

Table of Contents

ARTICLE 1 - AGREEMENT	7
1.1 PURPOSE	7
1.2 AGREEMENT	7
1.3 TERM.....	7
1.4 ANNUAL RE-OPENERS	7
1.5 MERIT SYSTEM ELIMINATION RE-OPENER	7
1.6 COMMENCEMENT OF NEGOTIATIONS.....	7
ARTICLE 2 - RECOGNITION	8
2.1 GENERAL.....	8
2.2 EXCLUSIONS	8
2.3 NEGOTIATIONS WITH OTHER EMPLOYEE ORGANIZATIONS.....	8
ARTICLE 3 - MANAGEMENT RIGHTS	9
ARTICLE 4 - ORGANIZATIONAL RIGHTS	10
4.1 GENERAL.....	10
4.2 USE OF FACILITIES	10
4.3 INFORMATION	10
4.4 COPIES OF AGREEMENT.....	11
4.5 RELEASE TIME	11
4.6 INTRA-DISTRICT MAIL SYSTEM.....	12
4.7 BULLETIN BOARDS.....	12
4.8 NEW UNIT MEMBERS	12
4.9 ACCESS	12
4.10 NO THREATS, DISCRIMINATION, OR REPRISALS	12
4.12 ORGANIZATIONAL SECURITY	13
ARTICLE 5 - NONDISCRIMINATION	15
ARTICLE 6 – PERSONNEL FILE AND OTHER UNIT MEMBER RIGHTS	16
6.1 MAINTENANCE OF FILES	16
6.2 RIGHT TO INSPECT	16
6.4 DEROGATORY INFORMATION.....	16
6.5 RIGHT TO REQUEST REVIEW	16
6.6 CONFIDENTIALITY	17
6.7 DATE OF RECEIPT OF MATERIALS.....	17
6.8 REMOVAL OF MATERIALS.....	17
6.9 CLASSIFICATION SPECIFICATIONS	17
6.10 PUBLIC CHARGES	17
ARTICLE 7 - PERFORMANCE REVIEW	18
7.1 GOAL.....	18
7.2 OBJECTIVES.....	18
7.3 FREQUENCY OF EVALUATION	18

7.4	PROCEDURE	18
7.5	MISCELLANEOUS PROVISIONS.....	19
ARTICLE 8 - SALARY		20
8.2	WAGES	20
8.3	SALARY AND PERS/STRS CONTRIBUTIONS NOTICE	21
8.4	WORK OUT OF CLASSIFICATION.....	21
8.5	DIFFERENTIAL COMPENSATION	21
8.6	MINIMUM DAYS.....	22
8.7	TIMELY PAYMENT OF WAGES	22
8.8	TWELVE-MONTH PAY OPTION.....	22
8.9	ERRORS IN PAYMENT	22
8.10	OVERPAYMENTS	22
8.11	LONGEVITY MERIT.....	23
8.12	PROFESSIONAL GROWTH	23
8.13	EMERGENCY ADVANCES	24
ARTICLE 9 - COMPENSATION AND BENEFITS		25
9.2	BENEFITS ENTITLEMENT.....	27
9.3	MILEAGE	27
9.4	TRAINING COMPENSATION.....	27
9.5	IN LIEU BENEFITS	27
9.6	SPECIAL TRIPS.....	27
9.7	STATE DISABILITY INSURANCE BENEFITS.....	28
9.8	ACCRUAL OF VACATION AND SICK LEAVE	28
9.9	HEALTH AND DENTAL CONTRIBUTIONS.....	29
9.10	BENEFITS COST CONTAINMENT COMMITTEE.....	29
ARTICLE 10 - WORK DAY/WORK YEAR		30
10.1	HOURS OF WORK.....	30
10.2	OVERTIME	32
10.3	STAND-BY TIME	33
10.4	CALL-BACK TIME.....	33
10.5	SPECIAL TRIPS.....	34
10.6	WORK YEAR ASSIGNMENT	34
10.7	PARTIAL RETIREMENT - REDUCED WORK TIME	35
ARTICLE 11 - LEAVES		37
11.1	LEAVES OF ABSENCE WITHOUT COMPENSATION	37
11.2	LEAVES WITH COMPENSATION	40
11.3	OTHER LEAVES	50
11.4	MISCELLANEOUS PROVISIONS.....	54
ARTICLE 12 - HOLIDAY		56
12.1	GENERAL	56
12.2	HOLIDAY PAY	56
12.3	JULY 4TH PROVISIONS	57

ARTICLE 13 - SAFETY	58
13.1 GENERAL.....	58
13.2 SAFETY EQUIPMENT.....	58
13.3 HEPATITIS B INNOCULATIONS.....	58
13.4 SAFETY COMMITTEE	59
13.5 PROCEDURES.....	59
13.6 NO DISCRIMINATION	60
13.7 PERSONAL SAFETY	60
13.8 ERGONOMICS.....	60
13.9 SUSPENDED OR EXPELLED STUDENTS.....	61
ARTICLE 14 - LAYOFFS	62
14.1 DEFINITIONS	62
14.2 LAYOFFS, APPLICATION OF	62
14.3 ELECTION OF RETIREMENT	63
14.4 NOTICE OF LAYOFF	64
14.5 REEMPLOYMENT RIGHTS	64
14.6 BENEFITS OF LAID-OFF EMPLOYEES.....	66
14.7 VOLUNTEERS.....	66
14.8 APPEAL RIGHTS.....	66
ARTICLE 15 - DISCIPLINARY ACTION AND APPEAL	68
15.1 GENERAL.....	68
15.2 NOT GRIEVABLE.....	68
15.3 DISCIPLINARY LETTERS.....	68
15.4 RIGHT TO UNION REPRESENTATION	68
ARTICLE 16 - GRIEVANCE PROCEDURE	69
16.1 DEFINITIONS	69
16.2 PURPOSE.....	69
16.3 GENERAL PROVISIONS.....	69
16.4 GRIEVANCE COMMITTEE.....	70
16.5 PROCEDURE	71
ARTICLE 17 - TRANSFER.....	75
17.1 DEFINITIONS	75
17.2 INTENT.....	75
17.3 POSTING	75
17.4 APPLICATION.....	75
17.5 SELECTION CRITERIA	76
17.6 VOLUNTARY ASSIGNMENT CHANGES BETWEEN TWO (2) OR MORE UNIT MEMBERS	76
17.7 INVOLUNTARY TRANSFER	76
17.8 PROCEDURES.....	77
17.9 MEDICAL TRANSFER	78
17.10 SPECIAL EDUCATION ASSIGNMENTS.....	78
ARTICLE 18 - PROMOTION	82

ARTICLE 19 - RECESS ASSIGNMENTS.....	83
19.1 POSTING	83
19.2 APPLICATION.....	83
19.3 SELECTION	83
ARTICLE 20 – TOOLS & EQUIPMENT	85
20.1 GENERAL	85
20.2 TOOL ALLOWANCE	85
20.3 CLOTHING ALLOWANCE.....	85
20.4 BUS DRIVER/SAFETY OFFICER UNIFORMS	86
20.5 CUSTODIAL EQUIPMENT	86
20.6 SCHOOL SAFETY OFFICER LOCKERS	86
ARTICLE 21 - TRAINING	87
21.1 COMPENSATION.....	87
21.2 NEW EQUIPMENT	87
21.3 STAFF DEVELOPMENT	87
21.4 ORIENTATION AND TRAINING	87
21.5 SAFETY TRAINING.....	87
21.6 NOTIFICATION	87
21.7 REIMBURSEMENT OF FEES, TUITION, BOOKS, AND MATERIALS.....	87
21.8 FIRST AID AND CPR TRAINING	87
21.9 TRANSPORTATION DEPARTMENT.....	88
21.10 TRAINING FOR SCHOOL SAFETY OFFICERS	88
21.11 CUSTODIAL TRAINING	88
ARTICLE 22 - DEFINITIONS.....	89
22.1 CLASS OR CLASSIFICATION.....	89
22.2 CLASS SPECIFICATION.....	89
22.3 DIRECTOR OF CLASSIFIED PERSONNEL.....	89
22.4 DISTRICT	89
22.5 DOMESTIC PARTNERS.....	89
22.6 ELIGIBILITY LIST.....	89
22.7 EMPLOYEE	89
22.8 FTE.....	89
22.9 INCREMENT DATE.....	90
22.10 JOB DESCRIPTION.....	90
22.11 LIMITED TERM EMPLOYEE	90
22.12 MERIT RULES	90
22.13 PROBATIONARY PERIOD	90
22.14 PROVISIONAL APPOINTMENT	90
22.15 SALARY RANGE.....	90
22.16 SALARY SCHEDULE	90
22.17 SALARY STEP.....	90
22.18 SCHOOL TERM	91
22.19 SENIORITY	91

22.20	SITE REPRESENTATIVE	91
22.21	SPRING RECESS.....	91
22.22	SUBSTITUTE EMPLOYEE	91
22.23	SUMMER RECESS.....	91
22.24	SUPERINTENDENT	91
22.25	TEMPORARY EMPLOYMENT.....	91
22.26	UNION.....	91
22.27	UNION REPRESENTATIVE	91
22.28	UNIT MEMBER.....	92
22.29	WINTER RECESS	92
22.30	WORKING DAY.....	92
ARTICLE 23 – TRANSPORTATION DEPARTMENT		93
23.1	BEGINNING OF SCHOOL YEAR ROUTE ASSIGNMENTS.....	93
23.2	ROUTE ASSIGNMENTS AND BIDDING	93
23.3	SENIORITY: TRANSPORTATION DEPARTMENT	94
23.4	GUARANTEED MINIMUMS	95
23.5	EXTRA WORK ASSIGNMENTS.....	95
23.6	INCREASES IN HOURS	96
23.7	POSTING OF HOURS.....	96
23.8	MINIMUM DAYS.....	96
23.9	OUT-OF-TOWN TRIPS	96
23.10	SPLIT-SHIFT DIFFERENTIAL.....	97
23.11	CALL BACK	97
23.12	OVERTIME.....	97
23.13	UNPAID TIME OFF	97
23.14	DRUG AND ALCOHOL TESTING.....	98
23.15	UNIT MEMBER ALCOHOL TESTING PROGRAM	98
23.16	UNIT MEMBER CONTROLLED SUBSTANCE TESTING PROGRAM	102
23.17	TRANSPORTATION YARD SECURITY, EVENINGS AND WEEKENDS	109
ARTICLE 24 - NO STRIKE OR LOCKOUT CLAUSE		110
24.1	NO STRIKE	110
24.2	NO LOCKOUT	110
ARTICLE 25 - SAVINGS CLAUSE		111
ARTICLE 26 - COMPLETION OF AGREEMENT.....		112
ARTICLE 27 – CONTRACTING OUT		113
APPENDIX A - SCHEDULE OF SALARY RANGES BY CLASSIFICATION (EFFECTIVE 7/1/13)		115
APPENDIX B - COMPLAINT PROCEDURE FOR PARENTS, EMPLOYEES, RESIDENTS AND STUDENTS		116
APPENDIX C – PERFORMANCE REVIEW FOR CLASSIFIED PERSONNEL.....		117
APPENDIX D - CLASSIFIED SALARY SCHEDULE		118
APPENDIX E - 2013-2014 AND 2014-2015 CALENDARS FOR SCHOOL-TERM UNIT MEMBERS.....		119

APPENDIX F – DOMESTIC PARTNERS..... 120
APPENDIX G – DISCIPLINARY ACTION AND APPEAL 122
APPENDIX H – VACATION LEAVE FOR UNIT MEMBERS EMPLOYED ON OR BEFORE JANUARY 17, 1978..... 129
SIDE LETTER OF AGREEMENT 130

Article 1 - Agreement

1.1 Purpose

The purpose of this Agreement is to promote the improvement of unit member/District relations, to provide an equitable procedure for the resolution of differences, and to establish rates of pay and other terms and conditions of employment.

1.2 Agreement

This Agreement is made and entered into between the Board of Education of the Berkeley Unified School District (hereinafter the "District") and the Berkeley Council of Classified Employees, AFT Local 6192, AFT/CFT, AFL-CIO (hereinafter "BCCE" or "Union").

1.3 Term

The term of this Agreement will be from July 1, 2013 through June 30, 2016.

1.4 Annual Re-openers

The parties agree to reopen the contract for 2015-2016 on wages, benefits, and two items each. The reopeners referenced in this section are in addition to Section 1.5.

1.5 Merit System Elimination Re-opener

If the Merit System is discontinued, either party may present proposals to include items to replace the Rules and Regulations of the Personnel Commission (within the scope of negotiations) into this Agreement.

1.6 Commencement of Negotiations

Not later than thirty (30) days following a public hearing by the Board of Education on proposals by either party, negotiations shall commence at a mutually acceptable time and place for the purpose of negotiating an agreement.

Article 2 - Recognition

2.1 General

The District hereby acknowledges the BCCE as the exclusive representative for all classified employees in the:

- 2.1.1 Instructional Assistant/Paraprofessional unit;
- 2.1.2 Office, Technical and Business Services unit; and
- 2.1.3 Operations and Support Services unit.
- 2.1.4 See Appendix A for a list of classifications.

2.2 Exclusions

Excluded from those positions indicated in Appendix A are employees serving in management positions, limited term employees, employees serving under provisional appointment, employees appointed as substitutes, recreational employees, professional experts, students of the Berkeley Unified School District who are employed by the District, and confidential employees.

2.3 Negotiations with Other Employee Organizations

The District shall conduct no negotiations nor enter into any agreement with any other employee organization on matters concerning the rights of unit members and/or BCCE that are within the scope of representation without prior notice to and written approval by BCCE.

Article 3 - Management Rights

- 3.1 It is understood that the Board retains all of its powers and authority to direct and control the District to the full extent of the law, except as otherwise specified by this Agreement.
- 3.2 This Agreement may be modified by the Board in cases of extreme emergency such as earthquake, fire, flood or major civil disruption, and then only to the extent necessary to allow the District to function and to protect the health and safety of the students and staff during an emergency.

Article 4 - Organizational Rights

4.1 General

The BCCE, its officers and its designated building or site representatives shall have the following rights in addition to any other portion of this Agreement or rights conferred by law.

4.2 Use of Facilities

The Union has the right to use District facilities for Union and committee meetings. Such use shall be without charge provided the meetings are held when the facility custodian is normally on duty, or, when a custodian is not on duty, the District may authorize a unit member who will be in attendance at the meeting to assume responsibility for facility use and security. The Union assumes full responsibility for securing the facility in the same condition as it was prior to the Union's use or the Union shall pay the actual cost for doing so. District permit procedures for building use must be followed.

4.3 Information

4.3.1 The Union president and the CFT field representative shall each be sent a copy of:

- (a) The Board's agenda (including material contained in the packet but excluding confidential matters) at substantially the same time that said material is sent to Board members. The Board packets shall include personnel recommendations which are not to be considered in closed session and are submitted for final action. Personnel recommendations to be considered in closed session may be included at the Superintendent's discretion.
- (b) All audit reports, budget reports and classification reports, which are submitted to the Board of Education or the Personnel Commission

4.3.2 The Union has the right to material that will enable it to fulfill its role as the exclusive bargaining agent. This includes, but is not limited to:

- (a) Twice annually, in the event of a proposed layoff, and upon mutual agreement, the District shall provide the Union with all information related to employees including but not limited to their name, address, telephone number, status, classification, position, work site, hire date(s) and pay rate, to the extent this information can be computer-generated without reprogramming.
- (b) The District shall provide the Union twice annually (October 1 and March 1, approximately) a status report on all positions, including the name of the employee filling each position as well as any budgeted positions whether they are filled or not.

- (c) The District shall provide the Union with a current seniority list as follows:
 - (1) twice annually (October 1 and March 1, approximately),
 - (2) in the event of a layoff, and
 - (3) upon mutual agreement. Such information shall be provided in a mutually agreed upon format.

4.3.3 The District shall provide the Union with a vacancy report on a monthly basis that includes position location and position control numbers.

4.4 Copies of Agreement

The cost for providing copies of this Agreement shall be borne equally by the District and BCCE, and the Agreement shall be produced in sufficient quantities that copies will be issued to all unit members employed by the District during the life of this Agreement. The District will reimburse BCCE for one-half (1/2) the cost of producing the Agreement.

4.5 Release Time

4.5.1 Negotiations

A reasonable number of representatives of BCCE shall have a reasonable amount of release time for negotiations.

4.5.2 Contract Ratification and Review

Each unit member shall be given release time to attend one (1) meeting per school year for the purpose of contract ratification and review.

4.5.3 General Union Meetings

Unit members shall be allowed reasonable release time after 6 P.M. to attend general union meetings once per quarter of the academic year.

4.5.4 Conferences and Trainings

BCCE unit leadership may request and may be granted release time to attend conferences or training sessions of mutual benefit to the Union and the District. These requests must be approved by the Superintendent or designee.

4.5.5 Personnel Commission Meetings

At the unit member's or Union's request, the District shall grant release time to attend Personnel Commission meetings held during work hours normally not to exceed three (3) union representatives and any unit member directly affected by a matter to be considered by the Commission. If the Union believes that the presence of additional unit members is necessary, the Union shall give the Director of Classified Personnel reasonable notice in advance of the meeting, provided that agenda materials have been sent to the Union in a timely fashion.

4.6 Intra-District Mail System

The Union has the right to use the intra-district mail system. However, District personnel will not sort the mail. The Union and its designated representatives may also distribute organizational materials to its members by hand distribution to work location without impeding workflow.

4.7 Bulletin Boards

The Union shall have designated bulletin boards at each work location where unit members are assigned to announce meetings and to post Union-related materials. If no bulletin board is available, the Union may provide the bulletin board. Materials cannot be placed on Union bulletin boards or removed without permission from BCCE or its designated representatives. All postings shall be in compliance with applicable law and the Union is responsible for all postings.

4.8 New Unit Members

The Human Resources Department shall distribute to all new unit members a packet of informational materials which shall be supplied by the Union. The District shall provide a new employee orientation. The District and the Union shall establish a committee to develop an orientation program for new unit members. In addition, the Union will be allowed reasonable time (typically thirty (30) to forty-five (45) minutes) at any orientation meetings to address the new unit members.

4.9 Access

4.9.1 Union representatives shall be permitted reasonable access to the facilities of the District for the purpose of conducting Union business. Union business shall include, but not be limited to, the processing of grievances and distribution of Union information to unit members through their designated mailboxes. Union representatives shall have the right to enter facilities to post Union information on bulletin boards as noted in Section 4.7 above. No obscene or libelous material shall be posted or distributed.

4.9.2 Union representatives shall have the right to meet with unit members on their work site before or after their normal work hours or during the unit members' regular scheduled lunch or rest breaks. Union actions on District property shall not interfere with or disrupt normal school or work functions.

4.9.3 Union officials will notify the site supervisor, if possible, or otherwise make their presence known to the representative of the District at the site of their intent to visit and/or their arrival at a given work location.

4.10 No Threats, Discrimination, or Reprisals

The District and BCCE agree that neither BCCE officers, site representatives nor any other unit member shall be threatened, discriminated against, subjected to reprisals or otherwise unlawfully restrained or coerced because of the exercise of rights provided by law, the Education Code or this Agreement.

4.11 The District recognizes the Union's statutory right to any material related to representation and bargaining issues and agrees to provide such material promptly upon request by the Union.

4.12 Organizational Security

4.12.1 Any unit member who is a member of the Union or who has applied for membership may sign and deliver to the District an assignment authorizing deduction of membership dues, fees, and general assessments associated with membership in the Union. Pursuant to such authorization, the District shall deduct such dues, fees, and assessments from the regular salary check of the unit member each pay period in accordance with the schedule provided by the Union.

4.12.2 All unit members shall, as a condition of employment, have dues or an Agency or Fair Share Fee deducted from their salary starting with their first pay warrant. In no case shall the Agency Fee be greater than periodic dues and general assessments of the Union.

4.12.3 The parties agree further that the failure of any unit member to pay the equivalent of Union periodic dues, fees, or general assessments during the term of this Agreement shall constitute just and reasonable cause for discharge from employment. The District may exercise its right to automatically deduct the service fees under the provisions of Education Code Section 45168 in lieu of dismissing a unit member who refuses to sign a dues or agency fee authorization form.

4.12.4 Notwithstanding any other provisions of this Article, any unit member who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting labor organizations shall not be required to join, maintain membership in, or financially support the Union as a condition of employment, except that such unit member is required, in lieu of payment of an agency or fair share fee to the Union, to pay an amount equal to the fee to one of the following non-religious, non-labor organization charitable funds:

- (a) Berkeley High School Scholarship Fund
- (b) The Greg Brown Memorial Fund
- (c) The United Way
- (d) The American Heart Association.

Proof of payment pursuant to this paragraph shall be made by the unit member on an annual basis to the District as a condition of continued exemption from the provisions of sections 4.12.1 and 4.12.2 of this Article. Such proof shall be in the form of receipts and/or cancelled checks indicating the amount paid, date of payment, and to whom payment in lieu of the fair share fee has been made. Such proof shall be presented on or before June 1 of each school year. The Union shall have the right of inspection in order to review said proof of payment.

- 4.12.5 The Union agrees to furnish any information to the District to fulfill the provisions of this Article dealing with organizational security.
- 4.12.6 The District shall pay to the Union the service/agency/fair share fees, and membership dues, fees and general assessments deducted within a reasonable period of time after the deductions are made.
- 4.12.7 The Union shall indemnify and hold the District harmless from any and all claims, demands, or suits or any other actions arising from any of the provisions of this Article dealing with organizational security.

Article 5 - Nondiscrimination

- 5.1 The School Board and the Union subscribe to the principle of equal employment opportunity. Accordingly, neither the Board nor the Union shall discriminate, nor cause, nor attempt to cause the other to discriminate against any individual with respect to such individual's compensation, terms, conditions or privileges of employment because of such individual's race, color religion, sex, marital status, sexual orientation, national origin, ancestry, physical handicap, age, organizational affiliation, or exercise of any other rights guaranteed by state or federal law.
- 5.2 The Board and the Union agree that the intent of this Article is to restate California and Federal law with respect to equal employment opportunity. Should any provision of this Agreement, at any time during its life, be found in conflict with California or Federal equal opportunity laws, as such laws may be amended by legislation or interpreted by an appellate court, then such provision shall continue in effect only to the extent permissible under the applicable law. This Article is in no way intended to limit or deny in any way to any member of the bargaining units the opportunity to pursue legal remedies in other venues.

Article 6 – Personnel File and Other Unit Member Rights

6.1 Maintenance of Files

Personnel files for unit members shall be maintained at the Human Resources Department. The personnel file in the Human Resources Department constitutes the only official personnel file for personnel actions.

6.2 Right to Inspect

Materials in personnel files of unit members which may serve as the basis for affecting the status of their employment are to be made available for inspection by the person involved. Such material is not to include ratings, reports or records which: (a) were obtained prior to the employment of the person involved; (b) were obtained in connection with a promotional examination, or; (c) were prepared by identifiable examination committee members.

6.3 Every unit member or his/her designated BCCE representative who has written permission from the unit member shall have the right to inspect such materials upon request, provided that the inspection is made at the time when the unit member is not on duty. When reviewing a personnel file, the unit member or representative shall have reasonable privacy while under observation of a District representative.

6.4 Derogatory Information

Information of a derogatory nature, except material mentioned in Section 6.2 above shall not be entered into a personnel file. Information of a negative nature shall not be entered into a personnel file unless signed by the responsible author (if in accordance with the author's privacy rights), and dated, and a copy has been given to the unit member. Further, such information shall not be placed into a personnel file until the unit member has an opportunity to exercise the following rights: (a) to review and have attached to that document any comments the unit member wishes to make (such comments must be submitted within twenty (20) working days), and/or (b) request a review.

6.5 Right to Request Review

6.5.1 If the unit member takes issue with the material to be placed in the personnel files, he or she may request a review of said materials. Upon request, the Superintendent shall appoint someone to review the material as long as that person is not involved in the compiling of the substance of the matter under review.

6.5.2 Final determination as to whether or not a particular document warrants a formal review rests with the District. This determination of the need for formal review shall be made only after the affected unit member's comments on the document have been solicited.

6.5.3 The final decision to enter or exclude the materials from the unit member's personnel file shall rest solely with the District. The intent of this section is to ensure that only factual and correct information be placed in the permanent record of the unit member. Such review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary deduction.

6.6 Confidentiality

All personnel files shall be kept in confidence and shall be available for inspection only to other administrative employees of the District when actually necessary in the proper administration of the District's affairs or the supervision of the unit member. The date of inspection, along with the signature of the person(s) performing the same shall be entered permanently on the file at the time of each review.

6.7 Date of Receipt of Materials

Any written materials placed in a unit member's personnel file shall indicate the date it was received in the District Human Resources Department.

6.8 Removal of Materials

After one year, a unit member may petition the Superintendent or designee to remove written materials from his/her personnel file, excluding formal evaluations and disciplinary action or findings approved by the Board of Education, and sustained by the Personnel Commission on appeal. After three (3) years, upon written request of the employee, the material shall be removed.

6.9 Classification Specifications

6.9.1 Each newly assigned unit member shall be given a copy of the written classification specification for his/her position, which his/her supervisor shall review with the unit member within the first month of employment in that position. In addition, at that time the Supervisor shall review the assigned tasks for that position which must fall within the Classification Specification.

6.9.2 The District shall meet and consult with the Union prior to changing existing classification specifications (job descriptions) or creating new classifications.

6.10 Public Charges

Complaints against BCCE unit members made by any person, except as qualified herein, shall be processed in accordance with the District's Uniform Complaint Procedure. See Appendix B attached. This provision does not apply to unit member performance issues raised by other District employees with supervisory authority over the Respondent.

Article 7 - Performance Review

7.1 Goal

The basic goal of the unit member evaluation process is to help each unit member perform his/her present job more effectively to the mutual benefit of the individual and the District.

7.2 Objectives

7.2.1 To provide a means of evaluating each unit member's performance in the specific context of his/her job.

7.2.2 To determine individual needs for improvement and development.

7.2.3 To secure continuing communication of individual development.

7.2.4 To provide an opportunity to recognize and document outstanding service as well as service that has been unsatisfactory to the District.

7.3 Frequency of Evaluation

7.3.1 Probationary unit members shall be evaluated at least twice during their probationary period, normally during the second and fifth months.

7.3.2 Permanent unit members shall be evaluated between February 1 and May 1 of each school year, provided the unit member has been in permanent status in their current classification for at least four (4) months.

7.3.3 Permanent employees shall be evaluated at least annually.

7.4 Procedure

7.4.1 Performance review forms shall be mutually agreed upon. The evaluation form with instructions shall be attached as Appendix C.

7.4.2 A unit member shall be evaluated by the first level of management above the unit member or by an administrator who is reasonably well informed about the work activity of the evaluated unit member. No unit member shall evaluate another unit member.

7.4.3 It will be necessary in some cases for management to consult with the unit member's immediate supervisor in order to make a comprehensive evaluation.

7.4.4 Evaluation will be based primarily on observation of the unit member in the performance of his/her duties. Comments based on secondary information shall have supportive documentation identifying the source and circumstances and be given appropriate weight.

- 7.4.5 A unit member expected to receive a less than satisfactory evaluation will be informed in advance of a meeting with management to discuss the unit member's evaluation. Such unit member shall have the right to have a Union representative present at such a meeting, which shall be rescheduled within ten (10) working days, which may extend the May 1 evaluation completion date if necessary, to accommodate this right.
- 7.4.6 The unit member shall be informed of his/her right to prepare and have attached to the evaluation form any written comments which the unit member wishes to make.
- 7.4.7 Any evaluation which reflects a needs improvement or unsatisfactory rating shall be accompanied by a written explanation by the Evaluator and a remediation plan. The unit member shall have the right to review and respond, orally and/or in writing to an unsatisfactory evaluation pursuant to the provisions of Article 6 of the Agreement.
- 7.4.8 The unit member's signing of an evaluation form does not mean that the unit member agrees with the evaluation but it does mean that the unit member has had an opportunity to discuss the evaluation with his/her evaluator. The forms shall have a box on them where the unit member will be given the opportunity to check agreement or disagreement with the evaluation.
- 7.4.9 The unit member will be given a copy of his/her completed evaluation form at the time of signing.
- 7.4.10 Performance review shall be based on direct observation of the supervisor and/or on reliable documented information which has been verified by the supervisor. Any negative performance review shall contain specific recommendations for improvement. The unit member shall have the right to review and respond to any negative performance review. Performance reviews shall be given once annually.

7.5 Miscellaneous Provisions

- 7.5.1 Only evaluation procedures as set forth above are subject to the grievance mechanism.
- 7.5.2 In those cases where a unit member believes that his/her evaluation contains a blatant inaccuracy or is of a vindictive nature, the unit member shall have a right to seek administrative review within fifteen (15) working days, excluding vacation and holidays during which the unit member is not scheduled to work, of receipt of the evaluation. Said review shall first be made by the Director of Classified Personnel. If the unit member is not satisfied with that review, one shall be made by the Superintendent. Either the Director of Classified Personnel or the Superintendent can overturn an evaluation and direct that a new one be made.

Article 8 - Salary

8.1 Each unit member shall be paid based on his/her placement on the salary schedule in Appendix D.

8.2 Wages

8.2.1 Wages for 2012-2013

- (a) Effective July 1, 2012, the wages as set forth in the salary schedule for unit members shall be increased by two and one-half percent (2.5%).
- (b) Unit members employed for the 2012-2013 school year shall receive a one-time lump sum bonus equal to two and one-half percent (2.5%) of their salary as set forth on the salary schedule for 2012-2013.
- (c) The bonus set forth in (b) shall be paid by special pay warrant on or by August 30, 2013. This bonus is in addition to the bonus provided pursuant to the MOU dated September 14, 2012.
- (d) Retroactive payment associated with the salary increase under (a) shall be paid by separate pay warrant on or by August 30, 2013.

8.2.2 Wages for 2013-2014

Effective July 1, 2013, all rates and schedules for unit members, including the salary schedule, longevity merit pay, and professional growth salary awards, shall be increased by two and a half percent (2.5%).

8.2.3 Wages for 2014-2015

Effective July 1, 2014, all rates and schedules for unit members, including the salary schedule, longevity merit pay, and professional growth salary awards, shall be increased by two percent (2%).

8.2.4 Effective 45 days after ratification of this agreement, Operations and Support Services unit members shall be paid according to the salary schedule for the Instructional Assistant/Paraprofessional and Office, Technical and Business Services units, including any negotiated increase.

8.2.5 Effective 45 days after ratification of this agreement, the District shall pay the retroactive check(s) required by the above salary increases.

8.2.6 "Me Too" Clause

If the District agrees to a higher total compensation increase for any other bargaining unit during the term of this agreement, the District shall increase the total compensation for BCCE unit members by the same percentage.

8.3 Salary and PERS/STRS Contributions Notice

- 8.3.1 The step, FTE, hourly wage, and actual monthly salary based on FTE shall be presented in writing to each unit member (a) upon hire to the classification, and (b) by every November 1 thereafter.
- 8.3.2 The District shall provide timely notice to all unit members of unit member contributions to the Public Employees Retirement System or State Teachers' Retirement System on their behalf, which will appear on their pay remittance.

8.4 Work Out Of Classification

- 8.4.1 If a supervisor assigns a unit member to perform duties of a higher classification which are not described in his/her job classification, that unit member shall receive the salary of the higher classification for the period worked in the higher classification. The step placement shall be to at least that step which permits a five percent (5%) higher salary than that received in the unit member's normal classification, except that in cases where the highest step on the salary schedule at that new range gives the unit member less than five percent (5%), the unit member shall be paid at the highest step. Payment under this Section shall be handled in the same manner as overtime payment.
- 8.4.2 Instructional Assistants who possess valid teaching credentials that are on file with the District Human Resources Department (including those unit members who are in compliance with State requirements for serving as a substitute teacher e.g., authorization in the form of possession of a Bachelor's Degree plus CBEST certification) shall be given preferential consideration to substitute for an absent teacher in the classroom where the Instructional Assistant is regularly assigned. The rate of pay will be the daily rate for certificated substitutes.

8.5 Differential Compensation

- 8.5.1 All positions, the regularly assigned time of which requires the incumbents to work halftime or more between the hours of 7:00 p.m. and 7:00 a.m. shall be paid at a rate that is five percent (5%) higher than the rate that they would receive as day-time employees in that class. Unit members working less than four (4) hours between the hours of 7:00 p.m. and 7:00 a.m. shall be paid this differential for each hour so worked, in hourly increments, to the greater hour.
- 8.5.2 Unit members shall not lose their differential compensation if they are temporarily, for twenty (20) working days or less, assigned to a shift not entitled to such differential compensation. In those cases where a unit member is assigned for more than twenty (20) working days to a shift not entitled to differential compensation, he/she shall continue to receive the shift differential for the first twenty (20) working days.
- 8.5.3 The District may designate specific custodians to perform

site maintenance requiring the issuance of tool kits. When so designated, the custodian shall receive a five percent (5%) differential.

8.6 Minimum Days

8.6.1 Unit members shall receive full pay for minimum school days, provided they are at work for their assigned hours or, if they are not at work, they have been authorized in writing by their manager or supervisor to leave work before their normal ending time. Full pay means his/her regular assigned hours.

8.6.2 On minimum days, hours worked by Transportation and Food Service unit members may be consolidated into a single block of time, as long as the unit member receives regular pay for his/her normally assigned FTE. A unit member who works more than his/her normally assigned FTE on such days will be paid in accordance with this Agreement.

8.7 Timely Payment of Wages

The District shall provide all unit members timely payment of regular wages due on payday. The District shall provide all unit members with a schedule of regular paydays on September 1 of each year.

8.8 Twelve-Month Pay Option

For ten-month unit members, the District shall provide the option of regular wages paid over a twelve-month period.

8.9 Errors in Payment

8.9.1 Any paycheck for a unit member which is in error or misplaced by the District shall be replaced not later than three (3) working days following the unit member's request of the payroll department for replacement of the check.

8.9.2 Any paycheck of a unit member which is lost in the mail or after received by the unit member, shall be replaced no later than twenty-one (21) days following the unit member's written request to the payroll department for replacement of the check.

8.10 Overpayments

8.10.1 When an overpayment has been made to a unit member, the District shall notify the unit member in writing. Such notification shall include the following:

- (a) a detailed explanation of how the overpayment occurred;
- (b) the date(s) of the pay period(s) in which the overpayment occurred;
- (c) a calculation showing the amount of the overpayment and adjustment for Social Security, Medicare, and retirement.

- 8.10.2 Reimbursement of the overpayment shall be made on a repayment schedule mutually agreed upon by the unit member and the District.
- 8.10.3 If the District takes a recovery action to collect an overpayment that is not in compliance with this section, the District agrees to correct that unit member's pay warrant within three (3) business days.
- 8.10.4 A unit member whose employment terminates before the full reimbursement of an overpayment shall have the remaining amount owed withheld from the unit member's final pay warrant. If the amount is not sufficient to provide full reimbursement, the District may exercise other legal means to recover the remaining amount owed.
- 8.10.5 Any amount of overpayment for any period earlier than three (3) years prior to the date of the District's initial written notice to the unit member shall be deemed waived and not reimburseable.
- 8.10.6 The District shall correctly implement any court-ordered deduction notices upon receipt by the Payroll Department.
- 8.10.7 No withholding of alleged overpayment or garnished wages shall be made without prior written notice to the affected unit member.

8.11 Longevity Merit

Longevity/merit pay plan provides for the following increases paid per month while a unit member is in paid status:

	Effective July 1, 2013	Effective July 1, 2014
10 years of service	\$58.08	\$59.24
15 years of service	\$63.55	\$64.82
20 years of service	\$70.12	\$71.52
25 years of service	\$81.09	\$82.71
30 years of service	\$109.57	\$111.76

8.12 Professional Growth

8.12.1 Effective July 1, 2013, unit members shall be eligible to apply for Professional Growth salary awards as follows:

- (a) Forty-one dollars (\$41) per month for each nine (9) semester units of approved credits.

- (b) A maximum of seven (7) forty-one dollar (\$41) awards shall be available to unit members who qualify, with a maximum total award of two-hundred eighty-seven dollars (\$287) per month.

8.12.2 Effective July 1, 2014, unit members shall be eligible to apply for Professional Growth salary awards as follows:

- (a) \$41.82 per month for each nine (9) semester units of approved credits.
- (b) A maximum of seven (7) \$41.82 awards shall be available to unit members who qualify, with a maximum total award of \$292.74 per month.

8.12.3 Amounts in the Professional Growth program awards are the same for all regular unit members, regardless of their FTE.

8.12.4 Official documentation of approved credits must be provided to qualify for this program. Acceptable examples of documentation will be provided by the Human Resources Department.

8.13 Emergency Advances

Each unit member shall be granted a maximum of one (1) emergency advance per fiscal year, upon written request by the unit member. Such advances may only be drawn against earned income and, in all cases, the amount advanced shall be fully deducted from the unit member's next regular paycheck.

Article 9 - Compensation and Benefits

9.1 Each unit member working a regular assignment of five and one-half (5-1/2) hours a day (.73 FTE) or more shall be entitled to the following benefits on an ongoing basis during the term of their employment.

9.1.1 Effective January 1, 2015, the District contribution to the cost of the health plan selected by the unit member shall be increased by an amount equal to the cost of .5% salary increase for the unit as follows:

Level	District Contribution
Unit member only	\$880.71
Unit member plus one (1)	\$940.71
Unit member plus two (2) or more	\$1,073.90
Delta Dental (Status Quo)	\$66.15

Domestic partners are eligible dependents and the criteria for domestic partners shall be as defined in Appendix F.

All unit members will be given the opportunity to change carriers during the open enrollment period.

9.1.2 Dental Self-funding Benefits

For the current contract year the District will maintain the same level of benefits for dental care as has been in force for the 1989-96 contract through a self-funded dental plan. The cost of contributions by part-time unit members will be based on the current premium level. Unit member contributions to the dental plan shall be modified as follows: A twenty-five dollar (\$25.00) deductible shall apply only to the dependents of the unit member to a maximum of fifty dollars (\$50.00) per family.

9.1.3 **Life Insurance**

Increase life insurance coverage to fifteen thousand dollars (\$15,000) for bargaining unit members whose assignment is for .5 FTE or more, effective July 1, 1996.

Implementation of this provision shall be subject to agreement by all other bargaining units or the agreement of the carrier to make separate provisions for BCCE unit members. In addition, unit members with life insurance coverage may continue coverage after retirement or separation at their own expense to the extent permitted by the insurance carrier and in accordance with any limitation, rules, regulation or conditions of the carrier.

9.1.4 **Early Retirement**

- (a) Until age sixty-five (65), a unit member who has retired shall receive the same health and dental benefit coverage provided for other unit members covered by this Agreement, provided, however, that the carrier or carriers of such health and dental coverage for the other unit members covered by this Agreement shall provide such coverage for retirees. A unit member who has retired is defined as a person who is retiring under Public Employees' Retirement System (PERS) or State Teachers' Retirement System (STRS) and has been employed by the District for at least ten (10) years and is at least fifty-five (55) years of age, the last five (5) years of which were consecutive and immediately prior to retirement. In the event that the present carrier or carriers of such health and dental coverage cancel said coverage for unit members who have retired, the District will provide, if available, such health and dental coverage for those retirees under a different carrier or carriers. If a unit member who has retired is employed in an occupation in which he or she is eligible to receive comparable health and dental benefit coverage, the District shall not provide such coverage for this retiree.
- (b) After age sixty-five (65), a retired unit member may enroll in a District medical plan, with the premium paid in advance by the retiree, provided the carrier provides such coverage. This provision applies to the unit member only.
- (c) Retirees who have served in the Berkeley Unified School District for twenty (20) or more years shall receive medical coverage for themselves only, until age sixty-seven (67). Retirees covered under this section may, at their own expense, pay for the group medical coverage for their spouse.
- (e) For those unit members not covered by (a), (b), or (c), above, effective November 1988, the District contribution to the cost of the health plan selected by the retiree shall be the average of the cost of the three health plan carriers with the lowest premiums. Retirees who opt to enroll in a health plan with premium costs greater than the amount provided by the District will be required to pay the portion of the premium in excess of the above-referenced maximum annual premium. Payments shall be made to the District on a monthly basis, but at the option of the retiree, may be paid in advance. This section shall apply to unit members who retire after June 30, 1983. Unit members who retire prior to, or on June 30, 1983 shall not be affected by the provisions of this subsection.
- (f) All current and future retirees who have not turned age sixty-five (65) as of July 1, 2007 must enroll in Medicare as a condition to maintain District health benefits when they reach age sixty-five (65). Retirees at age sixty-five (65) must enroll in Medicare Parts A and B, and in their current carrier's Medicare senior plan. Retirees who are not yet sixty-five (65) but are nonetheless eligible for Medicare must also enroll in Parts A and B. The

District shall pay the Medicare Part B premium for all retirees who comply with these requirements.

9.2 Benefits Entitlement

All unit members who work an average regular assignment of less than five and one-half (5-1/2) hours a day (.72 FTE or less) shall be entitled to health insurance coverage and dental insurance coverage on a pro-rated basis. Pro-ration will be established by the relationship of the unit member's average regular daily working hours (FTE) to a 7-1/2 hour day (1.00 FTE)

9.3 Mileage

Any unit member required to use his/her vehicle on District business shall be reimbursed at the highest rate per mile allowed by the IRS for all miles driven on behalf of the District.

9.4 Training Compensation

See Article 21.1.

9.5 In Lieu Benefits

Unit members who demonstrate alternate medical plan coverage may elect to have eighty percent (80%) of the District's contribution directed into an annuity fund. The amount of such contribution shall be calculated at the rate which the District would have contributed for the employee only, under the Kaiser Health plan (High Option) at the premium rate established as of December 1. Unit members exercising this option must submit written notification to the Business Office thirty (30) days prior to the discontinuance of health plan coverage. Unit members who wish to reactivate health plans may not do so until the next open enrollment period which is currently the month of November.

9.6 Special Trips

9.6.1 Meal Allowance

On an out-of-town trip requiring the unit member to be away from his/her work site during times when meals would normally be consumed, the unit member is entitled to a meal allowance accordingly:

Breakfast	\$8.00
Lunch	\$12.00
Dinner	\$25.00

When eligible for full reimbursement, the unit member may submit receipts in any combination not to exceed \$45.00 per day.

Out of town trips do not include: Alameda, Albany, El Cerrito, Emeryville, Kensington, Oakland, Piedmont, Richmond and San Pablo.

9.6.2 Lodging

The District will provide separate lodging whenever possible.

9.7 State Disability Insurance Benefits

9.7.1 State Disability Insurance (“SDI”) Benefits and Family Temporary Disability Insurance (“FTDI”) SDI and FTDI premiums shall be paid by the unit member.

9.7.2 Eligibility for SDI benefits is determined by the Employment Development Department

9.7.3 In accordance with State law, no unit member shall be required to use vacation leave in conjunction with receiving SDI benefits; however, unit members are required to use two weeks accrued vacation before they are eligible for FTDI.

9.7.4 Unit Member Options. There are three options available to unit members who are otherwise eligible for SDI or FTDI benefits which are as follows:

- (a) Option 1: Use any accrued paid leaves and/or comp time before applying for SDI or FTDI benefits and taking an unpaid leave of absence. The unit member can switch to Option 3 after timely notice to the District.
- (b) Option 2: Apply for SDI or FTDI benefits without using any accrued paid leaves and/or comp time as a supplement to the SDI benefits. The unit member can switch to Option 3 after timely notice to the District.
- (c) Option 3: Apply for SDI or FTDI benefits and use any accrued paid leaves and/or comp time as a supplement to the SDI or FTDI benefit. The unit member must notify the District if he/she desires to integrate SDI or FTDI benefits with paid accruals under this option.

SDI or FTDI regulations shall apply to the integration plan.

9.7.5 Paid accruals used shall be equal to the number of hours necessary to compensate for the unit member’s regular wages less SDI or FTDI benefits. Normal and authorized deductions, including retirement contributions, will be deducted from the warrant in accordance with the law.

9.7.6 It is agreed that the District will handle the administrative process of pay warrants in conjunction with the integration of paid accruals and SDI and FTDI benefits.

9.7.7 In the event paid holidays occur during the period a unit member is receiving State Disability Insurance benefits, holiday pay shall be pro-rated in proportion to the amount paid as a supplement on the day before and/or day after the holiday.

9.8 Accrual of Vacation and Sick Leave

The unit member shall continue to accrue vacation and sick leave in accordance with the contract as long as they continue in a paid status with the District.

9.9 Health and Dental Contributions

- 9.9.1 For those unit members who do not receive a paycheck in July and/or August and/or whose July and/or August paycheck amount is not sufficient to cover the employee portion of premium costs pursuant to Sections 9.1, 9.1.1, or 9.2 prospectively, the District shall deduct the uncovered employee portions due from the unit member's pay warrants beginning with the following September end-of-month warrant and concluding with the following May end-of-month warrant (a period of nine (9) months). Unit members who do not have paycheck amounts sufficient to cover the employee portion of premium costs pursuant to Sections 9.1, 9.1.1, or 9.2 during the remainder of the year shall repay the District the uncovered employee portions for the months of September through June by the 15th day of the following month.
- 9.9.2 Upon termination of employment, any health premiums still owed to the District will be deducted from the unit member's final pay warrant.
- 9.9.3 If a unit member is on a District-authorized leave in which the District does not provide health coverage, the unit member may opt to continue health and dental coverage, as such coverage may be modified during the leave due to a qualifying event, at his or her expense.
- 9.9.4 All employee premium contributions for health and welfare will be paid on a pre-tax basis effective at the close of the re-enrollment period upon the completion of the appropriate forms at enrollment.

9.10 Benefits Cost Containment Committee

The District and the Union agree to establish a Joint Health & Welfare Benefits Cost Containment Committee that shall be authorized to meet with providers to review plan designs, coverage options, and carriers and to select the most cost effective quality health care coverage for employees for fiscal year 2004-2005 and beyond. Further, the District and the Union agree to submit this proposal to all other affected bargaining units for their approval and participation so that the Joint Health & Welfare Benefits Committee will include representation from all affected bargaining units. In the event that all other affected bargaining units do not agree to participate, the parties will meet to discuss the feasibility and ramifications of those decisions.

Regardless of the number of committee representatives for the District and for the certificated and classified unions, the District and the Unions collectively will have an equal number of votes.

Article 10 - Work Day/Work Year

10.1 Hours of Work

10.1.1 Work Week

(a) The work week of full-time unit members shall consist of five (5) consecutive days, usually Monday through Friday, seven and one-half (7 ½) hours per day, and thirty-seven and one-half (37 ½) hours per week. The District may employ persons for lesser periods of time. The regular work day or work week may be extended on an overtime basis when such is necessary to carry on the business of the District except as limited in the section dealing with overtime.

(b) Notice of Shift Change

The District will give five (5) calendar days notice regarding any shift change, whenever possible. It is not the District's intention to make shift changes to avoid paying overtime. A shift change is defined as a temporary change in the regularly scheduled work hours of the day, when such change is for six (6) work days or longer.

(c) Sign In/Sign Out

Each unit member in Maintenance, Berkeley High School custodians and such other worksite that has a documented existing sign-in sign-out procedure, shall continue to record and verify, on a daily basis, his/her beginning and ending work time each working day utilizing the current method.

The District shall provide the Union with a list of such worksites no later than thirty (30) days after ratification of this agreement. Worksites not provided to the Union by this date shall be governed by past practice.

10.1.2 Permanent Increases

(a) When an existing permanent position is assigned increased work time per day, the unit member in the same class who is working less than the new total number of hours per day and has the greatest seniority at the site where the adjustment is being made shall be offered the position with the increased work time. If the unit member who has the greatest seniority declines the additional hours, the additional hours will then be offered to the unit member in the next order of seniority in that class at the site. If no one at the site accepts the additional hours, it will be made subject to the transfer policy as set forth in this Agreement. The District shall not grant a vacant position to an outside applicant so long as there is a permanent unit

member in the classification who meets the criteria set forth in the transfer article. When an existing permanent position is assigned increased work time under this Article, in no event shall the total permanent time assigned exceed 1.0 FTE.

- (b) Article 23, Transportation Department, sets forth the bidding procedures for bus drivers.

10.1.3 Lunch Periods

- (a) All unit members shall be entitled to an uninterrupted unpaid lunch period. The length of time for such period shall be for a period of no longer than one (1) hour nor less than one-half (1/2) hour and shall be scheduled for all unit members who work five (5) hours or more, at or about the midpoint of each work shift.
- (b) All night custodians shall have a one-half (1/2) hour paid duty-free lunch period included in the seven and one-half (7 ½) hour work day. All night custodians shall remain on campus during their lunch period except in case of emergency.

10.1.4 Rest Periods

All unit members shall be granted rest periods which insofar as practicable shall be in the middle of each work period at the rate of fifteen (15) minutes per three and three-quarter (3 ¾) hours worked or major fraction thereof. One (1) rest period of a total of thirty (30) minutes on evening shifts may be scheduled with the mutual agreement of the unit member and the supervisor. Other arrangements may be made with mutual agreement, but in no case shall the breaks total more than thirty (30) minutes per work shift. Break time for part-time unit members shall be at the following rates:

3 hours but fewer than 5	one 15-minute break
5 hours but fewer than 6	one 20-minute break (or two 10-minute breaks, with mutual agreement of the unit member and the supervisor)
6 hours or more	two 15-minute breaks

Each unit member is expected to use this period for relaxation. This period is not to be used to lengthen the meal period or to shorten the workday. Unit members shall be provided with notice of the normal time(s) for their rest periods in writing by their manager or supervisor.

10.1.5 Exceptional Work Days

When a unit member is assigned to a field trip or otherwise assigned thereby preventing his/her uninterrupted lunch and/or rest breaks, the unit member shall

be allowed to reduce his/her normal work day with no loss of pay by the same amount of time which would have otherwise been granted if the unit member had not been on a field trip assignment, as granted by 10.1.3 and 10.1.4 above. The release time shall be granted within five (5) working days if requested by the unit member. If taken on a day other than the day this occurred, release time shall be taken in 1-1/2 time. Earned comp time off shall be by mutual agreement between the unit member and the supervisor.

10.2 Overtime

10.2.1 Definition

Overtime for day and night shifts is defined for the bargaining units to include any overtime worked in excess of seven and one-half (7-1/2) hours in any one (1) day or in excess of thirty-seven and one-half (37 ½) hours in any calendar week. In addition, a unit member working five (5) consecutive days for four (4) or more hours shall receive overtime for any work required to be performed on the sixth (6th) and seventh (7th) day following the commencement of the work week.

10.2.2 Cash or Compensatory Time Off

- (a) Compensation for overtime work shall be either in cash or in compensatory time off. At the time that the overtime is assigned, the supervisor, after considering the unit member's preference, will indicate whether the unit member will be compensated in cash or in compensatory time off.
- (b) Compensation in cash shall be paid at a rate equal to one and one-half (1 ½) times the unit member's regular rate of pay for the overtime work. Subject to the unit member's timely submission of the time sheet, said cash compensation shall be paid no later than fifteen (15) calendar days after the last day of the pay period in which it was earned.
- (c) Compensatory time off must be taken within twelve (12) months of the time that the overtime is worked. The 12-month period within which compensatory time off must be taken may be extended by mutual agreement of the unit member and the immediate supervisor involved. Compensatory time taken shall be on a time and one-half (1 ½) basis for each hour worked overtime. It must be taken at a time mutually agreed upon by the unit member and the immediate supervisor involved. Yearly accrual of compensatory time shall be limited in accordance with the Fair Labor Standards Act (FLSA).

10.2.3 Rotation

- (a) Overtime shall be offered to permanent unit members by job classification on a rotation basis within each department and at each school site in order

of seniority. Refusal by any unit member of any overtime assignment shall not waive his/her right under this section to be offered any subsequent overtime.

- (b) For Maintenance, Custodians, School Safety Officers and Bus Drivers, and Food Service, a master seniority list for each group of unit members will be provided to the Union October 1 of each calendar year. Seniority for purposes of rotation is defined as the date of entry into the classification of Custodian, School Safety Officer, Bus Driver or a Maintenance Department or Food Service classification.
- (c) Overtime for Maintenance, Custodians or Safety Officers at a specific work site will first be offered to all qualified site unit members in the classification affected by the overtime. If no one is available, then the overtime is to be offered to the most senior unit member in the classification in the District regardless of work location. If no unit member in the classification is available, then the overtime may be offered to any unit member qualified to perform the overtime.
- (d) Maintenance Department overtime that is required to be performed by a specific trade shall be offered to those with the required skill to perform the overtime in seniority order.

10.2.4 In emergency situations, District requests for overtime must be honored.

10.2.5 Overtime shall normally have prior approval. Overtime worked without prior approval may not be honored.

10.2.6 Extra Hours for Part-Time Unit Members

Extra hours for part-time unit members shall be treated and assigned in the same manner as overtime pursuant to this section and will be offered to permanent unit members before being offered to substitute employees. Extra hours for Instructional Assistants will be offered by program and/or work sites.

10.3 Stand-by Time

Stand-by time may occur either on District premises or away from District premises (e.g. athletic events, field trips, curricular trips, etc.). All stand-by time shall be considered as regular hours of work and shall be compensated on a straight time or overtime basis as are other hours of work under this Agreement.

10.4 Call-Back Time

A unit member called back to work after completion of his/her regular assignment shall be compensated for at least two (2) hours of work at the overtime rate. When such unit member is called back within two (2) hours of the beginning of a previous call, the unit

member shall not receive an additional two (2) hours' credit for the new call-back unless the unit member has returned home. This provision shall not apply to extension of the unit member's regularly scheduled work day. A unit member shall make an effort to cooperate with a request for call-back time. Call back time for bus drivers shall be subject to the provisions of Article 23, Transportation Department.

10.5 Special Trips

When a unit member is assigned to go on an out-of-town trip, the unit member shall be paid from the time that he/she is assigned to report until he/she ceases working or until the regularly scheduled end of his/her work day, whichever is greater. On the second and succeeding days of such trips, when the return trip is made, the unit member shall be paid from the start of his/her normal working day until he/she returns to the District and completes his/her assignment. On said trips when a unit member lays over for a day, he/she shall be paid according to his/her regularly scheduled hours or actual working time, whichever is greater. A unit member is not required to accept assignments for out-of-town trips.

10.6 Work Year Assignment

10.6.1 The 2013-2014 work year assignment schedule attached as Appendix E is incorporated herein. For work years 2014-2015 and thereafter, the work assignment schedule attached as Appendix E will be in effect. The work year assignment schedule includes the unit member's start and end dates and recess, winter and spring semester break assignments. This schedule does not apply to 12-month classifications.

10.6.2 All unit classifications will adhere to the work year assignment schedule, except in cases of certain categorical funded positions that begin late in the year or end prior to the last day of instruction. In the event that any existing position is omitted, the parties agree to meet in order to give that position its proper work year assignment.

10.6.3 If the District determines that any unit member within a job classification listed is needed to work any partial or additional days, said assignments shall be made according to District seniority at each site by job classification necessary to perform the requisite duties. If a site unit member(s) in the classification rejects the additional assignment(s), unit members at other sites in the same classification required will be offered the work in order of seniority in that specific classification.

10.6.4 The District will establish the work year assignment schedule for all new positions within a classification after consultation with the Union.

10.6.5 Food Service Work Year

Snack Bar Operators, Central Kitchen Managers, Food Service Assistants, Senior Food Service Assistants, Food Service Satellite Operators, Secondary Schools

Production Supervisor and Delivery Drivers working in Food Service shall have two (2) paid days prior to the first day of instruction of the first semester of each school year to be used for training or preparation for school.

10.7 Partial Retirement - Reduced Work Time

Subject to approval by the District, unit members may reduce their work assignment from full-time to part-time. If unit members wish to reduce their work assignment and maintain retirement benefits pursuant to Section 20819 of the Government Code, the following regulations shall apply:

- 10.7.1 The unit member shall have reached the age of fifty-five (55) prior to reduction in work assignment.
- 10.7.2 The unit member shall have been employed by the District in a classified position for at least ten (10) years of which the immediately preceding five (5) years were full-time employment. For purposes of this section, "full-time" shall be defined as the unit member's current FTE if that FTE has been consistent for the preceding five (5) years prior to the unit member applying for partial retirement/work assignment. If the FTE has not been consistent over the preceding five (5) years, then the following formula will be used to determine "full-time" for the purposes of this section: Current FTE plus FTE for preceding four (4) years divided by five (5) and rounded to the nearest half hour.
- 10.7.3 If the unit member has worked at different FTE levels in any one (1) or more fiscal years, the FTE worked the majority of the fiscal years shall be used as the FTE for that year. During the period immediately preceding a request for a reduction in work assignment, the unit member shall have been employed full-time in a classified position for a total of at least five (5) years without a break in service. Break shall be defined for purposes of this section as an actual termination of employment.
- 10.7.4 The option of part-time employment shall be exercised at the request of the unit member and can be revoked only with the mutual consent of the District and the unit member. Should the unit member elect to return to full-time status, with the District's consent, during the term of the 5-year program or at the end of the fifth year at the employee's choice, the unit member shall have bumping rights to ensure his/her return to the same FTE in the classification held by the unit member prior to taking a reduced work assignment.
- 10.7.5 Unit members shall be paid a salary which is a pro-rated share of the salary he or she would have been earning had he or she not elected to exercise the option of part-time employment. The unit member shall retain all other rights and benefits to which he or she was entitled as long as he or she continues to make the payment that would be required if he or she had remained in full-time status.

- 10.7.6 The minimum part-time employment shall be equivalent to one-half of the employee's FTE at the time the unit member applies for reduced work assignment or as defined in Article 10.7.2 above.
- 10.7.7 The period of part-time classified employment shall not exceed five (5) years. At the end of the fifth year, the unit member must return to full-time service as defined herein or take full retirement.
- 10.7.8 The period of part-time classified employment shall not extend beyond the end of the school year during which the unit member reaches his or her 70th birthday.
- 10.7.9 Any change in the percent (FTE) during the 5-year period may be requested by either party but granted only by mutual consent.
- 10.7.10 The unit member and the District shall continue to pay retirement contributions to the Public Employees' Retirement System (PERS) or the State Teachers' Retirement System (STRS) based upon the FTE considered to be full-time for the employee at the time they enter the program.
- 10.7.11 All PERS and STRS rules and regulations will be followed by the unit member and the District.
- 10.7.12 A copy of the Agreement for reduced work assignment between the unit member and the District shall be sent to the Union Office.

Article 11 - Leaves

11.1 Leaves of Absence Without Compensation

- 11.1.1 Leave of absence without pay for any period not exceeding one (1) year may be granted to a permanent unit member upon the written request of the unit member and the approval of the Superintendent or his designee. Such request shall be made at least one (1) month in advance of the proposed leave, when possible, and shall not be unreasonably denied.
- 11.1.2 After the first year, additional leave may be granted in one (1) year increments. The unit member shall be required to substantiate the need for a leave beyond one (1) year.
- 11.1.3 A unit member shall not lose any accrued seniority rights by reason of an approved leave of absence.
- 11.1.4 Such leave shall not count as an additional year of experience for any purpose unless agreed to in writing by the Director of Classified Personnel prior to the leave.
- 11.1.5 A unit member on such leave shall be permitted to make his/her contribution and the District's regular contribution to all benefit programs requiring contributions as permitted by law and consistent with the requirements of the insurance carrier, as well as other restrictions which may be placed on the benefit program by entities apart from the District.
- 11.1.6 Leave of absence without pay may be granted for any period not exceeding one year, except that leave of absence for military service shall be granted as provided by Education Code and the Military and Veterans' Code and leave of absence for service in the Peace Corps or the Red Cross or Merchant Marine during time of national emergency, may be granted for a period not to exceed twenty-four (24) months.
- 11.1.7 The granting of a leave of absence without pay gives to the unit member the right to return to a position in the same classification in the District at the expiration of his/her leave of absence, provided that he/she is physically and legally capable of performing the duties.
- 11.1.8 Either the District or a unit member may cancel or modify an unpaid leave previously agreed to with due notification to the other party upon mutual agreement of both the District and the unit member involved. If no mutual agreement can be reached, the original agreement or decision with regard to said leave shall be binding on both the District and the unit member.
- 11.1.9 Failure to report for duty within five (5) working days after a leave (a) expires, or (b) has been cancelled or modified in accordance with section 11.1.8, shall be considered an abandonment of the position and the unit member may be

terminated by the Board of Education. The termination may be appealed to the Personnel Commission in the same manner as any other dismissal for cause. This provision is not applicable to Military Leave.

11.1.10 If a unit member cannot be placed in a vacant position in his/her class upon return from leave of absence, he/she shall have bumping and reemployment rights in accordance with his/her seniority, in the same manner as if he/she has been laid off for lack of work or lack of funds on the date his/her leave expires.

11.1.11 Child Rearing Leave

A leave of absence without pay may be granted to a unit member from the date of the birth or the adoption of a child. Such leave will normally be for not more than a six (6) month period and may be extended up to an additional year. Such leave shall be without compensation or credit toward service.

Under special circumstances, a child rearing leave of up to one (1) year may be granted by the District for the purpose of attending to the needs of a dependent child.

11.1.11 Pregnancy Disability Leave

(a) All female unit members, regardless of service with the District, shall be entitled to take a pregnancy disability leave in accordance with state law if they submit written verification from their health care provider that they are actually disabled by pregnancy, childbirth, or related medical conditions.

(b) Length of Leave

(1) Leave of up to four (4) months may be taken, as needed, for the period(s) of time a unit member is actually disabled.

Four (4) months means the number of days the unit member normally would work within that four (4) month period.

(2) A unit member who works fewer than five (5) days a week, or fewer than seven and one-half (7.5) hours per day, receives leave on a pro rata or proportional basis.

(c) Intermittent Leave

The leave may be taken intermittently or in a reduced work schedule when medically advisable, as verified by the health care provider of the unit member.

(d) Compensation

The leave is unpaid. A unit member may elect, however, to use accrued paid leave (including, but not limited to, sick or vacation leave and compensatory time off) during the otherwise unpaid portion of the leave. The District may not require a unit member to use accrued paid leave during the otherwise unpaid portion of the leave.

A unit member who is unable to perform her usual work because of illness or injury resulting from pregnancy, childbirth, or a related medical condition may be eligible to receive benefits through the State Disability Insurance program while she is on leave.

(e) Benefits

During the leave, a unit member will receive District-paid benefits at the same level as if the unit member were not on leave. A unit member will continue to accrue seniority during the leave period.

(f) Transfer to Lighter Duty/Reasonable Accommodation

A unit member may request a transfer to a lighter-duty position (or to a less strenuous or hazardous position) or reasonable accommodation. Such requests shall be granted or denied in accordance with state law.

(g) Notice

A unit member must provide the District at least fifteen (15) days' advance notice before leave is expected to begin. If fifteen (15) days' advance notice is not practicable (for instance, because of a lack of knowledge of approximately when leave or transfer to lighter duty will be required to begin, a change in circumstances, or a medical emergency), notice must be given as soon as practicable.

(h) Medical Certification of Need for Leave

The District will require medical certification of the need for leave. The medical certificate should contain:

- (1) The date on which the unit member became disabled due to pregnancy;
- (2) The probable duration of the period or periods of disability; and
- (3) An explanatory statement that because of the disability, the unit member is either unable to work at all or is unable to perform one (1) or more of the essential functions of her position without undue risk to herself, other persons, or her pregnancy.

(i) Release to Return to Work

Prior to returning to work, a unit member shall obtain, and submit to the District, a written release from her health care provider to return to work.

(j) Reinstatement

A unit member will be reinstated in accordance with state law.

11.2 Leaves with Compensation

11.2.1 Definition

Paid leave hours that a unit member is entitled to on a given day of leave shall be the same number of hours as his/her regularly scheduled daily hours.

11.2.2 Sick Leave

- (a) Sick leave is the authorized absence of a unit member because of illness, injury, exposure to contagious disease, or necessary appointments for health treatment. Every effort will be made by the unit member to schedule necessary appointments during non-duty hours.
- (b) A regular unit member shall earn paid sick leave at the rate of one (1) day per month worked, in accordance with the provisions of Education Code Section 45191. Unused sick leave may be accumulated without limit.
- (c) At the beginning of each fiscal year, the accrued leave balance of the unit member shall be increased by the number of days of paid leave which he/she would normally earn in the ensuing fiscal year. A unit member's accrued sick leave balance shall be adjusted if a change of assignment alters the amount of sick leave earnable.
- (d) Sick leave may be taken at any time, except that new unit members with probationary status may use only six (6) days of paid sick leave during their initial probationary period.
- (e) There shall be no loss of sick leave due to illnesses, communicable disease or injury contracted through work or work-related incidents provided that the appropriate procedures for claiming Workers' Compensation have been complied with and an award of Workers' Compensation has been made in such a manner as to substitute for the use of sick leave.
- (f) The unit member may convert unused sick leave to retirement credit if the unit member is filing a request for retirement.
- (g) Notice: In order to receive compensation while absent on sick leave, the unit member must notify the District accordingly.

- (1) Unit members holding positions or portions of positions which normally require substitutes must notify the Substitute Management System or his/her immediate supervisor no later than one (1) hour prior to the first working hour of the first day absent and in no case later than 8:00 a.m., unless conditions make notification impossible. The burden of proof shall be on the unit member.
- (2) Unit members holding positions which do not normally require substitutes shall notify the Substitute Management System no later than one (1) hour prior to the first working hour of the first day absent on the day shift or three (3) hours prior to the start of the work day on the night shift, unless conditions make notification impossible. The burden of proof of impossible conditions shall be upon the unit member.
- (3) The intent of this section is that the unit member will notify the District of a pending absence as soon as possible.

(h) Return to Work

Prior to 3:00 p.m. on the day prior to his/her expected return to work, the unit member shall notify his/her immediate supervisor in order that any substitute employee may be terminated. If the unit member fails to notify his/her immediate supervisor and both the unit member and the substitute report, the substitute is entitled to the assignment and the unit member shall not receive pay for that day.

(i) Verification

A unit member absent for five (5) consecutive working days or more shall be required to present a doctor's statement stating the dates of the medical leave and the date the unit member is able to return to work. Such statement may be required for absences of fewer than five (5) days if the District has substantial reason to believe that there exists a pattern of abuse of paid sick leave on the part of the individual. Prior written notice shall be given to the unit member if the District desires verification for fewer than five (5) days' absence.

(j) Sick Leave Incentive

Those unit members who do not use any sick leave and or personal leave during the fiscal year shall receive four (4) bonus days of vacation. Those unit members who use three (3) or fewer days of sick leave and/or personal leave during the fiscal year shall receive two (2) bonus days of vacation.

(k) Sick Credit for Ten- and Eleven-Month Unit Members Working Summers

The District will credit sick time for ten- and eleven-month unit members who work during the summer at the rate of 0.006153 days of sick time for every hour worked during the summer. The District will credit unit members with this time during the next school year following the summer.

11.2.3 Maternity/Paternity Leave

- (a) Maternity/paternity leave shall be available for a parent in connection with the arrival of a new child either through birth or adoption of a child. A unit member must have worked for the District at least one (1) year before he/she is eligible to take maternity/paternity leave under this provision.
- (b) For the first seventy-five (75) working days of maternity/paternity leave, the unit member shall receive 66 2/3 % of the unit member's regular salary and shall continue to receive health and welfare benefits. For unit members hired after February 23, 1978, during the first seventy-five (75) days of maternity/paternity leave, the unit member shall instead receive 50% of regular salary but shall continue to receive health and welfare benefits.
- (c) After exhaustion of the seventy-five (75) days of maternity/paternity leave, the unit member shall, upon written request, submitted not later than twenty (20) working days prior to the expiration of the above-referenced seventy-five (75) days of maternity/paternity leave, be placed on extended maternity/paternity leave without pay until the end of the unit member's work year. The unit member shall have the right to pay any or all fringe benefit premiums during this period. Additional maternity/paternity leave without pay may be requested and granted either pursuant to the provisions set forth in Article 11 or after the first year, up to four (4) additional years in total duration with the provision that it extends beyond the first year in which it is taken and must be taken in annual increments.
- (d) If a woman desires to return to work during the time she is nursing, reasonable efforts will be made to arrange for her schedule in such manner as to give her time to nurse the child or to pump breast milk.
- (e) The seventy-five (75) working days used in this article (in this instance defined as the days for which the unit member is paid) must be consecutive with the beginning date of the leave. Once a unit member returns to duty, the maternity/paternity leave and all of its provisions shall be terminated.
- (f) The unit member shall substantiate any portion of this leave upon request of the District.
- (g) A unit member shall be granted a leave of absence from duties because of personal pregnancy, miscarriage, childbirth or adoption and recovery therefrom. After consultation with the Director of Classified Personnel, a

woman may begin maternity leave at such time as she and her doctor deem advisable.

- (h) In the event of absence due to medical disability caused or contributed to by pregnancy, miscarriage, childbirth, or adoption, and recovery therefrom, a unit member shall be entitled to utilize available sick leave.

11.2.4 Bereavement Leave

- (a) A unit member is entitled to three (3) days of bereavement leave or five (5) days if the unit member must travel out of state due to the death of a member of the unit member's immediate family. This is to be without loss of pay nor will it be charged to any authorized absence. In the event of the death of a unit member's spouse, domestic partner, or child, the unit member shall be entitled to a maximum of five (5) days of bereavement leave.
- (b) A member of the immediate family means: mother, father, stepfather, stepmother, foster parent, guardian, father-in-law, mother-in-law, or a grandparent or grandchild of the unit member or the spouse or domestic partner of the unit member, son, daughter, son-in-law, daughter-in-law, brother, sister, uncle, aunt, niece, nephew or any other relative living in the immediate household of the unit member.
- (c) Regular unit members may utilize the provisions of bereavement leave for one (1) occurrence other than that provided in the Education Code and the Rules and Regulations of the Personnel Commission. This provision is to enable a unit member to be granted bereavement leave for a person with whom the unit member has a unique relationship. The unit member shall exercise this provision only with prior approval of his/her Department Head unless impossible conditions preclude such prior approval. Upon request, the reasons for denying such leave will be provided in writing.

11.2.5 Jury Duty or Witness Service

- (a) A unit member when officially summoned to jury duty or subpoenaed to appear as a witness before any state or federal court, administrative tribunal or legislative body, not as a litigant, may serve or comply with such subpoena without loss of pay, and shall not be required to work on appearance days if a substitute is hired to replace the unit member, if the unit member works swing or evening shift, or if service to the courts or other body equals one-half (1/2) or more of the unit member's normal work days including travel time. However, any fee or allowance received for such duty served on District time (exclusive of amounts specifically designated for mileage or travel, meals, lodging and parking) will be reimbursed to the

District. Such fees, and allowances shall be sent to the Accounting Office upon receipt.

- (b) A request to be excused from work for such jury duty or witness service shall be accompanied by a copy of the notification of such jury duty from the court or the summons and shall be submitted to the unit member's immediate supervisor as far in advance as possible.

11.2.6 Military Leave

Military leave of absence shall be granted and compensated in accordance with the Military and Veterans' Code. Compensation shall be understood to be in the same jury duty.

11.2.7 Personal Necessity Leave

- (a) A unit member may elect to use up to seven (7) days in any one fiscal year of his/her earned sick leave for the purpose of personal necessities which may fall in the following categories:
 - (1) Bereavement leave which may be necessary beyond that authorized in this Agreement.
 - (2) Personal emergency involving his/her person or property, or property of a member of his/her immediate family.
 - (3) Appearance in any government court or before any government administrative tribunal as a litigant, a party, or as a witness under subpoena, or any order made by the court or administrative tribunal with jurisdiction.
 - (4) Serious or critical illness of member of immediate family.

11.2.8 Personal Leave

- (a) A unit member may use four (4) days of his/her earned sick leave during the fiscal year for personal reasons. This leave may be taken in one-half (1/2) day increments.
- (b) Unit members intending to take such personal leave shall notify the site administrator prior to taking the leave.

11.2.9 Vacation Leave

The District and Union agree that vacation leave is provided for the benefit and health of the unit members. The District and the Union agree that vacation should be used. The District intends that no unit member will carry more than two (2) years of vacation accrual.

(a) Accrual

- (1) A unit member who is employed to serve fewer than twelve (12) months per fiscal year shall accrue vacation with full pay in accordance with the schedule below. No unit member shall accrue any paid vacation leave for any period of leave without pay, absence without leave, or suspension.

Years of Service	Vacation Accrual Rate
Less than 4 years	10 days per year
4 years but less than 10 years	15 days per year
10 years but less than 21 years	20 days per year
21 years or more	25 days per year

- (2) A unit member who is employed to serve twelve (12) months per fiscal year shall accrue two (2) additional days of vacation per year at each step as follows:

Years of Service	Vacation Accrual Rate
Less than 4 years	12 days per year
4 years but less than 10 years	17 days per year
10 years but less than 21 years	22 days per year
21 years or more	27 days per year

- (3) Regular employees (permanent, probationary, restricted) employed on or before January 17, 1978 shall accrue vacation leave as provided in Appendix H.

- (4) Vacation Credit for Ten- and Eleven-Month Unit Members Working Summers:

The District will credit vacation time for ten- and eleven-month unit members who work during the summer at the rate of 0.006153 days of vacation time for every hour worked during the summer. The District will credit unit members with this time during the next school year following the summer.

- (b) Vacation for twelve-month unit members may, with the approval of the District, be taken at any time during the school year. If the unit member is not permitted to take his/her full annual vacation, the amount not taken

shall accumulate for use in the next year or be paid for in cash at the option of the District.

- (c) No vacation request shall be unreasonably denied.
- (d) When two (2) or more unit members request the same vacation time on the same day and the department head or designee cannot grant the vacation time to all unit members requesting it, vacation requests shall be granted based on departmental and District needs in order of seniority.
- (e) A unit member who has an approved vacation which is canceled by the District may opt to be paid in cash for that vacation at the end of the school year.
- (f) Unit members who wish to carry over a portion of all of his/her annual vacation to the subsequent year for a special purpose may be permitted to do so with specific approval of the supervisor and the Director of Classified Personnel.
- (g) Earned vacation shall not become a vested right until completion of the initial six (6) months of employment.
- (h) Upon separation from service, the unit member shall be entitled to lump sum compensation for all earned and unused vacation, except that unit members who have not completed six months of employment in regular status shall not be entitled to such compensation.
- (i) **Illness While on Vacation:**
 - (1) If a unit member, with five (5) or more years of service, commencing authorized paid vacation subsequently becomes ill or is injured and such illness or injury requires hospitalization and/or house confinement under doctor's orders for a minimum of three (3) days, the unit member may request time spent in the hospital or house confinement be charged against sick leave. The unit member's request must be submitted in writing through his/her principal or Department supervisor within three (3) working days after his/her return to duty. A verification from the hospital or private physician (whichever applies) must accompany the unit member's request.
 - (2) When all or part of a unit member's vacation is to be converted to sick leave, the appropriate vacation credit shall be restored to the unit member's earned vacation balance. The credited vacation may be rescheduled later as department needs permit.
- (j) **Less than 12-month Unit Member Vacation** - Unit members may be granted up to three (3) vacation days during their regular work year with prior

approval by their immediate supervisor. Unused vacation for unit members working less than twelve months will be paid out in a lump sum in July of the following fiscal year.

(k) Vacation may also be earned in accordance with section 11.2.2 (j) of this Article.

(l) Use of Accrued Vacation

No unit member shall carry over vacation in excess of two (2) years' vacation to another fiscal year except as described in Article 11.2.9 (b) and (f). The District may, in consultation with the unit member, establish a plan for reduction of any excess vacation existing as of July 1, 2003.

11.2.10 Extended Sick Leave

(a) Extended sick leave shall be used only after exhaustion of all other paid leave. The District will make every effort to notify unit members of their right to apply for this benefit prior to reducing salary after other paid leaves have been exhausted.

(b) Each unit member in the bargaining unit shall once a year be credited with a total of one hundred (100) working days of sick leave including days to which he/she is entitled under Education Code Section 45191. Such days of extended sick leave, in addition to those under the accumulated sick leave provisions shall be compensated at fifty percent (50%) of the unit member's regular salary. Total paid days of extended sick leave days in a fiscal year shall be computed by subtracting from one hundred (100) the total number of sick leave days accumulated by the unit member in a fiscal year.

(c) Once the extended sick leave is started, the extended leave authorized under this Article shall be exclusive of any other paid leave, holidays, vacation, or compensating time to which the unit member is entitled while extended sick leave is being used.

(d) Extended paid sick leave under this Article shall not be accumulated from year to year.

11.2.11 Industrial Accident and Industrial Illness Leave

(a) A unit member who is absent from duty because of an illness or injury defined as an industrial accident or industrial illness under provisions of the Workers' Compensation Insurance Law shall be granted paid industrial accident leave for each such accident or illness while receiving temporary disability benefits from Workers' Compensation or by the District's self-insurance program, provided that:

- (1) He/she has probationary or permanent status.
 - (2) In the opinion of the Superintendent or his/her designated representative the illness or injury constitutes an industrial accident or illness or, if contested by the District, it is ultimately determined to be work connected.
- (b) Paid industrial accident leave shall be for not more than sixty (60) days in any fiscal year.
 - (c) Paid industrial accident leave shall be reduced by one day for each day of authorized absence regardless of the temporary disability allowance under Workers' Compensation or the District's self-insurance program. Days absent while on paid industrial accident leave shall not be deducted from the number of days paid illness leave to which a unit member may be entitled.
 - (d) If the unit member is still unable to return to duty after exhausting paid industrial accident leave, the unit member shall be placed on paid illness leave if he/she is eligible therefore. Accumulated illness leave will be reduced only in the amount necessary to provide a full day's wages or salary, as indicated in the unit member's assignment, when added to compensation without penalties from the State Compensation Insurance Fund or the District's self-insurance program.
 - (e) After all paid industrial accident leave is exhausted, a unit member may choose to receive pay from accrued vacation, earned compensatory time, or other earned leave to the extent necessary to make up the unit member's regular salary when receiving a temporary disability allowance without penalties from the State Compensation Insurance Fund or the District's self-insurance program.

After expiration of all paid leave privileges, the District may place the unit member on an industrial accident leave without pay if the unit member is not medically able to return to his/her regular position and cannot be placed in another position in accordance with the Medical Transfer provision of this contract. The total time of all leave benefits provided under this subsection including unpaid industrial accident leave, shall not exceed thirty-six (36) months for any industrial accident or industrial illness.

- (f) Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness, a unit member shall be assigned to a position in his/her former class, he/she may displace the most recently appointed unit member in the class with less seniority. If a unit member's former class has ceased to exist, the unit member may be reassigned or placed on a suitable employment list.

- (g) A unit member returning from such paid or unpaid leave of absence shall not have any loss or gain in status or benefits other than that which is specifically provided in applicable provisions of the Education Code and Personnel Commission rules. A unit member shall continue to receive seniority credit for all purposes while on such a paid or unpaid leave of absence.
- (h) When all paid or unpaid leaves of absence have been exhausted following an industrial accident or industrial illness, the unit member's name shall be placed on the reemployment list for the class from which he/she was on leave for a period not to exceed thirty-nine (39) months.
- (i) While a unit member is on any paid leave resulting from an industrial accident or industrial illness, the unit member's salary paid by the District shall not, when added to a normal temporary disability allowance award without penalties granted the unit member under the State Workers' Compensation Insurance laws or the District's self insurance program, exceed the unit member's regular salary. A unit member's salary is computed on the basis of the number of hours and days in his/her basic daily assignment.
- (j) During all paid leaves resulting from an industrial accident or industrial illness, the unit member shall endorse to the District all wage-loss benefit checks received under State Workers' Compensation laws or the District's self-insurance program. The District shall issue to the unit member appropriate warrants for payment of wages, loss of benefits, salary, and/or leave benefits and shall deduct normal retirement and other authorized contributions. Final allowance for permanent industrial disability settlements shall not be subject to remittance to the District under this rule.
- (k) Copies of the District workers' compensation regulations and procedures shall be distributed to each new unit member and placed in each school by November 30 of the current year.
- (l) A unit member may be treated for an industrial injury by a personal physician that the unit member predesignates prior to the industrial injury by submitting the proper state form to the District. The District shall not restrict the effective term of such predesignation, nor when predesignation forms may be submitted.
- (m) In addition to all other procedures set forth here or elsewhere pertaining to Workers' Compensation leave, if the need for the leave arises after the end of the unit member's work day but before the start of the following work day, the unit member must notify the District following the procedures described in section 11.2.2(g) of this Agreement.

11.3 Other Leaves

11.3.1 Conference Leave

- (a) Conference leave may be granted by the Superintendent for the purpose of attending conferences, workshops and other meetings related to the unit member's job.
- (b) Such leave must be requested sufficiently in advance to allow the Superintendent to arrange for an appropriate substitute in the event the leave is granted.
- (c) The District may, at its discretion, reimburse unit members for expenses incurred; i.e., transportation, lodging, meals and registration or other fees.
- (d) The request for leave under this provision should specify whether regular compensation is requested. In the event compensation is requested, this request and the request for the leave itself will either be approved or denied by the Superintendent.

11.3.2 Examination Leave

A unit member shall be permitted to be absent from his/her duties during working hours in order to take any examination for promotion in the District without deduction of pay or other penalty, provided that he/she gives two (2) days' notice to his/her immediate supervisor.

11.3.3 Leave to Serve in an Exempt, Temporary or Limited Term Position

- (a) Any permanent unit member who accepts an assignment within the District to an exempt, temporary, or limited-term position shall, during such assignment be considered for status purposes as serving in his/her regular position and such assignment shall not be considered separation from service.
- (b) The unit member may, with the approval of the appointing authority, voluntarily return to his/her position or a position in the class of his/her permanent status prior to the completion of service in an exempt, temporary, or limited-term position.

11.3.4 Leave of Absence for Study

- (a) A permanent unit member who has completed seven (7) consecutive years of service in regular status with the District shall be eligible to apply for a leave of absence for study purposes. The granting of such leave shall be entirely discretionary with the appointing authority. When a study leave has been authorized and taken, an additional seven (7) years of service, after

return to duty from the last leave, must be completed before another study leave may be granted.

- (b) Study leave can be for any period of time not to exceed one (1) year and may be taken in any time increments as approved by the Governing Board, but must be completed within three (3) years after the initial part of the leave was commenced. If the leave is not continuous, the service performed between the leave intervals shall be credited toward future study-leave eligibility.
- (c) Any leave granted and taken under this rule shall not constitute a break in service for any purpose, but the leave time shall not count toward eligibility for a future study leave.
- (d) The unit member must file an application with the Governing Board for a leave of absence under this rule and must outline:
 - (1) His/her work history with the District (e.g., positions held, and length of service in each).
 - (2) Length of leave requested and time period in which the leave will be completed, if granted.
 - (3) The purpose for which the leave is requested. The application must include the complete course of study to be pursued, institution giving the course, costs involved, degree or credits to be granted, and other pertinent data.
 - (4) Amount of compensation requested while on leave, if desired.
 - (5) Service, if any, to be performed by the unit member for the District during the leave.
 - (6) The benefits to be derived by the District by the granting of the leave.

11.3.5 Leave of Absence for Retraining

- (a) In the event that the District contemplates the need for retraining because of automation, technological improvements, or for any other reason, it may, at the discretion of the District, provide for retraining of unit members.
- (b) To be eligible for retraining leave, a unit member must
 - (1) Have served at least three (3) years in the District,
 - (2) Show that the retraining will clearly benefit the District, and
 - (3) Indicate a willingness to undergo the prescribed training program.

- (c) Any leave granted and taken under this rule shall not constitute a break in service for any purpose, except the leave shall not count as service toward eligibility for a future retraining leave.
- (d) The District may at its discretion reimburse unit members for expenses incurred, i.e., transportation, lodging, meals and registration or other fees.

11.3.6 **Union Leave**

The District shall grant leave for elected Union officers and Union members as set forth in and subject to the provisions of Education Code section 45210.

11.3.7 **Election Leave**

All full-time unit members on the day of every general, direct primary, or presidential primary election at which they may vote, are entitled to take two (2) hours off during their working day between the time of opening and the time of closing of the polls for the purpose of voting. Unit members who work less than full-time but greater than half-time are entitled to one (1) hour off for the purpose of voting.

The Department Head or Supervisor may schedule such leave throughout the day to ensure essential program coverage. No penalty shall be imposed on such unit members and no deductions shall be made from their usual salary or wages on account of such absence.

11.3.8 **Family Medical Leave**

In addition to other leave sections of the contract, the District shall provide leave of absence to unit members in accordance with the State and the Family Leave Acts and as indicated below:

- (a) The District shall provide each bargaining unit member with leave in accordance with State (Government Code section 12945.2) and/or Federal (PL 103-3) Family and Medical Leave Acts. A summary of the current provisions of these laws is available in the Human Resources Department.
- (b) Eligible unit members shall be defined as within the Act, with the modification that any unit member in the Instructional Assistant/Paraprofessional or Office, Technical and Business Services unit who has worked 3412.5 hours in the preceding five years and 682.5 hours in the preceding twelve months shall also be determined an eligible unit member for the purposes of family leave and shall be provided the benefits set forth herein. This modification shall not apply to Operations and Support Services unit members.

- (c) Unit members shall be entitled to utilize up to twelve work weeks of family leave in a twelve month period, either in consecutive or intermittent days, or partial days off. The twelve month period shall be calculated from the first day of the family care leave for this purpose.
- (d) Family care leave may be used for any of the following reasons: Birth of the unit member's child, in order to care for the child, placement of a child with the unit member for foster care or in connection with the unit member's adoption, in order to care for the unit member's child, parent, or spouse/domestic partner* with a serious health condition, because of the unit member's own serious health condition which makes the unit member unable to perform the functions of his/her job. *(The criteria for domestic partner shall be the same as that used to determine eligibility for health benefits and shall be defined in Appendix F)

Definitions:

- (1) Child means a biological, adopted or foster child, a stepchild, legal ward or a child for whom the unit member is standing in loco parentis as long as the child is under eighteen (18) years of age or an adult dependent child.
 - (2) Parent means a biological, foster or adoptive parent, a stepparent, a legal Guardian or another person who stood in loco parentis to the unit member when the unit member was a child.
 - (3) Serious health condition means an illness, injury, impairment or physical or mental condition that involves either (1) inpatient care in a hospital, hospice, or residential care facility, or (2) continuing treatment or continuing supervision by a health care provider.
 - (4) Instructional employee as defined in the Act shall pertain to a unit member whose principal function is to teach, and for the purposes of "duration of Leave" shall not apply to paraprofessional unit members.
- (e) Continuation of Benefits:

During the period of a family care leave the unit member shall continue to be entitled to participate in the district-paid medical, dental, life insurance, and other insurance plans. However, it is understood that participation shall be limited to the percentage that the unit member would otherwise have been entitled to if she/he were working.
 - (f) During the period of the family care leave, the unit member shall continue to be entitled to participate in disability and accident insurance plans, pension

and retirement plans, supplemental unemployment benefit plans, and/or other unit member welfare benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any other purpose.

(g) Maintenance of Status:

The unit member shall retain his/her unit member status with the District during the leave period, and the leave shall not constitute a break in service for the purposes of longevity or seniority under any unit member benefit plan or collective bargaining agreement. For purposes of layoff, recall, promotion, job assignment and seniority-related benefits such as vacation and longevity, the unit member returning from family care leave shall return with no less seniority than he/she had when the leave began.

(h) A unit member may use vacation in the case of personal illness or injury, but shall not be required to use such leave, except as otherwise provided in Sections 11.2.10 or 9.7 of this contract pertaining to extended sick leave and State Disability Insurance Benefits, respectively. However, it is agreed that a unit member who has excess vacation accruals may be required to utilize such leave for the purpose of family care other than personal illness or injury.

(i) Reinstatement from leave: A unit member shall be reinstated in the same position and assignment he/she was assigned prior to the Family Care Leave. If such same assignment no longer exists due to bona fide elimination of such position, the unit member shall be assigned the same position/hours in accordance with applicable sections of this contractual agreement.

(j) It is understood that the Family Leave period is unpaid and may run concurrently with other paid leaves. However, pregnancy disability is governed by other provisions of this contract and state law.

11.4 Miscellaneous Provisions

11.4.1 Termination of Sick Leave

(a) A unit member who has been placed on paid or unpaid sick leave may return to duty at any time during the leave, provided that he/she is able to resume the assigned duties, and, if the leave has been for more than twenty (20) working days, provided that he/she has notified the Department Head or Supervisor of his/her return at least three (3) working days in advance.

(b) If a unit member has exhausted all sick leave and other leaves, paid or unpaid, and is still unable to assume the duties of his/her position, he/she will be placed on the reemployment list for a period of thirty-nine (39)

months in the same manner as if he/she were laid off for lack of work or lack of funds.

11.4.2 Transfer of Sick Leave from Another District

Any classified employee of any school district who has been an employee of that district for a period of one calendar year or more and who terminates employment with that district for the sole purpose of accepting a classified position with this district and who subsequently, within 30 days of termination of his/her former employment, accepts a classified position shall be credited with all of the earned but unused sick leave which was credited to his/her in his/her former school district.

Article 12 - Holiday

12.1 General

12.1.1 The following days are paid holidays for unit members:

- Independence Day
- Labor Day
- Veterans' Day
- Day before Thanksgiving
- Thanksgiving Day
- Day after Thanksgiving
- Three Winter Board Holidays
- December 25
- New Year's Day
- Martin Luther King's Birthday
- Lincoln's Birthday
- Presidents' Day
- Spring Board Holiday
- Malcolm X's Birthday
- Memorial Day

12.1.2 Every day declared by the President of the United States as a holiday or any additional holidays for classified employees declared by the Board of Education shall be a paid holiday for all unit members.

12.1.3 Holidays falling during a unit member's regularly scheduled vacation period shall not be counted as vacation days.

12.2 Holiday Pay

12.2.1 Unit members shall receive pay for those holidays where they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday.

12.2.2 A unit member who works fewer than twelve (12) months shall receive December 25 and January 1 as paid holidays provided he/she was in a paid status during any portion of the work day of his/her normal assignment immediately preceding or succeeding the holiday.

12.2.3 Holiday pay that a unit member is entitled to on a given holiday shall be for the same number of hours as his/her regularly scheduled daily hours.

12.2.4 A unit member who is required to work a work week other than Monday through Friday and who loses a holiday to which the unit member would otherwise have been entitled as a result of that schedule, shall receive a substitute holiday or

receive compensation in the amount the unit member would have received had the holiday fallen within his/her normal work schedule.

12.2.5 When a unit member is required to work on a paid holiday, his/her compensation shall be at the overtime rate in addition to his/her regular pay for the holiday.

12.3 July 4th Provisions

12.3.1 Unit members who work fewer than twelve (12) months of the school year will be paid for July 4th if the number of unused vacation days paid out at the end of the school year pursuant to 11.2.9(j) carries the unit member through July 3. In that case, the unit member will be paid July 4th holiday pay at the unit member's regularly assigned School Year FTE.

12.3.2 In addition to the above, any unit member who works fewer than twelve (12) months shall be paid for the July 4th holiday if the unit member worked summer recess the day before or the day after the holiday. In these instances, the unit member shall be paid an amount equal to the greater number of hours worked of either of those two (2) days.

12.3.3 If the unit member qualifies for both 12.3.1 and 12.3.2 above, then the unit member will be paid once based on his or her regularly assigned school year FTE.

Article 13 - Safety

13.1 General

- 13.1.1 The District shall make reasonable provisions for the safety of its employees while in the course of their employment. The recommendations of the Safety Committee shall be considered in making such provisions, as set forth in section 13.4.
- 13.1.2 The District will direct supervisors to discuss and emphasize safety in the training of and meetings with unit members on a regular basis.
- 13.1.3 The District will provide required safety devices, equipment and preventative measures at no cost to the unit member, and shall consider recommendations of the Safety Committee for others.
- 13.1.4 The District will abide by regulations and determinations of local, state and federal regulatory agencies such as OSHA, pending legal review, and comply with final order of those agencies concerning violations.

13.2 Safety Equipment

13.2.1 Safety Footwear

The District agrees to provide unit members in Maintenance positions, including those assigned to the Transportation Department, with safety footwear every year in compliance with CalOSHA regulations.

13.2.2 Safety Glasses

Every two (2) years, the District shall reimburse unit members in craftworker positions, including those assigned to the Transportation Department, the cost of prescription safety glasses up to \$75 per unit member. Any request for reimbursement must be submitted to the unit member's immediate supervisor within thirty (30) calendar days of the purchase and must be accompanied by a receipt.

13.2.3 Custodians

The District shall provide all Custodians with appropriate safety-wear as required by law and a picture identification badge.

13.3 Hepatitis B Inoculations

- 13.3.1 The District shall pay for Hepatitis B inoculations for unit members working directly with students and all unit members in the following classifications: Custodians, Plumbers, Bus Drivers, Gardeners, Maintenance Engineers, Security Engineers and General Maintenance Workers.

13.3.2 In order to qualify for reimbursement, the unit member must obtain the inoculation through his/her health plan. If the inoculation is not available through the unit member's health plan, the unit member shall obtain the inoculation from a provider designated by the District. If the unit member obtains the inoculation from another source, reimbursement shall be limited to the cost the District would have incurred had the designated provider been used.

13.3.3 Any request for reimbursement must be submitted to the unit member's immediate supervisor within thirty (30) days of the inoculation and must be accompanied by a receipt.

13.4 Safety Committee

A Safety Committee shall be composed of four (4) members from the Union appointed by the Union and four (4) members appointed by the District who shall review safety conditions of employment. The committee may make recommendations to the Superintendent concerning improvements in safety conditions of employment. This committee shall elect a chairperson. The committee shall have access to information and data to carry out its function.

13.5 Procedures

13.5.1 The Safety Committee shall meet on a regular basis according to a schedule agreed upon by the Safety Committee.

13.5.2 Special meetings may be called by the chairperson to consider an acute safety problem.

13.5.3 The Safety Committee shall designate one (1) District member and one (1) BCCE member to investigate a safety problem.

13.5.4 Each side will have one (1) vote on all matters under consideration.

13.5.5 The Safety Committee shall review safety equipment for unit members under their jurisdiction and make recommendations concerning said equipment.

13.5.6 The Safety Committee shall have the ability to determine whether a room is sufficiently safe for unit members to carry out their duties.

13.5.7 The Safety Committee shall report its findings and recommendations to the Superintendent. In the event that the Committee is deadlocked on findings and/or recommendations, either side may submit findings or recommendations to the Superintendent. The Superintendent will promptly reconsider and decide on the recommendations and findings of the Safety Committee.

13.5.8 Release Time

The unit members of the committee shall be allowed reasonable release time to carry out their obligations under this section.

13.6 No Discrimination

No unit member shall be in any way discriminated against as a result of reporting any conditions believed to be in violation of the District compliance section above or in violation of any State or Federal law on safety conditions of employment.

13.7 Personal Safety

13.7.1 A written description of the rights and duties of all unit members with respect to student discipline as it affects unit member safety including the use of corporal punishment and rights of suspended students shall be presented to each unit member.

13.7.2 The immediate supervisor or site administrator shall notify a unit member and the Union when the District becomes aware of a threat of assault upon the unit member.

13.7.3 A unit member shall immediately report attacks or assaults by pupils, parents or non-students to his/her supervisor or site administrator who will investigate the incident. The unit member and the site administrator shall promptly report the attack or assault to the City of Berkeley police and notify the Safety Committee. To the extent permitted by law, the Superintendent shall comply with any reasonable request from the unit member for information in the possession of the District relating to the incident or the persons involved, and shall act in an appropriate way as liaison between the unit member, the police, and the District Attorney's Office.

13.8 Ergonomics

The District agrees that, upon request of a unit member, it shall provide anti-glare covers for computer screens.

The District and the Union further agree that it is in the best interests of the District and unit members to provide preventative measures and ergonomic equipment and accommodations to protect unit members' health.

Unit members may request accommodations and adaptations such as, but not limited to wrist rests, foot rests, back rests, keyboards or other ergonomic equipment. Such requests shall be presented to the immediate supervisor who shall respond to the unit member, normally within ten (10) workdays. It is agreed that the District will review the request, evaluate the needs and make a determination in accordance with this article. It is further understood that the District may rely upon professional advice of the unit member's health provider, or of rehabilitation counselors, ergonomic experts or similar experts in making its determination regarding what is appropriate to provide.

If the unit member is not satisfied with the response, she/he may appeal the request to the Director of Classified Personnel who shall review the request in accordance with the criteria contained herein. If the unit member is not satisfied with the decision of the Director of Classified Personnel, she/he may appeal the request to the Superintendent's level for determination, which shall be the final step of the appeal.

The Parties agree to establish an ergonomics committee to review issues and make safety recommendations concerning Ergonomics.

13.9 Suspended or Expelled Students

School Safety Officers shall receive the same notification provided to classroom teachers under Education Code section 49079 regarding students who have engaged in, or are reasonably suspected to have engaged in, acts that are grounds for suspension and/or expulsion.

Article 14 - Layoffs

14.1 Definitions

14.1.1 Employee

An employee, for the purpose of this Article, is a unit member in the regular classified service.

14.1.2 Layoff

A layoff is elimination or reduction of hours of a position by action of the Governing Board for lack of work or lack of funds.

14.1.3 Seniority

Seniority, or "length of service" shall be determined by the first date of paid service in probationary service in a job classification. Time served as a limited term employee or in provisional status prior to this date shall not count towards seniority. Employees shall have seniority in all classifications to which they have attained permanent status.

14.1.4 Position

A work assignment established by the Board in the Classified Staffing model.

14.1.5 Class

A class is any group of positions sufficiently similar in duties, responsibilities and required minimum qualifications assigned the same job title and salary range. A class may consist of a single position.

14.1.6 Voluntary Demotion

Voluntary demotion occurs when an employee accepts an assignment in a lower classification in lieu of layoff. An employee may request or accept a voluntary demotion for reasons other than "in lieu of layoff."

14.1.7 Voluntary Reduction in Hours

A voluntary reduction in hours occurs when an employee voluntarily consents to a reduction in hours of employment in lieu of layoff.

14.2 Layoffs, Application of

14.2.1 Layoffs will only be implemented after the Governing Board has voted to eliminate or reduce a position and shall not be earlier than sixty (60) days after the notice has been hand delivered to or placed in the mail to the employee in accordance with

Section 14.4.2. The President of the Union and the Business Agent shall receive a list of the employees who have been served with such notice.

- 14.2.2 The employee with the least seniority in the affected class as defined in section 14.1.3 shall be laid off first. If, in order to avoid interruption of employment, an employee who would have been laid off voluntarily consents to a demotion or reduction in hours, that action shall be considered a layoff.
- 14.2.3 An employee laid off in one position may bump an employee in another position in the same classification, equal classification, or lower classification provided:
- (a) The laid-off employee has permanency in such classification.
 - (b) His/her seniority is greater than the least senior employee in such classification.
- 14.2.4 An employee bumped from his/her classification shall have the same bumping rights in a lower or equal class as other laid-off employees, providing the employee's seniority is greater than those employees remaining in the lower or equal classification.
- 14.2.5 The District agrees that when a layoff occurs, it will maintain the relative ranking of the employee's seniority existing at the time of the layoff, unless the employee waives this right and accepts a position of fewer hours.
- 14.2.6 If two (2) or more employees subject to layoff have equal seniority in a class, the determination as to who will be laid off will be made on the basis of the first hire date in a probationary status in the District. That being equal, the determination shall be made by lot at the time of layoff.
- 14.2.7 If two (2) or more positions within an existing classification are eliminated or reduced in hours, and two (2) vacancies exist within the same or lower level class, the preference of the employees electing to exercise their displacement rights will be considered in seniority order.

The District will make the final determinations of assignments, given the reasons are neither arbitrary nor capricious.

14.3 Election of Retirement

Any employee laid off for lack of work or lack of funds and who elects service retirement from the Public Employees' Retirement System (PERS) shall be placed on an appropriate reemployment list. The District shall notify the Board of Administration of PERS of the fact that retirement was due to layoff for lack of work or funds. If the employee is offered and accepts, in writing, an appropriate vacant position, the District shall maintain the vacancy until the Board of Administration has properly processed the employee's request for reinstatement from retirement. The District may elect to fill the position with a temporary

employee while the Board of Administration of PERS is processing the request for reinstatement from retirement.

14.4 Notice of Layoff

14.4.1 A layoff notice shall contain:

- (a) A statement of effective date of layoff.
- (b) A statement of the employee's displacement (bumping) rights, if any.
- (c) A statement of the employee's reemployment rights.
- (d) A statement of the employee's rights to apply for unemployment benefits.

14.4.2 The notices shall be delivered personally to the employee or mailed by Certified or Registered mail to the employee at his/her last known address, not less than sixty (60) days prior to the effective date of layoff.

14.4.3 An employee who has been given a notice of layoff shall respond in writing within ten (10) calendar days, after postmark of such notice by Certified/Registered mail, or by personal service, of his/her intent to exercise bumping rights, or consent to a voluntary demotion/reduction.

14.4.4 Notice to employees shall include the employee's right to a conference with the Director of Classified Personnel regarding their options related to the layoff. The employee shall be informed that he/she may have his/her representative present at such a meeting.

14.4.5 At such time as a layoff resolution is acted upon by the Governing Board, the Union shall receive the following information from the District: Actual positions eliminated or reduced pursuant to the resolution, incumbents in those positions, and options afforded to those incumbents. The District shall make copies of the actual notices available to the Union in the Human Resources Office. The parties shall meet, upon request by the Union, to review the application of the layoff to the bargaining unit.

14.4.6 No later than sixty (60) days after the Governing Board takes action in a formal resolution, which will result in layoffs of bargaining unit members, the District shall notify members in accordance with this section. It is the intent of this section to give employees as much notice as possible of impending layoff.

14.4.7 The District shall hold informational meetings for employees affected by a layoff which they shall be permitted to attend on District time, with no loss of pay. Such meetings shall be scheduled in consultation with the Union.

14.5 Reemployment Rights

- 14.5.1 A person laid off because of lack of work or lack of funds is eligible for reemployment for a period of thirty-nine (39) months and shall be reemployed in preference to new applicants. In addition, such persons shall have the right to take promotional examinations during the period of thirty-nine (39) months.
- 14.5.2 Employees who take voluntary demotions or voluntary reductions in assigned time in lieu of layoff or who remain in their present positions rather than be reclassified or reassigned, shall have the same rights as persons laid off and shall retain eligibility to be considered for reemployment in the classification from which laid off for an additional period of twenty-four (24) months, provided that the same tests of fitness under which they qualified for appointment to the class shall still apply. When there is a valid reemployment list, employees voluntarily demoted or reduced in time in lieu of layoff, shall be ranked on that list in accordance with their proper seniority.
- Employees who take voluntary demotions in lieu of layoff shall be, at the option of the employee, returned to a position in their former class as vacancies become available. Employees who take a voluntary reduction in assigned time in lieu of layoff shall be, at the option of the employee, returned to a position with increased time as vacancies become available. When there is a valid reemployment list, employees voluntarily demoted or reduced in time in lieu of layoff shall be ranked on that list in accordance with their proper seniority.
- 14.5.3 An employee who elects voluntary demotions in lieu of layoff to classes not previously held, may be reclassified to a vacant position for which he/she qualifies. The determination of eligibility for reclassification shall be made by the Personnel Commission.
- 14.5.4 Employees shall be reemployed in the classification from which layoff occurred. When a position to which a laid off employee has reemployment rights becomes available, such employee shall be notified by certified mail sent to the last known address, and offered reemployment.
- 14.5.5 Any employee who is laid off in error shall be reemployed immediately upon discovery of the error.
- 14.5.6 Upon written request, an employee laid off or who retires in lieu of layoff shall be notified of available positions for which the employee is eligible at his/her last known address. The employee shall have ten (10) calendar days from the date of postmark to accept or reject the position. Failure to respond in a timely manner shall waive the right to the vacancy. This obligation to notify in writing shall cease twelve (12) months after the effective date of layoff or retirement in lieu of Layoff unless the employee renews the request in writing.
- 14.5.7 **Right to Refuse**

An employee on a reemployment list may decline two (2) offers of reemployment in his/her former classification or hours. After the second refusal, the employee's name shall be placed in inactive status until the employee notifies the District of his/her availability for work. No additional offers need be made, except upon a good cause the District may permit additional offers.

14.6 Benefits of Laid-off Employees

14.6.1 Benefits of any laid-off employee shall include but not be limited to the following:

- (a) A member shall be entitled to payment for accrued vacation pay and earned wages. Such pay shall be issued during the normal pay cycle of the District.
- (b) A laid-off employee shall be entitled to health/medical/dental coverage through the end of the month in which the layoff occurs, under the same conditions that existed prior to the layoff.
- (c) Laid-off members shall be entitled to participate in promotional examinations for a period of thirty-nine (39) months from the effective date of layoff.
- (d) When there has been a layoff, vacancies within a class shall be filled in the following order:
 - (1) Reemployment List
 - (2) Transfer
 - (3) Promotion
 - (4) Open Competitive Examination or Interview
- (e) Right to Substitute

Laid-off employees who have not accepted voluntary demotion and/or voluntary reduction in assignment (hours or work year) shall be permitted to enroll in the substitute pool.

14.7 Volunteers

The District may use volunteers to enhance the educational program. The District shall not normally use volunteers to displace regular employees.

14.8 Appeal Rights

14.8.1 Layoffs and reemployment in accordance with the above procedure shall be exempt from arbitration. A grievant may appeal from the Superintendent to the Board of Education. The decision of the Board of Education shall be final and binding.

14.8.2 Procedural violations may be appealed to arbitration.

Article 15 - Disciplinary Action and Appeal

15.1 General

The Personnel Commission Rules and regulations 60.1000 are hereby incorporated into this contract. See Appendix H.

15.2 Not Grievable

The provisions of this Article shall be exempt from Article 16, Grievance Procedure.

15.3 Disciplinary Letters

The District shall send copies of all disciplinary letters intended for a unit member's personnel file to the designated Union President at the time they are sent to the unit member. A unit member shall have the right to place on file a waiver of this section, with copies to the immediate supervisor, the Human Resources Department, and the Union.

15.4 Right to Union Representation

15.4.1 A unit member shall be notified at the time a meeting is scheduled which may result in disciplinary action of the subject of that meeting and of his/her right to Union representation. A meeting shall be scheduled or rescheduled to accommodate a unit member's right to representation as soon as practicable after notice of the meeting, and no longer than five (5) working days following such notice, notwithstanding mutual waiver of the time limit.

15.4.2 No unit member shall be expected to respond to allegations which may lead to disciplinary action if the above procedures have not been followed, nor shall the District take punitive action against any unit member for exercising his/her rights under this section.

Article 16 - Grievance Procedure

16.1 Definitions

- 16.1.1 A grievance is an alleged violation, misinterpretation or misapplication of the terms of this Agreement that has adversely affected the grievant.
- 16.1.2 A grievant may be a unit member, a group of unit members, or the Union acting on its own behalf or on behalf of member(s) of the unit.
- 16.1.3 A “day” for the purposes of this article, is a day during which the District Office is open for business and on which unit members are expected to report for work.

16.2 Purpose

- 16.2.1 It is the purpose of this procedure to secure, at the lowest possible management level, proper and equitable solutions to grievances and to guarantee an orderly succession of procedures within which a solution may be pursued.

16.3 General Provisions

- 16.3.1 Any grievance which arose prior to the effective date of this Agreement shall not be processed pursuant to the terms of this grievance procedure.
- 16.3.2 A grievance must be filed within thirty (30) days after the alleged act or omission giving rise to the grievance occurred, or within thirty (30) days from the time that the grievant knew or should have known that the alleged act or omission giving rise to the grievance took place.
- 16.3.3 Changes in the basis of the grievance or the requesting of a broader or increased remedy shall constitute a new grievance and shall be initiated at the informal level.
- 16.3.4 The failure of a grievant to proceed to the first or next steps of the grievance procedure within the time limits and conditions set forth shall be deemed to be an acceptance of the decision previously rendered.

After the expiration of the time limit provided, the grievant shall have five (5) additional days to file a written reinstatement of the grievance. Failure to so reinstate the grievance shall constitute a waiver of any future appeal concerning the particular grievance.

- 16.3.5 The failure of the District's representative to respond within the time limits and conditions set forth herein shall give the grievant the right to move the grievance to the next level of these procedures.
- 16.3.6 A grievance may be withdrawn at any level but the same grievance may not be filed a second time; provided, however, that if the same grievance was refiled pursuant to

Section 16.3.3 above requesting a broadened or increased remedy, it would not be deemed the same grievance.

16.3.7 A grievance may be resolved at any level. However, if a unit member has presented a grievance to the District without using the services of the Union, no adjustment of that grievance shall be reached if the settlement is inconsistent with the terms of the Agreement. Furthermore, the District will not agree to a resolution of the grievance until the Union has received a copy of the grievance and the proposed resolution and has been given an opportunity to submit a response to the District.

16.3.8 The District shall not be required to pay back wages to a grievant prior to the date that the wage loss began.

- (a) All claims and awards for back wages shall be limited to the amount of wages that the unit member would have otherwise earned, less any compensation the unit member may have received from any source during the period of the back pay except for interest, dividends and capital gains provided, however, that if a unit member held a job in addition to his/her job with the District prior to the inception of the period of back pay, the income received from that second job (but not to exceed the highest weekly average received prior to the back pay period) shall not be deducted from the amount of wages that a unit member would have earned.
- (b) The decision of any individual case shall not require a retroactive wage adjustment in any other case or for any other unit member.
- (c) The grievant shall have the right to be represented by a representative of the Union, at any level of the grievance procedure and to file a written brief or statement of position at any level. Only the Union shall have the right to determine whether to submit a grievance to arbitration.
- (d) The time limits set forth in this Agreement may be extended by mutual agreement in writing.
- (e) A grievant shall be allowed reasonable time off to attend any grievance meeting concerning his/her own grievance mutually set by the grievant and District representative.

16.4 Grievance Committee

16.4.1 BCCE may designate up to five (5) unit members to serve on the BCCE Grievance Committee for the purpose of processing grievances.

16.4.2 BCCE shall notify the District in writing of the names of the members of the Grievance Committee on or before October 15 of each school year and of any subsequent changes.

16.4.3 A Grievance Committee member who is involved in processing a grievance shall be allowed reasonable time off to attend any grievance meeting mutually set by the grievant and District representative. Such reasonable release time shall be requested in advance.

16.4.4 Upon entering another work location the Grievance Committee member shall identify him/herself, if possible, to the supervisor in charge of that location and state the purpose and expected duration of the visit.

16.5 Procedure

16.5.1 Level One – Informal

Before filing a formal grievance, the grievant and/or the Union should attempt to resolve said grievance by an informal conference with the immediate supervisor. Each party should state his/her position and the background reasons for the problem should be explored. If the grievance is not solved at this level, the grievant and/or the Union may file a written grievance at Level Two.

At Level One, the grievant and/or the Union and the unit member's immediate supervisor may agree that the source of the grievance is the action of a District administrator above the level of the unit member's immediate supervisor and that the written grievance at Level Two may be filed with that particular administrator.

16.5.2 Level Two – Formal

- (a) Within thirty (30) days after the occurrence of the act or omission giving rise to the grievance took place, the grievant must present the grievance in writing to his/her supervisor or to the appropriate administrator above the level of the immediate supervisor who has authority to resolve the matter.
- (b) The following information shall be included:
 - (1) Whether the matter had been discussed informally at Level One or, if the grievance is being initiated at a higher level.
 - (2) A description of the general and specific grounds of the grievance, including the individuals involved, the applicable dates of the purported violation, the specific section of the Agreement that is alleged to have been violated, and the reasons why said provisions purportedly have been violated.
 - (3) A statement of the remedies sought.
- (c) The supervisor shall communicate his/her decision to the unit member and/or the Union in writing within ten (10) days after receiving the grievance. At the time that the grievance is filed, a conference may be

requested. If requested, said conference shall be held within ten (10) days from the date of filing the grievance. The time within which the administrator has to respond to the grievance shall begin to run from the date of the conference.

16.5.3 Level Three – Superintendent

- (a) In the event a grievant and/or the Union is not satisfied with the decision at Level Two, the grievant and/or the Union may appeal the decision to the Superintendent or his/her designee within ten (10) days of the receipt of the Level Two decision.
 - (1) The Statement of Appeal should include a copy of the original grievance, the decision rendered, and a concise statement of the reasons for the appeal.
 - (2) The Superintendent or his/her designee shall communicate his/her decision in writing to the Union and the grievant(s) within ten (10) days after receiving the appeal.
 - (3) Either party may request a conference within the time limits. If a conference is requested, said conference shall be held within ten (10) days. The grievant(s) shall have the right to be represented by the Union at any such conference called by the Superintendent or his/her designee. The time limit for the Superintendent or his/her designee to respond shall begin to run from the date of the conference.

16.5.4 Level Four – Mediation/Adjustment/Arbitration

- (a) Following receipt of the Superintendent's decision, the Union may file for arbitration within fifteen (15) days.
- (b) Before submitting a grievance to arbitration, the parties may submit the grievance to a State Mediator or a Board of Adjustment. The submission of the grievance to mediation or to a Board of Adjustment must be by mutual agreement. In the absence of a mutual agreement, the Union may file for arbitration.
 - (1) State Mediation and Conciliation Service

The mediator shall be from the State Mediation and Conciliation Service. If mediation is agreed to by the parties, it shall be convened within fifteen (15) days of the Superintendent's decision, or as soon as the mediator's calendar permits, unless the parties mutually agree to extend the time limits. The parties may agree in writing to a timeline for appeal to arbitration.

(2) Board of Adjustment

A Board of Adjustment shall consist of two (2) representatives appointed by the District and two (2) representatives appointed by the Union. Any decision by the Board must be made by the majority of the members and shall be final and binding on the parties. If a majority decision is not reached, the Union may submit the grievance to arbitration.

If a Board of Adjustment is agreed to by the parties, it shall be convened within fifteen (15) days of the Superintendent's decision unless the parties mutually agree to extend the time limits.

(c) The request for arbitration may be withdrawn at any time prior to the hearing before the arbitrator.

(d) General Rules Regarding Arbitration:

(1) The parties shall select a mutually acceptable arbitrator. Should they be unable to agree on an arbitrator within ten (10) days of the Union's submission of the grievance to arbitration, a list shall be requested from the State Mediation and Conciliation Service. After this list is received, each party may reject one entire list. Assuming the list is not rejected, the parties shall alternately strike names until a single arbitrator remains who shall serve as the arbitrator.

(2) The arbitrator's decision will be in writing and will set forth the arbitrator's findings of fact, reasoning, and conclusions on the issues submitted. The arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which is in violation of the terms of this Agreement. Additionally, the arbitrator does not have the authority to modify, add to, delete, or ignore any provision or term of this Agreement. The decision and award of the arbitrator will be final and binding upon the parties of this Agreement, except for court review pursuant to Code of the Civil Procedure Sections 1285-1288.8.

(3) All costs for the services of the arbitrator, including but not limited to, per diem charges, the arbitrator's travel expenses and the cost of any hearing room will be borne equally by the District and the Union. All other costs will be borne by the party incurring them.

Concerning transcripts, the cost shall be equally borne by the parties if the transcript is requested by the arbitrator or both parties. If only one party requests a copy of the transcript, that party alone shall incur the expense.

- (4) By mutual agreement of the parties, the expedited labor arbitration rules of the American Arbitration Association may be used. In the event this mutual agreement does not exist, then the provisions as set forth above shall apply.
- (5) The arbitrator shall issue the decision and award within thirty (30) days after the submission of the matter (including briefs, if any) unless extenuating circumstances are present.
- (6) If a unit member is subpoenaed to testify in an arbitration hearing he/she shall receive time off without loss of compensation to so testify but only to the extent of his/her actual time of testifying and his/her coming and going thereto.

Article 17 - Transfer

17.1 Definitions

17.1.1 A transfer is defined as a change in work location from one site or department to another site or department within a class.

17.1.2 A vacancy is a vacant budgeted position the District intends to fill.

17.2 Intent

It is the intent of this article to provide an equitable method of relocating staff with the objective of matching unit member skills and interests with existing vacancies as well as meeting programmatic needs, and further, to provide a systematic means by which unit members may relocate from one site to another.

17.3 Posting

17.3.1 When a new position is created or an existing position becomes vacant, the District shall post the vacancy notice at all sites for not less than ten (10) working days. Unit members who are not full-year employees or unit members absent from duty for vacation or leave who wish to apply for transfer to a vacant position during the period of their absence may do so by submitting a self-addressed stamped envelope with current address to the Human Resources Department. The unit member shall be mailed a copy of the notice by first-class mail on the date the position is posted. If the absence dates change, it shall be the responsibility of the unit member to notify the Human Resources Department.

17.3.2 All vacancies shall be posted as they occur. The posting shall state:

- (a) The site of the vacancy
- (b) The number of hours regularly assigned
- (c) The job classification
- (d) Any special District needs for the position
- (e) The same information contained in public job announcements.

17.3.3 Recurring vacancies shall continue to be posted until actually filled if the first posting does not fill them. However, once the ten (10) day requirement has been met, the vacancy shall be posted as open until filled.

17.3.4 The Union shall receive notices of all job openings and test announcements.

17.4 Application

Any unit member may apply for the position by filing a written notice with the Human Resources Office. Unit members may apply for transfer vacancies at other schools for more hours or for change of work site. Transfer requests will be maintained for one (1) fiscal year.

17.5 Selection Criteria

17.5.1 When a vacancy occurs, the Superintendent or his/her designee, in deciding which, if any applicant to transfer, shall first consider applicants from within the class in which the vacancy exists and apply the following criteria: seniority, related experience, racial and gender balance, and job-related programmatic needs. All these things being equal, the unit member possessing the requisite skills and experience with the most seniority shall be offered the position subject to the approval of the Director of Classified Personnel or designee. Upon the request of an individual applicant for transfer, the Director of Classified Personnel shall discuss the reasons for denying a transfer with the applicant. These reasons will be provided in writing upon request of the applicant. Transfers shall not be subject to approval by the unit member's current supervisor.

17.5.2 If a vacancy provides an opportunity for permanent unit members to increase their assigned work hours (FTE) the District shall grant the transfer request of one of the permanent unit member applicants. The District shall not grant the position to an outside applicant so long as there is a permanent unit member who meets the criteria.

17.6 Voluntary Assignment Changes Between Two (2) or More Unit Members

A transfer may occur at the request of a unit member. At the discretion of the District, by completing transfer forms, two or more unit members may request and be granted the opportunity to transfer positions with equal full time equivalency within a class when no vacancy exists. Such transfers shall not be denied by the District for punitive, arbitrary, or capricious reasons. The District shall give the Union five (5) working days notice before the actual transfer takes place, unless such notice is during the summer, winter or spring break, in which case notice shall be seven (7) calendar days.

17.7 Involuntary Transfer

17.7.1 The Superintendent or his/her designee may transfer a unit member (a) to meet student needs or (b) if the Superintendent or his/her designee reasonably believes the criteria set forth in Section 17.5 above cannot be met by the applicants for transfer, in which case the Superintendent or his/her designee may fill the vacancy through an eligibility list or may transfer a unit member on an involuntary basis. In the event the District makes a transfer pursuant to 17.7.1 and more than one (1) unit member at the affected site or department possesses the requisite skills and experience, then the unit member with the least seniority shall be transferred.

- 17.7.2 In making involuntary transfers, the Superintendent or his/her designee will consider the criteria as set forth in Section 17.5 above.
- 17.7.3 At least ten (10) working days prior to invoking an Involuntary Transfer, the District shall give written notice to the affected unit member. The notice shall include reasons for this action.
- 17.7.4 The above paragraphs to the contrary notwithstanding, in the event of an emergency, irreconcilable staff differences (which shall be determined by the Superintendent or his/her designee) or the existence of abuse or danger to students or staff the Superintendent or his/her designee has complete discretion in transferring unit members on an involuntary basis without considering the criteria as set forth in Section 17.5. Unit members may not be transferred pursuant to this section for disciplinary reasons.
- 17.7.5 A unit member receiving an involuntary transfer may request a review by his/her immediate supervisor or transferring supervisor. Normally, such review shall be held prior to the transfer taking place. Upon request, the employee will be given the reasons for the transfer in writing.
- 17.7.6 Involuntary transfers shall not be used for punitive, arbitrary, or capricious reasons or in place of proper evaluation.

17.8 Procedures

- 17.8.1 Transfer applicants may learn the status of their application by submitting a request in writing to the Director of Classified Personnel. The Director of Classified Personnel shall respond in writing to such requests within five (5) working days of receipt of the request. Within ten (10) working days after the successful candidate has accepted the offer, transfer applicants shall be notified in writing that their transfer applications have been denied.
- 17.8.2 An applicant, when denied a transfer, may request in writing the reason(s) for the denial. The Superintendent or his/her designee shall respond to such a request in writing within ten (10) working days.
- 17.8.3 Reassignment within site: When a vacancy exists, unit members at the same site shall be entitled to apply and be considered for placement in accordance with the procedures as stated in Section 17.4, Application, and Section 17.5, Selection Criteria.
- 17.8.4 Any unit member going on leave during the period of posting may request a copy of the notice which shall be sent by providing the Human Resources Office with a self-addressed, stamped envelope for this purpose.
- 17.8.5 Any unit member on leave shall have the right to have his/her Union representative file for the transfer on his/her behalf.

17.8.6 Copies of all transfer notices shall be sent to the Union President.

17.8.7 In the event that a vacancy filled by a voluntary or involuntary transfer causes a resultant vacancy, the Superintendent or his/her designee shall make every effort to fill the vacancy in the same classification through consideration of transfer applications on file, through an eligibility list, or through an involuntary transfer. Criteria and agreement as set forth in Section 17.5 shall be used in making transfers under this subsection.

17.9 Medical Transfer

The District shall give temporary alternate work at the unit member's regular salary when a position for which the unit member is qualified and able to perform is available to a unit member who has become medically unable to perform his/her regular job class duties.

17.10 Special Education Assignments

17.10.1 A unit member in a Special Education classification (Instructional Assistant Special Education, Instructional Assistant Special Education – Attendant, or Instructional Assistant Special Education – Specialized Health Care) who is voluntarily or involuntarily transferred to another position shall, during the first thirty (30) days in the position, be given a summary of the IEP goals and special needs of the student(s) to which the unit member is assigned and be provided with any training needed to perform the duties of the new assignment.

17.10.2 The Union shall vote on ratification of this Article by June 3, 2010. By October 1, 2010, the District shall create two new classifications for Special Education at Range 33 (Instructional Assistant Special Education – Attendant) and Range 35 (Instructional Assistant Special Education – Specialized Health Care) and shall remove specialized health care and attendant duty responsibilities from the Instructional Assistant Special Education classification.

- (a) The job description for the Instructional Assistant Special Education – Attendant classification shall reflect the responsibilities currently associated with the five percent (5%) differential provided in Section 9.7.3 of this Agreement.
- (b) The job description for the Instructional Assistant Special Education – Specialized Health Care classification shall reflect the responsibilities currently associated with the ten percent (10%) differential provided in Section 9.7.3 of this Agreement.
- (c) The District shall meet and consult with the Union over the job descriptions for Special Education classifications as provided in Section 6.10 of this Agreement.

17.10.3 The following shall be a one-time procedure: Unit members in the Instructional Assistant Special Education classification who received either the five percent (5%) or ten percent (10%) differential at any time during the 2009-2010 school year shall be notified in writing no later than two (2) weeks after approval of the new classifications by the Governing Board and Personnel Commission, whichever occurs later, that:

- (a) The District's intends to reclassify their position to the new Instructional Assistant Special Education – Attendant or Instructional Assistant Special Education – Specialized Health Care classification effective thirty (30) days after the notice referred to in Article 17.10.4 is sent out.
- (b) They will be responsible for performing the specialized health care or attendant duty responsibilities in the job description for the new classification, participating in all necessary training required by the District, and receiving certification by a District-approved medical professional or other personnel approved by the District. The District shall abide by applicable laws and regulations regarding the administration of medication by non-medical school personnel with respect to all unit members. Unit members designated to administer medication under Board Policy 5141.21 ("Administering Medication and Monitoring Health Conditions") may include any unit member who has consented to administer the medication or otherwise assist the student and who may legally administer the medication.
- (c) Unit members who do not wish to perform these responsibilities shall remain in the Instructional Assistant Special Education classification provided they notify the Department of Special Education in writing of their desire to remain in the classification within thirty (30) days of the notice sent pursuant to Article 17.10.4.
- (d) A decision to remain in the Instructional Assistant Special Education classification will result in the loss of the five percent (5%) or ten percent (10%) differential.
- (e) The notice shall include a copy of the job description for the unit member's new classification.

17.10.4 Effective thirty (30) days after the notice sent pursuant to Article 17.10.3, the District shall cease paying differentials provided in Section 9.7.3 of this Agreement.

17.10.5 Unit members in the Instructional Assistant Special Education classification who received the five percent (5%) differential at any time during the 2009-2010 school year, and who do not request to remain in the Instructional Assistant Special Education classification as provided above pursuant to Article 17.10.4(c), shall be reclassified to the new Instructional Assistant Special Education – Attendant

classification effective thirty (30) days after the notice sent pursuant to Article 17.10.4. Their seniority in the new classification shall be based on their original date of hire as an Instructional Assistant Special Education.

17.10.6 Unit members in the Instructional Assistant Special Education classification who received the ten percent (10%) differential at any time during the 2009-2010 school year, and who do not request to remain in the Instructional Assistant Special Education classification as provided above pursuant to Article 17.9.4(c), shall be reclassified to the new Instructional Assistant Special Education – Specialized Health Care classification effective thirty (30) days after the notice sent pursuant to Article 17.10.4. Their seniority in the new classification shall be based on their date of hire as an Instructional Assistant Special Education.

17.10.7 Required training and certification shall occur at the District's expense during the unit member's normal work hours and shall be considered time worked. To the extent permitted by law, including but not limited to the provisions of Government Code section 995 et seq., including Government Code section 995.2, District shall indemnify and hold unit members harmless from any and all claims, demands, or suits or any other actions arising from the performance of any specialized health care procedures performed in the course and scope of employment.

17.10.8 In the event of a layoff before the 2013-2014 school year, unit members who were in the Instructional Assistant Special Education classification during the 2009-2010 school year shall have bumping and reemployment rights in all three Special Education classifications. Their seniority for such purposes shall be based on their date of hire as an Instructional Assistant Special Education.

17.10.9 Starting with the 2013-2014 school year:

- (a) Unit members in the Instructional Assistant Special Education classification who were not reclassified and remain in the Instructional Assistant Special Education classification shall not have bumping or reemployment rights to the Instructional Assistant Special Education – Attendant or Instructional Assistant Special Education – Specialized Health Care classifications. They may bump a unit member in another position in the Instructional Assistant Special Education classification, an equal classification, or a lower classification if they otherwise meet the requirements of Article 14.2.3.
- (b) Unit members in the Instructional Assistant Special Education – Attendant classification as a result of the reclassification provided in Article 17.10.5 shall not have bumping or reemployment rights to the Instructional Assistant Special Education – Specialized Health Care classification. They may bump an employee in another position in the Instructional Assistant Special Education – Attendant classification, an equal classification, or lower classification (including but not limited to the Instructional Assistant Special

Education classification) if they otherwise meet the requirements of Article 14.2.3.

- (c) Unit members in the Instructional Assistant Special Education – Specialized Health Care classification as a result of the reclassification provided in Article 17.10.6 may bump an employee in another position in the Instructional Assistant Special Education – Specialized Health Care classification, an equal classification, or lower classification (including but not limited to the Instructional Assistant Special Education – Attendant and Instructional Assistant Special Education classifications).

17.10.10 Unit members hired into a Special Education classification on or after July 1, 2010 shall have bumping and reemployment rights as provided in Article 14 and elsewhere.

Article 18 - Promotion

- 18.1 The goal of the District shall be to provide promotional opportunities to both permanent bargaining unit positions and limited term positions. When an outside applicant is selected over qualified promotional applicants, reasons for the District's decision to hire from the outside shall be given to applicants upon request.
- 18.2 Unit members who have applied for promotions shall receive a response from the Director of Classified Personnel regarding the status of the application. After the position has been filled, the applicant shall be notified of his/her status.
- 18.3 The District will choose only from among promotional candidates to fill a bargaining unit position provided there are at least three rankings of qualified, eligible, available internal candidates on the eligibility list in conformance with the Rules and Regulations of the Personnel Commission. In the event that there are fewer than three such qualified rankings, the District is entitled to consider as many additional rankings of external candidates as needed to provide a choice of three (3). (If necessary this may require reopening the position for additional applicants.) Only in this circumstance may the District request the Personnel Commission to approve accelerated step placement of an external candidate.

A unit member receiving a promotion shall be moved to the appropriate range and his/her step. Placement shall provide for a minimum of a five percent (5%) salary increase, excluding promotion from Step 5 to Step 5.

Article 19 - Recess Assignments

19.1 Posting

The Director of Classified Personnel will post notices regarding potential job openings for summer, winter and spring recesses. Posting will be as soon as possible and usually at least four (4) weeks in advance of the jobs. Said posted notification shall include: (a) The site of the vacancy, (b) The number of hours regularly assigned, and (c) The job classification.

19.2 Application

19.2.1 By June 1 or November 15, any unit member wishing to receive an appointment to a summer or winter recess opening within the school district shall complete the application form for recess employment and return it to the Director of Classified Personnel or Human Resources Office.

19.2.2 Early Childhood Education Assignments

No unit member shall be required to submit transcripts for a recess assignment as an ECE Instructional Assistant when either:

- (a) He or she is currently, or has previously been, employed as an ECE Instructional Assistant in a regular or recess assignment; or
- (b) He or she can present documentation demonstrating the previous submission of appropriate transcripts.

19.3 Selection

19.3.1 In filling recess openings, the Superintendent or his/her designee shall review the applications submitted by District employees to ascertain if the following criteria would be met by granting them a recess appointment: seniority, experience, racial and gender balance and job-related programmatic needs.

19.3.2 Recess appointments shall be assigned to applicants in the following order:

- (a) First, to unit members who have at any time attained permanent status in the classification of the recess opening. Preferential consideration will be given to seniority in the classification;
- (b) Second, to unit members who have at any time attained permanent status in another classification. Preferential consideration will be given to seniority in the District; and
- (c) Third, to unit members who have not attained permanent status in any classification.

- 19.3.3 Substitute assignments arising from the absence of a unit member serving in a recess assignment shall be assigned to applicants for the assignment in the order in section 19.3.2 above.
- 19.3.4 The District will not prevent unit members from working these recess periods if work is available and the unit member is available and eligible to perform the work.
- 19.3.5 Unit members selected for a recess appointment shall be so notified in writing at least one (1) week, or as soon as possible, before the start of the assignment.
- 19.3.6 When a unit member working recess periods is filling a position in the same classification as that unit member is normally assigned, he/she shall continue to receive the same rate of pay as would be received during the normal school year. When a unit member working recess periods accepts a position in a lower classification, the rate of pay shall be the range of the lower classification at the step closest to but lower than his/her current hourly rate.

Article 20 – Tools & Equipment

20.1 General

The District shall make a reasonable effort to furnish proper tools and equipment for all unit members to enable them to perform their jobs.

20.2 Tool Allowance

20.2.1 The District will provide each Vehicle and Equipment Mechanic with an annual tool allowance of \$250. Receipts for tools purchased will be provided to the unit member's immediate supervisor.

20.2.2 The District will reimburse mechanics who work in the bus garage and other maintenance unit members who supply their own tools as a result of a verified on-the-job theft. Verification may be by the Berkeley Police Department or the appropriate supervisor. The amount reimbursed to a single unit member shall not exceed one hundred dollars (\$100) in one (1) year, and the amounts reimbursed shall not exceed five hundred dollars (\$500) for all unit member tool thefts in one (1) year.

20.2.3 For reimbursements requested in excess of the aforesaid amount, the District shall review the circumstances of each theft on a case-by-case basis and make every reasonable effort to reimburse the unit member for the loss as has been done in the past.

20.3 Clothing Allowance

20.3.1 If the District requires uniforms for the unit members in the following classifications, either the unit member will be provided uniforms (or special clothing) or if not provided, shall be paid a yearly clothing allowance of \$60.00:

- (a) Maintenance
- (b) Crafts and Mechanics
- (c) Custodial
- (d) Grounds Gardener
- (e) Food Service
- (f) Warehouse
- (g) Storekeeper
- (h) Assistant Storekeeper
- (i) Delivery Driver

- (j) Laborer
- (k) Warehouseman

20.3.2 The unit member is responsible for cleaning/laundrying of clothing, except for Vehicle and Equipment Mechanics and Maintenance Department unit members. Unit members provided with uniforms will be required to wear them.

20.4 Bus Driver/Safety Officer Uniforms

20.4.1 The District may provide uniforms and/or water-resistant jackets, which the Bus Drivers are required to wear. The unit member is responsible for the cleaning costs to his/her uniform. In the event that the District opts to provide such uniforms, they shall be selected by a committee consisting of one (1) representative of the affected classification and the supervisor of that classification.

20.4.2 The District may provide uniforms and/or water-resistant jackets, which School Safety officers and Campus Monitors shall be required to wear. The unit member shall be responsible for the regular laundering of such uniforms; provided, however, the District shall be responsible for dry cleaning or special laundering requirements. In the event the District opts to provide such uniforms, they shall be selected by a committee consisting of up to two (2) representatives chosen by the Union and two (2) representatives chosen by the District. The Committee shall consider appearance, comfort and appropriateness for cold, hot and wet weather.

20.5 Custodial Equipment

20.5.1 The District will discuss with site administrators the feasibility of providing designated space for custodial supplies and personal effects.

20.5.2 The District will discuss with site administrators the feasibility of providing designated work rooms for custodial staff.

20.5.3 To maintain a consistent level of service, the Lead Custodian, Plant Operations Manager or Berkeley High Custodial Supervisor, and site manager will meet once each year regarding custodial duties expected to be performed at the site and their frequency.

20.6 School Safety Officer Lockers

The District will make reasonable efforts to provide lockers or secure space for all School Safety Officers. The Union and the District will meet upon request to discuss the status of these improvements.

Article 21 - Training

21.1 Compensation

All unit members shall be given appropriate compensation, either compensatory time off or pay in accordance with the Fair Labor Standards Act, for approved attendance at workshops or in-service training sessions outside the regular work day.

21.2 New Equipment

When a unit member is required to use new, different or unfamiliar equipment or software, which requires additional training, such training shall be provided by the District during regular work hours.

21.3 Staff Development

A representative committee comprised of no more than four (4) unit members appointed by the Union and no more than four (4) designees of the Superintendent shall plan, promote and coordinate in-service workshops of general and/or specific departmental or occupational assistance to unit members, to be held on designated staff development days, and other trainings that may occur throughout the year. Unit members appointed to the committee shall be granted release time to attend committee meetings.

21.4 Orientation and Training

The District shall be responsible for providing New Employee Orientation and Training. Such orientation and training shall be paid time.

21.5 Safety Training

The District shall be responsible for meeting all standards and mandates for training related to safety issues.

21.6 Notification

The District will make reasonable efforts to notify, in a timely manner, unit members regarding the scheduling of training.

21.7 Reimbursement of Fees, Tuition, Books, and Materials

The District shall pay for or reimburse unit members for all authorized fees, tuition and/or books or materials required for mandated job-related training upon submission of appropriate receipts. To receive reimbursement, the unit member must submit the receipt to the immediate supervisor within thirty (30) days of incurring the expense.

21.8 First Aid and CPR Training

When a unit member is required to be certified in First Aid or CPR, any training needed to obtain or maintain such certification shall be provided by the District during regular work hours or outside the regular work day and compensated pursuant to Article 21.1.

21.9 Transportation Department

Where special or additional training is required of School Bus Drivers by department policy or state regulation, the District shall make such training available to the drivers between the driver's regular starting and ending times and compensated pursuant to Article 21.1.

21.10 Training for School Safety Officers

21.10.1 In order to best protect the health and safety of both students and staff as well as comply with all current rules and regulations, the District shall provide mandatory staff development and training for School Safety Officers as required by law.

21.10.2 Mandatory training scheduled outside of regular work hours shall be compensated as provided for in this agreement.

21.11 Custodial Training

21.11.1 The District shall provide safety-related training to Custodians as required by law.

21.11.2 The District will make every effort to timely notify custodians regarding training, staff meetings and other work-related matters.

Article 22 - Definitions

22.1 Class or Classification

22.1.1 A group of positions sufficiently similar in duties and responsibilities that the same descriptive title may be used to designate each position allocated to the class; substantially the same requirements of education, experience, knowledge, and ability are demanded of incumbents; substantially the same tests of fitness may be used in choosing qualified appointees; and the same salary range may be applied with equity, except as otherwise provided in this Agreement.

22.2.2 "Classification" means that each position in the classified service shall have a designated title, a regular minimum number of assigned hours per day, days per week, and months per year, a specific statement of the duties required to be performed by the unit members in each such position and the regular monthly salary ranges for each position.

22.2 Class Specification

A formal statement of the duties and responsibilities of the positions in the class, illustrated by examples of typical tasks, and of the qualification requirements of the positions in the class.

22.3 Director of Classified Personnel

Parties agree to mutually reopen this provision as part of the 2015-2016 reopeners. It shall not count against either party's article reopeners.

22.4 District

Shall refer to the Board of Education, Superintendent and all designated management personnel.

22.5 Domestic Partners

See Appendix F.

22.6 Eligibility List

A list of the names of persons who have qualified in a competitive examination.

22.7 Employee

A person who is employed by the Berkeley Unified School District regardless of the bargaining unit.

22.8 FTE

FTE means full time equivalent; the ratio of the assigned hours of a position to a seven and one-half (7-1/2) hour day.

22.9 Increment Date

New unit members who complete their probationary period between September 2 and March 1, inclusive, shall have a salary increment on the immediately following July 1. New unit members who complete their probationary period between March 2 and September 1, inclusive, shall have a salary increment on the immediately following January 1. Increments thereafter will be given annually.

22.10 Job Description

See Class Specification (22.2)

22.11 Limited Term Employee

An employee who is serving as a substitute for an absent employee or in a position established for a period of six months or less. The employee may have been selected from an eligibility list or may be serving under a provisional appointment.

22.12 Merit Rules

The Merit System Rules and Regulations for Classified Employees adopted by the Personnel Commission of the Berkeley Unified School District.

22.13 Probationary Period

The first six months immediately following an original or promotional appointment to a permanent position from an eligibility list.

22.14 Provisional Appointment

A temporary appointment made in the absence of an appropriate eligibility list, not to exceed 90 working days except in specified circumstances. The District may extend the provisional appointment for one (1) additional 90-working day period, upon written notice to the Union and the affected employee.

22.15 Salary Range

A specified amount of money paid for a specified period of service; i.e., dollars per hour or month.

22.16 Salary Schedule

The complete list of ranges, steps, and rates established for the bargaining unit.

22.17 Salary Step

A specific location in a salary range, not the dollar amount. (Note: The salary range applicable to a class may change without affecting the step placement rights of unit members).

22.18 School Term

“School Term” is the days during the school calendar that a less than 12-month employee is required to work as defined in Article 10 of this Agreement.

22.19 Seniority

Seniority for employees shall be determined by the first date of paid service in probationary status in a job classification. Time served as a temporary employee or in provisional status prior to this date shall not count towards seniority. Unit members shall have seniority in all classifications to which they have attained permanent status.

22.20 Site Representative

Any unit member appointed by the Union to represent the bargaining unit.

22.21 Spring Recess

The period designated as the Spring Break, usually occurring in March or April.

22.22 Substitute Employee

An employee occupying a permanent position during the absence of the Incumbent.

22.23 Summer Recess

The period between the end of the spring instructional period to the beginning of the fall instructional period.

22.24 Superintendent

The Superintendent or his/her designee.

22.25 Temporary Employment

Employment on a basis other than permanent or probationary; i.e., in limited-term or provisional status.

22.26 Union

Berkeley Council of Classified Employees (BCCE), Local 6192

22.27 Union Representative

Any person the Union President designates to act for the Union.

22.28 Unit Member

An employee in a position that is included in the bargaining unit.

22.29 Winter Recess

The period between the end of the instructional period in December and the beginning of the instructional period in January.

22.30 Working Day

Any day when the central administration offices of the District are open for business.

Article 23 – Transportation Department

Definition: Date of hire is date of hire as a school bus driver.

23.1 Beginning of School Year Route Assignments

23.1.1 Initial Home-to-School routes will be assigned at the beginning of the school year, based on the FTE the Driver had during the previous school year. Whenever possible, the route assigned at the beginning of the school year, shall be the route the driver had during the previous school year.

23.1.2 Specific vehicles assignments are not guaranteed. Routes are subject to change based on programmatic needs, but such changes shall not result in any reduction in assigned FTE, unless such changes are a result of layoff(s) under the layoff provisions of the agreement or are mutually agreed upon by the parties. However, management will make every attempt to ensure that vehicle assignments remain consistent and are not changed in an arbitrary manner.

23.2 Route Assignments and Bidding

23.2.1 Route Assignment will be based on the following Criteria: Ability to handle the equipment as required, experience and seniority based on date of hire as a school bus driver. Other factors being equal, seniority will prevail.

Route assignments shall be posted by the end of the third week of October of each year. Route assignments shall be finalized by November 1st of each year.

23.2.2 Bidding Procedures for Routes

Bidding will be conducted on a seniority basis. Bidding will begin at the start of the workday on the first work day of the week after the bid is posted and will continue until 5pm of the last workday of the same week.

Each Bidder will have thirty (30) minutes to exercise his/her seniority by making a route selection. If at the end of that time, he/she cannot or will not make a selection, he/she will be bypassed. They will then move to the bottom of the seniority list and be offered an opportunity to select a route from those routes that remain after all other permanent drivers have had an opportunity to exercise their seniority by bidding. If no route is selected by the close of bidding, the Transportation Manager shall assign a route from those remaining, except as defined in the following sections.

23.2.3 Bidding While on Authorized Short-Term Leave

A driver who is authorized by the Transportation Manager and/or the Director of Classified Personnel to be absent during the bid process shall bid on a route as follows: If possible, prior to the absence, the driver will give to the Manager and, if

requested by the unit member, a Site Representative sealed envelopes containing identical copies of the driver's first, second, third and fourth bid selections. When the time comes for the absent driver to bid, the Manager, and if requested by the unit member in the presence of a Site Representative, will open the bids and choose a route from among those available based on the driver's signed and dated bid request.

If a driver who is on an authorized absence is unable to give the Manager identical signed copies of his/her first, second, third and fourth bid selections, the Manager shall call the unit member one (1) time at the phone number of record or other phone number provided. If the unit member is reached, the Manager shall receive the driver's first, second, third and fourth bid selections. The unit member may request that a Site Representative be involved in this process.

When the time comes for the absent driver to bid, the Manager, in the presence of a Site Representative if requested by the unit member, will choose a route from those available based on the driver's bid request.

23.2.4 Bidding While on Long-Term Worker's Compensation or Illness Leave

Drivers on long-term Worker's Compensation or illness leave and who are scheduled to return to duty within twenty (20) work days of the conclusion of bidding will utilize the bidding procedure as outlined in Bidding While on Authorized Short-Term Leave.

Drivers who are not scheduled or are not sure they will return to duty within twenty (20) work days of the conclusion of bidding will be bypassed.

If a driver is bypassed, upon his/her return, he/she will be assigned a route by the Transportation Manager. Such assignment shall not result in a reduction in the FTE the driver was assigned prior to his/her absence due to the authorized Long-Term Leave.

If leave is extended beyond twenty (20) work days, any bid that occurred will be voided and upon return to work, the driver shall be assigned a route in accordance with the leave provisions of this Agreement.

23.2.5 Route Assignments and Bidding

Under either method of bidding noted above, if none of the selections requested are available, or if the bid is not timely, or if the unit member cannot be reached, the absent unit member will be bypassed. The unit member may select from routes available upon his/her return to work. If the unit member does not make such a selection, the Manager may assign a route.

23.3 Seniority: Transportation Department

The assignment of routes shall be determined by the earliest date of hire as a School Bus Driver in a permanent status. The seniority of unit members hired on the same date shall initially be determined by lot. The following procedure applies only to those drivers hired on the same date in 1972 and shall cease to be used when those drivers are no longer employed by the district. In successive years, the order which had been determined by lot shall be modified by making the unit member who is number 1, number 2; number 2 shall become number 3, etc; the unit member last on the list will become number 1.

23.4 Guaranteed Minimums

All permanent Bus Drivers shall be guaranteed a minimum of four (4) hours for their regularly assigned work day. If a route is cut in hours after the bid has been implemented, the driver will be guaranteed the same number of work hours for the rest of the school year and is required to work those hours.

23.5 Extra Work Assignments

23.5.1 Definition

Extra work is anything other than daily home-to-school routes.

23.5.2 Initial Priority

Extra work shall first be assigned by the District to assure that all drivers have worked the assigned or guaranteed minimums set forth in Sections 23.1 and 23.4 above.

23.5.3 Extra Home-to-School Runs

- (a) All extra home-to-school runs lasting five (5) days or less shall be offered to the driver or drivers who have the least amount of hours for these particular days, providing there is no conflict in the driver's schedule. Consideration will be given to the origin of the run and to the other driving adjustments, which have to be made as a result of such assignment.
- (b) All extra home-to-school runs lasting more than five (5) days shall be posted. Drivers shall be permitted to bid for this work on a seniority basis provided there is no conflict in the driver's schedule.
- (c) If the offer is declined, the work shall be offered to the person with the next fewest hours, and so forth.

23.5.4 Special Trips/Field Trips

(a) Weekdays

- (1) There will be a sign-up sheet, which will allow drivers to indicate their interest in trips. If there are any conflicts in such request, the

senior driver shall be considered first. But, all special trips above a full 7-1/2 hour work day shall be offered on a rotated basis so as to share overtime as equally as possible among all drivers.

- (2) Whenever possible, unit members will be assigned trips in lieu of their regular routes if such assignments would result in extra hours.

(b) Weekends

Quarterly sign up sheets will be posted for drivers to indicate their interest in weekend work. Assignments shall be made on a rotating basis throughout the quarter among drivers who sign up, beginning with the most senior, in order to guarantee fair distribution of hours of weekend special trips among all unit members wishing to work, with the understanding that hours should approximately equal out over the quarter between unit members available to work. In order to attain the equalization of hours during the quarter, drivers may be permitted to trade their places in the rotation voluntarily among themselves subject to approval. Whenever possible, weekend assignments shall be posted no later than the Monday prior to the weekend.

23.6 Increases in Hours

If a position is increased in hours, such increase shall be posted. It shall be offered to the bidder with the most seniority from date of hire as a school bus driver who is working less than full time.

23.7 Posting of Hours

Hours reflecting extra work assignments shall be posted in the drivers' lounge in the Transportation Office.

Posting will be done at the following times:

23.7.1 Between September 1 and September 14 for the summer vacation period.

23.7.2 Between December 1 and December 15 for the months of September, October and November.

23.7.3 Between March 1 and March 15 for the months of December, January and February.

23.7.4 Between June 1 and June 15 for March, April and May.

23.8 Minimum Days

Drivers shall receive full pay for minimum school days and full pay for in service training. Full pay means his/her regular assigned FTE.

23.9 Out-of-Town Trips

On out-of-town trips, all drivers shall receive actual driving time going and coming. On the first day of an out-of-town trip, the driver shall be paid from the time that he/she is assigned to report until he/she ceases driving or until the regularly scheduled end of his/her work day, whichever is greater. On the second and succeeding days of such trips, when the return trip is made, the driver shall be paid from the start of his/her normal working day until he/she returns to the yard and completes his/her assignment. On said trips when a driver lays over for a day, he/she shall be paid for 7-1/2 hours or actual driving time on that day, whichever is greater.

23.10 Split-Shift Differential

23.10.1 Split-shift differentials only apply when a driver has a scheduled gap of more than 1/2 hour between runs.

23.10.2 Split-shift differentials will be as follows:

- (a) A driver working less than five (5) hours will receive one (1) hour split-shift differential.
- (b) A driver working more than five (5) hours but less than seven (7) hours will receive 3/4 hour split-shift differential.
- (c) A driver working seven (7) hours or more will receive the amount of split-shift differential time to bring his/her workday up to 7-1/2 hours.

23.11 Call Back

A bus driver called back to work shall be paid a minimum of two (2) hours at the appropriate rate of pay.

23.12 Overtime

Bus Drivers will be paid overtime in cash. If a Bus Driver wants to take compensatory time off in lieu of cash, he/she may do so if the Manager of Transportation agrees.

23.13 Unpaid Time Off

Bus Drivers will be returned to work following an injury or medical event in accordance with the leave provisions of this Agreement.

It is the responsibility of the school bus driver to successfully complete all renewal training and testing requirements for the professional license and certificates required for the position. Availability for any required training is the responsibility of the driver.

Failure to successfully renew such licenses and certificates makes a school bus driver ineligible to drive. A driver who is ineligible to drive must use his or her own leave time during the time of ineligibility.

If the Transportation Manager determines that the scheduling of training or the scheduling of the outside agency testing results in delays that are not the responsibility of the driver and that negatively impact the driver's ability to complete the above processes, the driver will not be held responsible for such delays.

23.14 Drug and Alcohol Testing

The District agrees to notify the Union of any and all changes to the Alcohol and Drug Testing Program and policy and procedures resulting from changes in State or Federal statutes and/or regulations as the District receives notice of such changes.

If there is a direct conflict between a provision of this section and changes in the Federally mandated requirements, the latter controls. The District and the Union shall meet and confer over their effects on this section.

Drug and Alcohol Testing Program

23.14.1 All commercial drivers are subject to the District's drug and alcohol testing program (the Program) pursuant to the Code of Federal Regulations, Title 49, Part 382.

23.14.2 The procedures and facilities used for the tests under the Program are pursuant to the Code of Federal Regulations, Title 49, Section 40 et seq.

23.15 Unit Member Alcohol Testing Program

23.15.1 Post-Accident Testing

- (a) Following an accident, a commercial driver must be tested for controlled substance if (i) he or she was performing a safety-sensitive function with respect to the vehicle, and the accident involved the loss of human life, or (ii) the affected commercial driver receives a citation under the state or local law for a moving traffic violation arising out of the accident. The affected commercial driver shall make himself or herself readily available for testing, absent the need for immediate medical attention. No such affected commercial driver shall use alcohol for eight (8) hours after the accident, or until after he or she undergoes a post-accident alcohol test, whichever occurs first. The unit member shall continue to be paid for time spent reporting to, at, and returning from the specimen collection site. The District will provide transportation to the testing site.
- (b) To the extent it is feasible, the post-accident alcohol test shall be conducted within two (2) hours following the accident. If the test is administered more than two (2) hours but less than eight (8) hours after the accident, the District shall submit to the Department of Transportation (DOT) a report explaining the reason why the test was not promptly administered. If the post-accident alcohol test is not administered within eight (8) hours following an accident, any (attempt to administer the test shall cease. The

District shall submit to the DOT a report containing an explanation of the events that resulted in the District's failure to administer the test. The school official who is appointed by the Superintendent to oversee the Program shall submit those DOT reports with copies to the Superintendent. The DOT report shall be confidential and shall not be placed in the unit member's personnel file.

- (c) A breath or blood alcohol test conducted by a federal, state, or local official having independent authority to conduct such test shall fulfill the post-accident alcohol test requirement, provided that the test conforms to applicable legal requirements and are obtained by the District.

23.15.2 Random Testing

- (a) Affected unit members shall be randomly selected for testing by an independent party in accordance with federal regulations.
- (b) The District shall ensure that the annual number of commercial drivers randomly selected for random alcohol testing equals not less than twenty-five percent (25%) of the average number of commercial driver positions each year. The commercial drivers shall only be tested either immediately before performing a safety-sensitive function or immediately after performing a safety-sensitive function.
- (c) Procedure -Unit members who are directed to submit to an alcohol test pursuant to the random testing requirements of the FTA Regulations shall be in paid status for time spent reporting to, at, and returning from the specimen collection site. The District will provide transportation to the collection site or may permit a unit member to walk if the unit member so chooses.

23.15.3 Reasonable Suspicion Testing

- (a) The alcohol test shall be administered when a supervisor or District official has reasonable suspicion that a commercial driver has violated this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the commercial driver as witnessed by at least two (2) trained individuals preferably supervisors. No retaliation will be permitted for reporting that any unit member is reasonably suspected of being under the influence of alcohol.
- (b) The reasonable suspicion test shall be administered only if the required observations are made during, just before, or just after the period of the workday that the commercial driver is performing a safety-sensitive function.

- (c) The observation and determination that a reasonable suspicion, exists must be made by a supervisor or district official who is trained in detecting the symptoms of alcohol misuse. The supervisor or district official who is making the determination shall not conduct the alcohol test on the commercial driver.
- (d) If an alcohol test is not administered within two (2) hours from a determination of reasonable suspicion, the supervisor or district official shall prepare and maintain a record explaining why this was not done. No attempt to administer a test shall be made after eight (8) hours.
- (e) The unit member shall be provided transportation to the collection site and a ride home or return to work by the district or work site.
- (f) The unit member shall remain in paid status for time spent reporting to, and at the collection site and returning to his or her residence.

23.15.4 Enforcement

- (a) Any commercial driver who refuses to submit to a post-accident, random, reasonable suspicion, or follow-up tests shall not perform or continue to perform safety-sensitive functions.
- (b) A commercial driver who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 may not perform or continue to perform safety-sensitive functions until the start of the commercial driver's next regularly scheduled duty period, but not less than twenty-four (24) hours after the test was administered and passes a return-to-duty test. A commercial driver who has not previously tested positive for alcohol or drugs and is found to have an alcohol concentration of 0.02 or greater but less than 0.04 may be returned to work after twenty-four (24) hours provided he or she passes a return-to-duty test and may be subject to up to one (1) unannounced alcohol test during the following ninety (90) days, at the discretion of the District.
- (c) In the event the commercial driver tests positive for alcohol greater than .04, the commercial driver shall be evaluated by a substance abuse professional (SAP) designated by the third party administrator of the testing program as agreed by the parties. The District will determine what action should be taken. Appropriate action may include any or all of the following: discipline (up to and including dismissal), referral to a mandatory Drug! Alcohol Rehabilitation program as advised by the SAP, and/or a temporary reassignment to a non-safety sensitive job function.

The District will not be required to pay for treatment not covered under the District's health coverage. The commercial driver will be entitled to use all applicable leave provisions in the union contract.

The commercial driver shall not be returned to safety-sensitive duties until the commercial driver passes a return-to-duty test. Commercial drivers returning to duty after rehabilitation shall be subject to unannounced follow up testing during the first twelve (12) months of return- to-duty. The number of follow up tests shall be determined by the SAP. If a commercial driver refuses to submit to a follow up test, it shall be deemed a positive test.

23.15.5 Return-To-Duty Testing

- (a) The District shall ensure that an affected commercial driver, who has violated any of the alcohol misuse rules in this policy, is evaluated and undergoes an alcohol test with a result indicating an alcohol concentration of less than 0.02 before returning to a safety- sensitive function.
- (b) The unit member shall be paid for time spent reporting to, at and returning from the collection site.

23.15.6 Follow-Up Testing

- (a) A commercial driver who violates the Program with respect to alcohol misuse and is subsequently identified by a substance abuse professional (SAP) as needing assistance in resolving an alcohol problem, shall be subject to unannounced follow-up testing administered by the District over the first twelve (12) months following his or her return to duty. The number of follow-up tests will be determined by the SAP.
- (b) The follow-up alcohol test shall be administered just before, during or just after the time when the affected commercial driver is performing safety-sensitive functions.
- (c) The unit member shall be paid for time spent reporting to, and at the collection site, and returning to his or her work site.

23.15.7 Administration of Alcohol Test

- (a) Alcohol tests shall not be performed by District employees. The District shall contract with a licensed facility to conduct the ' required testing. The facility shall have all required licenses, permits and shall have a written procedure for ensuring the security and chain of possession samples, the accuracy of its work and for the confidentiality of its records and results.
- (b) Alcohol tests shall be performed using a federally approved evidential breath testing device (EBTD) which must (i) print itself or via a separate

printer three (3) copies of each test result, (ii) number each test sequentially with numbers visible to both the affected commercial driver and administrator before each test, and (iii) provide an "air blank" or test of the ambient air to insure that it reported zero when no one was breathing Into the Instrument.

- (c) Blood alcohol test is authorized only when (i) the EBTD is not available for post-accident or reasonable suspicion tests, and (ii) the affected commercial driver attempts or fails to provide an adequate amount of breath.
- (d) The testing site must provide the affected commercial driver with aural and visual privacy.
- (e) The District shall use standardized federal alcohol testing forms.
- (f) All initial alcohol testing showing an alcohol concentration of 0.02 or greater will be subject to a second confirmatory test using an EBTD device. No confirmation test shall be conducted if the tests results are between 0.00 and 0.019.
- (g) Only a result which is positive (0.020 or greater) following both the initial and confirmatory analysis shall be reported to the District as a positive result.

23.16 Unit Member Controlled Substance Testing Program

23.16.1 Pre-Employment Testing

- (a) No new or transferred commercial driver shall perform a safety-sensitive function unless he or she has been administered a controlled substance test with a result indicating negative.
- (b) The District may forego the pre-employment controlled substance testing (i) if the affected commercial driver has participated in a drug testing program that satisfies the Districts Program requirements within the previous thirty (30) days, (ii) while participating in that program, the affected commercial driver was administered a test for controlled substance within the past six (6) months from the date of application of employment with the District, or participated in a random controlled substance testing program for the previous twelve (12) months, and (iii) the District is satisfied that no prior employer has knowledge or records of a violation of the controlled substance rules.
- (c) Should the District forego the pre-employment testing requirement pursuant to Section (b) above, the District shall contact the controlled substance program in which the affected commercial driver participated, and obtain (i) the name and address of the program, (ii) verification that the

affected commercial driver participated in the program, (iii) verification that the program conforms to the requirements of the District's Program, (iv) verification of a negative test result and non-refusal to take the test, (v) the date on which the affected commercial driver was last tested for controlled substance, and (vi) the results of any tests taken or any violation of the program regulations within the previous six (6) months.

23.16.2 Post-Accident Testing

- (a) Following an accident, a commercial driver must be tested for controlled substance if (i) he or she was performing a safety-sensitive function with respect to the vehicle, and the accident involved the loss of human life, or (ii) the affected commercial driver receives a citation under the state or local law for a moving traffic violation arising out of the accident. The affected commercial driver shall make himself or herself readily available for testing, absent the need for immediate medical attention. The unit member shall continue to be paid for time spent reporting to, at, and returning from the specimen collection site. The District will provide transportation to the testing site.
- (b) To the extent it is feasible, the post-accident controlled substance test shall be conducted within thirty-two (32) hours following the accident. If the post-accident test is not administered within thirty-two (32) hours following an accident, any attempt to administer the test shall cease. The District shall submit to the DOT a report containing an explanation of the events that resulted in the District's failure to administer the test. The school official who is appointed by the Superintendent to oversee the Program shall submit those DOT reports with copies to the Superintendent. The DOT report shall be confidential and shall not be placed in the unit member's personnel file.
- (c) A urine test conducted by a federal or state, or local official having independent authority to conduct such test shall fulfill the post-accident controlled substance test requirement, provided that the test conforms to applicable legal requirements and the results are obtained by the District.

23.16.3 Random Testing

- (a) Affected unit members shall be randomly selected for testing by an independent party in accordance with federal regulations.
- (b) The District shall ensure that the annual number of commercial drivers randomly selected for random controlled substance testing equals not less than fifty percent (50%) of the average number of commercial driver positions each year. To the extent it is feasible, the commercial drivers shall

be tested either reasonably before performing a safety-sensitive function or reasonably after performing a safety-sensitive function.

- (c) Procedure - Unit members who are directed to submit to a controlled substance test pursuant to the random testing requirements of the FTA Regulations shall be in paid status for time spent reporting to, at and returning from the specimen collection site. The District will provide transportation to the collection site or may permit a unit member to walk if the unit member so chooses.

23.16.4 Reasonable Suspicion Testing

- (a) The controlled substance test shall be administered when a supervisor or District official has reasonable suspicion that a commercial driver has violated this policy. The reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the commercial driver as witnessed by at least two (2) trained individuals preferably supervisors. No retaliation will be permitted for reporting that any unit member is reasonably suspected of being under the influence of a controlled substance.
- (b) The reasonable suspicion test shall be administered only if the required observations are made during, just before, or just after the period of the workday that the affected commercial driver is performing a safety-sensitive function.
- (c) The observation and determination that a reasonable suspicion exists must be made by a supervisor or district official who is trained in detecting the symptoms of controlled substance misuse. The supervisor or district official who is making the determination shall not conduct the controlled substance test on the affected commercial driver.
- (d) A written record of the observations leading to a controlled substance reasonable suspicion test shall be prepared and signed by the supervisor or district official who made the observations. This record shall be made within twenty-four (24) hours of the observed behavior or before the results of the controlled substance test are released from the laboratory, whichever is earlier. If the reasonable suspicion controlled substance test is not administered within twenty-four (24) hours following the observation, any attempt to administer the test shall cease. The supervisor or district official who made the observation shall prepare and maintain on file a report containing an explanation of the events that resulted in the District's failure to administer the test. The district official who is appointed by the Superintendent to oversee the Program shall submit this report to the Superintendent.

- (e) The unit member shall be provided transportation to the collection site and a ride home or return to work by the district.
- (f) The unit member shall remain in paid status for time spent reporting to, and at the collection site and returning to his or her residence or work site.

23.16.5 Enforcement

- (a) Any commercial driver who refuses to submit to a post-accident, random, reasonable suspicion, or follow-up tests shall not perform or continue to perform safety-sensitive functions.
- (b) In the event the commercial driver tests positive for alcohol greater than .04, the commercial driver shall be evaluated by a substance abuse professional (SAP) designated by the third party administrator of the testing program as agreed by the parties. The District will determine what action should be taken. Appropriate action may include any or all of the following: discipline (up to and including dismissal), referral to a mandatory Drug Alcohol Rehabilitation program as advised by the SAP, and/or a temporary reassignment to a non-safety sensitive job function.

The District will not be required to pay for treatment not covered under the District's health coverage. The commercial driver will be entitled to use all applicable leave provisions in the union contract.

The commercial driver shall not be returned to safety-sensitive duties until the commercial driver passes a return-to-duty test. Commercial drivers returning to duty after rehabilitation shall be subject to unannounced follow up testing during the first twelve (12) months of return-to-duty. The number of follow up tests shall be determined by the SAP. If a commercial driver refuses to submit to a follow up test, it shall be deemed a positive test.

23.16.6 Return-To-Duty Testing

- (a) The District shall ensure that a commercial driver who has violated the controlled substance prohibition rules is evaluated and undergoes a controlled substance test with a result indicating negative for controlled substance use before returning to a safety- sensitive function.
- (b) The unit member shall be paid for time spent reporting to, at and returning from the collection site.

23.16.7 Follow-Up Testing

- (a) A commercial driver who violates the Program with respect to controlled substance misuse and is subsequently identified by a substance abuse professional (SAP) as needing assistance in resolving a substance abuse

problem shall be subject to unannounced follow-up testing administered by the District over the first twelve (12) months following his or her return to duty. The number of follow-up tests will be determined by the SAP.

- (b) The follow-up controlled substance test shall be administered just before, during or just after the time when the commercial driver is performing safety-sensitive functions.
- (c) The employee shall be paid for time spent reporting to, and at the collection site and returning to his or her work site.

23.16.8 Administration of the Controlled Substance Test

- (a) The urine sample must be collected by an agreed upon outside entity which has been licensed or certified for such testing, sent to a Department of Health and Human Services (DHHS) certified laboratory for analysis, and a negative result must be received by the District before the first time the commercial driver performs safety-sensitive functions. The District shall conduct the test during the hiring process or before the commercial driver begins performing the safety-sensitive functions.
- (b) After the affected commercial driver has provided a urine sample, a collection site person must split the sample into two (2) bottles. After completing a chain of custody form, the collection site person shall ship both bottles to a Department of Health and Human Services (DHHS) certified laboratory for analysis.
- (c) If the primary specimen is negative, the laboratory shall dispose of the split sample. If the primary specimen is positive, the laboratory shall hold the split sample for a year, or longer if a legal challenge is pending, to ensure that it remains available for a second test. The commercial driver shall be notified of the positive test result and his/her right to a confirmation test. If the commercial driver requests a test of the split specimen, the laboratory shall ship the unopened split sample to another DHHS-certified laboratory for analysis. If the split sample fails to confirm the presence of controlled substance, the entire test is canceled.
- (d) The testing site must provide the commercial driver with aural and visual privacy.
- (e) The drug screen will test for the following substances:

Initial Screening Test (EMIT) (ng/ml)

Marijuana 50

Cocaine Metabolites 300

Opiate Metabolites 300¹

Phencyclidine 25
Amphetamines 1,000
Confirmatory Test (GC/MS) (ng/ml)
Marijuana Metabolite² 15
Cocaine Metabolites³ 150
Opiates:
 Morphine 300
 Codeine 300
 Phencyclidine 25
Amphetamines:
 Amphetamine 500
 Methamphetamine 500
¹ 25 ng/ml if immunoassay specific for free morphine
² Delta-9-tetrahydrocannabinol-9-carboxylic acid
³ Benzoylcegonine

23.16.9 Training and Referral

- (a) The District shall provide each commercial driver with this Board Policy and Administrative Regulation prior to performing his or her first safety-sensitive function beginning on January 1, 1996. Each commercial driver shall sign a statement certifying that he or she received a copy of the above materials.
- (b) All unit members subject to this policy shall receive at least four (4) hours of training in alcohol and controlled substance abuse including training on the physical, behavioral, speech and performance indicators of probable misuse.
- (c) The District or its designee shall advise a commercial driver, who has violated the Program, of the available resources for evaluation and treatment of alcohol problems, including the names, addresses, and telephone numbers of SAPs, counseling centers, and treatment programs.

23.16.10 Test Results. Record Retention and Confidentiality

Records not required for compliance by the Manager of Transportation shall be promptly forwarded to the Director of Classified Personnel.

- (a) The District shall maintain all records generated by the Program in a locked file with controlled access. Test results and related records shall be maintained under strict confidentiality and released only in accordance with law. Upon written request, a commercial driver shall receive copies of any records pertaining to his or her participation under this program. Records shall be made available to a subsequent employer or other identified persons only as expressly requested in writing by the commercial driver.

- (b) Records of any alcohol test results indicating an alcohol concentration of 0.02 or greater, documentation of refusals to take required alcohol tests, equipment calibration documentation, and documentation of the commercial driver evaluations and referrals shall be retained for five (5) years. Records of any controlled substance tests, indicating positive results, documentation of refusals to take required controlled substance tests, and documentation of the commercial driver evaluations and referrals shall be retained for five (5) years.
- (c) Records related to the collection process and training shall be maintained for two (2) years.
- (d) Records of negative test results shall be kept for one (1) year.
- (e) The Superintendent or designee shall submit to the DOT an annual report summarizing the results of the Program for each calendar' year.

23.16.11 General

- (a) A "Safety Sensitive function" is defined as all on duty functions performed from the time the commercial driver begins work or is required to be ready for work until he/she is relieved from work and all responsibility for performing work. It includes driving, waiting to be dispatched, inspecting and servicing equipment, supervising, performing or assisting in loading or unloading, repairing or obtaining and waiting for help with a disabled vehicle, performing commercial driver requirements related to accidents.
- (b) A commercial driver includes all regularly employed commercial drivers and substitute commercial drivers.
- (c) The affected unit member shall have the right to consult and have a union representative or a witness present during testing within a reasonable amount of time consistent with the federal regulations.
- (d) The District shall post and make available to affected unit members information concerning drug and alcohol policies and testing prepared by the union.
- (e) Voluntary EAP Referral: Since alcoholism and drug dependency may be treatable, unit members are encouraged to voluntarily seek assistance through the EAP, their health plan or other programs. Therefore, the first time a unit member comes forward prior to either notification of selection for any alcohol or drug test and/or accident, and voluntarily requests assistance for an alcohol or drug problem, he/she will not have his/her job security jeopardized by a request for help. Subsequent voluntary referrals will be handled on a case-by-case basis.

- (f) In cases involving post-accident or reasonable suspicion testing, a unit member shall not be assigned to perform safety sensitive functions pending the outcome of the test. The District shall assign the unit member to non safety sensitive functions or administrative leave with pay pending the outcome of the test.

23.17 Transportation Yard Security, Evenings and Weekends

To ensure the safety of school bus drivers at times when there are no other transportation personnel on duty, it may be necessary to contact BUSD Security when drivers are entering the yard on evenings and weekends.

In such circumstances, when a reasonable and timely request is made by a driver, the Transportation Department will make a reasonable attempt to contact District Security and request service. If the Transportation Department is closed and the driver is unable to contact anyone in the Transportation Department, the driver may then notify District Security of his/her estimated arrival time at the Transportation yard. All parties understand that a request to Security does not guarantee service. This understanding does not authorize bus drivers to extend their work hours.

Article 24 - No Strike or Lockout Clause

24.1 No Strike

The Union agrees that, during the life of this Agreement, neither it nor its officers, representatives, committee members, stewards, nor its members will, for any reason, directly or indirectly, call, sanction, or engage in any strike, sympathy strike, walk-out, slow-down, sit-down, sick-in, stayaway, limitation of required activities, boycott of a primary or secondary nature, picketing, or any form of interference in the operation of the educational process of the District.

24.2 No Lockout

The District agrees that during the life of this Agreement, it will not lock out any of the members of the bargaining unit.

Article 25 - Savings Clause

- 25.1 If any provision of this Agreement is held to be contrary to law by a court of competent jurisdiction, all other provisions will continue in full force and the parties will meet within thirty (30) days to negotiate a replacement for that provision if it is legally possible to do so.
- 25.2 Either party may exercise rights under this Article on matters directly impacted by SB 813 or trailer legislation.
- 25.3 If during the term of this Agreement any federal, state or local law invalidates or modifies any provision of this Agreement, the parties shall meet within thirty (30) days to negotiate a replacement for that provision if it be legally possible to do so.

Article 26 - Completion of Agreement

- 26.1 The District and the Union agree that this Agreement is complete. There shall be no additions to or deletions from the content of any articles and there shall be no articles added to the Agreement except by mutual agreement by the Board and the Union or by virtue of the reopening of the Agreement. In addition, there shall be no further negotiations on any matter that is written in the scope of representation for the duration of the Agreement except by mutual agreement, except as provided for in the reopened provision. Notwithstanding the preceding sentence, the parties agree to meet and negotiate within one hundred (100) days after so requested on any issue deemed within the scope of representation by the Public Employment Relations Board during the term of this Agreement, which issue the parties have not included in this Agreement.
- 26.2 The parties agree to meet and negotiate within forty-five (45) days when the Board proposes a change in policy or a new policy, the subject of which has been deemed negotiable by the Public Employment Relations Board.

Article 27 – Contracting Out

The District shall comply with Education Code section 45103.1 et seq. regarding contracting out.

FOR THE UNION

FOR THE DISTRICT

Paula Phillips, President

Delia Ruiz, Assistant Superintendent for
Human Resources

Ed Wang, CFT Field Representative

Roy Combs

Marie Fergusson, Vice-President, Office, Technical and Business Services Unit

Mark Griffin, Vice-President, Op Services Unit

Johnny Billups

Mike Campbell

Denise Diggs-Ray

Tim Donnelly

Rodney Lewis

Barbara Mellion

Marsha Montgomery

Marcos Yoc

Appendix A - Schedule of Salary Ranges by Classification (Effective 7/1/13)

**Appendix B - Complaint Procedure for Parents, Employees, Residents
and Students**

Appendix C – Performance Review for Classified Personnel

Appendix D - Classified Salary Schedule

Appendix E - 2013-2014 and 2014-2015 Calendars for School-Term Unit Members

Appendix F – Domestic Partners

Policy

The Berkeley Unified School District will extend benefits to the same and opposite gender employees living in domestic partnerships.

It shall be contrary to the policy of the Berkeley Unified School District, within any program, procedure, or contract, to grant benefits or assign liabilities on the basis of a marital relationship unless a substantially equal application to a broader category of relationship or persons which includes within it the domestic partnership relationships shall also be a proper compliance with this policy.

Berkeley Unified School District employees in domestic partnerships as defined below are entitled to dental benefits, bereavement leave, and other district controlled benefits heretofore available to employees solely on the basis of marriage.

Berkeley Unified School District administration will continue to negotiate with its health insurance providers to permit the inclusion of domestic partners in employees' health plans. After such negotiations with health insurance providers, if health plan costs are increased, the District and the union shall meet to re-negotiate this section prior to Implementation.

Domestic Partnership Defined

A domestic partnership shall exist between two persons regardless of their gender and each of them shall be the domestic partner of the other if they both complete, sign, and cause to be filed with the Berkeley Unified School District Personnel Department an Affidavit of Domestic Partnership, attesting to the following:

- a. The two parties reside together and share the common necessities of life;
- b. The two parties are: not married to anyone, not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contract;
- c. The two parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
- d. The two parties agree to notify the Berkeley Unified School District if there is a change of the circumstances attested to in the affidavit;
- e. The two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

Termination

A member of a domestic partnership may end said relationship by filing a statement with the designated Berkeley Unified School District department. In the statement the individual filing must

affirm, under penalty of perjury, that: (1) the partnership is terminated, and (2) a copy of the termination statement has been mailed to the other partner.

New Statements of Domestic Partnership

No individual who has filed an Affidavit for Domestic Partnership may file another such Affidavit until six (6) months after a statement of termination of the previous partnership has been filed with the designated Berkeley Unified School District department.

Civil Actions

Any person defrauded by a false statement contained in an Affidavit of Domestic Partnership may bring a civil action for fraud to recover his or her losses.

Appendix G – Disciplinary Action and Appeal

Section 60.1000, DISCIPLINARY ACTION AND APPEAL

Rules and Regulations of the Merit System Personnel Commission of the Berkeley Unified School District

60.1000 DISCIPLINARY ACTION AND APPEAL

60.1000.1 Causes for Suspension, Demotion, Dismissal (EC 45302)

- A. Permanent employees in the classified service may be reprimanded, demoted or dismissed for any of the following causes provided that specific instances must be set forth as to any causes enumerated in the headings below. This section shall not be construed to prevent layoffs for lack of work or lack of funds
1. Incompetency and inefficiency in the performance or assigned duties (Cumulative).
 2. Insubordination (Including but not limited to assigned work) or any willful and persistent violation of the provisions of the Education Code or of rules, regulations or procedures adopted by the Board of Education, Superintendent or the Personnel Commission pursuant to it.
 3. Dereliction of or inattention to duty. (Cumulative)
 4. Failure to maintain the requirements of the classification: e.g. license or certification.
 5. Failure of good conduct tending to injure the public service.
 6. Dishonesty on matters pertaining to employment and duties.
 7. Discourteous, offensive or abusive conduct or language toward other employees, pupils, or the public. (Cumulative)
 8. Use of alcoholic beverages non-prescribed narcotics or restricted substances while on duty or reporting to work while under the influence of alcohol, nonprescribed narcotics or restricted substances. (Cumulative)
 9. Conviction of any criminal act by a court of law involving moral turpitude or other serious crime, which indicates the person is a poor employment risk.
 10. Political activities engaged in by an employee during his/her assigned hours of employment. (Cumulative)
 11. Unexcused absence or abuse of sick leave privileges or repeated and unexcused tardiness.

12. The discovery or development during an initial probationary period of any physical, emotional, and/or mental condition which would have precluded acceptance as eligible for assignment.
 13. Abandonment of position--that is absences without permission in excess of five working days.
- B. This section shall not be construed to prevent layoffs lack of work or lack of funds.
- C. **SUSPENSION OF CLASSIFIED EMPLOYEE DUE TO ACCUSATION OF CRIME:**

A regular employee charged with the commission of any offense as specified in Section 45304 of the Education Code by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 45304 of the Education Code. Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of the Rule relative to suspensions. The employee may receive compensation as provided for in the Education Code Section. Such suspension shall be reviewed by the Personnel Commission every 90 days. (EC Code 45304).

60.1000.2 Procedure for Disciplinary Action

- A. No employee in the classified service shall be reprimanded, suspended, demoted, dismissed, or in any way discriminated against because of his/her political or religious affiliations or race, color, sex, national origin or ancestry, or marital status or pregnancy, subject to the provisions of Paragraph A.3. Rule 60.1000.1
- B. In handling disciplinary matters involving suspension, demotion, and dismissal, it is intended that progressive steps be utilized to the greatest extent permitted by individual circumstances and that discipline shall be commensurate with the offense. Such progressive steps may be as follows, except that steps 1 and 2 are mandatory in dealing with cause of a cumulative nature unless the severity of the offense warrants disciplinary action at a higher appropriate level.
 1. Verbal reprimand.
 2. Written reprimand with a copy to the employees' personnel file.
 3. Suspension without pay.
 4. Involuntary demotion.
 5. Dismissal.

Causes of cumulative nature are those contained in 60.1000A, 1,3,7,8 and 10.

- C. Supervisors shall have orally or in writing recommended corrective action whenever an employee fails to meet the required standards of conduct or performance for a cumulative offense.
- D. If disciplinary action includes suspension, demotion or dismissal, written notice shall be given to an employee prior to the effective date. Such notice shall include:
 - 1. The reasons for disciplinary action.
 - 2. A copy of the charges and material upon which the disciplinary action is based.
 - 3. Notice that the employee has the right to respond within five working days to the authority imposing discipline either orally or in writing.

If disciplinary action is a written reprimand, the employee shall be given a copy and it shall include notice of the employee's right to respond within ten working days before the reprimand is included in the employee's personnel file.

- E. When a regular employee is to be suspended, demoted or dismissed, specific written charges shall be prepared and presented for action of the Governing Board. The charges must be so clear that the employee will know the exact complaints and may be expected to respond to them.
- F. When formal disciplinary action has been taken by the Governing Board, the action and the charges shall be reported to the Personnel Director, who shall within 10 working days notify the employee and shall report the action to the Commission.
- G. Notice to the employee shall include a copy of the charges and a statement of his/her right to appeal, if any, together with a copy of Rule 60.1000.3. Such notice shall be transmitted by registered or certified mail to the last known address of the employee within 10 working days of the effective date of the disciplinary action.
- H. Notwithstanding the procedures prescribed herein, an employee may be suspended prior to the Board approval when in the opinion of the Superintendent, or in his/her absence the Superintendent's designee, such suspension is necessary to protect the interest of the District. Such suspension is subject to later ratification by the Board and approval of charges, which must be transmitted to the employee within 10 working days after the date of suspension. Requirements in regard to charges and notifications must be met when the Board ratified the administrative action.
- I. A regular employee charged with the commission of any sex offense as defined in Section 44010 or any narcotics offense as defined in Section 44011 of the Education Code by complaint, information, or indictment filed in a court of competent jurisdiction may be suspended as provided for in Section 45304 of the Education Code. Such a suspension will be processed as an involuntary personal leave in accordance with the provisions of this rule relative to suspensions. The employee

may receive compensation as provided for in the Code section. Such suspension shall be reviewed by the Personnel Commission every 90 calendar days.

- J. Dismissal shall cause removal of the employee's name from all employment lists.
- K. Failure to appeal as provided below shall make the action of the Governing Board final and conclusive.
- L. Suspension, without pay, shall not exceed the time limitations prescribed in Education Code Section 44304.

60.1000.3 Appeal

- A. A permanent employee who has been suspended, demoted, or dismissed may appeal to the Personnel Commission within 14 working days after having been furnished with a copy of the written charges by filing a written answer to such charges. Appeal can be made only on the grounds:
 - 1. That the procedures set forth in these rules have not been followed.
 - 2. That the action was taken because of political or religious acts or opinions or affiliations, or race, color, national origin or ancestry, sex, or marital status or pregnancy.
 - 3. That there has been abuse of discretion.
 - 4. That the action taken was not in accord with the facts.
 - 5. Penalty invoked is excessive.
- B. A permanent employee who has not served the full probationary period for the class and who is demoted in the class from which promoted may request an investigation by the commission within 14 days after the receipt of the copy of written charges. The request for the investigation shall be based only on one or more of the five grounds provided above for appeals. The Commission shall conduct an investigation confined to the grounds set forth in the charges and in the request for the investigation but shall not be required to follow the procedures for appeals and hearings set forth in these rules. The Commission shall notify the Governing Board and the employee in writing of its findings. If the Commission's investigation and findings, however, indicate any discriminatory action, the Commission may order a formal hearing. The decision of the Commission shall be binding on the Governing Board.

60.1000.4 Hearing Procedure (EC 45311)

- A. When the Commission has determined that it had jurisdiction over an appeal, a hearing shall be held. The Commission shall appoint a hearing officer, who may be

the Commission, a Committee of the Commission, a Commissioner or hearing officer employed by contract or as a professional expert to hear and determine the charges.

1. The Commission, Committee of the Commission, or hearing officer shall determine the time and place when the charges will be heard and notify the Director of Classified Personnel who shall inform the employee concerned and the employee's representative.
2. Notification shall be by letter normally three weeks preceding date of hearing. Letter shall request names of witnesses to be subpoenaed and date by which witnesses' names must be given to the Director.

B. Duties of the Commission, Committee of the Commission, or Hearing Officer at hearing.

1. When a Committee of the Commission is assigned to hear an appeal, it shall elect one of its members to be Chairperson. The Commission Committee, or Hearing Officer shall have full authority and responsibility for the proper and orderly conduct of the hearing.
2. Proceed with the hearing at the time, place and date previously set, regardless of the presence or absence of the parties concerned, unless good cause exists for postponement.
3. Have full recourse to the resources of the District in the orderly conduct of the hearing.
4. Adjourn, postpone, continue or reopen a hearing as deemed advisable.
5. Have a stenographic report made of the proceedings. A court reporter shall be hired at the discretion of the Commission, Committee, or Hearing Officer in those cases in which the nature or the charges is serious or when appellant is represented by counselor for other reasons when deemed appropriate.

C. Conduct of the hearing:

1. Establish the issue by reading the charges forming the basis for its action.
2. Administer oaths to all parties testifying.
3. Assure proper identification of parties' representatives.
4. District shall present its case first, as appropriate.
5. Appellant shall be responsible for the conduct of his case.

6. Both the District and the appellant shall have the right of rebuttal and cross examination.
7. Participating Commissioners, or the Hearing Officer, shall have the prerogative to question witnesses at any time.
8. Closing argument shall be given by the appellant or his/her representative followed by the District's closing arguments.
9. Assigned Commission, Committee, or Hearing Officer shall adjourn the hearing when satisfied that testimony taken is adequate to serve as basis or decision.
10. After completion of testimony by parties the Commission or Committee, or Hearing Officer, shall notify parties that a written decision will be mailed to the appellant and the District within a reasonable time of the hearing.

D. Recommendation:

1. The decision should be written.
2. The decision should touch on all pertinent allegations made in the Statement of Charges.
3. The decision should clearly state the result.

E. Hearing Officer's Recommendation to Full Commission:

1. Recommendations concerning the findings should be made to the Commission within 30 days after conclusion of the hearing. The Commission may accept, reject or call for additional evidence deemed material, and the Commission's order or decision, with or without such additional evidence, shall be final. Any rejection or amendment shall be based on a review of the transcript of the hearing or upon results of such supplementary hearing or investigation as the Commission may order.
2. The Commission shall render its judgment as soon as possible after receipt of recommendation of the Hearing Officer and in no event later than 15 days unless unusual conditions prevent a decision within the allotted time.
3. The decision of the Commission is final.

60.1000.5 Reinstatement

If the Commission sustains the employee, it may order paid all or in part of his/her full compensation from the time of suspension, demotion or dismissal, and it shall order his/her reinstatement. Upon notification of the Commission's decision, the Board of Education shall reinstate the employee and authorize such compensation as the Commission directs.

60.1000.6 Cost of Hearing

All costs for the services of a Hearing Officer employed by contract or as a professional expert and the court reporter including but not limited to, per diem expenses, the Hearing Officer and court reporter's travel and assistance expenses and cost of any hearing room will be borne equally by the District and the employee's participating representative. All other costs will be borne by the party incurring them. Costs of transcripts shall be equally borne by the District and the participating parties, if the transcript is requested by the hearing officer or both parties. If a copy of the transcript is requested by only one party, that party shall incur the expense.

Rev. 5/19/2004

Appendix H – Vacation Leave for Unit Members Employed On or Before January 17, 1978

A unit member employed on or before January 17, 1978 who is employed to serve fewer than twelve (12) months per fiscal year shall accrue vacation leave as follows:

Years of Service	Vacation Accrual Rate
Less than 4 years	10 days per year
4 years but less than 10 years	15 days per year
10 years but less than 15 years	20 days per year
15 years or more	25 days per year

A unit member employed on or before January 17, 1978 who is employed to serve twelve (12) months per fiscal year shall accrue two (2) additional days of vacation per year at each step as follows:

Years of Service	Vacation Accrual Rate
Less than 4 years	12 days per year
4 years but less than 10 years	17 days per year
10 years but less than 15 years	22 days per year
15 years or more	27 days per year

Side Letter of Agreement

For the 2014-2015 fiscal year only, the parties agree to modify Article 11.2.9 (j) so that unused vacation for OSS unit members working less than twelve (12) months will be paid out in a lump sum in June of 2015. The parties agree to mutually reopen Article 11.2.9 (j) as part of the 2015-2016 reopeners. It shall not count against either party's article reopeners.

FOR THE UNION

FOR THE DISTRICT

Paula Phillips, President

Delia Ruiz, Assistant Superintendent for
Human Resources