

PERALTA COMMUNITY COLLEGE DISTRICT

Agreement Between
The Peralta Community College District
And
International Union of Operating Engineers
Local 39 AFL - CIO

July 1, 2003 - June 30, 2007

INTERNATIONAL UNION OF OPERATING ENGINEERS
Local 39
Contract 2003-2007
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PREAMBLE

The Parties to this Agreement are the Peralta Community College District ("District") and the International Union of Operating Engineers, Stationary, Local 39, AFL-CIO ("Union").

ARTICLE 1

RECOGNITION

- 1.1 The District recognizes the Union as the sole and exclusive representative of those employees in classifications of the Operating Engineers Bargaining Unit enumerated in the certification by the Public Employment Relations Board, dated October 19, 1977, Case Number SF-R-1, 2, 238, 239, 474.
- 1.2 All work of any type or nature routinely performed by bargaining unit employees covered by this Agreement shall only be performed by employees of this bargaining unit.

This provision excludes the following:

- a) Persons employed to replace temporarily absent bargaining unit employees, subject to the provisions of Article 10.3 of this Agreement.
 - b) Short-term projects of limited duration.
- 1.3 "Short term projects of limited duration" allows for four weeks of short-term projects District-wide per fiscal year to perform work routinely performed by bargaining unit employees, subject to paragraph 2. If the District has a demonstrable need for short term projects additional to the provisions of paragraph 1, the Associate Vice Chancellor for Human Resources will inform the Union of the plans, including the nature, duration and anticipated cost of the project. The parties shall consult in good faith, and the Union may not unreasonably withhold consent. In the event the Union does not agree, the District may proceed; however, the Union may initiate a grievance if it believes that the District's action has violated §1.2 of the contract.
 - 1.4 The Associate Vice Chancellor for Human Resources or identified designee will coordinate the projects district-wide, maintain records regarding the short term projects conducted by the District, and provide copies of such records upon Union request. At the request of either party, the parties on an annual basis shall discuss the experience in implementing sections 1.3 and 1.4 to prepare for the following year of activity.

1.5 Contracting Out

During the term of this Agreement, the District agrees not to contract out work or functions that result in the layoff of employees in the bargaining unit covered by this Agreement.

2.1 Agency Shop

- a. Employees Who Are Union Members When Agreement Becomes Effective.**
An employee employed at the time this Agreement becomes effective who is a member of the Union at such time shall, not later than the fifteenth (15th) calendar day of each calendar month of employment, tender to the Union an amount of money equal to the monthly dues uniformly charged by the Union to all employees who are members of the Union.
- b. Employees Who Are Not Union Members When Agreement Becomes Effective.**
An employee employed at the time this Agreement becomes effective who is not a member of the Union at such time shall, not later than the 30th day of employment or the effective date of this Agreement, money equal to the initiation fee uniformly charged by the Union to all employees who become members of the Union, unless the employee has, at any previous time, tendered such an amount of money to the Union.
- c. Employees Hired After Agreement Becomes Effective.**
An employee who is initially employed or re-employed after the time this Agreement becomes effective shall, not later than 30 calendar days after the commencement of employment, if still employed, tender to the Union an amount of money equal to the initiation fee uniformly charged by the Union to all employees who become members of the Union, unless the employee has, at any previous time, tendered such an amount of money to the Union, tender to the Union an amount of money equal to the monthly dues uniformly charged by the Union to all employees who are members of the Union.
- d. Definition of Dues and Initiation Fee.**
For purposes of this Article "dues" and "initiation fee" shall encompass only those amounts of money necessary for the Union to perform its duties as the exclusive representative of employees in dealing with the District on labor-management issues.
- e. Employees Holding Certain Religious Beliefs.**
An employee who, because of sincerely held religious beliefs, objects to joining or financially supporting labor organizations shall comply with the provisions of Section 2.1(a), (b) or (c), whichever is applicable; except that, in lieu of tendering payment to the Union, such an employee shall pay the amount of monies specified under such paragraphs to charities as selected by the employee. The employee shall deliver to the designated Union shop steward a dated receipt from the charity indicating that payment of the required amount was received by the charity on or before the applicable tender date.

- f. If an employee does not have sufficient funds due him/her to provide for the payment of dues or service fees after all other authorized or mandatory deductions or garnishments have been made, no such sums shall be deducted and the Union shall assume the duty of direct collection from the employee. The Union shall assume the same responsibility in all cases where no deductions have been made because an employee's earnings are insufficient during any pay period to pay such dues or service fees.

2.2 Discharge of Employee for Failure to Comply with Section 2.1

The Union may demand the discharge of any employee, who fails to comply with the provisions of that Section, by serving written notice thereof on the District that the Union has notified the employee of the exact amount of the financial obligations due to the Union. As soon as the District verifies that the employee specified in such written notice failed to comply with the provisions of Section 2.1 and that the discharge of the employee would not otherwise be unlawful, the District shall discharge the employee.

2.3 New Employee Orientation and Notification

Each new employee shall receive, upon employment, a copy of the Collective Bargaining Agreement and appropriate Union enrollment dues authorization forms. The Business Representative shall be notified of the name, site location, and job classification of each person appointed to a position in the bargaining unit.

2.4 Payroll Deductions

Upon receipt of an authorized form from the employees, the District shall make requested dues, initiation fees, assessments, service fees and/or credit union deductions from the employees' warrants.

ARTICLE 3

NON-DISCRIMINATION

- 3.0** The District and the Union acknowledge their obligation to adhere to District Policy 3.04, Policies Prohibiting Discrimination and Discriminatory Harassment toward employees, as it may be amended from time to time to comport with changes in law, and to comply with all pertinent provisions of all federal and state non-discrimination laws regarding race, sex (including sexual harassment), religion, age, disability, marital status, sexual orientation, national origin, political affiliation or activity, participation in any labor or professional or political organization, family relationships to another employee, or the private and personal life of any employee. This Article is not subject to the grievance procedures.

ARTICLE 4

SUPPORT OF AGREEMENT

4.0 During the term of this Agreement, the District agrees not to negotiate with any other organization on matters upon which Local 39 is the exclusive representative and which is within its scope of representation. Local 39 agrees to negotiate only with the representative officially designated by the District to act on its behalf.

5.1 Distribution of Materials

The Union may distribute organizational materials to its members by either: (1) hand distribution to work locations where Union members are employed, or (2) mail distribution through the District's interdepartmental mailing system, upon the prior approval of the Associate Vice Chancellor for Human Resources or his/her designee.

5.2 Posting of Materials

Posting of Union meeting notices, posters, and similar materials will be permitted only on designated bulletin boards or other appropriate areas and after approval from the Associate Vice Chancellor for Human Resources or his/her designee.

5.3 Bulletin Boards

The Union may use designated District bulletin boards to announce meetings or the posting of related Union material.

5.4 Use of Facilities

The Union shall be allowed to use District facilities for regular/special meetings upon prior approval from the District. Said usage of District facilities will be in conference/meeting rooms in addition to the availability of the room for meeting purposes. The Union shall provide the District with the requested dates, times, and locations of the usage of said facilities.

5.5 Legal, Unrestricted, and Non-confidential Information

The Associate Vice Chancellor for Human Resources shall provide, upon written request, unrestricted and non-confidential information. Such data and/or information will be made available in a format that does not require research and/or analytical manipulation.

5.6 Shop Stewards and Official Representatives

- a. Designated representatives of the Union (not to exceed eight (8)) shall be allowed time off on District time for meetings during regular working hours when formally meeting and conferring in good faith or consulting with designated District representatives in matters within the scope of representation, provided that the number of such representatives shall not exceed the below specified limits without the prior approval of the Associate Vice Chancellor for Human Resources or his/her designee, and that advance arrangements for time away from the work station or assignment are made with the appropriate department/division head.

<u>Department</u>	<u>Number of Employees</u>
Custodial	4
Grounds	1
Engineering	1
Warehouse	1
Food service	1
Chief Steward	1

- b. Business representative(s), after calling the Associate Vice Chancellor for Human Resources, shall be permitted to enter work areas where its members are employed during normal working hours for the purpose of ascertaining whether the terms of the Agreement are being complied with, to observe employment conditions under which its members are employed, and to assist in adjusting grievances. The Business Representative shall notify the Associate Vice Chancellor for Human Resources, the department head, or other designated representative(s) at the earliest time, and at least upon entering such work areas, and shall not interfere with or interrupt the conduct of work in such areas. The Business Representative may confer with employees whenever called upon to do so.

c. **Consultation Meetings**

1. The District and the Union agree that administration of the Agreement may be facilitated by consultation meetings. Either party may request a consultation meeting where they believe a resolution of a problem or problems may be feasible. The party requesting a meeting shall, in writing, submit an agenda, three (3) days prior to meeting, with sufficient detail to allow an understanding of the problem or problems to be discussed and the suggested date, place, and time requested for the meeting.
2. The receiving party shall, within three (3) workdays, notify the requesting party of confirmation of the meeting date, time and place. Neither party shall have more than two (2) representatives at any such meeting unless mutually agreed to prior to the meeting. Any such meeting is not intended to bypass the grievance procedure nor shall they be intended to constitute any invitation to be used as new negotiations sessions or to renegotiate valid provisions of this Agreement.

d. **Shop Stewards**

The Union may designate a reasonable number of bargaining unit employees as shop stewards to assist the Union in the representation of its members and shall notify the District in writing as to the name(s) and classification(s) of said steward(s).

- 6.1 Except as expressly modified or restricted by a specific provision of this Agreement, all statutory and inherent managerial rights, prerogatives, and functions are retained and vested exclusively in the District, including, but not limited to the rights, in accordance with its sole and exclusive judgment and discretion: to reprimand, suspend, discharge, or otherwise discipline employees for cause; to hire employees, determine their qualifications; to set the standards of productivity; to introduce new or improved methods, materials, machinery, and equipment; to determine the number, location and operation of departments, divisions, and all other units of the District; to issue, amend, and revise policies, rules, regulations, and practices; and to take whatever action is either necessary or advisable to determine, manage, and fulfill the mission of the District. The District's failure to exercise any right, prerogative, or function hereby reserved to it, or the District's exercise of any such right, prerogative, or function in a particular way, shall not be considered a waiver of the District's right to exercise such right, prerogative, or function or preclude it from exercising the same some other way not in conflict with the express provisions of this Agreement.
- 6.2 The District retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it, express or implied, by the laws and the Constitution of the State of California and the United States.

ARTICLE 7

DEFINITIONS

- 7.1 **"Allocation"** is the placement of a class on a specific salary range or rate or the assignment of a position to a class of positions.
- 7.2 **"Anniversary date"** is the date an employee is hired and the same date each succeeding year.
- 7.3 **"Apprentice"** is a trainee in a professional, technical, or skilled field.
- 7.4 **"Bargaining unit seniority"** is secured by hours in paid status in a class or classes included in the bargaining unit, excluding overtime hours.
- 7.5 **"Bumping right"** is the right of an employee, under certain conditions, to displace an employee with less seniority in a class.
- 7.6 **"Class"** is any group of positions sufficiently similar in duties, responsibilities, and authority that the same job title, minimum qualifications, and salary range are appropriate for all positions in a class.
- 7.7 **"Class description"** is the description of the duties, responsibilities, minimum qualifications, and authority of positions in a class.
- 7.8 **"Classification"** is the act of placing a position in a class.
- 7.9 **"Demotion"** is a change in assignment of an employee from a position in one class to a position in another class that is allocated to a lower maximum salary rate.
- 7.10 **"Differential"** is a salary allowance in addition to the basic rate or schedule.
- 7.11 **"Fiscal year"** is July 1 through June 30.
- 7.12 **"Health and Welfare benefits"** means any form of insurance or similar benefit programs, including, but not limited to medical, hospitalization, surgical, prescription drug, dental, optical, psychiatric, life, disability, and prepaid legal.
- 7.13 **"Hire date seniority"** is secured by hours in paid status from the first day in paid status (excluding overtime hours).
- 7.14 **"Incumbent"** is an employee appointed to a position and who is currently serving in or on leave from the position
- 7.15 **"Industrial accident or illness"** is an injury or illness arising out of employment and in the course of employment with the District.

- 7.16 **"Involuntary demotion"** is a demotion without the employee's voluntary written consent.
- 7.17 **"Minimum qualifications"** are qualifications mandated for the position and which must be possessed by a prospective employee before he/she can be considered for employment in a specific class.
- 7.18 **"Night Shift"** applies to swing and graveyard shifts defined as: Swing shift, employee is assigned to work four (4) or more straight time (non-overtime hours) after 4:00 PM. Graveyard shift - employee is assigned to work four (4) or more straight time (non-overtime) hours after 12 midnight.
- 7.19 **"Permanent status"** is a status attained after successful completion of a probationary period.
- 7.20 **"Probationary period"** - an initial six (6) month on-the-job trial period which allows an employee to demonstrate his/her ability to perform. A probationary employee may be dismissed from the position at any time during the probationary period.
- (a) In the event of absence from work for any reason for 10 consecutive days or more, the probationary period shall be extended by the duration of the absence. (A day is any day on which the District Office of the Peralta CCD is open for business.) The District shall give the employee notice of such extension.
- (b) The District may extend the probationary period for up to six months with agreement of the Union and the affected employee.
- 7.21 **"Promotional Probationary Period"** - a probationary period that begins when an employee is initially promoted.
- 7.22 **"Promotion"** is a change in the appointment of an employee from a position in one class to a position in another class with a higher maximum salary rate.
- 7.23 **"Reallocation"** is movement of an entire class from one salary range or rate to another salary range or rate or a budgetary action to assign a vacant position from one class to another class.
- 7.24 **"Reclassification"** is the reassignment of a position from one class to a different class based on assigned duties and responsibilities and the knowledge, skills, and abilities required to perform the assigned duties and responsibilities.
- 7.25 **"Re-employment"** is the return to duty of an employee who has been placed on a re-employment list.

- 7.26 **"Re-employment list"** is a list of names of persons who have been laid off for lack of work or lack of funds, or exhaustion of sick leave, industrial accident or illness leave, or other leave privileges, and who are eligible for re-employment without examination in their former class for a period of thirty-nine (39) months. Placement on said list is arranged in order of the right to re-employment.
- 7.27 **"Safety conditions of employment"** means any work-related condition affecting the health, safety, or welfare of the employee.
- 7.28 **"Salary rate"** is a specific amount of money paid for a specific period of service.
- 7.29 **"Salary schedule"** is a series of salary steps and ranges which comprise the rates of pay for all classes.
- 7.30 **"Salary step"** is one of the salary levels within the range of rates for a class.
- 7.31 **"Seniority in class"** is secured by regular assigned hours in paid status in a class excluding overtime hours.
- 7.32 **"Site"** for the purposes of this Agreement means:
- a. District Office Operations
 - b. College of Alameda
 - c. Laney College
 - d. Merritt College
 - e. Vista College
- 7.33 **"Substitute Employee"** means any person employed to replace a bargaining unit employee who is temporarily absent from duty. A substitute employee is also a person hired to fill a vacant bargaining unit position for which recruitment has been formally announced. (Education Code Section 88003).
- 7.34 **"Voluntary demotion"** is a demotion agreed to in writing by the employee and the District.
- 7.35 **"Working hours"** are all hours in paid status.
- 7.36 **"Call back"** results from a request or direction from the District to return to work due to an unanticipated event.
- 7.37 **"Grievance"** is any complaint of a member involving interpretation, application, or alleged violation of this Agreement. It is the intent of the parties to review and resolve grievances at the lowest possible administrative level.
- 7.38 A "grievant" may be any member of the bargaining unit covered by the terms of this

Agreement.

- 7.39** A "day" (for the purpose of this grievance policy) is any day on which the District Office of the Peralta Community College District is open for business.
- 7.40** The "immediate supervisor" is the first level management employee having immediate jurisdiction over the grievant--not within the same bargaining unit as the grieved or having jurisdiction over the action being grieved. No SEIU or PFT member shall supervise unit personnel.

8.1 Suspension

The Associate Vice Chancellor for Human Resources is authorized to suspend employees without pay for disciplinary reasons. Suspensions may be for varying periods, but shall not exceed thirty (30) working days.

8.2 Warning

An employee whose work or conduct is of such character as to incur discipline may first be warned in writing by the first level manager stating the reasons for the warning. A copy of the warning shall be sent to the Union Business Representative. An employee shall have the right to enter, and have attached to the warning, his/her written response. Note: As a general guideline, written warnings should be issued before disciplinary action is proposed.

8.3 Limitation on File Entries

No disciplinary action shall be taken for any cause which arose prior to the employee's status becoming permanent, nor for any cause which arose more than two (2) years preceding the date of the filing of the notice of cause unless such cause was concealed or not disclosed by such employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

8.4 Dismissal

Charges, such as the following, may be cause for disciplinary action up to and including dismissal. If circumstances merit special consideration, the employee may be suspended or demoted in lieu of discharge.

- a. Incompetency or inefficiency in performance of duty.
- b. Dishonesty.
- c. Insubordination.
- d. Intoxication or the use of non-prescribed controlled substances while on duty.
- e. Inexcusable absence without leave.
- f. Refusal or repeated failure to perform the normal and reasonable duties of the position.
- g. Immorality.
- h. Conviction of a felony or of any crime involving moral turpitude.
- i. Misuse of District property.
- j. Any failure of good behavior or acts during duty which are not compatible with or inimical to the Peralta Community College District.
- k. Knowingly falsifying any information supplied to the District, including, but not limited to information supplied on application forms, employment records, or other District records.
- l. Failure to comply with the organizational security provisions of this Agreement.

8.5 Procedure

a. No permanent employee, except one who is on probation in a new classification, shall be suspended, demoted, or dismissed unless there is served upon said employee a written notice of suspension, demotion, or dismissal signed by the Associate Vice Chancellor for Human Resources, stating the reasons for the suspension, demotion, or dismissal, and the effective date thereof. A copy of such notice shall also be sent to the Union. Under ordinary circumstances, notice of ten (10) working days shall be given.

b. **Pre-Disciplinary Procedures.**

Prior to implementing a demotion, suspension, or dismissal action, the affected employee shall have delivered personally or by certified mail a written notice signed by the Associate Vice Chancellor for Human Resources of the proposed action which includes:

1. The reasons for the proposed action.
2. A copy of the charges and materials on which the action is based and
3. The right to respond, either orally or in writing, and time limits for this response.

c. Within five (5) working days of receipt of the notice of proposed action, the employee may respond in writing and/or may request a meeting with the Associate Vice Chancellor for Human Resources to present his/her response. The employee must be available to attend this meeting within ten (10) working days following receipt of the notice of proposed action. Within ten (10) working days following the receipt of a written response or a meeting, whichever occurs last, the Associate Vice Chancellor for Human Resources shall notify the employee of the action taken.

d. **Disciplinary Proceedings.**

The disciplined or dismissed employee shall be informed in writing of the specific charges against him/her, a statement of his/her right to a hearing on such charges, and the time within which a hearing may be requested, which shall be not less than five (5) working days, after service of the notice to the employee, and a card, the signing and filing of which shall constitute a demand for hearing, and a denial of all charges, shall be enclosed in the letter for the employee to either sign or reject at his/her discretion.

e. **Hearing Procedure.**

Request by Union: The Union may appeal suspensions, demotions or dismissal, by presenting an appeal denying the charges and requesting a hearing before an arbitrator. The parties shall mutually agree upon an arbitrator or, failing agreement,

shall receive a list of seven qualified arbitrators from the State Mediation and Conciliation Service and shall strike names until only one remains; the remaining arbitrator shall serve unless unavailable, in which case a new list shall be requested. The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigation he/she deems appropriate and shall render a decision to the Associate Vice Chancellor for Human Resources within 30 days. The cost of the arbitrator shall be borne equally by the District and Local 39. If either party requests a court reporter, that party shall be responsible for the cost of the court reporter. If the parties mutually request a court reporter, they shall share the cost. Each party shall be solely responsible for its own cost of representation, including attorney's fees.

Request by Employee: A permanent employee may appeal suspensions, demotions, or dismissals by returning of the card denying the charges and requesting a hearing before an arbitrator. The parties shall mutually agree upon an arbitrator or, failing agreement, shall receive a list of seven qualified arbitrators from the State Mediation and Conciliation Service and shall strike names until only one remains; the remaining arbitrator shall serve unless unavailable, in which case a new list shall be requested. The employee may have a representative at the hearing. The arbitrator may hear testimony, receive written briefs, interview witnesses, and conduct any investigation he/she deems appropriate and shall render a decision to the Associate Vice Chancellor for Human Resources within 30 days. The cost of the arbitrator shall be borne equally by the District and the employee. If either party requests a court reporter, that party shall be responsible for the cost of the court reporter. If the parties mutually request a court reporter, they shall share the cost. Each party shall be responsible for its own cost of representation. Each party shall be solely responsible for its own cost of representation, including attorney's fees.

- f. Employees participating in the hearing procedure shall do so on released time. The location, time, and date for the hearing procedure shall be set by the District in order to minimize released time. All suspensions and dismissals shall be without pay after the effective date thereof.

9.1 Sick Leave

- a. Members of the bargaining unit (employed by the District five (5) days per week with full pay for a fiscal year) shall be entitled to twelve (12) days paid sick leave of absence for illness or injury, exclusive of days they are not required to render service. Day, as used in this Article, means the employee's regularly assigned workday, exclusive of overtime.
- b. A bargaining unit member, employed five (5) days a week, who is employed for less than a full fiscal year is entitled to that proportion of twelve (12) days absence for illness or injury as the number of months he is employed bears to twelve (12) and the proportionate amount, consistent with this formula, of such additional days, in addition thereto, authorized by the governing board for classified employees employed five (5) days a week for a full fiscal year of service.
- c. A bargaining unit member employed less than five (5) days per week, shall be entitled for a fiscal year of service to that proportion of twelve (12) days leave of absence for illness or injury as the number of days he is employed per week bears to five (5) and is entitled to the proportionate amount. When such persons are employed for less than a full fiscal year of service, this and the preceding paragraph shall determine that proportion of leave of absence for illness or injury to which they are entitled.
- d. Pay for any hour(s) or day(s) of illness or injury must be accrued prior to taking such leave by the employee. Probationary employees shall not be eligible to take more than six (6) days, or the proportionate amount to which they may be eligible. The rate of pay for sick leave shall be at the same rate the employee would have received had he/she worked that day. If a member of the bargaining unit does not take the full amount of leave allowed in any year, the amount not taken shall be accumulated from year to year.
- e. Members of the bargaining unit absent due to surgery, serious injury or serious illness, or absent for more than five (5) consecutive assigned workdays, shall be required to submit a medical release from a physician to their immediate supervisor prior to being permitted to return to work. A member absent for more than five (5) workdays shall notify the District of his/her approximate return not less than 24 hours prior to such return date.
- f. Members of the bargaining unit may be required to submit to medical examinations, at the District's expense, at the discretion of the District. Whenever possible, employees shall report absences at least four (4) hours prior to scheduled duty hours to the immediate supervisor, identifying the nature of illness or injury. The District may verify the member's illness or injury.

- g. All sick leave rights or accumulations shall be canceled when a bargaining unit member severs all official connection with the District as an employee. Bargaining unit members who take time off during the workday for medical or dental appointments shall utilize sick leave for this purpose or, with the permission of the supervisor, be allowed the alternative of making up the time on the same day.
- h. Paid sick leave shall be granted in increments of one (1) hour.
- i. Beginning with the Fiscal Year 94-95, any employee who does not use any sick leave benefits in the fiscal year shall be granted a bonus of three (3) additional vacation days. Contributions to the Catastrophic Leave program shall not affect employee's eligibility for a bonus under this section.

9.2 Industrial Accident and Illness Leave

- a. A member suffering an injury or illness arising out of or in the course and scope of his/her employment shall be entitled to leave of up to sixty (60) working days in any one fiscal year for the same accident or illness. This leave shall not be accumulated from year to year and when any leave will overlap a fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurred. Payment for wages lost on any day shall not, when added to an award granted the employee under the Worker's Compensation laws of that state, exceed the normal wages for the day.
- b. The industrial accident or illness leave is to be used in lieu of normal sick leave benefits. When entitlement to the industrial accident or illness leave under this section has been exhausted, entitlement to other sick, vacation, or other paid leave may then be used. If, however, an employee is still receiving temporary disability payments under the Worker's Compensation laws of this state at the time of the exhaustion of benefits under this section, he/she shall be entitled to use that amount of his/her accumulated and available normal sick leave and vacation leave which, when added to the Worker's Compensation award, provides for a day's pay at the regular rate of pay.
- c. Any time an employee on industrial illness leave is able to return to an unrestricted work schedule, as verified by a licensed physician, he/she shall be reinstated in an equivalent position without loss of accumulated longevity benefits or seniority in accordance with the provisions of 88195 of the Education Code.
- d. The provisions of this Section 9.2 are not grievable under the grievance procedure of the Local 39-PCCD Agreement.

9.3 Personal Necessity

A member may elect to use accumulated sick leave (not to exceed seven (7) days in any

fiscal year) for personal necessities. The following reasons allow a member to take personal necessity leave.

- a. The death of a member of the immediate family when additional leave is required beyond that provided in the Bereavement Leave Article and any other leave approved by the Associate Vice Chancellor for Human Resources or his/her designee.
- b. Accident involving his/her person or property or the person or property of a member of his/her immediate family. Immediate family has the same meaning as provided in the Bereavement Leave Article.
- c. Documented appearance in any court or before any administrative tribunal as a litigant.
- d. Illness or injury requiring hospitalization, transportation, or personal care by the employee or a member of his/her immediate family.
- e. One (1) of the seven (7) days may be granted for any reason deemed appropriate by the member and with prior approval of the first level manager.
- f. Certification of personal necessity leave shall be made on the leave form provided by the District and signed by the member and approved by the first level manager.

9.4 Bereavement Leave

A full-time employee shall be granted necessary leave of absence not to exceed four (4) working days, six (6) working days if out of state (or 200 miles intra-state) travel is required, on account of death of any member of the member's immediate family. No deduction shall be made from the salary of such employee nor shall such leave be deducted from leave granted by other sections of this Agreement provided by the governing board of the District. The governing board may enlarge the benefits of this section and may expand the class of relatives listed below as members of the immediate family.

The immediate family, for purpose of this Agreement, is defined as: Mother, Mother-in-Law, Father, Father-in-Law, Grandmother, Grandfather, Grandchild, Spouse, Son, Son-in-Law, Daughter, Daughter-in-Law, Stepchild, Brother, Brother-in-Law, Sister, Sister-in-Law, Aunt, Uncle, Domestic Partner, Nephew, Niece, Foster Child, Ward of the Court, Legal Guardian, and any person living in the immediate household (except paying tenants).

9.5 Leave of Absence Without Pay

- a. Any permanent employee with six (6) months or more of service may be granted a leave not to exceed one (1) year for a specific reason deemed appropriate by the District and at the convenience of the District. The District may approve one (1) additional year of unpaid leave.
- b. Any such leave shall be without pay. Any personal health or life insurance carried by the employee through the District may, with the carrier's and District's approval, be

continued at the expense of the member on personal leave. Members shall not accrue sick leave, vacation, or holiday.

9.6 Family Care Leave

Any bargaining unit member who qualifies shall be granted a leave of absence for family care pursuant to the California State Law and the Federal Family and Medical Leave Act (FMLA).

9.7 Military Leave

An employee will be granted military leave in accordance with the provisions of the State of California Education Code and of the Military and Veterans Code. Request for military leave shall be submitted in writing, and accompanied by military leave orders, two weeks prior to the leave starting date, except in the case of a state or national emergency.

9.8 Extended Illness or Injury Leave

Once a fiscal year, each bargaining unit member shall be entitled to an extended illness or injury leave of absence paid at the rate of 50 per cent (50%) of his/her regular salary for a period not to exceed a maximum of 100 working days.

The District shall pay 50% of the insurance premiums for employees utilizing extended illness or injury leave. An employee may elect to forego such benefit coverage.

- a. The extended illness leave provided in this session shall be used only after the exhaustion of all compensateable leave.
- b. Proof of illness or injury for such leave, acceptable to the District, must be provided by a licensed physician.
- c. The District shall inform the employee in writing of the period of time constituting leave at full pay as well as the period of time during which he/she will be compensated at 50% of regular pay.
- d. This leave shall not be accumulated from year to year.

9.9 Maternity Leave

Employees who are in an active employment status with the District immediately preceding medically verified pregnancy and who return to active employment with the District at the conclusion of pregnancy disability following childbirth or miscarriage, shall be eligible to receive compensation at their regular rate of pay. Such compensation shall be charged against sick leave for the workdays missed during the period of disability provided the District receives medical status reports not less frequently than once a month during the period of disability. These forms will be provided by the District.

9.10 Jury Duty

- a. A permanent employee called for jury duty shall not be encouraged in any way to seek

exemption from such duty nor shall he/she be discriminated against in any way for not seeking such exemption.

- b. When regularly called for jury duty in the manner provided by law, members shall be granted a leave of absence without loss of pay for the time the employee is required to perform jury duty during the employee's regularly assigned working hours.
- c. When employees on swing or graveyard shifts appear for jury duty service in person pursuant to a summons, they will receive time off from work on the day of jury duty service following such service. Time off shall be one hour off for each hour of time required to be spent in court on jury duty service, not to exceed the duration of their work shift. To be eligible for such time off, employees shall provide documentation from the jury commissioner establishing to the District's satisfaction the beginning and ending times of required jury duty service on each day, and shall also comply with the provisions of 9.10 d-f. Employees shall not request or accept jury duty pay from the District if they are receiving jury duty pay or paid time off of any sort from any other employer in conjunction with their jury duty service.
- d. Employees are required to return to work during any day in which jury duty services are not required.
- e. The District may require verification of jury duty time prior to providing jury duty compensation.
- f. Reimbursement to District: Any payment received by the employee from an agency for jury duty shall be endorsed to the Peralta Community College District and forwarded to the District Personnel Office.

9.11 Subpoena Leave

All bargaining unit members subpoenaed or otherwise required to appear at a hearing, trial, investigation, or other legal proceeding in any instance where the District is a party or arising from the course of their employment with the District, shall suffer no loss of pay if such appearance occurs during regularly assigned working hours.

9.12 Voluntary Sick (Catastrophic) Leave Contribution Program

- A. A voluntary Sick Leave Contribution Program may be established to meet the needs of unit members experiencing catastrophic illness or injury. Catastrophic illness or injury means an illness or injury that is expected to incapacitate the employee for an extended period of time, and that taking extended time off work creates a financial hardship for the employee because he or she has exhausted all of his or her sick leave and other paid time off (Ed. Code 87045 a 1). The Program shall be administered according to the provisions below.

B. Contributions

The Associate Vice Chancellor of Human Resources shall post a notification in the following locations: Physical Plant Maintenance Grounds; Custodians; Warehouse; Laney College Custodian; Food Service; Locker Room; Merritt Custodian; Locker Room; College of Alameda Custodian; Locker Room and Auto Shop, and shall call for voluntary contributions of accrued sick leave days/hours when a need is identified and verified. Individual contributions by members of the bargaining unit may be made under all of the following conditions:

1. The minimum contribution per call is one day (8 hrs.).
2. The maximum contribution per call is five (5) days.
3. The minimum Sick Leave balance after the contribution is at least five (5) days.
4. Transfer of contributions shall be limited to the number of days used subject to the maximums provided in this article.

C. Eligibility

1. A recipient of sick leave contributions must be an employee at the time the request is made.
2. **Other Paid Leave Accounts**
No unit member will be eligible for donated sick leave benefits until all other available paid leave accounts under the Local 39-PCCD Agreement have been exhausted.

D. Benefits

1. The Program may contribute up to 50 days at 100% of pay, but no more than necessary for an employee to be eligible for long-term disability.
2. **Limitations on Use**
No unit member may receive benefits from the Program more than two times in his/her lifetime.
3. Unit members receiving sick leave donations shall be covered by the District for medical, dental, life and disability benefits which they would be otherwise qualified to receive.
4. **Effect of Receiving Benefits**
Benefit recipients shall be solely responsible for any state and federal taxes on the donated time. Such taxes shall be withheld at the normal rate for the recipient employee. In the event that the state or federal governments rule that a tax liability is due other than as taxed, the recipient shall be solely liable for such liabilities.

E. Request Procedures

Request for benefits shall be submitted in a sealed envelope to the Associate Vice Chancellor of Human Resources. The Associate Vice Chancellor of Human Resources shall receive the request and supporting medical documentation and certification to determine whether the unit member meets eligibility requirements. Such requests must include a physician's certification that the unit member is unable, as a result of a catastrophic illness or injury, to perform the material duties of his/her occupation. At its discretion, the District may require additional medical information or require examination by a second physician of the District's choosing and at the District's expense. After reviewing the application and supporting documentation, the Associate Vice Chancellor of Human

Resources shall determine whether the unit member has met the criteria and furnished all documentation and number of days needed to bridge to eligibility for long term disability benefits.

The decision of the Associate Vice Chancellor of Human Resources shall not be subject to the grievance and arbitration provisions of the Local 39-PCCD Agreement.

10.1 Custodial Vacancies

Vacancies in the custodial classification series shall be filled on a seniority basis subject to the following provisions:

- a. Before the District considers utilizing an external applicant pool, a-position announcement will first be advertised internally throughout the District to provide an opportunity for current permanent custodians to apply.
- b. The position announcement will be advertised for the period of five (5) working days.
- c. Permanent custodians may apply for the position vacancy by completing District Transfer Request Form by the deadline date indicated on the announcement.

10.2 Posting Position Vacancies

When a vacancy exists in the bargaining unit classifications, the District agrees to post an announcement of the vacancy giving all pertinent details of the position and procedures for applying for the position. The announcement shall list the job specifications and minimum requirements necessary for consideration of an applicant, the location of the position, hours, salary schedule, and description of job duties. The announcement shall be posted on bulletin boards in all District locations in prominent locations at all work-sites and mailed to all Local 39 stewards at their locations at least five (5) working days before the application deadline for temporary vacancies and seven (7) working days before the application deadline for permanent vacancies.

10.3 Out-of-class assignments

When the District elects to fill provisionally a temporary vacancy (i.e., a position permanently occupied by another permanent employee who is unavailable to work) in the bargaining unit, the District agrees to allow District employees an opportunity to work out-of-class to gain knowledge and experience for career advancement. The following guidelines will govern this section.

- a. The District shall post for seven (7) days notice of out-of-class assignments. Employees applying for a temporary out-of-class assignment must meet the minimum qualifications for the position posted and must have satisfactory conduct and performance in the current position.
- b. Bargaining unit members who are interested in higher classification Assignments must file a job application with the District Personnel Office.

Personnel Office

- c. Offers of "Acting" in higher classification assignments in the bargaining unit will be rotated on the basis of site seniority among bargaining unit employees who are qualified to perform the work. In the absence of qualified personnel at the site,

employees at other sites who filed an application will be considered based on district-wide seniority. Employees may be removed from the rotation list and/or assignment for reasons of inadequate job performance or job related conduct pursuant to section 8.4. Such removal is not subject to the grievance procedure. As a general guideline, rotation among qualified and available bargaining unit members who have completed the application process will normally be applied every three (3) calendar months. Employees applying for a temporary out-of-class assignment must meet the minimum qualifications for the position posted, must have satisfactory Conduct and performance in the current position.

- d. An employee working out-of-class who is removed from the out-of-class assignment would then return to his/her former position at the appropriate pay level before the out-of-class assignment. The employee shall suffer no loss of classification seniority in his/her original position as a result of filling a temporary vacancy.
- e. The District does not guarantee a permanent position to the employee working in an out-of-class assignment.

10.4 Filling Permanent Promotional Vacancies

Any member of the bargaining unit who possesses the minimum qualifications for the announced vacancy may file an application on or before the final filing date, and shall be granted an interview by the Screening Committee.

a. Selection Committee

Participation of a bargaining unit member appointed by the Local 39 Business Representative, or his/her designee, on the Screening Committee for Local 39 positions shall be offered. The District shall inform Local 39 of its intent to conduct interviews by mailing to the Union business representative at the time of posting, a position vacancy announcement. The Local 39 Representative or his/her designee has up to five (5) working days, after the closing date of each Local 39 classified position advertised, to notify the appropriate manager of Human Resources of the Local 39 bargaining unit member to serve on the Screening Committee for each applicable position.

b. Selection Procedure

As a general guideline, if one or more unit members is in the final group of candidates the Screening Committee recommends for consideration for appointment, a unit member will be selected for the promotional position in the bargaining unit unless (i) the appointing manager submits a written request to the Associate Vice Chancellor for Human Resources stating the reasons for hiring from outside, and (ii) the Associate Vice Chancellor approves the requested action. The Union will be notified and given an opportunity to consult with the Associate Vice Chancellor before such an appointment is made.

c. **Notice of Selection**

Each applicant from the bargaining unit and Local 39 shall be notified that the position has been filled. The Local 39 Business Representative shall be provided with the name of the appointed applicant at the same time.

10.5 Substitute Employee

Substitute employees hired to fill a vacant bargaining unit position that has been formally announced for recruitment, may be employed for a maximum period of 90 calendar days while recruitment and screening procedures take place.

10.6 Nepotism

On or after the date this Agreement is signed, persons may be employed at any facility in the District provided that neither spouse, domestic partners or any relative directly participates in making recommendations or decisions affecting the appointment, retention, tenure, work assignments, promotion, demotion, or salary of the spouse, domestic partner, or relative.

10.7 Employee Development

The District encourages reasonable job related training for all employees in the bargaining unit. Toward this end, the District shall implement the following program.

- a. Employees shall be encouraged to attend Peralta Community College District courses, which would enhance their job skills in their current position or qualifications for promotion. The District shall waive the fees for qualifying courses. Employees selecting courses scheduled during working hours shall, where possible, be granted flexible work hours to accommodate their class schedule.
- b. Employees who desire to attend a seminar, conference, or class shall be provided with a flexible work schedule if all conditions below are met.
 1. The seminar, conference or class must be of such a nature that it would enhance the working skills of an individual's present position, or would contribute to the growth and development of an employee to obtain a promotion within the Peralta District. The seminar and/or conference attendance will not exceed two days within a calendar year. Release time (at regular pay) for seminar/conference attendance will be provided by the Peralta District. Employees attending a seminar/conference for employee development may be asked to provide proof of attendance.
 2. Attendance for scheduled classes for employee development will not exceed six (6) hours per week, or more than two (2) hours in any one (1) day per employee. Employees attending scheduled classes will be allowed to work a flexible schedule to enable them to complete their assigned hours each day. The flexible schedule will extend from 7:00 A.M. to 7:00 P.M. on weekdays. Employees attending such classes may be asked to provide proof of attendance.

3. An employee must notify his/her immediate supervisor at least five (5) days in advance of the seminar, conference, or beginning of scheduled classes. Employees authorized to take scheduled classes will work out the flexible schedule prior to attending the first class. It will be left to the discretion of the supervisor to allow more than one employee in his/her unit to attend a seminar, conference, or scheduled classes at the same time. Requests for flex-time to attend a seminar/conference will be granted on first-come, first-served basis. Any cost related to a seminar, conference, or scheduled class shall be the responsibility of the employee.
4. The District shall make known to employees local conference and educational seminars that target job skills development.

ARTICLE 11

NO STRIKES/NO LOCKOUTS

11.0 It is agreed by the Union and the Employer that there shall be no strikes or lockouts during the term of this Agreement.

12.1 Workweek/day

For full-time employees the workweek will be 40 hours within any seven (7) day period and the workday eight (8) hours within any twenty-four (24) hour period. With advance written approval by the Associate Vice Chancellor of Human Resources, flexible schedules may be adopted by mutual agreement between the employees and management in a given work area for the entire work group, provided that management may restore the prior status quo at any time upon reasonable notice not to exceed 30 days to the employee(s) affected; provided further that in the event of an emergency the status quo may be restored immediately.

12.2 Overtime

The District agrees to compensate employees at the rate of one and one-half (1 1/2) times the employee's regular rate for each hour of work required in excess of the eight (8) hour workday or 40 hour workweek. Employees shall be compensated at the rate of one and one-half (1 1/2) times their regular rate of pay for work assigned on the sixth and seventh workday. For work on a holiday, employees shall be compensated at two and one-half (2-1/2) times the regular rate of pay.

For employees assigned shifts that begin before and end after 12:01 a.m., the holiday begins at the end of the shift. For example, if a shift begins at 10:30 p.m. and ends at 7:00 a.m., on a holiday, the holiday for employees assigned this shift begins at the end of the shift. If an employee on this shift is assigned to work beyond the end of the shift (beyond 7:00 a.m.), on a holiday, the employee would be entitled to holiday overtime pay for all hours worked on the holiday after 7:00 a.m.

12.3 Overtime Compensation

Overtime shall be in pay or compensatory time at the employee's option. When an employee opts for compensatory time off, it must be granted within twelve (12) calendar months following the month in which the overtime was worked without impairing the services required of the District. Compensatory time off shall be granted at the appropriate rate of overtime. If the compensatory time off has not been taken within twelve (12) months after the month in which it was earned, the District shall pay the employee, by check, for all such time at the appropriate overtime rate based on the employee's current rate of pay.

12.4 Overtime Distribution

The first level manager shall authorize overtime based on knowledge and skills from the site shift seniority classification list. The first level manager shall authorize overtime as needed from the site shift seniority classification list on a rotating basis. The assigned employee may not refuse overtime without the approval of the first level manager.

12.5 Lunch Periods

The District will provide all bargaining unit members with an uninterrupted lunch period of not less than one-half (1/2) hour.

12.6 Rest Periods

The District will provide one (1) paid fifteen (15) minute rest period for each four employees are considered to be under the direction and supervision of the District.

12.7 Annual Shift Alignment

During the month of May of each year, each college and the District shall post its staffing requirement for each shift, each classification, and each site for the succeeding academic year. Only employees at the site shall be allowed to bid their shift preference based on the established shifts. For the purpose of this paragraph only, shift preference bids shall be awarded in accordance with classification site seniority.

As used in this paragraph, "shift" includes hours and work week. Notification of the outcome of the shift bidding process shall be made available to all affected employees during the month of June.

Shift assignments become effective on the first school day in August. Following completion of the annual shift bidding process, a list of final bid results will be sent to the union.

12.8 Vacant Shift Changes

When the District posts notice of a vacancy at any district site, employees at that college who occupy the same classification on other shifts may bid to change to that shift using a transfer request form. Classification site seniority shall apply. If no employees at the site bid to change to that shift, after District-wide posting, employees at other sites who filed a transfer request form will be considered based on district-wide seniority. After this special bid process is completed, newly hired employees will be assigned to the shift in which the resulting vacancy occurred.

12.9 If an event occurs which the District could not have planned for, necessitating a shift schedule change, the District and Union will meet to discuss alternatives and endeavor in good faith to resolve the problem. If the parties are unable to reach agreement, the provisions of the existing Agreement shall govern. Before the meeting, the District will give the Union information regarding the nature and duration of the event.

12.10 At Home Contact

When it becomes necessary for an on-duty member or manager to contact an off-duty employee relative to or in conjunction with the continuation of a program or service, an employee or manager may contact an off-duty member for the purpose of requesting information or direction and such off-duty member will be compensated for one (1) hour of compensatory time or overtime. An off-duty member who is contacted between the following hours, based on regular shift assignments, will be compensated for two (2) hours of compensatory time or overtime.

Shift

Contact between

Day

10:00 PM and 7:00 AM

Swing
Grave Yard

1:00 AM and 9:00 AM
9:00 AM and 5:00 PM

The contacted member will fill out a Classified Time Sheet requesting payment as overtime or compensatory time.

13.0 An employee required to return to the work site outside of his normal working hours due to an unanticipated event shall be compensated as follows:

- a. The employee shall be guaranteed four (4) hours compensation at the overtime rate.
- b. Any work performed in excess of four (4) hours shall be compensated at the actual number of hours at the applicable overtime rate.

13.1 Scheduled Overtime

Overtime pre-scheduled to occur on a non-regular work day or work shift shall be a minimum of two (2) hours.

13.2 Continuation of a work shift/Early Start

No minimum hours guarantee exists for continuation of work shift or an early start.

- 14.0 An employee who is required by a directive from a first level manager to remain available for duty (and is thereby placed on standby) and is restricted from travel to any area or location which would preclude his/her return to duty within one (1) hour, and is required to maintain their availability continuously by telephone (cellular or conventional), radio, or pager at all times during such stand by period, shall be compensated four (4) hours at the straight time stand-by compensation for every twelve (12) hour period. The four (4) hour straight time stand-by compensation may be broken if canceled prior to six (6) hours by payment of two (2) hours straight time minimum stand-by pay.

ARTICLE 15 POSITION AUDITS/CLASSIFICATION STUDIES

From the time the employee and his/her supervisor has completed and delivered all requested job audit forms and related information, the District shall complete a position audit/classification review within ninety (90) days. If because of workload or staff absences, the District is not able to meet this time line the union and the affected employee(s) shall be notified in writing. The notification shall include an estimated date for completion of the study.

Incumbents will not have their salary reduced if downward reclassification is implemented.

If within 30 days following a position audit and report by the Personnel Office, the Union and the District are unable to reach agreement on the appropriate classification and pay rate for a position, the following will occur:

1. The Union and the District will jointly prepare a brief written statement of the reasons for their final position on the classification and pay rate for the position(s) in the study. A copy of this statement will be provided to the other party and to the classification and pay specialist.
2. The Union and the District will jointly select a classification and pay specialist, who has no connection to either the District or the Union, to conduct a hearing on the issues in dispute.
3. The hearing will be informal and strict rules of evidence will not be required. The purpose of the hearing is to provide an opportunity for both parties to present facts and arguments in support of their position.
4. The classification and pay specialist shall be limited to selecting either the District's or the Union's final proposal. The classification and pay specialist is not authorized to recommend any modification to either final proposal or to recommend a proposed resolution that is different from either the District or Union's final proposal.
5. The cost of the classification and pay specialist shall be shared on a 50/50 basis.

16.0 The District agrees to provide the full cost of any medical examination required as a continuing condition of employment.

17.1 Eligibility

Members of the Local 39 bargaining unit, who have completed six (6) months of service as a probationary employee, shall accumulate vacation at the regular rate of pay earned at the time the vacation is commenced.

17.2 Vacation Requests

There shall be a twelve (12) month vacation leave schedule with the following limitations:

In June, July, and August:

- a maximum of two Custodians, based on seniority, shall be allowed to take their vacation at the same time at each college site and at Physical Plant;
- a maximum of two Grounds employees, based on seniority, shall be allowed to take their vacation at the same time in Physical plant; and
- a maximum of two Maintenance employees, based on seniority, shall be allowed to take their vacation at the same time in Physical plant.

17.3 Holidays During Vacation

Holidays falling in an employee's regularly scheduled vacation period shall not be counted as vacation days, but shall be in addition thereto.

17.4 Interruption of Vacation

The District may allow bargaining unit members to interrupt or terminate vacation leave in order to begin another type of paid leave without a return to active service, provided the employee supplies adequate notice and relevant supporting information regarding the basis for such interruption of vacation.

17.5 Paid Vacation

If the employee is not permitted to take his/her annual vacation, the amount not taken shall accumulate for use in the next year. Annual vacation shall be earned according to the following schedule.

17.6 Vacation Schedule

- a. New employees will not accumulate vacation for six (6) months.
- b. Seven (7) months through five (5) years = ten (10) days vacation.
- c. Six (6) years through ten (10) years = fifteen (15) days vacation.
- d. Eleven (11) year = Sixteen (16) days vacation.
- e. One (1) additional day per year after the eleventh (11th) year to a maximum of 20 days

vacation.

17.7 Vacation Scheduling

- a. Vacation periods shall be requested by employees not later than the last working day in February and shall be subject to the approval of the first level manager. The first level manager shall approve or disapprove vacation periods no later than the last working day in March for vacations occurring between April 1 through end of March 31 the following year. If there is any conflict between employees who are working under the supervision of the same first level manager as to when vacations shall be taken, the conflict shall be resolved on the basis of employment seniority.
- b. A new classified employee of the District shall not be eligible to take any vacation until the first day of the calendar month after completion of six (6) months of active service with the District.
- c. Each employee is expected to request sufficient vacation each year so that the total vacation including vacation carried over from one fiscal year to the next fiscal year does not exceed an amount equal to two (2) times the annual vacation earnings entitlement as of the end of the most recently completed fiscal year. If an employee does not request sufficient vacation leave to meet the accrual limit, the employee's first level manager will schedule the employee for sufficient vacation leave such that the employee's total vacation leave balance is at or less than two (2) times the employee's annual vacation earnings entitlement.

Example:

Employee earns 10 days/year vacation. Employee can carryover 10 days and earn 10 additional days for a total of 20 days.

Employees who accumulated more than two (2) times their annual vacation earnings entitlement prior to the date this Agreement is signed, retain their accumulated days.

Each work site (college campus or District Administrative Center) shall have available for review by each employee the leave transaction information necessary for the employee to know his/her vacation leave balance as of July 1 of each year. In addition, a notice reminding employees to check their vacation leave balance shall be posted in a prominent location at each work site.

17.8 Vacation Pay Upon Termination

When an employee in the bargaining unit is terminated for any reason, he/she shall be entitled to all vacation pay earned and accumulated up to and including the effective date of the termination.

- 18.1 All employees covered by this Agreement shall be entitled to the following paid holidays provided they are in a working status during any portion of the scheduled working day immediately preceding or succeeding the holiday. All new employees shall not be paid for holidays preceding their first day of employment.
- a. January 1 - New Year's Day
 - b. January - Martin Luther King's Birthday
 - c. February 12 - known as "Lincoln's Day"
 - d. Third Monday in February - known as "Washington's Day"
 - e. May 19th - known as "Malcolm X Day"
 - f. Last Monday in May - known as "Memorial Day"
 - g. July 4th
 - h. First Monday in September - known as "Labor Day"
 - i. "Admission Day"
 - j. November 11 - known as "Veterans Day"
 - k. Thanksgiving Day
 - l. Day after Thanksgiving
 - m. December 24
 - n. December 25
 - o. December 31
- 18.2 When a holiday herein listed falls on a Sunday, the following workday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding workday shall be deemed to be the holiday in lieu of the day observed. Holidays falling in an employee's regularly scheduled vacation period shall not be counted as vacation days, but shall be in addition thereto.
- 18.3 Employees who are on unpaid leaves of absence shall not be paid for holidays which occur during such leaves. In practice, employees who are not paid for the last working day before a holiday or the first working day after a holiday shall be considered to be on an unpaid leave of absence and shall not receive holiday pay.
- 18.4 If a holiday provided under the terms of this Agreement falls on an employee's regularly scheduled day off, the employee shall be granted a substitute holiday to be taken on the next regularly scheduled workday.
- 18.5 **Floating Holidays**
In addition to the above listed holidays, each employee covered by this Agreement shall be entitled to two (2) Floating Holidays each year, the scheduling of which shall be subject to approval by the first level manager. Such floating holidays are limited to two per fiscal year, must be used within the fiscal year, and do not carryover to "cumulate" from one fiscal year to the next.

18.6 Additional Holidays

Additional holidays shall be granted when required by state or federal statute, regulation or decree.

18.7 Year-End Holiday Closure Days

Employees shall receive up to three (3) year-end holiday closure days per year, non-cumulative to be used only for year-end holiday closure.

19.1 Performance Evaluations

The first level manager or the immediate supervisor, if designated, shall evaluate the employee by means of a performance evaluation. The following schedule shall be followed for the completion of the performance evaluation.

- a. For regular probationary employees, at the end of the second and fifth months of service.
- b. For all regular permanent employees, once a year after becoming a permanent employee.
- c. For any regular employee, at the time a critical incident (which beneficially or adversely affects the public service) occurs. Such a performance evaluation is considered a legitimate record of the District's continuing appraisal.

19.2 Procedure

The following procedure should be adhered to in regard to performance evaluation reports.

- a. The performance evaluation reports shall be completed by the employee's first level manager outside the bargaining unit, as designated by management.
- b. The reports shall be completed on forms prescribed by the District.
- c. Upon completing the Performance Evaluation Report, the evaluator shall present it to the employee and discuss it with him/her.
- d. The employee shall then sign the report in order to indicate his/her receipt and he/she shall retain a signed copy. In the event the employee is no longer supervised by the person preparing the evaluation, it may be delivered by certified mail.
- e. The employee evaluation shall not be subject to the grievance procedure.

19.3 Subcommittee

The parties shall convene a subcommittee to discuss improvements in the evaluation process and to identify and mutually agree upon any necessary contractual modifications.

19.4 Personnel Files

- a. The official personnel file and the official grievance file shall be maintained separately at the District Office. Employees shall be provided with copies of any derogatory written material ten (10) working days before it is placed in the employee's personnel file. During these ten (10) workdays, the employee shall have an opportunity to respond in writing to such derogatory material and have his/her written response attached thereto. Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the employee involved.
- b. A review of derogatory material in the personnel file of an employee shall take place during normal District Office business hours and the employee shall be released from duty for the purpose without salary reduction. Employees wishing to review their personnel file under the provisions of this paragraph will obtain authorization to be released from duty for that purpose from the first level manager. Employees wishing to review their personnel file shall call the Personnel Office in advance and schedule an appointment to inspect their personnel file.
- c. An employee, upon reasonable notice to his/her supervisor and the Personnel Department, shall have the right without loss of pay to examine and/or obtain copies of any material from his/her personnel file with the exception of material that includes ratings, reports, or records which were obtained prior to the employment of the employee involved. The employee's personnel file shall be available for examination by the Business Representative as authorized by the employee.

- 20.1** Persons driving District vehicles shall possess and maintain the appropriate valid California driver's license at all times. Every twelve (12) month period, the District may conduct a Department of Motor Vehicle (DMV) check on employees who drive District vehicles except in the event of an at-fault accident, the District may conduct an immediate DMV check. In the event the DMV check determines that the employee is a negligent driver, the District may take the following action:
- a.** The District will place the employee in a non-driving position within his/her classification, if such position is available.
 - b.** The District will place the employee in a non-driving position in another classification covered under the provisions of this Agreement, if such a position is available.
 - c.** The employee, if appropriate, may drive his/her own vehicle provided he/she is able to meet the then existing District primary liability insurance limits for bodily injury and property damage coverage.
 - d.** If there are no positions available as described above, the employee will be placed on a non-paid leave of absence until DMV no longer considers the employee as a negligent driver.

The list of the DMV violation point assignment is available through the District's Risk Management Department.

21.1 Temporary Transfers

- a. For the term of this Agreement, the transfer of employees in custodial classifications from one (1) work location to other work sites on a temporary basis may be initiated by the District management at any time such transfer is judged to be in the best interest of the District but shall not exceed 45 working days within any fiscal year. The 45 days of transfer shall be in inverse rotating site seniority order.
- b. Mileage at the rate stipulated in this Agreement shall be paid to transferred employees in an amount equal to the increased distance only, from the employees home to the site to which they are transferred or the District shall furnish transportation.

21.2 Transfer Requests

- a. A bargaining unit employee may request a lateral transfer from one position to another in the same classification at a different employment site when a position becomes available.
- b. The District shall consider the transfer requests of a permanent unit employee(s), if a written request is submitted during the announcement period of a vacant position, along with all other applicants.
- c. If more than one (1) permanent bargaining unit employee request lateral transfer, the District shall give consideration to district-wide seniority subject to affirmative action concerns.

21.3 Involuntary Transfers

If due to service requirements the District finds it necessary to transfer a bargaining unit employee, the District shall first seek volunteers in the appropriate classifications. If there are no volunteers, the transfer may be made by selecting employees in inverse order of seniority among employees in inverse order of seniority among employees competent to perform in the assignment.

ARTICLE 22

GRIEVANCE PROCEDURE

22.1 Purpose

To provide an orderly procedure for reviewing and resolving grievances promptly.

22.2 Section 1 - Definitions

- a. **"Grievance"** is any complaint of a member involving interpretation, application, or alleged violation of this Agreement. It is the intent of the parties to review and resolve grievances at the lowest possible administrative level.
- b. A **"grievant"** may be any member of the bargaining unit covered by the terms of this Agreement.
- c. A **"day"** (for the purpose of this grievance policy) is any day on which the District Office of the Peralta Community College District is open for business.
- d. The **"immediate supervisor"** is the first level management employee having immediate jurisdiction over the grievant--not within the same bargaining unit as the grievant or having jurisdiction over the action being grieved.

22.3 Section 2 - Time Limits

The bargaining unit members who fail to comply with the established time limits at any step will forfeit all rights to the further application of the grievance procedure for the alleged violation of this Agreement. If the District fails to comply with time limits, the grievant may advance grievance to the next level.

22.4 Section 3 - Other Provisions

- a. **"Application"** - Grievance, as defined in this Agreement, shall be brought only through this procedure.
- b. **"Grievance Processing Limits"** - The grievance procedure must be invoked within 30 days of the time the grievance or alleged grievance could reasonably have become known to the member.

22.5 Section 4 - Informal Discussion - Oral

Prior to a member initiating this grievance procedure, an informal discussion shall take place between the member and his/her immediate supervisor. The member may be represented by the Union.

22.6 Level I

- a. If the grievance is not resolved by informal discussion, it shall be stated in writing on the "Grievance Report form as provided by the Union, signed by the grievant and presented to his/her immediate supervisor, and a copy sent to the District Associate Vice Chancellor for Human Resources.
- b. The "Grievant Report" form must be complete, including, but not limited to full employee name, all facts giving rise to the grievance, the date of occurrence, the date of informal discussion, and shall state and identify by appropriate reference all

provisions and sections of this Agreement alleged to be violated; shall state the contention of the employee, with respect to these provisions; and shall indicate the specific relief, action, or remedy requested.

- c. Within ten (10) working days after receiving the written grievance, the appropriate manager shall offer the Union and the grievant the opportunity to participate in a conference regarding the grievance. This conference shall include the grievant, the business representative, and the manager.
- d. Within seven (7) working days following the conference date, the manager shall send or deliver his/her written decision to the bargaining unit member.

22.7 Level II

- a. In the event the grievant is not satisfied with the decision at Level I, he/she may appeal the decision to the Associate Vice Chancellor for Human Resources or his/her designee within ten (10) calendar days.
- b. This statement shall include a copy of the original grievance, a written copy of the decision rendered by his/her supervisor (attached), and a clear, concise statement of the reasons for the appeal.
- c. Within ten (10) working days after receiving the written grievance, the appropriate manager shall offer the Union and the grievant the opportunity to participate in a conference regarding the grievance. This conference shall include the grievant, business representative, and the manager.
- d. Within seven (7) working days following the conference date, the manager shall send or deliver his/her written decision to the bargaining unit member.

The Associate Vice Chancellor for Human Resources or his/her designee shall communicate the decision to the grievant in writing within ten (10) calendar days of receiving the appeal. If the Associate Vice Chancellor for Human Resources or his/her designee does not respond within the time limits, the grievant may appeal to the next level.

22.8 Level III

- a. If the grievance is not resolved at Level II, Local 39 may, within ten (10) working days, submit the grievance to binding arbitration. The arbitrator may hear testimony, receive written briefs, interview witnesses and conduct any investigation he/she deems appropriate and shall render a decision to the Associate Vice Chancellor for Human Resources or designee within 30 days.
- b. Arbitrator's fees and expenses shall be borne equally by the District and Local 39.

22.9 Extension of Time

If both parties agree, the time limits may be waived for a specific period of time at any step in this procedure.

23.1 PER Contributions

The District shall continue the current contribution to the Public Employees' Retirement System (PER) to the extent and limits required by PER.

23.2 Definition

A retired employee is one who has applied for and is eligible to receive a retirement benefit from PER for service (age 50 or older) or disability (regardless of age), and who has been employed by Peralta Community College District immediately prior to retirement for ten (10) or more years. If, following retirement from District service, a unit member who meets the retired employee definition is employed in a PER covered position and subsequently retires, the retiree will retain his/her status as a retired employee.

23.3 Retirees Health and Welfare Benefits**a. Medical Coverage**

1. All collective bargaining unit members retiring from the District during the term of this Agreement shall be offered medical coverage that is consistent with the coverage offered to active employees currently and in the future. This includes spouse, domestic partner and eligible dependents.
2. Coverage ceases for dependents upon the death of the retiree. In the case where both husband and wife are eligible retirees, coverage shall continue until the death of both retirees.
3. Those retirees who are eligible for Federal Medicare coverage (Part A and Part B) at age 65 shall apply for such coverage.
4. The retiree will be required to sign a statement (to be reaffirmed annually) that he/she is not receiving medical benefits (other than Medicare) from another source. If he/she is, the retiree will not be eligible to receive the medical benefits from the Peralta Community College District.

b. Life Insurance

All collective bargaining unit member's from age 50 to 65 who retire from regular service shall be maintained (at the District's expense) through age 65 on the District group life insurance policy provided for employees through age 65. The retired employee shall have the option to convert to an individual permanent plan at their own expense.

ARTICLE 24

HEALTH AND WELFARE BENEFITS

24.1 (See Appendix 1)

- A. No reduction in any benefit that was provided in the immediately preceding agreement shall occur due to failure to include said benefit in this Agreement, unless such reduction is specifically indicated in this Agreement.
- B. There are no changes to the plans that provide Life Insurance and Accidental Death and Dismemberment (AD&D) benefits, the Delta Dental Insurance or such other plan that provides equivalent benefits, the Flexible Benefits Plan, and the Commuter Expense Plan.
- C. The description of employee's medical benefits plan included in this Agreement shall replace the current Blue Cross PPO and modify the current Kaiser plan for the period 9/1/04-6/30/07. The current medical benefit plans shall remain in effect until the new plans are fully operational and implemented. All health and welfare plans shall be contractually arranged by the District and said contracts are hereby made a part of this agreement.
- D. The description of the Long Term Disability plan included in this Agreement shall replace the current long-term disability plan for the period 7/1/04-6/30/07. All Long Term Disability plans shall be contractually arranged by the District and said contracts are hereby made a part of this agreement.

This change affects any active employee who experiences a disability that begins on or after July 1, 2004.

Instead of a benefit level of 75% of pre-disability earnings, which is taxable like any other income, the benefit level decreases to 60% of pre-disability earnings, which is not taxed.

This means the actual monthly cost for each employee will be added to his/her gross income, but then in the same paycheck that amount will be deducted for Long Term Disability (making it cost neutral for the employee).

Due to the change in benefits structure for employees earning less than \$30,000, with 3 or more dependents, there is a net loss of approximately \$100/month. In those specific instances, the District will reimburse the employee for the amount of the net loss.

E. Eligibility conditions for retirement medical benefits shall be as follows:

1. Hired on or after July 1, 2004

- a) Vesting for retirement benefits for all employees hired on or after July 1, 2004 will be 10 years.
- b) Employees hired on or after July 1, 2004 who retire before the attainment of age of Medicare eligibility (currently 65 with minor exceptions) and who have ten years or more of service will be able to continue coverage under the Active plan until s/he reaches the age of Medicare eligibility (currently 65). When they become eligible for Medicare, these employees are expected to enroll in Medicare Parts A and B upon proof of notification. No other benefits are available to those retirees who have attained the age of Medicare eligibility (currently age 65). Any spouse or dependent of a retiree currently eligible for benefits during the retiree's lifetime (under the terms of the Local 39 7/1/00-6/30/03 contract) shall be covered under the Active plan until s/he reaches the age of Medicare eligibility (currently 65), or until s/he is no longer a dependent as defined in the aforementioned contracts. In the event of the death of the retiree prior to the spouse or dependent reaching the age of Medicare eligibility (currently 65), the dependent may buy the Active plan until s/he reaches the age of Medicare eligibility (currently 65).
- c) Employees hired on or after July 1, 2004 who work full-time beyond the attainment of age Medicare eligibility will remain on the District's medical plans, like any other active employee. Once retired, an employee may elect COBRA (self-pay) on the plan in which they were enrolled. They are also shall enroll in Medicare Parts A and B, upon proof of notification from the District. Retirees shall maintain a current address and telephone number with the District.

2. Hired before July 1, 2004

- a) The intent of this agreement is to have all active employees, including those who are not currently paying into Medicare, eligible for and enrolled in Medicare when they reach the age of Medicare eligibility (currently 65).
- b) Active employees hired before July 1, 2004 who are not currently paying into Medicare shall pay Medicare taxes, if they are not at the present time.
- c) Active employees hired before July 1, 2004 with 10 or more years of service at the time of retirement, their spouse, or domestic partner and their eligible dependents remain eligible for lifetime medical benefits.

3. All Employees Hired at any time

- a) All currently active employees hired at any time are eligible to participate in these District-sponsored health and welfare plans at no charge to the employees:
- Choice of either a PPO medical plan or a prepaid health plan (Kaiser), includes eligible dependents, spouse or domestic partner and domestic partners
 - Delta Dental Insurance or such other plan that provides equivalent benefits, includes eligible dependents, spouse and domestic partners
 - Life and Accidental Death and Dismemberment Plan
 - Long Term Disability Plan
 - Flexible Benefits Plan
 - Commuter Expense Plan
- b) Employees may at their own expense purchase additional life and/or disability insurance.

In addition: Specific Definitions will be modified as appropriate per the following language:

- a. CoreSource Interplan or such other plan that provides equivalent benefits
 - b. Kaiser Foundation Health Plan
2. Delta Dental Insurance or such other plan that provides equivalent benefits.
 3. Life Insurance - Hartford Life Insurance District paid.
 4. Long-Term Disability Insurance

Hartford Life Insurance District paid. The description of the Long Term Disability plan included in this Agreement shall replace the current long-term disability plan for the period 7/1/04-6/30/07. All Long Term Disability plans shall be contractually arranged by the District and said contracts are hereby made a part of this agreement.

This change affects any active employees who experiences a disability that begins on or after July 1, 2004.

Instead of a benefit level of 75% of pre-disability earnings, which is taxable like any other income, the benefit level decreases to 60% of pre-disability earnings which is not taxed.

This means the actual monthly cost for each employee will be added to his/her gross income, but then in the same paycheck that amount will be deducted for Long Term Disability (making it cost neutral for the employee.)

5. Vision Benefit

At no cost to the District, a vision benefit will be provided under the new PPO plan.

Under the plan, the plan participant can go to a licensed practitioner for a visual examination. If this practitioner prescribed corrective lenses, then there is a vision hardware benefit available. It is offered on an in and out-of-network basis.

In network: Up to \$150 per year, per plan participant, to cover the costs of lenses, frames, contacts and disposable contracts. (Contracted vision providers.)

Out of network: Payable at a rate of 50% up to \$100 per year, per plan participant, to cover the costs of lenses, frames, contacts and disposable contacts (Retail providers)

The vision benefit is offered only to those regular employees and their eligible dependents who enroll in the new PPO plan. The plan participant will pay any additional costs, if any.

24.2 Conditions

Coverage begins on the first of the month following the date of hire, provided the following conditions are met:

- a. Actual date of hire is prior to the 20th of the month;
- b. All enrollment forms for health and welfare benefits are received by the District prior to the 20th of the month.
- c. It shall be the member's responsibility to return all enrollment forms for health and welfare benefits to the District by the agreed upon deadline. Failure to do so shall hold the District harmless for any claim made in this period. In any case, all enrollment forms must be received by the District within 30 days of the date of hire. Failure to comply may result in the delay of providing coverage.

- d. If both husband and wife are employed by the District, they shall each be eligible severally for all health and welfare benefits. The only exception is that the dependent children shall not be covered by both.
- e. Dependent coverage is to be paid in full by the District. All dependents must be added at the time of employee's enrollment or within 30 days of a new birth or marriage or addition of a new dependent. The following plans include dependent coverage:
 - 1. Medical Insurance
 - 2. Dental Insurance
 - 3. Life Insurance

24.3 Domestic Partners

As of July 1, 1992, benefits provided by the Kaiser Medical Plan and the Delta Dental Plan have been extended to domestic partners.

- a. The employee and the member must complete, sign, and file with the Risk Management Office the "Affidavit of Domestic Partnership" which includes the following statements:
 - 1. The two (2) parties residing together have done so for at least six (6) months and intend to reside together indefinitely and share the common necessities of life;
 - 2. The two (2) parties are subject to the same eligibility requirements governing all other employees who are covered by or applying for health plan coverage. New children, new employees, adoptions, new marriages, and domestic partnerships are all subject to a 30-day limit on the enrollment period beginning on the date of the event;
 - 3. The two (2) parties are: not married, eighteen (18) years or older, not related by blood-closer than would bar marriage in the State of California, and mentally competent to consent to contract.
 - 4. The two (2) parties declare that they are each other's sole domestic partner and they are responsible for their common welfare;
 - 5. The two (2) parties agree to notify the employer with whom the "Affidavit of Domestic Partnership" is filed if there is any change in the circumstances attested to in the affidavit;
 - 6. The two (2) parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

- b. A member of a domestic partnership may end said relationship by filing a statement with the Risk Management Office. In the statement the individual filing must affirm, under penalty of perjury that: 1) the partnership is terminated, and 2) a copy of the termination statement will be mailed to the other partner unless both have signed the termination statement.
- c. No individual who has filed an Affidavit of Domestic Partnership may file another such affidavit until six (6) months after a statement of termination of the previous partnership has been filed with the designated department.
- d. Any person, employer, or company who suffer any loss because of a false statement contained in an Affidavit of Domestic Partnership or failure to notify the employer of changed circumstances as required in Paragraph "c" above may bring a civil action to recover their losses, including reasonable attorney's fees.

24.4 If, during the term of this Agreement, the state or federal government adopt health plan legislation/regulations that affect either the cost and/or health benefits by employees eligible to participate in the District health plans as defined in this Agreement, the health plan provisions in Article 24 will be reopened.

25.1 District Compliance

The District shall conform to and comply with all applicable health, safety, and sanitation guidelines.

The District is required to do the following:

1. Provide and promote the use of safety devices and safeguards to reasonably assure employee health and safety.
2. Use methods and processes which are reasonably adequate to insure employee health and safety.
3. Inform employees about harmful substances in the workplace.

25.2 Safety Committee

A District Safety Committee shall be formed with a Local 39 member from each site to review health, safety, sanitation, and working conditions to ensure compliance with applicable statutes and regulations. The Committee shall make recommendations to the District appointed administrator who shall chair the Safety Committee meetings. The member shall be appointed by the Business Representative.

25.3 Release Time

The members of the Committee shall be allowed reasonable release time to attend Safety Committee meetings.

25.4 No Discrimination

No employee shall be in any way discriminated against as a result of reporting any condition believed to be a violation of applicable health and safety regulations.

25.5 Safety Precautions

Each bargaining unit member shall observe normally acceptable precautions in the performance of his/her assigned duties. Custodians shall not use a ladder in excess of ten feet in height.

26.1 Night Shift Differential

The District agrees to compensate for shift differential at the rate of five (5) per cent for swing shift and seven (7) per cent for graveyard shift. All other provisions applicable to payment of these shift differentials shall remain as presently exist.

Any employee receiving a shift differential premium shall be paid at the appropriate rate, and all overtime shall be paid based on a regular rate which excludes the shift differential premium.

Employees who work four (4) or more hours after 4 p.m. (non-overtime hours) are designated as swing shift employees.

Employees who work four (4) or more hours (non-overtime hours) after 12 a.m. midnight are designated as graveyard shift employees.

26.2 Salaries

2004-05 The District shall confer to each regular and probationary bargaining unit member (prorated for less than 12 month employees) a one-time bonus of \$1,000, before the 2005 Spring semester commences. This bonus is non-recurring and shall not be included on any salary schedule.

2005-06 The salary schedule shall be increased reflecting the effective COLA as identified and funded by the State. Reopener on any new general fund, growth money and non-designated money coming into the District.

2006-07 The salary schedule shall be increased by a percentage reflecting the effective District COLA as identified and funded by the State. Reopener on any new general fund, growth money and non-designated money coming into the District.

26.3 Step Increases

- a. An employee shall be moved to the next step of the salary range after completion of the probationary period as defined in §7.20. Thereafter, the employee shall receive an annual step increase. The date of the first step increase shall be the anniversary date for annual step advancements.
- b. Regular annual increments, or step advancements, are provided to employees working on a regular basis for three-quarters (3/4) or more of the fiscal year. Employees working less than three-quarters (3/4) of the fiscal year shall not receive a step advancement on their anniversary date.

26.4 Longevity Benefits

Longevity payment have been established as follows:

A seven hundred and fifty dollar (\$750) annual installment effective after the ninth (9th) year of service; one thousand dollar (\$1,000) after the fourteenth (14th) year; and one thousand two hundred and fifty dollars (\$1,250) after 19 years of service.

26.5 Class A or B Commercial Driver's License

Effective the month following the month in which this Agreement is signed, Warehouse-Worker Drivers who are required to operate vehicles for which a Class A or B Commercial License is required by law or regulation shall be placed at Salary Range 39 during the period of time the employee has the required valid license. Warehouse-Worker Drivers who do not possess the required Class A or B driver's license will be placed at Salary Range 38. Assistant Warehouse Supervisors who possess the required Class A or B Commercial License will be placed at Salary Range 43. Assistant Warehouse Supervisors who do not possess the required license will be placed at Salary Range 42. Warehouse Supervisors who possess the required Class A or B Commercial License will be placed at Salary Range 50. Warehouse Supervisors who do not possess the required license will be placed at Salary Range 49.

This provision replaces the former provision of a 2-1/2% pay differential for employees who are required to possess a Class A or B Commercial Driver's License.

26.6 Special Payments

a. **Underpayment**

When it is determined that an error has been made in the calculation or reporting in any unit member's payroll or in the payment of any unit member's salary, the District shall, within five (5) workdays following such determination, provide the employee with a statement of the correction and a supplemental payment drawn against any available funds.

b. **Overpayment**

When it is determined by the District that an overpayment has been made to a unit member, the District shall notify the unit member and document the overpayment.

When a unit member receives an overpayment, the unit member shall immediately notify the District Payroll Office before cashing the check containing the overpayment to determine if a corrected check can be issued within 24 hours.

c. The following method will be used for reimbursement:

1. The unit member and the District will attempt to agree on the method of repayment.

2. If agreement on method of repayment is not reached, the following shall be used:

- (a) If overpayment has been made in one (1) check, the repayment shall be made in three (3) equal payments.
- (b) If overpayment has been made over a series of pay periods, the repayment shall be made over the same number of pay periods but in no case more than six (6) payments.
- (c) When an overpayment has occurred and repayment has been made, the District shall, upon request, supply the unit member with documentation.

26.7 Out of Class Pay

Employees required to perform work in a higher classification shall receive a five (5) per cent differential or the first step of the salary range of the higher classification, whichever is greater for the entire period worked in the higher classification.

26.8 An employee authorized to use his/her vehicle on District business shall be reimbursed in accordance with Board policy for all miles driven on behalf of the District. The rate of compensation for travel shall be adjusted at the start of each fiscal year to match the IRS rate in effect on July 1. The mileage computation shall include mileage necessary to return to the employee's normal job site after the completion of District assigned business. This provision is effective the first of the month following the signing of a new Agreement.

26.9 Multi-Lingual Pay

Employees represented by Local 39 who are required either by their job description or in writing by their first level manager to utilize a second language shall be eligible for premium pay of \$60 per month if the employee utilizes the required skills a minimum of 20 percent (20%) of the employee's working time. This must be verified by the first level manager either in writing or designated in the job description.

ARTICLE 27

LAYOFF AND RE-EMPLOYMENT

- 27.1** The District agrees to comply with Education Code Sections 88127 and 88014 and other applicable laws and with corresponding decisions by courts of appropriate jurisdiction as those decisions and as the Education Code relates to the subject of layoff and re-employment.
- 27.2** The parties herein establish a methodology to administratively determine the layoff order of employees hired (other than employees on probation in the class) into the same class on the same date.
- 27.3** The District will take the following factors in order presented into consideration prior to notifying an employee of his/her layoff (who has been hired on the same date in the same class as another or other employees), such that factor one takes precedence over factor two, factor two over factor three, etc.:
- a.** Total service time in the classification (or plus total time in higher classifications). Appropriateness of the ensuring ramifications of the layoff (such as: the employee's expected ability to perform in the position he/she would "bump" into, affirmative action implications, special or outstanding qualifications in the current or bumped into positions, mutual desires of the employees involved, etc.).
 - b.** Total service time in all classifications within the District (total seniority service).
 - c.** Productivity (i.e., evaluations on file, schedule performance, etc.).
- 27.4** It is understood that layoffs shall in no way be used as a substitute for normal disciplinary procedures, including as a means to "fire" marginal or unpopular employees. In the event the Union, upon receipt of the layoff letter, is in disagreement with the employee chosen to be laid off, the Union may, within five (5) working days, so notify the District of the disagreement, and the District will, within five (5) working days, allow the Union to review the facts upon which the decision was based.
- 27.5** It is understood that employees hereby give their representative access to review the facts upon which the District's decision was made when such decision is questioned by the grievant or Local 39.
- 27.6** With the exception of probationary employees, all layoffs are subject to the grievance procedure contained in the Collective Bargaining Agreement.

The District and Union agree to reopen on layoff language, Article 27.

27.7 Summer Work

- a. When positions are available for summer work, bargaining unit members employed less than twelve (12) months per year shall have first opportunity to fill these positions within their classification, provided that an employee notifies the District Personnel Office in writing four (4) calendar months in advance of the conclusion of the calendar work year to fill such position within his/her classification.
- b. Additionally, the District will give consideration to employees having made proper notification to the District of their desire to fill such position in other classifications. Regular employees working under this provision will be maintained on health and welfare.
- c. No employee covered by the terms of this Agreement will be laid off or suffer a reduced work year during the term of this Agreement until after the parties have met and conferred on the impact of such layoff or reduction.

ARTICLE 28

DISTRIBUTION OF CONTRACT

28.0 The District agrees it shall cause to be duplicated, copies of this Agreement as soon as practicable after settlement is reached. The cost of duplicating shall be shared 50/50 by the District and Local 39.

- 29.1 Local 39 shall submit their contract proposal to the District not later than the regular Board meeting in April of the year in which this Agreement becomes amendable and the Board shall hold the public hearing on the proposal at the next regular Board meeting.
- 29.2 The terms and conditions of this Agreement will remain in full force and effect during negotiations of the subsequent Agreement. The District and Local 39 mutually agree to commit to participate in Interest Based Bargaining in successor agreement negotiations.

- 30.1** This Agreement may be altered, changed, added to, deleted from, or modified only through the mutual consent of the parties. Parties expressly waive and relinquish the right, and each agree the other shall not be obligated during the term of this Agreement to bargain collectively with respect to any subject or matter whether referred to or covered in this Agreement even though such subject or matters may not have been within the knowledge or contemplation of either or both the District or Local 39 at the time they negotiated or executed this Agreement.
- 30.2** Any additions or changes in this Agreement shall not be effective unless reduced to writing and properly signed by both parties.

31.0 Savings Clause

If, during the life of this Agreement, any law or any order issued by a court or other tribunal of Competent Jurisdiction, shall render invalid or restrain compliance with or enforcement of any provision of this Agreement, such provision shall be inoperative so long as such law or order shall remain in effect, but all other provisions of this Agreement shall not be affected thereby and shall continue in full force and effect. In the event of suspension or invalidation of any Article or Section of this Agreement, the parties mutually agree to meet and negotiate within 60 days after such determination for the purpose of arriving at a mutually satisfactory replacement for such Article or Section.

ARTICLE 32

SUCCESSOR CLAUSE

32.0 Agreement shall be binding upon the successors or assigns of the parties hereto and no rights or obligations provided in this Agreement shall be in any manner affected by any sale, merger, or assignment by either party hereto

33.1 The Chancellor will designate at least one (1) seat on the Budget Advisory Committee (BAC) and the Chancellor's Policy Advisory Committee (CPAC) for a member of the Local 39 bargaining unit.

33.2 Joint Labor/Management Workshops

- a. During the term of this Agreement, the parties have agreed to schedule and conduct at least one (1) workshop concerning the Agreement. The purpose of the workshop is to discuss and increase understanding of the contract's provisions and the roles and responsibilities of the Union representatives/members and District managers in the administration of the Agreement. The workshop is not for the purpose of discussing grievable issues.
- b. The workshop will be limited to a length of two (2) hours. Shop stewards will be given release time to participate in the workshop.
- c. Additional workshops may be conducted by mutual agreement. Attendance may be expanded to include bargaining unit employees by site or job classification who are not serving as Union stewards.

ARTICLE 34

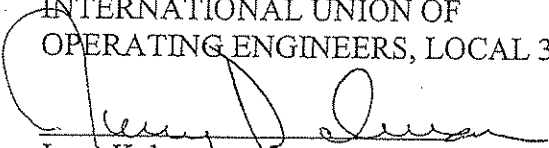
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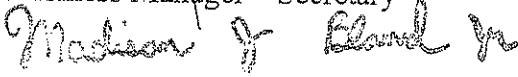
This agreement shall be effective as of July 1, 2003, and shall continue in full force and effect until June 30, 2007, and become amendable thereafter.

Ratified by Local 39, Stationary Engineers on June 2, 2004.


Approved by the Board of Trustees on June 2, 2004.

INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 39

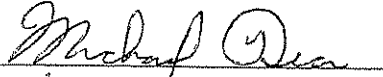

Jerry Kalmer
Business Manager - Secretary

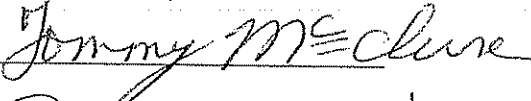



Madison Bland
President


Lynn Long
Business Representative

Negotiations Committee:

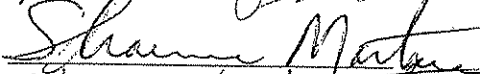


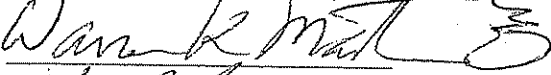


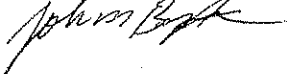


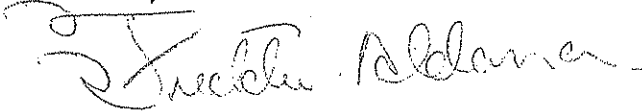












PERALTA COMMUNITY COLLEGE
DISTRICT



Trudy Largent
Associate Vice Chancellor for
Human Resources

APPENDIX 1 - HEALTH BENEFITS

This agreement includes major changes to the medical/prescription drug plans that the District sponsors. The current and new vendors are:

	PPO Plan – Current	PPO Plan – New September 1, 2004	Pre-Paid Health Plan Change
Administrator	Blue Cross	Core Source	Kaiser
Network	Prudent Buyer	InterPlan	
Prescriptions	Wellpoint	SysteMed	
Stop-Loss	BC Life	ING	

The following plan attributes, co-pays and deductibles shall apply:

Plan Attribute ↓	Blue Cross Until 8/31/04	CoreSource Eff. 9/1/04	Kaiser Until 8/31/04	Kaiser Eff. 9/1/04
Encounter Co-Pay (office visit, labs, etc.)	Zero	\$10 (deductible waived)	Zero	\$10
Emergency Room	Zero or \$25, depending on	\$35 (waived if d by network phy admitted as an inpatient)	Zero	\$35
Annual Deductible	Zero	\$100 (\$300 maximum family)	None	None
Co-insurance	20% non-netw	20% non-netwo	None	None
Mental Health/Che Dependency	50% any prov	Covered like an medical conditio reduction	Covered like an medical conditio reduction	No change
Infertility; Orthotics Smoking Cessatio	Not Covered	Coverage Now Available, subje new plan limits		No change
Wellness	Limited	Expanded	Extensive	No Change
Lifetime Maximum	\$1,000,000 (o \$2,000,000)	\$5,000,000	Not applicable	Not applicable

Generic Drug – up to 30 day supply	\$1	\$10	\$5	\$10
Brand Drug - up to 30 day supply	\$1	\$15	\$5	\$15
Mail Order –up to 30 day supply (Brand and Generic)	\$1	\$5	\$5	\$5
Health Education	Limited	Expanded	Extensive	No Change

APPENDIX A

PERALTA COMMUNITY COLLEGE DISTRICT
District Human Resources Office

International Union of Operating Engineer
Local 39 AFL-CIO
Salary Schedule Effective: July 1, 2002

001	1,086.00	1,137.00	1,187.00	1,255.00	1,315.00
002	1,112.00	1,165.00	1,219.00	1,284.00	1,350.00
003	1,137.00	1,187.00	1,255.00	1,315.00	1,384.00
004	1,165.00	1,219.00	1,284.00	1,350.00	1,416.00
005	1,187.00	1,255.00	1,315.00	1,384.00	1,450.00
006	1,219.00	1,284.00	1,350.00	1,416.00	1,491.00
007	1,255.00	1,315.00	1,384.00	1,450.00	1,522.00
008	1,284.00	1,350.00	1,416.00	1,491.00	1,563.00
009	1,315.00	1,384.00	1,450.00	1,522.00	1,601.00
010	1,350.00	1,416.00	1,491.00	1,563.00	1,641.00
011	1,384.00	1,450.00	1,522.00	1,601.00	1,682.00
012	1,416.00	1,491.00	1,563.00	1,641.00	1,725.00
013	1,450.00	1,522.00	1,601.00	1,682.00	1,766.00
014	1,491.00	1,563.00	1,641.00	1,725.00	1,816.00
015	1,522.00	1,601.00	1,682.00	1,766.00	1,856.00
016	1,563.00	1,641.00	1,725.00	1,816.00	1,899.00
017	1,601.00	1,682.00	1,766.00	1,856.00	1,946.00
018	1,641.00	1,725.00	1,816.00	1,899.00	1,995.00
019	1,682.00	1,766.00	1,856.00	1,946.00	2,042.00
020	1,725.00	1,816.00	1,899.00	1,995.00	2,096.00
021	1,766.00	1,856.00	1,946.00	2,042.00	2,148.00
022	1,816.00	1,899.00	1,995.00	2,096.00	2,198.00
023	1,856.00	1,946.00	2,042.00	2,148.00	2,252.00
024	1,899.00	1,995.00	2,096.00	2,198.00	2,311.00
025	1,946.00	2,042.00	2,148.00	2,252.00	2,372.00
026	1,995.00	2,096.00	2,198.00	2,311.00	2,426.00
027	2,042.00	2,148.00	2,252.00	2,372.00	2,487.00
028	2,096.00	2,198.00	2,311.00	2,426.00	2,543.00
029	2,148.00	2,252.00	2,372.00	2,487.00	2,609.00
030	2,198.00	2,311.00	2,426.00	2,543.00	2,677.00
031	2,252.00	2,372.00	2,487.00	2,609.00	2,735.00
032	2,311.00	2,426.00	2,543.00	2,677.00	2,807.00
033	2,372.00	2,487.00	2,609.00	2,735.00	2,870.00
034	2,426.00	2,543.00	2,677.00	2,807.00	2,944.00
035	2,487.00	2,609.00	2,735.00	2,870.00	3,014.00
036	2,543.00	2,677.00	2,807.00	2,944.00	3,093.00
037	2,609.00	2,735.00	2,870.00	3,014.00	3,165.00

038	2,677.00	2,807.00	2,944.00	3,093.00	3,251.00
039	2,735.00	2,870.00	3,014.00	3,165.00	3,323.00
040	2,807.00	2,944.00	3,093.00	3,251.00	3,409.00
041	2,870.00	3,014.00	3,165.00	3,323.00	3,490.00
042	2,944.00	3,093.00	3,251.00	3,409.00	3,584.00
043	3,014.00	3,165.00	3,323.00	3,490.00	3,670.00
044	3,093.00	3,251.00	3,409.00	3,584.00	3,754.00
045	3,165.00	3,323.00	3,490.00	3,670.00	3,850.00
046	3,251.00	3,409.00	3,584.00	3,754.00	3,945.00
047	3,323.00	3,490.00	3,670.00	3,850.00	4,028.00
048	3,409.00	3,584.00	3,754.00	3,945.00	4,133.00
049	3,490.00	3,670.00	3,850.00	4,028.00	4,232.00
050	3,584.00	3,744.00	3,945.00	4,133.00	4,335.00
051	3,670.00	3,850.00	4,028.00	4,232.00	4,439.00
052	3,754.00	3,945.00	4,133.00	4,335.00	4,548.00
053	3,850.00	4,028.00	4,232.00	4,439.00	4,661.00
054	3,945.00	4,133.00	4,335.00	4,548.00	4,770.00
055	4,028.00	4,232.00	4,439.00	4,661.00	4,882.00
056	4,133.00	4,335.00	4,548.00	4,770.00	5,001.00
057	4,232.00	4,439.00	4,661.00	4,882.00	5,130.00
058	4,335.00	4,548.00	4,770.00	5,001.00	5,249.00
059	4,439.00	4,661.00	4,882.00	5,130.00	5,379.00
060	4,548.00	4,770.00	5,001.00	5,249.00	5,502.00
061	4,661.00	4,882.00	5,130.00	5,379.00	5,642.00
062	4,770.00	5,001.00	5,249.00	5,502.00	5,777.00
063	4,882.00	5,130.00	5,379.00	5,642.00	5,911.00
064	5,001.00	5,249.00	5,502.00	5,777.00	6,058.00

Apprenticeship wage schedule based on stationary engineer, step E, at the bottom of appendix A.

First 12 month	65% of the stationary engineer, Step E
Second six months	70% of the stationary engineer, Step E
Third six months	75% of the stationary engineer, Step E
Fourth six months	80% of the stationary engineer, Step E
Fifth six months	85% of stationary engineer, Step E
Seventh six month	90% of stationary engineer, Step E
Eighth six month	95% of stationary engineer, Step E
Thereafter	100% of stationary engineer, Step E

Longevity Benefits

Longevity payment have been established as follows:

A seven hundred and fifty dollar (\$750) annual installment effective after the ninth (9th) year of service;

One thousand dollar (\$1,000) after the fourteenth (14th) year; and

One thousand two hundred and fifty dollars (\$1,250) after 19 years of service.

CLASSIFICATION TITLES AND PAY RANGES

<u>TITLE</u>	<u>RANGE</u>
Assistant Chief Stationary Engineer	57
Assisitant Grounds Supervisor	45
Assistant Warehouse Supervisor (A)	42
*Assistant Warehouse Supervisor (B)	43
Athletic Trainer – Equipment Manager	45
Stationary Engineer	54
Cashier	25
Chief Stationary Engineer	63
Custodian	32
Food Service Worker	19
Food Service Supervisor	39
Grounds Supervisor	50
Groundswoker-Gardener	36
Head Custodian	44
Lead Custodian (A)	40
Lead Custodian (B)	38
Lead Groundswoker-Gardener	40
Physical Education Attendant	29
Senior Storesworker	38
Storesworker II	34
Toolroom Keeper I/**	29
Toolroom Keeper II/**	31
Utility Engineer	40
Warehouse Supervisor (A)	49
*Warehouse Supervisor (B)	50
Warehouse Worker-Driver (A)	38
*Warehouse Worker-Driver (B)	39

*Requires Class A or B California Commercial Driver's License

** Multi-position classification, which a group of positions that are comparable in level, kind of work, responsibility and effort can be allocated to the same class, but may differ from one another in the specific skill(s) based on the field of expertise in which employed.

PERALTA COMMUNITY COLLEGE DISTRICT
District Human Resources Office

TRANSFER REQUEST FORM
Local 39

In accordance with Article 10.1 of the Agreement between the International Union of Operating Engineers, Local 39, and the Peralta Community College District regarding "Custodial Vacancies", I am applying for the vacancy cited below.

Employee's Name: _____

Current Position: _____

Current Location: _____

Current Shift: _____ Day _____ Swing _____ Graveyard

Current Hours: From _____ To _____

I am requesting a change to:

New Location: _____

Position Title: _____

New Shift: _____ Day _____ Swing _____ Graveyard

New Hours: From _____ To _____

Signature _____ Date: _____

