Agreement

between

State of California

and

California Attorneys, Administrative Law Judges and Hearing Officers
In State Employment (CASE)

covering

BARGAINING UNIT 2
ATTORNEYS AND HEARING OFFICERS

Effective

April 1, 2011 through July 1, 2013

CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT (CASE)

BARGAINING UNIT 2

ATTORNEYS AND HEARING OFFICERS

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ARTICLE 1 – RECOGNITION AND PURPOSE

1.1 Recognition and Purpose

A. This Memorandum of Understanding (hereinafter "MOU" or "Agreement") is entered into by and between the State of California (hereinafter "State" or "State employer") and the California Association of Administrative Law Judges, Attorneys, and Hearing Officers in State employment, (hereinafter "CASE"), pursuant to the Ralph C. Dills Act, Government Code Section 3512 et seq.

B. Its purpose is to improve employer-employee relations between the parties by establishing wages, hours, and other terms and conditions of employment.

C. Pursuant to the Dills Act and PERB certification No. S-SR-2, the State recognizes CASE as the exclusive representative of all employees in the Attorney and Hearing Officer Unit, Unit 2 (hereinafter "bargaining unit").

D. Pursuant to Government Code section 3517, CASE recognizes the Director of the Department of Personnel Administration (DPA) or his/her designee, as the designated representative of the Governor for the purposes of negotiating this MOU.

ARTICLE 2 – CASE RIGHTS

2.1 CASE Representation

A. Representational Activity

The State recognizes and agrees to deal with CASE representatives on all matters relating to bargaining unit grievances and claims and appeals to the State Personnel Board (SPB). An employee and a CASE representative shall be authorized a reasonable amount of time off during work hours without loss of compensation (consistent with workload requirements) to prepare and present grievances and claims and appeals before SPB. CASE employee representatives may be required to notify their immediate supervisors and obtain approval regarding the time of day for conducting such activities.

B. CASE Representatives

A written list of CASE representatives at each work location shall be furnished to the State immediately after their designation, and CASE shall notify the State promptly of any changes of such representatives. CASE officers or representatives shall not be recognized by the State until such lists or changes thereto are received.

C. Employee Donated Release Time Bank

1. Each department with Unit 2 employees shall establish a release time bank. The purpose of the release time bank is to allow Unit 2 employees to voluntarily contribute CTO, holiday credit, personal leave time, annual leave, or vacation for use by other Unit 2 employees identified by CASE who work for the same department.

2. Time donated to the release time bank shall be for engaging in organizational activity as defined in section 2.1 (C)(3) above. CASE shall provide verification that employees withdrawing from the bank were engaging in organizational activity.
3. Time shall be donated in one (1) hour increments. Time shall be used in eight (8) hour increments. Donations are irrevocable.
4. For purposes of this section, the value of each hour donated and each hour used shall be considered the same.
5. Employees who will be absent using donated time must provide their immediate supervisor or his/her designee with reasonable advance notice. Absences due to the use of donated release time shall be granted unless it interferes with operating needs.
6. Each department shall establish and publish the procedures for donating and using time. Departments may limit the number of times each year that employees may donate to the release time bank.
7. Departments shall permit CASE to review release time bank donation and use records upon reasonable notice from CASE. CASE review will not occur more than one time every four (4) months in each department.

2.2 Access

A. With prior notification to the official in charge of the area to be visited, CASE representatives shall have access to bargaining unit employees at the work site for representation purposes. Access shall not be disruptive.

B. The department head or designee may restrict access to certain work sites or areas for reasons of safety, security, or other legitimate business necessities. Access shall not be unreasonably withheld.

2.3 Bulletin Boards

A. CASE shall have access to existing State-furnished CASE bulletin board space at each work site where Unit 2 employees are located to post material related to CASE business. Alternatively, CASE may at its option and expense, provide (at one or more facilities) a bulletin board not to exceed 36” X 48” in size to be placed in a location, and at a time of day, determined by the facility manager. Any materials posted shall be dated and initialed by the CASE representative responsible for the posting. A copy of all materials posted shall be distributed to the designated management representative at the time of posting.

B. CASE agrees not to post any material of an illegal, libelous, obscene, defamatory, or solely non-educational partisan political nature on bulletin boards.

2.4 Distribution of Literature

CASE representatives may distribute CASE material during non-work time and shall not disrupt the work of others. CASE shall not distribute material of an illegal, libelous, obscene, or of a solely non-educational partisan political nature.

2.5 Bargaining Unit Information

A. The State employer shall continue to provide CASE with a list of bargaining unit employees. The list shall be arranged in alphabetical order according to surname and shall include each employee's name, classification, agency, work location, home address, and information regarding CASE payroll deductions.

B. On a monthly basis, the State employer shall continue to provide CASE with any changes to the list, including information contained therein, which occurred subsequent to the previous list of changes.

C. CASE agrees to reimburse the State Controller for all reasonable costs to produce these lists.

2.6 Use of State Rooms, Phones, and Electronic Communication Equipment

A. The State will permit use of its rooms for CASE meetings subject to the operating needs of the State. Requests for use of such State rooms shall be made in advance to the designated State official. CASE agrees to leave such rooms in the condition in which they were found.

B. CASE representatives shall be permitted reasonable use of State phones to make calls for CASE representation purposes provided, however, that such use of State phones shall not mean additional charges to the State or interfere with the operation of the State.

C. CASE shall be permitted incidental and minimal use of State electronic communication equipment ordinarily available to the user-employee during the regular course of business if (1) as permitted by the employee's department for other non-business purposes; and (2) for representational purposes only; and (3) provided it results in no additional cost to the State; and, (4) provided it does not interfere with the operations of the State.

D. The State cannot guarantee privacy when using State rooms, phones and electronic communication equipment.

2.7 Fair Share Fees/Dues Deduction

A. The State agrees to deduct and transmit to CASE all membership dues authorized on a form provided by CASE. Effective with the beginning of the first pay period following ratification of this agreement by the Legislature and the Union, the State agrees to deduct and transmit to CASE Fair Share fees from employees who do not become members of CASE.

B. The State and CASE agree that a system of authorized dues deductions and a system of Fair Share deductions shall be operated in accordance with Government Code sections 3513(h), 3513(j), 3515, 3515.6, 3515.7, and 3515.8, subject to the following provisions:

   1. The State and CASE agree that if a Fair Share rescission election is conducted in Unit 2 pursuant to Government Code section 3515.7(d), a majority of the members of the Unit shall determine whether the Fair Share deductions shall be rescinded.

2. The written authorization for CASE membership deductions shall remain in full force and effect during the life of this agreement; provided that any employee may withdraw from CASE by sending a signed withdrawal letter to CASE at any time. A withdrawal under this paragraph does not then relieve an employee from the Agency Shop provision of this agreement. An employee who so withdraws his or her membership shall be subject to paying a Fair Share fee if such a fee is applicable to Unit 2.
3. The amount of dues and fees deducted from CASE members' and fee payers' pay warrants shall be set by CASE and changed by the State upon written request of CASE.
4. CASE agrees to indemnify, defend and hold the State and its agents harmless against any claims made of any nature and against any suit instituted against the State arising from this Section and the deductions arising therefrom.
5. CASE agrees to annually notify all employees who pay Fair Share fees of their right to demand and receive from CASE a return of part of that fee pursuant to Government Code section 3515.8.
6. No provision of this Section, nor any disputes arising thereunder, shall be subject to the grievance and arbitration procedure contained in this Agreement.

2.8 Safety Committee

Upon request by CASE, appointing authorities for Unit 2 employees shall establish at least one safety committee, with at least one (1) Unit 2 employee representative and at least one (1) representative from management. Where safety committees (or like forums) already exist or are established for purposes of addressing safety matters of concern to more than just Unit 2 employees, then at least one (1) Unit 2 employee representative may instead be permitted to join that committee. The safety committee(s) may be constituted for purposes of addressing issues at one, or more than one work site.

2.9 New Employee Orientation

Upon initial appointment of an employee in a Bargaining Unit 2 classification, the appointing authority shall, within a reasonable period of time, inform the employee that CASE is the exclusive representative for his/her bargaining unit. The appointing authority shall also present the employee with a copy of this memorandum of understanding and a packet of information pertaining to representation by CASE, if supplied to that appointing authority in advance by CASE.

ARTICLE 3 – STATE RIGHTS

3.1 State Rights

A. All State rights and functions, except those which are expressly abridged by this MOU, shall remain vested with the State.

B. To the extent consistent with law and this MOU, the rights of the State include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; train, direct, schedule, assign, promote, and transfer its employees; initiate disciplinary action; relieve its employees from duty because of lack of work, lack of funds, or for other legitimate reasons; maintain the efficiency of State operations; determine the methods, means and personnel by which State operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work. The State has the right to make reasonable rules and regulations pertaining to employees consistent with this MOU provided that any such rule shall be uniformly applied to all affected employees who are similarly situated.

C. This MOU is not intended to, nor may it be construed to, contravene the spirit or intent of the merit principle in State employment, nor to limit the entitlements of State civil service employees provided by Article VII of the State Constitution or by-laws and rules enacted thereto.

ARTICLE 4 – GENERAL PROVISIONS

4.1 No-Strike/No Lockout Clause

A. During the term of this MOU, neither CASE nor its agents nor any Bargaining Unit 2 employee, for any reason, will authorize, institute, aid, condone or engage in a work slowdown, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the State.

   CASE agrees to notify all of its officers, stewards, representatives, agents, and staff of their obligation and responsibility for maintaining compliance with this Section, including the responsibility to remain at work during any interference which may be caused or initiated by others and to encourage employees violating this Section to return to work.

B. No lockout of Unit 2 employees shall be instituted by the State during the term of this Agreement.

4.2 Savings Clause

Should any provision of this MOU be found unlawful by a court of competent jurisdiction, the remainder of the MOU shall continue in force. Upon occurrence of such an event, the parties shall meet and confer as soon as practical to renegotiate the invalidated provision(s).

4.3 Entire Agreement

A. This MOU sets forth the full and entire understanding of the parties regarding the matters contained herein, and any other prior or existing understanding or MOU by the parties, whether formal or informal, regarding any such matters are hereby superseded. Except as provided in this MOU, it is agreed and understood that each party to this MOU voluntarily waives its right to negotiate with respect to any matter raised in negotiations or covered in this MOU, for the duration of the MOU.

With respect to other matters within the scope of negotiations, negotiations may be required during the term of this MOU as provided in subsection b. below.

B. The parties agree that the provisions of this subsection shall apply only to matters which are not covered in this MOU.

The parties recognize that during the term of this MOU, it may be necessary for the State to make changes in areas within the scope of negotiations. Where the State finds it necessary to make such changes, the State shall notify CASE of the proposed change thirty (30) days prior to its proposed implementation.

The parties shall undertake negotiations regarding the impact of such changes on the employees in Unit 2, when all three (3) of the following exist:

1. Where such changes would have an impact on working conditions of a significant number of employees in Unit 2;
2. Where the subject matter of the change is within the scope of representation pursuant to the Dills Act;
3. Where CASE requests to negotiate with the State.

Any agreement resulting from such negotiations shall be executed in writing and shall become an addendum to this MOU. If the parties are in disagreement as to whether a proposed change is subject to this Subsection, such disagreement may be submitted to the arbitration procedure for resolution. The arbitrator's decision shall be binding. In the event negotiations on the proposed change are undertaken, any impasse which arises may be submitted to mediation pursuant to Section 3518 of the Dills Act.

4.4 Supersession

A. The following Government Code sections and all DPA regulations related thereto are hereby incorporated into this MOU. However, if any other provision of this MOU is in conflict with any of the Government Code sections listed below or the DPA regulations related thereto, such MOU provision shall be controlling. The Government Code Sections listed below are cited in Section 3517.6 of the Dills Act.

1. General

19824	Establishes monthly pay periods.
19839	Provides lump sum payment for unused vacation accrued or compensating time off upon separation.

2. Step Increases

19829	Requires DPA to establish minimum and maximum salaries with intermediate steps.
19832	Establishes annual Merit Salary Adjustments (MSA) for employees who meet standards of efficiency.
19834	Requires MSA payments to qualifying employees when funds are available.

19835	Provides employees with the right to cumulative adjustments for a period not to exceed two years when MSA's are denied due to lack of funds.
19836	Provides for hiring at above the minimum salary limit in specified instances.
19837	Red Circle Rates.

3. Holidays

19853	Establishes legal holidays.
19854	Provides for personal holiday.

4. Vacations

19858.1	Defines amount earned and methods of accrual by full-time employees.
19856	Requires DPA to establish rules regulating vacation accrual for part-time employees and those transferring from one State agency to another.
19856.1	Requires DPA to define the effect of absences of 10 days or less on vacation accrual.
19863	Allows vacation use while on temporary disability (due to work-incurred injury) to augment paycheck.
19991.4	Provides that absences of an employee for a work-incurred compensable injury or disease is considered continuous service for the purpose of the right to vacation.

5. Sick Leave

19859	Defines amount earned and methods of accrual for full-time and part-time employees.
19861	Allows DPA to define the effect on sick leave credits of absences of 10 days or less in any calendar month.
19862	Permits sick leave to be accumulated.
19862.1	Allows employees who enter civil service from an exempt position within six months to carry unused sick leave credits.
19863	Allows sick leave use while on temporary disability (due to work-incurred injury) to augment paycheck.
19863.1	Provides sick leave credits for IDL.

19864	Allows the DPA to provide by rule for sick leave without pay for employees who have used up their sick leave with pay.
19866	Provides sick leave accumulation for non-civil service employees.
19991.4	Provides that absences of an employee for a work-incurred compensable injury or disease is considered continuous service for the purpose of the right to sick leave.

6. Paid Leaves of Absence

19991.3	Jury duty.
19991.5	Thirty (30)-day educational leave for the medical staff and medical technicians of the Veterans' Home.
19991.7	Teachers' educational leave and earned credits subject to DPA rule.

7. Uniforms, Work Clothes, and Safety Equipment

19850	Definitions.
19850.1	Provides for uniform allowances.
19850.3	Requires DPA to establish procedures to determine need for uniforms and the amount and frequency of uniform allowances.
19850.4	Provides for work clothes for purposes of sanitation or cleanliness to be maintained and owned by the State.
19850.5	Provides for initial issuance of required safety equipment at State expense.

8. Industrial Disability Leave (IDL)

19869	Defines who is covered.
19870	Defines "IDL" and "full pay".
19871	Provides terms of IDL coverage in lieu of workers' compensation temporary disability payment.
19871.1	Provides for continued benefits while on IDL.
19872	Prohibits payment of temporary disability or sick leave pay to employees on IDL.
19873	Inapplicability of retraining and rehabilitation provisions of Labor Code to employees covered by IDL.
19874	Allows employees to receive Workers' Compensation benefits after exhaustion of IDL benefits.
19875	Requires three-day waiting period, unless hospitalized or disabled more than 14 days.

19876	Payments contingent on medical certification and vocational rehabilitation.
19877	Authorizes DPA to adopt rules governing IDL.
19877.1	Sets effective date.

9. Non-Industrial Disability Insurance (NDI)

19878	Definitions.
19879	Sets the amount of benefits and duration of payment.
19880	Sets standards and procedures.
19880.1	Allows employee option to exhaust vacation prior to NDI.
19881	Bans NDI coverage if employee is receiving unemployment compensation.
19882	Bans NDI coverage if employee is receiving other cash payment benefits.
19883	Provides for discretionary deductions from benefit check, including employer contributions; employee does not accrue sick leave or vacation credits or service credits for any other purpose.
19884	Filing procedures; determination and payment of benefits.
19885	Authorizes DPA to establish rules governing NDI.

10. Life Insurance

21600	Establishes group term life insurance benefits.
21604	Provides for Death Benefit from PERS
21605	Sets Death Benefit at $5,000 plus 50 percent of one year's salary.

11. Health Insurance

22816	Provides for continuation of health plan coverage during leave of absence.
22825.1	Sets employer contribution.

12. Workweek

19851	Sets 40-hour workweek and 8-hour day.
19843	Directs the DPA to establish and adjust workweek groups.

13. Overtime

19844	Directs DPA to establish rules regarding cash compensation and compensating time off.
19848	Permits the granting of compensating time off in lieu of cash compensation within 12 calendar months after overtime worked.
19849	Requires DPA to adopt rules governing overtime and the appointing power to administer and enforce them.
19863	Allows use of accumulated compensable overtime while on temporary disability (due to work-incurred injury) to augment paycheck.

14. Callback Time

19849.1	Allows DPA to set rules and standards for callback time based on prevailing practices and the needs of State service.

15. Deferred Compensation

19993	Allows employees to deduct a portion of their salaries to participate in a deferred compensation plan.

16. Relocation Expenses

19841	Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.

17. Travel Expenses

19820	Provides reimbursement of travel expenses for officers and employees of the State on State business.
19822	Provides reimbursement to State for housing, maintenance and other services provided to employees.

18. Unpaid Leaves of Absence

19991.1	Allows the appointing power to grant a one-year leave of absence; assures the employee a right of return.
19991.2	Allows the appointing power to grant a two-year leave for service in a technical cooperation program.
19991.3	Jury duty.
19991.4	Provides that absences of an employee for work-incurred compensable injury or disease is considered as continuous service for purposes of salary adjustments, sick leave, vacation or seniority.
19991.6	Provides one year of pregnancy leave or less as required by a permanent female employee.

19. Performance Reports

19992	Provides for establishment of performance standards by State agencies.
19992.1	Provides for a system of performance reports and allows DPA to enforce adherence to appropriate standards.
19992.2	Requires the appointing power to prepare performance reports and show them to the employee.
19992.3	Requires performance reports to be considered in salary increases and decreases, layoffs, transfers, demotions, dismissals and promotional examinations as prescribed by DPA rule.
19992.4	Allows DPA to establish rules leading to reduction in class and compensation or dismissal for unsatisfactory service.

20. Involuntary Transfers

19841	Provides relocation expenses for involuntary transfer or promotion requiring a change in residence.
19994.1	Authorizes involuntary transfers. Requires 60-day prior written notice when transfer requires change in residence.
19994.2	Allows seniority to be considered when two or more employees are in a class affected by involuntary transfers which require a change in residence.

21. Demotion and Layoff

19997.2	Provides for subdivisional layoffs in a State agency subject to DPA approval. Subdivisional reemployment lists take priority over others.
19997.3	Requires layoffs according to seniority in a class, except for certain classes in which employee efficiency is combined with seniority to determine order of layoff.
19997.8	Allows demotion in lieu of layoff.
19997.9	Provides for salary at maximum step on displacement by another employee's demotion, provided such salary does not exceed salary received when demoted.
19997.10	An employee displaced by an employee with return rights may demote in lieu of layoff.
19997.11	Establishes reemployment lists for laid-off or demoted employees.
19997.12	Guarantees same step of salary range upon recertification after layoff or demotion.

19997.13	Requires 30-day written notice prior to layoff and not more than 60 days after seniority computed.
19998	Employees affected by layoff due to management-initiated changes should receive assistance in finding other placement in State service.
19998.1	State Restriction on Appointments.

22. Incompatible Activities

19990	Requires each appointing power to determine activities which are incompatible, in conflict with, or inimical to their employees' duties; provides for identification of and prohibits such activities.

23. Use of State Time

19991	Provides State time for taking civil service examinations including employment interviews for eligibles on employment lists, or attending a meeting of DPA or SPB on certain matters.

24. Training

19995.2	Provides for counseling and training programs for employees whose positions are to be eliminated by automation, technological or management-initiated changes.
19995.3	Provides for Department of Rehabilitation to retrain and refer disabled State employees to positions in State service.

ARTICLE 5 - SALARIES

5.1 Salaries

Effective July 1, 2013, all Unit 2/CASE represented classes for bargaining purposes, shall be adjusted by increasing the maximum of the salary range by four (4) percent. Employees at the old maximum salary range for the minimum of twelve (12) qualifying pay periods shall receive a four (4) percent increase. Employees at the old maximum salary rate for less than twelve (12) qualifying pay periods shall receive a new Merit Salary Adjustment (MSA) date based on qualifying service. Qualifying service toward the twelve (12) qualifying pay periods shall be in accordance with Department of Personnel Administration, Rules 599.682 (b) and 599.687. All other employees shall retain their salary and Merit Salary Adjustment (MSA) dates.

5.2 Salary Range Changes

A. Entry Level Attorney Classes – New Salary Rate for Range A

Effective July 1, 2005, Range A of the following classes shall be changed to the rate of $4410.

Scheme Code	Class Code	Classification
0A93	5539	Real Estate Counsel I
0C65	5730	Deputy Attorney General
0A72	5778	Staff Counsel
0047	5779	Deputy Attorney, CalTrans
0A70	5798	Legal Counsel
0I65	6110	Fair Employment and Housing Counsel
0N60	6185	Fair Political Practices Commission Counsel
0N65	6186	Fair Political Practices Commission Counsel-Enforcement
0K70	6187	Corporations Counsel
0A94	6272	Board Counsel I, ALRB
0A75	6728	Tax Counsel

B. 5% Minimum and Maximum Increase – Attorney III Level Classes

Effective July 1, 2006, the following classes shall be adjusted by increasing the minimum and the maximum of the salary range by 5%. Employees whose salary rate is less than the minimum of the new salary range shall move to the new minimum and retain their salary anniversary date (MSA).

Employees who have been at the old maximum salary rate for a minimum of twelve (12) qualifying pay periods shall receive a 5% increase. Employees at the old maximum salary rate for less than twelve (12) qualifying pay periods shall receive a new salary anniversary date based on qualifying service at the old maximum salary rate. Qualifying service towards the twelve (12) qualifying pay periods shall be in accordance with DPA Rules 599.682 (b) and 599.687.

All other employees shall retain their salary and their salary anniversary date (MSA).

Schem Code	Class Code	Classification
0A91	5537	Real Estate Counsel III (Specialist)
0C60	5706	Deputy Attorney General III
0D50	5763	Deputy State Public Defender
0040	5789	Deputy Attorney III, CalTrans
0A82	5795	Staff Counsel III (Specialist)
0J20	5812	Public Utilities Counsel III, PUC

0I55	6115	Senior Fair Employment and Housing Counsel (Specialist)
0I15	6180	Industrial Relations Counsel III (Specialist)
0K80	6188	Senior Corporations Counsel (Specialist)
0A97	6204	Senior Commission Counsel (Specialist), FPPC
0A96	6274	Senior Board Counsel, ALRB
0A76	6733	Tax Counsel III (Specialist)

C. 5% Minimum and Maximum Increase – Attorney IV Level Classes

Effective July 1, 2006, the following classes shall be adjusted by increasing the minimum and the maximum of the salary range by 5%. Employees whose salary rate is less than the minimum of the new salary range shall move to the new minimum and retain their salary anniversary date (MSA).

Employees who have been at the old maximum salary rate for a minimum of twelve (12) qualifying pay periods shall receive a 5% increase. Employees at the old maximum salary rate for less than twelve (12) qualifying pay periods shall receive a new salary anniversary date based on qualifying service at the old maximum salary rate. Qualifying service towards the twelve (12) qualifying pay periods shall be in accordance with DPA Rules 599.682 (b) and 599.687.

All other employees shall retain their salary and their salary anniversary date (MSA).

Schem Code	Class Code	Classification
0J50	5699	Public Utilities Counsel IV, PUC
0C50	5705	Deputy Attorney General IV
0D10	5772	Sr. Deputy State Public Defender (Range A only)
0A80	5780	Staff Counsel IV
0035	5788	Deputy Attorney IV, CalTrans
0I10	5981	Industrial Relations Counsel IV
0A78	6722	Tax Counsel IV, Franchise Tax Board

5.3 Merit Salary Adjustments

A. Employees shall receive annual merit salary adjustments (MSA) in accordance with Government Code Section 19832 and applicable Department of Personnel Administration rules.

B. The employee shall be informed in writing of denial ten (10) working days prior to the proposed effective date of the merit salary adjustment.

C. Denial of the MSA shall be subject to the grievance and arbitration procedure.

5.4 Range Changes

Employees shall receive upon movement to an alternate range the salary and MSA provided in the Alternate Range Criteria for the class. If there are no specific salary regulations provided in the Alternate Range Criteria, the employee shall receive the salary and MSA as provided in DPA Rule 599.681. Employees, at their discretion, who are eligible for a range change may defer their range change up to six (6) qualifying pay periods in order to coincide the range change with the effective date of their MSA. Said request by employee shall be in writing and submitted no less than thirty (30) days prior to the employee's anniversary date for purposes of the range change.

5.5 Bilingual Differential Pay

Bilingual Differential Pay applies to those positions designated by the Department of Personnel Administration as eligible to receive bilingual pay according to the following standards:

A. Definition of bilingual positions for Bilingual Differential Pay

1. A bilingual position for salary differential purposes requires the use of a bilingual skill on a continuing basis averaging ten percent (10%) of the time. Anyone using their bilingual skills ten percent (10%) or more of the time will be eligible whether they are using them in a conversational, interpretation, or translation setting. In order to receive bilingual differential pay, the position/employee must be certified by the using department and approved by the Department of Personnel Administration. (Time should be an average of the time spent on bilingual activities during a given fiscal year.)
2. The position must be in a work setting that requires the use of bilingual skills to meet the needs of the public in either:
   a. A direct public contact position;
   b. A hospital or institutional setting dealing with patient or inmate needs;
   c. A position utilized to perform interpretation, translation, or specialized bilingual activities for the department and its clients.
3. Position(s) must be in a setting where there is a demonstrated client or correspondence flow where bilingual skills are clearly needed.
4. Where organizationally feasible, departments should ensure that positions clearly meet the standards by centralizing the bilingual responsibility in as few positions as possible.
5. Actual time spent conversing or interpreting in a second language and closely related activities performed directly in conjunction with the specific bilingual transaction will count toward the ten percent (10%) standard.

B. Rate

1. An employee meeting the bilingual differential pay criteria during the entire monthly pay period would receive a maximum one hundred dollars ($100) per monthly pay period, including holidays.
2. A monthly employee meeting the bilingual differential pay criteria less than the entire pay period would receive the differential on a pro rata basis.
3. A fractional month employee meeting the bilingual differential pay criteria would receive the differential on a pro rata basis.
4. An employee paid by the hour meeting the bilingual differential pay criteria would receive a differential of fifty-eight cents ($.58) per hour.
5. An employee paid by the day meeting the bilingual differential pay criteria would receive a differential of four dollars and sixty-one cents ($4.61) per day.

C. Employees, regardless of the time base or tenure, who use their bilingual skills more than ten percent (10%) of the time on a continuing basis and are approved by the Department of Personnel Administration will receive the bilingual differential pay on a regular basis.

D. Bilingual differential payments will become earnings and subject to contributions to the California Public Employees' Retirement System (CalPERS), OASDI, levies, garnishments, Federal and State taxes.

E. Employees working in positions which qualify for regular bilingual differential pay as authorized by the Department of Personnel Administration may receive the appropriate pay during periods of paid time off and absences (e.g., sick leave, vacation, holidays, etc.).

F. Employees will be eligible to receive the bilingual differential payments on the date the Department of Personnel Administration approves the departmental pay request. The effective date shall be retroactive to the date of appointment, not to exceed one (1) year, and may be retroactive up to two (2) years, to a position requiring bilingual skills when the appointment documentation has been delayed. The effective date for bilingual pay differential shall coincide with the date qualified employees begin using their bilingual skills on a continuing basis averaging ten percent (10%) of the time, consistent with the other provisions of this section.

G. Bilingual salary payments will be included in the calculation of lump sum vacation, sick leave and extra hour payments to employees terminating their State service appointment while on bilingual status.

H. Qualifying employees in Work Week Group 2 shall receive bilingual salary compensation for overtime hours worked.

I. Employees receiving regular bilingual differential pay will have their transfer rights determined from the maximum step of the salary range for their class. Incumbents receiving bilingual pay will have the same transfer opportunities that other class incumbents are provided.

J. The bilingual differential pay shall be included in the rate used to calculate temporary disability, industrial disability and non-industrial disability leave benefits.

5.6 Overpayments/Payroll Errors

Overpayments/payroll errors shall be administered in accordance with Government Code Section 19838.

5.7 Late Docks

A. Notwithstanding Section 5.5 (Overpayments and Payroll Errors) and Section 5.7 (Timely Payment of Wages), departments may elect to proceed as follows as it pertains to "late docks".

1. Whenever an employee is charged with a "late dock" as defined by the State Controller's Office (SCO) for the purpose of issuing salary through the negative payroll system, departments may issue the employee's paycheck for that period as if no late dock occurred. This means that:

   a. The employee will receive a regular pay warrant on pay day (unless it would have been withheld for purposes other than the late dock);

   b. The employee will be overpaid, since the dock time will not have been deducted from the employee's pay check; and,

   c. The employee's pay will be adjusted for any dock time occurring before the SCO cut off date, since late docks occur on or after the cutoff date established by SCO.

2. Employees who are overpaid because of paragraph 1 above, will repay the State for their overpayment by an automatic payroll deduction of the total amount from their next month's pay check/warrant (or successive warrants where needed to satisfy the debt). Departments shall notify employees about the overpayment and the automatic payroll deduction in writing at the time the determination is made. The absence of said notification will not preclude the department from automatically deducting overpayments as otherwise permitted by this section.

3. Departments that elect to proceed under this section may do so on an employee-by-employee basis thereby reserving the right to issue salary advances in lieu of a regular paycheck in order to avoid an overpayment due to a late dock as the department deems prudent.

4. If an employee separates or retires from State service before satisfying late dock overpayments as a result of this section, the State shall deduct the total amount due from any other pay owing the employee at the time of his/her separation or retirement.

5.8 Timely Payment of Wages

A. When a permanent full-time employee receives no pay warrant on payday, the State agrees to issue a salary advance, consistent with departmental policy and under the following conditions:

1. When there are errors or delays in processing the payroll documents and the delay is through no fault of the employee, a salary advance will normally be issued within two (2) work days after payday for an amount close to the actual net pay (gross salary less deductions) in accordance with departmental policy.

2. When a regular paycheck is late for reasons other than (1) above (e.g., AWOL, late dock), a salary advance of no less than fifty percent (50%) of the employee's actual net pay will normally be issued within five (5) work days after payday. No more than two (2) salary advances per calendar year may be issued under these circumstances.
3. The difference between the employee's net pay and the salary advance shall not be paid until after receipt of the Controller's warrant for the pay period.
4. The circumstances listed in (1), (2) and (3) are not applicable in remote areas where difficulties in the payroll process would not allow these timelines to be met. In these areas, the State agrees to attempt to expeditiously correct payroll errors and issue salary advances.

B. It will be the responsibility of the employee to make sure voluntary deductions (e.g., credit union deductions, union dues, etc.) are paid. Nothing in this subsection shall be construed as a waiver of any individual right an employee may have apart from this agreement, to bring a personal action against the State as the result of payroll errors or delays. Said actions shall not be the subject of the grievance and arbitration procedure contained in this agreement.

C. This provision does not apply to those employees who have direct deposit. This provision does not preclude advances if they are provided for under any other rules or policies where direct deposit is involved.

5.9 Recruitment and Retention, State Prisons

A. Effective July 1, 1998, Unit 2 employees who are employed at Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons, Department of Corrections, for twelve (12) consecutive qualifying pay periods, shall be eligible for a recruitment and retention bonus of $2,400, payable thirty (30) days following the completion of the twelve (12) consecutive qualifying pay periods.

B. If an employee voluntarily terminates, transfers, or is discharged prior to completing twelve (12) consecutive pay periods at Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons, there will be no pro rata payment for those months at either facility.

C. If an employee is mandatorily transferred by the Department, he/she shall be eligible for a pro rata share for those months served.

D. If an employee promotes to a different facility, or department other than Avenal, Ironwood, Calipatria or Chuckawalla Valley State Prisons prior to completion of the twelve (12) consecutive qualifying pay periods, there shall be no pro rata of this recruitment and retention bonus. After completing the twelve (12) consecutive qualifying pay periods, an employee who promotes within the Department will be entitled to a pro rata share of the existing retention bonus.

E. Part-time and intermittent employees shall receive a pro rata share of the annual recruitment and retention differential based on the total number of hours worked excluding overtime during the twelve (12) consecutive qualifying pay periods.

F. Annual recruitment and retention payments shall not be considered as compensation for purposes of retirement contributions.

G. Employees on IDL shall continue to receive this stipend.

H. If an employee is granted a leave of absence, the employee will not accrue time towards the twelve (12) qualifying pay periods, but the employee shall not be required to start the calculation of the twelve (12) qualifying pay periods all over. For example, if an employee has worked four (4) months at qualifying institution and then takes six (6) months' maternity leave, the employee will have only eight (8) additional qualifying pay periods before receiving the initial payment of $2,400.

5.10 Out-of-State Differential Pay

Unit 2 employees who are headquartered out-of-State or who are on permanent assignment to travel at least fifty percent (50%) of the time out-of-State shall receive a pay differential of three hundred and fifty dollars ($350) per month.

5.11 National Judicial College Differential

A. Employees in classes enumerated in Section E (below) who complete an equivalent judicial education curriculum shall receive a monthly differential of five percent (5%) of their salary. The differential shall be considered compensation for purposes of retirement.

B. "Equivalent judicial education curriculum" means either a certificate issued by the National Judicial College (NJC) in courses related to administrative law adjudication or twenty (20) hours of judicial education or certification as approved by the department. Equivalency shall be determined by the Department of Personnel Administration based on recommendations from the employee's department.

C. Employees already receiving the differential at the time this agreement is ratified by the Legislature and CASE's membership shall continue to receive the differential.

D. Employees not receiving the differential at the time this agreement is ratified by the Legislature and CASE's membership who complete a qualified judicial education curriculum after July 1, 2000, may begin receiving the differential no earlier than the beginning of the pay period following the month in which the curriculum was completed and not later than the month following ratification of this agreement by both CASE and the Legislature.

   CASE recognizes that attendance at department provided training may be postponed for a reasonable period of time to coincide with training offered for other employees.

E. The State agrees to reimburse employees in Administrative Law Judge and Hearing Officer classifications; including Fair Hearing Specialists; Office of Administrative Hearings, Hearing Advisers (OAH); California Energy Commission, Hearing Advisers (CEC); and Workers' Compensation Conference Judges for necessary and reasonable expenses incurred (e.g., tuition and travel expenses) and to provide time off during normal work hours without loss of compensation, upon request, consistent with operational needs, to attend a qualified judicial education curriculum as defined above.

F. Reimbursement for the above expenses shall be in accordance with the Business and Travel Expense provision of this MOU.

5.12 Recruitment and Retention Differential

A. Upon approval by the Department of Personnel Administration, departments may provide Unit 2 employees a recruitment and retention differential for specific positions, classifications, facilities, or geographic locations.

B. Less than full-time permanent employees shall receive the recruitment and retention differential on a pro rata basis.

C. Permanent intermittents shall receive a pro-rated recruitment and retention differential based on the hours worked in the pay period.

D. Recruitment and retention payments shall not be considered as compensation for purposes of retirement contributions.

E. The department may withdraw any recruitment and retention differential for a specific position(s), classifications, facilities or geographic locations for new hires with a 30-day notice to CASE.

F. It is understood by CASE that the decision to implement or not implement recruitment and retention payments or to withdraw authorization for such payments or differential, and the amount of such payments or differentials rest solely with the State and that such decision is not grievable or arbitrable.

ARTICLE 6 – HOURS OF WORK

6.1 Overtime

The State and CASE agree, consistent with Government Code, Section 19844.1 and the Fair Labor Standards Act (FLSA), that no leave time shall be counted as hours worked for the purpose of calculating overtime/premium rates of pay at one and one-half times the regular rate of pay.

A. Travel Time

Notwithstanding any other contract provision, departmental policy or practice, the travel time of employees who are covered by FLSA shall only be considered as time worked if it meets the definitions and requirements of travel time in Sections 785.34 through 785.41 of Title 29 of the Code of Federal Regulations.

B. Overtime Compensation – WWG 2

Employees in classes assigned to Work Week Group 2 shall be compensated at time and one-half in cash or compensating time off at the discretion of each department head or his/her designee for ordered/authorized overtime of at least one-quarter (1/4) hour at any one time.

Employees shall obtain authorization to work overtime. Employees will only be compensated for overtime ordered or authorized by a supervisor.

The employee's preference will be considered when determining whether overtime will be compensated by cash or CTO except as otherwise provided by this agreement.

Overtime will be credited on a one-quarter (1/4) hour basis with a full quarter of an hour credit granted if half or more of the period is worked. Smaller fractional units will not be accumulated.

6.2 Work Week Groups

A. Work Week Group "2" – Graduate Legal Assistants and Deputy Labor Commissioners I

Work Week Group "2" applies to those classifications in State service subject to the provisions of the Fair Labor Standards Act (FLSA). Overtime for employees subject to the provisions of the FLSA is defined as all hours worked in excess of forty (40) hours in a period of one hundred sixty-eight (168) hours or seven consecutive twenty-four (24) hour periods. Employees in Work Week Group 2 may accrue up to two hundred forty (240) hours of compensating time off. All hours in excess of the two hundred forty (240) hour maximum accrual will be compensated in cash.

All Unit 2 employees/classifications assigned to Work Week Group 1, 4A (e.g., Graduate Legal Assistants) and 4B Deputy Labor Commissioners I shall be moved to Work Week Group 2.

B. Work Week Group “E” - Hearing Advisers, Hearing Officers, Judges, Referees

Work Week Group “E" includes classes that are exempted from coverage under the FLSA because of the "white-collar" (administrative, executive, professional) exemptions. To be eligible for this exemption a position must meet both the "salary basis" and the "duties" test.

Exempt (WWG E) employees are paid on a "salaried" basis and the regular rate of pay is full compensation for all hours worked to perform assigned duties. However, these employees shall receive up to eight (8) hours holiday credit when authorized to work on a holiday. Work Week Group E employees shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by this agreement.

All employees/classifications presently assigned to Work Week 4C who are not in an attorney/counsel classification shall be moved to Work Week Group E (e.g., hearing advisors, hearing officers, judges, referees, Deputy Labor Commissioner II, Deputy Commissioner-Board of Prison Terms).

C. Work Week Group “SE” – Attorneys

Work Week Group “SE” applies to those positions/employees that under Federal law are statutorily exempt from coverage under the Fair Labor Standards Act. To be eligible for this exemption a person must hold a valid license or certificate permitting the practice of law and be engaged in the practice of law.

The regular rate of pay is full compensation for all time that is required for the WWG SE employees to perform assigned duties. However, WWG SE employees shall receive up to eight (8) hours holiday credit when authorized to work on a holiday. Work Week Group SE employees shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by this agreement.

All attorney-counsel employees/classifications presently assigned to Work Week Group 4C shall be moved to Work Week Group SE.

6.3 Hours of Work and Work Schedules – WWGs E and SE – Effective September 1, 1999

The following shall apply to employees/classifications assigned to Work Week Groups E and SE.

A. Employees are expected to work all hours necessary to accomplish their assignments and fulfill their responsibilities. Employees will normally average forty (40) hours of work per week including paid leave; however, work weeks of a longer duration may occasionally be necessary.

B. Employees shall not be denied either flexible working hours or reduced work time except for operational needs which shall be in writing. Employees with flexible work schedules shall comply with reasonable procedures established by their department. This section concerning flexible working hours and reduced work time is subject to the grievance procedure up to and including the third level of review. It shall not be subject to arbitration.

C. Employees are responsible for keeping management reasonably apprised of their schedule and whereabouts; and, must respond to directions from management to complete work assignments. Employees may be required to record time for purposes such as client billing, budgeting, case or project tracking.

D. Employees shall not:

1. Be charged any paid leave for absences in less than whole day increments.
2. Be docked or have their salary reduced for absences of less than an entire day.
3. Be suspended in increments of less than one (1) complete work week (i.e., one week, two weeks, three weeks, etc.)
4. Have their pay reduced as a result of a disciplinary (adverse) action pursuant to Government Code section 19572.
5. Have absences of less than one (1) day recorded for attendance record keeping or compensation purposes.

6.4 Telework

A. The State and CASE recognize that telework has been proven to improve employee morale, reduce traffic congestion and improve productivity.

B. Employee requests to telework shall not be denied except for operational needs. When teleworking requests are denied, the reason shall be put in writing, if requested by the employee. Employees who believe their request to telework was denied in violation of this subsection, may file a grievance that can be appealed to the fourth level of the grievance procedure.

6.5 Real Time Hearing Support (WCAB)

A. The Department of Industrial Relations Division of Workers' Compensation shall investigate and study appropriate equipment and technology that may enable Workers' Compensation Administrative Law Judges to comply with the summary of evidence requirements of Labor Code Section 5313 without the necessity of their taking handwritten notes during the course of trial.

B. Such investigations and study of equipment and technology may include a pilot program utilizing real time capable reporters, computers and software and other appropriate technology.

C. The parties recognize that any future changes that occur as a result of this study may require new legislation or modifications to Workers' Compensations Appeals Board regulations prior to their implementation.

D. Upon written request, but in no event more than once annually, the Division agrees to meet and discuss with the Union the progress of its investigation and study. Upon completion of the study the State agrees to notify and meet and discuss with the Union the results and recommendations proposed by the study.

E. If new legislation or modifications to Workers' Compensation Appeals Board regulations are recommended, the State agrees to notify the Union pursuant to Article 4.3, prior to their implementation.

6.6 Rest Periods

A. An employee in WWG 2 may be granted a rest period on State time not to exceed fifteen (15) minutes each four (4) hours of his/her work shift, not to exceed thirty (30) minutes each workday. A rest period will not normally be granted during the first or last hour of the work shift. An employee shall be permitted to leave his/her work area during the rest period.

B. Rest periods may not be accumulated nor may they be used to "make-up" time.

6.7 Meal Periods (Work Week Group 2 – WWG2)

A. Except for employees on a straight eight (8) hour shift, full-time employees shall normally be allowed a meal period of not less than thirty (30) minutes or not more than sixty (60) minutes which shall be scheduled near the middle of the work shift. Meal periods taken shall not be counted as part of total hours worked.

B. Employees working more than five (5) hours per day, but less than eight (8) hours per day shall be entitled to a meal period of at least thirty (30) minutes. Meal periods shall not be counted as part of total hours worked.

ARTICLE 7 GRIEVANCE AND ARBITRATION

7.1 Purpose

A. This grievance procedure shall be used to process and resolve grievances arising under this MOU and employment-related complaints.

B. The purposes of this procedure are:

1. To resolve grievances informally at the lowest possible level.

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

7.2 Definitions

A. A grievance is a dispute between the State and CASE, or between the State and one or more employees, involving the interpretation, application, or enforcement of the express terms of this MOU.

B. A complaint is a dispute between the State and CASE, or between the State and one or more employees, involving the application or interpretation of a written rule or policy not covered by this MOU and not under the jurisdiction of the SPB. Complaints shall only be processed as far as the department head or designee.

C. As used in this procedure, the term "immediate supervisor" means the individual identified by the department head.

D. As used in this procedure, the term "party" means CASE, an employee, or the State.

E. A "CASE representative" refers to an employee designated as a CASE local representative or a paid staff representative.

7.3 Time Limits

Each party involved in a grievance shall act quickly so that the grievance may be resolved promptly. Every effort should be made to complete action within the time limits contained in the grievance procedure. However, with the mutual consent of the parties, the time limitation for any step may be extended.

7.4 Waiver of Steps

The parties may mutually agree to waive any step of the grievance procedure.

7.5 Presentation

At any step of the grievance procedure, the State representative may determine it desirable to hold a grievance conference. If a grievance conference is scheduled, the grievant or a CASE steward, or both, may attend without loss of compensation.

7.6 Informal Discussion

An employee grievance initially shall be discussed with the employee's immediate supervisor. Within seven (7) calendar days, the immediate supervisor shall give his/her decision or response.

7.7 Formal Grievance - Step 1

A. If an informal grievance is not resolved to the satisfaction of the grievant, a formal grievance may be filed no later than:

1. Twenty-one (21) calendar days after the employee can reasonably be expected to have known of the event occasioning the grievance;

2. Fourteen (14) calendar days after receipt of the decision rendered in the informal grievance procedure.

B. However, if the informal grievance procedure is not initiated within the period specified in Item (1) above, the period in which to bring the grievance shall not be extended by Item (2) above.

C. A formal grievance shall be initiated in writing on a form provided by the State and shall be filed with a designated supervisor or manager identified by each department head as the first level of appeal.

D. Within fourteen (14) calendar days after receipt of the formal grievance, the person designated by the department head as the first level of appeal shall respond in writing to the grievance.

E. No contract interpretation or grievance settlement made at this stage of the grievance procedure shall be considered precedential.

7.8 Formal Grievance - Step 2

If the grievant is not satisfied with the decision rendered pursuant to Step 1, the grievant may appeal the decision within twenty-one (21) calendar days after receipt to the department head or his/her designee.

Within thirty (30) calendar days after receipt of the appealed grievance, the person designated by the department head as the second level of appeal shall respond in writing to the grievance. A copy of the written response shall be sent concurrently to CASE.

7.9 Formal Grievance - Step 3

A. If the grievant is not satisfied with the decision rendered at Step 2, the grievant may appeal the decision within twenty-one (21) calendar days after receipt to the Director of the Department of Personnel Administration or designee.

B. Within thirty (30) calendar days after receipt of the appealed grievance, the Director of the Department of Personnel Administration or designee shall respond in writing to the grievance.

7.10 Response

If the State fails to respond to a grievance within the time limits specified for that step, the grievant shall have the right to appeal to the next step.

7.11 Formal Grievance - Step 4

A. If the grievance is not resolved at Step 3, within thirty (30) calendar days after receipt of the fourth level response, CASE shall have the right to submit the grievance to arbitration.

B. Within fourteen (14) calendar days after the notice requesting arbitration has been served on the State or at a date mutually agreed to by the parties, the parties shall meet to select an arbitrator. If no agreement is reached on the selection of an arbitrator the parties shall, immediately and jointly, request the State Mediation and Conciliation Service or the American Arbitration Association to submit to them a panel of nine (9) arbitrators from which the State and CASE shall alternately strike names until one name remains and this person shall be the arbitrator. If the parties cannot agree from which service to obtain the list of arbitrators, the party requesting arbitration shall pay all costs, if any, of obtaining the list of arbitrators.

C. The arbitration hearing, itself, shall be conducted in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association. The cost of arbitration shall be borne equally between the parties.

D. An arbitrator may, upon request of CASE and the State, issue his/her decision, opinion, or award orally upon submission of the arbitration. Upon the request of either party, the arbitrator will be required to put his/her decision, opinion, or award in writing, with copies to each party.

E. The arbitrator shall not have the power to add to, subtract from, or modify this MOU. Only grievances as defined in Section 7.2(a) of this Article shall be subject to arbitration. In all arbitration cases, the award of the arbitrator shall be final and binding upon the parties.

7.12 Health and Safety Grievances

A. It is the policy of the state employer to provide reasonable safeguards for the protection of the health and safety of all employees.

B. To this end, the parties agree that it is in their mutual best interest to endeavor to make the worksite as free from danger to the life, safety or health of employees as the nature of the work permits.

C. It is understood that references to safety and health conditions of work are not intended to include those hazards and risks which are an ordinary characteristic of the work or are reasonably associated with the performance of an employee's responsibilities and duties.

D. Nothing in this procedure shall be interpreted as an authorization to fail to follow orders or instructions. Departmental orders and state policy require that orders be obeyed promptly even where inherent risk is involved or where the employee does not personally agree with the order unless the order constitutes what a reasonable person under similar circumstances would perceive as an immediate risk of death or serious injury.

E. It is the intent of this Health and Safety Grievance Procedure to ensure a prompt response to employees who feel that a situation exists which constitutes a danger to their safety and health.

F. When the Union feels that there exists a clear and present danger of an imminent and severe threat to the health and safety of the employees, the union may invoke the Immediate Dispute Resolution-Health and Safety provision in Article 7.14 of this contract. When an employee in good faith believes that an otherwise unsafe condition exists, he/she will so notify his/her supervisor. The supervisor will immediately assess the situation, direct any necessary corrective action, and either direct the employee to temporarily perform some other task or direct the employee to proceed with his/her assigned duties. If the Union or the employee still believe the unsafe conditions exist, the Union or the employee may file a grievance alleging a violation of this Section at Step 2 of the grievance procedure as follows:

1. Health and Safety Grievance – Step 2
   a. If the grievant is not satisfied with the decision rendered by his/her supervisor pursuant to Section 7.7 of this article, the grievant may appeal the decision within fourteen (14) calendar days after receipt of the decision to a designated supervisor or manager identified by each department as the second level of appeal.
   b. Within five (5) calendar days after receipt of the appealed grievance, the person designated by the department head as the second level of appeal shall respond in writing to the grievance.

2. Health and Safety Grievance – Step 3
   a. If the grievant is not satisfied with the decision rendered pursuant to Step 2, the grievant may appeal the decision within fourteen (14) calendar days of receipt to a designated supervisor or manager identified by each department head as the third level of appeal. If the department head or designee is the second level of appeal, the grievant may bypass Step 3.
   b. Within fourteen (14) calendar days after receipt of the appealed grievance, the person designated by the department head as the third level of appeal shall respond in writing to the grievance.
   c. If the grievance is not resolved at Step 3 within thirty (30) calendar days after the receipt of the third step response, the Union shall have the right to appeal to the Department of Personnel Administration.

G. If the grievance cannot be resolved at Step 4, within thirty (30) calendar days after receipt of the fourth step response the Union may submit the grievance to arbitration pursuant to Step 5 of the grievance section of this contract. The selection of the arbitrator shall be in accordance with the grievance and arbitration section of this contract.

7.13 Immediate Dispute Resolution - Health and Safety

A. When the union believes that there exists a clear and present danger of an imminent and severe threat to the health and safety of Unit 2 employees and the elimination of that danger cannot be accomplished at the local level, CASE may invoke the provisions of this section as follows:

1. Within forty-eight (48) Monday through Friday hours of becoming aware of the alleged threat CASE may contact the department's Labor Relations Officer with specific information regarding the alleged threat to the health and/or safety of the employees.
2. The Labor Relations Officer may resolve the dispute or may refer the matter down to a lower management level.
3. If the dispute is referred to a lower management level, CASE will commence informal discussions at the designated level within twenty-four (24) Monday through Friday hours.
4. The Labor Relations Officer may also participate in any informal discussion at any time.
5. If a mutual resolution is not achieved within forty-eight (48) Monday through Friday hours from the time the dispute was referred to the lower management level CASE may request informal talks with level 3 of the grievance and arbitration procedure.
6. If a mutual resolution is not achieved within twenty-four (24) Monday through Friday hours of the dispute being presented at level 3, CASE may present the dispute to the Department of Personnel Administration.
7. If a mutual resolution is not achieved within twenty-four (24) Monday through Friday hours of the dispute being presented at that level, CASE may request the dispute be submitted to immediate arbitration.
8. The State shall request the American Arbitration Association, the State Conciliation and Mediation Service or the Federal Mediation and Conciliation Service to submit to the parties a panel of five (5) names. The first arbitrator, mutually agreeable who can be available for arbitration within ten (10) calendar days of the date the list is provided, or on a date mutually agreed to by the parties, shall be selected. In the event that the parties do not agree on an arbitrator, names from the list shall be stricken as follows: CASE shall make the first selection, and the parties shall thereafter alternately make selections until an arbitrator is available or the panel is exhausted, a second panel shall be requested.
9. The arbitrator shall have no authority to add to, delete or otherwise alter any provision of the contract, but shall limit the decision to the facts and circumstances as provided at arbitration.
10. The arbitrator shall make a decision solely on any written record previously submitted by the parties, with each party also providing a copy to the other party, on any oral presentation, and on any documentation submitted at arbitration. Only the arbitrator may ask questions of the other party. Statements of witnesses may be submitted in the form of an affidavit.
11. The Arbitrator shall make a bench decision which is binding on the parties.
12. The costs of the arbitration shall be borne equally by the parties.

B. It is understood that references to health and safety conditions of work are not intended to include those hazards and risks which are an ordinary characteristic of the work or are reasonably associated with the performance of an employee's responsibilities and duties.

C. Time limits may be extended at any step by mutual agreement of the parties.

D. The parties agree that the intent of this procedure is to provide an avenue for urgent communications between the parties at the appropriate level in order to timely clear up misunderstandings that may seriously affect employees.

7.14 Grievance Review

Upon request, the Department of Personnel Administration shall meet monthly with the Union in an attempt to settle and resolve grievances pending at the third level. The parties shall agree at least two weeks prior to each meeting on the agenda and who shall attend.

ARTICLE 8 - HOLIDAYS

8.1 Holidays

A. All full-time and part time employees shall be entitled to such observed holidays with pay as provided herein, in addition to any official State holidays declared by the Governor.

B. Observed holidays shall include January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving and December 25. The holidays are observed on the actual day they occur with the following exceptions:

1. When November 11 falls on a Saturday, full-time and part-time employees shall be entitled to the preceding Friday as a holiday with pay.

2. When a holiday, other than November 11, falls on a Saturday employees shall receive a holiday credit.

3. When a holiday falls on Sunday, full-time and part-time employees shall be entitled to the following Monday as a holiday with pay.

4. For those employees who work schedules other than Monday through Friday, those holidays listed in Subsection B. above shall be observed on the day on which the holiday occurs. An employee shall receive compensation for only the observed or actual holiday, not both.

C. Every full-time and part-time employee, upon completion of six (6) months of his/her initial probationary period in State service, shall be entitled to one (1) personal holiday per fiscal year. The personal holiday shall be credited to each full-time and part-time employee on the first day of July.

D. The department head or designee may require five (5) days advance notice before a personal holiday is taken and may deny use subject to operational needs. When an employee is denied use of a personal holiday, the department head or designee may allow the employee to reschedule the personal holiday; or shall, at the department's discretion allow the employee to either carry the personal holiday to the next fiscal year, or cash out the personal holiday on a straight time (hour for hour) basis.

E. The department head or designee shall make a reasonable effort to grant an employee use of his/her personal holiday on the day of his/her desire subject to operational need.

F. When an observed holiday falls on an employee's regularly scheduled day off, full-time employees shall accrue eight (8) hours of holiday credit per said holiday. If the employee is required to work on the observed holiday, the employee shall be compensated in accordance with paragraph G or I below. An employee shall receive compensation for only the observed or actual holiday, not both.

G. When a full-time employee in Work Week Group 2 is required to work on an observed holiday, such employee shall be paid in accordance with Government Code Section 19853 (paid straight time, hour for hour, basis). Employees who are required to work one of the following premium holidays will be paid one and one-half (1-½) the hourly rate for all hours worked on: January 1, last Monday in May, July 4th, first Monday in September, Thanksgiving Day and December 25th. The method of compensation shall be at the State's discretion. If a full-time employee works eight (8) hours on the holiday, the employee shall receive no more than twenty (20) hours of total compensation (combination of holiday credit, CTO, and cash) for each holiday worked.

H. Work Week Group E or SE Employees: When a permanent full-time employee is required to work on an observed holiday such employee shall receive up to eight (8) hours of holiday credit. Employees who are required to work one of the following premium holidays (January 1, last Monday in May, July 4th, first Monday in September, Thanksgiving Day and December 25th) shall receive up to eight (8) hours of holiday credit and four (4) hours of informal time off. If an observed holiday falls on an employee's normal day off, and the employee does not work, the employees shall receive no more than eight (8) hours of holiday credit.

I. Part time employees in workweek Group 2 who are required to work on an observed holiday shall be paid in accordance with Government Code Section 19853 (paid straight time, hour for hour, basis). Employees who are required to work one of the following premium holidays will be paid one and one-half (1 1/2) hourly rate for all hours worked on: January 1, last Monday in May, July 4th, first Monday in September, Thanksgiving Day and December 25th compensable by cash or holiday credit. The method of compensation shall be at the State's discretion.

J. Part-time employees shall receive holidays in accordance with the following:

K. CHART FOR COMPUTING VACATION, SICK LEAVE, AND HOLIDAY CREDITS FOR ALL FRACTIONAL TIME BASE EMPLOYEES SUPERCEDES ACCRUAL RATES IN MANAGEMENT MEMORANDUM 84-20-1

TIME BASE	HOURS OF MONTHLY VACATION CREDIT PER VACATION GROUP							HOURS OF MONTHLY SICK LEAVE AND HOLIDAY CREDIT
	7	10	11	12	13	14	15	SL/HOL 8
1/5	1.40	2.00	2.20	2.40	2.60	2.80	3.00	1.60
2/5	2.80	4.00	4.40	4.80	5.20	5.60	6.00	3.20
3/5	4.20	6.00	6.60	7.20	7.80	8.40	9.00	4.80
4/5	5.60	8.00	8.80	9.60	10.40	11.20	12.00	6.40
1/8	0.88	1.25	1.38	1.50	1.63	1.75	1.88	1.00
1/4	1.75	2.50	2.75	3.00	3.25	3.50	3.75	2.00
3/8	2.63	3.75	4.13	4.50	4.88	5.25	5.63	3.00
1/2	3.50	5.00	5.50	6.00	6.50	7.00	7.50	4.00
5/8	4.38	6.25	6.88	7.50	8.13	8.75	9.38	5.00
3/4	5.25	7.50	8.25	9.00	9.75	10.50	11.25	6.00
7/8	6.13	8.75	9.63	10.50	11.38	12.25	13.13	7.00
1/10	0.70	1.00	1.10	1.20	1.30	1.40	1.50	0.80
3/10	2.10	3.00	3.30	3.60	3.90	4.20	4.50	2.40
7/10	4.90	7.00	7.70	8.40	9.10	9.80	10.50	5.60
9/10	6.30	9.00	9.90	10.80	11.70	12.60	13.50	7.20

A part time employee can only earn up to a maximum of eight (8) hours holiday credit per holiday, regardless of the number of positions the employee holds within State service.

L. Holiday Credit may be requested and taken in fifteen (15) minute increments.

M. An employee shall be allowed to carry over unused holiday credits or be paid for the unused holiday credits, at the discretion of the department head or designee.

N. Upon termination from State employment, an employee shall be paid for unused holiday credit.

O. In the event that traditional, but unofficial holidays (e.g., Mother's Day, Father's Day), or religious holidays (e.g., Easter or Yom Kippur) fall on an employee's scheduled workday, the employee shall have the option to request the use of annual leave, accrued vacation, holiday credits, personal leave or CTO time, in order to secure the day off. The department head or designee shall make a reasonable effort to grant an employee the day off subject to operational need.

ARTICLE 9 - LEAVES

9.1 Vacation Leave

A. Employees shall not be entitled to vacation leave credit for the first six (6) months of service. On the first day of the monthly pay period following completion of six (6) qualifying monthly pay periods of continuous service, all full-time employees covered by this Section shall receive a one-time vacation bonus of forty-two (42) hours of vacation credit. Thereafter, for each additional qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay periods as follows:

7 months to 3 years	7 hours per month
37 months to 10 years	10 hours per month
121 months to 15 years	12 hours per month
181 months to 20 years	13 hours per month
20 years and over	14 hours per month

An employee who returns to State service after an absence of six (6) months or longer, caused by a permanent separation, shall receive a one-time vacation bonus on the first monthly pay period following completion of six (6) qualifying pay periods of continuous service in accordance with the employee's total State service before and after the absence.

B. A full-time employee who has eleven (11) or more working days of service in a monthly pay period shall receive vacation leave credits as set forth under Subsection a., above. Absences from State service resulting from a temporary or permanent separation for more than eleven (11) consecutive working days which fall into two (2) consecutive qualifying pay periods shall disqualify the second pay period.

C. Employees working less than full-time accrue vacation in accordance with the following schedule.

CHART FOR COMPUTING VACATION, SICK LEAVE, AND HOLIDAY CREDITS FOR ALL FRACTIONAL TIME BASE EMPLOYEES SUPERCEDES ACCRUAL RATES IN MANAGEMENT MEMORANDUM 84-20-1

TIME BASE	HOURS OF MONTHLY VACATION CREDIT PER VACATION GROUP							HOURS OF MONTHLY SICK LEAVE AND HOLIDAY CREDIT
								SL/HOL
	7	10	11	12	13	14	15	8
1/5	1.40	2.00	2.20	2.40	2.60	2.80	3.00	1.60
2/5	2.80	4.00	4.40	4.80	5.20	5.60	6.00	3.20
3/5	4.20	6.00	6.60	7.20	7.80	8.40	9.00	4.80
4/5	5.60	8.00	8.80	9.60	10.40	11.20	12.00	6.40
1/8	0.88	1.25	1.38	1.50	1.63	1.75	1.88	1.00
1/4	1.75	2.50	2.75	3.00	3.25	3.50	3.75	2.00
3/8	2.63	3.75	4.13	4.50	4.88	5.25	5.63	3.00
1/2	3.50	5.00	5.50	6.00	6.50	7.00	7.50	4.00
5/8	4.38	6.25	6.88	7.50	8.13	8.75	9.38	5.00
3/4	5.25	7.50	8.25	9.00	9.75	10.50	11.25	6.00
7/8	6.13	8.75	9.63	10.50	11.38	12.25	13.13	7.00
1/10	0.70	1.00	1.10	1.20	1.30	1.40	1.50	0.80
3/10	2.10	3.00	3.30	3.60	3.90	4.20	4.50	2.40
7/10	4.90	7.00	7.70	8.40	9.10	9.80	10.50	5.60
9/10	6.30	9.00	9.90	10.80	11.70	12.60	13.50	7.20

D. If an employee does not use all of the vacation that the employee has accrued in a calendar year, the employee may carry over his/her accrued vacation credits to the following calendar year to a maximum of six hundred forty (640) hours. A department head or designee may permit an employee to carry over more than six hundred forty (640) hours of accrued vacation leave hours if an employee was unable to reduce his/her accrued hours because the employee was:

1. Required to work as a result of fire, flood, or other extensive emergency;
2. Assigned work of a priority or critical nature over an extended period of time;
3. Absent on full salary for compensable injury;
4. Prevented by department regulations from taking vacation until December 31 because of sick leave; or
5. On jury duty; or,

6. Prevented by the department head or designee from utilizing accrued vacation.

E. It is the employee's responsibility to utilize all vacation hours in excess of the six hundred forty (640) hour cap by the end of each calendar year unless otherwise prevented from doing so as enumerated in subsection D (1-6) above. Whenever an employee's vacation accumulation exceeds six hundred forty (640) hours, the department head or designee has the right to order the employee to submit a vacation request which will demonstrate how and when the employee plans to use any hours which will exceed the cap by the end of the calendar year. If the employee does not use the time as planned for reasons other than those listed above, the department head or designee may then order the employee to take the excess time at the convenience of the department.

F. Upon termination from State employment, the employee shall be paid for accrued vacation credits for all accrued vacation time.

G. Vacation requests must be submitted in accordance with departmental policies on this subject. Vacation shall be taken as agreed by the employee and the department head or designee. Requests for vacation may be denied for operational needs.

H. If an employee's failure to take a vacation for an extended period of time adversely affects his/her work performance, the employee may be required to take vacation leave.

I. Each department head or designee will make every effort to act on vacation requests in a timely manner.

J. Vacations will be cancelled only when operational needs require it.

K. Vacation leave credits may be used in thirty (30) minute increments, except that fractional vacation leave credits may be used where/when accumulated.

9.2 Unpaid Leave of Absence

A. A department head or designee may grant an unpaid leave of absence for a period not to exceed one (1) year. The employee shall provide substantiation to support the employee's request for an unpaid leave of absence.

B. Except as otherwise provided in Subsection c. below, an unpaid leave of absence shall not be granted to any employee who is accepting some other position in State employment; or who is leaving State employment to enter other outside employment; or does not intend to, nor can reasonably be expected to, return to State employment on or before the expiration of the unpaid leave of absence. A leave, so granted, shall assure an employee the right to his/her former position upon termination of the leave. The term "former position" is defined in Government Code Section 18522.

C. An unpaid leave of absence may be granted for, but not limited to, the following reasons:

1. union activity;
2. for temporary incapacity due to illness or injury;
3. to be loaned to another governmental agency for performance of a specific assignment;

4. to seek or accept other employment during a layoff situation or otherwise lessen the impact of an impending layoff;
5. education; or
6. research project.

D. Extensions of an unpaid leave of absence may be requested by the employee and may be granted by the department head or designee.

E. A leave of absence shall be terminated by the department head or designee (1) at the expiration of the leave; or (2) prior to the expiration date with written notice at least thirty (30) work days prior to the effective date of the revocation, when required by the State.

F. Employees denied an unpaid leave of absence or whose leave is terminated prior to the expiration date shall be provided specific business reasons, in writing, for the denial or termination.

9.3 Sick Leave

A. Definition. As used in this Section, "sick leave" means the necessary absence from duty of an employee because of:

1. Illness or injury;
2. Exposure to a contagious disease;
3. Dental, eye, and other physical or medical examination or treatment by a licensed practitioner;
4. Absence from duty for attendance upon employee's ill or injured mother, father, husband, wife, domestic partner as certified with the Secretary of State's Office in accordance with AB 26 (Chapter 588, Statutes of 1999), son, daughter, brother, sister, or any person residing in the immediate household, or to transport any of the above to an examination or treatment listed in Item (3) above. Such absence shall be limited by the department head or designee to the time reasonably required for such attendance.

B. Credit for Full-Time Employment. On the first day of the monthly pay period following completion of each qualifying pay period of continuous service, each full-time employee in the State civil service shall earn eight (8) hours of credit for sick leave with pay. A full-time employee who has eleven (11) or more working days of service in a monthly pay period shall earn full sick-leave credit. Absences from State service resulting from a temporary or permanent separation for more than eleven (11) consecutive working days which fall into two consecutive qualifying pay periods shall disqualify the second pay period.

1. Intermittent Employees. On the first day of the monthly pay period following completion of each period of one hundred sixty (160) hours or twenty (20) days of paid employment, each intermittent employee in the State civil service shall be allowed one (1) day of credit for sick leave with pay. The hours or days worked in excess of one hundred sixty (160) hours or twenty (20) days in a monthly pay period shall not be counted or accumulated.

2. Part-Time Employees. On the first day of the monthly pay period following completion of each monthly pay period of continuous service, each part-time employee in the State civil service shall be allowed, on a pro rata basis, the fractional part of one (1) day of credit for sick leave with pay.
3. Multiple Positions. Under this rule:
   a. An employee holding a position in addition to other full-time employment with the State shall not receive credit for sick leave with pay for service in the additional position.
   b. Where an employee holds two (2) or more less than full-time positions, the time worked in each position shall be combined for purposes of computing credits for sick leave with pay, but such credits shall not exceed full-time employment credit.

C. Sick Leave Usage. The department head or designee may require the employee to submit a physician's or licensed practitioner's certificate if:
   1. The employee is absent on sick leave for more than two (2) consecutive work days; or
   2. Where the supervisor has good cause to believe the employee's use of sick leave is improper.

D. The department head or designee may deny the request for sick leave if the required certificate is not provided or sick leave was taken under false pretenses.

E. Employees not in Work Week Group E or SE may request and use sick leave in fifteen (15) minute increments.

9.4 Bereavement Leave

A. A department head or designee shall authorize bereavement leave with pay for a permanent or probationary full-time State employee due to the death of his/her parent, stepparent, spouse, domestic partner that has been defined and certified with the Secretary of State's office in accordance with Family Code Section 297, child, sister, brother, stepchild, or death of any person residing in the immediate household of the employee at the time of death. An intervening period of absence for medical reasons shall not be disqualifying when, immediately prior to the absence, the person resided in the household of the employee. Such bereavement leave shall be authorized for up to three (3) eight-hour days (24 hours) per occurrence. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the employee's supervisor, provide substantiation to support the request upon the employee's return to work.

B. A department head or designee shall authorize bereavement leave with pay for a permanent full-time or probationary full-time employee due to the death of a grandchild, grandparent, aunt, uncle, niece, nephew, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law, or immediate family members of domestic partners as defined in paragraph A above. Such bereavement leave shall be authorized for up to three (3) eight-hour days in a fiscal year and shall, if requested by the supervisor, provide substantiation. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the employee's supervisor, provide substantiation to support the request.

C. If the death of a person as described above requires the employee to travel over four hundred (400) miles one way from his/her home, additional time off with pay shall be granted for two (2) additional days which shall be deducted from accrued leave. Should additional leave be necessary, the department head or designee may authorize the use of existing leave credits or authorized leave without pay.

D. Employees may utilize their annual leave, vacation, CTO, or any other earned leave credits for additional time required in excess of time allowed in A or B above. Sick leave may be utilized for Bereavement Leave in accordance with the Sick Leave provision of this agreement.

E. Fractional time base (part-time) employees will be eligible for bereavement leave on pro-rata basis, based on the employee's fractional time base.

9.5 Parental Leave

A. A female permanent employee shall be entitled, upon request, to an unpaid leave of absence for purposes of pregnancy, childbirth, recovery therefrom or care for the newborn child for a period not to exceed one (1) year. The employee shall provide medical substantiation to support her request for pregnancy leave. The request must include the beginning and ending dates of the leave and must be requested no later than thirty (30) calendar days after the birth of the child. Any changes to the leave, once approved, are permissive and subject to the approval of the department head or designee.

B. A male spouse or male parent, domestic partner that has been defined and certified with the Secretary of State's office in accordance with Family Code Section 297 who is a permanent employee, shall be entitled, upon request, to an unpaid leave of absence for a period not to exceed one (1) year to care for his newborn child. The employee shall provide medical substantiation to support his request for parental leave. The request must include the beginning and ending dates of the leave and must be requested no later than thirty (30) calendar days after the birth of the child. Any changes to the leave, once approved, are permissive and subject to the approval of the department head or designee.

C. If the request for parental leave is made more than thirty (30) calendar days after the birth of the child, a permissive unpaid leave of absence may be considered by the department head or designee.

D. During the period of time an employee is on parental leave, he/she shall be allowed to continue their health, dental and vision benefits. The cost of these benefits shall be paid by the employee and the rate the employee will pay will be the group rate.

9.6 Adoption Leave

A. A department head or designee shall grant a permanent employee's request for an unpaid leave of absence for the adoption of a child for a period not to exceed one (1) year. The employee shall provide substantiation to support the employee's request for adoption leave.

B. During the period of time an employee is on adoption leave, he/she shall be allowed to continue their health and dental benefits. The cost of these benefits shall be paid by the employee and the rate that the employee will pay will be the group rate.

9.7 Catastrophic Leave (Work and Family Transfer of Leave Credits)

A. The parties agree with the importance of family members in the lives of State employees, as recognized by the Joint Labor/Management Committee on Work and Family. The parties agree that the transfer of leave credits between State employees and family members, who are also State employees, is appropriate for issues relating to approved catastrophic leave, Family Medical Leave, parental leave and adoption leave.

B. Upon request of an employee and upon approval of a department director or designee, leave credits (CTO, annual leave, personal leave, vacation, and/or holiday credit) shall be transferred from one or more employees to another employee, or between family members (donations may be made by a child, parent, spouse, brother, sister or other person residing in immediate household) in accordance with departmental procedures under the following conditions:

   1. To care for the family member's mother, father, spouse, spouse's parent's, child, brother, sister, domestic partner that has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999) or person residing in the immediate household who has a serious health condition, or a medical leave for the employee's own serious health condition as defined by the Family Medical Leave Act (FMLA), or for a parental leave to care for a newborn or adopted child.

C. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the supervisor, provide medical certification from a physician to support this request. The department head or designee shall approve transfer of leave credits only after having ascertained that the leave is for an authorized reason. For family care leave for the employee's child, parent, spouse, brother or sister, or other person residing in the immediate household, who has a serious health condition, this certification need not identify the serious health condition involved, but shall contain all of the following:

   1. the date, if known, on which the serious health condition commenced;
   2. the probable duration of the condition;
   3. an estimate of the amount of time that the health provider believes the employee needs to care for the child, parent or spouse, brother or sister, or other person residing in the immediate household;
   4. a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, spouse, brother, sister, or other person residing in the immediate household.
   5. For the employee's own serious health condition, this certification shall also contain a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her position. Certification shall also be provided for parental or adoption leaves.

D. Sick leave credits cannot be transferred.

E. The receiving employee has exhausted all leave credits.

F. The donations must be a minimum of one (1) hour, and in whole increments thereafter.

G. Transfer of leave credits shall be allowed to cross-departmental lines in accordance with the policies of the receiving department.

H. The donated hours may not exceed three (3) months. However, if approved by the appointing authority, the total leave credits may be six (6) months.

I. Donations shall be made on a form to be developed by the State, signed by the donating employee, and verified by the donating department. Once transferred, donations will not be returned to the donor.

J. This section is not subject to the grievance and arbitration article of this contract.

9.8 Catastrophic Leave - Natural Disaster

A. Upon request of an employee and upon approval of a department director or designee, leave credits (CTO, vacation and/or holiday) may be transferred from one or more employees to another employee, in accordance with departmental policies, under the following conditions:

1. Sick leave credits cannot be transferred.
2. When the receiving employee faces financial hardship due to the effect of a natural disaster on the employee's principal residence.
3. The receiving employee has exhausted all vacation, annual leave, or CTO credits and resides in one of the counties where a State of Emergency exists as declared by the Governor.
4. The donations must be in whole hour increments and credited as vacation or annual leave.
5. Transfer of annual leave, vacation, CTO and holiday credits shall be allowed to cross departmental lines in accordance with the policies of the receiving department.
6. The total leave credits received by the employee shall normally not exceed three (3) months; however, if approved by the appointing authority, the total leave credits received may be six (6) months.
7. Donations shall be made on a form to be developed by the State, signed by the donating employee, and verified by the donating department. These donations are irrevocable.

B. This section is not subject to the grievance and arbitration article of this contract.

9.9 Jury Duty

A. An employee shall be allowed such time off without loss of compensation as is required in connection with mandatory jury duty. If payment is made for such time off, the employee is required to remit to the State, jury fees received. When night jury service is required of an employee, the employee shall be allowed time off without loss of compensation for such portion of the required time that coincides with the employee's normal work schedule. This includes any necessary travel time.

B. An employee shall notify his/her supervisor immediately upon receiving notice of jury duty.

C. If an employee elects to use accrued vacation leave or compensating time off while on jury duty, the employee is not required to remit jury fees.

D. For purposes of this Section, "jury fees" means fees received for jury duty excluding payment for mileage, parking, meals or other out-of-pocket expenses.

E. An employee may be allowed time off without loss of compensation if approved by the department head or designee for voluntary jury duty such as county grand jury. If approved by the department, subsections C and D apply.

9.10 Personal Leave

The State agrees that commencing the pay period following ratification of the agreement, every Bargaining Unit 2 employee who works eleven (11) or more days of service in a monthly pay period shall accrue 1.73 hours of Personal Leave each qualifying month. This 1.73 hours of Personal Leave accrual shall end on June 30, 2013.

This provision is in the interest of harmonious labor relations and is a concession for the additional one (1) percent retirement contributions provided by CASE members during the course of this agreement to offset the budget deficit.

The total additional retirement contribution for CASE members through this agreement including the one (1) percent already agreed upon by CASE members in the prior agreement of July 1, 2005 through June 30, 2007, will be four (4) percent.

The time shall be requested and approved in the same manner as vacation/annual leave, and shall have the same cash value as vacation/annual leave, and shall not expire until it is used by the employee or is cashed out upon separation.

9.11 Annual Leave Program

A. Employees may elect to enroll in the annual leave program to receive annual leave credit in lieu of vacation and sick leave credits. Employees enrolled in the annual leave program may elect to enroll in the vacation and sick leave program at any time except that once an employee elects to enroll in either the annual leave program or vacation and sick leave program, the employee may not elect to enroll in the other program until twenty four (24) months has elapsed from date of enrollment.

B. Each full-time employee shall receive credit for annual leave in lieu of the vacation and sick leave credits of this agreement in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	14 hours per month
121 months to 15 years	16 hours per month
181 months to 20 years	17 hours per month
241 months and over	18 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits, in accordance with the applicable DPA rules. Employees shall have the continued use of any sick leave accrued as of the effective date of this Agreement, in accordance with applicable laws, rules, or memorandum of understanding.

All provisions necessary for the administration of this Section shall be provided by DPA rule or memorandum of understanding.

C. A full-time employee who has eleven (11) or more working days of service in a monthly pay period shall earn annual leave credits as set forth in DPA Rules 599.608 and 599.609.

Absences from State service resulting from a temporary or permanent separation for more than eleven (11) consecutive days which fall into two (2) consecutive qualifying pay periods shall disqualify the second pay period.

D. Employees who work in multiple positions may participate in annual leave, provided an election is made while employed in an eligible position subject to these provisions. Annual leave accrual for employees in multiple positions will be computed by combining all positions, as in vacation leave, provided the result does not exceed the amount earnable in full-time employment, and the rate of accrual shall be determined by the schedule which applies to the position or collective bargaining status under which the election was made.

E. If an employee does not use all of the annual leave that the employee has accrued in a calendar year, the employee may carry over his/her accrued annual leave credits to the following calendar year to a maximum of six hundred forty (640) hours. A department head or designee may permit an employee to carry over more than six hundred forty (640) hours of accrued hours because the employee: (1) was required to work as a result of fire, flood, or other extensive emergency; (2) was assigned work of a priority or critical nature over an extended period of time; (3) was absent on full salary for compensable injury; (4) was prevented by department regulations from taking annual leave until December 31 because of sick leave; or (5) was on jury duty.

F. Upon termination from State employment, the employee shall be paid for accrued annual leave credits for all accrued annual leave time.

G. The time when annual leave shall be taken by the employee shall be determined by the department head or designee. If on January 1 of each year an employee's annual leave bank exceeds the cap in Subsection e., the department may order the employee to take annual leave.

H. Annual leave requests must be submitted in accordance with departmental policies on this subject. However, when two or more employees on the same shift (if applicable) in a work unit (as defined by each department head or designee) request the same annual leave time and approval cannot be given to all employees requesting it, employees shall be granted their preferred annual leave period in order of State seniority.

I. Each department head or designee will make every effort to act on annual leave requests in a timely manner.

J. Annual leave that is used for purposes of sick leave is subject to the requirements set forth in section 9.3, Sick Leave, of this agreement.

K. The Enhanced Non-Industrial Disability Insurance (ENDI) in Section 11.11 applies only to those in the annual leave program described above in this Section.

L. Employees who are currently subject to vacation and sick leave provisions may elect to enroll in the annual leave program at any time after twenty four (24) months has elapsed from date of last enrollment. The effective date of the election shall be the first day of the pay period in which the election is received by the appointing power. Once enrolled in annual leave, an employee shall become entitled to an enhanced NDI benefit (50 percent of gross salary).

9.12 Mentoring Leave

A. Eligible employees may receive up to forty (40) hours of "mentoring leave" per calendar year to participate in mentoring activities once they have used an equal amount of their personal time for these activities. "Mentoring leave" is paid leave time, which may only be used by an employee to mentor. This leave does not count as time worked for purposes of overtime. "Mentoring leave" may not be used for travel to and from the mentoring location.

B. An employee must use an equal number of hours of his/her personal time (approved annual leave, vacation, personal leave, personal holiday, or CTO during the workday and/or personal time during non-working hours) prior to requesting "mentoring leave." For example, if an employee requests two (2) hours of "mentoring leave", he/she must have used two (2) verified hours of his/her personal time prior to receiving approval for the "mentoring leave". "Mentoring leave" does not have to be requested in the same week or month as the personal time was used. It does, however, have to be requested and used before the end of the calendar year.

C. Prior to requesting mentoring leave and in accordance with departmental policy, an employee shall provide his/her supervisor with verification of personal time spent mentoring from the mentoring organization.

D. Requests for approval of vacation, CTO, and/or annual leave for mentoring activities are subject to approval requirements in this contract and in existing departmental policies. Requests for approval of mentoring leave are subject to operational needs of the State, budgetary limits, and any limitations imposed by law.

E. In order to be eligible for "mentoring leave," an employee must:

   1. Have a permanent appointment;

   2. Have successfully completed their initial probationary period; and

   3. Have committed to mentor a child or youth through a mentoring organization that meets the quality assurance standards, for a minimum of one (1) school year. (Most programs are aligned with the child's normal school year; however, there may be some that are less or more. Department management may make exceptions to the one school year commitment based on the mentor program that is selected.)

F. An employee is not eligible to receive mentoring leave if;

   1. He/she is assigned to a “post” position in the Department of Corrections, Youth Authority; or

2. He/she works in a level of care position in the Departments of Developmental Services, Mental Health, Education, and Veterans' Affairs.

G. Permanent part-time and permanent intermittent employees may receive a prorated amount of mentoring leave based upon their timebase. For example, a halftime employee is eligible for twenty (20) hours of "mentoring leave" per calendar year, whereas an intermittent employee must work a monthly equivalent of one hundred sixty (160) hours to earn 3.33 hours of mentoring leave.

9.13 Union Leave

A. The Union shall have the choice of requesting an unpaid leave of absence or a paid leave of absence (Union leave) for CASE Officers or Representatives. An unpaid leave of absence may be granted by the State pursuant to the unpaid leave of absence provisions in this contract. A Union leave may also be granted during the term of this contract at the discretion of the affected department head or designee in accordance with the following:

1. The Union leave shall normally be requested on a State approved form fourteen (14) calendar days prior to the date of the leave;
2. A Union leave shall assure an employee the right to his/her former position upon termination of the leave. The term "former position" is defined in Government Code Section 18522;
3. The Union agrees to reimburse the affected department(s) for the full amount of the affected employee's salary, plus an additional amount equal to thirty-five (35%) percent of the affected employee's salary, for all the time the employee is off on a Union leave, within sixty (60) days of billing. Disputes regarding reimbursement shall be resolved through the arbitration process;
4. The affected employee shall have no right to return from a Union leave earlier than the agreed upon date without the approval of the employee's appointing power;
5. Except in emergencies or layoff situations, a Union leave shall not be terminated by the department head or designee prior to the expiration date;
6. Employees on Union leave shall suffer no loss of compensation or benefits;
7. Whether or not time for a Union leave is counted for merit purposes shall be determined by the State Personnel Board and such determination shall not be grievable or arbitrable;
8. Employees on Union leave under this provision and the Union shall waive any and all claims against the State for Workers' Compensation and Industrial Disability Leave;
9. In the event an employee on a Union leave, as discussed above, files a Worker's Compensation claim against the State of California or any agency thereof, for an injury or injuries sustained while on Union leave, the Union agrees to indemnify and hold harmless the State of California or agencies thereof, from both workers' compensation liability and any costs of legal defense incurred as a result of the filing of the claim.

9.14 Transfer of Leave Credits Between Family Members

Upon request of an employee and upon approval of a department director or designee, leave credits (CTO, annual leave, personal leave, vacation, and/or holiday credit) may be transferred between family members [donations may be made by a child, parent, spouse, domestic partner who has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999), brother, sister or other person residing in the immediate household] in accordance with departmental policies, under the following conditions:

A. To care for the family member's child, parent, spouse, domestic partner who has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999), brother, sister, or other person residing in the immediate household, who has a serious health condition, or a medical leave for the employee's own serious health condition as defined by the Family Medical Leave Act (FMLA), or for a parental leave to care for a newborn or adopted child.

B. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the supervisor, provide medical certification from a physician to support this request. The department head or designee shall approve transfer of leave credits only after having ascertained that the leave is for an authorized reason. For family care leave for the employee's child, parent, spouse, domestic partner who has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999), brother or sister, or other person residing in the immediate household, who has a serious health condition, this certification need not identify the serious health condition involved, but shall contain all of the following:

   1. the date, if known, on which the serious health condition commenced;
   2. the probable duration of the condition;
   3. an estimate of the amount of time that the health provider believes the employee needs to care for the child, parent or spouse, domestic partner who has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999), brother or sister, or other person residing in the immediate household;
   4. A statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, spouse, domestic partner who has been certified with the Secretary of State's office in accordance with AB 26 (Chapter 588, Statutes of 1999), brother, sister, or other person residing in the immediate household.

      For the employee's own serious health condition, this certification shall also contain a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform one (1) or more of the essential functions of his/her position. Certification shall also be provided for parental or adoption leaves.

C. Sick leave credits cannot be transferred.

D. The receiving employee has exhausted all leave credits.

E. The donations must be a minimum of one (1) hour and in whole increments thereafter.

F. The donating employee must maintain a minimum balance of eighty (80) hours of paid leave time.

G. Transfer of leave credits shall be allowed to cross-departmental lines in accordance with the polices of the receiving department.

H. The donated hours may not exceed three (3) months. However, if approved by the appointing authority, the total leave credits received may be six (6) months.

I. Donations shall be made on a form to be developed by the State, signed by the donating employee, and verified by the donating department. Once transferred, donations will not be returned to the donor.

J. This section is not subject to the grievance and arbitration article of this Contract.

9.15 Tax Deferral of Lump Sum Leave Cash Out Upon Separation

A. To the extent permitted by federal and state law, effective January 1, 2002 (or no later than four (4) months following ratification of this agreement by both parties) employees who separate from State service who are otherwise eligible to cash out their vacation and/or annual leave balance, may ask the State to tax defer and transfer a designated monthly amount from their cash payment into their existing 457 and/or 401k plan offered through the State's Savings Plus Program (SPP).

B. If an employee does not have an existing 457 and/or 401k plan account, he/she must enroll in the SPP and become a participant in one or both plans no less than sixty (60) days prior to his/her date of separation.

C. Such transfers are subject to and contingent upon all statutes, laws, rules and regulations authorizing such transfers including those governing the amount of annual deferrals.

D. Employees electing to make such a transfer shall bear full tax liability, if any, for the leave transferred (e.g., "over-defers" exceeding the limitation on annual deferrals).

E. Implementation, continuation and administration of this section is expressly subject to and contingent upon compliance with the SPP's governing Plan document (which may at the State's discretion be amended from time to time), and applicable federal and state laws, rules and regulations.

F. Disputes arising under this section of the MOU shall not be subject to the grievance and arbitration provision of this agreement.

9.16 Family Medical Leave Act (FMLA)

A. The State acknowledges its commitment to comply with the spirit and intent of the leave entitlement provided by the FMLA and the California Family Rights Act (CFRA) referred to collectively as "FMLA". The State and the Union recognize that on occasion it will be necessary for employees of the State to take job-related leave for reasons consistent with the FMLA. As defined by the FMLA, reasons for an FMLA leave may include an employee's serious health condition, for the care of a child, parent, spouse or domestic partner that has been defined and certified with the Secretary of State's office in accordance with Family Code Section 297 who has a serious health condition, and/or the birth or adoption of a child.

B. For the purposes of providing the FMLA benefits the following definitions shall apply:

1. An eligible employee means an employee who meets the eligibility criteria set forth in the FMLA;
2. An employee's child means any child, regardless of age, who is affected by a serious health condition as defined by the FMLA and is incapable of self-care. "Care" as provided in this section applies to the individual with the covered health condition;
3. An employee's parent means a parent or an individual standing in loco parentis as set forth in the FMLA;
4. Leave may include paid sick leave, vacation, annual leave, personal leave, catastrophic leave, holiday credit, excess hours, and unpaid leave. In accordance with the FMLA, an employee shall not be required to use CTO credits, unless otherwise specified by Section 9.7 (Catastrophic Leave-Work and Family Transfer of Leave Credits) of this contract.
    a. FMLA absences due to illness and/or injury of the employee or eligible family member may be covered with the employee's available sick leave credits and catastrophic leave donations. Catastrophic leave eligibility and leave credit usage for a FMLA leave will be administered in accordance with Section 9.3 (Sick Leave) and 9.7 (Catastrophic Leave-Work and Family Transfer of Leave Credits) of this contract.
    b. Other leave may be substituted for the FMLA absence due to illness and/or injury, at the employee's discretion. An employee shall not be required to exhaust paid leave, before choosing unpaid leave, unless otherwise required by Section 9.7 (Catastrophic Leave-Work and Family Transfer of Leave Credits) of this contract.
    c. FMLA absences for reason other than illness and/or injury (i.e. adoption or care of an eligible family member), may be covered with leave credits, other than sick leave, including unpaid leave, at the employee's discretion. Except in accordance with Section 9.7 (Catastrophic Leave-Work and Family Transfer of Leave Credits) of this contract, an employee shall not be required to exhaust all leave credits available before choosing unpaid leave to cover an FMLA absence.

C. An eligible employee shall provide certification of the need for an FMLA leave. Additional certification may be requested if the department head or designee has reasonable cause to believe the employee's condition or eligibility for FMLA leave has changed. The reasons for the additional certification request shall be provided to the employee in writing.

D. An eligible employee shall be entitled to a maximum of twelve (12) workweeks (480 hours) FMLA leave per calendar year and all other rights set forth in the FMLA. This entitlement shall be administered in concert with the other leave provisions in article 9 (Leaves) of this contract. Nothing in this contract should be construed to allow the State to provide less than that provided by the FMLA.

E. Within ninety (90) days of the ratification date of this contract, and on January 1 of each year thereafter, FMLA leave shall be recorded in accordance with the calendar year. Each time an employee takes an FMLA leave, the remaining leave entitlement is any balance of the twelve (12) workweeks that has not been used during the current calendar year. Employees who have taken FMLA leave under the previous twelve (12) month rolling period, shall be entitled to additional leave up to a total of twelve (12) weeks for the current calendar year.

F. An employee on FMLA leave has a right to be restored to his/her same or "equivalent" position (FMLA) or to a "comparable" position (CFRA) with equivalent pay, benefits, and other terms and conditions of employment.

G. For the purpose of computing seniority, employees on paid FMLA leave will accrue seniority credit in accordance with Department of Personnel Administration Rules 599.608 – 599.609.

H. Any appeals regarding an FMLA decision should be directed to the department head or designee. FMLA is a Federal law and is administered and enforced by the Department of Labor, Employment Standards Administration, Wage and Hour Division. The State's CFRA is a state law which is administered and enforced by Department of Fair Employment and Housing. FMLA/CFRA does not supersede any article of this Contract which provides greater family and medical leave rights. This section is not subject to grievance or arbitration.

9.17 Organ Donor Leave

A. Organ Donor Leave shall be administered in accordance with Government Code Section 19991.11. (a) Subject to subdivision (b), an appointing power shall grant to an employee, who has exhausted all available sick leave, the following leaves of absence with pay:

   (1) A leave of absence not exceeding 30 days to any employee who is an organ donor in any one-year period, for the purpose of donating his or her organ to another person.

   (2) A leave of absence not exceeding five days to any employee who is a bone marrow donor in any one-year period, for the purpose of donating his or her bone marrow to another person.

B. In order to receive a leave of absence pursuant to subdivision (a), an employee shall provide written verification to the appointing power that he or she is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

C. Any period of time during which an employee is required to be absent from his or her position by reason of being an organ or bone marrow donor is not a break in his or her continuous service for the purpose of his or her right to salary adjustments, sick leave, vacation, annual leave, or seniority.

D. If an employee is unable to return to work beyond the time or period that he or she is granted leave pursuant to this section, he or she shall be paid any vacation balance, annual leave balance, or accumulated compensable overtime. The payment shall be computed by projecting the accumulated time on a calendar basis as though the employee was taking time off. If, during the period of projection, the employee is able to return to work, he or she shall be returned to his or her former position as defined in Section 18522.

E. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that, if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

9.18 Precinct Election Board

With prior approval of the employee's supervisor and under comparable conditions as provided for supervisors and managers in DPA rule 599.930, an employee in Bargaining Unit 2 may be granted time off for public service as a member of a Precinct Election Board. The employee shall be eligible for both regular State compensation and any fee paid by the Registrar of Voters for such service. Verification of service may be required.

9.19 Furloughs

The State agrees that furloughs for BU 2 employees will end on April 1, 2011.

9.20 Personal Leave Program - 2011

Effective with the pay period following ratification, for a total of twelve months following, affected employees will be subject to the Personal Leave Program 2011 (PLP 2011) for eight (8) hours per month. All leave earned under PLP 2011 must be used prior to June 30, 2016. PLP 2011 shall have no cash value and may not be cashed out. Employees have until June 30, 2016 to use all PLP 2011 time. Any unused PLP 2011 time shall be void after June 30, 2016.

A. Beginning the pay period following ratification, each full-time employee shall be credited with eight (8) hours of PLP 2011 on the first day of each pay period for twelve consecutive months.

B. Each full-time employee shall continue to work his/her assigned work schedule and shall have a reduction in pay equal to 4.62%. In exchange, eight (8) hours of leave will be credited to the employee's PLP 2011 leave balance. However, salary rates and salary ranges shall remain unchanged. The reduction in pay shall end after 12 pay periods.

C. Employees will be given maximum discretion to use PLP 2011 subject to severe operational considerations. PLP 2011 time must be used before any other leave with the exception of furlough leave and sick leave. Employees may elect to use PLP 2011 in lieu of approved sick leave. PLP 2011 shall be requested and used by the employee in the same manner as vacation/annual leave. Subject to the above, requests for use of PLP 2011 leave must be submitted in accordance with

departmental policies on vacation/annual leave. PLP 2011 leave credits shall not be included in the calculation of vacation/annual leave balances pursuant to Article 8 (Leaves).

D. When an employee is approved to use PLP 2011, and the approval is subsequently rescinded by management on two separate, consecutive occasions, the employee's third approval for PLP 2011 shall not be rescinded even for operational needs. For the purposes of this section, an approval can be a time frame of one or more consecutive days.

E. A state employee shall be entitled to the same level of State employer contributions for health, vision, dental, flex-elect cash option, and enhanced survivor's benefits he or she would have received had the PLP 2011 not occurred.

F. PLP 2011 shall not cause a break in State service, a reduction in the employee's accumulation of service credit for the purposes of seniority and retirement, leave accumulation, or a merit salary adjustment.

G. PLP 2011 shall neither affect the employee's final compensation used in calculating State retirement benefits nor reduce the level of State death or disability benefits to supplement those benefits with paid leave.

H. Part-time employees shall be subject to the same conditions as stated above, on a pro-rated basis. Pro-ration shall be determined based on the employee's time base consistent with the following chart:

TIME BASE	HOURS OF MONTHLY PLP
9/10	7.20
7/10	5.60
3/10	2.40
1/10	0.80
7/8	7.00
3/4	6.00
5/8	5.00
1/2	4.00
3/8	3.00
1/4	2.00
1/8	1.00
4/5	6.40
3/5	4.80
2/5	3.20
1/5	1.60

I. PLP 2011 reduction shall not affect transfer determinations between State civil service classifications.

J. PLP 2011 for permanent intermittent employees shall be pro-rated based upon the number of hours worked in the monthly pay period, pursuant to the following chart:

Hours Worked During Pay Period	Salary Reduction in Hours	PLP 2011 Credit

0-10.9	0	0
11-30.9	1	1
31-50.9	2	2
51-70.9	3	3
71-90.9	4	4
91-110.9	5	5
111-130.9	6	6
131-150.9	7	7
151 or over	8	8

K. PLP 2011 shall be administered consistent with the existing payroll system and the policies and practices of the State Controller's Office.

L. Employees on SDI, NDI, ENDI, IDL, EIDL, or Workers' Compensation for the entire monthly pay period shall be excluded from the PLP 2011 for that month.

M. Seasonal and temporary employees are not subject to PLP 2011.

N. Disputes regarding the denial of the use of PLP 2011 time may be appealed through the grievance procedure. Other disputes arising from this PLP 2011 section may be appealed through the grievance procedures, except that the decision by the Department of Personnel Administration shall be final and there may be no further appeals.

9.21 Furlough Protection

Due to the savings achieved through this agreement, the State shall not implement a new furlough program during the twelve (12) months employees participate in the Personal Leave Program – 2011. This section is not intended to change any other provision of the MOU.

9.22 Pay Reduction - State Compensation Insurance Fund (SCIF)

During the term of the Memorandum of Understanding (MOU), Bargaining Unit 2 (BU2) employees employed at the State Compensation Insurance Fund (SCIF), shall not be subjected to furloughs, Personal Leave Program and/or any other form(s) of compensation or benefit reductions while still working.

Notwithstanding this provision, BU 2 employees employed at SCIF shall be subject to actual layoffs, consistent with this MOU, any applicable Government and Insurance Code sections, and any related personnel regulations.

Further, notwithstanding the above provisions, BU2 employees employed at SCIF shall be subject to any additional pension contributions applicable to the entire BU 2 membership, and shall be entitled to any and all salary increases applicable to BU 2 in this MOU.

ARTICLE 10 - LAYOFF

10.1 Layoff and Reemployment

A. Application

Whenever it is necessary because of a lack of work or funds, or whenever it is advisable in the interest of economy to reduce the number of permanent and/or probationary employees (hereinafter known as "employees") in any State agency, the State may lay off employees pursuant to this Section.

B. Order of Layoff

Employees shall be laid off in order of seniority pursuant to Government Code Sections 19997.2 through 19997.7 and applicable State Personnel Board and Department of Personnel Administration rules.

C. Notice

Employees compensated on a monthly basis shall be notified thirty (30) calendar days in advance of the effective date of layoff. Where notices are mailed, the thirty (30) calendar day time period will begin to run on date of mailing of the notice. The State agrees to notify CASE no later than (thirty (30) calendar days prior to the actual date of layoff.

D. Transfer or Demotion in Lieu of Layoff

The State may offer affected employees a transfer or a demotion in lieu of layoff pursuant to Government Code Sections 19997.8 through 19997.10 and applicable Department of Personnel Administration rules. If an employee refuses a transfer or demotion, the employee shall be laid off.

E. Reemployment

In accordance with Government Code Sections 19997.11 and 19997.12, the State shall establish a reemployment list by class for all employees who are laid off. Such lists shall take precedence over all other types of employment lists for the classes in which employees were laid off. Employees shall be certified from department or subdivisional reemployment lists in accordance with Section 19056 of the Government Code.

F. State Service Credit for Layoff Purposes

In determining seniority scores, one point shall be allowed for each qualifying monthly pay period of full-time State service regardless of when such service occurred. A pay period in which a full-time employee works eleven or more days will be considered a qualifying pay period except that when an absence from State service resulting from a temporary or permanent separation for more than eleven consecutive working days falls into two (2) consecutive qualifying pay periods, the second pay period shall be disqualified.

G. Any dispute regarding the interpretation or application of any portion of this layoff provision shall be resolved solely through the procedures established in Government Code section 19997.14. The hearing officer's decision shall be final and upon its issuance the Department of Personnel Administration (DPA) shall adopt the hearing officer's decision as its own. In the event that either the employee(s) or appointing power seeks judicial review of the decision pursuant to Government Code section 19815.8, DPA, in responding thereto, shall not be precluded from making arguments of fact or law that are contrary to those set forth in the decision.

H. Departments filling vacancies shall offer positions to current employees facing layoff, demotion in lieu of layoff or mandatory geographic transfer who meet the minimum qualifications for the vacancy being filled, provided that the vacancy is equivalent in salary and responsibility and in the same geographic area and bargaining unit.

10.2 Reducing the Adverse Effects of Layoff

Whenever the State determines it is necessary to lay off employees, the State and the Union shall meet in good faith to explore alternatives to laying off employees such as, but not limited to, voluntary reduced work time, retraining, early retirement, and unpaid leaves of absence.

10.3 Alternative to Layoff

The State may propose to reduce the number of hours an employee works as an alternative to layoff. Prior to the implementation of this alternative to a layoff, the State will notify and meet and confer with the Union to seek concurrence of the usage of this alternative.

10.4 Layoff Employee Assistance Program

Employees laid off shall be provided services in accordance with the Employee Assistance Program. Such services are term limited for six (6) months from the actual date of layoff.

ARTICLE 11 – HEALTH AND WELFARE

11.1 Consolidated Benefits (CoBen) Program Description

A. CoBen Allowance

1. Effective on the first day of the pay period following Union ratification of this agreement and upon approval of funding by the Legislature (no retroactivity), the State agrees to pay the following contribution for the Consolidated Benefits (CoBen) Allowance. The allowance is based on the Health Benefit party codes in a health plan administered or approved by CalPERS. To be eligible for this contribution, an employee must positively enroll in a health plan administered or approved by CalPERS and/or a dental plan administered or approved by DPA.

   a. The State shall contribute $482 per month for coverage of an eligible employee. (Party code one)

   b. The State shall contribute $946 per month for coverage of an eligible employee plus one dependent. (Party code two)

c. The State shall contribute $1,241 per month for coverage of an eligible employee plus two or more dependents. (Party code three)

2. The employer health benefits contribution for each employee shall be a flat dollar amount equal to 80 percent of the weighted average of the Basic health benefit plan premiums for a State active civil service employee enrolled for self-alone, during the benefit year to which the formula is applied, for the four Basic health benefit plans that had the largest State active civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional flat dollar amount equal to 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four Basic health benefit plans that had the largest State active civil service enrollment, excluding family members, during the previous benefit year. The established flat dollar amounts shall be increased as appropriate pursuant to the formulas above on January 1, 2012, and January 1, 2013.

   The established dollar amount(s) shall not be increased in subsequent years without a negotiated agreement by both parties.

   Dependent Vesting

   Employees who first become eligible for health benefit enrollment on or after July 1, 2006 shall be subject to a two-year vesting schedule for the employer health contribution for dependents as follows:

   a. 50% of the normal employer dependent portion of the contribution upon initial enrollment;

   b. 75% of the normal employer dependent portion of the contribution upon completion of 12 months of service; and

   c. 100% of the normal employer dependent portion of the contribution upon completion of 24 months of service.

The employer dependent contribution amounts shall be established by DPA each year at the same time that the normal employer health contributions are established.

When an employee is appointed to a new position or class that results in a change in eligibility for the composite rate, the effective date of the change shall be the first of the month following the date the notification is received by the State Controller's Office if the notice is received by the tenth of the month.

Enrollment Options

Employees will be permitted to choose a different level of benefit coverage according to their personal needs, and the State's allowance amount will depend on an employee's selection of coverage and number of enrolled dependents. The State agrees to provide the following CoBen benefits:

a. If the employee is enrolled in both a health plan administered or approved by CalPERS and a dental plan administered or approved by DPA, the health benefit enrollment party code will determine the allowance amount.

b. If the employee declines a health benefit plan which is administered or approved by CalPERS and certifies health coverage from another source, the employee's dental benefit enrollment party code will determine the amount of the contribution.

c. If the employee elects not to enroll in a health plan administered or approved by CalPERS and in a dental plan administered or approved by DPA and certifies health and dental coverage from other sources the employee will receive $155 in taxable cash per month. Cash will not be paid in lieu of vision benefits and employees may not disenroll from vision coverage. Employees do not pay an administrative fee.

d. Permanent Intermittent (PI) employees shall only be eligible to participate in the CoBen Cash Option and receive a six-month cash payment for the first control period of each plan year.

e. If the employee elects not to enroll in a health plan administered or approved by CalPERS and certifies health coverage from another source, but enrolls in a dental plan administered or approved by DPA, the employee may receive the difference between the applicable composite contribution and the cost of the dental plan selected and vision benefits, not to exceed $130 per month. (The State will pay the premium cost of the dental plan and vision plan.) Cash will not be paid in lieu of vision benefits, and employees may not disenroll from vision coverage. Employees do not pay an administrative fee.

f. If the monthly cost of any of the State's benefit plans (health, dental and vision) in which an employee elects to enroll exceeds the State's maximum allowance amount as set forth in Subsection A.1.a., b. or c, or A.2.a., b. or c above, the employee shall pay the difference on a pre-tax basis. If there is money left over after the cost of these benefits is deducted, the remaining amount will be paid to the employee as taxable cash.

B. Health Benefits <u>Eligibility</u>

1. Employee Eligibility

   For purposes of this section, "eligible employee" shall be defined by the Public Employees' Medical and Hospital Care Act.

2. Permanent Intermittent (PI) Employees

   a. Initial Eligibility – A permanent intermittent employee will be eligible to enroll in health benefits during each calendar year if the employee has been credited with a minimum of 480 paid hours in a PI control period. For purposes of this section, the control periods are January 1 through June 30 and July 1 through December 31 of each calendar year. An eligible permanent intermittent employee must enroll in a health benefit plan within 60 days from the end of the qualifying control period.

b. Continuing Eligibility – To continue health benefits, a permanent intermittent employee must be credited with a minimum of 480 paid hours in a control period or 960 paid hours in two consecutive control periods.

3. Family Member Eligibility

   For purposes of this section, “eligible family member” shall be defined by the Public Employees’ Medical and Hospital Care Act and includes domestic partners that have been certified with the Secretary of State’s office in accordance with AB 26 (Chapter 588, Statutes of 1999).

4. The parties agree to work cooperatively with CalPERS and the health plans to control premium increases.

A. Dental Benefits

1. Contribution

   The employer contribution for dental benefits shall be included in the Consolidated Benefits Allowance as specified in Section A.1 and A.2 of this agreement.

2. Employee Eligibility

   Employee eligibility for dental benefits will be the same as that prescribed for health benefits under subsection B.1. and B.2 of this agreement.

3. Family Member Eligibility

   Family member eligibility for dental benefits is the same as that prescribed for health benefits under subsection A.2 and B.3 of this agreement.

B. Vision Benefit

1. Program Description

   The employer agrees to provide a vision benefit to eligible employees and dependents. The employer contribution rates for the vision benefit shall be included in the Consolidated Benefits Allowance as specified in Section A.1 and A.2. The vision benefit provided by the State shall have an employee copayment of $10 for the comprehensive annual eye examination and $25 for materials.

2. Employee Eligibility

   Employee eligibility for vision benefits is the same as that prescribed for health benefits under Subsection B.1 and B.2 of this agreement.

3 Family Member Eligibility

   Family member eligibility for vision benefits is the same as that prescribed for health benefits under Subsection A.2 and B.3 of this agreement.

C. FlexElect Program

1. Program Description

a. The State agrees to provide a flexible benefits program (FlexElect) under Internal Revenue Code Section 125 and related Sections 105(b), 129, and 213(d). All participants in the FlexElect Program shall be subject to all applicable Federal statues and related administrative provisions adopted by DPA. The administrative fee paid by the participants will be determined each year by the Director of the Department of Personnel Administration.

b. Employees who meet the eligibility criteria stated in subsection 2.a., below, will also be eligible to enroll into a Medical Reimbursement and/or Dependent Care Reimbursement Account.

2. Employee Eligibility

a. All eligible employees must have a permanent appointment with a time-base of half time or more and have permanent status, or if a limited term or a temporary authorized (TAU) position, must have mandatory return rights to a permanent position.

b. Permanent Intermittent (PI) employees shall only participate in the CoBen Cash Option and will be eligible to receive a six (6) month Cash payment for the first control period of each plan year. PI's choosing the CoBen Cash Option will qualify if they meet all of the following criteria:

(1) must be eligible to enroll in health and/or dental coverage as of January 1 of the Plan Year for which they are enrolling and;

(2) must have a PI appointment which is effective from January 1 through June 30 of the Plan Year for which they are enrolling and;

(3) must be paid for at least four hundred eighty (480) hours during the January through June control period for the Plan Year in which they are enrolling and;

(4) must have completed an enrollment authorization during the CoBen Open Enrollment Period or as newly eligible.

3. Subsection 2.b. is not grievable or arbitrable.

11.2 Rural Health Care Equity Program

A. Effective July 1, 2001, the State shall continue a Rural Health Care Equity Program for Bargaining Unit 2 members, which may be administered in conjunction with a similar program for State employees in other bargaining units, for excluded employees, and for annuitants. The Department of Personnel Administration (DPA) shall administer any fund involving Bargaining Unit 2 members. The program shall operate in the following fashion:

1. The State shall contribute $1500 per year on behalf of each bargaining unit member (employee) who lives in a defined rural area, as more definitely described in Government Code Section 22825.01.

a. Payments shall be on a monthly basis.

b. For permanent employees, as in the "Medical Reimbursement Account" situation, the employee does not have to wait for reimbursement of covered medical expenses until the full amount has been deposited.

2. As to any employee who enters State service or leaves State service during a fiscal year, contributions for such employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit (e.g., promotion in mid-fiscal year).
3. The money shall be available for use as defined in Government Code Section (GC) 22825.01.
4. A Rural Healthcare Equity Program will be established with a separate account for Bargaining Unit 2 members, as one of several similar accounts.
5. Each Unit 2 employee shall be able to utilize up to $1500 per year, pursuant to GC section 22825.01, but with the exceptions for greater utilization hereafter noted. The pro rata limitation pursuant to paragraph 11.6, (B), (2) is applicable here.
6. If an employee does not utilize the complete $1500 pursuant to the procedures and limitations described in GC section 22825.01, then the unused monies shall be put in a "same year pool." That same year pool shall be utilized to pay those who have incurred eligible health care expenses in excess of the $1500, but again according to the procedures and limitations in GC section 22825.01. The monies in the same year pool would be distributed at the end, or even soon after, each fiscal year to that group of employees who had expenses in excess of $1500 in the relevant fiscal year. Those monies shall be distributed on a pro tanto (pro rata) basis.
   a. Any employee not in Bargaining Unit 2 all year shall receive credit under this paragraph utilizing the same pro rata formula as in paragraph 11.6(B)(2). above.
   b. If an employee is entitled to less than twenty five dollars ($25) under Section 11.6(B)(6), the money shall instead go into next year's fund pursuant to Section 11.6(B)(7) hereafter.
7. If monies still remain after a distribution to such employees (i.e., all employees who spent more than $1500 as provided in GC section 22825.01 were completely reimbursed), then those surplus monies shall be rolled over into the next fiscal year's funds available for distribution to employees whose expenses pursuant to the statute exceed $1500 in such subsequent year. Similar "rollovers" would occur in any years where all employees were completely reimbursed (or had payments made on their behalf) pursuant to GC 22825.01 and monies still remained in the pool.

11.3 Group Legal Services Plan

The State of California agrees to contract for an employee-paid group legal services plan, effective on or after March 1, 1992. The plan shall be offered on a voluntary, after-tax, payroll deduction basis, and any costs associated with administering the plan shall be paid by the participating employees through a service charge.

11.4 Long-Term Care Insurance Plans

Employees in classes assigned to Bargaining Unit 2 are eligible to enroll in any long-term care insurance plan sponsored by the Public Employees Retirement System.

The employee's spouse, parents, siblings, and the spouse's parents are also eligible to enroll in the plans, subject to the underwriting criteria specified in the plan.

The long-term care insurance premiums and the administrative cost to the State shall be fully paid by the employee and are subject to payroll deductions.

11.5 Pre-Tax of Health/Dental Premiums Costs

Employees who are enrolled in any health and/or dental plan which requires a portion of the premium to be paid by the employee, will automatically have their out-of-pocket premium costs taken out of their paycheck before Federal, State and social security taxes are deducted. Employees who choose not to have their out-of-pocket costs pre-taxed, must make an election not to participate in this benefit.

11.6 Non-Industrial Disability Insurance

A. Non-Industrial Disability Insurance (NDI) is a program for State employees who become disabled due to nonwork-related disabilities as defined by Section 2626 of the Unemployment Insurance Code.

B. For periods of disability commencing on or after October 1, 1984, eligible employees shall receive NDI payments at 60% of their full pay, not to exceed $135 per week, payable monthly for a period not exceeding 26 weeks for any one disability benefit period. An employee is not eligible for a second disability benefit due to the same or related cause or condition unless they have returned to their regular time base, and work for at least ten (10) consecutive work days. Paid leave shall not be used to cover the ten (10) work days. The employee shall serve a ten (10) consecutive calendar day waiting period before NDI payments commence for each disability. Accrued vacation or sick leave balances may be used to cover this waiting period. The waiting period may be waived commencing with the first full day of confinement in a hospital or nursing home for at least one full day. A full day is defined as a 24-hour period starting at midnight.

C. If the employee elects to use vacation, annual leave, personal leave or sick leave credits prior to receiving NDI payments, he or she is not required to exhaust the accrued leave balance.

D. Following the start of NDI payments, an employee may, at any time, switch from NDI to sick leave, vacation leave, annual leave, personal leave, or catastrophic leave but may not return to NDI until that leave is exhausted.

E. In accordance with the State's "return to work" policy, an employee who is eligible to receive NDI benefits and who is medically certified as unable to return to full-time work during the period of his or her disability, may upon the discretion of his or her appointing power work those hours (in hour increments) which, when combined with the NDI benefit, will not exceed 100% of their regular "full pay". This does not qualify the employee for a new disability period under subsection (B) of this section. The appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the Director of the Employment Development Department for the purpose of evaluating the capacity of the employee to perform the work of his or her position.

F. If an employee refuses to return to work in a position offered by the employer under the State's Injured State Worker Assistance Program, NDI benefits will be terminated effective the date of the offer.

G. Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class. An employee will be eligible for NDI payments on the first day of the monthly pay period following completion of 960 hours of compensated work.

H. All other applicable Department of Personnel Administration laws and regulations not superseded by these provisions will remain in effect.

I. Upon approval of NDI benefits, the State may issue an employee a salary advance if the employee so requests.

J. All appeals of a denial of an employee's NDI benefits shall only follow the procedures in the Unemployment Insurance Code and Title 22. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to the denial of an individual's benefits.

11.7 Enhanced Non-Industrial Disability Insurance – Annual Leave

A. This ENDI provision is only applicable to employees participating in the annual leave program referenced in section 9.11.

B. Enhanced Non-Industrial Disability Insurance (ENDI) is a program for State employees who become disabled due to nonwork-related disabilities as defined by Section 2626 of the Unemployment Insurance Code.

C. For periods of disability commencing on or after January 1, 1989, eligible employees shall receive ENDI payments at 50% of their gross salary, payable monthly for a period not exceeding 26 weeks for any one disability benefit period. An employee is not eligible for a second disability benefit due to the same or related cause or condition unless they have returned to their regular time base, and work for at least ten (10) consecutive work days. Paid leave shall not be used to cover the ten (10) work days. Disability payments may be supplemented with annual leave, sick leave or partial payment to provide for up to 100% income replacement. At the time of an ENDI claim, an employee may elect either the 50% ENDI benefit rate or a supplementation level of 75% or 100% at gross pay. Once a claim for ENDI has been filed and the employee has determined the rate of supplementation, the supplemental rate shall be maintained throughout the disability period.

D. The employee shall serve a seven (7) consecutive calendar day waiting period before ENDI payments commence for each disability. Accrued paid leave or CTO leave balances may be used to cover this waiting period. The waiting period may be waived commencing with the first full day of confinement in a hospital, nursing home, or emergency clinic for at least one full day. A full day is defined as a 24-hour period starting at midnight.

E. If the employee elects to use annual leave or sick leave credits prior to receiving ENDI payments, he or she is not required to exhaust the accrued leave balance.

F. Following the start of ENDI payments an employee may at any time switch from ENDI to sick leave or annual leave, but may not return to ENDI until that leave is exhausted.

G. In accordance with the State's "return to work" policy, an employee who is eligible to receive ENDI benefits and who is medically certified as unable to return to their full-time work during the period of his or her disability, may upon the discretion of his or her appointing power, work those hours (in hour increments) which when combined with the ENDI benefit will not exceed 100% of their regular "full pay". This does not qualify the employee for a new disability period under c. of this article. The appointing power may require an employee to submit to a medical examination by a physician or physicians designated by the Director of the Employment Development Department for the purpose of evaluating the capacity of the employee to perform the work of his or her position.

H. If an employee refuses to return to work in a position offered by the employer under the State's Injured State Worker Assistance Program, ENDI benefits will be terminated effective the date of the offer.

I. Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class. An employee will be eligible for ENDI payments on the first day of the monthly pay period following completion of 960 hours of compensated work.

J. All other applicable Department of Personnel Administration laws and regulations not superseded by these provisions will remain in effect.

K. Upon approval of ENDI benefits, the State may issue an employee a salary advance if the employee so requests.

L. All appeals of an employee's denial of ENDI benefits shall only follow the procedures in the Unemployment Insurance Code and Title 22. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to an individual's denial of benefits.

M. Employees who become covered in the annual leave program while on an NDI claim shall continue to receive NDI pay at the old rate for the duration of the claim.

N. Employees who do not elect the annual leave program will receive NDI benefits in accordance with the current program in section 11.6 and such benefits are limited to $135.00 per week.

11.8 Industrial Disability Leave

A. For periods of disability commencing on or after January 1, 1993, subject to Government Code Section 19875, eligible employees shall receive IDL payments equivalent to full net pay for the first 22 work days after the date of the reported injury.

B. In the event that the disability exceeds 22 work days, the employee will receive 66 and 2/3% of gross pay from the 23rd work day of disability until the end of the 52nd week of disability. No IDL or payments shall be allowed after two years from the first day (i.e., date) of disability.

C. The employee may elect to supplement payment from the 23rd work day with accrued leave credits including annual leave, vacation, sick leave, or compensating time off (CTO) in the amount necessary to approximate the employee's full net pay. Partial supplementation will be allowed, but fractions of less than one hour will not be permitted. Once the level of supplementation is selected, it may be decreased to accommodate a declining leave balance but it may not be increased. Reductions to supplementation amounts will be made on a prospective basis only.

D. Temporary Disability (TD) with supplementation, as provided for in Government Code Section 19863, will no longer be available to any State employee who is a member of either the PERS or STRS retirement system during the first 52 weeks, after the first date of disability, within a two-year period. Any employee who is already receiving disability payments on the effective date of this provision will be notified and given 30 days to make a voluntary, but irrevocable, change to the new benefit for the remainder of his/her eligibility for IDL.

E. If the employee remains disabled after the IDL benefit is exhausted, then the employee will be eligible to receive Temporary Disability benefits as provided for in Government Code Section 19863.

F. In the event that an employee is determined to be "permanent and stationary" by his/her physician before the IDL benefit is exhausted, but is unable to return to work, he/she must agree to participate in a vocational rehabilitation program. Refusing to participate will result in immediate suspension of the IDL benefit.

G. An employee may elect to supplement Vocational Rehabilitation Maintenance Allowance, which is provided pursuant to Section 10125.1, Title 8, California Code of Regulations, with leave credits.

H. The State and Union agree to support legislation to amend Government Code Section 19863.1, to allow an employee to supplement Vocational Rehabilitation Maintenance Allowance with leave credits.

I. All appeals of an employee's denial of IDL benefits shall only follow the procedures in the Government Code and Title 2. All disputes relating to an employee's denial of benefits are not grievable or arbitrable. This does not change either party's contractual rights which are not related to an individual's denial of benefits.

11.9 1959 Survivors' Benefits - Fifth Level

A. Employees in this unit who are members of the Public Employees' Retirement System (PERS) will be covered under the Fifth Level of the 1959 Survivors' Benefit, which provides a death benefit in the form of a monthly allowance to the eligible survivor in the event of death before retirement. This benefit will be payable to eligible survivors of current employees who are not covered by Social Security and whose death occurs on or after the effective date of the memorandum of understanding for this section.

B. The contribution for employees covered under this new level of benefits will be $2 per month. The rate of contribution for the State will be determined by the PERS board.

C. The survivors' benefits are detailed in the following schedule:

1. A spouse who has care of two or more eligible children, or three or more eligible children not in the care of spouse…….....$1,800
2. A spouse with one eligible child, or two eligible children not in the care of the spouse……..……..$1,500
3. One eligible child not in the care of the spouse; or the spouse, who had no eligible children at the time of the employee's death, upon reaching age 62…….....……$750

ARTICLE 12 – ALLOWANCES AND REIMBURSEMENTS

12.1 Business and Travel Expense

The State agrees to reimburse employees for actual, necessary and appropriate business expenses and travel expenses incurred fifty (50) miles or more from home and headquarters, in accordance with existing Department of Personnel Administration rules and as set forth below. Lodging and/or meals provided by the State or included in hotel expenses or conference fees or in transportation costs such as airline tickets or otherwise provided shall not be claimed for reimbursement. Snacks and continental breakfasts such as rolls, juice, and coffee are not considered to be meals. Each item of expenses of twenty five dollars ($25) or more requires a receipt; receipts may be required for items of expense that are less than twenty five dollars ($25). When receipts are not required to be submitted with the claim, it is the employee's responsibility to maintain receipts and records of their actual expenses for tax purposes. Each State agency shall determine the necessity for travel and the mode of travel to be reimbursed.

A. **Meals/Incidentals**: Meal expenses for breakfast, lunch, and dinner will be reimbursed in the amount of actual expenses up to the maximums. The term "incidentals" includes, but is not limited to, expenses for laundry, cleaning and pressing of clothing, and fees and tips for services, such as for porters and baggage carriers. It does not include taxicab fares, lodging taxes or the cost of telegrams or telephone calls.

1. **Rates** - Actual meal/incidental expenses incurred will be reimbursed in accordance with the maximum rates and time frame requirements outlined below:

Breakfast	up to	$ 6.00	
Lunch	up to	$10.00	
Dinner	up to	$18.00	
Incidentals	up to	$ 6.00	(Every full 24 hours of travel)
Total	up to	$40.00	

2. **Time Frames** - For continuous short-term travel of more than twenty four (24) hours but less than thirty one (31) days, the employee will be reimbursed for actual costs up to the maximum for each meal, incidental, and lodging expense for each complete twenty four (24) hours of travel, beginning with the traveler's time of departure and return as follows:

   a. On the first day of travel on a trip of more than twenty four (24) hours:

Trip begins at or before 6 a.m.	Breakfast may be claimed
Trip begins at or before 11 a.m.	Lunch may be claimed
Trip begins at or before 5 p.m.	Dinner may be claimed

b. On the fractional day of travel at the end of a trip of more than twenty four (24) hours:

Trip ends at or after 8 a.m.	Breakfast may be claimed
Trip ends at or after 2 p.m.	Lunch may be claimed
Trip ends at or after 7 p.m.	Dinner may be claimed

If the fractional day includes an overnight stay, receipted lodging may be claimed. No meal or lodging expenses may be claimed or reimbursed more than once on any given date or during any twenty four (24) hour period.

c. For continuous travel of less than twenty four (24) hours, the employee will be reimbursed for actual expenses up to the maximum as follows:

Travel begins at or before 6 a.m. Breakfast may be claimed.
and ends at or after 9 a.m.:

Travel begins at or before 4 p.m. Dinner may be claimed.
and ends at or after 7 p.m.:

If the trip extends overnight, receipted lodging may be claimed.

No lunch or incidentals may be claimed on a trip of less than twenty four (24) hours.

3. A meal allowance of up to eight dollars ($8) will only be provided when an employee is required to work two (2) consecutive hours prior to or two (2) consecutive hours after the regular work shift. To be eligible for a meal allowance on a holiday or the regular day off, the employee must work the total number of hours of their regular work shift and work either two (2) consecutive hours prior to or two (2) consecutive hours after the start and end of their regular work shift.

B. **Lodging**: All lodging reimbursement requires a receipt from a commercial lodging establishment such as a hotel, motel, bed and breakfast inn, or public campground that caters to the general public. No lodging will be reimbursed without a valid receipt.

1. Regular State Business Travel

a. Statewide, in all locations not listed in b. below, for receipted lodging while on travel status to conduct State business:

With a lodging receipt: Actual lodging up to eighty four dollars ($84) plus applicable taxes.

b. When employees are required to do business and obtain lodging in the counties of Alameda, San Francisco, San Mateo and Santa Clara, reimbursement will be for actual receipted lodging to a maximum of one hundred forty dollars ($140) plus applicable taxes. When employees are required to do business and obtain lodging in the counties of Los Angeles and San Diego, actual lodging up to one hundred ten dollars ($110) plus applicable taxes.

2. State Sponsored Conferences or Conventions

   a. For receipted lodging while attending State Sponsored conferences and conventions, when the lodging is contracted by the State sponsor for the event, and the appointing authority has granted prior approval for attendance and lodging at the contracted rate and establishment:

   b. Statewide, with a lodging receipt: Actual lodging up to one hundred ten dollars ($110) plus applicable taxes.

3. Non-State Sponsored Conferences or Conventions

   a. For receipted lodging while attending Non-State sponsored conferences and conventions, when the lodging is contracted by the sponsor for the event, and the appointing authority has granted prior approval for attendance and lodging at the contracted rate and establishment:

   b. Statewide, with a lodging receipt: Actual lodging when approved in advance by the appointing authority.

   c. Reimbursement of lodging expenses in excess of specified amounts, excluding taxes requires advance written approval from the Department of Personnel Administration. The Department of Personnel Administration may delegate approval authority to departmental appointing powers or increase the lodging maximum rate for the geographical area and period of time deemed necessary to meet the needs of the State. An employee may not claim lodging, meal, or incidental expenses within fifty (50) miles of his/her home or headquarters.

C. **Long-term Travel**: Actual expenses for long term meals and receipted lodging will be reimbursed when the employee incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor.

1. **Full Long-term Travel** - In order to qualify for full long-term travel reimbursement, the employee on long-term field assignment must meet the following criteria:

   a. The employee continues to maintain a permanent residence at the primary headquarters, and

   b. The permanent residence is occupied by the employee's dependents, or

   c. The permanent residence is maintained at a net expense to the employee exceeding $200 per month. The employee on full long-term travel who is living at the long-term location may claim either:

(1) Reimbursement for actual individual expense, substantiated by receipts, for lodging, water, sewer, gas and electricity, up to a maximum of $1,130 per calendar month while on the long-term assignment, and actual expenses up to ten dollars ($10) for meals and incidentals, for each period of twelve (12) to twenty-four (24) hours and up to $5 for actual meals and incidentals for each period of less than twelve (12) hours at the long-term location, or

(2) (2)Long-term subsistence rates of twenty four dollars ($24) for actual meals and incidentals and $24 for receipted lodging for travel of twelve (12) hours up to twenty four (24) hours; either twenty four dollars ($24) for actual meals or twenty four dollars ($24) for receipted lodging for travel less than twelve (12) hours when the employee incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor.

2. An employee on long-term field assignment who does not maintain a separate residence in the headquarters area may claim long-term subsistence rates of up to twelve dollars ($12) for actual meals and incidentals and twelve dollars ($12) for receipted lodging for travel of twelve (12) hours up to twenty-four (24) hours at the long-term location; either twelve dollars ($12) for actual meals or twelve dollars ($12) for receipted lodging for travel less than twelve (12) hours at the long-term location.

3. Employees, with supervisor's approval, after completing the work shift remain at the job or LTA location past the Friday twelve (12) hour clock will receive full per diem for Friday. Those staying overnight shall not receive any additional per diem regardless of the Saturday departure time. An employee returning to the temporary residence on Sunday will receive full per diem. This does not change Department of Personnel Administration policy regarding the per diem clock which starts at the beginning of the work shift on Monday. If the normal workweek is other than as stated above, the same principle applies.

   The following clarifies Department of Personnel Administration policy regarding an employee leaving the LTA location on personal business:

   The reference to leaving the LTA location for personal business and not claiming per diem or transportation expenses assumes that the employee stays overnight at a location other than the long-term accommodations.

D. **Out-of-State Travel**: For short-term out-of-State travel, State employees will be reimbursed actual lodging, supported by a receipt, and will be reimbursed for actual meal and incidental expenses in accordance with above. Failure to furnish lodging receipts will limit reimbursement to the meal/incidental rate above. Long-term out-of-State travel will be reimbursed in accordance with the provisions of long-term travel above.

E. **Out-of-Country Travel**: For short-term out of country travel, State employees will be reimbursed actual lodging, substantiated by a receipt, and will be reimbursed actual meals and incidentals up to the maximums published in column (B) of the Maximum Travel per Diem Allowances for Foreign Areas, Section 925, U.S. Department of State Standardized Regulations and the meal/incidental breakdown in Federal Travel Regulation Chapter 301, Travel Allowances, Appendix B. Long-term out of country travel will be reimbursed in accordance with the provisions of long-term travel above, or as determined by the Department of Personnel Administration.

Subsistence shall be paid in accordance with procedures prescribed by the Department of Personnel Administration. It is the responsibility of the individual employee to maintain receipts for their actual meal expenses.

F. **Transportation**: Transportation expenses include, but are not limited to, airplane, train, bus, taxi fares, rental cars, parking, mileage reimbursement, and tolls that are reasonably and necessarily incurred as a result of conducting State business. Each State agency shall determine the necessity for travel, and the mode of travel to be reimbursed.

1. **Mileage Reimbursement**

   a. When an employee is authorized by his/her appointing authority or designee to operate a privately owned vehicle on State business the employee will be allowed to claim and be reimbursed at the Federal Standard Mileage Rate (FSMR).

   b. When an employee is required to report to an alternative work location, the employee may be reimbursed for the number of miles driven in excess of his/her normal commute.

2. **Specialized Vehicles** – Employees who must operate a motor vehicle on official State business and who, because of a physical disability, may operate only specially equipped or modified vehicles may claim reimbursement at the Federal Standard Mileage Rate (FSMR), with certification. Supervisors who approve claims pursuant to this subsection have the responsibility of determining the need for the use of such vehicles.

3. **Private Aircraft Mileage** – When an employee is authorized by his/her department, reimbursement for the use of the employee's privately owned aircraft on State business shall be made at the rate of fifty ($.50) cents per statute mile. Pilot qualifications and insurance requirements will be maintained in accordance with the Department of Personnel Administration Rule 599.628.1 and the State Office of Risk and Insurance Management.

4. **Mileage to/from a Common Carrier** – When the employee's use of a privately owned vehicle is authorized for travel to or from a common carrier terminal, and the employee's vehicle is not parked at the terminal during the period of absence, the employee may claim double the number of miles between the terminal and the employee's headquarters or residence, whichever is less, while the employee occupies the vehicle. Exception to "whichever is less:" If the employee begins travel one (1) hour or more before he normally leaves his home, or on a regularly scheduled day off, mileage may be computed from his/her residence.

G. **Receipts**: Receipts or vouchers shall be submitted for every item of expense of twenty five dollars ($25) or more. In addition, receipts are required for every item of transportation and business expense incurred as a result of conducting State business except for actual expenses as follows:

1. Railroad and bus fares of less than twenty five dollars ($25) when travel is wholly within the State of California.
2. Street car, ferry fares, bridge and road tolls, local rapid transit system, taxi, shuttle or hotel bus fares, and parking fees of ten dollars ($10) or less for each continuous period of parking or each separate transportation expense noted in this item.
3. Telephone, telegraph, tax, or other business charges related to State business of five dollars ($5) or less.
4. In the absence of a receipt, reimbursement will be limited to the non-receipted amount above.
5. Reimbursement will be claimed only for the actual and necessary expenses noted above. Regardless of the above exceptions, the approving officer may require additional certification and/or explanation in order to determine that an expense was actually and reasonably incurred. In the absence of a satisfactory explanation, the expense shall not be allowed.

12.2 Lodging – Orange and Marin Counties

The Department of Personnel Administration (DPA) and CASE agree that lodging in Orange, and Marin Counties shall be reimbursed up to one hundred ten dollars ($110) plus tax with receipts if the employee calls three (3) moderately priced hotels in a geographic area, chooses the lowest cost of the three (3), and obtains advance supervisory approval, which shall not be unreasonably denied.

12.3 Commute Program

A. Employees working in areas served by mass transit, including rail, bus, or other commercial transportation licensed for public conveyance shall be eligible for a seventy five percent (75%) discount on public transit passes sold by State agencies up to a maximum of sixty five dollars ($65) per month. Employees who purchase public transit passes on their own shall be eligible for a seventy five percent (75%) reimbursement up to a maximum of sixty five dollars ($65) per month. This shall not be considered compensation for purposes of retirement contributions. The State may establish and implement procedures and eligibility criteria for the administration of this benefit including required receipts and certification of expenses.

B. Employees riding in vanpools shall be eligible for a seventy five percent (75%) reimbursement of the monthly fee up to a maximum of sixty five dollars ($65) per month. In lieu of the van pool rider reimbursement, the State shall provide one hundred dollars ($100) per month to each State employee who is the primary vanpool driver and meets the eligibility criteria and complies with program procedures as developed by the State for primary vanpool drivers. This shall not be considered compensation for purposes of retirement contributions. A vanpool is defined as a group of five (5) or more people who commute together in a vehicle (State or non-State) specifically designed to carry an appropriate number of passengers. The State may establish and implement procedures and eligibility criteria for the administration of this benefit.

C. Employees headquartered out of State shall receive reimbursement for qualified public transportation and vanpool expenses for seventy five percent (75%) of the cost up to a maximum of sixty five dollars ($65) per month or in the case of the primary vanpool driver, the one hundred dollars ($100) per month rate. The appointing power may establish and implement procedures regarding the certification of expenses.

12.4 Cell Phones

A. The Attorney General's Office, Caltrans, Department of Industrial Relations, and Social Services will make cell phones available to their Unit 2 attorneys for official business use while traveling or away from the office on State business, on a check-out basis.

B. Other departments may at their discretion make cell phones available for official business use while traveling or away from the office on State business.

12.5 Moving and Relocation

Whenever a Unit 2 employee is reasonably required by the State to change his/her place of residence, the State shall reimburse the employee for approved items in accordance with the lodging, meal and incidental rates and time frames established in Section 12.1 and in accordance with the existing requirements, time frames and administrative rules and regulations for reimbursement of relocation expenses that apply to excluded employees.

12.6 Parking Rates

A. For the term of this agreement, the parties agree that the State may increase parking rates in existing owned or leased lots, in urban congested areas, no more than twenty dollars ($20) per month above the current rate charged to employees in specific locations where they park. An increase in parking rates imposed after July 1, 2001, but prior to ratification of this contract, will be counted towards the twenty dollars ($20) per month increase. Congested urban areas are areas such as Sacramento, San Francisco Bay, Fresno, Los Angeles, San Bernardino, Riverside, and San Diego areas. Every effort shall be made to provide employees sixty (60) days, but no less than thirty (30) days, notice of a parking rate increase. The State shall not increase rates for existing parking lots where employees do not currently pay parking fees. Rates at new lots administered or leased by the State will be set at a level comparable to rates charged for similar lots in the area of the new lot, e.g., rates for open lots shall be compared to rates for open lots, rates for covered parking shall be compared to rates for covered parking.

B. The State shall continue a system for employees where parking fees may be paid with pretax dollars.

12.7 Responsibility for Litigation Costs

The state, not the employee, is financially responsible for all litigation costs and expenses associated with representing the state in any legal forum.

ARTICLE 13 - MISCELLANEOUS

13.1 Temporary Employee Loans and Exchanges

A. Inter-Jurisdictional Employee Exchange Assignment or Loan

State agencies may with concurrence of the affected employee assign or loan the employee to another State agency or another jurisdiction which is governmental in character as otherwise provided in Government Code section 19050.8 and 2 Cal. Code Regulations Section 427.

B. Inter-Departmental Temporary Employee Exchange Program

1. The purpose of this subsection is to permit Unit 2 employees in attorney classifications employed by different departments, agencies, boards and commissions to temporarily exchange duties and responsibilities as the result of two-way employee loans.

2. This subsection shall apply to Unit 2 employees in attorney classifications who (a) have permanent status in their present classification or (b) are on probationary status and who previously had permanent status and, since such permanent status, have had no break in service due to a permanent separation.

3. Temporary employee exchanges (loans) may only be made with the approval of the State Personnel Board's (SPB) executive officer pursuant to 2 Cal. Code Regulations Section 426. The SPB executive officer's decision shall be final and shall not be subject to the grievance or arbitration provision of this agreement.

4. Temporary employee loans and exchanges occur when one employee is loaned to another appointing authority in exchange for the loan of another employee and shall be subject to the following:

    a. Both employees and both appointing powers must agree that the loan exchange is to (1) provide employee with training and experience; and (2) that it will serve a management need.

    b. The loan exchanges shall be documented by a written agreement signed by all parties that addresses the requirements of 2 Cal. Code Regulations Section 426.

    c. The loan exchanges shall be deemed to be in accordance with all laws and regulations limiting employees to duties consistent with their classification and may be used to meet minimum requirements for promotional as well as open examinations, subject to the laws and regulations established by the SPB.

    d. Loaned employees shall have the absolute right to return to their former positions as defined in the Government Code.

    e. Loaned employees shall remain in a position assigned to their home departments and shall be paid by their home departments consistent with their existing classifications.

    f. For purposes of administering State civil service laws and regulations, the employees shall be considered an employee of their home department, except that the employee's work activities and performance evaluations shall be subject to the jurisdiction of the receiving department. Should it become necessary to discipline a participating employee, the receiving department shall be deemed the "authorizing representative" of the employee's (home) appointing power for purposes of Government Code Section 19574.

    g. Loaned employees who accept an exchange shall be deemed to have automatically waived any and all claims in any forum for additional or out-of-class compensation.

    h. Exchanges shall be for a period of not less than six (6) months and not longer than two (2) years. Exchanges may, however, be terminated early by either appointing authority or either employee. Employees may, however, be required to complete any assignments (e.g., cases) that the receiving department determines will be compromised or unduly complicated by early termination. If an exchange is going to be terminated early, it shall be preceded with a written notice to all parties at least thirty (30) calendar days in advance.

5. Exchange requests shall be coordinated in the following manner:

    a. CASE shall establish a list of interested employees, where they work, where they would like to be loaned to, and what type of assignment they would like in the receiving department, agency, board or commission. Upon determining that two employees have a compatible desire to exchange positions, CASE will submit a formal request to the two (2) appointing powers.

b. Each appointing power shall approve or deny requests within thirty (30) calendar days of receipt. Should both agree to the exchange, a reasonable period of time will be allowed to prepare and process the necessary documents.

c. Should either the receiving or home agency, department, board or commission deny the request, the denial will not be subject to the grievance or arbitration provision of this agreement.

13.2 Outside Employment

A. The State shall not prohibit outside employment that does not conflict with the applicable incompatible activity statement.

B. An employee may request that the department grant an exception to the prohibitions on outside employment contained in the applicable Incompatible Activity statement. If the exception is denied, upon request by the employee, it shall be reviewed by a committee composed of two (2) representatives of the department and two (2) representatives of CASE. The committee will issue a recommendation to the department head or designee for decision.

C. DPA or its designee agrees to meet and confer with CASE subsequent to such time as CASE presents the department or agency with a list of proposed changes to its Incompatible Activity statement.

D. In the event of a mandatory reduced work time program, department heads or their designees shall, upon request, meet and confer with CASE regarding potential changes in the Incompatible Activity Statements necessary to mitigate the effect of the reduced work time.

13.3 Office Space

A. The State agrees to make a reasonable effort to provide private enclosed office space to each permanent full-time attorney who has confidentiality needs.

B. Upon request, the State employer agrees to discuss with CASE those situations where attorneys do not currently have private office space.

C. Where a major move to other than enclosed private offices for attorneys is planned, CASE shall be notified at the earliest feasible time.

13.4 Work and Family Committee

A. The parties agree to establish one statewide permanent joint labor/management committee on work and family. The committee shall serve in an advisory capacity to the Department of Personnel Administration' s Work and Family Program. Work and family related activities that the committee will engage in include sponsoring research, reviewing existing programs and policies, recommending new programs and policies, initiating marketing efforts, and evaluating the effectiveness of initiatives implemented by the Work and Family Program. Such work and family programs and policies may include, but are not limited to childcare, elder care, family leave, flexibility in the workplace, and a variety of other family-friendly programs and policies.

B. The committee shall be comprised of an equal number of management and union representatives. The Union recognizes that membership on the committee may also include any or all other unions representing State employees. The committee shall have co-chairpersons, one representing management and one representing labor. CASE shall have one (1) representative.

C. The parties agree the CASE representative shall attend committee meetings without loss of compensation. The co-chairpersons may determine that subcommittees are necessary or preparatory work other than at committee meetings is necessary. If this occurs, the management co-chairperson may request that additional release time be granted for this purpose. Approval of release time is subject to operational need.

D. The committee shall meet regularly and shall begin meeting after the ratification of this contract.

E. The $5 million dollars already established in the Work and Family Fund shall be administered by the Department of Personnel Administration. Amounts to be allocated and expended annually from the fund shall be determined by the Department of Personnel Administration and the committee.

13.5 Personnel Files

A. Official Personnel Files

1. Upon reasonable notice to the Personnel Office, bargaining unit employees shall have access to all of the materials in their official personnel file during normal Personnel Office business hours. In addition, with written authority from the employee or in the company of the employee, a designated CASE representative may review the employee's personnel file. Said written authorization shall be valid for the period of time specified by the employee. Access to the file shall be during regular personnel office hours. The file shall not be removed from the personnel office. The employee and the CASE representative, with written authorization from the employee, shall each be allowed a copy of the material in the personnel file.

2. Materials included in the personnel file shall be retained for a period of time specified by each department, except that material in the file of a negative nature that is older than three (3) years shall be removed by personnel office employees who discover it upon accessing the file for any purpose. The act of removing dated negative material shall be accomplished in a manner which is not apparent to anyone but other employees of the personnel office.

3. Material of a negative nature that is older than three (3) years shall not be the basis of an adverse action against any employee.

4. Each employee shall have the right to prepare a written rebuttal to any negative material in his/her personnel file. Such rebuttal shall be included in his/her personnel file until such time as that which it serves to rebut is removed from the file.

5. Evaluation material or material relating to an employee’s conduct, attitude, or service shall not be included in his/her official personnel file without being signed and dated by the author of such material. Before the material is placed in the employee’s file, the department head or designee shall provide the affected employee an opportunity to review the material, and sign and date it. A copy of

the evaluation material relating to an employee's conduct shall be given to the employee.

B. Unofficial Personnel Files Containing Employment-Related Information

1. This subsection applies to all written or electronic files maintained in the employee's name by his/her department (other than the employee's official personnel file) which contains employment-related documents. It includes but is not limited to supervisor's files, and files containing medical information or performance evaluations.

2. Notwithstanding subsection (B)(1) above, employees and their representatives or designees shall not have access to files maintained as part of an ongoing internal affairs investigation.

3. Upon reasonable notice to the person responsible for maintaining the file, bargaining unit employees shall have access to all material in the file which pertains to them. In addition, with written authority from the employee or in the company of the employee, a designated CASE representative may review the employee's file. Said written authorization shall be valid for the period of time specified by the employee. Access to the file shall be during regular business hours for the person responsible for maintaining the file. The file shall not be removed from the office of the person responsible for maintaining it unless approved by that person in advance. The employee and the CASE representative, with written authorization from the employee, shall each be allowed a copy of the material in the file that pertains to the employee.

C. Access To Files

1. Official and unofficial files shall be considered confidential. They shall only be available to the employee and his/her designee, the department head and his/her designee, those in the employee's direct supervisory chain of command, and others specified by statute.

2. The employee shall be informed in a timely manner of the service of a subpoena or a request pursuant to the California Public Records Act when such documents request release of information from the employee's official or unofficial file(s), or of a court order affecting the same.

13.6 Education and Training

A. It is the policy of the State to ensure quality legal service to the public by developing the skills and abilities of Unit 2 employees through training activities. The State agrees to reimburse Unit 2 employees for expenses incurred and provide time off during normal work hours without loss of compensation as a result of completed training or education courses required by the State employer or the Legislature.

B. Job-Required Training

1. Job-required training is training required by the employee's appointing authority that is designed to assure adequate performance in the employee's current assignment.

2. Unit 2 employees shall be fully reimbursed for tuition, course-required materials, and travel costs consistent with Article 12 (Business and Travel) for job-required training.

3. Employees shall be provided time off during their normal work hours without loss of compensation to participate in job-required training.
4. Employees in Work Week Group 2 will be credited with time worked for participation in job-required training which falls outside their usual work hours. Whether or not this results in overtime compensation shall be determined by the provisions of Section 6.1 and 6.2.
5. Time spent in job-required training by employees in Work Week Groups E and SE shall be taken into consideration for purposes of Section 6.3.

C. Job-Related Training

1. Job-related training is training designed to increase efficiency or effectiveness and improve performance above the acceptable level of competency established for a specific job assignment.
2. Unit 2 employees may be reimbursed for up to one hundred percent (100%) of the cost of tuition or registration fees, course-required materials, and travel costs consistent with Article 12 (Business and Travel) for job-related training.

D. Career-Related Training

1. Career-related training is training designed to assist in the development of career potential. Career-related training may be unrelated to a current job assignment.
2. When an employee's appointing authority approves career-related training, the employee may be reimbursed for up to fifty percent (50%) of the cost for tuition or registration fees, and course-required materials.

E. Reimbursement for the above expenses shall be in accordance with the Business and Travel Expense provision of this MOU.

13.7 Bar Dues/Professional leave

A. Bar Membership Required As Condition Of Appointment

The State shall reimburse or pay directly to the State Bar, the cost of bar dues for each employee for whom bar membership is required as a condition of employment. In the event a department elects to pay directly, each affected employee must provide the original remittance portion of their bar dues statement to the person designated by the department at least four (4) weeks before the last day upon which the dues become delinquent. If an employee's bar statement is not received four (4) weeks in advance, then the department may (1) make an exception and still directly pay the employee's dues; or at its option, (2) reimburse the employee for paying the dues him/herself. Under no circumstances, however, shall the State be liable for penalties/fines added to, or accumulated because of late payment of dues, except where the State employer is responsible for the late payment.

B. Bar Membership Not Required As Condition Of Appointment

For all other employees in the unit, the State shall either provide reimbursement for bar dues or two (2) days per calendar year of professional leave without loss of compensation, at the option of the Department, which must be requested and approved in the same manner as vacation leave.

C. Proration Of Bar Dues And Professional Leave

Bar dues reimbursement/payment and professional leave may be prorated for employees who work less than full-time and for employees who work less than a full year. Professional leave credit shall not carry over from year to year.

D. Local and Specialty Bar Dues

Each department shall reimburse employees (or pay directly subject to the conditions contained in section (a) above) for memberships in job-related bar associations, or for job-related specialty sections of the State or a local bar, if State bar membership is required as a condition of employment. The total amount for which employees shall be reimbursed shall not exceed one hundred dollars ($100) annually for all job-related bar associations, specialty sections, and local bar memberships. Local or specialty bar dues for employees who work less than full-time and for employees who work less than a full year preceding when bar dues must be paid may be prorated. Departments that do not directly pay local or specialty bar dues may require proof of payment by employees requesting reimbursement.

13.8 Smoking Cessation

Departments with "no smoking" policies shall provide for voluntary smoking cessation counseling for employees within their work locale where budgets allow such expenditures. Employees may use either vacation or sick leave credits, upon approval of their supervisor, to attend cessation counseling.

13.9 Employee Assistance Program

A. The State recognizes that alcohol, drug abuse, and stress may adversely affect job performance and are treatable conditions. As a means of correcting job performance problems, the State may offer referral to treatment for alcohol, drug and stress related problems such as marital, family, emotional, financial, medical, legal or other personal problems. The intent of this Section is to assist an employee's voluntary efforts to treat alcoholism or a drug-related or stress-related problem so as to retain or recover his/her value as an employee.

B. Each department head or designee shall designate an Employee Assistance Program Coordinator who shall arrange for programs to implement this section. Employees who are to be referred to an Employee Assistance Program Coordinator will be referred by the appropriate management personnel. An employee undergoing alcohol, drug, or mental health treatment, upon approval, may use accrued sick leave, compensating time off credits and vacation leave credits for such a purpose. Leaves of absence without pay may be granted by the department head or designee upon the recommendation of the Employee Assistance Program Coordinator if all sick leave, vacation and compensating time off have been exhausted and the employee is not eligible to use Industrial Disability Leave or Non-Industrial Disability Insurance.

C. Medical records concerning an employee's treatment for alcoholism, drug or stress-related problems shall remain confidential and shall remain separate from other personnel materials.

13.10 Judicial Attire

A. The Administrative Law Judge classification within the Office of Administrative Hearings shall be required to wear a judicial robe as follows:

Judicial Functions - Administrative Law Judges are required to wear judicial robes when conducting pre-hearing conferences or formal hearings in formal hearing rooms in the Office of Administrative Hearings' facilities. When conducting pre-hearing conferences or formal hearings at other than Office of Administrative Hearings' facilities, Administrative Law Judges may use discretion as to whether it is necessary to wear a judicial robe. In addition, individual discretion shall be used regarding wearing judicial robes when conducting informal settlement conferences and other judicial functions (e.g., chamber meetings, site visits, etc.) not mentioned above. In either case, the appropriate attire to be worn underneath the judicial robes is referenced below:

MEN	WOMEN
dress shirt	dress
tie	blouse and dress slacks/skirt
slacks	dress shoes
dress shoes	

B. Cost and Care of Judicial Robes

The parties agree that the entire cost and care of such judicial robes may be borne by each Administrative Law Judge. In addition, it is the responsibility of the Administrative Law Judges to keep their judicial robes well maintained (e.g., clean, washed, ironed, etc.) and to replace the robes as necessary. The parties recognize that in order to maintain consistency and uniformity, the robes must be black in color and be of the judicial style.

13.11 Case and Hearing Workload – Board of Prison Terms

The date, time and number of hearings and cases assigned to Unit 2 Deputy Commissioners working for the Board of Prison Terms shall be determined, and may be changed from time-to-time, by the State.

13.12 State-Owned Housing Rental and Utility Rates

A. Rent

Current rental rates for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased annually by the State with sixty (60) day notice as follows:

1. Where employees are currently occupying State-owned housing, the State may raise such rates paid by employees up to twenty five (25%) percent each year, not to exceed fair market value.
2. During the term of this contract, where no rent is being charged, the State may raise rents up to seventy five dollars ($75) per month or when an employee vacates State-owned housing, including trailers and/or trailer pads, the State may raise rents for such housing up to the Fair Market value.

3. Employee rental of State housing shall not ordinarily be a condition of employment. In any instance where the rental of State housing is made a condition of employment, the State may charge the employee ten (10%) percent less than the regular rate of rent.

4. Employees renting State-owned housing occupy them at the discretion of the State employer. If the State decides to vacate a State-owned housing unit currently occupied by a State employee, it shall give the employee a minimum of thirty (30) days advance notice.

B. Utilities

Current utility charges for all types of State-owned employee housing, including trailers and/or trailer pads, may be increased annually by the State as follows:

1. Where employees are currently paying utility rates to the State, the State may raise such rates up to eight (8%) percent each year.

2. Where no utilities are being charged, the State may impose such charges consistent with its costs.

3. Where utilities are individually metered to State-owned housing units, the employee shall assume all responsibility for payment of such utility rates, and any increases imposed by the utility company.

13.13 Labor-Management Committee on State Payroll System

A. The parties agree the State may establish a labor-management committee to advise the State Controller on planned and anticipated changes to the State's payroll system. Topics to be explored include, but are not limited to, accuracy and timeliness of the issuance of overtime warrants, changes in earnings statements, direct deposit of employee pay, and design of and transition to a bi-weekly pay system.

B. The committee shall be comprised of an equal number of management representatives and labor representatives. In addition, the Department of Personnel Administration shall designate a chairperson of the committee. The CASE may send one representative who shall serve without loss of compensation.

13.14 Appeal of Involuntary Transfer

A. An involuntary transfer which reasonably requires an employee to change his/her residence may be grieved under Article 7 only if the employee believes it was made for the purpose of harassing or disciplining the employee. If the appointing authority or the Department of Personnel Administration disapproves the transfer, the employee shall be returned to his/her former position; shall be paid the regular travel allowance for the period of time he/she was away from his/her original headquarters; and his/her moving costs both from and back to the original headquarters shall be paid in accordance with the Department of Personnel Administration law and rules.

B. An appeal of an involuntary transfer which does not reasonably require an employee to change his/her residence shall not be subject to the grievance and arbitration procedure. It shall be subject to the complaint procedure if the employee believes it was made for the purpose of harassing or disciplining the employee.

13.15 No Reprisals

The state shall not impose or threaten to impose reprisals; discriminate or threaten to discriminate against an employee; or take any other action against an employee because of his/her exercise of any rights provided under the Dills Act or this MOU.

13.16 Case and Hearing Workload – Unemployment Insurance Appeals Board

The date, time and number of hearings and cases assigned to employees in Unit 2 working for the Unemployment Insurance Appeals Board shall be determined, and may be changed from time-to-time, by the State (See Side Letter #1).

13.17 Computer Work Stations

A. The State shall provide instruction in the proper operation and adjustment of computers and workstation equipment. Both parties will encourage employees to properly use computer equipment. The State shall maintain the Computer User's Handbook which will be available to all departments for training purposes.

B. The State shall take action as it deems necessary to make the following equipment available to all employees that use computers:

   1. Glare screens;
   2. Document holders;
   3. Adjustable chairs;
   4. Adjustable keyboards, computer tables and supports;
   5. Foot and wrist rests;
   6. Telephone headset.

   Additionally, the State shall take action as it deems necessary to mitigate glare from the workplace, such as, rearrangements of the work stations to avoid glare on monitors and on terminal screens from windows and ceiling luminaries, or providing other measures to reduce the glare from light sources.

C. Upon request by the Union, the State agrees to meet to review any suggested revisions or additions to the State's Computer User's Handbook.

13.18 Remodeling, Renovations, and Repairs

A. Whenever a State owned or managed building is remodeled or renovated, the agency/tenant whose space is being remodeled/renovated, will provide at least thirty (30) days prior written notice to employees impacted by the construction. A copy of this notice shall be provided to CASE.

B. Except in emergency situations, the State shall give not less than twenty four (24) hours prior notice whenever repair work in State owned or managed buildings is done which may result in employee health concerns for the work environment.

C. Prior to undertaking any remodeling, renovation, or repair, that requires removal of any material, the materials will be tested for lead and asbestos. If such materials are present, they will be removed in accordance with State regulations to assure the safety of employees/tenants.

D. For leased buildings not managed by the State, the State will include the following language in all new leases entered into after January 1, 2002:

"Except in emergency situations, the Lessor shall give not less than 24 hour prior notice to State tenants, when any pest control, remodeling, renovation, or repair work affecting the State occupied space may result in employee health concerns for the work environment."

E. The State will take actions to accommodate employees who suffer from chemical hypersensitivity as it pertains to Article 13.18 (Remodeling/Renovations and Repairs).

13.19 Clerical Support

The State recognizes the need to provide clerical support to Bargaining Unit 2 employees and, where operationally feasible and subject to budget constraints, the State will provide such support.

13.20 Undercover Vehicle Equipment, Board of Prison Terms

Each Deputy Commissioner who is assigned a State-owned undercover vehicle by the Board of Prison Terms (BPT), shall also be assigned the following emergency equipment by BPT unless it is already included in the car: a flashlight, first-aid kit, blanket, fire extinguisher and jumper cables. The equipment shall be considered the property of the State.

13.21 Badges

The State shall provide a badge for each Deputy Attorney General, Deputy Labor Commissioner Field Enforcement and Administrative Law Judge with California Unemployment Insurance Appeals Board. Badge size, design and circumstances specifying badge use and purchase will be determined by the State.

13.22 Intra-Departmental Transfers

A. The parties recognize the value of allowing permanent full-time employees to voluntarily transfer between positions within their respective departments. The parties agree that when a vacancy occurs, management may consider intra-department in-class transfers, among other methods of filling the position, and must post notice of the position to current employees.

B. Notice Posting

1. Appointing authorities shall post a notice inviting intra-department, in-class transfers (unless there are no incumbents in the classification that will be used to fill the vacancy).
2. Notices shall be posted in the same place where job announcements are customarily posted.
3. Notices shall be posted for a period of no less than seven (7) calendar days before the final date the application must be submitted.
4. Notices shall at a minimum include:
   a. The classification of the vacancy;
   b. A brief description of the duties;
   c. Desirable qualifications including any special education, training, experience, skills, abilities and/or aptitudes;

d. The final date by which applications must be postmarked;

e. The place to submit the applications; and

f. The name and telephone number of a person to contact for additional information.

13.23 Labor Management Program

Upon mutual agreement of the department head or designee and the Union a Labor/ Management Committee may be established to address specific or ongoing issues.

Such committees may be established according to the following guidelines:

A. The committees will consist of equal numbers of management representatives selected by the department head or designee and Union representatives selected by the Union.

B. Committee recommendations, if any, will be advisory in nature.

C. Labor/Management Committee meetings shall not be considered contract negotiations and shall not be considered a substitute for the grievance procedure.

D. Employees who participate on such a committee will suffer no loss in compensation for attending meetings of the Committee.

E. Department of Personnel Administration shall encourage departments to establish Labor/Management Committees.

13.24 Professional Development Days

The State shall provide to all BU 2 employees five compensated days per fiscal year, including the three Professional Development Activities days they currently receive and two new Professional Development Days. For the sake of consistency and ease of administration, all five days will henceforth be known as Professional Development Days, or PDD. These days may be used for activities such as, but not limited to, professional association activities, professional or personal development activities and seminars, other types of activities to enhance and promote personal and professional growth, productivity, and goals. These professional development activities are at the employee's expense, therefore the choice of activities is at the employee's discretion. The time shall be requested and approved in the same manner as vacation/annual leave. The PDD shall not be accumulated and must be used in the same fiscal year they are provided.

Because this provision is converting the use of the three (3) existing days to the fiscal year rather than the calendar year, the following transition schedule shall apply. Two (2) of the five (5) PDD days shall accrue immediately and must be used by June 30, 2011. Three (3) of the five (5) PDD days accrued on January 1, 2011, and must be used by June 30, 2012. Two new days will accrue on July 1, 2011 and must be used by June 30, 2012. No additional days will accrue on January 1, 2012. Beginning on July 1, 2012, and for each July 1 thereafter, five (5) new PDD days will accrue and must be used prior to the end of each fiscal year in which they accrue.

13.25 Independent Medical Examinations

A. Whenever the State believes that an employee, due to illness or injury is unable to perform his/her normal work duties, the State, pursuant to Government Code 19253.5, may require the employee to submit to an independent medical examination at State expense. The medical examination will be separate of any medical services provided under the State's Workers' Compensation Program.

B. Such examination shall be conducted by a licensed physician or under his/her direction and the cost of the examination shall be paid by the employer.

C. The purpose of such independent medical evaluations are not to determine the degree of disability the employee has suffered, but rather as to whether illness or injuries sustained restrict the employee from performing the full range of his/her normal work assignment.

D. If the State, after the independent medical examination, determines that the employee cannot perform his/her normal work assignments, the State shall give the employee the opportunity to challenge the State's medical evaluation by supplying his/her personal medical evaluations to dispute the state's findings.

13.26 Release Time for State Civil Service Examinations

Employees who are participating in a State civil service examination shall be granted reasonable time off without loss of compensation to participate in an examination if the examination has been scheduled during his/her normal work hours and the employee has provided reasonable (normally two working days) notice to his/her supervisor. For the purposes of this section, hiring interviews for individuals certified from employment lists, individuals on SROA lists seeking transfers, or individuals seeking transfers in departments where the department head or designee determines the department is in a layoff mode shall be considered part of the examination process.

Authorized release time for reasonable travel time to and from the examination site may be granted by the department.

13.27 Hardship Transfer

The State and the Union recognize the importance of hardship transfers as a way of dealing with Work and Family issues. An employee experiencing a verifiable hardship, e.g., domestic violence, mandatory job transfer of a spouse or domestic partner as defined in Family Code Section 297, family illness, serious health condition, injury or death of family members, may request a transfer to another geographic area to mitigate the hardship.

The State shall endeavor to reassign the employee to a comparable or lesser (if comparable is not available) position in the requested geographic area. If the employee accepts a position in a lower paid classification, the State shall endeavor to reinstate the employee to their former classification and comparable salary level. Transfers under this section shall be considered voluntary and any associated relocation costs shall be subject to the applicable Department of Personnel Administration laws and rules.

This section is not subject to the grievance and arbitration procedure of this Contract.

13.28 Card Key Replacements

Employees will not be required to pay for an initial key card or to replace inoperable key cards that are necessary to gain access to their workplace when the card is rendered inoperable through no negligence by the employee.

13.29 Performance Appraisal of Permanent Employees

A. The performance appraisal system of each department may include annual written performance appraisals for permanent employees. Such annual performance appraisals may be completed at least once each twelve (12) calendar months after an employee completes the probationary period for the class in which he/she is serving.

B. Each employee shall have the right to prepare a written rebuttal to his/her performance appraisal and such rebuttal shall be included in his/her personnel file.

13.30 Confidential Designations

The state and CASE agree to maintain the current level of confidential designations.

ARTICLE 14 - RETIREMENT

14.1 401(K) Deferred Compensation Program

Employees in Unit 2 may participate in the State of California, Department of Personnel Administration, existing 401(K) Deferred Compensation Program.

14.2 457 Deferred Compensation Program

Employees in Bargaining Unit 2 may participate in the current State of California, Department of Personnel Administration, 457 Deferred Compensation Program.

14.3 First Tier Retirement Formula (2% @ 55) and State Safety Retirement Formula

A. The Union and the State agree to legislation that provides the following changes to the retirement formula and employee retirement contributions.

Effective January 15, 2011, First Tier and State Safety retirement members first employed by the state shall be subject to the “New 2010 First Tier and State Safety Retirement Formulas.” The New 2010 retirement formulas shall not apply to:

1. Former state employees who return to state employment on or after January 15, 2011.
2. State employees hired prior to January 15, 2011 who were subject to the Alternate Retirement Program (ARP).
3. State employees on approved leave of absence who return to active employment on or after January 15, 2011.
4. Persons who are already members or annuitants of the California Public Employees Retirement System as state employees.

B. First Tier Retirement Formula

The table below lists the current and New 2010 First Tier age/benefit factors.

AGE AT RETIREMENT	CURRENT FACTORS (2% AT AGE 55)	NEW 2010 FACTORS (2% AT AGE 60)
50	1.100	1.092
51	1.280	1.156
52	1.460	1.224
53	1.640	1.296
54	1.820	1.376
55	2.000	1.460
56	2.063	1.552
57	2.125	1.650
58	2.188	1.758
59	2.250	1.874
60	2.313	2.000
61	2.375	2.134
62	2.438	2.272
63 and over	2.500	2.418

There would be factors for attained quarter ages, such as 52 ¾, that will be included in the legislation. The retirement quarter age benefit factors will apply for service rendered on and after the effective date of the memorandum of understanding between the State and the Union. The quarter factors will also apply to past service that is credited under the First Tier, New 2010 First Tier, and the Modified First Tier.

State Miscellaneous, Industrial and ARP members shall contribute an additional three percent (3%) retirement contribution. Effective the pay period following ratification of the agreement. Bargaining Unit 2 miscellaneous and industrial members in the First Tier retirement or the ARP, subject to social security, shall contribute nine percent (9%) of monthly compensation in excess of $513 for retirement.

Effective the pay period following ratification of the agreement, miscellaneous and industrial members in the First Tier retirement or the ARP plan not subject to social security shall contribute ten percent (10%) of monthly compensation in excess of $317 for retirement.

The additional three percent (3%) employee contribution shall offset the State's contribution beginning the pay period following ratification of the agreement.

New employees hired on or after January 15, 2011, will, after completion of participation in the ARP, be subject to the 2% at 60-retirement formula with benefits based on the highest average monthly pay rate during thirty-six (36) consecutive months of employment.

Employees in employment prior to January 15, 2011, but first hired on or after July 1, 2006 will remain subject to the 2% at age 55 retirement formula with benefits based on the highest average monthly pay rate during thirty-six (36) consecutive months of employment.

Employees in employment prior to July 1, 2006, remain subject to the 2% at age 55 retirement formula with benefits based on the highest average monthly pay rate during twelve (12) consecutive months of employment.

The State and Union agree to legislation that changes the retirement formula for new Miscellaneous and Industrial Members hired on or after January 15, 2011, inclusive of those in the ARP. The State and Union also agree to support legislation that changes the employee retirement contributions for Miscellaneous, Industrial, and ARP members effective the pay period following ratification of the agreement.

C. State Safety Retirement

The table below lists the current and New 2010 State Safety age/benefit factors.

AGE AT RETIREMENT (2.5% AT AGE 55)	CURRENT FACTORS	NEW 2010 STATE SAFETY FACTORS (2% AT AGE 55)
50	1.700	1.426
51	1.800	1.522
52	1.900	1.628
53	2.000	1.742
54	2.250	1.866
55 and over	2.500	2.000

There would be factors for attained quarter ages, such as 52 ¾, that will be included in the legislation. The retirement quarter age benefit factors will apply for service rendered on and after the effective date of the memorandum of understanding between the State and the Union. The quarter factors will also apply to past service that is credited under the State Safety retirement category.

State Safety members shall contribute an additional three percent (3%) employee retirement contribution. Effective with the pay period following ratification of the agreement, State safety members shall contribute ten percent (10%) of monthly compensation in excess of $317 for retirement.

The additional three percent (3%) employee contribution shall offset the State's contribution the pay period following ratification of the agreement.

New employees hired on or after January 15, 2011, will, be subject to the 2% at age 55 retirement formula with retirement benefits based on the highest average monthly pay rate during thirty-six (36) consecutive months of employment.

Employees in employment prior to January 15, 2011, but first hired on and after July 1, 2006 will remain subject to the 2.5% at age 55 with benefits based on the highest average monthly pay rate during thirty-six (36) consecutive months of employment.

Employees in employment prior to July 1, 2006, will remain subject to the 2.5% at age 55 retirement formula with benefits based on the highest average monthly pay rate during twelve (12) consecutive months of employment.

The State and Union agree to legislation that changes the retirement formula for new State Safety Members hired on or after January 15, 2011. The State and Union also agree to support legislation that changes the employee retirement contributions for State Safety members effective the pay period following ratification of the agreement.

14.4 First Tier Eligibility For Employees In Second Tier

A. The Union and the State (parties) agree that the legislation implementing this agreement shall contain language to allow employees who are currently in the Second Tier retirement plan to elect to be covered under the First Tier, as described in this article. The parties further agree that the provisions of this article will be effective only upon the CalPERS board adopting a Resolution that will employ, for the June 30, 1998 valuation and thereafter, 95% of the market value of CalPERS' assets as the actuarial value of the assets, and to amortize the June 30, 1998 excess assets over a 20 year period beginning July 1, 1999. The parties agree to jointly request the CalPERS board to extend the 20 year amortization period in the event the cost of these benefits or unfavorable returns on investments results in an increased employer contribution by the State.

B. The legislative language would allow an employee in Second Tier to exercise the Tier 1 right of election at any time after the effective date of this legislation. An employee who makes this election would then be eligible to purchase past Second Tier service. The parties will work with CalPERS to establish more flexible purchase provisions for employees. These include, but are not limited to, increasing the installment period from 96 months (8 years) to 144 months (12 years) or up to 180 months (15 years) and allowing employees to purchase partial amounts of service.

C. Effective January 15, 2011, new employees would be enrolled in the "New 2010 First Tier Retirement Formula" and have the right to be covered under the Second Tier plan within one hundred eighty (180) days of the date of their appointment. If a new employee does not make an election for Second Tier coverage during this period, he or she would remain in the First Tier plan.

D. Employees who purchase their past service would be required to pay the amount of contributions they would have paid had they been First Tier members during the period of service that they are purchasing. As required by CalPERS law, the amount will then include interest at 6 percent, annually compounded.

14.5 Determination of Safety Retirement Eligibility

The parties agree that the provisions of Government Code sections 19816.20 and 20405.1 shall apply to Unit 2.

14.6 Safety Retirement – Deputy Commissioner, Board of Prison Terms

The Department of Personnel Administration shall notify the Public Employees Retirement System that employees in the new Deputy Commissioner, Board of Prison Terms, classification satisfy the criteria for safety membership, provided that: (a) Government Code sections 19816.20 and 20405.1 are amended to include Unit 2 as provided in Section 14.5 of this agreement; and, (b) the State Personnel Board adopts the new Deputy Commissioner, Board of Prison Terms, classification as provided for in Section 15.5 of this agreement.

14.7 Alternative Preretirement Death Benefit

The Union and the State agree that the Alternative Preretirement Death Benefit as set out in Government Code sections 21547, 21574.5 and 22760 shall remain in effect for Unit 2 employees.

ARTICLE 15 - CLASSIFICATION

15.1 Classification Level

A. Departments with Attorney IV Level Classifications

   a. Departments that have obtained approval from the State employer to use Attorney IV level classifications may allocate up to fifty five percent (55%) of its attorneys to the IV salary level classification. The base figure for calculating this ceiling shall include all attorney positions in the unit allocated to attorney classes at or below the maximum salary level of the IV classification.

B. Departments with Senior or Attorney III Level Classifications

   a. Any department in this category may allocate up to sixty five percent (65%) of its attorneys to the Senior or III salary level classification. The base figure for calculating this ceiling shall include all attorney positions in the unit allocated to attorney classes at the Senior or III level and below.

C. Upon request by appointing authorities, DPA may allow appointments in excess of the above percentages or to higher levels.

D. If DPA authorizes a department a position on an exception basis to the Attorney IV level such allocation allows the department to allocate additional Attorney positions to the Senior or Attorney III level in excess of the 65% cap in Paragraph B above.

15.2 Classification Changes

A. When the Department of Personnel Administration (DPA) or another department seeks (1) to establish a new classification and assigns it to Bargaining Unit 2, or (2) modifies an existing Bargaining Unit 2 classification, DPA shall inform CASE of the proposal during DPA's preparatory stages of the proposals. CASE may request to meet with DPA regarding these classification proposals. Such meetings shall be for the purpose of informally discussing the classification proposal and for CASE to provide input. Upon request, DPA shall furnish CASE with drafts of the proposed classification specifications.

B. The DPA shall notify and submit to CASE the final classification proposal at least twenty (20) work days prior to the date the SPB is scheduled to adopt it.

C. If CASE requests in writing within ten (10) work days of receipt of the notice, DPA shall meet with CASE to discuss the final proposal. If CASE does not respond to the notice, or if CASE does not meet with DPA within five (5) workdays from their date of request, the classification proposal shall be deemed agreeable to CASE and be placed on SPB's consent calendar.

D. The DPA shall meet and confer, if requested in writing by CASE, within ten (10) working days from the date the SPB approved the classification change, regarding compensation of the classification. To the extent that a classification change necessitates other change which fall within the scope of negotiations, the State shall notify CASE and the parties shall bargain the impact upon request by CASE.

15.3 Out-of-Classification Grievances and Position Allocation Hearing Process

A. Employees in Attorney III level classifications, claiming they are working out-of-class and/or that a position should be allocated to the IV level, shall use the procedures described in Side Letter #1.

B. Definitions

1. An employee is working "out of class" when he/she spends a majority (i.e., more than 50 percent [50%]) of his/her time over the course of at least two (2) consecutive work weeks performing duties and responsibilities associated with a higher level existing classification that do not overlap with the classification in which said employee holds an appointment.

   Duties that are appropriately assigned to incumbents in the employee's current classification are not out of class. Duties appropriately assigned are based on the definition and typical tasks enumerated in the California State Personnel Board specification.

2. Training and Development assignments are not out-of-class work.

3. For purposes of this section, a classification is at a "higher level" if the maximum salary of the highest salary range (excluding alternate range criteria other than deep class criteria) is any amount more than the maximum salary of the highest range of the class in which the employee holds an appointment.

4. When an employee is performing the duties of a vacant position properly assigned to a higher class or the duties of an absent employee whose position is properly assigned to a higher classification, the employee shall be considered to be working out of class.

C. Authorization and Rate of Pay

1. Notwithstanding Government Code Sections 905.2, 19818.8, and 19818.16, an employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment:

   a. Is of unusual urgency, nature, volume, location, duration, or other special characteristics; and,

   b. Cannot feasibly be met through use of other civil service or administrative alternatives.

2. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

3. When an employee is assigned out-of-class work, he/she shall receive the rate of pay he/she would have received pursuant to Title 2 Cal. Code Regulations Section 599.673, 599.674, or 599.676 if appointed to the higher classification.

4. Out-of-class work may be discontinued by departments at any time; however, departments may not rotate employees in and out of out-of-class assignments to avoid payment of out-of-class compensation.
5. Out-of-class pay shall not be considered as part of the employee's base pay when computing the rate due upon promotion to a higher level.

D. Out-of-Class Grievances and Allocation Appeals

1. The grievance and arbitration procedure described in subsection E. below shall be the exclusive means by which alleged out-of-class assignments shall be remedied, including requests for review by the Department of Personnel Administration referenced in Government Code Section 19818.16 or the State Board of Control.
2. The grievance and arbitration procedure described in this section shall be the exclusive means for appealing position allocation or reallocation referenced in Government Code Sections 19818.16 and 19818.20.
3. Employees may not separately file out-of-class grievances and position allocation or reallocation grievances pertaining to the same duties and responsibilities.
4. The only remedy that shall be available (whether claiming out-of-class work or position misallocation) is retroactive pay for out-of-class work. Said pay shall be limited to out-of-class work performed (a) during the one (1) year calendar period before the employee's grievance was filed; and (b) the time between when the grievance was filed and finally decided by an arbitrator.
5. Arbitrators shall not have the authority to order reclassification (reallocation) of a grievant's position or discontinuance of out-of-class work assignments.

E. Grievance Procedure and Time Limits

1. An employee's grievance initially shall be discussed with the employee's supervisor.
2. If the grievance is not resolved to the satisfaction of the grievant a formal grievance may be filed on a form provided by the State within:
   a. Fourteen (14) calendar days after receipt of the decision rendered by the supervisor; or
   b. Twenty-one (21) calendar days after the date the employee’s duties allegedly changed such that he/she stopped working out of classification or his/her position became misallocated.
   c. However, under no circumstances may the period in which to bring the grievance be extended beyond the twenty-one (21) calendar days in Item b. above.
3. Out-of-class and misallocation grievances shall be filed with a designated supervisor or manager identified by each department head as the department level of appeal in the usual grievance procedure found in Article 7.
4. The person designated by the department head as the department level of appeal shall respond to the grievance in writing within forty-five (45) calendar days after receipt of the grievance.

5. If the grievant is not satisfied with the decision rendered by the person designated by the department head at the department level of appeal, he/she may appeal the decision in writing within twenty-one (21) calendar days after receipt to the Director of the Department of Personnel Administration.
6. The Director of the Department of Personnel Administration or designee shall respond to the grievance in writing within sixty (60) calendar days after receipt of the appealed grievance.
7. If the grievance is not resolved by the Department of Personnel Administration, the union shall have the right to submit the grievance to arbitration in accordance with Article 7, Section 7.12.
8. Article 7, Section 7.12, "Formal Grievance – Step 5" shall apply to out-of-class and misallocation grievances except as otherwise provided in this section.

F. Arbitrators shall not have the authority to order reclassification (reallocation/upgrade) of a position or discontinuance of out-of-class work assignments. The arbitrator's decision regarding out-of-class and misallocation grievances shall be final and binding on the parties. Said awards shall not be subject to challenge or review in any forum, administrative or judicial, except as provided in Code of Civil Procedure Section 1286.2 et seq.

15.4 Department Request(s) for Attorney IV Level Position(s)

The Department of Personnel Administration (DPA) agrees to review departmental requests to establish Attorney IV Level positions using existing Attorney IV Allocation Standards in a timely manner. CASE at any time may request the status of such requests.

15.5 Judicial Clerkship

The State and CASE agree to mutually work toward the submission to the State Personnel Board, of an amended specification for the classification(s) of attorney that would allow service as a judicial clerk for a federal court, California state court, or another State's appellate court of last resort to constitute experience in the practice of law. The State and CASE further agree that any proposal submitted to the State Personnel Board will provide that, in order for an employee's judicial clerkship to qualify as experience in the practice of law, the experience must have been gained after receipt of a juris doctor or equivalent degree.

15.6 Classification Studies

The State and CASE agree to meet to discuss the appropriateness of a classification study for the following classes:

Deputy Commissioner, Board of Prison Terms

Deputy Labor Commissioner I/II

Workers Compensation Judge

If more than one study is deemed appropriate, it will be conducted one at a time and in the order determined by CASE.

15.7 Salary Survey

In order for the State to recruit and retain skilled Attorneys, Administrative Law Judges, Hearing Officers and Deputy Commissioners, it is the policy of the State to consider prevailing compensation in comparable public sector positions prior to negotiating salaries for a successor memorandum of understanding. Consistent with the above, the State shall conduct a salary survey of appropriate public sector jurisdictions and agrees to meet with CASE prior to the negotiations for a new agreement in order to share the results of the survey. At the request of CASE, the State agrees to meet with the Union periodically to provide the Union with the survey's progress.

15.8 - Classification

The Department of Personnel Administration and the Department of Industrial Relations (DIR) agree to prepare a classification proposal to revise the Industrial Relations Counsel (IRC) series specification to be submitted to the State Personnel Board for its review and approval. Specifically, the proposal shall serve to consolidate the classifications of Legal Counsel, Range A and B, IRC I and IRC II, into a deep class titled IRC with alternate range criteria and a probationary period of 12 months.

ARTICLE 16 - TERM

16.1 Contract Term

The State and CASE agree the term of this agreement will be from April 1, 2011 through July 1 2013.

ARTICLE 17 – CONTRACT PROTECTION

17.1 Contract Protection

If any other State bargaining unit(s) enter(s) into an agreement with the State that does not have Pension Reform or provides a greater value/total compensation package than this agreement does, taking into account all "takeaways" or enhancement/"sweeteners", Unit 2 members shall receive the difference between the packages/agreements, not including bona fide litigation matters (such as future court decisions or settlements), arbitration decisions or settlements, a bargaining unit (i.e., its members) being brought up to the same level of health care benefits as this unit, and legislative changes. Upon occurrence of such an event, the parties shall meet and discuss the differences and an implementation plan. Only after such discussions and without mutual agreement may the Union file a grievance.

The term of this article/section shall not apply to successor agreements reached or to agreements that are part of the "group of four", (i.e., Units, 5, 8,18, 19).

ARTICLE 18 – CONTINUOUS APPROPRIATION

18.1 Continuous Appropriation

The State and CASE agree to present to the Legislature as part of the MOU Bill a provision to appropriate funds to cover the economic terms of this agreement through July 1, 2013. This will maintain employee salaries and benefits in case of an untimely budget.

ATTACHEMENTS AND ADDENDUMS

Attachment A – Salary Schedule

02 - ATTORNEYS AND HEARING OFFICERS

CBID	CLASSIFICATION TITLE	SCHEM CODE	CLASS CODE	ALT RG	MIN SALARY	MAX SALARY	WWG	MAX w/ 4%
R02	ADMINISTRATIVE LAW JUDGE I, AIR RESOURCES BOARD	OX31	7363		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, ALCOHOLIC BEVERAGE CONTROL	OX72	9711		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, DEPARTMENT OF INSURANCE	OX32	6134		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, DEPARTMENT OF SOCIAL SERVICES	OU35	6177		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, OFFICE OF ADMINISTRATIVE HEARINGS	OX90	6071		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, PUBLIC UTILITIES COMMISSION	OX70	6103		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, STATE PERSONNEL BOARD	OY18	6118		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE I, UNEMPLOYMENT INSURANCE APPEALS BOARD	OX30	6091		$7,494.00	$9,063.00	E	$9,426.00
R02	ADMINISTRATIVE LAW JUDGE II (SPECIALIST), ALCOHOLIC BEVERAGE CONTROL	OX74	9710		$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II (SPECIALIST), DEPARTMENT OF SOCIAL SERVICES	OU45	6178		$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II (SPECIALIST), OFFICE OF ADMINISTRATIVE HEARINGS	OX80	6068	A	$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II (SPECIALIST), OFFICE OF ADMINISTRATIVE HEARINGS	OX80	6068	L	$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II (SPECIALIST), STATE PERSONNEL BOARD	OY22	6124		$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II, PUBLIC UTILITIES COMMISSION	OX60	6102		$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II, UNEMPLOYMENT INSURANCE APPEALS BOARD	OX25	6067	A	$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE II, UNEMPLOYMENT INSURANCE APPEALS BOARD	OX25	6067	L	$7,858.00	$9,509.00	E	$9,889.00
R02	ADMINISTRATIVE LAW JUDGE, DEPARTMENT OF HEALTH SERVICES	OY46	6130		$7,494.00	$9,063.00	E	$9,426.00
R02	ASSISTANT GENERAL COUNSEL I, AGRICULTURAL LABOR RELATIONS BOARD	OE20	4051		$5,638.00	$6,818.00	SE	$7,091.00
R02	ASSISTANT GENERAL COUNSEL II, AGRICULTURAL LABOR RELATIONS BOARD	OE25	4052		$6,347.00	$7,828.00	SE	$8,141.00
R02	BOARD COUNSEL I, ALRB	OA94	6272	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	BOARD COUNSEL I, ALRB	OA94	6272	B	$4,678.00	$5,137.00	SE	$5,342.00

02 - ATTORNEYS AND HEARING OFFICERS

R02	BOARD COUNSEL II, ALRB	OA95	6273	A	$5,638.00	$6,818.00	SE	$7,091.00

CBID	CLASSIFICATION TITLE	SCHEM CODE	CLASS CODE	ALT RG	MIN SALARY	MAX SALARY	WWG	MAX w/ 4%
R02	BOARD COUNSEL II, ALRB	OA95	6273	B	$6,347.00	$7,828.00	SE	$8,141.00
R02	CORPORATIONS COUNSEL	OK70	6187	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	CORPORATIONS COUNSEL	OK70	6187	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	CORPORATIONS COUNSEL	OK70	6187	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	CORPORATIONS COUNSEL	OK70	6187	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	DEPUTY ATTORNEY GENERAL	OC65	5730	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	DEPUTY ATTORNEY GENERAL	OC65	5730	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	DEPUTY ATTORNEY GENERAL	OC65	5730	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	DEPUTY ATTORNEY GENERAL	OC65	5730	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	DEPUTY ATTORNEY GENERAL III	OC60	5706	A	$7,682.00	$9,478.00	SE	$9,857.00
R02	DEPUTY ATTORNEY GENERAL III	OC60	5706	L	$7,682.00	$9,478.00	SE	$9,857.00
R02	DEPUTY ATTORNEY GENERAL IV	OC50	5705	A	$8,486.00	$10,477.00	SE	$10,896.00
R02	DEPUTY ATTORNEY GENERAL IV	OC50	5705	L	$8,486.00	$10,477.00	SE	$10,896.00
R02	DEPUTY ATTORNEY III, CALTRANS	OO40	5789		$7,682.00	$9,478.00	SE	$9,857.00
R02	DEPUTY ATTORNEY IV, CALTRANS	OO35	5788		$8,486.00	$10,477.00	SE	$10,896.00
R02	DEPUTY ATTORNEY, CALTRANS	OO47	5779	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	DEPUTY ATTORNEY, CALTRANS	OO47	5779	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	DEPUTY ATTORNEY, CALTRANS	OO47	5779	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	DEPUTY ATTORNEY, CALTRANS	OO47	5779	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	DEPUTY COMMISSIONER, BOARD OF PRISON TERMS	XE10	9743		$7,024.00	$8,486.00	E	$8,825.00
R02	DEPUTY LABOR COMMISSIONER I	WQ20	9502		$4,357.00	$5,361.00	2	$5,575.00
R02	DEPUTY LABOR COMMISSIONER II	WQ22	9536		$5,027.00	$6,186.00	E	$6,433.00
R02	DEPUTY STATE PUBLIC DEFENDER	OD50	5763	A	$5,638.00	$6,818.00	SE	$7,091.00
R02	DEPUTY STATE PUBLIC DEFENDER	OD50	5763	B	$6,347.00	$7,828.00	SE	$8,141.00
R02	DEPUTY STATE PUBLIC DEFENDER	OD50	5763	C	$7,682.00	$9,478.00	SE	$9,857.00

02 - ATTORNEYS AND HEARING OFFICERS

CBID	CLASSIFICATION TITLE	SCHEM CODE	CLASS CODE	ALT RG	MIN SALARY	MAX SALARY	WWG	MAX w/ 4%
R02	FAIR EMPLOYMENT AND HOUSING COUNSEL	OI65	6110	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	FAIR EMPLOYMENT AND HOUSING COUNSEL	OI65	6110	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	FAIR EMPLOYMENT AND HOUSING COUNSEL	OI65	6110	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	FAIR EMPLOYMENT AND HOUSING COUNSEL	OI65	6110	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL	ON60	6185	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL	ON60	6185	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL	ON60	6185	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL	ON60	6185	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL	ON60	6185	E	$6,818.00	$8,403.00	SE	$8,739.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT	ON65	6186	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT	ON65	6186	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT	ON65	6186	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT	ON65	6186	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	FAIR POLITICAL PRACTICES COMMISSION COUNSEL-ENFORCEMENT	ON65	6186	E	$6,818.00	$8,403.00	SE	$8,739.00
R02	GRADUATE LEGAL ASSISTANT	OA60	5797	A	$3,702.00	$4,064.00	2	$4,227.00
R02	GRADUATE LEGAL ASSISTANT	OA60	5797	L	$3,702.00	$4,064.00	2	$4,227.00
R02	GRADUATE LEGAL ASSISTANT, FAIR POLITICAL PRACTICES COMMISSION	ON55	6035		$3,702.00	$4,064.00	2	$4,227.00
R02	HEARING ADVISER I, CALIFORNIA ENERGY COMMISSION	OY33	6048		$6,499.00	$7,858.00	E	$8,172.00
R02	HEARING ADVISER II, CALIFORNIA ENERGY COMMISSION	OY31	6051		$7,494.00	$9,063.00	E	$9,426.00
R02	HEARING OFFICER I, AGRICULTURAL LABOR RELATIONS BOARD	OY30	6120		$7,494.00	$9,063.00	E	$9,426.00
R02	HEARING OFFICER I, FAIR EMPLOYMENT AND HOUSING COMMISSION	OY60	6332		$7,494.00	$9,063.00	E	$9,426.00
R02	HEARING OFFICER I, NEW MOTOR VEHICLE BOARD	OY50	6125		$7,494.00	$9,063.00	E	$9,426.00
R02	HEARING OFFICER I, OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD	OX91	6072		$7,494.00	$9,063.00	E	$9,426.00
R02	HEARING OFFICER II, NEW MOTOR VEHICLE BOARD	OY52	6126		$7,858.00	$9,509.00	E	$9,889.00
R02	INDUSTRIAL RELATIONS COUNSEL I	OI30	5978		$5,638.00	$6,818.00	SE	$7,091.00

02 - ATTORNEYS AND HEARING OFFICERS

CBID	CLASSIFICATION TITLE	SCHEM CODE	CLASS CODE	ALT RG	MIN SALARY	MAX SALARY	WWG	MAX w/ 4%
R02	INDUSTRIAL RELATIONS COUNSEL II	OI20	5977		$6,347.00	$7,828.00	SE	$8,141.00
R02	INDUSTRIAL RELATIONS COUNSEL III (SPECIALIST)	OI15	6180		$7,682.00	$9,478.00	SE	$9,857.00
R02	INDUSTRIAL RELATIONS COUNSEL IV	OI10	5981		$8,486.00	$10,477.00	SE	$10,896.00
R02	LEGAL COUNSEL	OA70	5798	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	LEGAL COUNSEL	OA70	5798	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	LEGAL COUNSEL	OA70	5798	L	$4,674.00	$4,674.00	SE	$4,861.00
R02	LEGAL COUNSEL	OA70	5798	M	$4,678.00	$5,137.00	SE	$5,342.00
R02	PUBLIC UTILITIES COUNSEL I, PUBLIC UTILITIES COMMISSION	OJ40	5816		$5,638.00	$6,818.00	SE	$7,091.00
R02	PUBLIC UTILITIES COUNSEL II, PUBLIC UTILITIES COMMISSION	OJ30	5813		$6,347.00	$7,828.00	SE	$8,141.00
R02	PUBLIC UTILITIES COUNSEL III, PUBLIC UTILITIES COMMISSION	OJ20	5812		$7,682.00	$9,478.00	SE	$9,857.00
R02	PUBLIC UTILITIES COUNSEL IV, PUBLIC UTILITIES COMMISSION	OJ50	5699	A	$8,486.00	$10,477.00	SE	$10,896.00
R02	PUBLIC UTILITIES COUNSEL IV, PUBLIC UTILITIES COMMISSION	OJ50	5699	L	$8,486.00	$10,477.00	SE	$10,896.00
R02	REAL ESTATE COUNSEL I	OA93	5539	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	REAL ESTATE COUNSEL I	OA93	5539	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	REAL ESTATE COUNSEL I	OA93	5539	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	REAL ESTATE COUNSEL II	OA92	5538		$6,347.00	$7,828.00	SE	$8,141.00
R02	REAL ESTATE COUNSEL III (SPECIALIST)	OA91	5537		$7,682.00	$9,478.00	SE	$9,857.00
R02	SENIOR BOARD COUNSEL, ALRB	OA96	6274		$7,682.00	$9,478.00	SE	$9,857.00
R02	SENIOR COMMISSION COUNSEL (SPECIALIST), FAIR POLITICAL PRACTICES COMMISSION	OA97	6204		$7,682.00	$9,478.00	SE	$9,857.00
R02	SENIOR CORPORATIONS COUNSEL (SPECIALIST)	OK80	6188		$7,682.00	$9,478.00	SE	$9,857.00
U02	SENIOR DEPUTY STATE PUBLIC DEFENDER	OD10	5772	A	$8,486.00	$10,477.00	SE	$10,896.00
U02	SENIOR DEPUTY STATE PUBLIC DEFENDER	OD10	5772	S	$8,492.00	$10,484.00	SE	$10,903.00
R02	SENIOR FAIR EMPLOYMENT AND HOUSING COUNSEL (SPECIALIST)	OI55	6115		$7,682.00	$9,478.00	SE	$9,857.00
R02	STAFF COUNSEL	OA72	5778	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	STAFF COUNSEL	OA72	5778	B	$4,678.00	$5,137.00	SE	$5,342.00

02 - ATTORNEYS AND HEARING OFFICERS

CBID	CLASSIFICATION TITLE	SCHEM CODE	CLASS CODE	ALT RG	MIN SALARY	MAX SALARY	WWG	MAX w/ 4%
R02	STAFF COUNSEL	OA72	5778	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	STAFF COUNSEL	OA72	5778	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	STAFF COUNSEL	OA72	5778	L	$4,674.00	$4,674.00	SE	$4,861.00
R02	STAFF COUNSEL	OA72	5778	M	$4,678.00	$5,137.00	SE	$5,342.00
R02	STAFF COUNSEL	OA72	5778	N	$5,638.00	$6,818.00	SE	$7,091.00
R02	STAFF COUNSEL	OA72	5778	O	$6,347.00	$7,828.00	SE	$8,141.00
R02	STAFF COUNSEL III (SPECIALIST)	OA82	5795	A	$7,682.00	$9,478.00	SE	$9,857.00
R02	STAFF COUNSEL III (SPECIALIST)	OA82	5795	L	$7,682.00	$9,478.00	SE	$9,857.00
R02	STAFF COUNSEL IV	OA80	5780		$8,486.00	$10,477.00	SE	$10,896.00
R02	TAX COUNSEL	OA75	6728	A	$4,674.00	$4,674.00	SE	$4,861.00
R02	TAX COUNSEL	OA75	6728	B	$4,678.00	$5,137.00	SE	$5,342.00
R02	TAX COUNSEL	OA75	6728	C	$5,638.00	$6,818.00	SE	$7,091.00
R02	TAX COUNSEL	OA75	6728	D	$6,347.00	$7,828.00	SE	$8,141.00
R02	TAX COUNSEL III (SPECIALIST)	OA76	6733	A	$7,682.00	$9,478.00	SE	$9,857.00
R02	TAX COUNSEL III (SPECIALIST)	OA76	6733	L	$7,682.00	$9,478.00	SE	$9,857.00
R02	TAX COUNSEL IV, FRANCHISE TAX BOARD	OA78	6722		$8,486.00	$10,477.00	SE	$10,896.00
R02	WORKERS' COMPENSATION JUDGE	OY10	6116		$7,494.00	$9,063.00	E	$9,426.00
R02	YOUTHFUL OFFENDER PAROLE BOARD REPRESENTATIVE	XD10	9739		$7,554.00	$8,332.00	E	$8,665.00

02 - ATTORNEYS AND HEARING OFFICERS

Attachment B - IRS Agreement Employer-Paid Employee Retirement Contributions

A. The purpose of this attachment is to implement the provisions contained in Section 414(h)(2) of the Internal Revenue Code concerning the tax treatment of employee retirement contributions paid by the State of California on behalf of employees in the bargaining unit. Pursuant to Section 414(h)(2) contributions to a pension plan, although designated under the plan as employee contributions, when paid by the employer in lieu of contributions by the employee, under circumstances in which the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer, may be excluded from the gross income of the employee until these amounts are distributed or made available to the employee.

Implementation of Section 414(h)(2) is accomplished through a reduction in wages pursuant to the provisions of this Article.

1. DEFINITIONS. Unless the context otherwise requires, the definitions in this Article govern the construction of this Article.

   a. "Employees." The term "employees" shall mean those employees of the State of California in Bargaining Unit 2 who make employee contributions to the PERS retirement system.

   b. "Employee Contributions." The term "employee contributions" shall mean those contributions to the PERS retirement system which are deducted from the salary of employees and credited to individual employee's accounts.

   c. "Employer." The term "employer" shall mean the State of California.

   d. "Gross Income." The term "gross income" shall mean the total compensation paid to employees in Bargaining Unit 2 by the State of California as defined in the Internal Revenue Code and rules and regulations established by the Internal Revenue Service.

   e. "Retirement System." The term "retirement system" shall mean the PERS retirement system as made applicable to the State of California under the provisions of the Public Employees' Retirement Law (California Government Code Section 20000, et seq.).

   f. "Wages." The term "wages" shall mean the compensation prescribed in this Agreement.

2. PICK UP OF EMPLOYEE CONTRIBUTIONS.

   a. Pursuant to the provisions of this Agreement, the employer shall make employee contributions on behalf of employees, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the employer in lieu of employee contributions.

   b. Employee contributions made under Paragraph A. of this Article shall be paid from the same source of funds as used in paying the wages to affected employees.

c. Employee contributions made by the employer under Paragraph A. of this Article shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of this Agreement.

d. The employee does not have the option to receive the employer contributed amounts paid pursuant to this Agreement directly instead of having them paid to the retirement system.

3. WAGE ADJUSTMENT.

   Notwithstanding any provision in this Agreement on the contrary, the wages of employees shall be reduced by the amount of employee contributions made by the employer pursuant to the provisions hereof.

4. LIMITATIONS TO OPERABILITY.

   This Article shall be operative only as long as the State of California pick-up of employee retirement contributions continues to be excludable from gross income of the employee under the provisions of the Internal Revenue Code.

5. NON-ARBITRABILITY.

   The parties agree that no provisions of this Article shall be deemed to be arbitrable under the grievance and arbitration procedure contained in this Agreement.

Attachment C - Domestic Partners

For the purpose of application to this Memorandum of Understanding a domestic partner shall be certified with the Secretary of State's office in accordance with Family Code Section 297.

SIDE LETTERS

Side Letter #1 – Attorney IV Allocation Standards

Original side letter typed on Carroll, Burdick & McDonough LLP letterhead.

Dear Ms. Buzzini:

ASCA hereby acknowledges and agrees that the following reflects the parties' intent as it relates to the attorney allocation standards concurrently negotiated and the related out-of-class grievance process.

1. Class specifications adopted by the State Personnel Board remain operative and unaffected by the Attorney IV allocations standards.
2. DOJ attorneys may not file (or base) out-of-class grievances or allocation claims based on duties performed because they are assigned Supervising Deputy Attorney General.
3. ASCA recognizes that it is the State's position that the "existing standard" for determining whether employees are working out-of-class (and whether positions should be allocated at a higher level) is inter alia whether the employee has

continuously spent a majority (i.e., more than 50%) of his/her time (over the course of two consecutive weeks or more) performing the full range of duties in an existing higher level classification which do not overlap with the lower level classification.

The State recognizes that ACSA does not agree the above is the “existing standards”.

Consequently, the parties have not included this definition in the attorney IV allocation standards and they have thereby reserved the ability to present the issue of what constituted “the existing standard” to an arbitrator as a threshold matter.

4. Out-of-class grievances and requests to reallocation of positions to the IV level that exceed the cap will receive strict scrutiny.

   This description of the IV level cap is not intended to modify how the cap functions at the III level.

5. ACSA recognizes allocating positions to the IV level is contingent on the approval of funding by the Department of Finance (or designee).

6. Nothing in the Attorney IV allocations standards, or the Attorney IV Grievance and Position Allocations Claims process, or this letter shall be used as the basis for reducing any existing Attorney IV incumbent’s classification level.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP

Gary M. Messing

Side Letter Agreement Between

The State of California and Association of

California State Attorneys and Administrative

Law Judges (Bargaining Unit 2)

Pursuant to Section 15.4 of the current Memorandum of Understanding ("MOU") between the Association of California State Attorneys and Administrative Law Judges ("ACSA") and the State of California ("State"), the parties have met and developed criteria for the utilization of the Attorney IV Classification. The parties have agreed to the documents attached hereto as follows:

Exhibit "1" – Attorney IV Allocation Standards

Exhibit "2" – Attorney III Out-of-Class Grievances and Position Allocation Claims.

Dated: October 13, 2000	Originally signed by
	RICK TULLIS, President ACSA
Dated: October 13, 2000	Originally signed by
	MARK GINSBERG, Chairman, ACSA Classification Committee
Dated: October 13, 2000	Originally signed by
	ROBERTA WARD, Chairperson, ACSA Bargaining Team
Dated: October 13, 2000	Originally signed by
	GARY M. MESSING, Chief Negotiator ACSA
Dated: October 24, 2000	Originally signed by
	LINDA BUZZINI, DPA, State of California

Attorney IV Allocation Standards

These standards shall take effect upon execution of this agreement by both parties. These standards shall remain in effect until agreement is reached on a successor to the 1999-2001 Unit 2 collective bargaining agreement, or until they are changed as a result of the proper application of the State's impasse procedures.

The Department of Personnel Administration (DPA) will review allocation and reallocation requests made by departments using the following criteria. The criteria will also be used for purposes of deciding Attorney III Out-of-Class Grievances and Position Allocation Claims.

The following factors will be applied collectively realizing that the inability to satisfy one factor(s) (e.g., forum usually practiced in) can be offset by the strength of duties associated with another factor(s). When applying the following, the state shall determine which, if any, of its attorneys perform work that is substantially similar to the work of existing properly allocated Attorney IVs used as the benchmark. Application of the criteria shall be based upon an evaluation and weighing of the following factors. The depth, breadth and frequency of duties performed shall be evaluated based on existing standards.

Disputes over application of this criteria shall be resolved exclusively by the Attorney III Out of Class and Position Allocation Claims process. (see attached.)

Characteristics	Counsel IV Expert This classification is distinguished from the lower level Counsel III class in that persons in the Counsel IV class are the most experienced attorneys who are experts in a broad or specialized area of law within a legal program of exceptional difficulty and sensitivity. Attorneys at the Counsel IV level have demonstrated the ability to independently perform assignments consisting of the most complex and sensitive legal work within the department and to consistently produce favorable results in these proceedings.
Supervision Received	Independently performs the most complex and sensitive legal serviced with broad discretion.
Immediate Supervisor	Constitutional officer; exempt appointee of Governor
Interest Represented	Multiple agencies; governor; constitutional officers
Involvement of Other Agency Attorney In Case	No AG or outside counsel
Advice Routinely Given To One or More of the Following	State and non-State agencies; constitutional officers; legislative members; high level Governor appointees, district attorneys; county counsels; grand juries; department directors.
Size of Department	Medium (1001-4000) or Large (4001-8000+)

Size of Legal Office	Medium (11-45) or Large (46+)
Forum Usually Practiced In	Court
Nature of Practice Routinely Engaged In	Acts as hearing officer on behalf of agency[1] Involves issues of first impressions; negotiations of compacts and/or agreements; cross filed cases. Involves issues of substantial/major impact on the health and safety, environment, or important public/civil rights and benefits of current and/or future California residents. Is highly specialized requiring special legal expertise
Complexity of Litigation	Greatest difficulty and sensitivity. For example, cases involving most highly complex or most highly technical fact patterns; cases involving pre- and post- hearing practice and procedures, including but not limited to motions, discovery and negotiation; case involving opposing counsel who have a high level of specialization.
Consequence of Law Practiced	Impacts a substantial/major number of current and/or future California residents; substantial/major impact on important federal and/or local financial, legal or policy issues; and, substantial/major impact on the State fiscally. Far reaching consequences
Interaction with Other Attorneys	Lead-person who assigns & directs work, and/or, an who routinely advises other attorneys
Interaction With Others	Frequent contact with Legislature, high level governor's appointees, constitutional officers, and general public. Involves reconciliation between state/federal/local entities and laws. Responds to inquiries from public agencies and private organizations.
Scope of Work	Involves novel theories and/or practice involving rapid evolution of law, legal area specialization, legal expert, precedential value; involves opposing counsel or representatives who have a high level of experience and specialization.

[1] So long as this person is not performing this function a majority of the time

Difficulty of Agency's Legal Practice	Exceptionally difficult. On a complexity continuum, a department at the low end would have a legal program involving a narrow range of legal or factual issues characterized by relatively settled points of law, whereas a department at the high end would have a legal program involving the broadest range of legal or factual issues which may be characterized by new or unsettled points of law.

Attorney III Out-of-Class Grievances and Position Allocation Claims

Notwithstanding sections 15.1(c) and 15.3 of the 1999-2001 Unit 2 collective bargaining agreement, the procedure described herein may be used by employees in III-level attorney classifications claiming they are working out-of-classifications and/or that a position should be allocated to the IV level.

This side letter shall take effect upon execution of this agreement by both parties. These standards shall remain in effect until agreement is reached on a successor to the 1999-2001 Unit 2 collective bargaining agreement, or until they are changed as a result of the proper application of the State's impasse procedures.

a. Definitions

1. Duties which are appropriately assigned to incumbents in the employee's current classification are not out-of-class. Duties appropriately assigned are based on the definition and typical tasks enumerated in the California State Personnel Board specification.

   Assignments that so not substantially change the overall nature of an employee's work assignment shall not be considered out-of-class work.

   Training and Development assignments are not out-of-class work.

2. For purposes of this article, a classification is at a :higher level" if maximum salary of the highest salary range (excluding alternate range criteria other than deep class criteria) is any amount more than the maximum salary of the highest range of the class in which the employee holds an appointment.

b. Authorization and Rate of Pay

1. Notwithstanding Government Code section 905.2, 19818.8 and 19818.16, an employee may be temporarily required to perform out-of-class work by his/her department for up to 120 calendar days in any 12 consecutive calendar months when it determines that such an assignment:

   (a) Is of unusual urgency, nature, volume, location, duration or other special characteristics; and,

   (b) Cannot be feasibly met through use of other civil service or administrative alternatives.

2. Departments may not use out-of-class assignments to avoid giving civil service examinations, or to avoid using existing eligible lists created as the result of a civil service examination.

3. When an employee is assigned out-of-class work, s/he shall receive the rate of pay s/he would have received pursuant to 2 Cal. Code Regs § 599.673, 599.674 or 599.676 if appointed to the higher classification.
4. Out-of-class work may be discontinued by departments at any time; however, departments may not rotate employees in and out of out-of-class assignments to avoid payment of out-of-class compensation.
5. Out-of-class pay shall not be considered as part of the employee's base pay when computing the rate due upon promotion to a higher level.

c. Out-of-Class Grievances and Allocation Appeals

1. The grievance and arbitration procedure described in subsection (d) below shall be the exclusive means by which alleged out-of-class assignments/grievances shall be remedied, including requests for review by the Department of Personnel Administration referenced in Government Code section 19818.16 or the State Board of Control.
2. The grievance and arbitration procedure described in subsection (d) below shall be the exclusive means by which alleged position allocation or reallocation appeals/claims shall be remedied, including those referenced in Section 15.4, Government Code sections 19818.6 and 19818.20.
3. Employees may not separately file out-of-class grievances and position allocation or reallocation grievances pertaining to the same duties and responsibilities.
4. The only remedy that shall be available to grievants (whether claiming out-of-class work or position misallocation) is retroactive pay for out-of-class work. Said pay shall be limited to out-of-class work performed (a) during the 120 calendar day period before the employee's grievance was filed; and (b) the time between when the grievance was filed and finally decided by an arbitrator.
5. Arbitrators shall not have the authority to order reclassification (reallocation/upgrade) of a position or discontinuance of out-of-class work assignments.

d. Grievance Procedure and Time Limits

1. Employees must file written grievances/claims on a form provided by the State.
2. Out-of-class grievances and allocation claims shall be filed directly to the fourth level of review with the Department of Personnel Administration.
3. The Director of the Department of Personnel Administration (DPA) or designee shall respond to the grievance in writing within 120 calendar days after receipt of the grievance/claim.
4. If the grievance is not resolved by the Department of Personnel Administration, the union shall have the right to submit the grievance to arbitration within 30 calendar days following receipt of DPA's decision.
5. Article VII, section 7.11, "Formal grievance – Step 4" shall apply to out-of-class grievances and allocation claims except as otherwise provided in this Section.

e. The arbitrator's award regarding out-of-class grievances and allocation claims shall be final and binding on the parties. Said awards shall not be subject to challenge or review in any forum, administrative or judicial, except as provided in Code of Civil Procedure section 1286.2 et seq.

Side Letter #2 – CUIAB Stipulation for Settlement

K. WILLIAM CURTIS
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WARREN C. STRACENER
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Attorneys for the State of California

CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT, Union, v. STATE OF CALIFORNIA (UNEMPLOYMENT INSURANCE APPEALS BOARD), Employer.	DPA Nos. 02-02-0013; 04-02-0017 STIPULATION FOR SETTLEMENT

WHEREAS, the parties to the matter herein, in the interest of harmonious labor relations, desire to avoid the expense, inconvenience, uncertainty and delay inherent in litigation; and

WHEREAS, the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (hereinafter "CASE"), the State of California (hereinafter "State"), and the California Unemployment Insurance Appeals Board (hereinafter "CUIAB") have agreed on a settlement of this matter in dispute between them and adopt this settlement as its final disposition;

NOW, THEREFORE, THE PARTIES DO STIPULATE AS FOLLOWS:

1. The parties agree that split cases are mandatory for

CUIAB Administrative Law Judges ("ALJs");

2. The parties agree that the normal case load for ALJs I and II working in Field Operations (FO) is 25 and 28 appellants per week, respectively. For ALJs I and II working in Appellate Operations (AO), the normal case load is 20 and 22 appellants per week, respectively.

3. The parties acknowledge that FO and AO ALJ case loads may vary based on CUIAB's workload and budget fluctuations and operational needs. The parties agree that the number of appellants assigned in any week to FO ALJs shall not exceed 27 for ALJs I and 30 for ALJs II. For AO ALJs, the number of appellants assigned in any week shall not exceed 22 appellants for ALJs I and 24 for ALJs II. When such numbers are reached and maintained for three (3) consecutive months, ALJs shall be provided one additional Decision (DEC) day in recognition of the increased case load and the need to meet Federal Quality Standards. Each ALJ may take a telework day on this DEC day. This DEC day is provided so that ALJs may write briefs, write decisions, and perform administrative duties associated with their case load without having to preside over hearings.

4. CUIAB agrees that it shall provide CASE with notice and an opportunity to meet and confer over impact when it intends to increase the ALJ case load beyond that provided in paragraph 3.

5. Mass calendars may be scheduled as required by workload needs, and the case load numbers described in paragraphs 2 and 3 do not apply. The parties agree that the number of mandatory mass calendars for ALJs II shall not exceed 2 per month.

6. The parties agree that ALJ loans may be utilized to meet

geographic workload needs. In the event the number of ALJ volunteers is insufficient, management has the discretion to assign judges where needed. Such assignments shall be made on a fair and equitable basis, such as on a rotational basis, taking into consideration the operational needs of the CUIAB.

7. The parties agree that all ALJs shall be given additional appellant credit for any case of unusual complexity, which may include cases with 4 or more splits, as determined by the AO's or FO's office Presiding Administrative Law Judge (PALJ) and the procedure he or she chooses to follow. If additional appellant credits have not been given to an ALJ prior to hearing on a case, the ALJ may make a request to his or her PALJ for the additional appellant credit.

8. Notwithstanding paragraph 4, if the budget mechanisms under which CUIAB is functioning on the date of this settlement agreement change in a way that materially affects CUIAB operations, such as the inability to maintain its projected staffing requirements to decide and issue decisions in its normal manner, CUIAB will notice CASE of any intended changes and shall meet and confer on impact upon request by CASE. CUIAB shall have the right to implement the changes sixty (60) days from the date of its notice if the parties have not completed their negotiations over impact. In that event, once the changes have been implemented, CUIAB will continue to bargain impact of the changes in an effort to reach an agreement concerning the impact of the changes.

9. CASE agrees to and hereby does voluntarily withdraw, with prejudice, its request for arbitration in CASE v. CUIAB, DPA Grievance No. 02-02-0013. CASE agrees to and hereby does

voluntarily withdraw, with prejudice, its request for arbitration in DPA No. 04-02-0017 in consideration of CUIAB's agreement that it shall provide CASE an opportunity to discuss the specific changes grieved and consider in good faith any suggestions by CASE to lessen the impact of the changes referenced in the grievances.

10. Nothing herein shall be deemed precedential in any other case or matter.

11. Nothing in this stipulated settlement agreement shall be considered an admission of any breach of contract, violation of law, or any other unlawful conduct by CUIAB or a concession by either party concerning the merits of this dispute. The parties shall jointly issue an announcement regarding this settlement agreement.

12. This settlement agreement represents a full and final resolution of all disputes between the parties relating to the matter herein now settled.

13. The parties enter into this settlement agreement freely and voluntarily by and with the advice of their representatives and the attorneys of their choice, and hereby waive any right of appeal which they now have or hereafter acquire by reason of the dispute settled herein.

14. This settlement agreement constitutes the entire agreement between the parties with respect to the matters covered by this settlement agreement, and no other agreements, statements or promises made by any of the parties or by any employee, director, officer or agent of any of the parties, which is not contained in this settlement agreement is binding or valid.

15. The parties reach this settlement agreement in good

faith. It shall go into effect when signed by representatives of both parties subject to review by the Legislature under Government Code section 3517.63(b). This settlement will expire on the ratification by the Union and approval by the Legislature of a successor agreement to the 2005-2007 Bargaining Unit 2 Memorandum of Understanding.

Dated: Feb 2, 2006

RAQUEL SILVA
Director
California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

Dated: 1/6/06

MONICA MINER
Labor Relations Representative
California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

Dated: 1/13/06

TOM ENGEL, Local Representative
California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

Dated: 1/31/06

SUSAN BLOOM, Local Representative
California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

Dated: February 8, 2006

JUAN C. ARCELLANA
Executive Director/Chief Administrative Law Judge
California Unemployment Insurance Appeals Board

Dated: 2/8/06

RALPH W. HILTON
Chief Counsel
California Unemployment Insurance
Appeals Board

Dated: 2-14-06

JACQUELYN SANDERS
Labor Relations Officer
Department of Personnel
Administration

Dated: 2/14/06

GAIL T. ONODERA
Labor Relations Counsel
Department of Personnel
Administration

Side Letter #3 – SCIF User Information Policy

CASE AND STATE COMPENSATION INSURANCE FUND AGREEMENT
REGARDING THE USER INFORMATION POLICY

CASE, as the exclusive representative for Unit 2, and the State Compensation Insurance Fund (SCIF) agree to be bound to the following terms and conditions regarding SCIF's User Information Policy for the life the successor contract between CASE and the State of California:

1. SCIF agrees to provide Unit 2 members training on the User Information Policy;
2. The parties agree that this agreement does not, nor will it abridge the current or successor Memorandum's of Understanding (MOU) between CASE and the State of California;
3. SCIF shall not engage in the random searches of Unit 2 members use of the internet and/or email accounts;
4. The parties agree that this agreement does not abridge CASE's right as the exclusive representative of Unit 2 members to contact and communicate with Unit 2 members for representational and normal union purposes;
5. The parties agree that this agreement does not abridge or invalidate Government Code 8314;
6. SCIF agrees that it will not discipline Unit 2 members, formally or informally, for minimal and incidental, non-business use, as identified under section 2.A. of the User Information Notice, of State equipment ;
7. SCIF agrees that when the Memorandum of Understanding provides greater rights and/or benefits than other forums, the MOU will be controlling;
8. In the event of any differences between Corporate Guidelines 55-20-003, 55-20-004, 55-20-GM5, and 03-20-004 and this agreement, this agreement will supercede those Corporate Guidelines;
9. Unit 2 members shall only be disciplined under this policy for willingly and knowingly misusing state equipment and shall not be disciplined formally or informally for receiving unsolicited, inappropriate information. This section shall not apply to inappropriate information that has been knowingly maintained by the employee regardless of whether the employee did not solicit the information;
10. Should the whole or any part of this agreement be found invalid by a court of competent jurisdiction, the parties agree to renegotiate this agreement;
11. The parties agree to open negotiations on this issue thirty (30) days prior to the expiration of a successor agreement between CASE and the State of California.

Monica Miner
CASE Labor Relations Representative

8/26/05
Date

Andreas W. Acker
Assistant Human Resources Manager

8/29/05
Date

Gerald B. Radeleff
Labor Relations Officer

9-7-05
Date

Side Letter #4 – SCIF SAL

SETTLEMENT AGREEMENT

CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT, Union, v. STATE OF CALIFORNIA (STATE COMPENSATION INSURANCE FUND), Employer,	DPA No. 99-02-0002

In the interest of promoting harmonious labor relations between the parties and to avoid the expense, uncertainty, and inconvenience of litigation, the CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT ("CASE"), exclusive representative for State Bargaining Unit 2, and the STATE OF CALIFORNIA, STATE COMPENSATION INSURANCE FUND ("SCIF"), in full and amicable settlement of DPA Grievance No. 99-02-0002 (System Assisted Litigation ("SAL") grievance filed by CASE on May 26, 1999) hereby agree to the following:

1. CASE recognizes SCIF's right under the contract currently in effect to have the Unit 2 members it employs to keep track of their time for purposes of client billing, budgeting, and case or project tracking in accordance with Section 6.3(C) of the MOU;

2. SCIF agrees that in the future it will provide CASE with advance notice of any significant and/or substantial changes to its timekeeping system(s), in order to allow CASE the opportunity to meet and confer over the impacts, if any, of the new system;

3. As of the date this agreement is signed; SCIF Staff Counsel will only be required to input into the SAL program those tasks/duties that take twelve (12) minutes or longer to complete on a daily or weekly basis. SCIF Staff Counsel are free to input time that is less than twelve (12) minutes, time permitting. Staff Counsel are also free to input administrative time into the SAL program, including time spent inputting data into the SAL system;

4. Staff Counsel are encouraged to report problems with the input of time, the use and operation of the SAL program to their Attorney in Charge. Defects in the SAL will be reported to Legal IT personnel by the Attorney in Charge and/or a designee, for possible solutions;

5. All requests for reasonable accommodation will be handled in accordance with SCIF's reasonable accommodation policies and applicable State and Federal laws;

6. SCIF may ask Unit 2 members to attend the SAL offsite and other similar training courses;

7. SCIF will provide all Staff Counsel, new to SCIF, with some level of informal or formal training on inputting into SAL;

8. SCIF agrees to distribute copies of this settlement agreement to all of those individuals who supervise or manage Unit 2 staff.

9. CASE hereby withdraws the grievance listed above with prejudice as the parties have reached settlement terms to resolve the underlying issues. Both parties agree to abide by the terms and conditions of this agreement;

10. Nothing in this Settlement Agreement shall be considered an admission of any breach of contract, violation of law or any other unlawful conduct by SCIF;

11. Nothing in this settlement agreement shall be considered as past practice and/or binding precedent between CASE, SCIF and the State employer in any case other or matter.

Dated: 8/02/05

MONICA MINER
CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT

Dated: 8/15/05

GLEN GROSSMAN
CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT

Dated: 08/26/2005

GEOFFREY SIMS
CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT

Dated: 8/12/05

BARBARA GALLIOS
CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT

Dated: 09/08/05

JEAN ROWAN
SENIOR LABOR RELATIONS ANALYST
STATE COMPENSATION INSURANCE FUND

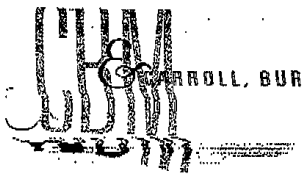
Dated: _____

JACQUELYN SANDERS
LABOR RELATIONS OFFICER
DEPARTMENT OF PERSONNEL ADMINISTRATION

Dated: 9/13/05

WENDI L. ROSS
LABOR RELATIONS COUNSEL
DEPARTMENT OF PERSONNEL ADMINISTRATION

Side Letter #5 – BPT Implementation of RSTS



CARROLL, BURDICK & MCDONOUGH LLP

ATTORNEYS AT LAW

SACRAMENTO, CA 95814
916.456.2100
FAX 916.456.3060
OTHER OFFICES:
SAN FRANCISCO
WALNUT CREEK
LOS ANGELES
RIGA, LATVIA

August 14, 2001

Timothy K. Talbot
timt@cbmlaw.com

Marilyn Marquez
Human Resources Manager
Board of Prison Terms
1515 K Street, 6th Floor
Sacramento, CA 95814

Re: Agreement Regarding Implementation of RSTS

Dear Marilyn:

Enclosed is a signed side agreement regarding the implementation of RSTS. I made one minor correction to the first line of item one. I removed the apostrophe after the word "Commissioners" because the punctuation mark should not have been included. We simply overlooked that typo in the prior drafts. Otherwise, the document is satisfactory.

Thank you again for your assistance with this matter.

Sincerely,

CARROLL, BURDICK & McDONOUGH LLP

Timothy K. Talbot

Timothy K. Talbot

Enclosure
cc: Ramon Estrada
John Monday
Sal Baca
Richard Tullis (w/o enclosure)

3. **Ergonomic Issues**

BPT will commit to having an assessment of each work area at each regional screening site to determine the specific and general needs and requirements for a safe and ergonomic workstation. BPT will provide ergonomic furniture and equipment for each RSTS work station as necessary. Equipment may include adjustable chairs, table, glare screens, footrests, wrist rests or document holders. BPT will also review individual requests for additional furniture/equipment on a case-by-case basis. Instructions shall be provided as needed to enable DOC to self-adjust their ergonomic systems or furniture. All ergonomic systems and devices shall be implemented in accordance with guidelines promulgated by the Office of Risk Management and the Department of Industrial Relations. Procurement and replacement of furniture/equipment will occur if BPT determines it is feasible based on, but not limited to, such issues as location and usage requirements.

CASE and BPT agree to defer all discussions regarding the revocation hearing sites to a later date, until such time that the 1103 process is implemented.

4. **Upgrading and Replacement of Equipment**

BPT is committed to providing appropriate and necessary computer equipment that meets the standards and capabilities to process RSTS data and caseload processing. BPT will evaluate computer hardware/software systems as conditions warrant, considering any input provided by the union RSTS liaison. The need for future equipment will be assessed annually as part of the budget process.

State of California **Board of Prison Terms**	**California Attorneys, Administrative Law Judges and Hearing Officers in State Employment**
Marilyn Marquez 8/10/01 MARILYN MARQUEZ	Timothy K Talbot 8-13-01 TIM TALBOT

8/01

Side Letter #6 – Deputy Commissioners Vacation/Annual Settlement

DEPUTY COMMISSIONER BOARD OF PRISON TERMS
VACATION/ANNUAL LEAVE POLICY

1. It is the intent of the Board of Prison Terms to encourage Deputy Commissioners to request vacations/annual leave as early as possible. This will allow Scheduling Unit staff sufficient time to schedule workload for Deputy Commissioners.

2. Effective calendar year 2003, vacation requests shall be submitted in six month increments:

   - The first increment will cover vacation dates for January through June 2003.
   - The second increment will be submitted in March 2003 to cover requests for July through December 2003.

3. The parties agree that seniority in the classification series (defined as Deputy Commissioner, Associate Chief Deputy Commissioner, Chief Deputy Commissioner) of Deputy Commissioner for the BPT, is the basis for granting vacation/annual leave. A permanent break in service, from the series stated above, of longer than twelve (12) months shall result in a totally new starting seniority date based upon the employee's return to State service in either class.

4. The parties agree that to provide fairness to the large group of individuals affected, vacation/annual leave requests—pursuant to *number 2* above—will be initially reviewed and approved based on four (4) **seniority choices** of either single day segments or multi-day/week segments which are designated by the requesting Deputy Commissioner for *seniority purposes*. These four (4) **seniority choices** may be applied for in any manner in the bi-annual request process, but limited to four (4) **seniority choices** for the calendar year.

   For Example:

   - All four (4) choices in the first six-month increment.
   - Two (2) choices in each of the six-month increments.
   - All four (4) choices in the second six-month increment.
   - Etc.

   Other leave requests not specifically designated as **seniority choices** will be reviewed and considered in the manner of prior vacation/annual leave review practices, as enumerated herein under *numbers 6* through *11* until all vacation/annual leave requests are recorded.

5. Vacation/annual leave schedules that have been established pursuant to the seniority provisions should not be affected by Deputy Commissioners submitting vacation/annual leave requests after the schedule has been established on December 1, 2002 and June 1, 2003, respectively.

6. It is recognized that from time to time a Deputy Commissioner may request vacation/annual leave during the year. Once vacation/annual leave requests have

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been submitted and approved, further requests for vacation/annual leave will be considered on a case-by-case basis.

7. The Deputy Commissioner may submit single/individual day requests as well as full week or partial week requests. Requests may include enough optional dates to cover dates that may not be available due to seniority. Seniority will apply if multiple requests are made for the same additional vacation dates.

8. Once vacation/annual leave dates have been determined—based on the above factors—each Deputy Commissioner will be notified of the dates that have been approved and those that have been denied.

9. If the requested vacation/annual leave dated for a Deputy Commissioner are not available due to the maximum level of leave approval being attained, the next date(s) on the Deputy Commissioner's Vacation/Annual Leave Request form will be considered and approved. ~~The past practice of granting vacation/annual leave~~ based upon a guideline of 15 percent of the work force per each workday shall be continued. The filled number of Deputy Commissioner position, as of *October 1* each year, shall be the base number for the allocated work force. The 15 percent standard will be reviewed each year as the number of Deputy Commissioners change.

10. The Deputy Commissioners who have requested and been granted vacation/annual leave days will be required to notify management if they change their plans and no longer want specific vacation/annual leave dates as soon as possible, so as to allow other less senior Deputy Commissioners an opportunity to request these dates. Vacation/annual leave dates available through this process will be *provided* as soon as possible to Deputy Commissioners who were previously denied these dates—with seniority as the determining factor.

11. If a Deputy Commissioner cancels a leave date after the Chief Deputy Commissioner has approved the final Vacation/Annual Leave Plan and where other Deputy Commissioners requested the same date but were disapproved (due to position on the seniority list)—the next most senior Deputy Commissioner who had leave disapproved will be informed that the date has become available. If the Deputy Commissioner declines to take the particular date, Scheduling Unit staff will then contact the next most senior Deputy Commissioner whose choice was disapproved. The Scheduling Unit staff will continue to contact each Deputy Commissioner whose request was denied until the date is taken or until all affected Deputy Commissioner have been contacted and declined.

12. At commencement of the bi-annual Vacation/Annual Leave Request process:

- Vacation/annual leave requests will be solicited prior to January and July each year.
- Written instructions will be provided to Deputy Commissioners.

REV. 01/30/03

- A copy of the current *Deputy Commissioner Seniority List* will be included in the vacation/annual leave instruction package, in conformance with the provisions of *number 3* of this policy.
- Subsequent to completion of the vacation/annual leave request and approval process, a single copy of the Deputy Commissioner approved vacation/annual leave schedule will be forwarded to California Attorneys, Administrative Law Judges and Hearing Offers in State Employment (CASE).

4/9/03 — Date
SAL BACA
CASE Representative

4/9/03 — Date
SCOTT BURNS
CASE President

6-6-03 — Date
MARVIN E. SPEED II
Executive Officer (A)
Board of Prison Terms

4/9/03 — Date
GERALD RADELEFF
Senior Labor Relations Officer
Department of Personnel Administration

REV. 01/30/03

ADDENDUM

DEPUTY COMMISSIONER BOARD OF PRISON TERMS
VACATION/ANNUAL LEAVE POLICY

ACKNOWLEDGEMENT
February 4, 2003

The classification series of Deputy Commissioner was redefined after the December 2002 vacation/annual leave requests were granted by the Board of Prison Terms for the first six months of 2003, using a broader interpretation. Effective July 1, 2003, the classification series of Deputy Commissioner will be limited to Deputy Commissioner, Associate Chief Deputy Commissioner, and Chief Deputy Commissioner in establishing the seniority list. There will be no adjustment or alteration to the vacation/annual leave time awarded to any involved staff using the broader interpretation during the first six months of 2003.

SAL BACA CASE Representative	4/9/03 Date	SCOTT BURNS CASE President	4/9/03 Date
MARVIN E. SPEED II Executive Officer Board of Prison Terms	4-14-03 Date	JERRY RADELEFF Senior Labor Relations Officer Department of Personnel Administration	4/9/03 Date

2/4/03

K. WILLIAM CURTIS
Chief Counsel, Bar No. 095753
WARREN C. STRACHNUR
Deputy Chief Counsel, Bar No. 127921
LORI A. GREEN
Legal Counsel, Bar No. 205136
Department of Personnel Administration
State of California
1515 S Street, North Building, Suite 400
Sacramento, CA 95814-7243
Telephone: (916) 324-0512
Facsimile: (916) 323-4723

Attorneys for Respondent

STATE OF CALIFORNIA

PUBLIC EMPLOYMENT RELATIONS BOARD

CALIFORNIA ATTORNEYS, ADMINISTRATIVE LAW JUDGES AND HEARING OFFICERS IN STATE EMPLOYMENT (CASE), Charging Party, v. STATE OF CALIFORNIA, (BOARD OF PRISON TERMS), Respondent.	SETTLEMENT AGREEMENT Case No. SA-CE-1476-S

In the interest of promoting harmonious labor relations between the parties and to avoid the uncertainty, inconvenience and expense of litigation, the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment ("CASE"), exclusive representative for State Bargaining Unit 2, and the State of California, Board of Parole Hearings ("BPH") formerly Board of Prison Terms ("BPT"), in full and final amicable resolution of the issues in the above Public Employment Relations Board ("PERB") charge and any related grievances, hereby agree and stipulate as follows:

1. BPH agrees to send the memorandum drafted on September 21, 2005 by George Lehman, Chief Deputy Commissioner, to its Deputy Commissioners. This September 21, 2005 memorandum rescinds the October 1, 2004 memorandum from Kenneth H. Cater to the Deputy Commissioners regarding the 2005 First Bi-Annual Vacation/Annual Leave Request.

2. BPH and CASE agree to comply with the terms of the currently expired 2001-2003 Memorandum of Understanding ("MOU") in accordance with Government Code section 3517.8.

3. BPH agrees to re-evaluate the 15% vacation/annual leave guideline each October.

4. CASE agrees to and hereby does voluntarily withdraw, with prejudice, PERB Unfair Practice Charge No. SA-CE-1476-S.

5. CASE agrees to and hereby does voluntarily withdraw, with prejudice, the grievance 05-02-0009.

6. Nothing herein shall be deemed precedential and/or constitute a past practice in any other case or matter.

7. Nothing in this settlement agreement shall be considered as an admission of any breach of contract, violation of law or any other unlawful conduct by BPH, nor a concession by BPH as to the merits of the PERB charge or any related grievance.

8. The parties agree to bear their own costs and fees, including attorney's fees, with respect to this dispute.

9. This settlement agreement represents the final resolution of all disputes between the parties arising out of the above-entitled action.

10. The parties enter into this agreement freely and voluntarily by and with the advice of their representatives and the attorneys of their choice.

11. The undersigned parties represent that they are authorized to execute this settlement agreement on behalf of their principals.

///
///
///
///
///
///
///
///

12. The parties agree that this settlement agreement can be signed in parts.

Dated:_____

MONICA MINER
Labor Relations Representative
California Attorneys, Administrative Law Judges, And Hearing Officers in State Employment

Dated:_____

GEORGE LEHMAN
Chief Deputy Commissioner
Board of Parole Hearings

Dated:_____

RAMON ESTRADA
CASH Local Representative

Dated: 11/4/05

Jacquelyn Sanders

JACQUELYN SANDERS
Labor Relations Officer
Department of Personnel Administration

Dated: 11/4/05

L. A. Green

LORI A. GREEN
Legal Counsel
Department of Personnel Administration

[illegible]

12. The parties agree that this settlement agreement can be signed in parts.

Dated:_____

MONICA MINER
Labor Relations Representative
California Attorneys, Administrative Law Judges,
And Hearing Officers in State Employment

Dated: 11-4-05

GEORGE LUHMAN
Chief Deputy Commissioner
Board of Parole Hearings

Dated:_____

RAMON ESTRADA
CASE Local Representative

Dated:_____

JACQUELYN SANDERS
Labor Relations Officer
Department of Personnel Administration

Dated:_____

LORI A. GREEN
Legal Counsel
Department of Personnel Administration

12. The parties agree that this settlement agreement can be signed in parts.

Dated: 11/4/05

MONICA MINER
Labor Relations Representative
California Attorneys, Administrative Law Judges, And Hearing Officers in State Employment

Dated: _____

GEORGE LEHMAN
Chief Deputy Commissioner
Board of Parole Hearings

Dated: 11-14-2005

RAMON ESTRADA
CASE Local Representative

Dated: _____

JACQUELYN HANDERS
Labor Relations Officer
Department of Personnel Administration

Dated: _____

LORI A. GREEN
Legal Counsel
Department of Personnel Administration

SIGNATURE PAGE

Signature Page

Bargaining Unit 2
California Attorneys, Administrative Law Judges, and Hearing Officers in State Employment

April 1, 2011 through July 1, 2013

State of California

Mark Veatch
DPA and Chief Negotiator for Management

Jill Ellwood
Department of General Services

Jean Rowan
State Compensation Insurance Fund

Don Pressley
Department Of Justice

Kath Miras
Department of Transportation

Kim Hickox
California Unemployment Insurance Appeals Board

Susie Cano-Guzmán
Department of Industrial Relations

CASE

Brooks Ellison
Chief Negotiator - CASE

Peter Flores, Jr. CASE President
Department of Justice

Timothy Weiner
Department of Justice

Donna David
Department of Industrial Relations

Howard Goodman
Department of Industrial Relations

Mark Henderson
State Compensation Insurance Fund

Geoffrey Sims
State Compensation Insurance Fund

Jennifer Jasovitz
Department of Justice

Patrick Whalen
CASE General Counsel