

AGREEMENT

BETWEEN

THE

STATE OF OREGON

DEPARTMENT OF

ADMINISTRATIVE SERVICES

AND

AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES

FOR THE

REGISTERED NURSES

AT THE

**OREGON STATE HOSPITAL**

**2009-2011**



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## **PREAMBLE**

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This Agreement is made by and between the State of Oregon Department of Administrative Services (hereinafter the "Employer") on behalf of Oregon State Hospital (hereinafter the "Agency"), and the Oregon American Federation of State, County and Municipal Employees (AFSCME) (hereinafter the "Union").

## **ARTICLE 1 - RECOGNITION**

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The Employer recognizes the Union as the exclusive bargaining agent and representative for all employees at the Oregon State Hospital working in classifications for which a RN license is required, except employees who are excluded by the Employment Relations Board, managerial, supervisory and confidential employees, and temporary employees.

## **ARTICLE 2 - SCOPE OF AGREEMENT**

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**Section 1.** This Agreement binds the Union and any person designated by it to act on behalf of the Union. Likewise, this Agreement binds the State and its employees and any other person designated by it to act on its behalf.

The terms of this Agreement shall apply to all members of certified or recognized bargaining units, represented by the Union, both existing and as determined in the future.

**Section 2.** The Agreement supersedes all prior Agreements between the Union and the State.

## **ARTICLE 3 - EFFECT OF LAW AND RULES**

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**Section 1.** This Agreement is subject to all applicable existing and future laws of the State of Oregon.

**Section 2.** No new Human Resource Services Division Rule, or change in any existing Human Resource Services Division Rule that addresses subjects that are mandatory issues for bargaining shall be applicable to employees covered by this Agreement unless the change has been agreed upon by the parties.

**Section 3.** Bargaining unit employees shall be provided all of the rights and benefits that have been extended to them by the rules of the Department of Administrative Services, Human Resource Services Division in all matters which are not addressed in this Agreement.

## **ARTICLE 4 - LEGISLATIVE ACTION**

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**Section 1.** Provisions of this Agreement not requiring legislative funding or statutory changes before they can be put into effect shall be implemented on the effective date of this Agreement or the date otherwise specified in this Agreement. Necessary bills for implementation of the other provisions shall be submitted to the Legislative Assembly promptly upon the signing of this Agreement.

**Section 2.** Upon signing of this Agreement both parties will jointly recommend to the Legislative Assembly the passage of the funding and statutory changes necessary to implement this Agreement.

## **ARTICLE 5 - EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION**

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**Section 1.** The provisions of this Agreement shall apply equally to all employees in the bargaining unit without regard to age, race, religion, sex, color, handicap, national origin, or political affiliation. The Union further agrees that it will cooperate with the Agency's implementation or applicable federal and State laws and regulations, including but not limited to Presidential Executive Order 11246 as amended by Presidential Executive Order 11375, pertaining to affirmative action.

**Section 2.** All complaints alleging any form of discrimination, including sexual harassment, listed above shall be submitted directly to the Agency. A meeting with the employee, if requested by the employee or the Union, will be held within fifteen (15) calendar days of the receipt of the request. Prior to the conclusion of the meeting, a reasonable effort will be made to resolve the employee's complaint. If, however, a satisfactory solution cannot be reached, the Agency or the designated representative will communicate in writing, within seven (7) calendar days, the position of the Agency to the complainant and the Union. If no hearing is conducted, the Agency shall advise the employee and the Union in writing within fifteen (15) calendar days of receiving the complaint of the Agency's position. If the complaint is not satisfactorily resolved at this step, it may be submitted to the Bureau of Labor and Industries for resolution if further pursued.

**Section 3.** Sexual harassment is considered a form of sex discrimination. No employee shall be subjected to sexual harassment by the Employer, the Union or other bargaining unit members. Unwelcome sexual advances, requests for sexual favors and other deliberate or repeated unsolicited verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

## **ARTICLE 6 - STRIKES AND LOCKOUTS**

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It is agreed by the Employer and the Union that the services performed by employees covered by this Agreement are services essential to the public health, safety and welfare.

The Employer, therefore, agrees that during the term of this Agreement, the Employer shall not cause nor permit any lockout of employees from their work. In the event an employee is unable to perform his assigned duties because equipment or facilities are not available due to a strike, work stoppage or slowdown by any other employees, such inability to provide work shall not be deemed a lockout.

The Union, therefore, agrees that neither it nor its officers or employees covered by this Agreement will encourage, sanction, cause, support or engage in any strike as defined by ORS 243.652 (19), provided, however, that if at the expiration of this Agreement, the Employer and the Union have not reached agreement on a renewal, extension or new agreement, the Union and its officers and employees covered by the Agreement may engage in any type of strike activity which is not unlawful.

Upon notification, confirmed in writing by the Employer to the Union that certain bargaining unit(s) employees covered by this Agreement are engaging in strike activity in violation of this Article, the Union shall, upon receipt of a mailing list, advise such striking employees in writing (with a copy to the Employer) to return to work immediately. Such notification by the Union shall not constitute an admission that it has caused or counseled such

strike activity. The notification to employees covered by this Agreement by the Union shall be made solely at the request of the Employer.

Employees covered by this Agreement who engage in strike activity prohibited by this Article will be subject to disciplinary action for misconduct.

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## ARTICLE 7 - SAVINGS CLAUSE

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Should any article, section or portion of this Agreement be held unlawful and/or unenforceable by a court or board of competent jurisdiction, such invalidation shall apply only to the specific article, section or portion directly specified. Upon the receipt of such a decision, the parties shall, upon demand, begin negotiations to replace this Agreement's invalidated article, section or portion.

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## ARTICLE 8 - MANAGEMENT'S RIGHTS

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Except as may be specifically modified by the terms of this Agreement, the State retains all rights of management in the direction of its work force. These rights of management shall include, but not be limited to, the right to:

- A) Direct employees.
- B) Hire, promote, transfer, assign and retain employees.
- C) Suspend, discharge or take other proper disciplinary action against employees.
- D) Reassign employees.
- E) Relieve employees from duty because of lack of work or other proper reasons.
- F) Schedule work.
- G) Determine methods, means and personnel by which operations are to be conducted.

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## ARTICLE 9 - UNION SECURITY

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**Section 1. Membership/Fair Share/Contributions to Charitable Organizations.** Bargaining unit members who are members of the Union shall either remain members in good standing or make payment in-lieu-of dues to the Union. Bargaining unit members who are not members of the Union shall either become members of the Union or make payment in-lieu-of dues to the Union. Payments in-lieu-of dues shall be equal to the regular monthly Union dues. A bargaining unit member who exercises his/her right of non-association only when based on a bona fide religious tenet or teaching of a church or religious body of which such employee is a member shall pay an amount of money equivalent to regular monthly Union dues to a non-religious charity or to another charitable organization mutually agreed upon by the employee and the Union. The employee shall furnish written proof to the Union and to the Agency that this has been done.

**Section 2. Deduction for Dues.** Upon written request, on the Union form to be available at the Agency, members of the Union may have regular monthly dues deducted from their paychecks. Employees making fair share payments in-lieu-of dues shall have their fair share payments deducted monthly. Bargaining unit members employed subsequent to the execution of this Agreement shall have the appropriate deduction made the first of the month following the first full month of employment.

The amounts to be deducted shall be certified to the Employer by the Treasurer of the Union, and the aggregate deduction shall be remitted monthly, together with an itemized statement, to the Union.

**Section 3. Notification of Fair share Employees.** Upon appointing an individual to a position in a bargaining unit which is covered by a Fair Share Agreement provision, the Agency shall

advise the individual of the existence of the Fair Share Agreement and an employee's obligation under it.

**Section 4. Indemnification.** The Union shall indemnify and save the Employer/Agency harmless against any and all claims, damages, suits or other forms of liability which may arise out of any action taken or not taken by the Employer/Agency for the purpose of complying with the provisions of this Article.

**Section 13. Names of Retirees.**

Effective September 1, 2009, the Employer will send a monthly report to the Union of the names of individuals that have retired the previous month. For purposes of this Agreement, a retiree shall be defined as a person who has given the Agency written notice that he/she is separating from State service by retirement and that person has actually separated from State service.

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## **ARTICLE 10 - UNION PRIVILEGES AND LIMITATIONS**

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**Section 1. Lists.** The Agency shall furnish to the Union, on a monthly basis, a current alphabetical listing of the names, home addresses when easily obtainable on a computer, and classifications of the employees in the bargaining unit. New hires and terminations shall be indicated on the listing.

**Section 2. Bulletin Boards.** The Agency shall provide a reasonable space on bulletin boards placed in mutually agreeable locations. The notices shall be restricted to the following types:

- A) Notices of professional and social affairs;
- B) Notices of elections, appointments, and results of elections;
- C) Notices of meetings; and
- D) Notices of negotiation progress.

Copies of any other materials for posting must be approved by the Human Resources (HR) Manager or his representative prior to its posting. No demeaning or derogatory material may be posted.

Union Officers and Union Stewards may post Union meeting notices through the AS400 or other electronic media to post notices of meetings. Such usage shall not include interactive communications and notices shall be limited to the time and place of such meetings along with a brief agenda.

**Section 3. Visits by Union Representatives.** The Union will provide the Agency with a list of those AFSCME staff members designated as authorized representatives. The representative, after advising the Personnel Office or the appropriate Nursing Service Office, shall have reasonable access to the premises of the Agency at any time during working hours to conduct Union business and to assist in the processing of grievances under the terms of this Agreement. Such visits are not to interfere with the normal flow of work.

**Section 4. Notices to New Employees.** The Employer will notify each newly employed member of the bargaining unit of representation by the Union. Time shall be provided at each new employee orientation so that the Union may distribute to each nurse a copy of this Agreement and copies of the Union membership material. The Union will be allowed a reasonable time during initial employee orientation for explanation of AFSCME benefits and bargaining representative matters.

**Section 5. Nurse Representatives.**

- A) The Union may appoint up to five (5) Nurse Representatives. The Union shall notify the Agency HR Manager of the names of the Nurse Representatives.
- B) One Nurse Representative shall be granted a reasonable amount of time to assist in the investigation and settlement of any one grievance at any one time.
- C) The Nurse Representative shall notify his/her supervisor prior to performing permitted Nurse Representative duties. If the permitted activity would interfere with the work of the Nurse Representative or other employees, the responsible supervisor(s) shall arrange in a timely fashion for a mutually satisfactory time to perform the requested activity.

- D) The Employer agrees that there shall be no reprisal, coercion, intimidation, or discrimination against a Nurse Representative for any authorized activity.

**Section 6. AFSCME President Leave.**

- A) Long Term. Upon written request from the Executive Director of AFSCME Council 75 to DAS Labor Relations Unit, one (1) President/designee from an AFSCME Council 75 Central Table participating Agency shall be given release time from his/her position for a period of time up to one (1) year for the performance of Union duties related to the collective bargaining relationship. However, if the Union President/designee or Executive Director requests release time for less than his/her full regular schedule, such release time shall be subject to the Employer's approval based on the operating needs of the employee's work unit. AFSCME shall, within thirty (30) days of payment to the employee, reimburse the State for payment of appropriate salary, benefits, paid leave time, pension, and all other employer-related costs. Where this reimbursement is expressly prohibited by law or funding source, the employee shall be granted a leave of absence but the Employer will not be responsible for continuing to pay the employee's salary and benefits. AFSCME shall indemnify and hold the State harmless against any and all claims, damages, suits, or other forms of liability which may arise out of any action taken or not taken by the State for the purpose of complying with this provision.
- B) Short Term. Upon written request from the Executive Director of AFSCME Council 75 to DAS Labor Relations Unit and the Agency's Human Resource Manager, up to four (4) Presidents/designees from AFSCME Council 75 Central Table participating Agencies shall be given release time from his/her position for a period of time up to three (3) months for the performance of Union duties related to the collective bargaining relationship. Only one employee from a bargaining unit and a total of four employees from all Central Table Participating bargaining units may be on such leave at any one period in time. Such requests will be granted unless the affected Agency can demonstrate that the employee's absence would adversely impact the operating needs of the employee's work unit. If granted, such time may also be taken on an intermittent basis. AFSCME shall, within thirty (30) days of payment to the employee, reimburse the State for payment of appropriate salary, benefits, paid leave time, pension, and all other employer-related costs. Where this reimbursement is expressly prohibited by law or funding source, the employee shall be granted a leave of absence but the Employer will not be responsible for continuing to pay the employee's salary and benefits.

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**ARTICLE 11 - NEGOTIATING TEAM**

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Upon notification of bargaining the successor agreement, prior to commencing to bargain, the Union agrees to provide the employer in writing the names of the members designated as representatives for negotiations. A maximum of one (1) team member will be selected from each ward with a maximum of five (5) team members. The Union will attempt to ensure adequate cross-program representation. When appropriate, the designated representatives will be in paid status during negotiations with the Agency assuming no overtime obligations as a result of their attendance at such meetings. At the discretion of the Union, a reasonable number of unpaid employees may attend negotiation sessions as observers. Consultants may be employed by either party.

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**ARTICLE 12 - WORK SCHEDULES**

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**Section 1. Scheduling of Work.** Employee's work schedules shall be posted in all work areas at least fourteen (14) days in advance of their effective date except where a bona fide emergency precludes such advance notice, or where a schedule change is mutually agreed to by the affected employee(s).

**Section 2. Work Period.** The standard work schedule for a full-time employee is made up of shifts totaling forty (40) hours in established time of seven (7) consecutive twenty-four (24)-hour periods. Variations of work schedules totaling eighty (80) hours in an established time of fourteen (14) consecutive twenty-four (24)-hour periods may also be adopted.

**Section 3. Workday.** Eight (8), nine (9), ten (10) twelve (12), or sixteen (16) consecutive hours of work, except for interruptions of meal periods, shall constitute a workday. Any additional irregular workdays will be adopted only upon agreement, in writing, of affected employees.

**Section 4. Meal Periods.** Generally employees shall be granted a non-duty meal period of one-half (1/2) hour during each workday. However, employees required to be on duty during a meal period will be compensated. If an employee's work period is longer than fourteen (14) hours, then two (2) meal periods shall be granted.

**Section 5. Rest Periods.** Employees shall be provided a fifteen (15) minute rest period for each four (4) hours worked. Whenever possible, employees will be allowed to take their rest period away from the immediate work area. If the employee is unable to take a rest period in the work area due to operational requirements, the employee will advise the supervisor as soon as possible and, if possible, a rest period will be scheduled as soon as practicable.

**Section 6.** Flextime may be used as an option in lieu of overtime if mutually agreed to by the employee and the supervisor.

**Section 7.** Registered Nurses shall not be mandated to cover positions represented by another bargaining unit.

**Section 8.**

When the employee is required by the agency to travel, the actual travel time shall be considered time worked. Where required travel is outside an employee's regular work hours (excluding normal commuting time), the employer may temporarily modify the employee's weekly schedule without daily overtime or schedule change penalty. Where such schedule modification still results in the need for additional work hours, the employee shall be paid the appropriate rate of pay for all time worked over forty (40) hours in that workweek.

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## **ARTICLE 13 - OVERTIME**

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**Section 1.** All time for which an employee is compensated at the regular straight time rate of pay except standby time or on call time but including holiday time off, compensatory time off, and other paid leave shall be counted as time worked.

**Section 2.** Overtime for employees working a regular workweek is time worked in excess of eight (8) hours per day, or forty (40) hours per week within the employees' basic workweek of seven (7) consecutive twenty-four (24)-hour periods. Overtime for employees working an irregular work schedule is time worked in excess of the scheduled hours per day approved by the Agency HR Manager or forty (40) hours within the employee's basic workweek or eighty (80) hours in an established time of fourteen (14) consecutive twenty-four (24)-hour periods. Time worked beyond regular schedules by employees scheduled for less than eight (8) hours per day or forty (40) hours per week is additional straight time worked rather than overtime until work exceeds eight (8) hours per day or forty (40) hours per week within the employees' basic workweek.

Except for shift changes and irregular work schedules, employees eligible for overtime compensation who are required to work consecutive hours in excess of eight (8) consecutive hours within a twenty-four (24) hour period shall be compensated at the appropriate rate for hours worked in excess of eight (8) hours per day. If an employee's regularly scheduled shift is ten (10), twelve (12) or sixteen (16) hours, then overtime shall be paid for all hours in excess of ten (10), twelve (12) or sixteen (16) consecutive hours.

**Section 3.** All eligible employees shall be compensated at the rate of time and one-half (1-1/2) their regular hourly straight time rate of pay for overtime. No application of this Article shall be construed or interpreted to provide for compensation for overtime at a rate exceeding time and

one-half (1-1/2), or to effect a "pyramiding" of overtime, i.e. time and one-half (1-1/2) of time and time and one-half (1-1/2).

**Section 4.** All classifications within the bargaining unit which are currently eligible for overtime shall continue to be eligible for overtime compensation.

**Section 5. Mandatory Overtime.** The Agency may not require an employee to work overtime until the Agency makes reasonable effort to utilize other registered nurses or other qualified employees to work those unfilled hours or shifts. The Agency shall solicit volunteers to work additional hours in the following order, before requiring an employee to work mandatory overtime:

- A) Temporaries or on call
- B) On duty volunteers
- C) Off duty Volunteers
- D) From a current rotation list: Assigned to the least senior nurse on the list who is on duty who has not worked mandatory overtime during the current rotation. When a nurse volunteers for and works at least two (2) hours of overtime, she/he will be placed at the bottom of the current rotation list. Management has the right not to accept volunteers for partial shifts; however, nurses may agree to voluntarily split an entire shift.

Should the Agency be unable to find other registered nurses or other qualified employees to work the unfilled hours or shifts, the Agency cannot require the employee to work more than two (2) hours beyond the employee's regularly scheduled shift pursuant to applicable law. Employees who are required to work mandatory overtime will not be required to work for a minimum of eight (8) hours if the employee worked at least sixteen (16) hours in the preceding twenty-four (24) hours. This Section does not apply in the event of a national or State emergency or circumstances requiring the implementation of a facility disaster plan or in an emergency circumstances identified by the Department of Human Services by rule.

Nurses shall not be mandated, except in an emergency involving public health and safety, to work overtime on a day immediately preceding a regularly scheduled day off or an approved vacation of one (1) week or more, or once per fiscal year for vacations of less than one (1) week. Only the Superintendent or his/her designee can determine if an emergency involving public health and safety exists. If an employee is bypassed, he/she shall remain on the top of the list for the next mandatory overtime.

**Section 5. FLSA Exempt Overtime Compensation.**

Employees occupying positions which have been determined by the Agency to be executive, administrative or professional as defined by the Fair Labor Standards Act shall receive time off for authorized time worked in excess of forty (40) hours in a workweek.

The rate of compensation shall be one (1) hour off for one (1) hour of overtime worked. Time off shall be used within the fiscal year earned or shall be lost. The scheduling of time off shall be consistent with provisions for requesting accrued leave time or Agency practice whichever is applicable.

Nothing in this article modifies, amends or eliminates any specific language in any agreement or Agency practice to modify an employee's work schedule during the same workweek in which authorized overtime is worked.

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## **ARTICLE 14 - REPORTING TIME**

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An employee who is scheduled for work and reports to work and there is no work will be paid for a minimum of five (5) hours or five-eighths (5/8) of his/her scheduled shift, whichever is lesser. However, unless an employee is notified during the first two (2) hours of his/her work period that his/her shift is being curtailed, he/she will be paid for the remainder of his/her scheduled shift. This obligation to pay will not apply when interruptions of work are caused by an Act of God. Nothing herein contained is intended to deny the Agency the right to require the employee to work during the period for which he/she is being paid.

## **ARTICLE 15 - WEEKEND SCHEDULING**

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**Section 1.** It is the policy of the Agency to schedule those nurses who so desire every other weekend off, with the exception of those nurses who have agreed in writing to work schedules calling for consecutive weekend work and those who express a desire in writing to work consecutive two (2)-day weekends when work is available. Nurses who have agreed to work consecutive weekends may request withdrawal of such authorization upon thirty (30) days written notice.

Part-time nurses who are hired in positions requiring consecutive weekend work and full-time nurses who are hired in two-sixteen (2-16) plus an eight (8) positions requiring consecutive weekend work are exempted from this provision.

**Section 2.** Where it is necessary, nurses will agree to be on work schedules of standard schedules made up of shifts totaling forty (40) hours in an established seven (7) consecutive day, twenty-four (24)-hour period or variation of work schedules totaling eighty (80) hours in an established fourteen (14) consecutive day, twenty-four (24)-hour period.

**Section 3.** For the purpose of this Article weekend is defined as follows:

- Day shift weekend is any combination of Friday, Saturday, Sunday or Monday shifts;
- Swing shift weekend is any combination of Friday, Saturday, Sunday or Monday shifts;
- Night shift weekend is any combination of Thursday, Friday, Saturday, or Sunday shifts.

## **ARTICLE 16 - SALARY**

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**Section 1.** Any nurse who possesses a Baccalaureate degree with relevant course work shall receive an additional four and seventy-five one-hundredths percent (4.75%) of his/her salary rate and any nurse who possesses a Master's degree with relevant course work shall receive an additional nine and five-tenths percent (9.5%) of his/her salary rate. The differentials are based on a full-time employee and will be prorated for part-time employees on the basis of hours paid.

**Section 2. ANCC Certification.**

- A) The employer values ANCC certification consistent with the educational level of the employee. All members of the bargaining unit are encouraged to seek ANCC certification. The Director of Nursing Services in consultation with the Bargaining Unit President will determine which certification subject is most relevant to the program area of the employee's current position.
- B) As an incentive to employees, the employer agrees to pay for testing time up to a maximum of eight (8) hours. Upon presentation to the Director of Nursing Services of proof of ANCC certification and personal payment of fees, the employee will be reimbursed for one-half (1/2) of the application and examination fees.

## **ARTICLE 17 - WORKERS' COMPENSATION APPLICATIONS**

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Salary paid for a period of sick leave resulting from a condition incurred on the job and also covered by Workers' Compensation, shall be equal to the difference between the Workers' Compensation for lost time and the employee's regular salary rate. To the extent of accrued sick leave prorated charges will be made against such leave. An employee who has exhausted earned sick leave may elect to use accrued vacation and compensatory leave during a period in which Workers' Compensation is being received.

## **ARTICLE 18 - PERS "PICK-UP"**

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**Section 1. Public Employees Retirement System ("PERS") Members.**

For purposes of this Section 1, "employee" means an employee who is employed by the

State on August 28, 2003 and who is eligible to receive benefits under ORS Chapter 238 for service with the State pursuant to Section 2 of Chapter 733, Oregon Laws 2003.

Retirement Contributions. On behalf of employees, the State will continue to “pick up” the six percent (6%) employee contribution, payable pursuant to law. The parties acknowledge that various challenges have been filed that contest the lawfulness, including the constitutionality, of various aspects of PERS reform legislation enacted by the 2003 Legislative Assembly, including Chapters 67 (HB 2003) and 68 (HB 2004) of Oregon Laws 2003 (“PERS Litigation”). Nothing in this Agreement shall constitute a waiver of any party’s rights, claims or defenses with respect to the PERS Litigation.

**Section 2. Oregon Public Service Retirement Plan Pension Program Members.**

For purposes of this Section 2, “employee” means an employee who is employed by the State on or after August 29, 2003 and who is not eligible to receive benefits under ORS Chapter 238 for service with the State pursuant to Section 2 of Chapter 733, Oregon Laws 2003.

Contributions to Individual Account Programs. As of the date that an employee becomes a member of the Individual Account Program established by Section 29 of Chapter 733, Oregon Laws 2003 and pursuant to Section 3 of that same chapter, the State will pay an amount equal to six percent (6%) of the employee’s monthly salary, not to be deducted from the salary, as the employee’s contribution to the employee’s account in that program. The employee’s contributions paid by the State under this Section 2 shall not be considered to be “salary” for the purposes of determining the amount of employee contributions required to be contributed pursuant to Section 32 of Chapter 733, Oregon Laws 2003.

**Section 3. Effect of Changes in Law (Other than PERS Litigation).**

In the event that the State’s payment of a six percent (6%) employee contribution under Section 1 or under Section 2, as applicable, must be discontinued due to a change in law, valid ballot measure, constitutional amendment, or a final, non-appealable judgment from a court of competent jurisdiction (other than in the PERS Litigation), the State shall increase by six percent (6%) the base salary rates for each classification in the salary schedules in lieu of the six percent (6%) pick-up. This transition shall be done in a manner to assure continuous payment of either the six percent (6%) contribution or a six percent (6%) salary increase.

For the reasons indicated above, or by mutual agreement, if the State ceases paying the applicable six percent (6%) pickup and instead provides a salary increase for eligible bargaining unit employees during the term of the Agreement, and bargaining unit employees are able, under then-existing law, to make their own six percent (6%) contributions to their PERS account or the Individual Account Program account, as applicable, such employees’ contributions shall be treated as “pre-tax” contributions pursuant to Internal Revenue Code, Section 414(h)(2).

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## ARTICLE 19 - PER DIEM DIFFERENTIAL

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**Section 1.** There shall be a per diem differential of fifteen percent (15%) of the base hourly rate for all hours worked. This differential is in lieu of insurance benefits, if any, and paid time off. Paid time off as used in this Article shall not include compensatory time off. This differential shall not be included in the base for calculation of overtime pay.

**Section 2.** Employees may be employed in part-time “per diem positions” by mutual agreement between the employer and the employee. These employees will receive a fifteen percent (15%) differential of the base hourly rate for all hours worked in lieu of insurance benefits, if any, and paid time off.” Employees who work fewer than thirty-two (32) hours per month shall be paid the per diem differential.

## ARTICLE 20 - DIFFERENTIALS

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### **Section 1. Shift Differential.**

- A) Employees shall be eligible for the evening shift differential when at least one-half (1/2) of the scheduled hours of their work shift fall between the hours of 6:00 p.m. and 12:00 midnight.
- B) Employees shall be eligible for the night shift differential when at least one-half (1/2) of the scheduled hours of their work shift fall between the hours of 12:00 midnight and 6:00 a.m.
- C) Employees shall be eligible for the weekend differential for all shifts worked beginning with night shift Friday through swing shift Sunday.
- D) The shift differential shall apply to all hours worked during that shift.
- E) Shift differential shall be applied to base rates in computation of payment for overtime but not for periods of leaves of absence with pay, such as vacation or sick leave.
- F) The differentials shall be as follows:

<u>Evenings</u>	<u>Nights</u>	<u>Weekends</u>
\$1.85	\$2.25	\$1.60

**Section 2. Bilingual Differential.** When formally assigned in the employee's position description, an employee assigned to interpret to or from another language to English will receive a differential of five percent (5%) of base salary.

**Section 3. Program Lead Differential.** All employees who are assigned the work of Program Lead shall be compensated five percent (5%) above their current rate. Such compensation shall be for all actual hours worked as the Program Lead.

## ARTICLE 20 (A) - WORK PERFORMED IN A HIGHER CLASSIFICATION

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All employees who are assigned in writing the work in a higher level classification shall be compensated five percent (5%) above their current rate. Provided that such arrangement is for ten (10) or more consecutive days, such compensation shall be for all actual hours of work at the higher classification beginning from the first day of the assignment for the full period of the assignment.

## ARTICLE 21 - ON-CALL/CALL BACK

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**Section 1.** Employees shall be paid one (1) hour of pay at the regular straight time rate for each six (6) hours of assigned on-call duty. Employees who are assigned on-call duty for less than six (6) hours shall be paid on a prorated basis.

**Section 2.** An employee shall be on on-call duty when required to be available for work outside his/her normal working hours and meet all the following conditions: 1) The Employee is required to leave word with the Agency where he/she can be contacted during a specified period of time, or pager, and 2) The employee is required and must be prepared to immediately commence full time work if the need arises.

**Section 3.** An employee shall not be on on-call time once he/she actually commences performing assigned duties and receives the appropriate rate of pay for time worked.

**Section 4.** No employee is eligible for any premium pay compensation while on on-call duty except as expressly stated in this Article.

**Section 5.** On-call duty time shall not be counted as time worked in the computation of overtime compensation.

**Section 6.** An employee who is called back to work outside his/her regular shift, will receive the appropriate rate of compensation in accordance with this Agreement for hours actually worked, but in no event will the employee be paid less than two (2) hours at the straight time rate of pay.

**Section 7.** This provision will not apply when call back results from employee oversight (e.g., taking home necessary keys, equipment necessary at the campus, etc.). This provision does not prevent the Agency from calling employees for information not requiring call back. The employees would not be required to remain at home or available unless on on-call status.

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## ARTICLE 22 - POSITION DESCRIPTION

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Position descriptions shall be reduced to writing and delineate the specific duties assigned to an employee's position. A dated copy of the position description shall be given to the employee upon assuming the position and at such time as the duties of the position are substantially changed.

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## ARTICLE 23 - PERFORMANCE APPRAISAL

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**Section 1.** The employee will be rated by his/her immediate supervisor. The performance appraisal will be reviewed by the next higher level supervisor. The rater will discuss the performance appraisal with the employee. The employee shall have the opportunity to provide his/her comments to be attached to the performance appraisal. The employee shall sign the performance appraisal and that signature shall only indicate that the employee has read the performance appraisal. A copy shall be provided the employee at this time.

If there are any changes or recommendations to be made in the performance appraisal after the rater has discussed it with the employee, the performance appraisal shall be returned to the rater for discussion with the employee before these changes can be made. The employee shall have the opportunity to comment on these changes. The employee shall sign the new performance appraisal and that signature shall only indicate that the employee has read the performance appraisal. A copy shall be provided the employee at this time.

All written comments provided by the employee within thirty (30) days shall be attached to the performance appraisal. Performance evaluations are not grievable nor arbitrable under this Agreement.

**Section 2.** Every employee shall receive a performance appraisal at the end of a trial service period, and at least annually thereafter by the employee's eligibility date even if the employee is at the maximum rate for his/her class.

Performance shall be measured using the following criteria:

- A) Classification specifications developed and promulgated by the Human Resource Services Division of the Department of Administrative Services;
- B) An individual position description, reduced to writing;
- C) A written work plan when applicable;
- D) Written memorandum, when necessary; and
- E) Disciplinary action under Article 55 (Discipline and Discharge).

These criteria shall be the primary factors upon which an employee's performance is judged and upon which annual performance pay decisions are determined.

**Section 3.** No salary denial may be based upon any factor other than those listed above, except a denial based upon a disciplinary action.

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## ARTICLE 24 - SALARY ADMINISTRATION

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**Section 1. Merit Salary Increases.**<sup>1</sup> Employees shall be eligible for merit salary increases on their date of hire following:

- A) Completion of the initial twelve (12) months of service;

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<sup>1</sup> See attached Letter of Agreement (Step Freeze Advancement and Add/Drop Steps).

- B) Completion of a trial service following promotion; and
- C) Annual periods after (a) or (b) above until the employee has reached the top of the salary range.

Merit salary increases shall be made upon recommendation of the employee's immediate supervisor and approval of the Appointing Authority. Employees rated in Categories 4 and 5 shall not receive an increase. The Agency shall give written notice to an employee of withholding of a merit salary increase prior to the eligibility date, including a statement of the reason(s) it is being withheld. If a merit increase is not granted on the eligibility date, the employee's eligibility date is retained no longer than eleven (11) months. If the increase is subsequently granted within eleven (11) months, it shall be effective on the first of the following month and shall not be retroactive.

**Section 2. Rate of Pay Upon Promotion.** An employee who is promoted shall be given an immediate increase to the new salary range, which increase shall be no less than four percent (4%). When given such an increase at the time of promotion, the employee will be eligible for a salary increase the first of the month following six (6) months in the new class and annually thereafter.

**Section 3. Salary on Demotion.**

- A) When a trial service employee voluntarily demotes to a job classification with a lower salary range, the new rate of pay will be at that step in the new range the employee would have attained had he/she not served in the higher classification. If the employee had an eligibility date for a merit salary increase in the lower class, it shall be retained if the employee is not at the top of the new salary range.
- B) When a regular employee accepts a demotion, the salary rate shall not be changed if within the range of the new classification. At the employee's next eligibility date, the employee shall be eligible for an increase which shall be to an established rate in the range and equal to at least one (1) full step in that range. If the old rate is above the highest step for the new salary range, the rate shall be at the highest step in the lower range.
- C) When an employee is demoted for disciplinary reasons, the new rate of pay will be at a step in the lower range set by terms of the disciplinary action.

**Section 4. Rate of Pay Upon Upward Reclassification.** When an employee is non-competitively advanced because of reclassification of his/her position, he/she shall be given an increase in accordance with the provisions of Section 2 above.

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## **ARTICLE 25 - TRAVEL, MILEAGE AND MOVING EXPENSE REIMBURSEMENTS**

**Section 1. Travel and Mileage Allowance.** Reimbursements and procedures will be in accordance with Oregon Accounting Manual, Policy No. 40.10.00.PO, and its successors. Changes in this policy will be automatically incorporated into this contract article.

**Section 2. Moving Expenses.** Reimbursements and procedures will be in accordance with the Department of Administrative Services, Human Resource Services Division Policy 40.055.10 and its successors. Changes in this policy will be automatically incorporated into this contract article.

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## **ARTICLE 26 - MEALS**

The Agency shall reimburse an employee for a meal priced at five dollars and fifty cents (\$5.50) or less when he/she is, without prior notice, required to work more than two (2) hours beyond his/her normal work schedule and when, because of such extra work, the Agency Appointing Authority deems it unreasonable for the employee to return to his/her residence for the meal. This Article does not apply when an employee is on official travel status, and shall not be incorporated into the base rate of pay for overtime purposes.

## ARTICLE 27 - REVIEW OF CLASSIFICATION SERIES

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**Section 1.** The Department of Administrative Services, Human Resource Services Division shall notify the Union of intended classification studies prior to submitting the proposal under Section 2 of this Article.

**Section 2.** Whenever a change in class specifications or a new classification is proposed, it is agreed that the Department of Administrative Services, Human Resource Services Division will submit the proposal to the Union to provide opportunity for its review and comments. Within thirty (30) days of its receipt of the proposal, the Union may meet with the Division and may present arguments and recommendations where there are objections raised on behalf of the represented employees. Any extension of time specified shall be mutually agreed to in writing.

**Section 3.** The Union may recommend classification studies to be conducted by the Department of Administrative Services, Human Resource Services Division indicating the reasons for the need for such studies.

## ARTICLE 28 - RECLASSIFICATION PROCEDURE

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**Section 1.** The parties shall use the following procedure to process reclassification requests initiated by an employee or the Union.

- A) A completed Position Description Form (PD124) and a written explanation for a proposed reclassification request shall be submitted to the Agency Office of Human Resources.
- B) The Agency Office of Human Resources shall conduct a classification audit and review the merits of the request. The Union shall have an opportunity before the thirty (30)-day decision date to meet with the Agency Office of Human Resources to present arguments and recommendations where there are objections to the proposed reclassification. Within thirty (30) days after receipt of a reclassification request the Agency Office of Human Resources shall notify the Union of its decision. The parties may extend the time limit by mutual written agreement in those instances where the review process or other extenuating circumstances require additional time for analysis.
- C) In instances where the Agency Office of Human Resources denies the request, the employee may appeal the decision within fifteen (15) days to the Agency Head.
- D) If approved, the effective date of a reclassification implemented under this Article shall not be later than thirty (30) days from the date of filing the request with the Agency Office of Human Resources.
- E) When an employee is non-competitively advanced because of reclassification of his/her position, he/she shall be given an increase in accordance with the provision of Article 24 (Salary Administration), Section 2 (Rate of Pay Upon Promotion).
- F) The Agency Office of Human Resources shall furnish Position Description Forms at the request of the Union.

**Section 2.** When an Agency initiates an upward reclassification of a position, the affected employee shall be notified in writing.

**Section 3.** If a reclassification request which is approved by the Agency does not receive Department of Administrative Services or legislative approval, the duties of the position will be restructured to conform to the prior classification. The employee shall be paid the rate of pay of the higher level classification from the first of the month following the month in which the reclassification request was received by the Agency to the date the duties were removed.

**Section 4.** The Agency Office of Human Resources shall notify an incumbent employee and the Union in writing sixty (60) days in advance of a downward reclassification of a position and the specific reasons for the action. When an employee is reclassified downward, the employee's rate of pay shall be that of the last salary rate earned in the salary range of the previous classification. It shall remain at that rate until a rate in the salary range of the new classification exceeds it, at which time the employee's salary will be adjusted to that rate and

the salary review and eligibility date will be established one (1) year from that date provided the employee is not at the maximum of the salary range to which the employee was reclassified.

## **ARTICLE 29 - DOWNWARD RECLASSIFICATION**

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**Section 1.** The Agency Office of Human Resources shall notify an incumbent employee and the Union in writing sixty (60) days in advance of a downward reclassification of a position and the specific reasons for the action.

**Section 2.** When an employee is reclassified downward, the employee's rate of pay shall be that of the last salary rate earned in the salary range of the previous classification. It shall remain at that rate until a rate in the salary range of the new classification exceeds it, at which time the employee's salary will be adjusted to that rate and the salary review and eligibility date will be established one (1) year from that date provided the employee is not at the maximum of the salary range to which the employee was reclassified.

## **ARTICLE 30 - IMPLEMENTATION OF NEW CLASSES—APPEALS PROCESS**

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The appeals process is designed to allocate employees into new classes. Employees in positions allocated to a new classification, who dispute their placement within the new class, can appeal their placement using the following process:

**Section 1.**

- A) An appeal may be filed by an individual employee or a steward or a Council Representative on behalf of the employee, to the Agency personnel office within fifteen (15) calendar days of written notification by the Agency of placement into the new class. Employees sharing the same or substantially similar position descriptions or employees the Agency agrees to treat as a group may file an appeal as a group. The initial filing should describe the individual or group, including the names of affected members, identify the proposed placement, and the placement believed to be correct by the affected employees. The appeal must include current, signed position descriptions. Because the old classifications are to be abolished, correct placement cannot be back to the prior classification.
- The Agency shall conduct a review of the allocation using the following criteria:
- 1) The purpose of the job shall be determined by the statement of purpose and assigned duties of the position description and other relevant evidence of duties assigned by the Agency;
  - 2) The concept of the proposed classification shall be determined by the general description and distinguishing features of its class specification; and
  - 3) The overall duties, authority and responsibilities of the position shall be determined by the position description and other relevant evidence of duties assigned by the Agency. This decision shall be made within 30 calendar days of receipt of the appeal and provided to the affected employees in writing and with a summary of the classification analysis.
- B) If denied, the Union may appeal the Agency's decision in writing to the Labor Relations Unit within fifteen (15) calendar days of receipt of the written denial. The appeals will be considered by the Employer designee (or an alternate) and the Union designee (or an alternate) who shall form the committee charged with the responsibility to consider appeals and make decisions which maintain the integrity of the classification system by correctly applying the classification specifications. Additionally, the committee may utilize two resource persons, one designated by each party, to provide technical expertise concerning a specific series. The committee will attempt to resolve the matter by jointly determining whether the current or proposed class more accurately depicts the

overall assigned duties, authorities and responsibilities of the position using the criteria specified above.

In this process each of the designees may identify one alternate class that he/she determines most accurately depicts the purpose of the job and overall assigned duties. If an alternate class is identified, both the Union and Labor Relations Unit shall be notified. If the parties concur that shall end the allocation appeal. In the event the committee concludes that the proposed or alternate class is more appropriate, management retains the right to modify the work assignment on a timely basis to make it consistent with the Agency's allocation.

Appeals shall be decided in order of receipt by the Labor Relations Unit.

Decisions shall be rendered by the designees no later than sixty (60) calendar days of receipt of the appeal by the committee.

- C) The decision of the designees shall be binding on the parties. However, agencies may elect to remove/modify duties at any point during the process.
- D) If the appeals committee cannot make a decision, the Union may request final and binding arbitration by a written notice to the Labor Relations Unit within the next forty-five (45)-calendar day period. Each party may go forward with only one (1) class. Each party may choose to take to arbitration either the current class, class appealed to, or an alternate class identified by a committee member. The arbitrator shall allow the decision of the Agency to stand unless he/she concludes that the proposed classification more accurately depicts the overall assigned duties, authority, and responsibilities of the position.
- E) Where a position is vacated after the filing of the initial appeal, the Union may continue the appeal process and such appeals will be reviewed by the committee only after the review of all filled positions appeals is completed and where the Agency indicates that no change in duties is anticipated prior to refilling the position.
- F) This process terminates upon completion of the allocation process.

### **ARTICLE 31 - RETURN TO CLASSIFIED SERVICE FROM EXEMPT OR UNCLASSIFIED SERVICE**

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A regular employee who is appointed to a position in the unclassified or exempt service or a regular employee whose position is placed in the unclassified or exempt service by statute shall, after separation from the unclassified or exempt position, have the right to return to a position in the same Agency and in the same class (or equivalent class in the new class system) as the position last held in the classified service provided that a request is made within thirty (30) days from the date of separation. Should there be no vacant position available, a layoff shall occur. Should the employee who is seeking to return to the classified service have the least service credit among those in the class, that employee shall be laid off and his name shall be placed in order of service credit on both the Agency layoff list and the reemployment list for the class in which the layoff occurred.

### **ARTICLE 32 - REINSTATEMENT AFTER SEPARATION**

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A former regular or trial service employee who has separated in good standing may be reinstated to a position in his/her former class and division within two (2) years following the date of separation. However, a former employee shall not be reinstated if qualified persons are on layoff from the class and division or organization unit where the vacancy exists.

## ARTICLE 33 - PERSONNEL ADMINISTRATION

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**Section 1. Exit Interview.** Nurses terminating employment with the Employer are urged to request and will be granted an exit interview with their supervisor, the Director of Nursing, or the Human Resources (HR) Analyst.

**Section 2. Nurse Supervision.** RN's in the nursing service and covered by this Agreement shall be supervised and evaluated for their professional performance by other RN supervisors only. This Section does not preclude information from other personnel being used in the supervisory and evaluation process.

## ARTICLE 34 - PERSONNEL RECORDS

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**Section 1.** The Agency shall maintain one (1) official personnel file for each employee, located at the Human Resource Office. An individual employee may inspect his/her personnel file except confidential reports from previous employers. With the employee's written authorization, his/her Union Representative may inspect the employee's official personnel file or supervisory working file except confidential reports from previous employers.

**Section 2.** No information reflecting critically upon an employee shall be placed in the employee official personnel file that does not bear the signature of the employee. The employee shall be required to sign such material to be placed in his/her personnel file provided the following disclaimer is attached:

"Employee's signature confirms only that the supervisor has discussed and given a copy of the material to the employee, and does not indicate agreement or disagreement."

If the employee is not available within a reasonable period of time or the employee refuses to sign the material, the Agency may place the material in the file provided a statement has been signed by two (2) management representatives and a copy of the document was mailed to the employee at his/her address of record and a copy given to the Union.

**Section 3.** Records pertaining to an individual's qualifications, personnel actions, performance evaluations, commendations, or disciplinary matters shall be contained in the official personnel file. Excluding major infractions, the Employer may not use any information in any disciplinary action regarding any employee unless that information is included within the official personnel file.

**Section 4.** Material reflecting caution, consultation, warning, admonishment or reprimand or other disciplinary action shall be retained for a maximum of three (3) years in the official personnel file. However, such material may be removed after twenty-four (24) months, upon written request of the employee, provided there have been no incidents of a similar nature in the interim. Earlier removal may be permitted when requested by the employee and if approved by the appointing authority.

**Section 5.** Employees shall be entitled to prepare a written explanation or opinion regarding any critical material placed in his/her personnel file or supervisory working file. The employee's written explanation or opinion must be provided within ninety (90) days of the employee signing the material. The employee's written explanation or opinion shall be attached to the critical material and shall be included as part of the employee's official personnel record or supervisory working file until the critical material is removed. As confirmed by the appointing authority, incorrect material will be removed, upon request, from an employee's official personnel file.

**Section 6.** An employee may include in his/her official personnel file a reasonable amount of relevant material he/she wishes, such as letters of favorable comment, licenses, certificates, college course credits, or other material which relates creditably on the employee. This material shall be retained for a minimum of three (3) years or longer if required by the Secretary of State's Retention Schedule.

**Section 7.** Material relating to grievances, or disciplinary action recommended but not taken, or disciplinary actions which have been overturned on appeal shall not be retained in the employee's official personnel file.

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## ARTICLE 35 - TRIAL SERVICE

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### **Section 1. Initial Trial Service.**

- A) **Duration.** The trial service period is recognized as an extension of the selection process and is the time immediately following initial appointment to a position in the bargaining unit. All employees shall serve an initial trial service period of six (6) months.
- B) **Extension.** An employee's trial service period shall not be extended except in instances where an employee's leave without pay exceeds fifteen (15) consecutive calendar days. When such leave without pay exceeds fifteen (15) consecutive calendar days, the trial service period shall be extended by the number of days of the leave without pay.
- C) **Removal.** An employee may be removed during the trial service period if he/she displays an unwillingness or inability to perform the duties of a position satisfactorily; if he/she displays habits or dependability that do not merit his/her continuance in the service or classification; or because of lack of funds or work. Upon removal, the Agency shall forthwith notify in writing the employee removed and the Union of the action and the reason therefore. Such employee shall not have the right to grieve his/her trial service removal.
- D) **Transfer/Promotion.** An employee who is voluntarily transferred to another specialty area or promoted to another position prior to the completion of his/her initial trial service period, shall serve an additional six (6) months' trial service in the latter position in order to gain regular status. All other provisions of Section 1 will apply.
- E) For the duration of this Agreement, the parties agree that the Union will agree to six (6) month extensions of initial trial service when notified of the need by management. Said extensions shall not affect benefits or any other provision of this Agreement except that just cause and progressive discipline shall not apply to employees on extended trial service.

**Section 2. Rehire After Separation From Service.** All employees rehired after separation from service shall serve a trial service period of six (6) months. The provisions of Sections 1.B., 1.C. and 1.D. shall also apply.

### **Section 3. Promotional Trial Service.**

- A) **Duration.** All regular status employees promoted to a higher classification shall serve a trial service period of six (6) months.
- B) **Extension.** An employee's trial service period shall not be extended except in instances where an employee's leave without pay exceeds fifteen (15) consecutive calendar days. When such leave without pay exceeds fifteen (15) consecutive calendar days, the trial service period shall be extended by the number of days of the leave without pay.
- C) **Removal.** An employee who is serving trial service as a result of a promotion shall not have the right to grieve his/her removal from the promoted position. However, he/she shall have the right to return to an available position in his/her former specialty area.

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## ARTICLE 36 - FILLING OF POSITIONS

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**Section 1.** Positions may be filled by lateral transfer within the individual Agency programs prior to considering outside applicants. All subsequent vacancies shall be posted on designated bulletin board(s) for a minimum of seven (7) days. Postings shall include the work program or unit, shift, days off and qualifications for the job. All interested applicants shall apply at the locations specified. In cases where applicant's experience and qualifications are substantially equal, the principle of seniority shall be the deciding factor.

**Section 2. Agency Promotional Opportunities.** All positions in the bargaining unit that represent possible promotional opportunities for existing staff will be posted on a designated bulletin board(s) for a minimum of seven (7) calendar days. All interested applicants including employees shall apply at the locations specified. In cases where applicants' experience and qualification are substantially equal, the principle of seniority shall be the deciding factor. For purpose of this Article, seniority will be defined as total continuous State service.

## **ARTICLE 37 - LAYOFF AND RECALL**

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**Section 1.** A layoff is defined as a separation from the service because of shortage of funds or materials, abolishment of position, or for other involuntary reasons not reflecting discredit on an employee. An employee shall be given written notice of a pending layoff at least fifteen (15) days before the effective date, stating the reasons for the layoff.

**Section 2.** The Agency may lay off either part-time or full-time employees within a job classification according to the following procedure (job-share employees shall be considered part-time employees):

- A) The Agency shall determine the specific position to be vacated;
- B) Separate lists will apply to full-time and part-time employees in a classification;
- C) The employee and the Union shall be given written notice of the pending layoff at least fifteen (15) calendar days before the effective date, stating the reason(s) for the layoff; and
- D) The layoff will occur in the following order within the major affected nursing units:
  - 1) Temporary employees;
  - 2) Trial service employees; and
  - 3) Regular employees in inverse order of seniority.

**Section 3.** If it is found that two (2) or more employees in the Agency in which the layoff is to be made have equal seniority, the order of layoff shall be in inverse order of the greatest seniority. If this does not break the tie, then the greatest seniority in the Agency shall be used. If ties between employees still exist, the order of layoff shall be determined by the Agency in such a manner as to conserve for the State the services of the most qualified employees.

**Section 4.** A regular employee who is about to be laid off may displace an employee in the same class or demote and displace an employee in a lower RN classification within the Agency provided:

- A) The employee has more seniority than the employee with the least seniority in the classification; and
- B) The employee meets the qualifications for the position.

In order to displace someone per the provisions of this Section, the employee must notify the Agency HR Manager of his/her choice within five (5) calendar days of the receipt of the layoff notice.

**Section 5. Seniority.**

- A) **Seniority Definition.** Seniority is the Layoff Service Date (LSD), which is the date the employee began state service (the Recognized Service Date or RSD) as adjusted for break(s) in service.
- B) **Break in Service.** Continuous service is service without a separation from employment of more than ninety (90) consecutive days, except for layoff. Periods of leave without pay or layoff will be deducted from seniority. An employee, other than one laid off, who separates from the Employer's service for more than ninety (90) consecutive days and subsequently returns to employment, shall not regain previously earned service seniority.
- C) Upon signing of this Agreement, a one-time adjustment to the LSD will be made for eligible service prior to the date of signing this Agreement. This adjustment shall prorate the amount of time credited to the LSD to reflect all part-time regular hours worked.

**Section 6.** Any employee demoted in lieu of layoff may request at that time and shall be paid for all accrued compensatory time at the rate being earned prior to demotion in lieu of layoff.

**Section 7.** Employees may remain on layoff for up to two (2) years and shall not lose previously accrued credit for seniority nor service while on layoff, provided they return from layoff when first recalled.

**Section 8.** Employees shall be recalled to work in inverse order of layoff, provided they are qualified to perform the duties of the position available. A nurse who is passed over retains his/her position on the recall list.

**Section 9. Rate of Pay on Appointment from Layoff.** When an individual is appointed from a layoff list to a position in the same classification in which the person was previously employed, the person shall be paid at the same salary step at which such employee was being paid at the time of layoff. The employee's previous salary eligibility date, adjusted by the amount of break in service, shall be restored.

**Section 10. Secondary Recall Rights.**

A) **Application:** These rights apply to all employees in bargaining units represented by AFSCME at Central Table negotiations as well as the Department of Corrections and Board of Parole except employees who are laid off during initial trial service.

B) **Definitions:**

- 1) Geographic areas, for the purpose of secondary recall, are each location for which an employee may indicate his/her willingness to relocate on the State's PD100.
- 2) Agency Layoff Lists are intra-agency layoff lists, as defined in each AFSCME Central Table Agency and/or Department of Corrections and Board of Parole bargaining unit contract.
- 3) Secondary Recall List is an inter-agency layoff list, which consists of regular status employees who have been separated by layoff from Union-represented positions in AFSCME Central Table Agencies and/or Department of Corrections and Board of Parole and who have elected to be placed on such list, consistent with the definitions of geographic areas defined above.

C) **Coordination with Filling of Vacancy and Layoff Articles:** The recall options provided herein shall be consistent with the priority of recall to positions from layoff within an Agency, as specified within each Agency's contract, except that recall from Agency Layoff Lists shall take precedence over recall from the Secondary Recall List.

D) **Procedures:**

1) **Placement on the Secondary Recall List.**

- a) Regular status employees who are separated from the service of the State in good standing (meaning no record of economic disciplinary sanctions in his/her personnel file) by layoff or transferred outside state government due to intergovernmental transfer shall, in addition to their right to be placed on the Agency Layoff List, be given the option of electing placement on the Secondary Recall List by geographic area for other AFSCME represented bargaining units which utilize the same or successor classification from which they were laid off. The term of eligibility of candidates placed on the list shall be two (2) years from the date of layoff. When an employee is prohibited from participating in the secondary recall process due to the presence of an economic disciplinary sanction in his/her personnel file, that employee may request and shall be placed on the secondary recall list for the remainder of the two (2) years eligibility following layoff once the discipline has remained in the file for the length of time required by the agency's contract.
- b) Employees who elect to be placed on the Secondary Recall List shall specify in writing the AFSCME Central Table and/or Department of

Corrections and Board of Parole bargaining units and geographic areas to which they are willing to be recalled.

- 2) Use of the Secondary Recall List.
  - a) After the exhaustion of the Agency Layoff List for a specific classification within a geographic area, the Secondary Recall List shall be used to fill all positions within a specific classification and geographic area consistent with Section (c) above, until such secondary list is exhausted.
  - b) To be eligible for appointment from the Secondary Recall List, a laid off employee on such list must meet the minimum qualifications for the classification and any special qualifications for the position.
  - c) Agencies shall utilize the Secondary Recall List to fill positions by calling for certifications from the list of the five (5) most senior employees who meet the minimum qualifications for the classification and any special qualifications for the position to be filled by selecting one (1) of the five (5) so certified. Seniority for this purpose shall be computed as described per the layoff article of each Agency's contract.
  - d) Where fewer than five (5) eligible employees remain on the Secondary Recall List, the Agency shall select one (1) of these employees who meets the minimum qualifications for the class and any special qualifications for the position.
- 3) Appointments/Refusals of Appointments from the Secondary Recall List.
  - a) A laid off employee on the Secondary Recall List who is offered an appointment from the list and refuses to accept the appointment shall have his/her name removed from the Secondary Recall List; however, an Agency will not remove an employee's name from the Secondary Recall List where that individual had been a day shift employee and subsequently refuses the offer of a position with swing shift or night shift hours.
  - b) Employees appointed to positions from the Secondary Recall List shall have their names removed from their Agency Layoff List(s) and the Secondary Recall List.
  - c) Employees appointed to positions from the Secondary Recall List shall serve a trial service period not to exceed three (3) full months except that employees hired into the Offender Information and Sentence Unit as Prison Term Analyst (PTA) shall serve a trial service period consistent with the DOC agreement. Administration of the trial service period shall be consistent with the hiring Agency's contract. However, employees who fail to successfully complete this trial service period shall have their names restored to the Agency Layoff List(s) on which they previously had standing. Restoration to the Agency Layoff List(s) shall be for the remaining period of eligibility that existed at the time of appointment from the Secondary Recall List. An employee may also petition the DAS-Labor Relations Unit to also be restored to the Secondary Recall List for the remainder of the initial twenty-four (24)-month recall period where the trial service removal was not related to potential misconduct warranting an economic or dismissal sanction. In no instance shall the DAS-Labor Relations Unit's decision be grievable.
  - d) Employees appointed to positions from the Secondary Recall List shall not be entitled to moving expenses.

## ARTICLE 38 - HOLIDAYS

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**Section 1.** The following holidays will be recognized and paid for at the regular straight time rate of pay:

- A) New Year's Day on January 1.
- B) Martin Luther King's Birthday on the third Monday in January.
- C) President's Day on the third Monday in February.
- D) Memorial Day on the last Monday in May.
- E) Independence Day on July 4.
- F) Labor Day on the first Monday in September.
- G) Veterans' Day on November 11.
- H) Thanksgiving Day on the fourth Thursday in November.
- I) Christmas Day on December 25.
- J) Every day appointed by the Governor of the State of Oregon as a holiday.

**Section 2.** Employees who are required to work on days recognized as holidays which fall within their regular work schedules shall be entitled, in addition to their regular monthly salary, to compensatory time off for the time worked or, at the discretion of the Appointing Authority, to be paid cash for time worked. Compensatory time off or cash paid for all time worked shall be at the rate of time and one-half (1-1/2). The rate at which an employee shall be paid for working on a holiday shall not exceed the rate of time and one-half (1-1/2) of his/her straight time pay.

**Section 3.** Recognized holidays which occur during vacation or sick leave will be charged as holiday rather than vacation or sick leave.

**Section 4.** Holiday time off will be considered as time worked for purposes of computing overtime hours.

**Section 5.** Employees who have recognized holidays falling on their days off will be credited with compensatory time for these holidays.

**Section 6.** At the completion of six (6) full calendar months of service, full-time employees shall be entitled to twenty-four (24) hours of personal leave with pay for each fiscal year (July 1 through June 30). Part-time and seasonal employees shall be granted such leave on a prorated basis at the completion of one thousand forty (1040) hours each fiscal year. Personal leave shall not be cumulative from year to year nor is any unused leave compensable in any other manner. Such leave may be taken at times mutually agreeable to the Institution and the employee.

## ARTICLE 39 - VACATIONS

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### **Section 1. Accumulation.**

A) Full-time. Vacation leave shall be accumulated for full-time employees as follows:

In the 1st and through the 5th year	114 hours for each 12 months of service
After 5th year through the 10th year	138 hours for each 12 months of service
After 10th year through the 15th year	162 hours for each 12 months of service
After 15th year through 20th year	186 hours for each 12 months of service
After 20th year through 25 <sup>th</sup> year	210 hours for each 12 months of service
After 25 <sup>th</sup> year	234 hours for each 12 months of service

B) Part-time. Employees who work at least thirty-two (32) hours per month, but less than full-time, will accrue vacation leave on a prorated basis.

**Section 2. Rate of Pay.** Compensation for use of accrued vacation shall be at the employee's prevailing straight time rate of pay.

**Section 3. Vacation Time During First Year of Employment.**

- A) Employees are eligible to use vacation leave after six (6) months of service. A month of service for a part-time employee is any month the employee works thirty-two (32) hours or more. In the event of layoff or termination after six (6) months of service, any unused vacation will be paid to the employee.
- B) Employees may use up to sixteen (16) hours of accrued vacation leave during the first six (6) months of service. In no instance will this sub-section allow cash payment for the vacation accrued during the first six (6) months of service.

**Section 4. Return After Separation.** Employees who have been separated from and return to a permanent position within two (2) years shall be given credit toward additional vacation credits for service prior to their separations. All time in State service shall be counted as long as there is not a break in service of more than two (2) years.

**Section 5. Other Credited Service.** Time spent in actual service or on Peace Corps, military, educational, or job-incurred disability leave without pay shall be considered as time in the State service in determining length of service for earning vacation credits.

**Section 6. Ceiling.** Vacation hours may accumulate to a maximum of three hundred and twenty-five (325) hours; however, in the event of separation or layoff any unused vacation up to two hundred fifty (250) hours only will be paid to the employee.

**Section 7. Effect of Paid Leave on Vacation Accrual.** All paid time off shall be considered time worked.

**Section 8. Pay Upon Termination.** In the event of termination, any unused vacation will be paid to the employee.

**Section 9. Pay Upon Death.** In the event of an employee's death, all monies due him/her for accumulated vacation and/or salary shall be paid as provided by law.

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**ARTICLE 40 - SICK LEAVE**

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**Section 1. Sick Leave with Pay except for Temporary Employees.** Sick leave with pay for State employees shall be determined in the following manner:

- A) **Eligibility for sick leave with pay.** Employees shall be eligible for sick leave with pay immediately upon accrual.
- B) **Determination of service for sick leave with pay.** Actual time worked and all leave with pay, except for educational leave, shall be included in determining the pro rata accrual of sick leave credits each month, provided that the employee works thirty-two (32) hours or more in that month.
- C) **Accrual rate of sick leave with pay credits.** Employees shall accrue eight (8) hours of sick leave with pay credits for each full month worked. Employees who work less than a full month but at least thirty-two (32) hours shall accrue sick leave with pay on a pro rata basis.

**Section 2. Utilization of Sick Leave with Pay.** Employees who have earned sick leave credits shall be eligible for sick leave for any period of absence from employment which is due to the employee's illness, bodily injury, disability resulting from pregnancy, necessity for medical or dental care, exposure to contagious disease, attendance upon members of the employee's immediate family (employee's parents, wife, husband, children, foster children, brother, sister, grandmother, grandfather, grandchildren, son-in-law, daughter-in-law, or another member of the immediate household) where employee's presence is required because of illness or death in the immediate family of the employee or the employee's spouse. The employee has the duty to make other arrangements within a reasonable period of time, for the attendance upon children or other persons in the employee's care. Certification of an attending physician or practitioner may be required by the Agency to support the employee's claim for sick leave, if the employee is absent in excess of seven (7) days, or if the Agency has evidence that the employee is abusing sick leave privileges. The Agency may also require such certificate from an employee to determine whether the employee should be allowed to return to work where the Agency has

reason to believe that the employee's return to work would be a health hazard to either the employee or to others. The employee shall be entitled to use accrued vacation, compensatory time or leave without pay in any combination for the period of maternity leave.

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## **ARTICLE 41 - HARDSHIP LEAVE**

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These provisions shall apply for the purpose of allowing employees to donate accrued vacation leave and compensatory time for use by eligible recipients as sick leave. The Department will allow employees to make donations of accumulated compensatory time or vacation leave, not to exceed the hours necessary to cover for the qualifying absence, to a coworker as provided in paragraph C below. The transfer of accumulated Vacation Leave or compensatory time and the utilization of such leave shall be subject to the following and shall be strictly enforced with no exceptions:

- A) Employees on Workers' Compensation or parental leave may not participate in this program either as donors or donees.
- B) Donations shall be credited at the recipient's current regular hourly rate of pay. Donations shall be used to reimburse the Department for insurance contributions made pursuant to Article 50, unless health insurance payments are mandated under the Family and Medical Leave Act (FMLA). The employer shall not assume any tax liabilities that would otherwise accrue to the employee.
- C) The donor(s) and donee must be regular employees within the Department of Human Services.
- D) Use of donated leave shall be consistent with the provisions of Article 40, Section 2, Utilization of Sick Leave with Pay.
- E) Applications for hardship leave shall be in writing and sent to the Personnel Office and accompanied by the treating physician/practitioner's written statement certifying: (1) the illness or injury will continue for at least fifteen (15) days following donee's projected exhausting of his/her accumulated leave (including, but not limited to, sick, vacation, personal, and compensatory leave accruals); and, (2) the total leave will be at least thirty (30) consecutive calendar days of absence in combination of paid and unpaid leave. Donated leave may be used intermittently for the same event after the employee has satisfied the eligibility requirements to receive donated leave.

Donated vacation leave or compensatory time may be provided to employees in other agencies subject to the approval of the appointing authorities for the involved agencies.

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## **ARTICLE 42 - PRE-RETIREMENT COUNSELING LEAVE**

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After reaching earliest retirement age, each employee shall be granted up to three and one-half (3-1/2) days leave with pay to pursue bona fide pre-retirement counseling programs. Employees shall request the use of leave provided in this Article at least fifteen (15) days prior to the intended date of use.

Authorization for use of pre-retirement counseling leave shall not be withheld unless the Appointing Authority determines that the use of such leave will handicap the efficiency of the employee's work unit.

When the dates requested for pre-retirement leave cannot be granted for the above reason, the Agency shall offer the employee a choice from three (3) other sets of dates. The leave herein discussed may be used to investigate and assemble the employee's retirement program, including PERS, Social Security, insurance and other retirement income.

## **ARTICLE 43 - LEAVE OF ABSENCE WITH PAY**

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**Section 1.** An employee shall be granted a leave of absence without loss of pay or other benefits for the following:

- A) Service with a Jury. The employee may keep any money paid by the court for serving on a jury.
- B) Appearance Before a Court. Appearing as a witness before a court, legislative committee or judicial or a quasi-judicial body in response to a subpoena or other direction by proper authority for matters other than the employee's officially assigned duties. The employee may keep any money paid in connection with the appearance.
- C) Search or Rescue Operation. Participation at the request of any law enforcement agency, the Administrator of the Aeronautic Division, the United States Forest Service or any local organization for civil defense, for a period of no more than five (5) days for each operation.
- D) Military Leave. In accordance with ORS 408.290, an employee who is a member of the National Guard or of any reserve components of the armed forces of the United States is entitled to a leave of absence with pay for a period not exceeding fifteen (15) calendar days or eleven (11) workdays in any training year. If the training time for which the employee is called to active duty is longer than fifteen (15) calendar days, the employee may be paid for the first fifteen (15) days only if such time is served for the purpose of discharging an obligation of annual active duty for training in the military reserve or National Guard.
- E) Other authorized duties in connection with State business.
- F) As otherwise expressly provided for by Oregon statutes.

**Section 2. Attendance in Court.** Attendance in court in connection with an employee's officially assigned duties shall be considered time worked including the time required going to court and returning to his/her headquarters. The employee shall turn in to the Agency any witness fee money for such attendance during duty hours.

**Section 3. Job Interview Leave.** Interview leave shall be allowed pursuant to the following:

- A) Employees, subject to providing reasonable notice and receiving prior management approval, shall be allowed agency paid time to interview for positions within their agency when such interview(s) occurs during their work hours. An Appointing Authority or designee shall determine the appropriate amount of time for the interview and whether the time taken for interviews is excessive. Such determination is not subject to the grievance procedure.
- B) Employees, subject to providing reasonable notice and receiving prior management approval, shall be allowed up to two (2) hours of agency paid time to interview for positions with another state agency when such interviews(s) occurs during their work hours. An Appointing Authority or designee shall determine whether the amount of time requested for the interview is appropriate and whether the time taken for interview is excessive. Such determination is not subject to the grievance procedure.  
Interview leave time approved and taken to interview with another State agency that exceeds two (2) hours of agency paid time must be recorded as accrued leave, leave without pay, or managed through approved flex time within the same workweek.
- C) All interview leave time approved under Guidelines A and B must be recorded as IT on the employee's timesheet/time reporting period.
- D) Interview leave used shall not count as time worked for purposes of overtime.
- E) An agency shall not incur any employee reimbursement costs.

**Section 4. Bereavement Leave.** Notwithstanding the Hardship Leave or Sick Leave eligibility criteria of the affected collective bargaining agreements, employees shall be eligible for a

maximum of twenty-four (24) hours paid bereavement leave, prorated for part-time employees. The Agency may request documentation. If additional earned leave is needed, an employee may request to use earned sick leave credits, or leave without pay, at the option of the employee for any period of absence from employment to discharge the customary obligations arising from a death in the immediate family or the employee's spouse. Employees may, with prior authorization, use accrued vacation leave or compensatory time. Regular and Trial Service employees may be eligible to receive up to forty (40) hours of donated leave, to be used consecutively. The employee must have exhausted all available accumulated leave and qualify to receive hardship leave. For purposes of this Article, "immediate family" shall include the employee's or the employee spouse's parent, wife, husband, child, brother, sister, grandmother, grandfather, grandchild, or the equivalent of each for domestic partners, or another member of the immediate household.

## **ARTICLE 44 - LEAVE OF ABSENCE WITHOUT PAY**

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**Section 1. Leave of Absence without Pay.** In instances where the work of an Agency will not be seriously handicapped by the temporary absence of an employee, the employee may be granted a leave of absence without pay or educational leave without pay not to exceed one (1) year. Request for such leave must be in writing and must establish reasonable justification for approval of the request. A period of leave of fifteen (15) days or less shall be treated as leave without pay; and, during such period an employee shall not be scheduled for any vacation leave or compensatory time off that has accrued to the employee's credit. Where the leave is to exceed fifteen (15) days, any employee who is granted a leave of absence without pay normally shall first be scheduled for any vacation leave and compensatory time off that has accrued to the employee's credit for that portion of the leave which is in excess of fifteen (15) days. The first fifteen (15) days of a period of leave that is to exceed fifteen (15) days shall be treated as leave without pay; and, during that period, an employee shall not be scheduled for any vacation leave or compensatory time off that has accrued to the employee's credit. Normally, such leave will not be approved for an employee who is accepting employment outside the State service. Vacation leave shall not accrue during a leave of absence without pay, the duration of which exceeds fifteen (15) days. The Employer shall make every reasonable effort to reinstate the employee to his/her former assignment. An employee shall be granted leave without pay for the following:

A) **Military Leave.**

- 1) An employee going on voluntary or involuntary military service school training beyond eleven (11) workdays shall be entitled to leave without pay during a period of active duty training. However, reduction in salary will not be made for an FLSA-exempt employee on temporary military leave except for full workweek increments where such leave causes an absence of one (1) of one or more full workweeks.
- 2) An employee who enlists in the military service shall be entitled to a military leave of absence without pay during an initial enlistment period of service with the armed forces of the United States. He/she shall, upon separation from such service under honorable conditions be returned to a position in the same class, without loss of seniority or employment rights. Employees shall make application for reinstatement within ninety (90) days and shall report for duty within six (6) months following separation from active duty. Failure to comply may terminate military leave. If it is established that he/she is not physically qualified to perform the duties of his/her former position by reason of such service, he/she shall be reinstated in other work that he/she is able to perform at the nearest appropriate level of pay of his/her former class.

- B) Peace Corps. A regular employee joining the Peace Corps shall be entitled to a leave of absence without pay for at least two (2) years. Such employee shall have the right to return to a position in the same class as his/her last held position and at the prevailing salary rate without loss of seniority or other employment rights. Failure of the employee to report within ninety (90) days after termination of his/her service shall be cause for termination.

## ARTICLE 45 - LEAVE ADMINISTRATION

**Section 1. Compensatory Time.** Compensatory time for holidays and overtime worked may be accrued to a maximum of one hundred and twenty (120) hours. Subject to the operating requirements of the work unit, the Employer may require up to eight (8) days advance notice for requests to use one (1) to four (4) days of compensatory leave. Subject to the operating requirements of the unit, the Employer may require thirty (30) days advance notice for request of five (5) or more consecutive days off.

**Section 2. Vacation Time.** Employees shall be permitted to choose either a split or entire vacation. Subject to the operating requirements of the Agency, including the need to provide patient care, the employees shall have preference of vacation times. In case of conflict in scheduling, vacation times shall be selected on the basis of seniority. That is to say, the employee with the most seniority will be given first opportunity to secure the day(s) in conflict by exercising his/her seniority (assuming it is available to exercise). If the most senior decides not to do so, then the less senior employee will be given the same opportunity. In instances where neither employee chooses to exercise seniority to secure the day(s), a flip of the coin will be utilized to break the conflict. Each employee will be permitted to exercise his/her right or seniority only once in each two (2)-year period. The Agency shall use the following procedure for the selection of vacation time:

Vacation time off will be granted in quarterly blocks. Employees will be granted time off only for the next quarter. Exceptions granting leave requests for special events beyond the quarterly process will be considered by the supervisors and local union president. Where such an exception is granted, no employee may later use seniority to secure the vacation time.

Requests must be in writing and the deadline for submission each quarter is as follows:

<b>Time Blocks</b>	<b>Request Received By</b> <i>Notice – to be applied as defined below</i>
January 1 through March 31	November 15
April 1 through June 30	February 15
July 1 through September 30	May 15
October 1 through December 31	August 15

Requests submitted after the deadline will be considered on a time availability basis. In all instances of late submission, the employee shall forfeit his/her right to exercise seniority. The institution will grant or deny requests for vacation within eight (8) days of the request.

Employees may also use accrued compensatory time in conjunction with vacation time when scheduling vacations.

Any employee who has requested and/or received a change in assignment, i.e., days off, shift change or ward assignment and has previously approved vacation time off, must resubmit the request. Whenever possible, Management will try to accommodate previously approved leave.

**Section 3. Use of Accrued Time.** Accrued vacation and compensatory time for holidays and overtime worked will not be charged without specific authorization of the employee except:

- A) As provided otherwise in this Agreement;
- B) When an employee is laid off or terminated; and
- C) After an employee has been on leave without pay for more than fifteen (15) days.

**Section 4.** Vacations that have been scheduled may not be canceled by the Institution except in the event of an emergency. When unrecoverable vacation deposits in excess of fifty dollars (\$50.00) are incurred by an employee, the vacation shall not be canceled by the Institution. In the event of a schedule change caused by seniority or a transfer at the request of an employee, the provisions of this Section shall not apply.

**Section 5.** If schedule issues occur, the Director of Nursing Services has the authority to review the requests and will meet with the local Union president. Such review does not guarantee that the employee's request will be approved.

**Section 6. Trauma Recovery.** Nurses who have been directly involved in incidents of on-duty violence shall be approved, upon request, three (3) days of leave to assist in their recovery to be taken as sick leave, comp time off, other accrued leave or leave without pay. Prior notification requirements for leave requests will be waived.

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## **ARTICLE 46 - UTILIZATION OF BENEFIT TIME**

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**Section 1.** The parties agree that an employee's vacation and compensatory time off is an earned benefit to which the employee is entitled. Therefore, the accrued time will not be utilized except by agreement between the Agency and the employee with the following exceptions:

- A) Compensatory and vacation accrued but unused hours will be paid off upon termination, layoff other than temporary interruption of employment, military leave exceeding thirty (30) calendar days, educational leave exceeding thirty (30) calendar days and any other leave without pay exceeding fifteen (15) calendar days.
- B) The employer may cash out all but twenty (20) hours of compensatory time annually.

**Section 2.** Should an employee wish to take vacation within three (3) months of return from educational or military leave without pay, vacation leave without pay may be granted by the Agency if scheduling of work permits. The vacation period in this instance may not exceed fifteen (15) calendar days and any accrued vacation or compensatory time earned prior to the proposed leave date will be utilized first.

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## **ARTICLE 47 - VACATION AND SICK LEAVE CREDITS UPON TRANSFER**

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**Section 1. Vacation.**

- A) Upon transfer of an employee with six (6) full months of State service to a different State agency, the employee shall be paid in cash for vacation credit not used.
- B) Upon transfer of an employee with less than six (6) full months of service to a different agency, all vacation credits accrued shall be transferred to the gaining agency.

**Section 2. Sick Time.** An employee shall have all of his/her accrued sick leave credits transferred when the employee is transferred to a different State agency.

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## **ARTICLE 48 - RESTORATION OF SICK LEAVE CREDIT**

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Employees who have been separated from the State service and return to a position (except as a temporary employee) within two (2) years shall have unused sick leave credits accrued during previous employment restored.

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## **ARTICLE 49 - EFFECT OF LEAVE WITHOUT PAY**

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Time spent on leave without pay in excess of fifteen (15) consecutive calendar days or leave without pay for the purposes of maternity leave in excess of ninety (90) consecutive

calendar days shall not be considered as service in determining the employee's eligibility date for a salary increase unless such time has been spent on leave resulting from a job incurred disability.

## **ARTICLE 50 - INSURANCE**

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**Section 1.** An employer contribution will be made for each eligible employee who has at least eighty (80) paid regular hours in the month.

The contribution for eligible participating part-time employees with eighty (80) or more hours paid time for the month will be prorated based on the ratio of paid regular hours to full-time hours to the nearest full percent.

Effective January 1, 2009 through December 31, 2009, the Employer shall make a contribution sufficient to cover the premium costs for the PEBB health, dental and basic life benefits chosen by each eligible full-time employee who has at least eighty (80) paid regular hours in a month.

For plan year January 1, 2010 through December 31, 2010, the Employer will increase its monthly contributions by up to five percent (5%) of the actual monthly composite resulting for plan year 2009, should the cost of insurance premiums increase by that amount or more.

For plan year January 1, 2011 through December 31, 2011, the Employer will increase its monthly contributions by up to five percent (5%) of the actual monthly composite resulting from plan year 2010.

Should rates for 2010 or 2011 exceed the employer contribution, the parties shall jointly petition the Public Employees Benefit Board to use reserve funding to support any premium increase above five percent (5%) during either plan year.

The parties may jointly petition the PEBB to do as follows: Employees who live in counties where the PEBB considers there to be an insufficient number of preferred primary care providers within the PPO network will receive the same level of benefits when they use a non-preferred primary care provider as they would using a preferred primary care provider.

## **ARTICLE 51 - INCLEMENT CONDITIONS**

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### **Section 1.**

A) The Employer/Agency designated official(s) may close or curtail offices, facilities, or operations because of inclement weather or weather-related hazardous conditions. The Employer/Agency will announce such closure or curtailment to employees. The Employer/ Agency will strive to make its decision to close and/or postpone day shift no later than 5 a.m.; however, the parties recognize that changing conditions may require further adjustment. The Employer/Agency may provide this information through methods such as pre-designated internet web sites, phone trees, radio stations and/or television media. The Agency shall notify employees of these designations and post the notices on Agency bulletin boards by November 1<sup>st</sup> of each year. Notifications do not apply to employees who are required to report to work. Essential employees/positions shall be designated by the Agency by November 1 of each year. Such designations may be modified with two weeks advance notice to the affected employee(s).

B) Where the Employer/Agency has announced a delayed opening pursuant to Section 1A, employees are responsible for continuing to monitor the reporting sites for updated information related to the delay or potential closure. Employees may be allowed up to two hours commuting time as reasonably needed to report for work after a delayed opening has been announced. Where an employee arrives late due to this extended commute, he/she may cover the time with accrued vacation, compensatory time off, personal leave or approved leave without pay.

**Section 2.**

When the Employer/Agency notifies employees not to report to work pursuant to Section 1, prior to the beginning of the work shift the following applies:

- A) FLSA Non-Exempt Employees. Non-exempt employees shall not be paid for the period of the closure. However, employees shall be allowed to use accrued vacation, compensatory time off, personal leave or approved leave without pay for the absence(s).

A non-exempt employee arriving at work after the Employer/Agency has announced a closure or curtailment of operations may be directed to leave work and if so directed shall not be paid for the remainder of the shift unless utilizing accrued leave as described above. An employee who actually begins work shall be entitled to pay for all actual hours worked.

- B) FLSA Exempt Employees. The exempt employee shall be paid for the work shift. An FLSA exempt employee may be required to use paid leave or leave without pay where the closure applies to that employee for one or more full workweek(s)

**Section 3.**

When in the judgment of the Employer/Agency, inclement weather or weather-related hazardous conditions require the closing of the work place following the beginning of an employee's work shift, the employee shall be paid for the remainder of his/her work shift.

**Section 4. Alternate Work Sites.**

Employees may be assigned or authorized to report to work at an alternative work site(s) and be paid for the time worked.

**Section 5. Late or Unable to Report.**

Where the Agency remains open and an employee notifies his/her supervisors that he/she is unable to report to work, or will be late, due to inclement weather or weather-related hazardous conditions, the employee shall be allowed to use accrued vacation leave, compensatory time off, personal leave or approved leave without pay.

**Section 6. Employees on Pre-scheduled Leave.**

If an employee is on pre-scheduled leave the day of the closure, the employee will be compensated according to the approved leave.

**Section 7. Make-up Time Provisions.**

Subject to Agency operating requirements and supervisory approval, employees who do not work pursuant to Sections 2 and 5 of this Article may make-up part or all of their work time missed during the same workweek. In no instance will time worked during the make-up period result in overtime being charged to the Agency. The Employer/Agency shall not be liable for any penalty or overtime payments when employees are authorized to make up work.

**Section 8.**

Employees who are unable to report to work due to inclement weather and/or weather-related hazardous conditions may be allowed to work from home with prior approval of their supervisor.

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**ARTICLE 52 - HEALTH AND SAFETY**

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**Section 1.** The parties agree to abide by standards of health and safety in accordance with the Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991).

**Section 2.** Employees and management personnel should both be aware of safety and health regulations and recognize that they have a mutual responsibility to assist in maintaining good health and safety practices, procedures and regulations. These shall include but not be limited to the following:

- A) Use of mechanical safeguards;
- B) Adherence to known safety work practices;
- C) Proper use of personal protective safety devices and wearing apparel;

- D) Adherence to provisions applicable under the Occupational Safety and Health Act.

**Section 3.** Proper safety devices, apparel and equipment shall be provided by the Agency for all employees engaged in work where such items are necessary to meet the requirements of the Workers' Compensation Division. Such items, where provided, must be used.

**Section 4.** As soon as possible after initial appointment and annually thereafter, the Agency shall provide tuberculosis screening at no cost to the employee.

**Section 5.** If in the conduct of official duties an employee is exposed to serious communicable diseases which would require immunization against, testing for, or treatment of such communicable disease, this will be provided without cost to the employee.

**Section 6.** If an employee claims that an assigned job, or assigned equipment is unsafe or might unduly endanger his/her health, and for that reason refuses to do that job or use the equipment, the employee shall immediately give his/her reasons for this conclusion to his/her supervisor, in writing, who shall request an immediate determination by a representative of the appropriate investigating agency as to the safety of the job or equipment in question. A Union representative or nurse representative may accompany the investigating agency representative and employee(s) during the determination.

**Section 7.** Pending determination provided for in Section 6, the employee shall be given suitable work elsewhere. The Agency shall use its best efforts to schedule such work on the same days and shift as the employee was originally scheduled. If no suitable work is available the employee shall be sent home.

**Section 8.** Time lost by the employee as a result of any refusal to perform work on the grounds that it is unsafe or might unduly endanger his/her health shall not be paid by the Agency unless the employee's claim is upheld.

**Section 9.** All on-the-job accidents or exposure to serious communicable disease are to be reported to the Agency within twenty-four (24) hours of the occurrence on the appropriate Agency occupational injury report form. In the event of a claimed on-the-job accident or occupational disease that involves the care of a physician or lost time from work, the Agency agrees to assist employees with the preparation of the appropriate State Accident Insurance Fund claim form. An employee is expected to fill out this form within two (2) workdays of the physician's care or beginning of time loss.

**Section 10.** An employee who has sustained a compensable on-the-job injury shall be reinstated upon demand at the employee's choice to either his/her former employment or alternative employment within the employing Agency which the Agency has determined is available and suitable, provided that the employee is not disabled from performing the duties of such employment. Certification by a duly licensed physician of the employee's physical abilities and any limitation shall be prima facie evidence that the employee should be able to perform within the certified limits.

**Section 11.** Employee representatives on the Hospital Safety Committee shall be volunteers and elected by the bargaining unit.

**Section 12.** Nurses who believe there is a threat to the safety of patients or staff specific to nursing practice that has not been addressed through standard procedure or treatment plans shall report this perception to the DNS. Upon receipt of such a report, the DNS and AFSCME Local President or designee shall enter into discussion about the matter.

## **ARTICLE 53 - STAFF DEVELOPMENT**

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### **Section 1. Orientation.**

- A) Within the first month of employment, all newly hired employees, except temporary and limited duration employees, will be provided a general orientation. Such orientation shall include but not necessarily be limited to an explanation of the State's merit system, compensation program, fringe benefits, insurance programs and performance evaluation program.

- B) The Agency will also provide an appropriate orientation to acquaint new employees with nursing standards, policies, procedures and routines. The orientation will be carried out as soon as practical after employment and in accordance with a specific plan. The duration of the orientation shall continue at least at the present level.
- C) When assigned to a patient care area, each nurse shall be provided additional orientation to prepare him/her to the area or assignment. Such orientation is to be in accordance with a specific plan designed for that patient care area. Such an overall plan may be modified for a specific nurse in accordance with the nurse's educational background and work experience.
- D) Regular evaluation of the nurse's performance throughout orientation will occur to determine additional needs for the nurse.
- E) At no time, in any period of orientation, shall the nurse being oriented be counted in the staffing complement of any unit.
- F) During general Hospital orientation a Union representative will be allowed to explain the benefits of Union membership.

**Section 2. Continuing Education.**

- A) The Agency will continue its practice of providing in-service education for all RN's, on all shifts, on a regular basis.
- B) Training for employees may be conducted both during and outside an employee's work schedule. Overtime rules shall apply where the employee's attendance is required by the Agency, when training is not voluntary and the sessions involve time outside the employee's works schedule.
- C) Employees may be granted leaves of absence with pay to attend conferences, seminars, briefing sessions or other functions of a similar nature that are intended to improve or upgrade the individual's skills or professional abilities or enhance the profession. Tuition and other expenses may also be provided. The tuition and other expenses provided by the Agency shall be reasonably related to the actual costs of the specific function. If granted, employees will not lose pay, nor will schedules be adjusted so that the conference falls on off days.

**Section 3.** If Registered Nurses wish to pursue higher education in nursing and are accepted by an education institution, the Hospital may facilitate the employee's efforts by reimbursement of tuition and/or scheduling accommodations subject to budgetary constraints, directives and operating needs.

**Section 4.** Psychiatric Nurse Practitioner Education Leave. Psychiatric Nurse Practitioners shall receive fifty (50) hours of paid leave annually to complete the required continued education requirements.

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## **ARTICLE 54 - GRIEVANCE AND ARBITRATION**

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**Section 1.** The grievance/arbitration procedure provides the means by which disputes or problems between the parties which arise concerning the application, meaning or interpretation of this Agreement are to be resolved.

An alleged violation of the Agreement must be taken up at STEP 1 of the procedure within thirty (30) days from the time the employee had knowledge, or in the normal course of events should have had knowledge, of the occurrence which created the problem. Disciplinary actions must be grieved within the thirty (30) day period, except for suspension and discharge which must be grieved within ten (10) days as described in Article 56 (Discipline and Discharge).

**Section 2.**

- **STEP 1.** The employee or the Union on the employee's behalf shall present his/her grievance, in writing on the "Official Grievance Form" or facsimile, to his/her immediate supervisor within the appropriate time limit. The written grievance statement shall include, to the best of the employee's understanding:

- A) The date the grievance occurred;
- B) A description of the problem;
- C) The contract provision alleged to be violated; and
- D) The remedy sought.

The supervisor shall investigate the grievance and respond in writing within ten (10) days of the receipt of the grievance. If the response is unsatisfactory, the employee shall submit the written grievance and the response from the supervisor at STEP 1 to the Department Head at STEP 2. The grievance must be submitted within ten (10) days of the receipt of the response at STEP 1.

- **STEP 2.** The Department Head shall investigate the grievance and respond in writing within ten (10) days of receipt of the grievance. If the response from STEP 2 is unsatisfactory, the written grievance, unchanged, showing the response if any from STEP 1 and STEP 2 shall be submitted to the Agency Head. The grievance must be submitted within ten (10) days of the receipt of the response at STEP 2.
- **STEP 3.** The Agency Head or his/her designee shall investigate the grievance and respond in writing with ten (10) days of receipt of the grievance. If the response from STEP 3 is unsatisfactory, the written grievance, showing the responses if any from STEP 1, STEP 2, and STEP 3 shall be submitted to the Department of Administrative Services, Labor Relations Unit within ten (10) days of receipt of the response at STEP 3.
- **STEP 4.** The Department of Administrative Services, Labor Relations Unit shall investigate the grievance and respond in writing within fifteen (15) days of receipt of the grievance. If the grievance is not satisfactorily resolved by the Labor Relations Unit, the Union, on behalf of the employee, may advise the Labor Relations Unit within ten (10) days of receipt of the Unit's response that it wishes to arbitrate the grievance.
- **Arbitration.**
  - A) Any grievance, having progressed through the Steps as outlined herein and remaining unresolved, may be submitted by the Union to arbitration. To be valid, a request for arbitration must be in writing and received by the Department of Administrative Services, Labor Relations Unit within fifteen (15) days of the receipt of the response from the Department of Administrative Services, Labor Relations Unit review process.

If the grievance is to be submitted to arbitration, a pre-arbitration meeting will be held between the parties in an attempt to formulate a submission agreement to be forwarded to the arbitrator.
  - B) **Selection of the Arbitrator.** In the event that arbitration becomes necessary, the Union and the Employer will request a list of no less than five (5) qualified arbitrators from the Employment Relations Board. The Union and the Employer will select an arbitrator by alternately striking names, with the moving party striking first, one (1) name at a time until only one (1) name remains on the list. The remaining name shall be the arbitrator for the grievance.
  - C) The parties agree that the decision or award of the arbitrator shall be final and binding on each of the parties and that they will abide thereby. The arbitrator shall have no authority to add to, subtract from, or change any of the terms of this Agreement.
  - D) The arbitrator's fee and expenses shall be paid by the losing party. If, in the opinion of the arbitrator, neither party can be considered the losing party, then such expenses shall be apportioned as in the arbitrator's judgment is equitable. All other expenses shall be borne exclusively by the party requiring the service or time for which payment is to be made.

**Section 3.** The Union has the right to represent the employee at any step in the grievance procedure, or if the employee chooses to represent himself/herself, the Union has the right to be present at any meetings or hearings, to receive copies of the grievance, to receive copies of the responses from each step in the grievance procedure, to advise the Agency/Employer that it

believes a settlement was a violation of the Agreement. A union grievance of this nature shall be filed at STEP 3. The provisions of this Section shall not diminish the statutory rights granted the Exclusive Representative in ORS 243.666.

**Section 4.** Time limits specified in this procedure must be observed unless extended by mutual agreement of the parties in writing.

**Section 5.** At STEP 1, the parties understand that the grievant will explain the grievance and indicate the contract provision(s) violated to the best of his/her understanding. However, beginning at STEP 2, the parties agree that the description of the problem will be complete and that the contract provision(s) alleged to be violated will be specifically identified.

**Section 6.** The parties agree to use the "Official Grievance Form" or facsimile for the processing of grievances and that beginning at STEP 2, it shall be complete with all information required on the form at that step.

**Section 7.** The parties shall meet and discuss a grievance at STEP 2 and 3 of the grievance procedure unless such meetings are mutually waived. Other meetings may be held by mutual agreement.

## **ARTICLE 55 - DISCIPLINE AND DISCHARGE**

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**Section 1.** The principles of progressive discipline shall apply to disciplinary actions except when the Agency must take a more immediate action. A regular status FLSA-non-exempt employee may be suspended, reduced in pay, demoted, or dismissed only for just cause. A regular status FLSA-exempt employee may be suspended consistent with the salary status requirements of the FLSA, demoted, or dismissed only for just cause.

**Section 2.** Employees who have completed their initial trial service shall not be subject to suspension and/or discharge except for just cause.

**Section 3.** A written pre-dismissal notice shall be given to employees who have served their initial trial service period and against whom a charge is presented. Such notice shall include the known complaints, facts and charges, and a statement that the employee may be dismissed. The employee shall be afforded an opportunity to refute such charges or present mitigating circumstances to the Agency or his/her designee at a place, time and date set forth in the notice which date shall not be less than seven (7) calendar days from the date the notice is received. The employee shall be permitted to have an official representative present. At the discretion of the Agency, the employee may be suspended with or without pay, consistent with the salary status requirements of the FLSA, or be allowed to continue to work, as specified in the pre-dismissal notice.

**Section 4.** Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be grounds for disciplinary action. Any employee who absents himself/herself for five (5) consecutive work days without authorized leave shall be deemed to have resigned. Such absence may be authorized by the Agency by a subsequent approval of leave with or without pay consistent with the salary status requirements of the FLSA, when extenuating circumstances are found to have existed.

**Section 5.** An employee suspended or dismissed under the provision of this Article must submit a grievance in writing to the Superintendent or designee within ten (10) days of the date a notice of the action is delivered in person to the employee or fourteen (14) days of the date the notice is placed in U.S. certified mail to the most recent address of record. Concurrently, a notice will be mailed to the Union.

No employee shall be subject to disciplinary action or separation for:

- A) Disclosure, not prohibited by law, of violation of laws, rules, other improper actions or inefficiency of superior officers or fellow employees.
- B) Adherence to the Nurse Practice Act (ORS 678.301 - 678.410).
- C) Adherence to the Oregon Administrative Rules Chapter 851 established by the Board of Nursing pursuant to the Nurse Practice Act.

**Section 6.** Upon request, an employee shall have the right to Union representation during an investigatory interview that an employee reasonably believes will result in disciplinary action. The employee will have the opportunity to consult with a local Union Steward or an AFSCME Council Representative before the interview, but such consultation shall not cause an undue delay.

## **ARTICLE 56 - RECOUPMENT OF WAGE AND BENEFIT OVERPAYMENTS AND UNDERPAYMENTS**

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### **Section 1. Overpayments.**

- A) In the event that an employee receives wages or benefits from the Agency to which the employee is not entitled, regardless of whether the employee knew or should have known of the overpayment, the Agency shall notify the employee in writing of the overpayment which will include information supporting that an overpayment exists and the amount of wages and/or benefits to be repaid. For purposes of recovering overpayments by payroll deduction, the following shall apply:
- 1) The Agency may, at its discretion, use the payroll deduction process to correct any overpayment made within a maximum period of two (2) years before the notification.
  - 2) Where this process is utilized, the employee and Agency shall meet and attempt to reach mutual agreement on a repayment schedule within thirty (30) calendar days following written notification.
  - 3) If there is no mutual agreement at the end of the thirty (30) calendar day period, the Agency shall implement the repayment schedule stated in sub (4) below.
  - 4) If the overpayment amount to be repaid is more than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in monthly amounts not exceeding five percent (5%) of the employee's regular monthly base salary. If an overpayment is less than five percent (5%) of the employee's regular monthly base salary, the overpayment shall be recovered in a lump-sum deduction from the employee's paycheck. If an employee leaves Agency service before the Agency fully recovers the overpayment, the remaining amount may be deducted from the employee's final check.
- B) An employee who disagrees with the Agency's determination that an overpayment has been made to the employee may grieve the determination through the grievance procedure.
- C) The Article does not waive the Agency's right to pursue other legal procedures and processes to recoup an overpayment made to an employee at any time.

### **Section 2. Underpayments.**

- A) In the event the employee does not receive the wages or benefits to which the record/documentation has for all times indicated the employer agreed the employee was entitled, the Agency shall notify the employee in writing of the underpayment. This notification will include information showing that an underpayment exists and the amount of wages and/or benefits to be repaid. The Agency shall correct such underpayment made within a maximum period of two (2) years before the notification.
- B) This provision shall not apply to claims disputing eligibility for payments which result from this Agreement. Employees claiming eligibility for such things as leadwork, work out of classification pay or reclassification must pursue those claims pursuant to the timelines specified elsewhere in this Agreement.

## **ARTICLE 57 - ABUSE/NEGLECT INVESTIGATIONS**

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### **Section 1.**

- A) The employee shall be informed in writing of the charges against him/her before the employee is required to respond to questions concerning the complaint or charges.
- B) Management shall attempt to schedule interviews as close to the employee's regular shift as possible. Off-duty staff may be mandated and/or called back to work to be interviewed. Employees are required to participate in initial and follow-up interviews.
- C) Employees shall be notified in writing of the results of the investigation.

**Section 2. Alternative Assignments.** Nurses removed from their usual stations for the duration of the investigation shall be assigned other duties.

## **ARTICLE 58 - COMPLETE AGREEMENT**

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This contract incorporates the sole and complete Agreement between the Employer and the Union. It is acknowledged that during negotiations which resulted in the Agreement, each and all had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The Agreement shall not be modified in whole or in part except by another written instrument duly executed by the parties.

## **ARTICLE 59 - TERM OF AGREEMENT**

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**Section 1.** This Agreement shall be in full force and effect from July 1, 2009 unless otherwise provided in this Agreement, through June 30, 2011.

**Section 2.** The Fair Share provision of this Agreement shall become effective the month of signing, unless the payroll cutoff date for that month has already passed, in which event it will be effective the month following signing.

**Section 3.** If either the State or the Union desires to extend, renegotiate, or modify this Agreement, the moving party shall notify the other party in writing during the period of November 1, 2010 through January 1, 2011.

## **ARTICLE 60 - TEMPORARY INTERRUPTION OF EMPLOYMENT**

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When the Employer declares that a temporary interruption of employment should be considered because of lack of funds, either party may provide the other with written notice to meet and discuss possible terms of such interruption or alternative options. Such meeting must occur within thirty (30) days of the declaration. Terms and alternatives shall be subject to mutual agreement by the Union and the Employer. The parties agree that any and all discussions that take place under this Section shall not be subject to the Complete Agreement articles of any of the agreements or constitute interim negotiations under PECBA. In addition, the parties will not be required to use the dispute resolution process contained in the PECBA.

## **ARTICLE 61 - CONTRACTING OUT**

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**Section 1.** The Union recognizes that the Employer has the management right, during the term of this Agreement, to decide to contract out work performed by bargaining unit members. However, when the contracting out will displace bargaining unit members, such decisions shall be made only after the affected Agency has conducted a formal feasibility study determining the potential costs and other benefits which would result from contracting out the work in question.

The Employer agrees to notify the Union within one (1) week of its decision to conduct a formal feasibility study, indicating the job classifications and work areas affected. The Employer shall provide the Union with no less than thirty (30) days notice that it intends to request bids or proposals to contract out bargaining unit work where the decision would result in displacement of bargaining unit members. During this thirty (30) day period, the Employer shall not request any bids or proposals and the Union shall have the opportunity to submit an alternate proposal. The notification by the Employer to the Union of the results of the feasibility study will include all pertinent information upon which the Employer based its decision to contract out the work including, but not limited to, the total cost savings the Employer anticipates.

Feasibility studies will not be required when: (1) an emergency situation exists as defined in ORS 279.011(4), and (2) either the work in question cannot be done by available bargaining unit employees or necessary equipment is not readily available.

Nothing in this Article shall prevent the Employer from continually analyzing its operation for the purpose of identifying cost-saving opportunities.

**Section 2.** The Employer shall evaluate the Union's alternate proposal provided under Section 1. If the Employer's evaluation of the Union's alternate proposal confirms that it would result in providing quality and savings equal to or greater than that identified in the management plan, the Parties will agree in writing to implement the Union proposal.

**Section 3.** Should any full-time bargaining unit member become displaced as a result of contracting out, the Employer and the Union shall meet to discuss the effect on bargaining unit members. The Employer's obligation to discuss the effect of such contracting does not obligate it to secure the agreement of the Union or to exhaust the dispute resolution procedure of ORS 243.712, 243.722, or 243.742, concerning the decision or the impact.

"Displaced" as used in this Article means when the work an employee is performing is contracted to another entity outside state government and the employee is removed from his/her job.

**Section 4.** Once an Agency makes a decision to contract out, the Agency will choose either (A) or (B) below. The Agency will notify affected employees of the option selected. The Agency will post and provide to the Union, a list of service credits for employees in all potentially affected classifications within the Agency. Within five (5) business days of the notice, the affected employees will notify the Agency of acceptance of the Agency's option or decision to exercise his/her rights under (c) below:

- A) Require the contractor to hire employees displaced by the contract at the same rate of pay for a minimum of six (6) months subject only to "just cause" terminations. In this instance, the state will continue to provide each such employee with six (6) months of health and dental insurance coverage through the Public Employee Benefits Board, if continuation of coverage under the Public Employees Benefits Board is allowed by law and pertinent rules of eligibility. Pursuant to Article 37, an eligible employee shall be placed on the Agency layoff list and may, at the employee's discretion, be placed on a secondary recall list for a period of two (2) years; or
- B) Place employees displaced by a contract elsewhere in state government in the following order of priority: within the Agency, within the department, or within state service generally. Salaries of employees placed in lower classifications will be red-circled. To the extent this Article conflicts with Article 36, Filling of Positions, this Article shall prevail.
- C) An employee may exercise all applicable rights under Article 37, Layoff.

**Section 5.** The following provisions govern the administration of the requirement under this Article to conduct feasibility studies in cases of contracting out and will supplement the provisions included in the contract.

- A) The Employer agrees that all AFSCME represented state agencies will conduct a feasibility study in instances of contracting out work performed by bargaining unit

employees when contracting out will result in displacement of bargaining unit employees.

- B) The Parties agree that AFSCME-represented agencies will send directly to AFSCME's Executive Director and to DAS HRSD Labor Relations Unit all future notices of intent to conduct a feasibility study pursuant to Section 1.

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## **LETTER OF AGREEMENT - Article 61, Contracting Out Feasibility Study**

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This Letter of Agreement is entered into between the State of Oregon Department of Administrative Services, on behalf of all State Agencies covered by the State of Oregon and AFSCME Central Table.

When the provisions of Article 61, Section 5, require a feasibility study, the following will apply:

The Employer will count eighty percent (80%) of the affected employee's straight-time wage rate when comparing the two (2) plans.

This Agreement is effective through June 30, 2011.

## **LETTER OF AGREEMENT - Interim Committee On Health Insurance Trends And Issues**

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This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) on behalf of the agencies participating at the Central Table and the American Federation of State, County and Municipal Employees, Council 75 (Union).

This Agreement covers employees in the Union's bargaining units covered by the Central Table Negotiations.

DAS agrees to form an interim workgroup during the 2007-2009 contract term to discuss health insurance trends, issues, and options for future state employee benefits. The discussion shall also include the conceptual and procedural issues raised by the Union's April 2, 2007 proposal for a Health Reimbursement Arrangement. The workgroup will be coordinated by DAS and will include representatives from both management and labor.

AFSCME may designate up to three (3) participants from the AFSCME Central Table, one (1) from the DOC Security unit, and one (1) from the DOC Security Plus unit. Such employees will be in paid status if attending workgroup meetings which cross over their regular work hours.

## **LETTER OF AGREEMENT - Part-Time Employees Health Insurance Subsidy**

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This agreement is between the State of Oregon acting through its Department of Administrative Services (Employer) and the AFSCME (Union).

The Parties agree to the following:

The Employer will continue to pay the current part-time subsidy for eligible part-time employees who participate in the part-time plan through December 31, 2009, as follows:

- Employee Only (EE) - \$206.94\*
- Employee and Family (EF) - \$268.05\*
- Employee & Spouse – (ES) - \$264.11\*
- Employee & Children (EC) - \$235.47\*

For Plan Year 2010 and 2011, the subsidy will be paid at an amount so that employees will continue to pay the same out-of-pocket premium costs that were in effect for Plan Year 2009. If an employee changes from one tier to another or changes plan pursuant to PEBB

rules, his/her out-of-pocket premium costs will be adjusted to reflect the appropriate plan year's out-of-pocket premium costs for his/her new tier.

\*PEBB to provide specific amounts.

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### **LETTER OF AGREEMENT - Intermittent Union Leave**

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When Union officials (officers and stewards) are designated in writing by the Executive Director of Oregon AFSCME to attend AFSCME Council 75 Biennial or AFSCME International Conventions, the following provisions apply.

- 1) The Executive Director of Oregon AFSCME shall notify affected agencies in writing of the name of the employee(s) at least thirty (30) days in advance of the date of the AFSCME Convention. For agencies of 100 or fewer bargaining unit members, no more than one bargaining unit member per agency may be designated to attend AFSCME conventions. For agencies of greater than 100 bargaining unit members, no more than two bargaining unit members may be designated to attend AFSCME conventions under this provision.
- 2) Subject to agency head or designee approval based on the operating needs of the employee's work unit, including staff availability, the employee will be authorized release time with pay.
- 3) The paid release time is limited to attendance at the conference and travel time to the conference if such time occurs during the employee's regularly scheduled working hours up to forty (40) hours per calendar year.
- 4) The release time shall be coded as Union business leave or other identified payroll code as determined by the State.
- 5) The release time shall not be included in the calculation of overtime nor considered as work related for purposes of workers' compensation.
- 6) The employee will continue to accrue leaves and appropriate benefits under the applicable collective bargaining agreement except as limited herein.
- 7) The Union shall, within thirty (30) days of payment to the employee, reimburse the State's affected agency for all Employer related costs associated with the release time, regular base wage and benefits, for attendance at the applicable conference.
- 8) The Union shall indemnify and the Union and employee shall hold the State harmless against any and all claims, damages, suits, or other forms of liability which may arise out of any action taken or not taken by the State for the purpose of complying with these provisions.

This Letter of Agreement expires June 30, 2011.

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### **LETTER OF AGREEMENT - Violence in the Workplace**

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This Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) on behalf of the Oregon State Hospital (Agency) and the American Federation of State, County and Municipal Employees Council 75 and its Local 3295 (Union or Council 75).

The parties agree that violence in the workplace issues need to be addressed. To that end, OSH management agrees to provide a forum to address violence in the workplace, in which all bargaining units are represented, within sixty (60) days of execution of the '07-'09 collective bargaining agreement.

This LOA will be effective upon execution of the '09-'11 collective bargaining agreement and expires on June 30, 2011.

### **LETTER OF AGREEMENT - Veterans' Preference**

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This Letter of Agreement is between the State of Oregon, acting through the Department of Administrative Services, hereinafter referred to as The Employer or The State, and the American Federation of State, County and Municipal Employees, hereinafter referred to as AFSCME or the Union. This Letter of Agreement shall become effective 15 days after the date of the last signature below, and shall be incorporated into and be made a part of the contracts identified below for the successor contracts ending June 30, 2011. The contracts shall include the Department of Public Safety, Standards and Training; the Oregon State Fire Marshall; the Oregon State Police Support Unit; the Building Codes Division; the Oregon Liquor Control Commission; the Department of Land Conservation and Development; the Department of Environmental Quality; the Oregon Military Department; the Office of Emergency Management; the Department of Corrections Dentists; the Department of Human Resources Physicians; the Oregon State Hospital Nurses, the Construction Contractors Board; the Real Estate Agency; the Department of State Lands; the Employment Department Hearings Officers; the State Operated Community Programs, the OYA Juvenile Parole and Probation Officers; the Department of Corrections Security Unit; the Department of Corrections Security Plus Unit; the Department of Corrections Parole and Probation Officers and the Oregon State Board of Parole.

The Employer and the Union recognize that Senate Bill 822 provides that an employer may choose not to appoint a veteran to a vacant position solely on the basis of the veteran's merits or qualifications with respect to the vacant civil service position.

For recruitments where the veteran has been determined to be otherwise qualified and the selection process results in a quantified score, Senate Bill 822, Section 2 (1) (a) and (b) shall apply. If this process results in two or more candidates deemed equal and the Employer elects to appoint one of the candidates, the veteran shall be appointed, the seniority provisions of the respective collective bargaining agreements notwithstanding.

For recruitments where the decision to hire or promote rests with a process that does not result in a score, the employer must give the veteran special consideration in such process per SB 822, Section 2 (1) (c).

The provisions of Senate Bill 822 do not apply to grievance settlements, court mandates, Agency recall from layoff and injured worker returns to employment. Secondary recall lists are applicable to the provisions of Senate Bill 822.

### **LETTER OF AGREEMENT - Step Freeze Advancement And Add/Drop Steps**

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This agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and AFSCME Council 75 (Union).

This agreement shall cover all agencies and AFSCME locals under the jurisdiction of the AFSCME Central Table.

This agreement supersedes all provisions in all agreements pertaining to step advancement upon the affected employees' salary eligibility dates (SED).

Effective September 1, 2009, the Letter of Agreement dated December 13, 2007 to add and drop steps for each salary range in all classifications in the bargaining units is suspended.

Effective September 1, 2009, the following shall also apply:

1. Employees advancing to the new top step of their classification on or after July 1, 2009 through August 31, 2009 as a result of the December 14, 2007 Letter of Agreement will have their pay reduced to the prior top step. Employees advancing to a higher first step by virtue of the first step being dropped shall not have their pay reduced.
2. Employees advancing on the pay scale within their classification's salary range on or after July 1, 2009 through August 31, 2009 will be restored to their former step in effect prior to implementation of the December 13, 2007 Letter of Agreement.
3. For purposes of step advancement under the applicable provision of the agreements, employees having steps remaining in their classification after June 30, 2009 shall not receive these step advancements during the freeze period.
4. This agreement does not affect the initial increase upon promotion and reclassification upward but does affect any subsequent step advancement in the new classification. However, promotions or reclassifications to the new top step shall be subject to subsection #1 above.
5. For initial appointments in the state service occurring between July 1, 2009 and September 1, 2009, the affected employee shall receive a one step increase on September 1, 2010 and on their SED as pursuant to the local agreements. This subsection shall not apply to OAJA.
6. For purposes of promotion, if the employee promotes on the first of the month that date becomes the salary eligibility date (SED). For employees promoted after the first of the month the salary eligibility date will be established as the first of the month following the date of promotion.
7. The step freeze shall continue for twelve (12) months through August 31, 2010.
8. When the step freeze is lifted, an employee receiving a merit step or advanced to the new top step in July or August of 2009 will be restored on September 1, 2010 to the higher rate that was in effect through August 31, 2009. All other employees will commence receiving step increases on their salary eligibility date (SED) effective September 1, 2010,

## **LETTER OF AGREEMENT - Alternatives To Layoff**

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This agreement is between the State of Oregon acting through its Department of Administrative Services (Employer) on behalf of the Agencies covered under the jurisdiction of the AFSCME Central Table (Agency) and AFSCME Council 75 (Union).

The parties agree to the following:

1. When the Agency believes that a lack of funds requires a layoff, the Agency will notify the Union no fewer than fifteen (15) calendar days before the Agency issues initial layoff notices. The parties will meet, if requested by either the Agency or Union, to consider alternatives to layoffs such as voluntary reductions in hours or workdays, temporary interruptions of employment or other voluntary employment options. Alternatives to the

2.
  - A. Agency and Union discussions under this agreement shall not constitute interim bargaining under the Public Employees Collective Bargaining Act. The parties shall not be required to use the dispute resolution procedures contained in the Public Employees Collective Bargaining Act.
  - B. All discussions that take place under this agreement shall not be subject to Article 9 (Complete Agreement/Past Practice) in the Real Estate Agency/AFSCME Agreement; Article 1 (Recognition) in the Oregon State Police Support Unit/AFSCME Agreement; Article 10 (Complete Agreement/Past Practices) in the Oregon Liquor Control Commission/AFSCME Agreement; and Article 9 (Complete Agreement/Past Practice) in the Construction Contractors Board/ AFSCME Agreement.
3. This agreement becomes effective on the first of the month following the date the Agency agreement is signed and automatically ends June 30, 2011, unless the parties agree to amend or extend its terms.

### **LETTER OF AGREEMENT - Duration of Layoff Lists**

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This proposal shall apply to all agreements covered by the AFSCME Central Table except the Department of Justice attorneys.

The parties agree to the following:

If there is a conflict between this agreement and any local agreement, this agreement shall prevail.

For recall purposes under Article 37 (Layoff and Recall), the terms of eligibility for candidates placed on the Agency Layoff List and Secondary Recall List shall be three (3) years from the date of placement on the Agency Layoff List and Secondary Recall List. The third year extension for recall shall not affect timelines of other terms and conditions of the agreement except the following conditions shall apply for any candidate who is recalled after the two (2) years, but before the end of the third year:

- Seniority shall be adjusted by the amount of break in service.
- The candidate shall be paid at the same salary step at which such candidate was being paid at the time of layoff.
- The Recognized Service Date (RSD) will be adjusted by the amount of the break in service and vacation accrual rates will resume at the candidate's rate at the time of layoff.
- The Salary Eligibility Date will be adjusted by the amount of break in service.
- Any candidate who is recalled after the initial two (2) year period will be subject to all provisions of trial service in all local agreements except that trial service will be for ninety (90) days.

This agreement shall apply to all employees on the Agency Layoff List and the Secondary Recall List upon execution of the agreement as well as anyone laid off during the term of this agreement.

This agreement shall sunset on June 30, 2011. However, an employee laid off shall remain on the Agency Layoff List pursuant to the terms of this agreement, if not removed from the list.

## **LETTER OF AGREEMENT - Regarding Premium Increases Between 5% And 10%**

This agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and the AFSCME.

1. Increases in premium costs above five percent (5%), but less than ten percent (10%), in plan years 2010 and 2011, will be paid by the Employer for the non-General Fund share of such costs.
2. The parties shall jointly petition the Public Employees' Benefit Board (PEBB) to pay for the General Fund share of increases above five percent (5%), but less than ten percent (10%), in plan years 2010 and 2011 out of PEBB reserves. Should this become necessary, the parties shall jointly request that PEBB first access PEBB Stabilization Fund reserves and only draw on money in the standard Demutualization Account in the event that there is not enough money in the Stabilization Fund to pay for the increase without jeopardizing PEBB's ability to self-insure.

## **LETTER OF AGREEMENT - PEBB Reserve Reimbursement**

1. The Legislature allocated \$32 million General Fund in the 2009-2011 budget for increases in public employee health insurance costs (up to 5.0% per plan year) during the life of the 2009-2011 collective bargaining agreement between the parties.
2. If the State does not expend the entire \$32 million General Fund allocation, per Section 1 above, the State will request the Legislature, or the Emergency Board if the Legislature is not in session, to release any unspent portion of the \$32 million General Fund (and corresponding other funds). The purpose of requesting release of the remaining funds is to reimburse the PEBB for expenditures PEBB may agree to make from the Stabilization Fund (SF) reserves to offset premium increases in excess of the budgeted 5.0% during the 2010 and/or 2011 benefit plan years.
3. Prior to July 1, 2010, the State shall request the Legislature or Emergency Board, whichever is in session, to release all of the appropriate funds as noted above.
4. The Union will receive prior notification of submission of the request to the Legislature or Emergency Board.

## **LETTER OF AGREEMENT - Provider Tax Assessment**

The parties recognize that, pursuant to HB 2116, the State of Oregon has levied an assessment on PEBB claims.

Should PEBB increase the rates it charges to the Employer based on this assessment, the Employer will pay for the portion of the rate increase that is attributable to the assessment. These payments will be in addition to the up to five percent increase in premium costs provided under the insurance article of the agreement and shall be made without petitioning PEBB to use reserves.

## LETTER OF AGREEMENT - Mandatory Unpaid Furlough Time Off

This agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) on behalf of all agencies covered by the Central Table (Agency) and AFSCME Council 75 (Union).

This agreement covers all AFSCME agreements that are within the jurisdiction of the AFSCME Central Table. To the extent this agreement conflicts with any provisions of any AFSCME agreements, this agreement shall prevail.

The parties agree to the following:

1. This agreement becomes effective September 1, 2009 and sunsets June 30, 2011 unless the parties agree to extend or amend its provisions.
2. The Employer will implement mandatory unpaid furloughs for affected employees as follows:

<u>Straight Time Monthly Base Pay Rate</u>	<u>Number of Days</u>
\$2450 and below	10
\$2451-\$3100	12
\$3101 and above	14

3. The number of hours of mandatory unpaid furloughs for less than full-time employees shall be prorated based on the employee's regularly scheduled hours within the applicable month.
4.
  - A. Agencies or divisions within an Agency can decide whether to designate whether the Agency or division within an Agency will close its offices. If the Agency so chooses, the Agency will close for the number of days identified in section 5 A of this agreement.
    - (i) Employees not taking unpaid mandatory furlough time off when the Agency is closed shall change their work schedule to a four (4) ten (10) hour-day schedule or otherwise adjust their schedule for that work week subject to prior Agency approval. The Agency shall not suffer any penalty or overtime payments as a result of the employee's schedule change.
  - B. Agencies that choose to allow employees to take "float days" will schedule designated unpaid mandatory furlough time off with their immediate supervisors using the following procedures:
    - (i) In an effort to ensure that the scheduling of unpaid mandatory furlough time off is distributed throughout the term of this agreement, such unpaid time off will be scheduled quarterly unless there is mutual agreement between the Agency and employee to schedule more days in some quarters and fewer in others; in no case no more than two (2) days (sixteen (16) hours) in a month.
    - (ii) Employees will have their choice of days off subject to Agency operating requirements. Employees will submit a mandatory unpaid furlough time off request form to their supervisors at least thirty (30) calendar days before the start of each quarter and supervisors will respond within fifteen (15) calendar days before the start of each quarter.
    - (iii) If the mandatory unpaid furlough time off is not scheduled or taken within the applicable quarter, then the Agency reserves the right to ensure the time off is rescheduled and taken within the next quarter (except for the last quarter in the biennium, during which the Agency may reschedule such time during the same quarter).

(iv) The Agency shall not incur any penalty or overtime payment for adjustments to an employee's schedule not to exceed a thirty-two (32) hour workweek.

5.

A. Where Agencies choose to close their offices, the following dates shall be designated as office closure days:

Friday, October 16, 2009	Friday, August 20, 2010
Friday, November 27, 2009	Friday, September 17, 2010
Friday, March 19, 2010	Friday, November 26, 2010
Friday, April 16, 2010	Friday, March 18, 2011
Friday, June 18, 2010	Friday, May 20, 2011

B. Employees mandated to take a greater number of unpaid mandatory furlough time off than closure days based on the tiers, will take the remaining unpaid mandatory furlough time off as float days under the following conditions:

(i) In an effort to ensure that the scheduling of unpaid mandatory furlough time off is distributed throughout the term of this agreement, such unpaid time off will be scheduled quarterly unless there is mutual agreement between the Agency and employee to schedule more days in some quarters and fewer in others. In no case will an employee take more than two (2) days (sixteen (16) hours) in a month.

(ii) Employees will have their choice of days off subject to Agency operating requirements. Employees will submit a mandatory unpaid mandatory furlough time off request form to their supervisors at least thirty (30) calendar days before the start of each quarter and supervisors will respond within fifteen (15) calendar days before the start of each quarter. If there is a conflict in requested days off, that conflict shall be resolved by granting the days off to the person who made the first request.

(iii) If the unpaid mandatory furlough time off is not scheduled or taken within the applicable quarter, then the Agency reserves the right to ensure the time off is rescheduled and taken within the next quarter (except for the last quarter in the biennium, during which the Agency may reschedule such time during the same quarter).

(iv) The Agency shall not incur any penalty or overtime payment for adjustments to an employee's schedule not to exceed a thirty-two (32) hour workweek.

6. No employee will be required to take a mandatory unpaid furlough day on a recognized holiday unless the employee and supervisor agree otherwise.

7. Temporary employees will be unscheduled for mandatory unpaid furlough days.

8. Mandatory unpaid furlough time off will not count as a break in service and shall not affect seniority.

9. Mandatory unpaid furlough time off shall not add to the length of an employee's trial service period.

10. Deductions from pay of an FLSA exempt employee for absences due to a budget required mandatory unpaid furlough day shall not disqualify the employee from being paid on a salary basis except in the workweek in which the mandatory unpaid furlough time off occurs and for which the employee's pay is accordingly reduced.

11. If an FLSA exempt employee is permitted to work in excess of forty (40) hours in a workweek in which the employee takes a mandatory unpaid furlough day, then such

employee shall be eligible for pay at the rate of time and one half (1 1/2x) for hours in excess of forty (40) hours that workweek.

12. Mandatory unpaid furlough time off shall only be considered time worked for:
  - a) holiday pay computations, and,
  - b) vacation, sick leave and personal accrual.
13. Subject to PEBB eligibility rules, mandatory unpaid furlough days shall be considered time worked for purposes of computing the Employer's insurance contributions.
14. Unless required by law, no employee shall be authorized to substitute other types of unpaid absences or paid leave to replace mandatory unpaid furlough time off.
15. Full-time employees shall take mandatory unpaid furlough time off in eight (8) hour blocks.
16. Part-time employees shall take mandatory unpaid furlough time off in blocks equal to their actual scheduled workday.
17. No employee shall be authorized to use any paid leave time or time accrued to replace mandatory unpaid furlough time off.
18. If an Agency closure day is scheduled on a day in which an employee is scheduled to work more or less than an eight (8) hour workday, the employee, with Agency approval, will adjust his/her schedule in a manner which is consistent with the practice that is used during a week there is a holiday. In either case, the employee's schedule will not exceed a thirty-two (32) hour workweek. The Agency shall not incur any penalty or overtime payment for adjusting the employee's schedule.
19. An employee shall not work on a date designated as a mandatory unpaid furlough time off. However, the Agency Head or designee for operational needs, may require the employee to work and reschedule the mandatory unpaid furlough time off.
20. Should the designated Agency closure date fall on an employee's regularly scheduled day off, subject to Agency approval, the employee shall take the mandatory unpaid furlough time off on an alternate workday. If the preferred workday is not available, the Agency shall schedule the time off on an alternate workday.
  - (i) If the alternate time is not scheduled or taken within the applicable quarter, then the Agency reserves the right to ensure the mandatory unpaid furlough time off is rescheduled and taken within the following quarter (except for the last quarter in the biennium, during which the Agency may reschedule such time during the same quarter).
  - (ii) The Agency shall not incur any penalty or overtime payment for adjustments to employee's schedules not to exceed a thirty-two (32) hour workweek.
21. For payroll purposes, mandatory unpaid furlough days shall be assigned a specific payroll code(s).

#### **LIST OF AGENCIES/PROGRAMS/DIVISIONS OFFICE CLOSURE<sup>2</sup>**

DCBS (Building Codes Division)

DCBS (Fiscal/Business Services Division, Director's Office & Information Management Division)

DEQ

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<sup>2</sup>Where there are more unpaid furlough days than office closures, employees will take remaining days as float days.

Real Estate Agency  
 DOC Dentists  
 SOCP (Central Administration Staff)  
 CCB  
 Employment Department (Hearings Panel)  
 State Lands  
 OSFM

**LIST OF AGENCIES/PROGRAMS/DIVISIONS USE OF FLOAT DAYS**

DOJ (Attorneys)  
 Military Department (includes Office of Emergency Management)  
 OLCC  
 OSP Support Unit  
 SOCP (Habilitative Training Technician 2, Licensed Respiratory Care Technician, LPN, Mental Health Therapy Technician)  
**OSH (Mental Health Registered Nurses, Nurse Practitioners)**  
 DPSST  
 OSH Physicians  
 DLCDC  
 OYA (Juvenile Parole and Probation Officers and Assistants)

**LETTER OF AGREEMENT - Mandatory Unpaid Time off Clarifications for Implementation**

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This Letter of Agreement is between the State of Oregon, acting through its Department of Administrative Services (Employer) and the American Federation of State, County and Municipal Employees, AFSCME (Union). The parties agree to the following clarifications for implementation of the mandatory unpaid time off tentative agreement.

1. For purposes of a guideline, the tiered obligation for floating mandatory unpaid time off days has been equally split between the fiscal years in the biennium.

<b>Tier</b>	<b>Sept. 2009 – June 2010</b>	<b>July 2010 – June 2011</b>
1 - \$2450 and below	5	5
2 - \$2451 - \$3100	6	6
3 - \$3101 and above	7	7

2. Requests for floating mandatory unpaid time off days for September through December 2009.

Since the requirement to submit requests for floating mandatory unpaid time off days cannot be submitted 30 days prior to the start of the quarter, the following will apply for such requests for September 2009 and the October – December 2009 quarter. Any time through October 15, 2009, employees may request to take up to two (2) float mandatory unpaid time off in each month in this quarter. The supervisor will have up to fifteen (15) days to respond to the employee’s request for the unpaid day (MUTO/Furlough).

3. Scheduling floating mandatory unpaid time off for newly hired, reemployed, recalled and transferred employees.

At the time of an employment offer letter, the employee shall be given the dates in the current and/or next quarter that have been designated as floating mandatory unpaid time off days.

4. Seasonal employee—calculation of mandatory unpaid time off obligation.

Full-time FTE seasonal employee's mandatory unpaid time off days obligation shall be determined by using the following formula as a guideline:

$$(MS \div TM) \times TO$$

Where:

MS = Estimated number of months the seasonal employee will work during the period in which mandatory unpaid time off must be taken.

TM = Total number of months during the '09-'11 biennium during which mandatory unpaid time off must be taken (which is 22 months).

TO = Total number of mandatory unpaid time off days required for the biennium for the salary tier for the employee.

Example: The employee's seasons include the months of May through October 2010 and May and October 2011. The seasonal employee is expected to work both seasons. However, since the term of the CBA begins September 1, 2009 and ends on June 30, 2011, only September and October 2009, May through October 2010 and May and June in 2011 count for determining the mandatory unpaid time off obligation. Consequently, there are nine (9) months of the employee's seasons in the biennium that count. The seasonal employee is in the top salary tier which has a maximum of fourteen (14) mandatory unpaid time off (MUTO) days. The calculation is the following:

$$(MS \div TM) = (9 \text{ months} \div 22 \text{ months}) = .409$$

$$TO = 14 \text{ days}$$

$$(9 \div 22) \times 14 = 5.73 \text{ days}$$

Rounding to nearest whole number = 6 mandatory unpaid time off days (8 hours each).

Part-time FTE seasonal employee's mandatory unpaid time off obligation is prorated based on the scheduled hours for the part-time seasonal employee in the month. The same formula is used for part-time employees to calculate the number of days they are obligated to take. The mandatory unpaid time off obligation shall be prorated using the following formula as a guideline:

$$(SSH \div FTH) \times 8 = MH$$

Where:

SSH = The scheduled hours in a month for the part-time seasonal employee.

FTH = The number of full-time hours in a month.

8 = The number of hours in a full-time mandatory unpaid time off day obligation.

MH = The number of mandatory unpaid time off hours required for a mandatory unpaid time off day for the part-time seasonal employee.

Example: Using the facts in the example used for full-time calculation (6 mandatory unpaid time off days), but adding that the part-time seasonal is scheduled to work three-quarter (3/4) time for the month, 3/4 time is equivalent to 130 hours (i.e., 3/4 of the 173.33 full-time hours in a month). The calculation is:

$$(130 \text{ hours} \div 173.33 \text{ hours}) \times 8 = 6 \text{ hours}$$

The 3/4 time employee would take 3/4 of a work day (i.e., 6 hours) off for a mandatory unpaid time off day scheduled for the month.

Seasonal employees employed multiple seasons and/or by multiple agencies, will be dealt with on an Agency by Agency basis to determine the number of mandatory unpaid time off days.

5. Demotions, promotion, reclassification resulting in a change in salary tier for mandatory unpaid time off.

The effective date for a change in salary tier and a change in the mandatory unpaid time off obligation of an employee will be the effective date of the personnel action. However, if the effective date is after the 15<sup>th</sup> of the last month in a quarter, the change will be effective the following quarter.

6. Unpaid Leaves (including: FMLA/OFLA, Military Leave, Workers Comp, LWOP) during closures.

For employees observing mandatory unpaid closure days, if an employee is on leave without pay when a mandatory unpaid time off closure day occurs, the employee will not be required to make up the missed mandatory unpaid time off day.

7. Unpaid Leaves (including: FMLA/OFLA, Military Leave, Workers Comp, LWOP) and float day observance.

For employees observing mandatory unpaid float days, if an employee's scheduled mandatory unpaid time off day occurs when the employee is on leave without pay, the employee will be required to take or schedule the mandatory unpaid float day, unless the employee is on leave without pay for the entire calendar month.

If an employee returns to work the 15<sup>th</sup> day or before in the last month of a calendar quarter, the employee shall schedule and take the mandatory unpaid float day in that quarter, or with approval may schedule one mandatory unpaid float day in the following quarter.

8. Employees returning to work from unpaid leave without pay in the last month of a calendar quarter.

If an employee returns to work from LWOP after the 15<sup>th</sup> day in the last month of a calendar quarter, the employee will not be required to take the floating mandatory unpaid time off for that quarter.

9. Scheduling of vacation and mandatory unpaid time off.

In Agencies where vacation schedules or comp time off must be requested in advance and the advance requests cover periods of time beyond the quarterly scheduling of mandatory unpaid time off days, the prescheduled vacation or comp time off shall take precedence over scheduling of mandatory unpaid time off days. However, the quarterly scheduling of unpaid time off shall take precedence over short term vacation or comp time off requests.

Once mandatory unpaid time off has been scheduled, requests for vacation may be denied for operational reasons and cannot cause a rescheduling of mandatory unpaid time off days of other employees.

Employees may schedule a mandatory unpaid time off day as part of their vacation request. E.g., an employee may request a week's vacation that includes a mandatory unpaid time off day. Also, if an employee requests and is approved for vacation in the future, at the time of submitting his/her quarterly mandatory unpaid time off request form for the quarter in which the vacation is approved, the employee may request to substitute mandatory unpaid time off for pending vacation time. However, in no case shall an employee take more than two (2) mandatory unpaid time off days in a month. If

seniority is used as a tiebreaker or to bump a pre-approved vacation there shall be no substitution with mandatory unpaid time off days.

10. Scheduling of pre-approved paid sick leave and mandatory unpaid time off.

Employees who have pre-scheduled, paid sick leave (e.g., elective surgery, maternity leave, etc.) may substitute a mandatory unpaid time off day for the pre-approved paid sick leave. The request to substitute is made at the time of submitting his/her quarterly mandatory unpaid time off request form for the quarter in which the sick leave is approved. However, in no case shall an employee take more than two (2) mandatory unpaid time off days in a month.

11. Employees called in to work on a mandatory unpaid time off day off.

In the event an employee is called in to work on a date designated as a mandatory unpaid time off day due to operational needs, the employee and supervisor shall arrange to take the remainder of the mandatory unpaid time off at a mutually agreeable time. The remaining mandatory unpaid time off, with approval from the supervisor, may be taken during the employee's work week, as long as the work week does not exceed thirty-two (32) hours, or at another time. If the remaining hours of mandatory unpaid time off to be made up are less than an employee's full scheduled work day, the employee may either split a work day (mandatory unpaid hours plus regular work hours) to make a full work shift or make alternate arrangements for the remainder of the shift, including but not limited to using appropriate accrued leave. If the remaining portion of the mandatory unpaid time off is not mutually scheduled or taken within the applicable quarter, then management reserves the right to ensure the remaining portion of the mandatory unpaid time off day is rescheduled and/or taken no later than the following quarter.

12. Adjusting the mandatory unpaid time off day off obligation for employees hired after September 1, 2009.

Employees hired after September 1, 2009 will have their mandatory unpaid time off obligation adjusted for the time remaining to June 30, 2011. The attached table identifies the obligation remaining for new hires by calendar quarter.

13. NEW DISCUSSION: Non emergency changes to employees observing fixed closure days.

This LOA does not preclude schedule changes pursuant to the CBA.

Employees who are attending or presenting at conferences or traveling on closure days may convert the closure day to a float day for that quarter.

For Board and Commission meetings scheduled on a closure day, that closure day may be converted into a float day.

### Mandatory Unpaid Time Off Obligation Remaining by Salary Tier

Year	Quarter	Months	10 Closures	NEW HIRE Obligation <i>(with Agency Closures and/or Floats)</i>			SEPARATING EMPLOYEE Obligation <sup>1</sup> <i>(with Agency Closures and/or Floats)</i>				
				Hire Date	Tier 1	Tier 2	Tier 3	Separation Date <sup>2</sup>	Tier 1	Tier 2	Tier 3
2009	3	September	0	9/1/09-10/15/09	10	12	14	9/1/09-11/26/09	1	1	1
		Oct 16 (fixed)	1	10/16/09-11/26/09	9	11	13				
	4	Nov 27 (fixed)	1					11/27/09-12/31/09	2	2	2
		December	0								
2010	1	January	0	11/27/09-3/18/10	8	10	12	1/1/10-1/31/10	2	2	3
		February	0					2/1/10-2/28/10	2	3	3
		Mar 19 (fixed)	1	3/19/10-4/15/10	7	9	11	3/1/10-4/15/10	3	3	4
	2	Apr 16 (fixed)	1					4/16/10-4/30/10	4	4	5
		May	0					5/1/10-5/31/10	4	5	5
		Jun 18 (fixed)	1	6/18/10-6/30/10	5	7 <sup>3</sup>	9 <sup>3</sup>	6/1/10-6/30/10	5	6	6
3	July	0					7/1/10-8/19/10	5	6	7	
	Aug 20 (fixed)	1					8/20/10-9/16/10	4	5	6	
	Sept 17 (fixed)	1					9/17/10-11/25/10	3	4	5	
	October	0									
2011	4	Nov 26 (fixed)	1								
		December	0								
	1	January	0								
		February	0								
2	Mar 18 (fixed)	1									
	April	0									
	May 20 <sup>4</sup> (fixed)	1									
	June	0									

**NOTES:**

<sup>1</sup> Employees who retire or otherwise separate from the State prior to the end of the biennium are required to schedule and take the number of mandatory unpaid time off days identified for their separation date prior to separating. The mandatory unpaid time off days must be scheduled quarterly, unless an alternate plan is agreed upon between the employee and supervisor, to ensure the obligation is completed prior to separation.

<sup>2</sup> Break points for separation dates are based either on closure dates or the end of a month (typically the day before a retirement effective date).

<sup>3</sup> An employee hired after June 15, 2010 will not be required to take the float mandatory unpaid time off day for that FY. However, the obligation shall be taken in the subsequent fiscal year.

<sup>4</sup> Tier 1 & 2 promotions and reclassifications upwards, effective after May 20, 2011, will not have an additional mandatory unpaid time off obligation.

<sup>5</sup> The one day mandatory unpaid time off obligation only applies to employees who observe all float days. Those who observe closures have no further obligation after May 20, 2011, except for Tier 3.

2009-2011 AFSCME –

**REGISTERED NURSES AT THE OREGON STATE HOSPITAL**

Signed this 21<sup>st</sup> day of September, 2009, at Salem, Oregon.



FOR THE  
STATE OF  
OREGON

Scott Harra, Director  
Department of Administrative Services

Diana Foster, Administrator  
Human Resource Services Division (HRSD)  
Department of Administrative Services

Susie Hosie, Labor Relations Manager  
DAS Labor Relations Unit

Art McCurdy, Labor Relations Manager  
DAS Labor Relations Unit



FOR THE AMERICAN  
FEDERATION OF STATE,  
COUNTY AND  
MUNICIPAL EMPLOYEES

Randy Ridderbusch,  
AFSCME Council 75 Representative

Frank Warner, Local 3295 Bargaining Team

Ineke DeRuyter, RN  
Local 3295 Bargaining Team

Joe Thurman RN, President Local 3295

Lynn VanDyke, RN  
Local 3295 Bargaining Team