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## **AGREEMENT**

This Agreement is made and entered into this 23rd day of December 2009 between the State of New Mexico, hereinafter “Employer” or “the State” and the American Federation of State, County and Municipal Employees, Council 18 (hereinafter referred to as “AFSCME” or “the Union”) and is applicable to all eligible employees in the collective bargaining unit of the Employer described in the Recognition Article of this Agreement.

## **SENIORITY**

**Section 1.** Seniority of state classified bargaining unit positions shall be defined as follows:

- A. **Job Classification/Title Seniority** is defined as a continuous length of employment in a specific job classification/title within a particular state agency as a full-time employee without a break in employment.
- B. **Agency Seniority** is defined as a continuous length of employment in a particular state agency as a full-time employee without a break in employment.
- C. **State Seniority** is defined as a continuous length of employment in state government as a full-time employee without a break in employment.
- D. **Break in employment** is defined as any period of at least one (1) work day separated from state employment.

**Section 2. Tie-break procedures.**

- A. Where two (2) or more employees have the same seniority by job classification/title seniority date for determining job rights, the tie shall be broken with seniority based upon agency seniority.
- B. Where two (2) or more employees have the same seniority by agency seniority date for determining job rights, the tie shall be broken with seniority based upon state seniority.
- C. Where two (2) or more employees have the same seniority by state seniority date for determining job rights, the tie shall be broken based upon a coin toss, witnessed by the interested employees, tossed by the supervisor of both the interested employees.

**Section 3.** These definitions and tie-break procedures shall govern all applicable Articles in this Agreement.

**Section 4.** This Article shall apply unless otherwise agreed to in agency supplemental.

**ARTICLE 1**  
**Commitment to Citizens of New Mexico**

The Union and Employer recognize the mission, goals and obligations of the State of New Mexico as a provider of services to the citizens of the State through its employees. The best possible services and programs will be provided consistent with available funds. The Employer and the Union agree to uphold the well-being and care of the citizens of New Mexico.

## **ARTICLE 2**

### **Purpose**

The purpose of this Agreement is to provide reasonable terms and conditions of employment for employees covered hereunder and a means of amicable and equitable adjustment of any and all differences or grievances which may arise under the provisions of this Agreement, all of which the parties hereto believe and affirm will inure to the welfare and benefit of the people of the State of New Mexico.

### **ARTICLE 3**

#### **Recognition**

**Section 1.** The Employer recognizes AFSCME as the exclusive representative, as that term is defined in the Public Employee Bargaining Act [hereinafter referred to as “PEBA”], for employees in the bargaining unit where it has been certified or recognized. The parties as represented by the Statewide Labor Management Committee will meet not less than once each quarter to review and update the list of classifications in the bargaining unit. The Statewide Labor Management Committee will develop a method of posting the list of classifications for bargaining unit employees. The parties agree to prepare a current “Appendix” for inclusion in the Collective Bargaining Agreement (CBA).

**Section 2.** Employees not now represented by the Union will be covered by the provisions of this Agreement if the Union is certified as the exclusive bargaining representative of those employees pursuant to the PEBA and if those employees have a sufficient community of interest with the employees currently covered by the provisions of this Agreement. Disagreements over the inclusion or exclusion from the bargaining unit of a specific employee(s) based on supervisory, management, or confidential employee status will be resolved by the PELRB unless otherwise agreed by the parties.



**ARTICLE 4**  
**Printing and Distribution of Master Agreement**

The Employer shall print this Agreement within thirty (30) days of receipt of written notice of the ratification by the Union membership. Consistent with law, the parties shall make reasonable accommodation, where needed, for persons with disabilities. The Employer and the Union shall each pay one-half the cost of such printing, distribution, and accommodation. A letter sized or smaller copy shall be distributed by the Employer to each employee covered by this Agreement.

**ARTICLE 5**  
**Non-Interference**

The parties acknowledge that each is free to conduct its affairs and business in the manner which each respectively believes to be in its own best interest subject to the provisions of this Agreement. The parties agree that neither shall interfere with the internal affairs of the other nor with the officials or representatives of the other in the conduct of their internal business affairs and other matters not involving collective bargaining, provided, however, that nothing contained herein shall bar parties or their members from petitioning their elected political representatives or fully and actively participating in the political process.

**ARTICLE 6**  
**Non-Discrimination and Compliance with Laws**

**Section 1.** No employee shall be discriminated against by reason of union membership or non-membership or activities on behalf or in opposition to the Union.

**Section 2.** Written personnel policies and procedures that affect bargaining unit employees shall be applied consistently in similar circumstances to the employees to whom the policies and procedures apply.

Accommodations made to persons determined by the Employer to be qualified individuals with a disability shall not serve as precedent for other employees.

With the exception of personnel policies and procedures dealing with compliance with the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Age Discrimination and Employment Act (ADEA), the Family and Medical Leave Act (FMLA), the Equal Pay Act (EPA) and all other applicable federal and state equal employment opportunity laws and regulations, alleged violations of this article may be grieved in accordance with the Grievance Procedure.

**ARTICLE 7**  
**Appropriations**

The parties recognize that in accordance with the PEBA, any provision of this Agreement that requires the expenditure of funds shall be contingent upon the specific appropriation of funds by the legislature. By entering into this Agreement, the State agrees to cooperate with the Union in efforts to obtain appropriate budget and appropriations by the legislature to implement this Agreement. Any subsequent Agreement requiring the expenditure of funds shall be subject to specific appropriation of funds.

**ARTICLE 8**  
**Provision of Information**

If requested by the Union, the Employer shall furnish it with documents every calendar quarter this Agreement is in effect containing the name, most recent address and telephone number on file, and the information on the Organizational Listing (OL) or its current computer generated organizational report for each employee represented by the Union. The Union shall provide the Employer with information necessary for purposes of administration and application of this Agreement. The Employer shall provide on an annual basis a list of each agencies records custodian.

The Employer agrees to provide every bargaining unit employee with a copy of the State Personnel Board rules and regulations on an annual basis and whenever changes are made to the rules and regulations.

## **ARTICLE 9**

### **Union Rights**

**Section 1.** The Union shall have the right to select sufficient stewards to represent employees covered by this Agreement. The exact number and location of stewards shall be determined by agreement between the parties consistent with the principle set forth above.

**Section 2.** The Union shall provide the Employer with the following information about stewards, union officials and union representatives (union representatives refers to the paid staff of AFSCME Council 18): a written list of the names, addresses, telephone numbers and the agency to which they are employed who are authorized to act on behalf of the Union and the extent of their authority. The list shall be updated every calendar quarter or when additions and/or deletions have occurred. Stewards shall have full power on behalf of the Union to resolve all disputes and disagreements through Step 3 of the grievance procedure in the administration of this Agreement as set forth in Article 14 of this Agreement.

**Section 3.** The Employer shall allow employee union officials to attend on paid status (utilizing the union time code in the time and labor reporting system), meetings agreed to by the parties for purposes of administering this Agreement. Union officials, as defined in this section are: the Local Union Presidents, Local Union Vice-Presidents and any other union official as designated by mutual agreement of the parties.

The Employer shall allow union stewards, for the purposes of representing employees only within their respective agency at grievance meetings, disciplinary appeals based on suspension, demotion, or dismissal and cases at the PELRB, paid union time (utilizing the union time code in the time and labor reporting system). Union stewards may request up to two (2) hours of paid union time

to prepare and investigate each grievance; up to a total of four (4) hours to investigate and prepare each disciplinary appeal of a suspension, demotion or dismissal and up to a total of eight (8) hours to represent an employee in a hearing of a disciplinary appeal of a suspension, demotion or dismissal and up to a total of eight (8) hours to investigate, prepare and represent an employee in a matter before the PELRB. No more than one (1) union steward may request paid union time to prepare and investigate each grievance. No more than two (2) stewards may request union time to represent an employee in a hearing of a disciplinary appeal of a suspension, demotion or dismissal or to investigate, prepare and represent an employee in a matter before the PELRB. In the event that the total amount of union time is not necessary for the steward's representation of an employee, the steward shall not use the remaining union time for any other purpose.

The Employer recognizes the importance of having union officials available to represent employees should a steward be unavailable. In the event that a steward is not available to represent an employee within the steward's respective agency at a grievance meeting, a SPB appeal and a case before the PELRB the Employer shall allow a union official paid union time, as if they were a steward, in order to provide representation to covered employees within the union official's local. As used in this section, unavailable means that the agency steward is on leave, there is a conflict where the steward has to recuse him/herself, operational reasons prevent the steward from leaving their post or where a steward vacancy exists that the Union has been unable to fill despite good faith efforts to do so.

Union time must be pre-approved and shall not be disapproved except for operational reasons. However, the Employer retains the right to disapprove union time when the steward/union official is in an overtime status. If disapproval necessitates an extension of time for processing a grievance, the time shall be tolled for the duration of the denial until union time is afforded the steward/union official to investigate and process the grievance. Union time shall count as

hours worked for purposes of overtime computation but shall not qualify for payment of mileage or per diem unless an employee is otherwise assigned to a per diem status by the Employer. A steward/union official shall use union time within assigned work hours to investigate and process grievances in the most efficient and effective manner possible so as to minimize operational impairment. Time spent investigating and processing grievances outside of assigned work hours shall not be compensated. Where a steward/union official desires to consult with another employee concerning a grievance on work time, both employees shall request and obtain prior permission to do so.

The parties shall each designate a centralized point of contact to coordinate the use of time and address any issues related to the use, or allegations of misuse, of time. If there are concerns related to the use or alleged misuse of time, the Employer designee shall provide, as expeditiously as possible as much specific information as possible, and any supporting documentation, to the Union designee. The Union shall seek to resolve the concern as expeditiously as possible. In the event the Employer is not satisfied with the Union's resolution of the issue(s), the Employer may reopen this Section of the Agreement dealing with reasonable time. If no agreement is reached during such negotiations, the Employer may use the impasse resolution procedures provided for in the Public Employee Bargaining Act. This paragraph shall not preclude the Employer from taking disciplinary action to address the abuse of time.

**Section 4.** Union representatives and union officials shall have reasonable access to visit any Employer agency or worksite as necessary for purposes of administration of this Agreement. Such consultation shall not unreasonably interfere with the operations of the Employer. The Employer may designate a management representative through whom all such visits must be coordinated. If an Employer facility is secured, then reasonable notice shall be given and the Employer shall provide a reasonable place where union



representatives and union officials can talk with an employee in private.

### **Section 5.**

- A. The Employer shall approve reasonable written request for annual leave, accrued comp time, and/or leave without pay [hereinafter referred to as “LWOP”] for up to fourteen (14) calendar days, if requested by steward/union officials, in order to participate in union executive board meetings, union conventions, and employment as union staff.
  
- B. The Employer shall approve reasonable requests for annual leave, accrued comp time, and/or LWOP in excess of fourteen (14) calendar days and less than twelve (12) months for the above purposes and shall assure an employee the right to return to a position of like status and pay, at the same geographic location, unless the agency has a reasonable basis to believe that the employee, upon providing fourteen (14) days notice, cannot be placed in such a position. In such an event the Employer shall grant the leave provided the employee signs a written waiver of his/her right to return. An employee who signs such a waiver shall be returned to a position of like status and pay, at the same geographic location, upon providing fourteen (14) days notice provided such a position is available. If such a position is not available, he/she will be placed in an available position that is closest to salary range, status, duties and worksite as possible. Upon the availability of a position of like status and pay, at the same geographic location, the employee shall be placed in that position. Approval of requests for extensions of LWOP status for additional twelve (12) month periods shall not be unreasonably withheld and shall be provided on the same basis as the original request.
  
- C. Employees returning to state service after LWOP shall receive any general salary increases implemented that they would have

been entitled to had they not taken LWOP and such leave shall not affect seniority status.

**Section 6.** Steward/union officials who are on non-work time, or union representatives, may distribute union literature on Employer facility grounds in public areas, in non-public non-work areas, and in work areas where the distribution does not interfere with Employer operations or present a security or confidentiality breach.

At facilities with 24-hour operations, steward/union officials who are on non-work time, or union representatives, may distribute union literature in public areas and in non-public non-work areas, but not in work areas (due to security, safety, privacy and confidentiality concerns) that pose security, safety, privacy and/or confidentiality concerns. The Union shall have the right to place literature in areas adjacent to where paychecks are initially distributed so that employees may take a copy of the literature.

The Union shall have exclusive use of separate bulletin boards of an equal size near every bulletin board used by the Employer to give information to employees. The Union will provide the bulletin board and the Employer will install it unless the Employer agrees to allow the Union to use existing bulletin board space. Postings on union bulletin boards shall be confined to internal union business, including notices and announcements of meetings, news items, labor-management news, but shall not include materials of a partisan, political, defamatory or obscene nature or personal criticism of any individual. Distribution of union literature at worksites shall not include materials of a defamatory or obscene nature or personal criticism of any individual. The Employer shall not authorize the posting of notices critical of the Union, or any union member (except for instances necessary to protect employees) the Union shall receive advance written notices in these instances, or its representatives on the Employer's official bulletin boards.

**Section 7.** Within 180 days of the effective date of this Agreement, the Union will be afforded up to two (2) hours of work time to jointly participate with management in agency meetings in order to present and explain this Agreement to employees. As an exception to the above, at those agencies or institutions that have annual in service training, a presentation may be made during the annual training.

**Section 8.** Except as limited by law or this Agreement, each employee shall have the right to join and assist the Union freely, without fear of penalty or reprisal, or refrain from doing so, and the Employer and the Union shall assure that each employee shall be protected in the exercise of such right. Allegations concerning violations of these rights shall be filed with the PELRB.

**Section 9.** Union representatives may request the use of state property to hold union meetings. Upon prior notification, the Employer will provide meeting space where feasible. Union meetings will not interrupt state work and will not involve employees who are working. The Employer shall make space available for union representatives to have confidential discussions with employees on an as-needed basis subject to availability.

**Section 10.** Union officials and/or stewards are authorized to make reasonable use of copiers, FAX machines, computers (including email) and other office equipment for purposes of investigating and processing grievances and communicating with the Employer and other union representatives regarding official labor-management business, provided such use does not interfere with official State business.

**Section 11.** The Union shall be permitted to use internal State mail systems, including computer/electronic mail, for bargaining unit mailings in accordance with applicable executive policies. The Union shall give the Employer reasonable notice in advance of any mass mailings. Correspondence hand delivered to bargaining unit members marked “confidential-union business” shall be treated as confidential.

**Section 12.** The Union will provide each Department with the names and addresses of authorized union representatives who will be provided with notice of each orientation meeting held by the Department. The notice will be sent as soon as such meetings are scheduled and will include date, time and location. During orientation meetings, the Union will be permitted to give up to a thirty (30) minute presentation which may include an enrollment in supplemental union benefits and programs. The Union shall participate in the orientation meetings using the same medium as the Employer (e.g., telephone, videoconference, face-to-face meeting). In the event an orientation meeting is not held, the Union will be permitted to provide information to be included in the orientation package that the Employer mails to the employee.

**Section 13. Steward Training.** When an employee has been designated to fill a vacant steward slot the Employer shall permit a work day of union time in the steward's initial year of appointment and one-half work day for purposes of steward training each fiscal year thereafter that they remain a designated steward filling a steward slot.

**ARTICLE 10**  
**Deductions**

**Section 1.** The Employer will honor voluntary union membership dues deduction authorizations. The amount of the dues shall be certified in writing and shall not include special assessments, penalties or fines of any type.

- A. The Employer shall also honor separate additional voluntary deduction authorizations for the Union's political action committee (PEOPLE) executed on or following December 1, 2003.
- B. The standard form to be used following the execution of this Agreement authorizing dues deduction and authorizing PEOPLE deduction shall be attached as an appendix to this Agreement.
- C. The Employer will begin all voluntary deductions promptly after the authorization is received in a timeframe consistent with other employee payroll deductions.

**Section 2.** All money deducted from wages under this Article shall be remitted to the Union and the Union's Political Action Committee (PEOPLE) promptly after the pay day covering the pay period of deduction.

- A. If an employee has insufficient earnings for the pay period, no dues or other deduction will be made for that employee for that pay period.
- B. The Employer shall provide the Union with a list of the names of each of the employees from whom the Employer is making deductions under this Article and the amount deducted.
- C. This listing may be made available in an electronic format.
- D. The Union shall certify to the Employer, in writing, by a duly authorized officer, the amount per pay period to be deducted for Union membership dues under deduction authorizations.
- E. An employee shall specify the amount, if any, of additional authorizations for the PEOPLE program.

**Section 3. Processing of Union Membership Cards.**

- A. All membership cards shall be submitted to the AFSCME union hall at 1202 Pennsylvania NE, Albuquerque, NM 87110, or to the employee's respective Agency HR office.
- B. The AFSCME Council 18 or Agency shall stamp, date and initial each membership card upon arrival identifying the membership card was received.
- C. Each party shall make a copy of the membership card, process the card and mail or fax a copy of the card to the other party.
- D. The Agency shall maintain a copy of the membership card in the employee's personnel file.

**Section 4.** The duty of the Employer to honor membership dues deduction authorizations shall continue until the employee instructs the Employer and the Union in writing to end such deduction, as long as such employee instruction to end membership is made during the first two full calendar weeks of December of any year that this Agreement is in effect. The Employer shall confirm with the Union that the employee has complied with this provision prior to termination of deductions. An employee may terminate deductions for the Union's Political Action Committee (PEOPLE) at any time.

**Section 5.** It is specifically agreed that the State assumes no obligation, financial or otherwise, arising out of its application of the provisions of this Article, and the Union agrees that it will indemnify and hold the State harmless from and against any claims, actions or proceedings arising from deductions made by the State pursuant to this Article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

**ARTICLE 11**  
**Fair Share**

**Section 1.** Employees who have completed their probationary period and who are not members of the Union shall, as a condition of continuing employment, pay to the Union each pay period a “fair share” payment in an amount certified by the Union. The “fair share” payment shall be a percentage of union membership dues calculated based on United States and New Mexico Statutes and case law identifying those expenditures by a labor organization which are permissibly chargeable to all employees in the appropriate bargaining unit, including but not limited to all expenditures incurred by the labor organization in negotiating the contract applicable to all employees in the bargaining unit, servicing such contract and representing all such employees in grievances and disciplinary actions.

**Section 2.** Employees who are required to make “fair share” payments may do so by voluntary payroll deduction authorization which may be revoked at any time. Authorizations and revocations shall be submitted in writing by the employee as follows:

- A. All Fair Share cards shall be submitted to the AFSCME union hall at 1202 Pennsylvania NE, Albuquerque, NM 87110, or to the employee’s respective Agency HR office.
- B. AFSCME Council 18 or the Agency shall stamp, date and initial each Fair Share card upon arrival identifying the Fair Share card was received. Each party shall make a copy of the Fair Share card, process the card and mail or fax a copy of the card to the other party.
- C. The Agency shall maintain a copy of the Fair Share card in the employee’s personnel file.
- D. The Employer will forward the monies so deducted to the Union together with a list of bargaining unit members from whose wages such monies were deducted.
- E. The Employer shall deduct from bargaining unit members’ wages for “fair share” only that amount of money which the Union has

certified in writing is the correct amount of semimonthly “fair share” payments.

**Section 3.** Upon written request by the Union, a bargaining unit member who has completed his/her probationary period and who is not complying with the “fair share” provisions of this article shall be terminated by the Employer, provided that the following actions have occurred:

- A. The Union shall notify the bargaining unit member of the amount of money that he/she is in arrears. The notice shall inform the bargaining unit member of impending discharge if the full amount owed is not paid to the Union within fifteen (15) working days after receipt of the notification. A copy of the notification shall be mailed simultaneously to the State Personnel Director. For the purposes of this Section, the date of notification is the date of certified receipt at the member’s last known address, or twenty (20) working days following the postmarked certificate of mailing, whichever is earlier.
- B. The Union shall tender to the State Personnel Director a written request for termination of the bargaining unit member on the basis that the bargaining unit member has not complied with the “fair share” provisions of this Article within the time period specified in A, in that he/she has not paid the arrearage and has not documented that the money is not owed. Upon receipt of such notice the State shall issue to the employee a notice of contemplated action for dismissal and commence the termination process in accordance with the rules of the State Personnel Board.

**Section 4.** It is specifically agreed that the Employer assumes no obligation, financial or otherwise, arising out of its application of the provisions of this Article, and the Union agrees that it will indemnify and hold the State harmless from and against any claims, demands, actions, proceedings or liability arising from deductions made by the



State pursuant to this Article, including reasonable attorneys fees incurred. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union; provided this Section 4 shall not be applicable to claims or liabilities or attorneys fees incurred solely as a result of a breach by the Employer of its statutory duties or obligations under the United States Constitution.

## ARTICLE 12

### Pay

#### Section 1. General Wage Increases.

- A. Fiscal Year 2010. In accordance with state statute, the Governor's Budget Recommendation will not include a request for a general wage increase. In the event the legislature appropriates a general wage increase for employees in Fiscal Year 2010 the Employer agrees to implement the legislative appropriation as directed by the legislation.
  
- B. Fiscal Year 2011. By giving written notice of its desire to do so on or before October 1, 2009 either party may reopen this Agreement for purposes of negotiating increases in general wages. In accordance with state statute, the Governor's Budget Recommendation shall include the wage increase negotiated by the parties. Any increases in general wages agreed to shall be subject to legislative appropriation and to impasse resolution procedures mandated by the Public Employee Bargaining Act in effect at the time notice is given. All other terms of this Agreement shall remain in full force and effect. If notice of desire to reopen the Agreement is not given by either party, then the matter will be considered closed for Fiscal Year 2011.
  
- C. Fiscal Year 2012. By giving written notice of its desire to do so on or before October 1, 2010 either party may reopen this Agreement for purposes of negotiating increases in general wages. In accordance with state statute, the Governor's Budget Recommendation shall include the wage increase negotiated by the parties. Any increases in general wages agreed to shall be subject to legislative appropriation and to impasse resolution procedures mandated by the Public Employee Bargaining Act in effect at the time notice is given. All other terms of this Agreement shall remain in full force and effect. If notice of

desire to reopen the Agreement is not given by either party, then the matter will be considered closed for Fiscal Year 2012.

- D. Probationary employees entering a bargaining unit position subsequent to the effective date of the general wage increase for that fiscal year shall receive the general wage increase effective the first full period they obtain career status and enter the bargaining unit provided the employee had not received the general salary increase previously.

**Section 2. Call-Back Pay.** Employees who are called to report to work on their regular day off or that have been recalled to work after having left the Employer's premises shall be guaranteed a minimum of two (2) hours of pay for actual hours worked at the applicable straight time or overtime rate. For employees called back to work, paid time shall commence at the time the employee begins travel to report for work and ends at the completion of the call-back assignment. Employees who are currently guaranteed a minimum of pay greater than two (2) hours shall continue to be paid at the greater minimum.

**Section 3. Report Pay.** An employee who is pre-scheduled to work overtime and reports to duty will be guaranteed two (2) hours overtime pay at the appropriate rate. The Employer shall notify employees as soon as practical prior to their scheduled start time in the event the employee is not required to report for prescheduled overtime.

**Section 4. Additional Compensable Work Time.** Employees who are authorized by the Employer to perform work via the telephone in an emergency or non-emergency situation, before or after their regularly assigned shift, in excess of de minimis time, shall be compensated at straight time or overtime rate as appropriate. The Employer reserves the right to verify calls and require documentation of the call, including but not limited to: date, time and length of call; time spent addressing the emergency or required work; name of

client or contact; reason for the emergency or required work; and signature of employee.

**Section 5. On-Call Pay.** The Employer may assign an employee to on-call status in accordance with the following:

1. **On-Call Status.** An employee assigned to “on-call” status in circumstances where the time expended will not constitute compensable hours worked under the Fair Labor Standards Act shall be paid “on-call” pay in an amount equal to one-eighth (1/8) hour of pay at their regular straight time hourly rate of pay or \$1.70 per hour, whichever is greater, for each hour of assigned “on-call” status.
2. **Unrestricted Call-Back Status.** On-call pay shall not be paid to employees who are placed on stand by status and who are provided with a pager, cell phone or other electronic device and required to return to the work site as soon as practical from the time contact is made, so long as the employee is not required to remain in any specific geographical area or required to return to work within a specific time period. Employees on such status may decline to return to work if contacted, without penalty, discipline or other reprisal if they acknowledge they are not fit to report to duty.

**Section 6. Short Turnaround Pay.** Employees who work a non-overtime shift that begins less than twenty-four hours after the start of their previous shift, shall be paid time and one-half for all time worked on the short turnaround shift that occurs within ten (10) hours of the scheduled end of the previous days' shift without regard to any overtime worked. An employee shall not be required to work more than 16 consecutive hours without his or her consent except in an emergency situation.

**Section 7. Assignment to a Higher Rated Classification.**

Employees assigned to perform the duties of a higher rated classification on a temporary basis for ten (10) consecutive work

days or for twenty (20) days or more in any calendar year, shall receive the pay applicable to the higher rated classification in an amount not less than 5% but not to exceed 15% of the employee's base pay for the entire period of the assignment; provided, employees who, in connection with voluntary participation in supervised training, are assigned to perform duties normally assigned to employees in a higher rated classification, shall not receive the rate of pay applicable to the higher rated classification. The amount of acting capacity pay shall be not less than 5 percent but not to exceed 15 percent.

**Section 8. Multi-Lingual Pay.** In facilities or offices where it is deemed necessary to have on staff multi-lingual employees to facilitate communications with members of the public, and employees on staff assigned to the facility are available and capable of fulfilling such need, the Employer may designate a sufficient number of employees in the assigned work force to perform such duties and such employees shall be entitled to a differential in the amount of \$.10 per hour.

**Section 9. Lead Worker Pay.** An employee assigned to lead worker duties shall receive the pay applicable to the greater responsibility/accountability in an amount not less than 5% but not to exceed 15% of the employee's base pay for the entire period of the assignment provided employees who, in connection with voluntary participation in supervisor training are assigned to perform duties normally assigned to the supervisor shall not receive lead worker pay.

**Lead Worker Definition:** An employee in a Technical Occupation Group classification who has mastered full performance level and provides work direction to one or more employees. This may include duties such as: the distribution of work, employee training, and assisting and/or advising lower level employees. However, once a lead worker has executed these techniques and instructions the

responsibility ends, and responsibility for work performance and evaluation rests ultimately with the supervisor.

**Section 10. New Hire Pay.** When establishing the entrance salary of a new employee entering the classified service into a bargaining unit position with an employee(s) within the same work unit and location of an agency holding a like bargaining unit position performing the same work; the Employer will ensure that the entrance salary of the new hire does not exceed the midpoint of the pay band, unless the Employer determines that doing so is appropriate due to factors such as specialized qualifications, experience, education, certification, administrative or court proceedings, or requirements of or pursuant to law, rule or regulation.

**ARTICLE 13**  
**New or Altered Classifications**

**Section 1.** The Employer may establish new job classifications, or abolish, merge, or change existing job classifications of employees covered by this Agreement in accordance with the Personnel Act [Section 10-9-1, et seq. NMSA 1978]. At the time of such action, the Employer shall identify the employees covered by this Agreement to be included in any new or altered job classification and shall identify the old job classification(s), if any, which in whole or in part are being replaced. Unless it is supervisory, confidential, or managerial, as defined in PEBA, any new or altered job classification that, in whole or in part, replaces a job classification already represented by the Union, shall be included in the bargaining unit. Any issues concerning whether or not such newly created or altered job classification remains in the bargaining unit shall be determined in accordance with the PEBA.

**Section 2. Classification Reviews/Studies.** The Employer shall request the Director of the State Personnel Office to include the appropriate representation as designated by the Union to serve as subject matter experts in any classification review/study being conducted which includes positions in the bargaining unit and is anticipated to result in:

- Creation, modification and/or deletion of job classifications;
- Grouping of job classification by job family or occupational group;
- Describing or altering the duties, knowledge, skills or abilities within job classifications.

**Section 3. Job Evaluation Committee.** The Employer shall direct the State Personnel Director to include representation designated by the Union in any job evaluation committee established with regard to positions in the bargaining unit. If the SPO Director does not include the designated union member on a job evaluation committee

established with regard to positions in the unit, the Union, at its option, may renegotiate this Article.

The Union shall be entitled to select five union members who are State employees and who shall be trained and eligible to serve on job evaluation committees. The Union shall designate two of the five as regular members and the remaining three shall act as alternates.

**Section 4.** The Union shall have the right to identify and propose to the State Personnel Director the review and/or study of job classifications and/or positions in relation to Section 2 and 3 of this Article. The Employer shall direct the State Personnel Director to consider the Union's request in the same manner and conditions as requests identified by the Employer in accordance with applicable SPB rules and regulations.

**Section 5.** Nothing in this Article shall be deemed a waiver of any right to negotiate salary rates assigned to job classifications to the extent consistent with the PEBA.



**ARTICLE 14**  
**Grievance and Arbitration Procedure**

**Section 1. Scope**

- A. Allegations of violation, misapplication, or misinterpretation of this Agreement except for Article 1 and 2 shall be subject to this negotiated grievance procedure. For purposes of this Article, “day” means calendar day unless otherwise specified. In the event the day an action or response is due is a Saturday, Sunday, or legal Holiday (as defined by the State Personnel Board – SPB), the action or response shall be due the following workday.
- B. Allegations of violation, misapplication, or misinterpretation of applicable SPB regulation may be grieved through Step 3 (Agency Level) of this negotiated procedure. If the matter is not satisfactorily resolved at Step 3, the Union or the employee may appeal to the State Personnel Director within thirty (30) days of the Step 3 response in accordance with applicable regulations of the SPB. If in the future it becomes permissible under applicable statutes and regulations to do so, then the Union may pursue such complaints through arbitration in accordance with this Agreement.
- C. In accordance with the Personnel Act NMSA 10-9-18, an employee who has completed the probationary period and has been dismissed, demoted, or suspended has the right to an appeal. The employee may have the appeal decided by the State Personnel Board in accordance with SPB Regulations or may make an irrevocable election to have the appeal decided by an Arbitrator, but not both. No later than 30 calendar days from the effective date of the dismissal, demotion or suspension, a notice of appeal and irrevocable election must be made in writing and filed with the State Personnel Director. The notice must indicate whether the employee is choosing to have the State Personnel Board or an Arbitrator decide the appeal and must be accompanied with a copy of the final action.

An appeal indicating that an irrevocable election for SPB Hearing has been made will proceed in accordance with SPB regulations. An appeal indicating that an irrevocable election for Arbitration has been made will proceed in accordance with Appendix A.

- D. The parties agree that this Section shall not be used by either party as a waiver, or concession of position, as to the interpretation of the PEBA.

**Section 2.** Grievances may be filed on behalf of an individual aggrieved employee or group of employees (class action) covered by this Agreement or by the Union.

**Section 3.** An individual employee may present a grievance under the provisions of this Article and have it adjusted without the intervention of the Union so long as:

1. The adjustment is consistent with the terms of the Agreement; and
2. The Union is provided with the opportunity to be present during the grievance meetings, is provided copies of grievance documents, and is provided an opportunity to make its views known.

An employee may not retain outside representation under this grievance procedure without the advance approval of the Union. An individual employee may not invoke arbitration under this Article.

### **Steps in the Grievance Procedure**

The parties shall use this grievance procedure in an attempt to resolve issues at the lowest possible level. Employees should attempt to resolve any problem with their immediate supervisor before filing a formal grievance under the procedures established in this Article. Informal resolution of grievances prior to Step 1 shall not be binding upon the parties as past practice or interpretation of

this Agreement. The parties agree that voluntary face to face meetings can be an effective way to reach resolution and a meeting shall occur at Step 1 or Step 2 in an attempt to resolve the grievance. Meetings to resolve grievances may be conducted by mutual agreement in person, telephonically and/or by videoconferencing.

Unless otherwise designated by an Agency or Department in writing, the Employer representative(s) who shall, under the terms of this Agreement, be the recipient of a grievance at each step of the grievance procedure will be the Agency or Department Human Resource Office.

The Union or grievant shall submit the grievance to the Employer in writing and shall set forth:

1. The employee's name, job title, and worksite;
2. The name, address, and telephone of the steward, union official or union representative, if any;
3. The Article(s) of this Agreement alleged to have been violated;
4. A description of the alleged violation;
5. The relief requested; and
6. The signature of the grievant or of the steward, union official or union representative.

**Step 1.** Grievances must be initiated by presenting a written grievance to the Employer promptly and no later than thirty (30) calendar days after the grievant or the Union was aware, or reasonably could have become aware, of the incident(s) giving rise to the alleged grievance.

The Employer shall respond in writing within ten (10) calendar days of receipt of the written grievance. Failure to respond shall constitute a denial of the grievance. If the grievance is not satisfactorily resolved at this level, the grievance may be submitted to Step 2 by filing with the Employer within ten (10) calendar days of the time for response of the step 1 grievance.

**Step 2.** The Union or grievant shall submit the grievance to the Employer in writing. The Employer shall respond in writing within ten (10) calendar days of receipt of the written grievance. Failure to respond shall constitute a denial of the grievance. If the grievance is not satisfactorily resolved at this level, the grievance may be submitted to Step 3 by filing with the Employer within ten (10) calendar days of the time for response of the Step 2 grievance.

**Step 3.** The Union or grievant shall submit the grievance to the Employer in writing. The Employer shall respond in writing within fourteen (14) calendar days of receipt of the written grievance. Failure to respond shall constitute a denial of the grievance. If the grievance is not satisfactorily resolved at this level, the grievance may be submitted to Arbitration by the Union but not by the individual grievant.

### **Grievance Arbitration**

The Union may invoke arbitration by serving a written demand for arbitration upon the Employer within thirty (30) calendar days from the time for response of the Employer. Within seven (7) calendar days of the written demand for arbitration, the Union shall make a request for a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS), unless the parties within such time period can agree upon an arbitrator or alternative panel of arbitrators from which to select an arbitrator. Within seven (7) calendar days of the receipt of a list of arbitrators by both parties or agreement to an alternative panel, the parties will meet to select the arbitrator. The selection shall be made by the Union and the Employer alternately eliminating names. The last name remaining shall be the arbitrator. The parties shall flip a coin to determine who shall strike the first name. Each party shall pay one-half of the cost of obtaining the panel of arbitrators from FMCS, except that the Employer may elect not to pay one-half of the cost of obtaining a panel of arbitrators on the condition that it strikes the first name from the panel of arbitrators.

The decision of the arbitrator shall be based upon the facts established by the testimony and documents presented in the case. The arbitrator shall have no power to add to, subtract from, alter, or modify any of the terms of the Agreement, but may give appropriate interpretation or application to such terms and provide appropriate relief. The arbitrator shall not have authority to make an award which includes a fine or other punitive damages or award of attorney's fees. Each party shall pay one-half of the arbitrator's fees and expenses. The arbitrator's decision shall be final and binding on the parties subject only to judicial review in accordance with the New Mexico Uniform Arbitration Act.

### **Miscellaneous – Grievance Arbitration**

1. Tape recorders or other electronic recording devices shall not be used by any party participating in the grievance, except by mutual written agreement of the parties. If the parties consent to such, the recording agent must provide the other party with a true and correct copy of the recording. This provision shall not apply to grievance Arbitration hearings.
2. Any of the time limits or steps set out in this Article, with the exception of Appendix A, may be extended, waived, or otherwise modified by written agreement of the parties.
3. If the Employer fails to respond within the designated time limits, the grievance shall be deemed denied and the Union may advance the grievance to the next step in accordance with the procedures set forth in this Article.
4. The issue of non-grievability may be properly raised at any step of the grievance procedure. The arbitrator shall decide all issues regarding the grievability of grievances.

5. Grievances may be withdrawn by the Union at any step of the grievance procedure without prejudice except as to objections to timeliness.
6. The arbitration procedure set forth in this Article shall not apply to events which occur before the effective date of this Agreement.
7. The two parties to this Agreement may be represented by counsel at any step of the grievance and arbitration procedure.
8. Court reporters are permitted in arbitration but not required. Each party shall be responsible for providing and bearing the cost of their own court reporter if they desire to have one present.

**ARTICLE 15**  
**Performance Appraisal**

**Section 1.** Employees shall receive written performance appraisals on an annual basis. The end of year appraisal shall include the final performance rating for the year. The Employer shall provide the employee with a copy of the signed appraisal and a copy will be placed in the employee's personnel file accompanied by any comments and/or statement of objection that the employee may have included and/or attached. All interim reviews shall be consistent with the criteria set forth below in this Article.

**Section 2.** Performance criteria shall be specific, attainable, relevant, measurable, objective and consistent with an employee's job duties, responsibilities and relate to his/her job description. Measurement criteria shall be job and outcome related. The criteria shall be provided to an employee in writing at the beginning of the rating period and changed during the period only after review with the employee.

- A. When an employee does not have an opportunity to perform work described by a criteria that criterion will not be considered in the performance appraisal process.
- B. Performance measurement criteria shall be applied fairly, objectively and equitably. The Employer shall take into account when evaluating an employee's performance, matters outside an employee's controls, such as equipment and resource problems and lack of training. Pre-approved time away from the job including sick leave (not including call in notification), personal days, annual leave and authorized duty time for union representational purposes and other authorized activities shall not be considered. Appraisals shall fully take into account such approved absences in a measure of timeliness and quantity of work.

**Section 3.** The employee's supervisor shall prepare the annual performance appraisal in a fair and objective manner and will acknowledge any duties outside the employee's specific duties/functions that were assigned and/or performed during the evaluation period.

Should circumstances exist that prevent the employee's supervisor from preparing the annual performance appraisal, only a supervisor/manager that has actually reviewed the employee's performance may prepare and sign the employee's performance appraisal. In conjunction with the transfer of an employee or his/her supervisor, the supervisor shall prepare an appraisal of the employee which shall be considered with other appraisals received during the year in order to develop the annual summary rating.

**Section 4.** When a performance appraisal is established it shall include at least the following:

1. performance expectations applicable to the period it is being established for which may be changed only after review with the employee;
2. modifications to the employee's job assignments, if any applicable to the next period which may be changed only after review with the employee; and
3. recommendations, if any, for training to enhance the employee's skills.

The Employer may change an employee's end-of-cycle final appraisal only with written justification, which cites the employee's performance criteria and the employee's actual performance.

**Section 5.** The Employer shall not prescribe a forced distribution of levels for ratings for employees covered by this Agreement.



**ARTICLE 16**  
**Health Benefits**

**Section 1. Contribution Rates.**

The State shall contribute the following amounts towards the cost of employee health benefits:

Employee Base Pay	State Contribution
Up to \$50,000	80%
\$50,001 to \$60,000	70%
\$60,001 and above	60%

**Section 2. Group Benefits Committee.** The Governor shall appoint two employees nominated by the Union to the Group Benefits Committee at the Governor's earliest opportunity to fill vacancies with employees from state agencies.

**Section 3. Re-Opener.** By giving written notice of its desire to do so on or before July 1 of each calendar year the Union, at its option, may reopen this Article of the Agreement.

**ARTICLE 17**  
**Personnel Records**

**Section 1. Maintenance of Records.**

- A. The Employer shall maintain all records concerning an employee under secure conditions. The Employer shall maintain two official sets of records concerning an employee [hereinafter referred to as “Personnel Records”].
1. One set shall be kept at the SPO and one set at the agency where the employee is employed.
  2. Both sets of records may contain “confidential” documents, as defined in this Article. Any confidential documents maintained at the SPO shall also be maintained at the agency.
  3. Other than documents related to general maintenance of the personnel record, the Employer shall notify the employee of all documents being placed in the employee’s file.
  4. An employee shall have a right of access to any document filed in either set of their official Personnel Records after such document is filed and upon request will be provided a copy of any document contained in their personnel record.
  5. Employees may respond in writing to any matter contained in their file, and the responses shall be included at the employee’s request.

Nothing in this Section shall require duplicate sets of records to be maintained at both the Agency and the SPO. With the exception of files on conduct or performance maintained by an employee’s immediate supervisor in accordance with subsection B below or confidential investigatory files in accordance with subsection C below, all other files maintained by the Employer and its managers which contain performance or conduct information specific to an employee shall be made available by inspection and copy by the employee upon request.

- B. Personal records of files maintained by an employee's immediate supervisor shall not be considered an official state record but shall be considered as an extension of the supervisor's memory. If maintained, such records or files shall be disclosed in accordance with the following:
1. Except as modified below, the supervisor may, but is not required to disclose the records to the employee upon request;
  2. The supervisor is required to disclose such records to the employee if the supervisor takes a tangible employment action based in part on the information in the records;
  3. The supervisor may not disclose the records, or any portion thereof, to any other party unless also disclosed to the employee;
  4. The supervisor may not transfer custody of or copy the records, or any portion thereof, to any other party;
  5. The supervisor shall maintain only timely and relevant material.
- C. Records of confidential investigations that do not result in an adverse employment action shall only be disclosed by an agency pursuant to a court order or lawful subpoena that has been obtained as part of an official investigation or as part of litigation. Such records shall only be accessible to the general counsel, executive management, or those authorized to conduct investigations on the behalf of the agency on a need to know basis. Employees who are the subject of a confidential investigation may pursue remedies exclusive of this contract for unauthorized disclosure of records of the investigation but shall have no remedy under this contract for unauthorized disclosure.

## **Section 2. Confidentiality of Records.**

- A. In accordance with applicable SPB regulations, the following documents shall be regarded as confidential:
1. any documents pertaining to an employee's physical and/or mental examinations and/or medical treatment;

2. any documents maintained for purposes of the Americans with Disabilities Act; letters of reference concerning employment, licensing, or permits;
3. any documents containing statements of opinion about an employee;
4. documents concerning alleged or proven infractions and disciplinary actions;
5. performance appraisals and/or evaluations whether formal or not;
6. opinions as to whether an employee should be reemployed;
7. college transcripts;
8. military discharge, if other than honorable;
9. information on the race, color, religion, national origin, ancestry, political affiliation, sexual orientation, or disability of an employee; and
10. laboratory reports or test results concerning an employee.

Unless otherwise required by law, the Employer agrees to maintain the confidentiality of an employee's personal information, including but not limited to their social security number, date of birth, residential address, credit references and/or credit history.

- B. Confidential documents are not subject to inspection by the general public without written permission of the employee whom they concern or pursuant to a lawful subpoena.
  1. The Employer will make such documents available to the Union, with the prior written consent of the employee, if necessary for and relevant to a grievance pursuant to the grievance and arbitration provisions hereof as determined by an arbitrator selected under the provisions of this Agreement, but only upon agreement of the Union to maintain the confidentiality of such material to the greatest extent possible while pursuing the grievance.

2. The Employer shall not provide references or disclose any information from confidential documents or the documents themselves, by any means of communication, to any person or organization, except with the prior written consent of the employee to whom the employment reference and document disclosure pertains.
3. Grievances over allegations of violation, misapplication, and misinterpretation of this Section shall be filed in accordance with Section 1.B of the Grievance and Arbitration Article of this Agreement.

### **Section 3. Limitations on the Content of Records.**

- A. The Employer shall not maintain in an employee's Personnel Records any documents critical of any employee's which have not resulted in discipline when investigation of any such materials is not on-going or has ceased. Nothing contained herein shall require the removal of an employee's formal performance evaluations, so long as the employee has had the opportunity to submit rebuttal statements or documents if he or she has disagreed with any part of an evaluation.
- B. Confidential and other documents may be removed from an employee's Personnel Record as part of a grievance settlement agreement or arbitration award. When documents are removed from an employee's Personnel Record pursuant to this Article, they shall not be considered in connection with any future personnel action involving the affected employee.
- C. The Employer shall allow an employee to inspect his or her Personnel Records. Upon request, an employee will be provided with copies of any documents in his or her Personnel Records at the Employer's expense if the employee is facing disciplinary charges; or by reimbursing the cost for copying if the employee is not facing disciplinary charges.

**Section 4. Removal of Reprimands.** One (1) year after an employee has received a letter of reprimand, the employee may request that the letter of reprimand be removed from the employee's personnel file. If the employee has not committed any further infractions of work rules during the preceding year, the Employer shall not use the reprimand as the basis for further discipline, and shall remove the letter of reprimand from the employee's personnel file, unless such action could subject the Employer to potential liability to third parties. Denial of an employee's request under this section shall be explained to the employee in writing. Such explanation shall include an indication of when the Employer may be willing to remove the reprimand, which shall normally be within five (5) years of the date of issuance. In cases of denial, an employee may reinitiate a request for removal at a later date.

**ARTICLE 18**  
**Management Rights**

**Section 1.** Except to the extent specifically modified or limited by this Agreement or by applicable statutory or regulatory provisions, the sole and exclusive rights of management shall include the following:

1. direct the work of, hire, promote, assign, evaluate, transfer, demote, suspend, dismiss, or otherwise discipline employees;
2. determine qualifications for employment and the nature and content of personnel examinations;
3. take actions as may be necessary to carry out the mission of the State in emergencies;
4. determine the size and composition of the work force;
5. formulate financial and accounting procedures;
6. make technological or service improvements and change production methods;
7. relieve an employee from duties because of lack of work or other legitimate reason;
8. determine methods, means, and personnel by which the Employer's operations are to be conducted;
9. determine the location and operation of its organization;
10. provide reasonable rules and regulations governing the conduct of employees; and
11. provide reasonable standards and rules for employees' safety.

**Section 2.** Prior to implementing any change in existing terms or conditions of employment relating to items 9, 10 or 11 of Section 1 above, the Employer shall provide the Union with reasonable notice under the circumstances of such contemplated action and, if requested to do so, shall bargain with the Union in good faith to impasse prior to implementing such changes.

**Section 3.** Agencies may maintain policies and procedures that contain provisions that are more generous to the employee than those within this Agreement.

**ARTICLE 19**  
**Mid-Contract Bargaining**

**Section 1. Changes in Statutes and Regulations.** The parties recognize that from time to time the U.S. Congress, federal agencies, and the State Legislature may enact changes that affect terms and conditions of employment and that the State Personnel Board (SPB) may adopt, repeal, and/or modify its rules and regulations and that these legislative or regulatory actions may alter established terms and conditions of employment or conflict with or nullify terms of this Agreement. Accordingly, within thirty (30) calendar days following the enactment of such legislative or regulatory action, if requested by a party hereto, the parties shall negotiate over the matter to the extent consistent with law.

**Section 2. Agency Supplemental Bargaining.** The parties acknowledge that there are terms and conditions of employment that are unique to employees covered by this Agreement who are employed in particular agencies which are not generally applicable to all employees covered by this Agreement. Accordingly, the parties agree to engage in supplemental bargaining at the agency level to discuss and seek to agree to matters not controlled by federal or state legislation or regulation that uniquely affect agency employees or as authorized by this Agreement. The Union must provide to each agency written notice of all such matters on which it desires to engage in supplemental bargaining within thirty (30) days of the effective date of this Agreement, and supplemental bargaining shall be limited to such matters for the duration of this Agreement. Any supplemental agreements concluded shall be appendices to this Agreement. Supplemental agreements may not modify or conflict with the terms of this Agreement. Prior to engaging in formal negotiations at the agency level, the Employer and the Union shall first address the issue informally. In any circumstances where the parties engage in agency supplemental bargaining, the parties shall resolve any impasse in accordance with the PEBA.



**Section 3. Union Time for Employee Bargaining**

**Representatives.** Employee representatives engaged in mid-contract bargaining pursuant to law and/or this Agreement shall be released from duty without charge to pay or personal leave to participate in negotiations when otherwise in a duty status. Time to prepare for such negotiations may be granted at the Employer's discretion but, if not granted, employee representatives shall be granted reasonable amounts of paid time off (accrued vacation, compensatory time, etc.) or LWOP upon request. Nothing in this Section authorizes the payment of mileage and per diem for the time spent preparing for or engaging in negotiations. The number of employee representatives entitled to time under this Section shall be the greater of:

- A. the number of management representatives involved in bargaining;
- B. one employee representative for every two hundred (200) employees affected by such negotiation up to a maximum of one (1) employee representative for every agency affected by such negotiation; or
- C. five (5) employee representatives.

**ARTICLE 20**  
**Annual Leave**

**Section 1. Accrual.** Employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, or suspension without pay shall accrue annual leave at the rate of:

3.08 hours per pay period if less than three years of cumulative employment;

3.69 hours per pay period if three years or more but less than seven years of cumulative employment;

4.61 hours per pay period if seven years or more but less than eleven years of cumulative employment;

5.54 hours per pay period if eleven years or more but less than fifteen years of cumulative employment; or

6.15 hours per pay period if fifteen years or more of cumulative employment.

Part time employees shall accrue annual leave on a prorated basis.

**Section 2. Use.** At any time, but no more than one year in advance, employees may request the use of accrued short-term leave (annual leave, compensatory time use, or personal leave). Such request shall be in writing and shall be approved or denied by the Employer as soon as practical after the request is made. If the employee makes the request at least twice as long in advance as the length of the leave requested (e.g. twenty days in advance for ten days of leave), the supervisor shall approve/deny the requested leave within five days of receipt of the request, or one day prior to the beginning of the leave requested, whichever is sooner. In unanticipated situations, or when the employee is out of the office, an employee may make requests

verbally. The Employer will only deny leave requests for specific and legitimate operational needs which shall be fully explained if requested by the employee. Previously approved leave requests may be cancelled only in case of a reasonably unforeseen circumstance which may require cancellation of the leave. Unless the parties negotiate otherwise during supplemental negotiations, leave shall be granted on a first come–first serve basis subject to the specific and legitimate operational needs of the Employer.

**Section 3. Vacation Schedules/Procedures.** Where operational needs preclude the routine approval of leave for vacation periods (40 or more consecutive hours), the approval and scheduling of vacation periods shall be on a first come – first serve basis unless changed in facilities operating twenty-four hours per day and seven days a week by mutual agreement during supplemental negotiations. Employees, who believe they will lose accrued vacation in any calendar year because they will have accrued more than two hundred and forty (240) hours and because of scheduling difficulties they have been unable to schedule vacation to utilize such hours in excess of two hundred and forty (240), shall confer with their supervisor on or before July 1 of each calendar year and the employee and the supervisor shall develop a schedule providing for contiguous leave time consistent with the employee’s original request which will permit the employee to use such excess hours by the end of the calendar year. In the event that the scheduled leave is cancelled by the Employer, preventing the employee from reducing his/her accrual to less than two hundred and forty (240) hours by the end of the last full pay period ending in December, then the Employer shall approve paid time off in the same amount of lost time in the next calendar year, to be used by the last full pay period ending in March.

**Section 4. Accrual Rates.** The Employer shall direct the State Personnel Director to work collaboratively with the Employee Benefits Committee (EBC) appointed by the Statewide Labor Management Committee in order to conduct a study related to an increase in annual leave accrual rates. The study will be completed

no later than June 30, 2010. The EBC and the State Personnel Director shall report its findings and recommendations to the Statewide Labor Management Committee and the State Personnel Board. Should the study's findings show that an increase to annual leave accrual rates is reasonably and economically feasible, the Employer shall propose and support a change in SPB rules to increase said rates.

## **ARTICLE 21**

### **Sick Leave**

**Section 1. Accrual.** Employees, except those on full-time educational leave with pay, absence without leave, leave without pay, unpaid FMLA leave, or suspension without pay shall accrue sick leave at the rate of 3.69 hours per biweekly pay period. Part-time employees shall accrue sick leave on a prorated basis.

**Section 2. Use.** An employee may use sick leave for personal medical treatment or illness or for medical treatment or illness of a relation by blood or marriage within the third degree, or of a person residing in the employee's household. Employees affected by pregnancy, childbirth, and related medical conditions must be treated the same as persons affected by other medical conditions.

**Section 3. Procedures.** Employees shall contact their supervisor or supervisor's designee at their earliest opportunity and no later than 30 minutes after the scheduled beginning of their workday or in the case of employees assigned to shift work at entities that maintain 24-hour operations two (2) hours prior to the scheduled beginning of their workday. If the supervisor or designee is not available at the designated phone number, the employee shall leave a message for the supervisor or designee in accordance with written instructions issued by the Employer. In the event the employee is incapacitated, a family member may call in on behalf of the employee. A sick leave request will normally be verbal but may be in writing if the employee knows in advance of the necessity for sick leave. The Employer shall not ask the employee to provide information relative to the request, except as permitted by applicable law.

**Section 4. Health Care Provider Certification.** Employees may be required to provide health care provider certification for the use of paid sick leave only in the following circumstances:

A. If the sick leave is for more than three (3) consecutive work days.

- B. If an employee habitually maintains a low sick leave balance without providing evidence of the need for such relatively high utilization or when the supervisor has a reasonable suspicion that the employee is utilizing sick leave for purposes other than those authorized by Section 2 above. In such circumstances, the Employer shall first counsel the employee that the employee's utilization may lead to a practitioner certification requirement. If the employee does not show improvement in utilization or does not provide evidence of the need for relatively heavy utilization, the Employer may provide the employee with a written instruction notifying the employee of the requirement of health care provider certification, or other acceptable documentation, for sick leave absences. The certification requirement will be reviewed after six months and if the employee substantially complies with requirements for documentation or uses substantially less sick leave, the certification requirement shall be rescinded.
- C. Employees (and dependants) with chronic health conditions that may reasonably require frequent absences and charges to sick leave, may provide the employee with an annual certification in order to meet the requirements of this section.

A "health care provider" means a doctor of medicine or osteopathy authorized to practice medicine or surgery (as appropriate) in the state in which the doctor practices or any other person determined to be capable of providing health care services under regulations promulgated under the Family and Medical Leave Act of 1993, 29 U.S.C., Section 2611 et seq.

**Section 5. Sick Leave Incentive.** An employee who is assigned to shift work in a twenty-four hour facility and who does not utilize sick leave for a calendar quarter shall receive credit for eight hours of administrative leave. Those agencies that have sick leave incentive

programs in place that are more generous may maintain those programs.

**Section 6. Accrual Rates.** The Employer shall direct the State Personnel Director to work collaboratively with the Employee Benefits Committee (EBC) appointed by the Statewide Labor Management Committee in order to conduct a study related to an increase in the sick leave accrual rate. The study will be completed no later than June 30, 2010. The EBC and the State Personnel Director shall report its findings and recommendations to the Statewide Labor Management Committee and the State Personnel Board. Should the study's findings show that an increase to the sick leave accrual rate is reasonably and economically feasible, the Employer shall propose and support a change in SPB rules to increase said rate.

**ARTICLE 22**  
**Other Paid Leave**

**Section 1. Interview Leave.** Current practices regarding grant of administrative time for interviews shall be maintained. In addition, employees shall be provided the opportunity to flex time work schedule within the work week without charge to leave to permit them to participate in interviews for a job with the State.

**Section 2. Administrative Leave.** In the event the Governor elects to grant general administrative leave for any purpose other than by reason of inclement weather, all employees shall have such leave approved on a fair and equitable basis. Employees required to maintain necessary services and otherwise not able to observe the administrative leave during the time in which it is granted shall be credited with the time.

**Section 3. Physical Fitness Leave.** The Employer shall permit employees the opportunity to flex their work schedule within the work week up to 1.5 hours to enable them to participate in exercise programs.

**Section 4. Bereavement Leave.** Employees shall be granted two (2) days of administrative leave for bereavement of an immediate family member defined as: mother, father, sister, brother, spouse, daughter, son, step parent or child, grandparent, grandchild or domestic partner.

**Section 5. Religious Observances.** Upon fifteen (15) days advance notice, the Employer shall approve an employee's request for annual leave, personal leave, and/or compensatory time off for religious observances when the employee's personal religious beliefs require that the employee abstain from work during certain periods of the workday or work week.



**ARTICLE 23**  
**Holidays**

**Section 1. Holiday Falling During Sick Leave.** Holidays that occur during an employee's sick leave will not be charged to sick leave, and will be recorded and paid as holidays.

**ARTICLE 24**  
**Discipline and Discharge**

**Section 1. Discipline.**

The primary purpose of discipline is to correct performance or behavior that is below satisfactory standards, or contrary to the Employer's legitimate interests, in a constructive manner that promotes employee responsibility.

Progressive discipline shall be used whenever appropriate. Progressive discipline can range from a reminder, to an oral or written reprimand, to a suspension, demotion or dismissal. There are instances when a disciplinary action, including dismissal, is appropriate without first having imposed a less severe form of discipline.

Agencies shall utilize alternative methods to resolve conflicts or improper employee performance or behavior whenever appropriate.

An employee who has completed the probationary period required by SPB Rules may be suspended, demoted, or dismissed only for just cause which is any behavior relating to the employee's work that is inconsistent with the employee's obligation to the agency.

**Section 2. Pre-Disciplinary Investigations and Meetings.**

Employees shall have the following rights in addition to those rights established by the State Personnel Board (SPB) rules:

- A. At any meeting where the Employer is investigating any employee for possible disciplinary actions, the Employer shall:
  - 1. notify the employee at the outset of the meeting that the employee is being investigated for possible disciplinary action;
  - 2. on request, allow the employee the opportunity for union representation; and

3. if the Employer elects to proceed with the interview, provide the employee with a reasonable amount of time to confer with his/her representative.

The Employer may not make a verbatim record of such interview unless it notifies the employee at the outset of the meeting of its intention to do so. If the Employer does elect to make a verbatim record of the meeting, the employee shall be provided with a true and correct copy of the record. In addition, if the Employer is recording the meeting, the employee may also record the meeting provided that the meeting will not be unduly delayed while the employee obtains a recording device.

- B. An employee may refuse to answer questions of a superior that probe possible criminal conduct until the employee has obtained legal advice and/or counsel. The employee shall be given a reasonable period of time to secure counsel; and
- C. If a superior needs to talk to an employee concerning the employee's performance or conduct, the meeting shall be held in private. In all cases, the confidentiality of the disciplinary process shall be maintained by the Employer and its representatives as required by law, SPB Rules and this Agreement.

**Section 3. Time Limits.** Except for disciplinary actions related to performance which are governed by Article 25 and/or cases where outside agencies or divisions are involved in the investigation, the Employer may impose any disciplinary action or issue a notice of contemplated action no later than forty-five (45) days after it acquires knowledge of the employee's misconduct for which the disciplinary action is imposed, unless facts and circumstances exist which require a longer period of time.

**Section 4. Appeals.** Reprimands may be grieved through Step 3(Agency Level) of the negotiated grievance procedure. If the Union or employee is dissatisfied with the response at Step 3, the Step 3

decision may be appealed within ten (10) calendar days to the Director of the State Personnel Office or his/her designee. The Director or designee will meet with the agency representative, the employee and his/her representative or conduct a paper review of the agency decision. In any event, the Director or designee shall issue a final and binding decision of the appeal within twenty-one (21) calendar days.

**ARTICLE 25**  
**Disciplinary Actions Related to**  
**Unsatisfactory Employee Performance**

**Section 1. Application.** This Article applies to an employee who has attained career status.

**Section 2. Basis for Action.** An agency may discipline an employee for performance which continues to be unsatisfactory after the employee has been given a reasonable opportunity to correct it.

**Section 3. Procedures.**

- A. An employee may not receive an overall rating of less than satisfactory on the employee's annual performance appraisal unless the employee has been advised, in writing, that he/she is not meeting the performance standards. An employee shall be informed of performance deficiencies that may lead to a less than satisfactory performance rating within reasonable proximity of when the Employer became aware of the deficiency, but always within thirty (30) days.
- B. When an employee has been placed on notice that he/she has not met his/her performance expectations, and the Employer decides to pursue a performance-based action, the employee's supervisor shall inform the employee that the employee has one hundred-eighty (180) days from issuance of the rating to improve to a satisfactory level. This shall not preclude the Employer from taking performance based disciplinary actions against the employee after thirty (30) days from the beginning of the Performance and Development Plan if the employee exhibits a critical failure to perform, substantially fails to comply with the Performance and Development Plan or exhibits deteriorating performance. The Employer shall create a Performance and Development Plan to identify the following:
  - 1. an identification of the job assignments and performance skills for which performance is unsatisfactory;

2. a description of what the Employer will do to assist the employee to attain a satisfactory level and a description of what the employee must do to improve the unsatisfactory performance during the one hundred-eighty (180) day Performance and Development Plan;
  3. a statement as to how often the supervisor and the employee will meet during the one hundred-eighty (180) day Performance and Development Plan period to provide the employee with coaching and feedback to assist the employee to attain a satisfactory performance level; and
  4. a statement indicating that failure to meet the Performance and Development Plan expectations during or at the end of the one hundred-eighty (180) day period may result in disciplinary action up to and including termination.
  5. At the conclusion of the one hundred-eighty (180) day Performance and Development Plan period the Employer will meet with the employee to discuss the final outcome/rating of the employee's performance and will notify the employee of the final outcome in writing.
- C. If, at the conclusion of the Performance and Development Plan period, the Employer elects to initiate discipline against an employee for unsatisfactory performance, the Employer shall notify the employee, within forty-five (45) days, in writing by a Notice of Contemplated Action of the Employer's decision to initiate disciplinary action. The Notice of Contemplated Action shall include:
1. Specific documented instances of unsatisfactory performance by the employee on which the action is based;
  2. the specific job assignments/skills involved in each specification of unsatisfactory performance;
  3. a written description of the efforts made by the Employer to assist the employee in improving performance during the Performance and Development Plan period; and

4. written explanation of the how the Employer provided the employee with a reasonable opportunity to attain satisfactory performance.
- D. If the Employer decides not to take action based on unsatisfactory performance, it shall expunge the notices described in this Section from all official records.
  - E. If the Employer does not provide the employee a reasonable opportunity to attain satisfactory performance as outlined in the Performance and Development Plan, it may not issue discipline under this Article.

**Section 4.** The Employer shall fully consider a demotion, in appropriate circumstances in lieu of termination for unsatisfactory performance.

**Section 5.** Reprimands may be grieved through Step 3 (Agency Level) of the negotiated grievance procedure. If the Union or employee is dissatisfied with the response at Step 3, the Step 3 decision may be appealed within ten (10) calendar days to the Director of the State Personnel Office or his/her designee. At his/her option the Director or designee may meet with the agency representative, the employee and his/her representative or conduct a paper review of the agency decision. In any event, the Director or designee shall issue a final and binding decision on the appeal within twenty-one (21) calendar days.

**Section 6. Caseload/Workload Management.** The following defenses may be asserted by the employee in response to disciplinary action for failure to complete caseload/workload assignments as required:

- A. the worker was unable to complete caseload/workload activities on assigned cases because there was not sufficient time available to take actions required by policy and regulations; and/or

- B. the worker was unable to complete caseload/workload assignments in a timely manner because of the actions of others over which the employee has no control.

The employee shall have the burden of establishing these defenses.



**ARTICLE 26**  
**Contracting of Work**

**Section 1. Contracting Out.** In the event the Employer decides to contract out work which has been traditionally performed by employees in the bargaining unit, it shall provide the Union with written notice, as soon as practical but not less than twenty-one (21) days prior to the proposed implementation, describing the work to be contracted, the basis for the decision to contract out the work, and the anticipated effect on employees. The Union may request bargaining within twelve (12) days of receipt of the notice. In the event of an impasse in bargaining the Employer may implement its last offer and the Union may not invoke impasse arbitration provided the Employer's action will not result in an employee's classification being downgraded, regular straight time hours being reduced, being laid off or being transferred more than 35 miles. If any such adverse actions would occur, the Employer may only contract out the work consistent with the resolution of the impasse by an arbitrator. Work "traditionally performed" shall not include work temporarily contracted out to meet emergency needs or mandates of higher authorities or work contracted out in accordance with existing practice.

**Section 2. Returning Work to State Service.** Where the Union contends that work being performed under a service contract can be more economically, efficiently and qualitatively performed by employees in the bargaining unit, it shall notify the Employer of its contention in writing, supported by a statement setting forth the reasons why it believes such work can be more economically, efficiently and qualitatively performed by bargaining unit employees. The Employer will, upon a specific written request, furnish the Union with information reasonably available and relevant to its analysis, subject to withholding such information after receiving valid written objections from the contractor on grounds of confidentiality or because of the proprietary nature of the information requested. Where the Employer, after reviewing the Union's contentions and

conducting further analysis on its own, determines that the work can be more economically, efficiently and qualitatively performed by employees in the bargaining unit, the parties shall jointly develop a plan to return such work to State service.

**ARTICLE 27**  
**Physical Examinations**

Whenever the Employer requires a physical examination from a physician selected or approved by the Employer, and where applicable law allows such an examination, the employee will be on paid status for the amount of time to complete the examination and the Employer will pay the cost of such examination. The Employer shall also pay any costs and provide duty time to employees required to undergo testing and physical examinations in connection with Commercial Drivers Licensing if the Employer requires a CDL.

**ARTICLE 28**  
**Schedules and Staffing**

**Section 1. Work Week**

- A. For purposes of this Agreement, the work week will be a calendar week beginning at 12:01 a.m. Saturday and ending 12:00 midnight the following Friday. All full-time employees normal work week will consist of forty (40) hours per week and shall include two consecutive days off.

Except as otherwise allowed for by law for employees at the Department of Corrections, a full-time employee's normal work week will consist of forty (40) hours per week. This shall not be a guarantee of any minimum number of hours worked.

No regular work shift shall be split into more than two (2) segments with an unpaid break of greater than one (1) hour.

- B. The Employer may change established work schedules in order to meet legitimate public service and operational needs. Assignment of overtime shall not constitute a change in the work schedule. Prior to implementing such changes the Employer shall provide written notice to the Union and affected employees as follows:

1. Sixty (60) days when adding one or more workdays to the work week (i.e. Saturday and/or Sunday);
2. Forty-five (45) days when changing the length of the workday (e.g. from eight (8) hours to ten (10) hours) or changing starting/quitting times by more than two (2) hours;
3. Twenty-one (21) days when changing starting/quitting time by two (2) hours or less.

The written notice of changes in 1 and 2 above shall be executed by the head of the agency. The Union may request bargaining over the change within fifteen (15) days of receipt of the notice. The failure of the parties to reach Agreement shall not require the Employer to delay implementation of the change. In the event of an impasse in bargaining, the parties shall resolve the impasse in accordance with the PEBA or any other expedited impasse resolution procedures mutually agreed upon by the parties; provided, however, the impasse resolution shall be limited to proposals relating to the impact and implementation and not the decision to make the change.

**Section 2. Flex Schedule.** Employees may apply for a schedule that deviates from a worksite's normally scheduled work hours and workdays [hereinafter referred to as "flex" or "compressed work schedule (CWS)"]. The Employer shall not unreasonably deny or rescind an employee's requested flex or CWS schedule. In the event an employee is denied a flex or CWS schedule, or that schedule is rescinded, the Employer shall provide the employee in writing the reasons for the denial or rescission of the schedule. If an employee's application cannot be approved because another employee is also requesting or is on the same or similar schedule, then Agency seniority shall be the determining factor as to which employee shall be granted or maintained on their requested flex or CWS schedule.

**Section 3. Scheduling.** For employees who perform shift work at facilities with 24-hour operations, the Employer shall post employees' work schedules at least seven (7) calendar days prior to the beginning of a new or revised schedule. Changes in such schedules may be made only to meet the legitimate, critical and unanticipated operational needs of the facility and will be made in accordance with the restrictions in Article 29, Section 1. The Employer may not adjust an employee's work day or work week to avoid the payment of overtime or accrual of comp time by non-exempt employees without the employee's consent. When the Employer requires an exempt employee to flex his or her schedule within the work week to avoid the accrual of comp time, an

employee's preference for how his or her schedule will be flexed will be respected to the extent consistent with operational needs.

**Section 4. Breaks.** The Employer shall provide employees a reasonable number of rest periods during the work day, consistent with the situation at any particular worksite.

**Section 5. Meal Periods.** All full-time employees may take at least one thirty (30) minute unpaid meal period each workday, not to be used in conjunction with breaks or early release. Unpaid meal periods shall not interfere with the operational needs of the agency. This provision does not apply to 24-hour operations.

**Section 6. Staffing and Workload Standards.** The Employer shall assign workloads to treat employees as equitably as possible. The Employer shall consider re-distribution of staff or positions among an agency's programs, shifts, or work sites or other means of alleviating excess workload and shall specifically consider hiring additional staff where there are chronic workload problems.

**Section 7. Make Up Time.** When an employee is occasionally late for work and has called in or made a reasonable attempt to do so, the Employer, if possible, shall allow them to make-up up to one (1) hour of the lost work time within the same work week.

**Section 8. Job Sharing.** Employees may share the same job position and the Employer shall approve reasonable job sharing provisions proposed by employees wishing to share a job.

**Section 9. Worksite.** Where practicable, the Employer will provide reasonable alternative worksite accommodation due to a temporary medical condition.

**Section 10. Parent-Teacher Conferences.** The Employer shall approve written, timely requests to use annual leave, accrued comp time, and/or leave without pay so the employee may attend parent -

teacher conferences. A “parent-teacher conference” includes regularly schedule meetings between parents and teachers to review a student’s progress, as well as other conferences requested by school officials to address disciplinary concerns or academic issues. Excused time shall include reasonable travel time to and from the worksite to the school. An employee shall notify his/her supervisor at least forty-eight (48) hours in advance of the need to be excused for a parent-teacher conference. The Employer shall make a good faith effort to accommodate requests that are untimely due to unforeseen circumstances.

**Section 11. Staffing.** Upon request twice each calendar year, a Cabinet Secretary or agency head shall meet with the Union at a mutually agreed upon time and place to discuss staffing related issues. In anticipation of such a meeting, on written request, the Employer shall provide the Union with all relevant staffing related information within the possession or control of the Employer, including information related to the methodology it used to determine staffing levels, that is permissibly released under law.

**ARTICLE 29**  
**Overtime and Compensatory Time**

**Section 1. Overtime.** The Employer shall compensate FLSA non-exempt employees at the rate of one and one-half times the employee's regular hourly rate of pay for hours worked in excess of forty (40) hours during the employee's designated work week; or after 84 hours during a two week period for corrections officers in the Department of Corrections working 12 hour shifts (hereinafter referred to as "Overtime Pay"). The Employer may not adjust the length of any bargaining unit employees' workday or work week to avoid payment of overtime or accrual of Comp Time by non-exempt employees without the employee's consent. In the event an employee is absent from work on an authorized paid leave status during regularly scheduled non overtime hours the Employer shall pay the employee for all such scheduled non-overtime hours with charge to the appropriate paid leave and shall not substitute actual time worked for authorized paid leave.

**Section 2. Overtime Scheduling.** This section governs those agencies where there is no supplemental agreement regarding overtime assignments. If overtime is required of an individual employee:

- A. The supervisor/manager shall first offer overtime to the employees under his/her supervision who are qualified to perform the necessary tasks.
- B. If more than one qualified employee volunteers to work overtime, the supervisor shall assign overtime based on agency seniority within the work group that he/she supervises.
- C. The supervisor/manager shall rotate overtime assignments in a fair and equitable manner. If no volunteers are available, then the supervisor/manager will designate employees capable and qualified to perform the work based on reverse agency seniority.
- D. Mandatory overtime shall be rotated in a fair and equitable manner.



- E. The Employer shall have the right to require employees to work overtime consistent with this section.

**Section 3. Compensatory Time for FLSA Non-Exempt**

**Employees.** FLSA non-exempt employees may accrue up to 240 hours of compensatory time off (hereinafter referred to as "Comp Time") at the rate of one and one-half hours for each hour of time worked where such time worked would otherwise be compensated by Overtime Pay.

- A. Overtime will be paid in cash or Comp Time at the employee's election, unless the employee is informed that only Comp Time is being offered.
- B. When only Comp Time is offered, the employee may refuse the overtime assignment without penalty.
- C. The date to be taken as Comp Time off shall be scheduled by agreement between the supervisor and the employee and supervisory approval for the use of Comp Time will be granted in a fair and equitable manner.
- D. All unused Comp Time will be paid upon an employee's leaving the agency or a department, division or other subgroup which has an individual budget, or upon death, to the employee's estate, at the final regular rate received by the employee.

**Section 4. Compensatory Time for FLSA Exempt Employees.**

FLSA exempt employees may accrue up to 80 hours of Comp Time, or more if the agency allows for a more generous accrual, at the rate of one hour for each hour worked in excess of forty (40) hours during the employee's designated work week except agencies, at their discretion, may offer cash overtime payments.

- A. The date to be taken as Comp Time shall be scheduled by agreement between the supervisor and the employee and supervisory approval for the use of Comp Time will be granted in a fair and equitable manner. Unused Comp Time may be paid at the discretion of the Employer as availability of funds allow.

B. An employee who has a Comp Time balance of at least 75 hours shall confer with his/her supervisor in an effort to develop a plan for usage of Comp Time so as to avoid accumulated Comp Time in excess of 80 hours. In the event, after good faith discussions, the employee and the supervisor cannot agree on a plan, the supervisor may designate times when accumulated Comp Time may be used in order to reduce the accumulated balance to no more than 70 hours. Should the employee decline to use accumulated Comp Time during the designated periods, the employee may be required to work overtime in excess of the 80 hour cap without additional compensation. If the supervisor fails to designate a period(s) for use of the accumulated Comp Time, the employee may accumulate Comp Time in excess of the 80 hour cap to a maximum of 120 hours. If the supervisor continues to fail to designate periods for use of the accumulated Comp Time, the Employer shall either pay the employee in cash one hour for each hour of overtime or refrain from assigning overtime to the employee.

**Section 5. Notice for FLSA Non-Exempt Employees.** By November 1 of each calendar year the Employer shall send a written notice to bargaining unit employees notifying them of accrual limitations under this Article.

**ARTICLE 30**  
**Continuation of Benefits**

Employees shall enjoy all economic benefits contained in this Agreement. Where other or greater economic benefits are not contained herein, but are contained in legislative enactment or rule or regulation of the SPB, the Employer shall continue such economic benefits.

**ARTICLE 31**  
**Furlough and Reduction in Force**

**Section 1.** In the event an agency contemplates a furlough or reduction in force (RIF), prior to submitting its furlough or reduction in force plans to the SPB, the agency shall notify and meet with the Union to discuss the furlough or reduction in force plan and consider alternatives.

**Section 2. Furlough.** In the event of a furlough, other than a furlough implemented because of a temporary loss of federal funds, the Employer may not furlough an employee in a manner that results in the loss of more than 80 hours of pay during a twelve month period or more than 53 hours of pay in any pay period, unless agreed to by the Union and there are no other alternatives available.

The furlough plan shall affect all employees within the organizational unit impacted to the same extent including the return to full service.

**Section 3. Reduction in Force.** Employees to be affected by a reduction in force shall be provided the right of first refusal to any position to be filled within the agency for which they meet the established requirements at the same or lower midpoint than the midpoint of the position the employee currently holds unless there is an actual layoff candidate exercising RIF rights for that position. All reasonable efforts shall be made to ensure that an employee shall not receive a pay reduction. However, if the pay band of the position to which the employee is claiming is lower than the employee's current pay band, the employee shall be paid at a rate no higher than the maximum rate for the pay band of the position to which the employee is claiming unless approved by SPO.

No employee in career status shall be laid off while there are term, probationary, emergency or temporary status employees in the same classification in the same organizational unit. The order of layoff

due to a reduction in force as well as the return to state service shall be by agency seniority date.

**ARTICLE 32**  
**Filling of Vacancies**

**Section 1.** The Employer shall advertise all bargaining unit job vacancies which the Employer intends to fill in a reasonable manner, including posting a notice on all bulletin boards at the location where the vacancy exists, for a period of at least fourteen (14) calendar days prior to selection.

**Section 2. Qualifications.** Job Related Qualification Standards (JRQS) established for a position shall be approved by the State Personnel Office (SPO) prior to recruitment. JRQS shall consist only of job related education, experiences, licensure, certification registration, and/or legal requirements that are:

- A. appropriate to the occupation and job duties of the position;
- B. necessary for successful performance of the essential duties of the position; and
- C. are not designed to unduly restrict competition.

**Section 3.** If multiple applicants are substantially equally qualified, then Seniority as defined in this Agreement shall govern the applicant selection for vacancies within the bargaining unit covered by this Agreement.

**Section 4. Transfers.** The Employer may not involuntarily transfer an employee to a post of duty that is more than thirty-five (35) miles from his/her current post of duty.

**ARTICLE 33**  
**Job Classifications**

**Section 1. Right to Job Description.** Within fourteen (14) calendar days of receipt of an employee's request the Employer shall provide an employee with a copy of the current document on file that describes and/or supports the employee's individual position assignment.

If the Employer does not already have a current document on file that describes and/or supports the employee's individual position assignment, then the Employer shall provide within fourteen (14) calendar days, the employee with the appropriate form(s) for a position assignment analysis. This form(s) will be completed by the employee and supervisor within thirty (30) calendar days after receipt of the form(s). Once completed, the form(s) will be filed with the Agency Human Resource Office for placement in the proper position control files.

**Section 2. Requesting Position Assignment Review.** Any employee covered by this Agreement who believes his or her actual position assignment in the classified service is not assigned to the class that best represents the duties assigned by the Employer and performed by the employee may initiate a request for a review of their position assignment and/or a new position classification assignment through procedures established by the SPO, and the Department of Finance and Administration (DFA). Employees shall be classified in the appropriate position assignment.

The Employer shall direct the State Personnel Director to ensure the procedures referred to in Section 2 are in writing and available to employees and/or the Union.

In addition to the form(s) for a position assignment analysis, the employee and the employee's union representative shall be allowed to submit additional information and/or documentation relevant to

the employee's current job tasks and/or assignments being performed by the employee. The Employer shall direct the State Personnel Director to allow the employee and the employee's union representative to meet with SPO staff in order to present the case for the review of the position assignment, which may include a desk audit.

The position assignment review process shall begin as soon as the employee submits the request and shall be completed within ninety (90) calendar days, unless unusual circumstances intervene. In the event of a delay, SPO or Human Resources of the Agency shall inform the employee in writing of the delay. If the employee's position is subsequently assigned to a different classification, the employee shall be paid the appropriate rate of pay for the new job classification prospectively as provided by SPB rules.

**Section 3. Agency Initiated Individual Position Reclassification.**

In the event that an Agency decides to submit a reclassification request of a bargaining unit position to the State Personnel Director for the review of an individual position's assignment that could result in its removal from the bargaining unit, the Agency will also notify the Union of the request. In addition to the Agency's submittal the employee and the employee's union representative shall be allowed to submit additional information and/or documentation relevant to the Agency's request. The Employer shall direct the State Personnel Director to allow the employee and employee's union representative to meet with SPO Staff in order to present the case for the review of the position assignment, which may include a desk audit.



**ARTICLE 34**  
**Health and Safety**

The following sections govern those agencies where there is no supplemental agreement regarding its subject matter.

**Section 1. Health and Safety Standards and Measures.** Safety is an integral part of the responsibilities of every manager, supervisor and employee. Safety management exists to assist managers, supervisors and employees in the better performance of their duties. Employees, supervisors and managers shall comply with such rules, regulations and practices as may be prescribed in order to provide safe, sanitary and healthful working conditions. For all employees covered by this Agreement, the Employer shall:

- A. provide safe and healthy working conditions and practices;
- B. comply with the federal Occupational Safety and Health Act (OSHA) and all other applicable federal, state and local laws and regulations, and departmental safety rules and regulations;
- C. provide safe, healthy, and clean work sites and grounds; and
- D. provide employees with adequate information on communicable diseases and infestations and hazards to which they may have routine exposure.

**Section 2. Health and Safety Committees.** To facilitate the development and active maintenance of safety management programs, Health and Safety Committees (hereinafter referred to as "HSC") are established. The Agency Labor Management Committee may serve as the HSC by mutual agreement of the parties. The Employer and the Union shall appoint a reasonable and equal number of management and union selected employees to an HSC in each agency of the Employer where there are employees covered by this Agreement. Additional HSCs may be established within an agency's remote location(s)/facility upon mutual agreement of the parties. HSCs shall meet regularly at reasonable intervals based on the tasks needing to be accomplished and employee members shall attend on paid status. The agency HSC shall:

- A. Recommend safety and health standards specific to each agency's operations;
- B. Review agency loss control information to ensure adequate measures are being taken to prevent recurrence of the same or similar losses;
- C. Establish guidelines designed to minimize employee risk of becoming harmed by prisoner, client, or patient violence or abuse; and
- D. Be briefed, upon request, by Employer representatives undertaking workplace redesign and seek remedies for workplaces with inadequate heating, ventilation, cooling, air quality, and workspace.

**Section 3. Security.** In all agencies of the Employer where there may be a high risk of a client, patient, or member of the public with whom employees must interact, posing a threat of physical harm to employees, such employees shall not be required to work at their work site, or where they are exposed to such risk or threat of physical harm, for periods of time when adequate security is not provided. For purposes of facilities and agencies of the Employer where the treatment or placement of the client, patient, resident, or inmate is predicated on the potential risk or threat of physical harm by such client, patient, resident, or inmate, adequate security is defined as prior provision of training to employees adequate to carry out their job duties in such facilities or agencies.

**Section 4. Emergency Transportation.** An employee who suffers an on-the-job injury or illness and requires immediate emergency care shall be transported to a treatment facility at the expense of the Employer.

**Section 5. Reimbursement for Property Loss.** Should employees, during the course of their duties, suffer damage to clothing or personal effects, including a motor vehicle, which are necessary to do their job, the Employer shall reimburse the reasonable cost, at actual market or depreciated value, of repair or replacement of such items.

This section shall not apply to wear and tear and damage to personal effects normally associated with the work being performed. Where damages result in whole or in part from an employee's own negligence, the Employer shall not reimburse the employee for a proportion of the damages that is equivalent to the employee's proportion of fault.

**Section 6. Hostage Taking and Battery.** Employees who, during the performance of their duties, are seized or detained by force or threat and/or are victims of a significant battery, shall, immediately after the incident, be granted a reasonable period of administrative leave with pay to recover from the immediate impact of any physical or psychological harm caused by the action. Such period of leave shall not exceed forty (40) hours.

**Section 7. Critical Incident Stress Debriefing.** The Employer shall provide employees appropriate and adequate Critical Incident Stress Debriefing [hereinafter referred to as "CISD"]. CISD is to be used for critical job-related incidents including, but not limited to, mass casualty, riots, work peer suicide, serious work injury, and/or work related death of co-worker. Such CISD shall include, when appropriate, initial debriefing, individual and group therapy and/or counseling, and/or follow-up. All debriefings and other CISD sessions shall be strictly confidential. Where Workers' Compensation benefits are available for an employee injury, this Section, if otherwise applicable, may be used to provide reasonable supplemental treatment not provided by Workers' Compensation.

**Section 8. Early Return to Work Modified Work Assignments.** The Employer shall make a good faith effort to provide employees covered by this Agreement with opportunities for returning to work on a modified work assignment due to temporary medical conditions and/or restrictions while recovering from non-work related injury or illness. An employee requesting an early return to work in modified duty assignment may request such assignment for a period of up to one (1) year consistent with accompanying medical

recommendations. Any medical documentation requested by the Employer shall be confidential with access and use restricted as required by federal and/or state laws, regulations and/or guidelines. An employee who returns to work on modified work assignment shall be paid no less than their last rate of pay.

## ARTICLE 35

### Training

**Section 1. New Technology.** In the event the Employer makes technological or service improvements or changes production methods, the Employer will provide employees affected by such changes with adequate training, during normal working hours, to learn to use the new technology, services or production methods. The Employer will provide employees affected by substantial changes with at least fifteen (15) work days advance notice prior to the changes being implemented unless impossible due to emergency or unforeseen circumstances. The Employer recognizes that relevant training opportunities should be made available to employees on a fair and equal basis. Accordingly, where feasible before selecting employees for training, interest shall be solicited among all employees in the work unit in which the training is to be offered and selection of candidates made by agency seniority in the work unit where all other factors are equal.

**ARTICLE 36**  
**Labor Management Committee**

**Section 1. Statewide Committee.** The parties shall establish a Labor Management Committee [hereinafter referred to as "LMC"] which shall be a standing committee for the duration of this Agreement. The LMC shall meet at least every other month at a mutually agreed upon time and place on paid status for all members, to include travel time. The Union and the Employer shall each appoint one co-chairperson, one official note taker and one member from each state agency at which the Union represents employees unless mutually agreed to the contrary. Both parties shall be allowed to appoint one alternate from each state agency at which the Union represents employees. In the absence of the appointed member, an alternate may attend the LMC on paid status to include travel time.

The LMC shall be free to address, without restriction, any topic of mutual interest or concern which affects working conditions of bargaining unit employees. It is understood and agreed that while the parties shall not be restricted in the topics to be addressed other than set forth above, neither the discussions, nor the outcome thereof shall be considered or treated as constituting a binding agreement between the parties unless reduced to writing, specifically identified in the body thereof as constituting such an agreement, and signed and dated by the authorized representatives of the parties respectively (such as a Memorandum of Understanding).

**Section 2. Agency Labor Management Committee.** In addition to the LMC established in Section 1 above, the parties shall establish an Agency Labor Management Committee (ALMC) to meet on an informal basis in order to solve labor/management related issues unique to that agency or sub-agency.

**Section 3. Caseload Committees.** The parties agree to establish a joint committee to address caseload management issues in agencies where there are caseload workers. The committees shall consist of

equal members from the Union and management. The committees may discuss and develop recommendations on caseload management issues that do not require additional staff or funding, including the following: the most efficient manner of administering the agency's caseload; developing or modifying caseload monitoring plans. The recommendations of the committee shall be presented to the appropriate agency head for consideration. The agency head shall respond to the committee within forty-five (45) days after the submission of the recommendation.

## **ARTICLE 37**

### **Labor Management Task Force on Pay Equity**

The parties shall convene a Labor Management Task Force to study issues connected with Pay Equity. The task force shall consist of representatives from exclusive representative Unions and the State. Task Force recommendations will be forwarded to the Governor for consideration and action.



**ARTICLE 38**  
**Conditions of Appointment**

**Section 1. Term Employees.**

- A. Contingent upon legislative authorization, the Employer shall convert all employees in term positions who do not work under a federal grant or program of a designated duration to a perm position. An employee's date of hire and seniority shall reflect his/her date of appointment to the term position.
  
- B. A term employee shall be notified of vacant career positions in the same classification and the same organizational unit. If the employee applies and meets all published job related qualification standards (JRQS) for the position then the term employee shall be selected. In the event more than one term employee fully meets all published JRQS for the position, agency seniority (as defined elsewhere herein) shall govern the selection. If agency seniority does not break the tie then state seniority (as defined elsewhere herein) shall govern the selection.
  
- C. The order of separation for term employees affected by an expiration of appointment due to reduction or loss of funding or when the special project or program ends for the affected term employees, shall be by agency seniority. If funding for the program or the project is resumed within 6 months, separated term employees shall be offered reemployment in agency seniority order in the same position they held prior to separation.

**Section 2. Probationary Period.** Unless there is a break in service, once an employee attains career status, he/she shall not be required to serve another probationary period.

**ARTICLE 39**  
**Whistleblower Protection**

Employees shall have the right, without interference or fear of penalty or reprisal, to disclose in good faith to internal auditors, Inspectors General, or other appropriate governmental authorities information that may evidence improper governmental activity (including, but not limited to, action that is in violation of any state or federal law or regulation; action that is economically wasteful; or action that involves gross misconduct, gross incompetence, or gross inefficiency) or conditions that may threaten the health or safety of employees or the public.

**ARTICLE 40**  
**Whole Agreement**

This Agreement shall be deemed the final and complete agreement between the parties and, in conjunction with written supplemental and any other written Agreements reached between the parties, expresses the entire understanding of the Employer and the Union. In the event of a conflict between this Agreement and any other rule, law, regulation, or policy, the terms of this Agreement shall prevail unless the conflicting rule, law, regulation, or policy is considered as controlling authority in accordance with the PEBA.

**ARTICLE 41**  
**General Savings Clause**

If any Article, section or provision of this Agreement is found to be invalid, unenforceable, or no longer appropriate by any board or court of competent jurisdiction, the specific Article, section or provision shall cease to be in effect. If this occurs, either party shall have the right to re-open negotiations with respect to the specific Article, section or provision of this Agreement found to be invalid, unenforceable, or no longer appropriate. All other provisions of this Agreement not found to be invalid, unenforceable, or no longer appropriate will continue to be in full force and effect and shall not be subject to renegotiation.

## ARTICLE 42

### Waiver

**Section 1.** For the duration of this Agreement, the Employer is not obligated to bargain over union initiated changes in terms and conditions of employment unless such changes are proposed pursuant to the terms of this Agreement.

**Section 2.** In addition to changes initiated pursuant to its Management Rights (Article 18 of this Agreement), the Employer reserves the right to propose other reasonable changes in the terms and conditions of employment of employees to meet legitimate public service and operating needs, and such changes are subject to negotiation in accordance with the PEBA or any other expedited impasse resolution procedures mutually agreed upon by the parties at the time of such negotiations.

**ARTICLE 43**  
**Expiration**

This Agreement shall take effect on December 23, 2009 and shall expire on December 31, 2011. If either party wishes to modify, annul or terminate this Agreement or negotiate a successor, it shall give notice of its desire to reopen this Agreement for negotiations no later than July 1 of the year of expiration. Negotiation shall convene promptly after notice, but no later than August 1. If either party provides notice to reopen for negotiations, this Agreement will continue in full force and effect until it is replaced by a subsequent written Agreement in accordance with PEBA.

For the Union:

For the State of New Mexico:

\_\_\_\_\_  
Shane Youtz  
Chief Negotiator

\_\_\_\_\_  
Bill Richardson  
Governor, State of New Mexico

\_\_\_\_\_  
Andrew Padilla  
President, AFSCME Council 18

\_\_\_\_\_  
Paul Ritzma  
Deputy Chief of Staff

\_\_\_\_\_  
Lawrence Rodriguez  
Executive Director  
AFSCME Council 18

\_\_\_\_\_  
Sandra K. Perez  
State Personnel Director

## AFSCME State Employees Negotiating Team 2009

Anthony (Tony) Barajas-Local 2890, Team Co-Chair  
Christine Baca-PRC, Team Co-Chair  
Rob Trombley- Council 18 Staff Representative

Matthew Cordova-Local 802	Vicky Zelle-NMPD
Joel Villarreal-Local 1211	Rose Ulibarri-RLD
Joe Chavez-Local 3973	Robert Upton-DCA
Arcy Baca-Local 477	Jack Brodeur-NMCD/APPO
Lee Ortega-Local 3422	Ken Long-NMDOT
Mary Gustin-Local 1894	Ofelia Meraz-TRD
David Baker-Local 2777	Jackie Darley-HSD/CSED
Magil Duran-Local 3199	Morris Thomas-NMDWS
Jonathan Brown-Local 2029	Kathy Ritz-DVR
Roxanne Zagorski-Local 3320	Zachary Garcia-NMCD
Christian Lambach-Local 1375	Loretta Aguirre-MVD
Susan DeHart-Local 2557	Hilda Trujillo-TRD, note taker

**APPENDIX A**  
**Filing a Disciplinary Appeal and Making an Irrevocable Election  
for Arbitration**

Within seven (7) calendar days of the receipt of notice of appeal and that an irrevocable election for arbitration has been made, the State Personnel Director shall notify the employee, the Union, and the Agency of his/her receipt.

Within seven (7) calendar days of the receipt of notice from the Director, the Union shall make a request for a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS), unless the parties within such time period can agree upon an arbitrator or alternative panel of arbitrators from which to select an arbitrator.

Within seven (7) calendar days of the receipt of a list of arbitrators by both parties, or agreement to an alternative panel, the parties will meet to select the arbitrator.

The selection shall be made by the Union and the Employer alternately eliminating names. The last name remaining shall be the arbitrator. The parties shall flip a coin to determine who shall strike the first name.

Each party shall pay one-half of the cost of obtaining the panel of arbitrators from FMCS, except that the Employer may elect not to pay one-half of the cost of obtaining a panel of arbitrators on the condition that it strikes the first name from the panel of arbitrators.

**Hearings:**

In accordance with the Personnel Act 10-9-18 (A) (H), the appealing employee and the agency whose action is reviewed have the right to be heard publicly and to present facts pertinent to the appeal.



In accordance with the Personnel Act 10-9-18 (C) (H), the technical rules of evidence shall not apply.

In the case of evidence relating to polygraph examinations, the proponent must have followed all the provisions of rule 11-707 NMRA.

The Arbitrator shall admit evidence relevant only to those allegations against the employee included in both the notice of contemplated action and the notice of final action.

In the event that an interpreter is needed, due to visual or hearing impairment or due to non-understanding of English well enough to understand the proceedings, the party responsible for the person in need of the interpreter shall bear the burden of providing said interpreter.

**Record of the Hearing:**

In accordance with NMSA 10-9-18 (D) (H), a record shall be made of the hearing.

The hearing shall be recorded by a court reporter, video and/or audio-recording device, provided by the Employer, under the supervision of the Arbitrator. No other recording of the hearing, by whatever means, shall be permitted without the approval of the Arbitrator.

The Employer will provide a copy of the record to the Arbitrator and shall make a copy of the record available for review by the Union.

The Employer shall provide a copy of the record for submission to District Court in the event of an appeal.

**Decisions of the Arbitrator:**

The Arbitrator's decision shall be final and binding on the parties' subject to judicial review in accordance with NMSA 10-9-18 (G)(H).

The Arbitrator shall not have authority to make an award that includes a fine or other punitive damages or award of attorneys' fees.

In the event of an appeal to District Court, the party staging the appeal shall prepare the Record Proper, subject to review by the other party prior to submission to District Court.

The appealing party will ensure there is ample time for review.

**Reinstatement:**

In accordance with NMSA 10-9-18 (F) (H), if the Arbitrator finds that the action taken by the agency was without just cause, the Arbitrator may modify the disciplinary action or order the agency to reinstate the appealing employee to the employee's former position or to a position of like status and pay. The reinstatement shall be effective within thirty days of the Arbitrator's decision. The Arbitrator may award back pay as of the date of the dismissal, demotion or suspension or as of the later date the Arbitrator may specify.

**Cost of Arbitration:**

Each party shall pay one-half of the arbitrator's fees and expenses.

In the event that the Union does not represent the employee in their appeal before an Arbitrator the burden of representation and burden of cost falls on the employee.

**APPENDIX B**  
**Membership, Fair Share and PEOPLE Deduction Forms**

**Union Membership Dues or Fair Share Authorization**

Authorization for Payroll Deduction of Membership Dues: I, \_\_\_\_\_, accept membership in AFSCME Council 18. I request and authorize the State of New Mexico to deduct union dues from my pay and transmit them to AFSCME Council 18. The amount of dues deduction shall be the amount approved by AFSCME's membership as set forth in the AFSCME constitution and certified in writing to my Employer. This authorization shall be revocable only during the first two weeks of every December.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME (print)

\_\_\_\_\_  
DEPARTMENT/AGENCY

\_\_\_\_\_  
SOCIAL SECURITY NUMBER

**Authorization for Payroll Deduction of Fair Share Fees:**

I, \_\_\_\_\_, as a non-member who is represented by AFSCME Council 18, authorize the state of New Mexico to deduct fair share fees from my pay each pay period and to transmit them to AFSCME on my behalf. The fees deducted shall be

\_\_\_\_\_  
Agreement Between The State of New Mexico and AFSCME Council 18

in an amount legally permissible and certified by AFSCME. I understand that this authorization is voluntary and for my convenience.

I may revoke this authorization at any time by providing written notice in accordance with the provisions of the Agreement. I further understand that as a condition of continuing employment with the State of New Mexico, in a position covered by the Agreement, I must pay fair share fees and if I fail to pay fair share fees I may be terminated from employment with the State of New Mexico.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NAME (print)

\_\_\_\_\_  
DEPARTMENT/AGENCY

\_\_\_\_\_  
SOCIAL SECURITY NUMBER

**Authorization for Payroll Deduction of PEOPLE Contributions**

I hereby authorize the State of New Mexico to deduct each pay period the amount certified below as a voluntary contribution to be paid to the treasurer of the PEOPLE qualified committee, AFSCME, AFL-CIO, P.O. Box 65334, Washington, D.C. 20035, to be used in accordance with the by-laws of the PEOPLE qualified committee for the purpose of making political contributions. My contribution is voluntary, and I understand that it is not required as a condition of membership in any organization, or as a condition of continued employment, and is free of reprisal, and that I may revoke this authorization at any time by giving written notice.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

---

NAME (print)

---

HOME ADDRESS

---

CITY STATE ZIP

---

JOB TITLE DEPARTMENT/AGENCY

---

HOME PHONE      SOCIAL SECURITY NUMBER

Amount per pay period (check one box)  
\$2 (VIP Membership) \$4 (MVP Membership) Other (specify) \$\_\_\_\_  
For VIP/MVP Membership (indicate jacket size)  
XS S M L XL 2XL 3XL 4XL

In accordance with federal law, the PEOPLE committee will accept contributions only from AFSCME members and their families. Contributions or gifts to AFSCME PEOPLE are not deductible as charitable contributions for federal income tax purposes.

**APPENDIX C**  
**NM Corrections Department (NMCD)**

The following is applicable to positions at correctional facilities of the Corrections Department.

The parties have agreed to the Corrections Department's roster of all posts and post packages, by facility, available for selection by bidding and assignment as set out herein (hereafter "roster"). Each post package sets out the assigned post, shift and regular days off (RDOs).

If the Corrections Department needs to alter the agreed to roster, the Corrections Department will submit a proposed revision to the Union and allow the Union an opportunity to comment upon the revision.

A Mandatory post is a post that may not be left vacant at any time; except in an emergency. On any day that an officer is assigned to a Mandatory post by virtue of his/her post package, the officer will not be reassigned to work another post or other duties that are not contained in the post orders for that Mandatory post unless there is an emergency, unless the officer agrees, or unless, on an occasional basis, the Department needs to use the officer's special skills for some other assignment.

A Non-Mandatory I post is a post that may be left vacant for part of a shift or that may have alternate coverage for part of a shift. On any day that an officer is assigned to a Non-Mandatory I post by virtue of his/her post package, the officer may be assigned to work another post or other duties that are not contained in the post orders for that Non-Mandatory I post for part of the shift in order to address legitimate operational needs as determined by the Department. However, an officer may not be pulled for inappropriate reasons such as to provide favoritism or special treatment to another officer. An officer will not be pulled from a Non-Mandatory I post and replaced by another officer, unless there is an emergency, unless the officer

agrees, or unless the Department, on an occasional basis, needs the officer's special skills for some other assignment. However, a Non-Mandatory I post may sometimes be covered for part of a shift in an alternative manner, such as being covered by a supervisor for part of a shift; or an officer assigned to one (1) Non-Mandatory I post may be required to cover two (2) Non-Mandatory I posts for part of a shift.

Before pulling any officer from a rover post, the Department will utilize all officers in Non-Mandatory II posts, if reasonably available. If the Department pulls any officer from a rover post, the Department will realign shift supervision to cover the area to the extent possible.

A Non-Mandatory II post is a post that may be left vacant for an entire shift. On any day that an officer is assigned to a Non-Mandatory II post by virtue of his/her post package, the officer may be reassigned to work another post or other duties for the entire shift in order to address legitimate operational needs as determined by the Department.

All mandatory posts will be filled with no exception unless all other alternatives have been exhausted. Mandatory posts will be filled first with officers assigned to Non-Mandatory II posts. Once Non-Mandatory II posts have been exhausted, shift supervisors will fill any remaining Mandatory posts with officers on overtime (first voluntary, then mandatory). Once the list of officers assigned to the overtime bucket has been exhausted, shift commanders will pull officers from posts classified as Non-Mandatory I and reassign them to Mandatory posts.

Shift commanders will document all steps taken to fill Mandatory posts on the daily roster and adjustment/exceptions sheet. Shift commanders will further document that all staff assigned to the daily overtime list has been used to cover Mandatory posts on the overtime list.

Roster Management staff will conduct a daily audit to ensure that the steps mentioned above have been completed and report any discrepancies to the Statewide Roster Management Coordinator via email on a daily basis.

In special circumstances, if two officers both wish to trade their post assignments for that day, these officers may do so, but only with the approval of the shift supervisor.

**Bidding and Selection of Non-Specialty Posts**

Each post contained in the roster shall be available for bidding and assignment on an agency seniority basis as set out immediately below, except for the following specialty posts. (These posts will be designated as Non-Mandatory II posts.)

1. STIU/STG/ELINT
2. Armory Officer/Firearms Instructor
3. Canine Officer (who are not currently Correctional Officer Specialists)
4. Roster Management
5. Dispatcher (designated as a Mandatory post.)

Except as otherwise specified, the remainder of the posts contained in the roster (with their post packages) are available for bidding and selection on an agency seniority basis as follows.

1. On or before December 1 and June 1 of each year, the Employer shall post a list, by facility, of all posts/post packages available for bid; along with a list of employees at the facility, by agency seniority. (A tie in agency seniority date will be resolved by using the last four digits of the employees' social security numbers; with the higher number having the greater agency seniority.)
2. The entire list of posts (excluding specialty posts) shall be subject to bidding every six months, in December and June of each year.



This process will be known as the master post bidding process. Relief Posts and RDO positions shall be bid based on shift and regular days off.

3. Thereafter, the employee at the facility having the most agency seniority shall select the post package he/she desires, and write his/her name in the space indicated to select the one post package desired. Said employee shall be assigned to the post package selected for the six-month period, except as otherwise provided herein.
4. The employee at the facility having the second-most agency seniority, followed by the employee at facility having the third-most agency seniority, and so on, shall write his/her name in the space indicated to select the post package he/she desires from the remaining post packages. Said employees shall be assigned to post package selected for the six-month period, except as otherwise provided herein.
5. As to the list posted on December 1, employees shall complete the bidding process before December 15; and as to the list posted on June 1, employees shall complete bidding process before June 15. After the bidding process is complete, the new post assignments shall take effect beginning with the first full pay period in January and July respectively.
6. After the process set out in paragraphs 3 and 4 immediately above is complete, if the process results in an imbalance in shifts at the facility, or if any other circumstances result in an imbalance in shifts at the facility, the Employer may reassign employees to a post package, beginning with the employee at facility with the least agency seniority, and continuing with the employees having the next-least agency seniority, until the shifts are properly balanced, as determined by the Employer. The Employer will give an employee seven days (7) written notice of a change in long-term post assignment required by the Employer.

7. If at any time there is a long term vacancy (i.e. the employee assigned to the post is absent for a period in excess of four consecutive weeks) in a post that is not a relief post (i.e. any post not designated as Relief Post on the roster) the Employer may assign an employee in a relief post (i.e. a post designated as Relief Post on the roster) to fill the long term vacancy in the post that is not a relief post, until the employee returns. The Employer will give an employee seven days (7) written notice of a change in long-term post assignment required by the Employer.
8. If at any time there is the creation of a new non-specialty post or a permanent vacancy in any non-specialty post, the Employer shall make the post/post package available for bidding and selection on an agency seniority basis. This process will be known as the interim post bidding process. The interim post bidding process will begin within a period of two weeks from the time that the new non-specialty post is created or the permanent vacancy is established. The Employer shall announce the availability of interim post/post packages at regular briefings and post the list of available post(s)/post package(s) for a period of one week and will accept bids for a period of one week.
9. If a temporary work assignment is to last more than seven (7) calendar days, Management shall post a written notice of the assignment and announce the availability of the assignment at briefings. Any officer interested in the temporary work assignment shall submit a letter of interest for the temporary assignment. If two or more officers are equally qualified for a temporary work assignment, then the temporary work assignment shall be given to the officer with the greatest agency seniority.
10. When a TDY post lasts more than forty-five (45) days, the officers working the TDY post will not keep the post he held during the post bid process.

### **Bidding and Assignment of Specialty Posts**

The posts listed above and designated as specialty posts are available for bidding and assignment by the Employer as follows.

1. A specialty post that is filled at the time this agreement becomes effective shall not be subject to bidding. However, if a specialty post becomes vacant after this agreement becomes effective, the specialty post shall be subject to bidding as set out below. The list of vacant specialty posts shall be subject to bidding and assignment by the Employer every six months, in January and July of each year. This process shall be known as the specialty post bidding process. If a specialty post becomes vacant after this agreement becomes effective, the specialty post may be filled temporarily by the Employer, but that post will be considered vacant and subject to bidding utilizing the specialty post bidding process set out herein.
2. On or before December 1 and June 1 of each year, the Employer shall post a list, by facility, of all vacant specialty posts/post packages available for bid; along with a list of special qualifications for the specialty posts.
3. Those employees who wish to bid for specialty posts shall submit a written application to the Employer by December 15 or June 15 as the case may be. The Employer shall select the employee who is most qualified to fill the post, as determined by the Employer; but the Employer shall consider agency seniority as a factor.
4. The Employer shall, if possible within existing and available resources, provide training to employees who wish to attend training to become qualified for a specialty post. Any employee who wishes to attend training to qualify for a specialty post shall submit a written request to attend such training to the facility Warden and submit a copy to the facility Training Officer and the facility Roster Management Coordinator. The facility Warden shall consult with the facility Training Officer and facility Roster

Management Coordinator, if necessary, and shall submit a written reply to the request. If resources are limited, employees with agency seniority shall be given preference to attend training over employees with lesser agency seniority.

**Miscellaneous Provisions Applicable to All Posts/Post Packages**

1. The Employer has the right to remove an employee from his/her post of choice or assigned post, or to assign an employee to a post not of his/her choice if there is a substantial need to do so. The Employer will verbally notify the employee of the reason for such a removal or assignment; and if requested in writing by the employee, the Employer shall provide the reason in writing to the employee.
2. The Employer may refuse to assign an employee to a post or may remove an employee from a post if the employee does not meet the written requirements or qualifications for the post, as determined by the Employer.
3. The Employer may remove an employee from a post if the employee receives a disciplinary action for a performance deficiency related to the specific duties of that post.
4. The Department may suspend the provisions of this Agreement in the event of an emergency.
5. The Employer may place an employee who is on early return to work or modified duty status in any control center post or any front entrance/front desk post. The Employer shall include a written notice on the bidding roster next to such posts that an employee who bids on and/or who is assigned to such posts may be reassigned to another post if necessary to accommodate an employee on early return to work or modified duty status. The employee who is reassigned to another post shall be allowed to retain the same shift and the same regular days off. Once the employee who was on early return to work or modified duty

status returns to regular duty, the employee who was reassigned shall be allowed to return to their original control center post or front entrance/front desk post.

6. An employee who remains on early return to work for more than 60 days will lose his/her bid post.
7. An employee on early return to work must be released to full duty within ten (10) days after the post bid in order to be eligible to bid.
8. The Post, Shift and Regular Day Off (RDO) Selection, Bidding and Assignment process set out above is not applicable to voluntary and mandatory overtime assignments. The rules applicable to overtime assignments are contained in the "Overtime Scheduling" section.

### **Exchange of Days Off**

Two employees at the same classification level, and working the same shift, who are capable of performing the same duties at the same facility shall be permitted to exchange days off, provided the employees request permission from their supervisor(s), and Roster Management personnel, using the proper form, at least one week in advance. A supervisor, or Roster Management, may disapprove such an exchange for legitimate operational reasons, which shall be explained to the employees involved. An exchange of days off will not be requested or allowed if the exchange would result in overtime for either or both employees. Once the exchange is approved, each officer is required to report for work on the day of the exchange as if this was his/her regular work day. Failure to report for work on the day exchanged may result in disciplinary action. Furthermore, if an employee calls in sick for an exchanged work day, he/she shall be required to provide a health care provider's certification. Both officers approved for a day change are deemed to have waived their right not to work mandatory overtime on his/her "Friday".

## **Overtime Scheduling for Corrections Department**

### **On-site Volunteers**

1. The first several names on mandatory overtime bucket list shall be announced within the first three (3) hours of each shift.
2. If overtime is required, for an eight (8) hour facility, the Department shall first offer overtime to the employees who are working and on-duty and at the work site (i.e. actually working and on duty at any unit of the facility; hereafter referred to as "on-site volunteers") who are capable and qualified to perform the necessary tasks. The shift supervisor at each unit/facility shall during the first six (6) hours of each shift, at an eight (8) hour institution and ten (10) hours of each shift at a twelve (12) hour institution, take the names of any officers on duty at their unit/facility who wish to volunteer to work overtime during the next shift. At facilities with more than one unit, the shift supervisor shall transmit the list of volunteers to the single person designated by the Warden to complete the list of volunteers for the entire facility for the next shift.
3. Volunteers will only be considered if they volunteer for an assignment on the next shift for which they are qualified. C.O. Sergeants will be allowed to fill C.O. 1 posts and ordinarily, C. O. 1's will be allowed to fill C. O. Sergeant's posts, unless the Warden determines that a particular post cannot be filled by a C.O.1. If more than one post must be filled by overtime, volunteers will be allowed to choose from the vacant available overtime posts beginning with the volunteer having the most agency seniority.
4. On-site volunteers who volunteer for overtime and then decide they no longer wish to volunteer must remove their name from the volunteer overtime list within six (6) hours of the beginning of the shift for an eight (8) hour institution and ten (10) hours of

each shift at a twelve (12) hour institution. Employees who volunteer to work overtime and who do not remove their name from the volunteer overtime list within six (6) hours of the beginning of the shift shall be considered refusing an overtime assignment if they fail to report for the overtime assignment, and may be subject to disciplinary action.

5. If there are more capable and qualified on-site volunteers than are necessary to meet the overtime need, overtime shall be assigned to the on-site volunteer(s) having greater agency seniority.
6. The person designated to complete the list of volunteers for the entire facility shall within six (6) hours of the beginning of the shift notify those who volunteered whether it appears at that time that the employee(s) will be working overtime. If it appears at the time that the employee will be working overtime, the employee will be so notified. If it appears at the time that the employee will not be working overtime, the employee will be so notified and will be given the opportunity to volunteer for overtime that is later determined to be necessary before overtime is offered to off-site volunteers. Again, if there are more capable and qualified on-site volunteers than are necessary to meet the overtime need, overtime shall be assigned to the volunteer(s) having greater agency seniority.
7. If overtime is required for a twelve-hour post, and the post is not filled by two (2) hours before the start of the shift, the Department shall call for on-site volunteers. On-site volunteers shall be assigned by order of agency seniority, with the on-site volunteer with the greatest agency seniority having the first choice of available posts that he/she is qualified for.

#### **Off-site Volunteers**

1. If there are not enough capable and qualified on-site volunteers to perform the necessary overtime, the Department shall offer overtime to capable and qualified employees of the facility who

volunteer and who are not working and on duty on the shift preceding the shift that requires overtime (hereafter referred to as off-site volunteers"). Off-site volunteers shall be utilized as follows:

2. Each facility of the Department will maintain an off-site volunteer list, which lists all C.O. Sergeants and C.O.1s at the facility by greatest to least agency seniority.
3. Before the beginning of every work week, and continuing until 8 hours before the shift for which an officer wishes to volunteer, any officer who wishes to volunteer to work overtime during the upcoming work week will be responsible for legibly writing next to their name on the list the days/dates and the shifts/times that the officer is willing to volunteer to perform overtime, as well as a telephone number where the officer can be contacted.
4. If it is determined that there are insufficient on-site volunteers to perform the necessary overtime on the next shift, at eight (8) hour institutions, the Department shall, between approximately six (6) hours after the beginning of the shift through seven (7) hours after the shift begins, make one telephone call to the telephone number left by the officer(s) listed on the off-site volunteer list, in the order of greatest to least agency seniority, who indicated a desire to work on that day and for the necessary shift/time. If the Department is able to immediately contact the officer by this one telephone call, the Department shall offer the officer the necessary overtime. If the officer accepts the offer, the officer shall timely report for duty and failure to do so may be grounds for disciplinary action. If the officer refuses the offer, the officer shall not be required to report for duty.
5. If the Department is unable to immediately contact the officer because the line is busy, or there is no answer, or the phone is answered by an answering machine or someone answers and offers to take a message, or for any other reason, the Department



may consider the officer unavailable to volunteer for that day. The Department need not call that officer again that day and the Department need not consider any attempt thereafter that day by the officer to contact the institution and volunteer for overtime; but the Department may do so in its sole and complete discretion.

6. If Department is unable to immediately make contact with the officer and obtain the necessary off-site volunteers, the Department shall continue down the list until sufficient off-site volunteers are obtained.
7. The Department shall document the dates, times and results of all successful and unsuccessful attempts to contact and obtain off-site volunteers.
8. If overtime is required at a twelve (12) hour institution, the Department shall first offer overtime to off-site volunteers who are capable and qualified to perform the necessary tasks. The Department shall begin calling for off-site volunteers as soon as it becomes apparent that overtime will be needed. The Department shall keep calling for off-site volunteers until all posts are filled, even if the posts are partially filled by an on-site volunteers, or mandatory overtime, officer.
9. The Department may give preference to those off-site volunteers who are willing to work the entire shift or the entire period of time necessary over those who are not.
10. If at the beginning of the shift, it appears that an officer is AWOL or tardy, and it is unclear whether that officer will report to duty, the Department shall offer any necessary overtime to officer(s) who placed his/her name on the on-site volunteer list who has not yet been offered overtime. If there are insufficient on-site volunteers who have placed their name on the on-site volunteer list to cover any necessary overtime, the Department shall offer any necessary overtime to to any other on-site volunteers (who

have not put their name on the on-site volunteer list). If there is an insufficient number of on-site volunteers, the Department shall assign mandatory overtime to the person at the top of the mandatory overtime bucket list. Additionally during the first one (1) hour of the shift requiring overtime, the Department shall call any officers who put their name on the off-site volunteer, who have not already been called and offer them the overtime post filled by the mandatory overtime officer. If the off-site volunteer accepts the offer, the mandatory overtime officer shall be relieved of duty when the off-site volunteer reports for duty.

#### **Institutions on 8 Hour Shifts**

For purposes of volunteering for overtime, an officer shall normally be allowed to volunteer for as many as four (4) but no more than four (4) overtime assignments in a work week; and no more than 32 hours in a work week; and no more than 16 consecutive hours of duty on any day. Additionally, an officer will not be allowed to volunteer for overtime on both of the officer's Regular Days Off (RDOs) in any one work week, but will be allowed to volunteer for overtime on one of the two of the officer's RDOs in any one work week.

#### **Institutions on 12 Hour Shifts**

For purposes of volunteering for overtime, an officer shall normally be allowed to volunteer for as many as four (4) but no more than four (4) overtime assignments in a work week; and no more than 16 hours in a work week; and no more than 16 consecutive hours of duty on any day. Additionally, an officer will not be allowed to volunteer for overtime on more than three (3) of the officer's Regular Days Off (RDOs) in any work week in which the employee as four (4) RDOs; and will not be allowed to volunteer for overtime on more than two (2) of the officer's RDOs in any work week in which the employee has three (3) RDOs.

Off site volunteers will be called in this order:

1. COs and CO Sergeants
2. CO Specialists

3. Support Staff
4. Lieutenants and Captains

### **Mandatory Overtime**

If there are insufficient capable and qualified on-site and off-site volunteers to meet the overtime need, the Department may require officers to work mandatory overtime as follows:

1. By the first pay period in January and July, the Department shall create a mandatory overtime list of officers (both C.O.1s and C. O. Sergeants) in the order of reverse agency seniority by facility (not unit), and by shift. If mandatory overtime is necessary on the next shift, the overtime will be assigned to the officer(s). Who have the longest period of time since he/she last worked mandatory overtime for any period of time or voluntary overtime for two (2) hours or more. This list shall be known as the “mandatory overtime bucket list”. C.O. Sergeants will be allowed to fill C.O.1 posts and ordinarily, C.O.1s will be allowed to fill C. O. Sergeant posts, unless the Warden determines that a particular post cannot be filled by a C.O.1. Once that officer has worked a mandatory overtime for any period of time, or voluntary overtime for two (2) hours or more, the officer's name shall be placed at the bottom of the mandatory overtime bucket list.
2. Within seven (7) hours at eight (8) hour institutions, or eleven (11) hours at twelve (12) hour institutions, after the beginning of the shift, the shift supervisor will make a good faith effort to notify those who will likely be required to work mandatory overtime of this fact.
3. Ordinarily, an officer's “Friday” is the last day of the five (5) consecutive work days in that officer's normal work schedule. In the event that an officer is granted annual leave, or compensatory time off, in advance, for what would ordinarily be that officer's final day(s) of the five (5) consecutive work days in that officer's

normal work schedule, the officer's "Friday" shall be the last day, of his normal consecutive work days, that the officer works.

4. Except for employees who normally work a twelve (12) hour shift, the Department will not require an officer to work mandatory overtime on their "Friday". For those employees who normally work a twelve (12) hour shift, they shall remain subject to mandatory overtime using the normal mandatory overtime bucket list.
5. If an officer's name is skipped because the officer is not present or available that day due to annual leave, sick leave, etc., it is the officer's "Friday", or for any other reason, upon return to work the officer's name shall be placed in the appropriate place on the mandatory overtime bucket list according to his/her last overtime day worked, as set out herein.
6. If the Department is unable to fill a twelve (12) hour overtime post with an off-site volunteer, or partially fill it with an on-site volunteer, the Department will assign four (4) hours of mandatory overtime to the person(s) whose name is at the top of the mandatory overtime bucket list.
7. Due to the requirements and nature of the duties of the Reception and Diagnostic Center's transport team, the officers on the transport team will not be placed on the mandatory overtime list; but will be required to work overtime necessary to fulfill transport duties.
8. An officer who is relieved late by one (1) hour or more shall be considered a mandatory overtime.

**“Administrative/Irregular” Shift Officers**

Officers working “administrative/irregular” shifts may volunteer for overtime as an on-site volunteer, or be required to work mandatory overtime according to their place in the mandatory overtime bucket.

The “administrative/irregular” shift officer must either volunteer or be assigned the mandatory overtime before the start of the overtime shift. If an officer that works an “administrative/irregular” shift is unable to start at the normal shift starting time, then a on site volunteer or mandatory overtime officer maybe required to fill the portion of the shift until the officer who worked the “administrative/irregular” shift is able to start the overtime shift.

If an officer is required to work mandatory overtime until an “administrative/irregular” shift officer relieves them, the time between the end of his/her shift and the start of the partial overtime shift shall be compensated.

If a graveyard officer volunteers to work overtime on the “administrative/irregular” shift, the time between the end of his/her shift and the start of the overtime shift shall not be compensated.

For purposes of both mandatory and voluntary overtime, those officers assigned to the “administrative/irregular” shift will be included on the overtime bucket with the day shift officers. If a determination is made by appropriate supervisory personnel that the “administrative/irregular” post can be shut down at 2:00 PM, the above procedures apply. However, if the admin/irregular post cannot be shut down at 2:00 PM, then the admin/irregular officer will assume the OT post at the end of his/her normal shift and the partial overtime assignment will be covered by an officer from the day shift using the overtime bucket system.

### **Miscellaneous**

1. The Department will make the volunteer and mandatory overtime list and daily roster available for inspection by Correctional Officers upon request with reasonable advance notice.
2. When an officer works voluntary overtime for two (2) hours or more, the officer's name shall be moved to the bottom of the mandatory overtime bucket list.

3. When an officer is assigned mandatory overtime for any period of time, the officer's name shall be moved to the bottom of the mandatory overtime bucket list. An officer will not be considered assigned mandatory overtime if the officer is notified by the end of his/her normal shift that he/she will not be required to work overtime.
4. C.O. Specialists who are qualified (by virtue of having attended the Corrections Department Academy) and capable shall be allowed to volunteer for overtime to fill posts designated by the Department as C.O.1 posts, but shall not be allowed to volunteer for posts designated by the Department as C.O. Sergeant posts. Qualified and capable C.O. Specialists who volunteer for C.O.1 posts will not be utilized until after all capable and qualified C. O.1s and C.O. Sergeants who volunteer for overtime are utilized. C.O. Specialists who are qualified and capable may be subject to mandatory overtime to fill posts designated by the Department as C.O.1 posts if all other options have been exhausted.
5. If an officer is scheduled to, or in fact, works four (4) or more hours of overtime the Department shall provide a meal and will provide a break as follows; If fifty percent or less of the posts, not including Non-Mandatory II posts, on a given shift are filled by officers working overtime, the break will be thirty (30) minutes away from post. If more than fifty percent of the posts, not including Non-Mandatory II posts, on a given shift are filled by officers working overtime, the break will be fifteen (15) minutes away from post. For the purposes of determining if fifty (50%) percent of the posts, not including Non-Mandatory II posts, are filled by officers working overtime, fractions of one half (.5) or higher shall be rounded up.
6. Officers on the day shift, swing shift or graveyard shift may not volunteer for overtime on the administrative shift so as to "bump" officers on the administrative shift if the officer is not qualified or

if it is not feasible to allow such "bumping" or if it would be inefficient to utilize such other officers.

7. If an officer was granted any type of leave but does not ultimately require the use of that leave and reports to work, the Department may withdraw any mandatory or voluntary overtime assignments to the officer who was assigned overtime to replace the officer who no longer requires leave.
8. Officers that voluntarily agree to flex their schedule in order to forego some, or all, of their overtime will not be credited for having worked overtime. "Voluntarily agree" means agreement between the Employer and the employee to flex their schedule prior to the extra hours ("overtime") being worked.

### **Annual Leave**

All facilities will maintain the current practice (status quo) when applying for Annual Leave. The Department and the Union agree to form a work group to investigate standardizing Annual Leave application procedures at all institutions.

### **Provision of Information**

1. The Department shall provide the Union with a copy of all memorandums that are read in briefings.
2. The Department shall allow a Union observer to be present at Supervisory Security Meetings. Management reserves the right to enter closed sessions when discussing personnel or other confidential matters.

### **Health and Safety**

1. The Department shall issue correctional officers badges, handcuffs with keys, handheld radios and an individually fitted protective vest. An officer issued such a vest is required to wear such vest while on duty.

2. The Department shall make readily available at designated locations, gas masks and protective CPR equipment (“ambi bags”).
3. Employees have a duty to exercise reasonable care in utilizing any equipment issued to them. Any employee who negligently or intentionally damages or loses any equipment issued to them may be required to pay for the costs of repair or replacement. However, the Department recognizes that equipment may become lost, broken or inoperable due to ordinary wear and tear or through no fault of the employee. If equipment is lost or becomes broken or inoperable due to ordinary wear and tear or through no fault of the employee the Department agrees to replace such equipment.
4. In addition to the 40 hours of administrative leave contained in the Master Agreement (Article 34 Health and Safety, Paragraph 6. Hostage Taking and Battery), the Department will extend the following for those employees taken hostage by inmates to recover from the immediate impact of any physical/psychological harm caused by the action or who have suffered an aggravated battery by inmates. The Department will grant administrative leave for employees’ portion of leave during the first four (4) weeks that the employee begins receiving workers’ compensation benefits. That is, when the injured employee is receiving weekly pay under the Workers’ Compensation Act, the Act normally requires the Employer to pay for 26.5 hours per week while the employee uses his/her sick leave, annual leave or leave without pay to cover the other 13.5 hours per week. The Department will authorize administrative leave, in accordance with SPB Rules, for 13.5 hours per week for the first four (4) weeks, so that the injured employee would not have to use annual leave, sick leave or leave without pay during this time period, up to a maximum of 54 hours of paid administrative leave. The State Personnel Director would have the discretion to approve or disapprove



these 54 hours of pay for each injured employee on a case-by-case basis.

5. Aggravated Battery generally consists of the unlawful touching or application of force to the person of another with the intent to injure that person or another. More specifically, aggravated battery of a correctional employee by an inmate is defined in the section as any aggravated battery that inflicts or causes significant bodily harm to the employee or is performed with a deadly weapon causing significant bodily harm to the employee.
6. When the Department negotiates or renews Joint Powers Agreements for outside work details, it will seek funding for two (2) officers in each detail. If the party contracted with agrees to the aforementioned changes, the staffing will be increased to two (2) officers.
7. When a post is shutdown in a programming area, inmates will not be allowed in that area without a correctional officer present.

### **Electronic Monitoring**

Management shall not monitor or record employee telephone conversations, unless such monitoring is in connection with an investigation.

Management shall not monitor the control centers with cameras or other electronic devices, unless such monitoring is in connection with an investigation.

### **Right of Return**

The Department agrees to make the following changes to Department Policy and that prior to implanting any future changes to Department policy, the Employer shall provide the Union with reasonable notice of the contemplated action and shall bargain with the Union in good faith to impasse prior to implementing changes. This agreement will be memorialized in a Memorandum of Understanding between the

parties, but shall not otherwise be contained in the Supplemental Agreement.

1. If a CO 1 voluntarily terminates his/her employment with the Department of Corrections and later returns to employment with the Department, he/she will return as a CO 1 at the rate of pay at the time of his/her separation or the then-average rate of pay for newly hired CO 1s, whichever is greater.
2. If a CO Sergeant voluntarily terminates his/her employment with the Department of Corrections and later returns to employment with the Department, he/she will return as a CO 1 at the average rate of pay for newly hired CO 1s, or his/her rate of pay at time of separation less ten percent (-10%), which ever is greater.

### **Uniforms**

Two new uniforms (pants, winter shirts, summer shirts and boots) shall be issued to each officer on the anniversary of their hiring. This provision is effective July 1, 2005 at WNMCF and CNMCF. At all other institutions this provision is effective at the time this Agreement is signed.

1. Officers at WNMCF and CNMCF shall be issued two pairs of pants and two winter shirts within one month of signing this Agreement. Officers at WNMCF and CNMCF shall be issued two summer shirts on April 1, 2005. Officers at WNMCF and CNMCF shall be issued a pair of boots on the anniversary of their hiring, effective at the time this Agreement is signed.
2. The Department shall issue two “women’s cut” uniforms (pants, winter shirts, summer shirts and boots) to each female officer on the anniversary of their hiring. The Department shall not replace existing uniforms for female officers. This provision is effective July 1, 2005 at WNMCF and CNMCF. At all other institutions this provision is effective at the time this Agreement is signed.

3. A jacket will be issued to each officer every three (3) years on the anniversary of their hiring.
4. If an officer's uniform is soiled in the line of duty with another person's urine, feces or blood, the officer may trade in the soiled uniform for a replacement uniform. The Department will destroy the soiled uniform.
5. Uniforms that are rendered unserviceable as the result of normal wear and tear or job related activities may be exchanged for serviceable uniforms.
6. The Department agrees to meet with the Union prior to making changes to uniforms in order to allow the Union input.

**APPENDIX D**  
**Department of Health (DOH)**

**Unit and Shift Bidding**

**Section 1. Vacant Position – Application of Seniority**

- A. Whenever a vacancy exists, within an established unit, within a DOH 24-hour facility, the Employer shall fill the vacancy as quickly as possible, with a capable and qualified DOH employee based on criteria set forth in the Seniority Article in the Master Agreement. In this process, it shall be recognized that DOH has a client-related need to maintain a certain degree of consistency of employees within units. Each patient care unit must, at all times, be staffed with at least one-third of the employees having at least one (1) year of experience at the particular unit.
  
- B. DOH shall, in accordance with the Master Agreement, post a list of positions eligible for bid by unit and shift for all bargaining unit positions within DOH facilities. These lists shall be posted in each facility Human Resources Office (HR Office) where general postings are maintained and the Union shall be provided a copy upon request.
  
- C. As unit and shift positions become vacant, the facility HR Office shall use all submitted/received Unit/Shift bid forms to identify the qualified employee with the most seniority as defined in the Seniority Article in the main body of the contract and contact that employee regarding the vacancy. Bids will be kept on record in the HR Office and unsuccessful bids shall be kept on file for future use. The facility HR Office shall make offers to employees, based on seniority as defined in the Seniority Article in the main body of the contract, after ensuring that each unit is staffed with at least one-third of capable and qualified employees who have at least one (1) year of experience at the particular unit and the employees offered vacant positions meet any and all special qualifications for the position. Before accepting a shift

bid the employee shall be contacted directly and told where the opening exists and will have 72 hours to decide if they will take the shift bid. If the employee does not respond within 72 hours then the employee has denied the shift bid and it shall go to the next bidder. After the shift bid is accepted by the employee the facility has 14 days to transfer the employee to the new position, unless operational needs require the employee to remain in their current shift. In the event that an employee has to remain in their current shift due to operational needs, management shall notify the employee. In case of a tie between two or more applicants, the tie shall be broken according to the Seniority Article in the main body of the contract.

- D. The Employer shall continue the existing practice of rotating days off and set days off as applicable.

At Los Lunas Community Program all shift bids will include pass days. Once an employee has successfully accepted a shift bid, the pass days will not be changed. The Employer shall have fourteen (14) days to make arrangements to transfer the successful employee.

- E. DOH employees who have an interest in bidding for a position in a 24-hour facility, with established units and shifts, may submit a Unit and Shift Bid form to the facility HR Office where they have an interest in bidding for vacant positions.
- F. If the Unit and Shift Bid forms do not result in a minimal number of capable and qualified employees for any facility unit or shift position, the position shall then be subject to external recruitment.

## **Section 2. Temporary Reassignment**

The Employer may temporarily reassign an employee to another unit and/or shift if there is a care/safety/security need to do so. The Employer shall first solicit qualified volunteers from the unit. If more

than one (1) qualified employee volunteers, the employee with the most facility seniority shall be selected. If there are insufficient volunteers, the least senior qualified employee shall be reassigned. The Employer shall provide the employee with seven (7) calendar day written notice of the temporary reassignment, if the temporary reassignment shall result in a different shift or geographic work location. The Employer shall only make such reassignments where there is a need to do so for care/safety/security reasons.

The Employer retains the right to temporarily reassign employees under investigation to alternate units, shifts, or other work assignments, unrelated to seniority rights when the Employer determines there is a need to do so pending the conclusion of internal investigations. Temporary reassignment shall not exceed forty-five (45) calendar days unless the internal investigation is not concluded in which case the reassignment shall extend until the conclusion of the investigation.

Any employee filling in any temporary reassignment with the exception of an employee under investigation shall remain in that assignment for up to but not more than forty-five (45) calendar days. If the need for the temporary reassignment exceeds the forty-five (45) calendar days, the temporary reassignment shall be rotated if sufficient, capable, and qualified staff are available.

### **Section 3. Definition of Units**

DOH facility includes the following: New Mexico Behavioral Health Institute (NMBHI), Los Lunas Community Program, Fort Bayard Medical Center and the New Mexico Veterans Center. Units are defined as follows:

New Mexico Behavioral Health Institute:  
Nursing Services:

- (1) Ponderosas 1 & 4 (1 unit)
- (2) Ponderosa 2 & 3 (1 unit)

- (3) Meadows (1 unit)
- (4) Tesuque I & II (1 unit)
- (5) ARCFS/ TLU (1 unit)
- (6) CARE (1 unit)
- (7) Forensic (1 unit)
- (8) Pinewood, SPU & Choices (1 unit)
- (9) Float Pool (1 unit)

- Custodial Services (1 unit)
- Laundry (1 unit)
- Food Services (1 unit)
- Switchboard (1 unit)
- Steam Plant (1 unit)
- Security (1 unit)
- Community Based Services (1 unit)

New Mexico Veterans Center is defined as one (1) unit.  
Los Lunas Community Program is defined as one (1) unit.  
Fort Bayard Medical Center is defined as one (1) unit.

#### **Section 4. Training Opportunities**

The Employer shall determine and schedule mandatory training to ensure all employees have the training necessary to perform their jobs. Managers shall meet with employees in the various departments to discuss training opportunities at least once every three (3) months. Employees shall have training opportunities that are above and beyond the requirements of DOH for their respective job descriptions. All training requests must be either approved or denied in writing.

The Employer shall allocate 50% of discretionary training monies, if possible within existing and available resources, to provide training to employees who wish to attend training to become qualified for a different unit. Any employee who wishes to attend training to qualify for a certain unit shall submit a written request to attend such training to the facility HR Office. If resources are limited, employees with

agency seniority shall be given preference to attend training over employees with lesser seniority, provided all mandatory training requirements, established by the Employer, have been met.

The facility LMC's shall meet to discuss training opportunities and assure that the process is fair and equitable.

In the event a training program(s) or schedule(s) is developed, all bargaining unit staff shall be notified by posting the schedule through the HR Office/Training Office at each facility, and shall be selected in the order of seniority of interested staff who meet the qualifications for such training and/or schedules.

### **Section 5. Vacation Schedules**

Vacation time (forty (40) or more hours of vacation leave) shall be available on a first come – first serve basis but employees may not request vacation time more than one (1) year in advance. In the event two or more employees request the same time off, and not all requests may be approved, the employee with the greatest agency seniority shall have his/her request approved. For purposes of this section, requests submitted within the same calendar day shall be considered as submitted at the same time. The Employer shall maintain a log at each Human Resources Office to track vacation requests, by date, and their disposition. At the Los Lunas Community Program, the Employer shall maintain a log at each individual employee's work location. Employees shall not be denied vacation leave if they will have accrued the hours necessary one pay period prior to the dates requested, unless denied for operational needs.

Working lunch schedules:

Both parties agree, unless already established, that there may be a need for a Department, due to operational needs, to be on a working lunch. The parties agree to meet at each facility LMC to discuss and provide a recommendation to facility management for their consideration.



Trading work day:

Both parties agree to meet at each facility LMC to discuss and provide recommendations to facility management for their consideration.

DOH LMC agrees to meet and discuss physical fitness and provide recommendations to management for their consideration.

**Section 6. Uniforms/Dress Code**

- A. The Employer agrees to continue the existing uniform clothing purchase practice at each DOH Facility. Except where items listed are already provided to employees, the Employer will provide the employee with the following:
- B. All AFSCME covered DOH Direct Care Staff shall receive two (2) scrub tops and two (2) scrub bottoms per year by the first pay period in August.
- C. For all AFSCME covered DOH maintenance workers– (3) shirts, per year by the first pay period in August.

**Shoes/Boots:**

- A. Protective Bathing Footwear: For those employees exposed to bath water while bathing residents/patients the employee shall be provided with protective bathing footwear.
- B. Non-Slip Shoes: For dietary employees the Employer shall reimburse up to \$50.00, contingent upon the employee presenting a receipt, for one (1) pair of non-slip footwear per year.
- C. Safety Toe Footwear: For employees required by law to wear safety toe footwear, the employee will be reimbursed up to \$125.00, contingent upon the employee presenting a receipt, for one (1) pair of safety toe footwear per year.

- D. Any and all safety items required by law and relevant DOH safety policy including gait belts, safety belts, safety glasses, protective gloves and protective clothing will be supplied and provided by the Employer. Employees must have the necessary equipment to do their jobs per OSHA standards for their specific job title. Management will meet with labor and go over the standards to make sure the necessary equipment is provided. Monthly inspections of such equipment shall be done and items worn, damaged, or defected will be reported to the appropriate department manager. The department manager shall assess the equipment and take the appropriate actions to immediately repair or replace such items.

### **Section 7. Pay, Allowances and Classification**

- A. Any bargaining unit employee who must be licensed in order to perform his or her job for the Department of Health, and who must pay a license fee or who must attend training to maintain said license shall be paid an educational allowance in the amount of ninety dollars (\$90.00). This allowance may be applied toward licensure fee or for training at the discretion of the employee. This amount shall be paid in July of every fiscal year.
- B. Employees at DOH facilities shall be paid mileage for using their personally owned vehicle for official state business pursuant to DFA policies, procedures and regulations when a state vehicle is not available for their use.
- C. The parties agree to meet at the DOH AFSCME LMC to discuss weekend pay and provide recommendations to facility management for their consideration.

### **Section 8. Float Pool**

The agency shall develop Float Pools in all facilities, by July 1, 2010.

### **Section 9. NMBHI Overtime Scheduling**

### **A. Mandatory Overtime**

1. The first three names on the mandatory overtime list shall be posted in their respective units within the first 3 hours of each shift.
2. Within six (6) hours after the beginning of a shift, the supervisor will make a good faith effort to notify those employees who will likely be required to work mandatory overtime. An employee must complete 4 or more hours of overtime (voluntary or mandatory) for their name to be moved to the bottom of the mandatory overtime list.
3. For employees on a 5 day work week, the facility will not require the employee to work mandatory overtime on their last day of scheduled work. If an employee is skipped for mandatory overtime on their last scheduled day of work, their name shall remain in its position on the mandatory overtime list until they complete 4 or more hours of overtime (voluntary or mandatory) for their name to be moved to the bottom of the mandatory overtime list.
4. Float pool employees will have a mandatory overtime list like all other units and will be required to perform mandatory overtime to cover any shortages within the float pool only after no volunteers who are qualified can be found.
5. All mandatory overtime lists shall be initiated by reverse facility seniority (measured by the length of continuous service in a career or term position, including a probationary period in the employee's current facility assignment) within the work group in each unit.

### **B. Voluntary Overtime**

1. If overtime is required for the immediately following shift, the facility shall first offer the overtime to the employees who are on duty at the facility that are capable and qualified to perform the necessary tasks. Within the first 6 hours, the supervisor at each unit shall take the names of any staff on duty in their unit who volunteers to work overtime for the following shift. The supervisor of each unit shall call the

- house nurse on duty and give the house nurse the list of volunteers within their unit.
2. On site volunteers for overtime that decide they no longer wish to volunteer for the overtime shift shall remove their name from the volunteer list at least 6 hours prior to the beginning of the next shift. (volunteers for 3:00pm shift must withdraw their name by 9:00am, volunteers for 11:00pm must withdraw their name by 5:00pm, volunteers for 7:00am must withdraw their name by 1:00am) If an employee fails to remove their name from the volunteer list and does not report for the overtime shift, they will be considered refusing an overtime assignment and may be subject to disciplinary action.
  3. If there are more capable and qualified on-site volunteers than are necessary to meet the overtime needs, the overtime shall be assigned to the on-site volunteers by facility seniority.
  4. If there are not enough qualified and capable volunteers on-site, the facility shall offer overtime to qualified and capable employees of the facility who are off-site and not on duty at the facility. Off-site volunteers shall be utilized as follows:
    - a. The facility shall maintain an off-site volunteer list, which lists all staff at the facility who would like to be on the off-site volunteer list.
    - b. Each supervisor shall have a unit off-site list that shall be updated every month and shall give a copy of the list to the house nurse office.
    - c. The house nurse office shall have a master off-site list comprised of all unit off-site lists. This master list shall be updated monthly.
    - d. These off-site lists shall be by facility seniority.
    - e. The supervisor or house nurse is required to make one attempt to contact off-site volunteers. If an employee is not reached the supervisor or house nurse will continue down the list. If the employee is contacted and accepts the overtime they will report in a timely manner for the overtime shift. If they fail to report in a timely manner

- for the overtime shift they may be subject to disciplinary action. If the employee refuses the overtime shift, the employee will not be required to report for overtime.
- f. The house nurse and supervisor shall document the date, time and result of all successful and unsuccessful attempts to contact off-site volunteers.
  - g. If the facility has exhausted all these steps and there is still overtime, employees who are CNA certified will be allowed to volunteer for overtime before going to the mandatory overtime lists. These employees include but are not limited to, CNA certified recreational therapists and physical therapy aides.
5. All voluntary overtime lists shall be initiated by facility seniority (measured by the length of continuous service in a career or term position, including a probationary period in the employee's current facility assignment) within the facility employees qualified to perform the necessary task (psychological technicians/CNA certified employees) and following the procedures outlined below.
  6. Employee can volunteer for up to 4 overtime shifts per work week and no more than 32 hours in a work week. No employee shall work more than 16 consecutive hours in a work day. An employee shall not work overtime on both scheduled days off in a work week, but will be allowed to volunteer for overtime on one of their scheduled days off in a work week.

## **Section 10. New Mexico State Veterans' Home Staffing and Overtime Management System (SOMS)**

### **General Information**

- A. The Staffing and Overtime Management System (SOMS) is a process utilized to fairly and equitably distribute overtime hours.
- B. SOMS has been reviewed and approved by AFSCME NMSVH Members.

- C. Employees will continue to be supervised by their Supervisor/Manager.
- D. Supervisors/Managers will continue to be responsible for supporting, supervising, training, and evaluating each employee supervised.
- E. Supervisors/Managers will continue to develop staffing schedules for each program area. Each schedule will include 40 hours of work for each full-time employee.
- F. A tentative schedule (with open slots) will be posted on E Hall the first week of each month for employees to review and prepare volunteer requests through the Shift Coordinator.
- G. Employees will submit volunteer requests (posted on E Hall) by 5PM on the 2<sup>nd</sup> Monday of each month. This volunteer list will be for the next up-coming month.
- H. Overtime will be offered in 4 hour increments based on the needs of the facility, and only up to 12 hours per week per person. Management will determine the overtime needs of the facility.
- I. Employees can only work a maximum of 12 hours in a row without an 8 hour break in between.
- J. The Shift Coordinator will enter the data from the volunteer list and will then post the new revised schedule 7 days prior to the beginning of the month.
- K. The Shift Coordinator will utilize a computer database to determine seniority and who is most capable and qualified to work the shifts needing coverage.
- L. The Shift Coordinator will staff overtime hours using acuity figures.
- M. All staff are required to provide a contact phone number.
- N. Overtime limits can be adjusted at the discretion of management as needs warrant or in case of an emergency as declared by Administration.

### **Priority Ranking for Scheduling Overtime**

1. On-Site Volunteers
2. Off-Site Volunteers
3. Mandatory

## **Voluntary Overtime**

### **A. On-Site Volunteers:**

1. Employees who are at work may volunteer to work a shift directly following their regular shift for needed coverage.
2. Employees may not volunteer to work at a specific location.
3. On-Site Volunteer lists will be available on E Hall.
4. No later than 5 PM on the 2<sup>nd</sup> Monday of each month, you must sign up on the On-Site Volunteer List for the upcoming month.
5. An employee can withdraw their name from the On-Site Volunteer List up to 2 hours before the shift for which they have volunteered. However, employees should only volunteer for shifts that they know they can cover and understand that the facility is relying on you to show up for your volunteer shift. Employees that consistently volunteer and cancel will be counseled by their supervisor. If employees still consistently fail to honor their volunteer shifts applied for, they may lose their ability to volunteer for the next 30 day schedule.
6. Employees who do not withdraw their names from the list by the deadline and those refusing to work will be subject to progressive disciplinary action.
7. Employees cannot volunteer to work more than 12 hours without an 8-hour break.
8. Employees on the On-Site Volunteer list and working at the time of the vacancy shall receive the offer of overtime first in order of seniority, based on the computer data.
9. Employees who work a 4 hour volunteer shift will move to the bottom of the list for potential mandatory overtime.
10. Employees are responsible for reviewing all schedules as they are posted to ensure that they are aware of where their overtime request has been inserted. (posted on E Hall)
11. The Shift Coordinator will prepare overtime forms based on the volunteers for needed schedule coverage; forward them to the employee for signature; and submit the overtime forms

and the newly prepared schedule to the Nursing office for signature and approval.

**B. Off-Site Volunteers:**

1. Employees may volunteer to come in early to work a portion of an extra shift or to work on one of their pass days.
2. Employees may not volunteer to work at a specific location.
3. Off-Site Volunteer lists will be available on E Hall.
4. No later than 5 PM on the 2<sup>nd</sup> Monday of each month, you must sign up on the Off-Site Volunteer List for the upcoming month.
5. An employee can withdraw their name from the Off-Site Volunteer List up to 2 hours before the shift for which they have volunteered. However, employees should only volunteer for shifts that they know they can cover and understand that the facility is relying on you to show up for your volunteer shift. Employees that consistently volunteer and cancel will be counseled by their supervisor. If employees still consistently fail to honor their volunteer shifts applied for, they may lose their ability to volunteer for the next 30 day schedule.
6. Employees who do not withdraw their names from the list by the deadline and those refusing to work will be subject to progressive disciplinary action.
7. Employees cannot volunteer to work more than 12 hours without an 8-hour break.
8. Employees who work the facility's weekly "cap" (12 hours per week) on overtime will move to the bottom of the list for potential mandatory overtime.
9. Employees are responsible for reviewing all schedules as they are posted to ensure that they are aware of where their overtime request has been inserted (posted on E Hall).
10. The Shift Coordinator will prepare overtime forms based on the volunteers for needed schedule coverage; forward them to the employee for signature; and submit the overtime forms



and the newly prepared schedule to the Nursing office for signature and approval.

### **Mandatory Overtime**

- A. If there are no volunteers to cover the needed shifts, On-Site employees will be required to stay and cover the necessary shifts.
- B. Reverse seniority will be used to fill the shifts needing coverage. Reverse seniority means that the newest employees in the program will be the first to be notified.
- C. Once an employee has worked mandatory overtime for at least 4 hours, the employee's name shall be moved to the bottom of the mandatory overtime list.
- D. Employees who have worked 4 hours of voluntary overtime, regardless of seniority, shall move to the bottom of the mandatory overtime list.
- E. Mandatory Overtime needs will be met by On-Site employees (employees who are at work) who will be required to stay to work the additional hours.
- F. The Shift Coordinator will make a good-faith effort to notify the top five (5) staff on the Mandatory Overtime list in advance that they may be contacted to work mandatory overtime. Failure of an employee to respond to a phone call to work mandatory overtime, when all in house processes have been exhausted, shall mean that the employee is subject to progressive disciplinary action.

Employees will not be required to work mandatory overtime on days they have pre-approved annual leave, administrative leave or sick leave or on their pass days, UNLESS a facility emergency has been declared by the Administrator.

### **Section 11. Fort Bayard Medical Center Overtime Scheduling**

If overtime is required, Fort Bayard Medical Center will follow the procedures for scheduling overtime contained in the Master Agreement at Article 29, Section 2 Overtime Scheduling.

**Section 12. Los Lunas Community Program Overtime Scheduling**

If overtime is required, Los Lunas Community Program will follow the procedures for scheduling overtime contained in the Master Agreement at Article 29, Section 2 Overtime Scheduling.

Both parties agree to meet within thirty (30) days of this Agreement to establish and adopt an Overtime Scheduling policy and procedure guideline.

**Section 13. LMC agreements**

Both parties agree to continue LMC meetings and practices at each facility. The parties shall continue to meet and develop committees that are specific to each facility.

**APPENDIX E**  
**NM Corrections Department - Adult Probation & Parole**  
**Division (PPD)**

1. The New Mexico Department of Corrections (Department) and the American Federation of State County and Municipal Employees (AFSCME) care for the safety and well being of Probation/Parole employees and desire to work co-operatively with each other to ensure a safe and productive work place while providing for the public safety. The parties have agreed to the following:
2. The Department will work to increase the efficiency of the Criminal Management Information System (CMIS) by doing an assessment of the system and making the investment, within current budget limitations, to increase the system speed and thereby employee productivity.
3. Probation Office support staff will be given input on what training is required for their positions. Training programs to include topics relevant to the work place (i.e. verbal judo, office safety, drug, and gang recognition). The Department shall make reasonable accommodations to allow support staff to attend Department and outside training programs, subject to budget availability.
4. The parties agree that Probation/Parole can benefit from job related training provided by outside agencies. The Department will support Probation/Parole employees who take the initiative to seek outside training where budget permits.
5. The Department agrees to utilize PPD certified instructors to conduct training within the Probation and Parole Division.

6. The Department will provide a First Aid Kit in each District Office and in each state vehicle used by Probation/Parole employees.

The Department will maintain and keep such kits supplied and employees will report maintenance and supply needs to the Department. Each kit will include a CPR mask.

The Department will provide defibrillators at every worksite. For worksites with more than one floor, the Department will make a good faith effort to provide a defibrillator on each floor by the end of FY10 pending budget availability.

7. The Department agrees to provide a Hepatitis B vaccine and annual tuberculosis screening for all Probation/Parole employees. The Corrections Department will advertise the availability of the Hepatitis vaccine and TB screening to Probation/Parole employees at least twice a year. Any travel time related to Hepatitis B vaccination and annual tuberculosis screening will be on Department time during the employees' normal work day, and Department vehicles will be provided for any travel necessary.
8. The Corrections Department Probation/Parole Division will provide all Probation/Parole Officers with Level 3 body armor in accordance with the August 2008 Justice Department standards. Body armor will be replaced upon expiration date.
9. The Department will provide firearm lock boxes in every District Office that has an armed Officer.
10. All field visits will be performed by a minimum of two Officers. All Officers conducting field visits will be required to carry Probation/Parole issued equipment and at a minimum will include: a kevlar vest, baton, pepper spray, flashlight, radio, stick-proof gloves, handcuffs and a pouch for disposable gloves and paper respiratory face mask.

11. When a Department employee is required by the Department to carry a cell phone, the Department will provide adequate minutes to conduct state business. Employees will not be required to pay for minutes used for state business. The employee will be responsible, and required to pay, for minutes used for personal use.
12. The employees represented by AFSCME and Probation/Parole management will form a Labor-Management Committee, consisting of six AFSCME representatives and up to an equal numbers of management representatives. The Labor-Management Committee shall be free to address any topic of mutual interest and concern which affects working conditions of bargaining unit employees. The Labor-Management Committee will meet at least once every two months during the period of the current Collective Bargaining Agreement.

The parties agreed that the Labor-Management Committee is an appropriate way to evaluate the value and effectiveness of matters of mutual concern. It is also understood that neither the Labor-Management Committee discussions nor the outcome thereof shall be considered or treated as constituting a binding agreement between the parties unless reduced to writing and signed and dated by the authorized representatives of the parties.

13. In addition to the 40 hours of administrative leave contained in the Master Agreement (Article 34 Health and Safety, Paragraph 6. Hostage Taking and Battery), the Department will extend the following for those employees taken hostage in the performance of their official duties to recover from the immediate impact of any physical/psychological harm caused by the action or who have suffered an aggravated battery or aggravated assault in the performance of their official duties. The Department will grant administrative leave for the employees' portion of leave during the first four (4) weeks that the employee begins receiving

worker's compensation benefits. That is when the injured employee is receiving weekly pay under the Workers' Compensation Act, the Act normally requires the Employer to pay for 26.5 hours per week while the employee uses his/her sick leave, annual leave or leave without pay to cover the other 13.5 hours per week. The Department will authorize administrative leave in accordance with SPB Rules, for 13.5 hours per week for the first four (4) weeks, so that the injured employee would not have to use annual leave, sick leave or leave without pay during this time period, up to a maximum of 54 hours of paid administrative leave. The State Personnel Director would have the discretion to approve or disapprove these 54 hours of pay for each injured employee on a case-by-case basis.

Aggravated Battery generally consists of the unlawful touching or application of force to the person or another with the intent to injure that person or another. More specifically, aggravated battery of a correctional employee by an individual in the performance of their official duties is defined in the section as any aggravated battery that inflicts or causes significant bodily harm to the employee or is performed with a deadly weapon causing significant bodily harm to the employee.

Aggravated assault generally consists of the attempted unlawful touching with a deadly weapon or the attempted application of force with a deadly weapon.

**APPENDIX F**  
**New Mexico Department of Transportation**  
**(NMDOT)**

It is understood by the parties involved that the NM Department of Transportation (NMDOT) cares for the safety and well-being of its employees and desires to work cooperatively with AFSCME and its NMDOT members to ensure worker safety and satisfaction. Certain measures have been recommended by AFSCME and NMDOT and the parties have agreed to the following:

**Use of Cell Phones for Business Purpose**

The Department Secretary or designee will issue an Intradepartmental Correspondence (IDC) that prohibits managers and supervisors from requiring employees to use a personal cellular phone and have it with them on the job site for purpose of communicating with the manager or supervisor on work related issues.

**Purchase of Equipment**

The purchase of equipment by the NMDOT State Maintenance Bureau Equipment Manager will be an agenda item for the NMDOT Labor-Management Committee. Every attempt will be made to consider the comfort and safety of NMDOT employees when purchasing heavy equipment and vehicles used by the bargaining unit in the performance of their job.

**Clothing Allowance for Bargaining Unit Employees in Construction Classifications**

Employees assigned to perform field and laboratory duties, who are required to wear protective clothing by OSHA or the Department, and such clothing is not provided by the Department, shall be entitled to a clothing allowance. The respective Division Directors and/or District Engineer shall identify a list of eligible employees on a quarterly basis.

A cash payment of one hundred thirty-two dollars (\$132.00) shall be paid in the months of January, April, July and October of the fiscal year. Such payments will be electronically transmitted directly to the employee's designated banking institution or mailed to the employee's last known home of record in accordance with the current procedures.

Employees receiving a clothing allowance shall be required, as a condition of employment, to purchase and wear clothing that will protect them from injuries on the-job.

### **Highway Maintenance Worker & Mechanics Classification Studies**

The Department agrees to initiate a class study for the Highway Maintenance Worker classification through the State Personnel Office by December 30, 2009. There is a provision in the Master contract that allows AFSCME to identify and propose the review of any positions. AFSCME is encouraged to mutually assist DOT in this effort.

The State Personnel Board has agreed to study the Mechanics classification in fiscal year 2010.

### **Health and Safety**

No plugged tire shall be permanently mounted on a steering axle on a five/ten yard dump or transport truck. A directive will be issued by September 30, 2009.

The NMDOT will collaborate with the NMDOT Labor-Management Committee to develop a policy and procedure that will detail the safe removal and disposal of animal carcasses from the roadway. The first meeting will be held to discuss the issue by July 31, 2009, and the goal is to have the policy/procedure finalized by November 30, 2009.



**Construction Crew Work Schedules**

Due to Operational needs, employees in Construction Crews may change established work schedules within fourteen (14) calendar days with written notice.

**APPENDIX G**  
**NM State Fair Commission**

**Section 1. LMC**

The parties agreed that the Labor-Management Committee is an appropriate way to evaluate the value and effectiveness of matters of mutual concern. AFSCME and NM State Fair Commission shall in good faith discuss and implement a training plan for employees to be in compliance with OSHA requirements and/or to increase an employee's ability to effectively meet his/her job requirements. The Labor-Management Committee shall also discuss a plan to have a boot/clothing allowance within budgetary constraints. The Labor-Management Committee shall have a goal of completing these plans for training and clothing by July 1, 2010.

**Section 2. Provide AFSCME with Employee Info**

The Employer will provide the local union quarterly with an electronic file of all employees' name, date of hire, job classification, and bargaining unit status.

**Section 3.** All bargaining unit employees shall be able to attend the State Fair Commission meetings during work hours if: the meeting is held in Albuquerque (the agency will not be required to pay mileage reimbursement). The bargaining unit employee shall receive prior permission from his/her supervisor and shall not be denied except for operational needs. Employees must notify the agency designee within 24 hours of wishing to attend.

**APPENDIX H**  
**Human Services Department (HSD)**

**Section 1. Caseloads**

All CSED and ISD offices shall review caseload and workload distribution in their offices at least on a quarterly basis. Nothing in this Agreement shall preclude offices that distribute caseloads more frequently from using current practices.

**Section 2. Health and Safety**

- A. HSD will annually provide on-line training to employees on protection from infectious diseases.
- B. HSD shall inform employees about pandemics in accordance with guidelines and direction from the Department of Health and the Governor's Office.
- C. HSD and the Union agree to explore ways in good faith to educate clients and customers to utilize phone, rather than in-person interviews when they are ill.
- D. HSD agrees to provide for appropriate after hours security in its office when clients remain on the premises after 5:00 p.m.
- E. The parties will work to develop a procedure that provides for the covert notification of employees, and law enforcement officials if appropriate, when a potentially dangerous situation is occurring.

**Section 3. Credit for work**

- A. Child Support Legal Assistants (CSLA) shall receive credit for work completed when the Child Support Attorney signs off, not when it is approved by the court.
- B. CSLAs who work intervention, consolidation and third party joinder cases that include a substantive pleading shall receive an

exception credit for completed work if they do not otherwise receive credit for such work.

- C. Consideration will be given when evaluating CSLA performance when completed petitions, motions and hearing preparations have been submitted but not yet reviewed and signed by attorneys.

**APPENDIX I**  
**Public Regulation Commission (PRC)**

**Section 1.** PRC employees may attend State-sponsored health fairs. The PRC Human Resource Bureau will continue to accommodate requests for appointments to review benefits.

**Section 2. SFMO and PRC Transportation Division Equipment.** The PRC and the Union will meet within ninety (90) days of the effective date of the pending Collective Bargaining Agreement (CBA) to establish an equipment list per State Fire Marshall's Office (SFMO) Bureau and for the Transportation Division. The parties will meet annually to-update the listing. The parties shall consist of four (4) Union members (Code Enforcement Bureau, Fire Investigations, Fire Service Support, and Transportation Division) and the PRC designating their own participants.

**Section 3. State Vehicles used by SFMO.**

Subject to budget availability and DFA approval:

1. SFMO staff assigned to perform field inspection and investigations will have a state vehicle for use in the course of their job assignment. State vehicles that are compatible with the area and/or geographic locations will be made available to employees whose duties require them to travel in remote, mountainous, construction sites and unimproved road conditions. SFMO employees will be given an opportunity annually to provide input to and make comment on the type of vehicles included in the SFMO fleet.
2. All vehicles assigned to SFMO staff will have GPS tracking units. All SFMO vehicles will have the following equipment if available and applicable: emergency lights and siren; two-way radio; first aid kit; fire extinguisher; roadside emergency kit; and mounted flashlight unit. Fire investigation staff will have available the appropriate vehicle that can carry equipment and

other investigative tools that are required to conduct fire investigations.

3. The PRC will ensure that each vehicle contains procedures in the event a State-vehicle needs emergency repairs, including towing the State vehicle to an approved repair center as needed.

**Section 4. SFMO Training.** Training and continuous education is encouraged. Within ninety (90) days of the effective date of the CBA, the parties will confirm and/or modify the SFMO listing of required and desired training which will include the courses and/or certifications involved and the priority order in which they should be attained by the employee. Consideration should be given to National Fire Academy courses, New Mexico Firefighters' Training Academy courses, and training opportunities from other government entities and the private sector. The parties will review the listing annually and will make adjustments as appropriate. Upon approval, employees shall be granted the time and expenses to attend such training as scheduled and the budget allows. The contemplated training shall include as mandatory HAZMAT ICS awareness and NIMS 1<sup>st</sup> Responder Level.

**Section 5. SFMO Uniform Policy.** The following is subject to budget availability and DFA approval:

SFMO staff who are required to be in uniform have the following: will be allocated and paid the amount of \$175.00 per calendar year, distributed in increments in their bi-weekly pay checks.

1. One (1) pair of ANSI-approved black steel-toe work boots will be issued to each member of staff at the SFMO as needed;
2. Five (5) work uniform (navy blue or black) shirt and pants will be issued. The approved patches will be affixed on each sleeve as in past practice;

3. Five (5) t-shirts (navy blue or black) with NMPRC SFMO logo on the shirt;
4. Five (5) polo shirts with NMPRC SFMO logo will be issued to all staff;
5. One (1) nylon windbreaker with NMPRC SFMO logo on the front and “State Fire” on the back will be issued to all staff;
6. One (1) winter work jacket/ coat (navy blue or black) with NMPRC SFMO logo on the front and “New Mexico State Fire Marshal’s Office” on the back will be issued or replaced as needed;
7. One (1) all-season/weather coveralls (navy blue or black) will issued with NMPRC SFMO logo on the front and “State Fire” on the back. Approved patches will be sewn on the sleeves; the coveralls will be replaced as needed;
8. One (1) each white shirts consisting of long sleeve and short sleeve will be issued to each staff member;
9. One (1) black belt to be worn with the approved uniform will be issued for each staff member;
10. One (1) pair of black dress shoes or boots will be issued to each staff member to be worn as part of the uniform;
11. One (1) pair all-season uniform dress pants will be issued to all staff members and replaced as necessary;
12. One (1) black tie will be issued to all staff who wear the dress uniform;
13. Two (2) badges will be issued to all staff members; also a belt clip for the badge will be issued;
14. One (1) nametag will be issued to each member of staff who is required to wear a dress uniform; and
15. One (1) set of collar brass will be issued to each staff member who is required to wear a dress uniform.

Union agrees that certain uniform items as listed above will be replaced as necessary for normal wear and tear. Any uniform components that are damaged, soiled or any other issue while

performing official duties that makes the wearing of that uniform component impractical, that uniform item will be replaced at no cost to the employee. Uniform components damaged outside the course of work shall be replaced by the employee.

Employees shall return all PRC paid uniforms and equipment upon request, for replacement or upon separation.

PRC will select final uniform color(s) and design with input from each Bureau.

SFMO employees will be given an opportunity to provide input and make comment on uniforms.

**Section 6. SFMO Limited Medical Evaluations.** The PRC will form an internal task force to study limited medical evaluations for SFMO fire inspectors/investigators. The limited medical evaluation is to establish baseline medical data for purposes of assessing exposure to hazardous materials and toxic environments. This task force shall include two (2) bargaining unit members and two (2) members of management. This task force shall commence thirty (30) days following ratification of the CBA. The task force committee shall present a report of its findings and recommendations to the PRC and the Union within six (6) months.



**APPENDIX J**  
**Public Defender Department (PDD)**

**Section 1. Health and Safety**

After contact with a client, or potential client, who has been found by Department of Corrections or county jail testing to have Tuberculosis, Hepatitis B, Hepatitis C, or HIV the Department employees will be screened by a Health Care Provider determined by the Department.

The Department will provide annual training to bargaining unit employees on infectious diseases.

District Defenders shall consult annually with jail management to discuss safety procedures at jails and inform all staff of the procedures.

The Department will provide first aides kits including CPR masks for all floors of each office and state vehicles beginning in Fiscal Year 2010.

**Section 2. Friday Flex Schedule**

Department employees who as part of their job duties are required to work in a municipal, county or state detention or correctional facility shall be allowed to flex their schedule by fifteen (15) minutes for each contiguous four (4) hour block of time worked in a correctional facility. All time must be used in the week earned and cannot be converted to pay or accumulated. All time earned in this fashion is expected to be utilized on Friday afternoon to shorten the work week.

**Section 3. Training**

The Department in consultation with the agency LMC shall conduct an annual survey of all employees to assess employee training needs, including but, not limited to, health and safety training.

**APPENDIX K**  
**Taxation and Revenue Department (TRD)**

It is understood by the parties involved that New Mexico Taxation and Revenue Department (TRD), cares for the safety and well-being of its employees and desires to work cooperatively with AFSCME and it's members on programs to ensure worker safety and increased job satisfaction. Certain measures have been recommended by AFSCME and TRD has agreed to the provisions regarding safety and morale measures as described herein.

**Section 1: Taxation & Revenue Department**

**Identification Badges** – The Taxation & Revenue Department shall provide Identification badges to each bargaining unit employee within three (3) months of ratification of this contract as appropriate to each division and its official use of such badges. These badges will be worn and visible at all times. The badges will be used for identification and official purposes only and shall include the employees' name, department and division. The Department recognizes that badges may become lost or damaged due to ordinary wear and tear or through no fault of the employee. If badges are lost or damaged due to ordinary wear and tear or through no fault of the employee the Department agrees to replace such badges. If it is found that the employee has destroyed or intentionally damaged the badge, the employee will pay for the replacement of the badge issued. Employees shall adhere to the TRD employee identification badge policy.

**Employee Safety** - The Department's Health & Safety Committee shall be comprised of equal labor and management representatives and shall examine and recommend solutions for issues regarding number of employees required to perform such tasks as but not limited to opening and closing a field office, making night deposits, and leaving the office to replenish cash drawer change. The Health & Safety Committee shall also conduct a survey to address the safety

concerns of the employees in the Department. When the survey is completed the Health & Safety Committee shall meet within two (2) weeks of the completion of the survey to discuss any other safety concerns found in the field offices to prioritize and recommend solutions to these issues affecting TRD employees.

These recommended solutions shall be presented to the respective Division Director for their consideration. Final recommendations shall be forwarded to the Agency LMC.

Employees, in the Department, who are faced with an aggressive customer and feel their safety and security is in question, may refer the customer to their manager. Once a customer is referred to management, the bargaining unit employee shall not be required to complete the transaction. If the manager needs to use a bargaining unit employee's computer system, the bargaining unit employee shall sign out of their system and the manager shall sign in with their own clerk identification. Employees shall not be retaliated against in any way for referring an aggressive customer to management.

**Peer Review** - All peer reviews are intended for training and educational purposes.

**Scheduling & Overtime** - Employees of TRD/MVD shall have two consecutive days off. Employees or candidates of the TRD- ACD Call Center shall have two consecutive days off unless the individual consents to a schedule with non-consecutive days off.

## **Section 2: Motor Vehicle Division**

**Employee Road Test Concerns** - Management shall research other jurisdiction procedures for those instances in which an employee feels unsafe conducting a road test for reasons including but not limited to; road conditions, vehicle condition, applicant demeanor or physical condition, language limitations between applicant and employee, etc., in order to develop a protocol which addresses

employee concerns while meeting statutory obligations regarding anti-discrimination and taking into consideration the provision of quality customer service. The protocol drafted shall include the following:

For any instance where an employee feels that their personal health and safety or the health and safety of the general public may be in jeopardy, they may, refuse to conduct the test and refer that applicant to a supervisor for testing. The employee must communicate with the supervisor that they feel unsafe and document the reasons for refusal and submit that document to the supervisor for MVD records by the end of the workday.

MVD Employees shall conduct visual acuity tests and eligibility of licensure on all prospective drivers prior to giving a road test, unless circumstances exist that are approved by the MVD Field Office Manager.

Employees of the Motor Vehicle Department, that may be expected to conduct a field road test, shall attend mandatory defensive driving training, within six (6) months of hire or within six (6) months of ratification of the contract.

**Cell Phones** – The Department shall maintain issuance of cell phones to each MVD field office for the use of the employees to utilize while conducting road tests. It is the responsibility of each field office manager/supervisor to ensure that the cell phones are charged and operable for daily use.

**Safety Glass** - The Department shall conduct a survey of all MVD offices to determine:

- A. How many offices are currently provided with safety glass and are secure,
- B. Which offices are under a lease and when the lease expires, and,

This survey shall be completed within six (6) months of the ratification of the contract. All results of the survey as well as progress in the installation of safety glass shall be reported to the Agency LMC.

Any field office that does not have safety glass shall be a priority and safety glass shall be installed in all affected field offices, lease and budget allowing.

**Step Ladders** - The Department recognizes that ladders may become damaged due to ordinary wear and tear. If ladders are damaged, the Department agrees to replace such ladders.

**Restrooms** - Field offices that have only one restroom facility will no longer provide public access to those restrooms, if legally possible to do so. Field offices with only one restroom to which sole access requires the public to transit through or behind employee workspace jeopardizing employee and property safety, will cease to provide facility access to the public, if legally possible to do so.

**Clothing Protection** - The Department shall provide disposable coveralls for each facility to utilize while conducting outside field work.

**APPENDIX L**  
**Aging & Long-Term Services Department (ALTSD)**

The following is applicable to the Aging and Long Term Services Department (ALTSD)

**Section 1. Intake**

ALTSD agrees to compensate all employees who perform both Intake and On-call at straight time or overtime as appropriate for all hours worked.

- A. The parties further agree to discuss and implement through the Labor-Management Committee by mutual agreement an after-hours intake system to be fair and equitable to all bargaining unit employees within the five (5) regions of ALTSD.

**Section 2. Clothing Allowance**

ALTSD agrees to provide a \$125.00 clothing allowance on the employee's anniversary date to those employees classified as Personal Home Care Aides R4171 and Social & Human Service Assistants P9021.

**Section 3. Health and Safety**

ALTSD agrees to provide the following to all employees who provide direct client services covered by this Agreement:

- A. Hepatitis and any other vaccinations that are intended to protect employees from contracting and transmitting air or blood borne diseases will be discussed and explored at the Labor-Management Committee with implementation upon mutual agreement. (Administration of any such vaccines must be done with the employees consent).
- B. Notify all employees who provide direct client services covered by this Agreement of any potential medical risks that may pose a risk to the employee.

- C. Provide training to all employees covered by this Agreement who provide direct client services the necessary training to reduce health risks due to contact with ALTSD clients.

**Section 4. Training Opportunities**

ALTSD agrees to provide the following training on an annual basis for all employees covered by this Agreement:

- A. Mental Health Training - to assist employees to be better aware of client's mental health issues.
- B. Safety Training - to provide an awareness of potential hazards within client's homes and steps that can be taken to protect the client and the employee.
- C. Any training indentified as beneficial and agreed upon by the parties after discussion at the Labor-Management Committee.

**APPENDIX M**  
**Regulation & Licensing Department (RLD)**

**Section 1. Footwear**

**Safety Toe Footwear:**

For employees required by law to wear safety toe footwear, the Department shall annually provide a pair of OSHA approved safety toe work boots or at the Departments discretion a purchase order to a pre-approved vendor shall be provided for an amount not to exceed \$125.00 towards the purchase of one (1) pair of OSHA approved safety toe footwear annually.

**Section 2. Health, Safety and Equipment**

**A. Vehicles**

1. All state vehicles utilized by employees shall have a first aid kit.
2. The Department and Union agree to make a good faith effort in the following steps to research and discuss a plan regarding the installation of fire extinguishers in vehicles:
  - a. complete and report research to the agency Labor-Management Committee (LMC) regarding fire extinguishers for use in vehicles, including but not limited to type, size and training requirements; and
  - b. within six (6) months of ratification of the Collective Bargaining Agreement (CBA) the LMC shall provide the Department with a report that includes findings and recommendations regarding fire extinguishers in vehicles.

**B. Cameras**

The Department shall provide cameras to Inspectors/Investigators when photographs are required by the Department.

Inspectors/Investigators must maintain the camera issued to them in good operating condition. Any employee who negligently or



intentionally damages or loses a camera issued to them may be required to pay for the cost of its repair or replacement.

**Section 3. Allowances**

Any bargaining unit employee who must be licensed in order to perform his or her job for the Regulation and Licensing Department, and who must pay a license fee for who must attend training to maintain said license shall have the license fee paid by the Department.

**Section 4. Training**

The Department will provide annual training to all employees that addresses the safety issues related to their position. Related issues may include animal safety, property entrance, and de-escalation techniques.

**APPENDIX N**  
**Department of Workforce Solutions (DWS)**

**Section 1.**

The parties agree to abide by applicable Federal Regulations describing Wagner-Peyser and Workforce Investment Act services and the parties will not permit WIA or other funded service providers to usurp or displace Wagner-Peyser funded service providers contravention of Federal Regulations.

**Section 2.**

The parties agree that the Labor-Management Committee is the appropriate way to evaluate the value and effectiveness of matters of mutual concern. It is also understood that neither the Labor-Management Committee discussions nor the outcome thereof shall be considered or treated as constituting a binding agreement between the parties unless reduced to writing and signed and dated by the authorized representatives of the parties.

**APPENDIX O**  
**Division of Vocational Rehabilitation (DVR)**

The following is applicable to positions at the Division of Vocation Rehabilitation Division.

**Section 1.**

The parties agree that the Labor-Management Committee is an appropriate way to evaluate the value and effectiveness of matters of mutual concern. It is also understood that neither the Labor-Management Committee discussions nor the outcome there of shall be considered or treated as constituting a binding agreement between the parties unless reduced to writing and signed and dated by the authorized representatives of the parties.

**Section 2.**

Agency Labor-Management Committee shall discuss and may develop recommendations for equitable work distribution in offices where vacant positions last more than 30 days.

**Section 3.**

To provide an equal opportunity for career development, Lead Worker positions will be rotated based upon interest and demonstrated performance.

**APPENDIX P**  
**Children, Youth & Families Department (CYFD)**

**Health and Safety**

**JJS 24 Hr. Facilities**

- A. CYFD shall issue proper equipment necessary for YCS employees to perform their jobs. The parties shall refer to the Labor-Management/Safety Committee to recommend types of equipment that are necessary and not currently provided.
- B. CYFD shall make protective CPR equipment available at designated locations.
- C. Employees have a duty to exercise reasonable care in utilizing any equipment issued to them. Any employee who negligently or intentionally damages or loses any equipment issued to them may be required to pay for the costs of repair or replacement. However, CYFD recognizes that equipment may become lost, broken or inoperable due to ordinary wear and tear or through no fault of the employee. If equipment is lost or becomes broken or inoperable due to ordinary wear and tear or through no fault of the employee, CYFD agrees to replace such equipment.

**Protective Services/Youth and Family Services**

CYFD agrees to provide employees who work in the field as part of their job duties the following:

- A. Electronic devices (either assigned or available for check-out based on budget availability) for the purpose of maintaining communication with the above employees and knowing the location of the above employees.
- B. Training to the above employees for the purpose of operating the equipment.

- C. The parties will jointly determine and recommend what type(s) of equipment will be effective for employees' safety in the field. The determination/recommendation will be made through the CYFD Labor-Management Committee.

### **Safety Awareness**

The parties agree to incorporate a basic Safety Awareness training program for employees covered by this Agreement. The program will be related to the diffusion of any potential volatile situations and self-defense techniques that may occur in the field or 24-hour facilities while employees are performing their duties. The training will be on a continual basis as any other CYFD mandatory training program. It is agreed that this training would be mandatory for new employees. The parties, through the CYFD Labor-Management/Safety Committee will determine and recommend specific safety training programs for implementation.

### **First Aid Kits**

All field offices will be issued First Aid Kits and CYFD will maintain and replenish all supplies within the kit as needed.

### **Training**

The Employer shall determine and schedule mandatory training to insure all employees have the training necessary to perform their jobs. The Employer shall, when possible, provide opportunities for training to employees who wish to become qualified for a different assignment. Any employee who wishes to attend training to become qualified for a different assignment shall submit a written request to attend such training to the employee's supervisor. The approval/denial of such request shall be at the discretion of management and will be provided in writing to the employee. If resources are limited, employees with agency seniority shall be given preference to attend training over employees with lesser seniority, provided all mandatory training requirements established by the Employer have been met. The parties, through the CYFD Labor-Management Committee, will make recommendations for additional

training offerings that will assist in the professional development of employees.

### **CYFD State Vehicles**

CYFD will provide first aid and emergency kits for employees who travel in state vehicles. The Department will maintain and update all such kits when necessary.

The parties will work jointly through the Labor-Management/Safety Committee to develop recommendations for the allocation of all-wheel drive vehicles.

### **Exchange of Days Off**

Two employees in the same classification level, and working the same shift, who are capable of performing the same duties at the same 24-hour JJS facility shall be permitted to exchange days off, provided the employees request permission from their supervisor(s) using the Exchange Days Off Form at least seven (7) days in advance. A supervisor may disapprove such an exchange for legitimate operational reasons, which shall be explained to the employees in writing on the Exchange Days Off Form. An exchange of days off will not be requested or allowed if the exchange would result in overtime for either or both employees.

Once the exchange is approved, each YCS is required to report for work on the day of the exchange as if this was his/her regular work day. Failure to report for work on the day exchanged may result in disciplinary action. Furthermore, if an employee calls in sick for an exchanged work day, he/she may be required to provide a health care provider's certification.

The agreement to exchange days off is limited to the original two requestors within the same work week and may not be further exchanged.

## **Shift Bidding for CYFD JJS Facilities**

### **Bidding Overview:**

The following is applicable to positions at all Juvenile Justice Facilities:

- A. The parties have agreed to a bid roster (hereinafter, “roster”), by facility that designates the shift and Regular Days Off (RDO’s) available for selection in the bidding process. If the Employer needs to alter the agreed-to roster, the Employer will submit a proposed revision to the Union and allow the Union an opportunity to provide comment for consideration on the revision.
  
- B. Employees who are on Workers Compensation, Family Medical Leave or other extended leave at the time of the bid will only be allowed to bid if they can document that they will be eligible to return to work within 30 days of the bid. If such employees are not eligible to bid they will be eligible for vacant posts when they return to work.
  
- C. Seniority shall apply within all CYFD JJS 24 hr. Facilities in the following manner:
  1. In the event more that one or more qualified employees has the same hire date and amount of agency seniority as another employee, then the employee with more state service time will have greater seniority.
  2. In the event agency seniority and state service time are the same, then the employee with the higher last four digits of their social security number will determine which employee has greater seniority.
  3. If the last four digits of the employees’ social security numbers are the same, then the fifth digit will be used and the employee with the higher fifth digit will have greater seniority.

- D. Agency Seniority shall apply as defined in the Master Agreement.
- E. In the event of bona fide, unforeseen emergency circumstances that prevent the shift bid from being implemented, the Employer will notify the Union of the emergency preventing the implementation, and negotiate alternate time frames, not to exceed 90 days before or after the dates set forth in this Section.

**Shift Bidding Process:**

- A. The Employer will provide a copy of the agency seniority list and roster to the Union a minimum of fourteen (14) calendar days prior to the posting of the roster. The Employer agrees to meet and consult with the Union concerning any possible discrepancies in the schedule or seniority list.
- B. On January 2, 2010, the Employer will post the roster available for facility bid at YDDC and Camino Nuevo facilities. This bid shall exclude staff from Manzano, Esperanza and Zia and will go into effect on February, 2010. On July 1, of 2010, the Employer will conduct a unit bid and post the roster available for unit bid. Staff members will bid within their current unit according to seniority.
- C. The Employer will post the current job description and related qualifications for all bargaining unit positions specific to each unit.
- D. The Employer will post the agency seniority list and roster fourteen (14) calendar days prior to the bid on designated bulletin boards at each facility.
- E. A union representative and a member of management will be present during the bidding process.



- F. If an employee cannot be present for the actual bid due to pre-approved leave, FML, WC, or other unforeseen emergency, the employee must contact their supervisor in order to submit a written bid. This written bid must contain the employee's top three choices and must be submitted in two (2) sealed envelopes to be opened by the member of management and union representative simultaneously at the employee's scheduled time to bid.
- G. The parties further agree to meet in June of 2011 to bargain to impasse regarding the July 2011 shift bidding process insofar as whether staff will bid by unit or facility.

**Shift Vacancies:**

- A. When vacant shifts exist outside of the bidding process, the shift vacancy shall be offered to the unit staff by seniority. After selection within the unit is completed, if a vacant shift remains vacant, that shift will be posted for seven (7) calendar days and available to facility staff by agency seniority. Interested staff must submit a written request to their immediate supervisor and the unit supervisor where the shift vacancy exists to be considered for the vacant shift.
- B. Employees requesting a transfer to a vacant position within another unit must possess the qualifications required for the specific unit where the vacancy exists. With the exception of Master Control, if special training is required in a unit that an employee wishes to transfer to, the Employer agrees to provide the training within 90 days of the transfer.
- C. Transfers to new units may not take effect until a replacement employee is identified but no longer than 90 days.

**Miscellaneous Provisions:**

- A. In special circumstances, where two employees within the same unit wish to trade their shift assignments for a specific day, they

may do so, but only with the prior approval of the Unit Supervisor.

- B. The Employer reserves the right to remove an employee from their unit for the following reasons:
  - 1. Investigation involving the employee
  - 2. Employee does not meet performance standards
  - 3. Emergency coverage
  - 4. If unit is closed down/ new units open
  
- C. In these cases (other than the employee who requests a modified duty accommodation), the employee will maintain their same shift and RDO's.

**Temporary Assignments:**

- A. Employer may make emergency reassignments when necessary to protect the safety of clients, staff, and the public. For the purposes of this Agreement an emergency is defined as: a situation that places clients and/or staff at significant risk.
  
- B. In the event of an emergency which cannot be adequately covered, the Employer shall first solicit qualified volunteers, if time permits, considering the emergency. If more than one qualified employee volunteers, the employee with the most seniority shall be selected. If there are insufficient volunteers, the Employer may temporarily designate qualified employees, using reverse agency seniority, as necessary to meet the safety and security needs of the facility. Temporary assignments will last no longer than 30 days unless circumstances require a longer time period.
  
- C. Reassignment resulting from investigations shall end when the investigation is completed, any necessary employment decisions are made, and/or the reassignments are no longer necessary.

- D. If a temporary work assignment is to last more than seven (7) calendar days, the Employer shall post a written notice of the assignment and announce the availability of the assignment to facility staff. Any employee interested in the temporary work assignment shall submit a written request for the temporary assignment. If two or more officers are equally qualified for a temporary work assignment, then the temporary work assignment shall be given to the employee with the greatest agency seniority.

**Overtime Scheduling for CYFD  
JJS Facilities**

**Volunteer Overtime:**

- A. On the 13<sup>th</sup> of each month, the supervisor of each unit will offer all overtime available for the following month in their respective unit by seniority. The employees within that unit may volunteer for shifts of overtime they would like to work for the following month. The employees shall have seven (7) calendar days to volunteer for overtime by placing their names on the overtime offer sheet. On the 20<sup>th</sup> of each month, the supervisor collects the overtime offer sheet and gives it to the Roster Manager for processing.
- B. If there is still overtime left within a unit after the overtime offer sheet is submitted to the Roster Manager, the said overtime will now be offered to the entire facility, by use of Weekly Overtime Volunteer Form (WOVF).
- C. The WOVF will be available to staff on a weekly basis. The employee must complete this form by placing their name, call back number, seniority number, the shifts of overtime and the days of the week the employee is willing to work.
- D. If an employee volunteers for a facility OT shift and OT becomes available in their own unit for that same shift, the employee will be assigned to their own unit.

- E. If there is still overtime after step 3 above, the supervisor on duty at the time of the overtime must then begin the on-site volunteer process.

**On-site Volunteers:**

- A. If overtime is required, the Employer will first offer overtime to the employees who are working and on-duty and at the work site (i.e. actually working and on duty at any unit of the facility; hereafter referred to as "on-site volunteers") who are capable and qualified to perform the necessary tasks.
  - 1. Volunteers will only be considered if they volunteer for an assignment on the next shift for which they are qualified.
  - 2. If more than one post must be filled by overtime, volunteers will be allowed to choose from the vacant available overtime posts beginning with the volunteer having the most agency seniority.
  - 3. If an employee volunteers to work overtime and does not remove their name from the volunteer overtime list within two (2) hours of the beginning of the next shift, they become responsible to work that shift. If they fail to work the shift they volunteered for, they shall be considered refusing an overtime assignment and may be subject to disciplinary action.
  - 4. If there are more capable and qualified on-site volunteers than are necessary to meet the overtime need, overtime shall be assigned to the on-site volunteer(s) having greater agency seniority.
- B. The Officer of the Day (O.D.), a Supervisor or Manager, will develop a bucket list as early as possible in the shift. Overtime will be announced when it becomes available. Staff members will

have 30 minutes to volunteer for the overtime from the time it is announced. A volunteer list will be created by control staff. The O.D. is responsible for assigning the overtime based on seniority. The O.D. will announce who received the overtime.

- C. If it appears that the employee will not be needed to work an overtime shift that they volunteered for, the employee will be notified as soon as possible, and the employee will be given another opportunity to volunteer if it is later determined that OT is necessary.

**Off Site Volunteers:**

Off site Volunteers will be considered by agency seniority for available OT shifts. The offsite employee is responsible to notify the OD if they are interested in volunteering for an OT shift.

**Mandatory Overtime:**

If there are insufficient capable and qualified volunteers to meet the overtime need, the Employer may require YCS employees to work mandatory overtime as follows:

- A. The Employer shall create and maintain a mandatory overtime bucket list of YCS employees in the order of reverse agency seniority, unit and shift. If mandatory overtime is necessary on the next shift, the overtime will be assigned following the mandatory overtime bucket list.
- B. Mandatory OT will be filled first by the YCS employees who work within the specific unit where the OT exists.
- C. If, after utilizing staff within the specific unit, and mandatory OT is still necessary, then the shift supervisor will assign mandatory OT from the on-duty facility staff utilizing the mandatory bucket list.

- D. The first several names on mandatory overtime bucket list shall be announced as soon as possible, but no later than four (4) hours before the end of shift.
- E. Once a YCS has worked any overtime for two (2) hours or more, the employee's name shall be placed at the bottom of the mandatory overtime bucket list.
- F. The shift supervisor will notify those who will likely be required to work mandatory overtime as soon as possible after a shift becomes open.
- G. CYFD will not require an YCS to work mandatory overtime on their scheduled, regular shift "Friday".
- H. If a YCS's name is skipped because the YCS is not present or available that day due to annual leave, sick leave, it is the YCS's "Friday", or for any other reason, upon return to work, the YCS's name shall be placed in the appropriate place on the mandatory overtime bucket list according to his/her last overtime day worked, as set out herein.
- I. YCS employees shall not be required to work more than 3 overtime shifts per work week. In addition, if approved by the Superintendent, YCS employees may volunteer for one additional overtime shift per work week.
- J. An YCS employee may only work 2 consecutive overtime shifts.

**APPENDIX Q**  
**Department of Cultural Affairs (DCA)**

In job related circumstances in which employees of the New Mexico State Library, must engage in overnight travel and pay related expenses out -of-pocket, they will be entitled to timely reimbursement from the State of New Mexico within no more than 30 days of receipt of the reimbursement request by the Administrative Services Division barring extenuating circumstances or delays caused by an outside agency.

**APPENDIX R**  
**List of Classifications Included in Bargaining Unit**

The following list is subject to amendment by the parties and the PELRB. Users should consult appropriate Union or Management representatives for the most accurate list.

**Children, Youth & Families Department:** B9151-Social & Community Service; C1023-Purchasing Agent, Xcpt; C1073-Training & Development; C1111-Management Analyst; C2099-Financial Specialist; F3031-Clinical, Counseling & School; G1023-Mental Health & Substance Abuse; G1029-Social Worker, All Other; G1092-Probation Officer & Corr Trmt; G1093-Social & Human Service Assistant; G1099-Community & Social Service Spec; G2011-Clergy; I9041-Teacher Assistant; K1111-Registered Nurse; K2021-Dental Hygienist; K2053-Psychiatric Technician; K2071-Medical Records & Health Info; N2012-Cook, Institution and Cafeteria; P9021-Personal & Home Care Aide; R4061-Eligibility Interviewer, Govt; R4171-Receptionist & Information Clerk; R5061-Production, Planning & Exped; R6014-Secretary, Xcpt Legal, Medical & Exec; R9061-Office Clerk, General; R9199-Office & Admin Support Worker, AO. D1051-Computer System Analyst; G1091-Health Educator; I9031-Instructional Coordinator; K1031-Dietitian and Nutritionist; R4199-Information and Record Clerk, All; C2011-Accountant and Auditor; K9011-Occupational Health and Sfty Spec.; D10231-IT Business Analyst; D10253-IT Apps. Dev. 3; D10303-IT Tech. Spprt. Spec 3.

**Corrections Department:** C2099-Financial Specialist; F3031-Clinical, Counseling & School; F3032-Industrial-Organizational Psych; G1092-Probation Officer & Corr Trmt; G2011-Clergy; I4031-Librarian Technician; M3012-Correctional Officer & Jailer; R4199-Information & Record Clerk, All; R6014-Secretary, Xcpt Legal, Medical & Exec; R9021-Data Entry Keyer; R9061-Office Clerk, General; R9199-Office & Admin Support Worker, AO; F3039-Psychologists, AO.



**New Mexico State Fair Commission:**

This agency is now “wall to wall” that is, all positions are covered under the Collective Bargaining Agreement except Management, (10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Human Services Department:**

This agency is now “wall to wall” that is, all positions are covered under the Collective Bargaining Agreement except Management, (10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Department of Transportation:** E1021-Cartographer &; E3022-Civil Engineering Technician; E3023-Electrical & Electronic Eng Tech; E3029-Engineering Tech, Xcpt Drafters; E3031-Surveying & Mapping Technician; O2011-Janitor & Cleaner, Xcpt; O3011-Landscaping & Groundskeeping; R5081-Stock Clerk & Order Filler; T2031-Carpenter; T2061-Construction Laborer; T2111-Electrician; T4051-Highway Maintenance Worker; U3023-Automotive Service Technician &; U3031-Bus & Trck Mechanic & Diesel Eng; U9042-Maintenance & Repair Worker, Gen; V4121-Welder, Cutter, Solderer &; V9061-Inspector, Tester, Sorter; V9121-Coating, Painting & Spraying; W6041-Traffic Technician; W6051-Transportation Inspector.

**Public Defender Department:**

This agency is now “wall to wall” that is, all positions are covered under the Collective Bargaining Agreement except Management, (10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Department of Cultural Affairs:**

This agency is now “wall to wall” that is, all positions are covered under the Collective Bargaining Agreement except Management,

(10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Department of Workforce Solutions:** This agency is now “wall to wall” that is, all positions are covered under the Collective Bargaining Agreement except Management, (10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Public Regulation Commission:** C1041-Compliance Officer, Xcpt; C1072-Compensation, Benefit & Job Analyst; C1073-Training & Development; C2011-Accountant & Auditor; C2051-Financial Analyst; D2011-Actuary; E2199-Engineer, All Other; H2099-Legal Support Worker, All Other; M2021-Fire Inspector & Investigator (Emergency positions); O3011-Landscaping & Groundskeeping; R6014-Secretary, Xcpt Legal, Medical & Exec; R9022-Word Processor; R9041-Insurance Claim & Policy Process; R9061-Office Clerk, General; R9199-Office & Admin Support Worker, AO; V5023-Printing Machine Operator; V9131-Photographic Process Worker; C1199-Bus. Ops. Specialist; C2099-Financial Spec.; M3021-Detective & Crim. Investigators; V8099- Plant/Systems Operators.

**Taxation and Revenue Department:** C1023-Purchasing Agent, Xcpt Whlsale/Retail; C2011-Accountant & Auditor; C2081-Title Examiner, Abstractor & Srch; C2099-Financial Specialist, All Other; H2093-Tax Examiner, Collector & Rev Agnt; H2099-Legal Support Worker, All Other; R4031-Court, Municipal & License Clerk; R4199-Information & Record Clerk, All Other; R5081-Stock Clerk & Order Filler; R6014-Secretary, Xcpt Legal, Medical & Exec; R9011-Computer Operator; R9021-Data Entry Keyer; R9022-Word Processor & Typist; R9061-Office Clerk, General; R9199-Office & Admin Spport Worker, AO; D10291-IT Network Spec. 1; D10292-IT Network Spec. 2; D10293-IT Network Spec. 3; D10251-IT Apps. Dev. 1; D10252-IT Apps. Dev. 2; D10253-IT Apps. Dev. 3; D10301-IT Tech. Spprt. Spec. 1; D10261-IT Generalist 1; D10262-IT

Generalist 2; D10271-IT Database Admin. 1; D10272-IT Database Admin 2; D10241-IT Project Manager.

**Division of Vocational Rehabilitation, Education Department:**

C1111-Management Analyst; C2031-Budget Analyst; C2099-Financial Specialist; F3031-Clinical, Counseling & School; G1015-Rehabilitation Counselor; H1021-Admin. Law Judge, Adjudicator; R4171-Receptionist & Information Clerk; R6014-Secretary, Xcpt Legal, Medical & Exec; R9011-Computer Operator; C1199-Bus Ops Spec; C1023-Agent; G1099-Community and Social Service Specialist; J3031-Specialist; C2011-Accountant and Auditor.

**Department of Health, New Mexico Behavioral Health Institute:**

C1023-Purchasing Agent, Xcpt Whlsale/Retail; C2099-Financial Specialist, All Other; G1011-Substance Abuse & Behavior Disorder; G1023-Mental Health & Substance Abs Soc; G1093-Social & Human Service Assistant; K1123-Physical Therapist; K1125-Recreational Therapist; K2011-Medical & Clinical Lab Technologist; K2012-Medical & Clinical Lab Technician; K2053-Psychiatric Technician; K2061-Licensed Practical & Licensed Voc; K2071-Medical Records & Health Info Tech; L2021-Physical Therapist Assistant; N2012-Cook, Institution and Cafeteria; N3041-Food Server, Nonrestaurant; O2011-Janitor & Cleaner, Xcpt Maid/Hskpr; P5011-Barber; R2011-Switchboard Operator; R5071-Shipping, Receiving and Traffic Cler; R5081-Stock Clerk & Order Filler; R6014-Secretary, Xcpt Legal, Medical & Exec; R9061-Office Clerk, General; R9199-Office & Admin Support Worker, AO; T2111-Electrician; T2141-Painter, Construction & Main; T2152-Plumber, Pipefitter & Steam Fitter; U9021-Heating, Air Conditioning & Refrig; U9042-Maintenance & Repair Worker, Gen; V3011-Baker; V6011-Laundry & Dry Cleaning Worker; V6052-Tailor, Dressmaker & Custom Sewer; V8021-Stationary Engineer and Boiler Op; #R6012-Legal Secretary; G1014-Mental Health Counselor; G1022-Medical and Public Health Social Worker; P9032-Recreation Worker; T2013-Carpenter; V8099-Plant and System

Operator, All Other; O3011-Landscaping and Groundskeeping Worker; V9082-Medical Appliance Technician.

**Department of Health, Los Lunas Community Program:** C1071-Employment, Recruitment; C1073-Training & Development; C2099-Financial Specialist; F3031-Clinical, Counseling & School; G1099-Community & Social Service Spec; K2053-Psychiatric Technician; K2061-Licensed Practical & Licensed Voc; K9011-Occupational Health & Safety; L1011-Home Health Aide; L9091-Dental Assistant; O2011-Janitor & Cleaner, Xcpt; O3011-Landscaping & Groundskeeping; R6014-Secretary, Xcpt Legal, Medical & Exec; R9061-Office Clerk, General; R9199-Office & Admin Spport Worker, AO; T2013-Carpenter; T2111-Electrician; T2141-Painter, Construction & Main; U3023-Automotive Svc Tech & Mech; U9042-Maintenance & Repair Worker, Gen; V6093-Upholster; V9082-Medical Appliance Technician; C1023-Purchasing Agent; K2071-Medical Records and Health Info; B9151-Soc. & Comm. Svcs. Coord.

**Department of Health, New Mexico Veteran's Center:** K111-Registered Nurse; K2061-Licensed Practical & Licensed Voc Nr; L1023-Nursing Aide, L1012 Nurses Aide; Orderlies & Attendant; N2012-Cook, Institution and Cafeteria; N3041-Food Server, Nonrestaurant; O2011-Janitor & Cleaner, Xcpt Maid/Hskpr; O3011-Landscaping & Groundskeeping Wrkr; P9032-Recreation Worker; R5081-Stock Clerk & Order Filler; R9061-Office Clerk, General; U9042-Maintenance & Repair Worker, Gen; R6014-Secretary, Xcpt Legal, Medical & Exec; R9199-Office and Admin Support Worker.

**Department of Health, Fort Bayard Medical Center:** This agency is now "wall to wall" that is, all positions are covered under the Collective Bargaining Agreement except Management, (10-7E-4 (0) NMSA 1978) Confidential, (10-7E-4 (G) NMSA 1978 and Supervisory employees (10-7E-4 (U) NMSA 1978.

**Regulation and Licensing Department:** C2051-Financial Analyst; C2099-Financial Spec, All Other; R4031-Court, Municipal & License Clerk; R6014-Secretary, Xcpt Legal, Medical & Exec; R9061-Office Clerk, General; R9199-Office & Admin Support Worker, AO; T4011-Construction and Building Inspector; C1041-Compliance Officer; C1023-Purchasing Agent; C2011-Accountant and Auditor; M3021-Detective and Criminal Investigator.

**Aging and Long-Term Services Department:** B9151 – Social & Community Service Coordinator; C2099 – Financial Specialist, All Other; G1093 – Social & Human Service Assistant; P9021 – Personal & Home Care Aide; R4171 – Receptionist & Information Clerk; R6014 – Secretary, Xcpt Legal, Medical & Exec.; R9061 – Office Clerk, General; R9199 – Office & Admin. Support Worker.