

## Metadata header

This contract is provided by UC Berkeley's Institute of Industrial Relations Library (IIRL). The information provided is for noncommercial educational use only. It may have been reformatted from the original and some appendices or tables may be absent. Note that subsequent changes, revisions, and corrections may apply to this document.

For more information about the IIR Union Contracts Project, contact:  
Lincoln Cushing, [lcushing@library.berkeley.edu](mailto:lcushing@library.berkeley.edu)

**IDnum** 189    **Language** English    **Country** United States    **State** CA

**Union** AFSCME (American Federation of State, County and Municipal Employees) AFL-CIO

**Local** Unit 11

Occupations Represented
Clinical laboratory technologists and technicians

**Bargaining Agency** University of California

**Agency industrial classification (NAICS):**

61 (Educational Services)

**BeginYear** 1999    **EndYear** 2002

**Source** <http://www.ucop.edu/humres/contracts/sx/>

**Original\_format** PDF (unitary)

**Notes**

**Contact**

**Full text contract begins on following page.**

---

# Service Agreement Table of Contents

---

- [Article 1 - Access](#)
- [Article 2 - Agreement](#)
- [Article 3 - Arbitration Procedure](#)
- [Article 4 - Benefits](#)
- [Article 5 - Contracting Out](#)
- [Article 6 - Development](#)
- [Article 7 - Discipline and Dismissal](#)
- [Article 8 - Duration of Agreement](#)
- [Article 9 - Grievance Procedure](#)
- [Article 10 - Health and Safety](#)
- [Article 11 - Holidays](#)
- [Article 12 - Hours of Work](#)
- [Article 13 - Layoff and Reduction in Time](#)
- [Article 14 - Leave of Absence](#)
- [Article 15 - Leave of Absence for Union Business](#)
- [Article 16 - Management Rights](#)
- [Article 17 - Medical Separation](#)
- [Article 18 - Miscellaneous](#)
- [Article 19 - Moving Expenses](#)
- [Article 20 - Multiple Appointments](#)
- [Article 21 - Non-discrimination in Employment](#)
- [Article 22 - No Strikes](#)
- [Article 23 - Out of Classification Assignments](#)
- [Article 24 - Parking](#)
- [Article 25 - Past Practice Not Covered By Agreement](#)
- [Article 26 - Payroll Deductions](#)
- [Article 27 - Performance Evaluation](#)
- [Article 28 - Personnel Files](#)
- [Article 29 - Position Appointments](#)
- [Article 30 - Probationary Period](#)
- [Article 31 - Reasonable Accommodation](#)
- [Article 32 - Release Time Negotiations](#)
- [Article 33 - Resignation](#)
- [Article 34 - Severability](#)
- [Article 35 - Sick Leave](#)
- [Article 36 - Staffing Committee](#)
- [Article 37 - Transfer and Promotion](#)
- [Article 38 - Travel Reimbursement](#)
- [Article 39 - Uniforms](#)
- [Article 40 - Vacation Leave](#)
- [Article 41 - Wages](#)

[Article 42 - Waiver](#)  
[Article 43 - Work-Incurred Injury or Illness](#)  
[Article 44 - Work Rules](#)  
[Memorandum of the Negotiators](#)  
[Execution of Agreement](#)  
Bargaining Team Members

Appendix A: Salary Range Tables  
Appendix B: Vacation Credit Tables  
[Appendix C: Enumeration of University Benefits](#)  
Appendix D: Side Letters -  
[Agricultural Workers](#)  
[Capital Accumulation Provision \(CAP\)](#)  
[Contracting Guidelines](#)  
[Contracting Out](#)  
[Probationary Period](#)  
[Staffing Committee](#)  
[University Benefits](#)  
[Wages](#)

---

[Back to top](#)

[Back to Agreement Information Page](#)

[Return to UCOP Labor Relations Home Page](#)

*February 12, 2002*

## **ARTICLE 1 ACCESS**

### **A. GENERAL PROVISIONS**

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

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

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

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

**E.** Where operational requirements or other restrictions do not permit unlimited access, the University reserves the right to designate the place of the meeting and/or to require a University representative to accompany the Union representative.

**F.** AFSCME officers and representatives and bargaining unit employees, including local Union officers and representatives, shall not conduct any Union activity or Union business on University premises or while in pay status with the University unless such activity is specifically authorized by the provisions of this Agreement and is conducted in accordance and conformance with campus procedures.

**G.** The University retains the right to enforce access rules and regulations in accordance with local campus procedures. The types of sanctions which may be imposed upon the Union as a result of a University determination that an access rule or regulation has been violated include, but are not limited to:

1. expulsion of and denial of access to the particular non-employee officer(s) or representative(s) of AFSCME who violate the rule(s) or regulation(s) for a specified period of time or permanently;
2. denial of access to and discipline of University employee AFSCME representative(s) who violate the rule(s) or regulation(s);
3. loss of Union posting privileges on University bulletin boards for a specified period of time;
4. loss of University facility privileges for a specified period of time.

### **H. BULLETIN BOARDS**

1. Where bulletin boards or bulletin board space is available for AFSCME, such availability shall continue.

2. Bulletin board availability for display of appropriate materials related to the bargaining unit shall, based on existing campus by campus practices, understandings and agreements, be provided on the following basis:
  - a. The Union may use bulletin boards designated by the University to post materials related to Union business. Any materials posted must be dated and initialed by the Union representative responsible for the posting and a copy of all materials posted must be provided to the appropriate University representative at the location at the time of posting.
  - b. All materials shall be posted by an officer of the local Union and shall be limited to the matters listed below:
    - 1) Union recreational and/or social affairs;
    - 2) Union appointments;
    - 3) Union elections;
    - 4) results of Union elections;
    - 5) Union meetings;
    - 6) rulings or policies of the International Union;
    - 7) reports of Union standing committees; and
    - 8) other materials which have been authorized by the University and the president of the local Union.
  - c. The Union agrees that nothing libelous, obscene, defamatory or of a partisan political nature shall be posted nor shall literature or material detrimental to the University, its agents or officials be posted.
  - d. In the event a dispute arises concerning appropriateness of the material posted, the University shall remove the material in question and then notify the president of the local Union as to the nature of the dispute.
  - e. Bulletin board space available to AFSCME shall be maintained by the president of the local Union. Unless mutually agreed otherwise, no materials shall remain posted for a period of more than thirty (30) calendar days.
3. In the event the parties meet and mutually agree as to the location and size of additional bulletin boards, any and all costs associated with the purchase and placement of such boards shall be evenly split by the Union and the University.
4. Wall racks and literature display equipment, if any, shall be subject to the same provisions of this Article regarding bulletin boards.

## **I. PATIENT CARE AREAS**

1. AFSCME representatives shall have access to patient care areas only as necessary for travel to and from business in those places set forth in Appendix \_\_. AFSCME representatives shall not contact bargaining unit members in, linger in, or use patient care areas for the purpose of conducting AFSCME business. When the designated campus/Laboratory official and the AFSCME representative mutually agree that a visit to a patient care area is necessary in attempting to adjust grievances, access to patient care areas will be granted. "Patient care area" includes:
  - a. Chart rooms and rooms that function as or are in the nature of chart rooms;
  - b. Nursing stations;

- c. Patient and/or visitor lounges including patient conference rooms, sitting rooms, and solaria; Libraries or study areas located within patient care areas;
  - d. Patient floor and operating room area corridors; and
  - e. Patient rooms, operating rooms, laboratories, clinics, and other treatment and patient care areas.
- J.** Union representatives shall be given a campus/Laboratory orientation which shall review access areas, general safety and health requirements, and procedures for the scheduling and use of certain rooms. Attendance at the orientation shall be a prerequisite to access. The University and the Union may mutually agree to waive the prerequisite in the appropriate circumstances.

**K. MAIL SERVICE**

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

**L. INFORMATIONAL MATERIAL**

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

**M. TELEPHONE USE**

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

**N. USE OF UNIVERSITY FACILITIES**

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

**O. PREPARATION, PRINTING AND DISTRIBUTION OF THE AGREEMENT**

1. In consultation with the Union, the University shall prepare the official version of this Agreement. The Union may review the camera ready copy of the Agreement prior to printing. The University shall print and retain the official version of the Agreement.
2. The University, at its sole non-grievable discretion and at the option of each campus/medical center, may elect either, neither or both of the following options:
  - a. to print and distribute copies of this Agreement to employees covered by the Agreement; and
  - b. to identify central locations where copies of the Agreement are available for review.

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

1. On March 1 of each year, the University shall provide AFSCME with an electronic list via File Transfer Protocol (FTP) of all employees in the bargaining unit. The list will include the following: name, title, title code, date of hire, annual salary rate, percentage appointment, and hiring unit. In addition, the list will include the home address and telephone number of bargaining unit members unless the employee has specifically requested that the home information not be released. The University will provide AFSCME a weekly list of changes (e.g. new hire, corrections, transfers, salary changes) via FTP that have occurred within the bargaining unit.
2. The Union will inform bargaining unit employees of their right to designate their home address as confidential. Such notice will be provided when the union provides its "Hudson" notice to employees.
3. Effective one month following ratification of this Agreement, the University will delete from AFSCME-represented employees' employment forms the option of withholding home addresses and phone numbers from the Union.
4. Upon written request by AFSCME, the University will provide the undisclosed home addresses to a mutually agreed-upon mailing service firm through which AFSCME can correspond with said individuals. The mailing service shall keep confidential the home address of the employees who have requested that the home information not be released. AFSCME will bear all costs associated with this service.
5. Employee work and home addresses shall be maintained as confidential by the Union. The Union shall take all reasonable steps to ensure the confidentiality of all information provided to it under this Article.
6. The Union agrees to defend, indemnify and hold harmless the University of California (including its subdivisions and employees) from any claim, suit or liability of any nature arising from (a) a challenge to the validity of this Section P; or (b) any action of the Union taken pursuant to, or in violation of, this Section P. The Regents will give the Union prompt written notice of any claim, suit or liability which it contends is subject to this provision.
7. In the event legislation is passed regarding access to employee home addresses and telephone numbers, and such legislation is applicable to the University of California, all provisions in Section P of this Article will become null and void.

**Q. NEW EMPLOYEE ORIENTATIONS**

The University shall notify AFSCME in advance of scheduled campus-wide/hospital-wide/laboratory-wide new employee orientations, if any, upon request of the local AFSCME representative.

1. At the University's new employee orientation, if any, packets of information supplied by AFSCME shall be made available.
2. AFSCME shall be permitted to meet with the new bargaining unit employees according to campus/hospital/Laboratory timetables and practices immediately after new employee orientation sessions, if any, for the purpose of sharing information with new employees.

3. Information about the time and location of the AFSCME meeting shall be announced at the new employee orientation meeting, if any. Employees may attend AFSCME meeting on non-work time, such as lunch or break times.
4. The University and AFSCME agree to meet and confer over arrangements to accomplish the goals of this section.

## **ARTICLE 2 AGREEMENT**

**A.** This Agreement is made and entered into on this 28<sup>th</sup> day of January, 2002, pursuant to the provisions of Articles 1 through 11 of the Higher Education Employer-Employee Relations Act (HEERA) by and between The Regents of the University of California, a corporation (hereinafter referred to as the "University" or "management" or "employer") represented by the Office of the President of the University of California system, and the American Federation of State, County and Municipal Employees (hereinafter referred to as "AFSCME" or the "International Union" or "Union"), represented by the international organization of AFSCME, AFL-CIO.

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

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

### **C. RECOGNITION**

1. Pursuant to and in conformity with the certifications issued by the Public Employment Relations Board (PERB) of the State of California in case number SF-HR-11, the University recognizes AFSCME as the sole and exclusive representative for the purposes of collective bargaining with respect to wages, hours, and terms and conditions of employment for all employees, excluding employees designated as managerial, supervisory and/or confidential by the University and all student employees whose employment is contingent upon their status as students, in the following described bargaining unit:
  - a. Unit #11 - Service (SF-HR-11)
2. The term "employee" as used in this Agreement shall refer to employees of the University of California including the Lawrence Berkeley Laboratory ("Laboratory") in the above-mentioned unit except for those excluded pursuant to C.1. above.
3. The classes and title codes included in Unit 11 are listed in Appendices A and B.
4. Meetings With Other Groups
  - a. The parties acknowledge that it is the policy of the State of California to encourage the pursuit of excellence in teaching, research and learning through the free exchange of ideas among the faculty, students and staff of the University of California. To this end, the parties, while recognizing AFSCME as an exclusive bargaining agent, acknowledge the right of the University to meet for purposes of information and idea exchange, with committees, councils, groups, caucuses and ad hoc organizations when the subject matter of such meetings is not limited to the occupational community of interests of the bargaining unit covered by this Agreement.

- b. Participants in such meetings shall not be deemed to be meeting under the auspices of HEERA, nor shall such participants be required to adhere to the obligations and responsibilities enumerated under HEERA. Further, the result of such meetings shall in no way require or allow the University on its own action to change or alter the provisions of this Agreement.

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

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

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

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

#### **F. EXPEDITED ARBITRATION**

##### **1. Exclusive Process**

The procedure described herein shall be the sole, exclusive procedure for resolving disputes arising under Sections D. and E. above.

##### **2. Selection of Arbitrator and Scheduling of Hearing**

- a. Within five working days of the Union's notice to the University, the arbitrator shall be selected by mutual agreement or by the alternate striking of names.
- b. The hearing shall be held within two weeks of the arbitrator's selection or, if that is not possible, on the arbitrator's first available date thereafter; provided that if the arbitrator has no available date within four weeks, another arbitrator shall be selected.

##### **3. Pre-hearing Submission and Conduct of the Hearing**

- a. Unless the parties mutually agree to the contrary, each party shall have up to two hours to present its case, but may reserve up to one-half hour of such time to respond to the other party's presentation. The presentation may be made by way of statement by the party's representative, presentation of witnesses or both, but the hearing shall be informal and rules of evidence shall not apply. No transcript or recording shall be kept.

- b. Following the presentations by the parties, up to two hours may be spent in an on-site review of the position or positions in question during which either party or the arbitrator may ask the employee or employees questions about the responsibilities of the position or positions.
- c. The burden of proof and proceeding in this expedited arbitration procedure shall be that of AFSCME.

4. Decision and Precedence

- a. The arbitrator shall issue a written award within three working days after the close of the hearing. During this period, the arbitrator may convene the parties for up to an additional two hours if the arbitrator wishes to raise additional questions.
- b. The award shall not include a written opinion and, unless the parties mutually agree to the contrary, shall answer only the issue of whether the job or classification in question should be placed within the bargaining unit. It shall be final and binding but shall not be used as a precedent in any other case.

5. Standards

Included in the standards to be used by the arbitrator in reaching his/her decision shall be the following:

- a. All managerial, supervisory, and confidential employees as defined by the Higher Education Employer-Employee Relations Act are excluded. Employees who hold any managerial, supervisory, or confidential appointment, regardless of the percentage of time worked in such appointment, are excluded.
- b. All University student employees whose employment is contingent upon their status as students are excluded.
- c. All employees whose employment is principally outside of the State of California are excluded.

6. Costs

The fee and expenses of the arbitrator shall be shared equally by the parties.

7. With the exception of G. below, the expedited arbitration procedure referenced herein shall be the sole and exclusive procedure through which the parties shall resolve disputes between them as to the inclusion or exclusion of employees in or from the bargaining unit. This procedure shall be used after discussions between the parties have failed to achieve resolution of such matters.

**G. NEW CLASSES**

- 1. When the University creates a new class and title within the occupational subgroups (OSG) included in this bargaining unit, the University shall mail a notice to the Union of the bargaining unit assignment, if any, of such class. The Union shall have 30 calendar days after mailing of such notice to contest the University's assignment. If the Union contests the assignment, the University and the Union shall meet and confer in an effort to reach agreement on the bargaining unit assignment for the class. If the parties are unable to reach agreement, the dispute shall be submitted to PERB pursuant to Regulation 32781(a)(2) for resolution. If the Union does not contest the bargaining unit assignment within the 30 calendar day notice period, the unit assignment of the new class shall be deemed agreeable to the parties and PERB shall be so advised. Bargaining unit assignments made by the University which are contested by the Union shall remain as originally assigned by the University until such time as the parties are in

mutual agreement as to a different assignment or, if such assignment is referred to PERB within the appeal period stated above, until resolution of the matter by PERB.

2. If the inclusion of a new class within the bargaining unit covered by this Agreement is agreed to by the parties or found appropriate by PERB, the University shall assign a pay rate to the class.
3. Assignment by the University of the pay rate to a new class as indicated above shall be consistent with the then-existing compensation and classification methodologies utilized by the University.
4. If the inclusion of a new class in the bargaining unit is agreed to by the parties or found appropriate by PERB but the University's determination of the pay rate is questioned by the Union, the Union shall, within 15 calendar days of the inclusion determination, request in writing that the University meet to discuss the pay rate for the class. If such a request is made, the parties shall meet within 30 calendar days of the request.
5. Pending discussion, if any, of the pay rate for a new class the pay rate originally assigned by the University shall remain in effect. An unquestioned rate or the rate determined appropriate by the University subsequent to any discussion with the Union shall be the rate assigned to the new class. Such rates shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

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

The University agrees to inform AFSCME when classes are abolished.

### **ARTICLE 3 ARBITRATION PROCEDURE**

- A.** Grievances which have not been settled under the procedures provided in Article 9 - Grievance Procedure, may be appealed to arbitration. Only the Union shall have the right to submit a grievance to arbitration and only after the timely exhaustion of the procedures of Article 9 - Grievance Procedure. An appeal to arbitration must be received by the Office of the Director -- Labor Relations, Office of the President within 20 calendar days of the mailing of the last preceding University written answer to the Union. The appeal to arbitration must be signed by the AFSCME Local 3299 Director and Proof of Service must accompany the appeal to arbitration. An appeal to arbitration is considered filed on the date it is postmarked. Grievances which are not processed within the above time limit, and/or which do not contain the appropriate Union signature, will be considered ineligible for appeal to arbitration. If an unresolved grievance is not appealed to arbitration or heard in arbitration, the last preceding University written answer shall become final.
- B.** A request for arbitration utilizing the expedited grievance procedure provided in Article 9 -Grievance Procedure, Section H.2.f., may be made only by AFSCME in accordance with Section A. above. Request for arbitration under this section must include a copy of the completed grievance form.
- C.** Within 15 calendar days of service upon the University of AFSCME's appeal to arbitration of a grievance, the University shall acknowledge receipt of the appeal and shall indicate the University's office of representation for the grievance. The acknowledgement shall indicate the location to which all correspondence and contact should be made relative to the Arbitration Procedure and shall include a Proof of Service.
- D.** Within 30 calendar days of service upon AFSCME of the University's acknowledgement of a grievance having been appealed to arbitration as indicated in C. above, the parties shall attempt to mutually agree to the selection of one arbitrator from the permanent panel to serve as arbitrator for the appealed grievance.
- E.** The scheduling of the arbitration hearing date must be accomplished no later than 180 calendar days from the date the grievance was originally appealed to arbitration. Failure to invoke the process described in Sections G. and H. below, within 180 calendar days will render the grievance ineligible for arbitration and the last preceding University written answer shall become final.
- F.** Time limits related to the Arbitration Procedure may be extended by mutual written agreement of the parties in advance of the expiration of the time limit. Deadlines which fall on a day which is not a campus/Laboratory business day will automatically be extended to the next business day.
- G. SELECTION OF THE ARBITRATOR**
1. If the parties mutually agree to the selection of the arbitrator, a letter signed by both parties shall promptly be sent to the arbitrator notifying him or her of his/her selection and requesting a hearing date. In the event the parties anticipate a hearing involving more than one day, they shall at the time of notice to the arbitrator of his or her selection estimate the number of days the hearing will require. Available arbitration date(s) shall not be any earlier than 21 calendar days from the arbitrator's receipt of his or her selection to hear the arbitration.
  2. If the parties fail to reach mutual agreement as to the selection of an arbitrator for a grievance appealed to arbitration pursuant to D. above, selection shall be made as follows:
    - a. The names of five members from the northern or southern permanent panel group shall be drawn by blind lot.

- b. The parties shall alternately strike names from the list of five. The flip of a coin shall determine the party to begin the alternate process of the striking of the names.
- c. The one name remaining after each party has stricken two names shall be the arbitrator designated to conduct the hearing.
- d. If both parties mutually disagree with the arbitrator name which has been selected using the above process, the process shall be repeated in its entirety in order to determine a selected arbitrator.
- e. If, after two attempts, the parties mutually disagree with the arbitrator selected, then one party, chosen by the flip of a coin, shall draw one name by blind lot from the northern or southern group and that arbitrator shall hear the arbitration case.

## **H. SCHEDULING THE ARBITRATION HEARING**

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

## **I. ARBITRATION PROCEDURE**

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

6. Should arbitrability of the subject matter be an issue, a separate arbitrator shall be appointed to determine the question of arbitrability unless the parties agree otherwise. Should procedural arbitrability be an issue in addition to subject matter arbitrability, two arbitration hearings will be held using two different arbitrators with the hearing on the arbitrability of procedure being held first, unless the parties agree otherwise.
7. Where two or more grievances are appealed to arbitration an effort will be made to consolidate the grievances and agree upon a single arbitrator.
8. Arbitration hearings conducted pursuant to this Article shall be closed unless the parties mutually agree otherwise in advance and in writing.
9. The arbitrator shall have the obligation of assuring that all necessary facts and considerations are brought before him or her by the representatives of the parties at the hearing. In all respects he or she shall assure that the hearing is a fair one. The arbitrator shall be the sole judge of the relevancy and materiality of the evidence and testimony offered. The arbitrator may receive and consider evidence but shall give appropriate weight to any objections made. All documents to be considered by the arbitrator shall be filed at the hearing.
10. The decision of the arbitrator on any issue properly before him or her shall be final and binding upon the University, the Union and all employees. The arbitrator's authority shall be limited to determining whether the University has violated the provision(s) of this Agreement. The arbitrator shall not have jurisdiction or authority to add to, amend, modify, nullify or ignore in any way the provisions of this Agreement and shall not make any award which would, in effect, grant the Union or the employee(s) any matters which were not obtained in the negotiation process.
11. The arbitrator shall have the authority to subpoena and require the attendance of witnesses upon the reasonable request of either party but not upon his/her own motion. The arbitrator shall have no authority to subpoena documents nor shall the parties be required or ordered to produce lists of witnesses prior to the hearing. The expense of service and appearance fees, if any, shall be borne entirely by the party requesting the subpoena of witnesses and the arbitrator shall, in advance of the hearing date, inform each party of the identity of witnesses subpoenaed by the other party.
12. Either or both parties may, at their discretion, file briefs with the arbitrator. The order and time limits of briefing shall, on a case by case basis, be as mutually agreed upon by the parties or as specified by the arbitrator. Briefing time limits may be extended if mutually agreed upon by the parties.
13. The arbitrator shall consider the evidence presented and render a written decision within 30 calendar days of the close of the record of the hearing.
14. With regard to a grievance appealed to arbitration for which in whole or in part the remedy sought involves back wages or other monetary reimbursement, the University shall not, in providing such remedy as a result of an arbitrator's award or a settlement, be required to make any payment of wages or any other monetary reimbursement for:
  - a. any period of time during which an extension of time limits has been granted at the request of AFSCME;
  - b. any period of time between the date a hearing was originally scheduled to be held and, due to a request from AFSCME to postpone or change the scheduled hearing, the rescheduled date of the hearing; and
  - c. any period of time earlier than 30 days prior to the date of filing of the Step 1 written grievance.

15. If the grievance is sustained in whole or in part, the remedy shall not exceed restoring to the employee the pay, benefits or rights lost as a result of a violation of the Agreement less any compensation from any source, including, but not limited to, Workers' Compensation and Unemployment Insurance benefits. The decision of the arbitrator, within the limits described herein, shall be final and binding.
  16. Except for the correction of mathematical, calculation, recording or accounting errors relating to the payment of wages, an award of an arbitrator with respect to any grievance which shall be submitted to him or her shall not in any case be made retroactive to a date earlier than 30 calendar days prior to the initiation of the written grievance in Step 1 of the Grievance Procedure. For grievances involving the correction of an error in the payment of wages or the correction of mathematical calculations, recording or accounting errors relating to the payment of wages (for example vacation leave, holidays, overtime, military leave or the amount of shift differentials, if any) shall not be made retroactive to a date earlier than two years prior to the initiation of the written grievance in Step 1 of the Grievance Procedure.
  17. In any settlement of a grievance appealed to arbitration involving retroactive payments, the appropriate University and Union representatives shall expeditiously determine the identity of the payees and the specific amount owed each payee. Such amount of payment shall be final and no individual employee or group of employees may subsequently grieve the amounts received.
  18. Awards involving monetary payment and/or credit shall be limited in their calculation to the utilization of the employee's actual and appropriate wage or benefit amount and shall not include the awarding of interest or any other payment/credit unrelated to a benefit amount or an hourly wage. Upon the motion of either party, or at his or her own discretion, an arbitrator may retain jurisdiction in cases involving an award of retroactive monetary payment and/or credit.
- J.** The cost of the arbitrator and expenses of the hearing will be shared equally by the University and AFSCME. If either party or both parties request that a stenographic record of the hearing be made and transcripts provided, the parties shall equally share the entire cost of such service and the cost of the provision of a transcript to each party and the arbitrator.
- K.** Witnesses who appear at the arbitration hearing at the request of the Union shall be in a without-loss-of-straight-time pay status for time spent actually giving testimony. Every effort shall be made by the Union to avoid the presentation of repetitive witnesses. The grievant (one grievant in a group grievance) shall be in a without loss-of-straight-time pay status at the arbitration hearing. The University shall not be responsible for any lodging, travel or other expenses incurred by grievants, witnesses or Union representatives with regard to the arbitration hearing. The University shall not be required to grant without-loss-of-straight-time pay status to more than one employee Union representative for attendance at any one arbitration hearing.
- L.** An appeal to arbitration shall not constitute a bar to efforts by the University and AFSCME to achieve resolution of the grievance appealed to arbitration during the time the appeal is pending and until such time that an arbitrator has rendered his or her decision.
- M.** AFSCME shall have full authority to settle, withdraw, or otherwise dispose of any grievance brought on behalf of the Union and/or on the behalf of employees. An agreement to settle, withdraw, or otherwise dispose of a grievance appealed to arbitration reached by and between the University and AFSCME shall be binding upon employees represented by AFSCME.
- N. PANEL OF ARBITRATORS**
1. The University and AFSCME agree that there will be a permanent panel of 32 arbitrators selected to hear arbitration cases which are scheduled for hearing pursuant to the provisions of

this Article. Sixteen shall be selected to hear cases involving the northern campus/Laboratory locations and 16 shall be selected to hear cases involving the southern campus locations.

2. Annually each party shall have the right to eliminate up to two arbitrators from the panels. A party exercising this right shall notify the other party in writing of the name(s) of the arbitrators to be stricken from the panel(s).
  3. In replacing arbitrators who were eliminated or removed themselves from the panels the parties will attempt to mutually agree upon replacements. If mutual agreement cannot be reached, replacement arbitrators will be selected alternately by the parties. The party selecting first shall be determined by the flip of a coin. Any arbitrator eliminated may not be placed back on a panel for two years.
- O.** In all cases appealed to arbitration pursuant to the terms of this Article and this Agreement, with the exception of those cases in which the issue is that of actions taken by the University pursuant to Article 7 - Discipline and Dismissal, AFSCME shall have the burden of proceeding and the burden of proof. The burden of proceeding and proof in cases in which the issue is that of actions taken by the University pursuant to Article 7 - Discipline and Dismissal, shall be the University's.
- P.** Under no circumstances shall any grievance involving employees engaged in the violation of Article 22 - No Strikes be discussed or processed by the University to the arbitration stage or heard by an arbitrator while such violation continues. This provision shall not, however, waive compliance with the time limits for filing grievances or appeals from decisions rendered with regard to grievances or appeals to the Arbitration Procedure. Any grievance settlements and arbitration awards regarding back pay and/or reinstatement of benefits for employees who engage in violations of Article 22 - No Strikes shall not be made for any period of the time during which violations of Article 22 - No Strikes are occurring or have occurred.
- Q.** At all steps in the Grievance Procedure and in the Arbitration Procedure the grievant and the Union representatives shall materially expedite the resolution of the grievance by disclosing to the appropriate University representatives a full and detailed statement of the facts relied upon, the remedies sought, and the provision(s) of the Agreement relied upon.

**ARTICLE 4  
UNIVERSITY BENEFITS**

**A. GENERAL CONDITIONS**

1. Eligible employees may participate in a number of benefit programs generally available to other eligible non-managerial, non-supervisory, non-confidential, non-academic employees of the University. The University may, at its option during the term of this Agreement, alter its health and welfare programs and/or retirement system plans. Such alterations include, but are not limited to altering eligibility criteria, establishing new coverage, altering or deleting current coverage, altering employee and University rates of contribution, or changing the carrier for established plans or programs. In the event the University makes such alterations, the changes will apply to employees eligible for benefits within the unit in the same manner as they apply to other eligible staff employees at the same campus/laboratory. The sole exceptions to the above shall be 1) any alterations proposed by the University which affect only bargaining unit employees, and 2) any alterations proposed by the University which reduce retirement benefits of bargaining unit employees. In such cases, the University agrees to meet and confer with respect to the proposed change.
2. For the life of this Agreement, the University's maximum monthly rates of contribution for bargaining unit employees who are eligible for and elect to enroll in a health plan shall be the same as the contribution rates for such plans for other staff employees.
3. Costs that exceed current University contributions, and employee costs for plans to which the University does not contribute, are to be paid by unit employees, normally through payroll deduction.

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

**1. Temporary Layoff/Temporary Reduction In Time/Furlough**

Health plan contributions by the University will be provided for unit employees, in accordance with Section A.3, above, when the employee is affected by the following conditions lasting up to 4 months: a temporary layoff; a temporary reduction in time below the hours required to be eligible for health benefits; or a furlough. For health plans to remain in force, employees on temporary layoff or furlough must comply with the terms of the applicable plan documents, rules and/or regulations.

**2. Military Leave**

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

**3. Leaves Of Absence Without Pay**

- a. Approved leave without pay shall not be considered a break in service and, except as provided in Section 3.c., below, shall not determine eligibility for benefits except that the regulations of the retirement systems determine the effects of such leave without pay on retirement benefits.
- b. Except as provided in Section 3.c., below, an eligible employee on approved leave without pay may, in accordance with the plan documents, rules and regulations, elect to continue University-sponsored benefit plans for the period of time specified in the plan documents, rules and regulations.

- c. An employee on an approved Family Care and/or Medical Leave shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and vision) as if on pay status for a period of up to twelve (12) workweeks in any 12-month period. However, an employee who exhausts her entitlement to health plan coverage while on an approved Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, shall not be entitled to an additional 12 workweeks of health plan coverage under the State Family Care and Medical Leave Act. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

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

For informational purposes only, a brief outline of benefit programs in effect on the date the Agreement is signed is found in Appendix C. AFSCME understands and agrees that the descriptions contained in Appendix C do not completely describe the coverage or eligibility requirements for each plan, the details of which have been independently communicated to AFSCME.

Specific eligibility and benefits under each of the various plans are governed entirely by the terms of the applicable Plan Documents, custodial agreement, University of California Group Insurance Regulations, group insurance contracts, and state and federal laws. Employees in an ineligible classification are excluded from coverage, regardless of appointment percent and average regular paid time. For details on specific eligibility for each program, see the applicable documents, agreements, regulations, or contracts.

## **ARTICLE 5 CONTRACTING OUT**

### **A. GENERAL PROVISIONS**

Nothing in this article shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, contract or grant - including the contract requirements contained in the agreement between the University and the Department of Energy- where ineligibility would result in a loss of federal funds to the University of California.

### **B. DISPLACEMENT OF EMPLOYEES**

1. Except as provided below, the University of California will not contract out services that result in the layoff of bargaining unit employees.
2. Examples of instances in which a contract for such services may be appropriate include:
  - a. The need to obtain special services and equipment that are not available internally;
  - b. The need to obtain special expertise or efficiencies that are better provided through an outside contractor than by the University; and
  - c. Financial necessity.
3. Where financial necessity is the reason for the exception, before contracting for work which is fully or partially supported from state funds, including those at the teaching hospitals, the University shall first seek funding from the Legislature to address the financial necessity.
4. When the University has determined to contract for services it will provide AFSCME's Local 3299 Director or Designee with a copy of any RFP as soon as feasible after it is issued. Such notice shall demonstrate the appropriateness for the contract, in accordance with section B above.
  - a. If AFSCME asks to meet with the University about the proposed contract for services, such a meeting will occur as soon as practicable following the University's receipt of the request. The meeting will not delay the commencement of the contract.
  - b. If AFSCME believes that the University failed to comply with the provisions of Section B above, it can file a formal complaint with the Office of the President, Office of Labor Relations. The Office of the President shall make the final determination as to whether the contract meets the conditions in Section B. The Office of the President decision is not grievable or arbitrable.

### **A. EFFECT OF CONTRACT ON EMPLOYEES**

When a bargaining unit employee who is notified of layoff or released because the University entered into a contract for services that s/he performed, the University will make available another bargaining unit position for which the employee is qualified. The position will be at the same campus/hospital/laboratory from which the employee was laid off or released. Where the provisions in this article are inconsistent with the provisions of Article 13, Layoff and Reduction in Time, the provisions of this Article and Section shall control.

1. The available position shall be offered at the same duration, percent time, and appointment type held by the employee when s/he was displaced (probationary, limited, per diem, or career).
2. The available position shall be offered at the same base rate of pay earned by the employee when s/he was laid off or released.
3. The right to be offered a position pursuant to this section shall begin on the date an employee is notified of her/his layoff or release.
4. The right of an employee to be offered a position pursuant to this section shall terminate upon acceptance or refusal of the offered position at the same base rate of pay.
5. A non-probationary career employee who refuses an offered position at the same base rate of pay shall be placed in layoff status. Probationary, limited, or per diem employees who refuse an offered position at the same base rate of pay shall be released.

**B. NEW FUNDING TO BRING CONTRACTED WORK BACK TO UC**

1. In the event the State of California provides the University of California with sufficient additional new 19900 funding specifically identified to cover the cost of establishing contracted custodial positions, the University will establish such positions. Such funding must cover all salaries, benefits, capital equipment, supervision, and capital/real estate costs, at the same staffing levels as were provided under the contract. On a case by case basis, the University may agree with AFSCME to create UC positions for work contracted out even where the new 19900 funding does not fully cover all costs referred to above.
2. AFSCME and the University will work together to secure the sufficient additional funding.

## **ARTICLE 6 DEVELOPMENT**

- A.** At its sole discretion, the University may permit employees to attend career-related or position-related development programs. In each case payment of fees, duration of released time and status of released time as time on pay status or time worked is at the discretion of the University.
- B.** When the University requires attendance at an educational or training program, the University will pay the fees and related costs. Education or training, which is suggested or recommended, but not required, is not "required" within the meaning of this Article. Education or training for the acquisition or maintenance of a license shall not qualify as "required" within the meaning of this Article.
- C.** Non-probationary employees in career positions who are residents of the State of California and who are admitted to the University are eligible for a two-thirds reduction of both the University registration fee and the University educational fee per quarter or semester, for up to nine units or three regular session University courses, per quarter or semester, whichever is greater.
- D.** An employee so registered shall not be eligible for the services or facilities of counseling centers, gymnasias, or student health services incidental to such reduced-fee registration.
- E.** Eligibility for discounts for other University of California courses and programs, including University Extension courses, are at the sole discretion of the University.
- F.** Participation in educational or training programs during scheduled work hours must be approved by the University in advance.
- G.** Disputes arising from this Article shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 7  
DISCIPLINE AND DISMISSAL**

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

B. TYPE OF DISCIPLINE

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

C. INVESTIGATORY LEAVE

The University may place an employee on investigatory leave without prior notice in order to review or investigate allegations of conduct which, in the University's view, would warrant relieving the employee immediately from all work duties. If upon conclusion of the investigation neither suspension without pay nor dismissal is determined to be appropriate, the employee shall be paid for the leave. If suspension without pay or dismissal is determined to be appropriate, up to fifteen (15) work days of the investigatory leave period may be without pay, provided the notice provisions and the employee response provisions in sections D. and E. below have been followed.

D. NOTICE

1. Written notice of intent to suspend for more than five (5) working days, demote, or dismiss shall be given to the employee, either by delivery of the notice to the employee in person or by placing the notice of intent in the United States mail, first class postage paid, in an envelope addressed to the employee at the employee's last known home address. It shall be the responsibility of the employee to inform the University in writing of any change in such address. The notice of intent shall be accompanied by Proof of Service (pursuant to section M. of Article 9 - Grievance Procedure) indicating the date on which the notice of intent was personally delivered or mailed, and this shall constitute the "date of issuance" of the notice of intent.
2. The notice of intent shall:

- a. inform the employee of the disciplinary action which the University intends to take, the reason for the disciplinary action, and the effective date of the disciplinary action;
- b. inform the employee that he or she has a right to respond either orally or in writing, to whom to respond, and that the response must be received within ten (10) calendar days of the date of the issuance of the notice of intent in accordance with section E. below;
- c. include a copy of the charge and material upon which the charge is based.

A copy of the notice of intent shall be sent to AFSCME.

#### E. EMPLOYEE RESPONSE

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

**ARTICLE 8  
DURATION OF AGREEMENT**

- A.** The terms and conditions of this Agreement shall be in full force and effect commencing at 12:00 midnight on January 28, 2002 the effective date of the agreement and terminating at 11:59 p.m. on June 30, 2004, unless the University and AFSCME mutually agree in writing to extend any or all of the terms and conditions of this Agreement.
1. Limited negotiations
    - a. In 2002, the University and AFSCME agree that only Article 24, Parking, shall be subject to collective bargaining, except as provided in Section A.1.c., below. Bargaining shall begin as soon as practicable following the University's notice of its intent to bargain, which will be provided on or about February 1, 2002.
    - b. In 2003, only wages shall be subject to bargaining. By May 1, 2003, the parties shall set a mutually agreeable start date for the negotiations.
    - c. If a law is enacted that affects the terms and conditions found in the contract, the University may choose to open the article(s) affected by the new law.
  2. Full contract negotiations – In 2004, all terms and conditions of employment covered by this Agreement will be subject to meeting and conferring, in accordance with the provisions of Section B., below.
- B.** The requirements for the University and/or AFSCME to collectively bargain the Agreement are as follows:
1. AFSCME shall, no later than March 1, serve upon the Office of the President Labor Relations Executive Director its written notice of its intent to negotiate the Agreement, in accordance with Section A., above. Included in such notice shall be AFSCME's written contract language proposals for the articles subject to negotiation.
  2. The University shall, no later than April 1, serve upon the Director, AFSCME Higher Education Division (Local 3299), notice of its intent to negotiate the Agreement, in accordance with Section A., above. Included in such notice shall be the University's written contract language proposals for the articles subject to negotiation.
- C.** Timely notice as indicated in section B. above shall impose the duty to engage in meeting and conferring for the purposes of negotiating amendments to the Articles so specified. Such negotiations shall commence on or about May 1 unless otherwise mutually agreed to by the parties.
- D.** Neither party shall have an obligation or requirement to negotiate on any provision of any Article not timely designated.
- E.** During the period of negotiations on Articles properly designated for amendment the terms and conditions of the Agreement, including those Articles already designated for amendment, shall remain in full force and effect.
- F.** In the event neither the University nor AFSCME accomplish timely notice of intent to reopen, the terms and conditions of the Agreement shall remain in full force and effect until June 30, 2005.

## **ARTICLE 9 GRIEVANCE PROCEDURE**

### **A. DEFINITION**

1. A grievance is a written complaint by an individual employee, a group of employees, or AFSCME that the University has violated a specific provision of this Agreement.
2. Only one (1) subject matter shall be covered in any one (1) grievance. A grievance shall contain a clear and concise statement of the grievance by indicating the issue involved, the relief sought, the date the incident or violation took place and the specific Section or Sections of the Agreement involved. The grievance shall be presented to the designated campus/Laboratory grievance official on a form agreeable to the parties. The grievance form shall be furnished to the employee by the Union and the form must be signed and dated by the grievant(s) and /or the grievant's representative.
3. Group grievances are defined as, and limited to, those grievances which cover more than one (1) employee, and which involve like circumstances and facts for the grievance involved. Grievances that are group grievances must be so designated on the grievance form at Step 1, and all employees covered by the grievance must be indicated on the grievance form.
4. Alleged violations of a specific provision of this Agreement may be grieved by the Union and shall be so identified as a Union grievance on the grievance form. Such Union grievances shall be signed by the AFSCME Higher Education Division (Local 3299) Director or his/her designee and shall contain all information as specified above for any other grievance.
5. Except as otherwise provided in this Agreement, an individual employee, a group of employees, the University, and AFSCME shall have the right to use the Grievance Procedure. AFSCME shall have the right to present grievances on behalf of an individual employee, on behalf of a group of employees or on behalf of itself as a Union grievance. The Union is responsible for informing an employee (including an employee named in a group grievance) that it is bringing a grievance on his/her behalf. In the event an employee wishes to withdraw from the grievance, he/she shall notify the University in writing and upon such written request shall be withdrawn. The University will promptly provide AFSCME with a copy of the employee's written request to withdraw. Grievants who voluntarily resign their employment with the University, unless they retire, shall have their pending grievances immediately withdrawn and will not benefit by any subsequent settlement or disposition of any individual, union, or group grievance.
6. No employee shall be subject to reprisal for using or participating in the Grievance Procedure.

### **B. CONSOLIDATION OF GRIEVANCES**

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

## **C. TIME LIMITS**

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

The parties may agree in writing to extend the time limits in any step of the Grievance Procedure. Such written extension must be accomplished in advance of the expiration of the time limit being waived. Deadlines which fall on a day which is not a campus business day will automatically be extended to the next business day.

For grievance appeals and responses, the date of issuance shall be the date hand-delivered, or the date of the US Postal Service postmark, if mailed, provided the address used is the non-work address on the grievance form. The date of hand delivery shall be the date of the stamp or handwritten acknowledgement of receipt as noted by the Labor Relations office.

## **D. INFORMAL REVIEW AND RESOLUTION**

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

## **E. REPRESENTATION RIGHTS**

1. An employee or group of employees shall have the right to be represented at all steps of the Grievance Procedure by one (1) person of the employee's or group of employees' choice. The chosen representative may be the grievant, one (1) member of the group in a group grievance, a Union representative or any other person of the grievant's choosing. In any event, representation is to be provided by one (1) person. However, a University employee who has been designated as managerial, supervisory or confidential by the University shall not represent any employee or group of employees at any step of the Grievance Procedure or in any activity or role provided for in the Grievance Procedure. Provided it does not interfere with operational needs, and with prior approval from his/her supervisor, one (1) additional Union representative may attend such grievance meetings on non paid release time. Should an additional employee representative attend a grievance meeting, it is expressly understood there shall be only one Union spokesperson.

2. An employee or group of employees may choose a representative other than an AFSCME representative for purposes of grievance representation and adjustment. In the event the University is involved in the adjustment/resolution of a grievance from an employee or group of employees who are self-represented by themselves or by a representative other than an AFSCME representative:
  - a. The University shall provide AFSCME with a copy of the grievance and the proposed resolution thereto indicating the employee or employees have chosen a representative other than AFSCME. Proof of Service shall accompany such notification.
  - b. AFSCME shall have ten (10) calendar days from the date of issuance of such copy within which to comment in writing on the proposed resolution.
  - c. The employer shall not implement the proposed resolution of the grievance until timely receipt and review of AFSCME's written comments, if any.
  - d. The adjustment/resolution of grievances presented absent AFSCME representation shall be consistent with the terms of this Agreement.

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

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

- b. The University is not responsible for any travel or lodging expenses or any other expenses incurred by the representative, grievant or union witnesses.
- c. Paid release time for AFSCME designated employee representatives for purposes other than University convened meetings shall be provided in accordance with Article 1, Access.

2. Paid release time

- a. The total cumulative use of paid release time for the AFSCME designated employee representative shall be limited to 10 hours in any one month. University convened meetings pursuant to Article 9, -- Grievance Procedure, shall not be deducted from this block of time.
- b. The use of the maximum of 10 hours shall be for grievance-related activity such as:
  - 1) The initial hand-delivered filing of a grievance and the retrieval of University documents provided pursuant to a written request for information related to a grievance;
  - 2) One-on-one meetings with a grievant concerning a filed grievance, or an alleged violation of this Agreement which is at the Informal Review stage of Article 9, -- Grievance Procedure;
  - 3) Meetings with the University representative to whom written grievances are presented or to whom documents related to filed grievances are presented/signed or with whom time limit agreements are achieved;
  - 4) Informal Review meetings held pursuant to Section D of Article 9, -- Grievance Procedure.
- c. A request for release time will be made to the AFSCME designated employee representative's supervisor prior to the activity. Such approval shall be granted solely on the basis of operational need and shall not be denied unreasonably.
- d. At its sole discretion, the University may authorize use of release time for more than 10 hours in a month per department. The exercise of this discretion and/or the enforcement by the University of the 10-hour maximum shall under no circumstances establish a precedent for the AFSCME designated employee representative or department involved nor shall the allowance of greater than 10 hours in a month for a AFSCME designated employee representative have any effect or bearing on the ability of the University to enforce the 10-hour maximum on any other AFCME designated employee representative.
- e. Should a question of possible abuse of these release time provisions arise, the University will so notify AFSCME, and the parties will attempt to resolve the matter. If a question remains, the University may take corrective action when warranted.

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

1. The retention or release of non-career employees and probationary employees shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement except as provided for in Article 29 – Positions, § B. 2., § B.6.a.1) and 2), §B.6.b., and §D.8. The retention or release of non-career employees and probationary employees is at the sole discretion of the University.
2. When an action is taken by the University with respect to a limited employee which effectively terminates the limited employee during the term of his/her limited appointment and there are unique or unusual circumstances involved, the designated campus official, upon the specific request of the AFSCME Higher Education Division (Local 3299) Director, will discuss the action taken. The parties understand that such requests for discussion will occur on a very limited basis and will not be made with respect to actions including but not limited to those resulting from the expiration of appointment, programs or grant funds, or the decision not to continue, rehire or extend the employment of a casual employee. The parties further understand that the opportunity for such discussion in very limited circumstances does not in any way confer upon a limited employee any property or process right and does not in any way obligate or commit a designated campus official to any specific course of action or procedure.

## **H. GRIEVANCE STEPS**

1. Step 1
  - a. Within the time limits indicated elsewhere in this Article the employee or his/her representative, if any, shall provide the written grievance on the approved form to the designated campus grievance official. The time limits relative to the University's response to the grievance at Step 1 of the Grievance Procedure shall begin on the date the Step 1 grievance official receives the grievance. The University Step 1 grievance official shall acknowledge receipt of the grievance in writing. When a grievance form is hand delivered, acknowledgment can, on request of the Union, take the form of date stamping the form, signing it, making a copy and giving the copy to the grievant or his/her representative. Any grievance that is not received within the time limits established by this Article and/or which does not comply with the procedures and requirements of this Article shall be considered waived and withdrawn by the employee and/or the Union.
  - b. The immediate supervisor shall review the grievance and, at his/her discretion, meet with the grievant and/or the grievant's representative, if any, to discuss the grievance. Within fifteen (15) calendar days after receipt of the grievance a written response will be issued to the employee and the employee's representative. If the University's written response is not issued within these time limits or if the grievance is not resolved at Step 1 of the Grievance Procedure, the grievance may be appealed to Step 2. Time limits for appealing a UC written answer, or the absence of a written response, are provided in § C. above.
  - c. Resolution of the grievance at Step 1, although final, shall not be precedent setting.
  - d. As set forth in Section I. below, the parties may agree in writing to waive Step 1 and proceed directly to Step 2.

## 2. Step 2

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

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

## 3. Step 3

- a. All grievances other than those described in H.2.f. above which are not satisfactorily resolved at Step 2 may be appealed to Step 3 by AFSCME or the employee. To consider a grievance at Step 3, written notice of appeal of the Step 2 University answer shall be served (pursuant to Section M., of this Article) upon the Director of Labor Relations of the University by the AFSCME Higher Education Division (Local 3299) Director or his/her designee. Such notice must be received by the Director of Labor Relations of the University within fifteen (15) calendar days of the date the Step 2 answer was given or due. Such notice shall identify the grievance being appealed and be signed and dated by the AFSCME Higher Education Division (Local 3299) Director or his/her designee.
- b. An employee or group of employees using a representative other than AFSCME pursuant to Sections E.1., and E.2., of this Article may appeal a Step 2 University answer to the Executive Director of Labor Relations of the University. Such appeal must be served upon (pursuant to Section M., of this Article) and received by the

Executive Director of Labor Relations within fifteen (15) calendar days of the date the Step 2 answer was given or due. Such appeal shall be in writing, identify the grievance being appealed and be signed and dated by the employee(s) and representative.

- c. The subject of the grievance as stated in Step 2 shall constitute the sole and entire subject matter of the appeal to Step 3.
- d. The University's written answer to a grievance appealed to Step 3 shall be issued by the Director of Labor Relations of the University or his/her designee within thirty (30) calendar days of the receipt of the appeal to Step 3. Proof of Service shall accompany the written decision. The written answer shall be served upon the employee's designated representative and a copy shall also be provided to the AFSCME Higher Education Division (Local 3299) Director. Time limits for appealing a UC written answer, or the absence of a written response, are provided in § C. above.
- e. The Director of Labor Relations of the University or his/her designee shall have authority to settle grievances appealed to Step 3. In the case of a grievance with AFSCME representation, the AFSCME Higher Education Division (Local 3299) Director or his/her designee shall have authority to settle or withdraw the grievance or appeal the grievance to arbitration.
- f. Settlements of grievances processed beyond Step 2 of the Grievance Procedure must be signed by the Director of Labor Relations of the University and the AFSCME Higher Education Division (Local 3299) Director or their designee(s).
- g. If the University's Step 3 decision is not properly appealed to arbitration as provided in Article 3 - Arbitration Procedure, the grievance shall be considered settled on the basis of the Step 3 decision and shall not be eligible for further appeal. Pursuant to the provisions of Article 3 - Arbitration Procedure, only AFSCME shall have the right to submit a grievance to arbitration.

#### **I. EXTENSION OF TIME LIMITS**

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

#### **J. OFFERS OF SETTLEMENT**

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

#### **K. RETROACTIVITY**

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

example vacation leave, holidays, overtime, military leave or the amount of shift differentials, if any) shall not be made retroactive to a date earlier than two years prior to the initiation of the written grievance in Step 1 of the Grievance Procedure.

#### **L. EXCLUSIVE PROCEDURE**

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

#### **M. PROOF OF SERVICE**

Wherever Proof of Service is required in this Agreement, it shall be accomplished as follows:

1. When delivery is by U.S. mail, the person mailing shall complete and sign the prescribed and appropriate Proof of Service form which shall indicate that they have personally deposited with or presented to the U.S. Postal Service the document(s) being mailed.
2. When delivery is through a personal presentation of a document(s), Proof of Service is accomplished and recorded by:
  - a. the person presenting the document(s) completing and signing the prescribed and appropriate Proof of Service form which shall indicate they have delivered the document(s) by hand and to whom the document(s) were delivered; or
  - b. the person delivering the document(s) and the person accepting delivery of the document(s) shall mutually acknowledge the delivery/receipt by signing and dating the document(s) and a copy of the document(s) and each of them retaining one of the signed and dated document(s).

#### **N. GRIEVANCE FILE**

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

**ARTICLE 10  
HEALTH AND SAFETY**

**A. GENERAL CONDITIONS**

1. The University shall make reasonable attempts to furnish and maintain in safe working condition the workplace and equipment required to carry out assigned duties. The University shall manage its operations in compliance with established campus/hospital/Laboratory health and safety policies and procedures.
2. Within the first month of employment on a job, employees working with hazardous materials or in a hazardous environment, such as employees working with animals with contagious diseases and/or in laboratories using hazardous chemicals, will receive information and training pertaining to the health and safety protocols in her/his department, an explanation of the health and safety rights and responsibilities of both the employer and the employee, instructions concerning known specific hazards of the employee's job, and the procedures available to employees to abate or report any unsafe or unhealthy working conditions. When assigned duties include an imminent risk to life and health, as determined by a University health and safety professional responsible for the assessment of imminent risk to life and health, the University shall provide training and information to the employee prior to the employee assuming such duties.
3. In the event an employee believes s/he is performing a hazardous job with insufficient training, the employee shall immediately inform the department Health and Safety Officer, if any. After consultation, if any, the employee may contact the Environmental Health and Safety Department. In such instances, a staff member from the EH&S department shall respond to the employee as soon as practicable.
4. There shall be a joint Union/Management Safety committee at every campus. Specific and/or general campus/hospital/laboratory health and safety concerns may be raised at these meetings. The committee shall meet two times per year. The purpose of the committee shall be to promote a safe and clean environment, to develop and to recommend joint union/management safety programs and training, and to monitor costs associated with injuries at work. The University will make a good faith effort to conduct the recommended training programs. The process for such meetings shall be as follows:
  - a. The Union must request a meeting and the parties must agree to the meeting date.
  - b. The Union must submit a written agenda identifying health and safety concerns it wishes to discuss. Such agenda must be submitted to the designated campus representative at least ten (10) workdays before the proposed meeting date.

- c. In the event the University has agenda items regarding health and safety, the University shall present its agenda to the Union at least ten (10) workdays before the scheduled meeting.
- d. In the event neither party submits an agenda ten (10) workdays before the scheduled meeting, the meeting will not be convened.
- e. The health and safety staffing committee will be made up of no more than four (4) Union representatives and four (4) management representatives. Additional individuals may attend by written agreement of the parties. The Union must submit a written request for employee release time at least seven (7) work days before the scheduled meeting. Such employees will be counted as union representatives, and the release time shall be granted unless operational requirements determine otherwise. Permission to attend these meetings shall not be unreasonably denied. The union may request relevant and necessary information as soon as practicable before the proposed meeting date. The University will provide relevant and necessary information about health and safety issues at least forty-eight (48) hours before the meeting, provided the requested information can be reasonably gathered in time to provide it within two working days before the meeting. If the information cannot be provided by 48 hours before the meeting, the University will notify the union as soon as practicable. The meeting date may be postponed for a reasonable period. The Union agrees not to make unduly burdensome information requests.

## **B. ASSIGNMENT**

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

## **C. INFORMATION AND TESTS**

- 1. The University, upon contracting to purchase any chemical or substance containing hazardous material, will obtain the material safety data sheet (MSDS) from the vendor, unless the latest version of the MSDS is already on hand and available. This information shall be made available to the health and safety committee and upon request to the employees. These sheets relative to chemicals and substances used at the work area of an employee shall be made available to the employee or AFSCME on

request. Such information shall be maintained in the workplace by the University.

2. In compliance with State and Federal law, the University shall provide to affected employee(s) access to data regarding toxic chemicals, seismic safety and asbestos reports. Such data shall be readily available and provided to the health and safety committee and/or employee within a reasonable time following a request.
3. In the case of a suspected outbreak of a communicable disease and when the University requires testing for such communicable disease of patients and/or employees the University shall offer such tests for bargaining unit employees within the appropriate affected work areas at no cost to the employees.

#### **D. DISPUTES**

1. Only disputes regarding the assignment of any abnormally hazardous or dangerous tasks are subject to Article 3, - Arbitration Procedure, of this Agreement.
2. If, as a result of a grievance or arbitration decision or as the result of an agreement between the University and AFSCME, it is determined that an abnormally hazardous and dangerous assignment was made, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts with either administrative or engineering controls. If, as a result of the filing of a grievance relative to the provision of information and training prior to the assumption of duties which include an imminent risk to life and health, the University and AFSCME agree as to the failure to provide such information and training, the University shall attempt to correct such situation within a reasonable time and utilizing such funds as may be specifically budgeted for the particular efforts.

#### **E. COMPLIANCE**

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

## **F. PROTECTIVE CLOTHING**

### **1. GENERAL PROVISIONS**

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

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

### **2. REPLACEMENT**

Protective work clothing and safety equipment, except prescription lenses and sized safety shoes, which were provided to an employee by the University for use on the job, shall be returned upon completion of the assignment. University-provided items lost or damaged due to employee negligence shall be replaced at the employee's expense. University-provided items damaged or worn out in the performance of duties shall be repaired or replaced by the University. An employee required to wear prescription safety glasses will pay for the medical eye examinations. The University shall supply the safety lenses and frames selected by the University.

### **3. SHOES**

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

## **Article 11 HOLIDAYS**

### **A. UNIVERSITY HOLIDAYS**

The University observes the following days as administrative holidays:

1. New Year's Day
2. Third Monday in January (Martin Luther King, Jr. holiday)
3. Third Monday in February (or an announced equivalent)
4. Last Monday in May
5. Fourth of July
6. Labor Day
7. Veteran's Day (at LBNL, subject to DOE approval)
8. Thanksgiving Day
9. Friday following Thanksgiving Day (or an announced equivalent)
10. December 24 (or an announced equivalent)
11. Christmas Day
12. December 31 (or an announced equivalent)
13. One administrative holiday celebrated as Cesar Chavez Day, as designated by the Chancellor.

### **B. REGULAR DAY OFF**

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

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

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

### **D. ELIGIBILITY**

A full-time employee is eligible for holiday pay if the employee is on pay status the last scheduled work day before the holiday and the first scheduled work day after the holiday. No employee shall receive holiday pay for any holiday which is immediately preceded by, occurs during, or is followed by an unauthorized absence or a disciplinary suspension. To be eligible

for holiday pay, a part-time employee must be on pay status at least one-half (1/2) of the working hours in the month or quadri-weekly cycle. An eligible part-time employee shall receive proportionate holiday pay up to a maximum of eight (8) hours per holiday based on total hours on pay status in the month or quadri-weekly cycle, excluding holiday hours.

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

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

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

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

#### **F. WORK ON A HOLIDAY**

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

#### **G. MAJOR HOLIDAYS**

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

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

#### **H. TEMPORARY LEAVE/LAYOFF**

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

#### **I. RELIGIOUS OBSERVANCE**

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

**J.** There shall be no duplication, pyramiding, or compounding of the Holiday Premiums with any other premium wage payments, in accordance with the provisions of Article 11, Section N.

**K. LAWRENCE BERKELEY NATIONAL LABORATORY**

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

## **ARTICLE 12 HOURS OF WORK**

### **A. STANDARD WORKWEEK**

A workweek is a period of time consisting of seven consecutive days. A standard workweek is from Monday morning (12:01 a.m.) to midnight the following Sunday. Alternate workweeks (beginning and ending on a day other than the above) may be scheduled by the University.

### **B. STANDARD WORK SCHEDULE**

1. A work schedule is the normal hours of work for an employee within a workweek. The standard work schedule for full-time employees shall be eight hours per day on five consecutive days excluding meal periods.
2. When feasible, the University shall provide at least 15 calendar days notice to an employee prior to a long-term change in the employee's shift. Provision or non-provision of such notice shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.
3. With regard to shift assignments, an employee may file a written indication of preference for a particular shift (i.e., day shift, evening shift, or night shift) with his/her immediate supervisor. The University shall also consider the skills, knowledge, and abilities of the employees who normally perform the work involved prior to deciding upon the shift assignment. When a vacancy occurs on a shift where current department career employees who have substantially equal qualifications have expressed a preference, the University at its sole, non-grievable discretion, may use department length of service to make the shift assignment.

### **C. ALTERNATE WORK SCHEDULES**

1. Alternate work schedules may be established by the University. In units having other than the standard work schedule, an alternate work schedule of 40 hours in one workweek, 80 hours within two consecutive workweeks, or 120 hours within three consecutive workweeks may be established by the University. Employees may request alternate work schedules. The University will review the feasibility of implementing alternate work schedules in those work units for which AFSCME indicates there is an interest in and suitability for such schedules. AFSCME shall provide such information, if any, at the local campus/Laboratory labor-management meetings.
2. Where practicable, the University will, at the local campus/Laboratory labor-management meetings, identify problems and concerns related to existing alternate work schedules prior to eliminating or changing such schedules.
3. In the event the University decides to abolish, establish or change alternate work schedules in work areas, the University shall inform AFSCME at least 30 calendar days prior to taking such action.
4. Nothing in this Section C. shall infringe upon, interfere with or diminish in any way the University's right to ensure adequate staffing and coverage to meet operational requirements and necessities in an efficient and orderly manner.

### **D. MEAL PERIODS**

A meal period of at least one-half hour is provided for any work period of six continuous hours or more. Meal periods are neither time worked nor time on pay status unless an employee is

required by the University to remain on the job at a work station. Such an arrangement must be approved in advance by the University. Whenever an employee is authorized by the supervisor to perform work during a meal period, the meal period shall be considered time worked.

#### **E. REST PERIODS AND CLEAN-UP TIME**

1. Two rest periods of not more than 15 minutes shall normally be granted during an eight-hour or a ten-hour shift. Three rest periods of not more than 15 minutes may be granted during a 12-hour shift. A part-time employee shall normally be granted one 15-minute rest period for each work period of three continuous hours or more, not to exceed two rest periods per day.
2. It is understood that operational requirements, work station coverage requirements, workloads, staffing levels, leave schedules, vacation schedules and/or the provision of services to patients, clients, public or University employees may require the uninterrupted presence of the employee(s). In such situations rest breaks will not be granted.
3. Rest periods shall not be taken at the beginning or end of a work period or accumulated for use at a later time. The combining of rest periods with meal periods for some, any or all employees of a department shall be at the sole, non-grievable discretion of the department/division.
4. The University shall determine when clean-up time is necessary for employees. If the University determines that such clean-up time is necessary, a maximum of ten minutes of clean-up time prior to the employee's meal period and/or at the end of each shift shall be granted and considered as time worked.

#### **F. OVERTIME**

1. The University shall decide when overtime is needed and which employees will be assigned overtime. Overtime must be approved in advance by the University. The University shall notify the employee that overtime must be worked as soon as practicable after the need for overtime is determined. Employees are expected to work overtime when such work is assigned.
2. When practicable, the University will assign overtime work by rotation based on seniority among those employees on the same shift who normally perform the work involved. For purposes of this Article, rotation based on seniority shall mean that when there are employees requesting to work the overtime, assignment of that overtime shall be based on greatest seniority; when no employee requests to work the overtime, assignment of that overtime shall be based on inverse order of seniority. However, the University may, at its discretion, assign overtime work to employees irrespective of seniority who possess skills, knowledge, or abilities which are not possessed to the same degree by other employees in the department/division and which are necessary to perform the required work.

#### **G. OVERTIME DEFINITION**

Except as provided in Section H.3. below, overtime is time worked which exceeds the hours of a full-time employee's regular daily schedule on pay status or exceeds 40 hours on pay status in a workweek. Pay status includes time worked and paid leave such as sick leave, vacation leave, holidays, military leave, compensatory time off and administrative leave with pay. Overtime hours do not count toward accumulation of sick leave, vacation, holiday or retirement system credit. Overtime hours are not compensated at one and one-half times the straight time rate unless the conditions described in Section H. below are met.

## **H. OVERTIME COMPENSATION**

1. At the option of the University, overtime shall be compensated at the appropriate rate either by pay or by compensatory time off in accordance with Section I. below.
2. Employees in classes designated in Appendices A and B of this Agreement as not eligible for overtime at one and one-half times the straight time rate (overtime exemption status (OT(P)) code E) shall be compensated for overtime at the straight time rate. Employees in classes designated in Appendices A and B of this Agreement as eligible for overtime at one and one-half times the straight time rate (OT(P)) code N) shall be compensated at the straight time rate for hours of overtime not exceeding 40 hours of actual work in a workweek and shall be compensated at one and one-half times the straight time rate only for those overtime hours which exceed 40 hours of actual work in a workweek.
3. Hospital Employee Option
  - a. At the option of the University, hospital employees in eligible classes may be compensated for overtime in accordance with Section H.2. above, or in accordance with this section. Employees for whom the option described in this section is selected by the University shall be compensated at one and one-half times the straight time rate for hours worked which exceed 80 hours of actual work in a 14 consecutive day work period. In addition, such employees shall be compensated at one and one-half times the straight time rate for hours worked which exceed eight hours of actual work in any work day within the 14-day work period, regardless of the number of hours in their regularly established daily work schedule. Any payment at the time and one-half rate for daily overtime hours worked within the 14-day work period shall be credited toward any time and one-half overtime compensation due for hours worked in excess of 80 hours of actual work in the work period.
  - b. The University shall have the sole, non-grievable discretion to change the method of overtime compensation for any hospital employee from or to the optional method described in this section.
4. When an employee is employed at more than one rate of pay, overtime earned at the time and one-half rate may be calculated based on the employee's average hourly rate or based on the rate in effect when the overtime is worked, at the option of the University.
5. "Actual work" does not include paid leave as listed in Section G. above.

## **I. COMPENSATORY TIME OFF**

1. If the University chooses to compensate overtime with compensatory time off for any employee or group of employees, such overtime will be compensated at the appropriate rate by:
  - a. one hour of compensatory time off for each hour of overtime earned at the straight time rate of pay; and
  - b. one and one-half hours of compensatory time off for each hour of overtime earned at the time and one-half rate of pay.

2. No more than 240 hours of compensatory time off (160 hours of overtime which require compensation at the time and one-half rate) may be accumulated. An employee shall be paid for hours of overtime which exceed this limit.
3. Compensatory time off shall be scheduled by the University and taken within two six-month bank periods (January 1 - June 30; July 1 - December 31). Banked compensatory time off which is not paid or scheduled within the bank period in which it is earned or in the bank period following that in which it is earned shall be paid in the next regularly scheduled pay period at the employee's then current rate unless an extension has been granted by mutual consent of the employee and the University.
4. Upon separation from employment, employees shall be paid for all accumulated overtime; accumulated overtime earned at the time and one-half rate shall be paid at the employee's current rate of pay or at the employee's average rate of pay for the last three years of employment, whichever is higher.
5. Compensatory time off is scheduled by the University. The University may require employees to take compensatory time off. Employees may also request use of compensatory time; such requests shall be granted subject to the operational needs of the University. Use of compensatory time off requires prior approval in accordance with departmental policy.

**J. CALL-BACK**

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

**K. ON-CALL**

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

**L. TRAVEL TIME**

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

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

HOURS OF WORK -- LAWRENCE BERKELEY LABORATORY

Policies, procedures, definitions, qualifications, calculations, covered hours and rates relative to Hours of Work at the Laboratory shall remain in effect for employees at the Laboratory and shall supersede the provisions of this Article in A. through L. above.

**Article 13**  
**LAYOFF AND REDUCTION IN TIME**

**A. DETERMINATION**

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

**B. DEFINITIONS**

1. A layoff is an involuntary separation of a non-probationary career employee from employment or an involuntary transfer to a casual position of a career employee. For the purposes of this Article, layoff shall include involuntary reductions in regularly scheduled hours of work. Layoffs may be temporary or indefinite.
2. A temporary layoff is a layoff in which the University specifies a date for recall to work of not more than four months.
3. An indefinite layoff is a layoff for which no date for recall to work is specified.
4. For the purposes of this Article, seniority shall be calculated by full-time-equivalent months (or hours) of University service. Employment prior to a break in service shall not be counted. When employees have the same number of full-time-equivalent months (or hours), the employee with the most recent date of appointment is the "junior" employee.

**C. SELECTION FOR LAYOFF**

1. If, in the judgement of the University, budgetary or operational considerations make it necessary to curtail operations, reorganize, reduce the hours of the workforce and/or reduce the workforce, staffing levels will be reduced in accordance with this Article.
2. The selection of classes for layoff shall be at the sole non-grievable discretion of the University.
3. The University shall review and, at its sole non-grievable discretion, determine when some, any or all casual employees will be released prior to laying off career employees.
4. With regard to indefinite layoff only, the order of indefinite layoff of employees in the same class within a department/division shall be in inverse order of seniority, except that the University may retain, at its discretion, employees irrespective of seniority who possess special skills, knowledge, or abilities which are not possessed to the same degree by other employees in the same class and which are necessary to perform the ongoing function of the department/division. To the extent permitted by law, the University may also consider workforce diversity when making layoff decisions and implementing layoff actions. All such exceptions and the decision to make such exceptions shall not be subject to Article 3 - Arbitration Procedure of this Agreement.

**D. NOTICE**

1. When the University determines that a layoff is imminent within the unit, it shall give AFSCME such advance notice as is reasonable under the circumstances. The notice shall describe the general areas which may be affected.
2. When the University selects particular members of the unit for layoff, it shall give individual notice to each employee of the effective date of the layoff and whether the layoff is temporary or indefinite. Advance notice will be provided as follows:

- a. For temporary layoff expected to last 120 calendar days or less, the University shall give, if feasible, 15 calendar days notice of the expected beginning and ending dates of the layoff.
  - b. For indefinite layoff, the University shall give 30 calendar days notice, if feasible. If less than 30 calendar days notice is given, the employee shall receive straight time pay in lieu of notice for each additional day the employee would have been on pay status to a maximum of 30 calendar days. Upon receipt of written notice of layoff, an employee may schedule an appointment with the designated campus or Laboratory representative who will inform the employee regarding benefit continuation and procedures for recall and preferential rehire.
  - c. In the event of an anticipated indefinite layoff of five or more full-time-equivalent (FTE) employees on the same effective date in the same layoff unit, the University will, to the extent possible, give 45 calendar days notice to AFSCME. When such notice is provided regarding the layoff of five or more FTE, the campus/Laboratory will, upon receipt of a timely written request from AFSCME, meet with AFSCME to discuss the layoff. Such meeting to discuss the layoff of career employees will include, if asked, an indication of the reason for retaining any casual employees.
  - d. For conversion from temporary layoff to indefinite layoff, the University shall give 30 calendar days notice, if feasible.
3. The University shall notify AFSCME within a reasonable time after it notifies employees that they are to be laid off. To the extent possible, such notice will be concurrent.

## **E. RECALL**

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

5. Recall Termination

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

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

**F. PREFERENTIAL REHIRE**

1. A non-probationary career employee who is indefinitely laid off shall have preferential rehire status for an active, vacant career position, provided:
  - a. the active, vacant career position is in the same bargaining unit and at the same campus/Laboratory as the position from which the employee was laid off; and
  - b. the active, vacant career position is in a class with the same or lower salary range maximum as the class from which the employee was laid off; and
  - c. the active, vacant career position is at the same or lesser percentage of time as the position from which the employee was laid off.
2. The laid off non-probationary career employee will, along with any other laid off University employees, be given preferential consideration for an active, vacant career position which is being filled by the campus/Laboratory, provided the conditions in Section F.1.a.-c. above are met. First consideration for preferential rehire shall be given to employees who are on layoff status (not currently employed by the University) and who were laid off from the same department where the vacant position exists. In order to be placed in such a position, the employee must, as determined at the sole, non-grievable discretion of the University, be fully qualified to perform the duties of the position.
3. The operation of preferential rehire consideration shall be consistent with the procedures established at the individual campus/Laboratory and shall be consistent with the University's management right to fill a position with the best available candidate for a vacant position.
4. Employees who are eligible for preferential rehire status with less than five years of seniority at the time the layoff occurs shall retain preferential rehire status eligibility for one year from effective the date of layoff. Employees who are eligible for preferential rehire status with five years, but less than ten years, seniority at the time the layoff occurs shall retain preferential rehire status eligibility for two years from the effective

date of layoff. Employees who are eligible for preferential rehire status with ten years or more of seniority shall retain preferential rehire status eligibility for three years. An employee may exercise his/her rights to preferential rehire immediately after the employee receives written notification of layoff and meets with the campus or Laboratory representative designated in the layoff notice.

5. Employees preferentially rehired from layoff status who fail to perform satisfactorily may, at any time during the six months following such return, be returned to layoff status. In addition, an employee, at his/her option, may request to be returned to layoff status within 60 calendar days of rehire. Previous time on layoff status prior to rehire shall be deducted from an employee's period of eligibility.

6. Preferential Rehire Termination

The preferential rehire consideration described above shall terminate at the end of the period of eligibility described in Section F.4. above, or if an employee:

- a. refuses an offer to return, at the same or greater percentage of time, to that department/division and class from which laid off; or
- b. accepts any career position; or
- c. refuses two offers of employment for a career position at the same or higher salary level and the same percentage of time as the position held by the employee at the time of layoff; or
- d. fails to respond to a written notice of a career employment opportunity within 10 calendar days. The 10 calendar day response period shall begin immediately upon personal notice of the career employment opportunity or from the date written notice is served (as indicated in the Proof of Service), whichever is sooner.

**G. CONTINUITY OF SERVICE UPON REEMPLOYMENT**

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

**H. BENEFIT COVERAGE**

Medical plan contributions by the University will be provided for a maximum of three months in a calendar year for employees on temporary layoff, for employees on temporary reduction in time, or on furlough as provided in Article 29 - Positions, paragraph F. For medical plans to remain in force, employees on temporary layoff, temporary reduction in time or furlough must remit to the University the amount of the employee's contributions, if any.

**I. LAWRENCE BERKELEY LABORATORY**

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

J. In the event an alleged violation of this Article with regard to notice is grieved/arbitrated, any remedy, settlement or arbitrator's award or decision acknowledging improper notice shall be limited to an amount of back pay and/or reinstatement of benefits which would make the

employee whole for the number of days the notice was deficient. In no case shall such amount be calculated for a period of greater than 30 calendar days.

**ARTICLE 14  
LEAVE OF ABSENCE**

**A. GENERAL PROVISIONS**

In accordance with the provisions of this Article, leaves of absence, with or without pay, may be approved by the University.

1. Benefit Eligibility

- a. For purposes of benefit eligibility an, approved leave without pay shall not be considered a break in service. Except as provided in Section D. Family Care and Medical Leave, an eligible employee on approved leave without pay may elect to continue University-sponsored benefit plans (as determined by plan documents and regulations) for the period of the leave by remitting, in accordance with the provisions of the applicable plan(s), the entire premium amount due for the period of approved leave. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.
- b. Employee benefit plan coverage during an approved leave of absence for reasons of family care and/or medical leave will be continued in accordance with the provisions of Section C.6. Pregnancy Disability and Section D. Family Care and Medical Leave.

2. Except as provided in Section D.1.I., Family Care and Medical Leave, periods on leave in a without-loss-of-straight-time pay status shall be considered time worked.

3. Requests for Leave

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

4. Duration

The duration, terms of the leave and the date of return are determined when the leave is granted, and shall be communicated to the employee, in

accordance with the provisions of this Article. Except as provided under Section D. Family Care and Medical Leave, written confirmation shall be provided when the University determines such confirmation is appropriate. Except as provided for elsewhere in this Article, the total aggregate of leaves of absence taken in any combination, granted under this Article, shall not exceed six (6) months.

5. Return to Work

- a. Except as provided in Section C., Medical Leave of Absence, Section D., Family Care and Medical Leave, and Section K., Military Leave, an employee who has been granted an approved leave with or without pay shall be returned to the same or a similar position in the same department/division when the duration of the leave is six calendar months or less, or 12 months, if extended. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. The date of return to work is determined when the leave is granted.
- b. An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.
- c. An employee shall not be granted a leave of absence beyond the ending date of the employee's appointment or predetermined date of separation.
- d. Any employee who is a dues paying member of AFSCME having gone on leave shall be automatically reinstated as a dues paying member upon their return to work.

**B. PERSONAL LEAVE**

1. A non-probationary career employee may be granted a personal leave of absence without pay at the sole, non-grievable discretion of the University. Such leave shall not exceed six calendar months.
2. If an employee's request for a personal leave of absence without pay is denied, such denial may, upon the employee's written request, be reviewed by the Department/Division Head. The results of such a review shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.
3. The University at its sole non-grievable discretion may approve extension of a personal leave of absence without pay for a total leave of not normally more than 12 months.

## **C. MEDICAL LEAVES OF ABSENCE**

1. Medical Leave of Absence, granted under this section, is the period(s) an eligible employee is granted leave from work for medical reasons in accordance with Section C.2., Eligibility, below. This leave includes the combined use of accrued sick leave and the medical leave of absence without pay in accordance with the provisions of this Article and Article 35 - Sick Leave. In the event that an employee's accumulated sick leave credit is exhausted, an employee may be placed on a Medical Leave of Absence without pay in accordance with the provisions of this section. Medical leaves of absence without pay are provided for leaves due to non-work related illnesses or injuries.

### 2. Eligibility

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

- 1) is medically incapable of performing essential assigned functions of his/her job due to a non-work related illness or injury; and
- 2) has furnished evidence of disability satisfactory to the University; or
- 3) has exhausted her four (4) month entitlement under Pregnancy Disability leave; or
- 4) has either exhausted his/her 12 workweek entitlement under Section D. Family Care and Medical Leave, or is not otherwise eligible for medical leave under Section D. Family Care and Medical Leave or Pregnancy Disability Leave under Section C.6.

### 3. Notification

Requests for medical leave without pay shall be in writing as provided in Section A.3., and the employee shall furnish evidence of disability satisfactory to the University as provided in Section C.4., Documentation and Verification, below. Additionally, an employee must notify the University of a need to extend his/her medical absence from work prior to the anticipated date of return.

### 4. Documentation and Verification

a. Documentation of the employee's disability and/or ability to return to work is required and is subject to verification by the University. Such documentation shall include, but is not limited to, a health practitioner's (as defined in Article 35 - Sick Leave, Section D.4.) statement of the anticipated duration of disability, and a statement that the employee is incapable of performing the essential assigned functions of his/her job, or is able to return and perform the essential assigned functions of his/her job.

- b. The University may have an employee claiming disability examined by a physician or physicians of its choosing. The University shall pay the reasonable costs of any such medical examination required by the University.
- c. Verification of medical disability for pregnancy-related purposes additionally includes a physician's statement regarding the estimated date of delivery and the anticipated date of the employee's ability to perform the essential assigned functions of her job.

5. Duration

Medical leaves of absence are granted for the period of verified disability and are not granted for non-disability purposes. When the use of accrued sick leave and a medical leave of absence without pay are combined, a medical leave of absence from work for non-work related disability purposes may be granted by the University for a total period of verified disability not to exceed six months.

6. Pregnancy Disability Leave

- a. During the period of verified pregnancy-related/childbearing disability, a female employee is entitled to and the University shall grant a medical leave of absence of up to four months. If the pregnancy-related/childbearing medical disability continues beyond four months, a medical leave of absence may be granted in accordance with Section C.4.a, above, for a total medical absence not to exceed six months. Additionally, the employee may be eligible for a parental leave to care for a newly born child in accordance with Section D., Family Care and Medical Leave. When parental leave is granted under Section D., Family Care and Medical Leave, the total of parental leave and pregnancy-related/childbearing disability leave, when taken in conjunction, shall not exceed seven months in the leave year.
- b. If an employee on approved Pregnancy Disability Leave is also eligible for leave under the federal Family and Medical Leave Act, up to 12 workweeks of such leave shall run concurrently. Upon termination of Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, an employee shall also be entitled to up to 12 workweeks of State Family Care and Medical Leave for any covered reason except leave for pregnancy or a pregnancy-related medical condition provided the employee has not exhausted her FMLA/CFRA leave entitlement for that leave year.
- c. When medically necessary, and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of four 4 months in any twelve-month period.

- d. As an alternative to, or in addition to pregnancy disability leave, the University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee and with the advice of the employee's health care provider, if the transfer can be reasonably accommodated. For the purpose of this section, a temporary transfer includes a temporary modification of the employee's own position to make it less strenuous or hazardous. A temporary transfer under this section shall not be counted toward an employee's entitlement of up to four 4 months of pregnancy disability leave, unless the employee is also on a reduced work schedule or an intermittent leave schedule.
- e. Pregnancy Disability Leave may consist of leave without pay; however, an employee shall be required to use accrued sick leave in accordance with the University's Disability Plan. If accrued sick leave is exhausted, an eligible employee may elect to use accrued vacation prior to taking medical leave without pay, but not to exceed a total medical absence from work of six months. In the event that the employee's accrued sick leave is greater than six months, a medical leave of absence without pay, in addition to the use of all accrued sick leave, shall not be granted.

#### 7. Extensions of Leaves

- a. In the event that an employee's verified non-work-related disability exceeds six months, a personal leave of absence may be granted in accordance with the provisions of Section B., of this Article. However, the aggregate of leave for medical reasons shall not exceed 12 consecutive months. The granting of a personal leave of absence in order to extend an employee's total absence from work for medical purposes is at the sole discretion of the University and without recourse to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement. An employee on such personal leave of absence shall submit medical verification that he/she has been medically released to perform the essential assigned functions of his/her job prior to his/her return in accordance with Section C.4.a. of this Article.
- b. If an extension to a medical leave of absence within the total six-month period or if a personal leave of absence after six months is not granted, an employee may be medically separated in accordance with Article 17 -Medical Separation of this Agreement.

#### 8. Return from a Medical Leave of Absence

- a. An employee who has been granted a medical leave of absence for pregnancy/childbearing disability purposes shall be returned to the same job provided the employee returns to work immediately upon termination of the pregnancy-related/childbearing disability and provided such return is within four months of the date on which the pregnancy-related/childbearing medical leave commenced. If the same job is not available, a similar job will be offered. If a similar position is not

available, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff. A female employee who is also granted Parental Leave under Section D. Family Care and Medical Leave shall be returned to work in accordance with Section D.3.h., of this Article. An employee who was granted a medical leave of absence beyond four months in accordance with Section C.6.e., shall be returned to the same or a similar position except as provided in Section C.7., of this Article.

- b. An employee who has been granted an approved medical absence for medical reasons other than pregnancy-related/childbearing disability shall be returned to the same or a similar position when the employee has been medically released to perform the essential assigned functions of his/her job, except as provided in Section C.7. of this Article. If the position held has been abolished or affected by layoff during the absence, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff.

## **D. FAMILY CARE AND MEDICAL LEAVE**

### **1. Definitions**

Family Care Leave includes both Parental Leave and Family Illness Leave. Medical Leave is provided for the employee's own serious health condition.

- a. The leave year is the year in which the employee is eligible for up to 12 workweeks of leave (Sections D.2. and D.3.a.1.) and will be as identified by the University to AFSCME in accordance with Section D.3.a.1)..
- b. The qualifying year is the 12-month period immediately preceding the date on which the employee requests to commence leave and in which the employee must have worked 1,250 hours (Section D.2.).
- c. Parental Leave is leave to care for the employee's newborn or newly adopted child, or placement of a foster child. Parental Leave shall be initiated within one year of the birth or placement of the child and shall be taken in accordance with applicable federal and state regulations. The total of Pregnancy Disability Leave (C.6.) and Parental Leave (D.3.e.), when taken in conjunction, shall not exceed seven months pursuant to Section C.6.a. of this Article.
- d. Medical Leave is leave granted for the employee's own serious health condition that makes the employee unable to perform any one of the essential assigned functions of the employee's position. An employee disabled because of pregnancy-related conditions is covered under Section C.6..

- e. Family Illness Leave is leave to care for the employee's child, parent or spouse with a serious health condition.
- f. Child means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or an adult dependent child.
- g. Parent means a biological, foster, or adoptive parent, a stepparent, a legal guardian or an individual who stood in loco parentis to the employee when the employee was a child. "Parent" does not include the employee's grandparents or mother-in-law or father-in-law unless they stood in loco parentis.
- h. Spouse means a partner in marriage.
- i. An employee's own serious health condition means an illness, injury, impairment, physical or mental condition that makes the employee unable to perform any one of the essential assigned functions of the employee's position and involves one of the following:
  - 1) inpatient care in a hospital, hospice, or residential medical care facility, or,
  - 2) continuing treatment by a health care provider for:
    - a) a period of incapacity of more than three (3) consecutive calendar days, or
    - b) any period of incapacity of treatment due to a chronic serious health condition, such as, leave for purposes of disability or Workers' Compensation, or
    - c) any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
- j. A serious health condition for the purpose of family illness means an illness, injury, impairment, physical or mental condition, as described in D.1.i. above, of the employee's child, parent or spouse which requires the participation of the employee to provide supervision or care during a period of treatment or incapacity including psychological comfort.
- k. Health care provider means an individual who is licensed in California to hold either a physician's and surgeon's certificate or an osteopathic physician's and surgeon's certificate, podiatrists, dentists, clinical psychologists, optometrists, chiropractors (limited to treatment of the spine to correct a subluxation as demonstrated in x-ray to exist), nurse practitioners and nurse-midwives performing within the scope of their practice, Christian Science practitioners, any individual duly licensed to practice medicine in another state or jurisdiction, or any health care provider that the employee's health plan carrier recognizes for purposes of payment.

- I. 1,250 Hours of Actual Service means time actually spent at work and does not include any paid time off including, but not limited to, an employee's use of accrued vacation, compensatory time, or sick leave, nor does it include time paid for holidays not worked or time spent in unrestricted on-call status.

2. Eligibility Criteria

Employees who have at least one year of University service (all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement), and have worked at least 1,250 hours of actual hours worked during the 12-month period immediately preceding the commencement of the leave are eligible for and shall be granted up to a total of 12 workweeks of Family Care and Medical Leave in the leave year, except as otherwise provided in this Article. Family Care and Medical Leave includes paid and unpaid absences, including use of an employee's accrued sick leave, vacation, and leave of absence without pay. Aggregate Family Care and/or Medical Leave shall not exceed 12 workweeks in the leave year. An employee on approved leave may use compensatory time as defined in Article 12 - Hours of Work, prior to beginning FMLA leave.

3. General Provisions

- a. Time Periods

- 1) For Family Care and Medical Leave purposes only, 12 workweeks means 12 workweeks in any 12-month period for full-time employees. For employees who work less than full time or who work full time but on alternative work schedules, the number of working days shall be adjusted on a pro-rata basis. In the event University policy and/or applicable State or Federal law result in a different date of commencement for this 12-month period, the commencement period for employees in this bargaining unit shall conform to the commencement date generally applicable to other University employees.
- 2) When medically necessary, and supported by medical certification, the University shall grant an employee Family Illness and/or Medical Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of 12 workweeks in the leave year.
- 3) When the employee requests an intermittent leave or leave on a reduced leave schedule for a planned medical treatment, the University may, at its discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates recurring

periods of leave than the employee's regular position. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties. Should the employee object to the temporary transfer, the employee may submit a written request for review to the Department/Division Head. Such temporary transfer shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure.

b. Notice

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

c. Certification

1) For the Employee's Own Serious Health Condition

When leave is requested for the employee's own serious health condition, the University may, at its discretion, require that an employee's request for Family Illness or Medical Leave be supported by a written certification issued to the University by the employee's health care provider. Such request to the employee shall be in writing. The certification may be provided on a form

given to the employee by the University and shall, regardless of the format, in addition to certifying that the employee has a serious health condition, include the following:

- a) a statement as to whether the employee is unable to perform any one of the essential assigned functions of the position including a statement of the function(s) the employee is unable to perform, and
- b) The date, if known, on which the serious health condition commenced, the probable duration of the condition and the probable date of return, and
- c) whether it will be necessary for the employee to take leave intermittently or to work on a reduced leave schedule, and if so, the probable duration of such schedule, and,
- d) if the condition is chronic and the employee is presently incapacitated, the duration and frequency of episodes of incapacity.

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

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

- a) a statement that the serious health condition warrants the participation of the employee to provide supervision or care during a period of the treatment, or incapacity or psychological comfort, and
  - b) whether the employee's family member will need care intermittently or on a reduced leave schedule and the probable duration that the employee is needed to provide care.
  - c) In addition, the employee will be required to certify either on the form or separately the care he/she will provide the family member and the estimated duration of the period of care.
- 3) Should there be any questions regarding the validity of the employee's medical certification for his/her own serious health condition, the University may, at its discretion, require the employee to obtain a second medical opinion from a second

health care provider jointly approved by the University and the employee. Should the second medical opinion differ from the employee's own health care provider, the University may require a third medical opinion from a third health care provider jointly approved by the University and the employee. The University shall bear the cost of the second and third opinions and the third opinion shall be final.

- 4) If additional leave is requested upon expiration of the leave granted, or should the circumstances of the leave change, the University may, at its discretion, require the employee to obtain recertification. Such requests for subsequent certification shall be in writing.
- 5) If certification or recertification is required, the employee shall return the certification within 15 calendar days of the University's request, where practicable. Failure to provide certification for a foreseeable leave within the requested time may result in the denial of the leave until the required certification is received. Failure to provide certification for an unforeseeable leave within the requested time period, may result in the denial of continuation of the leave until the required certification is provided. If the employee fails to provide a completed certification, the employee shall be given 15 calendar days to perfect the certification. Failure to perfect an incomplete certification may result in the denial of the leave or the denial of continuation of the leave. If the employee fails to provide a certification/recertification or a completed certification/ recertification and the leave has not begun, the request for family and/or medical leave will be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FMLA leave.
- 6) An employee who has been granted a Medical Leave shall be returned to the same or an equivalent position when the employee has been medically released to perform the essential assigned functions of his/her job. Failure to provide a medical release to return to work may result in the denial of reinstatement until after the employee submits the required medical release certification.

d. Use of Accrued Paid Leave

- 1) An employee on approved Family Illness Leave may elect to use accrued compensatory time off in accordance with Article 12 - Hours of Work prior to beginning FMLA leave. An employee may, at the discretion of the University, elect to use accrued vacation time before taking a FMLA leave without pay. If the employee's vacation leave accrual is at maximum the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay. Up to 5 days of accrued sick leave per year may be substituted for Family Illness Leave granted under this section pursuant to Article 35 - Sick Leave, Section B.3.b.

- 2) An employee on an approved Parental Leave may elect to use accrued compensatory time off in accordance with Article 12 - Hours of Work prior to beginning FMLA leave. An employee may elect to use accrued vacation time before taking a FMLA leave without pay. If the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.
- 3) An employee on leave for his/her own serious health condition, shall use accrued sick leave in accordance with the University's disability plan or as provided under Article 43, Work Incurred Injury or Illness. Employees not eligible for University disability benefits and who are not on leave due to a work-incurred illness or injury shall use all accrued sick leave prior to taking medical leave without pay. An employee may elect to use accrued compensatory time off in accordance with Article 12 - Hours of Work prior to beginning FMLA leave. An employee may also use accrued vacation before taking a FMLA leave without pay. However, if the employee's vacation leave accrual is at maximum, the employee will be required to use at least 10% of the vacation leave credit prior to taking leave without pay.

e. Parental Leave

Parental Leave is a form of Family Care and Medical Leave to care for the employee's newborn or a child placed with the employee for adoption or foster care and shall be initiated and concluded within one year of the birth of placement of the child. The University will grant a Parental Leave subject to the limitations described below. If requested and taken immediately following a Pregnancy Disability Leave, an employee eligible for leave under the Family and Medical Leave Act/California Family Rights Act (FMLA/CFRA) at the beginning of her Pregnancy Disability Leave shall be granted a Parental Leave for up to twelve workweeks provided that the employee has not exhausted her FMLA/CFRA leave entitlement for that year.

- 1) Requests for Parental Leave: The employee shall request Parental Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with a FMLA leave on account of the pregnancy/childbearing disability, shall be set at the time such FMLA leave commences. Parental Leave, when taken for adoption or foster care, could commence prior to the date of placement.
- 2) Duration: When Parental Leave is combined with a leave for pregnancy-related and/or pregnancy disability, the total Family

Care/Parental Leave shall not exceed seven months in the leave year.

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

f. Continuation of Health Benefits

An employee on an approved Family Care and/or Medical Leave shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for a period of up to 12 workweeks in the leave year. However, an employee who exhausts her entitlement to health plan coverage while on an approved Pregnancy Disability Leave that runs concurrently with federal Family and Medical Leave, shall not be entitled to an additional 12 workweeks of health plan coverage under the State Family Care and Medical Leave. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

g. Review of Denials or Deferrals of Family Care Leave Requests

If an employee's request for Family Care and/or Medical Leave is denied, deferred or otherwise provided for short of the employee's initial request, such University action may, upon the employee's written request, be reviewed by the Department/Division Head. Neither the University's action in granting or not granting a Family Care and/or Medical Leave nor the results of such review shall be subject to Article 9 - Grievance Procedure or Article 3 Arbitration Procedure of this Agreement.

h. Return to Work

An employee granted Family Care and/or Medical Leave shall be returned to the same or an equivalent position upon return from the leave. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the employee been on pay status when the position was abolished or affected by layoff. An employee granted a Family Care and/or Medical Leave is not entitled to reinstatement to his/her position if the employee's appointment ending date or predetermined date of separation occurs before the scheduled return date.

**E. JURY DUTY/GRAND JURY DUTY**

Any full-time or part-time employee on any shift or work schedule shall be granted leave with pay for actual time spent on jury service and grand jury service and in

related travel, not to exceed the number of hours in the employee's normal work day and the employee's normal workweek. Upon request, the University will endeavor to accommodate an employee's summons to jury duty with a change in shift assignment.

#### **F. VOTING**

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

#### **G. BLOOD DONATIONS**

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

#### **H. ADMINISTRATIVE OR LEGAL PROCEEDINGS**

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

#### **I. EMERGENCIES**

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

## **J. UNIVERSITY FUNCTIONS**

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

## **K. TEMPORARY MILITARY LEAVE FOR ACTIVE-DUTY TRAINING**

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

2. Eligibility For Pay

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

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

3. The University May Require Verification Of An Employee's Military Orders

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

4. Part -Time Employee

An eligible part-time employee shall receive pay in proportion to the average percent of full-time worked during the three completed monthly pay periods immediately preceding the leave.

5. Ineligible Employee

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

6. Benefits

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

b. If on pay status, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal Laws, the employee shall receive regular benefits.

**L. EXTENDED MILITARY LEAVE**

1. Extended military leave shall be granted to an employee who enlists or is ordered into active duty in the United States Armed Forces or a reserve component or who is ordered into active Federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for active-duty service of any length or for active-duty training in excess of 180 days.

2. Period of Leave

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

3. Eligibility for Pay

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

a. The employee has at least 12 months of continuous University service immediately prior to the leave (any prior full-time military

service shall be included in calculating this University service requirement);

- b. Such payment, in addition to University payment for military reserve training leave and for military leave for physical examinations, does not exceed 30 calendar days' pay in any one fiscal year.

4. The University may require verification of an employee's military orders.

5. Benefits

An employee granted extended military leave shall at the time the leave commences receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time. Upon written request, an employee may elect to retain accrued vacation on the records for a period not to exceed 180 days. At the end of the 180-day period, vacation credits retained on the records shall be paid out at the pay rate in effect at the time of payment, taking into account any salary increases that may have occurred during the 180 day period.

6. Sick leave credit shall be retained on the records.

7. Retirement benefits and service credit shall be in accord with the provisions of the applicable retirement system.

8. An employee may continue health plan coverage at the employee's request and expense for a limited period of time as described in the University Group Insurance Regulations.

9. An employee shall receive length-of-service benefits related to employment that would have been granted had the employee not been absent, except that the employee shall not receive credit toward completion of a probationary period (See Section L. 10 of this Agreement) Vacation and sick leave accruals and holiday pay shall be granted only in accordance with those articles of this Agreement.

10. Probationary Employee

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

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

- b. If the probationary employee served in active military service for a period in excess of one hundred eighty (180) days, he/she shall

not be separated from employment by management except for cause for one (1) year from the date of reinstatement.

11. Reinstatement

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

**M. EMERGENCY NATIONAL GUARD LEAVE**

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

2. Eligibility for Pay

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

3. Benefits

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

4. Reinstatement

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

**N. PHYSICAL EXAMINATION**

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

**O. DEFENSE WORK**

Military leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. An employee granted such leave shall be eligible for the benefits set forth in Sections K.5 - 11 of this Article and shall have the right to return to University service within six (6) months following termination of such defense work or the cessation of the war or period of national emergency, whichever occurs first. However, such an employee shall not be eligible for 30 calendar days' pay for military leave.

- P.** An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job, in accordance with Article 33 - Resignation, if such failure to return exceeds five consecutive working days of the anticipated return date.

**ARTICLE 15**  
**LEAVE OF ABSENCE FOR UNION BUSINESS**

**A. GENERAL PROVISIONS**

In accordance with the provisions of this article the University will provide reasonable leaves of absence for Union business for periods of one day up to a maximum of three (3) years in accordance with section B., below.

1. Employee Eligibility for Leave

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

2. Pay Status

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

- a. During the paid reimbursed leave the employee shall be eligible for increases in accordance with campus practices.
- b. Any leave granted in accordance with this section shall not constitute a break in service.
- c. During the paid reimbursed leave, the employee shall not be eligible for Workers Compensation benefits arising out of an injury occurring during the leave from the University. While on Union leave, University employees shall be covered by AFSCME's Workers Compensation carrier.

3. Union Reimbursement

The Union shall reimburse the University for all costs of employee compensation, including but not limited to, salary plus all benefits paid to the employee for the time the employee is on leave without loss of compensation (36%). The Union shall submit payment to the University within 30 days of receipt of confirmation of payment to the employee. The University has the right to terminate the leave if the Union fails to provide timely payment.

**B. LEAVES OF ABSENCE FOR UNION BUSINESS**

1. Long Term Leave (30 days to 3 years)

- a. Upon at least 30 calendar days' advance written request from the AFSCME Local 3299 Director and the employee, to the campus'/hospital's/LBNL's Labor Relations Office, a non-probationary career employee shall be granted leave for Union business in accordance with this section. Such paid reimbursed leave shall be granted for a fixed period of time not less than thirty (30) days and not longer than three (3) years.
- b. The University shall not be required to return an employee on paid leave to active employment status prior to the completion of the stated duration of the leave.

- 1) The duration of the leave shall be specified at the time the employee requests the leave. No leave shall be granted unless the written request specifies the duration of the leave.
- 2) The maximum duration of a paid leave with Union reimbursement is three (3) years.
- 3) Upon return, the employee shall be placed in the same or similar position from which the employee took the paid reimbursed leave, in accordance with §5, below. The employee shall receive the rate of pay that would have been provided to the employee as a result of range adjustments provided during the leave.
- 4) Placement of the employee in his/her previous position shall be consistent with staffing reductions and/or layoffs which may have occurred during the period of leave of absence.

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

- a. Upon at least 15 calendar days' advance written request from the AFSCME Local 3299 Director and the employee, to the campus'/hospital's/LBNL's Labor Relations Office, a non-probationary career employee shall be granted leave for Union business. Such paid reimbursed leave shall be granted for a fixed period of time not less than two days and not longer than twenty-nine (29) days. The duration of the leave shall be specified at the time the employee requests the leave. No leave shall be granted unless the written request specifies the duration of the leave.
- b. The University shall not be required to return an employee on paid leave to active employment status prior to the completion of the stated duration of the leave. The parties may agree to shorter notice.

**C. ONE-DAY LEAVES**

Upon seven (7) calendar days' advance written notice to her/his supervisor, local Union officers and local Union stewards shall be granted one (1) day of paid reimbursed leave for union business. Permission for such leave shall not be granted for a period of less than one (1) day, and such permission shall not be granted to any individual employee more than once per month. The granting of such permission to local stewards and officers shall be subject to the operational needs of the University and may be granted to one or more, but not necessarily all, such employees on the same shift in the same operational area. Such permission shall not be denied unreasonably.

**D. FAILURE TO RETURN FROM LEAVE**

An employee who fails to return to work from a leave of absence on the approved anticipated date of return or any approved extension shall be considered to have abandoned his/her job, in accordance with Article 33 - Resignation, if such failure to return exceeds five consecutive working days of the anticipated return date.

**ARTICLE 16  
MANAGEMENT RIGHTS**

- A.** All management rights and functions, except those which are clearly and expressly abridged by this Agreement, shall remain vested exclusively in the University. Except as otherwise provided in this Agreement, the Union agrees that the University has the right to make and implement decisions related to areas including, but not limited to, those enumerated below. While the University and the Union may have discussions involving but not limited to these areas, the Union agrees that the University is not obligated to bargain with the Union as to such areas during the term of this Agreement.
- B.** Examples of the rights reserved solely to the University administration and its agents and officials include, but are not limited to, the right:
1. to establish the University's missions, programs, objectives, activities and priorities, including Affirmative Action plans and goals;
  2. to exercise full and exclusive control of the management of the University and to supervise and direct all operations;
  3. to plan, direct, manage and control the use of resources and personnel to achieve the University's missions, programs, objectives, activities and priorities, including Affirmative Action plans and goals;
  4. to establish and administer procedures, rules and regulations and determine the methods and means by which operations are to be carried on;
  5. to introduce new or improved methods, equipment or facilities, or change or eliminate existing methods, equipment or facilities;
  6. to determine the location of operations;
  7. to discontinue, relocate or subcontract all or any portion of any operation;
  8. to determine, establish, modify, revise or abolish classes, titles, codes, class specifications and job descriptions and to determine the salary of new and revised classes;
  9. to determine the work to be done; to assign work; to establish and change daily or weekly work schedules; to schedule hours of work, including overtime; to establish or eliminate shifts; and to determine whether and to what extent work shall be performed by employees;
  10. to determine the calendar dates on which employees shall receive pay owing and due them and to determine the intervals between such dates; to determine the beginning and ending dates for which payroll and accrual calculations are made and to determine formulas for such calculations;
  11. to establish the size, composition and qualifications of the work force; to determine the nature of positions and whether or not to fill positions; and to use tests, interviews and other selection techniques to hire, promote, transfer and otherwise evaluate employees;
  12. to recruit, hire, train, evaluate, promote, transfer, reclassify, demote or layoff employees;
  13. to discipline, discharge or release non-career employees without cause;

14. to determine the basis for merit increases, special awards, and payments for meritorious performance and to exercise sole discretion as to the granting, timing, amount, distribution and frequency of such increases whether or not such increases shall accrue to an employee's base salary;
15. to establish, modify and enforce standards of performance, workload, conduct and safety for employees; and to determine the process by which employee performance is evaluated;
16. to reprimand, suspend, terminate or otherwise discipline or discharge employees; or to release employees;
17. to establish, maintain, modify and enforce safety standards and programs;
18. to implement, continue, modify or discontinue any policies, practices, rules or regulations which do not conflict with the express written provisions of this Agreement;
19. to utilize personnel, methods and means appropriate to the maintenance of an orderly, effective and efficient operation;
20. to maintain employee records, including attendance and time worked per shift; and
21. to establish, maintain, modify or abolish organizational work units for the purpose of personnel transactions, including but not limited to layoff, transfer and promotion.

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

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

**ARTICLE 17  
MEDICAL SEPARATION**

**A. GENERAL CONDITIONS**

1. When the University determines that an employee is unable to satisfactorily perform essential assigned functions due to a disability or other medical condition, that employee may be medically separated. A medical separation may also be based on the receipt of disability payments from a retirement system to which the University contributes. Non-probationary career employees separated under this Article are eligible for special employment procedures.
2. The University shall pay the reasonable costs of any medical examinations requested by the University.
3. An employee shall not be separated under this Article while the employee is drawing accumulated sick leave or while the employee is receiving extended sick leave. However, the employee may be separated for medical or other reasons if the date of separation was set prior to the commencement of sick leave or extended sick leave and if the employee is afforded all rights provided by the employee's retirement system.
4. If a non-probationary career employee who is on an approved leave of absence related to a medical condition has a specific return to work date which is within 180 calendar days of the beginning of the original leave of absence, such employee shall not be medically separated during the period between the beginning of the leave of absence and the initially established return to work date (a maximum of 180 calendar days). Medical documentation must be established by a health practitioner licensed in the state in which she/he practices.

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

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

**C. REEMPLOYMENT**

1. For a period of one (1) year following the date of a medical separation, a former non-probationary career employee may be selected for a position without the requirement that the position be publicized. However, if the former employee is receiving disability benefits from a retirement system to which the University contributes, the period shall be

three (3) years from the date benefits commenced. During such periods an employee shall be given assistance in accordance with Article 31 – Reasonable Accommodation.

2. If a non-probationary career employee separated under this Article is reemployed within 180 calendar days, a break in service does not occur. If a non-probationary career employee is receiving disability payments from a retirement system to which the University contributes and is reemployed within three (3) years, a break in service does not occur.

**ARTICLE 18  
MISCELLANEOUS**

**A. JURISDICTIONAL AREAS**

1. The parties, by mutual agreement at each campus/Laboratory, shall designate jurisdictional areas for the purpose of grievance representation. AFSCME shall present its proposal for jurisdictional areas not later than the first scheduled campus/Laboratory labor-management meeting. The University and AFSCME agree that in order to minimize travel and loss of work time by grievance representatives, jurisdictional areas shall be limited to a reasonable size and area. To the extent possible, each jurisdictional area shall contain a similar number of employees.
2. Upon completion of designation of jurisdictional areas at each campus/Laboratory, AFSCME shall designate and certify to the University one grievance representative (and one alternate, if any) for each jurisdictional area. A designated grievance representative may be the grievance representative for one or more shifts. Subsequent to initial certification of grievance representatives at each campus/Laboratory, AFSCME shall maintain as current such list of grievance representatives. Until agreement has been reached regarding jurisdictional areas at each campus/Laboratory, the University will recognize grievance representatives certified as current at the time this Agreement is signed.

- B.** Grievance representatives certified by AFSCME shall have authority to act on behalf of AFSCME in all matters related to grievance representation. Any actions taken by or agreements reached between such grievance representatives and the University shall be binding upon employees represented by AFSCME.

Time in a without-loss-of-straight-time pay status for grievance representatives shall be as specified in Section F. of Article 9 - Grievance Procedure. In no event shall the grievance representative receive payment for time spent in performance of his/her representation duties during any shift other than that representative's regularly scheduled shift. If a certified alternate grievance representative performs the representation duties of the certified grievance representative during the regularly-scheduled shift of the latter, any and all hours spent pursuant to Section F.4. of Article 9 - Grievance Procedure shall be charged to the certified grievance representative.

**C. LABOR-MANAGEMENT MEETINGS**

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

1. Local Campus/Laboratory Labor-Management Meetings
  - a. Local labor-management meetings shall be held quarterly, unless mutually agreed otherwise by the parties.
  - b. Provided that the local campus/Laboratory has employees covered by this Agreement, one bargaining unit employee shall be in a without-loss-of-straight-time pay status not to exceed a total of eight (8) hours each per meeting. The parties may mutually agree to allow additional unit employees to attend the local campus/Laboratory labor-management meetings. The parties may by mutual agreement place the additional attendee(s) in a without-loss-of-straight-time pay

status. One non-employee AFSCME staff member may attend the local campus/Laboratory labor-management meetings.

- c. Any travel and subsistence expenses incurred shall be the responsibility of the employees. However, reasonable actual travel (at the employees' campus/Laboratory) during the employees' regularly scheduled hours of employment shall be in a without-loss-of-straight-time pay or benefits status not to exceed a total of eight hours for any one meeting which shall also include the time actually spent in the labor-management meeting.
- d. Items to be included on the agenda for the aforementioned labor-management meetings are to be submitted at least seven calendar days prior to the scheduled date of the meeting if at all possible. Each party shall designate a chair, who shall have responsibility to make arrangements for the scheduled labor-management meeting. The chairs shall mutually agree to the agenda, time and place of the meeting. Appropriate agenda items for such meetings include:
  - 1) administration of the Agreement;
  - 2) disseminate general information of interest to the parties;
  - 3) jurisdictional areas of bargaining unit employees;
  - 4) health and safety matters regarding bargaining unit employees;
  - 5) Affirmative Action matters regarding bargaining unit employees;
  - 6) information regarding personnel transactions and vacancies;
  - 7) give representatives an opportunity to express their views, or to make suggestions on subjects of interest to employees of the bargaining unit, including topics such as alternate work schedules and child care;
  - 8) provisions of the contract which call for local mutual agreement; and
  - 9) additional items mutually agreed to by the parties for placement on the agenda.

## 2. University-wide Labor-Management Meeting

- a. A University-wide labor-management meeting shall be held once a year unless mutually agreed otherwise. The Office of Labor Relations of the Office of the President and AFSCME International shall discuss items such as the administration of this Agreement. The agenda for this meeting shall be determined by mutual agreement of the parties at least seven calendar days prior to the scheduled meeting date.
- b. Provided that the local campus/Lawrence Berkeley National Laboratory has employees covered by this Agreement, ten/nine (10/9) bargaining unit employees (one from each campus/Laboratory) shall be in a without-loss-of-straight-time pay status for time spent in the labor-management meeting held during their regularly-scheduled hours of employment. The parties may by mutual agreement:
  - 1) increase the total allowable hours of without-loss-of-straight-time pay status;

- 2) allow additional unit employees to attend the University-wide labor-management meeting;
    - 3) place the additional attendees in without-loss-of-straight-time pay status.
  - c. Any travel and subsistence incurred shall be the responsibility of the employees. However, reasonable actual travel during the employees' regularly scheduled hours of employment shall be in a without-loss-of-straight-time pay or benefits status not to exceed a total of eight hours for any one meeting which shall also include the time actually spent in the labor-management meeting.
3. It is expressly understood by the parties that the purpose of the aforementioned labor-management meeting(s) is not to negotiate but is to discuss and provide information. In no way may the result of such meetings be to change, eliminate or add to the provisions of this Agreement.

#### **D. INDEMNIFICATION**

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

#### **E. PERQUISITES**

Meal and/or housing perquisites are provided to employees when they are required as a condition of employment and for the convenience of the University. Such perquisites are considered mandatory. The value, as determined by the University at its sole discretion, of meals and/or housing is included in determining the total compensation of an employee.

**ARTICLE 19**  
**MOVING EXPENSES**

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

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

**ARTICLE 20**  
**MULTIPLE APPOINTMENTS**

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

**ARTICLE 21  
NONDISCRIMINATION IN EMPLOYMENT**

- A.
1. As required by law and University regulations, the University will not discriminate against employees in the Unit on the basis of race, color, religion, marital status, national origin, ancestry, sex, sexual orientation, physical or mental disability, medical condition, HIV status, status as a Vietnam-era veteran or special disabled veteran, age, citizenship, or Union activity. For the purposes of this Article only, medical condition means any health impairment related to or associated with a diagnosis of cancer, or health impairments related to genetic characteristics.
  2. Neither the University nor AFSCME shall discriminate in the application of the provisions of this Agreement based on Union or non-Union affiliation.

B. **GRIEVABILITY/ARBITRABILITY**

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

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

**ARTICLE 22  
NO STRIKES**

- A.** During the life of this Agreement or any written extension thereof, AFSCME on behalf of its officers, agents and members, agrees that there shall be no strikes, slowdowns, job actions, walkouts, work-to-rule actions, refusal to perform assigned duties, sit-downs, sympathy strikes, sick-outs, picketing, refusal to cross picket lines, boycotts or any such concerted activities which interfere, directly or indirectly, with the operations of the University. Any employee who is absent from work without permission, or who abstains wholly or in part from the full performance of his or her duties without permission, on the date or dates when such activities indicated above occur, shall be presumed to have engaged in such activities on such date or dates.
- B.** AFSCME, its officers, agents, representatives and members and all other employees covered by this Agreement, agree that they shall not in any way, directly or indirectly, authorize, assist, encourage, participate in, sanction, ratify, condone or lend support to any such activities in violation of this Article.
- C.** AFSCME shall be liable and shall make restitution to the University for all losses suffered by the University as a result of activity prohibited in this Article; however, such restitution shall not preclude the awarding of any other damages to which the University may be entitled.
- D.** Any employee who violates this Article shall forfeit all pay and benefits for the duration of the violations and shall be subject to disciplinary action up to and including termination of employment.
- E.** In addition to any other liability, remedy or right provided by applicable law or statute, should any such activities in violation of this Article occur, AFSCME shall immediately:
1. publicly disavow such action by the employees by either newspaper account or media announcement in immediate geographical area of the strike;
  2. advise the University in writing that such action by the employees has not been called or sanctioned by the Union;
  3. notify employees (and provide the University with individual Proof of Service) of its disapproval of such action and do all within its power to require such employees to cease such action and return to work immediately, informing them that the prohibited activity is unauthorized and in violation of the Agreement and that their misconduct subjects them to disciplinary action up to and including discharge;
  4. at the same time, certify to the University, by registered letter or by telegram, that it has notified the employees;
  5. post notices on all appropriate bulletin boards advising that AFSCME disapproves such action and instructing employees to return to work immediately; and
  6. refuse to honor, along with its affiliated organizations, if any, all picket lines established by any employees or other persons engaged in activity violative of Section A. of this Article.
- F.** If AFSCME performs in good faith and in a timely way all of the obligations of Section E.1.6. above, AFSCME shall not be liable to the University for damages suffered as a result of the strike, except for such damages as are caused by the activities of officers of AFSCME or with their assistance or consent.

**ARTICLE 23  
OUT-OF-CLASSIFICATION ASSIGNMENTS**

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

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

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

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

**ARTICLE 24  
PARKING**

**A. GENERAL PROVISIONS**

1. Through June 30, 2002, or the conclusion of negotiations as described in §B., below, whichever is later, the University shall provide parking and parking-related services at each campus or the Laboratory to the same extent and under the same conditions as normally provided for other University staff employees at the employee's location.
2. Through June 30, 2002, or the conclusion of negotiations as described in §B., below, whichever is later, it is understood and agreed that parking spaces designated for employees may from time to time be eliminated or reassigned due to construction, special events, and/or operational needs of the University.

**B. MEET AND CONFER PARKING RATES**

1. At any time in 2002 after February 1, 2002, the University and AFSCME shall meet and confer over any proposed new parking rates for FY 2002-2003 and/or 2003/2004. No campus/hospital may increase or newly establish parking rates before the conclusion of the bargaining process regarding its parking rate increase(s).
2. It is understood and agreed that parking permits for AFSCME employees may be issued to employees in accordance with the limitations resulting from the fees paid.

**ARTICLE 25**  
**PAST PRACTICE NOT COVERED BY AGREEMENT**

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

**ARTICLE 26  
PAYROLL DEDUCTIONS**

**A. DUES DEDUCTION**

1. General Conditions

Upon receipt of a written authorization from AFSCME or an employee covered by this Agreement, the University will deduct from the employee's pay the monthly amount certified by AFSCME to be the dues required for the employee's membership in the Union. The employee's authorization must be provided on a form agreed upon by the parties. Such individual authorization shall be effective only as to dues becoming due after the dates of delivery of the authorization form and accomplishing of the appropriate programming/payroll information on the employee requesting deduction, however the time for appropriate programming shall in no case exceed 45 calendar days from the date of delivery of the authorization form. The amount deducted for payment of such dues shall be 1.25% of an individual employee's retirement gross salary up to maximums as established by AFSCME. Any change in the percent or maximum amount of dues shall be in accordance with B. below. Such deduction, unless there are insufficient net earnings to cover said deduction, shall be made monthly or, where applicable, more frequently than monthly in accordance with University payroll procedures in existence at the time and location the deduction is made. The amount of the deduction shall be certified to the University in writing, by AFSCME.

2. Dues Amount Change

AFSCME may change the certified dues amount once per calendar year, and all costs associated with accomplishing such changes in the dues amount (machine, programming, etc) shall be paid by AFSCME at the same rates that apply to other employee organizations described in the University Accounting Manual. Any annual changes in the amount to be deducted for AFSCME dues shall be certified to the University, in writing, at least 45 calendar days prior to the effective date of the dues amount change. The University shall provide AFSCME with estimated costs and an estimated time of completion and AFSCME shall pay the agreed-upon costs before the University makes the change.

3. New Deductions

New individual authorizations for a AFSCME payroll dues deduction must be presented to the designated office at the employee's campus/hospital/Laboratory location and the appropriate deduction will commence as soon thereafter as the authorization for such deduction is entered into the locations' payroll system, in no case later than 45 calendar days.

4. Cancellation Of Deductions

Bargaining unit members who are members of AFSCME on or after the effective date of this Agreement who wish to withdraw from Union membership may do so during a period of thirty (30) days after the effective date of this Agreement, and during the annual window period (except there shall be no annual window period in (tbd)) which shall be thirty (30) days prior to the annual anniversary date of the Agreement (June 1) by filing a written notice with the University. Withdrawal notices received by the University at other times during the effective contract dates shall be returned to the bargaining unit employees by the University.

## **B. ORGANIZATIONAL SECURITY FEE, EFFECTIVE JUNE 1, 2000**

### 1. Organizational Security

University employees in the bargaining unit who are not members of AFSCME and not paying dues through payroll deduction, as a continued condition of employment, shall be required to pay an agency fee service fee. The amount of the agency fee service fee shall not exceed the monthly dues that are payable by members of AFSCME. The amount of the fee shall be deducted by the University from the wages or salary of the employee and paid to AFSCME.

### 2. Organizational Security Fee Change

AFSCME may change the certified agency fee service fee amount once during the calendar year, or as may be required by law, and all costs associated with accomplishing such changes in agency fee service fee amounts (machine, programming, etc.) shall be paid by AFSCME. Any changes in the amount to be deducted for the agency fee service fee shall be certified to the University, in writing by the President of AFSCME at least 45 calendar days prior to the proposed effective date of the fee change. Estimated costs and time of completion shall be provided to AFSCME within 30 days AFSCME's written request. Following agreement on the cost and time, AFSCME shall pay the cost and the University shall complete the changes.

3. Exemption From Organizational Security Fee - Any employee in this unit who is a member or, as long as AFSCME is responsible for administering conscientious objector status, an observant of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations, shall not be required to join or financially support AFSCME as a condition of employment. AFSCME shall determine the validity of the employee's status as a conscientious objector status. If AFSCME agrees to the objector status of the employee it shall address the matter with the employee in accordance with its procedures. AFSCME will, upon request, provide the UC with a list of approved conscientious objectors.

## **C. OTHER DESIGNATED DEDUCTIONS**

1. Payroll deduction shall be made for AFSCME-sponsored insurance programs pursuant to the provisions of the University's Accounting Manual requirements as Special set forth in "regulations for Non-University Insured Benefit Program".
2. Upon presentation of a signed authorization form, executed by the employee, the University agrees to an additional voluntary check off for Public Employees Organized for Political and Legislative Equality (PEOPLE), an AFSCME special contribution program.

## **D. INFORMATION TO ACCOMPANY REMITTANCE**

Each campus/hospital/Laboratory (the Laboratory shall provide such information in its current format) shall remit at least monthly to AFSCME in the form of a remittance to an address designated by AFSCME an amount representing the authorized dues deductions, agency fee service fees and other designated deductions. The University shall submit a standard deduction report which shall contain by campus/hospital, an alphabetical listing of the AFSCME members and fee payers for whom payroll deductions were made. The report shall include the employee identification number, employee name, amount withheld and, earnings that are the basis for the

deduction. The report shall be provided electronically via the *ftp* site. Any costs associated with AFSCME requested changes in the deduction report referenced above shall be fully paid by AFSCME.

#### **E. FEES FOR PROVIDING PAYROLL DEDUCTIONS**

1. Each campus, hospital, or Laboratory for each remittance to AFSCME shall charge AFSCME and deduct from the dues/agency fee service fee total being remitted \$.07 per employee for whom fee deductions are being made and \$10.00 for each remittance. These costs shall continue to be charged to AFSCME for check remittance unless the parties agree otherwise. If electronic transfer is accomplished and no check is provided, the cost to initiate the process and cost per transfer shall be paid by AFSCME according to the University Accounting Manual with respect to employee organizations.
2. For the purpose of voluntary deductions for Public Employees Organized for Political and Legislative Equality (PEOPLE), fees charged to AFSCME shall not exceed the actual costs incurred by the University to establish such deductions.

#### **F. CORRECTION OF ERRORS**

If the University fails to make authorized deductions of union dues, agency fee service fees or other authorized deductions or any part thereof, or fails to remit to AFSCME such authorized deductions or any portion thereof, or erroneously withholds deductions or any part thereof, the University shall correct the errors. The University shall refund to AFSCME any deductions it has erroneously failed to remit. From the time AFSCME notifies the University in writing of any such errors, or if the University becomes aware of such errors, the University shall have 45 days to make the corrections. If after an additional 45 days the University does not make the agreed-upon corrections and AFSCME incurs direct costs, the University will reimburse AFSCME for reasonable, documented costs incurred to make corrections for only University errors. If there is not agreement on the correction or the costs, AFSCME may grieve the matter only as a union grievance.

It is expressly understood and agreed that AFSCME shall refund to the employee any deductions erroneously withheld from the employee's wages by the University and paid to AFSCME.

#### **G. INDEMNIFICATION**

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

**ARTICLE 27  
PERFORMANCE EVALUATION**

**A. DEFINITION**

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

**B. EVALUATION OF EMPLOYEES**

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

1. Evaluation of Probationary Employees

A probationary employee shall be evaluated in writing at least once near the midpoint of a full probationary period. Nothing in this Article shall in any way affect, interfere with, or prevent the release of a probationary employee at any time during a probationary period nor shall any provision of this Article affect, interfere with or prevent the extension of an employee's probationary period. The provisions of this Article shall in no way affect or alter the provisions of Article 9 - Probationary Period of this Agreement.

2. Evaluation of Non-probationary Career Employees

a. Non-probationary career employees shall be evaluated in writing at least annually on a schedule and in a manner in accordance with the individual campus/Laboratory-determined performance evaluation procedure(s). At the time of evaluation, the employee shall be given a copy of the evaluation and shall have the opportunity to provide written comments regarding the evaluation. The comments, if any, shall be attached to the employee's evaluation and placed in the employee's personnel file.

b. In the event a non-probationary career employee does not receive the written evaluation, the following actions may occur:

1) Within 15 calendar days of the date the written evaluation was due but not received, the employee shall make a written request for the evaluation to his/her immediate supervisor. The employee shall provide a copy of such request to the Department/Division Head and to the campus/Laboratory Labor Relations Manager.

2) If the employee does not receive a written evaluation within 15 calendar days of the request referenced in B.2.b.1) above and it has been at least a year since the last written evaluation was provided and the employee has had no corrective/disciplinary actions taken against him/her during the period since the last evaluation, the employee's performance for the year period shall be deemed to have been satisfactory. The fact that the employee's performance has been deemed satisfactory shall not preclude the University from introducing evidence relative to any aspects of the employee's performance in grievance and/or arbitration procedures or other proceedings.

- c. For purposes of this Article only, the annual period within which written performance evaluations of non-probationary career employees are to be provided shall commence on the date the terms and provisions of this Article become effective.

**C. GRIEVABILITY**

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

**ARTICLE 28  
PERSONNEL FILES**

- A.** An employee shall, upon written request to the University, have the opportunity to review his/her personnel file(s) within a reasonable time in the presence of a representative of the University. At the time of such request the supervisor, to the extent he/she is aware of the location(s) of such files, shall inform the employee of the location(s) of the file(s).
- B.** Where operational requirements permit, an employee shall be granted a reasonable amount of time in without-loss-of-straight-time pay status to review his/her personnel file(s). When granting such requests, the immediate supervisor shall take into account the frequency of such requests and the amount of time the employee is or will be engaged in such activity. An AFSCME representative may accompany, pursuant to F.4. of Article 9 -Grievance Procedure, the employee when the employee is reviewing his/her personnel file(s). Alternatively, an individual employee may authorize a designated AFSCME representative to review the employee's personnel file(s) on the employee's behalf. Such written authorization shall be valid for a period of 30 calendar days from the date of the signature of the authorization or within a written time limit specified by the employee, whichever is later.
- C. DISCIPLINARY ACTIONS**
1. Copies of letters of warning and/or disciplinary action shall, upon being placed in the employee's personnel file(s), be provided to the employee. Employees' written comments, if any, regarding such letters shall be placed in their personnel file(s). Such comments shall not require the University to change or alter the letters or the actions indicated by the letters. Proof of Service (pursuant to M. of Article 9 - Grievance Procedure) shall accompany the copies. Letters of warning and/or disciplinary action which did not involve criminal violations will, upon written request of the employee, be removed from the employee's personnel file(s) if there have been no other warnings or disciplinary actions of the same or of a similar kind for a two- year period. If there have been no other warnings or disciplinary actions of the same or similar kind for a two-year period, materials which would be removed upon an employee's request which are more than two years old will not be used or relied upon to take or support disciplinary action.
  2. Upon the employee's written request, counseling memoranda and/or written records of discussion will be removed from the employee's personnel file(s) if there have been no other such memoranda relating to or disciplinary action on the same or similar issue(s) for a two-year period.  
  
Counseling memoranda and/or written records of discussion, in and of themselves, are not discipline nor are they grievable/arbitrable.
- D.** Records involving the processing of an employee's grievance such as the grievance form, step appeals/responses, and settlement documents will be kept in a file separate from the employee's personnel file. It is not the intent of this section to exclude from the employee's personnel file final disciplinary action documents that result from a settlement agreement.
- E.** Records protected by recognized legal privilege and records excepted from disclosure by law may be withheld from the employee and/or the employee's representative. Neither an employee nor his/her representative shall be entitled to review confidential pre-employment information or confidential information relating to transfers or promotions of the employee out of his/her bargaining unit, nor shall the employee or his/her representative be entitled to review

documents related to internal University labor relations or personnel policy or Agreement applications.

- F.** Pursuant to University procedures, fees may be charged for making copies of personnel file information or extracts thereof; however, there is no charge for the first copy of the individual employee's own records.

**Article 29**  
**POSITIONS/APPOINTMENTS**

**A. CAREER APPOINTMENTS**

1. Career appointments are established for a fixed or variable percentage of time at 50% or more of full-time and are expected to continue for one year or longer.
2. A career appointment may also be established by conversion from a limited appointment pursuant to Section B. 4. and B. 5., of this Article.

**B. LIMITED APPOINTMENTS**

1. A limited appointment is established at any percentage of time, fixed or variable, during which the appointee is expected to be on pay status for less than one thousand (1000) hours in a rolling 12-month period.
2. Employees in limited appointments are at will, except that the University will not terminate limited appointment employees for the sole purpose of denying them career status.
3. The termination of a limited appointment because the position lacks funding, or for other work-related reasons, does not constitute a termination designed to deny a limited appointment career status.
4. Except as provided in §B.3. above, if a limited appointment employee attains one thousand (1,000) hours of qualifying service within a rolling twelve (12) months, without a break in service of at least one hundred twenty (120) consecutive calendar days, the incumbent's appointment shall convert to a variable career appointment of at least 50% time.
  - a. Qualifying service includes all time on pay status in one or more limited appointments at the campus/laboratory/hospital. Pay status shall not include any on-call, premium, or overtime hours.
  - b. Such career conversion shall be effective on the first day of the month following attainment of one thousand (1000) hours of qualifying service.
  - c. Employees who have been converted to career appointments shall serve a probationary period in accordance with the provisions of Article 30 - Probationary Period.
  - d. Any break in service of 120 days or longer shall result in a new 12-month period for purposes of calculating the 1000-hour requirement.
5. The automatic conversion to career status, as provided in §B.4. above will not occur when:
  - a. An employee who was hired as a replacement for another person who is on an extended leave that exceeds the 1,000 hours; or
  - b. The position into which the employee is hired is not an "ongoing" position, in that the position is established and funded for less than a year at any percent of time, or
  - c. The funding for the position is "one time" funding, of eighteen months or less, or the employee was hired specifically to work on a short-term project lasting no more than one year.

6. Disputes:

- a. Except as provided in §6.a.1) and §6.a.2), and §6.b., below, employees in limited appointments may have their appointment terminated or have their time reduced at the sole discretion of the University and without recourse to the grievance and arbitration procedures of this Agreement. Disputes by Limited Appointees are not subject to the grievance and arbitration procedures of this Agreement, except:
  - 1) When a limited employee has been released after working greater than a thousand (1,000) hours, or
  - 2) When a limited employee has been released for the sole purpose of denying her/him career employment.
- b. AFSCME shall bear the burden of proof when raising any allegation that a limited employee's termination is grievable/arbitrable.

**C. PARTIAL-YEAR APPOINTMENTS**

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

**D. PER DIEM APPOINTMENTS**

1. Per diem appointments are established at any percentage of time regardless of the duration of the appointment. These appointments are established to supplement career and limited appointments on a pre-scheduled basis or as needed on a day-to-day basis when necessary to supplement appropriate staffing of the University medical centers and other health care facilities. The number of Per Diem appointments may fluctuate in response to patient issues such as census, level of care, and acuity changes.
2. The University does not generally intend to replace career employees with Per Diem employees.
3. The University will provide AFSCME with information about the ratio of Per Diem to Career employees, including the total number of Per Diem and career employees, that existed between July 2000 and July 2001. In addition, by no later than July 2002, the University will provide AFSCME with information about the ratio of Per Diem to Career employees, including the total number of Per Diem and career employees, between July 2001 and July 2002. The University agrees that the ratio of Per Diem to career employees will not grow by more than 12% over three years.
4. Employees in per diem appointments may be scheduled or not scheduled, called off from a pre-established schedule, or have their eligibility for scheduling discontinued at the sole discretion of the University and without recourse to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement, except as provided in §D.7 and D.8., of this Article.
5. Employees who are in per diem appointments are covered by per diem salary rates (by agreement rates), the overtime provisions in Article 12, Hours of Work, and Article 44, Work Rules. Per Diem employees may be released or have their time reduced at the sole discretion of the University and without recourse to the Layoff procedures of this Agreement.

6. Use of Article 9 - Grievance Procedure and Article 3 - Arbitration Procedure of this Agreement by employees in per diem appointments is limited to alleged violations of the Wages, overtime and Work Rules provisions of this Agreement.
7. Consideration for Career Appointment
  - a. Annually, in the month of May, each campus and hospital will review the total hours worked, pursuant to 7.b. below, by Per Diem employees who have provided the University with a written statement of interest in becoming a career employee. This review will determine if such a Per Diem employee meets the criteria for consideration for career appointment pursuant to 7.b., below.
  - b. Qualifying Per Diem employees are those who:
    - 1) have been employed at least twelve (12) months at the campus or hospital;
    - 2) have worked 80% of full time, with no less than 50% time worked in any given month or quadri-weekly period, including overtime, during the preceding contract year;
    - 3) have satisfactory work performance;
    - 4) have provided the University with an annual written statement of interest in a career appointment.
  - c. The University shall provide qualifying Per Diem employees who meet the criteria in §D.7.a., and D.7.b., above, a career appointment as follows:
    - 1) The appointment shall be made no later than nine (9) months from the date on which the employee meets the criteria set forth in §D 7.a., and §D 7.b., above.
    - 2) The appointment shall be a variable career appointment of at least 50%, provided the University first complies with the recall and preferential rehire procedures in Article 13, Layoff and Reduction in Time.
    - 3) The appointment shall be in the same or substantially similar job at the same classification at the same campus/hospital, provided the employee is qualified for that appointment.
    - 4) The appointment shall be at the appropriate pay rate according to the applicable hiring guidelines for career appointments at the employing campus or hospital.
  - d. When Per Diem employees are appointed to a career appointment, the employee shall serve a probationary period in the career appointment in accordance with the provisions of Article 30 – Probationary Period.
8. Discipline and Dismissal
  - a. Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, and 3 - Arbitration Procedure shall apply to any Per Diem employee as long as the following conditions are satisfied.
    - 1) The Per Diem employee has worked 1000 hours in Per Diem status, exclusive of overtime and on-call hours, in a rolling 12 month period; and
    - 2) The Per Diem employee provides the University with a commitment to work at least fifty percent (50%) time.
  - b. Per Diem employees meeting the conditions in D.7.a. and D.7.b, above, shall not

be subject to discipline or removal from scheduling without just cause. However failure to comply with 50% minimum scheduling requirements may result in release from employment at any time at the sole discretion of the University and without access to Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, or 3 – Arbitration Procedure.

- c. In the event that a Per Diem employee rescinds her/his 50% work commitment, or fails to work 50% or 1000 hours as scheduled within a rolling 12 month period, s/he waives any right to access Articles 7 - Discipline and Dismissal, 9 - Grievance Procedure, or 3 – Arbitration Procedure.

**E. LAWRENCE BERKELEY LABORATORY**

The definitions of career, limited, term and rehired retiree appointments that are currently in effect at the Laboratory will remain in effect.

**F. BENEFITS**

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

**G. REASSIGNMENT**

The reassignment of an employee in a full-time career appointment to a partial-year appointment or to a part-time appointment at a fixed or variable percentage of time shall be considered a reduction in time and must be carried out in accordance with the provisions of Article 13 -Layoff and Reduction in Time.

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

**ARTICLE 30  
PROBATIONARY PERIOD**

- A. Employees shall serve a probationary period of six months of continuous service at one-half time or more without a break in service. Time on leave with or without pay is not qualifying service for the completion of the probationary period. Employees who are rehired following a break in service shall serve a new probationary period whether or not they previously completed a probationary period. Probationary employees and other non-career employees may be released without cause at the sole discretion of the university.
- B. An employee who converts from a limited appointment to a career appointment, or who accepts a career appointment from a per diem appointment, and who meet the criteria provided for in Article 29 – Position Appointments, Section B.4. or Section D. 7. a. and b., respectively, shall serve a probationary period in accordance with the following:
1. A converted employee who has worked in the “same job” prior to conversion will have such time in that position applied against their probationary period. For the purposes of this provision, "same job" means a job in the same department/unit and with the same duties as the job to which the individual was assigned prior to conversion, and which reports to the same supervisor as did the per diem or limited appointment job.
  2. A converted employee who has worked in a “substantially similar job” prior to conversion or accepting the career appointment shall receive three (3) months service credit toward completion of her/his probationary period in the new career position.
- C. A career employee who returns from layoff to a different career position within the unit or to a different department (division at the Laboratory) from which they were laid off shall serve, at the sole discretion of the University, a probationary period commencing with placement in the career position. The University shall make a determination as to whether the employee shall serve a probationary period and shall so notify the employee in writing prior to or concurrent with the employee's placement in the career position.
- D. At the sole discretion of the university, an employee's probationary period may be extended. Such an extension shall be for a specific period of time not to exceed three months. At least seven calendar days prior to the effective date of the extension, the employee shall be informed in writing of the reason(s) for and the period of the extension.
- E. Disputes arising from this article shall not be subject to article 9 - Grievance Procedure or article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 31**  
**REASONABLE ACCOMMODATION**

- A.** The University will provide reasonable accommodation to qualified employees with disabilities, subject to defenses available under applicable law, when such disabilities substantially interfere with the major life activity of working. This section shall not be construed as a guarantee of a specific form of accommodation nor shall accommodation in one case establish a precedent for similar or dissimilar circumstances.
- B.** After receipt of medical documentation from a qualified employee with a disability, the University will determine what assistance, if any, will be offered to the employee. If appropriate, this assistance shall include information about vocational rehabilitation services. Documentation provided by the employee shall be subject to confirmation by a University-appointed physician. The University shall pay the cost of a University-appointed physician.
- C.** A non-probationary career employee who becomes a qualified employee with a disability and who has received vocational rehabilitation services may be selected for a position without the requirement that the position be publicized when approved by the University.
- D.** When recommended by a vocational rehabilitation counselor and approved by the appropriate University official, a qualified former non-probationary career disabled employee may be offered temporary trial employment to evaluate the employee's interests and abilities. The length of this trial employment, which shall not exceed one year, shall be determined by the counselor in consultation with the employing Department/Division Head. Positions used for trial employment shall not be designated as career, except that an employee shall maintain benefits to the extent permitted by benefit plan rules.

**ARTICLE 32**  
**RELEASE TIME FOR NEGOTIATIONS**

- A.** The Union shall designate a total of ten permanent members to its bargaining team for the Service Unit, not more than one team member from each University location. Such members shall be Service bargaining unit employees of the University of California. These designated employees may be released in a without-loss-of-straight-time pay or benefit status from their work assignments to attend scheduled bargaining sessions. Alternates or substitutes for any of the designated employees shall not be permitted. AFSCME shall provide in writing the names of the designated permanent members of its bargaining team to the Office of Labor Relations at least 30 calendar days prior to the first scheduled bargaining session. In the event any employee designated is to be permanently replaced, the name of the permanent replacement shall be communicated in writing to the Office of Labor Relations. The Office of Labor Relations shall acknowledge in writing the newly designated employee and inform the appropriate work location. Such notification of a permanent replacement shall be made to the Office of Labor Relations prior to the first scheduled bargaining session to be attended by the replacement employee.
- B.** The hours for which any of the designated employees are in the without-loss-of-straight-time pay and benefits status shall not exceed, for any one day of a scheduled bargaining session, a total of eight regular hours the employee would have been scheduled to work had he/she not been released from his/her work assignments to attend a scheduled bargaining session. The total hours for which an employee is compensated shall not be such that the total results in the payment of overtime generated as a result of having attended a bargaining session. Deviation from this paragraph may be made only by mutual agreement of the parties on a case-by-case basis.
- C.** The above-described treatment of without-loss-of-pay-and-benefits status shall not result in any double payment for the hours in such status.
- D.** The designated employees shall give their immediate supervisor written notice of their intent to attend scheduled bargaining sessions at least seven calendar days prior to the date of the scheduled sessions. The parties may by mutual agreement agree to a shorter period of notice.
- E.** AFSCME shall provide and certify to the employer an attendance roster at the end of each bargaining session.
- F.** Reasonable travel time means actual travel to and from scheduled bargaining sessions for the designated employees. At the employer's discretion, the designated employees may be required to report to work prior to and subsequent to scheduled bargaining sessions.
- G.** A scheduled bargaining session is defined as the prior agreement of the parties to meet face to face for the purpose of negotiating terms and conditions of an Agreement and that such meeting actually takes place for a reasonable period of time or, if no meeting actually takes place, it is the result of the employer's unavailability to appear at the bargaining table.

**ARTICLE 33  
RESIGNATION**

- A.** Employees who voluntarily separate from employment are, by definition, considered to have resigned their employment with the University. An employee who retires or otherwise voluntarily separates from a position with the University shall be required to submit a letter of resignation as notice of termination at least 15 calendar days prior to the effective date of such resignation/termination.
1. The final paycheck (including earnings to date, overtime, compensatory time and vacation hours) shall be paid to the employee (in the form of a check) at the employee's site of employment on the day of separation when:
    - a. an employee is discharged;
    - b. an employee has a predetermined ending date; or
    - c. an employee has given at least 72 hours notice of intention to quit
  2. When an employee does not give 72-hour notice of intention to quit, the University shall make the final paycheck available w/in 72 hours. Upon the employee's request, the final paycheck may be mailed to an address designated by the employee. If the date of pay falls on a Saturday, Sunday, or weekday holiday, actual payment may be made on the next business day. Monday through Friday will be considered business days (including Medical Centers and other 24/7 operations).
- B.** Failure to report to work without having submitted a written notice of resignation/termination shall be treated as an abandonment by the employee of his/her position with the University.
- C.** Upon submission of a notice of resignation/termination there shall be no withdrawal or stopping or estopping of the resignation/termination except by the written mutual agreement of the University and AFSCME.
- D.** If an employee fails to report for work as scheduled or as directed by his/her immediate supervisor, or to contact his/her immediate supervisor regarding absence from work, the University shall have the non-grievable authority and discretion to discipline the employee.
- E.** If the employee fails to report to work as scheduled or directed by his/her immediate supervisor for a minimum of five consecutive work days, the University may consider the employee to have abandoned his/her position and may, at the University's sole discretion, initiate discipline of the employee, which may include terminating the employee for position abandonment.
- F.** The University shall notify the employee in writing at the employee's last known mailing address of all actions taken under the provisions of this Article.

**ARTICLE 34**  
**SEVERABILITY**

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

**ARTICLE 35  
SICK LEAVE**

**A. SICK LEAVE CREDIT**

1. Until a location converts to the hourly factor set forth in A.2 below, the existing location practices will remain in effect.
2. Credit at Locations Implementing the Factor Accrual System
  - a. An employee on pay status for at least one-half of the working hours in a month or quadri-weekly cycle (i.e., two consecutive bi-weekly pay periods) is eligible to accrue sick leave credit for that period. An employee shall accrue leave at the rate of .046154 hours per hour on pay status. The number of sick leave hours which may be accrued is unlimited.
  - b. Time on pay status in excess of a full-time work schedule (on-call, call-back, premium pay, and overtime hours) shall not be included as pay status hours when computing the amount of sick leave accrued.
  - c. Accrued sick leave shall be credited to the employee on the next working day following the accrual period, except that an eligible separating employee shall accrue proportionate sick leave through the last day on pay status.
3. Credit at Locations Retaining Monthly Banded Accrual System
  - a. At locations retaining the monthly banded accrual system, an eligible employee shall accrue sick leave credit at the rate of eight hours per month for full-time employment.
  - b. An employee must be on pay status for at least one-half of the working hours of a month to accrue sick leave credit for that month. Sick leave credit is accrued proportionately, as set forth in the Sick Leave Credit Table below, for hours on pay status over one-half of the full-time working hours of the month but less than full time. Time on pay status in excess of a full-time employee's work schedule does not accrue sick leave credit.
  - c. Accrued sick leave for each month is credited on the first day of the following month, except that proportionate sick leave credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status. The number of sick leave hours which may be accrued is unlimited.

**SICK LEAVE CREDIT TABLE**

<b>NUMBER OF HOURS ON PAY STATUS</b>				<b>Percent of Time on Pay Status</b>	<b>Hours of Sick Leave Earned</b>
<b>160-Hr.* Month</b>	<b>168-Hr.* Month</b>	<b>176-Hr.* Month</b>	<b>184-Hr.* Month</b>		
<b>0-79</b>	<b>0-83</b>	<b>0-87</b>	<b>0-91</b>	<b>0-49</b>	<b>0</b>
<b>80-89</b>	<b>84-94</b>	<b>88-98</b>	<b>92-103</b>	<b>50-56</b>	<b>4</b>
<b>90-109</b>	<b>95-115</b>	<b>99-120</b>	<b>104-126</b>	<b>57-68</b>	<b>5</b>
<b>110-129</b>	<b>116-136</b>	<b>121-142</b>	<b>127-149</b>	<b>69-80</b>	<b>6</b>
<b>130-149</b>	<b>137-157</b>	<b>143-164</b>	<b>150-172</b>	<b>81-93</b>	<b>7</b>
<b>150-160</b>	<b>158-168</b>	<b>165-176</b>	<b>173-184</b>	<b>94-100</b>	<b>8</b>

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

**B. SICK LEAVE CREDIT USE**

1. Sick leave is to be used for personal illness, personal disability or medical appointments; and, as provided below, for the serious illness of an employee's parent, spouse, children, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, son-in-law, or daughter-in-law; or of any other person related to the employee who is residing in the employee's household or for bereavement.
2. Sick leave shall not be used prior to the time it is credited. Sick leave shall not be used in excess of the employee's normally-scheduled hours of work. Sick leave shall not be used beyond a predetermined date of separation, including retirement or layoff, or the beginning of a leave of absence without pay. However, an employee on pregnancy disability may use sick leave for the time period beginning with the date on which she is physically unable to perform the normal duties of her job or the date of delivery, whichever is earlier, and continuing through the date of release certified by her doctor.
3. Up to 30 days of accrued sick leave per year may be used when the employee is required to be in attendance or to provide care because of serious illness of the employee's parent, spouse, children, brother, sister, grandparent, grandchildren, father-in-law, mother-in-law, son-in-law, or daughter-in-law; or any other person related to the employee who is residing in the employee's household.
4. If, while on vacation, an employee becomes ill and is under the care of a physician and submits a physician's statement, the employee may use accrued sick leave for that personal illness. Sick leave may not be used for illness of a family member during the employee's vacation.
5. Bereavement Leave

Sick leave for bereavement purposes may be used as follows:

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

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

Sick leave is paid at the employee's straight-time rate of pay including any shift differential, provided that the employee would have been expected to work that shift or shifts if not on sick leave.

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

1. No sick leave pay shall be payable to an employee unless the employee's immediate supervisor or designee is notified of the illness/disability and the probable duration thereof as soon as possible, but in no event later than the beginning of the employee's work day except when the University determines that the employee's failure to notify is due to extreme circumstances beyond the control of the employee. Subsequent to a notice of illness/disability and the return to work by an employee, no time for which the employee has requested/received sick leave authorization shall be charged to accrued/anticipated compensatory time, leave with pay, vacation, or holiday time in lieu of sick leave time.
2. When it appears to be justified, an employee may be required to submit satisfactory documentation of personal or family illness, disability, or death to the University in order to receive an excused absence from work and sick leave pay. The employee shall be given notice prior to returning to work that he/she will be required to provide such documentation.
3. Employees who have unscheduled absences due to illness on a scheduled work day preceding or following a holiday may be required to bring a medical verification of illness to the employee's supervisor on the employee's return to work in order for the absence to be authorized.
4. When medical documentation is required by the University, it shall be from a health practitioner licensed by the state in which he/she practices to diagnose and certify illness or disability or from an authorized representative of a recognized treatment program. When an employee has been recommended for relief from duty by a medical practitioner acting on behalf of the University, the time granted shall be considered documented sick leave for the day of the relief from duty only, unless otherwise specified by the University's practitioner.

5. The University may have an employee claiming disability examined by a physician or physicians of its choosing. The University shall pay the reasonable costs of any such medical examination and, when practical, shall send the employee to a physician of its choosing on the employee's work time.
6. Any employee who anticipates a series of three or more medical appointments which will require a repeated use of sick leave shall inform his/her immediate supervisor of the anticipated schedule of treatment.
7. Except as protected under applicable State or Federal law, an employee's repeated use of sick time may result in loss of sick leave pay, when the University has determined that such use is abusive, and provided the University has provided prior written notice to the employee that sick leave will be denied on future instances of illness irrespective of the nature or duration of illness.

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

1. An employee transferred, promoted, or demoted without a break in service shall have any accumulated sick leave transferred if the employee is moving to a position where sick leave is accumulated. An employee transferred, promoted, or demoted to a position which does not accumulate sick leave shall have his/her accumulated sick leave held in abeyance. If the employee subsequently moves without a break in service to a position within the University which does accumulate sick leave, the previously-accumulated sick leave shall be restored. An employee who has been laid off and is recalled or preferentially rehired within the employee's period of recall or preferential rehire eligibility shall have all sick leave accumulated from prior service reinstated.
2. An employee reemployed from University service or State of California service into the bargaining unit after a break in service of less than 15 calendar days shall have all sick leave accumulated from prior service reinstated if the new position is one which accumulates sick leave. If an employee is employed or reemployed in this bargaining unit after a break in service of more than 15 calendar days but less than six months, sick leave accumulated from prior service up to a maximum of 80 hours shall be reinstated. For purposes of this Section E.2. only, "sick leave accumulated from prior service" includes sick leave accumulated in State of California service.
3. An employee who is transferred, promoted, or demoted into a position not covered by this Agreement shall have the accrual, use, and transfer of sick leave governed by the policies and/or contract covering employees in that unit or personnel program. This Article shall apply to employees with split appointments only if the majority of their time is in the bargaining unit covered by this Agreement. In determining the majority of time, time spent in student appointments shall be disregarded.

#### **F. CONVERSION OF SICK LEAVE ON RETIREMENT**

Upon retirement members of the University of California Retirement System shall have their accrued sick leave converted to retirement service credit at the rate authorized by the University of California Retirement System for each day of unused accrued sick leave.

#### **G. ATTENDANCE STANDARDS**

1. The University shall have the discretionary, non-grievable authority to establish, on a work-location-by-work-location basis, hourly, daily, weekly, monthly and/or annual attendance standards. Employees who do not meet such standards shall be subject to discipline, up to and including discharge.
2. The number of hours of sick leave generated per month or the ability of an employee to accrue sick leave shall not have any bearing on the meeting of attendance standards.
3. At least 30 calendar days prior to the implementation of new or changed attendance standards, the University shall inform AFSCME.

#### **H. CURTAILMENT PERIOD**

Employees who do not wish to use vacation or compensatory time off may elect to take a leave without pay during a closure or curtailment, as described in Article 40, Section E., Curtailment Period. Notwithstanding the provisions of A.2.a. and A.3.b. above, if a full-time or part-time employee is in leave-without-pay status due to a location closure which is three consecutive days or less in duration, such a full-time or part-time employee shall not lose hourly sick leave accrual.

**ARTICLE 36  
STAFFING COMMITTEE**

- A. The Union and the University hereby agree to meet every other month at each campus location to address staffing issues and to try to develop reasonable workload guidelines. The parties may agree to meet more or less often. Campus location means all work units associated with a campus, including those at off-campus sites. Such meetings will occur in accordance with the following:
1. The Union must request a meeting and the parties must agree to the meeting date.
  2. The Union must submit a written agenda identifying staffing concerns it wishes to discuss. Such agenda must be submitted to the designated campus representative at least ten (10) work days before the proposed meeting date.
  3. In the event the University has agenda items regarding staffing, the University shall present its agenda to the Union at least ten (10) work days before the scheduled meeting.
  4. In the event neither party submits an agenda item ten (10) work days before the scheduled meeting, the meeting will not be convened.
  5. Individuals who can effectively address the staffing issues that are identified in the submitted agenda will represent each party at the meeting.
  6. The staffing committee will be made up of no more than four (4) Union representatives and four (4) management representatives. Additional individuals may attend by written agreement of the parties. The Union must submit a written request for employee release time at least seven (7) work days before the scheduled meeting. Such employees will be counted as union representatives, and the release time shall be granted unless operational requirements determine otherwise. Permission to attend these meetings shall not be unreasonably denied.
  7. The Union may present staffing concerns and propose solutions at the staffing committee meetings.
  8. The parties may use the meetings to discuss the issues pertaining to custodial workload, with the square footage conversion table referenced in the Side Letter of September 26, 2001, as one consideration in the discussions. The Union recognizes that custodial work may be performed by individuals in classifications other than "custodian" at some campuses/hospitals/laboratories. Other considerations will include, but not be limited to, factors such as the type of area to be cleaned, (e.g., classrooms, medical facilities, washrooms, laboratories; areas with easily removable seating vs. areas with fixed equipment/furniture), the scope of routine cleaning activities, (e.g., waste removal, sweeping, dusting, etc.), the scope of special cleaning project activities, (e.g., stripping/waxing/buffing floors, refinishing surfaces, etc.), the combination of areas to be cleaned (e.g., classrooms and washrooms), the type of cleaning expected, the expected cleaning results and how often specific cleaning expectations are performed (e.g., trash emptied daily/weekly), the number of employees assigned to the work. Other relevant work related factors not mentioned herein may also be considered by the parties.

- B.** The union may request relevant and necessary information as soon as practicable before the proposed meeting date. The University will provide relevant and necessary information about staffing issues at least forty-eight (48) hours before the meeting, provided the requested information can be reasonably gathered in time to provide it within two working days before the meeting. If the information cannot be provided by 48 hours before the meeting, the University will notify the union as soon as practicable. The meeting date may be postponed for a reasonable period. The Union agrees not to make unduly burdensome information requests.
- C.** The University retains the sole prerogative to make decisions about staffing. The union retains the right to bargain over the effects of the University's staffing decisions.

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

**ARTICLE 37  
TRANSFER/PROMOTION**

**A. DEFINITIONS**

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

**B. TRANSFER/PROMOTION OF EMPLOYEES**

1. Whenever it is determined by the University that a vacancy in a career position within the bargaining unit is to be filled at a campus/Laboratory, the following procedure will apply:
  - a. The University at its sole non-grievable discretion, on a location-by-location basis and on a vacancy-by-vacancy basis may, in the posting for vacancies to be filled, restrict the eligible applicants for the vacancy to current University employees.
  - b. Notice will be posted according to local campus procedures, either in writing or electronically. If all posting is accomplished through the computer system, at least one printed posting will be available at the local personnel office or where application information is available. Unless the vacancy is restricted to internal candidates, it will be posted for at least 10 working days. Where there are varying posting periods these varying posting practices shall remain and continue.

However, there will be no posting at the UC Irvine Campus, except posting in the Human Resources Office and the generic job posting in the electronic system. For the year 1997-98, the campus will implement its electronic recruitment system. Upon request by AFSCME, UC Irvine will provide a quarterly report of positions opened and filed by departments for the preceding quarter. In June 1998, the parties will, upon request by AFSCME, meet to discuss the implementation of the electronic recruitment system.

- c. A vacant bargaining unit career position shall be filled in the following order:
  - 1) by recall of an indefinitely laid off non-probationary career employee in accordance with Section E. of Article 13 - Layoff and Reduction in Time of this Agreement;
  - 2) by preferential rehire of an indefinitely laid off non-probationary career employee in accordance with Section F. of Article 13 - Layoff and Reduction in Time of this Agreement;
  - 3) by any other qualified applicant.
- d. If, in the evaluation of the department head, two or more applicants are substantially equally qualified, the department head shall make the determination taking into consideration Article 5, Sections B.1. and B.3., relative to the University maintaining its Federal Contractor Status. The University shall give consideration to providing transfer and promotion opportunities for career employees. In considering an employee for transfer and promotion, the University shall consider the employee's University work performance and experience. The next consideration shall be to provide transfer and promotion opportunities for career employees. If the department head determines that more than one current career University employee is qualified, the department head

shall consider each employee's performance and length of University service. In those cases where the department head determines that qualifications of an applicant who is currently a University employee and qualifications of an external candidate are essentially equal, the department head shall reconsider the credentials (including but not limited to, the resume, application, a written recommendation from the employee's supervisor, and/or interview responses, if any) of the University employee applicant(s).

- e. A non-probationary career employee who was interviewed for a promotion within the bargaining unit and was not selected may request, in writing within 30 calendar days of notification, an explanation of the reason for non-selection. The department head or designee, shall provide a written response within 30 calendar days of receipt of the employee's written request.
  - f. In addition, the University shall consider qualified employees who are eligible for reemployment in accordance with Section C. of Article 31 - Reasonable Accommodation and Section F. of Article 17 - Medical Separation of this Agreement.
2. Employees who are scheduled for a job interview at the same location as the employee's current position shall be granted reasonable time off with pay, as determined by the University, if the interview has been scheduled during the employee's normal work hours. An employee scheduled for an interview on another campus/Laboratory shall be granted reasonable time off with pay for an amount of time normally equal to the time that would be required for an interview on the employee's own campus/Laboratory.
  3. Upon upward reclassification, an employee shall be granted a salary increase to the minimum of the salary range of the new class or one (1) step [4% for non-step based employees] whichever is greater, provided that the new rate does not exceed the maximum of the new class.
  4. The University shall provide AFSCME the following information:
    - a. The number and classifications of bargaining unit positions posted which were restricted to current University employees;
    - b. the number and classification of bargaining unit positions where an employee was promoted and received more than one step increase; and
    - c. the number and classification of bargaining unit positions posted.

This information shall be made available annually for the period of April 1st through March 30th and provided to the Union during the month of May. The format of the above information shall be on a location-by-location basis.
  5. In accordance with campus/Laboratory practice, the University shall inform employees of career development and/or training programs which might assist them with transfers and/or promotions.
  6. Decisions or actions taken or not taken with regard to transfer and promotion are not subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

**ARTICLE 38  
TRAVEL REIMBURSEMENT**

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

Breakfast, lunch, dinner, and incidentals, per diem total = \$37.00; lodging by receipt.

Mileage for privately-owned automobiles (including vans) = \$.24/per mile.

- B.** University-approved out-of-state lodging expenses will be reimbursed based on the expenses actually incurred as supported by receipts provided prior approval has been received. Other travel expenses shall remain subject to the per diem rate set forth above regardless of where the expenses were incurred.
- C.** When subsistence expense is paid directly by the University, the individual employee's per diem will be reduced accordingly.
- D.** Changes in per diem rates which are uniformly implemented for non-represented staff employees shall be implemented for the employees covered by this Agreement.
- E.** PER DIEM RATES -- LAWRENCE BERKELEY LABORATORY

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

## **ARTICLE 39 UNIFORMS**

### **A. UNIFORMS**

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

### **B. UNIFORM CHANGE TIME**

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

### **C. UNIFORM ALLOWANCE**

1. Where the University currently provides a uniform allowance, the allowance will continue at the current rate. Where the University currently provides uniforms, the University will continue to provide them as long as the University continues its requirement that uniforms be worn.
2. Once each calendar year, upon AFSCME's written request, the University will meet with the Union to discuss adjustments to uniform allowances.

### **D. UNIFORM LAUNDERING**

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

**ARTICLE 40  
VACATION LEAVE**

**A. VACATION CREDIT**

1. Until a campus implements the following Factor Accrual System, current accrual practices will remain in place.
2. After a campus implements the following Factor Accrual System, an eligible employee shall earn vacation credit each month or quadri-weekly cycle based on the number of hours on pay status for that month or quadri-weekly cycle at the following rates:

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

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

\*\* Full-time rate.

3. For campuses retaining the Table Accrual System, an eligible employee shall earn vacation credit (Appendix C) each month based on the number of hours on pay status for that month at the following rates:
  - a. ten (10) hours per month for a full-time employee with less than ten (10) years of qualifying service;
  - b. twelve (12) hours per month for a full-time employee with at least ten (10) but less than fifteen (15) years of qualifying service;
  - c. fourteen (14) hours per month for a full-time employee with at least fifteen (15) but less than twenty (20) years of qualifying service; and
  - d. sixteen (16) hours per month for a full-time employee with twenty (20) years or more of qualifying service.
4. A month of service at one-half (1/2) time or more is a month of qualifying service.
5. An employee must be on pay status for a least one-half (1/2) of the working hours of a month or quadri-weekly cycle to earn vacation credit for that month or quadri-weekly

cycle. Vacation credit is earned proportionately for hours on pay status over one-half (1/2) of the full-time working hours of the month or quadri-weekly cycle but less than full-time. Time on pay status in excess of a full-time employee's work schedule does not earn vacation credit.

6. Earned vacation for each month or quadri-weekly cycle is credited on the first day of the following month or quadri-weekly cycle, except that proportionate vacation credit for an eligible employee who is separating from employment shall be credited at the completion of the last day on pay status. A full-time employee on the Factor Accrual System may earn vacation credit to a maximum stated in A.1. above. A full-time employee on the Table Accrual System may earn vacation credit to a maximum of two (2) times the employee's annual accumulation rate. A part-time employee may earn vacation credit to the same maximum number of hours as a full-time employee with comparable years of service.

## **B. VACATION CREDIT USE**

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

## **C. VACATION SCHEDULING**

1. An employee may request vacation, and the University will consider such request when establishing or modifying vacation schedules. Vacation schedules are established in accordance with normal scheduling practices and in accordance with the needs of the University. The University will respond to an employee's vacation request as soon as practicable after such request is made by the employee but is not required to respond to an employee's request prior to the establishment of a vacation schedule. Once established, the University will endeavor to adhere to the vacation schedule. When during the review of simultaneous requests for vacation submitted by more than one employee, operational needs do not permit the granting of requests for vacation at the same time for the employees who have requested that specific time period, preference in granting the request shall be based on the respective seniority of the employees. Where a practice of rotation of vacation periods exists, such practices shall continue, and only operational needs will be used in assigning such vacation.
2. The University will endeavor to respond to the employee's additional vacation request(s) within ten (10) calendar days of his/her request for use of vacation.

## **D. VACATION MAXIMUMS**

1. Employees shall be made aware of their vacation accruals on at least a monthly basis. Upon implementation of the University's automated accrual system, the University shall provide employees with at least sixty (60) calendar days notification that he/she will reach the maximum allowable accumulation.

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

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

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

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

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

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

1. Consistent with the University's management rights, including its right to determine the orderly, effective and efficient operation of the University, the University may elect at one or more of its locations, to curtail or shut down some or all of its activities, on a location by location basis, for periods of specific duration. By way of example and not limitation, such periods may represent opportunities for energy/cost savings and/or adjustments to

reduce levels of work activity due to transition periods in the academic calendar and/or "seasonal" or "holiday" influences on scheduled work activities and/or the occurrence at or on University facilities of major public events and/or the occurrence of emergency or "forces of nature" situations adversely affecting normal University operations.

2. In the event of such total or partial closure or curtailment of operations, whether or not the University is able to anticipate such event, employees affected shall select one or a combination of the following options to cover their status during such period of time:
  - a. Employees may use accumulated vacation leave during the period. Newly employed unit members would be allowed to use accrued vacation even if the required six (6) continuous months on pay status has not been completed. Employees without sufficient accumulated vacation would be allowed to use up to three (3) days vacation leave prior to actual accrual.
  - b. Employees with accrued compensatory time may elect to use it to cover the scheduled time off or to offset the use of vacation time.
  - c. Employees who do not wish to use vacation or compensatory time off may elect to take a leave without pay during the closure.
  - d. Employees who do not select from a., b. or c. above or who do not qualify for a., b. or c. above shall, for the period of time necessary, be placed in a leave without pay status.

**Article 41**  
**WAGES**

**A. GENERAL RANGE ADJUSTMENT AND INDIVIDUAL INCREASES**

1. Fiscal year 2001-2002

- a. Following written notification from AFSCME of its ratification and acceptance of the entire Agreement with the University of California, eligible employees in this unit will receive a 2% base-building salary increase effective October 1, 2001 (or the closest start of the pay period for bi-weekly or semi-monthly paid employees). Eligible employees shall be those members of the bargaining unit who are on the payroll as of the effective date of this Agreement, and who remain on the payroll until the payment is included in the individuals' paychecks.
- b. The University will process the prospective individual salary increases as soon as practicable, but in no event more than sixty (60) calendar days following ratification of the Agreement.
- c. The University will process the retroactive salary increase to be retroactive from the date of processing back to the effective date of the increase (October 1, 2001), in accordance with the provisions of Section A.1., above. The processing shall occur as soon as practicable but not more than one hundred and twenty (120) calendar days following ratification of the Agreement.
- d. The University shall provide to each employee a \$23 lump sum payment in recognition of AFSCME's agreement to a multi-year wage package. This payment shall be included in the check referenced in Section A.1.c, above.

2. Fiscal year 2002-2003

- a. The University shall provide each employee with a base-building salary adjustment of two percent (2%), provided the funding is allocated to the University as a general range adjustment pursuant to the State Budget Act as finally adopted.

3. Fiscal year 2003-2004

The University and AFSCME shall negotiate over Article 41, Wages, in accordance with the provisions of Article 8, Duration of Agreement.

**B. OTHER INCREASES**

1. The University may increase, during the term of this agreement, individual salary rates, or salary ranges for selected classes at selected locations. The University may also increase, for selected classes at selected locations, during the term of the agreement, shift differentials, on-call rates and/or extend the coverage of such rates. Likewise, nothing shall preclude the University from providing equity adjustments in addition to those provided in Section C, below.

2. At least thirty (30) calendar days prior to implementing the increases referenced in Section B.1., above, the University shall inform AFSCME.

### **C. PAY EQUITIES**

1. The provisions of this section will take place effective (date to be determined), (the effective date of the Agreement.)
2. The University of California supports reasonable pay rate equity (within 5%), resulting from the University's initially hiring new career employees at a rate of pay at least 5% higher than the pay of current career employees in the same hiring unit in the same classification and who are assigned the same duties. For the purposes of this Section, a hiring unit is equivalent to a layoff unit. When examining reasonable equity rate issues, the University and AFSCME shall consider the employees':
  - a. Years of experience performing the duties related to the position;
  - b. Years of experience in the same or equivalent classification;
  - c. Current employee's work history (reasonably objective work-related issues or concerns that have been documented);
  - d. Appointment type;
  - e. Overall skills, knowledge and ability that can be applied to the job;
  - f. Education (where applicable);
  - g. New employees' documented and objective eligibility for other salary adjustments (e.g., special differentials) or UC benefits; and
  - h. Actual duties assigned.
3. The University will use the criteria in Section C.2., when setting the salaries of initial hires and the parties will use the Section C.2. criteria when assessing claims of salary rate equity. All criteria must be met to invoke the University's obligation to increase wages to within 5% of a new hire with a higher salary.
4. The University will provide AFSCME with a list of each campus', hospital's, and the LBNL's current layoff units. The lists will be provided to AFSCME by January 31, 2002.
5. An equity rate adjustment concern does not include salary actions/agreements for employees who are entering a hiring unit from other University facilities/units, preferential rehire, or rehire from rehabilitation or disability. For the purposes of this section, probationary employees are considered "new employees", unless their movement is done to avoid layoff.

## **D. PAY RATE EQUITY ADJUSTMENTS PROCESS**

### **1. Grievability and Arbitrability**

- a. Only an affected employee or AFSCME on behalf of the affected employee can raise a pay equity grievance. Pay equity must be defined in accordance with the provisions in Section C.2, above. An affected employee may only raise a pay equity grievance pertaining to his or her current classification.
- b. At all steps of the grievance and arbitration procedure, the remedy is limited to whether the University properly applied the criteria in Section C. 2. The arbitrator shall have no authority to set individual wage rates that are less than 5% different from the wages of the comparator new employee.

### **2. Special Window Periods for Claims of Past Pay Equity**

- a. The affected employee, or AFSCME acting on behalf of an affected employee, may bring forth a claim regarding pay equity arising from an initial hire that occurred between July 1, 1999 to January 28, 2002.
  - 1) For purposes of this window period, individuals considered to be "initial hires" are those who were initially hired between July 1, 1999 and the date of ratification of this Agreement. Nothing shall preclude the parties from agreeing to consider individuals who do not meet these criteria.
  - 2) AFSCME will provide the University with all known information regarding the employee on whose behalf the claim is filed as well as the employee against whom the comparison is being made. Such known information will be provided on each criterion, and will also include the names of the employees, the date on which the comparison employee was hired, and the known salary of the new hire as of the date s/he was hired.
  - 3) The period of time for an affected employee, or AFSCME on behalf of an affected employee, to bring forth a claim of past pay equity shall be from the effective date of ratification of this Agreement until April 30, 2002. The claim shall be filed with the campus/hospital/LBNL Office of Labor Relations.
- b. Any finding that results in a special equity adjustment shall be effective the first day of the first payroll period following the date on which the claim was filed. The affected employee's claim regarding past pay equity shall be processed as soon as practicable but by no later than August 31, 2002. If AFSCME or the employee disagree with the University's response, AFSCME or the employee may file a grievance in accordance with the provisions of Article 9, Grievance Procedure.
- c. Following review, the University shall have no more than two (2) years to bring the salaries of affected employees who meet all the criteria in Section C.2, above, against initial hires as defined in Section D.2.a. The minimum allowable equity adjustment for any affected employee shall be an established dollar amount, based

on the employee's salary as of March 30, 2002. Payment of the equity adjustment shall be ½ of the equity amount, payable into the employee's base pay, within sixty (60) calendar days after the decision that the inequity exists, and the remaining ½ payment shall occur one year later.

3. Normal Procedure for adjusting pay equities existing from January 29, 2002. Affected employees and/or AFSCME may file a grievance regarding a pay equity concern in accordance with Section C.2., above. Pay rate adjustments shall, if any, be effective on the first day of the first pay period following receipt of the grievance.

#### **E. SHIFT DIFFERENTIAL RATE CHANGES**

1. Shift differential rates are found in Appendix \_\_\_\_\_ (subject to printing). It is the intent of the parties that employees who are assigned to the second or third shift will receive a shift differential, unless such a shift differential is built into their base salary.
  2. UCSD employees in the Proctor and Senior Proctor classification will receive the 32¢ evening/night shift differential rate effective July 1, 2002.
  3. Shift differential rates will be included in wage negotiations.
  4. On call employees who are called into work during the evening or night shift shall be paid the applicable shift differential allocated to the title for all hours the employee actually worked during the shift(s) provided he/she works four (4) or more hours in that shift.
- F.** The range and rate adjustments, base or non-base, if any, provided in this Article shall not be subject to Article 9 – Grievance Procedure, or Article 3 – Arbitration Procedure, of this Agreement, with the exception of range and rate adjustment provided pursuant to Section D of this Article.

**ARTICLE 42**  
**WAIVER**

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

**ARTICLE 43**  
**WORK-INCURRED INJURY OR ILLNESS**

**A.** Employees who are unable to work due to a work-incurred injury or illness compensable under the California Workers' Compensation Act are eligible to use accrued sick leave and accrued vacation as provided below. When sick leave is exhausted and when employees are still unable to work because of such illness or injury, employees may use extended sick leave or leave without pay as provided below.

**B. USE OF ACCRUED SICK LEAVE AND ACCRUED VACATION LEAVE**

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

**C. EXTENDED SICK LEAVE**

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

**D. EFFECT ON PAY STATUS**

1. Supplemental Leave

An employee who is receiving temporary disability payments and supplemental sick leave or vacation as described in Section B. above is considered on regular pay status for purposes of application of provisions of this Agreement, except completion of the

probationary period. Sick leave and vacation accrued during this period may be used as soon as they accrue.

2. Extended Sick Leave

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

3. Leave Without Pay

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

- E. Subject to operational considerations and budgetary constraints, the University will endeavor, on a case by case basis, to modify duties for employees who have experienced work related injuries. Employees whose work related injuries cause them to become qualified employees with disabilities within the meaning of Article 31--Reasonable Accommodation, may also be eligible for reasonable accommodation in accordance with that article. This section shall not be construed as a guarantee of a specific form of accommodation nor shall accommodation in one case establish a precedent for similar or dissimilar circumstances.

**F. SEPARATION**

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

**ARTICLE 44  
WORK RULES**

**A. GENERAL PROVISIONS**

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

**B. NOTICE**

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

**C. APPLICATION AND GRIEVABILITY**

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

## MEMORANDUM OF THE NEGOTIATORS

The negotiators of this proposed Agreement affix their signatures to this Agreement to indicate that they have concluded negotiations on the development of the proposed Agreement and that they are referring it to the parties for decision concerning approval.

It is understood that the Agreement is not binding unless and until both parties have executed it. The process of approval with respect to the Union will be completed when the Agreement has been reviewed and ratified by the appropriate members of the University. On behalf of the University, the Agreement must be reviewed and approved by the Office of the President, including review by the General Counsel of The Regents.

The parties agree that when the approval process has been completed, the Agreement will become effective when the document has been signed by the authorized representatives from both parties.

**For the University of California**

**For the American Federation of  
State, County, and Municipal  
Employees**

---

William Yanonis  
Chief Negotiator  
University of California

---

Craig Merrilees  
Director, UC Contract Campaign/  
Local 3299  
American Federation of State, County,  
and Municipal Employees

---

Date

---

Date

The foregoing Agreement between the Union and the Regents of The University of California, having been duly approved by both parties, is hereby executed by the undersigned authorized representative(s) of each party.

FOR THE UNIVERSITY:

FOR THE UNION:

By: \_\_\_\_\_  
Judith W. Boyette  
Associate Vice President  
Human Resources & Benefits

By: \_\_\_\_\_  
Craig Merrilees  
Director  
UC Contract Campaign/  
Local 3299

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Gayle Cieszkiewicz  
Executive Director, Labor Relations

By: \_\_\_\_\_  
Lakesha Harrison  
President, Local 3299

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
William Yanonis  
Manager, Labor Relations

Date: \_\_\_\_\_

APPROVAL AS TO FORM:

\_\_\_\_\_  
Leslie van Houten  
University Counsel  
The Regents of the University of California

Date: \_\_\_\_\_

## APPENDIX C ENUMERATION OF UNIVERSITY BENEFITS

### A. HEALTH BENEFITS

1. Medical Program

A variety of Health Maintenance Organizations (HMOs) and fee-for-service plans are available to cover eligible employees and their eligible family members. Choice of plans may vary from location to location. Eligible part-time employees appointed and paid by the University to work a specified minimum appointment and average regular paid time may be covered by the CORE major medical plan. The plan is available to the employee and eligible family members.

2. Dental Program

Dental plans are available to eligible employees. Employees may cover themselves and their family members.

3. Vision Program

A vision plan is available to eligible employees. Employee may cover themselves and their eligible family members.

### B. LIFE INSURANCE

1. Life Insurance Program

a. University-Paid

Two University-Paid life insurance plans—Basic Life and Core Life—provide basic life insurance coverage. The amount varies, depending on your appointment rate and average regular paid time. Eligible employees are automatically covered by the plan for which they qualify.

b. Supplemental

Optional personal life insurance and dependent life insurance is available and may be purchased by eligible employees

### C. OTHER INSURANCE

1. Accidental Death & Dismemberment Insurance

Optional AD&D insurance may be purchased by eligible employees. A variety of amounts of coverages are available to cover employees and their eligible family members.

2. Business Travel Accident Insurance

Employees who are traveling on official University business are covered by \$100,000 of accidental death and a scheduled dismemberment insurance.

3. Disability Insurance

- a. Short-Term Disability Insurance – Short-Term disability insurance is available to eligible employees.
- b. Supplemental Disability Insurance - Optional supplemental disability insurance may be purchased by eligible employees.

4. Legal Expense Insurance Plan

A legal expense insurance plan may be purchased by eligible employees. The legal plan provides employees and their eligible family members <sup>1</sup>with coverage for basic legal services associated with preventive, domestic, consumer and defensive legal matters. The plan is employee-paid through payroll deductions.

5. Savings Program

a. Tax-Deferred 403(b) Plan

Participation in the UCRS Tax-Deferred 403(b) Plan is available to all University employees except students who normally work less than twenty (20) hours per week. The Plan provides the following investment options:

- 1) *UC Managed Funds* - Participants may choose from six (6) investment funds, Savings, Money Market, Insurance Company Contract, Equity, Bond and Multi-Asset Funds.
- 2) *Calvert Socially Responsible Mutual Funds*; and
- 3) *Fidelity Investments Mutual Funds*.

6. Defined Contribution Plan (DC Plan)

- a. Voluntary participation in the After-Tax Account is available to all University employees except students who normally work less than twenty (20) hours per week. Payroll deductions may be invested in any of the UC-Managed Funds (Savings, Money Market, Insurance Company Contract, Equity, Bond and Multi-Asset Funds) or in Fidelity Investments mutual funds.
- b. All current member contributions to the University of California Retirement Plan (UCRP) are redirected to the Pretax Account. Although payroll reductions default to the Savings Fund, participants may invest in any of the other UC-Managed Funds: Money Market, Insurance Company Contract, Equity, Bond and Multi-Asset Funds or in Fidelity Investments mutual funds. Redirection is subject to annual Regental review.
- c. Employees who are not in a UC-sponsored defined benefit retirement plan make mandatory contributions of 7.5% of earnings up to the Social Security wage base to the Pretax Account in lieu of paying the Old Age, Survivors and Disability Insurance portion of Social Security taxes (Safe Harbor contributions). Although payroll reductions default to the Savings Fund, participants may invest in any of the other five UC-Managed Funds or in Fidelity Investments Mutual Funds.

7. U.S. Savings Bonds and Benham California Tax Free and Municipal Funds

Through payroll deductions, investments can be made in United States Series EE Savings Bonds and the Benham California Tax-Free and Municipal Funds.

---

<sup>1</sup>

8. Tax Effective Salary Reduction Programs

- a. Retirement Tax Savings Plan – Required monthly participant contributions to the DC Plan Pretax Account are automatically deducted from gross pay before federal and state taxes are calculated.
- b. Tax Savings on Insurance Premiums (TIP) – Employees enrolled in certain benefit plans are automatically enrolled in TIP, unless the employee makes an election to withdraw. After the University contribution, if any, is applied the net insurance premiums are deducted from gross pay before federal and state taxes.
- c. Dependent Care Assistance Program (DepCare) – DepCare is available to eligible employees and allows employees to pay for eligible dependent care expenses on a pre-tax, salary reduction basis.

9. Auto/Homeowner Insurance

Individual auto and home insurance policies are available which may be purchased by eligible employees through payroll deduction.

10. Death Payments

Upon the death of an employee who has been on pay status at least fifty percent (50%) time at least six (6) continuous months prior to death a sum equal to the deceased's regular salary for one (1) month shall be paid to the deceased's spouse, or if there is no spouse, to the employee's eligible dependent(s), or if there is neither a surviving spouse nor eligible dependent(s), to the beneficiary designated in the deceased's University-paid life insurance policy. All monies due and payable to the employee at the time of death shall be paid to the employee's surviving spouse and/or eligible dependent(s).

11. University of California Retirement Plan

Eligible employees covered by this Agreement shall be covered by the University of California Retirement Plan (UCRS).

12. Employees who participate in the UCRP will be eligible for the 2001-2002 Capital Accumulation Provision (CAP) accrual credit of 3% effective April 1, 2002, in accordance with the terms and conditions of the UCRP as approved by the Regents of the University of California.

13. UCRP Tier Two Benefits

The Tier Two membership classification of UCRP was closed on July 1, 1990 and is only available on a continuing basis to active UCRP members who previously elected Tier Two.

14. Alternate Retirement Plans

Employees covered by alternate retirement plans are not subject to Section C.11 and C.13 above.



OFFICE OF THE SENIOR VICE PRESIDENT —  
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT  
300 Lakeside Drive  
Oakland, California 94612-3550

**SIDE LETTER AGREEMENT  
BETWEEN THE UNIVERSITY OF CALIFORNIA AND THE  
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME)  
WITH REGARDS TO AGRICULTURAL WORKERS**

The University and AFSCME agree to set up an ad hoc joint group, to review the relevant AFSCME contract language governing eligibility for career conversion of limited appointment personnel, whose core duties are related to agriculture, or agricultural support such as packing freshly picked agricultural products, or driving vehicles to and from the field. By April 1, 2002, this group will also recommend potential changes and contract language to address the unique circumstances of the University's agricultural workers.

The University and AFSCME agree that the Associate Vice President, Human Resources and Benefits will review individual situations on a case by case basis referred by the union that allegedly violate current terms and conditions of employment.

---

Craig Merrilees,                      Date  
Director, UC Contract /Local 3299

---

Judith Boyette                      Date  
University of California  
Human Resources & Benefits



OFFICE OF THE SENIOR VICE PRESIDENT —  
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT  
300 Lakeside Drive  
Oakland, California 94612-3550

**SIDE LETTER AGREEMENT  
BETWEEN THE UNIVERSITY OF CALIFORNIA AND THE  
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME)  
REGARDING THE CAPITAL ACCUMULATION PROVISION (CAP)**

Pursuant to Article 4.A.1, Benefits, for 2002-2003 and 2003-2004, the University of California will propose to The Regents that the UCRP be amended to include eligibility for employees who participate in the UCRP for a Capital Accumulation Provision (CAP) accrual credit, provided that the general salary increase provided to the University in the State Budget Act finally adopted is 2% or less than the salary amount proposed in The Regents' budget request. The proposed credit will be no less than 3% (provided the general salary increase is at the level described in the preceding sentence), and the effective date and terms of the credit will be subject to the to the terms and conditions as approved by The Regents of the University of California.

Date: 12/20/01

Date: 12/20/01

\_\_\_\_\_  
Craig Merrilees  
Director, UC Contract /Local 3299

\_\_\_\_\_  
Judith W. Boyette  
University of California  
Associate Vice President of Human  
Resources & Benefits

**SIDE LETTER  
UC'S CONTRACTING GUIDELINES**

**CONTRACTING GUIDELINES**

The Office of the President will revise contracting guidelines to ensure that contracts for unit work to be performed by non-University employees meet the provisions of the Memoranda of Understanding, and are consistent with University policies and intent, including Department of Energy requirements. The Office of the President agrees to share the guidelines with AFSCME at least thirty (30) calendar days before the issuance of the guidelines. The Office of the President's contracting guidelines shall not be subject to Article 9 - Grievance Procedure or Article 3 - Arbitration Procedure of this Agreement.

The Office of the President will review such new contracts valued at over \$100,000 per year, using the Office of the President's contracting guidelines. Campuses shall review such contracts valued at \$100,000 per year or less, using the UCOP contracting guidelines.

12/21/01  
Date

12/21/01  
Date

/s/  
Claude Pillar

/s/  
Gayle Cieszkiewicz  
Executive Director



OFFICE OF THE SENIOR VICE PRESIDENT —  
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT  
300 Lakeside Drive  
Oakland, California 94612-3550

October 10, 2001  
Via facsimile & U.S. Mail  
510-663-3933

Mr. Craig Merrilees  
Director, UC Contract Campaign/Local 3299  
80 Grand Avenue, 3<sup>rd</sup> Floor  
Oakland, CA 94612

**Re: AFSCME-Patient Care Technical ("PCT") Unit and Service Unit ("SX") /UC 2001 Negotiations**

Dear Mr. Merrilees:

This letter will confirm the understanding reached in the above captioned negotiations on July 25, 2001, with respect to a new contract article, yet to be numbered, titled "Contracting Out."

It is expressly understood any contracting out of new work, including work covered by existing SX and PCT bargaining unit position descriptions, shall not be subject to the Article titled "Contracting Out."

Thank you in advance for your assistance in this matter.

---

Mr. Craig Merrilees  
Director, UC Contract Campaign/Local 3299

---

William j. Yanonis  
Chief Negotiator



OFFICE OF THE SENIOR VICE PRESIDENT —  
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT  
300 Lakeside Drive  
Oakland, California 94612-3550

September 19, 2001  
HAND DELIVERED

Mr. Craig Merrilees  
Director, UC Contract Campaign/Local 3299  
80 Grand Avenue, 3<sup>rd</sup> Floor  
Oakland, CA 94612

**Re: AFSCME-Patient Care Technical ("PCT") Unit and Service Unit ("SX") / UC 2001 Negotiations**

Dear Mr. Merrilees:

This letter will confirm the understanding reached in the above captioned negotiations on September 17, 2001, with respect to Article 30 – Probationary Period.

The Union and U/C agree the following Union proposals of September 13, 2001, concerning Article 30 – Probationary Period, Section A, are withdrawn without prejudice:

September 13, 2001 – 3:00 p.m. – “. unless the employee alleges violations of one or more of the following articles 1, 2 3, 4, 6, 8, 16, or newly proposed 6.”

September 13, 2001 – 4:55p.m. – “ unless the employee alleges violations of statutory rights under HEERA, discrimination, or reprisal for exercising protected activity. [ASCME District Council 10 vs. UC Regents, 1989]”

As such, the parties agree that the University will treat these proposals as though they had never been raised, and the union may make proposals regarding the right of probationary employees to file grievances under the contract at a later time.

Thank you for your assistance in this matter.

\_\_\_\_\_  
Mr. Craig Merrilees  
Director, UC Contract Campaign/  
Local 3299

\_\_\_\_\_  
William j. Yanonis  
Chief Negotiator  
University of California

**SIDE LETTER OF AGREEMENT  
STAFFING COMMITTEE**

The following Square Footage Conversion Chart outlines one set of criteria among many that are factored into the University's decisions regarding custodial staffing and workload. The parties understand and agree that the conversions found in this chart are not absolute, and serve only as a guide to assist the University of California and AFSCME representatives in their efforts to develop reasonable workload guidelines for custodial work pursuant to Article 36, Staffing Committee.

**SQUARE FOOTAGE CONVERSION CHART**

<b>Type of facility</b>	<b>Hours Worked</b>	<b>Approximate Square Footage Cleaned</b>
Classrooms, lecture halls, laboratories, and dock areas in schools and school offices	8	30,000
Offices, clinical labs, lobbies, elevators, administration, doctors' quarters, dorms, in hospitals	8	14,590
OPD clinics, in patient areas and emergency areas	8	10,130
Operating rooms, delivery rooms, and dietary areas	8	5,100

9/26/01  
Date

\_\_\_\_\_/s/\_\_\_\_\_  
Bill Yanonis  
University Negotiator

\_\_\_\_\_/s/\_\_\_\_\_  
Craig Merrilees  
AFSCME Negotiator



OFFICE OF THE SENIOR VICE PRESIDENT —  
BUSINESS AND FINANCE

OFFICE OF THE PRESIDENT  
300 Lakeside Drive  
Oakland, California 94612-3550

**SIDE LETTER AGREEMENT  
BETWEEN THE UNIVERSITY OF CALIFORNIA AND THE  
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME)  
REGARDING UNIVERSITY BENEFITS**

The University and AFSCME have entered into this Side Letter regarding the language of the University Benefits article for the Patient Care Technical (PCT) unit and the Service (SX) unit.

During the 2001 successor negotiations for the units referenced above, the University proposed language for the University Benefits article. Changes in definitions or terms, such as a change from "dependents" to "family", were intended to reflect current language used in benefit plans and University communications, and were not intended to change current eligibility for benefits.

By accepting the proposed language, it is the intention of the University and AFSCME that the benefits which are currently provided by the plan documents will not be changed by virtue of the contract language adopted by the parties during the successor negotiations of 2001, and any benefit changes will continue to be subject to the provisions of the contract language of Article 4, Benefits, describing the University's rights to change benefits.

If the terms in the proposed University Benefits language conflict with the terms that are currently in the plan documents, the plan document is controlling.

Date: 12/21/01\_\_\_\_\_

Date: 12/21/01\_\_\_\_\_

\_\_\_\_\_  
Craig Merrilees  
Director, UC Contract /Local 3299

\_\_\_\_\_  
Judith W. Boyette  
University of California  
Associate Vice President of Human  
Resources & Benefits

**SIDE LETTER  
WAGES**

If in Fiscal Year 2001-2002 the University of California provides a general range adjustment of greater than two percent (2%) to a systemwide bargaining unit represented by either UPTC or CUE, the general range percentage will also be provided to AFSCME-represented employees. The parties understand and agree that "general range adjustments" do not include merit increase amounts, market adjustments, salary range adjustments, or special non-base payments.

\_\_\_\_\_ 12-21-01  
for the University Date

\_\_\_\_\_ 12-21-01  
for AFSCME Date