

## PREAMBLE

The purpose of this agreement is to promote the improvement of personnel management and employer-employee relations, and provide an equitable and peaceful procedure for the resolution of differences. Further, to establish and set forth rates of pay and other terms and conditions of employment as specified by the Educational Employment Relations Act, Government Code Section 3540, et seq.

## DEFINITIONS

Benefits Cap – the average FTE allocation required for Benefits Package coverage paid July through September at prior year Composite Rate for all coverages and costs October through June at current fiscal year Composite Rate.

Benefits Package – medical, dental, vision, life, EAP (Employee Assistance Program) and administrative costs for coverage provided to employees and retirees as recommended by the Benefits Committee and adopted by CSEA.

Day - is a day in which the central administrative offices of the District is open for business.

Week (for full-time classified employees) - shall consist of five (5) consecutive days eight (8) hours per day, and/or forty (40) hours per week.

Paid status - shall mean any time for which the unit member receives lawfully required compensation from the District, be it straight time, overtime, compensation for leaves, vacations, and/or holidays. Any absence or leave without pay is considered to be non-paid status.

Immediate family - shall be defined as mother, father, step-mother, stepfather, grandmother, grandfather, grandchild, husband, wife, son, son-in-law, daughter, daughter-in-law, brother or sister of either the unit member or unit member's spouse, stepbrother, stepsister, aunt, uncle, or close personal friend of the unit member, or any person living permanently in the immediate household of the unit member except as restricted in Article 8.9.1.5 for the birth of a child.

Immediate supervisor - is the District administrator or supervisor having direct jurisdiction over the classified employee and who is responsible for their evaluation.

Full-time employee - is a classified employee who works forty (40) hours per week.

Grievant - is an employee in the bargaining unit covered by the terms of this agreement who alleges a grievance. CSEA #18 shall have the right to be the grievant on provisions of Article 13 regarding Association Rights.

Grievance - is an allegation by a grievant that the grievant has been adversely affected by a misinterpretation, a misapplication, or a violation of a specific provision of this agreement as approved/ratified on May 26, 2004. Article 4.1.2.

Transfer - is (1) a permanent transfer of an employee from one District site to another District site when such a movement is not a part of the normal assignment of the employee, or (2) the permanent transfer of an employee from one immediate supervisor to another immediate supervisor.

Vacant position - is (1) a new position created by the District, or (2) an existing position

which is vacated by the incumbent or which is not currently filled and the District intends to fill, or (3) a position where the hours of the position are to be increased by more than one and one-half (1 1/2) hours or more than three (3) hours if the increase is to be applied twice in the same fiscal year, or (4) a position in which the incumbent would be made eligible for benefits as provided for in Article 12 of this agreement as a result of any increase in hours. A position shall not be deemed vacant if an employee has rights to the position as a result of a reemployment list created by a layoff, industrial accident, or disability, if the position is filled by involuntary transfer or the position is filled from transfer requests on file.

Disposable earnings - the earnings left after subtracting the part of the earnings a state or federal law requires an employer to withhold. Generally these required deductions are (1) federal income tax, (2) federal social security, (3) state income tax, (4) state disability insurance, and (5) payments to public employee retirement systems.

Probationary Period - in accordance with P.C. Rule 60.100, the trial period of 130 days of paid service or period of six months, whichever is longer, immediately following the original or promotional appointment. The probationary period shall include days worked in the class after appointment from an eligibility list or as a provisional employee within the same classification.

Permanent Employee - a classified employee who has successfully completed probation. (See probationary period above).

Catastrophic Leave – The Newport-Mesa Unified School District (“District”), the Newport-Mesa Federation of Teachers (“N-MFT”), and the California School Employees Association Chapter #18 (“C.S.E.A. or Association”), the Newport-Mesa Administrators Association (“NMAA”), and the Supervisory/Confidential Employees Unit (“S/CEU”), agree to the establishment of two Catastrophic Leave programs for eligible employees.

The intent of these programs is to provide additional financial protection to those eligible employees who face a period of prolonged absence from work resulting from a catastrophic illness or injury. Catastrophic illness or injury shall mean illness or injury that is expected to incapacitate the employee, spouse, or child as defined under the current N-MUSD health benefits plan which requires the employee to take time off from work on a continuous or intermittent basis for an extended period of time, and taking time off work creates a financial hardship for the employee because the employee has exhausted all sick leave and other paid leave entitlements inclusive of differential pay. (Reference: California Ed. Code 44043.5). The two programs developed in cooperation with the District, Federation, and Association are the Catastrophic Leave Bank and Individual Catastrophic Leave Accounts.

1. ARTICLE 1. AGREEMENT

- 1.1. This agreement is made and entered into June 22, 2005, by and between the Newport-Mesa Unified School District, hereinafter referred to as "District" and Newport-Mesa Chapter #18, hereinafter referred to as "CSEA #18," an affiliate of California School Employees Association. The District recognizes the right of CSEA #18 to seek and obtain assistance on its behalf from paid staff of the California School Employees Association.
- 1.2. This agreement is entered into pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the California Government Code.
- 1.3. This agreement shall be effective on July 1, 2005, and shall remain in full force and effect until June 30, 2007. The parties agree to create a new Classified Bargaining Agreement between CSEA and the District with a term starting on July 1, 2007. This agreement shall not be extended orally, and it is understood that the new agreement shall expire on the date indicated.

The above referenced Classified Bargaining Agreement will embody all the terms and conditions of employment in a extension of the current collective bargaining agreement expiring on June 30, 2007. The new agreement reflects changes in Articles 3, 10, 11 and 12.

Both parties agree to follow the terms and conditions of the new Classified Bargaining Agreement as described in the above paragraphs until a successor agreement to the new Classified Bargaining Agreement is reached.

The parties agree that they will present through public notice their respective interests on desired changes to the Classified Bargaining Agreements on an annual basis on a mutually determined date.

Nothing in this agreement shall be considered as limiting any rights the parties otherwise retain under the provisions of the Educational Employment Relations Act.

- 1.3.1. CSEA agrees to the philosophy of participatory negotiations and will make every attempt to work cooperatively with management in determining collective bargaining issues.
- 1.3.2. CSEA, the Superintendent's designee, the Personnel Commission's representative, and the Assistant Superintendent of Business Services will meet on a regular basis to discuss budget updates, current issues and potential problems, and attempt to resolve those problems in a cooperative, interest-based manner.

## 2. ARTICLE 2. RECOGNITION

- 2.1. The District recognizes CSEA #18 as the exclusive bargaining representative in accordance with Section 3540.1 (e), Chapter 10.7 of Division 4 of the Government Code. The exclusive representative shall represent all employees in the classified service as defined by Section 45256 of the California Education Code who hold positions in the District including, but not limited to those listed in Appendix B.
- 2.2. The exclusive representative shall not represent employees not referenced in 2.1 nor management, confidential, or supervisory positions as presently exist and may be created in the future.
- 2.3. The District shall advise CSEA #18 in writing of any new or retitled classified positions, and whether or not they are to be included in the bargaining unit.
  - 2.3.1. CSEA recognizes the Personnel Commission's ability to determine whether or not a new or retitled position should or should not be included in the Bargaining Unit and make appropriate recommendations to the Superintendent. CSEA shall notify the District, in writing, if it disagrees with the Personnel Commission's recommendation.
  - 2.3.2. Disagreements on determination of positions within the Bargaining Unit shall be resolved in accordance with PERB rules and regulations.
- 2.4. CSEA recognizes the Personnel Commission's authority to classify positions and CSEA reserves its right to express its opinion regarding those classification decisions to the Personnel Commission. CSEA shall notify the District, in writing, if it disagrees with the Personnel Commission's decision.
  - 2.4.1. CSEA recognizes the authority of the Personnel Commission to determine minimum education, experience, and skill requirements for particular classifications, and CSEA reserves its right to express its opinion to the Personnel Commission regarding those determinations. CSEA shall notify the District, in writing, if it disagrees with the Personnel Commission's decision.

### 3. ARTICLE 3. HOURS OF EMPLOYMENT

3.1. Each employee shall be assigned a fixed number of hours per day, days per week, and months per year upon employment. The District shall also establish the assigned work schedule for all classified positions at the beginning of each school year, at the beginning of each summer recess, or transfer of assignment. It is recognized by the parties that the varying educational needs of the District may require a temporary variation in daily hours, in which case employees shall be given advance notice. The employees assigned work schedule may be changed at other times upon mutual agreement between the employee and the employee's immediate supervisor. If there is no mutual agreement between the employee and the immediate supervisor to change the employee's assigned work schedule, the issue may be referred to CSEA and the District, and any resolution shall be binding upon all parties.

3.1.1. An employee in the bargaining unit who is authorized by the Site Administrator to work an average of thirty (30) minutes or more per day in excess of his/her regular part-time assignment for a period of twenty (20) work days or more within any thirty-five (35) working day period shall have his/her regular assignment adjusted upward to reflect the longer hours, effective with the 21st day. However, the affected employee will be entitled to the increased hours only after the provisions of 3.10 and 7.2 of this Agreement have been satisfied.

3.1.2. Employees on limited term assignments shall receive all rights and benefits in accordance with the CSEA - Newport-Mesa Unified School District's Agreement, while serving in the limited term assignment, including health and welfare benefits prorated to the employee's hours of assignment.

3.1.2.1. Employees not eligible for health and welfare benefits who accept limited term assignments shall not become eligible for health and welfare benefits as a result of a limited term assignment.

3.1.2.2. Employees eligible and participating in health and welfare benefits, who receive a limited term assignment of sixty (60) calendar days or more, shall receive additional hours of proration credit for health and welfare benefits for the period of time served in the limited term assignment.

3.1.2.3. Employees eligible and participating in health and welfare benefits who receive an aggregate of limited terms assignments of sixty (60) calendar days or more each school year, shall receive additional hours of proration

credit for health and welfare benefits for the period of time served in the limited term assignment.

3.1.2.4. The District shall not use limited term assignments to avoid filling existing vacancies.

3.1.3. The District may offer part-time employees temporary extra hour assignments which shall be offered to employees at the same job site and within the same classification, in an equitable manner and rotated among eligible employees, before the assignment may be offered to an employee located at another job site and in the same classification except as provided in Section 3.10. The total number of hours worked may not exceed eight (8) hours per day, including the extra hour assignment.

3.1.3.1. Extra hour assignments shall not be used to avoid provisions 3.1.1 and 7.2.

3.1.3.2. Extra hour assignments are separate and distinct from regular assignments in the employee's same classification.

3.1.3.3. Extra hour assignments may be used to substitute for employees in the same classification or to perform temporary projects [not to exceed six (6) months in the same classification].

3.1.3.4. Employees who accept extra hour assignments shall not receive additional benefits for the extra hour assignments.

3.1.4. Limited Term Assignments - Recess Periods

3.1.4.1. Employees shall be offered first opportunity for limited term assignments during recess periods in their current job classification in order of seniority in class.

3.1.4.2. If employees do not accept, or are unavailable for recess assignments in their current job classification, the District may offer recess assignments on a limited term basis. Employees who accept a recess assignment on a limited term basis shall continue to accrue benefits, but shall receive wages applicable to the recess assignment classification. If the applicable range is lower than the employee's regular assignment, the employee shall be placed at the same step as their regular assignment, or at the accelerated hiring rate step, if that is greater.

3.1.4.3. Limited Term Assignments – Recess Periods (summer

school): Employees shall be offered first opportunity to limited term assignments during recess periods in their current job classification. Employees will be placed on the list by district seniority and already prescribed hiring and placement practices of the Personnel Commission. An eligibility list consisting of the top three ranks will be provided to the hiring authority.

3.2. The normal work week for full-time classified employees shall consist of five (5) consecutive days, eight (8) hours per day, and forty (40) hours per week, not including the lunch period.

3.2.1. With the concurrence of the District and the employee, a normal full-time assignment may consist of either: (a) ten hours per day and forty hours per week, not including the lunch period, or (b) nine hours per day, eighty hours per two-week work schedule, consisting of eight, nine-hour days, and one, eight-hour day, not including the lunch period.

3.3. Rest Periods

3.3.1. Employees of the District shall be entitled to a fifteen (15) minute rest period with pay in each four (4) hour working period. The immediate supervisor shall determine the number of employees to be off at one time. This rest period is not to be used to lengthen the lunch period or to shorten the workday, and may not be accumulated for use at a later period.

3.3.2. Employees working less than four (4) hours shall be permitted a restroom break.

3.4. Lunch Periods

3.4.1. The length and specific time of the duty-free lunch period shall be determined by the immediate supervisor after discussion with the employee involved. Full-time assignment employees shall be entitled to a lunch period of at least thirty (30) minutes and not more than sixty (60) minutes. The length of the lunch period shall not be considered a part of the normal working day. The lunch period shall not be used for shortening the workday or accumulated for use at a later period. Employees shall not be restricted from leaving the work site during their designated lunch period.

3.5. Tardiness

3.5.1. Employees are entitled to compensation for the actual hours worked only and, upon mutual agreement of the employee and the employee's

immediate supervisor, the employee may be given an opportunity to make up time lost due to tardiness. Any unit member who demonstrates a pattern of repeated tardiness will be given written notice that continued tardiness may result in disciplinary action as provided in the Personnel Commission Rules and Regulations.

### 3.6. Overtime

3.6.1. When the Superintendent or his/her designee determines that the workday or workweek must be extended in order to carry on the business of the District, the following shall apply:

3.6.1.1. Overtime shall only be paid when the work is authorized by the Superintendent or his/her designee in advance of the overtime performance.

3.6.1.2. Overtime work shall be compensated at a rate equal to one and one-half (1 1/2) hours for each one (1) hour worked in excess of eight (8) hours in one day and forty (40) hours in one week.

3.6.1.2.1. Overtime for an assignment as specified in 3.2.1 shall be compensated after completion of ten (10) hours per day and forty (40) hours per week.

3.6.1.3. For the purposes of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

3.6.1.4. For those employees who have an average work day of four (4) hours or more, but less than eight (8) hours, and who do not work a work week as specified in 3.2.1, the employee shall be compensated for any work required to be performed on the sixth or seventh day following commencement of the work week at a rate equal to one and one-half (1 1/2) hours for each hour worked on the sixth and seventh day.

3.6.1.5. For those employees who have an average work day of less than four (4) hours during the work week, the employee shall be compensated for any work required to be performed on the seventh day following commencement of his/her work week at a rate equal to one and one-half (1 1/2 ) hours for each hour worked on the

seventh day.

- 3.6.1.6. If an employee is required to work on a day which is an employee holiday as specified in Article 10, the employee shall receive overtime in addition to the normal pay for the holiday at the rate of time and one-half for all hours worked on the holiday.
- 3.6.1.7. Notwithstanding the provisions of 3.6.1.4 through 3.6.1.6, the District may establish a position or class of positions for which employees are required to work exclusively on weekends or holidays, and the position(s) may be excluded from the benefits of overtime for those weekends and holidays. The District shall not create a position or class of positions under this article to avoid the payment of overtime.
- 3.6.1.8. Hours compensated at an overtime rate for hours worked in excess of eight (8) hours in one day, or in case of an assignment as specified in 3.2.1, ten (10) hours in one day, shall not be counted again in determining the hours worked in excess of forty (40) hours per week.
- 3.6.1.9. Overtime shall be distributed and rotated as equally as is practical among employees in the bargaining unit within each department and class, except as provided in 3.10.4.
- 3.6.1.10. Assignments by seniority or by order of accumulated overtime hours may be temporarily disregarded in an emergency situation which requires immediate attention.
- 3.6.1.11. Employees may refuse overtime assignments unless no other qualified employees with appropriate skills are available. If all eligible employees refuse an overtime assignment, the supervisor may direct employees to work the overtime on an equitable, non-discriminatory basis.

### 3.7. Overtime Compensation

- 3.7.1. The District will provide compensation or compensatory time off at a rate equal to one and one-half (1 1/2) times the regular rate of pay for employees designated by the District and authorized to perform such overtime. Compensatory time off may be requested and taken by the employee if in the judgment of the department head it will not interfere with the effective operation of the department. An employee may accumulate up to eighty (80) hours of such compensatory time. More compensatory time, up to a maximum of two hundred and forty

(240) hours, may be accumulated with the prior approval of the Assistant Superintendent, Human Resources. Training sessions will be conducted for all Leadership staff regarding use/assignment of overtime for their departments. Tracking systems will be developed/monitored for overtime hours. The employee shall be advised of the method of compensation prior to the working of overtime.

3.7.2. If the compensatory time-off is to be provided, it shall be taken at a time mutually agreeable to the employee and the employee's supervisor, but in no event more than twelve (12) months after the overtime was earned. If compensatory time is not used within the twelve (12) month period, the District shall pay the employee for overtime at the employee's current rate.

### 3.8. Minimum Hours in Case of Call Back or Call In

3.8.1. When the District requires an employee to work on a weekend or holiday when the employee was not regularly scheduled to work and the immediate supervisor does not provide the employee with five (5) work days' advance notice of the required weekend or holiday work, the employee shall receive a minimum of three (3) hours of the employee's applicable rate of pay.

3.8.2. If an employee is required by his/her immediate supervisor to return to work after completing the regularly scheduled work day and the immediate supervisor does not provide the employee with 24 hours advance notice of the required return to work, the employee shall receive a minimum of three (3) hours at the employee's applicable rate of pay.

### 3.9. Cancellation of Scheduled Overtime

3.9.1. An employee shall be notified of any overtime cancellation by the District at the end of the work day prior to the time that the employee was required to report for work. If the employee is not so notified and the overtime is canceled, the employee shall receive a minimum of two (2) hours pay at his/her applicable rate of pay.

3.9.2. When an employee reports for work and is not allowed to work through no fault of the employee, the employee shall be paid three (3) hours at the employee's applicable overtime rate.

### 3.10. Transportation

CSEA and the District will continue to work in collaboration on Article 3.10 related to **transportation**. A Memorandum of Understanding will be signed

when agreement has been reached.

3.10.1. The District will post weekly the accumulated hours for overtime. The District also agrees to post monthly employee "average work hours," total accumulated hours, and regular hours of assignment.

3.10.1.1. Seniority List: based on length of service within a classification as determined by date of hire as a probationary employee within the classification.

3.10.1.2. "Average work hours" are determined by dividing the total hours worked or in paid status (not counting overtime) by the number of workdays in paid status (not counting overtime) for the previous monthly pay period. The "average work hours" figure shall be used for compensating holidays, vacations, sick leave, and health and welfare benefits. For the first pay period of September-October, the "average work hours" figure shall be based on the May-June payroll data "average work hours" figure of the previous school year. The "average work hours" figure shall not exceed eight (8), nor be less than driver's regular hours of assignment.

3.10.1.3. A driver's regular hours of assignment are determined upon initial employment and may be increased upon bidding and receiving an available regular run. A driver's regular hours of assignment may be voluntarily decreased in accordance with 3.10.2.2 or in accordance with 3.10.2.3.

3.10.2. Bidding of Bus Routes - During the last two weeks in August, bus drivers will be notified of their order of seniority and regular hours of assignment established as of the last day of the prior school year. Drivers, in order of seniority will be invited to bid upon the regular daily assigned runs designated for the school year and buses. Drivers may choose by seniority the maximum hours available, not to exceed eight (8) hours, from the runs available. A "regular run" means an AM to school or a PM from school run, "kindergarten runs," or "late runs," or a combination thereof. Upon completion of bidding these assigned runs become the regular assignment for the driver. Drivers will choose buses from those available of the appropriate capacity as designated for their selected "regular runs."

As a result of the change in the method of calculating seniority by hire date effective July 1, 1998, bus drivers shall not be offered less regular daily hours by bid in September of 1999 or September 2000 than they bid in September 1998. The District's percentage

contribution for benefits for 1999-2000 and 2000-2001 shall be not less than the District's percentage benefit contribution was as of October 14, 1998, based on the average daily work hours at the end of that pay period.

3.10.2.1. The District will make every effort to increase regular hours of assignment and monthly average work hours for drivers based on seniority.

3.10.2.2. If a driver voluntarily chooses less daily assigned hours than are available to the driver for the year, then said driver shall sign a Statement of Consent that has been prepared by the District. A decision to accept fewer hours than a driver is entitled to shall remain in effect until the driver requests more hours based on an existing position which is vacated by the incumbent and the District intends to fill.

3.10.2.3. Shifting service needs may alter coverage required and necessitate changes in hours assigned to bus routes, which may have the effect of reducing or increasing the hours of regular assigned time for bus drivers. When the regular assigned time of a bus route increases a total of thirty (30) minutes or more, the affected bus route shall be posted for a period of five (5) working days to allow more senior drivers who have less assigned hours to bid on the affected route. Eligible drivers (excluding those referenced in 3.10.2.2) bidding on the affected route must submit a written bid by 4:30 p.m. on the fifth day after initial posting. The affected driver shall be given an eight (8) day displacement notice and the bidding process shall be implemented and completed based on seniority within the eight (8) day notice period. When there are multiple eligible drivers, all eligibles may bid on the open route. Eligible drivers who do not bid for an affected route will not be eligible to bid on the resulting open route. As a result of this bid process, the affected driver will receive the remaining open route based on his/her seniority. Under no circumstance will the affected driver's assignment be reduced to less than the number of hours guaranteed in August, and the affected driver shall receive the higher hours during the eight (8) day displacement period.

This section is intended to protect, to the greatest extent possible, the ability of senior drivers to bid on the most available hours to work..

3.10.2.4. If a run becomes available during the year because of resignation or termination, it shall be made available for bidding as above, and assigned in order of seniority on the basis of bids submitted. Runs that are added during the school year (i.e. Special Education students, new kindergarten runs) shall be added to the bus/buses in the nearest vicinity with preference given to the most senior driver in the desired area. Notwithstanding the foregoing, the District may assign a portion of the run to an existing assignment for reasons of economy or efficiency.

3.10.2.5. Drivers who accept a temporary route assignment for an absent driver and work an average of thirty (30) minutes or more per day in excess of their regular part-time assignment shall not be entitled to provisions of section 3.1.1 of the CSEA-NMUSD Contract.

### 3.10.3. Assignment Procedures for School Bus Extra Time/Overtime/Field Trip Hours

3.10.3.1. Definition of "Seniority": The date of hire within the classification shall be used for seniority purposes.

Definition of "Extra Time": Time worked above the base route hours that does not exceed 8 hours per day or 40 hours per week. "Extra Time" may also be referred to as "straight time".

3.10.3.2. Regular Route Extra Time/Overtime Assignments (includes additional assigned time that relates to the driver's regular route): Additional extra time or overtime relating to the driver's regular route will be assigned to the regular driver.

3.10.3.3. Extra Time Assignments (includes weekday Trips and Field Trips that do not involve overtime): Dispatch will first attempt to assign extra time to a Cover Driver. If a Cover Driver is not available, dispatch will attempt to assign available hours as extra time to drivers on a straight time basis by moving down the extra time seniority list to the most senior driver who is 1) available for the straight time assignment and 2) who has the least number of previous offers/declines.

EXTRA TIME WORK LIST		
SAMPLE 2 HOUR EXTRA TIME ASSIGNMENT		
Drivers by Seniority	Hours	# of Extra Time Offers or Declines
1 Not available-OT	7	1
2 No contact	5	1
3	4	2 (1 Assigned/1 Declined)
4	4	2
5	4	<b>1* SELECTED</b>

\* In this example, driver 5 would be selected for 2 hours of extra time

Drivers may be skipped if dispatch cannot make contact to confirm an assignment or for operational reasons. Operational reasons include: emergency, disruption to regular route, feasibility (distance, traffic, etc.) significant efficiency reasons, assignment exceeds driving time legal limit, equipment, or driver qualification issues. Drivers will only be skipped for significant operational reasons. Drivers and their supervisor will receive written notice from dispatch if an operational skip is necessary.

Declining an offer will be counted as if the driver accepted an assignment. If dispatch is unable to make contact with the driver to offer an assignment or if an operation skip is necessary, it will not be counted as a decline.

If the only option for an assignment will cause any amount of overtime, then dispatch will use section 3.10.3.4 to make the assignment.

- 3.10.3.4. Weekday Overtime Assignments (includes weekday Trips and Field Trips assignments that involve overtime): If hours cannot be assigned on a straight time basis under 3.10.3.3, dispatch will assign overtime hours to drivers by moving down the overtime seniority list to the most senior driver who is 1) available for the weekday overtime assignment and 2) who has the least number of previous weekday overtime offers.

WEEKDAY OVERTIME WORK LIST		
SAMPLE 3 HOUR OVERTIME ASSIGNMENT		
Drivers by Seniority	Hours	# of Overtime Offers or Declines
1 Declined	8	1 (Now has 2 with decline)
2 No contact	8	1
3	7	2 (1 Assigned/1 Declined)
4	7	2
5	6	<b>1* SELECTED</b>

\* In this example, driver 5 would be selected for 2 hrs extra and 1 hr OT

Drivers may be skipped if dispatch cannot make contact to confirm an assignment or for operational reasons. Operational reasons include: emergency \*, disruption to regular route, feasibility (distance, traffic, etc.) significant efficiency reasons, assignment exceeds driving time legal limit, equipment, or driver qualification issues. Drivers will only be skipped for significant operational reasons. Drivers and their supervisor will receive written notice from dispatch if an operational skip is necessary.

Declining an offer will be counted as if the driver accepted an assignment. If dispatch is unable to make contact with the driver to offer an assignment or if an operation skip is necessary, it will not be counted as a decline.

In the event that no regular driver or Cover Drivers are available for a weekday overtime assignment, dispatch will assign other regular employees. If other regular employees are not available, dispatch may assign limited term, or provisional employees.

- 3.10.3.5. Weekend/Holiday Overtime Assignments: Dispatch will assign available hours to regular drivers by moving down the weekend/holiday seniority list to the most senior driver who is 1) available for weekend/holiday assignments and 2) who has the least number of previous offers/declines.

Cover Drivers are eligible for weekend/holiday overtime assignments and will be added to the bottom of the Weekend/Holiday Overtime Assignment List in order of seniority (hire date within the Cover Driver classification).

WEEKEND/HOLIDAY WORK LIST		
SAMPLE 6 HOUR SATURDAY TRIP ASSIGNMENT		
Drivers by Seniority	Hours	# of Weekend/Holiday Offers or Declines
1 Declined	8	1 (Now has 2 with decline)
2 Declined	8	1 (Now has 2 with decline)
3	7	1
4	7	<b>0* SELECTED</b>
5	6	0

\* To date, no other driver would be offered a 6 hour Saturday Trip

Drivers may be skipped if dispatch cannot make contact to confirm an assignment or for operational reasons. Operational reasons include: emergency\*, disruption to regular route, feasibility (distance, traffic, etc.), significant efficiency reasons, assignment exceeds driving time legal limit, equipment, or driver qualification issues. Drivers

will only be skipped for significant operational reasons. Drivers and their supervisor will receive written notice from dispatch if an operational skip is necessary.

Declining an offer will be counted as if the driver accepted an assignment. If dispatch unable to make contact with the driver to offer an assignment, it will not be counted as a decline.

In the event that no regular drivers or Cover Drivers are available for a weekday overtime assignment, dispatch will assign other regular employees. If other regular employees are not available, dispatch may assign limited term, or provisional employees.

- 3.10.3.6. Voluntary Removal from Work Lists/Declining Additional Work: Drivers will have an opportunity to decline all 1) weekday extra time, 2) weekday overtime, or 3) weekend/holiday overtime. If a driver declines in writing to be considered for offers in an area or areas, no offers will be made. If a driver makes a written request to resume offers for additional work in one or all of the areas above, the driver will receive a startup number equivalent to the driver on the list with the highest amount of offers/declines at the time of the request.
- 3.10.3.7. Timelines for Declining Work: The timeline provided for drivers to decline offers for work will be determined by dispatch based on operational considerations.
- 3.10.3.8. Mandatory Removal from Work Lists: A driver will be removed from any work list if there are more than five (5) declines or more than five (5) no contacts on the list during a semester.
- 3.10.3.9. Approved Leaves: Assignments will be counted as accepted when the employee is on an approved leave at the time of the offer of extra time or overtime.
- 3.10.3.10. New Employee Startup Process: New drivers that enter employment mid-school year may request placement on the work lists for offers of 1) weekday extra time, 2) weekday overtime, or 3) weekend/holiday overtime at the time of hire as a regular employee. The new driver will receive a startup number equivalent to the employee on the list with the highest amount of offers/declines at the time of the employment.

- 3.10.3.11. Additional Hours/Overtime Job Logs: Additional available hours will be logged in and time stamped by dispatch as information comes in for assignment. Separate logs will be maintained for 1) Extra Time, 2) Weekday Overtime, and 3) Weekend/Holiday Overtime.
- 3.10.3.12. Assignment procedure for all assignments: The next available driver on the list with the least amount of offers/declines will receive the next job logged in, unless it is operationally necessary to batch call jobs to multiple drivers for efficiency purposes (see 3.10.3.13) for batch calling guidelines).
- 3.10.3.13. Batch calling guidelines for all work lists: It is not always feasible, from a service standpoint, to match the incoming job with the next driver in line for a job on the work list. Batch calling during busy periods may be needed to assign a high volume of work requests. Batch calling will only be used when five (5) or more jobs are backlogged on a work list. The group of batch jobs must be assigned within the group of eligible drivers that correspond to the number of jobs. For example if there are five (5) jobs on the weekday overtime work list, the jobs would be offered to the five (5) most senior drivers with the least number of trip offers/declines but not necessarily in the specific order received.
- 3.10.3.14. Field Trip Acknowledgement Log: Drivers must sign the Field Trip Acknowledgement Log no less than two hours prior to a scheduled trip to confirm the assignment. Failure to sign the Field Trip Acknowledgement Log will be considered a trip decline and the trip will be reassigned to another driver as prescribed herein.
- 3.10.3.15. Work Activity List Posting: The Transportation Department will post the work list for: 1) weekday extra time, 2) weekday overtime, or 3) weekend/holiday overtime once a month. Each list will show the number of assignments offered the number of declines, new employee startup, no contact, on leave offers, and the number of operational skips for each employee in seniority order.

During the 05/06 pilot test period, any employee may submit a feedback form to the Transportation Sub Committee to request that an assignment or procedure be reviewed. The

Committee will meet at least three times during the year in September, November and January to review employee feedback and review operational concerns from the department. The Transportation Committee may consider revision to the language herein to revise or clarify procedures used during the 05/06 pilot. The procedures for bidding routes and other Transportation sections are also under review.

#### 3.10.4. Stand-by Time

- 3.10.4.1. Bus drivers on special trips, including but not limited to athletic events, field trips, and curricular trips who are required to remain on stand-by for the duration of the event for which the special trip is made, shall be paid for all stand-by hours at their regular rate of pay. Whenever any combination of driving time and stand-by hours exceeds eight (8) hours in any workday as defined in Section 3.2, all excess hours shall be compensated at the appropriate overtime rate based on the employee's regular rate of pay.
- 3.10.4.2. Notwithstanding any other provision of this Agreement, if a special trip requires an overnight stay, the driver shall be paid for eight (8) hours or all hours worked, whichever is greater, for each day away from the District.

#### 3.10.5. Other Provisions

- 3.10.5.1. Whenever, as a result of the unavailability of appropriate District vehicles due to mechanical or other malfunctions, a bus driver regularly scheduled to work is not allowed to work, he/she shall receive pay for that day at the rate he/she would have received for working that day, provided the driver remains on the job performing other assigned duties.
- 3.10.5.2. In the event weather conditions prevent regularly assigned runs, exclusive of field trips, from being performed or completed, all drivers affected shall receive pay for that day at the rate they would have received for working that day. All time spent waiting for inclement weather to clear shall be considered stand-by hours and paid at the appropriate rate of pay.
- 3.10.5.3. A bus driver shall be notified of any weekday trip cancellation by the District at least one (1) hour prior to

departure time. If the driver is not notified and the bus trip is canceled, the driver shall receive a minimum three (3) hour assignment, if available. If no reassignment is available, the driver shall receive three (3) hours of pay at the applicable rate.

3.10.5.4. For field trips during school recess periods (i.e. summer, winter recess, spring recess, weekends, or holiday trips), a bus driver assigned to duty shall be paid three (3) hours or all hours worked, whichever is greater at his/her applicable rate of pay.

3.10.5.5. When a bus driver is assigned a trip independent of his/her regular a.m. or p.m. route, he/she shall be paid a minimum of one (1) hour.

3.10.5.6. A driver shall be notified of any Saturday, Sunday, or holiday assignment cancellation by the District at the end of the workday prior to the time that the driver was required to report for work. If the driver is not so notified and the overtime assignment is canceled, the driver shall receive a minimum of two (2) hours pay at his/her regular rate of pay.

3.10.5.7. When a driver reports for work for any overtime assignment and is not allowed to work through no fault of the driver, the driver shall be paid three (3) hours at the employee's applicable overtime rate.

3.10.5.8. Bus drivers who have requested vacation leave and received written approval at least five (5) working days in advance of their absence will not be assigned extra work on the vacation days and, therefore, will not be charged for overtime hours for the approved vacation time.

3.10.5.9. Bus drivers who complete an assignment late at night and do not have eight (8) hours off work before reporting the following morning, must report themselves off for their a.m. assignment by calling the tape on weekdays or by notifying a supervisor at home on weekends and holidays. In order to avoid any loss in compensation, drivers may utilize release time available to them or accept an assignment of departmental duties.

### 3.10.6. Emergency Assignments

3.10.6.1. Assignments by seniority or by order of accumulated

overtime hours may be temporarily disregarded in an emergency situation which requires immediate attention to the health and safety of students.

- 3.10.6.2. The driver who accepts the emergency work assignments shall be charged with the overtime hours worked.

### 3.10.7. Summer Assignments

- 3.10.7.1. Summer Assignments are divided into three (3) separate categories:

- a. Home to School - Four (4) hours of assignment per day for the duration of summer school.
- b. Field Trips - an undetermined number of trips will be available.
- c. Special Education Runs - the number of runs to be determined annually according to student needs.

- 3.10.7.2. Drivers wishing to work summers may sign up for the summer driving assignments during a sign-up period in May.

- 3.10.7.3. Drivers may be assigned to one category only.

- 3.10.7.4. All categories are assigned on the basis of a driver's seniority. Field trip assignments will be assigned on a strict rotating basis beginning with the most senior driver on the list of available drivers. Every effort will be made to equally distribute field trip assignments among eligible drivers. Drivers with the least number of accumulated field trip assignment hours will be assigned trips first in order of seniority.

- 3.10.7.5. Drivers are under no obligation to sign up for any summer assignment.

- 3.11. On any school day during which pupils would otherwise be in attendance but are not, and for which certificated personnel receive regular pay, bargaining unit members shall be required to report to work and shall receive regular pay. Bargaining unit members may request to take these days as vacation or unpaid leave.

- 3.12. Employees who are on less than twelve (12) months assignments will be

given preference for limited term and substitute assignments during the periods of non-assignment if the assignment is within the employee's classification and the employee is otherwise qualified. These employees must be available for assignments on a daily basis.

#### 4. ARTICLE 4. GRIEVANCE PROCEDURE

##### 4.1. General Provisions

Grievant - is an employee in the bargaining unit covered by the terms of this agreement who alleges a grievance. CSEA #18 shall have the right to be the grievant on provisions of Article 13 regarding Association Rights.

Grievance - is an allegation by a grievant that the grievant has been adversely affected by a misinterpretation, a misapplication, or a violation of a specific provision of this agreement as approved or ratified on May 26, 2004. Article 4.1.2.

4.1.1. No reprisals of any kind shall be taken by the Superintendent or any member or representative of the administration or Board of Education against the grievant or any representative of the grievant by reason of their bringing a grievance or participating in a grievance; nor shall any reprisals of any kind be taken by CSEA #18 against either the grievant, the District, or any District employee in the grievance procedure by reason of such participation or decision.

4.1.2. The grievant may request assistance from CSEA #18 or another employee of the District to assist in processing the grievance and CSEA #18 may represent a grievant at the Informal Level and thereafter. Representation or participation by another party shall be only at the request of the grievant. Whether or not the grievant is represented by others or represents him/herself, the grievant shall be present at each grievance conference.

4.1.3. Both parties agree that the proceedings of the grievance shall be kept informal and confidential.

4.1.4. The time limits specified at each level in the grievance procedure shall be considered to be the maximums. If the supervisor or the Superintendent or his/her designee fails to comply with the time limits set forth, the grievant may process the grievance to the next level of the grievance procedure. If any time limit in this article is not met by the grievant, it is deemed that the grievant considers the grievance to be resolved. The time limits, however, may be extended by mutual written agreement.

4.1.5. The grievant and/or the grievant's representative shall be provided reasonable release time without loss of pay at Level One or above for the purposes of attending grievance conferences or hearings. A reasonable number of witnesses who appear at the conference or hearing as called by either party shall be accorded the same right.

Grievants and/or their representative shall provide adequate notice to their immediate supervisors reasonably in advance of the anticipated absence from duty.

- 4.1.6. All documents, communications, and records dealing with the processing of a grievance shall be filed separately from the personnel files of the participants.
- 4.1.7. The District shall attempt to hear grievances and hold the grievance conferences during the regular work hours of the employee and of the District prior to Level Four.
- 4.1.8. A grievance may be presented by an employee on behalf of a group of employees providing the following conditions are met:
  - 4.1.8.1. each of the grievances involve the same contract provision or provisions;
  - 4.1.8.2. each of the grievances involve the same set of related facts and conditions;
  - 4.1.8.3. each of the employees who are affected by the grievance is named;
  - 4.1.8.4. one employee presents the grievance on behalf of all members.

In case of a grievance presented by one employee on behalf of a group of employees, the decision on the grievance shall be deemed to be the decision applicable to all named employees to the extent that the same related facts and conditions exist.

By mutual agreement between the District and the employee, all persons affected by that grievance may be present at the grievance hearings.

- 4.1.9. The grievance process may be expedited by mutual agreement between the grievant and the District by combining or eliminating Levels One and/or Two of the grievance process.
- 4.1.10. A copy of each grievance filed at Level One or thereafter, and the District response, shall be forwarded to CSEA #18. When a representative of CSEA #18 is not present at Level One or thereafter, CSEA #18 may present in writing its views on the grievance and the response of the District.

#### 4.2. Grievance Levels

#### 4.2.1. Informal Level

4.2.1.1. Before filing a formal grievance, the grievant shall, within 25 days after the occurrence or act of omission giving rise to the alleged grievance or when the grievant could reasonably be expected to know of the event which gives rise to the grievance, attempt to resolve the alleged grievance by an informal conference with the immediate supervisor. If the immediate supervisor and the grievant reach agreement in the informal conference and the agreement is not activated by the parties, the twenty (20) days stated above shall be reinstated. The date of the informal meeting shall be noted by both parties.

#### 4.2.2. Formal Level

##### 4.2.2.1. Level One

In the event the grievance is not resolved at the informal level, the grievant must present the grievance on the prescribed District form to the immediate supervisor within ten (10) days of the informal meeting.

The form shall include statements indicating:

- (a) How the grievant was adversely affected;
- (b) The specific section of the contract allegedly violated;
- (c) The specific remedy sought by the grievant to resolve the grievance.

Within ten (10) days after receiving the grievance, the immediate supervisor shall hold a conference with the grievant regarding the grievance, and the immediate supervisor shall communicate his/her decision to the grievant in writing.

##### 4.2.2.2. Level Two

In the event the grievance is not resolved at Level One, the grievant may appeal the decision to the next appropriate level of administration within ten (10) days after response at Level One or the expiration of the ten (10) day response time in Level One. This statement shall include a copy of the original grievance, the decision rendered, and a clear, concise statement of the reasons for the appeal. The appeal shall be submitted on the prescribed form.

Within ten (10) days after receiving the grievance, the

administrator or his/her designee shall hold a conference with the grievant regarding the grievance. Within ten (10) days after receiving the grievance, the administrator or his/her designee shall communicate his/her decision to the grievant in writing.

#### 4.2.2.3. Level Three

In the event the grievance is not resolved at Level Two, the grievant may, within ten (10) days after receipt of the Level Two response, request that the District and the grievant, by mutual agreement, elect to submit the grievance to mediation to attempt to resolve the grievance by informal agreement prior to proceeding to Level Three. If there is agreement to submit the grievance to mediation, the District shall contact the California State Conciliation Service and request that a mediator be appointed. The mediation shall be limited to a total of eight (8) hours, unless the parties agree to a continuance, and this service shall be provided at no cost to the parties. The parties shall attempt to reduce outstanding issues, and if possible, settle the dispute. The mediator, however, shall not have the power or authority to render a decision on the issue(s) or impose a settlement on the parties. Any statements made during the mediation process (other than those already documented at Levels One and Two), shall be confidential, shall not be considered precedential in nature, and shall not be admissible in any future court, administrative proceeding, or additional step in the grievance procedure. If mediation does not satisfactorily resolve the grievance, the grievant may continue his/her appeal of the grievance to Level Three within ten (10) days of the last mediation session.

In the event the grievance is not resolved at Level Two or by the above mediation step, the grievant may appeal the decision to the Superintendent or his/her designee within ten (10) days after the response at Level Two, the expiration of the ten (10) day response time in Level Two, or within ten (10) days of the last mediation session. The grievant shall include a copy of the original grievance and appeal, the decisions rendered, and a clear, concise statement of the reasons for the appeal. The appeal shall be submitted on the prescribed form. Within ten (10) days after receiving the grievance, the Superintendent or his/her designee shall hold a conference with the grievant

regarding the grievance. Within ten (10) days after receiving the grievance, the Superintendent or his/her designees shall communicate his/her decision to the grievant, in writing.

#### 4.2.2.4. Level Four

If the alleged grievance is not resolved at Level Three, the grievant may, within ten (10) days after receipt of the Level Three response, request that CSEA #18 submit the grievance to advisory arbitration. A copy of the request to CSEA #18 shall be forwarded to the Superintendent or his/her designee. CSEA #18 shall notify the Superintendent in writing within ten (10) days after receipt of the request from the grievant as to whether or not the grievance will be submitted for advisory arbitration; however, CSEA #18 has the exclusive right to appeal a grievance to advisory arbitration; however, CSEA #18 may not take a grievance to advisory arbitration without the written consent of the grievant.

4.2.2.4.1. CSEA #18 and the District shall attempt to agree upon an arbitrator. If no agreement can be reached within five (5) days, they shall request the California State Conciliation Service to supply a list of names of persons who are experienced in arbitration. Within five (5) days, each party shall alternately strike names until only one name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.

4.2.2.4.2. Except as noted in 4.2.2.4.5.1, the fees and expenses of the arbitrator and the hearing shall be borne equally by the District and CSEA #18. All other expenses shall be borne by the party incurring them.

4.2.2.4.3. The arbitrator shall have no power to add to, subtract from, or modify the terms of the contract or applicable law or rules and regulations which have the force and effect of law.

4.2.2.4.4. The issues before the arbitrator shall be

restricted to those identified in the written grievance and the answers thereto at each step. The arbitrator shall hear evidence and argument as soon as possible and shall deliver to the parties within thirty (30) days a written recommendation on the issues submitted to him/her.

4.2.2.4.5. The decision of the arbitrator shall be in the form of a recommendation to the Board of Education, but shall be final and binding on CSEA #18. CSEA #18 waives any rights for either Board or judicial review. If the District does not file a request to the Board of Education to undertake review of the arbitrator's recommendation within ten (10) days of its issuance, then the decision of the arbitrator shall be deemed adopted by the Board and becomes final and binding on the District as well as CSEA #18. If a timely request for review is filed by the District with the Board, it shall then undertake review of the entire hearing records and briefs. The Board shall permit oral arguments by representatives of the District. Within thirty (30) days after receiving the request for review, the Board shall render a decision on the matter which shall be final and binding on all parties.

4.2.2.4.5.1. If the Board of Education reverses the arbitrator's decision, the District shall pay the full cost of the arbitrator's service.

## 5. ARTICLE 5. SAFETY

- 5.1. The safety of pupils and employees is of the utmost concern to the District and CSEA #18. To ensure that exposure to unsafe conditions is minimized; the District and employees shall report any unsafe conditions to their immediate supervisors and/or the Supervisor of Risk Management. No reprisals against an employee shall be taken by the District by reason of an employee reporting a safety hazard.
- 5.2. CSEA #18 shall appoint two members to the District General Employees' Safety Committee to assist in the administration of the District's safety program.
- 5.3. Employees will report to work wearing clothing and/or footwear conforming to the California Occupational Safety and Health Act relating to proper head, eye, face, body, and footwear (see Appendix C). Employees who, in the opinion of the District, violate the Cal OSHA Safety Code, shall be given one written warning to conform to the Safety Code. Employees who fail to comply will not be allowed to work until they conform to the applicable code, and may be subject to disciplinary action including, but not limited to, loss of pay.
  - 5.3.1. Conforming head protection means bump hats or hard hats which are supplied by the District (conforms to ANSI standards).
  - 5.3.2. Conforming eye and/or face protection consists of safety glasses, and/or face shield, and/or hearing protection devices which are supplied by the District (conforms to ANSI standards).
  - 5.3.3. Conforming body protection means clothing of such texture and consistency which will provide protection for body parts which may be exposed to radiation hazards or to hazardous or flying substances or objects. Radiation hazards refer to exposure to ultra-violet or infra-red rays. Hazardous objects refer to hot surfaces; moving and/or rotating parts of machinery; toxic trees, shrubs, and other vegetation; or trees, shrubs, or vegetation with protruding spines; toxic chemicals; flammable liquids; corrosive substances; irritants or oxidizing agents. Clothing which meets these requirements will provide protection to arms to the wrists, and legs to the ankles. At any time when full arm protection by nature of the job is not required, long sleeve clothing will not be mandated. However, T-shirts or sweat shirt-type tops which might be worn when full-arm protection is not required, must have a fully bound sleeve opening of at least one (1) inch in length. Loose sleeves, tails or ties, lapels, cuffs, or other loose clothing which may become entangled in moving machinery shall not be worn. Long hair must be enclosed within a hat or hair net when working with

rotating or other moving machinery.

5.3.4. Conforming foot protection means shoes which by design will provide protection from foot injuries from hot, corrosive and/or poisonous substances, falling objects, crushing or penetrating actions.

Where the job exposes the employee's feet to severe crushing actions, the District will provide adequate foot protection. Footwear will be composed of leather or leather-like vinyl material or a combination of both, which will be of sufficient thickness to preclude the penetration of normal and routine sharp objects expected to be encountered in the working environment.

5.3.5. All other safety items concerning body protection, such as gloves or gloves of specific type, or specific items of clothing to protect an employee while spraying toxic substances or breathing protection devices of any type, will be supplied by the District (conforms to ANSI standards).

5.4. CSEA #18 and the District agree the safety and health of students, staff, and the public requires every reasonable effort be made to discourage alcohol and/or illegal substance abuse. The District and CSEA #18 further agree to make every reasonable effort to protect students, staff, and the public from alcohol and/or illegal drug use.

5.5. CSEA #18 and the District agree to implement controlled substance testing as a part of required regular physical examinations for employees required by class description to have commercial driver's licenses and/or special driver's certificates following established procedures of the District selected medical facility and approved laboratory methods.

5.5.1. For purposes of this subsection, the term "controlled substance" means any substance under section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)] specified by the Secretary.

5.6. Reasonable Suspicion Testing/Post Accident

CSEA #18 and the District agree the safety and health of students, staff, and the public requires every reasonable effort be made to discourage alcohol and/or illegal substance abuse among all employees. The District and CSEA #18 further agree to make every reasonable effort to protect students, staff, and the public from alcohol and/or illegal drug use.

5.6.1. Application

This section applies to both all classified bargaining unit and non-bargaining unit employees.

#### 5.6.2. Notice

All employees subject to testing for controlled substances and alcohol shall be individually notified, in advance and in writing that they are subject to reasonable suspicion and/or post-accident testing while on duty. The notice shall state that the only such tests required by the employer are same as those required by the employer specified in Title 49 of the Code of Federal Regulations, Part 382.

#### 5.6.3. Reasonable Suspicion Testing

5.6.3.1. A reasonable suspicion test must be based upon specific, contemporaneous, articulable, observations concerning the appearance, behavior, speech, or body odors of the employee or in the event an accident occurs while a classified employee is driving a district vehicle where there is reasonable suspicion that the driver of the vehicle may be under the influence of alcohol or other drugs.

5.6.3.2. The observations must be made by a supervisor or District official who has received at least one hour training in identifying indicators of probable alcohol misuse plus at least one hour training in identifying indicators of probable controlled substance use.

5.6.3.3. Reasonable suspicion observations must be contemporaneous, i.e.; they must be made just before, during, or just after the employee's performance of a safety-sensitive duty.

5.6.3.4. Employees for whom a reasonable suspicion determination has been made will be placed on paid administrative leave pending test results.

5.6.3.5. Tests based on reasonable suspicion of alcohol misuse shall be promptly administered. If the test is not given within two hours following the reasonable suspicion determination, the employer shall prepare and maintain on file a statement of the reasons the test was not promptly administered. The employee will be given a copy of this statement. No test based on reasonable suspicion of alcohol misuse will be given that is not within eight hours of the reasonable suspicion determination.

- 5.6.3.6. A written record of the reasonable suspicion observations, dated and signed by all employees making the observations, must be made within 24 hours or before the results of the test are released, whichever is earlier. A copy of this record will be given to the employee when the results of the test are released.
- 5.6.3.7. The supervisor or District official who makes the reasonable suspicion observations shall not conduct the test or participate in the collection or chain of custody of any specimen for testing.
- 5.6.3.8. If requested by the employee a CSEA representative may be present to ensure that an employee's rights are protected. However, a reasonable suspicion test may not be delayed for more than one (1) hour to accommodate a representation request. Under no circumstances shall the CSEA representative be required to participate in determining if reasonable suspicion exists for further investigation.

#### 5.6.4. Post-Accident Testing

- 5.6.4.1. As soon as practicable following an accident involving a commercial motor vehicle, the employer shall test the following individuals for alcohol and controlled substances: Any covered employee who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life, and/or
  - 5.6.4.1.1. Any employee, as listed in Appendix X, who was operating the vehicle, if the accident involved the loss of human life, and/or
  - 5.6.4.1.2. Any employee, as listed in Appendix X, who receives a citation under state or local law for a moving violation arising from the accident.
  - 5.6.4.1.3. No post-accident test for alcohol will be given more than eight (8) hours after the accident.
  - 5.6.4.1.4. No post-accident test for controlled substances will be given more than twenty-four (24) hours after the accident.

#### 5.6.5. Testing Procedures

All tests for alcohol or controlled substances must comply with the requirements for such test set forth in Title 49 of the Code of Federal Regulations, Part 40. In addition:

- 5.6.5.1. No District employee shall serve as either a collection site person for controlled substance testing or as a breath alcohol technician for alcohol testing of employees.
- 5.6.5.2. The District will provide any employee being tested under this provision with latex gloves to provide for a sanitary and untainted collection of the urine sample. Failure to use the gloves provided will not invalidate the results of the test or these procedures.
- 5.6.5.3. All testing shall be conducted in private setting. In the case of controlled substance testing, no direct observation of an employee's urination by a collection site person is permitted except for the reasons stated in Title 49 of the code of Federal Regulations, section 40.25, subdivision (e), and then only be a same gender collection site person who is not employed by the District.
- 5.6.5.4. Except for a test requested by an employee for a test of the remainder of a split sample, the testing laboratory for controlled substance testing shall be a forensics laboratory approved for urine and drug testing by the department of Human Services as identified in Attachment "A". By mutual agreement, this list of accepted laboratories may be revised as necessary.
- 5.6.5.5. Any tests that do not comply with the requirements of Title 49 of the Code of Federal Regulations, Part 40 shall be treated as a negative test.
- 5.6.5.6. Any tests based on reasonable suspicion observations that do not adhere to the procedures as outlined herein shall be treated as a negative test

#### 5.6.6. Positive Tests

- 5.6.6.1. A positive test for alcohol must be a confirmation test by an evidential breath testing device capable of printout and sequential numbering and must show an alcohol concentration of 0.06 grams of alcohol per 210 liters of breath or greater. Such a test is positive even if that concentration is caused by prescribed medication.

5.6.6.2.A positive test for controlled substances must be a confirmation test by gas chromatography/mass spectrometry techniques and must show one of the following

- (1) 15 ng/ml (nanograms per milliliter) of marijuana metabolite;
- (2) 150 ng/ml of cocaine metabolite;
- (3) 300 ng/ml of either morphine or codeine;
- (4) 25 ng/ml of phencyclidine; or
- (5) 500 ng/ml of amphetamine or methamphetamine.

(Note: Adjustments to these amounts shall occur if necessary to remain in compliance with Federal Regulations. The district shall notify CSEA of any changes in these amounts prior to implementation and the medical review officer must conclude that there is no legitimate explanation, such as prescribed medication, for the result.)

5.6.6.3. No positive test for controlled substances shall be reported to the employer until after:

5.6.6.3.1. The medical review officer has contacted the employee directly, on a confidential basis, and given the employee an opportunity to discuss the test results and the employee's medical history, including medication, in confidence;

5.6.6.3.2. Within 72 hours of the employee's notification that the test was positive, the employee may request that the split sample be tested by a different forensic laboratory, certified by the Department of Health and Human Services;

5.6.6.3.3. The remainder of the split sample has been tested and found to be positive;

5.6.6.3.4. If the medical review officer concludes that there is a legitimate explanation for the positive test, such as prescription or over-the-counter medication or a negative result in the test of the remainder of the split sample, the medical review officer must report the test to the District as a negative test;

5.6.6.3.5. The medical review officer shall be a licensed physician with special training in substance abuse disorders, the medical use of prescription drugs and the pharmacology and toxicology of alcohol and controlled substances. The medical review officer shall not be an employee of the District; and

5.6.6.3.6. No results shall be released if it is found that the District did not follow the procedures as outlined herein.

#### 5.6.7. Disciplinary Action for Prohibited Conduct

All classified employees are subject to discipline up to and including suspension and/or immediate termination of employment as is appropriate in accordance with applicable law and District policies and procedures. Severity of the disciplinary action will be based on the circumstances of the infraction and prior work history, including prior disciplinary action(s) of the employee. Disciplinary guidelines for prohibited conduct are as follows:

##### 5.6.7.1.

<u>Drug Testing</u>	<u>First Offense</u>	<u>Second Offense</u>
(1) Refusal to provide a urine sample when required;	Suspension for Insubordination	Resignation or Termination
(2) Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia; and	Resignation or Termination	
(3) Unauthorized possession and/or disclosure of any	Reprimand to termination	3 days suspension to
(4) Use of, or being under the influence of a controlled substance, as determined by a positive test result.	5 days suspension, successful completion of Rehabilitation	Resignation or Termination

##### 5.6.7.2. Alcohol

(1) Refusal to submit to evidential breath test; Insubordination	Suspension for Termination	Resignation or
(2) Use of, or being under the influence of alcohol on duty with a level of BAC; and program	24 hours unpaid leave, referral to a intervention	5 days suspension up to termination
(3) Use of, or being under the influence of alcohol on duty with a .08 or above BAC test result. rehabilitation program	5 days suspension, successful completion of	Resignation or Termination

### 5.6.7.3. Treatment and/or Rehabilitation

An employee who has a positive test for a first offense violation for alcohol or controlled substances reported to the District by the Substance Abuse Professional (SAP) may be required as a condition of continuing employment to participate in a substance abuse treatment and/or rehabilitation program provided that:

5.6.7.3.1. The cost of any treatment and/or rehabilitation program prescribed by the Substance Abuse Professional (SAP) shall through the District's HMO medical plan. If additional expenses are incurred in the treatment program, the District will reimburse the employee up to \$2,000 (two thousand dollars) upon their physician's notice of successful completion of the treatment program for a one year period.

5.6.7.3.2. If the SAP determines that a treatment and/or rehabilitation program is needed, and if that program does not permit the temporary reassignment of the employee to duties that are not safety sensitive, an employee who has not previously tested positive or utilized a rehabilitation program will be given the same consideration and assistance extended to any employee with any other illness per the terms and conditions of the Agreement between the

District and CSEA #18, Article 8-Leaves and the Americans with Disabilities Act.

5.6.7.3.3. If it is necessary for an employee to attend the treatment and/or rehabilitation/intervention program during the working hours, the employee shall use the existing leave provisions provided by this agreement in order to attend.

5.6.7.3.4. Once the employee is released from or completed a treatment and/or rehabilitation/intervention program, the District may establish a ninety (90) day follow-up testing program for the employee. If the District elects to establish a follow-up testing program, unannounced follow-up testing is permitted for a maximum of three (3) tests during the ninety (90) day window. The first test will occur no sooner than fifteen (15) days from the date the employee was released from or completed the treatment and/or rehabilitation/intervention program. Follow-up testing will be conducted to the same scientific and technical procedures as are used for reasonable suspicion testing.

#### 5.6.8. Miscellaneous

5.6.8.1. The CSEA President, President's designee and labor relations representative shall be provided the opportunity to attend the same annual training provided to supervisors for reasonable suspicion determinations.

5.6.8.2. The parties agree to treat all test results as confidential medical records and recognize that these records may need to be released in compliance with subpoena in the course of legal proceedings.

5.6.8.3. The District respects and acknowledges the right of bargaining unit members to seek and receive CSEA representation for any meeting in which misconduct by the employee is/may be alleged and for which there may be disciplinary action.

5.6.8.4. Following the receipt of positive test results, the employer shall not question an employee concerning the use of

alcohol and/or controlled substances without first informing the employee of his/her right to have a union representative present throughout the questioning. If the employee then requests union representation, no such questioning shall occur in the absence of the union representative. If the employee does not request or waives union representation at that time, any statements made by the employee thereafter may be used in any disciplinary proceeding whether or not the employee later requests union representation. The employee shall sign a statement indicating they waive their right of representation.

- 5.6.8.5. If the District orders an employee to test under the reasonable suspicion provision of this agreement and the employee tests negative, the employee will be given an official written statement from the District indicating that: (a) the sample provided by the employee failed to identify sufficient levels of alcohol or controlled substance, (b) the test results will be held in the strictest confidence between the supervisors, district level administrator and Assistant Superintendent of Human Resources, (c) no record of this incident is being retained by the District, (d) The District apologizes for any inconvenience this may have caused, and (e) the District acted in the best interest of students and staff in the application of this section of the contract.
- 5.6.8.6. Challenges to the interpretation, application or violation of the Reasonable Suspicion Testing Procedure shall be referred to the Superintendent for review within five (5) working days of the test. The Superintendent shall respond within five (5) working days with a determination as to the validity of the procedure. If the Superintendent determines that the procedure is invalid all results will be treated as a negative test. Grievances to this procedure shall begin at Level 3 and require the Superintendent's review as outlined in this section.
- 5.6.8.7. To the degree permitted by law, the District shall indemnify and hold harmless CSEA, its officers and agents from any award or compromise of damages or liability arising out of any court or administrative action challenging the legality of this article or the implementation thereof. The parties agree that to the extent allowable by law, CSEA shall have the right to decide whether any such action be compromised, defended, tried or appealed regarding all claims against CSEA.



## Attachment "A"

### List of Laboratories in California and Nevada That Have Been Approved for Urine Drug Testing by the Department of Health and Human Services

Associated Pathologists Laboratories, Inc.  
4230 S. Burnham Ave., Suite 250  
Las Vegas, Nevada 89119-5412 Phone:(702) 733-7866

Centinela Hosp. Airport Toxicology Laboratory  
9601 S. Sepulveda Blvd.  
Los Angeles, CA 90045 Phone: (310) 215-6020

National Health Laboratories, Inc.  
5601 Oberlin Drive Suite 100  
San Diego, CA 92121 Phone: (619) 455-1221

National Toxicology Laboratories, Inc.  
1100 California Ave.  
Bakersfield, CA 94404 Phone:(805) 322-4250

Nicols Institute Substance  
7470-A Mission Valley Road  
San Diego, Ca 92108-4406 Phone: (619) 686-3200 or (800) 446-4728

PharmChem Laboratories, Inc.  
1505-A O'Brien Drive  
Menlo Park, CA 94025 Phone: (415) 328-6200 or (800) 446-5177

Poisonlab, Inc.  
7272 Clairmont Mesa Road  
San Diego, CA 92111 Phone: (619) 279-2600 or (800) 882-7272

Sierra Nevada Laboratories, Inc.  
888 Willow Street  
Reno, Nevada, CA 89502 Phone: (800) 648-5472

SmithKline Beecham Clinical Laboratories  
7600 Tyrone Avenue  
Van Nuys, CA 91045 Phone: (818) 226-4373

Toxworx Laboratories, Inc.  
6160 Variel Avenue  
Woodland Hills, CA 91367 Phone: (818) 226-4373

UNILAB  
184 Oxnard Street  
Tarzana, CA 91356 Phone: (818) 343-8191 or (800) 492-0800

## 6. ARTICLE 6. EVALUATION PROCEDURE

### 6.1. Probationary Evaluation

6.1.1. Probationary employees shall serve the District in a satisfactory manner for a period not to exceed six (6) months or one-hundred and thirty days (130) days of paid service, whichever is longer, and shall be evaluated at least twice during this probationary period.

6.1.2. Required evaluations shall be performed at least thirty (30) calendar days apart and one evaluation shall be performed at least thirty (30) calendar days prior to the granting of permanent status.

### 6.2. Permanent employees shall be evaluated at least once every year.

6.2.1. Employees who receive a voluntary transfer shall be evaluated at least once during their first six (6) months of assignment and annually thereafter.

6.3. Evaluations as prescribed in 6.1 and 6.2 shall be the minimum number of required evaluations and employees may be evaluated at more frequent intervals as determined by the District.

6.4. Evaluation reports shall be made in such format as prescribed by the District and shall be prepared by the employee's immediate supervisor and/or his/her designee who has direct knowledge of the employee's work. The immediate supervisor shall be responsible for employee's evaluation.

6.5. The immediate supervisor shall submit the evaluation report to the employee and a conference shall be held with the employee regarding the report. All evaluations shall be signed by the employee in order to indicate that the employee has received a copy of the evaluation. The employee shall be given an opportunity to write comments regarding the evaluation on the evaluation form, as the employee deems necessary. The employee shall be given a copy of the evaluation.

6.6. Evaluations shall be filed in the employee's personnel records and shall be available for review by the District and the employee and by his/her representative upon written authorization of the employee.

6.7. If an evaluation shows an employee's performance is below satisfactory, the immediate supervisor shall provide specific recommendations and offer assistance for the employee's improvement.

6.7.1. An employee who has received an unsatisfactory evaluation shall be re-evaluated within three (3) months. Improvements or deficiencies

shall be so noted.

- 6.8. An employee who desires to appeal an unsatisfactory evaluation shall submit in writing to the Superintendent, within fifteen (15) workdays of the date of receipt of his/her evaluation, his/her reason for appeal. The Superintendent or his/her designee shall investigate the facts of the case and shall obtain such evidence as may be necessary for the final determination of the employee's evaluation. The Superintendent or his/her designee shall meet with the appellant and his/her representative, if any, within fifteen (15) work days of the date of receipt of the written appeal and provide a written response within fifteen (15) work days of the meeting. The Superintendent's decision regarding the evaluation appeal shall be final.

## 7. ARTICLE 7. TRANSFERS

### 7.1. Voluntary Transfers

- 7.1.1. Employees who desire to be considered for voluntary transfer to a vacant position must complete a transfer request form and submit it to the Office of the Personnel Commission. The transfer request form may be submitted at any time during the year. However, all transfer requests shall become null and void on June 30th of each year. The employee shall be notified of all positions within the employee's current or prior class(es) held, or related classes as designated by the Personnel Commission to which the employee has sought transfer and the employee will then be considered to fill the position. In accordance with the above, notification of positions shall be made to those employees who are either on a paid or unpaid leave of absence.
- 7.1.2. The immediate supervisor shall interview all qualified personnel who have a transfer request on file. The immediate supervisor shall consider all transfer requests based upon (1) special skills and qualifications of the employee, (2) needs of the site and/or District, (3) evaluations of the employee, if any, and (4) years of service of the employee to the District.
- 7.1.3. The job vacancy notice shall include the position title; minimum qualifications; a brief description of the position assignment duties when appropriate; the number of hours per day or week, when appropriate; assigned work shift times; days per week; months per year; work site; salary range; and the deadline to fill the vacancy.
- 7.1.4. A vacant position shall be defined as: (1) a new position created by the District, or (2) an existing position which is vacated by the incumbent or which is not currently filled and the District intends to fill. A position shall not be deemed vacant if an employee has rights to the position as a result of a reemployment list created by a layoff, industrial accident, disability, or if the position is filled by an involuntary transfer.
- 7.1.5. An employee who accepts a lateral transfer shall immediately notify his/her immediate supervisor that he/she has been offered and accepted a transfer. A current supervisor of an employee who has accepted a lateral transfer may not retain said employee for more than ten (10) working days, unless they have the written approval of the Assistant Superintendent, Human Resources.

### 7.2. Increased Hours Transfer

- 7.2.1. A vacant position for the purposes of an increased hours transfer shall be defined as:
- a. A new position created by the District which will result in additional assigned time on the basis of hours, days, or months to a current employee; or
  - b. An existing position which is vacated by the incumbent which the District intends to fill which will result in additional assigned time on the basis of hours, days, or months to a current employee; or
  - c. A position not currently filled, vacated by an incumbent, which the District intends to fill, which will result in additional assigned time on the basis of hours, days, or months to a current employee; or
  - d. A position, currently filled by an incumbent, which is increased thirty (30) minutes or more per day or a position in which the incumbent would be made eligible for benefits as provided for in Article 12 of the Agreement; or
  - e. A position, currently filled by an incumbent, which is increased in assigned time on a monthly basis (i.e. 10 months to 11 months per year, 11 months to 12 months per year, etc.).
- 7.2.2. Employees who desire to receive an increased hours transfer to a vacant position, as defined in Section 7.2.1, must complete a transfer request form and submit it to the Office of the Personnel Commission. The request form may be submitted at any time during the year. However, all transfer requests shall be null and void on June 30th of each year. Employees with a current increased hours transfer on file shall be given first consideration and an interview prior to outside or promotional candidates for an increase in hours in the same classification. If more than three (3) employees request an increase in hours transfer, the first three (3) in order of seniority will be given an interview and consideration. The opportunity to accept or reject the increased hours transfer to a vacant position as defined in Section 7.2.1 shall be offered to each employee on the request list, for their class(es) in order of classification seniority.
- 7.2.2.1. Employees whose last performance evaluation was unsatisfactory shall not be eligible for an increased hours transfer. (See Article 6.7.1).
- 7.2.3. Permanent employees with a current satisfactory performance evaluation who have accepted an increased hours transfer shall

immediately notify their current supervisor that they have been offered and have accepted a transfer.

Current supervisors of employees who have accepted an increased hours transfer may not retain said employee for more than ten (10) working days, unless they have the written approval of the Assistant Superintendent, Human Resources.

If the Assistant Superintendent, Human Resources approves the retention of an employee who has accepted an increased hours transfer, said employee shall receive the transfer to the increased hours and attached compensation thereof, effective no later than ten (10) working days after the transfer acceptance. The retaining supervisor shall pay the additional hours compensation.

## 8. ARTICLE 8. LEAVES

8.1. Employees who are to be absent from duty shall notify the supervisor as far in advance of the anticipated absence as possible. Employees shall complete absence reports and the District may require verification of any absence for a period of five (5) or more days. Additionally, verification of absences may be required by the supervisor whenever he/she determines that there has been an abuse of sick leave. This may be demonstrated by one or more of the following:

1. Exhaustion of sick leave allowance;
2. Sick leave taken for trivial reasons;
3. A pattern of sick days taken such as every Monday and/or Friday, before and/or after holidays, or any other suspicious usage of sick leave.

8.1.1. In the case of accident or illness leave for a period of five (5) or more days or for cases of abuse of sick leave, the District may require verification of the absence by a physician, or in the case of religious requirements by a practitioner when the District believes the absence may not have been for proper leave purposes. If verification of illness is required by the site Administrator, an employee may provide the required verification from his/her physician or practitioner at his/her expense or upon request from the employee, the District will provide an exam for medical verification at a District-designated facility at District expense. Abuse of leave privileges may subject an employee to loss of pay and disciplinary action.

8.1.1.1. If the District designated facility is more than thirty (30) miles from the employee's residence, the employee may submit his/her medical bill for reimbursement by the District of up to Thirty (\$30.00) Dollars for the cost of the examination only, provided that the employee is not covered by any medical insurance plan.

8.1.2. Employees who, due to emergency, do not know of the absence in advance of the scheduled day of work, shall notify the immediate supervisor within the first hour of scheduled work of the first day of absence unless conditions make such notification impossible, or in accordance with requirements as established by the employee's immediate supervisor.

8.1.3. In the case of absence which extends to a second day or longer period, the employee shall notify the worksite or other location indicated by District procedures at least the day or work shift prior to his/her

expected return to work. Except in cases of emergency, if the employee fails to notify the worksite or other location indicated by District procedures of his/her expected return to work and the employee's substitute also reports for work, the employee may be subject to disciplinary action.

8.1.3.1. The provisions of 8.1.3 shall be applicable to employees in the Transportation, Operations, and Nutrition Services Departments who are absent one (1) day. The provisions of 8.1.3 shall be applicable to all employees whose absence extends to a second day or longer period.

## 8.2. Bereavement Leave

8.2.1. Absence without loss of salary or sick leave shall be allowed to any regular unit member for a period not to exceed five (5) days plus two (2) days travel time if over two hundred (200) miles travel is required, upon the death of a spouse of the unit member, or son, son-in-law, daughter, daughter-in-law, or stepchild of the unit member or the member's spouse.

8.2.2. Absence without loss of salary or sick leave shall be allowed to any regular unit member for a period not to exceed three (3) days plus two (2) days travel time if over two hundred (200) miles travel is required, upon the death of a mother, father, grandmother, grandfather, grandchild, brother, brother-in-law, sister, sister-in-law of the unit member or spouse of the unit member, or any person for whom the unit member is a legal guardian.

8.2.3. Absence without loss of salary or sick leave shall be allowed to any regular unit member for a period not to exceed one (1) day upon the death of extended family member not mentioned above in 8.2.1 and 8.2.2 or close personal friend of the unit member.

	Funeral	Leave	Travel
Article 8.2.1 (i.e., Spouse, Child, Step-child)	1 day	4 days	2 days
Article 8.2.2 (i.e., Parents, In-laws, etc.)	1 day	2 days	2 days
Article 8.2.3 (i.e., Other extended family, or personal friend)	1 day		

## 8.3. Jury Duty and Witness Leave

8.3.1. Leave of absence for jury duty service shall be granted to any employee who has been officially summoned to jury duty. Leave shall be granted for the period of the jury service and a copy of the subpoena or court certification shall be filed with the District at the time of request. Such leave shall be provided at a salary which is

equal to the difference between the employee's regular earnings and any amount he/she receives as juror's fees, exclusive of mileage, during the period he/she serves on the jury.

- 8.3.2. Leave of absence to serve as a witness in a court case shall be granted an employee when he/she has been served with a subpoena to appear as a witness and is not a litigant in the case. The length of the leave granted shall be for a period of required attendance in court as certified by a copy of the subpoena or court certificate. Such leave shall be provided at a salary which is equal to the difference between the employee's regular earnings and any amount he/she receives as witness fees, exclusive of mileage, during the period he/she serves as a witness.
- 8.3.3. An employee who has received leave of absence under this article shall make him/herself available for work during hours when his/her presence is not required in court.

Employees who are released from jury duty at a time when they could not reasonably complete one-half of their scheduled work-shift will be excused. Verification of dismissal time may be required.

- 8.3.3.1. If an employee's work shift is other than between the hours of 7AM and 5PM, the employee shall have the right to be excused from his/her assignment for a period of time equal to his/her required court duty.

#### 8.4. Military Leave

- 8.4.1. An employee who is a member of the reserve corps of the armed forces of the United States of America, or the National Guard, is entitled to temporary military leave of absence in accordance with provisions of the Military and Veterans Code and the Education Code.
- 8.4.2. If the employee knows of the need for military leave, a request must be submitted to the Assistant Superintendent, Human Resources at least 30 calendar days prior to the leave. Except in cases of a declared emergency recognized by State or Federal officials, the request must be made at least five (5) working days in advance of the leave. Payment will not be made for military leave until official orders are received by the District.

#### 8.5. Illness or Injury Leave

- 8.5.1. Illness or injury leave is the absence of an employee because of illness or injury or exposure to contagious disease, or doctor or dental appointments which cannot be accommodated outside regular duty hours.
- 8.5.2. An employee employed five (5) days a week by the District shall be granted twelve (12) days leave of absence for illness or injury with full pay for a fiscal year of service.
- 8.5.3. An employee employed five (5) days a week, who is employed less than a fiscal year, is entitled to that proportion of twelve (12) days leave of absence for illness or injury as the number of months he/she is employed bears to twelve (12).
- 8.5.4. An employee employed less than five (5) days per week shall be entitled, for a fiscal year of service, to that proportion of twelve (12) days leave of absence for illness or injury as the number of days he/she is employed per week bears to five (5). When such person is employed for less than a full fiscal year of service this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which he/she is entitled.
- 8.5.5. Pay for any day of absence shall be the same as the regular pay, which would have been received, had the employee served during the day of illness.
- 8.5.6. At the beginning of each fiscal year, the employee shall be credited with the number of days of paid illness or injury leave which he/she would normally earn in the ensuing fiscal year in accordance with this article. However, a new employee shall not be eligible to take more than six (6) days until the first day of the calendar month after he/she performs his/her assignment for a period of six (6) months, or one-hundred and thirty days (130) days of paid service, whichever is longer. When an employee terminates from the District, a deduction shall be made for any unearned but used illness or injury leave from his/her final warrant. If, after the deduction compensation is still due the District, the employee shall be liable for all court costs expended to recover the money due.
- 8.5.7. If an employee does not take the full amount of illness or injury leave allowed in any year, the amount not taken shall be accumulated from fiscal year to fiscal year without limit.
- 8.5.8. At retirement an employee's earned but unused illness or injury leave shall be converted to a retirement credit in accordance with the laws and regulations of the State of California and the Public Employees' Retirement System.

8.5.9. In case an employee is absent for five (5) consecutive days or more, the District may require a physician's release, or in the case of religious requirement a practitioner's release, stating that the employee is physically and mentally able to fully perform the requirements of the job. If the site Administrator requires a release, the release shall be provided in accordance with the provisions outlined in Article 8.1.1 and 8.1.1.1.

#### 8.6. Extended Illness or Injury Leave

8.6.1. Employees shall be entitled to extended illness or injury leave of one-hundred (100) non-cumulative working days per fiscal year inclusive of the days of accumulated illness or injury leave to which they are entitled.

8.6.2. When an employee has accumulated an equivalent of two years annual allocation of sick leave prior to an accident or illness, the employee may request and will be granted an additional 21 half days of pay beyond the 100 days differential pay allocated in Article 8.6.1.

8.6.3. For any use of extended illness or injury leave, the District may require verification from a physician or recognized practitioner that the employee was physically unable to perform his/her customary duties. If the site Administrator requires medical verification from the employee, it shall be provided in accordance with the provisions outlined in Article 8.1.1 and 8.1.1.1.

#### 8.7. Pregnancy Disability Leave

8.7.1. Employees are entitled to use accumulated illness or injury leave for disabilities caused or contributed to by pregnancy, miscarriage, childbirth, or recovery there from. Such leave shall not be used for child care, child rearing, or preparation for childbearing, but shall be limited to those disabilities as set forth above. The length of such disability leave, including the date upon which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and the employee's physician.

8.7.2. Employees shall notify their immediate supervisor four (4) weeks in advance of the anticipated maternity absence except in cases of emergency.

8.7.3. Employees may request leave without pay for absence caused by pregnancy, miscarriage, childbirth, or recovery there from after illness or injury leave entitlements have been exhausted.

## 8.8. Industrial Accident and Industrial Illness Leave

- 8.8.1. Leaves resulting from an industrial accident or industrial illness shall be granted in accordance with the provisions of the Education Code.
- 8.8.2. An employee who is absent from duty because of an illness or injury defined as industrial accident or industrial illness under provisions of the Workers' Compensation Law shall be granted paid industrial accident leave for each such accident or illness while receiving disability benefits from Workers' Compensation provided that:
  1. He/she has permanent status, and
  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, it is ultimately determined to be work-connected.
- 8.8.3. Paid industrial accident leave shall be for not more than seventy-five (75) working days in any one fiscal year for the same accident. When an accident or illness overlaps into the next fiscal year, the employee shall be entitled to only that amount of the seventy-five (75) days allotment remaining at the end of the fiscal year in which the original accident or illness occurred.
- 8.8.4. Paid industrial accident leave shall be reduced by one (1) day for each day of authorized absence regardless of the temporary disability allowance made under Workers' Compensation. Days absent while on paid industrial accident leave shall not be deducted from the number of days of paid illness leave to which an employee may be entitled.
- 8.8.5. If the employee is still unable to return to duty after exhausting paid industrial accident leave, an employee may choose to use any paid leave to which he/she may be entitled to the extent necessary to make up the employee's regular salary when receiving temporary disability allowance.
- 8.8.6. Upon return to service from any paid or unpaid leave resulting from an industrial accident or industrial illness an employee shall be assigned to a position in his/her former class ahead of any employee with a lesser amount of seniority. If no vacancy exists in his/her former class or former classes, he/she may displace the most recently appointed employee in the class with less seniority. If an employee's former class(es) has ceased to exist, the employee may be reassigned or placed on a suitable reemployment list.

- 8.8.7. After all paid leaves of absence have been exhausted following an industrial accident or industrial illness, and the employee is still unable to return to work, the employee shall be terminated and his/her name placed on reemployment list for a period not to exceed thirty-nine (39) months.
- 8.8.8. An employee returning from paid or unpaid industrial accident or illness leave 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 this contract. An employee shall continue to receive seniority credit for all purposes while on such paid leave of absence but shall not accrue seniority while on an unpaid leave of absence.
- 8.8.9. An employee who fails to accept an appropriate assignment after being medically approved therefore shall be removed from the reemployment list. Appropriate assignment is defined as an assignment to the employee's former class, in his/her former status and time basis, and in assignment areas in which the employee has made him/herself available. Employees removed from a reemployment list under this article may appeal the removal to the Personnel Commission.

#### 8.9. Personal Necessity Leave

- 8.9.1. Employees shall be entitled to use a maximum of seven (7) days of accrued illness or injury leave each fiscal year for purposes listed below:
  - 8.9.1.1. The death of member of the employee's immediate family as defined in 8.2.2 when the number of days required exceeds the limit provided in Bereavement Leave.
  - 8.9.1.2. A serious accident involving the employee's person or property, or the person or property of a member of his/her immediate family. An emergency accident would involve an unforeseen mishap or the serious injury of an immediate family member or property damage resulting from an unforeseen tragedy or act of destruction.
  - 8.9.1.3. An illness of a member of the employee's immediate family which is of a serious nature. An illness of a serious nature shall be an illness which an employee cannot reasonably be expected to disregard and which requires the attention of the employee during his/her assigned hours of service.

- 8.9.1.4. Appearance in court or before any administrative tribunal as a litigant, party, or witness under subpoena or any order made with jurisdiction and for which no other leave is provided for in these articles.
  - 8.9.1.5. The birth of a child, making it necessary for the employee to be absent from his/her position during his/her assigned hours of services. For purposes of this rule, the "child" must be a member of the immediate family. Immediate family is limited to mother, father, grandmother, grandfather, or sibling.
  - 8.9.1.6. Recognized religious holy days.
  - 8.9.1.7. Wedding of unit member or unit member's immediate family as defined in 8.2.2 & 8.2.1.
  - 8.9.1.8. College or university graduation of family members identified in 8.2.2. & 8.2.1.
  - 8.9.1.9. Unit members may request the use of accumulated sick leave under 8.9.1 for other matters of compelling personal importance which cannot reasonably be expected to be taken care of outside the regular work day. Other than in cases of emergency, requests under this section must be submitted in writing, including a brief description of the compelling personal importance, to the Superintendent or designee in advance of the leave. Unit members using Personal Necessity Leave under this provision, when approved, must verify on the District Request for Personal Necessity Leave form that the leave was for Personal Necessity and not used for recreational purposes, extension of a holiday, vacation or for matters of purely personal convenience.
- 8.9.2. For the purposes of this provision, "immediate family" shall be defined as mother, father, step-mother, step-father, grandmother, grandfather, grandchild, husband, wife, son, son-in-law, daughter, daughter-in-law, brother or sister of either of the unit member or the unit member's spouse, stepbrother, stepsister, aunt, uncle, or close personal friend of the unit member or a person living permanently in the immediate household of the unit member.
- 8.9.3. The employee shall request personal necessity leave five (5) days in advance, except in cases of emergency, and the District reserves the right to require verification of the reason for the personal necessity leave. Under all circumstances, an employee shall verify in writing

that the personal necessity leave was used only for the purposes set forth above.

8.9.4. One (1) day of the seven (7) personal necessity leave days as defined in 8.9.1 may be used each fiscal year by employees for conditions of personal necessity as deemed appropriate by the employee. This day may be taken in one-half day increments and used only for necessities which the employee cannot be expected to disregard and which require the attention of the employee during his/her assigned hours of service. No prior approval by the supervisor is required, but notification to the immediate supervisor must be made in advance of this one (1) day of leave and such notification shall be five (5) days in advance except in cases of emergency. The one (1) day of unspecified personal necessity leave may not be accumulated or carried over to a subsequent school year. This provision may not be used for a work stoppage or slowdown.

#### 8.10. Break in Service

8.10.1 Absence under any paid leave provisions of this article shall not be considered as a break in service for an employee who is in paid status.

8.10.2 Any leave without pay granted under this section for ninety (90) days or less shall not be considered a break in service. If an employee requests and receives an unpaid medical leave of absence or an unpaid leave of absence for medical necessity as defined in Section 8.9.1.3 of this Agreement, such leave shall not be considered a break in service for a period not to exceed twelve (12) months.

#### 8.11. Leave Without Pay

8.11.1. A permanent employee may be granted by the District a leave of absence without pay or other compensation for the purpose of travel, rest, child care, study, retraining or other reasons acceptable to the District. Such leaves shall be for a period of one (1) year or less and shall terminate at such time as deemed appropriate by the District. Such determination shall be made at the time the leave is granted. An extension of up to one (1) year may be granted by the District. Failure to return from a leave without pay at the time deemed appropriate by the District shall be the cause for termination. Application for such leave of absence shall be made by the employee forty-five (45) days in advance of the requested leave except in cases of emergency.

8.11.2. Forty-five (45) days prior to the expiration of any leave without pay, the employee shall notify the District of his/her intent to return to work, or to seek an extension of the leave except for an employee on

unpaid medical leave of absence. Failure to notify the District of the employee's intent to return to work as required by this article may release the District from its obligation to reinstate the employee following said leave.

## 8.12. Vacation Leave

### 8.12.1. Full-time employees shall earn vacation as follows:

8.12.1.1. From the first day of service through the end of the first year, one (1) day of vacation per month worked to an annual maximum of twelve (12) days.

8.12.1.2. Beginning with the second year of service, 1.083 days of vacation per month worked to an annual maximum of thirteen (13) days.

8.12.1.3. Beginning with the third year of service, 1.166 days of vacation per month worked to an annual maximum of fourteen (14) days.

8.12.1.4. Beginning with the fourth year of service, 1.250 days of vacation per month worked to an annual maximum of fifteen (15) days.

8.12.1.5. Beginning with the fifth year of service through the seventh year of service, 1.333 days of vacation per month worked to an annual maximum of sixteen (16) days.

8.12.1.6. Beginning with the eighth year of service, 1.416 days of vacation per month worked to an annual maximum of seventeen (17) days.

8.12.1.7. Beginning with the ninth year of service, 1.500 days of vacation per month worked to an annual maximum of eighteen (18) days.

8.12.1.8. Beginning with the tenth year of service through the eleventh year of service, 1.583 days of vacation per month worked to an annual maximum of nineteen (19) days.

8.12.1.9. Beginning with the twelfth year of service through the fourteenth year of service, 1.666 days of vacation per month worked to an annual maximum of twenty (20) days.

8.12.1.10. Beginning with the fifteenth year of service through the

seventeenth year of service, 1.750 days of vacation per month worked to an annual maximum of twenty-one (21) days.

8.12.1.11. Beginning with the eighteenth year of service and thereafter, 1.833 days of vacation per month worked to an annual maximum of twenty-two (22) days.

8.12.2. Employees who work less than full time shall have the vacation benefits of 8.12.1 prorated as follows:

8.12.2.1. An employee employed five (5) days a week, but less than a full fiscal year, shall receive that proportion of vacation leave as the number of months he/she is employed bears to 12.

8.12.2.2. An employee employed less than five (5) days a week shall be entitled, for a fiscal year of service, to that proportion of vacation days earned as the number of days he/she is employed per week bears to five (5). When such person is also employed for less than a full fiscal year of service, this provision and the provisions of 8.12.2.1 shall determine that portion of leave for vacation to which he/she is entitled.

8.12.3. Pay for any day of such vacation shall be the same as the regular pay which would have been received had the employee served during the day of vacation.

8.12.4. During their first six (6) months of service, new employees shall accrue vacation benefits and may utilize up to six (6) days of those benefits. However, employees who terminate prior to the completion of their first six (6) months of service are not entitled to compensation for accrued vacation and, therefore, shall be required to repay the District for any days that may have been utilized as vacation up to a maximum of six (6) days.

8.12.5. Employees who are hired on or prior to the 14th of any month shall be entitled to vacation accrual effective the first day of that month. Employees who are hired on the 15th of the month or any day thereafter shall be entitled to vacation accrual on the first day of the following month.

8.12.6. Accumulated days of vacation are to be taken during the year earned or during the subsequent twelve (12) months. Maximum accumulation of unused vacation in any twenty-four (24) month period shall not exceed two (2) times the employee's annual

entitlement. Exceptions must be approved by the Assistant Superintendent, Human Resources.

All permanent classified employees may request the advance of up to one-half (1/2) of their annual vacation time between July 1 and December 30. Another request may be made for the balance of the annual vacation time between January 1 and June 30. Exceptions must be approved by the Assistant Superintendent, Human Resources.

- 8.12.7. Employees are encouraged to take their full vacation entitlement each year; however, all vacations must be approved by the District in advance. If an employee is not permitted by the District to take his/her requested vacation through no fault of the employee, the immediate supervisor shall meet with the employee to discuss the selection of alternate dates available for the employee's vacation. Every attempt will be made to honor the employee's choice.
- 8.12.8. If the District is unable to approve vacation time off during the work year, the employee may request and receive vacation pay in lieu of days off. Vacation pay in lieu of days off may be used when approved by the immediate supervisor. All requests for vacation pay in lieu of days off must be in writing and must be submitted no less than thirty (30) days in advance of the expected pay period.
- 8.12.9. Upon separation from District service, the employee shall be entitled to lump sum compensation for all earned but unused vacation.
- 8.12.10. If an employee is terminated and has been granted vacation which has not been earned at the time of termination of his/her services, the District shall deduct from the employee's severance check the full amount of salary which was paid for such unearned days of vacation taken. If, after the deduction, compensation is still due the District, the employee shall be liable for all court costs expended to recover monies due.
- 8.12.11. Employees who become incapacitated by reason of illness or accident for a period of three (3) days or longer during a period of vacation shall be eligible for illness or injury leave as enumerated in Article 8.5 provided the employee presents a doctor verification of such illness or accident. The provisions of this section shall also apply to bereavement, jury duty, military leave, and pregnancy disability leave provided that verification of the justifying circumstances is provided to the immediate supervisor.
- 8.12.12. When a holiday occurs during the period of an employee's approved

vacation and the employee would have ordinarily been entitled to such holiday, such holiday shall not be charged against the employee's vacation.

- 8.12.13. For the 2000-01 school year and beyond, all bargaining unit members on a twelve-month pay cycle will be provided such statements by August 31<sup>st</sup> of each school year and all bargaining unit members on an eleven-month or ten-month pay cycle will be provided such statements by October 31<sup>st</sup> of each school year.

#### 8.13. Family and Medical Leave Act

- 8.13.1. The District will grant unpaid family and medical leave to eligible bargaining unit employees in accordance with the provisions of the Federal Family and Medical Leave Act of 1993 (P.L. 103-3). In accordance with the Federal Family and Medical Leave Act, the District will grant up to twelve (12) work weeks of unpaid family and medical leave with continuation of existing District-paid health and welfare benefits to eligible bargaining unit employees for the birth, adoption, or foster care placement of a child with the employee, or for care of the employee, employee's child, spouse or parent with a serious health condition. An employee is eligible for this leave if the employee has worked for the District for a total of at least twelve (12) months and has worked at least one thousand two hundred fifty (1,250) hours over the previous twelve (12) months. Except for disability leave on account of pregnancy, childbirth or related medical conditions, family or medical leave under this Article will run concurrently with any paid leave for which the bargaining unit employee is eligible including sick leave and accrued vacation. Employees are required to provide at least thirty (30) days advance written notice to the Director of Human Resources if the need for unpaid family leave is foreseeable. If the thirty (30) days advance written notice is not possible, then notice shall be given as soon as practicable to the Assistant Superintendent, Human Resources. Any family leave request will be processed in accordance with the applicable provisions of state and federal law by the Assistant Superintendent, Human Resources.

#### 8.14. Catastrophic Leave Program

##### 8.14.1. Catastrophic Leave Definitions

The Newport-Mesa Unified School District ("District"), the Newport-Mesa Federation of Teachers ("N-MFT" or "Federation"), the California School Employees Association, Chapter 18 ("CSEA" or "Association"), the Newport-Mesa Administrators Association ("N-MAA"), and the Supervisory/Confidential Employee Unit

("S/CEU") agree to the establishment of two Catastrophic Leave programs for eligible employees. The intent of these programs is to provide additional financial protection to those eligible employees who face a period of prolonged absence from work resulting from a catastrophic illness or injury. "Catastrophic illness or injury" shall mean illness or injury that is expected to incapacitate the employee, spouse, or child (as defined under the current N-MUSD health benefits plan) which requires the employee to take time off from work on a continuous or intermittent basis for an extended period of time, and taking time off work creates a financial hardship for the employee. (Reference: California Ed Code 44043.5). The two programs developed in cooperation with the District, Federation, and Association are the Catastrophic Leave Bank and Individual Catastrophic Leave Accounts.

#### 8.14.2. Administration of the Catastrophic Leave Programs.

A Catastrophic Leave Committee ("Committee") shall administer the Catastrophic Leave Bank and the Individual Catastrophic Leave Accounts. The Committee shall have complete discretion to grant or deny leave requests in whole or in part. The Committee shall be composed of six (6) members: two (2) from CSEA, two (2) from N-MFT, one (1) from S/CEU and one (1) N-MAA representative. The Committee will determine and certify the employee's eligibility and administer both catastrophic leave programs. Membership in this Committee will be confidential. The Presidents of each of the units will select their representatives.

The District's responsibility includes, but is not limited to, establishing application procedures and timelines, developing appropriate forms, coordinating the solicitation of sick days, establishing record keeping procedures, and in coordination with the Payroll Department, overseeing payment to eligible members. The Human Resources Division and the employee units will review the Catastrophic Leave Programs annually.

The Catastrophic Leave Committee shall be responsible for receiving leave requests, verifying validity of requests, approving the full or less than full amount requested or denying requests, communicating its decision to affected eligible employees, the Superintendent and presidents of each employee organization, and soliciting donations of sick leave days from eligible employees.

#### 8.14.3. Catastrophic Leave Bank

8.14.3.1. Participation/Eligibility: Employees with more than ten (10) days of accumulated sick leave and at least one year

of service (at least 75% of the work year) in the District may participate in the Catastrophic Leave Bank (“Bank”). Employees who elect to join the Catastrophic Leave Bank may join the bank only during enrollment periods and must have a waiting period of thirty (30) calendar days after joining the Bank before becoming eligible to withdraw from it. Employees returning from an extended leave of absence shall have thirty (30) calendar days from the first day of returning from leave to sign up for participation in the Catastrophic Leave Bank if the enrollment period has expired. Donation to the Bank does not constitute automatic eligibility for benefits. Use of the Catastrophic Leave Bank must meet the criteria established herein and approval of the Committee.

- 8.14.3.2. **Donation of Days:** An eligible employee may elect to participate in the Catastrophic Leave Bank by donating at least one (1) day (1 day = current daily hours assigned) of his/her accumulated sick leave to the Catastrophic Leave Bank. The eligible employee shall make this donation by filing an appropriate district form during the enrollment period. Any donation to the Catastrophic Leave Bank shall be irrevocable.
- 8.14.3.3. **Mandatory Replenishment:** Employees who receive contributions from the Catastrophic Leave Bank must, upon return to duty, commence donations with a minimum of one (1) accumulated sick leave day per year until total donations equal the amount of donated leave received from the bank.
- 8.14.3.4. **Enrollment Procedures:** The District shall establish an enrollment period for eligible employees to participate in the Catastrophic Leave Bank. The enrollment period shall be initiated for a 30-day period when deemed necessary by the Committee. Participants will remain eligible for the bank until the available days in the bank are exhausted. At that time, the Committee may decide to initiate a new bank. An employee must donate to the new bank to continue to be eligible to receive benefits from the Catastrophic Leave Bank.
- 8.14.3.5. **Procedures to Use/Withdraw Sick Leave – Conditions and Restrictions:** In order to be eligible to withdraw catastrophic leave from the Bank, the eligible employee must be a participant and have exhausted all of his/her available/accrued paid leave credits including differential

pay, which includes, but is not limited to, industrial injury leave and sick leave. An eligible employee who receives paid leave pursuant to this section shall use any leave credits he or she continues to accrue on a monthly basis prior to receiving paid leave pursuant to this section.

8.14.3.5.1. An eligible employee electing to use the Catastrophic Leave Bank shall complete an appropriate form in order to make a draw on the Bank. The eligible employee must submit this form to the Assistant Superintendent of Human Resources, or designee, for processing. The form will indicate the nature of the catastrophic illness or injury, probable duration of absence, and provide the attending physician's certification that the illness or injury is of a serious nature requiring prolonged treatment and preventing the employee from returning to work. In the event that the eligible employee is personally unable to apply for the catastrophic leave, an immediate family member or eligible employee's agent may make the request for the applicant.

8.14.3.5.2. The Committee may approve withdrawal from the Catastrophic Leave Bank for up to sixty (60) calendar days. Requests for additional leave up to the maximum allowable (12 months) must be submitted to the Committee with an updated statement from the attending physician. The employee who receives leave from the Bank shall furnish all lawfully requested medical information deemed necessary by the Catastrophic Leave Committee to determine the employee's eligibility to receive donated leave from the Bank.

8.14.3.5.3. The Assistant Superintendent of Human Resources and the Catastrophic Leave Committee shall hold all medical information in strictest confidence. With permission of the employee, his/her name may be used to solicit sick days for an Individual Catastrophic Leave Account (defined below). At any stage of the application for a Catastrophic Leave benefit or during an appeal of the Committee decision, an

employee may be assisted by a representative of their respective bargaining unit with the condition that said representative shall hold all medical information in strictest confidence.

8.14.3.5.4. The maximum amount of time for which donated leave credits may be used by an employee shall not exceed a period of twelve (12) consecutive months. The catastrophic leave recipient, because he/she remains in paid District status, shall continue to receive District fringe benefit contributions for the duration of said leave. Failure of the eligible employee to submit a complete application, including medical information provided by the applicant's physician, within twenty (20) calendar days, would disqualify the eligible employee from further Catastrophic Leave Bank benefits.

8.14.3.5.5. If there are insufficient days in the Bank, there is no obligation to grant leave hereunder, in whole or part. Neither the District, Association, Federation, N-MAA, S/CEU and/or Committee shall be legally responsible if there are insufficient days in the Bank to provide benefits through the Catastrophic Leave Bank program. The Committee may elect to request additional donations through additional periods of open enrollment during the year when appropriate.

8.14.3.6. Method of Payment: When an eligible employee uses a day from the Catastrophic Leave Bank, pay for that day shall be at the same rate the eligible employee would have received had he/she worked that day. No distinction shall be made as to the differing pay rates of the donor and the recipient.

8.14.3.7. Accounting: By November 15<sup>th</sup> of each year the Payroll Office shall provide the Catastrophic Leave Committee with a statement detailing the number of days withdrawn from the Bank during the past year and the number of days available in the Bank as of the first day of July of the current academic year.

8.14.3.8. Termination of the Catastrophic Leave Bank: By mutual

agreement of the District and collective bargaining agents, the Catastrophic Leave Bank may be terminated and disposition of the hours remaining in the Bank shall be negotiated. In the event of a natural disaster or catastrophic event having a generalized effect, the Superintendent shall retain the right to suspend the provisions of this article.

In the event one collective bargaining agent wishes to continue a catastrophic leave bank and the other bargaining unit does not, both units will negotiate a dissolution agreement. If unsuccessful in reaching a mutually acceptable agreement, both bargaining units agree to mediation.

8.14.3.9. Eligibility for a Donation of Donated Sick Leave Non-Grievable: An employee's eligibility for or donation of sick leave pursuant to the provisions of the Catastrophic Leave Bank sections of this Article shall not be subject to the grievance procedure of the Agreement. It is understood that accepted donated sick leave is an irrevocable deposit and cannot be rescinded for any reason.

8.14.4. Individual Catastrophic Leave Accounts:

8.14.4.1. Definitions: In addition to the Catastrophic Leave Bank, the Catastrophic Leave Committee may authorize solicitations for an Individual Catastrophic Leave Account to provide extended paid leave benefits to a specific employee for catastrophic illness or injury.

8.14.4.2. Donation of Days: Employees may donate one (1) day if they have a minimum of ten (10) days accrued after deducting the donation. If an employee donates sick leave days to another specific employee in a separate solicitation in an Individual Catastrophic Leave Account, this donation is not considered for eligibility in the Catastrophic Leave Bank. Any days donated to an Individual Catastrophic Leave Account should be used prior to use or exhaustion of the Catastrophic Leave Bank benefits.

Any unused days for the specific employee will be held in an individual account for a period of five years or until the employee separates from the District. At that time, any unused days will be transferred to the Catastrophic Leave Bank.

8.14.4.3. Procedures to Use/Withdraw Sick Leave - Conditions and Restrictions: The maximum donation/benefit per incident for any employee through an Individual Catastrophic Leave Account for his/her own catastrophic illness or injury will be the number of days defined as one (1) calendar work year for that employee. Any donations to an Individual Catastrophic Leave Account that exceed the maximum donation for the affected employee will not be accepted and the donation submitted returned to the donating employee. This benefit is extended to each district employee and may be used by each employee if married spouses are both employees of the District.

#### 8.14.5. Care of Spouse or Child

8.14.5.1. An employee who qualifies for catastrophic leave to care for a spouse or dependent child may use a maximum of sixty (60) days of his/her available sick leave. An employee, if approved by the Catastrophic Leave Committee, may choose to donate up to sixty (60) days either to care for the spouse or to donate the sixty (60) days to the spouse if he/she is a district employee. The employee must retain at least ten (10) sick days for personal use.

#### 8.14.6. Appeal Procedure

8.14.6.1. An employee dissatisfied with any action taken or decision made concerning the catastrophic leave plan may submit a request to the Committee for review of such action or decision in question. The Committee shall not consider a request for review unless the request for review is submitted within ten (10) days of notification after the action or decision in question. The Committee shall have no jurisdiction to hear any request that is not submitted within the required time frame. Following the request, the appellant has thirty (30) days to submit all relevant paperwork to the Committee. The Committee shall review the matter under appeal and make its report to the Assistant Superintendent of Human Resources and the N-MFT and CSEA Presidents who may uphold the decision or direct the Committee to reconsider the request or overturn the decision with a unanimous vote.

#### 8.15. Hold Harmless

8.15.1. An employee who has submitted a request to donate leave, and an employee who has submitted a request to receive leave under these provisions, shall each execute an agreement satisfactory to the Committee as a condition of donation or receipt. The agreement will confirm the understanding of the employee that the donation and receipt of leave are voluntary. The agreement will also provide that the employee agrees to release and to hold the Committee, the District, N-MFT, CSEA, N-MAA and S/CEU, and their respective officers, employees, and agents harmless from any claims, demands, damages, or causes of action related to the solicitation, application, donation, receipt, use, grant, or denial of leave, or any appeal thereof, or to the acquisition, use, disclosure, or maintenance of medical or sick leave information or records under these provisions.

## 9. ARTICLE 9. EMPLOYEE RIGHTS AND ORGANIZATIONAL SECURITY

- 9.1. The District and the Association recognize the right of unit members to form, join and participate in lawful activities of unit member organizations, the equal alternative right of unit members to refuse to form, join or participate in employee organization activities subject to the organization security provision of this Article and SB1960 (Chapter 893, Statutes 2000).
- 9.2. Check Off
  - 9.2.1. CSEA shall have the sole and exclusive right to have membership dues and service fees deducted for employees in the bargaining unit by the District. CSEA shall provide the District with a current schedule of its authorized dues and service fees. The District shall, upon appropriate written authorization from any employee, deduct and make appropriate remittance for insurance premiums, credit union payments, savings bonds, charitable donations, or other plans or programs jointly approved by CSEA and the District.
- 9.3. Dues Deduction
  - 9.3.1. District shall deduct in accordance with CSEA dues and service fee schedule, dues from the wages of all employees on the date of the execution of this Agreement, and who have submitted dues authorization form to the District.
  - 9.3.2. District shall deduct dues in accordance with the dues and service fee schedule, from the wages of all employees who, after the date of execution of this Agreement, submit to the District a dues authorization form.
  - 9.3.3. District shall notify CSEA within a reasonable period of time if any member revokes a dues authorization.
- 9.4. Service Fee
  - 9.4.1. All bargaining unit members within thirty (30) calendar days of employment or re-employment, shall either become a member of CSEA or pay CSEA a service fee in an amount not to exceed the standard initiation fee, period dues, and general assessments of CSEA membership for the duration of the Agreement
  - 9.4.2. However, nothing contained herein shall prohibit an employee from paying service fees directly to CSEA.

9.4.3. In the event that an employee revokes a dues authorization, or fails to make arrangements with CSEA for the direct payment of service fees, pursuant to Education Code section 45168(b), the District shall deduct service fees until such time as CSEA notifies the District that arrangements have been made for the payment of such fees. Such notification should be made within thirty (30) days of employee's revocation.

#### 9.5. Religious Objection

9.5.1. Any employee covered by this Agreement who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations, shall not be required to join, maintain membership in or financially support any employee organization as a condition of employment except that once such employee has submitted evidence satisfactory to CSEA that he/she is a member of such religious organization, he/she will be required, in lieu of a service fee, to pay sums equal to such service fee either to a nonreligious, nonlabor organization or charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by such employee from the following list of four:

- 9.5.1.1. Red Cross
- 9.5.1.2. United Way
- 9.5.1.3. Newport-Mesa Schools Foundation
- 9.5.1.4. Newport-Mesa Unified School  
District Booster Clubs

#### 9.6. Deduction and Payment of Charitable Contributions

9.6.1. Any employee who belongs to a religious body described herein shall, present proof to CSEA that they are a member of such religious body and shall execute a written authorization for the payroll deduction in an amount equal to the service fee payable to one of the organizations listed in section 9.5 of this Agreement or in the alternative, such employee shall provide proof to CSEA that such payments have been made on an annual basis as a condition of continued exemption from the requirement of financial support to the exclusive representative. If such employee who holds conscientious objections pursuant to this section requests the employee organization to use the grievance procedure or arbitration procedure on the employee's behalf, the employee organization is authorized to charge the employee for the reasonable cost of using such procedure.

#### 9.7. Organizational Security

9.7.1. CSEA will furnish all service fee payers with an adequate explanation of the basis for the fee and the calculation of that portion of the fee which is chargeable to activities related to collective bargaining in accordance with applicable law. CSEA will provide all service fee payers with a reasonably prompt opportunity to challenge this calculation before an impartial decision maker and will deposit into an interest-bearing escrow account all amounts in dispute while such challenges are pending in accordance with applicable law.

#### 9.8. Hold Harmless Provision

9.8.1. CSEA shall indemnify, defend, and hold harmless the District, the District's Board of Trustees, including each individual School Board member, and employees acting within the scope of their employment, agents and representatives of the District against any and all claims, demands, suits, or other forms of liability brought by other than CSEA, including, but not limited to, wages, damages, judgments, fees, fines, court costs, attorney fees, and any back pay, penalties, or awards resulting from any court, arbitrator, or PERB order, judgment, or settlement which may arise by reason of, or resulting from the operation of this Agreement.

9.8.2. CSEA shall bear all legal costs of defending against any and all such claims, demands, suits, or other forms of liability, including, but not limited to, court costs, attorney fees, and all other legal costs of litigation.

9.8.2.1. Upon commencement of such legal action, CSEA shall have the exclusive right to decide and determine whether any claim, liability, suit, or judgment made or brought against the District or CSEA because of such action shall or shall not be compromised, resisted, defended, tried, or appealed. CSEA's decision thereon shall be final and binding upon all parties protected by this Article. This Article shall not be construed as a waiver on the part of the District, Board of Trustees, or any individual protected by this Article of any claim against CSEA for failing to act in good faith in settling a claim or any failure to competently defend and hold them harmless.

9.8.3. Within ten (10) calendar days of proper service of a claim, demand, suit, or other legal action against any protected party, the District shall inform CSEA and provide CSEA with copies of any documents received as a result of the legal action. Upon request, the District shall provide CSEA's legal counsel with documents and

information reasonably related to providing a defense.

10. ARTICLE 10. HOLIDAYS

10.1. The District agrees to provide all eligible employees in the bargaining unit with the following holidays (Actual calendar dates set annually through a meet and confer process):

Independence Day	1 day
Labor Day	1 day
Veterans' Day	1 day
Thanksgiving	2 days
Winter Recess	4 days
Martin L. King Day	1 day
Lincoln's Birthday	1 day
Presidents' Day	1 day
Floating Holiday	1 day
Admissions Day	1 day
Memorial Day	1 day

10.2. In addition to the above listed holidays, every day declared by the President or the Governor of this state as a day for a public fast, public mourning, thanksgiving, or holiday and which the Governor deems that the District shall be closed on that day shall also be paid holidays for employees who are in paid status for any portion of the working day immediately preceding or succeeding the holiday.

10.3. An employee must be in paid status for any portion of the working day immediately preceding or succeeding the holiday in order to be paid for the holiday. Regular employees of the District who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays, provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

10.4. Pay for any day of the holidays listed above shall be the same as the regular pay which would have been received had the employee served the day of the holiday.

10.5. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday falls on a Saturday, the proceeding Friday shall be deemed to be the holiday in lieu of the day observed.

10.6. Effective July 1, 1995, one day will be designated a "floating" holiday.

10.7. All permanent Classified employees may submit a request for a "floating" holiday to their immediate Supervisor at least five (5) working days in

advance. Notification will be by Personal Necessity Form under Section 8.9.1.6 (Recognized Holiday), stating "floating" holiday. This day will not be deducted from the employee's sick leave, but only serve as notification to the Payroll Department that the holiday has been taken.

10.7.1. The "floating" holiday must be taken within each fiscal year, starting July 1 and ending June 30. This holiday may not be accrued.

#### 10.8. Interim Casual Labor Program

Due to the extended school calendar to allow break periods during the school year, the District and CSEA agree to provide an opportunity for employees with less than 5 years of service to work additional days above the normal work assignment. The program would provide up to 5 additional days of work during either the President's Week in February or Spring Break at the Casual Labor rate.

This option is specifically designed for new employees with less than five (5) years experience in Newport-Mesa USD.

Salary for these assignments is paid at the Casual Labor rate for all employees participating in this program.

A maximum of 60 employees, 30 employees for each of the two holiday periods, will be offered a position by seniority to work a limited term assignment of either two (2) days during the President's Week in February or five (5) days during the Spring Break.

Employees will be eligible for only the number of hours per day that is provided in their regular assignment (i.e. 3.5 hours per day would be eligible for 3.5 hours per day of casual labor).

Employees must apply for the Program on the Application for Casual Labor form and indicate their availability and preference of week to work and submit the survey to the Personnel Commission office by October 15<sup>th</sup> of the year.

Work assignments in this program will be clerical tasks including filing, inventory, and other entry level clerical responsibilities.

This is a pilot program for the 05-06 school year. The District and CSEA agree to review the program in the Spring of 2006 and make recommendations to continue or discontinue the program in the future.

## 11. ARTICLE 11. WAGES

11.1. It is the intent of the parties to increase salaries during the term of this Agreement so as to make it more competitive with the benchmark averages of similar Orange County school districts. Effective July 1, 2005, for the 2005-06 school year increase to the 2004-05 salary schedule of 2%. Effective July 1, 2006, for the 2006-07 school year, increase to the 2005-06 salary schedule of 2%.

11.1.1. The District shall annually allocate Five Thousand (\$5,000) Dollars for salary adjustments for individual reclassification requests as recommended by the Personnel Commission and approved by the Board of Education.

11.1.2. The District and CSEA agree to create a plan for study of salary by classification and seniority bonus during a three to four year period commencing in 2005-06. A minimum of four classifications will be selected by mutual consent and reviewed annually. The District will make it a priority to move all classifications to reach at a minimum the average total compensation of Orange County unified school districts. There is no funding allocated in this agreement for potential salary adjustments based on these studies. In the event additional funding becomes available for employee compensation, adjustment of classifications based on the studies will be a priority.

### 11.2. Anniversary Date

11.2.1. Employees hired in a probationary status will use the date of hire in lieu of an anniversary date until successful completion of the probationary period has been achieved.

11.2.2. For the purposes of this article, permanent employees who were originally hired on or prior to the 14th of any month shall be entitled to an anniversary date effective the first day of that month. Employees hired on the 15th of the month, or any day thereafter, shall be entitled to an anniversary date on the first day of the following month.

### 11.3. Step Advancement and Determination Upon Promotion

11.3.1. Employee step advancement shall occur on the Anniversary Date following successful completion of the six (6) month probationary period. Each succeeding step will be attained one (1) year from the Anniversary Date. Lateral transfers are exempt from this provision.

- 11.3.2. Any permanent employee who receives a promotion to a class allocated to a higher salary range shall be advanced to a step on the salary schedule which will provide approximately five percent (5%) more than the rate the employee received in the previous class.

#### 11.4. In-Service Promotion

Permanent Employees who have been offered and have accepted an in-service promotion shall immediately give their current supervisor notice that they have been offered and have accepted a promotional opportunity. Current supervisors of employees who have accepted an in-service promotional opportunity may not retain the employee for more than ten (10) working days, unless they have the written approval of the Director of Human Resources. If the Director of Human Resources approves the retention of a promotional employee, that employee shall receive their promotion to the higher classification and attached compensation effective no later than ten (10) working days after the promotional job offer. The retaining supervisor shall pay the additional promotional compensation.

- 11.4.1. Any permanent employee who receives a promotion to a class allocated to a higher salary range shall be advanced to a step on the salary schedule which will provide approximately five percent (5%) more than the rate the employee received in the previous class.

#### 11.5. Step Determination After Leave of Absence

- 11.5.1. When a permanent employee is restored to his/her previous salary step after a leave of absence, he/she shall receive credit for step advance for service prior to the leave. His/her anniversary date shall be adjusted accordingly so he/she shall be granted a step advancement after having completed the one (1) year of total service. Credit toward a step advance within a range shall accrue when the Education Code sections relating to military leave require that credit for step advancement shall accrue during the period of the leave of absence.

#### 11.6. Shift Differential

- 11.6.1. A shift differential of two and one-half percent (2 1/2%) shall be paid to employees who are regularly assigned to a work schedule which includes the hours of 10PM and 12 Midnight.
- 11.6.2. A shift differential of five percent (5%) shall be paid to employees who are regularly assigned to a work schedule which includes the hours between Midnight and 6 AM.
- 11.6.3. A permanent employee currently receiving shift differential who is

promoted to a higher classification shall not be entitled to take the shift differential from their previous assignment to the promotional assignment unless the provisions of 11.6.1 or 11.6.2 are met by the new assignment.

- 11.6.4. Calculations to determine salary placement for a promotional assignment will be based on the employee's current salary placement (step and range) for the previous assignment, excluding any shift differential. Employees who received promotional assignments prior to July 1, 1987 shall not have their salary placement adjusted to be in compliance with this provision.

#### 11.7. Paychecks

- 11.7.1. All regular paychecks of all employees shall be itemized and paid in accordance with Orange County payroll procedures.
- 11.7.2. Whenever it is determined that the District has made an error in the calculation or reporting of any classified employee's payroll report and the payment made is insufficient, the District shall issue, or cause to be issued by the County, a check for such underpayment within five (5) working days from the date of District knowledge of the error. In the case of overpayment, the District may deduct a maximum of one-fourth (1/4) of the employee's disposable earnings per month.

#### 11.8. Longevity Increments

- 11.8.1. Full-time employees who have been employed by the District for a period of ten (10) consecutive years or more shall receive a longevity increment of forty dollars (\$40) per month. Effective July 1, 2002, the longevity increment for ten years of service to the District will become 2.5% of base salary.

Full-time employees who have been employed by the District for a period of fifteen (15) consecutive years or more shall receive their base pay, plus forty dollars (\$40) per month, plus a longevity increment of three and three quarters percent (3.75%). Effective July 1, 2002, the longevity increment fifteen years of service to the District will become 5% of base salary.

Full-time employees who have been employed by the District for a period of twenty (20) consecutive years or more shall receive their base pay, plus forty dollars (\$40) per month, plus a longevity increment adjusted to five (5%) percent. Effective July 1, 2002, the longevity increment twenty years of service to the District will become 7.5% of base salary.

Full-time employees who have been employed by the District for a period of twenty-five (25) consecutive years or more shall receive their base pay, plus forty dollars (\$40) per month, plus a longevity increment adjusted to six (6%) percent. Effective July 1, 2002, the longevity increment twenty-five years of service to the District will become 10% of base salary.

Effective July 1, 2002, full-time employees who have been employed by the District for a period of thirty (30) consecutive years or more shall receive an additional 2.5% added to their base salary for a total of 12.5%.

Employees who work less than forty (40) hours per week shall be entitled to that proportion of the longevity increment as the number of hours regularly worked bears to forty (40).

When an employee who had been involuntarily separated from-the employment is reinstated by the District within a period of thirty-nine (39) months following his/her separation, his/her period of absence shall not be considered a break in consecutive years of service for the purposes of determining longevity increment eligibility, nor shall the period of absence be considered in the computation. For the purposes of this article only, a District approved leave or a District approved reinstatement shall not constitute a break in service for eligibility of this benefit.

#### 11.9. Expense Reimbursement

- 11.9.1. After reporting to work, any bargaining unit member required to use his/her private vehicle for District business shall be compensated at the current Standard Mileage Rate for business travel as defined by the Internal Revenue Service (IRS) and in accordance with Board policy, providing that such travel was authorized by the immediate supervisor and in advance of said vehicle utilization.
- 11.9.2. The District shall provide secondary personal injury and property damage automobile insurance for an employee who is required to use his/her automobile in the performance of District duties. This insurance will be subordinate to any automobile insurance carried by the employee.
- 11.9.3. When employees are required by the District to travel to locations away from the school site, the District shall either provide meals and lodging or shall provide reimbursement of employee's expenses for such meals and lodging in accordance with District policy.

11.9.4. Whenever the District requires employees to wear distinctive uniforms, the District shall either provide uniforms or reimburse the employee for the cost of such uniforms. Employees shall be expected to wear and maintain District issued uniforms. If uniform shirts are required, a minimum quantity of three will be issued.

11.9.4.1. Bargaining unit members in the classifications listed below may wear walking shorts that adhere to the following guidelines:

1. Style: Walking or tailored shorts only, no cutoffs, and must not be form fitting.
2. Length: No shorter than 2 inches above the knee.
3. Color: Must be solid in color, and from the following selection: brown, blue, tan, black, white, dark green, or gray.

This section is applicable to the following bargaining unit members only:

Transportation

Driver Trainer  
Bus Driver  
Bud Driver Trainee

Warehouse

All Stock Clerks

Food Services

Cafeteria Manager  
Bakers  
Stock Clerks  
Cafeteria Worker  
Food Services Cashier

Instructional Classes

Campus Guard

Maintenance & Operations

AV/TV  
Auditorium Supervisor  
\*HVAC Tech.  
\*Maintenance Tech. B  
Plumber  
Electrician  
Locksmith  
\*Carpenter  
\*Maintenance Worker  
Office Machine Tech.  
\*Grounds Maint. Supv.  
\*Groundswoker  
Athletic Equip. Attendant  
\*All Custodial Personnel

\*May wear shorts when not performing duties which require protective clothing, i.e. welding, spraying chemicals, etc.

11.9.5. Whenever the District requires an employee to take a medical examination, the District shall provide the examination at no medical cost to the employee.

11.9.6. The District liability insurance policy shall provide coverage for the defense of the District as a result of actions or inactions taken by an employee within the normal course and scope of his/her District employment.

11.9.7. When an employee is required by the District to attend a specific training session(s), the District shall pay compensation to the employee as would have been paid had the employee been in direct service to the District and, if the training session(s) require(s) a fee or tuition payment or purchase of unique supplies, the District shall provide reimbursement to the employee for such expenses.

#### 11.10. Notification of Job Information

11.10.1. Upon initial employment and each change in classification or at any time during employment, and upon request of the affected employee, the employee in the bargaining unit shall receive a copy of the applicable job description, a specification of the monthly and hourly rates applicable to his/her position, a statement of the duties of the position, a statement of the employee's regular work site, regularly assigned work shift, the hours per week, and months per year.

#### 11.11. Summer Employment Wages and Benefits

11.11.1. Those persons who are not regularly employed by the District and are employed for summer school assignments are not entitled to retroactive pay unless specific negotiations have made it effective prior to commencement of the summer school assignment.

#### 11.12. Working Out of Class

11.12.1. When an employee is required by the District to perform duties inconsistent with those assigned to the position by the District for a period of more than five (5) working days within any fifteen (15) working-day period, the employee's salary shall be adjusted upward for the entire period he/she is required to work out of classification.

11.12.1.1. The upward salary adjustment shall be equivalent to the salary range of the classification for which the employee is assigned to perform out-of-class duties.

11.12.1.2. Employees administratively assigned to perform duties of a lower classification shall be compensated at their regular rate of pay.

#### 11.13. Professional Growth Program

11.13.1. In order to encourage active participation on the part of the classified bargaining unit employees of the District to upgrade their skills and broaden their education in activities designed to improve their service to this District, the District shall support the following

Professional Growth Program to be operated at a cost to the District of not more than \$35,000 for 2005-06 and \$38,500 for 2006-07. All permanently employed classified bargaining unit employees shall be eligible to participate in the Professional Growth Program on a voluntary basis.

#### 11.13.2. Professional Growth Committee Membership and Responsibilities

11.13.2.1. The Professional Growth Committee membership shall be comprised of the Superintendent or his/her designee, the Director of Classified Personnel, and five (5) employees selected by CSEA Chapter #18.

11.13.2.2. The Professional Growth Committee will evaluate points earned in the Professional Growth Program, applying the criteria set forth under 11.13.3 and 11.13.4 and recommends those they approve to the Superintendent.

11.13.2.3. The Committee will establish procedures to monitor the Professional Growth Program. These procedures will include regular reports to the Superintendent, including, but not limited to, approved programs, participants, classifications of participants, decisions regarding appeals, and projected costs.

11.13.2.4. Approvals and recommendations of the Committee shall remain within the financial allocations of the Board of Education.

#### 11.13.3. Professional Growth Points

11.13.3.1. Professional Growth Points shall be earned by employee participation while in non-paid status in activities, which are employment related on the following basis:

a. One (1) Professional Growth Point per semester unit of course work toward completion of a high school diploma. Employees shall earn a "C" grade or better to qualify for Professional Growth Points.

b. One (1) Professional Growth Point per semester unit of course work at a community college, college, or university. Quarter units shall convert to semester units on a two-thirds (2/3) basis. Employees shall earn a "C" grade or better, or a "pass" or "credit" in nongraded courses to qualify for Professional Growth

Points.

- c. One (1) Professional Growth Point per twenty (20) hours participation in District, County, or State in-service training programs, adult education courses, workshops, or seminars, conferences, lectures and/or education programs as prescribed under
- d. Two (2) Professional Growth Points for each full year of holding an elected or appointed office in a recognized educational or professional organization.

#### 11.13.4. Award

11.13.4.1. Full time (four or more hours per day) employees shall receive \$20 per approved Professional Growth Point. Part time (less than four hours per day) employees will receive \$10 per approved unit. Part time employees whose hours change during the year shall be reimbursed based upon the hours worked when the Application for Professional Growth was submitted for Committee approval.

11.13.4.2. Employees participating in the current Professional Growth Program shall have their awards frozen in place. Award calculations for the new program shall not be retroactive but shall commence upon effective date of this Agreement, and shall be added to those previously approved. Professional Growth payments shall not commence until after the completion of course work and shall be prorated in accordance with the months of service after completion of the course.

11.13.4.3. The District and CSEA mutually agree to Establish and support a Paraprofessional Career Ladder to allow the District to participate in the Orange County Department of Education's Paraprofessional Teacher Training Program (OCDE-PTTP) and to current NMUSD employees serving as paraprofessionals who pass District screening to participate in the OCDE-PTTP to receive reimbursement up to \$3,000 for tuition and books as supported by the grant to OCDE in excess of currently provided benefits in this plan.

#### 11.13.5. Limitations

11.13.5.1. Professional Growth Points are subject to the conditions and regulations of the Professional Growth Committee and

approval by the Superintendent. Once earned, the Professional Growth Award is retained when promotion occurs. All Professional Growth Points must meet the requirements set forth in 11.13.5.2.

11.13.5.2. Professional Growth Awards shall be paid annually in a lump sum. It shall be the responsibility of the Professional Growth Committee to determine the date on which payment will be made, provided however, all awards shall be paid no later than the first pay period in July.

a. Employment Related Points. Professional Growth Points must be earned in activities, which are related to the position currently occupied by the employee or for an occupational field within District service for which the employee is training. Course work completed at an accredited college, which is a part of a certificate, or degree objective shall be considered. The Committee reserves the right to review electives with regard to their employment relatedness. The Professional Growth Committee will evaluate the relevance of other courses or programs utilizing their combined knowledge of the job classifications and the applicant's statements as to purpose and relevance on his/her "Professional Growth Application for Course Approval."

b. Effective July 1, 1992, employees participating for the first time in this program shall participate in one approved District, County or State in-service course or workshop/seminar/conference/lecture per year to maintain their status in this program.

c. A minimum of three (3) Professional Growth Points shall be necessary before payment of the initial award.

d. The maximum payment is limited to the lesser amount of either:

(1) Five percent (5%) of salary (or for those on the fifth step who have worked in the District five (5) years, seven and one-half percent (7 1/2%) of salary); or

(2) The value of twenty (20) points earned within any three (3) year period.

11.13.6. College Tuition and Textbook Reimbursement - Alternative

## Program

- 11.13.6.1. The College Tuition and Textbook Reimbursement Program is an alternative program to the one described above. Employees who opt to apply for tuition and textbook reimbursement shall not use the same credits for any other reimbursement program. Reimbursement shall be made only for those academic classes in which grades and units appear on an accredited college transcript.
- 11.13.6.2. Reimbursement shall be made only for classes approved in advance by the Professional Growth Committee.
- 11.13.6.3. Reimbursement for tuition and textbooks shall be limited to actual costs, not to exceed current costs for tuition at California State Colleges. Current reimbursement may vary from year to year as determined by the Professional Growth Committee based upon available funds. The Professional Growth Committee may determine to give a percentage award to applicants based upon available funds.
- 11.13.6.4. The Professional Growth Committee may limit the number of employees participating in this program based upon available funds. Priority shall be established by date - time stamp of incoming applications.
- 11.13.6.5. In no event may an employee receive more than \$500.00 per school year of textbook and tuition reimbursements.
- 11.13.6.6. Reimbursement shall be made upon proof of satisfactory completion of course work (grade of "C" or better, or a "pass" or "credit" in nongraded courses).
- 11.13.6.7. Reimbursement for tuition and textbooks shall be made in the earliest available pay period after submission of grades. Postcards with employee's name, grade, and the instructor's signature, placed in a sealed envelope and mailed directly to the Classified Personnel Office by the college, will be tentatively accepted pending report card submission. All information submitted will be treated with the highest degree of confidentiality.

Requests for reimbursement for textbook expenses shall be on a District form accompanied by a receipt. Such requests shall be submitted at the same time as proof of satisfactory completion (above).

11.13.6.8. Approval for tuition reimbursement shall be based upon the same criteria as used in Professional Growth Program.

11.13.7. Procedure Necessary to Process the Professional Growth Award and Tuition and Textbook Reimbursement Program.

11.13.7.1. It shall be the responsibility of the employee to submit to the Professional Growth Committee a "Professional Growth Application for Course Approval," prior to enrollment.

11.13.7.2. Upon completion of the course or activity, it shall be the employee's responsibility to file a grade card, transcript, or other acceptable proof of completion with the Professional Growth Committee within the time limits set by the Committee. Failure to file for credit within time limits set will postpone acceptance of such credits to the Professional Growth Program until the following filing period.

11.13.8. Appeals

11.13.8.1. Employees may appeal decisions of the Professional Growth Committee by submitting a written appeal to the Committee and/or appearing in person to make an oral appeal, by appointment. Any appeal of the Committee's decision shall be based upon the following reasons:

- a. Violation of contract
- b. Inconsistency of the reasons given for the rejection with the facts

The decision of the Professional Growth Committee shall be final.

## 12. ARTICLE 12. HEALTH AND WELFARE BENEFITS

- 12.1. CSEA will continue to participate in the Employee Benefits Committee. Benefits will be negotiated after finding/recommendations of the Committee. At this time, CSEA may choose the same plan as other bargaining units or select another plan based on CSEA's interests provided that the total cost per employee does not exceed the amount specified in this section. CSEA maintains the right to have any savings from the benefits plan applied to a salary increase.

For the 2005-06 year, the District will increase the 2004-05 Benefits Cap to \$9,990 to fully pay increases required during 2005-06 for the cost of the H & W Benefits Package. For 2005-06 the Benefits Package coverages include changes from 2004-05 as follows: the existing health benefit plan for Blue Cross (11.5% increase), a modification of Cigna HMO Dental to a similar plan at the same rate, maintenance of the existing Cigna PPO Dental (17.45% increase), same vision plan at no increase, life insurance policy and Employee Assistance Plan (EAP) at no increase. The District will offer at employee expense an optional American Fidelity Disability Income Protection Program.

For the 2006-07 year, the District will increase the Benefits Cap by an amount sufficient to pay for the increase in the cost of the H & W Benefits Package up to 10% above the 2005-06 Benefits Cap value. If the net increase in the Benefits Cap necessary to fully fund the Benefits Package for 2006-07 is in excess of the maximum 10% allowed herein, then, plan modifications to reduce the increase below 10% may be recommended by the Benefits Committee and adopted by CSEA or effective July 1, 2006 the residual dollar amount in the increase of the Benefits Cap beyond the 10% limit funded by the District shall be made by employee contribution paid through employee payroll deduction on a tenths basis in 2006-07. If the net increase necessary in the Benefits Cap for 2006-07 is less than 6%, then CSEA may designate the value in dollars up to the difference between the needed increase and 6% to a) to be set aside in a Stabilization Fund to be available for future benefit increases, b) add additional coverage to the Benefits Package if the additional coverage can be fully funded by the amount available; or c) apply the equivalent value in dollars to the classified salary schedule for 2006-07.

During each fiscal year the District shall budget and expend from each respective District account the defined Benefit Cap value as defined herein for each eligible Full Time Equivalent (FTE).

An Insurance Committee, composed of eight (8) members, selected by employee groups (two classified, two certificated, one supervisory, one confidential, and two management), shall be responsible for making recommendations to the administration and constituent groups regarding:

health insurance carriers, levels of coverage, plan design and changes to the coverage, premium schedules for full-time bargaining unit members, and pro-rated deduction schedules for less than full-time members, Section 125 Plan design, and other health insurance-related issues.

#### Authority

- The Employee Benefits Committee's authority is vested by the individual employee groups and is established in contract language within the agreements between the District and the bargaining units.
- Procedures may be amended by consensus of the Employee Benefits Committees.

#### Representation

- A quorum consists of one of each of the bargaining groups and two other representatives from other employee organizations.
- All groups must be represented before formal recommendations are made on areas of the benefit plan.
- In order to ensure that all groups are represented at all meetings, alternates may be chosen by representing groups. Bargaining units may use the expertise of their state and national organizations, and their representatives may attend meetings.
- The committee may include other personnel to participate by invitation.

#### Norms of the Group

- The Committee will use an interest-based approach.
- Clarifying questions are encouraged to help avoid misunderstanding and premature position-taking.
- Committee member should respect the representative role of each member.
- Except in emergencies, meetings will be called 10 days in advance of the meeting date, and an agenda will be constructed with input from each member.
- Minutes will be kept of the benefit committee procedures. Secretarial support and minutes will be provided by the superintendent or designee. A facilitator will be available from HR on an as needed basis.

#### Records

- Complete records shall be furnished in a timely manner to the committee directly from Blue Cross, Delta Dental, VSP, Hartford, United Behavioral Health and any other health and welfare providers. These records include but are not limited to utilization, performance standards reports including complaints, appeals, and denial of services.

- Complete records shall be furnished in a timely manner to the committee by District plan administrators. These records shall include monthly reports on performance standards including complaints, appeals, denial of services, status of operating procedures with vendors, and recommended modifications in plan designs, problems with medical and dental providers, and others as requested.
- 12.1.1. A vision care benefit plan will be provided to those employees enrolled in the fee for service plans. This benefit is exclusive to those employees, and is for the purpose of providing a benefit being received by employees under the health maintenance organization (HMO) plan.
  - 12.1.2. The District will provide at no cost to the employee term life insurance in the amount of \$50,000 for full-time employees, and \$25,000 for part-time employees
  - 12.2. Full-time employees who work five (5) days per week, eight (8) hours per day, forty (40) hours per week, and twelve (12) months per year or for a full school year shall be considered an eligible employee for health and welfare benefits.
  - 12.3. Employees hired on or prior to February 14, 1978, who work less than full time, but twenty (20) hours or more per week, shall receive the same health and welfare benefits as full-time employees.
  - 12.4. Employees hired after February 14, 1978, who work less than full time, but twenty (20) hours or more per week, shall receive a prorated health and welfare benefit contribution from the District in proportion to the number of hours worked per month bears to 168 hours in accordance with the payroll deduction table for 1998-99. If an employee does not desire to pay the balance of the health and welfare premium, the District will not be liable for any health and welfare contribution.
  - 12.5. Employees who work less than twenty (20) hours per week shall not be eligible for any health and welfare benefits.
  - 12.6. Employees eligible for health and welfare benefits who are in paid status through the last day of their regular K-12 student school year shall have the health and welfare benefits under this article effective through the last day of September of the succeeding school year. Employees eligible for the health and welfare benefits who terminate their employment prior to the close of the school year shall have their benefits continue through the last day of the month in which their termination occurs. Life insurance benefits shall terminate at the same time as other group health benefits following an employee's termination.

- 12.6.1. Following the death of a bargaining unit employee, the health and dental insurance program in effect for eligible bargaining unit employees will be provided to the surviving covered dependent(s) for a period of one (1) year following the death of the employee, to an extent equal to the fullest manner authorized by the insurance provider. Any pro-rata contribution for health and dental benefits in effect at the time of death of the employee shall become the responsibility of the dependent(s) for continued coverage.
- 12.7. Employees who were employed after the first day of the school year shall have all benefits of this article commence on the first day of the month following their first day of employment.
- 12.8. The District shall provide health and welfare benefit coverage including life insurance, in the same proportion as was provided to the employee at the time of his/her retirement for employees retiring that are:
- 12.8.1. Fifty-five (55) years of age or older who have completed a minimum of ten (10) consecutive years of service during his/her District service history; sixty-two (62) years of age who have a minimum of ten (10) years of service in the District (not consecutive);
- OR
- 12.8.2. Fifty (50) years of age working seven (7) or more hours per day with thirty (30) years of District service.
- 12.8.3. These benefits will be provided until the unit member attains his/her sixty-fifth (65th) birthday or becomes eligible for Federal Social Security Medicare benefits or any coverage by another employer, whichever comes first.
- 12.8.4. A group plan for eligible or retirees over sixty-five (65) years of age and their dependents, such as a Health Maintenance Organization (HMO) Medicare Supplement Plan will be provided at the eligible retiree's own expense through District providers.
- 12.9. An Employee Assistance Program as agreed upon by CSEA and the District will be provided to classified bargaining unit members as part of the health benefits package at no cost to the employee.
- 12.10. The District agrees to include each year up to four (4) voluntary IRS approved Insurance Plans as recommended by CSEA #18 within the Section 125 Plan document available to all employees. These plans will become a part of the premium conversion feature with administrative fees, if applicable, borne by participating employees through payroll deduction.

12.11. The District will provide a 90 day “severance” package at a rate of 60% of base salary up to a maximum of \$3,000/month for any classified employee (7.5 hours/week or more) who reaches termination for exhaustion of benefits and who is “totally disabled, unable to return to work, and under regular physician care” at the point of termination. Should the cost of this program exceed \$36,000/year, then both parties agree to re-negotiate the benefit for the following year.

## 13. ARTICLE 13. ASSOCIATION RIGHTS

- 13.1. Access and Communication by CSEA #18
  - 13.1.1. CSEA #18 shall have the right to post notices on at least one (1) employee bulletin board provided by the District at each District work site in areas frequented by members of the bargaining unit.
  - 13.1.2. CSEA #18 shall have the right to contact bargaining unit members at District work sites during any non-duty hours of employees. Authorized representatives of CSEA #18 who are not employees of the District shall notify the administrative office of each District work site of his/her presence on the site.
  - 13.1.3. District sites may be used for CSEA #18 meetings upon submission and approval of a request to the Superintendent or his/her designee. If the District incurs an expense as a result of the CSEA #18 using the District sites, CSEA #18 shall reimburse the District for any such expense.
  - 13.1.4. The District shall provide CSEA #18 with the names, addresses, and telephone numbers (if not unlisted) of members of the bargaining unit.
  - 13.1.5. CSEA #18 shall have the right to use the District messenger service, telephones, faxes, e-mail, and other electronic devices for the transmission of CSEA #18 information to District employees. All such communications to employees shall contain the official designations of CSEA #18 materials. CSEA #18 shall forward to the District Personnel Office a copy of each communication it forwards through the District messenger service.
- 13.2. The District and CSEA #18 recognize the right of employees to form, join, and participate in the activities of CSEA and CSEA #18. The District and CSEA #18 agree that neither party shall interfere with, intimidate, restrain, coerce, or discriminate against the bargaining unit employees because of the exercise of these rights.
  - 13.2.1. Release time for one (1) hour will be provided for site representatives to attend CSEA meetings. CSEA #18 meetings will not begin before the close of normal working hours or 4:30 p.m. The release time of one hour shall be made up by the site representative and shall result in no loss of time to the District.
- 13.3. The District shall provide CSEA #18 two (2) copies of the Board agenda and minutes, exclusive of any executive session items, in advance of each Board meeting. Additionally, CSEA #18 may request of the District and be

provided with a copy of any public budget or public financial document submitted by the District to either the State, the County, or the local Board of Education.

- 13.4. The District shall provide release time to a maximum of forty-five (45) days at no cost to CSEA #18 for the items stated in Articles 13.4.1 through 13.4.3. The Association agrees to pay for any substitutes used when CSEA exhausts the forty-five (45) days of release time.

CSEA and the District agree to develop a release time notification form to be submitted by CSEA on an as-used basis to the Director of Classified Personnel.

- 13.4.1. Delegates and officially elected or appointed officers as determined by CSEA #18 to attend the annual CSEA conference.
- 13.4.2. Grievance processing prior to Level 1. Grievance processing meetings with employees shall normally be scheduled by CSEA so as not to conflict with the duties of the employee.
- 13.4.3. CSEA business as determined by CSEA #18. Where release time is required by two (2) or more Bargaining Unit members, the Bargaining Unit members shall notify his/her immediate supervisor at least seventy-two (72) hours in advance of the absence. The CSEA Chapter President or his/her designee need only give twenty-four (24) hours advance notice to his/her immediate supervisor.

### 13.5. Release Time

- 13.5.1. The President of CSEA #18 shall be granted release time when requested to be at a meeting with the Superintendent or specific designee.
- 13.5.2. For the period ending December 31, 2003, school year, the District agrees to provide the (3) designated days [twenty-four hours] per week of release time for the CSEA Chapter President for September through June, inclusive. One of those days [eight hours] shall be reserved for visiting administrators regarding specific site issues; for reviewing the Agreement with unit members; and for training and informing unit members assigned to the site.
- 13.5.3. When the Chapter reaches the membership percentage required to apply for release time assistance from CSEA State, the Chapter shall apply and notify the District of its application. The President's designees (up to five [5] members) will receive one (1) full day of release time for the specific purpose of conducting a contract

ratification session.

- 13.6. The District shall provide each member of the bargaining unit with one (1) copy of this Agreement and shall additionally provide each new hire subsequent to the effective date of this Agreement one (1) copy of the Agreement. Names, addresses, and telephone numbers (if not unlisted) of new hires shall be provided to CSEA #18 on a monthly basis.
- 13.7. With prior approval from the District, CSEA #18 may use one (1) hour of release time for bargaining unit members to participate in a contract ratification session. Classified Employees will be able to vote on ratification meetings between the hours of 7:00 a.m. and 4:30 p.m.
- 13.8. The District and CSEA agree to engage in the interest-based process for collective bargaining until such time as either or both parties find the process is no longer in their interest. Further, both parties agree that all relevant participants receive training in the interest-based negotiations process. Those participants include, but are not limited to, the District-CSEA negotiating teams, school board members, CSEA executive board, superintendent's cabinet, and the CSEA contract development committee. The District and CSEA will work collaboratively to schedule training during the 1998-99 school year, and refresher courses annually thereafter.

14. ARTICLE 14. LAYOFF: PROCEDURES AND EFFECTS

- 14.1. Layoff shall occur only for lack of work or lack of funds.
- 14.2. Any layoff shall be affected within a class. The order of layoff shall be based on seniority within that class and higher classes. An employee with the least seniority within the class, plus higher classes, shall be laid off first. Seniority shall be based on hire date within the class affected by layoff.
- 14.3. The District shall notify the employee(s) affected by layoff no later than forty five (45) days prior to the effective date of the layoff.
- 14.4. The District shall provide CSEA #18 with seniority lists of those classifications affected by layoff at the time the layoff notices are issued, together with the names of employees receiving notices.
- 14.5. An employee laid off from his/her present class may bump into the next lowest classification in which the employee (1) has greatest seniority, and (2) has attained permanency, considering his/her seniority in the lower class and any higher class.
- 14.6. In the case of an employee affected by layoff having seniority in more than one (1) class, the employee shall be allowed to bump only into the most recently held class in which the employee has reemployment rights.
- 14.7. If two (2) or more employees subject to layoff have equal class seniority by hire date, seniority shall be determined by the employee's earliest hire date in any higher, lower, or equal classes in which they have served. If seniority is still equal, the determination shall be made by lot at a meeting at which CSEA #18 has a representative present.
- 14.8. Any classified employee, eligible for retirement, may elect to accept service retirement in lieu of layoff without loss of reemployment rights as provided in this Agreement, provided written notification is given to the District of such election, and subject to the provisions of the Education Code.
- 14.9. No permanent employee shall be laid off from any position while employees serving under limited-term, provisional, or probationary appointments are retained in positions in the same class.
  - 14.9.1. A probationary employee on layoff shall be offered reemployment over all other applicants, except permanent employees with reemployment rights. A probationary employee's time spent prior to the layoff shall be accredited to him/her following reemployment for purposes of obtaining permanence.

- 14.10. Laid off persons are eligible for reemployment in the class from which laid off for a period of thirty-nine (39) months. Reinstatement shall be made in inverse order of layoff.
- 14.11. Employees who accept a reduction in hours and/or voluntarily demote to a lower class in lieu of layoff shall be returned to their former hours or classification as vacancies become available for an additional twenty-four (24) months beyond the thirty-nine (39) months referred to in 14.10, except they shall be ranked in accordance with their seniority on any valid reemployment list.
- 14.12. Laid off persons shall receive three (3) offers of reemployment to their former class. If these offers are declined, employees will receive no further offers of reemployment.
- 14.13. Permanent employees on layoff may be provisionally appointed to vacant positions in the same promotional series, pursuant to the establishment of an eligibility list.
- 14.13.1. While serving in provisional status, such employees will continue to accrue sick leave and vacation credit.
- 14.13.2. Such employees whose provisional appointments become probationary appointments shall receive seniority credit for the time spent in provisional status.
- 14.13.3. Employees who elect full layoff rather than reemployment under the procedures outlined in this Agreement, and who were participants in the District's health and welfare benefits program at the time of layoff, shall be covered, at their option and at their own expense, in the health and welfare benefits program for a period of one (1) year following the effective date of layoff.

15. ARTICLE 15. SAVINGS

- 15.1. If, during the life of this Agreement, there exists any applicable law or any applicable rule, regulation, or order issued by governmental authority other than the District which shall render invalid or restrain compliance with or enforcement of any provisions of this Agreement, such provision shall be immediately suspended and be of no effect hereunder so long as such law, rule, regulation, or order shall remain in effect. Such invalidation of a part or portions of the Agreement shall not invalidate any remaining portions, which shall continue in full force and effect.
  
- 15.2. In the event of suspension or invalidation of any Article or Section of this agreement, the parties agree to meet and begin negotiations on a successor Article or Section within thirty (30) days after such determination.

ARTICLE 16. COMPLETION OF MEET AND NEGOTIATE

This Agreement contains the entire agreement of the parties as to all existing matters contained herein. Any prior or existing understanding or agreement which are inconsistent with this Agreement are hereby superseded. All rights of management not expressly limited by the terms of this Agreement are expressly reserved to the District and are not subject to the grievance procedures set forth in Article 4.

IN WITNESS THEREOF, the parties hereto have set their hands and seals this 23<sup>rd</sup>  
Day of June 2005.

California School Employees  
District  
Association – Chapter #18

Newport-Mesa Unified School

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Cynthia Means, President

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Lorri S. McCune, Ed.D.,  
Assistant Superintendent  
Human Resources