hours in one 24-hour day are equal to at least one-half of the number of regular hours in the employee's day shift, and the overtime is not compensated at a premium rate.
- D.** When an employee who usually works on an evening or night shift is temporarily assigned to a day shift for a period of four working days or less, the employee shall continue to receive any shift differential. A temporary change of four working days or less in shift assignment initiated by the employee is not covered by this provision.
- E.** The shift differential shall be included in payments for all types of paid leave, provided that the employee would have been expected to work that shift or shifts if the employee were not on paid leave.
- F.** At the Davis campus only, the weekend differential listed in Appendix A shall be paid for all hours worked between 12:01 a.m. Saturday and 12:00 midnight Sunday.
- G.** At the Los Angeles campus only, the weekend differential listed in Appendix A shall be paid for all hours actually worked between 11:00 p.m. Friday and 11:00 p.m. Sunday.
- H.** It is the intent of the parties that employees who are assigned to the second or third shift will receive a shift differential, unless such a shift differential is built into their base salary.
- I.** On call employees who are called into work during the evening or night shift shall be paid the applicable shift differential allocated to the title for all hours the employee actually worked during the shift(s) provided he/she works four (4) or more hours in that shift.

#### **SHIFT DIFFERENTIAL -- LAWRENCE BERKELEY LABORATORY**

Policies, procedures, definitions, qualifications, calculations, covered hours and rates relative to Shift Differential at the Laboratory shall remain in effect for employees at the Laboratory and shall supersede the provisions of this Article in sections A through E above. Shift differential rates for employees at the Laboratory are listed in Appendix A.

#### **ARTICLE 38 SICK LEAVE**

- A.** An eligible employee shall earn sick leave credit at the rate of .046154 hours per hour on pay status, including paid holiday hours but excluding all paid overtime hours.
  - 1. An employee must be on pay status for at least one-half (1/2) of the working hours of a month or quadri-weekly cycle to earn sick leave credit for that month or quadri-weekly cycle. Time on pay status in excess of a full-time employee's work schedule does not earn sick leave credit. For the purposes of this Agreement, a quadri-weekly cycle is defined as two bi-weekly pay periods designated by the University to be considered as one unit for the purpose of leave accrual.
  - 2. Earned sick leave for each month or quadri-weekly cycle is credited on the first day of the following month or quadri-weekly cycle, except that proportionate sick leave credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status. The number of sick leave hours which may be accumulated is unlimited.
- B.** **USE OF ACCUMULATED SICK LEAVE**

1. **Eligibility**

Sick leave shall not be used prior to the time it is credited. Sick leave shall not be used in excess of the employee's normally scheduled hours of work for the day or days for which the sick leave is claimed. Sick leave shall not be used beyond a predetermined date of separation, including retirement or layoff, or beyond a predetermined date beginning a leave of absence without pay. However, a pregnant employee on vacation or approved personal leave without pay on the date certified by her doctor as the date on which she is no longer able to work or the date of delivery, whichever is earlier, can use sick leave beginning with that day and continuing through the period that she is physically unable to perform the normal duties of her job.

2. **General Provisions**

Sick leave may be used due to personal illness or disability, (including pregnancy disability), medical appointments, and, as provided in this section, below.

3. **Sick Leave Utilization**

a. **Personal Illness or Disability**

An employee who has contracted or incurred and is suffering from any non-work related illness or disability, which renders them unable to perform the duties of their position, may use accrued sick leave.

b. **Family Illness or Disability**

Up to thirty (30) days of accumulated sick leave per year may be used when the employee is required to be in attendance or to provide care because of any of the following:

- 1) The employee's spouse, same- or opposite-sex domestic partner, parent or child has a "serious health condition" as defined in Article 16 - Leaves of Absence, Section D.1.j., or a "serious injury or illness" as defined in Section D.5.a.3. Use of sick leave granted under this provision shall be charged against the employee's Family and Medical Leave entitlement pursuant to Article 16 - Leaves of Absence, Section D.3.d.1;
- 2) The employee's spouse, same- or opposite sex domestic partner, parent, or child has an illness or disability that does not constitute a "serious health condition" as defined in Article 16 – Leaves of Absence, Section D.1.j. or a "serious injury or illness" as defined in Article 16 – Leaves of Absence, Section D.5.a.3, and/or the employee is not eligible for Family and Medical Leave or;
- 3) The employee's grandparent, grandchild, in-law, sibling, or any other person for whom the employee has a personal obligation who is residing in the employee's household suffers illness or disability.

c. **Use for Illness or Disability During Vacation**

If, while on vacation, an employee becomes ill or disabled and is under the care of a physician and submits a physician's statement, the employee may use accumulated sick leave for that personal illness or disability. Sick leave may not be used for illness or disability of a family member during the employee's vacation.

d. **Bereavement Leave**

Sick leave for bereavement purposes may be used as follows:

- 1) Up to five (5) days of accumulated sick leave per occurrence may be used when attendance is required due to the death of the employee's parent, spouse, or children, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, or step – relatives; or any other person for whom the employee has a personal obligation who is residing in the employee's household.
- 2) In the event an employee has a personal obligation for a person other than someone in Section B.3.d.1 above, the employee shall be permitted to use up to five days of accrued sick leave per calendar year for funeral attendance/bereavement.

### **C. SICK LEAVE PAY**

1. Sick leave is paid at the employee's straight time rate of pay including any shift differential, provided that the employee would have been expected to work that shift or shifts if not on sick leave.
2. No sick leave shall be payable to an employee unless the employee has complied fully with the terms of section D, Sick Leave Notification and Verification.

### **D. SICK LEAVE NOTIFICATION AND VERIFICATION**

#### **1. Notice**

- a. To receive sick leave pay, an employee must notify his/her immediate supervisor or designee of the need for sick leave and the probable duration thereof as soon as possible, but in no event later than the beginning of the employee's work day except when the University determines that the employee's failure to notify is due to extreme circumstances beyond the control of the employee. Additionally, an employee must notify the University of the need to extend the sick leave prior to the anticipated date of return.
- b. An employee shall request release from work in order to attend a prescheduled medical appointment, or a series of medical appointments, as soon as possible in advance of the appointment(s). The request shall specify the date(s) and time(s) of the appointment(s). Such requests shall not be unreasonably denied.
- c. Subsequent to a notice of illness/disability and the return to work by an employee, no time for which the employee has requested/received sick leave authorization shall be charged to accumulated/anticipated compensatory time, leave with pay, vacation, or holiday time in lieu of sick leave time.

#### **2. Documentation and Verification**

- a. When justified by the employee's attendance or other observable facts and circumstances, an employee may be required to submit satisfactory documentation of personal illness or disability to the University in order to receive an excused absence from work and/or sick leave pay. The employee shall be given notice prior to returning to work that he/she will be required to provide such documentation.
- b. Employees who have unscheduled absences due to illness on a scheduled work day preceding, on, or following a holiday may be required to bring a medical verification of illness to the employee's supervisor on the employee's return to work in order for the absence to be authorized.
- c. When medical documentation is required by the University for a personal illness/disability absence it shall be from a health practitioner licensed by the

state in which he/she practices to diagnose and certify illness or disability or from an authorized representative of a recognized treatment program. When an employee has been recommended for relief from duty by a medical practitioner acting on behalf of the University, the time granted shall be considered documented sick leave for the day of the relief from duty only, unless otherwise specified by the University's practitioner.

- d. The University may have an employee claiming personal illness/disability examined by a physician or physicians of its choosing. The University shall pay the reasonable costs of any such medical examination and, when practical, shall send the employee to a physician of its choosing on the employee's work time.
- e. An employee's repeated use of sick time may result in loss of sick leave pay, when the University has determined that such use is abusive, and provided the University has provided prior written notice to the employee that sick leave will be denied on future instances of illness irrespective of the nature or duration of illness. Additionally, an employee may not be eligible for sick leave pay in accordance with other provisions of this Article.

## **E. TRANSFER AND REINSTATEMENT OF SICK LEAVE**

### **1. Transfer Without a Break in Service**

An employee transferred, promoted, or demoted without a break in service shall have any accumulated sick leave transferred if the employee is moving to a position where sick leave is accumulated. An employee transferred, promoted, or demoted to a position which does not accumulate sick leave shall have his/her accumulated sick leave held in abeyance. If the employee subsequently moves without a break in service to a position within the University which does accumulate sick leave, the previously accumulated sick leave shall be restored. An employee who has been laid off and is recalled or preferentially rehired within the employee's period of recall or preferential rehire eligibility shall have all sick leave accumulated from prior service reinstated.

### **2. Reinstatement Upon Reemployment**

An employee re-employed from University service or State of California service into the bargaining unit after a break in service of less than fifteen (15) calendar days shall have all sick leave accumulated from prior service reinstated if the new position is one which accumulates sick leave. If an employee is employed or re-employed in this bargaining unit after a break in service of more than fifteen (15) calendar days but less than six (6) months, sick leave accumulated from prior service up to a maximum of eighty (80) hours shall be reinstated. For purposes of this section E.2 only, "sick leave accumulated from prior service" includes sick leave accumulated in State of California service.

### **3. Transfer to Position Not Covered by this Agreement**

An employee who is transferred, promoted, or demoted into a position not covered by this Agreement shall have the accumulation, use, and transfer of sick leave governed by the policies and/or contract covering employees in that unit or personnel program.

## **F. ATTENDANCE STANDARDS**

- 1. The University shall have the discretionary, non-grievable authority to establish, on a work location by work location basis, hourly, daily, weekly, monthly and/or annual attendance standards. PCT employees will not be disciplined for reasonable use of sick leave, although unscheduled absences, including those paid by accrued sick leave, may be subject to review under local attendance standards.

2. The number of hours of sick leave generated per month or quadri-weekly cycle and/or the ability to or accomplishment of an employee accruing sick leave shall not have any bearing on the meeting of attendance standards.
3. At least thirty (30) calendar days prior to the implementation of new or changed attendance standards, the University shall inform AFSCME.

### **ARTICLE 39 STAFFING COMMITTEE**

- A.** The Union and the University hereby agree to meet every other month at each medical center location to address staffing issues and to try to develop reasonable workload guidelines. The parties may agree to meet more or less often. Campus location means all work units associated with a campus, including those at off-campus sites. Such meetings will occur in accordance with the following:
1. The Union must request a meeting and the parties must agree to the meeting date.
  2. The Union must submit a written agenda identifying staffing concerns it wishes to discuss. Such agenda must be submitted to the designated campus representative at least ten (10) work days before the proposed meeting date.
  3. In the event the University has agenda items regarding staffing, the University shall present its agenda to the Union at least ten (10) work days before the scheduled meeting.
  4. In the event neither party submits an agenda item ten (10) work days before the scheduled meeting, the meeting will not be convened.
  5. Individuals who can effectively address the staffing issues that are identified in the submitted agenda will represent each party at the meeting.
  6. The staffing committee will be made up of no more than eight (8) Union representatives, however, not more than four (4) from any operational department and eight (8) management representatives. These eight (8) union representatives shall be in a without loss of straight time pay status provided meetings are scheduled during normal working hours. Additional individuals may attend by written agreement of the parties. The Union must submit a written request for employee release time at least seven (7) work days before the scheduled meeting. Such employees will be counted as union representatives, and the release time shall be granted unless operational requirements determine otherwise. Permission to attend these meetings shall not be unreasonably denied.
  7. The Union may present staffing concerns and propose solutions at the staffing committee meetings. The University shall respond to the union in a timely manner.
  8. The parties may use the meetings to discuss the issues pertaining to custodial workload, with the square footage conversion table referenced in the Side Letter of September 26, 2001, as one consideration in the discussions. The University recognizes that custodial work may be performed by individuals in classifications other than "custodian" at some campuses/medical centers/Laboratory. Other considerations will include, but not be limited to, factors such as the type of area to be cleaned, (e.g., classrooms, medical facilities, washrooms, laboratories; areas with easily removable seating vs. areas with fixed equipment/furniture), the scope of routine cleaning activities, (e.g., waste removal, sweeping, dusting, etc.), the scope of special cleaning project activities, (e.g., stripping/waxing/buffing floors, refinishing surfaces, etc.), the combination of areas to be cleaned (e.g., classrooms and washrooms), the type of cleaning expected, the expected cleaning results and how often specific cleaning expectations are performed (e.g., trash emptied daily/weekly), the number of employees assigned to the work. Other relevant work related factors not mentioned herein may also be considered by the parties. The union may request relevant and necessary information as soon as practicable before the proposed meeting

date. The University will provide relevant and necessary information about staffing issues at least forty-eight (48) hours before the meeting, provided the requested information can be reasonably gathered in time to provide it within two working days before the meeting. If the information cannot be provided by 48 hours before the meeting, the University will notify the union as soon as practicable. The meeting date may be postponed for a reasonable period. The Union agrees not to make unduly burdensome information requests.

- B.** The University retains the sole prerogative to make decisions about staffing. The union retains the right to bargain over the effects of the University's staffing decisions.
1. The union agrees to identify the known effects of the staffing change it wishes to bargain at the time it makes the bargaining request. During the course of negotiations, the union can raise additional effects issues as they become known.
  2. The University shall negotiate over the effects identified by the union, insofar as they are the mandatory subjects of bargaining: wages, hours, and terms & conditions of employment.
  3. The University shall furnish existing workload guidelines upon request by AFSCME.
- C.** The University's failure to comply with the procedural requirements in this Article is grievable and arbitrable. However, the University's staffing decisions are not grievable or arbitrable, nor is the modification of a staffing decision a remedy that an arbitrator can award.
- D.** Additionally, the fact the parties may not agree on workload guidelines shall not be subject to the grievance and arbitration provision of this Agreement.

## **ARTICLE 40**

### **TRANSFER/PROMOTION/RECLASSIFICATION**

**A. DEFINITIONS**

1. A transfer is the change of an employee from one position to another position which is in a class having the same salary range maximum.
2. A promotion is the change of an employee from one position to another position which is in a class having a higher salary range maximum.

**B. TRANSFER/PROMOTION OF EMPLOYEES**

1. Whenever it is determined by the University that a vacancy in a career position within the bargaining unit is to be filled at a medical center/campus, the following procedure will apply:
  - a. The University at its sole non-grievable discretion, on a location-by-location basis and on a vacancy-by-vacancy basis may, in the posting for vacancies to be filled, restrict the eligible applicants for the vacancy to current University employees.
  - b. Notice will be posted according to local campus procedures, either in writing or electronically. If all posting is accomplished through the computer system, at least one printed posting will be available at the local personnel office or where application information is available. Unless the vacancy is restricted to internal candidates, it will be posted for at least 10 working days. Where there are varying posting periods these varying posting practices shall remain and continue.
  - c. A vacant bargaining unit career position shall be filled in the following order:
    - 1) By recall of an indefinitely laid off non-probationary career employee in accordance with Section E of Article 15 - Layoff and Reduction in Time of this Agreement;



- 2) By preferential rehire of an indefinitely laid off non-probationary career employee in accordance with Section F of Article 15 - Layoff and Reduction in Time of this Agreement;
  - 3) By any other qualified internal applicant, provided she/he is substantially equally qualified with all applicants, including external applicants, receiving final consideration. This includes consideration of licensure, certifications, experience, seniority, skills and abilities, performance evaluations, job references, and disciplinary issues within the last two years, if any.
- d. Among equally qualified non-probationary career applicants for promotion or transfer, seniority will be considered as a tie-breaker.
  - e. A non-probationary career employee who was interviewed for a promotion within the bargaining unit and was not selected may request, in writing within 30 calendar days of notification, an explanation of the reason for non-selection. The department head or designee, shall provide a written response within 30 calendar days of receipt of the employee's written request.
  - f. In addition, the University shall consider qualified employees who are eligible for reemployment in accordance with Section B. 4. of Article 32 - Reasonable Accommodation and Section C.1. of Article 19 - Medical Separation of this Agreement.
2. Employees who are scheduled for a job interview at the same location as the employee's current position shall be granted reasonable time off with pay, as determined by the University, if the interview has been scheduled during the employee's normal work hours. An employee scheduled for an interview on another medical center/campus shall be granted reasonable time off with pay for an amount of time normally equal to the time that would be required for an interview on the employee's own medical center/campus. This section is not subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

## **C. RECLASSIFICATION OF EMPLOYEES**

Upon upward reclassification, an employee shall be granted a salary increase to the minimum of the salary range of the new class or one step [4% for non-step based employees] whichever is greater, provided that the new rate does not exceed the maximum of the new class.

## **D. REPORTS**

The University shall provide AFSCME the following information:

1. The number and classifications of bargaining unit positions posted which were restricted to current University employees;
2. The number and classification of bargaining unit positions where an employee was promoted and received more than one step increase; and
3. The number and classification of bargaining unit positions posted.
4. This information shall be made available annually for the period of April 1st through March 30th and provided to the Union during the month of May. The format of the above information shall be on a location-by-location basis.

## **E. TRAINING PROGRAMS**

In accordance with medical center/campus practice, the University shall inform employees of career development and/or training programs which might assist them with transfers and/or

promotions. This section is not subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**F. GRIEVANCE AND ARBITRATION**

Except as provided above, the provisions of this Article are subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 41  
TRAVEL REIMBURSEMENT**

The following per diem rates are to be used to reimburse employees for subsistence expenses when actual, itemized expenses are not claimed. The dollar amounts assigned to each component are shown for calculation of per diem for travel of 24 hours or less and for adjustments required when subsistence expense is paid directly by the University.

Breakfast, lunch, dinner, and incidentals, per diem total = \$71.00; lodging by receipt.  
Mileage for privately-owned automobiles (including vans) = \$.56/per mile.

- A. Meals, Incidentals, and Mileage Rates shall be paid in accordance with the Business and Finance Bulletin (G-28).
- B. University-approved out-of-state lodging expenses will be reimbursed based on the expenses actually incurred as supported by receipts provided prior approval has been received. Other travel expenses shall remain subject to the per diem rate set forth above regardless of where the expenses were incurred. When subsistence expense is paid directly by the University, the individual employee's per diem will be reduced accordingly.
- C. Changes in per diem rates which are uniformly implemented for non-represented staff employees shall be implemented for the employees covered by this Agreement.

**PER DIEM RATES -- LAWRENCE BERKELEY LABORATORY**

Policies, procedures, definitions, qualifications, calculations, covered hours and rates relative to Per Diem Rates at the Laboratory shall remain in effect for employees at the Laboratory and where in conflict shall supersede the provisions of this Article in Section A above.

**ARTICLE 42  
UNIFORMS**

**A. UNIFORMS**

Uniforms are attire which are required by the University to be worn in the performance of assigned duties. The University shall have the sole discretion to determine who shall wear a uniform and the conditions under which it must be worn. When a uniform is required by the University an employee shall be responsible, at the time of employment, for the purchase of uniform components specified by the University. Employees shall wear the uniform and maintain a proper appearance as specified by the University.

**B. UNIFORM CHANGE TIME**

When an employee is required to change into or out of uniform at the work site, a maximum of ten minutes shall be allowed for this purpose after the beginning and prior to the end of the work shift. Employees not required to change into or out of uniform at the work site will not be granted uniform change time.

**C. UNIFORM ALLOWANCE/LAUNDERING**

- 1. Where the University currently provides a uniform allowance, the allowance will continue at the current rate. Where the University currently provides uniforms, the

University will continue to provide them as long as the University continues its requirement that uniforms be worn.

- 2. Where laundering of uniforms is currently provided by the University, such laundering shall continue while the requirement for uniforms continues.

**ARTICLE 43**  
**VACATION LEAVE**

**A. VACATION CREDIT**

- 1. An eligible employee shall earn vacation credit each month or quadri-weekly cycle based on the number of hours on pay status for that month or quadri-weekly cycle at the following rates:

Years of Qualifying Service	Per Hour on Pay Status*	Approximate Yearly Earning**	Maximum Accumulated Balance
Less than 10	.057692	15 days	240 hours
10 but less than 15	.069231	18 days	288 hours
15 but less than 20	.080769	21 days	336 hours
20 or more	.092308	24 days	384 hours

\*Hours on pay status, including paid holiday hours, but excluding all paid overtime hours.

\*\* Full-time rate.

- 2. An employee must be on pay status for a least one-half (1/2) of the working hours of a month or quadri-weekly cycle to earn vacation credit for that month or quadri-weekly cycle. Vacation credit is earned proportionately for hours on pay status over one-half (1/2) of the full-time working hours of the month or quadri-weekly cycle but less than full-time. Time on pay status in excess of a full-time employee's work schedule does not earn vacation credit.
- 3. Earned vacation for each month or quadri-weekly cycle is credited on the first day of the following month or quadri-weekly cycle, except that proportionate vacation credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status. A full-time employee on the Factor Accrual System may earn vacation credit to a maximum stated in Section A 1 above. A part-time employee may earn vacation credit to the same maximum number of hours as a full-time employee with comparable years of service.
- 4. A month of service at one-half (1/2) time or more is a month of qualifying service.

**B. VACATION CREDIT USE**

An employee appointed at fifty percent (50%) or more of full-time for a period of six (6) months or more is eligible to earn vacation credit from the date of hire; however, an employee may not use vacation credit until after six (6) continuous months on pay status. No vacation shall be used prior to the time it is credited, except as provided in Section G.2.a below.

**C. VACATION SCHEDULING**

- 1. An employee may request vacation, and the University will consider such request when establishing or modifying vacation schedules. Vacation schedules are established in accordance with normal scheduling practices and in accordance with the needs of the University. The University will respond to an employee's vacation

request as soon as practicable after such request is made by the employee but is not required to respond to an employee's request prior to the establishment of a vacation schedule. Once established, the University will endeavor to adhere to the vacation schedule. When during the review of simultaneous requests for vacation submitted by more than one employee, operational needs do not permit the granting of requests for vacation at the same time for the employees who have requested that specific time period, preference in granting the request shall be based on the respective seniority of the employees. Where a practice of rotation of vacation periods exists, such practices shall continue, and only operational needs will be used in assigning such vacation.

2. The University will endeavor to respond to the employee's additional vacation request(s) within ten (10) calendar days of his/her request for use of vacation.

#### **D. VACATION MAXIMUMS**

1. Employees shall be made aware of their vacation accruals on at least a monthly basis. Upon implementation of the University's automated accrual system, the University shall provide employees with at least sixty (60) calendar days notification that he/she will reach the maximum allowable accumulation.
2. The employee shall request dates for use of the vacation as soon as possible prior to the maximum accumulation. When the request is provided at least thirty (30) calendar days in advance, an employee shall be granted vacation before the employee's accumulated credit reaches the maximum, with the following exceptions:
  - a. If the specific dates on which the employee requests use of vacation credit cannot be granted, the employee shall be scheduled for alternate dates off; or
  - b. In the event the University cannot schedule alternate dates off, the vacation credit in excess of the employee's maximum allowable accumulation which cannot be used shall be placed in the employee's compensatory time bank and shall become compensatory time off credit.
3. In the event an employee fails to request use of vacation credit at least thirty (30) calendar days prior to reaching his/her vacation maximum, the University shall endeavor to grant the vacation use requested or schedule an alternate date. If such request cannot be granted or an alternate date cannot be scheduled, and if the employee had been notified at least sixty (60) calendar days in advance that he/she was reaching the maximum vacation allowable, the vacation credit which would have taken the employee over his/her vacation credit maximum shall be lost to the employee.

#### **E. VACATION PAY**

1. Pay for vacation shall be at the employee's straight time rate including any shift differential, provided that the employee would have been expected to work that shift or shifts if not on vacation.
2. An employee who separates from employment or who is granted extended military leave shall be paid for any vacation earned through the employee's last day of work, except that an employee who is retiring may use vacation up to the effective date of retirement.

#### **F. TRANSFER OF VACATION CREDIT**

An employee who is transferred, promoted, or demoted to another University position in which vacation credit can be earned shall have any earned vacation credit transferred unless such transfer is in conflict with an Agreement covering the new position. An employee who is transferred, promoted, or demoted to a University position for which a transfer of credit is in conflict with an Agreement or in which vacation credit is not earned shall be paid for any earned vacation at the time of transfer. An employee who is transferred, promoted, or

demoted to a Laboratory (LBL) position from a campus or from a LBL position to a campus position shall be paid for any earned vacation at the time of transfer.

#### **G. CURTAILMENT PERIOD**

1. Consistent with the University's management rights, including its right to determine the orderly, effective and efficient operation of the University, the University may elect at one or more of its locations, to curtail or shut down some or all of its activities, on a location by location basis, for periods of specific duration. By way of example and not limitation, such periods may represent opportunities for energy/cost savings and/or adjustments to reduce levels of work activity due to transition periods in the academic calendar and/or "seasonal" or "holiday" influences on scheduled work activities and/or the occurrence at or on University facilities of major public events and/or the occurrence of emergency or "forces of nature" situations adversely affecting normal University operations.
2. In the event of such total or partial closure or curtailment of operations, whether or not the University is able to anticipate such event, employees affected shall select one or a combination of the following options to cover their status during such period of time:
  - a. Employees may use accumulated vacation leave during the period. Newly employed unit members would be allowed to use accrued vacation even if the required six (6) continuous months on pay status has not been completed. Employees without sufficient accumulated vacation would be allowed to use up to three (3) days vacation leave prior to actual accrual.
  - b. Employees with accrued compensatory time may elect to use it to cover the scheduled time off or to offset the use of vacation time.
  - c. Employees who do not wish to use vacation or compensatory time off may elect to take a leave without pay during the closure.
  - d. Employees who do not select from a, b or c above or who do not qualify for a, b or c above shall, for the period of time necessary, be placed in a leave without pay status.

#### **H. CATASTROPHIC LEAVE SHARING PROGRAM**

Any bargaining unit employee may participate in a campus/medical center/Laboratory's catastrophic leave program, if any, in accordance with the provisions of the location's program.

### **ARTICLE 44 WAGES**

#### **A. GENERAL PROVISIONS**

##### **1. ELIGIBILITY AND EFFECTIVE DATES**

- a. To be eligible for any of the wage increases described below, employees must be on pay status or on approved leave, in the EX Bargaining Unit on the effective date of the increase and the date of payout.
- b. For bi-weekly paid employees, increases are effective the first full bi-weekly pay period on or after the effective date of the increase.
- c. For UCLA and UCSF only:

Step increases shall be provided to eligible employees who have achieved the experience to progress into a new step range since the expiration of the Agreement.

- d. Implementation is subject to UC Path blackout periods. All delays in implementation of any increase due to blackout periods shall be adjusted at the percentage negotiated and payable at a non-based building retirement eligible lump sum.
- e. Nothing in this agreement prevents the locations from providing additional increases to an employee as deemed appropriate by the locations.
- f. The parties agree that there shall be no step increases provided after contract expiration other than those expressly agreed to in the Agreement. Provision of a step increase during the contract term shall not constitute the status quo.
- g. LBNL step and across the board increases shall be effective on the first full pay period in the first full pay period in October, and are subject to the Department of Energy funding and notification.

## 2. ORDER OF INCREASES

Order of Increases - If more than one hourly wage adjustment takes place on the same date, actions occur in the following order:

- a. salary range adjustment;
- b. individual equity adjustment;
- c. wage rate actions resulting from promotion, reclassification, transfer, or demotion. In the event an individual's wage rate remains below the new range minimum after the implementation of all base building increases, their wage rate will be increased to the new range minimum.

## 3. TITLE CODE SYSTEM LOOKUP (TCS)

Appendix A: Wage Rates – The applicable wage rates are reflected on the Corporate Title Code System Lookup (TCS) at: <https://tcs.ucop.edu/tcs/jsp/homePage.htm>. In the event this web page expires and is replaced by a new title code system and corresponding web page, the University will provide thirty (30) calendar days' notice to union advising where such title code and wage range information can be found online.

The parties recognize that the actual wage rates paid to employees may slightly vary from those reflected in Appendix A due to rounding.

Following receipt of written notification from AFSCME of its ratification and acceptance of the entire Agreement with the University of California, the University will provide compensation as set forth below:

## B. RATIFICATION INCREASES

- 1. Effective with the first full bi-weekly pay period no more than one hundred and twenty (120) calendar days, non-probationary career employees shall receive a non-base-building \$3,000 lump sum payment. The lump sum shall be prorated for career employees by hours on pay status in calendar year 2019. Such a payment shall be considered retirement eligible earnings. Eligible employees must be in the bargaining unit on the date of ratification and the date of payout. Effective with the first full bi-weekly pay period no more than one hundred and twenty (120) calendar days, limited or per diem employees who have worked 400 or more hours in calendar year 2019 shall receive a

\$500 flat lump sum payment. Eligible employees must be in the bargaining unit on the date of ratification and the date of payout.

2. Limited or per diem employees who converted to career status in 2019 shall receive the prorated \$3000 lump sum payment only, consistent with the language above.
3. Effective with the first full bi-weekly pay period on or following twelve (12) months from the first lump sum payment, non-probationary career employees shall receive a non-base-building \$1,000 lump sum payment. The lump sum shall be prorated by hours on pay status in calendar year 2020 for career employees. Such a payment shall be considered retirement eligible earnings. Eligible employees must be in the bargaining unit on the date of ratification and the date of payout.

## C. WAGE INCREASES

### 1. Post-Ratification Range Adjustment

Effective the first full bi-weekly pay period occurring at least sixty (60) calendar days from the date the University receives AFSCME's written notice of contract ratification, the University will adjust the existing salary ranges by six percent (6%) and pay employees in accordance with Section A. above.

### 2. Post Ratification Step Increases

#### a. UCSD, UCI, UCD AND CAMPUS LOCATIONS

Effective the first full bi-weekly pay period occurring at least ninety (90) calendar days from the date the University receives notice of contract ratification, the University shall provide a one-step increase to non-probationary employees who are step eligible on the date of ratification and the date of the payout.

#### b. UCLA AND UCSF

Employees in experienced based titles at UCLA and UCSF shall remain on experienced-based steps and employees in such titles will be moved to the appropriate experience-based step on the first full pay period no later than on or after July 1, 2020. UCLA and UCSF shall continue to implement their experience-based step program for the duration of the Agreement.

## FISCAL YEAR 2020 - 2021

### 1. Step Increases

- a. Effective the first full bi-weekly pay period on or after July 1, 2020, eligible employees who are within range will receive a one (1) step increase in accordance with Section A above.
- b. Employees who are within range will receive a one-step increase. For those at locations with experience banded steps (UCSF/UCSFMC and UCLA/UCLAMC), employees who are within range and who have achieved a new level of experience, will receive a step increase (see Appendix A.) in accordance with 2. b. above.

### 2. Range Adjustments - April 2021

Effective the first full bi-weekly pay period on or after April 1, 2021 the University will adjust the existing ranges by three percent (3%) and pay employees in accordance with Section A above.

#### FISCAL YEAR 2021 – 2022

##### 1. Step Increase – July 2021

- a. Effective the first full bi-weekly pay period on or after July 1, 2021, eligible employees who are within range will receive a one (1) step increase in accordance with Section A above.
- b. Employees who are within range will receive a one step increase. For those at locations with experience banded steps (UCSF/UCSFMC and UCLA/UCLAMC), employees who are within range and who have achieved a new level of experience, will receive a step increase (see Appendix A.)

##### 2. Range Adjustments - April 2022

Effective the first full bi-weekly pay period on or after April 1, 2022, the University will adjust the existing ranges by three percent (3%) and pay employees in accordance with Section A above.

#### FISCAL YEAR 2022 – 2023

##### 1. Step Increase – July 2022

- a. Effective the first full bi-weekly pay period on or after July 1, 2022, eligible employees who are within range will receive a one (1) step increase in accordance with Section A above.
- b. Employees who are within range will receive a one-step increase. For those at locations with experience banded steps (UCSF/UCSFMC and UCLA/UCLAMC), employees who are within range and who have achieved a new level of experience, will receive a step increase (see Appendix A.)

##### 2. Range Adjustments - April 2023

Effective the first full bi-weekly pay period on or after April 1, 2023, the University will adjust the existing ranges by three percent (3%) and pay employees in accordance with Section A above.

#### FISCAL YEAR 2023 – 2024

##### 1. Step Increase – July 2023

Effective the first full bi-weekly pay period on or after July 1, 2023, eligible employees who are within range will receive a one (1) step increase in accordance with Section A above.

Employees who are within range will receive a one step increase. For those at locations with experience banded steps (UCSF/UCSFMC and UCLA/UCLAMC), employees who are within range and who have achieved a new level of experience, will receive a step increase (see Appendix A.)

##### 2. Range Adjustments - April 2024



Effective the first full bi-weekly pay period on or after April 1, 2024, the University will adjust the existing ranges by three percent (3%) and pay employees in accordance with Section A above.

#### FISCAL YEAR 2024 – 2025

##### 1. Step Increase – July 2024

Effective the first full bi-weekly pay period on or after July 1, 2024, eligible employees who are within range will receive a one (1) step increase in accordance with Section A above.

Employees who are within range will receive a one step increase. For those at locations with experience banded steps (UCSF/UCSFMC and UCLA/UCLAMC), employees who are within range and who have achieved a new level of experience, will receive a step increase (see Appendix A.)

#### D. LONGEVITY LUMP SUM PAYMENTS

1. Effective with the first full bi-weekly pay period on or following July 1, 2020, all career employees with twenty (20) years of bargaining unit service, as defined in Article 35 – Section A, shall receive a one-time longevity \$1,000.00 lump sum payment. Such a payment shall be considered retirement eligible earnings. Employees must have achieved at least 20 years of service as of July 1, 2020 and be in the bargaining unit on the date of payout.
2. For each year of the Agreement on July 1<sup>st</sup> (2021, 2022, 2023, 2024), employees who reach twenty (20) years of service, as defined in Article 35 – Section A, shall be eligible for a one-time longevity \$1,000 lump sum payment, as consistent with C. 1. above.

#### E. OTHER INCREASES

1. The University may increase, during the term of this agreement, individual wage rates, or ranges for selected classes at selected locations. The University may also increase, for selected classes at selected locations, during the term of the agreement, shift differentials, on-call rates and/or extend the coverage of such rates. Likewise, nothing shall preclude the University from providing equity adjustments in addition to those provided in Section G. below.
2. At least thirty (30) calendar days prior to implementing the increases referenced in Section E.1., above, the University shall provide notice to AFSCME.

#### F. PAY EQUITIES

1. The University of California supports reasonable pay rate equity resulting from the University's initially hiring new career employees at a rate of pay above the pay of current career employees in the same hiring unit in the same classification and who are assigned the same duties.
2. For the purposes of this Section, a hiring unit is equivalent to a layoff unit. When examining reasonable equity rate issues, the University and AFSCME shall consider the employees':
  - a. Years of experience performing the duties related to the position;
  - b. Years of experience in the same or equivalent classification;
  - c. Current employee's work history (reasonably objective work-related issues or concerns that have been documented);

- d. Appointment type;
  - e. Overall skills, knowledge and ability that can be applied to the job;
  - f. Education (where applicable);
  - g. New employees' documented and objective eligibility for other salary adjustments (e.g., special differentials) or UC benefits; and
  - h. Actual duties assigned.
3. The University will use the criteria above when setting the wage rates of initial hires and the parties will use the above criteria when assessing claims of wage rate equity. All criteria must be met to invoke the University's obligation to increase wages to match the wage of a new hire with a higher pay rate.
  4. An equity rate adjustment concern does not include pay rate actions/agreements for employees who are entering a hiring unit from other University facilities/units, preferential rehire, or rehire from rehabilitation or disability. For the purposes of this section, probationary employees are considered "new employees," unless their movement is done to avoid layoff.

#### G. PAY RATE EQUITY ADJUSTMENTS PROCESS

##### Grievability and Arbitrability

1. Only an affected employee or AFSCME on behalf of the affected employee can raise a pay equity grievance. Pay equity must be defined in accordance with the provisions in Section F., above. An affected employee may only raise a pay equity grievance pertaining to his or her current classification.
2. At all steps of the grievance and arbitration procedure, the remedy is limited to whether the University properly applied the criteria in Section F. The arbitrator shall have no authority to set individual wage rates that are less than 2% different from the wages of the comparator new employee.

#### H. SHIFT DIFFERENTIAL RATE CHANGES

3. Shift differential rates are found in Appendix A. It is the intent of the parties that employees who are assigned to the second or third shift will receive a shift differential, unless such a shift differential is built into their base wage rate.
4. On call employees who are called into work during the evening or night shift shall be paid the applicable shift differential allocated to the title for all hours the employee actually worked during the shift(s) provided he/she works four (4) or more hours in that shift.
5. The University will modify Appendix A to reflect all shift differentials shall be no less than \$1.00 per hour by July 1<sup>st</sup> of the final year of the Agreement.
6. Nothing precludes the University from increasing shift differentials more than \$1.00.
7. This increase applies only to shifts, not to weekend differentials.

#### I. PERQUISITES

1. Meal and/or housing perquisites are provided to employees when they are required as a condition of employment and for the convenience of the University. The value, as determined by the University at its sole discretion, of meals and/or housing is included in determining the total compensation of an employee.
2. Not less than one meal at no charge will be provided to career employees who work in Dining, Nutrition or Food Service departments at a campus/medical center in connection with their scheduled shift and in accordance with local policy.
3. At locations providing a free or reduced price meal program as of April 1, 2005, employees in Nutrition, Dining, Food Service or equivalent departments in the title codes who currently qualify for the program shall not be charged for their current allowance and shall not lose any meal perquisites in regard to entitlements to or regulations on meal or food allowances, cost limitations or additional charges as a result of implementation of this provision.
4. If an employee changes department or title the benefit accrued to the employee will be based upon the new department and/or title.
5. Changes to this benefit may be bargained locally.

#### **ARTICLE 45 WAIVER**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and the understandings and agreements arrived at by the parties after the exercise of the right and opportunity are set forth in this Agreement. The rights and procedures granted and set forth under Staff Personnel Policy will no longer apply to employees covered by this Agreement. The University and AFSCME, for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

#### **ARTICLE 46 WORK-INCURRED INJURY OR ILLNESS**

##### **A. GENERAL CONDITIONS**

1. An employee who is unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act is eligible to use sick leave, extended sick leave, and vacation leave as provided below. When such leaves are exhausted and when the employee is still unable to work because of such illness or injury, the employee may be granted a leave without pay for the remainder of the period in which he/she is medically authorized for Workers' Compensation temporary disability, but not to exceed a total absence from work of twelve (12) months or a predetermined date of separation, whichever is earlier.
2. In the event that an employee's work-incurred injury or illness exceeds the maximum twelve (12) month leave period, a personal leave of absence may be granted in accordance with the provisions of Article 16 – Leaves of Absence, Section B. The granting of a personal leave of absence in order to extend an employee's total absence from work for work-incurred illness or injury purposes is at the sole discretion of the University and without recourse to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement. An employee on such personal leave of absence shall submit medical verification, in accordance with Section E. below, that

he/she has been medically released to perform his/her normal duties upon return to work.

**B. SUPPLEMENTAL SICK LEAVE AND VACATION**

1. An employee who earns sick leave and vacation shall be permitted to use accumulated sick leave and vacation to supplement temporary disability payments received under the California Workers' Compensation Act.
2. Sick leave and vacation payments shall be the difference between the amount payable to the employee under the Workers' Compensation Act and the employee's regular salary. The additional payment made to an employee to provide the employee with full salary prior to receipt of disability payments shall be deemed an advance temporary disability payment within the Workers' Compensation Act.
3. An employee who receives advance temporary disability payment shall reimburse the University for such payment. The reimbursement is used to restore proportionate sick leave and vacation credit as appropriate.

**C. EXTENDED SICK LEAVE**

1. An employee who is receiving temporary disability payments and who has exhausted all his/her accumulated sick leave shall receive extended sick leave payments from the University in an amount equal to the difference between the payments from Workers' Compensation and eighty percent (80%) of the basic salary plus any shift differential which the employee would have received. If such an employee returns to part-time University duties, the earnings plus any temporary disability payments, if less than eighty percent (80%) of basic salary plus shift differential, shall be supplemented to eighty percent (80%) by extended sick leave payments, provided the employee continues to be medically authorized for Workers' Compensation temporary disability. Total extended sick leave payments shall not exceed twenty-six (26) weeks for any one (1) injury or illness.
2. An eligible employee who does not have sufficient accumulated sick leave to cover the three (3) calendar days' waiting period for receiving Workers' Compensation payments shall receive extended sick leave payment to cover any part of the waiting period not covered by sick leave. Payment shall be made only after determination that the injury or illness is compensable under Workers' Compensation.
3. An employee who elects not to use all his/her accumulated sick leave is not eligible for extended sick leave benefits.

**D. EFFECT ON PAY STATUS**

**1. Supplemental Leave**

An employee who is receiving temporary disability payments and supplemental sick leave or vacation as described in Section B. above is considered on regular pay status for purposes of application of provisions of this Agreement, except completion of the probationary period. Sick leave and vacation earned during this period may be used as soon as credited.

**2. Extended Sick Leave**

An employee who is receiving temporary disability payments and extended sick leave benefits as described in Section C. above is considered to be on regular pay status for purposes of application of provisions of this Agreement, except completion of the probationary period. However, sick leave and vacation earned during this period is credited to the employee only upon return to work. If an employee separates without returning to work, the employee shall be paid for vacation earned during the period the employee received extended sick leave payment.

**3. Leave Without Pay**

An employee on leave without pay and receiving temporary disability payments earns sick leave and vacation on the same basis as if regularly employed, but such sick leave and vacation is credited to the employee only upon return to work. If an employee separates without returning to work, no payment shall be made for such vacation credit.

**E. RETURN FROM WORK-INCURRED INJURY OR ILLNESS LEAVE**

1. An employee who has been granted a leave of absence due to a work-incurred injury or illness shall be reinstated as soon as possible to the same or a similar position held at the time the leave was granted when the following conditions are met:
  - a. The employee has notified the University of his/her anticipated date of return; and
  - b. If required by the University, the employee has provided medical documentation that he/she has been medically released to perform the normal duties of his/her job.
2. When a medical release to return is required by the University:
  - a. The University shall inform the employee that a medical release to return is required as soon as practicable after the need for such documentation is determined; and
  - b. The employee shall provide the University with the required medical release as soon as possible after the medical release is available to the employee. When possible, the employee shall provide such documentation thirty (30) calendar days prior to the anticipated date of return; and
  - c. Such medical documentation may be subject to confirmation by a University-appointed physician.
3. If the position held by the employee at the time the leave was granted has been abolished during the leave, the employee shall be afforded the same consideration which would have been afforded had the employee been on pay status when the position was abolished.

**F. SEPARATION**

An employee shall not use vacation, sick leave, or extended sick leave to supplement Workers' Compensation payments beyond a predetermined date of separation or leave without pay. Any vacation credit remaining on the date of separation shall be paid on a lump-sum basis.

**ARTICLE 47  
WORK RULES**

**A. GENERAL PROVISIONS**

1. The University has the sole, non-grievable, non-arbitrable right to promulgate, supplement, alter, modify, amend, and rescind, work rules. For the purposes of this Article, work rules are defined as rules promulgated by the University which regulate employees relative to and affecting their employment.
2. Work rules promulgated by the University may not be inconsistent with the provisions of this Agreement, and must be related to the orderly and efficient operation of the University, including - but not limited to - as an ordinary and proper means of maintaining discipline and efficiency, of directing the conduct, appearance and actions of the employees and of ensuring the health and safety of employees and others.

## **B. NOTICE**

At least forty-five (45) calendar days prior to the implementation of new or changed work rules, the University shall inform AFSCME. Upon receipt of a written request from AFSCME, made within thirty (30) calendar days from the above notice, the campus/medical center/Laboratory shall schedule a meeting to meet and discuss the proposed work rule(s) with AFSCME prior to the proposed implementation date.

## **C. APPLICATION AND GRIEVABILITY**

1. The University will reasonably enforce its work rules for employees during working hours and/or when they are on University premises. The University may enforce work rules governing employees during non-working hours only for reasons of bona-fide business and/or health and safety necessity.
2. In the event the University's enforcement/application of its work rules is inconsistent with any portion of this Article, a grievance may be filed in accordance with the provisions of Article 9 - Grievance Procedure, and appealed to Arbitration in accordance with the provisions of Article 3 - Arbitration Procedure of this Agreement.
3. In the event the application of a work rule is appealed to arbitration, the Arbitrator shall have no authority to newly fashion or to modify the work rule, although s/he may consider the reasonableness of the grieved work rule when rendering her/his decision and related remedy.