

2011-2014

COLLECTIVE BARGAINING AGREEMENT

UNIT F  
(TEACHER ASSISTANTS)

LOS ANGELES UNIFIED SCHOOL DISTRICT  
AND  
SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 99

## TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
	AGREEMENT .....	1
I.	RECOGNITION .....	1
II.	DISTRICT RIGHTS.....	2
III.	UNION RIGHTS .....	5
IV.	GRIEVANCE PROCEDURE .....	7
V.	WORK STOPPAGE.....	13
VI.	NON-DISCRIMINATION .....	14
VII.	UNION SECURITY AND DUES DEDUCTIONS.....	15
VIII.	DEGREE TRACK/NON-DEGREE TRACK.....	18
VIII-A.	CAREER LADDER IMPLEMENTATION .....	21
IX.	HOURS AND OVERTIME.....	24
X.	REDUCTION IN FORCE.....	29
XI.	EVALUATION AND DISCIPLINE .....	31
XII.	TRANSFER PROCEDURES.....	36
XIII.	LEAVES OF ABSENCE .....	37
XIV.	WAGES, SALARIES AND DIFFERENTIALS.....	50
XV.	HEALTH AND WELFARE.....	53
XVI.	SAFETY CONDITIONS.....	60
XVII.	DISTRIBUTION OF COSTS .....	61
XVIII.	EFFECT OF AGREEMENT.....	62
XIX.	TERM OF AGREEMENT.....	63

**TABLE OF CONTENTS**

**ARTICLE**

**PAGE**

APPENDIX A SALARIES..... 64

## **AGREEMENT**

THIS AGREEMENT is made and entered into this 30<sup>th</sup> day of July, 2012, by and between the Board of Education of the Los Angeles Unified School District, which together with its administrative staff and representatives will be referred to in this Agreement as the "District," and Los Angeles City and County School Employees Union, SEIU, Local 99, which together with its officers and representatives will be referred to in this Agreement as the "Union."

### **ARTICLE I**

#### **RECOGNITION**

1.0 **The Unit**: Pursuant to applicable California statutes and regulations, and recognition under PERB Case No. LA-R-968, the Union has been recognized as the exclusive representative of a bargaining unit comprised of the following employees of the District:

1.1 **Included**: Certificated employees who are in the classification of Teacher Assistant, including employees in such classification both in classroom and non-classroom assignments.

1.2 **Excluded**: All other personnel such as those designated as management, supervisory or confidential within the meaning of Government Code Section 3540.1, and all other certificated classifications not referred to in Section 1.1 and all classified personnel.

2.0 **Changes to the Unit**: The parties agree that this represents the appropriate unit. The unit may be revised only by mutual agreement or by a Public Employment Relations Board unit clarification decision, but it is agreed that neither party may file for a unit clarification proceeding involving this unit except when the District creates new classifications or when the Union contends that certain classifications should be accreted to the unit. Disputes over unit composition and alleged violations of this Article are not subject to the grievance and arbitration procedures of this Agreement.

3.0 **"Employee" Defined**: Unless the context clearly indicates otherwise, the terms "employee" or "employees" will normally be used in this Agreement to indicate persons who are included within the above unit, and the term "personnel" will normally be used in a broader sense to include employees as defined above plus all other persons utilized by the District to provide services.

## ARTICLE II

### DISTRICT RIGHTS

1.0 General: The intention of this Article is to provide that the District retains all rights and powers which have not been limited by the other Articles of this Agreement. The provisions of this Article are not intended to expand the rights of the District beyond statutory and constitutional limits, or in any manner to waive or diminish the rights of the Union or the employees as provided in the other Articles of this Agreement. In the event that there is a conflict between the rights of the District under this Article and the rights of the Union or employees as set forth elsewhere in this Agreement, the provisions of the other Articles of this Agreement shall prevail.

2.0 District Rights: It is agreed that all matters which are beyond the scope of negotiations under Government Code Section 3543.2, and also all rights which are not limited by the terms of this Agreement, are retained by the District. Such retained rights include, but are not limited to, the right to determine the following matters:

a. The legal, operational, geographical, and organizational structure of the District, including the chain of command, division of authority, organizational divisions and subdivisions, external and internal boundaries of all kinds, and advisory commissions and committees;

b. The financial structure of the District, including all sources and amounts of financial support, income, funding, taxes and debt, and all means and conditions necessary or incidental to the securing of same, including compliance with any qualifications or requirements imposed by law or by funding sources as a condition of receiving funds; all investment policies and practices; and all budgetary matters and procedures, including the budget calendar, the budget formation process, accounting methods, fiscal and budget control policies and procedures, and all budgetary allocations, reserves, and expenditures, apart from those allocated to fund the express wage and benefit obligations of this Agreement;

c. The acquisition, disposition, number, location, types and utilization of all District properties and equipment whether owned, leased, or otherwise controlled, including all facilities, grounds, parking areas and other improvements, and the type of personnel, work, service and activity functions assigned to such properties;

d. All services to be rendered to the public and to District personnel in support of the services rendered to the public; the nature, methods, quality, quantity, frequency and standards of service, and the personnel, facilities, vendors, supplies, materials, vehicles, equipment and tools to be used in connection with such services; and the subcontracting of services to be rendered and functions to be performed, including educational, support, construction, maintenance and repair services, subject only to Code restrictions upon same;

## Article II - District Rights

- e. The utilization of personnel not covered by this Agreement, including but not limited to consultants and personnel occupying positions designated as "Excluded" in Article I (Recognition), to do work which is normally done by employees covered hereby, and the methods of selection and assignment of such personnel;
- f. The educational policies, procedures, objectives, goals and programs, including those relating to student conduct and discipline, student transportation, food services, racial and ethnic balance, extra-curricular activities, and emergency situations; and the substantive and procedural rights and obligations of students, parents, employees and the public with respect to such matters;
- g. The selection, classification, direction, promotion, demotion, and retirement of all personnel of the District subject only to applicable law; discipline and termination subject only to Article XI (Evaluation and Discipline), affirmative action and equal employment policies and programs to improve the District's utilization of women and minorities; the assignment of employees to any locations, subject only to Article XII (Transfer Procedures) and also to any facilities, classrooms, functions, activities, departments, tasks or equipment; the staffing levels, work loads, and number of employees; and the determination as to whether, when and where there is a job opening;
- h. The job classifications and the content and qualifications thereof; the rates of pay for any new classifications implemented during the term of the Agreement;
- i. The duties and standards of performance for all employees; and whether any employee adequately performs such duties and meets such standards; subject only to Article XI (Evaluation and Discipline);
- j. The dates, times, and hours of operation of District facilities, functions, and activities; school calendar; the assignment of paid duty days beyond the regular assigned duty year; work schedules, and the assignment of overtime subject only to Article IX (Hours and Overtime);
- k. Safety and security measures for employees, students, the public, properties, facilities, vehicles, materials, supplies, and equipment, including the various rules and duties for all personnel with respect to such matters, subject only to Article XVI (Safety Conditions);

## Article II - District Rights

l. The rules, regulations and policies for all employees, students and the public, subject only to the express limitations contained in this Agreement; and

m. All other rights of the District not expressly limited by the language of this Agreement are also expressly reserved to the District even though not enumerated above, and the express provisions of this Agreement constitute the only contractual limitations upon the District's rights. The exercise of any right reserved to the District in a particular manner or the non-exercise of any such right shall not be deemed a waiver of the District's right or preclude the District from exercising the right in a different manner.

3.0 The right to "determine" as used above in Section 2.0 includes the exclusive right to establish, change, modify, or discontinue in whole or in part, temporarily or permanently, any of the above matters.

4.0 Effect on Grievance Procedure: The contractual rights of the Union and the employees are set forth in the other Articles of this Agreement and this Article is not a source of such rights. Accordingly, no grievances may be filed under this Article. However, nothing in this Article shall prevent the filing of grievances under Articles of this Agreement which have not been excluded from the grievance procedure.

## ARTICLE III

### UNION RIGHTS

1.0 Access: Any authorized Union Representative shall have the right of reasonable access to District facilities, including employee mailboxes, for the purpose of contacting employees and transacting matters. Upon arriving at a work site, the representative shall first report to the office of the site administrator and state the intended purpose and estimated length of visit. The representative may contact employees during duty-free lunch periods, before and after employees' hours of service, or when the employee is not engaged in duties. The representative shall not interrupt any employee's duties or assignments.

2.0 Bulletin Boards: The Union shall have the right to post notices of official Union matters on a designated bulletin board or a section of a designated bulletin board established for the Union's exclusive use at each work site where employees are assigned.

3.0 Released Time for Negotiations: No more than six (6) negotiating team employee representatives designated by the Union shall be released from duty with no loss of pay and with mileage reimbursement for the purpose of attending negotiation meetings with the District pursuant to this Agreement. The Union and the District may agree that additional employees shall receive such released time.

4.0 List of employees: The union shall be provided quarterly via compact disc a current list of names, employee numbers, classifications, addresses, home telephone numbers, work locations, hourly rate and social security numbers of all employees, covered by this Agreement. This list will also include all employees newly hired into the bargaining unit during the preceding quarter and all bargaining unit employees who have separated from the District during the preceding quarter.

5.0 Job Stewards: At each work location, the Union will have the right to designate, pursuant to its own procedures, one employee (and one alternate) to serve as the Job Steward. The Union shall provide the Office of Staff Relations a written quarterly list of each employee so designated by name, classification and work location. If, during a quarter, the Job Steward designation changes, the Union shall inform the Office of Staff Relations in writing of the changed information within fifteen (15) days of the change being made. The Job Steward shall have the right to:

a. Represent an employee upon request, in a formal grievance meeting as expressly provided in Article IV, Section 2.0, in an evaluation appeal conference as provided in Article XI, Section 1.3, and in a disciplinary conference as expressly provided in Article XI, Section 3.0. Provided, that in disciplinary conferences where a Union staff representative has assumed responsibility, the Job Steward may not attend on a released time basis;

b. Be permitted reasonable use of the school telephone for local calls involving representation matters, so long as such use is not on the Steward's paid time (excluding rest periods) and does not interfere with normal office business at the



### Article III – Union Rights

location;

c. Have the right to coordinate Union meetings, which may be held in school buildings at times before or after the school day or during employees' duty free lunch period, subject to availability of facilities and provided that there is no interference with other scheduled duties or events;

d. Post, initial, and date official Union notices on officially designated bulletin boards and, where they currently exist, in employee mailboxes;

e. Report to the appropriate administrator, upon discovery and without delay, any unsafe or unsanitary conditions at the work site; and

f. Have the right to inspect, and copy (at Union expense at the regular District rate) non-exempt public records maintained at the work site which relate to administration of this Agreement; and

g. There shall be no reprisals against the Job Steward for the performance of his/her steward responsibilities.

6.0 Copies of Agreement: An electronic copy of this Agreement will be provided by the District to the Union for its ratification meeting.

## ARTICLE IV

### GRIEVANCE PROCEDURE

1.0 Grievance and Parties Defined: A grievance is defined as a claim that the District has violated an express term of this Agreement and that by reason of such violation the grievant's rights under this Agreement have been adversely affected. Grievances as so defined may be filed by:

- a. An employee;
- b. The Union on behalf of an employee with written approval of the involved employee(s); or
- c. The Union on its own behalf as to alleged violations of rights granted to the Union in this Agreement.

1.1 All matters and disputes which do not fall within the above definition of a grievance are excluded from this procedure, including but not limited to those matters for which other methods of adjustment are provided. Also excluded from this grievance procedure are those matters so indicated elsewhere in this Agreement. Claimed violations of Article VI (Non-Discrimination), are to be handled through the Equal Opportunity Section, under appropriate statutory and/or judicial procedures and/or through this grievance procedure. Employees may be represented by the Union when claiming violations of Article VI (Non-Discrimination) through the Equal Opportunity Section.

1.2 If the same or essentially the same grievance is filed by more than one employee, then one grievant may process the grievance under this Article on behalf of the other involved grievants. The final determination of that grievance shall apply to the remaining pending grievances.

1.3 The respondent in any grievance shall be the District itself rather than any individual administrator.

1.4 Unless the parties mutually agree to the contrary, the filing or pendency of a grievance shall not delay or interfere with any District action while the grievance is being processed. By the same token, if it is later determined that the grievance is meritorious, nothing in the foregoing sentence shall preclude remedial relief covering the period during which the grievance was being processed.

1.5 Processing and discussing the merits of a grievance shall not be considered a waiver by the District of a defense that the matter is not grievable or not subject to arbitration under this Agreement, or that the grievance should be denied for other reasons which do not go to the merits.

## Article IV - Grievance Procedure

2.0 Representation Rights: At all grievance meetings under this Article, the grievant shall be entitled to be accompanied and/or represented by a Union representative. A grievant may also represent himself or herself, or be represented by any other person, so long as that person is not a representative of another employee organization. The administrator shall have the right to be accompanied by another administrator or District representative. The grievant must be present at each step of the grievance procedures, unless excused by the District. By mutual agreement other persons such as witnesses to the facts upon which the grievance is based may also attend grievance meetings.

2.1 When a grievant is not represented by the Union, the District shall promptly furnish to the Union a copy of the grievance. If the grievance is withdrawn without a settlement, the District shall so notify the Union. The District shall not agree to a final resolution of the grievance until the Union has been notified of the proposed resolution, and been given an opportunity to state in writing its views on the matter.

3.0 Release Time for Employees and Union Representatives: Grievance meetings and hearings will be scheduled by the District at mutually convenient times and places during District business hours. Such meetings will be scheduled so as to minimize interference with regular employee duties. If a grievance meeting or hearing is scheduled during duty hours, reasonable employee release time, including necessary travel time, without loss of salary and with mileage reimbursement, will be provided to the grievant, to the job steward and to any witness who attends by mutual agreement.

4.0 Confidentiality: In order to encourage a professional and harmonious disposition of grievances, it is agreed that from the time a grievance is filed until it is finally resolved, neither the Union, the District nor the grievant shall make public the grievance or evidence regarding the grievance. This prohibition is not intended to restrict normal interviewing of witnesses and other necessary preparations for hearing.

5.0 Effect of Time Limits: If a grievance is not processed by the grievant at any step in accordance with the time limits of this Article, it shall be deemed withdrawn. The District shall respond in writing, in a timely manner as provided in this Article. If the District fails to respond to the grievance in a timely manner at any step, the grievant has the option to proceed directly to the next step of this procedure. All time limits and grievance steps may be shortened, extended or waived, but only by mutual written agreement.

6.0 "Day" Defined: A "day" for purposes of this Article is defined as any day of the calendar year except Saturdays, Sundays, and legal or school holidays.

## Article IV - Grievance Procedure

7.0 Informal Conference: Before filing a formal written grievance under Step One, the employee must make a reasonable attempt to resolve the dispute by means of an informal conference with the immediate administrator. However, the grievance must be filed within the time limits required under Step One, whether or not the employee has utilized these informal efforts.

8.0 Step One: Within fifteen (15) days, as defined in Section 6.0, after the grievant or Union knew or reasonably should have known of the occurrence of the facts upon which the grievance is based, the grievance must be presented in writing to the administrator on the District Grievance Form stating the facts surrounding the grievance, identifying the specific provisions of this Agreement which are alleged to have been violated and the remedy requested. A copy of the form shall be forwarded to the Office of Staff Relations by the employee or his/her representative. The form shall be signed and dated by the grievant. A meeting between the grievant and the immediate supervisor shall take place within five (5) days from presentation of the grievance and the supervisor shall reply in writing within five (5) days following the meeting. Unless there is a mutual written agreement to the contrary, Step One shall terminate at the close of business on the ninth (9th) day following the Step One meeting.

8.1 If a grievance does not relate to the immediate administrator and the remedy requested is not within the authority of the immediate administrator, the grievance may, if the grievant desires, be filed with the administrator who has such responsibility and authority.

9.0 Step Two: If the grievance is not resolved at Step One, the grievant or his/her representative may, within five (5) days after the termination of Step One, send a written request with a copy of the grievance form to the appropriate Local District Superintendent/Division Head or designee. Within five (5) days from receipt of the grievance, a meeting shall take place to discuss the matter. The administrator shall reply in writing within five (5) days following the meeting. Unless there is a mutual written agreement to the contrary, Step Two shall terminate at the close of business on the ninth (9th) day following the Step Two meeting.

10.0 Step Three: If the grievance is not resolved in Step Two, the grievant or his/her representative may, within five (5) days after the termination of Step Two, send a written request with a copy of the grievance form to the Deputy Superintendent or designee. If at his or her discretion, the Deputy Superintendent or designee desires, a meeting may take place within five (5) days from receipt of the grievance. The Deputy Superintendent or designee shall reply in writing to the grievance within five (5) days after the meeting, or if no meeting is held, within five (5) days after receipt of the grievance. Unless there is a mutual written agreement to the contrary, Step Three shall terminate at the close of business on the ninth (9th) day following the Step Three meeting, or if no meeting is held, on the fourteenth (14th) day following receipt of the grievance.

## Article IV - Grievance Procedure

11.0 Request for Arbitration: If the grievance is not resolved at Step Three, the Union, with the concurrence of the grievant, may submit the matter to arbitration by written notice to the District's Office of Staff Relations (with a copy to the Staff Relations representative involved) within five (5) days after termination of Step Three.

12.0 Selection of Arbitrator: Within seven (7) days of receipt of the request for arbitration, the Union and the Office of Staff Relations shall meet to select an arbitrator. The arbitrator shall be jointly agreed upon by the Union and the District, or shall be selected from the following list by alternatively striking names until one remains. The party who strikes first shall be determined by lot.

Bonnie Castrey	Joe Henderson
Thomas Christopher	Geraldine Randall
Joe Gentile	William Rule
<u>Michael Prihar</u>	<u>Irene Ayala</u>

If the arbitrator selected indicates that he/she will not be available for hearing within sixty (60) days, the parties shall proceed to select another arbitrator as indicated above.

12.1 The hearing shall be under the direction of the Arbitrator who shall conduct all matters in accordance with the rules and procedures prescribed in Section 11513 of the Government Code except as otherwise indicated in this Article. Arbitration hearings shall be private with attendance limited to the parties to the grievance and their representatives, if any, and witnesses while testifying.

12.2 The Office of Staff Relations shall be responsible for the arrangements for the hearing, the maintenance of records and such other services as may be required by the Arbitrator in fulfilling his/her responsibilities.

12.3 The parties shall exchange lists of proposed witnesses not later than five (5) days prior to the first date of the hearing.

12.4 Neither party shall communicate with the Arbitrator without first contacting the other party to explain the purpose of the intended communication.

13.0 Optional Preliminary Hearing on Issues Which do not Involve Merits of Grievance: If the District claims that the grievance should be dismissed for reasons which do not go to the merits (e.g., mootness, untimeliness, matter beyond scope of procedure, or breach of confidentiality provisions), the District may cause its claim to be heard and ruled upon by the arbitrator prior to a hearing on the merits. If either party plans to invoke this separate preliminary hearing it shall so advise the other party prior to selection of the arbitrator. Immediately after selection of the arbitrator for the preliminary hearing, either the Union or the District may require that a different arbitrator be selected to hear the merits in the event that such a hearing is required.

## Article IV - Grievance Procedure

13.1 There shall be at least fifteen (15) days between the Arbitrator's decision on the preliminary matter(s) and any hearing on the merits.

13.2 The preliminary hearing is optional to the party having the right to invoke it. If not utilized, the party shall not be precluded from raising its arbitrability defenses at the regular hearing, provided that it gives the other party ten (10) days notice of its intention to do so. Moreover, both the Union and the District shall retain all rights they have under law to pursue issues relating to arbitrability of a grievance.

14.0 Scheduling Hearings and Decisions: Unless the parties mutually agree otherwise, a hearing shall be scheduled within sixty (60) days from selection of the arbitrator, but shall not be scheduled during the summer or off-track time. The decision shall be issued within thirty (30) calendar days after final submission of the case. Arbitrators who fail to meet the deadline for decision shall, unless the parties have mutually extended this deadline, be deemed ineligible for selection for new cases until such time as the decision is submitted.

15.0 Documents: Either party may request from the other the production, review and right to copy non-confidential documents relevant to the grievance. If the other party disputes the request, the arbitrator shall determine the issue.

16.0 Conduct of Hearings: In cases involving issuance of Notices of Unsatisfactory Service or Act, the District shall proceed first in providing evidence.

17.0 Limitations Upon Arbitrators: The Arbitrator shall have no power to alter, add to or subtract from the terms of this Agreement, but shall only determine whether an express term of the Agreement has been violated as alleged in the grievance and if so what the remedy should be within the meaning of the Agreement. Past practice of the parties in interpreting and applying the terms of this Agreement may be relevant evidence, but shall not be used so as to justify or result in what is in effect a modification (whether by revision, addition or detracting) of the terms of this Agreement. The arbitrator shall have no power to render an award on any grievance arising before or after the term of this Agreement.

18.0 Effect of Arbitration Award: The arbitrator's decision shall be final and binding upon the grievant(s), the District and the Union. The California law on final and binding arbitration awards between a school district and an employee organization shall be applicable to such a decision.

18.1 Unless otherwise indicated in this Agreement, this grievance procedure is to be the employees' and the Union's sole and final remedy for any claimed breach of this Agreement.

## Article IV - Grievance Procedure

19.0 Expenses: All fees and expenses of the arbitrator shall be shared equally by the Union and the District. Each party shall bear the expense of presenting its own case. A transcript of procedure shall not be required, but either party may order a transcript at its own expense. If the other party at any time desires a copy of the transcript, it must share equally the cost of the reporter and transcription.

19.1 Rescheduling/Cancellation Expenses: All fees and expenses of the Arbitrator incurred as the result of rescheduling or cancellation shall be paid by the requesting party, unless otherwise mutually agreed.

20.0 Grievance Files: The District's Office of Staff Relations shall maintain a file of all grievance records and communications separate from the personnel files of the grievant(s), and grievance documents and decisions shall not be included in the personnel file unless it is reasonably necessary or appropriate to do so. Grievance documents, including arbitration awards, shall never be placed in an employee's examination folder except that any evaluation which is sustained through the grievance procedure may be placed in the employee's examination folder.

21.0 No Reprisals: There shall be no reprisal against an employee for utilizing these grievance procedures or for assisting a grievant pursuant to these procedures.

## ARTICLE V

### WORK STOPPAGE

1.0 No Strikes: Apart from and in addition to any existing legal restrictions upon and remedies for work stoppages, the Union agrees to the following:

a. During the term of this Agreement, neither the Union, nor its respective officers or representatives shall urge, call, sanction or engage in any work stoppage, slowdown, or other concerted interference with normal District operations for any cause whatsoever. In the event of any actual or threatened strike, slowdown, or other work stoppage, the Union and its officers, representatives and affiliates shall take all reasonable steps within their control to avert or end the same; and

b. Any employee engaging in any strike, slowdown, or other work stoppage may be subjected to discipline or termination under applicable law.

2.0 No Lockouts: The District agrees that it shall not engage in a lockout of unit members during the term of this Agreement. The term "lockout" is intended to cover a situation where the employer refuses to permit employees to work in an effort to obtain bargaining concessions from the Union.

3.0 Disputes arising under this Article are to be handled according to appropriate legal proceedings rather than the grievance procedures of Article IV.

4.0 No employee shall be required to perform clearly identifiable struck work of employees of a different bargaining unit.



## ARTICLE VI

### NON-DISCRIMINATION

1.0 Pursuant to applicable Federal and State laws, the District and Union agree not to discriminate against any employee based upon race, color, creed, national origin, religion, sex, age, physical handicap, marital status, sexual orientation, political affiliation, or union activities.

2.0 Employees may grieve alleged violations of this Article through Steps I, II, and III of the grievance procedures of Article IV. Any such grievance may, at the Union's request, then proceed to arbitration pursuant to Article IV, Section 11.0 through 19.0 upon execution of a separate written agreement by the individual grievant to be bound by the arbitration award as a final and binding resolution of the dispute.

## ARTICLE VII

### UNION SECURITY AND DUES DEDUCTIONS

1.0 Dues Deductions: The District shall deduct Union membership dues for each pay period worked in the amount specified by the Union from the salary of each employee who has submitted a written authorization.

1.1 Exclusive to Union: Payroll deductions for membership dues from employees shall be exclusive on behalf of the Union and no membership dues deductions are to be made on behalf of any other employee organization as defined in Government Code Section 3540.1(d).

1.2 Remittance to Union: A deposit approximating the amount of dues so deducted shall be remitted to the Union on payday, and the reconciled amount will be supplied to the Union within thirty (30) days after the deductions are made, together with a list of affected employees.

1.3 Missed Deductions: In instances where a dues deduction is not taken from an employee who has a valid authorization form on file, the missed deduction(s) will be taken from a subsequent salary payment and remitted to the Union.

2.0 Agency Fee Obligation: Commencing within thirty (30) days of a final certification of agency fee election results or within thirty (30) days of an employee's initial employment, whichever is later, and continuing throughout the term of this Agreement, each employee (as defined in Article I of this Agreement) is required as a condition of continued employment either: (a) to be a member in good standing of the Union, or (b) to satisfy the agency fee financial obligations set forth in Section 2.1 below, unless qualified for religious exemption as set forth in Section 2.3 below.

2.1 Unless the employee has (a) voluntarily submitted to the District an effective dues deduction request, or (b) individually made direct financial arrangements satisfactory to the Union as evidenced by notice of same by the Union to the District, or (c) qualified for exemption based upon religious grounds as provided in Section 2.3 below, the District shall process a mandatory agency fee payroll deduction in the appropriate amount, and promptly forward that amount to the Union accompanied by a list of employees for whom such deductions have been made. For purposes of (a) above, dues deduction requests or authorization cards which pre-dated the agency fee obligation will be treated as valid unless and until revoked.

2.2 The amount of agency fee to be charged shall be determined by the Union subject to applicable law; it shall therefore be an amount not to exceed the normal periodic membership dues, initiation fee and general assessments applicable to Union members. As to non-members who object to the Union spending their agency fee on matters unrelated to collective bargaining and contract administration, the amount of agency fee charged shall not reflect expenditures which the courts or PERB have

## Article VII - Union Security and Dues Deductions

determined to be non-chargeable, including political contributions to candidates and parties, members-only benefits, charitable contributions and ideological expenditures and, to the extent provided by law, shall not reflect expenditures for certain aspects of lobbying, ballot measures, publications, organizing and litigation. The Union shall comply with applicable law regarding disclosure and allocation of its expenses, notice to employees of their right to object, provision for agency fee payers to challenge the Union's determinations of amounts chargeable to the objecting non-members, and appropriate escrow provisions to hold contested amounts while the challenges are underway. The foregoing description of permissible agency fee charges and related procedures is included herein for informational purposes as a statement of applicable law, and is not intended to change applicable law or to provide any contractual terms or enforcement procedures under this Agreement.

### 2.3 Religious Exemption from Agency Fee Obligations:

a. Any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to meet the above agency fee obligations, but shall pay in lieu thereof (by means of mandatory payroll deduction) an amount equal to the agency fee, to a nonreligious, non-labor charitable organization exempt from taxation under Section 501(c) (3) of the Internal Revenue Code, as designated by the employee. Board of Education approved examples of such organizations are:

Brotherhood Crusade  
United Negro College Fund  
United Way

b. To qualify for the religious exemption, the employee must provide to the District, with a copy to the Union, a written statement of objection, along with verifiable evidence of membership in a religious body as described in a. above.

c. An employee utilizing this religious exemption status who requests the Union to utilize the grievance/arbitration provisions on the employee's behalf, shall be subject to charges by the Union for the reasonable cost of using such procedures.

2.4 Implementation Dates: Any of the above-described payment obligations applicable to employees shall be processed by the District with the payroll immediately following the effective date of the payment requirement, provided that the information is on file with the Payroll Services Branch by the deadline for filing time reports.

## Article VII - Union Security and Dues Deductions

2.5 Indemnity/Hold - Harmless: The Union agrees to indemnify and hold the District harmless against any and all liabilities (including reasonable and necessary costs of litigation) arising from any and all claims, demands, suits, or other actions relating to the District's compliance or attempted compliance with either this Article or the requests of the Union pursuant to this Article, or relating to the conduct of the Union in administering this Article. The Union shall have the right to determine and decide all matters relating to settlement and conduct of litigation with respect to this Article. In no case shall District funds be involved in any remedy relating to this Article. Any underpayments to the Union resulting from the District's failure to make a required deduction shall be remedied by additional deductions from the affected employee(s).

Any overpayments to the Union resulting from excessive deductions shall be remedied either by refund from the Union to the affected employee(s) or by a credit against future payments by the affected employee(s).

2.6 The District will furnish any information needed by the Union to fulfill the provisions of this Article.

2.7 The District shall deduct agency fees for each pay period worked.

3.0 Maintenance of Membership: Those employees who voluntarily become a member of the Union during the term of this Agreement and who have a dues deduction in effect, shall continue to have such dues deducted from their salary payments. A dues deduction may only be revoked by an employee in writing during the thirty (30) day period commencing (90) days before the expiration of the Agreement and/or upon expiration of the Agreement. The dues deduction shall automatically terminate if an employee terminates employment or otherwise ceases to be a member of the bargaining unit.

3.1 The District shall not be liable to the Union by reason of the requirements of this Article for the remittance of payment other than that constituting the actual deduction made from the wages earned by the employee. The Union agrees it shall indemnify and save the District harmless from any liability arising from any and all claims, demands, suits, or other actions arising from compliance with this Article or in reliance on any list, notice, certification or authorization furnished under this Article. In addition, the Union agrees to refund promptly to the District any sum paid to it in error.

## ARTICLE VIII

### DEGREE TRACK/NON-DEGREE TRACK

1.0 General: All Teacher Assistants are, on a continuing basis (except as provided below), required to enroll and successfully complete college courses. However, there are two categories of Teacher Assistant: Degree Track (see Section 2.0 - 2.4 below) and Non-Degree Track (see Section 3.0 - 3.2 below).

2.0 Degree Track: The Degree Track is open to all current employees who satisfy the annual twelve (12) unit minimum requirement. All employees hired on or after January 28, 1991 are limited solely to Degree Track status and must, commencing July 1, 1991, satisfy the annual twelve (12) unit minimum as a condition of continued employment.

Degree Track employees accrue paid time off at a higher rate, shall be eligible to seek the "A level" bilingual differential, shall benefit from an experience credit when seeking future employment as an LAUSD teacher.

2.1 Annual 12 Unit Minimum Requirement: All Degree Track units must be commenced and successfully completed within the school year (July 1 to June 30). Units required are twelve (12) semester units (or quarter unit equivalent). This requirement shall be adjusted in the case of those who are in paid status (whether due to late start or approved leave) for less than 75% of the school year: if less than one-half year, no specific number of units is required; if one-half or more up to 75%, six (6) units are required.

a. Degree Track units must be certified as counting toward a baccalaureate degree and teacher credential. Post-baccalaureate units toward a degree applicable to the teaching profession or toward the teacher credential also count toward this requirement. Post-baccalaureate units leading toward a profession other than teaching do not count.

b. Current employees who wish to qualify for Degree Track status must submit a certified transcript or valid certificate from the college verifying completion of twelve (12) qualifying units.

c. Employees who have completed all educational requirements for a baccalaureate degree and California teaching credential may remain on the Degree Track provided they continue to meet the minimum Non-Degree Track course requirements and also participate in CBEST preparation classes. If the CBEST preparation class is a college course, it shall satisfy the Non-Degree Track course requirement for such employees. If they have completed CBEST, they may remain on the Degree Track provided they continue to meet the Non-Degree Track course requirements.

## Article VIII – Degree Track/Non-Degree Track

2.2 Grace Period: A one semester grace period shall be allowed once in each Degree Track employee's career for those who fall short of the annual requirement for a given year. The employee may use the period of time up to the end of the first semester of the subsequent school year as a grace period to make up the shortage. If this is not done, the employee is removed from the Degree Track (and if a January 28, 1991 or later hire, the employee becomes ineligible for continued employment). The make-up units completed in the grace period count only toward the previous year's requirement; the current year's requirement must be satisfied in addition to the make-up units.

### 2.3 Experience Credit

a. When seeking employment as a District teacher, a Degree Track TA shall receive credit as described below for Teacher Assistant experience provided that openings exist within the employment status category in the subject/level for which application is made, and provided that the applicant has (1) obtained a baccalaureate degree, (2) passed CBEST, (3) achieved appropriate units/credential, (4) obtained health and fingerprint clearance, and (5) complied with all legal requirements. For example, by law, no emergency credentials can be issued to applicants if fully credentialed teachers are available.

b. The District Certificated Recruitment/Selection Section will add an indicator to the teacher application and interview forms to show that the applicant is a Degree Track Teacher Assistant. Certificated Recruitment/Selection staff, in evaluating the Teacher Assistant for employment approval, will credit the applicant with the Teacher Assistant experience which will be integrated into the overall evaluation for employment approval. This credit will be given to applicants who are fully credentialed as well as applicants for shortage fields who will need emergency credentials.

c. Teacher Assistants who meet all requirements and have successfully completed the qualifying process and been approved for employment will be given priority, within the employment status category and within staff integration guidelines, to interview for openings in the subject/level for which qualified.

d. It is anticipated that the foregoing will, as a practical matter, give Teacher Assistants an advantage over many outside teacher applicants. However, selection as a teacher is not guaranteed. An applicant who fails to qualify for a teacher position may request a review of the selection committee evaluation. If an unsuccessful applicant wishes to pursue this remedy, the request must be in writing to the Director, Certificated Recruitment and Selection, within thirty (30) days of the receipt of the notification letter. This is the sole remedy for any disputes arising under this Section 2.3.

## Article VIII – Degree Track/Non-Degree Track

2.4 Additional Salary Step: Degree Track Teacher Assistants shall be eligible for an additional salary step effective on or after July 1, 2005, following successful completion of 15 qualified units (semester or quarter unit equivalent) begun and completed during any twelve (12) month period. (In the case of rating in new hires, they are limited to the twelve (12) months immediately prior to the hire.) This step is 5% above the employee's regular hourly rate, and shall become the employee's new base rate so long as they remain on Degree Track. The additional salary step shall become effective the first pay period following submission of the certified transcript or valid certification from the college.

3.0 Non-Degree Track: The Non-Degree Track is comprised of, and limited to, any Teacher Assistant who does not satisfy the annual twelve (12) unit requirement and who was actively employed both as of and prior to January 28, 1991, including an employee who, on January 28, 1991, was on an approved temporary absence with a commitment from the site administrator to permit return by a date certain. Employees eligible for Non-Degree Track status who achieve Degree Track status, but then later fail to maintain such status, shall revert to Non-Degree Track status.

Non-Degree Track Teacher Assistants accrue paid time off at the lower rate, are not eligible for the "A level" bilingual differential, and are not eligible for the additional 5% salary step.

3.1 College Requirement: All Non-Degree Track Teacher Assistants are required, as a condition of continued employment, to maintain enrollment and passage of a college course at all times during the traditional school year. Course units must be directly related to the employee's service to the District and must be for the purpose of increasing the employee's knowledge, understanding and skills related to the employee's employment by the District.

3.2 Grace Period: A one-semester grace period shall be allowed once in a Non-Degree Track employee's career for those who enroll in but were unable to successfully complete the course.

## ARTICLE VIII-A

### CAREER LADDER IMPLEMENTATION

1.0 Since September of 1993, the Los Angeles Unified School District (the "District") and the Union have been engaged in a joint collaborative effort to develop a paraprofessional career ladder for the District with the intent of developing a program to support paraprofessionals in the pursuit of teaching credentials. As part of that collaborative effort, on May 20, 1994, the District and the Union jointly issued a "Paraprofessional Career Ladder Working Group Report."

2.0 The District and the Union agree to establish a Career Ladder Oversight Committee (the "Committee"), with equal representation from the Union and the District.

2.1 The Committee shall be composed of eight (8) Union representatives (four [4] from Unit B and four [4] from Unit F), and eight (8) District representatives.

2.2 All recommendations by the Committee shall be reached by clear and substantial consensus prior to the recommendation's submission to the District's Superintendent or designee for approval.

2.3 The Committee shall be charged with the development of the overall procedures for implementation of a paraprofessional career ladder program, the overall monitoring of that program, and the making of recommendations to the District's Superintendent or designee regarding program components and continued implementation.

2.4 All Committee meetings shall, to the extent possible, be scheduled outside of employee duty time and the Union shall reimburse the District for any lost duty time for Committee meetings, or any tasks completed by Committee members on duty time pursuant to Committee direction.

3.0 The Career Ladder Program to be implemented by the District shall include the following components:

3.1 Only those eligible employees who complete a written application to participate in the Career Ladder Program shall participate in that program.

3.2 The Career Ladder Program shall be composed of five (5) levels. Participating employees shall be placed on the appropriate level according to the individual employee's education and level of performance skills. Education and skill requirements necessary for each level and a participating employee's initial placement and movement on the career ladder shall be determined and implemented in accordance with procedures developed by the Committee, subject to approval by the District's Superintendent or designee.



## **Article VIII-A - Career Ladder Implementation**

3.3 Career Ladder participants who are not making satisfactory progress toward the pursuit of a teaching credential may receive, as part of the Career Ladder program, counseling toward careers in other areas of District need.

4.0 The Committee shall, subject to District funding, establish an Educational Trust Fund to provide financial assistance to employees participating in the District's Career Ladder Program to improve paraprofessional education to assist paraprofessionals in pursuing a career as classroom teachers or otherwise improving their education. Participation in the paraprofessional career ladder shall be limited to employees in bargaining units B and F, unless otherwise determined by the committee, or by the Superintendent.

4.1 The criteria for participation in the Educational Trust Fund and the level of participation for each participating employee shall be determined by the Committee, subject to approval by the Superintendent or designee.

4.2 The Committee shall make recommendations to the Superintendent or designee as to eligibility, approved classes, and the amount of disbursement from the Educational Trust Fund.

4.3 The Committee shall develop and recommend to the Superintendent or designee a list of approved candidates for participation in the Educational Trust Fund. However, final approval for participation in the Educational Trust Fund shall be required from the Superintendent or designee. That approval shall be in the sole discretion of the District. However, if any such approval is denied, the District shall, upon written request, provide the applying employee with the stated reason for the disapproval.

4.4 All courses or programs shall be taken by the employee during non-assigned duty hours.

4.5 The Committee shall develop and implement a requirement for participating employees who have obtained their teaching credential, whereby, upon the request of the District, such employees shall be required to work as classroom teachers in the District for a minimum of two (2) years, if offered a District teaching position. Any participating employee who has completed their teaching credential but fails, upon request of the District, to fulfill his or her two (2) year teaching commitment will be required to repay to the Educational Trust Fund the amount of financial assistance which was contributed to the employee. The required amount shall be deducted from the employee's final pay warrant. In the event that the employee's financial obligation exceeds the amount of his or her last pay warrant, then the employee shall be liable for any remaining amount and be required to repay all amounts due in accordance with procedures established by the District. The requirement shall be waived in the event of the employee's death or a physical or mental disability which precludes the employee from returning to District employment.

## Article VIII-A - Career Ladder Implementation

4.6 Any employee who terminates employment with the District within six (6) months of receiving financial aid from the Educational Trust Fund shall refund the amount received to the District, or the amount shall be deducted from the employee's final pay warrant. In the event the employee's financial obligation exceeds the amount of the employee's last pay warrant, then the employee shall be liable for any amount remaining, and be required to repay all amounts due and owing in accordance with procedures established by the District. This requirement shall be waived in the event of the employee's death or physical or mental disability which precludes the employee from returning to District employment.

5.0 This program shall be subject to continued District funding.

5.1 Applications for participation in the Career Ladder program shall, to the extent practicable, be made available year round.

6.0 Applications for participation in the Career Ladder Program shall, to the extent practicable, be made available by April 30 and September 30 each year.

## ARTICLE IX

### HOURS AND OVERTIME

#### 1.0 General Provisions

1.1 The workweek of employees shall normally be Monday through Friday, but the District may establish a different workweek for various employees in order to meet the operational needs of the District.

1.2 Employees' daily hours of work and work schedules shall be established at the discretion of the District to meet District operational needs, provided, however, that employees shall not be assigned for less than sixty (60) hours per pay period, except as follows:

a. By mutual written consent between an employee and the site administrator, an employee may be assigned for fewer than sixty (60) hours per pay period in order to accommodate a special need.

1.3 To the extent consistent with educational program needs, the District shall make a reasonable effort to avoid changing a Degree-Track employee's assigned times of work where the change would cause a conflict with the employee's college classes.

1.4 The District shall make a reasonable effort to avoid a split shift assignment, except when the employee consents to it or during emergency situations. A split shift is a single assignment of hours in the same classification and location broken by an unpaid (in any capacity) period of time outside of the employee's scheduled meal period.

1.5 Insofar as practical, temporary additional non-overtime Teacher Assistant hours available at a site, including summer and intersession work, shall be distributed equitably among those qualified employees at the site who volunteer for such hours, taking into account instructional program needs and employee seniority. In the event that insufficient qualified employees volunteer, the assignment shall be made by the appropriate administrator. The administrator shall make reasonable efforts to distribute equitably such assignments.

1.6 Employees will be paid for all hours worked in accordance with this Agreement and applicable law including work performed during otherwise unpaid, duty-free meal periods and work performed before and after assigned shifts.

1.7 Prior to any substantial change of a permanent nature that affects an employee's work week or daily hours of work, the employee shall, whenever practicable, be given three (3) working days advance notification.

## Article IX – Hours and Overtime

2.0 Meal Period: Employees who are assigned for duty for at least five (5) hours per day shall be entitled to a minimum thirty (30) minutes duty-free, unpaid meal period. In computing the five hour period, if the employee wishes to include time spent in multiple assignments (whether or not in a Unit F classification) the employee shall so notify the administrator in advance, so that consideration can be given to revised scheduling and/or apportionment of the cost among funding sources. The meal period shall be scheduled by the appropriate administrator at any time other than during the first or last hour of the assignment, but whenever practicable it shall be scheduled at approximately the half-way point of the work schedule. Employees who are interrupted during their meal period and who are required to perform duties will be considered on duty for the duration of the interruption and such time will count as time worked and compensated at the appropriate rate of pay.

3.0 Rest Period: Employees assigned six (6) hours or more per day shall be granted one paid rest period of twenty (20) minutes or two paid rest periods of ten (10) minutes. Employees assigned for four (4) hours or more but less than six (6) hours per day shall be granted one paid rest period of ten (10) minutes. In computing entitlement to rest periods, if the employee wishes to include time spent in multiple assignments (whether or not in a Unit F classification), the employee shall so notify the administrator in advance so that consideration can be given to revised scheduling and/or apportionment of the cost among funding sources. The rest period shall be scheduled by the appropriate administrator for mid-morning and/or mid-afternoon but not during the first or last hour of the assignment. The rest period shall not be used to lengthen the meal period or shorten the workday.

4.0 Yard Supervision: All yard supervision assignments made to classroom paraprofessionals (aides, TAs) at the site shall be distributed equitably.

5.0 Overtime: Employees shall receive compensation at a rate equal to one and one-half (1-1/2) times the regular rate of pay for all work authorized and performed in excess of forty (40) hours in any calendar week.

5.1 To the extent practicable, the District shall make a reasonable effort to distribute overtime work equitably among the qualified employees of an office, operational unit, or work group with consideration given to District need and employee availability in making the distribution. Employees shall be responsible for updating their contact information with the appropriate office, operational unit, or work group so that they may be contacted when an overtime opportunity becomes available. Upon reasonable notice, an employee shall be required to work overtime as needed. If an employee is not available for an overtime assignment, it shall be without prejudice to consideration of that employee for subsequent overtime assignments.

6.0 Use of Teacher Assistants in the Absence of a Teacher: It is recognized by the parties that Teacher Assistants are to be assigned classroom duties in

## Article IX – Hours and Overtime

accordance with Education Code Section 45344 so that when the regular or substitute classroom teacher is not present in the classroom, it is the District's obligation to assign responsibility for classroom supervision and instruction to an employee who possesses a teaching credential. Employees will not be required to perform classroom duties in violation of Education Code Section 45344. Alleged violations of this Section shall be subject to the following special grievance procedure:

a. Any grievances alleging violations of Section 6.0, above, must be filed with the immediate administrator with a copy to the Local District Superintendent/Division Head within five (5) days of the occurrence of the facts upon which the grievance is based. Within five (5) days of receipt of the grievance, the immediate administrator shall hold a meeting to discuss the matter and following the meeting shall reply, in writing, within five (5) days to the employee, representative (if any), and the Local District Superintendent/Division Head.

b. If the employee wishes to obtain review of the above decision, a written request to the appropriate Local District Superintendent/Division Head shall be delivered within three (3) days of receipt of the immediate administrator's reply. Within five (5) days after receipt of the request, the Local District Superintendent/Division Head or designee shall hold a meeting to discuss the matter, and shall, by the end of the day following, announce a decision. The announcement shall be in person or by telephone, with an immediate confirming letter sent to the employee and representative (if any).

c. Within five (5) days after the above decision is announced, Local 99, with the concurrence of the employee, may request that the matter be submitted to arbitration by notifying the Office of Staff Relations of its intention in writing. Local 99 and the District shall select an arbitrator and the dispute will be calendared for an arbitration hearing at the next scheduled available expedited hearing date. In any arbitration under this Section involving a grievance where the parties dispute whether a violation has occurred, the fees of the arbitrator shall be paid by the losing party. Briefs, if any are desired, are to be filed promptly, and a summary letter award shall be issued by the arbitrator within seven (7) calendar days of the briefs (or of the close of the hearing if there are no briefs). These cases shall, in all ways not modified herein, conform to the provisions of Article IV.

d. It is understood that the sole issue for arbitration shall be the determination as to whether or not the alleged violation has occurred, and that the arbitrator shall have no authority to grant any remedy other than declaratory relief.

### 7.0 Hours Reductions:

7.1 When a decision has been made to reduce regularly assigned TA hours, the site administrator shall give consideration to the following factors when

## Article IX – Hours and Overtime

determining the impact upon employees: program needs, budget constraints, District policy encouraging Degree Track personnel, seniority of the employees, special skills and/or qualifications, and individual special needs and/or hardships. The site administrator shall develop a tentative plan for implementation of the reduction of hours. These are local decisions with differing approaches expected. When it is determined that a less senior employee possesses special skills and/or qualifications necessary for the position, an employee with greater seniority who has his or her hours reduced as a result of this determination, may send a written request to the site administrator requesting a statement of the necessary special skills and/or qualifications within five (5) days of the decision to reduce his or her hours.

7.2 The administrator shall give all TAs employed at the site a five (5) day written notice of a scheduled meeting to discuss the tentative plan and to receive input prior to final decision. Two copies of the notice shall be given to the Unit F Job Steward.

7.3 During the five (5) day period prior to the meeting, the school's Units/Seniority list and local school budgets shall be made available for review by the TAs; one copy of those documents shall be provided to the Job Steward upon request.

### 7.4 Teacher Assistant Meeting:

a. A meeting shall be held between the site administrator (or designee) and the school's TAs at a time when most TAs are on duty. Those not on duty (including off-track employees) may attend voluntarily. A Local 99 representative may attend the meeting by giving the site administrator 24 hours notice.

b. During the meeting, the site administrator (or designee) shall outline the tentative plan, including the rationale and methods of solution (not required to get into names or individual personnel matters). The TAs shall be given the opportunity to ask questions, raise objections, offer suggestions and/or make recommendations.

7.5 The site administrator (or designee) shall announce the final decision. The decision is not grievable. However, employees may grieve failure to give proper notice, hold the TA meeting, supply the required information or meet with the Local 99 representative if requested.

7.6 TAs whose hours are reduced and who remain assigned to the school shall have preference for one year from the reduction for newly available hours at the site for which they are qualified and which are not in conflict with their present assignment. However, if the additional hours from a position which has more hours than the reduced employee's current assignment, the reduced employee shall have preference for that greater assignment even if the hours conflict with such current assignment. The above preference is limited to a restoration of the number of hours held prior to the reduction

## Article IX – Hours and Overtime

but shall not preclude the discretionary assignment of hours in excess of that number. A school shall not be required by the above provisions to break up a block of newly available hours which the school has determined should constitute a single assignment.

7.7 The above procedures are not intended to cover reductions initiated or voluntarily consented to by an employee or reductions in temporary additional hours.

8.0 Multiple TA Assignments: The site administrator (or designee) should not disqualify an employee from consideration for employment as a TA at a school merely because the employee already holds a (non-conflicting) assignment at another school. However, alleged violations of this Section, because they relate to discretionary hiring decisions, shall not be subject to the provisions of Article IV, Grievance Procedure. The sole remedy for any disputes concerning such decisions shall be a review by the site administrator, upon request of the employee, as to the reason(s) why the employee was not selected.

## ARTICLE X

### REDUCTION IN FORCE

1.0 Reduction in Force: For the purpose of this Article, a reduction in force occurs when a worksite eliminates entirely one or more Teacher Assistant assignments due to loss of budgetary support, changes in educational program, changes in the services being offered the students, changes in student population or return from leaves of absence. When a reduction in force occurs, the procedures outlined below shall apply.

2.0 Order of Reduction In Force: When a reduction in force is to occur, it shall be upon at least ten (10) working days' written notice.

2.1 During the first month of each school year (may vary depending upon school's calendar), the site administrator (or designee) shall compile and post at the site a list of assigned employees in descending order of completed qualified (counting toward baccalaureate degree and teacher credential) college units, noting opposite each employee their District date of hire seniority date. (District data processing will supply each employee's hire date based on most recent hire; if an employee wishes to relate back to an earlier hire date, the employee has the burden of demonstrating same to the satisfaction of the current administrator, and prior service as an Education Aide, Teacher Assistant and/or Instructional Aide can be included if there was no break in service between employment in the classifications.)

If any employee believes that the District record of his personal date of hire seniority date and/or his cumulative qualified units total is (are) in error, the employee must submit evidence to the contrary to the site administrator (or designee), no later than ten (10) work days from the posting of the list, for administrative investigation and resolution.

2.2 When layoffs are ordered at a school, the order of layoff shall be as follows:

a. First, the site administrator--in the exercise of the District's discretionary right to terminate first year employees without recourse--shall review all employees with less than one year of service and determine whether any of them is to be terminated.

b. Second, using the list described in Section 2.1, the employees shall then be subject to layoff with those with the lowest number of accumulated qualified units laid off first. Provided, that those with five (5) or more years of seniority are to be passed over and exempted until there are no employees remaining with less than five (5) years' seniority (apart from those exempted under 2.3 below). Then, the same procedure shall be followed, so that those with the lowest number of units are laid off first. At that time, those with ten (10) or more years of seniority are to be passed over and exempted until there are no employees



## Article X - Reduction in Force

remaining with less than ten (10) years' seniority (apart from those exempted under 2.3 below). Then, the same procedure shall be followed.

2.3 Exceptions to Order of Reduction: Employees shall be released as described above, unless it is determined that a lower ranked employee possesses special instructional skills or qualifications (e.g., bilingual, computer, music, library) needed for the instructional program and these skills or qualifications are not adequately available from among those who would otherwise be protected from the reduction in force.

3.0 Calculation of Completed Units: For purposes of this Article, all college unit calculations shall be as of October 1 or March 1, whichever is more recent.

4.0 Final determination of alleged violations of the reduction in force procedure outlined above shall be processed through expedited arbitration (early setting of hearing; no transcript, steno services or briefs; and summary letter award issued within ten (10) days of close of hearing; otherwise, Article IV applies). Should the arbitrator rule in favor of the grievant, the award could provide for a preference for available temporary additional hours at the site until the lost time is made up. In no event shall a back pay award exceed one semester's (or equivalent) pay.

5.0 Recall Rights: Recall rights assure employees subject to reduction in force pursuant to this Article that they have first preference for future available positions for which they are qualified at the school from which layoff occurred. Employees terminated under 2.2a are not entitled to recall rights.

5.1 The right of recall shall exist for twelve (12) months from the date of layoff. It shall be the obligation of the employee to keep their current mailing address and telephone number (if any) on file at the school. Those so recalled shall be restored to their most recent salary rate and status: Degree Track/Non-Degree Track status.

5.2 If a new assignment becomes available, the laid off employees with recall rights shall be contacted in inverse order of layoff. If an employee fails to respond immediately after a written offer to his/her address of record or declines a recall offer, the employee's recall rights shall cease.

6.0 The District agrees to abandon the practice, where it exists, of giving automatic annual notices of termination at the end of the school year.

## ARTICLE XI

### EVALUATION AND DISCIPLINE

#### 1.0 Evaluation

1.1 Schedule: Employees shall be given a performance evaluation at least once every school year. The District shall make a reasonable effort to issue the employee's annual evaluation at least twenty (20) working days prior to the end of the employee's assignment for that school year. The parties realize that because of year-round schools and different work schedules, employees' assignments may end at different times.

Evaluations may be issued within the last twenty (20) days or in the next evaluation period in cases where the employee is unavailable. If an employee receives the annual evaluation within the last twenty (20) working days, the further processing of any timely appeal or timely grievance shall be postponed, unless otherwise requested by the employee or the Union, until the employee's next assignment begins.

In addition to any other performance evaluation which may be issued, any employee who did not receive an annual performance evaluation from at least one supervisor who supervised the employee at least ninety (90) calendar days during the annual evaluation period may request that a performance evaluation be completed by his/her current immediate supervisor once the employee has worked for the supervisor at least ninety (90) calendar days.

1.2 Procedure To Be Followed: Performance evaluation reports, including annual evaluations and any interim evaluations, shall be made on forms prescribed by the District.

a. Evaluations shall be based on observations or knowledge and in accord with the facts and not upon unsubstantiated or undocumented charges or rumors. It is understood, with regard to the evaluation, that the evaluator (generally the immediate administrator) will consult with the staff person responsible for directing the employee's work. In addition, no evaluation shall be based upon derogatory materials in the employee's personnel file unless the employee has previously been given sufficient prior notice of same, an opportunity to review and comment upon it, and had such comments attached to the materials.

b. The evaluator shall discuss the written performance evaluation report with the employee at the time the evaluation is issued. However, in the event the parties are unable to meet, the supervisor shall arrange for a discussion at a later date. Both the evaluator and the employee will sign the evaluation. The signature of the employee means only that the employee has received a copy of the evaluation. The employee may attach any written comments to the evaluation at the employee's option at the time of the conference or at a later date. Copies of the evaluation together with any attachments will then be distributed as follows:

## Article XI - Evaluation and Discipline

One (1) copy to the employee at the time the employee signs the evaluation; one (1) copy to the evaluator.

c. If the evaluation report indicates below average or substandard performance, it shall include recommendations for improvement and offer appropriate counseling and/or guidance. If the employee is being terminated pursuant to Section 3.0 below, this provision shall not apply.

1.3 Appeal: If the employee disagrees with the evaluation, he/she shall have the right to appeal the evaluation in writing to the appropriate Local District Superintendent/Division Head, or designee within ten (10) working days of receipt of the evaluation. The decision of the reviewer will be attached to the evaluation and shall be final and will be made within ten (10) working days after hearing the appeal. The employee may be represented in this appeal by the Union, if he/she so requests.

### 2.0 Files:

2.1 An employee shall be provided a copy of all adverse written materials (e. g., complaints, reprimands, counseling memos, warnings, etc.) prior to or at the time they are placed in his/her personnel file.

2.2 The employee shall have the right to sign or initial any such adverse material and prepare a written response which shall be attached to the material. Upon reasonable prior notice, an employee shall have the right to inspect his/her personnel file during normal office hours. If the employee's work schedule is such that his/her duties do not permit inspection during normal office hours, then reasonable release time for that purpose shall be scheduled by the District. The employee's Union representative shall have the right, with the written consent of the employee, to inspect his/her personnel file. Employees will not be charged for the first five (5) pages of materials in the personnel file which they request. An employee shall also be entitled to a copy of any document the employee is requested to sign.

2.3 If (a) the District receives a letter or other written material from a student, member of the public or from District personnel outside of the employee's normal line of supervision/work direction, and (b) the written material contains allegations critical of the employee's performance or character, the following conditions shall apply:

a. The matter shall first be investigated;

b. The material shall not be retained or placed in the employee's file unless it is reasonably determined that the allegations have some substance or plausibility.

## Article XI - Evaluation and Discipline

2.4 Conference Memos: The purpose of a conference memo is to inform the employee in writing about perceived deficiencies, where appropriate to provide constructive assistance to the employee to improve, and to document the communication on a reasonably current basis.

A conference memo is a written record about work performance issues issued after a face-to-face meeting or a telephone discussion if the employee or supervisor is unable to personally meet.

When the District determines that a formal conference memo is to be issued, the following procedures shall apply:

- a. The conference memo will be signed by the issuing supervisor. The employee shall have the right to sign the conference memo in accordance with Section 2.2.
- b. A copy of the memo will be given to the employee. The supervisor shall make reasonable efforts to obtain the signature of the employee acknowledging receipt of the memo or of a witness that the conference memo was delivered.
- c. Any written response from the employee shall be attached to the memo and retained with the file copy.

Neither the District nor the employee shall consider the conference memo by itself to constitute discipline. Any use of conference memo in subsequent disciplinary proceedings shall be to establish that the employee had notice of the concerns expressed in the conference memo. The underlying facts which gave rise to the conference memo (e.g., absence or tardiness record or the employee conduct at issue) may be presented in the disciplinary proceeding.

With the exception described below, annual evaluations shall not be based on conference memos issued in prior annual evaluation periods, but such conference memos may only be referred to as establishing prior notice to the employee of the concerns set forth. Generally, in order to provide an opportunity for remediation of job-related deficiencies, administrators shall not refer to a conference memo issued for the first time within thirty (30) days of the employee's annual evaluation. However, if conduct arose during that period of time which was of a significant nature, such reference is permissible. When a conference memo issued within the last thirty (30) days is not referenced in the current year's evaluation, it may be referenced in the next years' annual evaluation.

Any conference memo for which there is not repetition of the concern, event, conduct or incident which gave rise to conference memo, except those relating to serious misconduct such as child abuse, theft, substance abuse, or violence, shall be void after three (3) years.

## Article XI - Evaluation and Discipline

Upon request of the employee, such conference memos shall be removed from the employee's files.

### 3.0 Notices of Unsatisfactory Service or Act, Suspension and Termination:

3.1 If an employee is notified of possible issuance of a Notice of Unsatisfactory Service or Act with or without recommended discipline (suspension and/or termination), the employee shall be entitled to a conference with the site administrator to receive an explanation and an opportunity to be heard prior to final action on the matter. Upon request, the employee may be represented by the Union at this conference. Non-availability of the employee or representative for more than a reasonable time shall not delay appropriate action, if any. This right shall not extend to routine conferences or any other meetings or to any conferences conducted under the Evaluation Procedures of this Article. The above shall be the sole remedy for employees who are within their first year of District service.

3.2 If the above Notice includes a suspension and/or termination and occurs after the employee has completed at least one year of continuous District service, the employee shall, in addition to the above administrative consultation, be entitled, upon request, to a Personnel Commission hearing to determine whether the action taken was for cause, and to determine any claimed violations by the District of the procedures of Section 3.1. If it has been determined that a given procedure has been violated, the remedy shall be an order requiring compliance.

If the employee wishes a Personnel Commission hearing, a written request must be submitted to the Personnel Commission, with a copy to the site administrator, within fourteen (14) calendar days of receipt by the employee of the final notice of suspension and/or termination. The decision of the Personnel Commission shall be final and binding.

3.3 If the above Notice does not include a suspension and/or termination and occurs after the employee has completed at least one year of continuous District service, the employee shall, in addition to the administrative consultation described in Section 3.1 above, be entitled to file a grievance under Article IV (Grievance Procedure). Other adverse written materials shall not be subject to the provisions of Article IV (Grievance Procedure).

4.0 Grievances: Except as provided in Section 3.3 above, any grievance filed alleging a violation of the foregoing sections shall be limited to a claim that the above procedures have not been complied with and shall not challenge the substantive content of the material(s) in question. If it is determined that a given procedure has been violated, the remedy shall be an order requiring compliance. In addition, if the violation involved a suspension and/or termination under Section 3.1, the remedy may include back pay for the period between the violation and compliance.

## Article XI - Evaluation and Discipline

5.0 Attendance at Meetings: Employees required to attend meetings scheduled by the District pursuant to this Article shall be paid appropriate mileage pursuant to Article XIV, Section 3.0.

6.0 Confidentiality: Discussions between a Teacher Assistant and District supervision concerning the employee's unsatisfactory work performance or work-related problems shall, to the extent practicable, be conducted privately. For the purpose of this section, "privately" means either a private location, or a location which may be in public view but is not within earshot of other employees.

6.1 The District will take reasonable steps to inform staff to avoid conversations in public with Teacher Assistants concerning an employee's unsatisfactory work performance or work-related problems. If an employee has a complaint about the manner in which a conversation concerning the employee's unsatisfactory work performance or work-related problems has occurred, he/she may bring such concerns to the site administrator or designee.

## ARTICLE XII

### TRANSFER PROCEDURES

1.0 A "transfer" shall mean a change of an employee's work location (normally a school) without a change in the employee's classification. Transfers may be initiated by the employee (voluntary, as provided in 2.0 below) or by the District (involuntary, as provided in 4.0 below).

2.0 Voluntary Transfer Procedures: The following procedures are intended to insure that transfer requests are considered along with other applications when additional staff is to be hired at a site.

2.1 Requests for transfer shall be submitted to the site administrator in writing using a District form or by resume. Such requests shall remain on file at the requested location for one (1) calendar year, but may be renewed at the request of the employee.

2.2 When the site administrator has decided to assign additional TA hours to employees not already at the site, the site administrator (or designee) shall, before making a final selection, interview at least three (3) of the qualified Teacher Assistants with a transfer request on file at the site (unless fewer than three requests have been filed). Priority for the required three transfer interviews shall be given to qualified TAs who have identified themselves on their applications as having been laid off from a position at another location. The administrator may also consider and interview applicants from sources other than transfer applicants. The assignment may be filled on a temporary basis pending the interviews and final selection.

2.3 The sole remedy for any grievance filed under Section 2.1 or 2.2 shall be suspension of the assignment while the school conducts the required consideration of applicants.

3.0 Employees who voluntarily transfer from one District site to another shall provide to the administrator of the sending school at least ten (10) working days' notice of their intent to transfer, unless mutual agreement is reached for a lesser time period by the site administrators at the sending and receiving schools.

4.0 Administrative Transfer Procedures: An administrative (involuntary) transfer may occur to meet instructional or operational needs but such transfer shall be limited to a school within the same Local District as the employee's prior school or to a school within ten (10) miles of the employee's prior school. An employee who is being transferred administratively shall, upon request, be entitled to a consultation with the responsible administrator prior to the transfer in order to discuss the reasons for the transfer and to provide an opportunity for the administrator to hear and consider the employee's views on the matter. The employee may be represented by the Union at this consultation if he/she so requests.

## ARTICLE XIII

### LEAVES OF ABSENCE

1.0 Leave of Absence Defined: Employees shall be eligible for certain leaves of absence as specified in this Article. Employees on approved leaves of absence are in unpaid status unless the employee chooses to utilize accrued "paid non-work days" pursuant to Section 17.0 below. A leave is an authorized absence from a job classification for a specified purpose and period of time, with the right to return to active service with salary rate status and Degree Track status remaining intact unless the employee's service would otherwise have been terminated. Leaves are either "permissive" or "mandatory." As to permissive leaves, the term "may" is used and the District retains discretion as to whether they are to be granted and as to the starting and ending dates of the leave. As to mandatory leaves, the term "shall" is used and the District has no discretion as to whether the leave is to be granted to a qualified employee. An employee returning from a leave will be returned to the location from which the leave was taken except that the employee may be transferred or laid off if such an action would have been taken, in accordance with the provisions of this Agreement, had the employee remained on duty.

2.0 Applications/Notification: Applications for extended leaves of absence (anticipated twenty (20) working days or more) must be submitted to the appropriate site administrator (or designee) as soon as possible (normally no less than ten (10) working days prior to start date). For short term absences, the employee must make every reasonable effort to contact and notify the appropriate administrator (or designee) the working day prior to the beginning of an absence. If such advance notice is not possible, notification should be given as soon as possible before work on the first day of absence, but not later than the first working hour of that day, except that specific reporting requirements may be established for certain positions requiring adherence to strict time schedules. Notwithstanding other provisions of this Article, an employee intending to be absent in excess of five (5) working days must also submit to the appropriate administrator a written explanation covering the period of absence no later than the third day of absence. Unless such an explanation is submitted, failure to return to work after the fifth consecutive working day of absence may be considered resignation from service.

2.1 Extension or Renewal of Leaves: Any request or application for extension or renewal of a leave must be submitted as provided in 2.0 above so that the District has adequate time to review the request and make appropriate arrangements.

3.0 Cancellation or Early Return from Leave:

3.1 From Extended Mandatory Leave: A request by an employee for cancellation of, or early return from an extended mandatory leave shall be granted, provided the employee gives notice sufficiently in advance for the school to notify the replacement, if any.

3.2 From Extended Permissive Leave: A request by an employee for



## Article XIII – Leaves of Absence

cancellation of, or early return from, an extended permissive leave may be denied if the school has entered into a contract with a replacement employee. If so denied, the returning employee shall be granted preference for the first open assignment at the school for which he or she is qualified, including an opening created by the expiration of the replacement employee's contract.

### 4.0 Expiration/Return:

4.1 From Extended Leave: An employee intending to return to work upon expiration of an extended leave of absence, or intending to request an extension of such leave, shall give notice of his/her intention to the school's administrator (or designee) as early as practical, normally not later than ten (10) working days prior to expiration. Failure to return to work upon expiration of the leave, may be treated as a resignation.

4.2 From Short-Term Absence: An employee intending to return to work must notify the appropriate administrator (or designee) at least one hour before the end of the regular working day prior to the day of anticipated return. If such notice is not given and both the employee and a replacement or substitute report for work, only the replacement/ substitute is entitled to work and to be paid for that day.

5.0 Pregnancy and Related Disability Leave: Leaves under this Section shall be granted to a pregnant employee prior to and during the period of disability related to pregnancy and childbirth, with the period of disability leave not to exceed fifty-two (52) consecutive calendar weeks. A pregnant employee shall be permitted to continue on active duty until such date as she and her physician determine that she must absent herself due to pregnancy disability, provided that she can and does continue to perform the full duties and responsibilities of her position. The employee must also supply to the District her physician's release to return to active duty. For child care, see Section 10.0 and 18.0 below.

6.0 Illness Leave: An employee shall be granted a leave of absence because of illness, or injury, or quarantine of the employee. The employee shall be required to certify the reason for absence by completing the appropriate form. Also, the District may verify any claim under this Section when it reasonably suspects abuse or deems it necessary for health and safety reasons. An employee absent from duty under this Section for more than five (5) consecutive working days shall be required to submit a signed attending physician's statement or appropriate health form to the immediate administrator and may be referred by the District for health approval prior to readmission. An approved extended mandatory illness leave shall not exceed fifty-two (52) calendar weeks for any given illness or injury.

## Article XIII – Leaves of Absence

7.0 Industrial Injury/Illness Leave: An employee who is absent from District service because of an injury or illness that arose out of and in the course of employment, and for which temporary disability benefits are received under the worker's compensation laws, shall be entitled to a leave of absence under the following conditions:

a. Allowable leave of absence shall be for up to sixty (60) working days for the same injury or illness, unless extended upon application.

b. Each employee who received a work related injury or illness that requires medical attention or absence from work for more than the day of the occurrence must complete a written report of injury on a form to be provided by the District. This written report must be submitted to the immediate administrator within two (2) working days after the occurrence if the employee is physically able to do so. The site administrator shall, as a result of his or her own investigation, complete the Employer's Report of Occupational Injury or Illness, and shall attach the employee's report thereto. The employee must also report as soon as possible for examination and treatment by a physician who is on the District's Emergency Medical Panel. An employee may be required at any time during this leave to be evaluated by a physician designated and paid for by the District.

c. An employee absent under this Section shall remain within the State of California unless the District authorizes travel outside the State.

8.0 Bereavement Leave: An employee is entitled to a leave of absence from the District, not to exceed three (3) days, on account of the death of a member of the employee's immediate family provided acceptable proof of death and relationship is provided, if requested, and the leave of absence commences within ten (10) calendar days of notification of the death. If more than one such death occurs simultaneously, the leave may be taken consecutively. If out-of-state travel or more than two-hundred (200) miles one-way travel is required, and requested, an additional two (2) days shall be granted. The immediate family is defined as the parent, grandparent or grandchild of the employee or the employee's spouse, and the spouse, child (including foster child), brother, sister, daughter-in-law, or son-in-law of the employee, or any relative living in the immediate household of the employee.

9.0 Personal Necessity Leave: An employee shall, subject to the limits set forth below, be granted a personal necessity leave when the gravity of the situations described below require the personal attention of the employee during assigned hours of service:

a. Death or serious illness of a member of the employee's immediate family. The immediate family is defined as the parent, grandparent or grandchild of the employee or the employee's spouse, and the spouse, child (including foster child), brother, sister, daughter-in-law, or son-in-law of the employee, or any

### Article XIII – Leaves of Absence

relative living in the immediate household of the employee;

b. Accident involving the employee's person or property or the person or property of a member of the employee's immediate family;

c. Birth of the employee's child or adoption of a child by the employee;

d. Religious holiday of the employee's faith;

e. Imminent danger to the home of an employee occasioned by a disaster such as flood, fire, or earthquake;

f. An appearance of the employee in court as a litigant or as a witness under an official governmental order, provided that:

(1) Each day of necessary attendance as a litigant or as a witness under such an official governmental order must be certified by the clerk or other authorized officer of a court or other governmental jurisdiction;

(2) The employee must return to work in cases where it is not necessary to be absent the entire day;

g. Two (2) of the six (6) days allowed under Personal Necessity Leave may be taken for registration or final examinations in an accredited institution of higher learning. Verification of the registration or examination schedule may be required by the appropriate administrator; or

h. Required attendance at the employee's child's or ward's classroom and meeting with the school administrator because of suspension pursuant to Education Code Section 48900.1.

i. An employee shall be allowed up to four (4) [one for Non-Degree Track] additional days of personal necessity leave in any calendar year to attend to the illness of a child, parent, or spouse of the employee as provided by Section 233 of the Labor Code. All existing contractual conditions for use of illness leave shall apply to this leave as well. Use of illness leave as provided above shall not extend the maximum period of leave to which an employee is entitled under Article XIII, Section 18.0 Family Care and Medical Leave.

j. On a maximum of two (2) occasions during a school year (up to a cumulative total of eight (8) hours in a school year), to attend the funeral of a close friend or relative not included in the definition of immediate family (immediate family as defined in Section 8.0 of this Article).

## Article XIII – Leaves of Absence

9.1 The following limits and conditions are placed upon allowing a personal necessity leave of absence:

- a. The total number of days allowed in one school year for such leave shall not exceed six (6) days;
- b. The personal necessity leave may not be granted during a strike, demonstration or any work stoppage involving this bargaining unit;
- c. Written request on the appropriate form shall be filed with the appropriate administrator no less than five (5) working days in advance of a religious holiday or court appearance; and
- d. The employee may be required to verify the nature of such necessity.

10.0 Personal Leave: A personal leave may, at the discretion of the District, be granted to an employee for any period up to fifty-two (52) consecutive calendar weeks, except as provided in "f" and "h" below, for a specific personal reason satisfactory to the District, including but not limited to the following:

- a. To be with a member of the immediate family who is ill;
- b. To accept an opportunity of a superior character which will result in the employee rendering more effective service on return to the District;
- c. To rest, subject to approval by the District;
- d. To remain with spouse if a change of residence is required;
- e. To pursue a program of study in residence in an approved institution of higher learning or under a fellowship foundation approved by the State Board of Education;
- f. To serve as a State Legislator -- such leave shall be renewed annually during tenure of office, the above limitation notwithstanding;
- g. To serve in an elective position in the city, county, state, or federal government, other than the State Legislature;
- h. To care for the employee's own (including adopted) child or grandchild under five (5) years of age – such leave may be extended for up to an additional fifty-two (52) weeks, the above limitation notwithstanding; or

## Article XIII – Leaves of Absence

i. To attend a conference or convention which leads directly to the professional growth of the employee.

### 11.0 Military, Red Cross, Merchant Marine and Peace Corps Leaves:

a. An appropriate military leave of absence shall be granted to any qualified employee in accordance with the provisions of the Education Code and Military and Veterans Code.

b. During any period of war or national emergency, Red Cross Leave or Merchant Marine Leave shall be granted to any employee who enters the full-time paid service of the American Red Cross or the U. S. Merchant Marine in accordance with the provisions of the Military and Veterans Code and the Education Code.

c. A leave of absence of up to twenty-five (25) months shall be granted to permit an employee to serve in the Peace Corps.

12.0 Subpoena Leave: A leave shall be granted to allow an employee to appear, in response to a subpoena duly served, when other than a litigant (a) in a case before a grand jury; (b) in a criminal case before a court within the State; in a civil case in a court within the county in which the employee resides or outside of said county if within 150 miles of place of residence; or (d) in a case before the State Workers Compensation Appeals Board, when arranged by the District's Insurance Section. The employee shall promptly notify the site administrator upon receipt of the subpoena. Leave shall be granted for the days of attendance in court as certified by the clerk or other authorized officer. Subject to the possibility of making reasonable travel arrangements, the employee shall be required to report for work during the balance of her/his assigned working day or week when her/his presence is not required pursuant to said subpoena.

13.0 Jury Duty Leave: An employee summoned to jury duty shall notify the immediate administrator of such summons. The District and the employee shall jointly seek deferral of the obligation so that it can be performed on the employee's non-work time. If the court denies deferral, leave shall be granted for full or partial days, as required by the court. The employee shall provide to the District written verification of jury service.

14.0 Employment Examination Leave: Subject to giving the immediate administrator advance notice of not less than two (2) working days, an employee shall be released to take an examination or participate in other District employment procedures during working hours.

15.0 Annual Physical Examination Leave: Subject to giving the immediate administrator advance notice of not less than two (2) working days, an employee may be granted up to one day per year for the purpose of a comprehensive physical examination

### Article XIII – Leaves of Absence

provided that the verification of such an examination is submitted to the District.

16.0 Professional Growth Study Leave: A one-time leave not to exceed one (1) school year shall be granted to an employee who meets the following qualifications in order to pursue a program of study in residence at an institution of higher learning when such program is designed to improve the employee's professional services to the District:

- a. The employee has three (3) or more years of paid service with the District in a classification in the Unit;
- b. The courses or program taken by the employee must be directly related to the employee's position and be for the purpose of increasing the employee's knowledge, understanding and skills, i.e., coursework leading to qualification for certification as a teacher; and
- c. The courses or program taken by the employee must be approved by the District in advance, and must be taken at an accredited institution of higher education.

16.1 The employee's administrator may terminate the leave of any employee on evidence of the employee's failure to pursue or accomplish the purpose of such leave.

17.0 Paid Non-Work Days: All employees shall accrue paid non-work day benefits. Employees who have achieved "Degree Track" status (see Article VIII) shall accrue .0445 hours of credit for each hour of paid Teacher Assistant service. Non-Degree Track Teacher Assistants shall accrue, effective July 1, 2007, at the rate of .167 hours. However, accrual shall exclude hours for which overtime premium is paid.

17.1 Upon the request of the employee, the accrued time may be used in order to receive pay for any absences permitted under this Article (including Family Care and Medical Leave for the employee's own serious health condition), but excluding industrial injury/illness absence and other Family Care and Medical Leave. The accrued time may also be used to receive pay for any legal or school holidays which fall within the employee's period of assignment. Any accrued, unused time shall be paid off in a lump sum after the close of the school year (32XX pay period, usually August), unless the balance is less than one (1) hour's pay in which case it shall be carried forward into the next school year.

17.2 The higher accrual rate for the Degree Track (pursuant to Article VIII) shall become effective the first pay period following submission of a certified transcript or valid certificate from the college.

17.3 Attendance Incentive: Effective July 1, 1995, employees who

### Article XIII – Leaves of Absence

maintain a perfect attendance record, including punctuality, for their entire annual assignment period, shall earn one (1) additional paid non-work day at the conclusion of the school year. The additional day shall be paid off as part of the lump sum payment described in Paragraph 17.1 above.

18.0 Family Care and Medical Leave: An unpaid Family Care and Medical Leave shall be granted, to the extent of and subject to the restrictions as set forth below, to an employee who has been employed for at least 12 months and who has served for 130 workdays during the twelve (12) months immediately preceding the effective date of the leave. Family Care and Medical Leave absences of twenty (20) consecutive working days or less can be granted by the immediate administrator or designee. Leaves of twenty (20) or more consecutive working days can be granted only by submission of a formal leave application to the immediate administrator or designee.

18.1 Definitions: For purposes of Family Care and Medical Leave, the following definitions shall apply: (1) "Child" means a biological, adopted or foster child; a stepchild; a legal ward; or a child of an employee standing "in loco parentis," such child being either under eighteen (18) years of age or an adult dependent who is incapable of self care due to a mental or physical disability. (2) "Spouse" means a husband or wife of an employee; (3) "Parent" means a biological, foster, or adoptive parent; a person who stood "in loco parentis" to the employee when the employee was a child; a stepparent; or a legal guardian; and does not include a parent-in-law. (4) "Family member" means "child", "spouse", or "parent" as defined above. (5) "Serious health condition" means an illness, injury, impairment, or other condition that involves either "in-patient care" or "continuing treatment". (6) "Inpatient care" means a stay in a hospital or other medical facility and includes any subsequent treatment in connection with inpatient care. (7) "Continuing treatment" means treatment by a "health care provider" that involves one or more of the following: (a) a period of incapacity of more than three consecutive calendar days (as well as any subsequent treatment or period of incapacity relating to the same condition) that also involves either two or more treatments by a "health care provider", or treatment by a "health care provider" on at least one occasion that results in a regimen of continuing treatment under the supervision of a "health care provider"; (b) any period of incapacity due to pregnancy (including morning sickness); (c) any period of incapacity or treatment for an incapacity due to a chronic health condition that requires periodic visits for treatment, which continues over an extended period of time, and may cause episodic (i.e., a period of incapacity for less than three days) rather than a continuing incapacity (such as asthma, diabetes, and migraine headaches); (d) a period of incapacity that is long-term due to a condition for which treatment may not be effective; and (e) any period of absence to receive multiple treatments, including treatment of a condition that would likely result in a period of incapacity for a period of more than three days if not treated. (8) "Health care provider" means an individual holding either a physician's and surgeon's certificate or an osteopathic physician's and surgeon's certificate issued pursuant to Article 4 of Chapter 5 of Division 2 of the California Business and Professions Code, or any other individual duly licensed to practice medicine in another state or jurisdiction who directly treats or

## Article XIII – Leaves of Absence

supervises the treatment of the serious health condition, or by any other person determined by the Secretary of Labor to be capable of providing health care services. The definition includes podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited in scope), nurse practitioners, nurse midwives, and certain Christian Science practitioners.

18.2 Reasons for Leave: Family Care and Medical Leave may be granted for reason of the birth of a child of the employee, or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee. If the leave is taken for any of these reasons, the leave must be concluded within twelve (12) months of the birth, the adoption, or the foster care placement of the child. In addition, leave may be granted because of the serious health condition of a child of the employee, the employee's own serious health condition, or the care of a parent or spouse who has a serious health condition.

18.3 Length of Leave: The leave, together with any renewal thereof, shall not exceed the number of days equivalent to a total of twelve (12) normally scheduled workweeks in a twelve (12) month period measured forward from the beginning date of the employee's first Family Care and Medical Leave, effective July 1, 2007. An employee will be entitled to 12 weeks of leave during the 12-month period beginning on the first date Family Care and Medical Leave is taken; the next 12-month period would begin the first time Family Care and Medical Leave is taken after completion of any previous 12-month period. For the period of time up to, and including June 30, 2007, the leave, together with any renewal thereof, shall not exceed the number of days equivalent to a total of twelve (12) normally scheduled workweeks in a fiscal year. An employee will retain the full benefit of 12 weeks of leave under whichever calculation method (either fiscal year, or 12-month period measured forward) affords the greatest benefit to the employee during a 60-day transition period. Any leave an employee takes for the reasons specified in Section 18.2 above will be counted against the employee's annual leave entitlements under the federal Family and Medical Leave Act of 1993 and the California Family Rights Act of 1991, as amended. This leave runs concurrently with any other leave the District offers for which the employee is qualified. Leave caused by pregnancy, childbirth or related medical conditions under Section 5.0 of this Article is separate and apart from the provisions of Family Care and Medical Leave herein. Employees are entitled to the leave allowed under Section 5.0 and, in addition, up to the full twelve (12) weeks of Family Care and Medical Leave. However, leave taken on account of pregnancy, childbirth, or related medical condition will be counted against the employee's annual leave entitlement under the federal Family and Medical Leave Act of 1993.

18.4 Intermittent Leave: The leave may be taken intermittently or on a reduced work schedule. If the leave is taken for reason of the birth, adoption, or foster care placement of a child of the employee, the basic minimum duration of the leave shall be two (2) weeks; however, the District shall grant the employee leave of less than two weeks' duration on two occasions. If the leave is taken for a serious health condition of the



## Article XIII – Leaves of Absence

employee or of the employee's family member, leave may be taken intermittently or on a reduced schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. An employee may take such leave for as short a time as one (1) hour (can be less than one (1) hour, if necessary).

If an employee does take intermittent or a reduced-schedule leave that is foreseeable based on a planned medical treatment of the employee or the employee's family member or for the birth, adoption, or foster care placement of a child, the District has the right to transfer temporarily the employee to an available alternative position for which the employee is qualified and which better accommodates the recurring periods of leave during the duration of the intermittent or reduced-scheduled leave. The alternative position must have equivalent pay and benefits but does not have to have equivalent duties. The alternative position may include the altering of the employee's current job. The District may also transfer the employee to a part-time job with the same hourly rate of pay and benefits. Upon the conclusion of the intermittent or reduced-schedule leave, the District will place the employee in the same or equivalent job the employee had when the leave started.

18.5 Notification: If the need for the Family Care and Medical Leave is foreseeable more than thirty (30) calendar days prior to the employee's need for leave, the employee shall give at least thirty (30) days notice. If less than thirty (30) days, the employee must provide the immediate supervisor with as much advance notice as possible but, at the least, within two (2) business days of learning of the need for the leave. These advance notice requirements shall not be applicable in the event of unforeseeable circumstances or emergencies. Whenever possible, if the need for leave is foreseeable due to a planned medical treatment or supervision, the employee must make a reasonable, good faith effort, subject to the approval of the employee's or family member's health care provider, to schedule the treatment or supervision to avoid disruption to the District's operations. In giving notice, the employee must include the qualifying event for which the leave is needed, e.g., birth of a child, serious health condition of parent, etc.

18.6 Medical Certification: For leaves to care for a child, spouse or parent who has a serious health condition, the employee must submit to the immediate administrator or, if applying for a formal leave must attach to the leave application, medical certification from the health care provider which includes: (1) the date, if known on which the serious health condition commenced; (2) the probable duration of the condition; (3) an estimate of the time that the health care provider believes the employee needs to care for the individual; and (4) a statement that the serious health condition warrants the participation of the employee to provide care. If the leave is for the serious health condition of the employee, the employee must submit to the immediate administrator and/or, if applying for a formal leave, must attach to the leave application, medical certification as specified in (1) and (2), above, plus a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform one or more of the essential functions of the employee's position. Medical certification must be

## Article XIII – Leaves of Absence

submitted no later than fifteen (15) calendar days after the leave request has been made. If the deadline by which the employee is to submit the medical certification is after the leave has started, the employee will be considered to have taken Family Care and Medical Leave pending the District's receipt of the proper certification. However, if the employee fails to provide proper certification, the employee will be treated as if he or she did not qualify for, and thus never took, Family Care and Medical Leave, will be treated as if he or she sought a leave of absence under another provision of this Agreement, and will not be given the protections set forth in this Article. In the case of leave due to a serious health condition of the employee, the District reserves the right to require, at its own expense, that the employee obtain the opinion of a second or even third health care provider designated by the District but not employed on a regular basis by the District. The second health care provider, if required, shall be selected by the District. The third health care provider, if necessary, shall be jointly approved by the District and the employee and this provider's opinion shall be binding. If the employee's leave has already begun during this medical review process, the employee will be considered to have taken Family Care and Medical Leave, pending the result of the examinations by the second and, if necessary, third health care provider.

If additional leave beyond that provided in the certification is required, the employee must submit a new certification by the relevant health care provider.

18.7 Restrictions: In the event that parents who are both District employees each wish to take Family Care and Medical Leave for the birth, adoption, or foster care placement of their child, the combined total amount of leave that will be granted such employees will be twelve (12) workweeks during a 12-month period, as defined in Section 18.3 above. These employees will still be eligible to take the remainder of their individual twelve (12) workweek allotment for Family Care and Medical Leave for a purpose other than the birth, adoption or foster care placement of a child.

18.8 Compensation: The Family Care and Medical Leave shall be an unpaid leave and for all purposes treated comparably to other unpaid leaves except that, the District will continue to provide the health benefits package, and maintain the District contribution obligation pursuant to Article XV, Health and Welfare, during the Family Care and Medical Leave (except as provided below) to an employee who is otherwise eligible for health benefits. However, an employee who does not return from such leave, or who works less than thirty (30) days after returning from the leave (unless the employee retires within thirty (30) days after returning from leave) will be required to reimburse the District for the District's cost of providing the health benefits package. The District, however, will not provide such health benefits for an employee for any leave period beyond twelve (12) workweeks. Accordingly, if an employee combines pregnancy leave with a Family Care and Medical Leave, the employee will only be entitled to continued health benefits for the first twelve (12) workweeks of leave. Thereafter, the District will provide the employee with health benefits to the same extent and under the same conditions as it provides to employees on other, similar leaves of absence.

## Article XIII – Leaves of Absence

Pursuant to Article XIII, Section 17.1, an employee who takes leave for the employee's own serious health condition may elect, or the District may require, the employee to utilize accrued paid non-work day benefits for the leave.

18.9 Seniority: The period of Family Care and Medical Leave shall not be considered a break in service and the employee's hire date shall not be affected by the time spent on leave.

18.10 Certification to Return to Work: The provisions of Section 6.0 shall apply to employees returning to work from a Family Care and Medical Leave (absence) due to the employee's own serious health condition.

18.11 Early Return From Leave: If the amount of leave needed is actually less than initially requested, the employee must notify the immediate administrator of such an occurrence. Once the employee provides such notification, the administrator must reinstate the employee to the same or equivalent position within two days.

19.0 Charter School Leave: An employee shall, subject to the limits set forth below, be granted a leave from their current school to serve in an assignment at a Board of Education-approved Charter School:

a. The leave shall be for a minimum of one (1) year. The leave shall be extended upon request of the employee; however, the total period of leave shall not exceed the duration of the initial charter;

b. For an employee not assigned to a school or program that is being converted to a Charter School, the leave shall commence at the beginning of the next school year (July 1); exceptions may be provided in the sole discretion of the District;

c. Salary and benefits received by the employee during the period of leave shall not be the responsibility of the District, but shall be established and provided by the Charter School in accordance with the Charter School petition approved by the Board of Education;

d. Return from leave shall be to the school from which the leave was taken in accordance with the provisions of this Article. (If the school from which the leave was taken is a Charter School, return rights shall be limited to return to that school upon expiration of its charter.) Upon return to District service from a Charter School leave, no employee shall receive more favorable treatment than employees in the same classification who remained with the District;

e. Employees separated involuntarily from their Charter School

### Article XIII – Leaves of Absence

assignment who return to their former school may be subject to administrative or disciplinary action by the District for conduct which occurred at the Charter School in the same manner as if the conduct had occurred while the employee was actively employed by the District.

20.0 School Activities Leave: Up to forty (40) hours per school year (not to exceed eight hours per calendar month) shall be granted for attendance at the school of the employee's own child, ward, or grandchild for purposes of a school activities leave provided by Section 230.8 of the Labor Code. The employee must notify the immediate administrator or designee at least five (5) working days prior to the absence. The advance notice requirement shall not be applicable in the event of unforeseeable circumstances or emergencies, in which case the employee shall provide as much notice as reasonably possible. The administrator or designee and employee must agree on the date and time of the leave and the employee must provide written verification from the school visited, upon request of the administrator or designee.

21.0 Conference and Convention Attendance Leave (Paid): A paid leave may, in the discretion of the District and upon the recommendation of the appropriate division head, be granted annually for attendance at conferences and conventions sponsored by the Union under all of the conditions noted below:

- a. The attendance leads directly to the professional growth of the employee and the improvement of the work program of the employing division;
- b. The attendance does not result in unnecessary duplication of participation by District personnel; and
- c. The attendance does not necessitate the reimbursement of any expenses by the District to the employee.

A written or oral report of the conference may be requested by the appropriate administrator. For conferences or conventions which are not permitted pursuant to the above, the District may authorize the employee to utilize personal necessity leave under Section 13.0 of this Article.

## ARTICLE XIV

### WAGES, SALARIES AND DIFFERENTIALS

1.0 Wages and Salaries: Wages and salaries are attached to and incorporated in this Agreement as Appendix A. Such salaries shall be paid for all hours authorized and worked as a Teacher Assistant.

1.1 Employee Job Training: If an employee is directed to attend any workshop, in-service training session, or other similar activity as a condition of continued employment, such attendance shall be considered as time worked. The employee shall be paid at the appropriate rate of pay or receive compensatory time off. This Section shall not apply to any college or university coursework required under the Degree Track or Non-Degree Track provisions of this Agreement.

2.0 Language Differentials: An employee who meets the qualifications set forth below shall receive one of the following differentials. An employee shall be eligible for only one such differential, and it shall be the highest amount for which the employee qualifies pursuant to this Section and Section 2.1.

a. Basic Bilingual Proficiency, as demonstrated by passing the bilingual proficiency examination administered by the Personnel Commission: \$.2875 per hour;

b. "A" Level Bilingual Proficiency, as demonstrated by passing the bilingual proficiency examination administered by the certificated Personnel Division: \$.75 per hour;

c. Level II Sign Language Proficiency, as demonstrated by passing the Level II sign language test administered by the Personnel Commission: \$.175 per hour.

d. Level I Sign Language Proficiency, as demonstrated by passing the Level I sign language test administered by the Personnel Commission: \$.2875 per hour;

2.1 Applicable qualifications for any of the above differentials are as follows:

a. Only employees on the "Degree Track" as described in Article VIII shall be eligible for the differential described under 2.0(b) above.

b. Required certification from the appropriate Local District Superintendent/Division or Branch Head that in addition to regular duties, the employee is required routinely to speak, interpret and write a specific non-English language, or communicate fluently in sign language. If such certification is withdrawn due to the language skill no longer being required, the differential shall

## Article XIV - Wages, Salaries and Differentials

no longer be payable.

c. An approved differential shall become effective on the first day of the pay period following completion of provisions in Sections 2.0 and 2.1, above and shall continue during paid absences, provided, however, an appointing authority may certify that a previously approved differential may continue uninterrupted for employees who are reassigned, transferred or promoted to another position requiring the same language skills. The effective date shall be communicated in writing to the affected employee as soon as practicable following completion of the certification procedure(s).

3.0 Mileage Reimbursement: Employees who are required to use their personal vehicle for District business shall, beginning July 1, 2009 be reimbursed at the Internal Revenue Service established standard business rate, for all miles driven in District service.

### 4.0 Payroll Errors:

4.1 Supplemental Pay Warrant: An employee who does not receive a scheduled pay warrant or receives an underpayment because of problems involving assignment, time reporting, payroll processing, may request a Supplemental Pay Warrant for hours reported and approved by the employee's work location. The request will be processed and a warrant made available for pick-up within 3 work days unless the employee requests that the warrant be mailed. In circumstances where the employee received no warrant at all or a substantial underpayment of at least 50% of their normal net pay, the employee may request that a Supplemental Pay Warrant be made available for pick-up within 1 work day unless employee requests that the warrant be mailed.

a. A Supplemental Pay Warrant cannot be made for a pay warrant that has been issued but is subsequently unaccounted for (e.g., lost, delayed in route, stolen after receipt, etc.) or in cases where garnishments, tax liens or the like are being processed.

b. In the case of a salary warrant issued and mailed but later lost or stolen, a replacement warrant will be issued no later than seven (7) calendar days after the employee submits a Lost Warrant Affidavit form to the Payroll Services Branch.

c. The District will give written or verbal notification to an employee in the event of a garnishment or a tax lien.

4.2 Limitations upon Recovery: Any payroll or other salary errors claimed by an employee against the District in a timely manner as provided in the grievance procedure of Article IV shall be corrected retroactively up to a maximum of three

#### **Article XIV - Wages, Salaries and Differentials**

(3) years from the date of claim. In the event of an error in favor of an employee, the District shall be limited in its retroactive recovery against the employee by a three (3) year period dating from the discovery of the error. The District will notify an affected employee who received an overpayment of more than fifty dollars (\$50.00) prior to making any deductions to recover such overpayment from the employee's subsequent salary payments. The District may allow the affected employee to establish a reasonable method of repayment with the Payroll Services Branch.

## ARTICLE XV

### HEALTH AND WELFARE

1.0 General: The District's contribution obligation for medical benefits for qualified employees shall be defined as, and limited to, the dollar amount which is to be established as follows: 50% of the annual premium cost for Kaiser Plan C or a different plan with benefits comparable thereto.

2.0 Coverage: Coverage shall be limited to eligible employees (see Section 4.0) who elect to enroll (see Section 5.0). Coverage shall be for eligible employee only. Eligible employees shall be responsible, through payroll deductions, for 50% of the premium cost.

2.1 Employees who elect dependent coverage shall be responsible for 100% of the premium cost of the dependent coverage through payroll deductions. Dependents may be enrolled subject to the terms and conditions of the plan.

Eligible dependents and documentary proof of status required are as follows:

<u>Dependents</u>	<u>Documents Required (copy)</u>
Legal Spouse	State- or County-issued Marriage Certificate
Domestic Partner	- Notarized "Declaration of Domestic Partnership" (LAUSD Form DP 1.0)  - At least two of the documents listed in Section 2.1a.(9) below
Child, to age <u>26</u> *	Birth Certificate (in case of newborn, evidence of birth until birth certificate is available)
Stepchild, to age <u>26</u> *	Birth Certificate and income tax return showing student status
Adopted Child, to age <u>26</u> *	Adoption papers
Child who is a Legal Ward, to age <u>26</u> *	Court Order establishing legal guardianship



## Article XV – Health and Welfare

Note: The children of a domestic partner are not eligible for coverage unless they have been adopted by the employee or the employee is the legal guardian. In such cases, the required documentation for adoption or legal guardianship must be provided.

a. A domestic partner of the same or opposite sex of an eligible employee may be covered as a dependent if all of the following criteria are met.

The employee and his/her partner:

- (1) have shared a regular and permanent residence for the past twelve (12) months immediately preceding the application for coverage with the LAUSD;
- (2) are engaged in an exclusive, committed relationship for mutual support and benefit to the same extent as married persons and intend to stay together indefinitely;
- (3) are jointly responsible to each other for basic living expenses; basic living expenses are defined as the expenses supporting daily living, i.e., shelter, food, clothing (contributions need not be equal);
- (4) are not currently married to another person;
- (5) have not signed a declaration of a domestic partnership with another individual in the previous twelve (12) month period;
- (6) are at least eighteen (18) years of age;
- (7) are not blood relatives any closer than would prohibit legal marriage in the state of residence;
- (8) are mentally competent to consent to a contract;
- (9) are financially interdependent as proven by providing at least two of the following documents: common ownership of real property or a common leasehold interest in real property; common ownership of a motor vehicle; joint bank account or joint credit account; designation as a beneficiary for life insurance or retirement benefits;

b. No other dependents or family members are eligible for coverage, except that disabled children who meet the disability standards of the plan(s) and who have been enrolled prior to age twenty-six (26)\* may continue to be covered beyond age twenty-six (26)\*.

## Article XV – Health and Welfare

3.0 Plan Revisions Through the District-wide Health and Welfare Committee:  
A District-wide Health and Welfare Committee shall be formed.

a. Composition -- Each union shall be entitled to one (1) Committee member for every 5,000 unit members represented or fraction thereof. The District shall provide resource staff as determined by the Committee, and shall provide adequate paid release time for those Committee members who are employees of the District.

b. Decision Making -- Consensus shall be used in all Committee deliberations. If a consensus decision cannot be reached, then in the alternative, each union shall have one (1) vote. Any recommended changes to the existing kinds and levels of benefits shall require a 2/3 vote of the unions present and voting.

c. Authority -- Subject to the terms of subsection h. below, the Committee shall have the sole and exclusive right, and duty, to design the Health and Welfare programs of the District, within the cost parameters of the District budget established for that purpose and in effect at the time. That budget figure is the product of the negotiations process.

d. The Committee may investigate the creation during the term of this agreement of a joint Employer Health and Welfare Trust. Such Trust might include other public or private sector employees as determined by the Committee. The Committee shall review all existing contracts prior to expiration. No contract shall be for more than one (1) year, or awarded without open bid, except upon Committee approval.

e. The Committee shall investigate the feasibility of providing benefits to unbenefitted part-time employees.

f. Benefit Eligibility -- During the term of this Agreement there shall be no changes in the eligibility requirements for District Benefits (see Section 4.0 below).

g. Effective no later than January 1 of any plan year, Local 99 shall have the option of informing (in writing) the District and the other unions participating in the Health and Welfare Committee of its intent to remove an amount equivalent to the District's annual expenditure cost for Unit F health benefit expenditures (excluding the cost of funding an EAP plan for unbenefitted employees) (the "expenditure amount") and assume the responsibility of providing a benefit program for its Unit F members, or having the District design and administer a health benefit program for its Unit F members. However, any removal of said expenditure amount shall be subject to the precondition of nine months' written notice to the District regarding Local 99's intent to do so. Further, its removal shall only be effective on a January 1

## Article XV – Health and Welfare

plan anniversary date.

h. Local 99 shall appoint a representative to monitor the District's participation in the Public Agency Retirement System (PARS). Local 99 shall have the right to attend all meetings of the PARS board (except as otherwise limited by the PARS board) and shall be entitled to all correspondence to the District concerning the status of District investments with PARS. It is understood that Local 99 shall not represent the District at meetings of the PARS board. Local 99 shall report regularly to the LAUSD Health Benefits Committee regarding the status of the LAUSD PARS investments.

4.0 Eligibility for Plans: In order to become eligible and remain eligible, an employee must be regularly assigned and/or regularly working 80 hours or more per pay period in one classification.

5.0 Enrollment: An unenrolled employee eligible for enrollment may submit an application for initial enrollment at any time. The District shall process applications so as to make coverage effective on the earliest practicable date consistent with the plan provisions, and payroll deductions schedules, and in no case shall this be later than the first day of the calendar month following the receipt of the completed application.

5.1 It is the responsibility of the employee to notify Benefits Administration immediately regarding the termination of his/her domestic partner relationship. The employee must submit LAUSD form Request for Change of Dependent Status". The coverage for a domestic partner shall end on the last day of the month in which the relationship and/or living arrangement terminates and/or for which either party is no longer eligible for coverage.

6.0 Continuance of Enrollment: If an employee is on an approved unpaid leave and therefore not eligible for District contribution, the employee may arrange for continuance of enrollment for a period not to exceed one (1) year by making a proper payment to the plan. Payment shall be made by check or money order in the gross premium amount, payable to LAUSD and sent to the District's Benefits Administration Branch. Payments may be made by installments on the due dates and in the amounts required by the plan.

6.1 With respect to employees who decline to make the above continuation payments, coverage shall be terminated and they shall not be eligible to re-enroll in the plan until returning to active service in an eligible assignment.

7.0 Termination of Enrollment: The enrollment of an employee and/or dependent(s) shall terminate:

a. For failure of the employee to make direct payment as provided under

## Article XV – Health and Welfare

Section 6.0, in which case coverage shall terminate at the close of the month for which the last premium was paid. In such case, after at least twelve (12) months has elapsed, the employee may re-enroll during the next open enrollment period;

b. At the request of an employee, in which case coverage shall terminate at the close of the accounting cycle in which the request was received. In such case, after at least twelve (12) months has elapsed, the employee may re-enroll during the next open enrollment period;

c. Upon termination of employment, in which case coverage shall terminate at the close of the month in which the employment termination was effective;

d. In the event of the employee's and/or dependent's loss of eligibility.

7.1 With respect to the above time restrictions on re-enrollment, the District (when bidding the coverage) will consider less restrictive options if there is no significant impact upon the cost of the insurance plan.

### 8.0 Miscellaneous Provisions:

8.1 If any medical plan premium for coverage is refunded by the plan, the refund shall be distributed between the District and employee based upon their proportionate share of contributions.

8.2 All disputes with respect to the carrier's administration of the programs are not the responsibility of the District and are not subject to the grievance and arbitration procedures of Article IV of this Agreement.

9.0 State Disability Insurance: All unit employees shall be enrolled in the Disability Insurance Program for public school employees administered by the Employment Development Department of the State of California. All premium costs of this Program shall be borne by the employees through individual payroll deductions.

9.1 The Disability Insurance Program is administered by the Employment Development Department of the State of California and all decisions and rules with respect to eligibility, premium costs, qualifications for benefits, level of benefits, and the administration of the Program are the responsibility of the Employment Development Department. Accordingly, all such matters, as well as any other questions or issues relating to Disability Insurance or the Employment Development Department, are excluded from the grievance and arbitration provisions of Article IV (Grievance Procedure).

9.2 In order to implement the Disability Insurance Program specified in Sections 9.0 and 9.1 above, the District, at its sole discretion, may enter into and unilaterally

## Article XV – Health and Welfare

may amend, alter, or modify any contract or contracts with the Employment Development Department for Disability Insurance coverage.

10.0 COBRA: Pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA) and comparable state law, eligible employees or dependents may have continuation of medical coverage at their own expense in the event of termination of coverage due to one of the following causes: Death of covered employee, termination of covered employee (under certain conditions) or reduction in covered employee's hours of employment, divorce or legal separation of the covered employee from his or her spouse, or a dependent child ceasing to be eligible for coverage as a dependent child under the District's health and welfare plans. In accordance with COBRA regulations, domestic partners are not considered qualified beneficiaries and are ineligible for COBRA continuation coverage.

10.1 The monthly premium for continued coverage shall be determined at the time of eligibility and shall be subject to change; however, the premium charged to employees will not exceed 100 percent of the total premium paid by the District plus the amount allowed by law for employees and/or dependents in a comparable status. The continuation coverage shall be the same as the coverage available to continuing employees, regardless of the employee's health at the time.

10.2 It shall be the responsibility of the employee or the dependent to notify Benefits Administration of a divorce, legal separation or loss of eligibility of a dependent child at the time of such an event. At the time of eligibility for continuation coverage, and upon such notification, an election form shall be provided by the District.

10.3 COBRA shall be administered pursuant to federal law, and that all decisions and rules with respect to eligibility, premium costs, qualification for benefits, and level of benefits shall be in accordance with published federal government guidelines. Accordingly, all such matters, as well as any other questions or issues relating to COBRA, are excluded from the grievance and arbitration provisions of Article IV (Grievance Procedure).

### 11.0 Employee Assistance Program:

a. General: An Employee Assistance Program (EAP) shall be established for employees and dependents. The objectives of the program shall be to provide confidential, professional counseling and referral services for a wide range of employee concerns including but not limited to: personal, marital and family problems; psychological and emotional problems; alcohol and substance abuse and dependency; or problems arising out of financial or legal matters.

The program shall be designed to provide employees with the information, resources and opportunities to resolve personal, family and work problems before

## Article XV – Health and Welfare

job performance is affected and to assist employees in correcting problems contributing to substandard performance. The program is not intended to supplant other forms of assistance or medical referrals currently permitted under this Agreement, Board Rules or the law.

b. Confidentiality: The program is to be based upon strictest confidentiality and privacy, so that appropriate assistance can be offered by the District and/or sought by employees without adverse effect upon the employment relationship. EAP personnel shall not divulge to the District information relating to the decision of any individual employee to seek or decline EAP assistance, referrals or follow-up treatment. Neither the employee nor the District may refer to the following matters in any evaluation or disciplinary action, or appeal:

- (1) The decision of employees to utilize EAP services, or not to do so or actual participation in the EAP.
- (2) The recommendation by anyone, including administration, that an employee should utilize EAP services, or the failure to make such a recommendation.

The existence of the EAP shall stand as conclusive evidence that the District has offered appropriate assistance for any personal problems which may have a bearing upon job performance of employees eligible for EAP and which fall under the purview of EAP.

c. Employee Accountability: Employees remain personally accountable for their job performance. The existence and/or utilization of the EAP and other services shall not serve as an excuse for inadequate job performance or as a defense in any evaluation or disciplinary action.

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\*All references to age 26 in this Article is intended to comply with the Patient Protection and Affordable Care Act dated March 23, 2010.

## ARTICLE XVI

### SAFETY CONDITIONS

1.0 The responsibility for providing for safe working conditions which are in conformance with applicable law and which are within fiscal constraints shall be the District's. Employees shall be responsible for complying with safety procedures and practices and for reporting any unsafe condition, facility, or equipment of which they are aware. There shall be no reprisal against an employee for reporting any unsafe or potentially unsafe condition, facility, or equipment.

2.0 Procedures implemented by the District shall be utilized by employees and the Union on behalf of employees to address safety issues. The District shall publicize at each school and work site the process to bring forth a safety issue.

2.1 In the event a safety issue is not resolved by the school or work site safety committee, a complaint regarding such safety issue may be forwarded to either the Office of Environmental Health and Safety (OEHS) duty officer or to the appropriate Senior Environmental Health and Safety Officer. It is the responsibility of the OEHS to review the complaint and direct compliance, as appropriate.

2.2 If the party contacted, as set forth in Section 2.1 above, fails to respond on the safety issue within twenty (20) work days from the date received by OEHS, the issue may be forwarded to the Director of the Office of Environmental Health and Safety for response and/or action.

## ARTICLE XVII

### DISTRIBUTION OF COSTS

1.0 For budgetary purposes, the costs of this Agreement are to be handled by the programs and sites on an estimated average hourly cost basis. Thus, the costs attributable to all TA salaries and benefits are to be estimated by the District and reflected in a single District-wide per hour rate for TA services, so that individual schools will have no incentive to adjust TA assignments or staffing decisions in response to the terms of the new Agreement.



## ARTICLE XVIII

### EFFECT OF AGREEMENT

1.0 Effect Upon District Policies and Rules: The District may determine and revise any of its policies, rules, regulations, or procedures. However, in the event of a conflict between the terms of this Agreement and any District policies, rules, regulations or procedures, the terms of this Agreement shall prevail.

2.0 Separability and Savings: If any provision of this Agreement should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any provision should be restrained by any tribunal of competent jurisdiction pending a final determination as to its validity, the remainder of this Agreement or the application of such provision as to persons or circumstances other than those as to which it has been held invalid or as to which compliance with or enforcement of has been restrained, shall not be affected thereby. In the event of any such invalidation of any provision of this Agreement, the parties agree to meet and negotiate within thirty (30) days of such invalidation for the purpose of arriving at a satisfactory replacement for such provision.

3.0 Entire Agreement: This Agreement is intended to cover all matters relating to wages, hours and all other terms and conditions of employment. During the term of the Agreement neither the District nor the Union will be required to meet and negotiate on any further matters affecting these or any other subjects not specifically set forth in this Agreement, even though such subjects or matters may not have been within the knowledge or contemplation of either or both the District or the Union at the time they met and negotiated on and executed this Agreement, or even though such subjects or matters were proposed and later withdrawn. Nothing herein is intended to prevent the parties from meeting and negotiating during the term of this Agreement, pursuant to mutual consent.

## ARTICLE XIX

### TERM OF AGREEMENT

1.0 Term: This Agreement shall become effective upon adoption by the Board of Education and shall remain in full force and effect, pursuant to its terms, to and including June 30, 2014, and thereafter extended on a day-to-day basis until cancelled by either party upon ten (10) days written notice.

2.0 Negotiations for Successor Agreement: Negotiations for a successor Agreement shall commence upon request of either the District or the Union at any time after January 1, 2014.

## APPENDIX A

### SALARIES

#### 1.0 Salaries:

a. All employees who were employed both as of and prior to January 28, 1991 (including any employee who was on an approved temporary absence pursuant to Article XIII, Section 18.0 of the parties' 1990-92 agreement), (Class Codes 0954 and 0955) shall receive a base rate of \$13.73760 per hour.

b. All former employees who do not qualify under Section (a) above and all employees whose first date of paid service was on or after January 28, 1991, (Class Code 0953) shall receive a base rate of \$10.74840 per hour.